MARITIME INDUSTRY AUSTRALIA LIMITED

Submission to the Rural and Regional Affairs and Transport References Committee

Inquiry into the policy, regulatory, taxation, administrative and funding priorities for Australian shipping

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Executive Summary

MIAL's overarching position concerning shipping policy in Australia is that we ought to have a sustainable, viable shipping industry. This shipping activity can occur anywhere – coastal, offshore and international. This shipping activity should encompass anything – freight, tourism, passenger movement, port and harbour services, offshore oil and gas, construction, scientific/research, essential services, and government services.

The potential breadth of Australia's 'shipping industry' would be the envy of any nation in the world such is the diversity of the maritime task that naturally exists in our region if we were able to capitalise on the natural advantages Australia possess in the maritime paradigm.

Australia needs a maritime and shipping policy that focuses on encouraging a shipping industry in its own right - to deliver the economic multiplier effects that are universally cherished by maritime nations (often known as maritime clusters); and the maritime skills development so many nations need.

As the world's largest island nation, Australia requires maritime skills more so than most other countries. From the requirement to ensure trade is facilitated via Australian ports without incident, to ensuring we meet our international responsibilities as a country with one of the largest port state control tasks, the use, retention and development of maritime expertise is vitally important.

Such skills are developed though experience over several years working at sea in Deck and Marine Engineer Officer roles.

The recent Seafaring Skills Census shows that the Australian maritime sector has a projected shortage of 560+ seafarers by 2023 – a large proportion of which is in the Deck and Marine Engineer Officer skill sets.

Further, the Seafaring Skills Census identified that 80% of employers require more than base level qualifications – they require higher order skills and, critically, experience. The Seafaring Skills Census found that experience must be on certain types of ships, tanker experience being the most sought after, particularly for shore-based roles.

Australia cannot rely solely on immigration to fill those roles given the global imbalance in supply and demand for quality seafarers with projected shortages of 18% by 2025.

Increasing training without securing opportunities for seafarers to work to gain experience will not achieve an outcome of growing skills, expertise and knowhow to fill the strategic shore-based roles Australia relies upon.

Australia needs a minimum number of assets available to provide the training and work opportunities.

The Australian International Shipping Register (AISR) is one avenue to supply these assets. Actions are needed to make the AISR attractive to businesses to invest in vessels under this

Register and stability of policy settings is critical to ensuring businesses do make that commitment.

In the meantime, immediate action is required to secure assets on which Australian officers can train and work.

A Strategic Fleet would provide adequate training and work opportunities to secure the skills base now; provide stability for key supply chains; and offer strategic support to the nation should they ever be called upon.

The coastal trading task presents challenges for Australia. It offers an opportunity for assets to be deployed in meeting the critical needs of the country, but inadequate incentive for Australian ship operators to engage broadly in the face of direct competition from foreign operators and a client base (cargo interests) that demand the cheapest possible costs.

All nations with an indigenous shipping capability either protect, subsidise or incentivise the sector. Australia must do likewise if any or all of these avenues to create a pool of assets (AISR, Strategic Fleet, Coastal Trading fleet) are to be successful in creating a competitive Australian based offering.

Critical to the success of developing an indigenous shipping and maritime skills capability beyond what already exists are changes to corporate income tax treatment and seafarer income tax treatment to make them internationally competitive.

Changes that are needed to maximise the potential of maritime and shipping in Australia are changes to: the AISR structure; coastal trading regime; customs importation of vessels; and port infrastructure and pricing.

Summary of Recommendations

Skills

1. The issue of cost being an impediment to training sufficient seafarers to meet the nations' requirements must be overcome.
2. A working group should be established to consider all the issues and implement solutions as quickly as possible.
3. Better coordination of training berth usage across the Australian maritime sector is required.

Strategic Fleet

1. A Strategic Fleet should be established to operate commercially on a competitive basis.
2. Vessels to form part of the Strategic Fleet to be determined based on a range of factors including: where there is sufficient task to warrant a stable and permanent presence for a vessel; or where provision of a vessel of a certain type serves a key national requirement – say for skills development, supply chain security or national capability.

In order to be competitive:

1. The cost differential between a Strategic Fleet vessel and a foreign vessel must be eliminated. Funding to be provided via:

    a) A redirection of the wages top-up payments currently made pursuant to the Fair Work Act (FWA) and Seagoing Industry Award Part B wages (administered via a simple, fixed levy imbedded within existing AMSA levy structures; and
    b) A retainer provided by the Commonwealth Government.

2. Contemporary employment practices must be adopted:
    a) The niche commonwealth seafarers workers compensation scheme be abolished and coverage be provided by the States and Territories, which already cover the majority of maritime workers in Australia; and
    b) Terms and conditions of employment be established based on Greenfields Arrangements not previous Enterprise Agreements which have driven costs to unsustainable levels; and
    c) Continuity of operations must be assured.

AISR

1. Broaden the types of vessels/activities that are eligible to "maritime activities.
2. Remove requirement to spend more than 50% of time working internationally.
3. Require a minimum Australian crew component rather than designated roles.
4. Remove reference to the Single Bargaining Unit as the exclusive means of determining terms and conditions on board AISR vessels.

5. Implement improvements to the process of obtaining certificates of equivalence for seafarers.
6. Implement improvements (difficulty and expense) to the survey requirements for re-flagging in Australia.

Coastal Trading

The following further changes to the AISR in relation to coastal trading should be made:

1. Provide AISR ships with preference over Foreign ships when issuing Temporary Licences.
2. Fix ambiguity regarding FWA implications when under a temporary licence and not covered by Part B (i.e. first two voyages) – FWA is dis-applied when engaged in international trading, meaning that at all other times the FWA applies (s61AA(a) of the *Shipping Registration Act 1981*).

More generally the following changes should be made:

1. Streamline the licence application process including removing the restrictions on some temporary licenses and the voyages undertaken therein.

2. Minimise the scope of decision making by the Delegate by introducing commercial principles where possible, including a maritime arbitration facility to resolve commercial disputes and ACCC oversight to monitor pricing in monopoly trades.

3. Introduce special arrangements for essential service operations consistent with those available for the national highway, i.e. the Tasmanian Freight Equalisation Scheme (TFES) should be implemented.

4. The trade across Northern Australia including the communities in Torres Strait should be considered “essential services” and changes to the definition of voyage in the Coastal Trading Act be made to recognise ‘the network of voyages’ be adopted for “essential services”.

5. A determination needs to be made regarding the appropriateness of expedition cruising being included within the jurisdiction of coastal trading (economic regulation) at all.

Corporate income tax

1. Introduce deemed franking credits in respect of dividends to resident shareholders, to make vessel ownership and/or operation from Australia more internationally competitive.
2. Introduce dividend withholding tax exemption in respect of dividends to non-resident shareholders, to make vessel ownership and/or operation from Australia more internationally competitive.

3. Extend application of taxation structure to assets operating across the maritime domain including the offshore sector.

Seafarer income tax

1. Provide for the Seafarer Tax Offset to be available to Australian crew even if not working internationally in order that the operating cost of the ship can be reduced (i.e. cost saving vests with employer) thereby increasing the competitiveness of a ship employing Australian workers.
2. Provide complementary seafarer income tax structure for those not employed by Australian companies or on Australian flagged ships (to ensure that Australian's are treated on an equivalent basis as their international counterparts).
3. Extend application of taxation structure to include individuals working on a broader range of vessels across the maritime domain, including the offshore sector.

Ports and port pricing

1. Provide discounts / exemptions to Australian ships for port and regulatory fees.
2. Invest in dedicated coastal ship terminals as critical infrastructure.
3. Ensure port planning processes provide priority access to ports and berths for Australian ships and shoreside facilities for their cargo and other needs.
4. Port charges to be monitored and action taken to prevent unreasonable increases;
5. A review into dedicated coastal ro-ro services should be undertaken to assess viability

Customs

1. Provide for circumstances whereby importation is not in the 'national interest' (e.g. a ship temporarily used as a storage facility)
2. Introduce a timeframe during which vessels in Australia will not be deemed imported (e.g. 90 consecutive days)
3. Exempt vessels using Australian dry-dock facilities from importation.

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About MIAL

Maritime Industry Australia Ltd (MIAL) is the voice and advocate for the Australian maritime industry. MIAL is at the centre of industry transformation; coordinating and unifying the industry and providing a cohesive voice for change.

MIAL represents Australian companies which own or operate a diverse range of maritime assets from international and domestic trading ships; floating production storage and offloading units; cruise ships; offshore oil and gas support vessels; domestic towage and salvage tugs; scientific research vessels; dredges; workboats; construction and utility vessels and ferries.

We work with all levels of government, local and international stakeholders ensuring that the Australian maritime industry is heard. We provide leadership, advice and assistance to our members spanning topics that include workforce, environment, safety, operations, fiscal and industry structural policy.

MIAL provides a full suite of maritime knowledge and expertise from local settings to global frameworks. This gives us a unique perspective.

MIAL's vision is for a strong, thriving and sustainable maritime enterprise in the region.

Introduction

The benefits that nations accrue by virtue of having a strong shipping industry include:

- the creation of skills and knowhow;
- control of strategic assets and ability to call upon them for national support;
- a degree of supply chain security; and
- economic diversity and returns to the nation generated from the sector.

For these reasons, MIAL's overarching position concerning shipping policy in Australia is that we ought to have a sustainable, viable shipping industry. This shipping activity can occur anywhere – coastal, offshore and international. The shipping activity should encompass anything – freight, tourism, passenger movement, port and harbour services, offshore oil and gas, construction, scientific/research, essential services, and government services.

The potential breadth of Australia's 'shipping industry' would be the envy of any nation in the world such is the diversity of the maritime task that naturally exists in our region.

We say 'would be the envy' because Australia has thus far failed to capitalise on the natural advantages that our shipping industry presents to offer economic strength and diversity via the provision of a strong shipping industry to the world.

Much of the commentary regarding shipping policy in Australia focuses on the domestic freight component, however shipping policies from leading maritime nations internationally such as Norway, Denmark, United Kingdom, Ireland, and Singapore to name but a few do not draw a distinction between what the ship is doing – rather the focus is encouraging a shipping industry

in its own right to deliver the economic multiplier effects that are universally cherished by maritime nations (often known as their maritime clusters); and the maritime skills development so many nations need.

MIAL is an advocate for a fiscal and regulatory regime that makes it attractive for shipping and maritime businesses to exist in Australia and affords those Australian businesses every opportunity to compete for work and participate in maritime activity worldwide.

A report prepared by PwC[1] shows that in Australia in 2012-13 the total (including the direct and induced impacts) contribution of the shipping industry was $21 billion in GDP; 45,000 jobs and $1.3 billion in tax revenue.

The report went on to identify, that with positive shipping policies those figures rise to $25 billion in GDP; 54,000 jobs; and $2.1 billion in tax revenue.

The impact of the economic cluster that develops around a robust shipping industry cannot be underestimated. Economic diversity is provided not only via direct shipping activities but also through the vast array of technical disciplines and service industries that provide necessary ancillary support. This is the economic multiplier.

This submission discusses the rationale for Australia developing and sustaining a maritime industry and provides recommendations regarding actions that must be taken for the nation's maritime potential to be realised.

[1] PwC, "The economic contribution of the Australian maritime industry", February 2015

1 Skills

1. As the world's largest island nation, Australia requires maritime skills more so than most other countries. From the requirement to ensure trade is facilitated within Australian ports without incident via the provisions of Harbour Masters, Marine Pilots, Vessel Traffic Service operators; to ensuring we meet our international responsibilities as a country with one of the largest port state control[2] tasks; the use, retention and development of maritime expertise is vitally important.

2. Training in the maritime industry requires a mix of class room learning and practical experience in the form of time at sea in a controlled environment, before a seafarer is able to perform their role without supervision. A summary of the main occupational groups in the Australian industry, their roles and responsibilities and the qualification level required is provided below.

Occupation	*Brief Description*	*Qualification*	*Seatime for Entry Level qual*	*Total Training time for certification*
Master and Deck Officers	Primarily responsible for the safe navigation of a vessel as well as conducting cargo operations (where applicable)	Advanced Diploma or Degree level	18 months	3 years
Marine Engineer Officer	Primarily responsible for the design, maintenance, repair and testing of machinery and equipment	Diploma – Advanced Diploma level	9 months	Minimum 3 years
Integrated Ratings (IRs)	IRs may engage in a number of activities including, • Assisting with cargo operations • Assist in engine and navigational watches • Mooring and anchoring operations • General servicing and maintenance	Certificate 3 Level	9 months	12 months
Cooks and Caterers	Marine Cook	Certificate 3 Level	Nil	Cert of safety training 2 weeks.

[2] International regime to ensure global standards for ship safety, environment protection, crew qualifications and more are upheld. The Australian Maritime Safety Authority (AMSA) are responsible for execution of Australian's international obligations under this regime.

3. In many cases the only way for seafarers to obtain the necessary seatime is via experience on board vessels of a certain size, as dictated by international convention.

4. The Seafaring Skills Census[3] shows that 80% of employers want experience and skills beyond the base level qualifications. Training, which includes the development of specialised skills and the achievement of additional qualifications and experience to the level required by Australia, that would contribute to a pool of 'strategic skills' takes upwards of 10 years to achieve. Given the responses to the Seafaring Skills Census about the need for specialised skills and experience, a diversity of assets upon which to work is critical. The Seafaring Skills Census found that tanker experience was the most sought after, particularly for shore-based roles.

5. In the Australian context, the vast majority of seafarer training has historically been undertaken by the trading fleet.

6. The decline in the domestic trading fleet has meant that very few of those carrying the training burden remain in the business of employing and training this strategically vital skill set. Yet many others such as ports, pilots, safety regulators, still rely on these skills being available.

7. According to the recently undertaken Seafaring Skills Census[4], the Australian maritime sector has a projected shortfall of over 560 individuals by 2023. This is across the field of qualified seafarer roles both ashore and at sea.

8. Further, the age profile of all seafarers shows the workforce is ageing. The Seafaring Skills Census[5] shows that 52% are over 46 years old and 1% are over 70. This aging trend is notably worse for Deck and Marine Engineer Officers than it is for ratings.

9. Increasing new entrant training may appear the simplest solution but is unlikely to assist the overall skilled seafarer pool if individuals are unable to find work once qualified and progress to more senior roles. The reduced fleet size also means fewer opportunities to transfer between shipping companies to gain promotion or additional experience.

10. Without platforms on which to work, the nation's inability to locally recruit, train and develop the strategically important skills is now impacting workforce sustainability across the broader maritime sector, and without meaningful intervention, will continue to do so.

11. New opportunities for work and training of Australian seafarers must be secured if we wish to maintain a local skilled seafarer capability.

12. The obvious options are:

    1) Look to the international industry to provide training and work opportunities for Australians.
    2) Refine the existing policies to make Australian shipping businesses competitive and encourage them to invest in training for future growth.

[3] 2018 Seafaring Skills Census, Maritime Industry Australia Ltd 2019
[4] ibid
[5] ibid

3) Bypass the traditional route and train the shore-based skills from scratch (without seagoing experience).
4) Rely on migration as a future source of trained personnel.

13. Australia exposes itself to great risk by relying solely on immigration to fill those roles given the global imbalance in supply and demand for quality seafarers – there is a global shortage. The key international study of supply and demand[6] projects serious shortages of Deck and Marine Engineer Officers of 12% by 2020 and 18% by 2025.

14. Some progress has been made to adopt the path identified in 3 above (notably an *ab initio* pilot training program). It is likely that at least part of the ongoing skills requirement will be filled via this path however, the overwhelming sense within the sector is to retain seagoing experience as a core prerequisite for many shore-based roles[7].

15. A combination of 1 and 2 above is desirable and achievable. Both present challenges and opportunities and are explored briefly below.

16. The bottom line for either to work is that Australian resident seafarers must be able to accept employment at rates competitive with their international counterparts - most of whom are not subject to income tax in their home countries, which is reflected in their gross salaries. This is one area where positive policy settings are required to ensure that a career in a seafaring profession, either at sea or on shore, is sufficiently attractive to attract and retain talent.

1.1 Use foreign ships to train

17. Using foreign ships to gain seatime is not as straight forward as it might seem.

18. Foreign flagged ships have their own training requirements and often all training spaces are already filled, leaving little availability for Australian cadets across the foreign fleet. Furthermore, the provision of maritime skills is not just an Australian problem. There is a critical shortage of training berths globally.

19. The Maritime Labour Convention (MLC) adds additional complexity regarding the obligations of a shipowner vis-a-vis a seafarer. First and foremost, they must have a work agreement containing all the usual things you would find in a work contract including:

- rate of pay (note, under the MLC a seafarer must be paid at least monthly);
- frequency of pay (at least monthly); and
- provisions for leave and other conditions, etc.

20. The MLC is drafted in such a way that there is some scope for interpretation of flag states when implementing its provisions in domestic law. An area of some controversy for some is the definition of a “seafarer” and particularly whether cadets are “seafarers”. Protections afforded to seafarers under the convention are very important and there would

[6] ISF/BIMCO manpower study 2015
[7] 2018 Seafaring Skills Census, Maritime Industry Australia Ltd 2019

understandably be some reluctance to expose Australian's undertaking training to environments where basic conditions were not respected.

21. In an environment of increasing focus on employer responsibility, foreign shipowners may be reluctant to take responsibility for Australian cadets and trainees where there is uncertainty about legalities of the relationship (i.e. workers compensation, superannuation, application of laws). While these issues are not insurmountable, there a range of factors that should be given careful consideration.

22. Some ad-hoc examples of Australian trainees gaining seatime on foreign ships have taken place and that is to be welcomed. However, there are some further technical employment issues that may have been overlooked. For example, in some cases work agreements might not have been in place and workers compensation might have been provided via the educational provider. This is potentially a flawed arrangement based on the understanding that education providers can cover workers compensation where the industry time is a requirement for the qualification. For seafarers, industry time is a requirement for the Certificate of Competency issued by the Australian Maritime Safety Authority (AMSA) but not generally for the qualification itself.

23. Additionally, crews are becoming smaller and smaller, there are shorter turnaround times in ports and increasing administrative burdens on senior crew. As a result, merely increasing the number of trainees on board any one ship may not actually provide a quality training experience or a high-quality product. The key is for more ships to share the burden.

24. There are also wage differential considerations. Wage rates on offer internationally are relatively low in gross terms because they are based on seafarers not having to pay income tax in their home countries. Anecdotally, Australians that have accepted work at that pay rate, have become non-residents for tax purposes. As a result, Australia loses the economic contribution of those individuals (and their families) for at least the duration of their working at sea lives. Australia then runs the risk that the skills developed throughout their working lives are lost to the nation for good.

25. The notion that cadets/trainees can easily find appropriate training places on board foreign ships is perhaps over simplified. Furthermore, the critical factor of the success rate of being able to find work beyond the training period is unknown. If there have been any such cases, they are few and far between.

26. Looking to international ships/companies for assistance with seatime for training may not even be necessary. The Seafaring Skills Census[8] identifies an additional 60 berths are available within the Australian industry, which would more than double the stated current training spaces.

27. Further, the Seafaring Skills Census[9] identifies cost as the major impediment to conducting more training.

[8] ibid
[9] ibid

28. It seems that if the issue of the cost of training could be overcome, combined with better coordination across the Australian maritime sector of training berth utilisation, training numbers could more than double what is occurring right now.

29. Of course, we should reflect that these are 'training' berths – they are not long-term work opportunities and the opportunity to progress beyond entry level remains very limited.

1.2 Build an Australian industry

30. Many nations (including EU members, Norway, Canada, Japan, Singapore to name but a few) offer very attractive arrangements for shipowners to conduct businesses in their jurisdiction. This is in recognition of the economic reward that is available by having shipping form part of a national economy.

31. Shipping is a highly mobile business and internationally shipowners will structure their business arrangements to maximise returns to their shareholders.

32. In shipping, there is no such thing as a free market – the shipping market is well and truly distorted by policies enacted in other nations designed to build their presence in shipping. Other nations incentivise, subsidise and/or protect their shipping industries.

33. The Australian shipping industry must be competitive. The two major areas limiting Australian competitiveness are:

1) Taxation: foreign shipping is subject to very attractive corporate taxation regimes.

   Providing competitive corporate taxation treatment is paramount to successfully encouraging growth in the ownership of Australian shipping assets. The importance of this measure cannot be overstated in terms of its connection to policy success to grow an asset base. Section 0 of this submission deals with the detail of corporate taxation settings required to be competitive.

2) Employment costs: foreign ships are considerably cheaper and other than the corporate tax arrangements one of the largest reasons for this is that they are commonly crewed by a range of nationalities, many from developing nations, and those from developed nations generally have access to personal income tax exemptions.

   As already outlined in this submission the Australian requirement for skilled seafarers is considerable and projected to grow in the future. It is therefore critical that any shipping policy foster these skills and provide every opportunity for Australia to secure this strategic skill.

   Seafarer income tax exemptions would make Deck and Marine Engineer Officers, internationally competitive in some sectors of the industry, and put them much closer to their international counter parts in other sectors. This is discussed in more detail in Section 2.2 of this submission.

In contrast, Australian Ratings, are not cost competitive with the majority of international ratings regardless of income tax treatment. This is not peculiar to Australia, ratings from any developed nation are considered similarly 'high-cost'.

In circumstances where the nation determines that it is appropriate to utilise Australian Ratings (and there are several understandable grounds for doing so, such as engaging in domestic commerce or trade) this reality must be considered and appropriate measures put in place to ensure that the overall impact of employing Australian Ratings meets a national objective.

34. Australia also needs to consider the other benefits the shipping industry provides to the nation from the physical assets themselves in terms of national support and supply chain security. There is value in the assets themselves as well as the workforce they train and sustain.

35. There are three areas where Australian assets could be provided:

1) The Australian International Shipping Register (AISR), amended so as to make it attractive to ship owners/operators and their customers;
2) A new Strategic Fleet; and
3) More effective coastal trading policy.

These are explored further below:

1.2.1 Australian International Shipping Register (AISR)

36. The measures established in 2012, including the advent of the Australian International Shipping Register (AISR), were designed to assist Australian businesses involved in shipping by levelling the playing field between Australian and international businesses, thus allowing greater levels of Australian shipping participation.

37. An international register is a feature of some of the most vibrant economic maritime clusters the world over and a key reason why international shipping costs are kept low. Examples of where an international register has been successful in maintaining or expanding the pool of national maritime assets include Norway, Denmark, Netherlands and the United Kingdom.

38. The AISR provides the opportunity to have a vessel flagged in Australia and requires the most senior positions on board to be filled by Australians, thus growing the strategic skills base the nation requires while allowing for the employment of the ratings from the international seafarer pool.

39. Having ships on the AISR and having Australians employed on those ships creates an Australian presence; a capability "on the water"; and a training ground for Australian Deck and Marine Engineer Officers who go on to fill the nation's skills requirement. By having these ships controlled and operated in Australia and eligible for corporate tax incentives, these assets were also designed to generate training opportunities for local

mariners in the international market, an opportunity that does not currently exist given the status of Australia's domestic fleet.

40. Currently there are no ships registered on the AISR. There are several reasons for this which can be encapsulated broadly as the settings that underpin the AISR not being attractive enough versus international alternatives. The key feature that needs to be changed to address the lack of competitiveness is the corporate income tax settings, discussed in Section 0 of this submission.

41. Further, specific changes to the Shipping Registration Act are required to improve its attractiveness, including:

1. Broadening of the types of vessels/activities that are eligible. For example, changing the requirement to engage in international trading to something describing "maritime activities" so that a range of vessels can be registered on it.
2. Requiring a minimum Australian crew component rather than designated roles, to provide flexibility regarding where the Australian component best fits.
3. Removing reference to the Single Bargaining Unit as the exclusive means of determining terms and conditions on board AISR vessels. A Single Bargaining Unit deprives any crew of the freedom to determine if they need to be represented and by whom. Australian workers are not forced to join a union to negotiate the terms of their employment, it seems absurd that crew of an AISR ship would not enjoy similar freedoms of association. Some legislated minima in terms of wages and workplace accident insurance on the AISR already exists. If a genuine concern related to the undercutting of international standards, then this could be set as a minima. In reality, most AISR vessels would likely negotiate a collective agreement to cover most positions on the vessel regardless of whether the owner was compelled to do so. International template agreements are likely to be used as a basis for this. Any requirement that would require an operator to deal with Australian unions particularly, is likely to act as a significant disincentive.
4. Implementing improvements to the process of obtaining certificates of equivalence for seafarers.
5. Implementing improvements (difficulty and expense) to the survey requirements for re-flagging in Australia.

42. The AISR provides considerable opportunity for Australian shipping businesses to compete with international shipping providers.

43. Decisions to register a vessel under the AISR are entirely market driven and while it is expected that with the attractive policy settings suggested above the register would grow, it will take time as market confidence in policy certainty and stability builds. There is no guarantee over the types of vessels or the number that would be attracted to the AISR.

44. Proactive intervention is required now and while the AISR is in developmental stages it would be usefully complemented by a cohort of vessels under Australian control. This fleet would ensure adequate training and work platforms for seafarer skill development; supply chain security for critical cargoes; and for requisitioning in times of national need. Such a fleet could be characterised as a 'Strategic Fleet'.

1.2.2 Strategic Fleet

45. Australia already has a considerable Strategic Fleet - vessels that the Government sees fit to own/operate/charter such as the Defence and Border Protection fleets, the Antarctic Division Ice Breaker, CSIRO research vessel, and Australian Maritime Safety Authority (AMSA) emergency response vessels, which include a dedicated vessel and others that are retained to be called upon should they be required.

> ***AMSA's 'Strategic Fleet'***
>
> *Australia's National Plan for Maritime Environmental Emergencies (the National Plan) fulfils Australia's international obligations to ensure that the nation has an effective emergency response capability. Along with agreed governance arrangements and stockpiled oil spill response equipment, the National Plan sets out tiered level 1, 2 and 3 emergency towage arrangements.*
>
> *At Level 1 AMSA has control over a dedicated emergency towing and response vessel the Coral Knight, which is based in Cairns and provides emergency towage and first response capability in Far North Queensland and the Torres Strait, a location critical to the protection of the Great Barrier Reef Marine Park and World Heritage Area.*
>
> *Level 2 involves an ongoing availability of emergency towage capability around the remainder of the Australian coastline. AMSA contracts suitable towage vessels and their crew to be available in the event of a shipping incident. These harbour tug operators are contracted by AMSA to ensure the availability of their vessels and maintain the training of their crews for emergency towage operations.*
>
> *Level 3 involves vessels of opportunity, such as offshore supply vessels or anchor handling vessels, that can be directed or contracted at the time of an incident to assist or supplement the Level 1 or 2 capabilities.*

46. Internationally there are examples of broader concepts of Strategic Fleets - regimes adopted by the United Kingdom via the Royal Fleet Auxiliary and United States of America via the Military Sealift Command. The utilisation of merchant marine capability by other nation's defence forces across a much broader area of operation is instructive. Of course, both these nations also have significant national flagged fleets that could be requisitioned if required.

47. The Australian maritime industry is a dynamic and diverse sector that includes

businesses already heavily invested in providing support services to Australian government fleets and has a proud history of working together and supporting our nation's needs.

48. The maritime requirements of Australia lend itself to carefully consider the types of vessels that Australia may determine to be of national interest, given our particular circumstances.

49. MIAL identifies three major objectives of an Australian Strategic Fleet:

1) To provide sufficient numbers of vessels to ensure adequate training and experience building opportunities to secure the strategic skills set the nation requires;
2) To have sufficient vessels of certain types available to secure Australian critical infrastructure and supply chains and;
3) To ensure sufficient, suitable vessels are available for requisitioning, should the nation require such support.

50. The market has determined, and policy settings have allowed, that Australian ships with a full Australian crew component are uncompetitive and unwarranted in almost all Australian trades. That being the case, if a Strategic Fleet is to exist then specific vessels need to be identified and incentives put in place to secure them.

51. Such incentives will need to be a form of retainer to offset the cost differential between full Australian flagged and crewed ships and foreign ships, which ensures Government access to the vessels if and when required.

52. Access to the retainer would be contingent on the provision of a dedicated maritime training program.

1.2.2.1 Strategic Fleet funding sources

53. There is a strong rationale for Government support. In 2016/17 the public funding (from all Governments) provided to road and rail was:

- ~$26.1 Bn (Commonwealth, State/Territory and Local) for road; and
- ~$8.5 Bn (Commonwealth and State/Territory) for rail.[10]

54. According to the Australian Logistics Council research, for every 1% increase in efficiency in the Australian national supply chain there is a $2billion benefit to the Australian economy. [11]

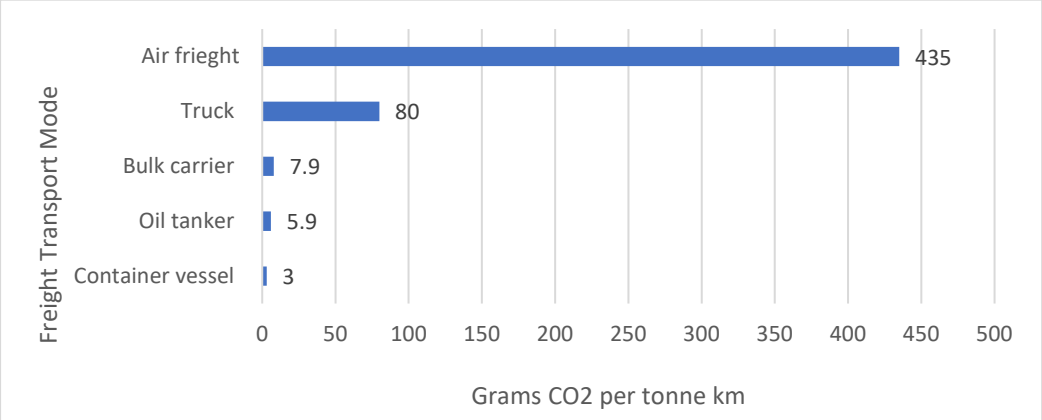
55. There is little doubt that with the right policy settings shipping could deliver

[10] BITRE Australian Infrastructure Statistics – Yearbook 2018; ABS2018h, Government Finance Statistics, Australia, 2016-17, ABS cat.no.5512.0, Canberra
[11] ACIL Allen Consulting The Economic Significance of the Australian Logistics Industry (2104)

at least a 1% efficiency gain.

56. A fraction of the expenditure provided to road and rail would greatly enhance the competitiveness of shipping vs those modes and increase the market share of this form of transport, with resultant economic and environmental benefits, particularly with regard to Australia's growing transport emissions.

Comparison of CO_2 per tonne kilometre [12]



57. At the same time there is an opportunity to redirect some funds from elsewhere to ease the burden on the public purse. The idea floated in the Maritime Green Paper[13] was that these vessels be supported by a redirection of funds currently paid by foreign ships participating in Australian coastal trade in the form of crew wage top-ups under the Seagoing Industry Award Part B. This funding source was estimated at ~ $10million per annum.

58. The strong sentiment at the time of the Maritime Green Paper preparation was that foreign shipping companies didn't mind paying something, but they wanted to see it go to the benefit to the Australian maritime sector.

59. Importantly, they wanted to eliminate the red-tape and administrative burden that accompanies the payment of the wages top-up. To achieve that end, a future simple, fixed levy would sensibly form part of existing AMSA levy structures.

60. MIAL support the proposal to redirect the top-up wage payments currently made pursuant to the Fair Work Act (FWA) and Seagoing Industry Award Part B wages, to a purpose that directly supports the Australian maritime industry and the training and skilling of the Australian strategic workforce.

1.2.2.2 Commercial use of vessels

61. With appropriate forms of support in place, the commercial interests that

[12] '*Delivering CO2 Emissions Reductions'* International Chamber of Shipping.
[13] Maritime Green Paper - A Maritime Transition, 2016

would be expected to use the Strategic Fleet ships would be in the same position commercially as they are now - but the nation will have secured assets that fill certain national interest requirements.

62. Assuming this is the case, determining what additions we might suggest to the existing strategic fleet is a key consideration. An appropriate test to apply at first instance might be to identify where there is sufficient task to warrant a stable and permanent presence for a vessel; or where provision of a vessel of a certain type serves a key national requirement – say for skills development, supply chain security or national capability.

63. Without determining precisely what vessels might be included it is possible to estimate what the impact of the establishment of a Strategic Fleet would be.

64. Using round numbers, 20 vessels would result in ~900 permanent jobs (~100 ashore and 800 at sea), provide training for ~100 seafarers each year and require ~ $200m annually in support. Taking into account the proposal that part of this be funded from the industry itself, that equates to 2.4% of the rail funding or 0.7% of the road funding allocation in 2016/17.

65. This is a small price to pay to secure a reliable, source of trained maritime professionals to run our nations ports, pilot visiting ships and ensure safety and environmental standards are upheld. Not to mention having a critical mass of assets available to look after the national interest, should that be required.

66. The Government already fund other forms of surface transport and provides aviation with a watertight cabotage regime. Fiscal and structural support for transport modes is alive and well in this country and this submission has provided the key argument for such support to be extended to shipping.

67. However, the provision of Government assistance to establish a Strategic Fleet of vessels requires the industry to contribute to the success of such an endeavour.

68. Every possible effort must be made to ensure that the Australian cost base involved in the operation of these ships be carefully managed and controlled and that terms and conditions be in line with community standards.

69. On this point, MIAL makes the following recommendations:

1) The niche commonwealth seafarers workers compensation scheme be abolished and coverage be provided by the States and Territories, which already cover the majority of maritime workers in Australia; and
2) Terms and conditions of employment be established based on Greenfields Arrangements not previous Enterprise Agreements which have driven costs to unsustainable levels.
3) Continuity of operations must be assured.

1.2.2.3 Employment practices

1.2.2.3.1 Seacare

70. The overwhelming majority of Australian workers in the private sector are covered by work health and safety laws and workers compensation schemes administered across states and territories, covering millions of workers. Somewhere in the region of 5140 (most recent Seacare Report 2017/18) seafarers are covered by this niche scheme. There would be tens of thousands of others who work in the domestic maritime industry but are covered by state and territory schemes.

71. Unfortunately, this is a scheme, from a workers compensation perspective that is expensive for employers and provides less than optimum health and safety outcomes for employees, not to mention high levels of disputation in relation to claims. Some suggest the entitlements in this scheme are more generous, which for weekly payments is true but overall there are swings and roundabouts in terms of the generosity of entitlements provided the Seacare and state and territory schemes.

72. The number of Australian operators captured by this scheme is nominally in the region of about 35. There are an unknown number of operators who are captured by the scheme but are unaware either of its existence or its application to their business. This places a huge question mark over the scheme coverage and creates an unmanageable risk for scheme employer you wholly underwrite the safety net for this scheme.

73. That there is so much uncertainty as to who is covered by the scheme, means that the safety net fund – against which employees of uninsured (or disappeared) employers may make claim – is frighteningly exposed. That it is Australia's long standing, traditional participants, who for many years have been participating and doing the right thing, who are responsible for the solvency of the fund is fundamentally unfair and is utterly irresponsible from government, given that this situation has been known since 2014 and even before.

74. There is simply no justification for this separate scheme to continue acting as a burden around the neck of industry when it makes absolute sense to the apply the same rules as what applies to the rest of Australia's private sector workforce. This is not even a question of international competitiveness. In this case, all ship operators ask for is what other Australian businesses already have.

1.2.2.3.2 Terms and conditions of employment

75. For many years now Australia has not had vessels of many of the types that might form part of a Strategic Fleet.

76. It would be inappropriate for previous Enterprise Agreements, developed in entirely different economic circumstances, to be used as the starting point for new work agreements regardless that the vessels may well be of the same type.

77. Consideration should be given creating contemporary best practice in the maritime industry regarding length of swing, rates of pay, superannuation contribution levels, provision of allowances, etc to ensure conditions are far more in line with average Australian community standards than has historically been the case.

78. Considering the strategic nature of these vessels, continuity of operations must be assured.

79. While the industrial parties are ultimately responsible for the negotiation of workable agreements, the social contribution to the provision of these ships via the retainer paid by Government should mean that the Government has an interest in ensuring a practical and efficient outcome.

80. As noted earlier in this submission, the Seafaring Skills Census[14] highlights that the need to act to secure our skills base is urgent. Unless and until Australia has a regime that supports a level of local content in our shipping task we will not see certainty and stability in the sector and industry will continue to be wary of investment. How long that change takes will determine whether the industry is in a position to rebuild at all – and with the complete demise of the industry comes a loss of strategic skills it is widely accepted is essential for Australia.

81. The creation of a Strategic Fleet has potential to solve a great number of challenges facing the industry and also create jobs, secure our skilled seafarer shortage and create optimism and a future for an industry which other developed nations consider critical and carefully nurture.

82. The third area this submission has identified as being a source for the provision of Australian assets is coastal trading policy.

1.2.3 Coastal Trading Policy

83. The need for certainty and stability of coastal shipping policy settings remains as critical now as ever before.

84. The current regulations around coastal trading must be amended to increase pragmatism and accommodate interests of all parties.

85. There are currently 50 vessels that hold a General Licence. That's probably a lot more than many observers of the sector realised but the detail is important. They are: 8 vessels that work in/across Bass Strait; 5 dry bulk carriers; 5 expedition cruise vessels; 1 research vessel; 31 servicing Northern Australia including a large number of landing

[14] 2018 Seafaring Skills Census, Maritime Industry Australia Ltd 2019

barges. Suffice to say, the activity of these General Licence vessels is not preventing foreign flagged shipping from servicing coastal trades.

86. What Australia needs is a clear vision to create a stable and sustainable policy. Such a vision needs to tackle the core questions:

1) What maritime capability does the country need?
2) How will it be provided?
3) Who is going to pay for it?

87. It is possible to design a regime that:

1) Supports Australian businesses involved in providing shipping services;
2) Provides users of shipping services with the service they need at a rate they can afford;
3) Provides opportunities for a strategic group of Australian maritime workers to train and work; and
4) Allows Australia to capitalise on the natural advantages it has to be a strong maritime nation with resultant benefits to the nation (economic and social).

88. We need to think differently about how Australia could maximise the natural advantages we have to be a shipping nation; and just as the AISR and the Strategic Fleet play a role, so too can our coastal shipping task.

89. The nations who provide the ships to carry international cargos, and indeed the vast majority of Australia's domestic cargos, all incentivise their industry – in many cases to an extreme extent. The effect is precisely the same as 'protectionism' or cargo reservation.

90. One person's incentive is another person's subsidy.

91. There is no such thing as a level playing field in shipping – everyone is protected somehow, it's just a matter of how it is presented. Tax breaks, international employment arrangements and other incentives go unremarked upon while cabotage or cargo reservation appear with flashing neon headlines.

92. Australian shipping businesses don't necessarily want 'protectionism', but they do want fiscal and regulatory settings that give them a chance at competing with other nations who incentivise and/or subsidise their industry. As contributors to the national economy[15] and employers of Australians both on shore and at sea, it makes sound economic sense to ensure these businesses have that opportunity.

93. Increased shipping activities particularly in regional and remote areas generates employment opportunities within that community. A small amount of these may be on board ships but a much larger volume of employment opportunities would be afforded to those maintaining shore side infrastructure within terminals and ports, those

[15] PwC, "The economic contribution of the Australian maritime industry", February 2015

providing services to the operations (suppliers, provedores etc) as well as the opportunity to develop critical services such as ship repair and dry docking facilities if the market is such to sustain these.

94. New options such as the use of mini-ports and short sea shuttle services are worthy of in-depth study and/or specific support.

95. Further the interaction of the AISR and Australia's coastal shipping policy requires review.

96. Currently AISR ships must spend more than 50% of their operations in any year engaging in international trades. At the same time, Australian coastal trading requirement is being filled by foreign ships. This is a perverse outcome and not one that adds any benefit to the Australian community or economy. There is no logical reason to perpetuate these policy settings.

97. The following further changes to the AISR in relation to coastal trading should be made:

3. Remove time off the coast requirement for AISR ships entirely (currently AISR ships must spend more than 50% of their time in international trades).
4. Provide AISR ships with preference over Foreign ships when issuing Temporary Licences.
5. Fix ambiguity regarding FWA implications when under a temporary licence and not covered by Part B (i.e. first two voyages) – FWA is dis-applied when engaged in international trading, meaning that at all other times the FWA applies (s61AA(a) of the *Shipping Registration Act 1981*).

98. In addition to the fundamental changes necessary to support Australian ship participation in coastal trades (such as taxation treatment, see Section 2), a range of other changes should be made within the current framework of the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (Coastal Trading Act).

99. It is well established that the process for obtaining a temporary licence to work on the coast can be a deterrent for some operators. There are simple fixes to maximise use of coastal shipping and remove red tape burdens.

100. These process improvements are clearly described in the Maritime Green Paper[16] and would result in almost all voyages being undertaken with the bare minimum of paperwork and approvals. Most would not even require an application, far less a variation, under the proposals put forward. And this is possible precisely because the vast majority of coastal trading is undertaken by foreign ships.

101. Importantly, these changes can liberate the vast majority without destroying the fabric of the regime that offers fair and reasonable checks and balances for what is left of the Australian industry or any future introduction of an Australian ship into a trade.

[16] Maritime Green Paper - A Maritime Transition, 2016

102. The changes proposed to the Coastal Trading Act are:

- Streamline the licence application process including removing the restrictions on some temporary licenses and the voyages undertaken therein as per flowchart provided in Maritime Green Paper[17] and reproduced at Appendix 1.

- Minimise the scope of decision making by the Delegate by introducing commercial principles where possible, including a maritime arbitration facility to resolve commercial disputes and ACCC oversight to monitor pricing in monopoly trades.

- Separate out national highway and essential service operations.

- Introduce special arrangements for essential service operations consistent with those available for the national highway, i.e. the Tasmanian Freight Equalisation Scheme (TFES).

    - Tasmanian Freight Equalisation Scheme (TFES) is an Australian Government program providing Tasmanian industries with equal opportunities to compete in other markets. It reduces the cost of transporting freight across Bass Strait for Tasmanian shippers who are not able use road or rail to move their goods interstate[18].
    - Assistance is also available for eligible non-bulk goods shipped between the main island of Tasmania and either King Island or the islands of the Furneaux Group[19].
    - The communities of the Islands within Bass Strait and those off the Queensland coast have the same issues with regard to lack of connection to the mainland and it would seem logical that the same support should apply around the nation.

- The Coastal Trading Act operates on the basis of port pairs – that is a voyage is considered to be from a port to another port; not a network or chain of port visits. This operating model does not work for a range of Northern Australia port visits where it is the network of voyages that allows the business to service what would otherwise be unprofitable routes to remote communities. The shipping task amounts to an essential service as without regular ship calls the communities would be reliant on air services or in some cases, completely isolated. Allowing a Temporary Licence ship to undertake a single leg of the network of voyage places the entire operation at risk.

    - It is therefore suggested that this trade (i.e. Northern Australia to the communities in Torres Strait and across the top end) be considered "essential services". Australian operators in this trade could benefit from a change to the definition of voyage in the Coastal Trading Act so that it

[17] ibid
[18] https://www.business.tas.gov.au/managing-customers-and-suppliers/The-Tasmanian-Freight-Equalisation-Scheme-TFES
[19] https://infrastructure.gov.au/maritime/tasmanian-transport-schemes/tasmanian/

recognises the network of voyages as being 'the voyage'. This would ensure that foreign competition could not cherry pick the profitable routes only, which would render the services to some more remote communities commercially unviable and service would likely cease.

- There is a clear distinction within the cruise industry between the operators of large ships and the expedition cruise market.
  - The large ship sector is currently exempt from the coastal trading provisions and it is suggested that this remain the case.
  - A determination needs to be made regarding the appropriate settings for the expedition cruise sector. The structure and features of this sector are far more akin to land-based tourism than 'shipping' and as such a determination needs to be made regarding the appropriateness of expedition cruising being included within the jurisdiction of coastal trading (economic regulation) at all.

2 Fiscal measures

2.1 Corporate income tax

103. As noted earlier in this submission, shipping is a highly mobile business and, given the national benefits that accrue from having a robust shipping industry, jurisdictions that offer favourable corporate taxation treatment for shipping are many. Below is a list of jurisdictions and the nature of the advantageous tax treatment on offer for shipping businesses.[20] Tonnage Tax regimes are common across the globe operated by companies paying tax based on the tonnage of the ships. These are set at very low rates and are generally regarded as being highly advantageous for the companies who are able to utilise them as the level of tax is known and minimal.

Flag	Country	Tax regime
	Antigua and Barbuda	Favourable tax regime
	Barbados	Favourable tax regime
	Belgium	Tonnage tax – Dutch model
	Bermuda	Favourable tax regime
	Brazil	Shipping incentives
	British Virgin Islands	Favourable tax regime
	Bulgaria	Tonnage tax – Dutch model
	Canada	Non-resident tax payer regime
	Canary Islands	Shipping incentives
	Cayman Islands	Favourable tax regime
	China	Shipping incentives
	Curaçao & St. Martin	Tonnage tax – Dutch model; Shipping incentives
	Cyprus	Tonnage tax – Greek model
	Denmark	Tonnage tax – Dutch model
	Estonia	Favourable tax regime
	Finland	Tonnage tax – Dutch model
	France	Tonnage tax – Dutch model; Shipping incentives
	Germany	Tonnage tax – Dutch model
	Greece	Tonnage tax – Greek model
	Hong Kong	Shipping incentives
	India	Tonnage tax – Dutch model
	Ireland	Tonnage tax – Dutch model
	Isle of Man	Favourable tax regime
	Italy	Tonnage tax – Dutch model; Shipping incentives
	Japan	Tonnage tax – Dutch model
	Liberia	Non-resident tax payer regime
	Malaysia	Shipping incentives

[20] *PwC (2015) Transportation & Logistics International Tax: Choosing your course Corporate taxation of the shipping industry around the globe, p. 7: https://www.pwc.com/kr/ko/publications/industry/pwc-choosing-your-course.pdf*

	Malta	Tonnage tax – Greek model
	Marshall Islands	Favourable tax regime; Non-resident tax payer regime
	Netherlands	Tonnage tax – Dutch model; Shipping incentives
	Norway	Tonnage tax – Dutch model
	Panama	Shipping incentives
	Philippines	Shipping incentives
	Poland	Tonnage tax – Dutch model
	Republic of Korea (South Korea)	Tonnage tax – Dutch model
	Russia	Shipping incentives
	Saint Lucia	Favourable tax regime
	Singapore	Shipping incentives
	South Africa	Tonnage tax – Dutch model; Favourable tax regime
	Spain	Tonnage tax – Dutch model
	Sweden	Shipping incentives; Tonnage tax – Dutch model under review for possible implementation
	Taiwan	Tonnage tax – Dutch model
	Turkey	Shipping incentives
	UK	Tonnage tax – Dutch model
	USA	Tonnage tax – Dutch model

104. In 2012 corporate taxation treatment was established whereby Australian shipping companies could pay zero tax on profit earned from the operations of their Australian flagged ships (this includes the direct shipping activity and a variety of other ancillary activities that provide a nominal profit also).[21]

105. However, the operation of this tax regime provides that when the profits from those companies are distributed the shareholders must pay tax on the dividends received. In effect, the tax is deferred.

106. These current arrangements do facilitate the reinvestment of profits by the company – which is advantageous when companies are growing or renewing their fleets. Demonstration of this policy success is that the commercial operators in Bass Strait have both recently renewed their shipping fleets.

107. However, when compared to other nations, the current income tax arrangements do not make Australia a competitive regime to own ships from. Extracts from a range of other nations tax treatment for shipping businesses is provided at Appendix 1.

108. The lack of attractiveness of the Australian corporate tax treatment vs international comparisons explains why only those ships that are already here utilise this measure rather than this measure being successful in attracting more ships to be owned/controlled from Australia.

109. An internationally competitive taxation structure that attracts greater involvement of Australian businesses domestically and internationally would guarantee Australia economic advantage as well as strategic control of valuable trade routes and cruise and

[21] *Shipping Reform (Tax Incentives) Act 2012* (Cth)

resource sector activities.

110. In their report "Corporate taxation in the global offshore shipping industry" pwc point out the importance of broad application of tax structures across the maritime domain and the competitive nature of attracting shipping business: "In countries that use tonnage tax regimes or shipping incentives tax regimes, these don't necessarily apply to every type of vessel. Our analysis suggests that various countries' approaches can have a significant impact on both individual businesses and the countries' competitive position."[22]

111. ***Australia must be competitive***

The zero rate of income tax on profits derived from shipping activities falls short of being competitive with other nations in the region due to the tax treatment on the distribution of profits.

112. This makes Australia uncompetitive as a place to base shipowning and operating businesses from and is readily addressed via changes to the treatment of dividends.

113. ***Australia should make the most of its natural advantages***

To maximise the economic cluster that develops around shipping activity, the broad maritime/shipping activity including the offshore resources sector and the vast number of vessels it involves, ought to be encouraged to participate to build business investment and activity in Australia.

114. Such a change would have no effect on tax receipts for the nation, as the current very limited number of recipients are reinvesting the profits rather than paying a dividend.

115. The additional economic activity that results from businesses choosing to own and operate ship from this country, would be *new* activity. As such, there is no 'revenue foregone' considerations for Treasury.

116. The economic contribution of the sector following introduction of such a policy has been estimated at $25Bn in GDP; 45,000 jobs and $1.3Bn in taxation revenue[23].

MIAL Recommends that the following be adopted:

1. Introduce deemed franking credits in respect of dividends to resident shareholders, to make vessel ownership and/or operation from Australia more internationally competitive.
2. Introduce dividend withholding tax exemption in respect of dividends to non-resident shareholders, to make vessel ownership and/or operation from Australia more internationally competitive.
3. Extend application of taxation structure to broader shipping industry including the offshore sector.

[22] Corporate taxation in the global offshore shipping industry. Pwc.
[23] PwC, "The economic contribution of the Australian maritime industry", February 2015

2.2 Individual income tax

117. The benefit to the nation of having a large pool of qualified seafarers is that it helps to secure the strategically valuable shore-based skills that the national relies upon in maritime services.

118. The Seafarer Skills Census identifies a definite shortfall, some 560 by 2023 in fact, in the number of people the industry projects it will need, and the number intended to be trained. Training to the entry level is only one part of the problem the nation faces in terms of seafarer availability – a greater issue is the opportunity for seafarers to work at sea.

119. The existing seafarer tax offset, provides a tax refund to the employer for 30% for eligible individuals, being the assumed PAYG tax withheld from the employee and remitted to the Tax Office.

120. The existing income tax treatment of individual seafarers has several shortcomings in terms of international competitiveness; and success at encouraging sufficient qualified seafarers to fill the needs of the nation.

121. These shortcoming are:

1) It is too narrow in its application – being only applicable to:
    a. seafarers working on trading ships; and
    b. those trading ships must be Australian flagged; and
    c. international service of at least 91 days.
2) It is too restrictive in design. Regimes applicable internationally provide for the individual to manage their own tax affairs – that is not how the Australian seafarer tax offset works.

122. The existing seafarer tax offset assumes an employment relationship between an Australian resident tax payer and an Australian company. This limits the opportunity for Australian seafarers to work for international companies and remain resident tax payers; which in turn limits the number of Australian's working as seafarers who would be available to provide the strategic skills that the nation needs.

123. The purpose of this proposal is to complement the existing arrangement and to enable Australian seafarers to accept employment from a foreign company in international shipping at competitive rates without that resulting in significantly lower take home pay than their international counterparts (most of whom are not subject to income tax in their home countries).

124. It is proposed that a regime be introduced that allows individuals to be tax free if they spend a certain amount of time working overseas and allows them to manage their own tax affairs.

125. At present, there are few Australian Deck or Marine Engineer officers employed in internationally and almost none who are resident tax payers. This is because international seafarer wage rates are lower than Australian wages as in most circumstances seafarers engaged in international shipping are tax exempt from their countries of residence income tax regime. Appendix 3 provides a summary list of international examples.

126. At present, Australian seafarers who wish to retain residency will be subject to income tax on their wages. As a foreign entity employer will not withhold tax on behalf of the Australian Tax Office (ATO), an Australian seafarer resident must lodge an income tax return for their earnings for the relevant financial year, and assuming they are tax residents, will be issued with a tax bill by the ATO after an assessment of taxable income has taken place.

127. Under this proposal Australian seafarers employed by foreign companies would not face this tax liability. This will mean Australian resident seafarers will be in a financial position to accept lower gross salaries, as they will not be subject to tax, thus making them competitive with their international colleagues.

128. Further, this measure will help address a significant shortfall in work opportunities currently available on Australian vessels for Australian seafarers to fulfil their sea time requirements for initial training and ongoing experience and career progression by encouraging individuals to accept appointments on foreign vessels at foreign wage rates.

129. The rationale for extending the tax exemption to seafarers working in Australia as well as overseas is simply to avoid a perverse outcome. If we simply mirror the tax policies in place in other nations (that have seafarers tax exempt when working overseas), we will end up in a situation where international seafarers perform all work in Australia and Australian seafarers will only be affordable to employers if they work overseas.

130. Facing that very real scenario, future polices to address the strategic skills shortage should ensure we don't end up with such a nonsensical solution.

131. Amendments to the Seafarers Tax Offset should be made that:

4. Provide for the Seafarer Tax Offset to be available to Australian crew even if not working internationally in order that the operating cost of the ship can be reduced (i.e. cost saving vests with employer) thereby increasing the competitiveness of a ship employing Australian workers.
5. Provide complementary seafarer income tax structure for those not employed by Australian companies or on Australian flagged ships (to ensure that Australian's are treated on an equivalent basis as their international counterparts).
6. Extend application of taxation structure to include individuals working on a broader range of vessels within the shipping industry, including the offshore sector.

3 Ports and Port Pricing

132. Encouraging greater use of shipping as a transport mode, regardless of the Australian component involved in the ship, requires port access and port pricing to be competitive.

133. A recent report[24] highlights a worrying development in the unprecedented rise of fees and charges at some of Australia's major ports.

134. "Shadow Minister for Ports and Freight, Roma Britnell, says users of the Port of Melbourne are alarmed that the Ports Minister, Melissa Horne, failed to explain in Question Time today why access fees charged by the major stevedoring companies have increased from $3.60 to $80.00 per container over the past 2 years. "Following the lease of the Port of Melbourne in March 2016, the Andrews Labor Government promised that "the scope of regulated charges will be expanded to cover all trade charges for cargo and shipping movements. However, major stevedoring companies that operate at the Port of Melbourne have since increased their infrastructure access fee by over 2 000 per cent in just two years."

135. Further, in 2018 NSW Ports released their new port pricing schedule[25] which gave effect to a decision to drop a separate pricing structure for coastal containers. The resulting uplift for Port Botany is significant, being nearly 100% for export (up from $43 to $81.94) and 200% for import (up from $43 to $123.10).

136. We note that the NSW Ports is a supporter of coastal shipping and is keen to grow the coastal shipping trade, however actions like this send a powerful and negative signal to the market regarding coastal container movements. Ports and shipping companies need to work in concert to create an environment for investment. Creating a situation whereby shipping companies have to approach a port for a favourable fee structure for coastal movements is not conducive to active growth.

3.1 New opportunities

137. Public investment in the infrastructure to encourage dedicated coastal ro-ro services for containerised cargo and trucks was identified in the Maritime Green Paper[26] as being something that would likely have immediate impact and provide confidence to investors to provide that transport option.

138. Improve the ship/port interface for Australian ships

- Provide discounts / exemptions to Australian ships for port and regulatory fees.
- Invest in dedicated coastal ship terminals as critical infrastructure.
- Ensure port planning processes provide priority access to ports and berths for Australian ships and shoreside facilities for their cargo and other needs.

[24] Media Release; Roma Britnell MP, Shadow Minister for Ports, Wednesday 20 February 2019, Labor fails to explain massive port cost increases
[25] https://www.nswports.com.au/resources/port-charges/)
[26] Maritime Green Paper - A Maritime Transition, 2016

4 Other areas that need action - Customs

139. In recent years there have been a number of issues relating to Customs importation of vessels which has resulted in unsustainable and costly additional burden to industry, with little or no benefit to the nation. Furthermore, there are a number of circumstances whereby threatened importation has resulted operators taking a significant amount of business elsewhere.

140. Ship importation for the purpose of the *Customs Act 1901* (Customs Act) has many flow-on effects, many of which are complex and have yet to be fully explored, but one impact is clear - that is the visa status of the ship's crew. Following 'importation' maritime crew visas are not valid and crew holding these must obtain a different visa or depart the country within 5 days. Crew working on board an imported vessel must have Australian work rights. Where visa's are available (currently the s482 programme is not accessible to most seafarers), this represents a significant cost and administrative burden, is unsustainable and for most, an insurmountable barrier to doing business in Australia.

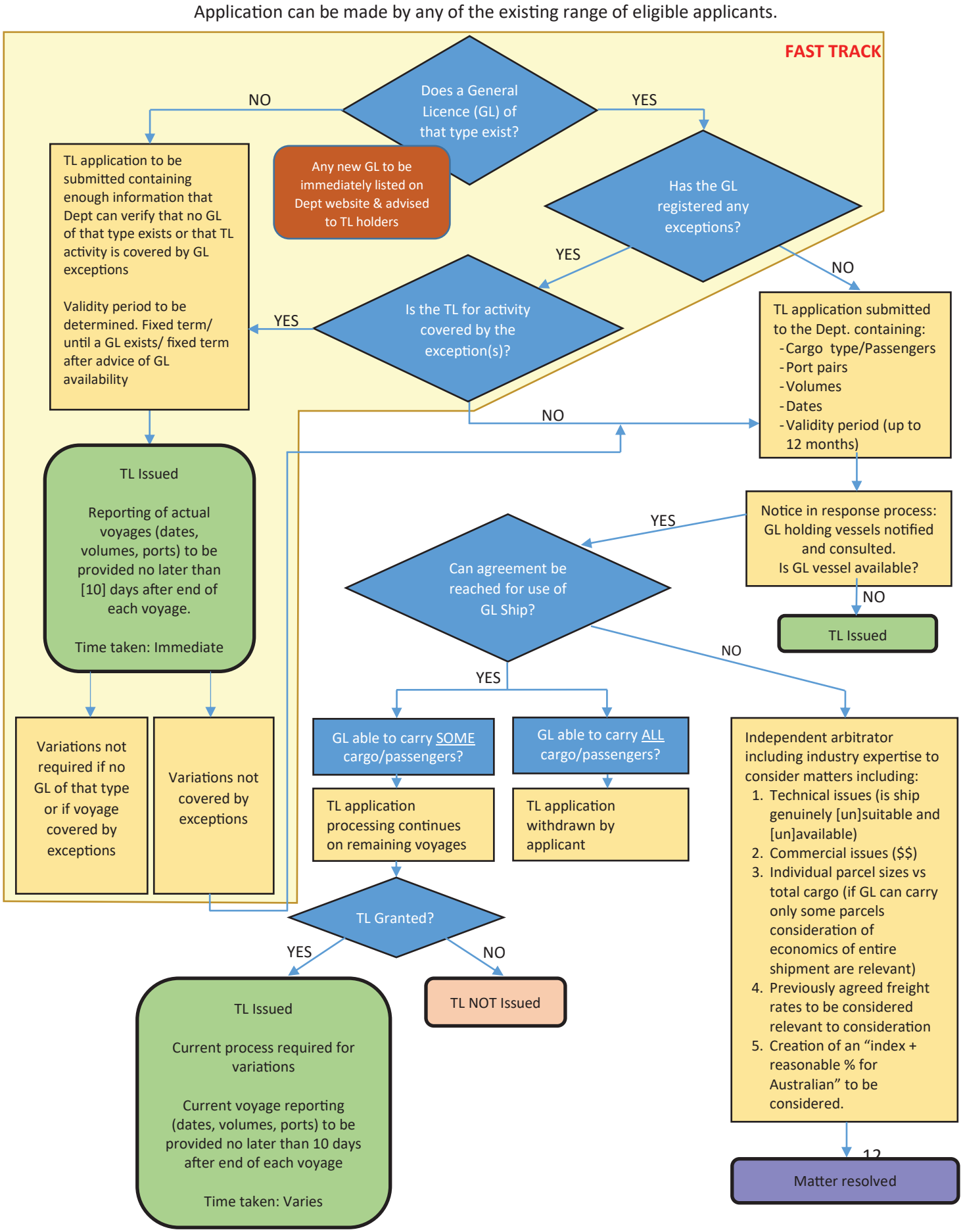
141. The Coastal Trading Act can be used to exempt foreign vessels undertaking coastal trading voyages from the importation provisions in the Customs Act. However, the issues around vessel importation go beyond that which could be dealt with through the Coastal Trading Act – such as vessels wishing to undergo dry-docking in Australia, be used as temporary storage facilities and so on.

142. In our view, dealing with these issues through the Customs Act should be a matter of priority. The changes that are proposed are needed are:

- Provide for circumstances whereby importation is not in the 'national interest' (e.g. ship used as temporary storage facility);
- Introduce a timeframe during which vessels in Australia will not be deemed imported (e.g. 90 consecutive days); and
- Exempt vessels using Australian dry-dock facilities from importation.

Appendix 1 – Coastal Trading Process Improvements

Flowchart for Temporary License (TL) application



Appendix 2 – International Corporate Tax Regimes for Shipping

2.1 United Kingdom

Information taken directly from: EY Shipping Industry Almanac 2016:
https://www.ey.com/Publication/vwLUAssets/EY-shipping-industry-almanac-2016/$FILE/EY-shipping-industry-almanac-2016.pdf

Tax facilities for shipping companies

There are two alternative corporate income tax regimes for shipping companies: corporate tax based on tonnage and corporate tax based on profits.

Corporate tax based on tonnage

The United Kingdom (UK) tonnage tax regime was introduced in August 2000. It follows a model adopted by a number of other European countries. The benefits of the regime depend on fulfilling certain training requirements and have been effective from 1 January 2000.

Election: A qualifying company or group must elect for the new regime to apply. An election generally has effect for 10 years, unless a company or group ceases to qualify for the tonnage tax regime. Elections can only be withdrawn in limited circumstances. Qualifying companies or groups must make the election within 12 months of the date on which they become qualifying or 12 months from the day of the merger that created the new group.

Requirements: To benefit from the regime, a company must be subject to UK corporate income tax and operate qualifying ships that are strategically and commercially managed in the UK. HM Revenue & Customs (HMRC) manuals emphasize the importance of independent decision-making and a range of commercial management being conducted in the UK with the emphasis on high levels of decision-making. Qualifying ships are those of at least 100 gross tons which are used for carriage by sea of passengers or cargo, marine assistance, or transport in connection with other services "of a kind necessarily provided at sea".

A group qualifies if one or more members are qualifying companies. There are restrictions on the percentage of ships that may be chartered in on a time-charter basis and other anti-avoidance provisions have been introduced, for example in relation to ship-leasing structures.

Calculation of tonnage tax: A company or group in relation to which a tonnage tax regime election has effect is known as a tonnage tax company (TTC) or tonnage tax group (TTG). For the purposes of corporate income tax, a TTC's relevant shipping profit (RSP) is replaced by its tonnage tax profit (TTP). TTP is calculated by reference to the qualifying daily net tonnage of each ship operated by a TTC according to the following table:

Charging band (Net tons)	Rate per 100 net tons
Up to 1,000	£0.60
1,001 to 10,000	£0.45
10,001 to 25,000	£0.30
Over 25,000	£0.15

TTP is the aggregate of the calculations for each ship. The normal rate of corporate income tax (see below) is then applied to TTP.

Relevant shipping profit: Relevant shipping profit (RSP) is made up of four elements:

1. Income from tonnage tax activities
2. Dividends received from non-UK shipping companies that would qualify for tonnage tax if they were UK tax resident and subject to UK corporate income tax; such dividends must be paid out of profits generated in a period when the paying company would have qualified for tonnage tax (e.g., if it had been UK resident)
3. Interest, foreign exchange gains and losses, and profits on interest rate and currency contracts that are so closely related to core tonnage tax activities that they are not treated as investment income
4. Chargeable gains arising on the disposal of assets used for the tonnage tax trade

Tonnage tax activities are broadly the operation of qualifying ships and specified ancillary activities. The tonnage tax activities of a company are treated as a separate trade distinct from all other activities and no relief, deduction or setoff of any description is allowed against TTP. An accounting period ends when a company enters or leaves tonnage tax and any pre-tonnage tax losses attributable to tonnage tax activity are extinguished on entry. There are special provisions covering the suspension of capital allowances; such provisions depend on the length of time the company remains within the tonnage tax regime. Gains on qualifying assets held prior to entering the regime are reduced according to how long an election has been in force.

Minimum training obligation: Companies will be eligible for tonnage tax benefits only if they meet the minimum training obligation. According to the size of the fleet and the number of officers employed, the company will have to find, or fund, places for an agreed number of officer trainees, and consider measures to develop ratings. The Department for Transport (DfT) must approve a TTC's training plan before it can be admitted to the tonnage tax regime by HMRC.

Taxpayers are required to submit training plans to the DfT annually. Training plans generally have to be submitted, including any updates, to the DfT by 31 August each year and apply from 1 October in the same year.

***European Union (EU) flagging**:* Under EU law, tonnage tax is considered to be a form of state aid, and, as such, the European Commission (EC) issued guidelines on maritime state aid in 2004. These guidelines sought to encourage countries to have a greater percentage of their fleet flagged in a Member State of the EU (which includes the European Economic Area (EEA) for these purposes).
The UK response was to introduce legislation requiring a greater percentage of a tonnage tax operator's fleet to be EU flagged. This legislation will apply unless the Secretary of State specifies that it will not have effect for a particular fiscal year. This will only happen if the proportion of vessels in the tonnage tax regime that are EU flagged has decreased compared with the previous year.
For fiscal years 2008–15, the Secretary of State announced that the legislation would apply. Consequently, any new vessel added to a tonnage tax operator's fleet would need to be EU flagged in order to be a qualifying ship, unless either of the following conditions is met:

- The company already has an average of at least 60% of its tonnage flagged in the EU beginning with the start of the financial year and ending on the day the company begins to operate the new vessel.

Or

- The percentage of the company's tonnage that is EU flagged has not decreased since the later of 17 January 2004 or the end of the accounting period during which the company or group entered tonnage tax.

Guidance regarding the tonnage tax regime may be found in the UK HMRC Tonnage Tax Manual. This can be accessed at www.hmrc.gov.uk/manuals/ttmmanual/index.htm.

Corporate tax based on profits

Rates of corporate income tax: As from 1 April 2015, a single rate of 20% applies to small and large companies. The UK government has announced intentions to reduce the rate to 19% from 1 April 2017 and to 17% from 1 April 2020.

Tax depreciation: The UK tax regime provides for capital allowances (tax depreciation) to be given against the cost of acquiring assets for trading purposes. Note that "trade" for UK tax purposes is generally regarded as a narrower concept than "business." Capital allowances reduce taxable profits or increase tax losses. Ships qualify for capital allowances as "plant and machinery" and receive an annual 18% writing down allowance (WDA) on a reducing-balance basis.

In addition to the general rules, capital expenditures on ships attract special treatment. As shipping companies are heavy investors in capital items, they are allowed to carry forward unused allowances that may arise in periods of low profitability. Any brought-forward allowance can be used in addition to the full WDA for the later year.

There is further flexibility allowed regarding any balancing charge (clawback of tax depreciation in excess of true economic depreciation) arising on disposal of a qualifying ship, whereby the charge may be deferred against expenditure on new qualifying ships incurred in the following six years.
For the special treatment to apply, ships must be seagoing and 100 gross registered tons or more and must not be used for sport or recreational purposes.

Ship expenditure may be subject to provisions that give reduced rates of allowances on assets with a long economic life (at least 25 years). Expenditure on long-life assets is written down in a separate pool at a rate of 8% a year on a reducing-balance basis.

As from 1 April 2013, certain 100% first-year allowances in respect of the cost of acquiring certain types of plant and machinery (generally energy-saving or environmentally beneficial assets) have now been extended to ships, subject to relevant conditions.

When a capital gain arises on the disposal of a ship, the gain may be rolled over into the tax base cost of a new business asset if the proceeds received from the disposal of the ship are used to acquire the new asset. The new asset must, in general, be acquired in the period beginning 12 months before and ending three years after the disposal of the ship.

As indicated above, the provisions are displaced or modified if a tonnage tax election is in force.
Leasing: Very detailed rules apply to the leasing of ships, both from the point of view of obtaining lease finance and from the point of view of companies that charter vessels.

These include new rules that apply to relevant payments made from 1 April 2014, the intention being to restrict the potential tax deduction otherwise available to certain companies operating in the UK Continental Shelf (UKCS) regarding bareboat charter costs payable to associated persons for drilling rigs and accommodation vessels, where these arise as part of a composite service.

Leasing arrangements may also be affected by the recently introduced diverted profits tax (DPT) rules (see below).

DPT: The new UK DPT came into force on 1 April 2015. It is normally charged at a rate of 25% on a company's diverted taxable profits i.e., higher than the main rate of corporation tax (currently 20% — see above).

The main objective is to counteract arrangements that are perceived as contrived and as resulting in the erosion of the UK tax base. Specifically, two types of arrangements are targeted:

- Exploitation of tax mismatches using entities or transactions lacking economic substance
- The avoidance of a UK permanent establishment

The DPT also allows HMRC to re-characterize such arrangements.

Taxpayers are required to notify HMRC of a potential charge to DPT, based on certain hallmarks, and potentially to pay an initial amount, as assessed by HMRC, without the ability to postpone the tax, thereby strengthening HMRC's negotiating position and requiring increased transparency.
The DPT rules are widely drafted and, therefore, potentially affect a broad range of taxpayers and transactions, including commercial arrangements that are commonplace in the shipping industry. It is therefore important that taxpayers seek advice regarding how they may be affected and what action they can take to manage any exposure.

Value-added tax (VAT): Many supplies in connection with shipping are zero rated (exempt with credit), including:

- The supply of qualifying ships (gross tonnage not less than 15 tons and not designed or adapted for recreation or pleasure)
- The supply of parts and equipment of a kind ordinarily installed or incorporated in a qualifying ship
- The supply of life jackets, life rafts, smoke hoods and similar safety equipment for qualifying ships
- The repair or maintenance of qualifying ships
- The modification and conversion of a qualifying ship, provided that, when modified or converted, it will remain a qualifying ship
- The supply of services under charter of a qualifying ship (unless services are wholly performed in the UK and consist wholly of any one or more of transport of passengers, accommodation, entertainment or education)
- Letting on hire of qualifying ships
- Handling services provided for qualifying ships subject to conditions and excluding the letting on hire of goods
- Surveys and classification services provided in connection with a qualifying ship
- Salvage and towage services, whatever the type of ship
- Pilotage services, whatever the type of ship

Provision of passenger transport is normally zero rated (including where this is provided in any vehicle designed or adapted to carry not fewer than 10 passengers, or by providers of universal postal services, or from a place within the UK to outside the UK (or vice versa) to the extent that those services are supplied within the UK). There are some exceptions: freight and ancillary services are usually standard rated for VAT but may be zero rated or outside the scope in certain circumstances (such as for business-to-business transactions where the customer belongs in a different EU country or a non-EU country). Freight transport and associated services taking place wholly outside the EU are outside the scope of UK VAT when performed for UK businesses and charities.

2.2 Canada

***Information taken directly from**: Vancouver International Maritime Centre: Canadian Incentives: Our Edge: Canadian Tax Incentives for International Shipping Companies: http://vancouverimc.org/canadian-incentives/*

4.1.1 Canadian Tax Incentives for International Shipping Companies

Non-resident shipping companies operating in Vancouver with Canadian management will not be subject to Canadian tax on their income, even if they manage a global business from their Canadian office.
The following sources of profit earned by non-resident companies are generally not subject to tax in Canada:

- Income from "international shipping activities" undertaken in Canada
- Capital gains on sale of vessels outside of Canada
- Foreign-sourced income

Canada's shipping industry is critical for ensuring goods get safely to market. The International Maritime Centre aims to attract targeted foreign investment into Canada, facilitate foreign shipping companies and support businesses in establishing their headquarters in Vancouver.

Qualifying Requirements

The corporation must:

1 (a). Principally carry on an international shipping business; or
(b). Hold an interest (generally at least 25%) in an eligible entity (a shipping corporation that itself qualifies); and
(b).

2. Derive all or substantially all (>90%) of its gross revenue from international shipping.

Just like the aerospace cluster, the maritime centre will help to attract more international companies to British Columbia — along with the businesses and jobs that support them.

International Shipping Activities

For Canadian tax purposes, the definition of international shipping activities includes:

- Operation of owned or leased ships that are used primarily in transporting passengers or goods in international traffic; &
- Activities incidental to the operation of ships including:
    - Crewing
    - Vessel management
    - Marketing
    - Finance
    - Insurance
    - Accounting
    - Treasury
    - Head office services
    - Back office support

No Restrictive Commercial Requirements

- No flagging requirements
- No minimum time commitment
- No vessel ownership restrictions
- No restriction on type of vessel
- Regime Flexibility
- Allows joint venture arrangements
- Allows pooling arrangements
- Allows indirect ownership of vessels

Recent Amendments

- More flexible rules reflect the structures of modern shipping organizations
- Provide for use of partnerships and trusts as holding and operating entities
- Lower ownership threshold (25%) accommodates a broader range of shipping group structures
- Allows for related bareboat and interest income to enhance creditor protection
- Allows for service providing entities within an international shipping group

EY Shipping Industry Almanac 2016

Information taken directly from: EY Shipping Industry Almanac 2016: https://www.ey.com/Publication/vwLUAssets/EY-shipping-industry-almanac-2016/$FILE/EY-shipping-industry-almanac-2016.pdf

Tax depreciation regime

Depreciation included in a resident's financial statements is added back, and tax depreciation at prescribed rates is deducted for tax purposes, beginning when the asset is available for use.
A new vessel (including furniture, fittings, radio communication equipment and other equipment attached thereto), constructed and registered in Canada, which has never been used for any purpose before it is acquired, is included in a separate class with a prescribed annual depreciation rate of 33.33% of the capital cost (16.66% for the year of acquisition). For most vessels constructed outside Canada, an annual tax depreciation rate of 15% (7.5% for the year of acquisition) generally applies to the remaining non-depreciated capital cost. Where a non-resident person commences or ceases to use a vessel wholly within Canada's domestic trade, a deemed acquisition or disposition of the vessel generally takes place at fair market value.

Specified vessel registration tax benefits for the ship-owner

A new vessel constructed and registered in Canada may be eligible for the benefits of accelerated tax depreciation rates in Canada as described in section 1.2 above.

Shipbuilding business in Quebec

The province of Quebec has a refundable tax credit for the construction or conversion of vessels for a taxation year of a corporation that carries on a shipbuilding business in Quebec, corresponding to an amount of up to 37.5% of qualified construction or conversion expenditures incurred during the year to construct or convert an eligible vessel. The tax credit cannot exceed an amount of up to 18.75% of the cost of constructing or converting the vessel. The rate of the tax credit, as well as the ceiling based on the cost of construction or conversion, varies depending on whether the vessel is a prototype or the first, second or third unit of the same series. To be eligible for the credit, a vessel must be built or converted in Quebec as part of a project for which the Ministry of Regional and Economic Development has issued a certificate.

2.3 Ireland

Taxation of shipping companies

Information taken directly from: *Byrne & McCall, Accountants & Tax Advisors: Tonnage Tax for Shipping Business: http://byrnemccall.ie/services/services-to-overseas-companies/tonnage-for-shipping-business/*

Tonnage Tax for Shipping Business

Ireland offers a new 'tonnage tax' method for calculating the profits of shipping companies. The new regime is part of an initiative by the Government to promote Irish shipping, and to ensure that shipping companies are not forced to 'flag out' their ships to other countries operating a tonnage tax system. It also overcomes the problems arising in respect of provisions for deferred taxation, which may be encountered by companies taxed under the normal corporation tax rules. The introduction of tonnage tax offers shipping companies an alternative method of taxing their profits, however, it is not obligatory. If a shipping company wishes to remain subject to the normal corporation tax rules in order to calculate its profits, it may do so.

Advantages of Tonnage Tax

Certainty, since the level of tax will be known and minimal. This reduces the need for a company to make provision in its accounts for deferred taxation, thereby increasing earnings per share. Flexibility, since companies will have more freedom to choose when to buy ships and how to finance them. These decisions will now largely be determined by commercial rather than tax considerations. Clarity, a company's tax position will now be more readily understood, consequently the company may become more attractive to investors and potential business partners. Finally, compatibility and competitiveness with the fiscal regimes of other countries. This is particularly important from the point of view of maintaining and developing our indigenous shipping industry.

Normal Rules

Shipping activities are subject to tax at 12.5% tax based on actual profits or gains of the period, and is calculated under the normal rules of corporation tax.

Tonnage Tax Method

The tonnage tax method allows shipping companies to calculate their profits on the basis of a specified notional profit per day depending on the tonnage of the ship concerned. The standard corporation tax rate for qualifying shipping activities is then applied to the amount of profit earned i.e. 12.5%.

Conditions to be met in order to qualify

In order to avail of the new rules, the company must be subject to:

- Irish corporation tax,
- operate qualifying ships
- carry on the strategic and commercial management of those ships from the State.

The ship must be a sea-going vessel of a sufficient size to engage in reasonable commercial operations which complies with the requirements for navigation at sea. Certain vessels such as dredgers and recreational vessels are excluded from this definition. The shipping income is earned from various activities associated with the operation of a qualifying ship such as income from the carriage of cargo

and passengers and the letting of a qualifying ship (where the shipping company retains control over the operation and management of the ship). The shipping profits subject to tax are the combined relevant shipping income and chargeable gains arising from assets used for the purposes of the activities covered by tonnage tax.

How is tonnage tax calculated?

Tonnage tax profits would be charged to corporation tax in place of the company's relevant shipping profits. Losses accruing to the company in respect of its tonnage tax activities may not be set off against taxable profits subject to corporation tax. A company's tonnage tax profits should be calculated with reference to the net tonnage of each qualifying ship operated by the company. The daily profit to be attributed to each qualifying ship operated by the company should be determined by reference to the net tonnage of the ship as follows: The nominal profit is calculated on a sliding scale, using the following rule:

- Euro per 100 net tons for the first 1,000 net tons
- 0.75 Euro per 100 net tons from 1,000 up to 10,000 net tons
- 0.50 Euro per 100 net tons from 10,000 up to 25,000 net tons
- 0.25 Euro per 100 net tons over 25,000 net tons
-

There is no additional taxation at a later stage, unlike some other countries tonnage tax regimes where additional corporation tax is levied on profits when they are transferred out of the shipping industry.

Examples of tax calculations are as follows:

- A 15,000 dwt chemical tanker of 5,890 net tons will have an annual tax liability of €2,129.55
- A 45,000 dwt handymax bulker of 16,010 net tons will have an annual tax liability of €4,906.97
- A 75,000 dwt panamax bulker of 19,455 net tons will have an annual tax liability of €5,692.86
- A 170,000 dwt capesize bulker of 63,200 net tons will have an annual tax liability of €11,315.00
- A 270,000 dwt VLCC of 79,920 net tons will have an annual tax liability of €13,222.13

There are additional provisions governing the calculation of the company's shipping profits, which must be borne in mind. For example, gains on foreign currency transactions are included but income from investments should not be construed as relevant shipping income. The new method of calculating the profits means that smaller ships will have a higher proportionate tax charge than larger vessels, thus encouraging the development of the fleet size. An advantage of the new regime is that companies will now be able to budget for their tax liabilities since the taxable profits are predictable.

2.4 Norway

Information taken directly from: Deloitte: ESA has approved proposed changes to the Norwegian tonnage tax regime:
https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Energy-and-Resources/gx-er-deloitte-norway-shipping-tax-regime.pdf

Taxation of shipping companies

Under this regime, shipping profits are generally exempt from tax, except for net financial income, which is taxed as ordinary corporate income at the rate of 23 percent1. The tax exemption includes both operating profits and gains on the disposal of vessels. Instead of taxing the shipping income, a fixed tonnage tax is levied on the ships operated2 under the Norwegian tonnage tax regime regardless of the actual income, at the following rates:

Total net tonnage (NT)	Tax per 1,000 net tonnes (NOK)
Up to 1,000	0
1,001 to 10,000	18
10,001 to 25,000	12
Over 25,000	6

The tonnage tax regime is eligible for limited companies incorporated under Norwegian Company law as well as similar companies domiciled in other European Economic Area (EEA) countries provided that the EEA company is tax liable to Norway for the income earned, and only engage in legitimate shipping activities.

In order to be eligible for the tonnage tax regime, a company must either own a qualifying asset, for example, a ship in traffic (transport ships) or a support vessel engaged in petroleum activities, or hold at least three percent ownership in limited companies, partnerships or Norwegian controlled foreign companies (or chain of companies), which in turn own a qualifying asset. Generally, Norway has a liberal regime with regard to types of vessels, including a range of offshore vessels.

Furthermore, qualifying activities are primarily the ownership, leasing or operation of vessels. In addition, some ancillary activities are accepted within the scope of the tonnage tax regime, including strategic and commercial management, as well as daily technical operation and maintenance of own and chartered vessels. Pure ship management companies are not eligible for the Norwegian tonnage tax regime.

In addition to the favourable tonnage tax regime, Norway has also participation exemption rules, which for example, allows distribution of dividends without any withholding tax to shareholders with proper substance within the EEA. Moreover, the threshold for constituting a permanent establishment in Norway is generally higher due to a special regulation for foreign taxpayers that operate vessels in international waters. Further flexibility is provided by a broad set of double tax treaties. Thus, the regime may be of particular interest to investors with a presence in Europe. An investment in a Norwegian shipping company would be comprised by European Union (EU) or EEA's four freedoms, which should prevent EU/EEA states from taxing investments in Norwegian shipping companies under local controlled foreign company (CFC) rules.

2.5 Denmark

Information taken directly from: PWC World Tax Summaries: Denmark – Taxes on Corporate income: http://taxsummaries.pwc.com/frmCurrentPagePrint?openForm&CountryName=Denmark&Topic=Corporate&SubTopic=Taxes%20on%20corporate%20income

Tax facilities for shipping companies

Tonnage Tax Scheme

Danish tax law provides for a special tax scheme for shipping entities. The main principle of the Tonnage Tax Scheme is that qualifying shipping entities are not taxed on the basis of their actual income derived from their business but on a fictitious income based on the net tons (NT) carrying capability of their fleet used for purposes covered by the Tonnage Tax Act.

The Tonnage Tax Scheme is available to:

- Danish shipping entities organised as limited liability companies (Aktieselskab [A/S] or Anpartsselskab [ApS])
- foreign shipping companies with the place of management and control in Denmark, and
- EU shipping companies with a PE in Denmark.

A decision to enter into the scheme should be made in the first income year where the entity qualifies for the Tonnage Tax Scheme, and the decision is binding for a period of ten years.

As a general rule, group-related shipping companies based in Denmark must make the same choice regarding the Tonnage Tax Scheme. However, shipping companies that do not have the same management or operating organisation and do not conduct business in related fields may be exempt from the joint decision provision.

The Tonnage Tax Scheme is restricted to certain types of business activities. The entity must operate at least one vessel of minimum 20 GT used for commercial transportation of passengers or cargo between different destinations or hire out such vessels on time charter contracts for the same purpose. The ships must be owned or chartered on either 'bareboat' terms or one-to-seven year time-charter contracts with a call/buy option by the company. Certain restrictions apply for ships chartered on a time-charter basis without a call/buy option. The ships must be strategically and commercially managed from Denmark.

Income from activities that are carried out in close connection with this business, such as the usage of containers and loading facilities, etc. may also be included in the Tonnage Tax Scheme. Ships used for exploration, diving, fishing, towing, sand dredging, etc. are specifically exempt from the scheme. The same applies for certain types of ships, such as barges, floating docks, etc. However, EU or European Economic Community (EEC) registered ships used for towage activities at sea (i.e. not in and around ports) during at least 50% of their operating time during the income year may be included in the Tonnage Tax Scheme.

Ship management companies may also use the Tonnage Tax Scheme. A ship manager is defined as a company doing business with crew management and technical management of ships qualified for use in the Tonnage Tax Scheme. It is a requirement that the ship manager has taken over the full operating responsibility and all obligations and responsibilities according to the International Safety Management codex.

Taxable income

The taxable income for the part of the business that qualifies for the Tonnage Tax Scheme is determined for each ship as a fixed amount of Danish kroner per 100 NT per day according to the following:

Ship net ton (NT)	Fixed amount per day (DKK per 100 NT)	
	2018	2019
0 to 1,000	9.82	10.03
1,001 to 10,000	7.05	7.20
10,001 to 25,000	4.22	4.31
Over 25,000	2.77	2.83

The income is taxed at the ordinary CIT rate of 22%. No deduction for expenses related to tonnage-taxed income is allowed.

Income that does not qualify for the Tonnage Tax Scheme is taxed according to the general tax provisions in Denmark, thus expenses are deductible. Consequently, deduction for losses derived from other income can be offset against the income calculated under the Tonnage Tax Scheme.

Furthermore, losses from tax consolidation with group companies and, to a certain extent, financial expenses are deductible under the Tonnage Tax Scheme. However, deductibility for financial expenses is subject to various capping rules and implies that gains/losses are not derived from financial instruments entered into in order to secure the shipping income.

Depreciation

Shipping entities that apply the Tonnage Tax Scheme from the time of their establishment may not deduct depreciation for tax purposes. Special rules apply for shipping entities that were already in existence when they elected to become subject to the scheme and for entities that elect to include certain other assets at a later point in time that were not previously subject to the scheme.

Gains on the sale of ships

Gains on the sale of ships that have not been used in the scheme prior to 1 January 2007 are tax exempt. The same applies to gains on the sale of contracts on the delivery of ships if the ship was destined to be delivered after 1 January 2007. Gains on the sale of ships used in the scheme in prior years are taxable. The taxable gain is calculated as the sale price minus the purchase price plus improvements. Any losses on ships acquired and sold within the same income year as the income year in which a gain is realised may be offset against the gain.

New activities to be included

In December 2015, the Danish Parliament passed an amendment to the Tonnage Tax Act including more activities under the Tonnage Tax Scheme. The amendment was approved by the European Commission on 12 October 2018, with retrospective effect from fiscal year 2017.

The new activities covered by the Tonnage Tax Scheme due to the expansion include the following:

Guard, supply, and construction vessels

The amendment to the Tonnage Tax Act includes revenue from guard service (e.g. in connection with cable laying and other non-fixed installations) as well as all activities relating to supply services. This means that, for example, transportation of victuals or bunker fuel oil is covered.

Ice management vessels

Every kind of ice handling at sea is included in the amendment. This can be escorting of vessels through icy waters, protection of drilling units against floating icebergs in arctic waters, and actual ice breaking.

Offshore installation vessels

The amendment includes construction at sea, including the building, repair, and dismantling of wind farms at sea. These activities are typically carried out by wind farm service vessels.

Furthermore, the amendment includes the building, repair, and dismantling of other offshore installations, such as oil installations, wave-breaking installations, and other coast protection measures. In regards to oil installations, the building, repair, and dismantling of these is only included when the activities are carried out outside the Danish sea territory or continental shelf.

Also, the amendment includes the laying, inspection, and repair of pipelines and cables on the seabed. Specialised pipeline layers and cable layers typically carry out these activities.

Accommodation and support vessels (ASVs)

Income from the housing of employees, spare parts, or workshop facilities in connection to offshore operations is included in the amendment to the Tonnage Tax Act. Specialised ASVs typically carry out these activities. The vessels can be part of comprehensive and lengthy offshore works and form an integral and necessary part thereof.

Future amendments to the Tonnage Tax Scheme

The European Commission's approval of the expanded Tonnage Tax Scheme was subject to a number of future amendments to the Danish Tonnage Tax Act.

Firstly, shipping companies may only include income from activities that are carried out in close connection with the shipping business under the Tonnage Tax Scheme insofar that it constitutes less than 50% of the tonnage income.

Secondly, shipping companies may only include income from chartering out vessels on bareboat terms under the Tonnage Tax Scheme insofar that the ratio of bareboat chartered tonnage does not exceed 50% of the company's aggregated tonnage.

Thirdly, it is a condition that the shipping companies provide an annual declaration that states that the company complies with all conditions under the Tonnage Tax Scheme.

Lastly, the Tonnage Tax Scheme will be limited to ten years starting from 1 January 2017 and terminating on 31 December 2026. Subsequent to this timeframe, the Tonnage Tax Scheme shall be subject to re-approval by the European Commission.

2.6 Japan

Information taken directly from: EY Shipping Industry Almanac 2016: https://www.ey.com/Publication/vwLUAssets/EY-shipping-industry-almanac-2016/$FILE/EY-shipping-industry-almanac-2016.pdf

Tax facilities for shipping companies

General corporate tax rule

In general, shipping companies are subject to taxation under the ordinary corporate tax regime, which includes national corporate income tax, local inhabitants' tax and enterprise tax. The current effective tax rate (the sum of the aforementioned taxes) is approximately 32%. The rate continues to be reduced and should fall below this level in 2017/2018.

The Japanese tonnage tax system

The Japanese tonnage tax system was introduced on 17 July 2008 as an entirely new taxation system for shipping companies, the intention being to substantially increase the number of Japanese-flagged vessels and Japanese crews.

Under the system, income derived from international shipping activities conducted by Japanese-flagged vessels with certain operational requirements can qualify for an alternative tax treatment to the general corporate tax rule described above. The taxable basis under this system is calculated by reference to the qualifying daily net tonnage of each ship operated by the shipping company per the table below. In order to qualify, shipping companies had to apply for approval to the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) under the Maritime Transportation Act before 31 March 2014. The tonnage tax system applies to national corporate income tax, local inhabitants' tax and enterprise tax of the qualifying company.

For Japanese-flagged vessels:

Total net tonnage	Deemed profit per day per 100 net tons (JPY)
Up to 1,000	120
1,001–10,000	90
10,001–25,000	60
More than 25,000	30

To apply the tonnage tax system for the income derived from international shipping activities conducted by Japanese-flagged vessels, shipping companies have to submit certain applications to their tax offices by the day preceding the first day of the first fiscal year for which the shipping companies intend to apply the tonnage tax system and attach certain schedules to their tax returns during the applicable periods. Generally, the tonnage tax system should then apply continuously for the five years immediately following approval.

In addition, in cases where approval under the Maritime Transportation Act is withdrawn during the applicable period, the normal corporate tax regime would apply, and thus, the amount already treated as nontaxable income under the tonnage tax system would be added back to the normal taxable income of shipping companies at the time of withdrawal.

2013 tax reform

Under the 2013 tax reform, income derived from international shipping activities conducted by Japanese- flagged vessels and semi-Japanese-flagged vessels can qualify for the Japanese tonnage tax system. Semi- Japanese-flagged vessels are defined as non-Japanese-flagged vessels with certain operational requirements held by corporations conducting international shipping activities under the Maritime Transportation Act.

To apply the new tonnage tax system for the income derived from international shipping activities conducted by Japanese-flagged vessels and semi-Japanese-flagged vessels, shipping companies must receive approval from 1 April 2013 to 31 March 2014 for certain schedules from MLIT. The taxable basis of semi-Japanese- flagged vessels is calculated by the shipping company per the table below:

Total net tonnage	Deemed profit per day per 100 net tons (JPY)
Up to 1,000	180
1,001–10,000	135
10,001–25,000	90
More than 25,000	45

2.7 Singapore

Information taken directly from: EY Shipping Industry Almanac 2016: https://www.ey.com/Publication/vwLUAssets/EY-shipping-industry-almanac-2016/$FILE/EY-shipping-industry-almanac-2016.pdf

Tax facilities for shipping companies

Automatic exemption

A shipping enterprise is exempt from tax on qualifying shipping income, which includes, but is not limited to:

- Income derived from the operation of Singapore ships plying outside the limits of the Port of Singapore
- Income from carriage of passengers, mail, livestock or goods shipped in Singapore by foreign ships (excluding carriage arising solely from transshipment from Singapore or carriage that is only within the limits of the port of Singapore)
- Income derived from foreign exchange and risk management activities that are carried out in connection with and incidental to the core shipping operations of Singapore ships
- Income derived from the provision of qualifying in-house ship management services[27] in respect of Singapore ships owned or operated by any qualifying company
- Gains derived from the sale of Singapore ships and ships under construction (including new building contracts)[28] and sale of all the issued ordinary shares in a qualifying special purpose company that is the owner of Singapore ships only or is the buyer under a contract for construction of a ship that is provisionally registered or intended to be registered as a Singapore ship

Only companies (resident and nonresident) owning or operating ships are eligible for these exemptions. These exemptions are granted automatically if the criteria are met. In addition, such companies will enjoy automatic withholding tax exemption on certain payments made in respect of qualifying loans entered into on or before 31 May 2021 with foreign lenders to finance the purchase or construction of qualifying assets e.g. Singapore ships, subject to conditions.

A "shipping enterprise" refers to any company owning or operating Singapore ships or foreign ships. A "Singapore ship" is one that has been issued with a permanent certificate of registry under the Merchant Shipping Act (Cap 179) i.e., it flies the Singapore flag), and its registry is not closed or deemed to be closed or suspended. The exemptions will apply from the date of provisional registration if the permanent certificate of registry has subsequently been obtained in respect of the ship.

Maritime Sector Incentive — Approved International Shipping Enterprise award

Shipping companies that own or operate a fleet of foreign ships can apply for the Maritime Sector Incentive — Approved International Shipping Enterprise (MSI-AIS) award. Successful applicants would either be granted the MSI-AIS status or the MSI-AIS (Entry Player) status, depending on their scale of operations.

Under this scheme, the MSI-AIS company is exempt from tax on qualifying shipping income, which includes, but is not limited to:

[27] "Qualifying in-house ship management services" excludes that of corporate services (e.g. administrative and accounting services).
[28] Provided that the shipping enterprise can substantiate that it intended to register its ship with the Singapore Registry of Ships.

- Income derived from the operation of foreign ships plying in international waters
- Income from carriage of passengers, mail, livestock or goods shipped in Singapore by foreign ships (excluding carriage that is only within the limits of the port of Singapore)
- Income derived from foreign exchange and risk management activities that are carried out in connection with and incidental to the operation of ships
- Income derived from the provision of qualifying in-house ship management services1 in respect to foreign ships owned or operated by any qualifying special purpose vehicle
- Dividend income or share of profits received from an approved network company that is an overseas affiliate that is at least 25% related to the MSI-AIS company and paid out of qualifying shipping profits
- Gains derived from the sale of foreign ships, ships under construction (including new building contracts) and sale of all of the issued ordinary shares in a qualifying special-purpose company that is the owner of any ships or is the buyer under a contract for the construction of any ships

Other benefits include automatic withholding tax exemption on qualifying payments made in respect of qualifying loans entered into on or before 31 May 2021 with foreign lenders to finance the purchase or construction of qualifying assets, e.g., foreign ships, subject to conditions.

The MSI-AIS award may be granted for a renewable period of 10 years (up to a maximum of 40 years), and the MSI-AIS (Entry Player) status may be granted for a nonrenewable period of 5 years, with the option of graduating to the MSI-AIS status if qualifying conditions are met. The application window for the MSI-AIS (Entry Player) award was previously from 1 June 2011 until 31 May 2016. This window has been extended to 31 May 2021 in the 2015 Budget.

Maritime Sector Incentive — Maritime Leasing award

The Maritime Sector Incentive — Maritime Leasing (MSI-ML) award aims at promoting ship and sea container financing operations in Singapore. It is designed to encourage entities to use Singapore as their capital and funding base to finance their vessels and sea containers. Qualifying entities include companies, funds, business trusts and partnerships incorporated or registered in Singapore.

Under the MSI-ML (Ship) award, approved shipping investment enterprises may enjoy tax exemption on their qualifying income, which includes:

- Income derived from the chartering or finance leasing of seagoing ships to specified persons for use outside the port limits of Singapore
- Income derived from foreign exchange and risk management activities that are carried out in connection with and incidental to the qualifying ship leasing activities
- Gains derived from the sale of seagoing ships, seagoing ships under construction (including new building contracts) and sale of all of the issued ordinary shares in a qualifying special-purpose company that is the owner of any seagoing ship or is the buyer under a contract for the construction of any seagoing ship
- Dividend income or share of profits from approved foreign ship-owning entities that are distributed out of qualifying ship leasing activities

Under the MSI-ML (Container) award, approved container investment enterprises may receive a concessionary tax rate of 5% or 10% on their qualifying income, which includes:

- Income derived from the operating or finance leasing of sea containers that are used for the international transportation of goods
- Income derived from the leasing of intermodal equipment that is incidental to the leasing of qualifying containers

- Income derived from foreign exchange and risk management activities that are carried out in connection with and incidental to the qualifying container leasing activities
- Dividend income or share of profits from approved foreign container asset-owning entities that are distributed out of qualifying container leasing activities

Approved investment managers of approved shipping or container investment enterprises under the above schemes may also receive a 10% concessionary tax rate on their qualifying management income. The application window for the MSI-ML award was previously from 1 June 2011 until 31 May 2016, and successful applicants will be granted the status for a period of five years. This window has been extended to 31 May 2021 in the 2015 Budget.

Maritime Sector Incentive — Supporting Shipping Services award

The Maritime Sector Incentive — Supporting Shipping Services (MSI-SSS) award aims to promote the growth of ancillary shipping service providers and to encourage shipping conglomerates to set up their corporate services functions in Singapore. An approved MSI-SSS company will enjoy a 10% concessionary tax rate on incremental income derived from the provision of approved shipping-related support services such as ship broking, forward freight agreement trading, ship management, ship agency, freight forwarding, logistics services and qualifying corporate services.

The application window was previously from 1 June 2011 until 31 May 2016, and successful applicants will be granted the MSI-SSS award for a period of five years. This window has been extended to 31 May 2021 in the 2015 Budget and subject to meeting qualifying conditions and higher economic commitments, the award may be renewed for another five years.

Freight uplift income from Singapore

Shipowners and charterers are exempt from tax on their uplift of freight from Singapore. This exemption applies to nonresident shipowners and charterers, resident shipping companies, and companies granted the MSI-AIS award. It does not, however, cover income from the carriage within the limits of the Port of Singapore.

Withholding tax

Singapore imposes withholding tax on certain payments to nonresident persons, including interest and rental or other payment for the use of movable property if the payment is borne directly or indirectly by a person residing or having a permanent establishment in Singapore.

Prior to 17 February 2012, time, voyage and bareboat charter payments to nonresident persons of Singapore for the use of ships were subject to withholding tax at rates ranging from 0% to 2% of the gross fee payable. Only companies enjoying the MSI-AIS status are not required to account for withholding tax on such payments.

Since 17 February 2012, withholding tax exemption has been granted on payments for time, voyage and bareboat charters of ships made to nonresidents, excluding permanent establishments in Singapore. There is also no requirement to withhold tax on charter payments made to a permanent establishment in Singapore. The permanent establishment has to declare the charter fees received in its annual income tax return and will continue to be assessed to tax on such fees.

2.8 Netherlands

Overview

Information taken directly from: ***PwC (2015) Transportation & Logistics International Tax: Choosing your course Corporate taxation of the shipping industry around the globe, p.10: https://www.pwc.com/kr/ko/publications/industry/pwc-choosing-your-course.pdf***

The Dutch model, first introduced in 1996 by the Netherlands and further developed throughout the following years, is the most popular form of tonnage taxation. Belgium, Bulgaria, Curaçao & St. Martin, Denmark, Finland, France, Germany, India, Ireland, Italy, Japan, the Republic of Korea (South Korea), the Netherlands, Norway, Poland, South Africa, Spain, Taiwan, the UK, and the USA have all implemented its basic structure. In addition, a committee in Sweden is also considering the possible introduction of a tonnage tax regime.

Taxation of shipping companies

Information taken directly from: Government of the Netherlands The Netherlands: Home to leading maritime companies: https://www.government.nl/binaries/government/documents/reports/2016/12/08/the-netherlands-home-to-leading-maritime-companies/The+Netherlands+Home+to+Leading+Maritime+Companies.pdf

Tonnage tax

In 1996, the Netherlands introduced a special tax facility for shipping enterprises. Dutch fiscal law allows shipping companies that are established in the Netherlands to choose between either:

- the regular system of taxation on the basis of actual profits made or
- tonnage-based taxation: a low lump-sum tax based on the net tonnage of the ships operated by the shipping company, regardless of the actual profits made. This favourable tax regime, known as the tonnage-tax regime, has resulted in an effective tax rate comparable to that of open registers.

Conditions of the tonnage-tax regime

To be eligible for application of the tonnage tax regime, the following conditions must be met:

- Shipping enterprises must be subject to Dutch income tax or corporate income tax (CIT).
- Profits must be derived from the operation of sea-going vessels for the following shipping services:
  - The international transport of people or goods overseas for the purpose of the exploration or exploitation of natural resources at sea. This category includes transport ships, supply ships and stand-by ships used in the offshore industry.
  - Towing activities or the provision of general assistance at sea to ships. Ships eligible are those of which the operational activities are carried out for most part (this means more than 50%) at sea in one year.
  - Dredging services at sea. Ships eligible are those of which the operational activities are carried out at sea and for most part (this means more than 50%) consists of transportation at sea.
  - Exploration of the sea bed (research vessels).
  - Cable and pipe laying on the sea bed.
  - Tackle and lifting activities at sea (crane vessels).

Operation of seagoing vessels

A shipping enterprise is considered to operate a vessel:

a) If an enterprise conducts the management of the vessel to a significant extent and the vessel f lies the f lag of one of the member states of the European Union (EU) or of the European Economic Area (EEA) and the vessel is owned or co-owned by the enterprise and not subject to a bareboat charter;
b) If an enterprise mainly conducts the commercial management of a ship owned by another company, provided the enterprise conducts the management of one or more other ships in the manner as described in point a) above, whereby co-ownership means the enterprise's share in the vessel is at least 5%;
c) If an enterprise operates the vessel in time or voyage charter, provided the enterprise conducts the management of one or more ships in the manner as described in point a) and provided the enterprise's share in the vessel (ownership or co-ownership) is at least 5%;
d) If an enterprise conducts the entire crewing and technical/nautical management of the vessel in the Netherlands on behalf of a third party.

Directly related activities

Profits from activities directly related to the qualifying shipping services mentioned above are included in the tonnage-tax regime. These include loading and unloading (stevedoring), as well as ship-brokering activities carried out by the shipping company itself. Directly related activities of this kind fall within the scope of the regulations insofar as they are performed on behalf of ships operated by the enterprise. Profits from ocean shipping do not include profits from offshore fishing, pilotage and pleasure trips.

A decision every 10 years

The decision to opt for the tonnage tax regime has to be made in the first year of taxable profit from shipping operations being made, or in every tenth year thereafter. After each 10-year period, an enterprise may continue in the regime for another 10 years or revert back to the regular system of taxation. When opting for the tonnage-tax regime, a tax-claimed reserve for the 10-year period is set.

Calculation of taxable tonnage-based profit

In the case of an enterprise whose activities are limited exclusively to ocean shipping, the amount of taxable profit depends on the total net tonnage of the vessel and the fixed taxable profits of the vessel, in Euros, per 1,000 net tons per day. Interruptions that do not represent an encroachment of operations, such as maintenance, repairs, or periods in which the ship was out of service because of unfavourable market circumstances, cannot be deducted.

Taxable profits per day per 1,000 net tons		
for the first 1,000 net tons	Up to 1,000 net tons	€ 9.08
for any excess up to 10,000 net tons	1,001 to 10,000 net tons	€ 6.81
for any excess up to 25,000 net tons	10,001 to 25,000 net tons	€ 4.54
for any excess above 25,000 net tons	Over 25,000 net tons	€ 2.27

Reduced rate for certain vessels that meet the following criteria:

- vessels with a net tonnage over 50,000 registered under a flag after 31/12/08 or
- that were flying a non-EU or EEA flag in the five years prior to the application of the tonnage-based profit calculation)

Taxable profits per day per 1,000 net tons		
Certain vessels meeting the above criteria: any excess above 50,000 net tons	Over 50,000 net tons	€ 0.50*

In case of ship management, the taxable profit will be reduced to 25% of the taxable profit calculated according to the table above. Furthermore, the profit as established above will be increased with profits derived from activities that do not qualify for the tonnage tax regime.

The calculated taxable profits are taxed at the general Corporate Income Tax (CIT) rates:

- taxable corporate income up to €250,000 taxed at 20%
- taxable corporate income for €250,00 taxed at 25%

Administrative duties

In the case of an enterprise that also makes profits from other activities, only the profit obtained from ocean shipping and directly related activities will be calculated on the basis of tonnage. Hence, all assets, liabilities and profits related to shipping should be separated from those related to the shipping enterprise's other operations.

Corporate income tax rate

Information taken directly from: Loyens & Loeff - Shipping Update 2018: *https://www.loyensloeff.com/nl-nl/news-events/news/shipping-update-2018*

Changes to the Dutch corporate income tax rate ('CIT rate') over the next three years:

- The CIT rate on the first EUR 200,000 of taxable profits will decrease from 20% to 16% in three stages: a reduction to 19% in 2019, a reduction to 17.5% in 2020 and a reduction to 16% in 2021.
- The headline CIT rate (taxable profits exceeding the EUR 200,000 threshold) will decrease from 25% to 21% in three stages: a reduction to 24% in 2019, a reduction, to 22.5% in 2020 and a reduction to 21% in 2021.
- The threshold will remain EUR 200,000, abandoning the proposed increase of the threshold to EUR 350,000 as included in the 2018 Budget Plan.

Other tax incentives

Information taken directly from: EY Shipping Industry Almanac 2016: https://www.ey.com/Publication/vwLUAssets/EY-shipping-industry-almanac-2016/$FILE/EY-shipping-industry-almanac-2016.pdf

Accelerated depreciation

Shipping companies that qualify for the tonnage-based taxation but do not opt for tonnage-based taxation may apply for accelerated depreciation of the vessels. This means that an annual depreciation rate of 20% of the initial cost, less the residual value, can be applied. Accelerated depreciation is only possible if the shipping business is profitable. If the shipping company suffers a loss, part of the 20% figure cannot be used. The remainder will be added to the 20% for the next year.

Regressive depreciation

If a shipping company does not opt for tonnage-based taxation, the shipping company may apply depreciation at a regressive rate on seagoing vessels. The regressive depreciation rate depends on the life of the vessel and the residual value. The maximum rate for regressive depreciation is 12.1% of the book value for a new vessel.

Investment deduction

Investment incentives in the Netherlands are granted at the request of the taxpayer and are available for shipping companies that do not opt for the tonnage-based taxation. A percentage of the total amount invested during a financial year can be deducted from taxable income. The investment deduction applies if between €2,300 and €311,242 (figures for the year 2016) is invested in relevant assets during a year. The size of the deduction depends on the amount of the investment and could be as much as 28% of the total amount invested

Tax treaties and place of effective management

The Netherlands has concluded tax treaties with more than 90 countries (including a tax agreements with the former Netherlands Antilles). The Netherlands has also concluded tax information exchange agreements (TIEAs) with 29 countries. Most tax treaties are based on the Organisation for Economic Co-operation and Development (OECD) model treaty for the avoidance of double taxation.

Dutch participation exemption

If the shipping enterprise opts for the Dutch tonnage tax regime, the shipping enterprise may nonetheless benefit from the Dutch participation exemption. The Dutch participation exemption exempts income, such as dividends and capital gains and losses, realized with respect to a qualifying participation held by the Dutch shareholder. Among other requirements, the shipping enterprise should at least hold 5% of the nominal paid-up share capital of a company with capital divided into shares, and the participation is not considered to be held as a portfolio investment.

The structure of a Dutch permanent establishment or branch of a foreign company is also commonly used. If a tax treaty is applicable (see section 1.3), a branch office structure can lead to substantial tax savings for shipping companies.

The limited partnership is a commonly used legal structure for private individuals and corporations when participating in a ship finance structure. Participants in a limited partnership can take advantage of the Dutch tonnage tax regime. A closed limited partnership is regarded as transparent for Dutch tax purposes. This means that the participants can directly benefit from, for example, the tax deduction.

Taxation of profit distribution

Tax treaties usually regulate profit distributions and allow for a reduction of, or exemption from, withholding tax. Dividends received from participants that qualify for the participation exemption are exempt from CIT. Not only are dividends received from a qualifying shareholding exempt, but so are any capital gains on the disposal of a qualifying shareholding.

Appendix 3 – International Seafarer Income Tax Regimes

3.1 United Kingdom Tax facilities for seafarers

Information taken directly from: EY Shipping Industry Almanac 2016: https://www.ey.com/Publication/vwLUAssets/EY-shipping-industry-almanac-2016/$FILE/EY-shipping-industry-almanac-2016.pdf

Seafarers' earnings deduction

Seafarers are still entitled to a special tax relief that can reduce or eliminate the UK tax payable on their employment income, even if they remain tax resident in the UK. A foreign earnings deduction exists for seafarers who are able to meet the following conditions:

- The seafarer is resident for tax purposes in the EEA or an EU state and is subject to UK income tax in respect of what is known as general earnings.
- The duties of the employment are performed wholly or partly outside the UK. For this to be the case, the employee must carry out duties on at least one journey that begins or ends at a non-UK port.
- Some part of those duties must be performed in the course of an eligible period falling wholly or partly in the tax year.

Non-UK resident seafarers who are resident in the EEA or EU are taxable in the UK on earnings for seafaring duties performed in UK waters, and the seafarers' earnings deduction may be claimed against these earnings only.

The deduction is available where, for any part of a tax year, a seafarer works wholly or partly outside the UK as part of a qualifying period of working outside the UK that lasts for at least 365 days. Special rules, which allow for return trips to the UK, apply for determining a qualifying period.

The seafarer's general earnings relating to the period of working outside the UK are excluded from income tax. The allowable deduction is equal to the amount of the earnings attributable to the eligible period. Certain types of employment income, such as share awards and termination payments, are not normally eligible for the deduction.

Please note that, prior to applying the foreign earnings deduction to the relevant income, the following deductions should first be taken into consideration:

- Pension contributions
- Allowable expenses
- Capital allowances

Moore Stephens Consulting Limited: Taxation: Seafarers Earning Deduction:
https://www.mscb.im/wp-content/uploads/2017/08/Seafarers-Earnings.pdf

A 'qualifying period' must cover a period of 365 days made up mainly of days when you are absent from the UK. Incidentally you are considered absent from the UK on any particular day if you are outside the UK at midnight at the end of that day and non-work days spent outside the UK may be counted as days of absence.

A return visit to the UK can also count towards the 'qualifying period' if:

- no single return visit lasts for more than 183 consecutive days, and
- the number of days you were in the UK is less than half of the number of days you were abroad in the 365-day window.

Intervening days in the UK may only be counted if they occur between periods of absence. For example, you cannot claim for a period of 365 days which consists of 183 days abroad followed by 182 days in the UK, as this is not “sandwiched” by trips abroad.

Your claim is determined solely with reference to your dates of entering and leaving the UK - a second employment does not affect the claim in any way.

3.2 Canada

Information taken directly from: EY Shipping Industry Almanac 2016: https://www.ey.com/Publication/vwLUAssets/EY-shipping-industry-almanac-2016/$FILE/EY-shipping-industry-almanac-2016.pdf

Tax facilities for seafarers

Seafarers who are residents of Canada are subject to tax in Canada on their worldwide income. The fair value of rations and quarters may be excluded from the seafarers' income for the period when the vessel is at sea for a period of not less than 36 hours. Whether time on board a ship in port would be included in the term "at sea" depends on the circumstances.

Individuals who are residents of the province of Quebec; work as seafarers; are engaged in the international transportation of goods; hold an eligibility certificate issued by the Minister of Transport; and carry on duties on a ship operated by a resident of Canada (or a foreign subsidiary of such person) may deduct, for Quebec provincial income tax purposes, an amount equal to 75% of the remuneration received from this ship-owner for the period the seafarer works on such ship.

3.3 Singapore - Taxation of seafarers

Information taken directly from: EY Shipping Industry Almanac 2016: https://www.ey.com/Publication/vwLUAssets/EY-shipping-industry-almanac-2016/$FILE/EY-shipping-industry-almanac-2016.pdf

The employment income of crew working on Singapore-registered ships is specifically exempt from tax where the employment is substantially outside Singapore.

For a seafarer who is employed on board a foreign ship, if the ship operates exclusively in foreign ports, the crew member's remuneration will not be subject to Singapore income tax. However, if the foreign ship is plying between Singapore and foreign ports, in practice, the Inland Revenue Authority of Singapore (IRAS) will take into account the residency of the company that employs the seafarer in determining the taxability of the seafarer's employment income. If the company is incorporated or resident in Singapore, the employment income may be deemed to be Singapore-sourced income, and the seafarer may be liable to Singapore tax on his or her full remuneration. Correspondingly, if the company is incorporated or resident outside of Singapore, the employment income relating to days spent in Singapore waters may be subject to tax in Singapore, subject to the 60-day de minimis rule and any applicable treaty relief. There are no clear guidelines on the taxation of seafarers working on foreign ships, and the IRAS may not necessarily agree with the above views.

Most of the double taxation agreements that Singapore has concluded also provide for special treatment of crew members who are nationals of the other treaty countries.

3.4 Norway - Taxation of seafarers

Information taken directly from: The Norwegian Tax Administration:

- *https://www.skatteetaten.no/en/person/foreign/are-you-intending-to-work-in-norway/continental-shelf-workers-seafarers-artists-and-sportspersons/seafarers-resident-abroad/*
- *https://www.skatteetaten.no/en/rates/seafarers-allowance/*

Seafarers resident abroad

Seafarers who are resident abroad but work on Norwegian ships will generally be liable to pay tax in Norway. Their tax liability may be limited by a tax treaty. This article does not apply to those who work in the petroleum sector on the Norwegian continental shelf.

Seafarers' allowance

The special deduction for seafarers is 30 percent of the income earned onboard a ship in service. The deduction has an upper limit. The deduction will be reported to the Tax Administration by the employer if the requirement for a minimum of 130 days at sea during the income year is met. Nevertheless, the deduction must still be claimed in the tax return. Seafarers on foreign ships must also enter the deduction and be able to present documentation for the number of days when asked to do so by the tax office. You must enter the deduction under item 3.2.13 of the tax return.

3.5 Denmark- Taxation of seafarers

Information taken directly from: Danish Maritime Authority: Information about EU/EEA shipping companies' possibilities of having ships registered in the Danish International Ship Register: http://maritime-connector.com/documents/Danish%20International%20Ship%20Register.pdf

Taxation of seafarers on Danish ships – DIS net wages

The persons covered and their tax rate

Persons domiciled in Denmark are fully liable to pay tax. Persons domiciled abroad working on board Danish ships are normally subject to limited tax liability in Denmark of income earned from work on board. The tax rate of seafarers subject to limited tax liability is 30 per cent.

The definition of a Danish ship under the Taxation of Seafarers Act

In the Taxation of Seafarers Act, a Danish ship is defined as follows: "A ship which is registered with home port in Denmark with a gross tonnage of 20 t or more and which is used solely for commercial transportation of passengers or freight, for towage and as a salvage ship or as a cable-laying ship.

A ship, which is registered with registered office on the Faeroe Islands, in Greenland or abroad with a gross tonnage of 20 t or more, and without crew is taken over to chartering by a Danish shipping company, shall be considered as a Danish ship.

A ship which is registered with registered office in Denmark, and without crew is taken over for chartering by a Faroese, Greenland or a foreign shipping company, shall not be considered as Danish."

Taxation in case of work on board a Danish ship registered in DIS

If a person who is fully liable to pay tax has acquired wages through work on board a Danish ship registered in DIS and used for purposes that could be covered by the Tonnage Taxation Act, the total income tax is to be reduced by the amount that is proportionally associated with this income.

Persons who are subject to limited tax liability do not pay tax on wages earned through work on board a Danish ship registered in DIS and used for purposes that could be covered by the Tonnage Taxation Act.

Thus, several requirements must be met in order to pay DIS wages without retaining tax:

- The ship must be defined as a Danish ship exclusively used for commercial purposes.
- The ship must be registered in DIS.
- The ship must be used for purposes that can be covered by the Tonnage Taxation Act.

Since DIS wages are net wages, the seafarer has no possibility of income tax allowances.

Appendix 4 - Inquiry TOR

The policy, regulatory, taxation, administrative and funding priorities for Australian shipping, with particular reference to:

a. new investment in Australian ships and building a maritime cluster in Australia;
b. the establishment of an efficient and commercially-oriented coastal ship licensing system and foreign crew visa system;
c. the interaction with other modes of freight transport, non-freight shipping and government shipping;
d. maritime security, including fuel security and foreign ship and crew standards;
e. environmental sustainability;
f. workforce development and the seafarer training system;
g. port infrastructure, port services and port fees and charges; and
h. any related matters.