



Submission to
Senate Standing Committee on Rural and Regional
Affairs and Transport Legislation regarding
Shipping Legislation Amendment Bill 2015

Submission by CSL Australia Pty Ltd

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Executive Summary

CSL Australia (CSLA) is an Australian shipowner that owns and charters both foreign and Australian flagged and crewed vessels on the Australian coast. The CSLA business operates within the bounds of the relevant shipping legislation, and is able to adapt to changes that are made to legislation.

The current Bill before Parliament – the Shipping Legislation Amendment Act 2015 – aims to reduce the cost of shipping on the coast by fostering competition and increasing efficiency. The result of these legislative changes will create a two-tier system that will disadvantage one group of Australian shippers (ie. cargo owners) over other Australian shippers.

Shippers requiring a consistent vessel (operating over 183 laden days) due to the nature of their product or supply chain and storage facilities will incur higher freight rates due to a higher labour cost base on the performing vessel. These higher labour costs result from the application of the Fair Work Act and the associated requirement to pay additional wages in accordance with the Seagoing Industry Award Part B. We estimate this cost to be in excess of \$540,000 per annum. These shippers will be disadvantaged when competing with another Australian shipper that requires a vessel for less than 183 days.

After consultations with a number of our customers and their representatives CSLA suggests a change is required to the new Bill to achieve a level playing field, is that the 'laden' day condition be increased from 183 to 295 days.

1. Introduction to CSL Australia

The CSL Group Inc. is a privately held shipping company headquartered in Montreal, Canada, with operations in Canada, USA, Europe, Asia, Africa and Australia.

CSL focuses on owning and operating custom built self-unloading dry bulk cargo vessels and high-volume transshipment systems, and is now a recognized leader within these segments of the shipping industry.

CSL is the largest owner and commercial manager of self-unloading dry bulk cargo vessels (“SULs”) in the world, operating a fleet of approximately 70 vessels. CSL handles over 75 million tons of cargo annually and tranships about 32 million tons cargo annually.

CSL Australia (“CSLA”) is a wholly owned subsidiary of the CSL Group and is a registered Australian company which began operations in Australia in 1999. CSLA has grown to become a significant part of the Australian shipping scene, providing coastal shipping services to some of Australia’s major industrial companies. CSLA delivers a diverse range of bulk commodities including coal, iron ore, cement, heavy mineral concentrates, gypsum, clinker, calcite and salt, employing self-unloading vessels to provide a fast, efficient and environmentally friendly (dust-free) delivery of cargo.

CSLA transported over 21 million tons of bulk cargo in 2014, including 13 million tons of iron ore transhipped in our South Australian transshipment operation.

CSLA currently operates a mix of Australian registered & crewed General Licence (GL) vessels, Foreign registered & Australian crewed Transitional General Licence (TGL) vessels and Foreign registered & foreign crewed Temporary Licence (TL) vessels.

As a key stakeholder and industry participant, CSLA is significantly affected by shipping legislation in Australia. As such we welcome this opportunity to make a submission to the Senate committee in respect of the Shipping Legislation Amendment Bill 2015.

2. CSLA Customer Focus

CSLA has a strong customer focus and the success of our business relies on meeting the needs of our Australian customers. As a significant dry bulk shipping provider on the Australian coast, any legislative change will have an impact on how the CSL Australia business operates, and will subsequently impact on our customers operations. The CSLA business model can be adapted to a change in legislation to ensure that our customer’s needs are met and that we continue to operate within the boundaries of the current relevant legislation. Cost is a significant factor to every one of our customers businesses, and CSLA strive to provide the lowest cost and most efficient shipping solution to ensure our customers remain competitive in the domestic Australian market.

3. A Level Playing Field

A competitive environment fosters efficiency and enhanced productivity and lowers the cost of operating within that environment. The Shipping Legislation Amendment Bill attempts to represent the desire of the Government for enhanced competition amongst shipping providers on the Australian coast. Whilst this spirit and intent of the legislative changes is evident within the Bill,

there remains an inconsistency within the objective of fostering a competitive coastal industry. A competitive industry requires a level playing field. The legislation, as it currently stands, creates a two-tier system that disadvantages a significant number of Australian cargo owners (shippers).

The Australian shipping industry embodies both domestic shipping around the coast and imports into Australian ports on international trades. Our Australian based customers must operate within both these spheres to remain internationally competitive and viable. Our customers are in direct competition with both domestic suppliers/producers and Australian based producers that import their raw materials. For example, an Australian plasterboard manufacturer sourcing gypsum from Australian resources must compete against an Australian plasterboard manufacturer sourcing gypsum from Asia. All these stakeholders utilise shipping services, whether they be purely coastal or imported from overseas. A competitive shipping industry is therefore critical to the continued success of Australian based businesses.

The proposed legislation recognises benefits of using foreign flag vessels trading in and out of Australia but simultaneously disadvantages those Australian suppliers of raw materials and Australian producers that use Australian raw materials. These businesses often utilise a dedicated or semi-dedicated coastal vessel that is required as part of their supply chain. This model results in the performing vessel loading, carrying and discharging cargo for up to 300 days in a 12 month period. Under the proposed legislation, as it is currently drafted, any vessel that is laden (ie. loading, carrying and discharging cargo) for greater than 183 days will be captured with a requirement to pay additional labour costs. A dedicated or semi-dedicated vessel will therefore attract an additional cost, in the form of additional labour (2 Australian officers and the balance of the crew paid at Part B levels) which we estimate to be in excess of \$540,000 per annum per ship. This significantly raises the cost of shipping, creating a competitive disadvantage to those Australian suppliers and producers who require a consistent service.

4. The Impact of the '183 Laden Day' Condition

Sections 22 and 38 of the Shipping Legislation Amendment Bill refer to the requirement for two Australian officers and the application of Fair Work/Seagoing Award Part B rates of pay to all crew members if a vessel exceeds 183 days loading, carrying and discharging cargo ('laden') on the Australian coast in a 12 month period. This condition creates a two-tier system.

One segment of Australian shippers will be able to take advantage of international vessels trading on to the Australian coast, as they are able to move their cargo intermittently due to land side storage capacities and production processes. They will be able to utilise these shipping services at international freight rates that are based on an international cost base. This cost base takes into account foreign seafarer wages being paid in accordance with recognised labour agreements e.g. International Transport Federation (ITF) agreements that are accepted in the global shipping environment.

Alternatively, the second segment of Australian shippers will be disadvantaged. These shippers have integrated a dedicated or semi-dedicated shipping service into their supply chain and require one, two or more vessels to be available constantly on the coast. As a result of their need for a vessel operating for over 183 days, these shippers will incur higher freight charges due to a more expensive

labour cost base. In accordance with section 38 of the Bill, two Australian Officers must be onboard at any one time, this requires the employment of four Officers, as prescribed by the leave entitlements under Fair Work/Australian Seagoing Award Part A. In addition, the crew must be paid a 'top up' payment from their base ITF wage, to be in accordance with the higher Australian Seagoing Award Part B. Our estimate of the additional cost to shippers, for each vessel, is in excess of \$540,000 per annum.

The gap created between these two types of users of coastal shipping services is significant. Australian suppliers and producers are being penalised for shipping a great amount of cargo on the coast. This is counter-intuitive and will not support the continuing growth of the Australian economy.

FURTHER EXAMPLE:

Business A requires the use of a dedicated 'Vessel One' on a trade between New South Wales and Victoria for 250 days of the year. Business B is able to use intermittent multiple vessels trading in and out of Australia, on a trade between South Australia and Victoria for only 100 days of the year. Business A and Business B sell the same product in the Victorian market and are in direct competition with one another. Under the '183 day' condition, Business B will receive a lower cost shipping service and therefore a cost advantage over Business A.

5. Proposed Solution

The issues that the Australian shipping industry has experienced with application of the Fair Work Act to foreign seafarers have been well known since the Act was introduced in 2009. No other maritime nation requires foreign seafarers on foreign vessels operating within their coastal waters to be paid in accordance with national labour agreements. The current Shipping Legislation Amendment Bill before the senate delays the application of the Fair Work Act from a period of 2 voyages (ie. approximately 15-30 days), to 183 'laden' days. As outlined above, this creates a clear disadvantage to those shippers requiring use of a dedicated vessel for over 183 days.

Within the context of the proposed amendments, CSLA suggests a change from 183 'laden' days to 295 'laden' days.

6. Conclusion

The legislative change prescribed in the Shipping Legislation Amendment Bill 2012 simplifies the objectives surrounding regulation of coastal shipping activities when compared to the current Coastal Trading (Revitalising Australian Shipping) Act 2012.

The conditions within the Bill as currently drafted, specifically sections 22 and 38, hinder the achievement of the objectives of the Bill by creating a distinct two-tier system of foreign vessel freight rates that will competitively disadvantage one Australian shipper over another. By changing the Fair Work payment and Australian officer requirement operating threshold from 183 to 295 laden days, the intent of the Bill is more likely to be achieved.