

Ai GROUP SUBMISSION

Shipping Legislation Amendment
Bill 2015

**Rural and Regional Affairs and
Transport Legislation Committee**

26 August 2015



Ai Group Submission – Shipping Legislation Amendment Bill

About Australian Industry Group

The Australian Industry Group (Ai Group) is a peak industry association in Australia which along with its affiliates represents the interests of more than 60,000 businesses in an expanding range of sectors including: manufacturing, engineering, construction, automotive, food, transport, information technology, telecommunications, call centres, labour hire, printing, defence, mining equipment and supplies, airlines, health and other industries. The businesses which we represent employ more than one million people. Ai Group members operate small, medium and large businesses across a range of industries. Ai Group is closely affiliated with many other employer groups and directly manages a number of those organisations.

Australian Industry Group contact for this submission

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Introduction

Ai Group welcomes the opportunity to make submissions to the Rural and Regional Affairs and Transport Legislation Committee's inquiry into the *Shipping Legislation Amendment Bill 2015 (Bill)*.

Ai Group represents numerous Australian companies which are extensive users of coastal shipping to transport raw materials, components and finished products between Australian ports. Sea transportation needs to be available at reasonable prices in order to:

- Enable Australian companies to remain competitive and productive;
- Preserve employment in the industries which use coastal shipping;
- Avoid increased congestion and higher maintenance costs on Australia's road and rail networks;
- Avoid increasing Australia's greenhouse gas emissions as a result of replacing shipping with more carbon-intensive forms of transportation.

The Bill proposes significant and important changes to the licensing system for foreign ships for the purpose of shipping domestic cargo around Australia. The changes proposed by the Bill go some way to address concerns of Australian businesses that shipping of domestic product between Australian ports has become excessively costly and restrictive since legislative changes were introduced by the former Labor Government. There has been a significant increase in shipping costs to Australian companies and an increased reliance on road transport and rail.

The Bill, by increasing flexibility in the coastal shipping trade, will provide important economic benefits to the Australian economy and allow for greater movement of Australian domestic cargo, including in parts of Australia where shipping transport is particularly vital, such as Tasmania.

Ai Group urges the Committee to recommend that the Bill is passed by the Parliament.

Changes to the overall policy objective for the regulation of coastal shipping

The Explanatory Memorandum for the Bill explains that the Bill seeks to remove the regulatory matrix with respect to coastal shipping regulations introduced by the *Coastal Trading (Revitalising Australian Shipping) Act 2012 (Coastal Trading Act)*. The Bill will replace the current regulatory matrix with a single licensing system for foreign ships seeking to transport Australian domestic cargo to Australian ports.

During the development of the Coastal Trading Act and related shipping reforms, Ai Group expressed concern that users of coastal shipping would face increased transport costs and warned that this would have a significant impact on Australian manufacturing and other trade exposed industries. Despite Ai Group's concerns, the Coastal Trading Act and related shipping reforms were introduced into law. Our members, many of whom are Australian manufacturers and trade exposed businesses, have suffered the consequences of increased transport costs as a result of the Coastal Trading Act.

Ai Group supports the overall policy objective of the Bill and particularly notes the new proposed object of the Bill (section 3) which states:

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“3 Object of Act

The object of this Act is to provide a regulatory framework for coastal shipping in Australia that:

- (a) fosters a competitive costal shipping services industry that supports the Australian economy; and*
- (b) maximises the use of available shipping capacity off the Australian coast.”*

This new object redirects the focus of costal shipping to the Australian economy by fostering competitiveness within the coastal shipping services industry as well as maximising the use of available shipping capacity operating within Australian waters.

The current object of the Coastal Trading Act focusses primarily on the engagement in coastal trading by Australian ships. Ai Group supports the efforts of Governments to revitalise the Australian shipping industry, but an appropriate balance must be struck. This balance must take into account the interests of Australian companies (shipping companies as well as companies which use shipping to transport their goods), Australian workers (those employed by shipping companies and those employed by the users of shipping) and Australian consumers (who are forced to pay the higher prices associated with increased transport costs).

Ai Group is of the view that the Bill strikes an appropriate balance.

A new licensing system

The Bill proposes a new single licensing system which would allow foreign ships to engage in the coastal shipping trade for up to 183 days per year. The license will be valid for 12 months.

The current licensing system under the Coastal Trading Act comprises four different licenses:

- General license for Australian ships;
- Transitional General license for those ships operating under the previous permit system under the *Navigation Act 1912*;
- Temporary license for ships registered on the Australian International Ships Register or foreign ships; and
- Emergency license only to be provided in emergency situation.

The new licensing system in the Bill is simpler.

The Bill includes appropriate protections for Australian ship operators engaged in coastal shipping and workers engaged on foreign ships. For example, foreign ships engaged in coastal shipping for more than 183 days in a year will be required to have two senior skilled crew members who are eligible to work in Australia because they are citizens, residents, or hold a relevant visa.

Also, seafarers employed on ships engaged in coastal shipping for more than 183 days will be able to access an enforcement mechanism to recover underpayments. The Minister will be granted the power to refuse to issue further coastal trading permits to foreign ships that have not correctly paid required amounts to seafarers under a previous permit.

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The new licensing system will inject must needed flexibility into coastal shipping by allowing Australian users of coastal shipping greater access to sea transportation, without entirely deregulating the coastal shipping industry.

The application of the Fair Work Act

The Bill is currently drafted in a manner which suggests that, if the *Fair Work Act 2009* (**Fair Work Act**) does not apply to a foreign ship which holds a permit allowing it to engage in coastal shipping, then Part B of the *Seagoing Industry Award 2010* (**Seagoing Award**) would not apply to the foreign ship for the 183 days it is engaged in coastal shipping. However, we note that the Fair Work Act, by the effect of the *Fair Work Regulations 2009* (**Fair Work Regulations**), applies to ships granted a license under the Coastal Trading Act, including foreign ships that have been granted a temporary license. The Fair Work Regulations should be amended to ensure that they give effect to the Bill's intention.

We note that prior to the operation of the Fair Work Act, foreign ships operating in coastal shipping under the former permit system regulated by the Navigation Act 1912 were not covered by Australian workplace relations laws and awards.

Power to amend the Seagoing Award

The Bill enables the legislature, via regulation, to amend the Seagoing Award for the purpose of removing uncertainties, ambiguity or to correct errors, technical deficiencies or omissions.

The Explanatory Memorandum states that this power would be used to amend the coverage of Part B of the Seagoing Award to reflect the new proposed licensing system. This approach is sensible given that the coverage of the Seagoing Award is an essential element of the proposed changes.

Amendments to the Shipping Registrations Act 1981

The Bill proposes amendments to the *Shipping Registrations Act 1981* (**Shipping Registrations Act**). The amendments would remove current restrictive pre-requisites for ships to be registered on the Australian International Shipping Register.

Ships will no longer be required to be predominately engaged in international trading, but rather will simply have to undertake 90 days of international trading per year. The Bill will also remove the current pre-requisite to registration that a ship would need to enter into a collective agreement with the seafarers' bargaining unit. These changes are sensible.

Ships registered under the Australian International Shipping Register and not engaged in international trading will continue to be required to apply Part B of the Seagoing Award.

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