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SAL 19007

5 March 2019

**Attention:**

Committee Secretary  
Senate Rural and Regional Affairs and Transport References Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

By email to: [rrat.sen@aph.gov.au](mailto:rrat.sen@aph.gov.au)

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

**1. Background**

- 1.1 Shipping Australia Limited (SAL) is a peak shipowner association with 28-member lines and shipping agents and 50 corporate associate members, which generally provide services to the maritime industry in Australia. Our member lines are involved with over 80 per cent of Australia's international container trade and car trade as well as over 70 per cent of our break bulk and bulk trade. A number of our members are also actively engaged in the provision of coastal cargo services to Australian consignors and consignees. A list of members is available at [www.shippingaustralia.com](http://www.shippingaustralia.com).
- 1.2 A major focus of SAL is to promote efficient and effective maritime trade for Australia whilst advancing the interests of ship owners and shipping agents.
- 1.3 SAL thanks the Committee for the opportunity to provide input into yet another inquiry related to the policy and regulatory framework associated with revitalising Australian shipping. New approaches are outlined in this submission and should the committee seek to investigate further SAL would be pleased to provide it contribution.
- 1.4 Following consultation with members, SAL is pleased to make the following submission. As mentioned in previous submissions on the current coastal shipping regulatory regime, SAL maintains that the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (CTA) has had a detrimental effect on the movement of domestic cargo by ships, partly through its policy intent and partly through its unwieldy red tape. This regime has proven to be inefficient and burdensome on

shippers and the shipping industry, restricting access to the Australian market and resulting in the limitation of access of local businesses to efficient and cost-effective shipping services.

## 2. This Inquiry - Same process with the expectation of a different result

2.1 After more than a decade of consultation, implementation and operation of the Coastal Trading Act 2012 (CTA 2012), the establishment of a Senate review to investigate “policy, regulatory, taxation, administrative and funding priorities” for Australian shipping is a clear indication that the objectives of the legislation have not been achieved and is a call for all parties to return to the drawing board and start again. SAL believes this approach will be another setback for the Australian community and will continue to hinder the potential of the maritime supply chain to contribute to the economic prosperity of the nation.

2.2 As the Minister for Infrastructure, Transport, Cities and Regional Development who oversaw the drafting and implementation of the current regime observed in a 14 March 2012 media release, in response to the Business Council of Australia’s call for a Productivity Commission review of the legislation, “*We don’t need another review to tell us what we already know*”.

A genuine approach to establishing legislation that facilitates shipping in Australia would be an investigation which aims to learn the lessons of why the system isn’t working.

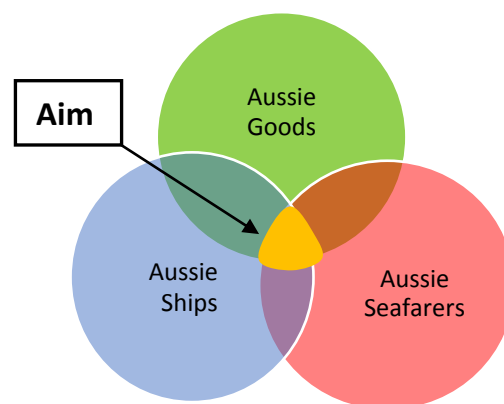
## 3. The Simple Aim

3.1 In response to the Parliamentary opposition’s support for referring the legislation to a Productivity Commission review, the Minister’s 28 May 2012 media release stated the simple aim of the shipping legislative reform package: “*Our aim is simple: more Aussie seafarers crewing more ships flying the Aussie flag carrying more Aussie goods<sup>1</sup> around the Aussie coastline*”.

3.2 This simple aim is given greater clarity when its three objectives are articulated, which are:

- A. more Aussie seafarers crewing
- B. more ships flying the Aussie flag
- C. carrying more Aussie goods around the Aussie coastline.

3.3 SAL proposes that rather than abandoning the last 10 years of effort and attempting to re-establish a suite of new priorities, a bipartisan approach would focus on this simple aim and the prioritising of its objectives. Figure 1 provides an illustration.



**Figure 1: Three objectives of the simple aim of the CTA 2012**

<sup>1</sup> Noting that, despite the potential of cruise shipping to support the aim, carrying more Australian passengers around the Australian coastline was not an objective.

**3.4 The first lesson to learn:** The objectives are more readily achieved independently.

The simple aim was made unnecessarily and vastly more difficult as the policies to support it took the approach that the objectives were to be achieved concurrently. In opposition, the drafters of the legislation have blamed the failings of this approach on the government, accusing it of not giving the regulations ‘enough time to bed down’ and ‘attacking the legislation’.

**3.5 The second lesson to learn:** The widest public benefit should be prioritised above vested interests.

Prioritising the objectives of the simple aim should be based on the potential to deliver a public benefit which can be determined by simply calculating the number of Australians who will benefit from coastal shipping and greater utilisation of the maritime supply chain. This calculation requires bipartisan agreement on fixed agreed constraints and assumptions about current geopolitics and the world economy. For example, that a Third World War is not about to occur and global trade in competitive markets is a proven good that should be engaged in and supported. As such, the comments made by the leader of the opposition and alternative Prime Minister on 18<sup>th</sup> January 2019 are not valid considerations in the calculation of the benefit that can be provided by a civilian commercial industry when forming legislation to regulate it, *“At the start of the Second World War, because we had privatised our shipping industries and sold it all off, we didn’t have enough Australian ships to carry our troops to the Middle East, or to carry supplies to Australia. We didn’t have enough seafarers, ships’ engineers and the like. History always repeats .... Australia should have a trained source of seafarers in the unthinkable event that there should ever be a conflict”*.

**3.6** Such comments are not relevant as the vast majority of participants the maritime industry and their families would much prefer working to improve port connectivity and facilitating trade as measures to prevent war (as countries that trade together are less likely to go to war with each other) rather than being conscripted to the front line by a politician prioritising the policies of vested interests.

**3.7 The third lesson to learn:** It is important to listen to the recommendations of independent, credible and authoritative voices:

- ‘The Australian Government should amend coastal shipping laws to substantially reduce barriers to entry for foreign vessels’ (Productivity Commission’s Agriculture Review, 2016)
- ‘Cabotage restrictions on coastal shipping should be removed’ (Competition Policy Review/The Harper Review, 2015)
- ‘Coastal shipping regulations are undermining the incomes and jobs of many onshore businesses and workers’ (Industry Innovation and Competitiveness Agenda, Commonwealth of Australia, 2014)
- ‘More efficient coastal shipping services could help lift Australia’s competitiveness and lower prices for consumers’ (Australian Competition and Consumer Commission, 2014)
- A more efficient coastal shipping industry will help to relieve pressure on Australia’s road and rail networks, lowering transport costs and consequently prices, across the economy’ (Australian Competition and Consumer Commission, 2014)
- ‘Cabotage rules that preserve freight routes from one Australian port to another for Australian-flagged ships are effectively industry assistance, increasing costs and reducing competition’ (Towards Responsible Government, National Committee of Audit, Parliament of Australia, 2014)

- ‘Australian cabotage can directly benefit local shipowners and maritime workers, [but] it does so at the expense of the wider community’ (Joint Australian and New Zealand Productivity Commissions, 2012).

#### 4. Assessing the public benefits of the CTA 2012 objectives

4.1 Accepting these lessons and the identified constraints, the public benefits of the individual objectives of the CTA 2012 and estimates of the number of Australians who could benefit are outlined in Table 1.

<b>Table 1</b>			
<b>Objectives:</b>	<b>Australian Goods</b>	<b>Australian Seafarers</b>	<b>Australian Ships</b>
<b>Benefit:</b>	<u>Reduce:</u> <ul style="list-style-type: none"> <li>• freight costs</li> <li>• national fuel demand</li> <li>• CO2 emissions</li> <li>• congestion</li> <li>• infrastructure construction and maintenance costs (taxes)</li> <li>• Road deaths and injuries</li> </ul> <u>Increase:</u> <ul style="list-style-type: none"> <li>• competition in freight services</li> <li>• port connectivity</li> <li>• transport safety and efficiency - separation of passenger and freight networks</li> <li>• integration of the domestic and international supply chains</li> <li>• support development of export markets</li> <li>• enhance the domestic supply chain’s resilience in natural disasters</li> </ul>	Maritime skills development	Profitable Australian shipping companies
<b>Number of Australians benefited:</b>	26,000,000	5,000*	Less than 10
*Estimated projection based on Australia being able to develop a similar number of maritime officers as are registered in the United Kingdom on a per capita basis.			

A conservative estimate of the magnitude of the relative benefits of the objective is represented in Figure 2.



**Figure 2: Relative public benefit of individual objectives**

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4.2 It can be concluded that, based on the widest public benefit, the individual objectives of the CTA 2012 can be prioritised and therefore can be addressed in the following order:

1. carrying more Australian goods around the Australian coastline
2. more Australian seafarers crewing
3. more ships flying the Australian flag

## **5. Achieving the simple aim of the CTA 2012**

5.1 Having prioritised the objectives for reforming shipping in Australia, based on the provision of the widest public benefit, SAL submits the following strategies to achieve the simple aim:

1. Allow cabotage, namely, foreign flagged vessels to carry more Australian goods around the Australian coastline
2. Support Australian seafarers who aspire to work on foreign flagged vessels
3. Enable collectives of Australian seafarers to access their superfund to charter more ships flying the Australian flag.

### **5.2 Allow cabotage (foreign flagged vessels) to carry more Australian goods around the Australian coastline**

#### **Why**

In addition to the public benefits listed in the second column of Table 1, a significant macroeconomic benefit of allowing foreign flagged vessels to carry more Australian goods around the Australian coastline was specified in the United Nations' 48th annual review of the maritime industry. In relation to restricting cabotage, the 2016 report noted that "such a limitation puts national ports at a disadvantage when competing for trans-shipment services". In this region, Australia competes for trans-shipment services with New Zealand, where "cabotage laws are in contrast to the bureaucratic and inflexible laws that shippers and carriers presently endure in Australia."<sup>2</sup> The self-imposed competitive disadvantage which is applied to Australia's national ports by cabotage will ultimately have a negative impact on Australian industries and the community's standard of living.

Carrying more Australian goods around the Australian coastline is most readily achieved independently of the other objectives of the simple aim and, in the non-bulk cargo sector especially, most viably by utilising the current spare incidental capacity of foreign flagged container ships. Shipping relies on economies of scale to be commercially competitive and building up a viable volume of Australian goods will take time. Without initially growing the demand for more Australian goods to be carried around the coastline by foreign flagged vessels achieving the simple aim in the non-bulk sector will never be realised.

#### **How**

The cruise shipping sector provides a current example of how not restricting cabotage can increase demand for coastal shipping. When the CTA 2012 commenced, cruise vessels above 5,000 GT were granted a specific exemption to the legislation on the basis that "Australia does not currently have any Australian registered vessels in this category". Exemption to the CTA 2012 has allowed significant growth in the demand for coastal cruise shipping by Australians as shown by a 42% increase in domestic passenger numbers in 2015 to 269,915 from 189,796 in 2014. The same principle could be applied to container ships on voyages between mainland

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<sup>2</sup> Thompson M and Cockrell J (2015). Cabotage in New Zealand and Australia: A world of difference between neighbours?  
<https://www.clydeco.com/insight/article/cabotage-in-new-zealand-and-australia-a-world-of-difference-between-neighbo>

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cities which are not contested by any Australian registered vessels. By granting the same exemption to this vessel class, the objective of carrying more Australian goods around the Australian coastline would be readily achieved. Subsequent to growing and establishing a demand for coastal shipping, container ships are far better positioned to achieve the objectives of more Australians crewing more Australian flagged ships than cruise vessels which are far more labour intensive.

### **5.3 Support Australian seafarers who aspire to work on foreign flagged vessels**

#### **Why**

Seafaring is a global profession and Australian seafarers should aspire, like other similar professions where Australians have succeeded, to gain employment in the global market. Australian seafarers in the officer categories (Master, Engineer) are issued with Australian certificate of competencies (COCs) which are recognised worldwide. The related training associated with these COCs are provided by various reputable Australian maritime educational institutions. The success of these qualifications is evident by the number of foreign seafaring students that have trained in Australian institutions since the 1980's and have since been employed at the highest levels in the industry by the top shipping companies. On coming ashore many of these seafarers have successfully transitioned to land based jobs related to the maritime industry in Australia and overseas.

With the development of new autonomous vessels and technology-based operational systems new skills will be required from the maritime workforce, and traditional skills will become redundant. Recognising this fact, policies seeking to promote the training of Australian seafarers should direct those resources to creating universally recognised and marketable maritime skills. As such, SAL considers that the Integrated Ratings class of seafarer has limited future prospects.

#### **How**

Australian nationals seeking a career at sea should aspire to access foreign shipping to complete their sea time with the Australian Government should consider appropriate incentives to such foreign vessels. Overseas there are numerous examples of maritime academies<sup>3</sup> working with various sponsoring shipping companies and training management companies which are not nationality affiliated. Anglo- Eastern and Viking Recruitment are such examples who are actively recruiting navigation, marine engineer and marine electro-technical officer cadets from the United Kingdom. If there is sufficient demand in the Australian seafaring workforce a similar approach should be investigated further in Australia.

### **5.4 Enable collectives of Australian seafarers to access their superfund to charter vessels**

#### **Why**

Australian seafarers have contributed to the accumulation of billions of dollars in the Maritime Super Fund. If they were able to access a small fraction of this capital to charter vessels on the proviso that the vessels be registered in Australia, then Australian seafarers could take ownership of ships flying the Australian flag.

#### **How**

Employee Ownership Australia is an organisation that works to implement employee ownership schemes. The key benefits for Australian seafarers crewing more ships flying the

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<sup>3</sup> [sponsoring companies that recruit officer cadets to work in the various shipping sectors of the merchant navy](#)

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Australian flag in an Employee Share Scheme (ESS) or an Employee Stock Ownership Plan (ESOP) include:<sup>4</sup>

- Increased sense of ownership – It goes without saying that an employee who is also a shareholder is likely to feel like they are a real part of an organisation.
- Increased awareness of the ‘big picture’ – Employee owners often have more interest and personal investment in the direction and corporate plans of the organisation of which they are a part.
- Participation in key decision making – ESSs and ESOPs are often linked with employee engagement and involvement, presenting employees with the opportunity to influence important decisions about products and processes.
- Improved working environment – Employee-owned workplaces tend to make for a better place to work as everyone shares the same vision and goals for the company.
- Financial savings and reward – There is the potential for employees to build up considerable savings for themselves over their time at an organisation. This could add less likelihood of industrial disruption

## 6. Recognising the different priorities of vested interests

- 6.1 As the objectives of the simple aim of the CTA 2012 were not prioritised, vested interests with narrow motives have been able to circumvent shipping reforms in Australia.
- 6.2 Vested interests will oppose a prioritised order as they are not interested in achieving all the individual objectives. The maritime unions’ objectives are only: a) more Australian seafarers crewing, and b) more ships flying the Australian flag; while the road and rail sectors’ only objective is: c) to prevent more ships carrying more Australian goods around the Australian coastline.
- 6.3 The evidence of the maritime unions’ motive to hinder the carriage of more Australian goods can be found in their stated policies and commercial influence. In its submission to the 2017 Coastal Shipping Reforms Discussion Paper, the Maritime Union of Australia (MUA) proposed the tolerance provisions of the Temporary Licence (TL) *“be amended by inclusion of a provision relating to containers that would permit a variation of up to 10 containers so that:*
- *acceptable tolerance limits means: in relation to cargo authorised to be carried on a vessel under a temporary licence—not more than 20% more, or less, of the volume of cargo, and in the case of containers, not more or less than 10 containers (TEUs), authorised to be carried under the licence.”*
- 6.4 This proposed amendment would present a hindrance to the container cargo carriers that seek multiple consigners and economies of scale in order to be viable: such a reduced tolerance would create significant management problems and make it difficult for container cargo carriers to comply with the requirements of the licence. The aim of such amendment must be to reduce the amount of coastal cargo carried by sea, as there are no Australian flag container vessels that would benefit from this increased protection. As outlined in Table 2, the MUA proposal would significantly decrease the tolerance provision of granted TLs as cargo volumes increase above 50 TEU.

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<sup>4</sup> <https://employeeownership.com.au/benefits-of-employee-ownership/>



Cargo volume on Temporary Licence (TEU)	Proposed 10 TEU tolerance as percentage of TL
50	20.0%
100	10.0%
200	5.0%
300	3.3%
400	2.5%
500	2.0%

- 6.5 The MUA call to legislate a civilian, Australian flag maritime industry for the purposes of national security should be considered with scepticism. A genuine policy to support maritime national security would take the form of arrangements incorporated in relevant instruments such as the *Seagoing Award 2010* and the General Licence provisions for Australian-registered ships to outline how Australian seafarers would be conscripted and how Australian ships would be commandeered. The absence of such arrangements demonstrates the insincerity of national security claims.
- 6.6 We recognise that opposition to international vessels carrying Australian goods around the Australian coastline is that a strengthened domestic supply chain would reduce the union’s ability to implement industrial action and would reduce its bargaining power at the bottleneck of the international supply chain.
- 6.7 To provide further perspective, maritime officers and engineers are represented by separate unions, namely, the AMOU and AMPIE respectively. As discussed above, it is not viable to sustain a pathway for Australians to gain employment as integrated ratings on oceangoing vessels; therefore, as the representative of integrated ratings, the views of the MUA offer little credible input with regard to the future of Australian seafaring.
- 6.8 Unfortunately, the union disinterest in carrying more Australian goods around the Australian coastline has perpetrated to the highest levels of government, as articulated by the leader of the opposition and alternative Prime Minister on 19<sup>th</sup> January 2019, *“If we form a government, I make this pledge to Australia: we are determined to get more ships registered in Australia and more Australian seafarers working along the Australian coastline. For me, this is not a matter of class-war. It’s a matter of being an independent nation, controlling our transport costs, making sure that we protect our environment, and making sure that as an island nation we have ships. You know, in the good times, maybe it doesn’t matter to corporate Australia. But in the bad times, we’ll wish we had more Australian seafarers.”*
- 6.9 The long-haul road and rail sectors have the same vested interest, which is to prevent coastal shipping increasing competition in their market. In its submission to the 2017 Coastal Shipping Reforms Discussion Paper, the Freight on Rail Group (FORG) gave an indication of the scale of shipping’s competitiveness *“on the East West corridor, sea rates are already around 40% cheaper than their rail competitor”*.
- 6.10 In supporting the continued legislated constrain on shipping to prevent greater competition in the freight market, the FORG undertook to misrepresenting facts regarding the shipping industry in its 2017 submission which can be readily discredited:

*“FORG is concerned that the amendments proposed in the Discussion Paper would provide exemptions to foreign flagged vessels from Australian laws and regulations when competing*



*in the domestic freight market and would not require comparable contributions to those provided by rail freight operators in meeting the cost of infrastructure.”*

Foreign flagged container vessels operating between Australian capital cities already comply strictly with all Australian laws and regulation and would continue to do so if cabotage laws were amended. These vessels do not ‘contribute’ to the cost of infrastructure, they pay the full attributed cost per port call to private port operators and a quarterly levy to government which funds the Australia Maritime Safety Authority. FORG also stated that a key impact to the freight rail industry from exemptions to foreign flagged vessels would “*Significantly damage the domestic land freight industry through a loss of volume and revenue stability, and a reduction in the capacity of the rail freight industry to invest in capital*”.

As taxpayers have always borne the lion share of all intercity rail freight infrastructure, the net result of reducing the capacity of the rail freight industry to invest in infrastructure would be a significant saving for the national budget and all Australians.

## **7. Conclusion**

In undertaking yet another inquiry into the policy and regulatory framework associated with revitalising Australian shipping, SAL members are hopeful that the outcome will be a simple regulatory environment which encourages a cost effective and flexible shipping service to operate for the benefit Australian producers and customers which would provide the greatest overall benefit to Australia

The objectives of the current legislation should be prioritised based on the provision of the widest public benefit and SAL is prepared to contribute and elaborate on the approaches and strategies set out in this submission should it be given the opportunity to do so.

**Submission authorised by:**

**R. Nairn, AM**

**CEO Shipping Australia Limited**

**5 March 2019**