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

Melbourne, 20 August 2015

Dear Sir or Madam,

**Re: Shipping Legislation Amendment Bill 2015**

Reference is made to the Committee's issued invitation for comments, to which we are pleased to respond.

By way of identification, the undersigned is the owner of Australian Shipping Consultants Pty Ltd, now in its 45th year of operation and providing services of both advisory and operative nature to domestic as well as international clients. In recent years, the Company has concentrated on providing outsourcing services to clients by way of chartering of specialised ships, and operational management of same, in various specified niche trades. This involved also coastal shipments, but this was discontinued after the Fair Work Act application in 2010, and further entrenched following the 2012 Revitalisation Process.

We echo the widespread dissatisfaction with the failed effect of the *Coastal Trading (Revitalising Australian Shipping) Act 2012* - and welcome the proposed amendments, and innovations, in that same will do away with the unworkable procedural license structure, including the onerous reporting, and freeing up the coast to yet again enable shippers to benefit from ready access to best competitive freight cost solutions and flexibility.

However, a number of issues are listed below, as areas of concern, or anomaly:

**a) Single Permit - Qualified Ship**

Until now, access to coastal business (for non-licensed ships, in old parlance..) was granted at the behest of a **specified cargo(es) requirement** - which in turn formed the basis of a permit/license application, and once obtained, the permit then enabled commitment to a contractual shipment arrangement. This procedure followed the (logical) approach: Cargo drives Ships,

This concept is now abandoned, for the purposes of simplification (most laudable) and freeing up coastal cargo access, free of past contestability requirements, in that Australian ships have no longer priority rights, and must compete on equal terms with

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Foreign ships, and a quite different approach shall be adopted:

- A single permit is issued for 12 months to qualifying and identified ship.
- The Permit approval is granted without disclosure or linkage to cargo.
- Similarly, no disclosure of intended deployment ( if less than 183 days).
- Only at 6 monthly reporting, is this information disclosed (and in public domain ?).

Visualising how this may play out in practice, we advance the following prospects:

**- Scheduled Service Operators**

Container ships/others, mostly utilising same named ships intermittently - Easy Fit.

as opposed to:

**- Spot Business - Single or Several Cargoes**

This is catered for by available, opportunity driven ship fixtures, following mostly by competitive bidding and selection amongst several candidates.

However, to commit contractually to a fixture, procurement of a permit is an essential prerequisite.

The following would transpire:

Candidate A has already a Permit in place - and able commit.

Candidate B does not have a Permit in place - but can provide same in 14 days time.

Outcome:

If Candidate A's bid is otherwise acceptable, and ship ready and suitable, no doubt he would secure business - and B lose out - due to A's competitive ready advantage, especially if prompt loading a requirement, as is often the case. Conversely, if A failed on grounds other than having a Permit in place, B would be in a position to fix: "subject to obtaining a Single Permit", if time lapse was no obstacle.

**(Comments and Recommendations:** Under the old SVP/CVP system, such subjects were commonly used, in reverse, by Charterers/Shippers, as they were responsible for permit attainment.

There was also for a time, the ability to seek and be granted **URGENT permit** - a matter which would benefit the Spot Market business, and we commend its incorporation in the Act, or accompanying regulations.

Also, it would seem desirable to make special provisions for the **Single Voyage or Cargo Movement** - which will now again resume and multiply, and whereby there is special provision for end voyage reporting, as opposed to this being governed by the standard 6 monthly reporting)

**Permit procurement - On Speculation (no cargo(es) yet identified or committed.**

It may be comfortably predicted, that a number of operators, whose ships (in particular specialised ships such as RO-RO, Multi Purpose or Heavy Lift) bring cargoes into Australia, may elect to place a number of selected/identified ships under

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Single Permit, thereby positioning these ships to take ready advantage of prevailing opportunities. This may then result in either successful fixture of one or more cargoes - or in case of failure, the lapse of the Permit after 12 months. Presumably, the requirement to lodge 6 monthly reports, would reflect such a scenario, Since, in most cases several ships would come and go, the viability, or otherwise, of obtaining Single Permits, for some or all, would be an individual consideration (also dependent upon as yet undisclosed Application Fees).

### **Coastal Deployment - Under 183 days**

Again visualising likely developments - and disregarding the likely very few ships declaring up front intention to engage predominantly in Coastal trading beyond this duration - it is reasonable to predict the following:

- Permit Ships would in most cases have no dedication to Coastal trading, but have a presence from time to time when Coastal business, linked with other possible import or export shipments, would be pursued. Avoidance of exceeding 183 days is routinely accomplished.

- Indeed, such defensive planning is readily achievable, and one would expect general adoption of this strategy.

**Question:** Whilst deductions for ballast and docking/repair times, will apply - it is not clear if the 183 days are intermittently counted, or by simple period duration ?  
The ability to deduct drydocking time in Australia would appear to be somewhat illusory, in view of the fact we have only one remaining dry dock facility for larger vessels (i.e. Garden Island, Sydney - and same prioritised for Naval work), whereby the opportunity for access is strictly limited.

### **Coastal Deployment - Over 183 days**

It is difficult to imagine Single Permit ships committing to such a duration, and the consequences thereby bestowed, except in very isolated and special circumstance situations i.e. for example a dependency on a particular ship's unique and one-off features and capabilities. For the majority of trades and commodities, servicing by periodic replacement ships (another Single Permit) introduced within the 183 days window, would become the planned norm, for obvious reasons.

This new regime would, however, provide impetus to added competition (and replacement of current ships), allowing entry of more cost effective tonnage to service the few remaining "pure coastal" trades such as: Bass Strait, South Australia Limestone, W.A. and Northern Australia.

### **b) Australian International Shipping Register (AISR)**

The creation of AISR was noted with a high degree of incredulity by many Shipping practitioners, here as well as overseas, and including the undersigned - and to put it

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frankly, it was seen as a self-deluding aggrandisement by a Nation with one of the smallest National ship registries in the world.

However, it was seen as a lynch pin for growth in the euphoric, and quite unrealistic predictions made at the time of the Shipping Reform process in 2010-2012, and gave rise to some wildly optimistic, and unqualified predictions, like the one promulgated by Australian Shipowners Association (ASA) in 2011:

- Coastal Replacement : 7 ships
- Coastal Expansion : 14 ships
- International Trade : 54 ships
- Plus Off-shore Oil & Gas : 100 ships

Indeed - heady days - but subsequent reality is quite a different story!

In reality, there was never a real prospect of International Shipowners seeking to register ships with AIRS, against no prospect of monetary gain, nor prospect of long term support deployment of such ships in the Austral-Asia area. Exposure to Australian crewing, in any number, has and remains a major detraction due to high cost penalty, and perceived unionised industrial reputation.

Even long established Second Registries by traditional Shipping Nations are losing entries increasingly across to Open Registries, especially now that the combined effect of International Regulations enforce common standards to safety, as administered under the Port State Control (MOU) inspection regime (AMSA), and for improved crew standards enforced by the Maritime Labour Convention, equally embraced by National as well as Open Registry ships. These developments add to the common ratification of many other International Conventions, all having the effect of raising and maintaining a more or less common standard across ships of all registries. Wage levels do still vary and are negotiated some times individually by Shipowners and their labour, although increasingly the so called ITF standard agreements are gaining prominence.

**In summary:** AIRS will only attract registrations of ships who have a compelling need to service Australian controlled business - with inducement - and such prospects must be considered doubtful, especially in light of the provisions contained in this Bill - and reasons referred to above. Zero tax is available in most Open registry domains - now haboruring close to 75% of the total World Commercial Fleet.

### **c) Cabotage versus Open Coast**

It is the view of the undersigned that by adoption and application of this Bill, it will effectively cause the removal of any protection of Australian Shipping and open the coast (save for the 183 day condition) - and thereby cause Cabotage, as we knew it, to lapse.

Clearly this situation is acknowledged, and the pro and con arguments been weighed, in the consultative process leading to the current policy formulation - and clearly one

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supported by the majority of respective interests obviously gaining from cost savings and other benefits, whilst less so by others, and opposed notably and expectantly, by the Maritime Unions and segments of the established domestic shipping fraternity, who will no doubt see this new policy as a threat to the status quo.

Whereas, the prospect of cost savings and simplifications in domestic shipping operations will undoubtedly be of National Benefit - and that is without argument in itself a positive development, however, is there are some negatives to be considered as a consequence?

It is quite on the cards that in just a few years time, the last of the larger commercial ships under Australian National Registry will have relocated or been scrapped, against doubtful prospects of AISR registered entry in turn, leaving only Australian ships in the "closed coast" niche trades referred to above.

So what, we have the vast global fleet to take care of needs - worry not.

That may well hold good, one can but hope, however, it is prudent to contemplate that without any "home fleet" to control and service needs arising out of Natural Disasters - and dare one mention it, the extreme emergency of war or war like threats imposed upon an Island Nation - with a vast coastline. Many of us have had past first hand experience with logistical supply line involvements, in recent times close to shore and further afield, and have gained an appreciation of what may be needed - and how to procure the right type of Merchant Shipping support to fulfil the given tasks. In major conflicts, large numbers of ships - of varying types - are required to move military as well as civilian cargoes - and with a virtual depletion of a National fleet, Australia has only the hope of assistance from outside - either by prior agreement - or by means of requisitioning foreign flag ships as available in ports or within Territorial waters at the time, against compensation, and as authorised by war emergency legislation. In International Maritime Law known as: "The right of Angary."

No doubt National planning includes such options - however - without a "Home Commercial Fleet" as a first back-bone of logistics support - the Nation could be placing itself at some risk in a future event - which one would hope will never be put to the test.

#### **e) Maritime Skills Pool**

It is obvious that positions for seafarers, Officers and Ratings, will reduce with a further declining coastal fleet. Such reduced work force, will in turn result in reduced flow of funds for training - and whilst employment opportunities will continue to open up for the newly educated, their seagoing training and employment will likely not take place on Australian ships - but on foreign ships. However, for Officers/Engineers this will be in direct competition with the predominance now of Eastern European, Indian and Phillipino colleagues, whilst openings for ratings positions are only available in small numbers, and at ITF agreement wage levels.

As the current shore based Maritime positions, traditionally filled by National Australian and Anglo-Celtic ex Mariners now in many cases nearing retirement, in

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turn require refilling, the candidates will increasingly be of broader ethnic origin but of course suitably skilled and certified under local regulations and observance.

When all is said and done, it is unlikely that Australia will fail to fill the demand now and in the future for the multitude of land and port based position requiring professional and experienced Mariners (Navigators and Engineers) - inevitably and increasingly sourced from outside the Country, many of whom will be highly attracted to life and work in Australia.

This concludes our submission, and should there be areas requiring clarification, please do not hesitate to make contact.

Yours Sincerely

Henning Horn  
Managing Director

