



21 August 2015

Tim Walting  
Committee Secretary Senate Standing Committee on Rural and Regional Affairs and  
Transport  
Parliament House  
Canberra ACT 2600  
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Dear Tim,

Please find attached the Cristal Mining Australia Limited submission on the Shipping  
Legislation Amendment Bill 2015.

Yours sincerely

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## **Coastal Shipping**

### **Cristal Mining Australia Ltd**

#### **Submission to the Senate Standing Committee on Rural and Regional Affairs and Transport**

### **August 2015**

Cristal Mining Australia Limited (Cristal) operates mineral sands mines in New South Wales and Western Australia and ships partially treated ore from its Murray Basin mines via the port of Adelaide to its mineral separation plant located in Bunbury, Western Australia, for further processing and export. Cristal operates in a competitive global market which is subject to fluctuations in commodity prices, exchange rates and costs of production. As a miner and exporter operating in both New South Wales and Western Australia, Cristal is intimately associated with government regulation of coastal shipping.

On 8 April 2014 the Deputy Prime Minister and Minister for Infrastructure and Regional Development, the Hon Warren Truss MP, released the Options Paper: Approaches to regulating coastal shipping in Australia, seeking input from industry.

Cristal responded based on its experiences of the post-2012 coastal shipping regime, the impact on Cristal as a transnational value-adding business and what the future of the industry might look like.

Cristal is not opposed to the objective of the Coastal Trading (Revitalising Australian Shipping) Bill 2012 (Act) to increase the number of Australian flagged and owned ships. Revitalising the Australian shipping industry by attempting to increase the number of flagged and Australian-owned ships is a laudable aspiration. So is the attempt to create a vibrant domestic maritime workforce to maintain the supply of marine skills to fill specialist shore-based roles in port authorities, maritime safety and environmental regulation.

In the case of coastal shipping regulation, Cristal's experience is that in its current form it is unnecessarily costly in both direct costs and costs of compliance. Cristal believes that it can accept a reasonable and effective level of regulation that both meet the intended objectives of the Act and does so at no additional cost. The Act does not achieve these objectives.

It is Cristal's view, as a business competing internationally, that should the Australian Government want to continue the system of regulation to maintain an Australian-flagged coastal shipping fleet - the government must also be prepared to pay the cost of subsidising Australian-flagged coastal shipping via industry assistance and taxation measures so that it is cost competitive with international vessels.

Our experience shows the Act, in its current form, and its administrative provisions have adversely impacted upon the ability of foreign-flagged ships to participate in the Australian coastal trading sector. Coastal traders and foreign-flagged ships have been forced to deal with a set of administrative procedures that are cumbersome, bureaucratic, impractical, uncertain, costly and heavily weighted in favour of Australian operators.

Since the introduction of the Act, the participation of foreign-flagged ships in the coastal trade has decreased dramatically, meaning less competition for Australian operators. The lack of competition has caused a substantial escalation in domestic shipping costs to the

point where, if an Australian owned or flagged vessel is used, Australian industry is paying up to double the freight rates and 280% of the demurrage rates that are offered by foreign-flagged ships in a deregulated coastal trade.

The Act, in its current form, puts Australian industry at risk of operational shut downs and possible job losses. This is no more clearly demonstrated than in the provision of variations to licences where tonnage and date variations are scrutinised to minimise flexibility and administratively burden shippers and owners with fears that variation and therefore vital trade will be delayed. Now with the administrative burden - the objectives of the Act are now further away from being achieved than before 2012.

#### **Coastal shipping tonnage and costs**

In 2011, coastal cargo represented 10 per cent of all cargo moved across Australian wharves. Over half of coastal freight was made up of crude dry bulk materials, with an additional 20 per cent being petroleum and oil shipments.

Coastal shipping offers an important freight transport service for domestic value-adding industries, especially for those that do not have a land-based transport alternative. By restricting the use of foreign vessels, Australia's coastal shipping laws make the coastal shipping sector less competitive than it otherwise could be, leading to higher shipping costs. This additional cost burden is passed on to the users (which is Australian industry), who then become less locally and internationally competitive.

Cristal ships approximately 21,000 tonnes of product from Adelaide to Bunbury per month. This volume is based on its mine production in New South Wales and handling capacity at its facility at Bunbury Port.

The Act imposes an additional cost to the freight task of approximately \$5 million per annum when Cristal is forced to use an Australian flagged ship. This cost increase makes the viability of Cristal's mining and processing operations marginal.

Foreign-flagged license holders can operate on the Australian coast at a freight rate of \$22.50 per tonne. Since July 2012, general license holders having been charging freight rates up to \$35.00 per tonne. Also, Cristal is subject to demurrage on each voyage it requires. Foreign-flagged license holders' demurrage rates are \$10,000 per day, whereas the general license holders demurrage rates are \$28,000 per day. This disparity between the freight and demurrage rates has caused considerable financial difficulty for Cristal and other industry users dependent upon the carriage of product on the Australian coast.

Since the introduction of the Act, Cristal has been required to use an Australian General Licensed Vessel for its shipping service or seek a Temporary Licence to continue to use foreign-registered vessels. The terms and conditions required by Australian ship owners placed an unconscionable cost burden on Cristal. Cristal has been drawn into lengthy and costly bureaucratic processes and involved in legal proceedings in the Federal Court as a related party. The legal costs in these proceedings so far have been in excess of \$100,000.

Our experience has been shared by other coastal shipping customers. The Business Council of Australia has reported that its members were spending an extra 1,000 hours of administrative time a year to comply with the new legislation. Cristal estimates that it is spending approximately 750 hours to comply with the new legislation and an additional 200

hours for each Temporary License Application. Cristal has had to engage agents, at its cost, to ensure its compliance with sections 61 and 62 of the Act.

#### **Implications to Cristal Mining**

Cristal's shipping costs would have increased significantly when it had not been successful in being granted Temporary Licences. However, the Temporary Licence process causes major disruption to Cristal's planning and budget process as Cristal cannot foresee whether its Temporary Licence applications will be successful and is therefore unable to plan and forecast its shipping costs. This commercial risk flows on to investment decisions and long-term planning.

The terms of Australian-flagged coastal vessels are highly uncompetitive. For example, Cristal sought to contract shipments of 21,000 tonnes of mineral sands from Adelaide to Bunbury. However, Canadian Steamship Lines (CSL) was unwilling to negotiate on tonnage volumes and insisted on charging for a minimum of 25,000 tonnes at CSL's applicable freight rate, plus or minus 10 per cent at CSL's option, based on the size of its available vessel.

The additional tonnage capacity sought by CSL could not be used because Cristal produces approximately 21,000 tonnes of mineral sands per month at its mines in New South Wales and has no contingency stockpile capacity at the Port of Adelaide. The result of CSL's approach meant that "dead" freight costs would be incurred by Cristal. This situation has not arisen with other shippers used by Cristal since commencing operations in the Murray Basin in 2005.

The last 30 years of reviews demonstrate the objective of a viable and sustainable Australian-flagged coastal shipping fleet is receding ever further into the distance. That objective although nationally reassuring, should not be placed ahead of the economic viability of many other Australian businesses that depend on reasonable cost coastal shipping options. The jobs of a very small number in the maritime sector cannot artificially be made more valuable than those of thousands in transnational value-adding industries.

It is time that all parties focus on what actually matters.

That is enabling Australians to have a career at sea and to ensure that Australia is well served by ships engaged in transporting Australian cargo around the Australian Coast. Australians have to share the benefits and welcome the efficient and effective participation of foreign-flagged shipping into our waters. We need to stop insisting on a highly regulated, costly and inefficient protectionist environment to attempt to preserve a declining coastal shipping industry because all the other Australian industries dependent on coastal freight are being disadvantaged.