

Chapter 1

Introduction and conduct of the inquiry

1.1 On 22 March 2012, the Senate referred the provisions of the Coastal Trading (Revitalising Australian Shipping) Bill 2012 and related bills to the committee for inquiry and report by 19 June 2012. The committee tabled its report on 15 June 2012. The related bills include the:

- Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Bill 2012;
- Shipping Registration Amendment (Australian International Shipping Register) Bill 2012;
- Shipping Reform (Tax Incentives) Bill 2012; and
- Tax Laws Amendment (Shipping Reform) Bill 2012.¹

1.2 In his second reading speech, the Hon. Anthony Albanese, MP, Minister for Infrastructure and Transport, outlined that the bills aim to:

- promote a viable shipping industry that contributes to the broader Australian economy;
- facilitate the long term growth of the Australian shipping industry;
- enhance the efficiency and reliability of the Australian shipping industry as part of the national transport system; and
- maximise the use of vessels registered in the Australian General Shipping Register.²

1.3 The bills were introduced into the House of Representatives on 22 March 2012 and were also referred to the Senate Standing Committee on Education, Employment and Workplace Relations (EEWR committee) and the House of Representatives Standing Committee on Infrastructure and Communications on the same day.³

1.4 The EEWR Committee tabled a short report on 24 April 2012 and outlined that, in the interest of efficiency, its members would participate in this committee's

1 *Journals of the Senate*, 22 March 2012, p. 2351.

2 The Hon. Anthony Albanese, MP, Minister for Infrastructure and Transport, *House of Representatives Hansard*, 22 March 2012, p. 2.

3 *Journals of the Senate*, 22 March 2012, p. 2351; *Votes and Proceedings*, House of Representatives, 22 March 2012, pp 1373–1374, 1384; House of Representatives Selection Committee, *Report No. 49*, 22 March 2012, pp 3–4.

inquiry process and rely on its report to inform it of the content and likely effect of the bills.⁴ The House of Representatives committee tabled its report on 24 May 2012.

1.5 The bills were passed in the House of Representatives on 31 May 2012 with a number of amendments.⁵ A number of the amendments were made 'in response to issues raised by stakeholders through the Parliamentary inquiries'.⁶ The amendments relating to the Coastal Trading (Revitalising Australian Shipping) Bills 2012 will be discussed in chapters 4 and 5.

1.6 The proposed commencement date for the package of bills is 1 July 2012.

Conduct of the inquiry

1.7 The committee advertised the inquiry on its website and in *The Australian*, and wrote directly to a range of individuals and organisations inviting written submissions. These included government departments, industry groups and unions, shipping/maritime organisations and academics. The committee received 26 submissions, which are listed at Appendix 1.

1.8 The committee also held a public hearing in Canberra on 15 May 2012. The names of the witnesses that appeared are at Appendix 2.

1.9 The committee thanks all who contributed to the inquiry.

Policy context and background to the inquiry

1.10 The Regulation Impact Statement (RIS) to the package of bills noted that the 'need to implement a contemporary regulatory and fiscal regime for Australian shipping is compelling':

There has been a decline in the Australian shipping fleet and industry over recent decades, as regulatory drift has allowed a concurrent increase in the number of foreign registered ships and the proportion of coastal trade they carry has increased. As a consequence investment in Australian registered shipping has fallen substantially and is predicted to lead to a situation where there are very few Australian ships within a few years as the aging fleet is retired from service. The strategic consequences of a decline in the domestic maritime industry could be significant for a trading nation such as Australia, particularly for the viability and longevity of its maritime skills base.

4 Senate Standing Committee on Education, Employment and Workplace Relations, *Coastal Trading (Revitalising Australian Shipping) Bill 2012 and related bills [Provisions]*, 24 April 2012, p. 1.

5 House of Representatives, *Votes and Proceedings No. 112*, 31 May 2012, pp 1536–1542.

6 Supplementary Explanatory Memorandum, Coastal Trading (Revitalising Australian Shipping) Bill 2012, p. 1.

Our regulatory and fiscal frameworks have not kept up with international trends and market reforms by other shipping nations, and the rapidly changing nature of transport and freight logistics have not been able to counteract that decline.⁷

1.11 Australian international trade is heavily dependent on shipping, with 99 per cent of international trade volume transported by ship 'reflecting our position as an island trading nation with rapidly growing exports of coal, gas and iron ore'.⁸ Australian ports manage 10 per cent of the world's sea trade.⁹

1.12 It is forecasted that the shipping task through Australian waters is expected to double by 2029–30. The RIS for the package of bills highlighted the value of freight carried by international shipping:

The volume of freight carried by international shipping is predicted to reach more than one billion tonnes in 2012. The value of the freight attributable to this task is valued at over \$10 billion. The vast majority of freight earnings are repatriated offshore.¹⁰

1.13 The Explanatory Memorandum (EM) to the Coastal Trading (Revitalising Australian Shipping) Bill 2012 outlines that the increased shipping task will create a demand for technical maritime skills. It stated that a vibrant domestic maritime sector is dependent on a consistent supply of these skills including specialist shore-based roles that draw their skills from the sea-based labour pool. Moreover, that there is a global shortage of technical maritime skills and Australia cannot rely on immigration to fill these positions.¹¹

1.14 The EM acknowledged that '[a] viable shipping industry is recognised by a wide range of OECD and developing countries as critical to national economic prosperity' and further highlighted the need for reform of the Australian shipping industry:

The Australian shipping industry has been in decline over an extended period. The number of Australian registered ships in the major trading fleet has dropped from 55 in 1995–96 to 22 in 2010–11. Without action, there are unlikely to be any Australian registered vessels operating in the major trades within the next five years. This decline stems from the failure of Australian shipping policy to keep pace with global changes in the industry,

7 Department of Infrastructure and Transport, 'Reforming Australia's Shipping: Regulation Impact Statement', August 2011, p. 78.

8 Department of Infrastructure and Transport, 'Reforming Australia's Shipping: Regulation Impact Statement', August 2011, p. 10.

9 The Hon. Anthony Albanese, MP, Minister for Infrastructure and Transport, Opinion piece: 'Reforms to the Australian Shipping Industry', *The Australian*, 8 December 2010.

10 Department of Infrastructure and Transport, 'Reforming Australia's Shipping: Regulation Impact Statement', August 2011, p. 10.

11 Explanatory Memorandum, Coastal Trading (Revitalising Australian Shipping) Bill 2012, p. 1.

as well as the regulatory and competitive settings faced by the domestic industry.

...

Since the early 1990s, many developed countries have implemented fiscal and policy measures to support their domestic industry. Access to beneficial taxation and other arrangements further entrenches operating cost differentials. The inability of Australian vessels to compete on a level playing field with international operators has led to the current decline. Indicative of this in 2010–11 approximately 417 ships operated on the Australia coast under permit, compared to 22 Australian-registered and licensed vessels.¹²

1.15 In an address to the Maritime Union of Australia Sydney Branch Conference, the Hon. Anthony Albanese, MP, Minister for Infrastructure and Transport commented on this decline and acknowledged that 'international shipping is globalised and highly competitive':

We need to become participants, not just customers. Giving our exporters opportunities to establish in-house shipping operations or to enter long term arrangements with Australian shipping companies offers them stable supply chains.

...

Shipping operators maximise their competitive edge by registering with countries that provide competitive policy settings. Under our plan, Australian businesses will be able to invest in Australian registered ships using a model which has proved successful in other countries. As a Government, we are determined to remove the disincentives that have made it uneconomic to operate Australian ships in a global environment.¹³

Benefits of the reforms

1.16 The Department of Infrastructure and Transport indicated that it was difficult to predict precisely how many companies will respond to the incentives offered to ship operators in the reforms. It emphasised however that the reforms provide 'a strong investment platform'. It outlined that the Australian Shipowners Association (ASA) 'has indicated publicly that there may be a spike with as much as \$4 billion worth of investment flowing from the reforms'.¹⁴ The ASA outlined:

What we know right now is that successful passage of this package will result immediately in an investment of \$180 million in new tonnage in the

12 Explanatory Memorandum, Coastal Trading (Revitalising Australian Shipping) Bill 2012, p. 1.

13 The Hon. Anthony Albanese, MP, Minister for Infrastructure and Transport, 'The Gillard Labor Government's Plan to Revitalise Australia's Shipping Industry', AS27/2010 Address to MUA Sydney Branch Conference, Sydney, 1 December 2010.

14 Ms Karen Gosling, Executive Director, Surface Transport Policy, Department of Infrastructure and Transport, *Committee Hansard*, 15 May 2012, pp 5, 7.

Bass Strait trade. Those new ships will be more efficient, technologically advanced and LNG fuelled, which is much cleaner.¹⁵

Current regulatory environment for Australian coastal trading

1.17 Currently, under Part VI of the *Navigation Act 1912* vessels seeking to access the Australian coast line are required to hold a licence, or for foreign-flagged vessels: a Single Voyage Permit (SVP) or a Continuous Voyage Permit (CVP).

1.18 Vessels using permits currently perform approximately 30 per cent of Australia's coastal shipping task.¹⁶ Vessels holding these permits are required to meet the following conditions:

- there is no suitable licensed ship available for the shipping task; or
- the service carried out by licensed ships is inadequate; and
- it is considered to be desirable and in the public interest that an unlicensed ship be allowed to undertake that shipping task.¹⁷

1.19 The House of Representatives Committee on Infrastructure, Transport, Regional Development and Local Government's 2008 report *Rebuilding Australia's Coastal Shipping Industry* noted:

Licensed vessels may be registered (flagged) in Australia or elsewhere but are required to pay Australian rates of pay when operating in the Australian coasting trade. Permit vessels are not. This has the effect of making licensed vessels less competitive with international permit vessels; thereby, decreasing the number of licensed vessels operating on the Australian coast.¹⁸

1.20 However, since the tabling of the report, the rates of pay for both licensed and permit vessels engaged in coastal trading has been adjusted.

Seagoing Industry Award

1.21 On 1 January 2010 new remuneration structures for the Seagoing Industry Award (SIA) were put in place to account for award modernisation legislation. Wages

15 Ms Teresa Lloyd, Executive Director, Australian Shipowners Association, *Committee Hansard*, 15 May 2012, p. 66.

16 Deloitte Access Economics, 'Economic impacts of the proposed Shipping Reform Package', February 2012, p. iv.

17 Deloitte Access Economics, 'Economic impacts of the proposed Shipping Reform Package', February 2012, p. 5 as cited in Department of Infrastructure and Transport, 'Coasting Trades and Licences and Permits', <http://www.infrastructure.gov.au/maritime/freight/licences/index.aspx> (accessed 13 April 2012).

18 House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Rebuilding Australia's Coastal Shipping Industry*, October 2008, pp 5–6.

on licensed vessels are now determined by Fair Work Australia (FWA) and registered under the Seagoing Industry Award (SIA) Part A or individually negotiated Enterprise Bargaining Agreements (EBAs).

1.22 As of 1 January 2011, wage rates on foreign flagged vessels operating in the coastal trade under SVPs or CVPs were no longer set by the International Transport Federation (ITF) market rate, instead wage rates on these vessels are in accordance with the *Fair Work Act 2010* — these wage rates are known as SIA Part B rates.¹⁹

1.23 The Department of Education, Employment and Workplace Relation informed the committee that the government's policy position is 'that all seafarers working regularly on ships in Australian waters should have the benefit of Australian workplace relations laws and a fair safety net of employment conditions'.²⁰

1.24 A Deloitte Access Economics report, *Economic impacts of the proposed Shipping Reform Package*, explained that SIA Part A has more generous provisions than SIA Part B.²¹

1.25 Under the provisions of the shipping reform package general licensed vessels (Australian-licensed) will continue to pay SIA Part A rates, and temporary licensed vessels (foreign-registered vessels) will continue to pay SIA Part B rates.

Consultation and related inquiries

1.26 Consultation for the package of legislation began in 2008 with the inquiry conducted by the House of Representatives Committee on Infrastructure, Transport, Regional Development and Local Government (transport committee) into Rebuilding Australia's Coastal Shipping Industry. The transport committee made 14 recommendations which 'articulated a comprehensive policy framework aimed at revitalising the industry'.²²

1.27 In response to these recommendations:

- a Shipping Policy Advisory Group, comprised of industry and unions, was established in 2009 to advise the government on how to implement the recommendations;

19 Deloitte Access Economics, 'Economic impacts of the proposed Shipping Reform Package', February 2012, pp 5–7; Department of Education, Employment and Workplace Relations, *Submission 3*, pp 2–3.

20 Department of Education, Employment and Workplace Relation, *Submission 3*, pp 2–3.

21 Deloitte Access Economics, 'Economic impacts of the proposed Shipping Reform Package', February 2012, pp 7–8.

22 Explanatory Memorandum, Coastal Trading (Revitalising Australian Shipping) Bill 2012, p. 2.

- the Department of Infrastructure and Transport released *Reforming Australia's Shipping—A Discussion Paper for Stakeholder Consultation* in December 2010 — 46 submissions were received;
- three industry reference groups on the taxation, regulatory and workforce elements of the reform were established and met from February – May 2011 to advise on implementation issues of the reform package;
- the Exposure Drafts of the Coastal Trading Bill 2012 and the Coastal Trading (Consequential Amendments and Transitional Provisions) Bill 2012 were released on 19 December 2011 — 20 submissions were received;
- the Exposure Drafts for the full package of legislation were released on 20 February 2012 — 27 written submissions were received; and
- an industry roundtable was held on 28 February 2012, ahead of the close of public consultation on 5 March 2012, to allow industry to provide feedback on policy issues arising from the bills — 60 industry representatives attended.²³

Structure of this report

1.28 Chapter 1 of this report has provided an introduction and background to the inquiry.

1.29 Chapter 2 will give a broad overview of the package of bills and the proposed new licensing regime.

1.30 Chapter 3 will consider the economic impact of the bills on 'downstream industries'.

1.31 Chapters 4 and 5 will examine submitters' concerns with the proposed licensing regime, in particular the provisions on temporary licences.

1.32 Chapter 6 will discuss implementation and scrutiny of the proposed reforms; the compact between industry and unions; and offer some concluding comments.

23 Explanatory Memorandum, Coastal Trading (Revitalising Australian Shipping) Bill 2012, pp 2–3; The Hon. Anthony Albanese, MP, Minister for Infrastructure and Transport, 'Stronger Shipping for a Stronger Australia', AS26/2011 Speech to the Maritime Industry, Sydney, 9 September 2011; Department of Infrastructure and Transport, 'Reforming Australia's Shipping: Regulation Impact Statement', August 2011, p. viii.

