

## **Background Discussion Paper on Issues in the Australian Shipping Industry**

### **Background**

Australian shipping is critical to the Australian Cement Industry. To continue to sustain a competitive Australian shipping industry, it is important to ensure that the benefits of labour reform, increased competition in the Australian shipping industry and the source of skilled and trained workers are retained. Below is a summary of the key issues which are critical to the success of the Australian shipping industry and the customers who rely on it.

#### **a) High Labour Costs in the Australian shipping industry**

The Australian maritime industry has historically provided exceptionally generous conditions of employment to seafarers. Australian employers have experienced pressure and engaged in difficult unsuccessful negotiations with unions on employment condition reform to bring maritime workers conditions of employment inline with competitive community standards. Australian shipping award conditions have traditionally reflected standards that far exceed those that apply to comparable employees in other industries.

The urgent need for employment reform is due to the progressive reduction of competitiveness of the Australian industry over time. This is mainly a result of high employment costs, reduced productivity, increased operational costs and competition from more efficient foreign vessels not constrained by Australian laws and regulations.

Because the Australian shipping industry was protected under a policy of cabotage, these arrangements were rarely challenged. Very favourable conditions of employment were reflected in the industry award known as the Maritime Industry Seagoing Award and were perpetuated under enterprise agreements. The generous conditions of employment extended to:

- (i) a high paid leave ratio which provided Australian maritime workers with one paid day off for every day worked;
- (ii) annualised salaries which were inflated beyond the work value of the jobs;
- (iii) guaranteed overtime payments without the performance of such overtime;
- (iv) allowances and expenses which were unnecessary or excessively high;
- (v) highly demarcated workplaces with limited flexibility regarding the allocation of work, the deployment of labour and the development of career paths and new skills;
- (vi) very generous workers' compensation arrangements under the Seafarers' Rehabilitation and Compensation Act 1992 (Cth).

A number of Australian shipping employers have sought to reduce labour costs, remove restrictive work practices and increase productivity by introducing reforms onto vessels. An example of this is when CSL Australia, which was carrying all of Adelaide Brighton's coastal cargo, attempted to reform restrictive practices in 2002 by re-flagging its key ships and employing international seafarers in lieu of Australians. This became a protracted dispute which not only involved the maritime unions, but construction industry unions the AWU and CFMEU. These unions attempted to disrupt ABL's cement business by taking arguably illegal industrial action, in order to force CSL to discontinue its reforms.

CSL eventually resolved the dispute and employed both foreign nationals and Australians using individual workplace agreements that reflected Australian conditions. These agreements encouraged the working of overtime, greater flexibility in the performance of duties and the employment of tradespeople with a broad range of skills to undertake both maintenance and operational work. More importantly, those employed on the ships undertook the work required properly and as a consequence the ships operated more efficiently and effectively enabling CSL to maintain a competitive service on the Australian coast.

Not all ship owners have been as successful as CSL and if high labour costs in the Australian maritime industry are allowed to continue, they will lead to higher freight rates and make it more expensive to use shipping services relative to other modes of transport. This could lead to an increase in greenhouse gas emissions, as industries select road transport over shipping due to cost, resulting in an increase in CO<sub>2</sub> emissions.

b) **Cabotage**

Australian shipping is regulated under cabotage. Cabotage is a policy under which a country reserves the carriage of cargo between ports located in the same country for nationally flagged carriers. Australian navigation legislation gives effect to a de facto cabotage policy through granting licences and permits to vessels to operate on the Australian coast (which can be obtained by either Australian or foreign registered vessels). A ship can obtain a licence which gives it a right to carry cargo on the Australian coast. A condition of the licence is that the crew on the ship must receive Australian wages and conditions of employment under Australian legislation and awards. A ship can also obtain a permit to operate on the Australian coast without the obligation to pay Australian wages and conditions of employment. However, a permit can only be granted where there is no licensed ship available or adequate to carry the cargo. There are two types of permit - a single voyage permit (SVP) and a continuous voyage permit (CVP). A SVP is a permit to carry cargo from one port to another port for a single occasion. A CVP is a permit of no longer than 3 months to carry specified cargoes between designated ports.

Historically, this has meant that the vast majority of the vessels which have a right to operate on the Australian coast are Australian owned and registered vessels employing Australian crew. The majority of these vessels were owned and operated by Australian industrial conglomerates, such as BHP, CRA, Caltex and CSR. These companies owned and operated vessels to carry primary products they produced such as coal, iron ore, sugar, cement and cement clinker to other parts of their operations or to their customers.

Because these companies were vertically integrated, their concerns were not to operate at a profit, but to ensure continuity of supply. As a result, these Australian companies were more prepared to concede more favourable conditions of employment in exchange for industrial stability throughout both their shipping and mining/manufacturing operations.

Since 1996, the Federal Government has relaxed the granting of permits on the Australian coast. This has led to a greater number of foreign vessels operating on the Australian coast. As a result, the Australian shipping industry has been exposed to greater competition from more efficient and cost effective foreign vessels. Ship users have benefited from lower freight rates to carry cargo on the Australian coast.

As mentioned above, single and continuing voyage permits are issued under the Navigation Act 1912 (the Act) for ships engaging in the coasting trade as defined in section 7 of the Act (which encompasses ships on inter-state and overseas voyages). Ships engaging in intra-state trade in Queensland or Western Australia must apply for and receive permits from the Queensland or Western Australian Governments respectively, unless there is a declaration under s8AA of the Act in place for the ship.

Despite the option whereby ship operators may elect to come solely under Commonwealth jurisdiction, by obtaining a section 8AA declaration, the cement industry considers that the two permit systems for freight shipping is inefficient. That inefficiency is compounded by delays in the issuing of permits by Queensland authorities. Such delays cause permits to be issued only a short time before a loaded ship is scheduled to depart, causing companies to assume considerable financial risk in chartering or locating ships for an, as-yet unapproved, voyage.

The financial and supply risks could be avoided by an efficient permitting system. A single efficient national permitting system for freight ships should be agreed to and instituted by all Governments in Australia.

c) **Lack of Training and Lack of New Ships**

Australian shipping has been on the decline for a number of decades. There has been a lack of new investment in new ships and therefore a lack of training of new crew. The major reasons for this decline has been the poor profitability of the Australian shipping industry, the poor productivity of Australian maritime workers and the highly protected routes which were not the subject of competition.

During the 1980s and the early 1990s, the Australian Government tried to address the lack of investment in the shipping industry by negotiating and implementing tripartite agreements between the Government, shipping employers and unions. These agreements were designed to encourage investment and reform in the Australian shipping industry. By and large, these agreements were a failure and lead to flawed compromises.

A product of these deals was the creation of the new position of "integrated rating" replacing the traditional occupations of deck and engine ratings. However, it simply led to higher wages for crew but little actual reform.

The recent boom in China has meant that Australia has not had sufficient ships and crew to service the Australian coast. New ships take a long time and are expensive to build. In addition, there are insufficient Australian seafarers to work on Australian ships.

This has necessitated the employment of international crew under working visas. These arrangements have been important in ensuring that Australian ships are sufficiently manned with skilled and experienced crew.

Foreign crew are employed under a variety of visas. Crew who work on ships operating under permits are entitled to the benefit of a special purpose visa tied to the granting and duration of a permit. However, the special purpose visa has limited operation and lacks certainty because it is subject to a Ministerial declaration which can be revoked. Foreign crew on licensed vessels must have a temporary long stay working visa. Australian employers are limited in the number and types of foreign workers they can sponsor.

Without the certainty of a pipeline of skilled workers, the Australian shipping industry would be incapable of being able to service customers on the Australian coast for the carriage of cargo.

d) **Berth Congestion**

In certain ports berth congestion is becoming a major issue. Much is known about the congestion in the coal ports, but general bulk cargo berths are becoming over committed in the ports of Kwinana and Brisbane which contribute to increased operational costs by way of demurrage incurred through delays in gaining access to berths. These delays are adding hundreds of thousands of dollars to the cost of delivering cargo thus reducing the competitiveness of the shipping industry.

**ENDS**

NB Please treat the transport costs as confidential information

