

AIMPE



Australian Institute of Marine and Power Engineers

&

Australian Maritime Officers Union

Submission to Independent Review of the
Coastal Trading (Revitalising Australian Shipping) Act 2012

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Department of Infrastructure, Transport, Regional Development and
Communications

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Background

The Australian Institute of Marine and Power Engineers is the registered organisation which represents qualified Marine Engineers and Electro Technical Officers throughout Australia. AIMPE came together as a national body in 1881 after several years during which local organisations were formed in the various colonies of Australia and New Zealand. AIMPE members operate, maintain and repair marine vessels of all sorts including commercial cargo ships of all types and sizes as well as vessels dedicated to the offshore oil and gas sector, tugboats, dredges, ferries, defence support vessels, research vessels and Border Force vessels.

The Australian Maritime Officers Union is the oldest union continuously registered under the Fair Work Act 2009 and represents the professional and workplace interests of Ship's Masters (Captains) and Deck (Navigating) Officers in the maritime 'blue water', offshore oil and gas, ferry, dredging and tourism sectors, Marine Pilots, Coastal Pilots, tug Masters, bunker (refuelling) tankers, Stevedoring Supervisors, Port Services officers, vessel traffic services (VTS)/harbour control officers and professional/ administration/ supervisory/technical staff of port corporations and maritime authorities

The unions appreciate the opportunity to make a submission to the Independent Review of the Coastal Trading (Revitalising Australian Shipping) Act 1981.

Introduction

The Independent Review into the Coastal Trading (Revitalising Australian Shipping) Act 2012 has correctly identified that the Australia shipping industry has continued to decline from 2012 to now. This was anticipated and predicted by AIMPE in its submission to the Senate Committee Inquiry into the Coastal Trading Bill in 2012 – see Appendix 1.

However, the Bureau of Infrastructure, Transport and Resources Economics (BITRE) has identified that there is a substantially bigger fleet that they describe as the Australian trading fleet.

In the most recent BITRE publication *Australian sea freight 2020–21*¹ the major trading fleet (over 2,000dwt) was stated as:

Coastal	Australian registered	16
	Overseas registered	22
International	Australian registered	4
	Overseas registered	54
Total		96

The BITRE lists the names of the 96 ships together with the deadweight tonnage, goods carried and ports visited. This is a very useful list.

In the 58 International ships there are 20 bulk ships, 9 container ships, 3 general cargo ships, 1 vehicle ship, 6 livestock carriers, 14 LNG ships, 4 LPG ships and one tanker.

Of the 38 coastal ships there are 19 bulk ships, 12 general cargo ships (including 6 ro-ro ships), 1 vehicle carrier, 1 LPG tanker and 5 tankers (which are used as bunker vessels).

In the category of Australian registered coastal vessels BITRE includes four transshipment vessels which are port-based vessels which transport bulk cargoes to larger ships at anchor and return to port. As such they are not comprehended within the scope of the Coastal Trading Act (CTA).

In the most recent BITRE publication *Australian sea freight 2020–21* the minor trading fleet (under 2,000dwt) was stated as:

Minor	Australian registered	36
	Overseas registered	5
Total		41

Of the minor trading fleet 36 are described as general cargo ships and 5 are tankers (used as bunker vessels)

The BITRE *Australian sea freight 2020–21* was published in January 2023 and no update has been published since then.

¹ [Australian Sea Freight 2020-21.pdf](#)

Shipping/commercial vessel policy should be based on the best available up to date data. Unfortunately, the resources do not appear to be allocated to publish annual reports of shipping information. This is a major flaw which should be rectified.

Table 5.1 Number of ships in the Australian trading fleet

Financial year	Major trading fleet						Total	Major Australian registered ships with Coastal Trade Licences/General Licences ^a
	Coastal trading		International trading		Minor trading fleet			
	Australian registered	Overseas registered	Australian registered	Overseas registered	Australian registered	Overseas registered		
	<i>(number)</i>							
2011–12	23	19	5	39	37	5	128	19
2012–13	20	19	6	40	41	4	130	16
2013–14	21	19	4	41	45	4	134	15
2014–15	20	16	4	49	44	4	137	15
2015–16	18	17	4	49	51	2	141	14
2016–17	17	19	4	58	49	1	148	15
2017–18	18	21	5	64	48	2	158	14
2018–19	17	21	4	54	45	4	145	13
2019–20	17	20	5	52	41	1	136	13
2020–21	16	22	4	54	36	5	137	11
Average annual per cent change	<i>(%)</i>							
1 year	-5.9	10.0	-20.0	3.8	-12.2	400.0	0.7	-15.4
5 year trend	-1.8	4.2	1.3	0.0	-6.5	16.3	-1.4	-4.8

^a Data for 2003–04 to 2011–12 are based on extracts from the Coastal Trade Licences and Permits (COTLAP) system. 2012–13 to 2020–21 results are based on General Licence holders recorded in the Coastal Trading Licensing System (CTLS).

Sources: DIT (2013), DITRDCA (2022), Lloyd's List Intelligence (2022), Shipping companies (various) – personal communications.

What the BITRE statistics demonstrate is that there are many vessels controlled by Australian interests which are not currently registered on the Australian General Shipping Register (AGSR). This represents a large group of vessels which could readily become Australian flag if the regulatory settings are changed.

Consultation questions and answers

1. Of the 3 proposed options for the Object of the Act, with which do you agree most? Please explain why.

The options proposed are not preferred because they do not direct clearly enough to the promotion and expansion of Australian registered shipping but instead use a term “Australian shipping” which is not defined in the Act. The term is too vague and ambiguous to be of any value.

2. Is there anything else that should be considered for inclusion in the Object of the Act? Please explain why.

AIMPE and AMOU have had the opportunity to view the proposal from the Maritime Union of Australia which incorporates specific references to encouraging and promoting vessels on the Australian General Shipping Register. AIMPE and AMOU support the proposal from the MUA. This alternative construction has a much greater chance of assisting in the expansion of the AGSR. It also is supportive of the strategic fleet which is most important. Finally, it adds a clear preference for AGSR vessels which was unfortunately removed from the legislative framework during the 2012 reform process. This was detrimental to the AGSR fleet. Now is the opportunity to rectify that error.

3. Is the current licencing framework fit-for-purpose?

No, AIMPE and AMOU do not believe that the current licensing system is suitable or fit for purpose because it has failed to promote and expand the AGSR sector.

4. Are there alternative coastal trading regulatory frameworks that are better suited to Australia’s coastal trading industry while still enabling foreign vessels to engage in coastal trading? Market? Why/why not?

AIMPE and AMOU think that there is substantial room to improve the coastal trading regulatory framework so that it supports the expansion of the AGSR sector. Foreign vessels have significant cost advantages over Australian flag vessels. Three of the major reasons are related to Federal Government policies. Foreign flag vessels are effectively exempt from:

Australian corporate income tax laws;

Australian personal income tax laws; and

Australian industrial laws.

The current framework is structured to benefit foreign operators. The current framework gives the foreign operator a structural competitive advantage.

5. How can Australia’s coastal trading regulatory framework better support the growth of the Australian shipping

To address the three structural competitive advantages as set out above the Federal Government should redress the disadvantage by the following means:

Exempt all maritime operations income from corporate tax or in the alternative require the operators of foreign companies to comply with Australian corporate tax laws;

Exempt all Australian seafarers from personal income tax or in the alternative require all of the foreign seafarers to pay Australian personal income tax in order to ensure a level playing field; and

Require operators of foreign vessels to comply with Australia industrial laws including the Fair Work Act, Occupational Health and Safety (Maritime Industry) Act, Seafarers Rehabilitation and Compensation Act and Superannuation laws.

6. Should temporary licence holders who have held temporary licences year after year be required to transition to a general licence or a new category of licence that better represents the regularity of trading they engage in?

Yes, AIMPE and AMOU agree that Temporary Licences should only be for genuinely temporary purposes. Long term operations are not temporary operations. Long term coastal trading operations should be required to obtain a general licence under the CTA and transfer registration to the AGSR.

If transitional arrangements are needed to permit this approach to be implemented then the CTA should be amended to facilitate such transitional arrangements.

7. If you regularly hold temporary licences, what is inhibiting you from transitioning towards being Australian flagged and crewed? What would encourage you/provide an incentive for you to transition to being Australian flagged and crewed?

n/a

8. If you regularly hold temporary licences, please identify the impact, financial or otherwise, a move to the use of an Australian vessel may have on your business operations? Please provide as much detail as possible.

n/a

9. Do you think that passenger travel (cruise ships and ferries) should be treated separately in the legislation to other coastal trades? Why/why not?

AIMPE and AMOU note that passenger travel is a sector of the maritime industry which has many sub-sectors. AIMPE and AMOU see the ferry industry as a year-round operation which requires the same regulatory treatment as other segments of the maritime industry.

For many years cruise ships have been exempt from the application of the Coastal Trading Act. All of the large cruise ships are currently foreign flag with foreign crews. Many engage in international voyaging for their cruises e.g. to NZ, or South Pacific destinations. Within the cruise sector however there is also the expedition cruise sector and Australian companies have established themselves and

deployed Australian vessels in this market. There are also many intra-State cruise operations such as river cruises and whale watching cruises.

AIMPE and AMOU believe that the exemption from the CTA for cruise ships should be limited to the large international cruise ships and that the exemption should not cover smaller vessels in the expedition cruise market and other small cruise operations.

10. How can coastal trading regulation be improved for passengers and the Australian tourism industry?

The maritime industry in Australia is regulated by the Australian Maritime Safety Authority (AMSA). AMSA has powers to regulate Australian flag vessels (flag State powers) and foreign flag vessels (port State powers). Port State powers are limited to what has been agreed in international conventions.

11. How can coastal trading regulation be improved to support the Australian-flagged cruise industry?

See above

12. Is the current definition of coastal trading sufficiently broad to encompass relevant activities in the maritime industry today and in the future?

AIMPE and AMOU anticipate expanding commercial maritime operations in Australian waters (including Coastal waters, Territorial Sea and Exclusive Economic Zone). These include aquaculture and offshore renewable energy including offshore wind farms.

Neither of these areas of commercial maritime operations fit neatly into the definition of Coastal Trading.

AIMPE and AMOU do however believe that these commercial maritime operations should be subject to Australian law. The first step in successfully applying Australian law to these commercial maritime operations is to require the vessels involved to be Australian registered. This is the step proposed by AIMPE in our submission on the SRA. Until and unless Australia exercises this power then discussion of further regulation is pointless.

13. Does the current definition of coastal trading account for or include emerging maritime developments and investments?

See above

14. How can the Act ensure that Strategic Fleet vessels operate competitively to help grow the Australian maritime industry?

See answer to question 5 above

15. Beyond the recommendations from the Strategic Fleet Taskforce, what else is required to ensure the Australian shipping industry can continue to grow?

See AIMPE and AMOU submission re SRA

16. Should strategic fleet vessels be treated differently to other general licence holders? Are there any unintended consequences of treating a strategic fleet vessel in a different way to a general licence holder?

General licence holders should receive preference over all vessels which do not hold a general licence. Beyond that no further preference is recommended. After all the Strategic Fleet vessels are to be in receipt of financial support.

Appendix 1

Extracts from AIMPE submission to Senate Economics Legislation Committee Inquiry into Shipping Reform Bills 2012

Pp 2- 3

“The Regulatory Impact Statement (RIS) issued in August 2011 prior to the tabling of the Bills stated the following observations about the current state of the Australian shipping industry:

Permits have become “a vehicle to subvert the preference for Australian licensed operators through a process of regulatory drift”

Shipping Reform aims “to stem the regulatory failure by re-affirming the basic principle of preference for Australian licensed vessels”.

AIMPE agrees with the observations at the outset of the RIS. AIMPE submits however that the package of Bills will not reverse the process of regulatory drift nor will it reaffirm legislative preference for operators for Australian licensed vessels.

Indeed, quite the opposite is the case. The package of Bills, though nominally abolishing the much criticised “Single Voyage Permit” system (which has been heavily utilised by foreign flag operators with foreign crews), will entrench a new system of Temporary Licences for operators of foreign flag ships wanting to operate on the Australian coast with foreign crews.

These Temporary Licences will be for up to 12 months each and will be able to be renewed every year without any limit. There is no limitation on the number of years over which an operator can obtain Temporary Licences nor any limit on the amount of cargo that can be carried by Temporary Licences.

Foreign flag vessels with foreign crews will continue to carry increasing amounts of cargo around the Australian coast. The foreign flag ship operator will be required to provide information about the ship to be used and the cargoes to be carried but there is no provision in the legislation which states that an Australian flag ship operator will have any preference at all over the foreign flag operator.

In addition, the effective priority provided to licensed Australian operators in the current Navigation Act 1911 will be repealed and there will be no equivalent provision adopted in the Coastal Shipping Bills. That is there will be no legislative re-affirmation of the basic principle of preference for Australian licensed vessels.

AIMPE notes that there is a high degree of foreign ownership of companies operating in the Australian maritime industry (see Appendix 1 attached). This foreign ownership has increased significantly in the last two decades. AIMPE does not suggest that the Parliament could or should take action to prohibit or restrict foreign ownership in the Australian maritime industry.

AIMPE does however submit that the coastal shipping industry is part of the domestic economy and that all vessels operating in the domestic economy should be required to be registered in Australia and comply with all Australian laws. We take this point beyond coastal shipping vessels and submit that all commercial vessels operating in the Australian Exclusive Economic Zone should be required to be registered in Australia and comply with Australian laws. This of course does not apply to international trading vessels or to vessels exercising the right of innocent passage.”

2017 Prediction – further decline

“The RIS did not go out on a limb and make a prediction of the shape of the Australian industry in 5 years’ time – when the initial transition period expires. AIMPE thinks it is worthwhile thinking about specific ships when assessing the likely impact of major legislative change.

The shape of the Australian coastal shipping industry is difficult to predict. However, if the package of shipping reform bills passes the Federal Parliament and is implemented there may be a number of disparate impacts. Overall, the number of Australian flag General Licence vessels in the coastal trade could fall to 11. These would include the 6 Bass Strait ships which are effectively dependent on the Federal Government subsidy to Bass Strait freight and 5 small ships which are engaged in various short haul trades around Australia. A number of ships on the coast have already been earmarked to be withdrawn from service including the Iron Monarch, the River Boyne and the River Embley. These vessels service the steel and bauxite trades. As the high Australian dollar squeezes the steel, alumina and aluminium industries further, the servicing of these Australian manufacturing industries will decline proportionately. The coastal trades in cement and related cargoes will almost certainly be carried by foreign flag ships using Temporary Licences.

In this worst case scenario, the number of seafarers engaged on the traditional Australian flag ship with a full Australian crew could drop by half of the current level. This could involve several hundred job losses.”