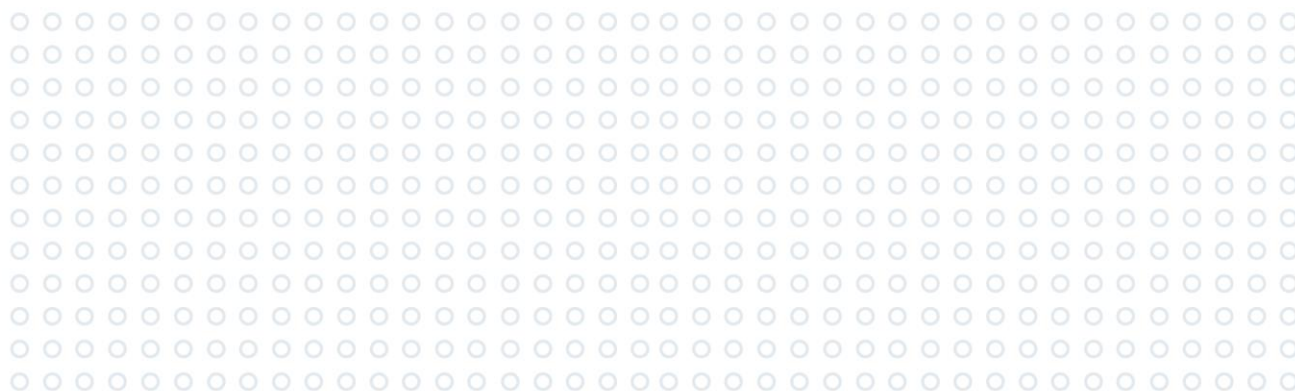


Business
Council of
Australia



Submission to the Senate Rural and
Regional Affairs and Transport
Legislation Committee on the
Shipping Legislation Amendment Bill
2015 [Provisions]

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The Business Council of Australia (BCA) is a forum for the chief executives of Australia's largest companies to promote economic and social progress in the national interest.

About this submission

This is the Business Council's submission to the Senate Rural and Regional Affairs and Transport Legislation Committee on the Shipping Legislation Amendment Bill 2015 [Provisions].

The Bill removes anti-competitive trading restrictions ('cabotage') and excessive red tape in the coastal trading sector. It will improve the efficiency of Australia's shipping transport sector and lift the competitiveness of Australian manufacturing (metals, food, chemicals, petroleum, etc). Including in many parts of regional Australia.

These changes are consistent with the recommendations that the Business Council made in a submission to the government's *Options Paper: Approaches to regulating coastal shipping in Australia* (2014) and are supported.¹

Recommendations

- The Shipping Legislation Amendment Bill 2015 [Provisions] should be passed by the Parliament.
- In relation to the application of the *Fair Work Act 2009*, the government should:
 - consult further with industry and other stakeholders that have raised concerns about the proposed 183-day exemption applying to the application of the Seagoing Industry Award 2010, and
 - if necessary, consider amending the exemption period to strike an appropriate balance between economic efficiency and competitive neutrality and support the Bill's passage through the parliament.

The need for shipping reform

The Business Council supports the removal of cabotage restrictions in the Coastal Trading Act that result in high regulatory and shipping costs and harm Australia's competitiveness.

An efficient coastal shipping sector is important for lifting the competitiveness of Australian businesses that use coastal shipping in their supply chains and which employ many Australians right across the country. Around 90,000 Australians are employed in manufacturing sectors that use coastal shipping, including oil refining, cement, steel, food production and aluminium.

Currently, Australian General Licensed ships have the right to contest and carry shipments that a shipping user is seeking to have carried by a foreign registered vessel under a temporary licence. At the core of this reform is the threshold question of whether

1. The Business Council's submission is available at <http://www.bca.com.au/publications/submission-on-the-approaches-to-regulating-coastal-shipping-in-australia>

Australia should continue to legislate to give Australian General Licensed vessels these preferential trading rights over foreign vessels.

These contestability rights, or 'cabotage' restrictions, are locking in uncompetitive shipping rates and imposing excessively high regulatory costs on business.

The impacts on business differ by sector and by whether there is a General Licence vessel available to challenge. The costs to business, and the wider economy, occur due to ships being operated inefficiently in order to comply with complex rules, or in other cases due to businesses paying very high rates in the market for shipping services where temporary licences are subject to challenge.

Cabotage restrictions can mean Australian firms are paying rates that are up to double the rates offered by foreign ships, adding tens of millions of dollars to their cost base, and making their operations less viable as a result. Australian businesses report that it can be cheaper to ship materials from overseas than to move them around the Australian coast.

Best practice regulation has been followed in developing the Bill

In preparing this Bill the government has undertaken a major departmental review of coastal shipping policy, engaged in extensive consultation and prepared a full Regulatory Impact Statement (RIS) assessed as "consistent with best practice" by the Office of Best Practice Regulation.²

The removal of the 'cabotage' restrictions from the Coastal Trading Act reverse the harmful changes to coastal shipping laws made in 2012. Those changes were a backward step that strengthened restrictions on foreign vessels and introduced cumbersome red tape with significant costs to business.

The current laws work against productivity growth in the coastal shipping sector, prevent Australian firms from efficiently managing their freight requirements and lead to prices in the market that can be twice as high as they should be.

As stated in the RIS:

The current legislative framework allowing foreign ships to participate in the domestic economy (the Coastal Trading Revitalising Australian Shipping Act 2012) is inefficient and burdensome on both shippers and the shipping industry. It has neither revitalised the Australian fleet, nor provided the flexibility required by shippers to efficiently and effectively move goods around the Australian coast. In addition, it also does not effectively support industry in making reasonable decisions about freight rates and multi-modal transport pricing. (RIS p. 48)

The changes in the Bill will replace the current licensing system with a more efficient permit regime that embraces competition. The Business Council supports the changes in the Bill as important economic reforms that are well-considered and consistent with best practice regulation reform.

The reforms in the Bill deserve to be supported for a number of reasons:

2. Letter from the OBPR to Department of Infrastructure and Regional Development, dated 23 June

- There will be an estimated net benefit to the economy of \$667.4 million and annual regulatory savings of \$21.4 million per annum.
- The changes have been recommended in other major reviews including by the Productivity Commission and the Competition Policy Review.³
- The reforms can help to lift Australia's productivity performance and below trend economic growth.
- The reforms will provide a boost to value-added manufacturing, including in regional areas.
- The reforms include measures to enable the coastal trading sector to improve productivity and compete with foreign vessels.

The key measures in the Bill are summarised below.

Key measures in the Bill are supported

The key measures in the Bill from the Business Council's perspective are:

- a revised objective that supports a "competitive coastal shipping services industry that supports the Australian economy"
- the replacement of the existing licensing system by a single permit allowing unrestricted trading on the coast for both Australian and foreign ships
- reporting requirements will be significantly reduced and simplified to six-monthly voyage reports.

These changes will lift competition and significantly reduce costs on business. Other important items in the Bill that complement these measures (and which are designed to strengthen skills development and employment opportunities) include:

- Foreign ships trading on the coast for more than 183-days in a one year permit period would be required to have crew that are Australian citizens or residents or that hold appropriate Australian work rights as the master or chief mate and the chief engineer or first engineer of the ship.
- These ships will have minimum standards for crew pay and conditions set out in regulations.
- The requirement for entry to the Australian International Shipping Register will be amended so that AISR ships would only be required to engage in at least 90 days of international trade per year (the current requirement is AISR ships must engage predominantly in international trade).

3. See:

- Productivity Commission 2014, Tasmanian Shipping and Freight, Report No. 69, Inquiry Report, Canberra
- Competition Policy Review, Final Report, Commonwealth of Australia, March 2015.

Application of the Fair Work Act

The Bill sets a 183-day period before foreign vessels operating under a coastal trading permit must apply Part B pay and conditions in the Seagoing Industry Award 2010.

The RIS argues it is appropriate to require Australian pay and conditions for workers who are predominantly employed in the domestic economy for an extended period of time. The Business Council agrees with this principle, not least on competitive neutrality grounds.

However, there is also a case for an exemption period on the grounds of cost and economic efficiency. Industry has experienced significant administrative costs and challenges applying Part B pay and conditions under the existing law. Furthermore the exemption period in the Bill would be akin to arrangements that applied under the permit regimes that preceded the Coastal Trading Act. (It should also be noted an exemption applies now for the first voyage under a temporary licence.)

The challenge is to set an exemption period that appropriately facilitates an efficient regulatory and economic outcome and also addresses competitive neutrality concerns. The government has nominated a period of 183 days.

Some industry and other stakeholders contend that this period is too long. The wider reforms in the Bill are not worth risking for the sake of this measure alone. In relation to the application of the Fair Work Act, the government should:

- consult further with industry and other stakeholders that have raised concerns about the proposed 183-day exemption applying to the application of the Seagoing Industry Award 2010, and
- if necessary, consider amending the exemption period to strike an appropriate balance between economic efficiency and competitive neutrality and support the Bill's passage through the parliament.

BUSINESS COUNCIL OF AUSTRALIA
42/120 Collins Street Melbourne 3000 T 03 8664 2664 F 03 8664 2666 www.bca.com.au

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