

AIMPE Submission



to

Senate

Economics Legislation Committee

Inquiry into Shipping Reform Bills

*Prepared by
Martin Byrne
Assistant Federal Secretary*

The Australian Institute of Marine and Power Engineers expresses appreciation for the invitation to provide the Standing Committee further views regarding the Shipping Reform Bills presently before the Federal Parliament.

Permits replaced by Temporary Licences

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In addition the effective priority provided to licensed Australian operators in the current Navigation Act 1911 will be repealed and there will be no equivalent provision adopted in the Coastal Shipping Bills.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.

To use an analogy the position that AIMPE submits is the same as Australia requiring all trucks operating on Australia roads to be registered in Australia and to comply with all Australian regulations and standards including design standards, operator licensing requirements, compulsory insurance arrangements, road rules, driving laws and employee related laws including occupational health and safety laws, workers compensation, employment laws and superannuation requirements. The coastal shipping bills do not achieve this important step of exercising effective sovereign control of maritime operations in Australian waters. Indeed the package ensures the continued exemption of foreign operators from many of these requirements – conceding instead that foreign laws can deal with these matters.

To reiterate, the reform bills will not require all vessels operating in Australia's EEZ to register in Australia. Nor will the shipping reform bills assist in moving towards the objective of re-affirming the basic preference for Australian flag shipping.

The RIS does indicate that there will be a number of additional seafarers' jobs that will be created by the shipping reform package. This information is in the cost benefit analysis prepared by the Bureau of Infrastructure, Transport and Regional Economics (BITRE) which commences at p.49 of the RIS. By 2020 the additional jobs will most likely range between 38 and 137 positions. On these figures it can be deduced that the BITRE expect the package will, over the next 8 years, help generate between 1 and 4 net additional ships changing from foreign crewing to Australian crewing. Alternatively it could be deduced that a larger number of vessels will move from foreign flag to the Australian International Shipping Register with 4 positions created for Australian senior deck and engineer officers.

These figures are so small as to be insignificant when compared with the increase in number of vessels under the UK flag as a result of their tonnage tax policy in 2000. AIMPE has made some predictions (see Appendix 2) which point to a further contraction in the number of Australian General Register ships (and therefore employment levels) in the coastal shipping sector. Supplementation of the reduced number of Australian General Register ships with AISR vessels will not maintain overall employment numbers – although more senior officer positions may be created.

Seafarer tax offset ineffective

The proposed legislation Tax Laws Amendment (Shipping Reform) Bill 2012 will not apply the tax offset in respect to periods of employment (and the income earned) during international voyages in ballast and it will not apply the tax offset in respect to the periods of paid leave accrued by seafarers during international voyages. These two restrictions are very significant limitations on the effectiveness of the proposed scheme.

AIMPE urges that the proposed legislation be altered so that the offset applies to all of the income earned during a taxation year by an Australian seafarer employed on a permanent basis on a qualifying international trading ship. The accepted international minimum period of engagement is 182 days. AIMPE would support the adoption of that threshold.

Specifically, section 61-705 (3) of the Tax Laws Amendment (Shipping Reform) Bill 2012 in its current terms limits the taxation benefits to voyages during which cargo is carried. Australia current has only 4 ships which participate in dedicated overseas trades – these are the 4 LNG tankers dedicated to the original North West Shelf Project. These LNG tankers always return to Australia empty i.e. with no cargo. Under the terms of the 61-705 (3) the employer would not gain any taxation rebate in respect of the tax paid on seafarers wages earned for the return voyage. Nor would there be any rebate or offset in relation to the income payable for the leave accrued by the seafarers.

On a minor technical matter section 61-705 (2) (b) uses the term “engineer” when “engineer officer” is the correct term used in international conventions to which Australia is signatory. AIMPE recommends amendment to this provision.

AIMPE addressed the question of seafarer taxation in 2008 in our submission to the House of Representatives Inquiry in to Coastal Shipping. The following position was part of our submission:

Seafarers around the world are exempt from the payment of income tax – generally as long as they are on board a ship or ships for more than six months. By contrast Australian ship operators with Australian flag vessels in the coastal trades get no taxation relief. Likewise Australian seafarers pay income taxation in the same way as every other Australian worker.

AIMPE submitted to the Committee:

Further, to put Australian flag shipping on the same terms as foreign shipping with foreign seafarers it would require special taxation arrangements for Australian seafarers which would deal with the personal income tax burden that the permit and licensed ship operators can and do avoid.

In 2009 AIMPE provided to the Shipping Policy Advisory Group the following summary of the taxation position for seafarers in international trades:

AIMPE supports the amendment of s.23AG on the Income Tax Assessment Act to place Australian seafarers on the same footing as other Australians working overseas. This type of measure is a very common feature of maritime policy in developed nations. In the United Kingdom seafarers are entitled to 100% deduction on their tax if they work on a ship for 182 days in a year. Most of the European countries which have significant maritime industries provide some similar support. The following is sourced from Nautilus UK – the union representing marine engineers and deck officers in the UK:

- 1. Belgium – tax and social security exemptions;*
- 2. Denmark – reduced rates of income tax;*
- 3. Finland – income tax refunds and reduced rates of social security contributions;*
- 4. France – all social charges for seafarers reimbursed to employers;*

5. *Germany – tax-free bonuses for seafarers and 40% refunds to owners;*
6. *Greece – reduced rates of tax and social security contributions;*
7. *Ireland – special income tax allowances for seafarers and social cost refunds to owners;*
8. *Italy – full exemption of social contributions and no income tax requirements for seafarers on IIR second register ships;*
9. *Lithuania – zero income tax for seafarers;*
10. *Netherlands – taxes and social contributions not payable for personnel on Dutch-flagged ships if operating company is based in the country;*
11. *Norway – tax refunds and concessions for Norwegian-resident seafarers;*
12. *Portugal – no income tax or social contributions for seafarers on Portuguese second register ships;*
13. *Spain reduced rates of tax and social cost for seafarers on second register ships.*

The United Kingdom has a very strong merchant marine supported by a suite of Government policies. These include the seafarer taxation arrangements noted above – 100% deduction if out of the country for 182 days. This is effectively delivered to the individual seafarer and is not restricted to vessels of the UK flag. It is a very effective mechanism to encourage UK nationals to engage in maritime employment.

The proposed Australian seafarer tax offset does not achieve the taxation outcome that applies to, for instance, UK seafarers. This is not a remote or distant comparison. There are at least 5 UK flag vessels which trade routinely on the Australian coast between Weipa and Gladstone carrying bauxite for the Rio Tinto group. These ships are regularly granted ‘restricted user flag’ permission by the Queensland Government to operate in that intrastate trade. One of the important cost factors that make this arrangement attractive to the operator is that the seafarers have a major taxation advantage of their Australian counterparts.

The Weipa to Gladstone trade is the largest single coastal cargo flow by volume. 13 million tonnes of bauxite are shipped from Weipa to Gladstone each year. More and more of this task is being performed by UK flag ships with foreign seafarers who have the benefit of the UK tax laws.

In the international trades the situation is similar – except that the number of ships, the number of seafarers and the volumes of cargo are vastly greater. Australia exports over 800 million tonnes of cargo each year - 99% of it carried by foreign ships with foreign crews paying little or no personal tax in any jurisdiction.

There are 4 Australian flag ships crewed by Australian seafarers engaged in dedicated international trades. These are the LNG tankers which service the North West Shelf gas project. They trade between the WA North West and Japan.

Under the provisions of the Tax Laws Amendment (Shipping Reform) Bill 2012 the taxation benefit that will be delivered to the Australian ship owners/operators will be very different from the taxation benefit that effectively flows through to owners/operators of foreign flag LNG tankers in the same trade.

Unless the provisions of the Tax Laws Amendment (Shipping Reform) Bill 2012 are altered so that they apply to all of the income earned by seafarers employed in this trade – including ballast

legs of voyages and including leave entitlements accrued during international voyages – then the tax measure will not place the Australian employer in anything like the same position as their competitors.

AIMPE's support for seafarers' taxation measures has the objective of placing Australian seafarers in international trades in the same position as seafarers from other countries who are also engaged in international trades.

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.

However, 9 ships that are currently licensed may transfer to the AISR and in addition trade part of the time on the Australian coast under Temporary Licences. These would include the 5 petroleum tankers which have already abandoned the Australian flag together with the three vessels on the triangular trade for BHP Billiton. In addition Toll/Perkins could utilise the AISR for Darwin – Asia – Coastal operations. A further 3 or 4 ships could be deployed by Rio Tinto under the AISR and engage in a combined international/coastal voyaging pattern. This would take the AISR to 12 or 13. Rio Tinto are however free under the shipping reform package to continue to utilise UK flag vessels on intrastate voyages between Weipa and Gladstone.

If the AISR vessels are allowed to fly the Australian Red Ensign then there could be an argument mounted that the Australian flag fleet would have grown to 23 or 24. This would be accurately described as 'spin' because of course the AISR ships will not be required to have full Australian crews – they will only be required to have two senior officers and a trainee.

This prediction does not take into account AISR vessels in pure international trades. Given the huge number of ships engaged in the task of transporting Australia's 800 million tonnes of international trades each year it is possible that some pure international vessels could transfer to the AISR however unless there is an operational reason for doing this it is unlikely. Rio Tinto and BHP Billiton could transfer extra vessels to the AISR to provide flexibility in deployment. The oil companies may likewise transfer additional vessels to the AISR for the increasing proportion of Australia's liquid fuel needs which will have to be imported (due to the winding down of the domestic refining industry). LNG exporters may also opt to register vessels under the AISR to provide additional assurance of safety compliance. Container ship operators are unlikely to utilise the AISR to a great extent however there are several vessels which are the subject of routine Permits currently. Some of these vessels are engaged in trading patterns which could make the AISR an option.

Appendix 1

Foreign Ownership of the Australian Maritime Industry

Over the last twenty years the Australian maritime industry has undergone a radical transformation. The home-grown, Australian owned industry has changed into an industry featuring a large proportion of foreign based maritime players. Reflecting the globalisation in many other sectors of the economy the Australian maritime industry is now largely foreign owned. This is detailed in the attached tables.

In the coastal shipping sector, the three largest operators are all parts of foreign owned groups – Teekay, ASP Ship Management and CSL. Gone are the days of the publicly owned Australian National Line with its ro-ro, container and bulk ships. The ‘big Australian’, BHP, exited the shipping game over a decade ago after the diversified Howard Smith Industries also decided to give it away. Smaller local shipping concerns like CSR, WA Stateships and Cementco have also ceased their shipping operations. In most cases foreign owned companies now operate vessels carrying the cargoes once carried by the Australian owned companies. Only in the Bass Strait and in the Northern Territory trades are Australian owned companies in dominant positions.

Australian involvement in our international trades is miniscule but foreign groups are in control of the remaining Australian manned vessels.

In the booming offshore oil and gas sector, the home-grown Australian owned operators are more numerous. However some of the biggest players are foreign owned including Farstad, Swire Pacific and Tidewater.

Towage has seen a dramatic change in the last decade with the dominant Adsteam having been bought out by the Danish Svitzer and then being challenged by the Hong Kong based PB Towage after it took over the ailing Australian Maritime Services. The Canadian based Teekay has held a strategic position since taking over BHP towage operations in Hay Point and Port Hedland. New entrant SMIT is a Dutch company but has aspirations to expand in Australia.

Dredging is and always has been dominated by the Europeans – the Dutch and the Belgians.

The Government services area also features a great deal of foreign corporate ownership. Assessing market share in each of these sectors is difficult. However it is clear that the Australian maritime industry is as open as any sector of the Australian economy. AIMPE has made a number of submissions to the Federal Government over the last 5 years urging that re-regulation of the Australian maritime industry is necessary. Rather than being protectionist this is aimed at ensuring that Australian standards are maintained within the Australian economy. It gets down to the simple proposition that whilst operating in Australia foreign companies should comply with Australian laws. The current legal structures applying to the Australian maritime industry do not deliver this objective.

In the maritime industry the concept of the flag of a vessel is a barrier to the effective application of Australian law. Foreign flag vessels can avoid some of the laws that apply to Australian flag vessels. That’s why AIMPE continues to object to foreign flag ships operating continually in

Australia's EEZ. It's why AIMPE calls for all vessels operating continuously in Australia's EEZ to be required to be Australian flag.

Coastal Shipping

ASP Ship Management Pty Ltd	subsidiary of Indian company
Carpentaria Management Service	subsidiary of DP World - Dubai
CSL Australia Pty Ltd	subsidiary of Canadian group CSL
Inco Ships Pty Ltd	Australian company
P & O Maritime Services Pty Ltd	subsidiary of DP World - Dubai
Perkins Shipping Pty Ltd	Australian company
Searoad Shipping Pty Ltd	Australian company
Teekay Shipping (Australia) Pty Ltd	subsidiary of Canadian company
Tiwi Barge Services Pty Ltd	Australian company
Toll Shipping Pty Ltd	Australian company
TT Line Pty Ltd	subsidiary of Tasmanian Govt.

International Shipping

Teekay Shipping (Australia) Pty Ltd	subsidiary of Canadian company
Trident Shipping Services Pty Ltd	subsidiary of Shell UK/Dutch company

Offshore Oil and Gas

Bhagwan Marine Pty Ltd	Australian company
Compass Group (Australia) Pty Ltd	part of UK group
Farstad Shipping (Indian Pacific) Pty Ltd	subsidiary of Norwegian company
Go Offshore Pty Ltd	Australian company
Mermaid Marine Australia Ltd	Australian company
Offshore Marine Services Pty Ltd	Australian company
Pacific Tug (Aust) Pty Ltd	Australian company
PTTEP Australasia (Ashmore Cartier) Pty Ltd	subsidiary of Thai Government
Samson Maritime Pty Ltd	Australian company
Svitzer Offshore Pty Ltd	subsidiary of Danish company
Swire Pacific Ship Management (Australia) Pty Ltd	subsidiary of Hong Kong company
Teekay Shipping (Australia) Pty Ltd	subsidiary of Canadian company
Tidewater Marine Australia Pty Ltd	subsidiary of USA company
Total Marine Services Pty Ltd	Australian -part of Programmed Group

Towage

Broome Marine and Tug Pty Ltd	Australian company
Capricorn Tug and Barge Pty Ltd	Australian Company
Coastal Tug & Barge Pty Ltd	50% Australian/50% Danish
Mackenzie Marine & Towage Pty Ltd	Australian company
PB Towage (Australia) Pty Ltd	subsidiary of Hong Kong company
Port Lincoln Tugs Pty Ltd	50% Australian/50% Danish
Smit Marine Australia Pty Ltd	subsidiary of Dutch company

Svitzer (Australia) Pty Ltd

subsidiary of Danish group
Maersk- Moller

Teekay Shipping (Australia) Pty Ltd

subsidiary of Canadian group

Westug Pty Ltd

Australian company

Dredging

Boskalis

Dutch company

Dredging International

Belgian company

Port of Brisbane Pty Ltd

Q Port holdings consortium

Van Oord (Australia) Pty Ltd

subsidiary of Dutch company

Government contracts (defence support, research etc.)

Defence Maritime Services Pty Ltd

50/50 Serco Australia Pty Ltd – UK
group and P & O Maritime Services

Gardline Australia Pty Ltd

Pty Ltd - Dubai group

P & O Maritime Services Pty Ltd

subsidiary of UK company

subsidiary of DP World

Dubai

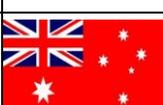
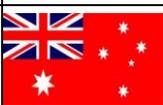
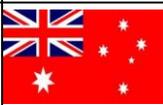
Aquaculture

Paspaley Pearling Co. Pty Ltd

Appendix 2

Prediction – 2017 Australian Licensed Trading Vessels Over 2,000 grt

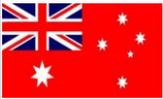
Ship Name	Operating Name	Ship Flag	2012 FLAG	2012 Crew	IMO No.	Ship Type	2017 Prediction flag	2017 Prediction crew
Accolade II	Inco Ships	Australia		Australian	8012425	General Dry Cargo	Australian	Australian
Alexander Spirit	Teekay Shipping (Australia) Pty Ltd	Bahamas		Australian	9326524	Chem. Tanker)	AISR	Mixed
Biquele Bay	Perkins Shipping Pty Ltd	Singapore		Mixed	9139751	General Dry Cargo	AISR	Mixed
British Fidelity	BP Australia	Isle of Man		Australian	9285744	Oil Tanker	AISR	Mixed
British Loyalty	BP Australia	Isle of Man		Australian	9285744	Oil Tanker	AISR	Mixed
CSL Atlantic	CSL Australia	Malta		Mixed	8103171	Bulk Carrier	Foreign flag Temporary Licence	Mixed
CSL Melbourne	CSL Australia	Barbados		Mixed	9259848	Bulk Carrier	Foreign flag Temporary Licence	Mixed
CSL Pacific	CSL Australia	Bahamas		Mixed	7420716	Bulk Carrier	Foreign flag Temporary Licence	Mixed
CSL Thevenard	CSL Australia	Australia		Mixed	7926150	Bulk Carrier	Foreign flag Temporary Licence	Mixed
Goliath	CSL Australia	Australia		Mixed	9036430	Bulk Carrier	Foreign flag Temporary Licence	Mixed
HR Endeavour	Inco Ships	Antigua and Barbuda		Mixed	9261073	General Dry Cargo	Foreign flag Temporary Licence	Mixed
Hugli Spirit	Teekay Shipping (Australia) Pty Ltd	Bahamas		Australian	9283784	Chemical Tankship	AISR	Mixed

Iron Chieftain	CSL Australia	Australia		Mixed	9047740	Bulk Carrier	Foreign flag Temporary Licence	Mixed
Iron Monarch*	Teekay Shipping (Australia) Pty Ltd	Australia		Australian	7305502	Ro Ro Cargo Ship	Withdrawn	Withdrawn
Iron Yandi	BHPB Freight Pty Ltd	Australia		Australian	9122904	Bulk Carrier	AISR	Mixed
Kimberley Queen	Perkins Shipping Pty Ltd	Singapore		Australian	9143817	Container Ship	Australian	Australian
Lindesay Clark	ASP Ship Management	Australia		Australian	8407424	Bulk Carrier	Australian	Australian
Lowlands Prosperity	BHPB Freight Pty Ltd	Belgium		Australian	9225005	Bulk Carrier	AISR	Mixed
Melville Bay	Perkins Shipping Pty Ltd	Australia		Australian	9184689	General Cargo	Australian	Australian
Pacific Triangle	BHPB Freight Pty Ltd	Liberia		Australian	9189158	Bulk Carrier	AISR	Mixed
Pioneer	Teekay Shipping (Australia) Pty Ltd	Australia		Australian	9111436	Bulk Carrier	Foreign	Mixed
Portland	ASP Ship Management	Australia		Australian	8509117	General Dry Cargo	Withdrawn	Withdrawn
River Boyne	ASP Ship Management	Australia		Australian	8018132	Bulk Carrier	Withdrawn	Withdrawn
River Embley	ASP Ship Management	Australia		Australian	8018144	Bulk Carrier	Withdrawn	Withdrawn
Searoad Mersey	SeaRoad Shipping Pty Ltd	Australia		Australian	8914831	Ro Ro Cargo Ship	Australian	Australian
Searoad Tamar	SeaRoad Shipping Pty Ltd	Australia		Australian	8917429	Ro Ro Cargo Ship	Australian	Australian
Spirit Of Tasmania I	TT Line (Spirit of Tasmania)	Australia		Australian	9158446	Ro Ro Passenger Ship	Australian	Australian

Spirit Of Tasmania II	TT Line (Spirit of Tasmania)	Australia		Australian	9158434	Ro Ro Passenger Ship	Australian	Australian
Tandara Spirit	Teekay Shipping (Australia) Pty Ltd	Marshall Islands		Australian	9396725	Chemical Tankship	AISR	Mixed

* The Iron Monarch was laid up in October 2011 and Bluescope Steel has announced that they will no longer require its services.

Not Listed On DIT List (Omission?)

Ship Name	Operating Name	Ship Flag	2012 FLAG	2012 Crew	IMO No.	Ship Type	2017 Prediction flag	2017 Prediction crew
Tasmanian Achiever	Toll Shipping	Australia		Australian	9180190	Ro Ro Cargo Ship	Australian	Australian
Victorian Reliance	Toll Shipping	Australia		Australian	9180205	Ro Ro Cargo Ship	Australian	Australian

The predictions in these tables are just that – predictions. They may or may not come to fruition.