



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**BILLS**

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

**Second Reading**

**SPEECH**

**Monday, 28 May 2012**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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# SPEECH

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**Questioner**  
**Speaker** Truss, Warren, MP

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**Mr TRUSS** (Wide Bay—Leader of The Nationals) (12:02): I move:

That all words after "That" be omitted with a view to substituting the following words:

"the House declines to give this bill and associated bills a second reading until the bills have been referred to the Productivity Commission to:

- (1) assess the Government's proposed 'shipping reform package' for both international and coastal trades with reference to the current and historical arrangements;
- (2) measure and discuss the economic and environmental impacts of reducing or increasing regulation of Australia's coastal shipping services to Australian manufacturing and industry dependent on coastal shipping services, the wider economy and Australia's coastal trading fleet, including passenger services;
- (3) provide recommendations on policy options that would achieve the Government's objective for a viable, competitive shipping service in Australia for both coastal and international shipping that is in the national interest, lead to productivity gains and will not disaffect Australian manufacturing, industry and tourism; and
- (4) report on or before 31 December 2012."

In speaking on the Shipping Reform (Tax Incentives) Bill 2012 and related bills, let me begin by emphasising that there can be no doubt that Australia's shipping industry must play a more important role in our freight network. As I said when the Minister for Infrastructure and Transport, the Hon. Anthony Albanese, announced this package in September last year, for an island nation such as Australia our maritime industry is a vital part of the national and international transport network. In fact, we have the fourth largest shipping task in the world. Sea transport carries over 99 per cent of international cargo by weight and about 75 per cent by value. Domestically, ships carry around one-quarter of our freight. Despite this, there are only 22 Australian registered ships operating on our coast and that number has been in decline for a long time.

With our freight tasks set to double by 2020, and treble along the eastern seaboard over the same period, it is vital that shipping play a more important role in our freight network. Unless the quantity of domestic freight carried on ships can be increased substantially our roads and rail system will choke and our economy will be slowed. Shipping has the capacity to move large quantities of cargo across vast distances, take trucks off the road and relieve pressure on our rail network.

The five bills that comprise the shipping-reform package are designed to provide a regulatory framework for coastal trading in Australia, which the government claims will stimulate growth in the number of Australian ships on our coast, enhance the role of shipping as part of our national freight network and maximise the use of Australian flagged vessels. The package attempts to achieve these objectives by introducing a variety of financial incentives for Australian flagged ships, including company and income tax changes and accelerated depreciation for ships and the creation of a second register of Australian ships to be known as the Australian International Shipping Register. This will be available to ships meeting the eligibility criteria, which include the requirement to have two senior Australian officers on board. Finally, the package abolishes part 6 of the Navigation Act 1912 and in doing so abolishes the current permit and licence system and replaces it with a new, three-tiered licence system.

The idea of shipping reform has been around for years. A House committee inquiry from 2008 made a series of recommendations and a number of policy reform groups have been working in the area since 2009. This work culminated in the minister's announcement in September last year which broadly outlined the government's proposed shipping reform package. The minister also announced that the introduction date of the reforms would

be brought forward by 12 months so the new scheme would commence on 1 July 2012—only a matter of weeks away.

At the time, industry expressed concern at the lack of detail contained in the minister's announcement, with Shipping Australia saying:

Much will depend on the detail of how the reforms are enacted whether that objective will be achieved. The details of the criteria for the second register and the training packages as a result of the establishment of the forum to develop skills and training in the industry, are some of the issues on which we are awaiting further details.

The Australian Shipowners Association said:

The detail that sits behind these measures is critical and we look forward to seeing the draft legislation in the near future.

'In the near future' ended up being about three months later when the first draft of the Coastal Trading (Revitalising Australian Shipping) Bill and the Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Bill were released for public comment. The industry consultation period identified serious flaws in the bill and resulted in a significant rewrite of the bill, which was released for public comment at the same time as the other bills that comprise the shipping reform package in February this year.

The bills are very complex but consultation was only open for a few weeks, and consideration of the submissions received was very brief, before the minister introduced the package into parliament on 22 March 2012. The package that was introduced included new provisions not contemplated during the consultation process. The coalition referred the bills to the House Standing Committee on Infrastructure and Communications, and the Senate Standing Committees on Economics, for their consideration. The House committee was given an extremely limited opportunity to look over the bills and assess the numerous submissions provided by various industry participants as to the deficiencies in the bills. I have mentioned many times before that it is disappointing that the House committee process is not living up to the expectations in the new paradigm of the hung parliament. Shipping regulation is a broad and complicated area and I was disappointed that the House committee did not have a proper opportunity to inquire deeply into the package.

These bills, if passed, would have a very significant impact on our coastal shipping industry. As the minister has often stated, this is a historic reform of our shipping industry. If the government has got it wrong it could decimate what is left of domestic shipping and lead to the loss of thousands of land based industry jobs which are unable to compete with imports carried on international vessels. Yet the House committee was only given the opportunity to have a cursory inquiry into the package. The new paradigm was supposed to enhance the role of the House committees, but they seem to be able to contribute less in this parliament than at any time before—not to mention the fact that the Senate committee inquiry into these bills is not due to be tabled until June and debate is being commenced in this House without the opportunity to have the benefit of the senators' advice before we are required to vote on these bills in this place.

The overarching criteria by which this legislation should be assessed is whether it will meet its objectives. The Minister for Infrastructure and Transport, the Hon. Anthony Albanese, in announcing the package in September last year, said:

What we are doing is creating an economic and regulatory environment that will revitalise and sustain growth and productivity in our shipping industry.

Will the bills before the House revitalise the Australian shipping industry? Will the bills before the House result in a significant increase in the number of Australian flagged vessels operating on our coast? I am not convinced that this is the case. The coalition members on the House Standing Committee on Infrastructure and Communications were not convinced, and many industry participants are not convinced.

From the outset I should say that I support the shipping industry in Australia playing a greater role in interstate and intrastate trade. As I previously mentioned, shipping already overwhelmingly provides our international trade. This has been the consistent position of the Liberal and National parties for some time. However, the coalition is not convinced that this package will revitalise our shipping industry of itself. In fact, we are gravely concerned

that the opposite might result, with the Australian industry declining to such an extent that our maritime cluster, the associated industries that rely on coastal shipping, will decline to such a point where the Australian industry will reach a terminal position.

The first objective listed in clause 3(1) of the Coastal Trading Bill is that the regulatory framework promotes a viable shipping industry that contributes to the broader Australian economy. Does this package achieve this goal? Shipping Australia says in its submission to the House committee inquiry:

... some of the provisions, at least in the Coastal Trading Bill, 2012 are confusing and, in our view, require substantial amendment to meet what we understand to be the objects of the Bill.

Tom Pinder from Australian Coastal Shipping, which is involved in the east-west containerised coastal trading, says:

The proposed legislation, as it relates to coastal container shipping, can only exacerbate this situation and will not result in any Australian flagged/registered ships valiantly taking up the challenge of carrying containers on the principal coast route, namely, east coast to west coast.

... A continuation down the path of a one size fits all [policy] will result eventually in all of the current east west freight task being diverted to the inadequate infrastructure of road and rail with hugely increased costs and a totally detrimental effect on the carbon footprint of the country.

The Dry Bulk Shipping Users, which represents 60 per cent of the customers of coastal trade, is worried about the impact that the shipping reform package will have on the Australian manufacturing industry. They argue that a competitive coastal shipping industry is vital to ensure the continuing viability of a variety of Australian manufacturing and other industries, such as cement, sugar and fertiliser manufacturing. If it is too expensive to ship these goods around our coast, what is to stop cement being imported from China or sugar from being imported from Thailand instead? That outcome certainly would not meet the bill's stated objectives.

The Australian Logistics Council in their submission raised questions about how many ships this package would see come onto the Australian register or the second register. How many ships does the government forecast will revitalise our coastal shipping industry? The department says:

Given the range of consideration that the shipping investors and companies may have regard to in assessing where vessels will be registered or entered into service it is not appropriate for the Department to speculate on the number of vessels that may take the opportunities afforded by the new investment platform.

In other words, they do not know. So the department does not know if this legislation will revitalise the Australian shipping industry.

The shipping industry's leading companies are saying this regime will not attract them to the Australian registry or to the Australian market. What is clear from the submissions from industry to both the House and Senate inquiries is that the new licensing scheme will increase the regulatory burden on the shipping industry.

Many of the submissions to the House and Senate inquiries focus on the red tape which will be created by the new temporary licensing system. The Coastal Trading (Revitalising Australian Shipping) Bill 2012 abolishes part VI of the Navigation Act 1912 and in doing so abolishes the current permit and licensing system. The bill provides for a three-tiered licensing system: (1) a general licence which provides unrestricted access for Australian registered vessels crewed by Australians, permanent residents or foreigners with appropriate work visas to engage in coastal trading in Australian waters for a maximum of five years; (2) a temporary licence which provides limited access to engage in coastal trading for foreign flagged vessels or Australian international second register vessels for a 12-month period for specifically identified voyages; and (3) an emergency licence which provides extremely limited access in identified emergency situations such as natural disasters.

Many shipping companies have identified deficiencies in the temporary licence system which will be established under the new act. Caltex puts industry's concerns quite distinctly in their submission to the House committee inquiry when they say:

The shipping reform package, in particular the [Coastal Trading] Bill, will increase red tape at a time when the Commonwealth and state governments, together with business, are seeking ways to reduce it. The Bill contains clear examples of unnecessary and unproductive regulatory requirements and therefore should be subjected to close scrutiny to remove all regulation not essential to the objects of the Act and the broader national objective of improving business productivity through greater efficiency.

It is ironic that at the same time the House is about to consider the implementation of a national maritime safety regulator, which will see the industry benefit from a single national regulator as opposed to eight separate systems established by 50 separate pieces of legislation, the House is considering this legislation, which will increase red tape on the same industry.

There are a number of difficulties with the temporary licence system—firstly, the information required to apply. One of the main deficiencies identified by industry is the prescriptive requirements for an application for a temporary licence. The department, in their supplementary submission to the House committee inquiry, says:

Extension to a 12 month period [for a Temporary Licence as opposed to a continuing voyage permit which lasts for three months] will provide holders of these licences with greater certainty regarding their shipping arrangements.

However, the companies which would apply for these temporary licences clearly disagree. According to the explanatory memorandum to the coastal trading bill, a temporary licence will be issued for 'only those voyages where the required information is known, including expected loading dates, loading and discharge ports and cargo type and volumes.' How can the government expect industry to provide such detailed information for an entire 12-month period in advance? As Shipping Australia says:

It is impossible to forecast the movement of such cargoes over a twelve month period in terms of expected loading dates, kinds of volume of cargo, type of vessel and the ports of loading and unloading of the cargo.

This will be a particular problem in the break bulk and bulk industries. This concern is echoed by Caltex in their submission when they state:

Given the variable nature of our operations it is not possible for Caltex to nominate its coastal trade for the coming 12 months because this is not known nor planned more than three months in advance. This has been the normal operating practice of Caltex, which will be adversely impacted by the requirements of the [Temporary Licence] regime.

Shell backs up this assertion stating:

Overall the Temporary Licence system appears more complicated and burdensome to both the oil industry and the Department than the existing Permit system, and in our opinion, will fail to deliver any of the objectives of the Act in respect to the oil tanker segment of the Australian shipping industry.

The Australian Association for Maritime Affairs state that they remain concerned that the draft legislation seeks to 'develop a national coastal shipping industry by using restrictive and ultimately expensive cabotage measures.'

The cruise industry have also expressed concerns about the prescriptive nature of the temporary licence as detrimentally affecting their business. This could have a serious impact on Australia's tourism cruising industry. In practice, the conditions of the temporary licence will be cumbersome for shippers and will add to their regulatory burden. How can the sugar industry, for instance, know 12 months in advance how big the crop is going to be, where it is going to be sold to, who the buyers will be and when they will want to take delivery of the sugar? All of that information has to be provided before they can get a permit to hire the ship to move this vital Australian cargo around our coastline.

Secondly, there is the system for variations to a temporary licence. It should be noted that it is possible to apply for a variation to a temporary licence under the coastal trading bill. However, to do so requires amendments to a minimum of five voyages. Shipping Australia says about the variation process:

This simply does not make sense. If an applicant does expect to have five voyages over the twelve month period (of their Temporary Licence] but then finds he has seven voyages he can't seek a variation to the temporary licence?

Why this arbitrary limit has been introduced is unclear and it adds further complexity to the system. If, for example, an applicant would like to add two new voyages to their temporary licence in a 12-month period they are unable to do so, and, if no other vessel is available, the goods would have to travel by road or rail or not at all. In this way these changes have the potential to disadvantage rather than encourage coastal shipping as a viable transport mode.

Additionally, to apply for a temporary licence in the first place, a minimum of five voyages is required. As noted in the explanatory memorandum for the coastal trading bill:

One exposure draft of the Bill released for public consultation proposed that the minimum number of voyages be set at ten voyages. There was broad consensus from industry that many operators could not provide sufficient detail for ten voyages and that five voyages was more practical.

However, 10 or five, industry's concerns remain. This has been identified by a number of industry participants as a problem. As Caltex states:

Implementing a minimum voyage requirement on [Temporary Licence] applications is not practical or reasonable. The requirement places unnecessary restrictions on shippers who undertake less than five voyages in a 12 month period and disadvantages these stakeholders whose trade is not likely to encourage investment on the coast due to their variable needs and low demand.

Caltex then goes on to say that in such circumstances companies may be forced to include 'bogus' or 'fictitious' voyages in their applications to meet the threshold.

The possibility of 'fictitious' voyages being included to allow a grant of a temporary licence is also discussed by Australian Shipping Consultants in their submission to the House committee inquiry and the Australian Shipowners' Association. The ASA state in their submission:

Applicants who genuinely require fewer voyages than the minimum set will be forced to provide spurious information to make up the set number required. This is not in the interest of the applicant, [General Licence] holders who may wish to nominate or the Department—who will be processing the application. This is an example of red tape which must be avoided.

Obviously this would not meet with the objectives of the bill and increases the regulatory burden for businesses. Caltex goes on to say that in 2010 Caltex undertook only three petroleum product voyages and in 2011 only undertook four voyages. While Caltex did undertake coastal trade in crude oil movements, which would allow them to meet the five-voyage minimum requirement, their case goes to show that it is possible for specific industries to fall below the requirement. Shipping Australia also comments on the five-voyage limit in their submission, stating:

... the minimum of five voyages, which in our view, discriminates against the smaller coastal shipper who may, for example, have two or three voyages per year ...

They also note that when the Fair Work Act was extended to foreign flagged coastal shipping it was limited to those shippers undertaking more than two coastal voyages per year. Two or fewer was considered incidental and the Fair Work Act would not apply. Despite this, the coastal trading bill seeks to establish a whole new minimum standard. In response to industry's concerns about the five-voyage limit, the department states that the vast majority of shippers undertake in excess of five voyages per year so they would qualify under the new temporary licence. However, they acknowledge, 'For the small number of operators requiring fewer than five voyages, the new arrangements may require some reconsideration of their operating requirements.' If I might add: What—go out of business, or not be innovative and introduce, for the first time, shipping in an area where it currently is not being used? This would kill innovation and prevent the extension of shipping operations to industries where it does not currently happen. As for the department's rationale for the minimum limit, it says:

The decision to impose a minimum seeks to encourage shippers and operators to plan ahead and consider what their shipping requirements will be over an extended period of time, rather than on a voyage-by-voyage basis.

This explains the 12-month limit on a temporary licence perhaps but not the minimum number of voyages. The Australian Logistics Council states in their submission to the House inquiry:

In the absence of an explanation why the arbitrary figure of five voyages was picked, ALC would recommend the five voyage threshold to eligibility to apply for a temporary licence be removed from the legislation.

The Coalition agrees.

In addition to the above concerns with the new licensing system, a number of other deficiencies have been identified in the package. As noted by Allianz and Suncorp in their submissions to the Senate and House inquiries, there is currently a gap in workers compensation protection for crew employed on vessels registered under the Australian international shipping register while engaged in coastal trading. The department acknowledges this limitation and is preparing advice on how to address this matter—which just goes to show that this legislation has not been thought through.

The reporting requirements for the coastal trading bill are another layer of unnecessary red tape for the shipping industry. Under section 61 of the coastal trading bill, the licence holder must notify the minister at least two business days before the vessel is loaded to undertake a voyage authorised by a temporary licence. Section 62 states that within 10 business days after the completion of each voyage authorised by a temporary licence, the holder must give a report to the department on the particulars of the voyage. A contravention of these requirements could lead to a temporary licence being cancelled. As noted by some industry participants, all this paperwork seems unnecessary. The licence has been issued for a particular number of voyages and the subsequent reporting before and after an authorised voyage seems redundant.

Under the new licensing scheme, general licence holders are able to object to particular voyages of temporary licence holders if they believe they are able to carry the cargo. However, there is no way that temporary licence holders or their customers can determine if a general licence Australian-flagged vessel is available up to 12 months in advance. For this reason, the Australian Shipowners Association and some other stakeholders have recommended establishing a publicly available register of general licence holders.

The bill provides that the minister will determine the minimum wage to be paid to crew on a vessel on the Australian International Shipping Register by legislative instrument for each category of seafarer. The wage cannot be lower than the International Transport Federation template agreement. Shipping Australia has raised concerns that the minister could determine higher wages for seafarers when compared to the ITF agreement and, if this were to happen, the shipping register would not fulfil the objective of creating an internationally competitive register.

To have access to some of the taxation incentives, training requirements will have to be fulfilled. However, the details of these training requirements are yet to be finalised by the Maritime Workforce Development Forum and will thus be contained in future regulations. Other concerns with the taxation incentives have been raised by taxation experts. The submission from Moore Stephens Accountants and Advisers, as the world's leading shipping accountant and adviser, provides some interesting points. They state:

... in our opinion some of the features of the proposed law do not do enough to put Australia on an equal footing with the rest of the world's prominent shipping nations and as a result may not achieve the objective of reinvigorating the industry.

The government's regulatory impact statement on the bills states at paragraph 156:

With a tighter cabotage policy, Australian shippers of domestic freight incur higher costs from lost opportunities to take advantage of cheap transport in passing foreign ships and having to pay for empty repositioning voyages by domestic ships. Part of the cost of empty voyages by foreign ships may be passed on in the form of higher freight rates to the Australian exporters and importers that employ the foreign ships to carry their international cargoes.

However, the Australian Logistics Council notes in their submission that no attempt is made in the regulatory impact statement to quantify this and put a figure on just how much more the users of coastal shipping would have to pay under the new arrangements. It has been well publicised that the dry-bulk uses of shipping in Australia, which represents 60 per cent of the customers, are concerned about the fact these issues will impact on their industry.

The prospect of cheap imports replacing Australian manufacturing and industry is extremely concerning. The government seems intent on increasing the costs to manufacturing and industry to such an extent that it is no longer economically viable. When shipping sugar from Thailand is cheaper than shipping it around the Queensland coast, and when shipping cement from China is cheaper than shipping it from port to port, you have to wonder what message we are trying to send to our manufacturing industry.

The government's regulatory impact statement acknowledges that freight prices might go up, but it ignores the fact that there are alternative supplies overseas that can replace our local industries and the jobs that go with them. Many customers have sought further investigation into the financial implications of the package on the cost of moving freight. A number of submissions to the House and Senate inquiries requested that a Productivity Commission inquiry be held to determine what impact this complex regulatory change will have on the Australian coastal shipping industry, the cost of freight and the costs to the coastal shipping customers. The coalition supports this move, particularly in light of the truncated House committee inquiry that has been held. I have also discussed this matter with the member for New England, who shares similar concerns. On that basis, I have moved the amendments circulated in my name, which will have the effect of deferring the debate on this legislation until the Productivity Commission has had a proper chance to look at this bill. Finally, I would like to make a few comments about the industry compact. When the minister announced the package in September, he stressed the importance of a compact between shippers and the unions. Traditionally, Australia's shipping industry has been uncompetitive internationally. The higher cost of running an Australian as opposed to a foreign flagged vessel has been prohibitive. When the minister introduced the package in March he said:

The final element of the reform package is labour productivity.

We are committed to aligning Australian productivity practices with the best in the world.

To do this, we will need a compact between industry and unions.

... this compact must include changes to work practices, a review of safe manning levels and the use of riding gangs on coastal vessels.

This compact is essential to the reform agenda.

I agree. If the government is going to provide generous taxation concessions, then it is absolutely essential that there be a radical reform to the labour practices in the Australian shipping industry and to the way in which our ships are managed. It is essential that there be a compact which brings our productivity practices in line with the best in the world. Where are the productivity gains that will see shipping's decline in our freight network turnaround?

The compact remains unfinished. The House is being asked to vote on this bill, which is fundamentally based on a compact between the maritime unions and the Australian shipping industry, and yet we have still not seen the detail of this compact. The Department of Infrastructure and Transport has said:

The Department is not involved in developing the compact. Accordingly, any questions regarding this matter should be referred to the relevant industry parties.

So we do not have the compact but the legislation is critically dependent on this compact—this legislation that is going to deliver such reforms to the Australian shipping industry and such a transformation in past practice that international shippers will once again be interested in investing in Australia! Frankly, history suggests to us that the MUA, the Maritime Union of Australia, is not given to making concessions in relation to workplaces. Is it any wonder that the coalition is sceptical?

The coalition is committed to the Australian coastal shipping industry. We acknowledge the importance of the goal of revitalising our shipping industry. However, we doubt this package will achieve this objective. That is



why we are moving that debate on the bills be deferred until the Productivity Commission has had an opportunity to examine the proposed measures. In the committee stages, we will be moving further amendments to seek to improve this proposal, particularly the new permitting arrangements, to try and make them practical and to make that section of the bill more workable.

The DEPUTY SPEAKER ( Mr Lyons ): Is the amendment seconded?

**Mr Randall:** I second the amendment and reserve my right to speak.