

# **The Australian Workers' Union Submission to House Standing Committee Inquiry into Coastal shipping policy and regulation**

## About the AWU

1. The Australian Workers' Union ("AWU") is Australia's oldest and largest blue collar continuously operating trade union of employees, formed in 1886 in Ballarat Victoria.
2. The AWU represents over 130,000 working men and women throughout Australia, from industries as diverse as mining, oil and gas, manufacturing, tourism and hospitality, aged care, civil construction, rural industries aluminium refining and smelting, steel production, local government, health, horse racing and training, sugar refining and retail.
3. The Australian Workers' Union represents the interests of many Hydrocarbon Industry Workers; our members make up the crews of offshore oil platforms or rigs, Floating Production Storage and Offloading (FPSO) vessels or onshore production and refinery depots.
4. We are proud to represent their interests and thank the House Standing Committee on Infrastructure, Transport, regional Development and Local Government for providing us with the Opportunity to submit our case to you.

## Introduction

5. The extraction of Hydrocarbon based natural resources off the coast of Western Australia ,Victoria and the Northern Territory has dramatically increased over the past 15 years. The increasing price of oil and release of new exploration areas has increased development within these regions.
6. Major companies such as Woodside, Chevron and BHP have all recently announced upgrades to their existing sites or increased expenditure within new areas. This coupled with the recent 2008 release of new territories for exploration by the Department of Resources, Energy and Tourism; has created a greater demand for oil platform construction.
7. To date Australian offshore construction companies have had limited success in establishing themselves within this industry. The major reasons for the lack of success with regards to the domestic offshore construction industry is that the organisations attempting to enter the market receive little to no Government support, be it legislative or financial.
8. Currently the majority of construction within the offshore hydrocarbon extraction industry is performed by foreign construction vessels. These vessels are often mobilised from various fields around the world costing between US\$8 – US\$10 million in transport costs alone. It is important to note that these costs are in addition to the actual construction costs, we would presume that from an economic standpoint there would be greater savings on utilising domestic vessels considering their relevant proximity to the field.

9. Since these transport costs are business related expenses they can often be amalgamated with losses or expenditure and deducted via the domestic taxation system. Therefore the Australian taxpaying public are the ones paying to mobilise a foreign vessel for use in domestic waters. We are therefore paying for the pleasure of the organisation using a foreign vessel.
  
10. Oil, has recently eclipsed the US\$100 per barrel level; this creates and encourages further development within the Australian offshore hydrocarbon industry. The cost of oil extraction has increased primarily due to the need to drill deeper or pump water into the field to extract the oil. Since the profit exceeds the cost it is therefore a financially viable option. However, when oil returns to the sub US\$100 level, profits fall below costs and therefore production will be placed into decline.
  
11. Under these circumstances the Australian hydrocarbon resources boom will also slowly decline. We at The Australian Workers' Union believe that the development of a domestic construction industry could be maintained post resource boom. The vessels could be transported to other fields throughout the world and be utilised by other organisations in the hydrocarbon industry on a global platform. Therefore, not only creating a new market but also retaining the Australian crews in their employ.
  
12. In Addition, Coastal shipping represents a significant interest in the National transport task, carrying primarily bulk cargoes between major coastal ports; in 2000–01, coastal cargo accounted for approximately 27 per cent of the domestic freight task measured in tonne kilometres)<sup>1</sup>, while in 2004-2005 this figure reduced to 24 per cent.<sup>2</sup>

13. The coastal shipping industry has undergone significant changes in recent years. Its share of the domestic freight task has fallen from around 40 per cent to 28 per cent over the past 15 years,<sup>3</sup> the number of Australian-registered coastal vessels is declining, the fleet is ageing,<sup>4</sup> the number of Australian-controlled but foreign-flag vessels is increasing, average crew numbers per vessel have halved from over 30 in the early 1980s to around 16, and the number of seafarers has fallen. After peaking in the early 1980s, non-bulk freight rates have fallen in real terms. Australian-registered vessels also face challenges to the policy of cabotage—the limiting of access to a country’s coastal trade to national ship operators or national flag vessels with national crews—resulting from the issue of single and continuing voyage permits.
14. This paper will examine the current status of the industry and offer potential solution that will aid the development of a domestic coastal shipping industry and the establishment of an offshore construction industry.
15. On 30 June 2002, the coastal fleet comprised 41 vessels of which 37 were Australian-registered and four overseas-registered.<sup>5</sup> This has now been reduced to 39 with the further ageing of ships greater reduction is presumed to be inevitable.<sup>6</sup> The majority of the fleet (24 ships) are bulk carriers, transporting bauxite, oil, petroleum products, sugar, iron ore, coal alumina and dry bulk. The passenger/general cargo group represents the next largest group (12 ships), and the smallest group (3 ships) are container carriers.<sup>7</sup>
16. The primary users of coastal shipping are ship operators, that is, much of the coastal shipping internal business. The Queensland bauxite trade, the carriage of gypsum, sugar, steel products, petroleum products and iron ore are examples where commodities are largely transported in ships operated by the cargo owners.<sup>8</sup>

17. The Commonwealth Act that deals with shipping is the Navigation Act of 1912. Part VI of the Navigation Act 1912 deals with cabotage. The purpose of the Act, was to protect Australian shipping from inequitable foreign competition and to maintain safety and living standards for Australian seafarers.
18. In the Navigation Act, coastal trade is referred to as 'coasting' trade. Subsection 7(1) deems a ship to be engaged in the coasting trade:
19. ... if it takes on board passengers or cargo at any port in a State, or a Territory, to be carried to, and landed or delivered at, any other port in the same State or Territory or in any other State or other such Territory ...
20. Ships engaged in coastal trade are either licensed or unlicensed. The Act preferences licensed ships, however, provides for non-licensed ships to operate in the coastal trade under proscribed circumstances. There is a requirement that any ship operating in the coastal trade be licensed. Although the legislation allows licences to be issued for up to three years, in practice, the Department of Transport and Regional Services issues licences annually at a nominal fee (currently \$22). Licences are granted subject to two main conditions:
- the seafarers employed on the ship are paid Australian wages, and
  - a foreign government is not subsidising the ship.
21. It is important to note that licences are not limited to Australian registered, owned or crewed ships. A licence may be issued to a ship operating under any flag, regardless of the nationality of the crew or national ownership, provided that it meets these conditions.

22. Section 289 relates to the payment of Australian wages. It states:

Every seaman employed on a ship engaged in any part of the coasting trade shall, subject to any lawful deductions, be entitled to and shall be paid ... wages at the current rates ruling in Australia for seamen employed in that part of the coasting trade ...

23. The second condition is in section 287 of the Act. This prohibits from the coastal trade a ship that has received in the past 12 months or is receiving or is likely to receive, a subsidy from a foreign country. The specific reasoning for the incorporation of this clause is to prevent foreign subsidised ships from undercutting domestic merchants.

24. A licensed ship must comply with Part II of the Act, which contains requirements regarding matters such as crew qualifications and numbers, accommodation and wages and conditions.

25. The Act provides for non-licensed ships to operate in the coastal trade in certain circumstances. For a non-licensed ship to operate, it must have a coastal trade permit. Permits are issued when no licensed ship is available. Section 286 provides that the Minister may grant permits to unlicensed ships—unconditionally or conditionally— when the Minister is satisfied that, in respect of trade between any Australian ports:

- no licensed ship is available for the service or that the service carried out by a licensed ship is inadequate, and
- that it is in the public interest that unlicensed ships be allowed to engage in that trade.

26. A permit issued under these arrangements may be a single voyage permit (SVP) or a continuing voyage permit (CVP):

- a SVP is issued for a single voyage between designated ports for the carriage of a specified cargo or passengers
- a CVP enables a vessel to carry specified cargo between specified ports for a specified period (since the introduction of new visa arrangements for foreign crews, CVPs are typically issued for a period of three months).

27. The Department of Transport and Regional Services has issued a Single Voyage Permit Information Paper and the Minister has issued guidelines for granting licenses and permits.

28. Unlike ships that operate under licence under Part VI of the Navigation Act, ships operating under permits may be in receipt of a subsidy from a foreign government. Subsection 286(2) provides that a ship using a permit shall not be deemed to be engaging in the coasting trade, that is, it is not treated under the Navigation Act as a licensed vessel.

29. Cabotage policy was carefully examined by the Shipping Reform Task Force. No member recommended its withdrawal but it was suggested that changes be made to the application of the permit system to increase its flexibility ... The Government agrees with the Task Force that the permit system should be made more flexible and has decided that new guidelines will be issued for the operation of the permit system. These will apply to single voyage permits and will also include the use of permits for continuous trading which, although allowed for under the Navigation Act, have not been issued for 20 years.

30. These continuous voyage permits, which can be issued for up to three years, will improve efficiency and competitiveness in the coastal shipping market in a number of ways.<sup>10</sup>
31. The Government established the Shipping Industry Reform Authority (SIRA) to oversee the development and implementation of the program. SIRA was established initially for the three years from 1 July 1989 but its term was extended. By 1994, average crew sizes had been reduced to 18 and multi-skilling had been implemented.
32. Still, shipping costs remained high. In March 1994, the Bureau of Industry Economics published an analysis of the cost of Australian coastal shipping compared with OECD shipping.<sup>11</sup> The study found that, overall, costs of Australian ships were higher than for ships from New Zealand, Norway, the UK and Germany but were less than the costs of American, Canadian or Japanese ships. The analysis showed that while Australian shipping had lower capital costs than any of the other countries, Australian crew costs were around 25 per cent higher than average even though Australian crews were of a similar size to OECD crews. Further, on 26 March 1996, the Australian Competition and Consumer Commission released a report that found that the costs of coastal shipping were continuing to grow despite smaller crews, government subsidisation of capital expenditure in the forms of capital grants and accelerated depreciation, and government contributions to early retirement.<sup>12</sup> In May 1996, the Howard Government abolished the capital grants and accelerated depreciation.

33. The Government liberalised the permit system including dropping the requirement that CVPs be issued only in circumstances that provided long-term benefit to the shipping industry, and by streamlining the administration of the permit system with new ministerial guidelines issued in June 1998. Liberalisation enabled greater participation by foreign flag vessels in coastal trade. Further, company employment was implemented in July 1998, replacing the roster system.<sup>13</sup>
34. Major areas of reform are the reforms to ports that State governments have implemented and the waterfront (stevedoring) reforms.

## **Port reforms**

35. Australian ports have a history of inefficiency characterised by poor work practices and management inefficiencies with regards to goods transfer and transport coordination.

This included:

... low productivity of labour and capital equipment, over-servicing by tugs, charges unrelated to the cost of services provided and poor integration with other services as reflected in truck queues at terminals and rail depots.<sup>14</sup>

36. Over the past 30 or so years, ports have undergone major structural changes, in part in response to changing technologies associated with material handling and ship design, for example, containerisation and the increased use of very large bulk carriers and tankers. Reform has also been stimulated by government economic programs such as the national competition policy, which has led to a far greater commercial focus in port operations than was traditionally the case. Reforms over a number of years have increased port efficiency. In 2002, the Productivity Commission, in its report on the Economic Regulation of Harbour Towing and Related Services, reviewed reforms of port authorities. Reforms have included:

... corporatisation, commercialisation, restructuring, privatisation and the contracting out of some functions. Structural reforms of port authorities also resulted in the restructuring of some entities and the devolution of regulatory functions to independent bodies. The primary aim of the reforms was to replicate market disciplines, including the establishment of clear objectives to eliminate any conflict between commercial and non-commercial objectives. Greater emphasis was placed on the commercial role of port authorities to create incentives for efficient management.<sup>15</sup>

37. On 19 March 1999, the then Minister for Transport and Regional Services, summarised the Government's policy towards shipping:

38. Key among the Howard Government's shipping policies have been privatisation of the Government-owned shipping line A[ustralian] N[ational] L[ine],<sup>16</sup> the removal of ad hoc support measures for shipping which did not contribute to the development of an efficient fleet, the winding back of cabotage, an end to outdated industry employment practices on vessels, and the modernisation of shipping legislation.<sup>17</sup>

39. On 1 December 1999, the Minister announced that the Government would not provide financial assistance to the Australian shipping industry and subsequently confirmed this policy:

40. The option of providing direct fiscal support for the Australian shipping industry has, however, not proved feasible. It is also unlikely that this situation will change.<sup>18</sup>

41. In February 2000, the Australian Shipowners Association decided that it would no longer seek subsidies from the Federal government to ensure the viability of Australian-owned ships engaged in international as well as coastal trade.<sup>19</sup>

42. However, effective from 1 July 2000, the Government introduced a 100 per cent rebate of the excise on heavy fuel oil—the main source of power for ships engaged in coastal trade—and diesel fuel used in marine transport.<sup>20</sup> The rebate eased the cost disadvantage that coastal shipping faces relative to road transport. But the Government also extended the rebate to rail transport, negating to some extent the competitive benefit to coastal shipping.

43. In December 2001, the Australian Shipowners Association announced a review of Australian shipping covering both international and coastal shipping. Two former Federal Ministers for Transport, the Hon. Peter Morris and the Hon. John Sharp conducted the review. The review, titled the Independent Review of Australian Shipping, reported in September 2003. The Review's findings and recommendations, insofar as they relate directly to coastal shipping, include:

- the provisions of the *Navigation Act 1912* that regulate coastal shipping should be reviewed
- the claimed inconsistency between the Government's policy for coastal shipping, that is, to obtain the cheapest shipping services by accessing foreign ships, and its policy of strengthening border protection
- the interaction of a number of items of legislation causes a competitive disadvantage to Australian operators whose ships operate permanently on coastal trades compared to the less onerous regulatory environment applicable to foreign vessels that work on the coast under permits. The Review found that the impact has been exacerbated by ad hoc steps taken to liberalise the coastal shipping market for non-Australian operators without taking into account the competitive disadvantage imposed on Australian operators, and
- the coastal industry could enhance service to shippers.

### Issues

44. Australian coastal shipping is generally more costly than foreign-flagged competitors mainly because the cost of crews is higher even though Australian crew levels are now close to the international average. The cost of coastal shipping and the need for efficiency gains have been recurring themes in a number of reports. For example, the study by the Allen Consulting Group, commissioned by the SIRA, found that between January 1988 and November 1991, Australian oil tanker freight rates were about 22 per cent higher than the world rate.<sup>21</sup> Another source of disadvantage for Australian ships is that foreign vessels can sometimes charge freight rates based on marginal costs—the additional costs of a voyage such as extra fuel used—rather than higher average costs (the latter include marginal costs and items such as depreciation). For example, when Australian ships plied the container trade between south-eastern ports and Fremantle, to be profitable, they charged a rate per container that covered average cost. Because opportunities to ‘backload’ cargo from Western Australia were limited, the rate had to cover the cost of the round trip. In contrast, a foreign ship carrying domestic cargo one way as part of a longer international voyage can carry freight does not have to cover the cost of back loading. More generally, limited opportunities for back loading, especially for specialised carriers, keep upward pressure on freight rates.

45. The Australian Shipowners Association—which represents Australian shipowners—claims that Australian ship operators have to meet legislative requirements that foreign operators do not. Consequently, Australian shipowners are at a cost disadvantage compared to foreign competitors. It is true that some legislation imposes additional costs that some foreign shippers do not incur. On the other hand, other Australian industries also incur these costs. Further, the legislation also reflects Australian standards which few would argue should be given up. On 13 December 2001, the Minister for Transport and Regional Services, the Hon. John Anderson, noted that:
46. The Australian shipping industry has raised concerns that it is disadvantaged when competing with foreign flagged vessels due to the provisions of Australian legislation relating to such matters as customs, migration, income tax, ship registration, occupational health and safety, compensation and rehabilitation and industrial relations. Some of these concerns are perhaps not without merit and we take them very seriously.
47. While we must recognise that the legislation reflects community standards, we are, at the same time concerned to ensure that Australian industry is not subject to unreasonable obstacles that inhibit its ability to compete internationally.<sup>22</sup>
48. Cabotage is basically a form of protection for Australian flag ships provided by the *Navigation Act 1912*.<sup>23</sup> On economic efficiency grounds, there seems to be no valid reason for continuing cabotage.<sup>24</sup> This is particularly the case since protection for most industries has been wound back considerably. Cabotage increases the cost to users of coastal shipping compared to foreign-flag vessels that are not subject to the wages and other conditions of the *Navigation Act 1912*.

49. However, abolishing cabotage would have important consequences. A study by Access Economics found:

... notwithstanding the negative impact on our balance of payments, there would be an overall positive economic benefit to the Australian economy if the coasting trade was opened to the most competitive shipping services—even if Australian shipping lost its current share of this trade.<sup>25</sup>

50. The study also concluded that 80 per cent of coastal activity would disappear if cabotage were abolished.<sup>26</sup>

51. Cabotage can be abolished only by repealing the relevant sections of the *Navigation Act 1912*. In a notable departure from competition policy as applied elsewhere in the economy, the Government has been unwilling to introduce foreign competition by repealing the relevant sections of the legislation. Rather, the Government has sought to reduce the consequences of cabotage by increasing the number of SVPs and CVPs.<sup>27</sup>

As to the effect of permits on non-bulk freight rates:

52. There has been a much greater use of the single and continuous voyage permit system in the 1990s. This has not affected rates on the Tasmanian route, but does appear to have affected routes such as those to and from Perth, where international competition has been most evident. Real coastal shipping rates to and from Perth have dropped by 40 per cent since 1990 and coastal shipping on the route has lifted its mode share from 7 per cent in 1995 to 12 per cent in 2001.<sup>28</sup>

### Ship standards and safety

53. While abolishing cabotage would provide economic benefits, there are benefits to retaining Australian flag vessels. These were summarised in a submission to the Industry Commission inquiry into petroleum products:
54. The quality of vessels under the Australian flag, through regular investment and maintenance, is at a very high level by world standards which ensures that the reliability and safety records of Australian vessels are well above average. Furthermore, the level of initial and ongoing training received by Australian seafarers not only ensures competency in normal vessel operation but also ensures that crews are capable of handling emergencies at sea in a way that minimises the risk to life, its vessel, and the environment. Recent major incidents overseas involving oil tankers and major pollution have demonstrated the value of having well trained and experienced crew.<sup>29</sup>
55. The House of Representatives Standing Committee on Transport, Communications and Infrastructure, in its report *Ships of Shame*, drew attention to the poor standards of safety and seaworthiness of many foreign-flagged vessels, especially those operating under so-called 'flags of convenience'.<sup>30</sup> In its subsequent report, *Ships of Shame-A Sequel*, the Committee noted that more needed to be done in respect of vessels operating on the Australian coast under permits.<sup>31</sup>

## **Conclusion**

56. The Australian Coastal Shipping network, particularly within the hydrocarbon construction industry, is virtually non-existent. Australian companies that are attempting to establish themselves often lose tenders to offshore construction vessels that are able to operate under temporary coastal permits.
57. The inclusion of these vessels within the cabotage legislative framework allows for the development of a local industry providing new jobs and skills for Australia. This would require an amendment to the cabotage framework encompassing these vessels. Furthermore the utilisation of foreign vessels allows profits to be disbursed offshore while the development of a domestic construction industry would allow profits to remain in Australian hands and therefore invest in Australian infrastructure.
58. Domestically flagged vessels as mentioned are held to higher safety criteria than foreign flagged vessels. Considering the environmental impacts of the offshore construction industry; cleaner, greener, safer vessels and construction procedures administered and completed under Australian compliance would provide significant environmental protection measures and benefits and aid in maintaining our coastal marine life.
59. Security has increased in importance over the last 7 years, the September eleven attacks and Bali bombings have sent shockwaves throughout the world. The increased presence of domestically flagged vessels will provide a greater scope of vision with regards to our expansive coastline, thus, providing a significant increase in awareness of non-domestic vessel traffic. These 'extra eyes' in the ocean will be able to report abnormal or unusual traffic to the Royal Australian Navy for investigation or review and provide improved domestic coastal security.

60. Australian qualifications and degrees are often accepted internationally and due to the highly specific nature of these vessels, specific training would be required. Therefore we also propose the establishment of training centres for this industry open to both domestic and international students. Thus making provision for the long term growth and sustainability of the industry and create increased revenue to cover domestic infrastructure costs.
61. Additionally once the domestic market is established and flourishing these vessels could increase their territorial presence and develop international trade. The international trade dimension would support local industry and develop new markets, with the profits returning to the Australian based organisations.
62. We would therefore encourage the Federal Government to further investigate the implementation of legislation and financial assistance that would aid the development of a domestic offshore construction industry. There should be a significant domestic influence within this industry; furthermore, the investment in this industry will assist in future sub sea developments when and as they arise.

## Reference

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4. Australian Shipowners Association, *Independent Review of Australian Shipping*, 18 September 2003, p. 15, and Bureau of Transport and Regional Economics, *Australian Transport Statistics*, op. cit.
5. Apelbaum Consulting Group Pty Ltd, *Australian Maritime Transport 2002*, paper prepared for the Australian Shipowners Association, March 2003, p. 22 at <http://www.asa.com.au/upload/news/Australian%20Maritime%20Transport%202002.pdf>
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7. Ibid
8. Economics, Commerce and Industrial Relations Section *Department Coastal shipping: an overview 2004*
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10. *Report of the Royal Commission on the Navigation Act*, Parliamentary Papers, volume 63, 1923–24 session, volume II.
11. 25 Coastal shipping: an overview
12. 19. A more detailed summary can be found on the Australian Shipowners Association website at: <http://www.asa.com.au/whatsnew.asp#article2>
13. 20. Maritime Industry Development Committee, *Moving Ahead*, AGPS, Canberra, October 1986.
14. Industry Commission, *Mining and Minerals Processing in Australia*, 25 February 1991, p. 423.
15. Productivity Commission, *Economic Regulation of Harbour Towing and Related Services*, Report no. 24, Canberra 2002, p. 63.
16. In May 1999, the sale of Australian River Co. (formerly ANL Ltd) was completed. The proceeds were \$20.697 million.
17. Hon. J Anderson, Minister for Transport and Regional Services. Closing address: Shipping in the New Millennium, 19 March 1999
18. Hon. J Anderson, Minister for Transport and Regional Services. Speech to the National Bulk Commodities Group, op. cit.
19. Australian Shipowners Association, *Shipping Reform-Chronology of Progress*

20. All ships engaged in international trade, whether Australian-flag or foreign-registered, pay excise if the domestic cargo accounts for ten per cent or more of their cargo capacity. International trading ships carrying domestic cargo on the coast have to pay excise even if they are burning fuel bought overseas. Bureau of Transport and Communications Economics, *Taxes and charges in Australian transport: a transmodal overview*, working paper 34, October 1997, pp. 99–100.
21. Industry Commission, *Petroleum Products*, 5 July 1994, p. 232.
22. Hon. J Anderson, Minister for Transport and Regional Services. Speech to the National Bulk Commodities Group, op. cit.
23. . The United States, Japan, Korea, Turkey and Canada maintain cabotage regulations. In the European Union, national cabotage is gradually being opened up among member countries but cabotage is not open to those outside the EU. OECD, *Regulatory Issues in International Maritime Transport*, Paris 2001.
24. Resources such as land, labour and capital are said to be allocated 'efficiently' when they are used to produce the goods and services that consumers want most and are employed in the most productive industries. Protection distorts the efficient allocation of resources by interfering with decisions to consume, save, work and invest.
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26. Kevin Chinnery, 'Foreign flag or foreign crew-is this the question?', *Daily Commercial News*, 3 September 1999.
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30. House of Representative Standing Committee on Transport, Communications and Infrastructure, *Ships of Shame*, December 1992.
31. House of Representative Standing Committee on Transport, Communications and Infrastructure.