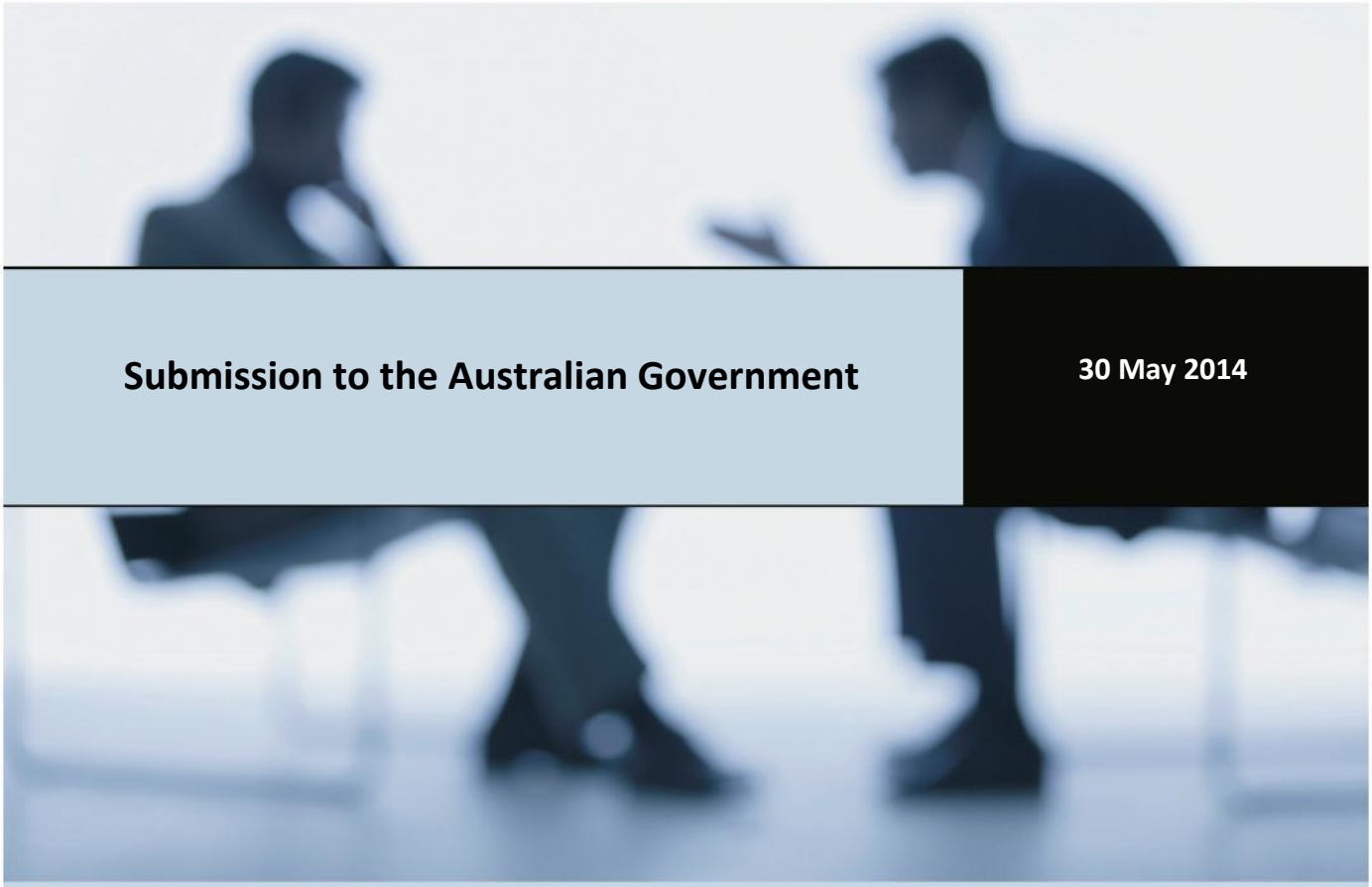
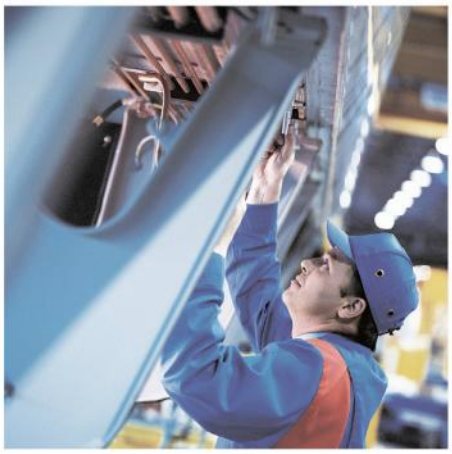


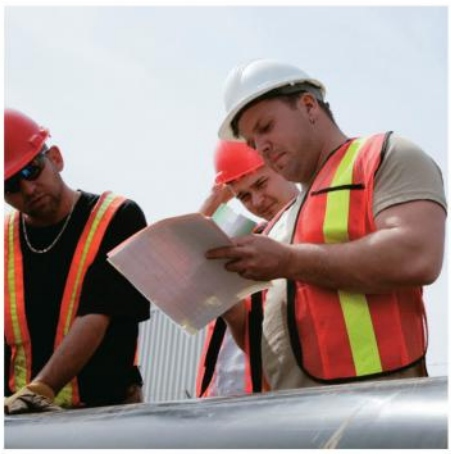
Submission to the Australian Government

30 May 2014

Options Paper: Approaches to regulating coastal shipping in Australia





AUSTRALIAN INDUSTRY GROUP

The Australian Industry Group (Ai Group) welcomes the opportunity to provide a submission in response to the *Options Paper: Approaches to regulating coastal shipping in Australia* published by the Australian Government in April 2014.

Ai Group is a leading industry organisation representing employers in the manufacturing, construction, transport, food, automotive, information technology, telecommunications, mining equipment and numerous other industries. Together, Ai Group and its affiliates represent the interests of approximately 60,000 businesses which employ in excess of 1.2 million staff.

Ai Group represents numerous companies which are extensive users of coastal shipping to transport raw materials, components and finished products between Australian ports.

The Australian companies which are users of shipping need access to sea transportation at reasonable prices in order to remain competitive and productive.

Coastal shipping transportation is very important to avoid increased congestion and higher maintenance costs on Australia's road and rail networks. It is of course vital for Tasmania as an island State.

There is an economic argument that cabotage should be abolished because it is economically inefficient and increases costs for users of shipping. We note that New Zealand abolished coastal cabotage in 1994 and has not re-introduced it. However, given that the *Fair Work Act 2009* (Cth) (FW Act) and the *Seagoing Industry Award 2010* apply to Australian-registered ships, Ai Group understands the argument that Australian shipping companies should not be exposed to unfair competition from overseas shipping companies.

An appropriate balance needs to be struck which takes into account the interests of Australian companies (shipping companies as well as companies which use shipping), Australian workers (those employed by shipping companies and by users of shipping) and Australian consumers who pay higher prices when transport costs are higher.

The existing coastal shipping arrangements under the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (Coastal Trading Act) and the FW Act:

- Are too costly and inflexible for users and suppliers of coastal shipping services; and
- Are having an adverse impact on industry and the broader community.

Between March 2006 and June 2009 the coastal shipping arrangements in place were operating very satisfactorily. Accordingly, we propose that a new regime as near as possible to this successful former regime should be re-established.

This would involve:

1. **Enabling foreign ships to apply for single voyage licences, multiple voyage licences or continuing licences through a simple system that does not impose an unnecessary regulatory burden on them**

   The current onerous and restrictive arrangements for the granting of temporary and other licences under the Coastal Trading Act have resulted in increased costs and reduced availability for users of shipping transport, which in turn has resulted in higher prices for Australian consumers.

   Substantial changes are necessary, for example:

   - Foreign ships should be permitted to apply for a permit / licence for a single voyage, rather than for the existing minimum of five voyages, as was the case prior to the Coastal Trading Act; and

   - The requirements under the Coastal Trading Act that applications for Temporary Licences must be published, with holders of a General Licence or an affected third party (e.g. a union) having the ability to object to the application, should be abolished. These requirements:

     - Result in delays in Temporary Licences being granted;

     - Deter foreign ships from making applications because of potential union activity against their operations;

     - Consequently result in reduced competition in the shipping transport industry.

2. **Excluding "persons insufficiently connected with Australia" from the application of the FW Act and modern awards (see section 31 of the FW Act), with this term defined in an appropriate and workable manner through the *Fair Work Regulations 2009*.**

   Former Regulation 1.1 of the *Workplace Relations Regulations 2006* appropriately defined the following persons as "persons insufficiently connected with Australia" for the purposes of the *Workplace Relations Act 1996*:

   "*A person who:*

   (a) is a non-citizen; and

   (b) is a member of the crew performing duties on a permit ship"

   And

   "*A foreign corporation in the capacity as the employer of a person who:*

(a) is a non-citizen; and

(b) is a member of a crew performing duties on a permit ship"

The following definitions applied under the *Workplace Relations Act 1996*:

*"**Non-citizen** has the same meaning as in the Migration Act 1958"*

"***Permit ship** means a ship:*

(a) to which a permit has been granted under section 286 of the Navigation Act 1912 for a single voyage or as a continuing permit; and

(b) for which the permit is in force."

Arrangements which as near as is possible model those above should be implemented. The convoluted arrangements in sections 31-35A of the FW Act and in Regulations 1.15B-1.15G of the *Fair Work Regulations 2009* require major modification.

Ai Group looks forward to continuing to participate in the Government's consultation process as more workable and appropriate coastal shipping arrangements are developed and implemented.