



AUSTRALIAN SHIPPING INDUSTRY REFORM: LONG AWAITED

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On 9 September 2011, the Australian Federal Government announced a long awaited comprehensive package of reforms designed to revitalise the Australian shipowning industry which has been in decline for a significant period of time. Notwithstanding the current 'resources' boom experienced by Australia which accounts for a very substantial share of global bulk freight, only 0.5% of Australia's export trade is carried by Australian registered ships (and there are presently only 22 Australian flagged vessels).

Consistent with the policy initiative announced prior to the last election by Minister Albanese, the government's aim is to introduce a system which will work to make the Australian shipping industry attractive and internationally competitive whilst increasing and maintaining growth 'back home'. The reforms are scheduled to commence on 1 July 2012. A summary of the major reforms proposed are as follows:

The key reforms

1. Tax exemptions for qualifying activities by Australian shipping companies.
2. A simplified three tier licensing framework for participation in the coastal trade.
3. Establishment of an Australian International Shipping Register.
4. Establishment of a Maritime Workforce Development Forum to progress key maritime skills and training priorities.

Tax exemptions

Australian resident companies will pay zero corporate tax on income (derived from seagoing commercial trading activities that carry cargo or passengers) when their vessels are operating both internationally on overseas voyages and domestically on coastal routes.



To qualify for this tax exemption vessels must be Australian flagged, ship operators must meet minimum training requirements for new seafarers (details of which are due to be released by the Federal Government within the next few months) and, most significantly, a ship operator must make a 10 year 'lock-in' commitment to keep vessels Australian flagged and to meet Australian maritime safety conditions.

Other major tax changes include:

1. Reduction of the depreciation period from 20 to 10 years, a balancing charge deferral and relaxed capital gains tax provisions (if capital gains tax applies) otherwise known as 'roll-over relief'.
2. Exemption from Royalty Withholding Tax liability for foreign owners of vessels where the vessel is bareboat chartered to an Australian company.
3. A seafarers' tax concession for Australian resident seafarers engaged on international trades for more than 90 days on qualifying vessels. This will open the gates for Australian seafarers to work in international seafaring.

The benefits in (1) - (3) are made conditional on Australian registration (either on the Australian primary or international register).

Coastal trade - new licensing framework

Under the current legislative regime, foreign vessels are permitted to

operate on coastal (inter-state) voyages either under permit or licence issued in accordance with the *Navigation Act 1912* (Cth).

Under the 'permit system' a vessel is deemed not to be engaged in the 'coasting trade' with the effect that there is no requirement for compliance with many of the obligations that apply under Australian Acts to licensed vessels that are engaged in the coasting trade e.g. Part II of the *Navigation Act*, Australian OH&S and Seafarers compensation legislation.

There are two forms of permit which are issued at the discretion of the Minister: a single voyage permit (SVP) or a continuous voyage permit (CVP) (now normally issued for a period of three months).

It has been asserted that these permits are too easily obtained and therefore the object of the 'permit' system is defeated, leaving Australian shipowners with no incentive to commit long term to the coastal trade.

The current permit system will be scrapped and replaced by a three tier licensing framework which is designed not only to incentivise a long term commitment to the Australian coastal trade by Australian shipowners but also to provide a platform to enable Australian coastal shipping to be competitive by ensuring that foreign-flagged vessels can operate on the coast when Australian flagged ships cannot provide a suitable service. It will also set clear boundaries as to when and under what circumstances foreign-flagged vessels can engage in coastal trading.

The three tier licensing system will comprise:

1. General Licences: issued only to ship operators of Australian flagged vessels (who will be eligible for the above mentioned tax concessions) for unrestricted access to the coastal trades for a period of up to five years.
2. Temporary Licences: issued to foreign-flagged vessels permitting them to work the coastal trade for a period of up to 12 months subject to time, trade and/or voyage conditions.
3. Emergency Licences: issued for a single voyage for cargo and passenger movements in emergency situations (e.g. natural disasters).

Australian International Shipping Register

The introduction of an Australian International Shipping Register is designed to develop and grow Australia's international fleet and to allow Australian shipowners to participate in international trade competitively. Shipowners operating Australian registered ships will now be permitted to hire a mix of Australian and foreign crew (minimum of two Australian crew - preferably the Master and Chief Engineer) for overseas voyages. They would be required to comply with the International Labour Organisation's Maritime Labour Convention rather than the controversial *Fair Work Act 2009* (Cth) (although the *Fair Work Act* will continue to apply to coastal/ domestic trading).



Maritime Workforce Development Forum

The Government's aim is to attract, train and retain a skilled seafaring workforce. In an effort to do this, it is setting up a Maritime Workforce Development Forum which will be in force for five years. The forum will have as participants experienced people from industry, unions and the training sector with a charter to address ways in which the shipping industry can build its skill base. The Government has already contributed A\$4 million towards the funding of a maritime simulator purchased by the Australian Maritime College in Launceston which assists training in coastal navigation.

Re-write of the *Navigation Act*

The above reforms form part of the Federal Government's wider shipping industry reform agenda which also includes a re-write of the *Navigation Act*. The objectives of the 'new' *Navigation Act* will be to enhance ship safety and protection of the marine environment and to introduce greater flexibility so as to allow regulations to remain contemporary, that is, in line with national and international safety standards. At this stage, the new legislation is expected to be finalised by the middle of 2012.

All in all, the proposed reforms represent the first concerted effort in several decades by an Australian Government to support the Australian shipping industry. Both Shipping Australia Limited and the Maritime Union of Australia have commented favourably on the reforms. Only time will tell if and when any of the proposed reforms

are implemented, and whether they have any material impact on investment strategies in relation to Australian shipowning and operating.

However, history would suggest that should there be a change of government such reforms are unlikely to be supported in which case it may be considered too risky to make the necessary commitment in the current environment.

For more information, please contact **Jenny Bazakas**, Associate, on +61 (0)3 8601 4599 or jenny.bazakas@hfw.com, or **Robert Springall**, Partner, on +61 (0)3 8601 4515 or robert.springall@hfw.com, or your usual contact at HFW.

For more information, please also contact:

Gavin Vallely
Melbourne Partner
T: +61 (0)3 8601 4523
gavin.vallely@hfw.com

David Coogans
Sydney Partner
T: +61 (0)2 9320 4601
david.coogans@hfw.com

Hazel Brewer
Perth Partner
T: +61 (0)8 9422 4702
hazel.brewer@hfw.com

Lawyers for international commerce

HOLMAN FENWICK WILLAN
Level 41, Bourke Place
600 Bourke Street
Melbourne
Victoria 3000
Australia
T: +61 (0)3 8601 4500
F: +61 (0)3 8601 4555

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