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**Response to Government Options Paper:
Approaches to regulating coastal shipping in Australia
April 2014**

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Preamble

Shipping Australia Ltd (SAL) is a peak ship-owner association with 37 member lines and shipping agents, and with 50 corporate associate members, which generally provide services to the maritime industry in Australia. Our member lines and agents are involved with over 80% of Australia's international container trade and car trade, as well as over 70% of Australia's international break bulk and bulk trade. A major focus of SAL is to promote efficient and effective maritime trade for Australia whilst advancing the interests of ship owners and shipping agents in all matters of shipping policy and safe environmentally sustainable ship operations. A list of SAL members is attached at Annex A.

SAL also provides secretariat services to the many liner companies and agencies that are members of conferences, discussion agreements, consortia and joint services that have their agreements registered under Part X of the Australian Competition and Consumer Act, 2012 (Cth). These agreements specifically seek to facilitate and encourage growth of Australia's international liner shipping trades.

Seven of our member shipping companies are currently engaged in the provision of coastal cargo services to Australian consignors and consignees. Our other member lines do not currently participate in the coastal trade for various reasons, some withdrew from the trade due to administrative and cost burdens of the Fair Work Act and Coastal Trading Act. A number of these non-participating members indicated that they may participate in the carriage of coastal cargo if the regulations were to change.

In preparing this submission SAL engaged with our membership and received input and active engagement from thirteen members. These members represent container, break bulk/heavy lift, car carriers and cruise ships, and include agents who engage with international shipping carrying domestic bulk cargoes.

Despite the fact that there are differences in circumstance between the different shipping sectors, all interested members formed a general consensus position except one (Member X, who currently participates in the coastal container trade), with respect to the way forward for coastal shipping regulation. For completeness a summary of Member X's position is included at Annex B.

This submission provides SAL members' majority position and is divided into two parts. Part 1 provides an overview of the SAL members' majority position in relation to the current situation and priorities for regulatory reform in coastal shipping. Part 2 provides specific comments in response to the 28 questions posed in the Options Paper.

Some SAL members who have participated in the consultation process have indicated that they will also provide separate submissions to the Department.

Part 1 – Overview of Coastal Trading Regulatory Reform Options

Introduction

1.1 Shipping Australia Limited is pleased to make a submission in response to the Options Paper - *Approaches to regulating coastal shipping in Australia* seeking views on the current operation of the Australian shipping industry, in particular the *Coastal Trading (Revitalising Australian Shipping) Act 2012 (the Coastal Trading Act or CTA)* and the impact of the interaction of the *Fair Work Act 2009 (Fair Work Act or FWA)*. SAL is pleased that the Government is reviewing the regulatory regime for coastal shipping as a matter of priority and will support the streamlining of the system to improve efficiency and remove unnecessary red tape.

1.2 SAL agrees that the *Foreword* and *Overview* to the Options Paper provide an accurate summary of the current situation with respect to Australia's dependence on maritime trade and the unreasonably high costs of moving domestic cargoes by sea. SAL agrees that the current regulatory regime, designed to provide some protection to the Australian based maritime industry, has increased the cost to shippers and their customers and at the same time has failed in its aim of revitalising Australian shipping.

1.3 According to section 3 of the Coastal Trading Act:

(1) The object of this Act is to provide a regulatory framework for coastal trading in Australia that:

(a) Promotes a viable shipping industry that contributes to the broader Australian economy; and

(b) Facilitates the long term growth of the Australian shipping industry; and

(c) Enhances the efficiency and reliability of Australian shipping as part of the national transport system; and

(d) Maximises the use of vessels registered in the Australian General Shipping Register in coastal trading; and

(e) Promotes competition in coastal trading; and

(f) Ensures efficient movement of passengers and cargo between Australian ports.

1.4 Though the Coastal Trading Act entered force on 01 July 2012, almost 2 years ago, there is little evidence that the policy aspirations of this legislation have been met, or are likely to be met, through its effect. In fact the converse is the case. The Australian blue water shipping industry has continued to contract and SAL is aware that a number of international shipping companies have also withdrawn from offering coastal shipping services due to increased costs and administrative burden of compliance with the current regulations. The result is reduced competition, less efficiency and increased cost in coastal cargo movement.¹

1.5 We note that the coastal freight volumes highlighted in Annex 1 to the Options Paper show that their decline commenced well before the introduction of the *Coastal Trading Act*. SAL submits that the extension of the *Fair Work Act* to international ships operating under coastal

¹ Member X contends that the current processes are working well. Cargo is moving with the potential for more, licence requirements are clear and so are the extra wage requirements under FWA.

voyage permits has been a significant factor in the reduction in coastal trade. This impact was foreseen even before the new regulations came into effect:

“In our view, the relevant implications of her proposals on a policy that, in one form or another, has been in existence in Australia since 1912, will likely be that it will drive up costs and effectively push much more domestic cargo onto road and rail, which, in turn, will increase rather than reduce Australia’s carbon pollution because shipping has been shown to have considerably lower CO2 emissions compared to road and rail.”²

1.6 Since the introduction of the Coastal Trading Act, indications from monitoring the number of east-west container movements (Melbourne to Fremantle) are that coastal container movements have shown further decline, while the road and rail volumes have shown steady growth.

1.7 The Government must decide what it wishes to achieve from coastal shipping regulation and recognise the true cost and implications of achieving that outcome. A key question is why should legislation protect an uncompetitive Australian maritime industry of a few thousand workers at the expense of many thousands of other Australians in the primary production and manufacturing industries?

1.8 It has been argued that Australia needs a blue-water shipping industry to develop the skilled personnel to support its ports and maritime administration. However, realistically, maritime skills are in a global marketplace and Australia has, and will continue to successfully source experienced personnel from our vibrant brown-water maritime industry, the Royal Australian Navy or the international marketplace.

1.9 The protection of national shipping industries through regulation has never been successful in developing that country’s shipping industry into an internationally competitive one. SAL members believe that Australian blue-water shipping must become internationally competitive if it is to be sustainable; there is simply not enough volume of coastal cargo to sustain a purely domestically focussed blue-water Australian shipping industry across all shipping sectors. The only effective way to encourage the growth of the Australian flag or the AISR is to provide incentives that make it worthwhile for shipping companies to adopt it. There is nothing preventing Australians becoming seafarers and participating in international shipping, a viable coastal shipping industry will only increase those opportunities.

1.10 We note that the Government has recently indicated policy objectives, such as the removal of red tape and the reduction in levels of subsidisation of specific industries, which question the continuing validity of the original CTA objectives. Additionally, the recent Commission of Audit identified that:

“Cabotage rules – that preserve freight routes from one Australian port to another for Australian-flagged shipping – are effectively industry assistance, increasing costs and reducing competition.”³

² SAL Media release of 20 July 2009

³ Towards Responsible Government, The Report of the National Commission of Audit, Phase Two, March 2014, p.29

1.11 Recommendation 4⁴ stated that, “An efficient and well regulated transport system is critical to the cost structure and competitiveness of Australian business” and recommended, “abolishing the cabotage policy”.

1.12 SAL contends that the movement of coastal freight must be competitive with the movement of international freight in order to avoid disadvantaging Australian producers and manufacturers attempting to sell domestically. The reduction of international tariffs and the introduction of free trade agreements have already changed the international trading landscape, reducing the protection of domestic industries. At least Australian industries should have access to long haul transport options on similar terms to international competitors. In the case of the container and car sectors the most economical way to carry these cargoes by sea is to carry it incidental to the carriage of international cargo, however the current regulations make this difficult.

1.13 We are cognisant of the fact that the high cost of domestic shipping has resulted in it being cheaper to import some goods from overseas, rather than to move it between domestic ports. It is also apparent that increased costs for coastal shipping of containerised cargoes have led to increased use of road and rail; this doesn't make sense, either economically, environmentally or from a safety perspective.

1.14 There is little doubt that the restrictions in the Coastal Trading Act and its interaction with the Fair Work Act are impeding international shipping lines from participating effectively in the coastal trade, resulting in a reduction in shipping options and competition in the market. The outcome is higher costs for shippers, opening our primary producers to import substitution and making Australian manufactures less competitive in getting their products to domestic markets.

1.15 The impact of existing regulation is different on different sectors of the shipping industry. While the bulk shipping sector is the most contested, their cargo volumes are predictable, whereas in containers there is no real competition, but volumes are variable and margins slim. In the large cruise-shipping sector, the lack of any domestic competition has already been recognised by the exemption granted to cruise ships greater than 5,000 GT operating around the Australian coast (except Tasmania), but this arbitrary tonnage limit does impact on the potential growth of the sector.

1.16 In view of the above, SAL recommends changes to the current coastal shipping regulatory regime.

Objectives

2.1 SAL members recognise the need to reform the current system, which discourages carriage of coastal cargo by international carriers through unwieldy bureaucracy, a high administrative burden and unnecessary cost penalties. The result is an inefficient coastal trading regime that reduces the competitiveness of Australian products in domestic markets and encourages import substitution and shifts long haul cargo from sea, to road and rail.

⁴ *ibid*

2.2 SAL members would like to see revised Government objectives that *recognise the benefits and encourage use of coastal shipping as a viable and attractive part of Australian transport infrastructure, complementing road and rail as the preferred method of long haul transport* as it is:

- safe,
- environmentally efficient, with the lowest tonnes/km carbon emissions of all modes by far,
- cost competitive with other transport modes and international shipping, and
- requires the lowest level of national infrastructure development.

2.3 To meet such objectives SAL members recommend eliminating unnecessary bureaucracy and red-tape and removing the anti-competitive provisions contained in the CTA and other legislation unless there is a clear case which demonstrates a net benefit to the broader Australian community. The outcome should be:

- a simple regulatory regime, the lowest level of regulation that meets Government objectives,
- a stable regulatory environment for coastal shipping to operate, not likely to be repealed on the next change of Government, and
- removal of all regulatory barriers that increase costs but do not improve outcomes for Australia.

Broad Policy Options

The Options Paper presented three broad policy options for reform of coastal shipping.

3.1 Option 1: Remove all regulation of access to coastal trading

3.1.1 This option is clearly non-feasible for the reasons expressed in the Options Paper. As such, it will not be further considered.

3.2 Option 2: Remove all regulation of access to Coastal Trading and enact legislation to deal with the effects of other Australian Laws.

3.2.1 SAL **supports** Option 2 and considers that this option would be the most effective in reducing red tape and encouraging maximum participation of international vessels in the Australian coastal trade.⁵ Such action would undoubtedly:

- increase competition in coastal trading,
- increase smaller cruise ship sector participation, benefiting the Australian economy,
- reduce costs to shippers and customers,
- improve Australian manufacturers' competitiveness in domestic markets,
- reduce import substitution
- increase domestic coastal trading volumes,

⁵ Not supported by member X

- reduce congestion on road and rail, improving capacity for future trade growth, and
- reduce freight carbon emissions.

3.2.2 New legislation would need to provide necessary and appropriate exemptions from the Customs Act (including vessel importing), Migration Act (including working visa requirements), Tax Act (including fuel excise and royalty withholding tax), Fair Work Act, movement of intrastate cargo (such as under “opt in” provisions of CTA Section 12) and other domestic legislation that might otherwise prevent international vessels effectively participating in the coastal trade. Similar and additional exemptions may be considered for Australian flag or Australian International Shipping Register vessels to enable them to compete fairly in the coastal and international trades.

3.2.3 While such provision could be made in one piece of legislation to address these issues, the risk of tackling such a variety of issues in a single piece of legislation, is that a future Government may re-introduce the existing regime by simply removing the solitary mechanism which enables the revisions. The industry needs a stable, long-standing regime, which enables long-term planning.

3.2.4 While SAL supports this option and considers that it would be the most effective in promoting competitive coastal shipping, it has a number of inherent risks, particularly:

- this course of action may attract strong opposition and thus be a target for reversal at the next change of Government, thus reducing stability in regulation,
- a complicated regulation revision process would be necessary to ensure that all necessary protections from Australian domestic laws are provided in the new exemption legislation,
- loss of any regulatory levers to ensure minimum levels of service to non-commercially viable ports, and
- the possible loss of Australian flag and Australian crewed ships if they cannot be competitive in an open competition regime.

3.2.5 The particular challenge of maintaining sufficient cargo services to Tasmania is not easily overcome in this regime. There are simply too many ports and not enough cargo volume to ensure competitive shipping services in a fully deregulated environment. However, consortia arrangements with slot swapping agreements may assist in providing some levels of competition.

3.2.6 In the event of maintaining some level of regulation of the coastal trading regime, SAL members would support a limitation on foreign flagged ships not to trade continuously on the Australian coast, for longer than three months.

3.3 Option 3: Continue to regulate coastal trade, but minimise industry burden and costs

3.3.1 Regulatory stability is an important factor for SAL members. Shipping Australia recognises that some level of regulation of coastal shipping is more likely to gain bi-partisan political support and therefore provide more regulatory stability than Option 2.

3.3.2 SAL also recognises that the major impediments to effective and competitive coastal trade could be removed by adjustments to the regulatory framework within the current regime.

3.3.3 It is also important to note that, of the sectors of coastal trading, a number of sectors, including container, pure car carrier and heavy lift, have no Australian flag or General Licence participants. Their existing temporary licence (TL) applications are invariably uncontested (with the exception of Bass Strait). For these vessel types the regulatory and cost burdens imposed serve absolutely no practical purpose. There is also very little competition in the break-bulk sector and it is geographically limited.

3.3.4 Taking the above factors into account, SAL **recommends** Option 3⁶ with the following priorities for regulatory reform:

- removal of the application of the FWA to foreign flag coastal shipping,
- removal of the requirement to apply for TL in blocks of 5,
- stream-lining of TL application processes:
 - automatic granting of licence in uncontested trades
 - include ability to change discharge port at short notice in extenuating circumstances,
 - ensure fair competition between General Licence (GL) and foreign flag (FF) TL vessel operators,
 - automatic approval of CTA Section 12 “Opt in” for intrastate voyages,
- amendment of the cargo tolerance provisions to allow:
 - simple volume reporting only in uncontested trades
 - cargo volumes variance up to the capacity of the ship⁷
- extend the applicability of the CTA to include intrastate and cargo movements to facilities not currently designated as ports, such as FPSO.

3.3.5 Removal of the application of the FWA to Coastal Shipping⁸

3.3.5.1 SAL members consider that the application of the FWA to coastal shipping from January 2010 has been the single most damaging factor to participation and competition in coastal trade. It creates:

- administrative burden for compliance,
 - recording of working hours and calculation of FWA payments
- difficulty in ensuring that Part B payments reach intended personnel,
 - implementing administrative arrangements for ensuring payments reach crew members often employed by a third party,
 - more difficult or not possible on slot charter/swap arrangements
- risk of prosecution and substantial court costs,
 - maintain audit trail and proof of payment records
- inequitable and unacceptable costs on variable domestic cargoes,
 - the domestic cargo carried must cover **all** of the additional costs of FWA wages,
 - cargo rates vary depending on the volume of domestic cargo carried,
 - difficult to sell cargo space without certainty of cost and schedule

⁶ Member X also recommends Option 3 but with less changes, see Annex B

⁷ Member X considers that increasing the cargo tolerance to 30% would be suitable.

⁸ Not supported by member X

- uncertainty of cargo carriage – for liner services operating on a fixed schedule, if not enough domestic cargo is available to offset the additional costs, then none of the cargo may be carried, delaying delivery and discouraging future consignments.
 - Average additional FWA Part B cost per voyage (plus additional administrative costs of managing domestic business of approximately \$80k p.a.)
 - Melbourne to Fremantle \$33k/ship,
 - Brisbane to Fremantle \$60k/ship (i.e. plus \$300 each for 200 TEU, but not economic to carry 100 TEU at +\$600 each)

3.3.5.2 Maritime Labour Convention. The global introduction of MLC in August 2013 now allows port state control to audit the pay and conditions of crews of foreign flag ships, to ensure compliance with ILO standards. This now ensures that the crews of ships operating on the Australian coast are being fairly remunerated in accordance with internationally prescribed standards and so overcomes previous concerns of fair wages being paid to ships operating on the Australian coast. Additionally, compliance with the MLC imposes an obligation on shipowners to provide minimum standards in relation to food, accommodation, living and working conditions, and supersedes the necessity to impose Australia's FWA to ensure fair working conditions.

3.3.5.3 Differing personal taxation regimes. The differing and, in many cases, more favourable taxation treatment of seafarers' in their home countries could mean that under the FWA application it is possible that these foreign seafarers are effectively being paid more than Australian seafarers. This seems counter intuitive.

3.3.5.4 Level the playing field. Another reported aspect of application of FWA is to level the playing field for competition between Australian and foreign flag ships. This is effectively a financial penalty on foreign flag ships, to discourage their participation. This aspect has been effective and has driven foreign flag ships out of the coastal market – leaving very few operators. As shippers trading coastal cargo bear the extra cost of FWA compliance the 'level playing field' is being tipped in favour of international imports.

3.3.5.5 What is being protected? As noted above, pay and working conditions of seafarers are now auditable and enforceable under the MLC. In container, heavy lift, pure car carrier and break bulk (in most locations) there is no Australian flag or general licence shipping operating on the coast in competition with foreign flag shipping, so the additional costs of paying FWA Part B wages to foreign crews, serve no purpose. On the contrary the additional costs do impact on the economics of the trade, reduce competition in coastal trade, and increase prices for Australian businesses and consumers.

3.3.5.6 Inconsequential Cargo Volumes. In the liner trades, inconsequential amounts of domestic cargo could be carried incidental to the international voyage. The application of the FWA means that the carriage of small cargo volumes is not feasible, as the entire additional FWA wages cost must be covered by the domestic cargo shipper. For a volume of 200 TEU the additional cost per TEU would be \$300 from Brisbane to Fremantle or \$165 Melbourne to Fremantle.

3.3.5.7 Legal risk. The large number of legal and Fair Work Commission proceedings that have arisen in relation to the granting, or otherwise, of temporary licences and the application of FWA wages, is evidence that current regime is confusing and has made administration and compliance confusing.

3.3.6 Removal of the requirement to apply for TL in blocks of 5

3.3.6.1 The requirement to apply for temporary licences in blocks of 5 has complicated the TL system. Combined with the ability of parties who are not directly involved in the shipment or carriage of goods to apply for TL, this has led to unofficial trading in TL, which has distorted the market. Whilst implications for different sectors vary, the 5 licence requirement is generally impractical.

3.3.6.2 In combination with the requirement to forecast cargo volumes at the time of application, it is unworkable. For a monthly service, for example, this would mean forecasting cargo volumes five months ahead, which is impossible for the liner, car carrier and break bulk sectors. The requirement removes flexibility and prevents short notice coastal cargo demands being met.

3.3.6.3 All SAL members strongly recommend the removal of the ‘blocks of 5’ requirements.⁹

- Liner services (container or PCC) can predict the timing of licence requirements and could plan 5 licences ahead, but do not know cargo volumes,
- break bulk and heavy lift are usually one-off jobs with no requirement for future licences, they also need to respond to short notice requests for movement of urgent cargoes, such as broken/replacement machinery,
- bulk may have single or regular cargoes to carry, and some may be contested.

3.3.7 Streamlining of TL application process and increase flexibility

3.3.7.1 The process of TL application needs to be streamlined, such as through a web interface (as previously advised as intended by the Department) and the scope of licences should be widened. SAL recommends that:

- licences should be automatically granted for uncontested shipping sectors,
- approval of other licences should be expedited by data matching the application with the availability of GL vessels, and thus reducing the requirement for notification and response,
- automatic “opt in” under CTA section 12 for intrastate applications, removing the duplicate requirement for a state permit,
- for the break-bulk industry there is a need for flexibility in discharge port, or allowing multiple consignments from a common loading port on the one TL. Break-bulk voyages currently require separate TL for each consignment, which can prevent short notice cargoes being carried and ships sailing with unused capacity, while cargo is not shipped,
- the ability to change discharge port in extenuating circumstances is required. At present, once a voyage has commenced, the discharge port cannot be amended without a formal variation, which would not normally be possible within operational time-frames. This has led to costly consequences when the intended discharge port is congested or closed and an alternate port is clear and available but cannot be used due to the TL discharge port being locked in.

⁹ Member X agrees this position

3.3.8 Ensure fair competition between GL and foreign flag TL vessel operators

3.3.8.1 There are reports from the contested bulk shipping sector that holders of GL have manipulated the TL application process by objecting to other TL applications for a particular cargo on the basis of their GL, but then substituting their own TL ships to carry the cargo. This situation needs to be carefully reviewed and arrangements put in place so that a ship operator can only play their GL ‘trump’ card for the number of GL ships that are available to carry the contested cargo. This prevents the effective negotiation of long-term contracts, thus reducing certainty and introducing price volatility for both shipper and shipping company.

3.3.8.2 The application, contesting and granting of TL in the bulk shipping sector has proven to be an unwieldy and complicated process with a number of matters only resolved by the courts.

3.3.8.3 With regard to the object of the CTA, some have assumed that to Sections 3(1)(a), (e) and (f), favourable consideration will be given to arguments that shippers should be able to access the most competitive freight rates possible (and, accordingly, that commercial factors are a consideration that should be taken into account in decisions regarding whether to grant or refuse TL applications). On the other hand, the Australian flag shipping operators have assumed Sections 3(1)(b), (c) and (d) of the CTA to mean that favourable consideration will be given to demands presented by Australian flagged general licensed ships (or foreign flagged ships operating under transitional general licences) to refuse TL applications if they are contested, even if it results in higher costs for shippers.

3.3.8.4 The Full Court of the Federal Court of Australia recently delivered judgment in the *CSL v Rio* Appeal that the Minister’s Delegate had erred by viewing commercial matters such as freight rates and a proposed liquidated damages clause as relevant to the mandatory considerations in the legislation when weighing up the application of a TL by an overseas carrier against the objection by an Australian flagged GL holder. All three Appeal Judges held that the mandatory considerations to which the Delegate must first have regard are limited to the suitability of the ship, the timeliness of carriage and the reasonable requirements of a shipper of the kind of cargo specified in the application. Commercial considerations such as freight rates and the proposed liquidated damages clause are not reasonable requirements of a shipper of the kind of cargo specified in the application (as distinct from the reasonable requirements of the shipper of the cargo) and are not relevant to the assessment of the mandatory considerations.

3.3.8.5 This ruling sets aside earlier judgments on the treatment of commercial issues in the Department’s review of objections by Australian operators of any TL application. Such commercial considerations can only come into play via the Minister’s discretionary powers, which have not yet been tested but, we would assume, to have a low probability of success.

3.3.8.6 This ruling means that weight given to freight cost when the Minister’s delegate decides on approving a TL, is low. The delegate must give preference to a GL holder if the ship is suitable, carriage of cargo can be done in a timely manner and it meets the reasonable requirements of the shipper in relation to the type of cargo. But that does not extend to the commercial considerations of the shipper.

3.3.8.7 The necessity to resort to the courts to resolve questions on the granting of TL is clearly not satisfactory and leads to uncertainty and substantially increased costs for coastal trading. SAL recommends that:

- substantial regulatory clarification is needed on the weighting of factors to be considered in decisions on contested TL applications,
- safeguards are put in place to prevent a GL holder from objecting to a TL application on the basis of their GL ship capacity, then substituting their own TL ships to carry the contested cargo.

3.3.8.8 One of the requirements of the coastal shipping reform package was a ‘compact’ between employers and the unions to discuss making the conditions of employment of Australian crews more competitive. This compact was poorly reported but also an ineffective exercise with no significant achievements reached. The conditions of engagement of Australian crews remain well in excess of anything else in international standards and remain one of the greatest costs factors driving the necessity for higher freights on coastal cargoes from GL ships. If we are to have true reform this aspect also needs to be reviewed.

3.3.9 Amendment of the cargo tolerance provisions

3.3.9.1 While in some sectors cargo volumes can be predicted, this is not so for liner services offering regular services, or for making the best use of break bulk capacities once a voyage has been confirmed. Some cargo bookings occur inside the current 48 hour notification limit imposed by the current TL, so the cargo cannot be carried despite space and opportunity - this is wasteful.

3.3.9.2 SAL recommends that:

- cargo tolerance levels are increased, and that this increase should allow cargo to be carried up to the maximum capacity of the ship,
- advance cargo volume notification provisions are removed for uncontested shipping trades such as liner shipping services, heavy lift and break bulk and replaced with actual volume reporting. This would allow all available cargo to be carried, provide more accurate data and significantly reduce administrative overheads.

3.3.10 Extend the applicability of the Coastal Trading Act

3.3.10.1 The limitation of the definition of *Coastal Trading* under CTA to relate to carriage of passengers or cargo from/to a port in a State or Territory (Section 7) has caused some difficulties with its operation. In effect this limitation prevents the granting of a TL for a vessel operating between offshore floating production storage and offloading facilities (FPSO) and Australian ports. Thus international vessels undertaking this role do not receive the protections that the CTA provides from other Australian legislation (such as Customs Act and Immigration Act).

3.3.10.2 Another area of difficulty exists when a domestic cargo is consigned from one Australian port to another Australian port via transshipment at an overseas port. Neither vessel is by definition engaged in Coastal Trading, however the cargo is domestic. Under the current

regulations it appears that the only option is to export and import the cargo at additional cost and administration.

3.3.10.3 Intrastate cargo movements are also problematic with State permits required in some circumstances. The extension of the CTA (currently a Ministerial declaration under Section 12) to automatically cover intrastate voyages under the one system would improve efficiency.

3.3.10.4 SAL recommends that:

- the CTA is extended to cover the transit of cargoes from an Australian port that is not in a State or Territory, such as offshore production facilities,
- one coastal trading system cover interstate and intrastate cargo movements,
- other regulatory changes be made to allow for domestic cargo to be transferred between Australian ports via overseas transshipment.

3.3.11 An alternative regulatory option for liner shipping

3.3.11.1 For liner shipping services the CTA is anti-competitive but provides no benefit to Australia. In this trade, international vessels operating on regular services could carry inconsequential amounts of domestic cargo incidental to their international voyages, however the unwieldy regulations effectively prevent most carriers from offering these services as the administrative processes are difficult to comply with and the additional direct cost of the FWA makes the carriage of small volumes uneconomic.

3.3.11.2 All vessels that carry coastal cargo incidental to trading internationally should not be subject to coastal shipping regulations. Vessels passing through Australian waters while on a continuous journey from a foreign port to another foreign port, which stop in an Australian port to load or unload international cargo, must be allowed to carry coastal cargo, as carriage of coastal cargo is incidental in relation to the carriage of the international cargo. This will enable shipping companies to offer a dedicated/scheduled coastal service. Competition in coastal trading will ensure that freight costs will fall, which will advance the interests of Australian producers, manufacturers and consumers.

3.3.11.3 SAL members consider that the implementation of simple coastal trading regulation along the lines of the regime on cabotage operating in New Zealand (Maritime Transport Act 1994, see Annex C), which appears to be working reasonably well, could be suitable to cover the liner shipping sector.

Conclusion

4.1 Shipping is an integral part of the supply chain and it could provide a safer, more environmentally friendly and a more economical mode of transport for the movement of long haul freight. This would lead to overall efficiencies gains in the movement of freight, maximising the efficiency of existing networks. Historically, coastal shipping was the primary means of transporting interstate cargo, and road and rail networks were established later. Increasing the freight load on coastal shipping is a viable and safe option, which will contribute significantly to reduced congestion on roads and allow for future freight growth. Coastal shipping also enables the movement of cargo in bulk and cargo that is too large to be carried by other modes of transport.

4.2 The FWA and CTA have not been successful in promoting the development of the Australian shipping industry, but together they reduced the efficiency and utilisation of coastal shipping. The removal of the application of the FWA from international shipping that carries coastal cargo will not harm or disadvantage anyone, yet its application is a significant impost and is damaging the Australian workforce and our economy.

4.3 The protection of national shipping industries through regulation will not develop Australia's shipping industry into an internationally competitive industry. The only effective way to encourage the growth of the Australian flag or the AISR is to provide incentives that make it worthwhile for shipping companies to adopt it.

4.4 The amendments to the regulatory environment proposed above will result in:

- greater participation of international shipping in coastal trade,
- increased competition and lower prices for long haul freight benefiting Australian producers, manufacturers and consumers,
- the option for sea transport from a larger range of ports,
- increased demand for coastal cargo movement, therefore greater opportunity for Australian flag or Australian International Shipping Register ships to enter the market, as long as they can be internationally competitive,
- reduced congestion in road and rail allowing them to focus on time critical cargoes and meet future growth demands, and
- reduced carbon emissions from long haul freight.

4.5 The outcome sought by SAL members would be a bipartisan supported, simple and stable coastal trading regulatory environment that will encourage a cost effective and flexible coastal shipping service to operate for the benefit Australian producers and customers. This will facilitate intra-Australian sourcing, reducing the cost pressure for import substitution and thus strengthen the domestic market. The result will be more cost effective for producers and consumers and deliver productivity gains for Australia.

Part 2 – Responses to Discussion Questions

(1) Should the provision of maritime transport services be regulated differently to the provision of other transport services in Australia?

Yes. SAL contends that shipping is essentially different from other modes of transport in that it is an international market and provides the interface between Australia and the rest of the world. There is a marked difference between the blue-water shipping services, and brown water, or local shipping services. Blue-water shipping services operate from established, usually deep-water ports and carry passengers and/or cargo on long haul routes, which generally include international destinations. Australia's unique circumstance, its large size, island disposition and long distances between ports, puts much of our coastal trading squarely into the blue-water shipping sector.

Internationally, blue water shipping services are highly competitive and very efficient. Our maritime transport services need to be internationally competitive, otherwise we will not be able to move and sell our products domestically. It is often closer and currently cheaper to transport goods between overseas ports and Australia than, to move similar goods around Australia.

SAL members are not opposed to paying the standard charges of GST and Freight Tax when the vessels are engaged in carrying coastal cargo, although it must be acknowledged that the Governments (State or Federal) are not called upon to provide infrastructure to support maritime transport to the same extent as they do road and rail.

Rebates applicable to road transport must also apply to maritime transport (e.g. Diesel fuel rebate). We recommend the Bunker Excise collection and rebate process, including the Greenhouse Abatement Tax, should be streamlined into a single charge to remove the dual handling by Customs and ATO resulting in delays in rebates. We also believe that any revised coastal trading regime should be applicable to all coastal cargo i.e. for interstate cargoes and intrastate cargoes. There should only be one governing process. Individual States or Territories should not dictate the process for intrastate cargoes.

(2) Should access to coastal trade be subject to regulation?

SAL recognises that some form of regulation is required to enable coastal trading vessels to operate effectively within Australia's complicated legislative framework. Coastal shipping must be open to international competition for the overall benefit of the Australian Taxpayer and Australian businesses trading domestic goods.

Coastal trading should be supported by:

- a simple regulatory regime,
- the lowest level of regulation that meets Government objectives,
- a stable regulatory environment for coastal shipping to operate, not likely to be repealed on the next change of government, and
- removal of all regulatory barriers that increase costs but do not improve outcomes for Australia.

(a) If so, what should be the key policy objective for the regulation of coastal trade? Is it to support the most cost effective shipping options for buyers of shipping services, or to protect and promote the Australian maritime industry, or another objective?

The key policy objective of the regulation of coastal trade must be promotion of maritime transport for freight, as a viable and effective part of Australian transport infrastructure, complementing road and rail as the **preferred method of long haul transport**, recognising that it is:

- safe,
- environmentally efficient, with the lowest tonnes/km carbon emissions of all modes by far,
- requires the lowest level of national infrastructure development,
- cost competitive with other transport modes, and
- cost competitive with international shipping.

A secondary policy consideration should be promotion (not protection) of the Australian maritime industry; however, this should not be at the expense of a cost effective and a flexible service to suit the shippers.

The protection of national shipping industries through regulation has never been successful in developing a country's shipping industry into an internationally competitive one. SAL members believe that Australian blue-water shipping must become internationally competitive if it is to be sustainable; there is simply not enough volume of coastal cargo to sustain a purely domestically focussed blue-water Australian shipping industry across all shipping sectors. The only effective way to encourage the growth of the Australian flag or the AISR is to provide incentives that make it worthwhile for shipping companies to adopt it. There is nothing preventing Australians becoming seafarers and participating in international shipping, a viable coastal shipping industry will only increase those opportunities.

b) If not, what benefits would arise if there were no licensing requirements to access coastal trading opportunities?

A fully open cost would provide significant benefit to shippers, manufacturers, producers and Australia by way of:

- increased competition in coastal trading,
- increased smaller cruise ship sector participation, benefiting the Australian economy,
- reduced costs to shippers and customers,
- improved Australian manufacturers' competitiveness in domestic markets,
- reduced import substitution,
- increased domestic coastal trading volumes,
- reduced congestion on road and rail, improving capacity for future trade growth, and
- reduced freight carbon emissions.

(3) To what extent should the existing provisions be removed, amended or retained?

Prior to the enactment of the new Coastal Trading Act, coastal cargo was under the previous permits (CVP's and SVP's) system issued under the provisions of the *Navigation Act, 1912*. That system appeared to work reasonably efficiently and it adequately facilitated the carriage of coastal cargo by international carriers, while providing sufficient protection for Australian "Licenced" vessels when they were available to participate in the carriage of such cargo. Our members have found the new regulations to be cumbersome, which has led to considerable additional administrative burden on carriers in conforming to the new regulations, with some withdrawing from the trade.

See **Part 1** for detailed comments on three broad policy options set out in the Options Paper.

(4) What effects would repealing the Coastal Trading Act have on:

(a) Owners or operators of Australian flagged ships?

We note that there are currently only 45 Australian registered ships that hold general licences and a further 16 foreign registered ships that hold transitional general licences, with the same operating rights. We are aware that the number of Australian flag vessels has reduced by three since the new legislation was introduced, however there has been an increase of vessels granted a General Licence.

There are very few vessels on the GR providing coastal services that would compete with internationally flagged vessels.

Most Australian flag ships are in the Bass Strait trade and local coastal operations using small vessels and barges. A small number operate bulk liquids and dry bulk.

If the CTA were repealed it is likely that those that would compete with international vessels would seek a different register that provided them the most competitive opportunities.

(b) Crews on Australian flagged ships?

Where Australian flag vessels are able to offer a viable service, there would be no effect on crews on Australian vessels.

There is no reason that Australian seafarers could not obtain employment on foreign flagged vessels.

(c) Buyers of coastal shipping services in Australia?

There will be significant benefit to buyers of coastal shipping services by way of reduced costs, improved flexibility and reduction of bureaucratic administration costs, if the CTA is repealed.

(5) Would repealing the Coastal Trading Act in isolation encourage or discourage the presence of foreign flagged shipping services?

Repealing the Coastal Trading Act, without introducing new legislation to provide exemption from the application of other Australian laws would preclude foreign flag ships carrying domestic cargo in most cases.

There would be no impact on foreign flag vessels trading to and from Australia on international voyages.

The result would be an inability to move domestic cargo by sea and an increase of import substitution.

(6) What is the likelihood of ships remaining on the Australian General Register if the Coastal Trading Act were repealed without replacement legislative provisions?

- Existing ships would be likely to remain on the Australian General Register in the short term;
- there would be a severe under-capacity in all sectors of coastal shipping, which would severely impact shippers wishing to move domestic cargo, and increase prices to unsustainable levels;
- there would be a massive increase in import substitution;
- the demand for movement of domestic cargo would disintegrate, and
- there would be no demand for ships to carry coastal cargo, and these ships would leave the Australian Register.

(7) Would opening the coast, supported by legislative changes, reduce freight rates for Australian shippers?

Yes, there would be more international vessels willing to participate in the coastal trade resulting in increased competition. There would be a reduction in administrative compliance costs, increased certainty in domestic schedules, and likely, an increased demand for coastal shipping. All of these aspects would contribute to lowering freight rates for Australian shippers.

(8) Would there be any risk to the availability and supply of tonnage if there was no regulation of Coastal Trading? Are there ways to mitigate shortages in supply?

There would be no risk to the availability and supply of tonnage if there were no restrictions placed on coastal trading. In fact, there would be an oversupply of vessels competing for such cargo.

(9) What is the likelihood of ships remaining on the Australian General Register if the coast were opened as described?

Ship owners would seek to choose the flag state registration that provides the best outcome for their business. Unless there were further incentives for Australian flag ships, many are likely to seek a more beneficial flag.

(a) What measures would need to be in place to prevent a decision to reflag overseas?

There are currently some incentives and assistance for local operators, however, in general, they are not as favourable as some foreign flags who wish to encourage national flag shipping.

If the Government wishes to retain Australian flag shipping then they need to consider whether further taxation incentives may be appropriate. Taxation exemptions for seafarers in combination with a move from FWA to ITF awards could be effective in increasing the attractiveness of the Australian flag and its competitiveness with international shipping.

(10) What are the impacts (including workforce and financial) of reflagging a ship from the Australian General Register to the register of another country, or to the Australian International Shipping Register?

We assume that this question will be addressed by those owners/operators that currently have vessels on the General register.

(11) What is the most appropriate regulatory mechanism to exempt foreign vessels undertaking coastal trading voyages from the importation provisions in the Customs Act?

Either new legislation to provide exemption from this provision (and other Australian legislative implications) or retention of a modified and simplified CTA, as described in Part 1.

(12) To what extent does the 5 voyage requirement assist general licence holders in identifying future trade opportunities?

SAL does not represent GL holders but, from discussion within the industry, it appears that the requirement for 5 voyage applications has not proven to be of any real benefit to GL holders. However, we are aware that it has made it more difficult for international ships to offer their services using TL.

(13) How significant is the burden of applying for voyages in groups of 5 to holders of temporary licences?

The requirement is an administrative burden and can impede operators that work in the spot charter market, from offering services. This is particularly so in the break-bulk, heavy-lift/project cargo sectors, where there are single, short notice demands that often cannot be met. If there is a short notice booking and there is a need for a single voyage to be made, the applicant would need to find another four voyages to add, in order to lodge the application to meet the 5 voyage minimum. This causes uncertainty, speculation and makes it difficult to accept future cargo bookings, or comply with the 5 voyage requirement.

Those offering regular liner services may not have the same complications as others who may have to speculate voyages in order to achieve the minimum number. However liner operators cannot predict their cargo volumes very far out and will invariably have to make amendments causing additional administrative burden.

(14) To what extent would removing this requirement affect the market information available to holders of general licences?

SAL does not represent GL holders.

(15) Would removing consultation processes (and thus expediting consideration) for voyages where minor changes (such as amending the volume of cargo only), provide meaningful benefit to temporary licence holders?

Removing consultation process will expedite the application process, which would be of some benefit.

It is usual for minor changes to occur mainly with respect to the volume of cargo. The consultation process adds considerable additional costs and unnecessary administrative burden to licence applicants. It must also be noted that consultation process does not entail a requirement for General Licence holders to respond, and delays the application even when the shipping sector is uncontested.

It is strongly recommended that the consultation requirement for amendments to existing voyages especially for changes in volumes, be withdrawn. This can have very disruptive effects even after cargo carriage contracts rates have been agreed.

(16) To what extent do the existing consultation times for variations provide a reasonable opportunity for general licence holders to lodge a notice in response against proposed voyages?

SAL does not represent GL holders.

We recommend removing the existing consultation period for uncontested trades, as it is a burden on the industry and there is no tangible benefit for vessels on the General Register.

In contested trades the consultation periods appear reasonable, however GL holders should only have the ability via the licence application process to have first option to avail themselves to carry the cargo, if they are able to do so with their GL vessels.

(17) How could the current process be improved to minimise the regulatory burden?

If a regulatory regime is to remain in place, key recommendations for change have already been included in Part 1, section 3.3. Other considerations are:

- there is value in considering reverting back to the previous ‘permit’ based regime applicable pre 01 July 2012. That system, based on ‘time periods’ allowed greater certainty to any operator negotiating to carry cargo on multiple voyages, over a period. Operators of vessels on the GR were able to contest the cargo if they could offer a service at the commencement of a new period rather than at the commencement of each voyage, or at a point when a variation was required and the TL was again opened up to being contested. This provided better certainty of shipping supply to manufacturers and producers,
- authorise the carriage of a specified cargo type by a specified ship type, rather than a specified volume, therefore allowing greater flexibility in tonnage loaded and remove the requirement to apply for variations which introduces uncertainty by opening up the voyage to being contested again,
- there should be automatic granting of TL or ‘time permit’, without the need for notification and response, if the particular trade sector is uncontested, i.e. there is no vessel on the GR that can carry a particular cargo type between particular port pairs.
- the current Temporary Licence processing time should be reduced significantly by logical assessment of the application: i.e. assessing/matching existing GL vessels with the cargo characteristics. Such as heavy lift capacity/volume and square metre cargo capacity, on board general licence holder vessels. Negating the need to notify and consult if there is no appropriate GL available,

- there must be more flexibility in TL to allow for a change in the port of discharge of some cargo after loading, if there is congestion or in instances where there is an industrial dispute preventing cargo being discharged in the nominated port.

(18) To what extent does the presence of acceptable tolerance limits hinder the ability of industry to adjust and adapt to unforeseen environmental or business developments?

The specification of acceptable tolerance limits reduces the adaptability and flexibility of the vessel operator and the certainty for the Australian based customer, that his cargo will be carried at the agreed rates. Tolerance levels are proving to be a disincentive to providing a coastal service.

Tolerance limits of +/- 20% of nominated cargo do not allow for late changes to shipping arrangements beyond the control of the operator, such as the late addition or cancellation of cargo. Unfortunately late addition or cancellation of cargo is a standard business practice and carriers are often unable to carry additional cargo booked at short notice.

Endeavouring to comply with +/- 20% allowance is difficult to administer and particularly difficult to comply with if the initial application was for a small volume. The requirement to advise of variations two business days prior to loading through an authorised matter variation, is also unworkable.

While in some sectors cargo volumes can be predicted, this is not so for liner services offering regular services, or for making the best use of break bulk capacities, once a voyage has been confirmed. Some cargo bookings occur inside the current 48 hour notification limit imposed by the current TL, so the cargo cannot be carried despite space and opportunity, this is wasteful and increases cargo costs.

(19) Should tolerance limits be retained as a measure to encourage the use of Australian ships for cargoes subject to volatile volume or timing fluctuations?

Tolerances limits do not appear to be a lever to encourage the use of Australian ships and should be removed or relaxed.

(20) Should tolerance limits be retained as a check and balance on the conduct of temporary licence voyages but be eligible for extension or waiver by discretion of the Minister or the Minister's delegate?

Tolerances limits should be relaxed or removed such that:

- a ship is authorised to carry cargo up to the maximum capacity of the ship,
- advance cargo volume notification provisions are removed for uncontested shipping trades such as liner shipping services, heavy lift and break bulk and replaced with actual volume reporting.

These changes would allow all available cargo to be carried, provide more accurate data and significantly reduce administrative overheads.

(21) What is the current experience with the Australian International Shipping Register?

SAL does not represent any owners with ships on the AISR. We believe there are no ships currently on the AISR.

Our members have noted that they see no business reason to consider changing their ships to the AISR.

(22) How could the Register be improved?

The only effective way to encourage the growth of the Australian flag or the AISR is to provide incentives that make it worthwhile for shipping companies to adopt it.

Considerations could include:

- additional tax incentives provided for such vessels and/or seafarers,
- possible preferences on coastal cargoes to AISR flag vessels,
- international working conditions aligned to the MCL and ITF.

(23) What are the experiences of stakeholders with regard to the expanded application of the Fair Work Act to coastal trading?

This matter has been dealt with in Part 1, Section 3.3. The following additional comments are provided on this important matter.

A temporary license holder that has conducted two or more voyages under a temporary license in the last 12 months is required to apply the provisions under the Fair Work Act 2009, to foreign crew employed on such vessels. An international shipping company is primarily engaged in carrying import/export cargo to/from Australia. The carriage of coastal cargo is incidental to this international voyage. The application of the Fair Work Act to coastal trading is an administrative and economic burden to vessel operators, and is the most significant factor taken into consideration by such operators in deciding whether to partake in the carriage of coastal cargo. The application of the FWA has resulted in a significant increase in shipping costs, which has resulted in cargo moving to more environmentally unfriendly modes of transport (road or rail), or has resulted in sourcing of such cargo from overseas.

The following also must be noted:

- in some instances coastal cargo is only a very small percentage of the total amount of international cargo onboard,
- the additional cost burden is the same irrespective of whether the ship carries one tonne or 5000 tonnes of cargo, which means that if only a small amount of cargo is carried, shippers of small amounts of cargo have to bear the total additional cost of carriage, which may make it financially unviable.
- the application of the FWA to coastal shipping has not increased the employment of Australian nationals on either foreign flagged or General Licenced vessels,
- the argument for those employed in Australian coastal trade to be paid appropriate Australian based wages fails, as it must be acknowledged that those employed on foreign vessels are domiciled overseas and they do not have to meet Australian standard of living costs and conditions. They may also be subject to beneficial taxation

systems; this means that their take home pay exceeds Australian equivalents. Furthermore, their wages are not spent in Australia,

- the application of the FWA to coastal shipping has been the main reason there has been an overall reduction in the number of vessel operators offering coastal shipping services, thereby reducing competition.

The following table of actual figures shows the additional cost burden on a domestic container carried from Melbourne to Fremantle due to FWA Part B wages payments on 5 TL voyages. The vessel is approximately 3500 TEU and carrying predominately international cargo. These costs do not include the administrative costs of managing the calculation and ensuring that the wages reach the intended recipients.

Note: on the final voyage, only 177 TEU were carried, pushing the cost per TEU to \$218.

Number of crew members	Total Domestic TEU Carried	FWC \$	Avg cost per voyage per TEU
25	224	39159	175
26	248	34005	137
25	244	36065	148
28	190	34865	184
26	177	41543	235
Totals	1,083	185637	171 Average

Additional Costs Due to FWA Part B Wages

(24) How has this experience differed for stakeholders? (eg domestic or international ship operators, shippers and seafarers)

It has added significant costs for TL holders, which naturally has to be passed on to Australian customers, if they are to continue offering a coastal shipping service. This has resulted in a significant reduction in the coastal cargo carried since the introduction of the FWA, and later the CTA.

Seafarers earning a higher wage under the FWA Part B, when compared to ITF/international guidelines, during the period when the vessel is engaged in the carriage of coastal cargo, have been very happy with the regulation.

Some owners of chartered ships have refused to permit the carriage of coastal cargo, not because of the additional cost (which is paid by the charterer) but due to the extra administrative burden in arranging alternate pay scales and conditions for the duration of the carriage of Australian coastal cargo. Given that the major proportion of vessels currently in operation is chartered, this is proving to be difficult.

(25) What implications for Fair Work Act coverage may arise as a result of any changes to current arrangements under the Coastal Trading Act?

SAL strongly recommends the removal of the application of the FWA to coastal trading, as it has not resulted in any benefit at all to Australia or Australians. The application of FWA Part B wages has been destructive to coastal shipping, it has not provided any benefit to Australia and the Maritime Labour Convention is now enforceable in Australia and provides sufficient protection for seafarers, such that the general provisions of the FWA are no longer necessary.

The impact has seen a modal shift from the sea to rail/road, and both volumes and prices for carriage by rail have increased since the introduction of the new regime.

The combined effect of the Coastal Trading Act (2012) and the extension of the Fair Work Act (2009) to workers on foreign-flagged vessels engaged in coastal shipping, has led to a reduction in interest from international vessels engaging in the Australian coastal trade and, consequently, reduced shipping options and increased costs to those wishing to move domestic cargo.

(26) Are the current arrangements for cruise ships appropriate?

Yes, however the reliance on a Ministerial determination to provide the exemption for cruise ships greater than 5,000 GT lacks certainty and tends to reduce the level of investment in this sector.

(27) Are temporary licences for cruise ships practicable?

No. The cruise industry requires certainty of the operating environment, as it has to make long-term deployment decisions and publishes itineraries up to 2 years ahead of sailings. These arrangements could be significantly compromised if the ability to undertake domestic cruises within those deployments/itineraries requires individual licence applications per voyage.

(28) Are the existing exemptions for cruise ships at the right level?

(a) Should the existing exemption be extended or withdrawn?

They are reasonable, however Australia would benefit if the 5,000 GRT limit was abolished to allow the smaller international explorer/expedition ships to compete in the Australian market.

Indeed the cruise ship operators are tending to the view that the industry would be better off without any coastal trading legislation, as proposed in Option 2 of the Options Paper. The current reliance on Ministerial declaration of exemption is unsatisfactory as it can be changed at any time and discourages investment in the Australian market.

A legislative change that provided increased certainty of the future regulatory environment would encourage investment. Opening the coast to smaller cruise vessels would also provide the ability for the international explorer vessels to compete in the Australian market place and add further regional economic benefits.

**Annex A to
SAL 14046****Shipping Australia Members – May 2014**

APL Company Pty Ltd
A.P. Moller-Maersk A/S
Asiaworld Shipping Services Pty Ltd
Austral Asia Line Pte Ltd
BBC Chartering Australia Pty Ltd
CMA CGM & ANL Agencies (Australia & New Zealand)
Evergreen Marine Australia Pty Ltd
Five Star Shipping & Agency Co Pty Ltd
Gulf Agency Company (Australia) Pty Ltd
Hamburg Sud Australia Pty Ltd
Hapag-Lloyd (Australia) Pty Ltd
Hetherington Kingsbury Pty Ltd
Hyundai Merchant Marine (Aust) Pty Ltd
Inchcape Shipping Services Pty Limited
"K" Line (Australia) Pty Limited
Mediterranean Shipping Company (Aust) Pty Ltd
Mitsui OSK Lines (Australia) Pty Ltd
Monson Agencies Australia Pty Ltd
NYK Line (Australia) Pty Ltd
OOCL (Australia) Pty Ltd
Pacific Asia Express Pty Ltd
PB Towage (Australia) Pty Ltd
Royal Caribbean Lines Cruises Ltd
Seaway Agencies Pty Ltd
Ship Agency Services Pty Ltd
Svitzer Australia Pty Ltd
The China Navigation Company Pte Ltd
Wallenius Wilhelmsen Logistics A/S
Wilhelmsen Ships Service A/S

Contributing members – (Discussion Agreements/Consortia)

ANL Container Line Pty Ltd
China Shipping Container Liner Co. Ltd
Hanjin Shipping Co Ltd
Neptune Shipping Line Pty Ltd
Pacific Forum Line (NZ) Ltd
Sinotrans Container Lines Co Ltd
T.S. Lines Ltd
Yang Ming Marine Transport Corp

**Annex B to
SAL 14046****Member X Coastal Shipping Position**

Member X had significant input into the current Coastal Trading Act and is of the view that:

- the current processes are working well. Cargo is moving with the potential for more, licence requirements are clear and so are the extra wage requirements under FWA,
- there are currently no impediments to cargo moving either in rate, or space terms. The current regime gives some discipline and order in terms of certainty of ongoing space (MLS) and rate stability to customers. It is these factors that will enable cargo to be mode shifted off rail/road and onto sea,
- The departmental TL application process is straight forward, swift and in tune with cargo requirements.

Member X therefore supports Option 3, with the only changes being:

- to drop the 5 voyage minimum, and
- increase the tolerance from 20% to 30% given cargo drop-off's experienced in the container trades.

Member X does not agree with the other recommendations in the SAL submission.

**Annex C to
SAL 14046**

Extract from Section 198 of the Maritime Transport Act 1994 (New Zealand)

198 Coastal Shipping

(1) No ship shall carry coastal cargo, unless the ship is—

(a) a New Zealand ship; or

(b) a foreign ship on demise charter to a New Zealand-based operator who employs or engages a crew to work on board the ship under an employment agreement or contract for services governed by New Zealand law; or

(c) a foreign ship—

(i) that is passing through New Zealand waters while on a continuous journey from a foreign port to another foreign port, and is stopping in New Zealand to load or unload international cargo; and

(ii) whose carriage of coastal cargo is incidental in relation to the carriage of the international cargo.

(1A) A ship referred to in subsection (1)(c) may only load and unload coastal cargo—

(a) at a New Zealand port at which it loads or unloads international cargo; or

(b) at a New Zealand port that it is scheduled to pass in the course of its continuous journey.

(2) If, in any case, the Minister is satisfied that there are no ships of any of the kinds specified in subsection (1) available to carry any coastal cargo, the Minister may authorise the carrying of coastal cargo in that case by any other ship on such conditions as the Minister considers appropriate (including any conditions relating to occupational safety and health); and every authorisation granted under this subsection shall, subject to subsection (5), have effect according to its tenor.