



Australian Shipowners Association

Executive Summary

This submission addresses four issues:

- The competition issues that arise between local and foreign ships due to the nature of the application of the 'equivalent carbon price'
- The competition issue that results between ships and trucks (modal shift)
- The lack of ability to create international linkages in the future for a carbon price on ship emissions
- The inability to access offsets to provide an incentive for early action

Introduction

ASA represents Australian companies who own or operate international and/or domestic trading ships, cruise vessels, domestic towage and salvage tugs, scientific research vessels and offshore oil and gas support vessels. The Association also represents employers of Australian and international maritime labour. ASA Members' fleets utilise some 19 different flags of registry and 25 nationalities of crew.

The 'trading fleet' Members of ASA include companies whose primary business is to provide sea transport services to the freight market as well as companies whose shipping operations form an element of their supply chain. ASA Members participating in domestic trade utilise coastal licences, single voyage permits and continuing voyage permits. ASA Members are active in dedicated international trades under both Australian and foreign flags. Notably some of ASA's Members are very large cargo interests.

The Association provides an important focal point for the companies who choose to base their shipping and seafaring employment operations in Australia. The Association provides a range of support services and advice in the areas of ship operations and safety, environment, human resources, workplace practices, government relations, commercial operations, public relations and international direction.

ASA has two key objectives:

- 1) To support and build the business of shipping in Australia.
- 2) To strengthen the skill base required to support and sustain the shipping industry and other maritime-related industries.

ASA's Members are:

- ANL Container Line
- ASP Ship Management
- BlueScope Steel
- BP Australia
- Caltex
- Carnival Australia
- EMAS Offshore
- Farstad Shipping (Indian Pacific)
- Mermaid Marine
- MODEC
- North West Shelf Shipping Service Co.
- P & O Maritime Services
- PB Towage
- Perkins Shipping
- Queensland Alumina Limited
- SeaRoad Shipping
- Svitzer Australia
- Swire Pacific Offshore
- Rio Tinto Marine
- Shell Tankers Australia Pty Ltd
- Teekay Shipping (Australia)
- The Shell Company of Australia
- Tidewater Marine

Competition Issues

It is understood that transport fuels are not included in the 'mechanism' and rather will be subject to an 'equivalent carbon price'. There is no emissions threshold to be reached before transport fuels are included.

The domestic transport task can be described as a competitive environment where local ships, rail and road directly compete with each other and foreign ships in the carriage of domestic cargo and passengers. It is critical that all transport modes compete on a level playing field.

Ship vs Ship

The structure of the current fuel tax regime and how it applies to all ships will not provide a level playing field in the application of the equivalent carbon price and will result in local operators being disadvantaged against foreign operators.

The domestic shipping industry currently competes with foreign shipping for the carriage of domestic cargo. However, Australian ships face much higher costs than foreign ships¹. Any additional cost burden to Australian shipping that is not also borne by foreign ships will render Australian vessels even more uncompetitive.

Many foreign ships are able to take on enough fuel at overseas ports to avoid the need to refuel in Australia.

It is understood that the current fuel tax regime requires that fuel that is imported into the country and is consumed in a 'domestic voyage' is required to be declared which results in the relevant excise/duty being paid and fuel tax credits provided. However, the following advice, received from the Australian Government, describes how 'domestic voyage' is determined:

The ATO website provides guidance on when a ship should be considered to be on a domestic voyage, essentially the sole purpose of the voyage must be for the purposes of carrying domestic cargo. Partial loads of both international and domestic cargo will not generally constitute a domestic voyage. For detail information please refer to the ATO guide developed in consultation with Customs and Border Protection.

Many ships (including almost all container shipping) carry partial loads of international and domestic cargo and thus would not be captured by the definition of a domestic voyage and would therefore avoid paying the equivalent carbon price.

The Government has committed to a shipping reform process which is well underway that aims to address some of the competitiveness issues between local and foreign ship operators. While the detail of the reform package is still being considered within Government, the industry is confident of a positive outcome. The impact of the equivalent carbon price as currently structured will be to increase the costs on local operators that are not borne equally by foreign operators. This outcome is inconsistent with the Government's objective of revitalizing the Australian shipping industry.

It is essential that local vessels and foreign vessels which operate in direct competition for domestic cargo and passengers have the equivalent carbon price applied equally. The CPRS white paper (page 6-12) recognized this issue and committed the government to put in place measures to ensure all shipping that carries domestic cargo will face an equivalent carbon cost.

The carbon price must apply equally to vessels that carrying domestic cargo or passengers.

¹ See explanation of 'cabotage and information on international voyages at Annex I

The Australian Shipowners Association urges the government to make a similar commitment in relation to the proposed equivalent carbon price and welcomes any opportunity to work with the Government to ensure a fair market mechanism is implemented which does not inadvertently disadvantage the local Australian shipping industry.

Modal shift

There is a proportion of the domestic freight task that is contestable between different modes of transport.

Shipping is the most efficient form of long-haul bulk transport on a tonne-kilometre basis.

Emissions reduction is likely to be able to be achieved through modal shift away from road to shipping and rail. Modal shift within the transport industry is a low cost abatement option.

The exclusion of heavy vehicle road users in the initial stages of the clean energy scheme will artificially distorted the market forces that drive behavior regarding modal selection and potentially encouraging modal shift away from the most efficient freight transport options.

ASA recommends removing market distorting rebates, such as the exemption of heavy vehicle road users operating in contestable freight markets.

International Linkages

Article 2, Paragraph 2 of the Kyoto Protocol specifically excludes emissions from shipping through the exclusion of international marine and aviation bunker fuels. This occurred in recognition of the global nature of shipping and the difficulty in assigning ship sourced emissions to economic activities of specific countries.

The Kyoto Protocol recognised that ship sourced emissions are most appropriately dealt with through the International Maritime Organisation (IMO).

The IMO recently adopted technical and operational measures to reduce CO2 emissions and is attempting to reach agreement on the application of ship specific market based measures².

It is essential that this work at the IMO is recognized by the Government by providing mechanisms to allow the industry to transition to an international shipping industry carbon price when available and desirable.

It is understood that the EU abandoned carbon tax proposals on shipping on the basis of the IMO initiatives.

It is essential that international linkages within the Australian scheme are adequate to allow shipping operations captured by a domestic carbon price to transfer into a global shipping carbon market when one is developed.

² See explanation of international developments at the IMO at Annex II

Offsetting

It is unfortunate that no offsetting will be permitted for the fixed carbon price arrangements. Offsetting provides an incentive for early action to achieve real, measurable reductions in global carbon emissions as early as possible. Shipping companies continue to invest in sustainability projects both ship and shore based within Australian and across the region particularly in the South Pacific. Future investment in projects should be encouraged and facilitated the clean energy future package.

Offsetting should be made available to shipping companies as this provides an incentive to achieve real, measurable reductions in global carbon emissions as early as possible.

Annex I - Cabotage

Australia has in place a system of cabotage. Cabotage in Australia is no more than a requirement to pay Australian rates of wages³ to the crews of ships licensed by the Navigation Act (Nav Act) to trade on the coast.

This is conceptually a non-tariff barrier to the entry of non-Australian operators into Australian coastal sea transport.

The Navigation Act 1912 imposes no cabotage barriers as to nationality of a ship or her crew; the Act says nothing of conditions of employment such as leave or seafarers' social security.

Cabotage in Australia is very simple. What makes it complicated is first, the consequences of cabotage for those operating under it and, secondly, the mechanism available to those who are able to operate outside it.

For the purposes of this discussion a ship operating under Australia's cabotage regime is a licensed ship and a ship operating under what is known as a permit, which is a ship that is available to perform a task for which no licensed (i.e. cabotage) ship is "available".

In order to dispel any misconceptions, the government should note that the cabotage system for shipping does not protect the Australian industry from foreign competition.

The following four points summarise the various ways 'shipping' is conducted in Australia.

- 1) There are several ways a ship can be deemed to be undertaking an international voyage, even though they are carrying domestic cargo within Australia.
- 2) A large portion of Australia's domestic freight task (approximately 30%) is undertaken by permit ships which by definition are considered to be on international voyages even though the domestic legs can be up to three months long.
- 3) The Australian domestic sea freight task is highly contestable between licensed and permit ships.
- 4) An Australian registered ship has no priority over ships registered overseas.
- 5) Australian registered and/or manned ships are subject to a higher operating cost due to the regulatory environment they operate in versus the more liberal environments available to foreign registered ships.

There is a raft of technicalities involved in the legislation and administration of the above. These are described below to give a sense of why a differentiation between vessels or voyages will potentially fail to capture the desired participants from the shipping sector.

Why Cabotage doesn't prevent competition

The information below provides some background into the legislative environment leading to the Australian shipping industry competing directly with international ships for domestic cargo in circumstances where the Australian industry must operate from a higher cost base that has no connection to the provision of a quality service.

Under Australia's cabotage system, Australian coastal transport could be divided into two groups:

³ *Navigation Act 1912*, s.289

- Licensed ships⁴:
 - On the face of it, these ships enjoy preference for cargoes that might be otherwise carried by non- licensed vessels
 - Under Part II of the Navigation Act licensed ships are also covered by the Seafarers' Rehabilitation and Compensation Act and the Occupational Health and Safety (Maritime Industry) Act which require insurance and OH&S measures - these are in addition to P&I and IMS requirements⁵, international standards imposed upon whole international industry.
 - Under Part VI, these ships are required to pay the seafarers Australian rates of wages.
 - Can be of any 'flag' (or country of registration)
 - May trade constantly on the Australian coast or may trade only occasional on the Australian coast

- Non Licensed ships:
 - The Navigation Act (Part VI) provides for the issuing of permits to vessels to operate in coastal trades where there is no licensed ship available* to carry the cargo.
 - Permits issued to ships are of two types – Single Voyage Permits (SVPs) and Continuing Voyage Permits (CVPs).
 - Single voyages (from one Australian port to another Australian port)
 - Continuing voyages (trading between Australian ports for up to 3 months)

* There is significant uncertainty around the determination of when a ship is “available” and the criteria for determining “availability” are quite broad and discretionary ranging from issues of suitability of the vessel to commercial matters of the freight rate or price and the public interest.

Australian registered and/or manned ships are subject to a higher operating cost due to the regulatory environment they operate in verses the more liberal environments available to foreign registered ships.

In a hierarchy of costs, a licensed Australian registered and manned vessel operates with the highest costs. A licensed foreign flagged and manned vessel operates with a lower cost base (particularly if only on domestic trades for part of the time). A permit (or non-licensed) vessel operates with the lowest cost base.

Competition for carriage of domestic cargoes can arise on the basis of several considerations including suitability of the vessel, availability of the vessel and the cost of moving the freight.

⁴ Under Part 6 of the *Navigation Act 1912* there is a provision for the issuing of licenses to ships in the Australian coastal trade. Ships that operate with a license in the coastal trade are also covered by Part 2 of the Navigation Act.

⁵ This has the effect of doubling the OH&S and Compensation burden of licensed ship operators.

Existing interpretations of “International Voyages”

Voyage definitions or interpretations are used in Australian shipping administration and capture a variety of circumstances as outlined below.

To demonstrate how both permit and licensed vessels can be deemed to be on an international voyage we provide the following examples:

When a ship enters the country Customs make a decision as to whether the ship needs to be imported or not⁶.

- If the ship is carrying domestic cargo under permit it is deemed to be still on an international voyage (by nature of the ship being in receipt of a permit)
- If a licensed ship is carrying domestic cargo but has any international cargo onboard the ship is still deemed to be on an international voyage

There are a range of seaborne tasks that may or may not include ports as points of embarkation or disembarkation, such as in the offshore oil and gas sector.

The above demonstrates that various determinations can be made with regard to what constitutes an “international voyage”.

⁶ There are consequences to importing a ship which are important to the owner and operator but have little relevance here so are not discussed. ASA can provide further detail if requested.

Annex II - International Shipping Industry Developments and the IMO

The IMO Marine Environment Protection Committee has already developed a package of measures for reducing shipping's CO2 emissions, with an agreed timetable for adoption. Inter alia, these include:

- Development of a system of energy efficiency design indexing for new ships (similar in concept to the ratings applied to cars and electrical appliances) – Adopted at MEPC 62 in 2011
- A template for a Ship Energy Efficiency Management Plan (SEEMP) for use by all ships. The SEEMP allows companies and ships to monitor and improve performance with regard to various factors that may contribute to CO2 emissions. These include, inter alia: improved voyage planning; speed management; weather routing; optimising engine power, use of rudders and propellers; hull maintenance and use of different fuel types.
- The ingredients for possible economic measures that could be applied globally to shipping in order to encourage emission reductions.

Governments at IMO have also agreed key principles for the development of regulations on CO2 from ships so that they will:

1. Effectively reduce CO2 emissions
2. Be binding and include all flag states
3. Be cost effective
4. Not distort competition
5. Be based on sustainable development without restricting trade and growth
6. Be goal-based and not prescribe particular methods
7. Stimulate technical research and development in the entire maritime sector
8. Take into account new technology.
9. Be practical, transparent, free of fraud and easy to administer

The international shipping industry fully subscribes to these principles.

The application of Market Based Instruments (MBIs) to international shipping is proving to be a most difficult subject to address. Governments held an in depth discussion of MBIs at a several recent meeting of the International Maritime Organization's (IMO) Marine Environment Protection Committee (MEPC) in 2010 and 2011 and proposals have included 'cap and trade' Emission Trading Schemes (ETS), and a carbon levy or tax system, which could be linked to a fund to help deliver further emission reductions. However, whatever measures may ultimately be decided, the international shipping industry believes that, as well as having a net environmental benefit, MBIs, if adopted, must be 'flag neutral' in order to avoid market distortions and maximise their effectiveness in reducing CO2 emissions.

In order to ensure that any MBIs applied to the industry are both workable and deliver real environmental benefits, it is vital that the shipping industry is fully engaged in discussions about the 'pros and cons' of all the various proposals.