MUA PRESENTS

FACT VERSUS ALC FICTION

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The Maritime Union of Australia (MUA) has been a strong advocate for the revitalisation of shipping for several decades, but particularly since 1996 when the reforms of the 1980s were dismantled by the Howard Government.

During the period since 1996 until the Gillard Government reforms passed the Parliament in mid June 2012 and commenced on 1 July 2012, we worked closely with shipping industry owners and operators, the associations representing those owners and operators, with academia, with think tanks and transport and logistics consultancy firms and, of course, with the Government to develop a sound policy package that was tailored for the Australian shipping industry. We researched all the world's cabotage systems, and at no stage did we advocate some other country's model, like the US Jones Act or European model, the Brazilian or Indonesian model. We developed a unique Australian model that was responsive to our volumes, our trades, our geography and that was consistent with other aspects of transport and logistics policy.

We were transparent and passionate about our advocacy. We argued the merits of robust and economically responsible policy that had the national interest in mind. It is true that there are more seafarer jobs in an expanding shipping industry, and that is good for seafarers and for the MUA. But, there are also more efficient supply chains, more taxation revenue, more support and service industry opportunities, and more investment in the economy. These are all good for the economy, for the business sector and for the nation.

By contrast, the ALC policy position is inconsistent when it comes to shipping. While the ALC has consistently argued for Government intervention to provide a sound and comprehensive regulatory framework for road and rail, and intermodal infrastructure, including support for Government funding of infrastructure, its approach to shipping is the opposite. It claims that shipping regulation, even light handed regulation as embodied in the 2012 shipping reforms, is unnecessary and is undermining competition. Thus, its schizophrenic and inconsistent approach suggests the ALC is running some political agenda to advance particular sectional interests.

In this context the ill-informed and misleading statements of the Australian Logistics Council (ALC) about Australian coastal shipping cannot go unchallenged. For an organisation that presents itself as a leader in the transport policy debate, and as an advocate of the Australian transport and logistics industry, it has demonstrated a policy ignorance of monumental proportions, and an embarrassing lack of understanding of the shipping industry in its statements about Australian coastal shipping.

The MUA has reviewed the ALC interventions in the Australian coastal shipping debate over the last 2 years and has identified its position to be a series of misinformation and disingenuous statements. This must surely call into question the integrity of the ALC. In what follows, we have pointed out the FACTs. We will let you be the judge.

Australian coastal shipping

The ALC's Dream World:

ALC has requested the review into the regime with the intention of removing restrictions, which prevent the efficient operation of the coastal trade.

(Source: 25 February 2013 – ALC Media Release entitled ''ALC calls for review to test objectives of coastal shipping legislation'')

The Real World:

These comments show that the ALC fails to understand the Coastal Trading Act nor does it have any idea of how the sea freight market works.

What the CT Act has done, combined with the taxation measures is establish a comprehensive package of reform that has in fact removed the barriers to enable shipping to compete with other freight modes on fair competitive terms in the domestic freight market, and in that way deliver efficiencies t shippers.

The CT Act has in fact established a new and transparent process to enable General Licensed vessels to contest coastal cargoes that would otherwise be carried on Temporary Licensed foreign ships, subject to a set of tests – tests that are largely self regulated with a light touch oversight by public officials acting under delegation of the Minister.

If the ALC had taken the time to understand shipping and to understand the legislation, they would realise that the legislation is carefully designed to ensure that where trade can sustain either a GL ship/s, or a combination of GL and TL ships where the combination of the 2 license types delivers a sustainable freight rate, as it does in the bauxite trade and the petroleum trade to name just two, there this is an acceptable and deliverable outcome.

It is that flexibility in the structure and operation of the CT Act that delivers the efficiency by creating the opportunity for shippers to move away from the high cost and variable spot market (represented by TLs and formerly permits) to sustainable and secure freight rates delivered through long term freight contracts which deliver business certainty and which have been a feature of the sea freight market since sea freight commenced.

Long term freight contracts deliver a competitive outcome, not just on price (freight rates) but also timeliness, fit for purpose ships, safe and environmentally efficient ships, highly qualified crews, ships that suit the requirements of Australian ports e.g. the need for self dischargers where port stevedoring cannot be sustained. These are areas where the efficiencies kick in and which makes GL vessels competitive.

The ALC's Dream World:

The ALC claims that the coastal shipping reforms were not justified through the government's regulatory impact statement (RIS). The RIS didn't attempt to quantify any of the additional costs that would be faced by shippers as a result.

The Real World:

The Government's Regulatory Impact Statement (RIS) did in fact show that the reforms would deliver a net present value benefit on 3 out of the 4 scenarios analysed (see Table 2 on Pvii of the

RIS found at **http://www.infrastructure.gov.au/maritime/shipping_reform/files/RIS_post_OBPR_20110816_formatted.pdf**).

The ALC's Dream World:

On January 25, soda ash company Penrice explained that it would begin importing rather than making soda ash. ALC claims that one reason given by chairman David Trebeck was "restrictive and costly coastal shipping regulation."
(Source: Penrice media release of 28 February 2013, and CEO investor public Conference Call of February 2013)

The Real World:

Penrice did not cite coastal shipping regulation as a factor in its decision to close its Australian soda ash manufacturing business in its investor briefings or in public statements. Rather, Penrice cited:

1. Declining demand in client industries such as the glass, detergent and aluminium market
2. The high Australian dollar
3. Increased import competition placing pressure on prices and margins
4. Continuing falls in major downstream markets such as construction
5. Labour cost increases in manufacturing
6. Government taxes and charges.

The ALC's Dream World:

The ALC has long advocated that the effect of regulation should not distort the mode by which consumers dispatch freight.

(Source: 13 April 2012 – The ALC Submission to the House of Representatives Standing Committee on Infrastructure and Communications Inquiry into the Shipping Reform Bills)

The Real World:

The ALC at no stage acknowledged that the liberal permit system that it passionately defended was premised on the continuing use of foreign labour using developing nation labour standards in the Australian domestic sea freight industry. It was this feature which distorted competition in the domestic freight market. The question must be asked: Does the ALC also advocate the use of foreign labour with foreign nation labour standards for domestic trucking, rail and aviation?

The ALC's Dream World:

The ALC said the move away from the way in which the current single voyage permit (SVP) system is administered may make the use of commercial shipping a less attractive option for shippers, leading to greater costs and competition for space on land based transport as well as increased congestion around cities and higher carbon emissions.

(Source: 5 March 2012 – ALC Comment on the Shipping Reform Bills)

The Real World:

Unless action was taken to revitalise the Australian domestic shipping industry by moving away from the permit system which

was undermining the Australian industry, by establishment of a fair competitive system that created conditions for investment in Australian coastal trading ships then there would inevitably be a transfer of freight costs to the land transport system and land transport infrastructure – the complete opposite of the ALC position.

The ALC's Dream World:

The ALC said that if the taxation incentives do not increase the number of Australian flagged vessels, the compliance costs imposed on industry members, including shippers, inherent in the provisions of the Coastal Trading Bill would effectively be deadweight losses passed on to customers with no benefit.

(Source: 5 March 2012 – ALC Comment on the Shipping Reform Bills)

The Real World:

The ALC at last acknowledges that if there are increased numbers of Australian ships, compliance costs will fall, which you would expect would be welcomed by ALC. However, it should be noted that the compliance costs on industry in conforming with the Coastal Trading Act are negligible and furthermore, the whole rationale of the legislative package is to deliver benefits to shippers in being able to secure long term freight contracts in reliable, safe Australian ships rather than reliance on the spot market process of the permit system or temporary license system where quality assurance is not guaranteed and has in fact led to major costs being borne by the industry e.g. the clean up of the container spill off Queensland, arising from a foreign FOC ship.

The ALC's Dream World:

The ALC said the general welfare of the Australian community is advanced if shippers have the capacity to use the most efficient method of shipping cargo from port to port.

The Real World:

The ALC has completely ignored the detrimental impact on the national interest through maintaining the SVP and CVP system in terms of maintaining a domestic seafarer skills base that a shipping nation requires to support its port operations, its pilotage services, its regulatory systems and its training providers. It has completely ignored the national interest in terms of the interlinking of the merchant industry with Navy in terms of national defence, nor of national security benefits to arise from maintenance of a domestic shipping industry and skilled workforce. It has completely overlooked the national interest in terms of ship safety benefits from Australian shipping. It has dressed up sectional interests as the national interest, and has harmed the credibility of the ALC.

17 February 2011 - The ALC response to the Department of Infrastructure and Transport Discussion Paper ''Reforming Australia's Shipping''

The ALC's Dream World:

The ALC queried how the proposal to consider the abolition of continuing voyage permits and a reduction in the use of single voyage permits is reflective of international best practice in the context of expanding Australia's productive capacity.

(Source: 17 February 2011 - The ALC response to the Department of Infrastructure and Transport Discussion Paper ''Reforming Australia's Shipping'')

The Real World:

The increasing use permits created a dysfunctional sea freight market that undermined investment confidence and simply lined the pockets of international shipping lines. International best practice requires a level field for competition to thrive – there was no level playing field under the permit system. Minister Albanese's shipping reform legislation is an attempt to level the playing field to enable Australian ships to compete on a level footing with other transport modes in the domestic freight market.

The ALC's Dream World:

The ALC said the restriction in the use of international vessels in domestic shipping, as proposed by the paper (the Department's shipping reform discussion paper of December 2011), moves Australia from having one of the world's more liberal cabotage regimes to one of the more restrictive models, thus restricting competition in the Australian domestic sea freight market.

The Real World:

The Discussion Paper did not advocate a restricted competitive model but rather a more balanced model of cabotage providing flexibility through the access by shippers to both Australian ships and foreign ships. Nor has the policy response, as reflected in the shipping reform legislation, created a restrictive competitive model. Not one party advocated a US Jones Act solution for Australia. The legislative package has delivered a flexible model that provides for more cargo to be carried on Australian General Licensed ships while maintaining a Temporary License system for foreign ships in circumstances where the cargo value or trade does not sustain one or more GL ships.

The ALC's Dream World:

The ALC submission claimed the tax changes were to be imposed on shippers.

The Real World:

There was never an intention to ''impose'' any tax changes, but rather, to provide discretionary tax concessions for ship owners and ship operators. Furthermore, the tax changes were never intended to apply to shippers, they was only ever intended for ship owners and ship operators. They actually offer one of the most generous investment stimulating tax benefit of any package offered to an Australian industry sector – bearing in mind that is required to ensure Australia is competitive in an international shipping market

Stevedoring

The ALC's Dream World:

There is a ''causal link'' between the establishment of FWA and more confrontational relationships. Negotiations between employers and unions are no longer just about pay, but about the ability of unions to ''dictate to management'' how the business would be run.

(Source: *Australian Financial Review* 20 April 2012)

The Real World:

There is no such evidence and we challenge the ALC to produce evidence for its claim. The MUA has exercised its limited right to take protected action in accordance with the Fair Work Act in support of fair wage outcomes during bargaining negotiations. We have never sought to dictate to management about how to run its business but we have and will continue to discuss issues which affect employees, such as rosters, safety, training and career progression. Does the ALC seriously argue that those are not matters on which workers have a legitimate interest and should be seeking agreed outcomes with the employer?

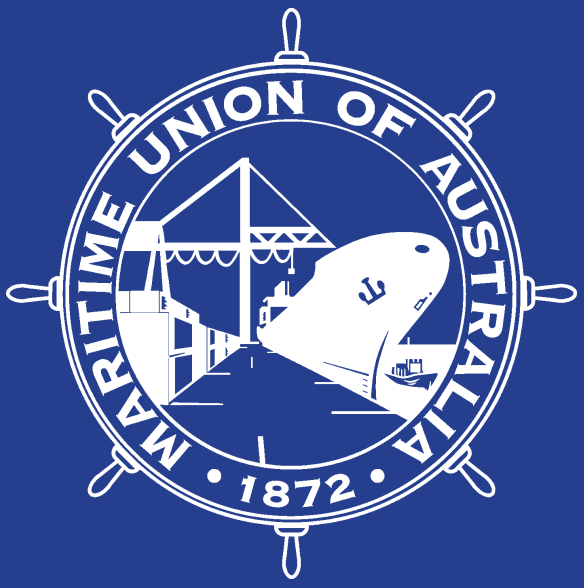
The ALC's Dream World:

Regarding the national stevedoring code of practice, the ALC claims the draft Code failed to meet seven key principles set down by the Office of Best Practice Regulation for the design of regulations.

(Source: 30 October 2012 – ALC Media Release headed ''Stevedoring Code of Proactive needs to Reflect Best Practice'')

The Real World:

The ALC simply quoted from an industry paper prepared by the stevedoring companies and Shipping Australia, which had its facts wrong. The so- called 7 key principles of best practice regulation identified in that industry paper do not reflect the current policy of the Australian Government. The 7 principles were apparently drawn from a 'checklist' in the Productivity Commission's annual report of 2001/02. The current requirements are set out in *The Best Practice Regulation Handbook* of June 2010, administered by the Office of Best Practice Regulation (OPBR). They make no mention of whether the regulation is prescriptive or performance based, but of course require a cost benefit analysis. The ALC made no mention of the costs to individuals, to the industry and to stevedoring operations of the high number of fatalities and serious injuries in the Australian stevedoring industry.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