Creating a more dynamic and resilient economy inquiry

Questionnaire response 82

Name: Maritime Union of Australia

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1. Support business investment through corporate tax reform

1. What features of the Australian business environment have encouraged or restrained investment over the past 10 years?

The MUA would like to make a submission in relation to state of Australian shipping. The Labor government has committed to revitalising Australian flagged shipping and embarked on several areas of reform, including the establishment of a Strategic Fleet and review into the Coastal Trading Act (CTA) and Shipping Registration Act (SRA). To provide context to our feedback to this review, we urge the Productivity Commission to review the Strategic Fleet Taskforce Report and the Government's response to the report. This submission will focus on aspects in the report about shipping tax incentives and Part X of the Competition of Consumer Act 2010 (CCA). Alongside the broader shipping regulatory framework, we believe these areas have restrained investment and tax incentives for shipping should be reformed.

Since the early 1990s, many developed countries have implemented fiscal and policy measures to support their domestic shipping industry. It is now accepted that it is in the national interest – that is defence and supply chain security to have a sustainable Australian registered and flagged shipping industry. There is a cost differential between Australian flagged vessels and those that are foreign flagged. Access to beneficial taxation and other arrangements can reduce operating cost differentials. The inability of Australian vessels to compete on a level playing field with international operators has led to the current decline.

The MUA understands that the government has not commenced designing assistance and taxation measures as recommended by the Taskforce (recommendations one, three and ten). We recommend that the Productivity Commission recommends this commence as a matter of priority and urgency. Reforms to the CTA and the SRA legislation cannot be separated from the other reforms that will give effect to both these Acts and support the Strategic Fleet.

The Australian Government reform shipping taxation incentives is a critical support measure to stimulate investment in new Australian ships and bareboat ship charters that will be necessary to implement the Strategic Fleet and successful reforms to the CTA.
This includes:
• Resolution of the design flaw in the current income tax exemption provision that applies to eligible shipping operators, whereby under the current design, the benefits to shipowners may effectively be clawed back when exempt profits of shipping operators are distributed to investors. To address this flaw, the shipping income tax exemption provisions in various tax laws (the Income Tax Assessment Act 1997 and the Income Tax Assessment Act 1936 (as amended by the Tax Laws Amendment (Shipping Reform) Act 2012) require amendment to:
o Introduce deemed franking credits in respect of dividends to resident shareholders; and

o Introduce a dividend withholding tax exemption in respect of dividends to non-resident shareholders.
• Refining the definition of core shipping activities in the Shipping Reform (Tax Incentives) Act 2012 to include:
o Ships that are used wholly or mainly in, or in any operations or activities associated with or incidental to, exploring or exploiting the mineral and other non-living resources of the seabed and its subsoil, aimed at providing incentives for offshore oil and gas vessel owners/operators to register their vessel/s in Australia; and
o Ships that are used in the construction and servicing/maintenance of offshore wind turbines aimed at ensuring these ships are Australian registered.
• Amending the Income Tax Assessment Act 1997 at s61-705 (Who is entitled to the seafarer tax offset), so the offset is available to all seafarers, regardless of occupational classification, and to seafarers engaged on a wider range of shipping activities and ships than currently applies (including for Australian seafarers engaged on foreign registered ships).
• Amending the Income Tax Assessment Act 1997 to allow Australian resident seafarers employed by foreign corporations in foreign shipping activities, to manage their own tax affairs, so that rather than the shipowner, operator or employer needing to claim a tax rebate from Government, each individual seafarer should be able to seek an exemption themselves when lodging a tax return if they are an Australian taxpayer. This would provide a complimentary seafarer income tax structure for those not employed by Australian companies or on Australian registered ships aimed at encouraging foreign ship owners and operators to employ Australian seafarers.
• Amending the GST and Customs duty requirements so that Australian ships are not disadvantaged relative to foreign registered ships when operating in coastal trade.
• Legislate a ships capital grant scheme similar to that which was in place from 1987 to 1996 under the Ships (Capital Grants) Act 1987.
• Introduce a bunker fuel rebate (at around 25 per cent) for Australian ships on both laden and ballast legs of a voyage aimed at reducing freight costs and lessening the disparity between Australian and foreign ships.

These reforms will provide investment certainty, encourage long term investment and level the playing field between Australian flagged and international flagged vessels.

Secondly, foreign shipping cartels protected by Part X of the CCA are price gouging in the Australian container freight market. It exempts liner shipping operators (ocean carriers) that register agreements with the Department of Infrastructure, Transport, Regional Development, Communications, Sports and the Arts from key parts of the CCA relating to anti-competitive conduct.
Part X allows liner shipping operators with registered agreements to:
• Fix prices;
• Pool or apportion earnings, losses or traffic;
• Regulate capacity, and
• Coordinate schedules.

The MUA believes it is time to review the costs and benefits and whether the exemption is still fit for purpose. During the pandemic the MUA believes the actions of foreign shipowner cartels were exploitative. For example, a number of shipping lines introduced a congestion charge and were allowed to cream profit out of the domestic freight market by the provisions in, and administration of the CTA, while avoiding Australian tax

obligations and exploiting foreign seafarers.
Foreign shipowners/operators/charterers are exploiting flaws in the CTA to eliminate Australian flagged ships and employment of Australian seafarers in the domestic freight market. Australian taxation and customs laws applying to ships favour foreign shipowners and foreign corporations.
The MUA believes there is a case for reform and the strengthening of international shipping regulation.

2. What elements of the corporate tax system encourage and/or discourage investment and risk-taking?

   The participant did not respond to this question.

3. Which parts of the corporate tax system do you find the hardest, or most time or cost-intensive to comply with? How could the compliance burden of the business/company tax system be reduced?

   The participant did not respond to this question.

2. Reduce the impact of regulation on business dynamism

1. What areas of regulation do you see as enhancing business dynamism and resilience? What are the reasons for your answer?

   The participant did not respond to this question.

2. How has your regulatory burden changed over time?

   The participant did not respond to this question.

3. What regulations do you find time-consuming, overly complex or otherwise constraining business dynamism and resilience? What are the reasons for your answer?

   The participant did not respond to this question.

4. Can you share any specific examples of where you think a regulator has done a good or bad job of understanding and reducing regulatory burden on businesses and why?