

s22(1)(a)(ii)

s22(1)(a)(ii)

From: Zielke Judith [mailto:Judith.Zielke@infrastructure.gov.au]**Sent:** Thursday, 5 June 2014 9:01 AM

To: s22(1)(a)(ii)@immi.gov.au; s22(1)(a)(ii)@immi.gov.au; s22(1)(a)(ii)@austrade.gov.au;
 s22(1)(a)(ii)@austrade.gov.au; s22(1)(a)(ii)@treasury.gov.au; s22(1)(a)(ii)@employment.gov.au;
 s22(1)(a)(ii)@treasury.gov.au; s22(1)(a)(ii)@employment.gov.au

Cc: KENNEDY Leanne (Infrastructure); s22(1)(a)(ii)**Subject:** FW: Coastal shipping - options for way forward [SEC=UNCLASSIFIED]

Good morning all

Papers for today's meeting.

With regards

s22(1)(a)(ii)

A to Judith Zielke

Judith Zielke
 Executive Director
 Surface Transport Policy Division

Department of Infrastructure and Regional Development
 Level 2, 111 Alinga Street
 CANBERRA ACT 2600
 Phone: s22(1)(a)(ii)
 Mobile: s22(1)(a)(ii)
 Email: judith.zielke@infrastructure.gov.au

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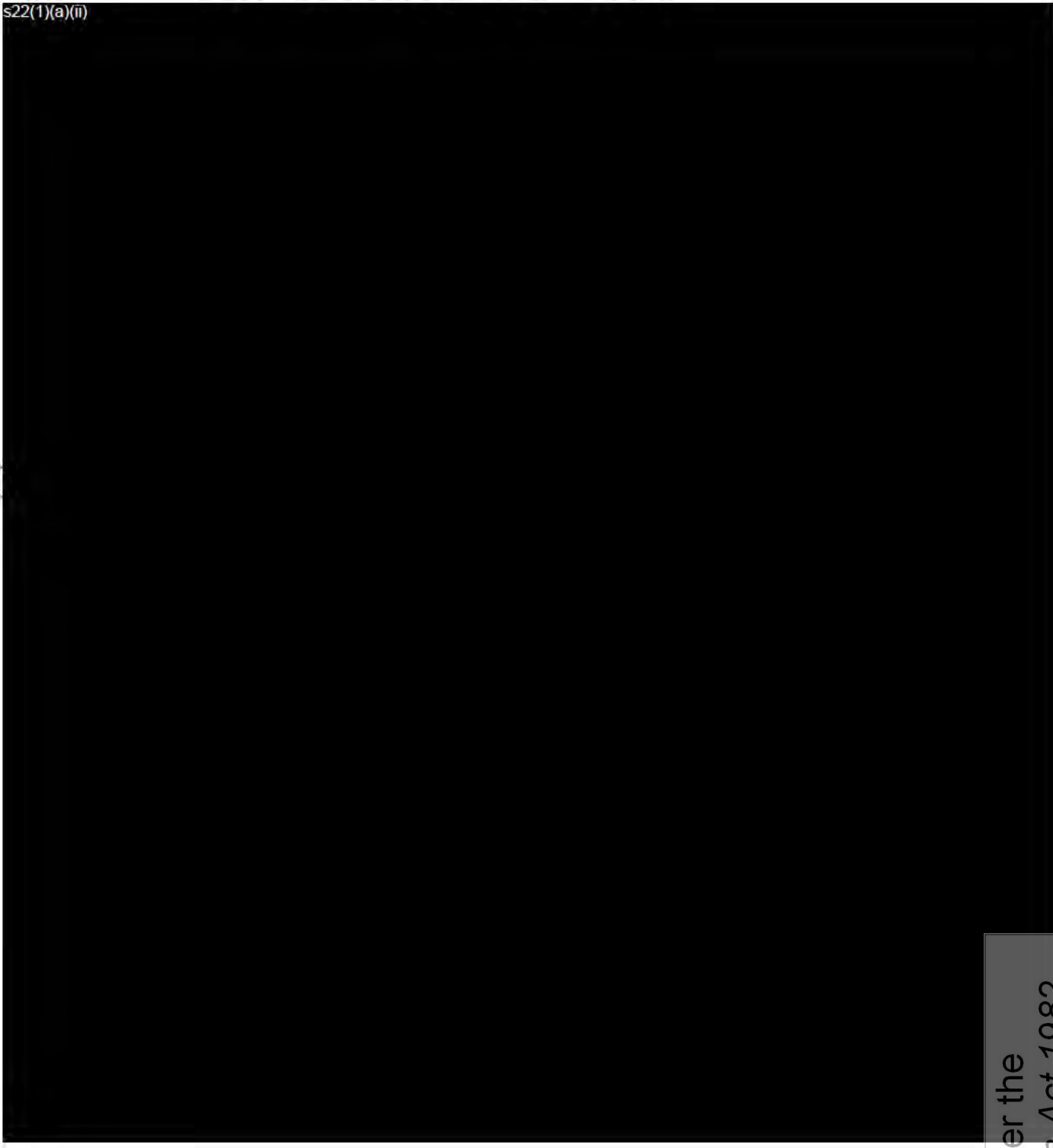
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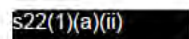
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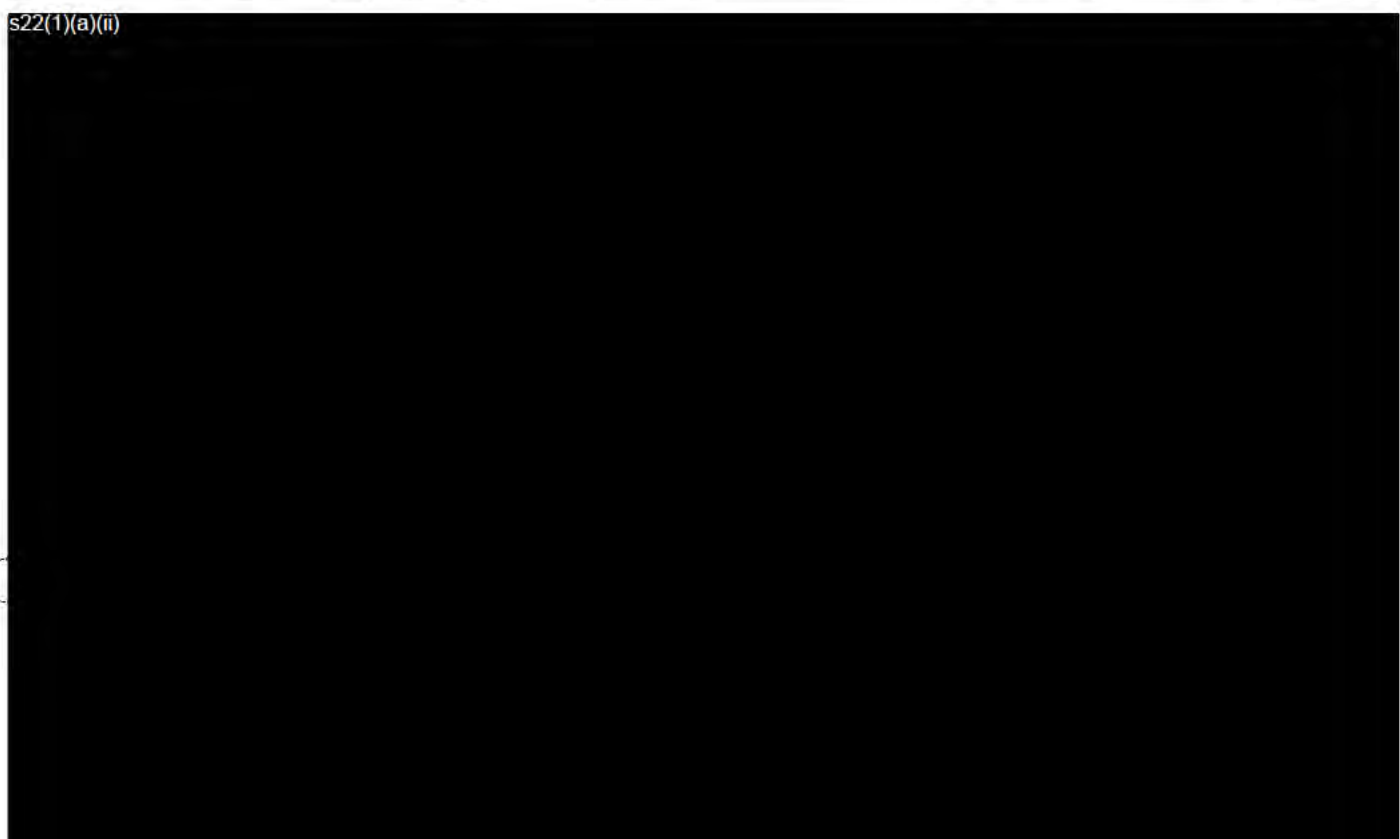
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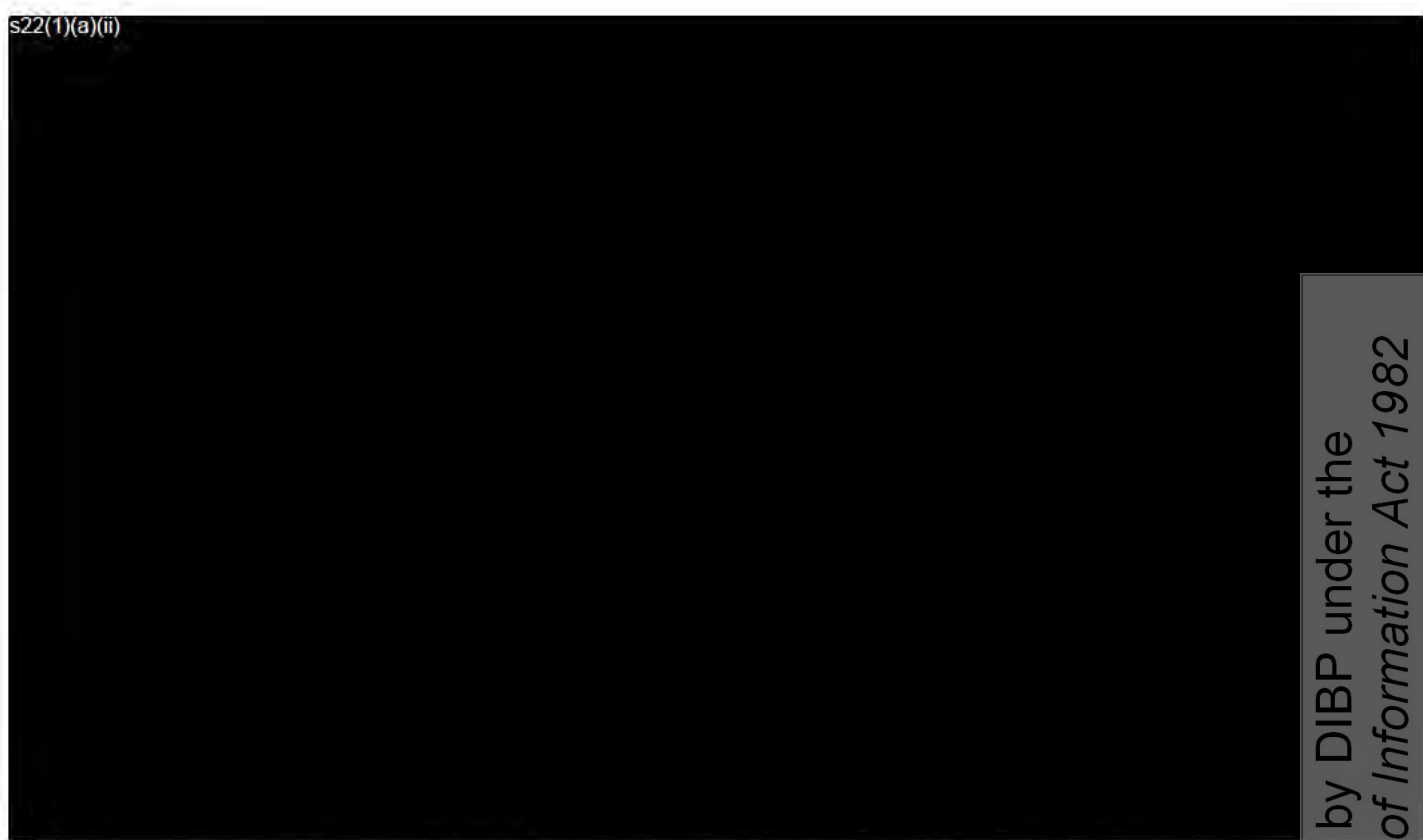
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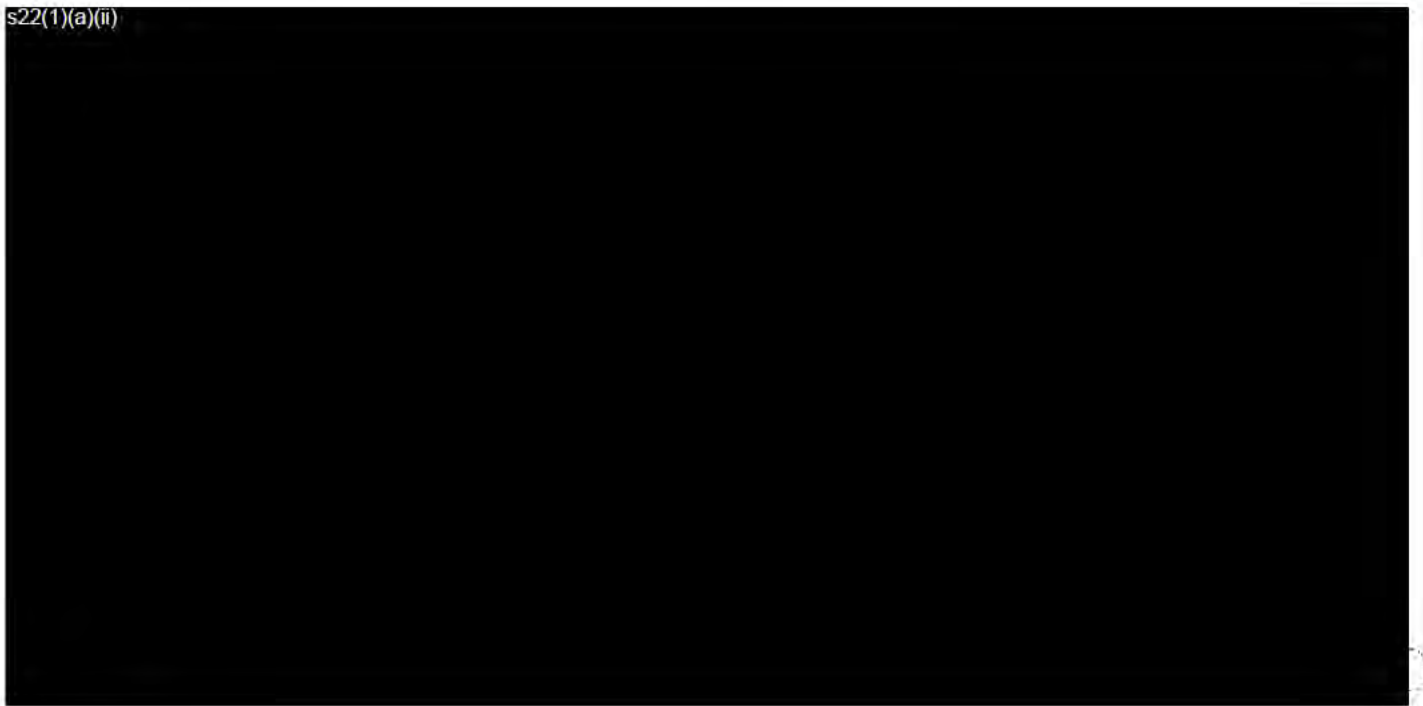
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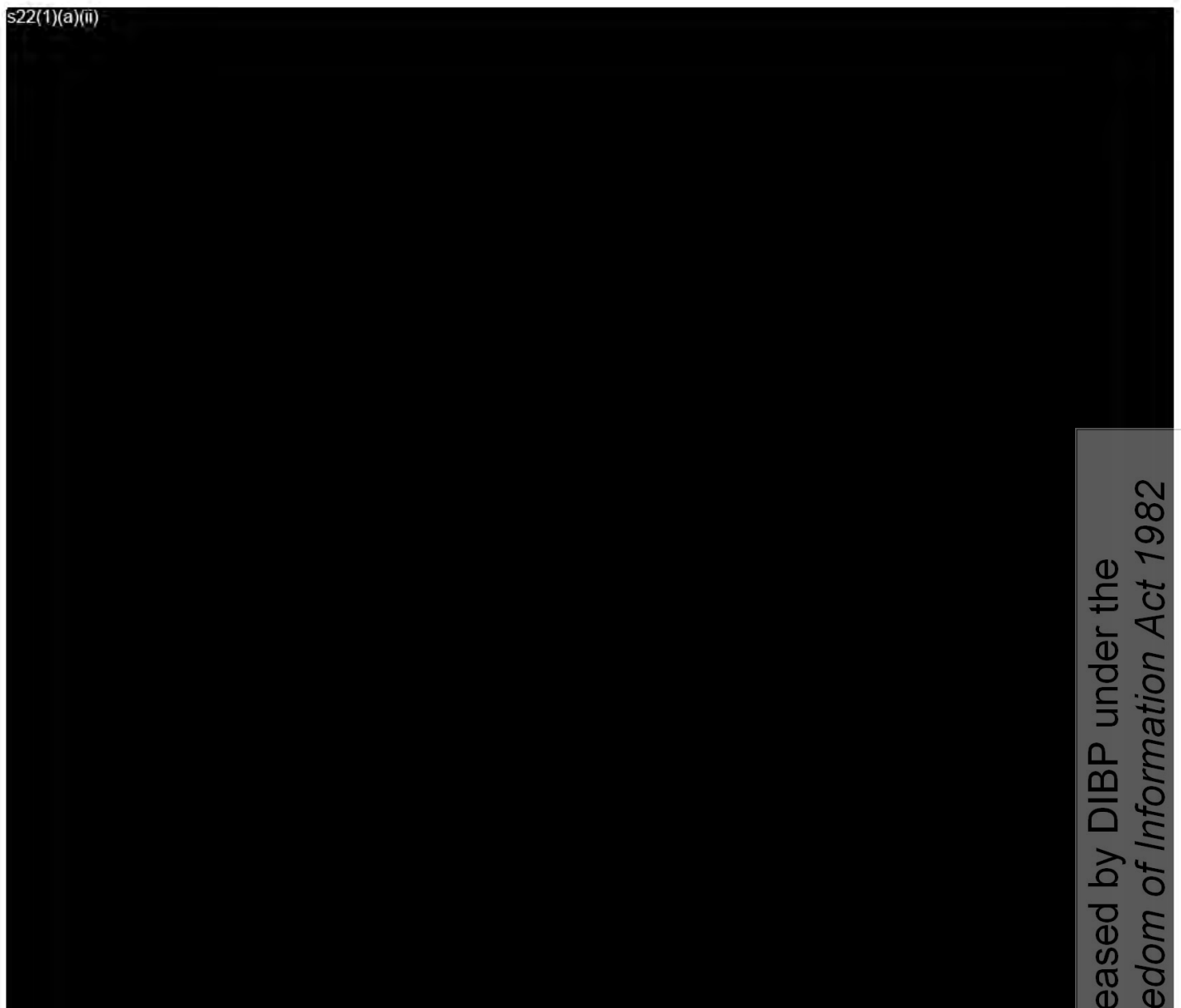
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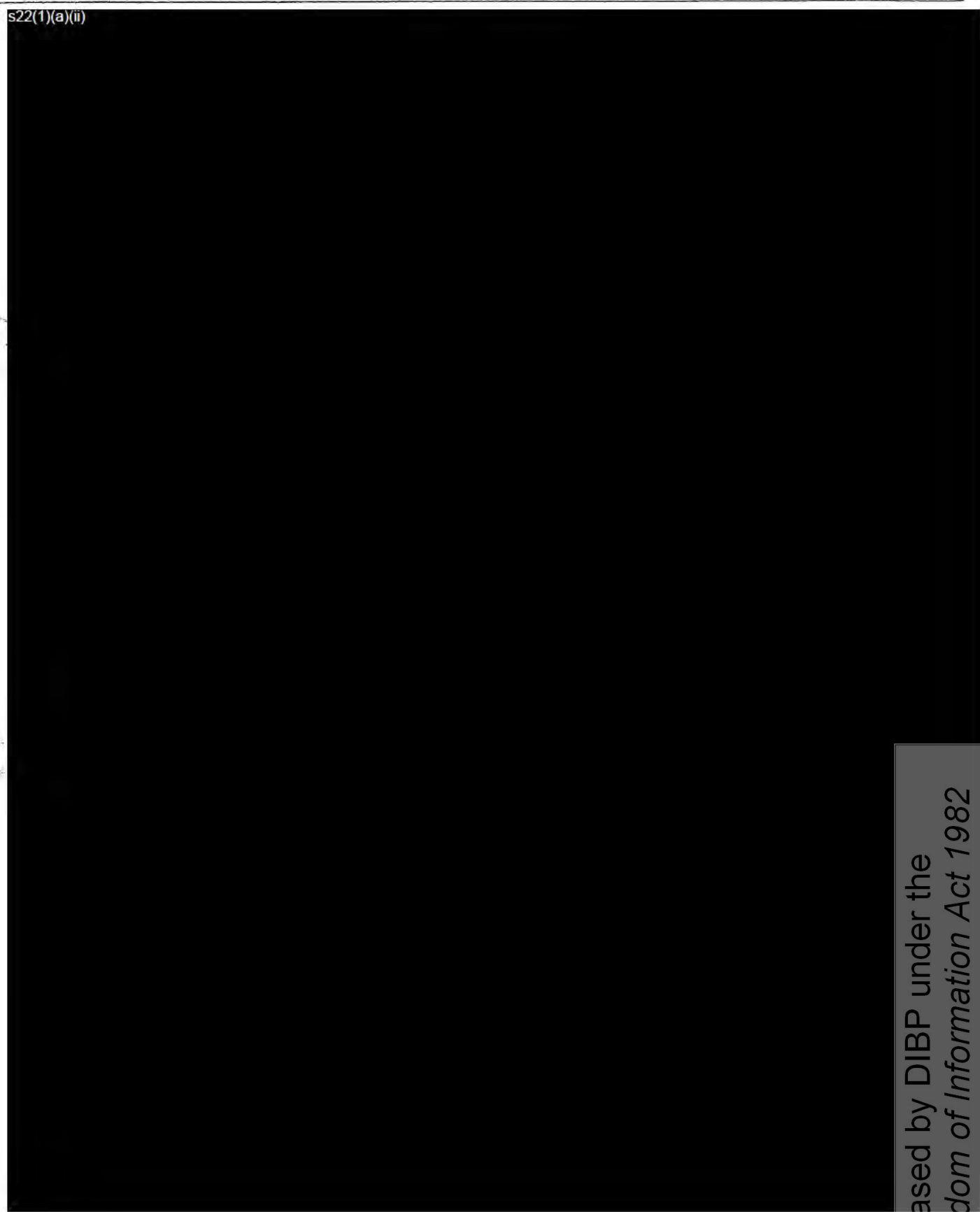
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s22(1)(a)(ii)



s22(1)(a)(ii)



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s22(1)(a)(ii)

From: Kennedy Leanne [mailto:Leanne.Kennedy@infrastructure.gov.au]

Sent: Saturday, 14 June 2014 10:46 PM

To: s22(1)(a)(ii)@safe.employment.gov.au; s22(1)(a)(ii)@safe.employment.gov.au';

NYAKUENGAMA Sharon; s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii)

s22(1)(a)(ii)@pmc.gov.au; s22(1)(a)(ii) s22(1)(a)(ii)@immi.gov.au)

s22(1)(a)(ii)@austrade.gov.au)

Cc: s22(1)(a)(ii); Zielke Judith

Subject: Request for consideration of issues with proposed changes to coastal trading

[SEC-PROTECTED, DLM-Sensitive-Cabinet]

Importance: High

Dear colleagues,

Most of you are aware the Department of Infrastructure and Regional Development is considering options for reform of Australian coastal shipping regulation in response to the Coalition Government's interest in removing overly restrictive regulation of the sector, suspected of having unreasonable imposts on business. Following the conclusion of the recent consultation process, Infrastructure is working towards developing a joint Cabinet Submission with the Department of Employment (authority for which was in a letter to the

Prime Minister shortly after the election) with the view to receiving policy approval in support of introducing a T status bill into Parliament during the Spring 2014 sitting period. This Bill would reduce the regulatory barriers to foreign flagged ships moving domestic coastal cargo and would potentially include amended settings for passenger ships.

Infrastructure recognises the regulation of coastal trading impacts the activities and policy settings of many other portfolios, and we have held a number of Interdepartmental meetings to share news of developments in Ministerial interests and our identification of issues that need broader consideration.

At this stage, we are working to a Cabinet date in early August, meaning some rapid consideration of possible unanticipated impacts of changes to coastal shipping needs to happen. Infrastructure has scoped a model of possible regulatory setting for access to coastal freight on the understanding that Government intends to make a material announcement in conjunction with Repeal Day. I emphasise the dynamic nature of this issue and the scope is moving all the time.

Current terminology (General Licence, Temporary Licence) has been retained for clarity of understanding only and would likely change under a new structure.

The model in development essentially removes maritime cabotage but in a controlled framework, in that Australian vessels will lose the ability to challenge foreign vessels for freight consignments, instead competing on a commercial basis alone (freight price, availability, suitability of ship, quality of service and so on) without moderation by the Delegate to the Minister in case of challenge as is the current situation. This model essentially provides for an 'open coast' in terms of free market access by foreign vessels, except for possible refusal of a Licence to a vessel on the grounds of maritime safety or the flag state not being signatory to the Maritime Labour Convention (MLC). There may be other barriers yet to be identified through this process.

This model would see (as far as we've progressed):

- Australian flagged General Licence vessels lose the ability to challenge the granting of a Temporary Licence for the use of a foreign flagged vessel;
- a foreign flagged vessel being able to apply for and be granted a Temporary Licence for a substantial period without challenge, perhaps up to 12 months at a time, assuming no maritime safety concerns were present with the flag state. The Department is working with AMSA on this aspect;
- the object of the Act redefined to remove the 'each-way bet' problem with the current Act;
- the Temporary Licence would allow unfettered movement of coastal cargo during the validity period, with a requirement to report to the Department the actual volumes carried at perhaps a six monthly interval (yet to be determined) to inform transport statistics;

- the Temporary Licence structure will need to remain in place as a 'shield' to prevent the importation by Customs of foreign flagged vessels on domestic business. If not covered by a Temporary Licence, as soon as the vessel ceases international cargo business, it would need to be imported and the Maritime Crew Visas would cease immediately, giving the ship operator five days to repatriate their crew. They would then need to crew the ship with Australians or crew with Australian work rights, at Australian wage rates, eliminating any cost advantages obtained by using foreign crew.

A longer term solution to this issue is our primary focus and this is the barrier to a full repeal of the Act being achieved quickly. This will not be resolved in time for considered legislation to be drafted and introduced by Repeal Day, hence the need to retain the Temporary Licence structure in a pared-back format;

- the crew on foreign flagged vessels under a Temporary Licence would then need to obtain the appropriate visa for the activities of the vessel and the duration of their time on the coast, a Maritime Crew Visa may not be appropriate for all circumstances. To illustrate, crew on a vessel that moved containers from Sydney to Melbourne once a quarter while being on international business the remainder of the time may be able to remain on MCVs, while a passenger ferry working across Bass Strait for a 12 month period may need to secure an appropriate visa ^{s47E(d)} [REDACTED] for longer term domestic operations;
- ^{s47E(d)} [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- the Department of Employment is working through options for the removal of the application of Part B of the Seagoing Industry Award (SIA) to foreign flagged vessels on Temporary Licences in accordance with the election commitment to not change the *Fair Work Act 2009*.

We are aware there are many flow on effects of importation, including work rights of foreign seafarers, biosecurity and prohibited imports elements and we are seeking information about the implications for your portfolio of the model illustrated, particularly the treatment of not considering a foreign vessel to be imported, with the potential for a Temporary Licence to be reapplied for indefinitely.

At this stage we are only seeking information on the range of issues and implications for your portfolio rather than solutions for any issues. This will then form the basis for future joint work to inform the Submission, and then, depending on the degree to which the government decides to regulate foreign vessels carrying domestic cargo on the Australian coast we will need to engage further in the drafting of the resultant Bill.

I would appreciate your information as soon as possible, but at least a sketch of the severity of issues by **COB 20 June 2014**.

Please contact s22(1)(a)(ii) in my Branch on s22(1)(a)(ii) if you have any queries or would like to discuss this. I am unavailable this week by telephone due to a commitment at the IMO but s22(1)(a)(ii) will ably progress this in my absence. It goes without saying these proposed changes are likely to be highly sensitive with industry and I would ask that discussion of this model be kept to need to know only. I recognise I've not sent this to everyone from the recent meeting but I don't have email addresses available, grateful for assistance in engaging the appropriate contacts please.

My thanks and best regards in advance of your continued assistance (and forbearance) with this one.

Leanne Kennedy

A/g General Manager
Maritime and Shipping Branch
Department of Infrastructure and Regional Development

T: s22(1)(a)(ii) M: s22(1)(a)(ii) E: leanne.kennedy@infrastructure.gov.au

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s22(1)(a)(ii)

s22(1)(a)(ii)

From: s22(1)(a)(ii) **On Behalf Of** Kerry Vine-Camp
Sent: Friday, 20 June 2014 10:58 AM
To: 'leanne.kennedy@infrastructure.gov.au'
Cc: s22(1)(a)(ii); David Wilden
Subject: FW: Request for consideration of issues with proposed changes to coastal trading - due today
~~[SEC=PROTECTED, DLM=Sensitive Cabinet] [SEC=PROTECTED]~~

PROTECTED

Dear Leanne

Thank you for the opportunity to comment on your current thinking in regard to coastal trading reform, in particular the proposal to remove maritime cabotage in a controlled framework.

As advised in previous discussions, Australia has a universal visa system, all non-citizens entering Australia require a visa and the Department of Immigration and Border Protection is responsible for maintaining the integrity of the migration programme.

We note your comments that the crew on foreign flagged vessels under a revised version of a Temporary Licence would need to obtain an appropriate visa for the activities of the vessel and the duration of their time on the coast and that a Maritime Crew Visa (MCV) may not be appropriate for all circumstances. In this context please note, that the MCV was introduced in 2007 as a border security and screening visa for use by foreign sea crew in the context of a continuing international voyage. At the time, this was limited by coastal trading licencing permits of up to 3 months and was also controlled by the importation provisions under the *Customs Act 1901*, all of which provided a limited time of operation and exposure to Australia's mainland for maritime foreign crew.

s47E(d)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

We look forward to continuing to work with you to determine appropriate visa arrangements to support this important reform.

Regards

Kerryn

Kerryn Vine-Camp
 Assistant Secretary
 Border Security Policy Branch
 Department of Immigration and Border Protection
 Telephone: s22(1)(a)(ii)
 Mobile: s22(1)(a)(ii)
 Email: kerryn.vine-camp@immi.gov.au

~~PROTECTED~~

From: s22(1)(a)(ii)@infrastructure.gov.au]
Sent: Thursday, 19 June 2014 11:28 AM
To: s22(1)(a)(ii)
Cc: s22(1)(a)(ii)
Subject: FW: Request for consideration of issues with proposed changes to coastal trading [SEC-PROTECTED, DLM-Sensitive-Cabinet]
Importance: High

Hi s22(1)(a)

Please find below the email Leanne Kennedy attempted to send to you (the text of this email was also sent to you via Cabnet).

Kind regards,

s22(1)(a)(ii)

[REDACTED]

Coastal Trading and Maritime Environment
 Maritime and Shipping Branch - Surface Transport Policy Division
 Department of Infrastructure and Regional Development

s22(1)(a)(ii)

s22(1)(a)(ii)@infrastructure.gov.au



Australian Government

Department of Infrastructure and Regional Development

From: Kennedy Leanne

Sent: Saturday, 14 June 2014 10:46 PM

To: s22(1)(a)(ii) @safe.employment.gov.au; s22(1)(a)(ii) @safe.employment.gov.au;
sharon.nyakuengama@customs.gov.au; s22(1)(a)(ii) @customs.gov.au; s22(1)(a)(ii) ; s22(1)(a)(ii)
@pmc.gov.au; s22(1)(a)(ii) ; s22(1)(a)(ii) @immi.gov.au; s22(1)(a)(ii)
@austrade.gov.au)

Cc: s22(1)(a)(ii) Zielke Judith

Subject: Request for consideration of issues with proposed changes to coastal trading ~~[SEC-PROTECTED]~~

~~DLM-Sensitive-Cabinet]~~

Importance: High

Dear colleagues,

Most of you are aware the Department of Infrastructure and Regional Development is considering options for reform of Australian coastal shipping regulation in response to the Coalition Government's interest in removing overly restrictive regulation of the sector, suspected of having unreasonable imposts on business. Following the conclusion of the recent consultation process, Infrastructure is working towards developing a joint Cabinet Submission with the Department of Employment (authority for which was in a letter by the Prime Minister shortly after the election) with the view to receiving policy approval in support of introducing a T status bill into Parliament during the Spring 2014 sitting period. This Bill would reduce the regulatory barriers to foreign flagged ships moving domestic coastal cargo and would potentially include amended settings for passenger ships.

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- s47E(d)
[REDACTED]
[REDACTED]
[REDACTED]
- the Department of Employment is working through options for the removal of the application of Part B of the Seagoing Industry Award (SIA) to foreign flagged vessels on Temporary Licences in accordance with the election commitment to not change the *Fair Work Act 2009*.

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My thanks and best regards in advance of your continued assistance (and forbearance) with this one.

Leanne Kennedy

A/g General Manager
Maritime and Shipping Branch
Department of Infrastructure and Regional Development

T: s22(1)(a)(ii) | M: s22(1)(a)(ii) | E: leanne.kennedy@infrastructure.gov.au

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s22(1)(a)(ii)

From: NYAKUENGAMA Sharon
Sent: Friday, 20 June 2014 9:51 PM
To: KENNEDY Leanne (Infrastructure)
Cc: BUCKPITT Jeff; s22(1)(a)(ii) 'Zielke Judith'; kerryn.vine-camp@immi.gov.au
Subject: RE: Request for consideration of issues with proposed changes to coastal trading
~~[SEC-PROTECTED, DLM-Sensitive Cabinet]~~

Dear Leanne

Thank you for the opportunity to comment on the model proposed by the Department of Infrastructure and Regional Development in relation to coastal trading. The Australian Customs and Border Protection Service (ACBPS) generally supports the proposed model as it essentially removes many of the irritants for industry without removing all regulatory controls. There remain, however, some phrasings and terminology that I would like to see used more accurately reflect the interaction and application of the Customs Act 1901 (the Customs Act) in this environment.

Under the Customs Act, the regulatory requirements attaching to importation are triggered where a ship breaks its continuing international voyage to engage in activities other than the transport and delivery of international cargo and/or passengers while in Australia (this includes, but is not limited to, ships engaging in coastal trading). 'Importation' is not defined in the Customs Act. Importation is a matter of fact. A ship arriving in Australia can either be on an international voyage or be imported while in Australia. Once a ship has the status of imported, there are consequences under the Customs Act, the key consequence being the requirement for the ship to be entered for home consumption by the lodgement of import declaration.

As a consequence of importation (and/or entry for home consumption) of a ship, there is a range of Australian laws that may apply to the owner of the ship, crew, passengers and cargo of the ship.

The import declaration enables the acquittal of a range of border-related requirements in relation to revenue obligations and concessions, prohibited and regulated goods and quarantine. Import declarations are risk assessed by the ACBPS and partner agencies prior to approving delivery into home consumption.

The issues arising from importation in relation coastal trading are usually not related to the Customs Act requirement for a ship to be entered for home consumption, but rather the consequences of importation once a ship is operating completely within the domestic economy.

By removing all regulation of coastal trading, all foreign vessels engaging in the domestic economy would be regarded as imported as a matter of fact and would, therefore, need to be entered into home consumption in accordance with the provisions of the Customs Act.

As industry and government would be unlikely to support the requirement for all ships engaged in the domestic economy to be imported and entered for home consumption, any changes to the current regulation of coastal trading should ensure that this does not occur. If the policy intent is to allow foreign ships to operate in the Australian economy undertaking activities that would ordinarily, if undertaken by an Australian ship, attract Australian domestic regulations without those same regulations being applied, then provision should continue to be made in the appropriate legislation.

ACBPS would not support inserting a provision into the Customs Act to the effect that foreign ships operating on a coastal trading licence are not imported. This would set a precedent for other 'special' cases to also seek exemption from the operation of the Customs Act.

If the Coastal Trading Act continues to approve or license foreign ships to undertake coastal trading, there should be a provision in that Act allowing for those ships not to be treated as imported, if they are undertaking activities

associated with the licence. In this case, ACBPS would not support the specific application of other domestic laws that would normally apply if the ship were imported as this would create a statutory precedent that contradicts the guidance in case law that we apply to determine the fact importation in all other cases.

The ACBPS would support a licence arrangement that deems ships engaged in inter or intra state coastal trade, or voyages from the mainland to offshore installations under a licence, not to be imported. s47E(d)

s47E(d)

The ACBPS would not support a licence for an extended period beyond the current 1-year licence. Longer periods would mean foreign ships would be moving around the coast without being subjected to either the risk assessment and clearance process that applies to a visiting international ship on arrival in Australia, nor the application of other domestic laws that would apply if the ship was imported.

s47E(d)

While the ACBPS supports the proposed model, the current Government policy suggests there continues to be a need for foreign ships, which are licensed to engage in coastal trading, to undertake these activities without the requirements associated with importation being applied. As previously advised, it is the intentions and circumstances surrounding a foreign ship's activities while in Australia which determine whether or not that ship is imported. The Customs Act does not require importation; it sets out the requirements applied once something is imported. If it is imported, the requirements under the Customs Act and those of associated legislation, which hinge on the ship being entered for home consumption under the Customs Act, are applied.

Currently, a licence issued under the CT Act is the only mechanism to exempt international ships engaging in domestic trade (i.e. ships otherwise considered to meet the requirements for importation) from the requirements associated with importation. Creating a provision in the Customs Act that states that a foreign ship operating on a coastal trading licence is not imported for the purposes of the Customs Act would set a precedent for other 'special' cases to seek exemption from the operation of the Customs Act. The importation requirements are in place to ensure that Australian taxes and charges are applied consistently across all participants in the domestic economy and that any prohibited goods on board the vessel are appropriately identified and treated before domestic transport services commence. Those requirements also invoke work rights and visa requirements intended to apply in Australian work places (rather than international voyages).

Please let me know if you require further clarification of any aspect of the advice above.

Regards
Sharon

Sharon Nyakuengama
National Manager Customs Branch
Australian Customs and Border Protection Service
P: s22(1)(a)(ii) | F: 02 6274 4993 | M: s22(1)(a)(ii)
E: sharon.nyakuengama@customs.gov.au

W:www.customs.gov.au

From: Kennedy Leanne [mailto:Leanne.Kennedy@infrastructure.gov.au]

Sent: Saturday, 14 June 2014 10:46 PM

To: s22(1)(a)(ii) @safe.employment.gov.au; s22(1)(a)(ii) @safe.employment.gov.au; NYAKUENGAMA Sharon; s22(1)(a)(ii) s22(1)(a)(ii) @pmc.gov.au; s22(1)(a)(ii) ; s22(1)(a) @immi.gov.au; s22(1)(a)(ii) @austrade.gov.au

Cc: s22(1)(a)(ii) Zielke Judith

Subject: Request for consideration of issues with proposed changes to coastal trading ~~[SEC-PROTECTED,~~

~~DLVI-Sensitive-Cabinet]~~

Importance: High

Dear colleagues,

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- a foreign flagged vessel being able to apply for and be granted a Temporary Licence for a substantial period without challenge, perhaps up to 12 months at a time, assuming no maritime safety concerns were present with the flag state. The Department is working with AMSA on this aspect;
- the object of the Act redefined to remove the 'each-way bet' problem with the current Act;
- the Temporary Licence would allow unfettered movement of coastal cargo during the validity period, with a requirement to report to the Department the actual volumes carried at perhaps a six monthly interval (yet to be determined) to inform transport statistics;
- the Temporary Licence structure will need to remain in place as a 'shield' to prevent the importation by Customs of foreign flagged vessels on domestic business. If not covered by a Temporary Licence, as soon as the vessel ceases international cargo business, it would need to be imported and the Maritime Crew Visas would cease immediately, giving the ship operator five days to repatriate their crew. They would then need to crew the ship with Australians or crew with Australian work rights, at Australian wage rates, eliminating any cost advantages obtained by using foreign crew.

A longer term solution to this issue is our primary focus and this is the barrier to a full repeal of the Act being achieved quickly. This will not be resolved in time for considered legislation to be drafted and introduced by Repeal Day, hence the need to retain the Temporary Licence structure in a pared-back format;

- the crew on foreign flagged vessels under a Temporary Licence would then need to obtain the appropriate visa for the activities of the vessel and the duration of their time on the coast, a Maritime Crew Visa may not be appropriate for all circumstances. To illustrate, crew on a vessel that moved containers from Sydney to Melbourne once a quarter while being on international business the remainder of the time may be able to remain on MCVs, while a passenger ferry working across Bass Strait for a 12 month period may need to secure an appropriate visa s47E(d) [REDACTED] for longer term domestic operations;
- s47E(d) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- the Department of Employment is working through options for the removal of the application of Part B of the Seagoing Industry Award (SIA) to foreign flagged vessels on Temporary Licences in accordance with the election commitment to not change the *Fair Work Act 2009*.

We are aware there are many flow on effects of importation, including work rights of foreign seafarers, biosecurity and prohibited imports elements and we are seeking information about the implications for your portfolio of the model illustrated, particularly the treatment of not considering a foreign vessel to be imported, with the potential for a Temporary Licence to be reapplied for indefinitely.

At this stage we are only seeking information on the range of issues and implications for your portfolio rather than solutions for any issues. This will then form the basis for future joint work to inform the Submission, and then, depending on the degree to which the government decides to regulate foreign vessels carrying domestic cargo on the Australian coast we will need to engage further in the drafting of the resultant Bill.

I would appreciate your information as soon as possible, but at least a sketch of the severity of issues by **COB 20 June 2014**.

Please contact s22(1)(a)(ii) in my Branch on s22(1)(a)(ii) if you have any queries or would like to discuss this. I am unavailable this week by telephone due to a commitment at the IMO but s22(1)(a)(ii) will ably progress this in my absence. It goes without saying these proposed changes are likely to be highly sensitive with industry and I would ask that discussion of this model be kept to need to know only. I recognise I've not sent this to everyone from the recent meeting but I don't have email addresses available, grateful for assistance in engaging the appropriate contacts please.

My thanks and best regards in advance of your continued assistance (and forbearance) with this one.

Leanne Kennedy

A/g General Manager
Maritime and Shipping Branch
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s22(1)(a)(ii)

From: Zielke Judith <Judith.Zielke@infrastructure.gov.au>
Sent: Saturday, 21 June 2014 8:34 PM
To: NYAKUENGAMA Sharon; KENNEDY Leanne (Infrastructure); s22(1)(a)(ii) s22(1)
Cc: BUCKPITT Jeff; s22(1)(a)(ii) kerryn.vine-camp@immi.gov.au
Subject: RE: Request for consideration of issues with proposed changes to coastal trading
~~[SEC-PROTECTED, DLM-Sensitive Cabinet]~~

Thanks for the advice Sharon.

This all seems consistent as per your comment. I will note though that the intention is that we will licence but not require them to provide advice on all voyages prior to travel. Hence they're either have a licence or not. I agree with the twelve month arrangement and hope to receive more feedback from the office next week.

Cheers Judi

Judith Zielke
 Executive Director
 Surface Transport Policy Division

Department of Infrastructure and Regional Development
 Level 2, 111 Alinga Street
 CANBERRA ACT 2600
 Phone: s22(1)(a)(ii)
 Mobile: s22(1)(a)(ii)
 Email: judith.zielke@infrastructure.gov.au

From: NYAKUENGAMA Sharon [mailto:sharon.nyakuengama@customs.gov.au]
Sent: Friday, 20 June 2014 9:51 PM
To: Kennedy Leanne
Cc: BUCKPITT Jeff; s22(1)(a)(ii) Zielke Judith; kerryn.vine-camp@immi.gov.au
Subject: RE: Request for consideration of issues with proposed changes to coastal trading ~~[SEC-PROTECTED, DLM-Sensitive Cabinet]~~

Dear Leanne

Thank you for the opportunity to comment on the model proposed by the Department of Infrastructure and Regional Development in relation to coastal trading. The Australian Customs and Border Protection Service (ACBPS) generally supports the proposed model as it essentially removes many of the irritants for industry without removing all regulatory controls. There remain, however, some phrasings and terminology that I would like to see used more accurately reflect the interaction and application of the Customs Act 1901 (the Customs Act) in this environment.

Under the Customs Act, the regulatory requirements attaching to importation are triggered where a ship breaks its continuing international voyage to engage in activities other than the transport and delivery of international cargo and/or passengers while in Australia (this includes, but is not limited to, ships engaging in coastal trading). 'Importation' is not defined in the Customs Act. Importation is a matter of fact. A ship arriving in Australia can either be on an international voyage or be imported while in Australia. Once a ship has the status of imported, there are consequences under the Customs Act, the key consequence being the requirement for the ship to be entered for home consumption by the lodgement of import declaration.

As a consequence of importation (and/or entry for home consumption) of a ship, there is a range of Australian laws that may apply to the owner of the ship, crew, passengers and cargo of the ship.

The import declaration enables the acquittal of a range of border-related requirements in relation to revenue obligations and concessions, prohibited and regulated goods and quarantine. Import declarations are risk assessed by the ACBPS and partner agencies prior to approving delivery into home consumption.

The issues arising from importation in relation coastal trading are usually not related to the Customs Act requirement for a ship to be entered for home consumption, but rather the consequences of importation once a ship is operating completely within the domestic economy.

By removing all regulation of coastal trading, all foreign vessels engaging in the domestic economy would be regarded as imported as a matter of fact and would, therefore, need to be entered into home consumption in accordance with the provisions of the Customs Act.

As industry and government would be unlikely to support the requirement for all ships engaged in the domestic economy to be imported and entered for home consumption, any changes to the current regulation of coastal trading should ensure that this does not occur. If the policy intent is to allow foreign ships to operate in the Australian economy undertaking activities that would ordinarily, if undertaken by an Australian ship, attract Australian domestic regulations without those same regulations being applied, then provision should continue to be made in the appropriate legislation.

ACBPS would not support inserting a provision into the Customs Act to the effect that foreign ships operating on a coastal trading licence are not imported. This would set a precedent for other 'special' cases to also seek exemption from the operation of the Customs Act.

If the Coastal Trading Act continues to approve or license foreign ships to undertake coastal trading, there should be a provision in that Act allowing for those ships not to be treated as imported, if they are undertaking activities associated with the licence. In this case, ACBPS would not support the specific application of other domestic laws that would normally apply if the ship were imported as this would create a statutory precedent that contradicts the guidance in case law that we apply to determine the fact importation in all other cases.

The ACBPS would support a licence arrangement that deems ships engaged in inter or intra state coastal trade, or voyages from the mainland to offshore installations under a licence, not to be imported. s47E(d)

[REDACTED]

s47E(d)

[REDACTED]

The ACBPS would not support a licence for an extended period beyond the current 1-year licence. Longer periods would mean foreign ships would be moving around the coast without being subjected to either the risk assessment and clearance process that applies to a visiting international ship on arrival in Australia, nor the application of other domestic laws that would apply if the ship was imported.

s47E(d)

[REDACTED]

While the ACBPS supports the proposed model, the current Government policy suggests there continues to be a need for foreign ships, which are licensed to engage in coastal trading, to undertake these activities without the requirements associated with importation being applied. As previously advised, it is the intentions and

circumstances surrounding a foreign ship's activities while in Australia which determine whether or not that ship is imported. The Customs Act does not require importation; it sets out the requirements applied once something is imported. If it is imported, the requirements under the Customs Act and those of associated legislation, which hinge on the ship being entered for home consumption under the Customs Act, are applied.

Currently, a licence issued under the CT Act is the only mechanism to exempt international ships engaging in domestic trade (i.e. ships otherwise considered to meet the requirements for importation) from the requirements associated with importation. Creating a provision in the Customs Act that states that a foreign ship operating on a coastal trading licence is not imported for the purposes of the Customs Act would set a precedent for other 'special' cases to seek exemption from the operation of the Customs Act. The importation requirements are in place to ensure that Australian taxes and charges are applied consistently across all participants in the domestic economy and that any prohibited goods on board the vessel are appropriately identified and treated before domestic transport services commence. Those requirements also invoke work rights and visa requirements intended to apply in Australian work places (rather than international voyages).

Please let me know if you require further clarification of any aspect of the advice above.

Regards

Sharon

Sharon Nyakuengama
National Manager Customs Branch
Australian Customs and Border Protection Service
P: s22(1)(a)(ii) | F: 02 6274 4993 | M: s22(1)(a)(ii)
E: sharon.nyakuengama@customs.gov.au
W: www.customs.gov.au

From: Kennedy Leanne [<mailto:Leanne.Kennedy@infrastructure.gov.au>]

Sent: Saturday, 14 June 2014 10:46 PM

To: s22(1)(a)(ii) @safe.employment.gov.au; s22(1)(a)(ii) @safe.employment.gov.au; NYAKUENGAMA Sharon; s22(1)(a)(ii) @pmc.gov.au; s22(1)(a)(ii) @immi.gov.au; s22(1)(a)(ii) @austrade.gov.au

Cc: s22(1)(a)(ii) Zielke Judith

Subject: Request for consideration of issues with proposed changes to coastal trading [SEC-PROTECTED, LM-Sensitive Cabinet]

Importance: High

Dear colleagues,

Most of you are aware the Department of Infrastructure and Regional Development is considering options for reform of Australian coastal shipping regulation in response to the Coalition Government's interest in removing overly restrictive regulation of the sector, suspected of having unreasonable imposts on business. Following the conclusion of the recent consultation process, Infrastructure is working towards developing a joint Cabinet Submission with the Department of Employment (authority for which was in a letter by the Prime Minister shortly after the election) with the view to receiving policy approval in support of introducing a T status bill into Parliament during the Spring 2014 sitting period. This Bill would reduce the regulatory barriers to foreign flagged ships moving domestic coastal cargo and would potentially include amended settings for passenger ships.

Infrastructure recognises the regulation of coastal trading impacts the activities and policy settings of many other portfolios, and we have held a number of Interdepartmental meetings to share news of developments in Ministerial interests and our identification of issues that need broader consideration.

At this stage, we are working to a Cabinet date in early August, meaning some rapid consideration of possible unanticipated impacts of changes to coastal shipping needs to happen. Infrastructure has scoped a model of possible regulatory setting for access to coastal freight on the understanding that Government intends to make a material announcement in conjunction with Repeal Day. I emphasise the dynamic nature of this issue and the scope is moving all the time.

Current terminology (General Licence, Temporary Licence) has been retained for clarity of understanding only and would likely change under a new structure.

The model in development essentially removes maritime cabotage but in a controlled framework, in that Australian vessels will lose the ability to challenge foreign vessels for freight consignments, instead competing on a commercial basis alone (freight price, availability, suitability of ship, quality of service and so on) without moderation by the Delegate to the Minister in case of challenge as is the current situation. This model essentially provides for an 'open coast' in terms of free market access by foreign vessels, except for possible refusal of a Licence to a vessel on the grounds of maritime safety or the flag state not being signatory to the Maritime Labour Convention (MLC). There may be other barriers yet to be identified through this process.

This model would see (as far as we've progressed):

- Australian flagged General Licence vessels lose the ability to challenge the granting of a Temporary Licence for the use of a foreign flagged vessel;
- a foreign flagged vessel being able to apply for and be granted a Temporary Licence for a substantial period without challenge, perhaps up to 12 months at a time, assuming no maritime safety concerns were present with the flag state. The Department is working with AMSA on this aspect;
- the object of the Act redefined to remove the 'each-way bet' problem with the current Act;
- the Temporary Licence would allow unfettered movement of coastal cargo during the validity period, with a requirement to report to the Department the actual volumes carried at perhaps a six monthly interval (yet to be determined) to inform transport statistics;
- the Temporary Licence structure will need to remain in place as a 'shield' to prevent the importation by Customs of foreign flagged vessels on domestic business. If not covered by a Temporary Licence, as soon as the vessel ceases international cargo business, it would need to be imported and the Maritime Crew Visas would cease immediately, giving the ship operator five days to repatriate their crew. They would then need to crew the ship with Australians or crew with Australian work rights, at Australian wage rates, eliminating any cost advantages obtained by using foreign crew.

A longer term solution to this issue is our primary focus and this is the barrier to a full repeal of the Act being achieved quickly. This will not be resolved in time for considered legislation to be drafted and introduced by Repeal Day, hence the need to retain the Temporary Licence structure in a pared-back format;

- the crew on foreign flagged vessels under a Temporary Licence would then need to obtain the appropriate visa for the activities of the vessel and the duration of their time on the coast. A Maritime Crew Visa may not be appropriate for all circumstances. To illustrate, crew on a vessel that moved containers from Sydney to Melbourne once a quarter while being on

201

international business the remainder of the time may be able to remain on MCVs, while a passenger ferry working across Bass Strait for a 12 month period may need to secure an appropriate visa s47E(d) [REDACTED] for longer term domestic operations;

- s47E(d) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- the Department of Employment is working through options for the removal of the application of Part B of the Seagoing Industry Award (SIA) to foreign flagged vessels on Temporary Licences in accordance with the election commitment to not change the *Fair Work Act 2009*.

We are aware there are many flow on effects of importation, including work rights of foreign seafarers, biosecurity and prohibited imports elements and we are seeking information about the implications for your portfolio of the model illustrated, particularly the treatment of not considering a foreign vessel to be imported, with the potential for a Temporary Licence to be reapplied for indefinitely.

At this stage we are only seeking information on the range of issues and implications for your portfolio rather than solutions for any issues. This will then form the basis for future joint work to inform the Submission, and then, depending on the degree to which the government decides to regulate foreign vessels carrying domestic cargo on the Australian coast we will need to engage further in the drafting of the resultant Bill.

I would appreciate your information as soon as possible, but at least a sketch of the severity of issues by **COB 20 June 2014**.

Please contact s22(1)(a)(ii) [REDACTED] in my Branch on s22(1)(a)(ii) [REDACTED] if you have any queries or would like to discuss this. I am unavailable this week by telephone due to a commitment at the IMO but s22(1)(a)(ii) [REDACTED] will ably progress this in my absence. It goes without saying these proposed changes are likely to be highly sensitive with industry and I would ask that discussion of this model be kept to need to know only. I recognise I've not sent this to everyone from the recent meeting but I don't have email addresses available, grateful for assistance in engaging the appropriate contacts please.

My thanks and best regards in advance of your continued assistance (and forbearance) with this one.

Leanne Kennedy

A/g General Manager
Maritime and Shipping Branch
Department of Infrastructure and Regional Development

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s22(1)(a)(ii)

From: NYAKUENGAMA Sharon
Sent: Thursday, 10 July 2014 11:57 PM
To: KENNEDY Leanne (Infrastructure); 'Zielke Judith'
Cc: s22(1)(a)(ii)
Subject: FW: Coastal trading sub [SEC=PROTECTED, DLM=Sensitive:Cabinet]

Dear Leanne and Judi

Thank you for the opportunity to review the working draft of the submission. ACBPS is supportive of the direction being taken in the submission as it will remove many of the 'irritants' in relation to importation under the current legislation. In particular the move back to licensing ships rather than voyages will make ACBPS operational decisions less complicated on each port arrival and the broadening of the application of the Act to vessels servicing FPSOs will remove the regulatory burden associated with the consequences of importation for these vessels.

The documents attached below set out:

- our general comments on the body of the submission – particularly in relation to the language used to describe the consequences of importation
- a track changed version of Attachment B (so that you can see where and how we have changed it)
- a suggested 'final' version of Attachment B; and
- for information only at this stage, a number of technical and operational issues that we would like to work through with you during the legislative drafting and implementation stages.

Please don't hesitate to contact either s22(1)(a) or me if you have any questions or require further clarification of our comments.

Regards
 Sharon

Sharon Nyakuengama
 National Manager Customs Branch
 Australian Customs and Border Protection Service
 P: s22(1)(a)(ii) | F: 02 6274 4993 | M: s22(1)(a)(ii)
 E: sharon.nyakuengama@customs.gov.au
 W: www.customs.gov.au

From: s22(1)(a)(ii)
Sent: Thursday, 10 July 2014 4:41 PM
To: NYAKUENGAMA Sharon
Subject: RE: Coastal trading sub [DLM=For-Official-Use-Only]

ACBPS General Comments on the Submission



Coastal shipping
 cab sub - Cus...

Track changed version of amended Attachment B



Cab sub
comments - ATT...

Clean copy of suggested Attachment B



Cab sub
comments - ATT...

Comments of an operational nature. These do not impact on the policy position posed or recommendations made in the submission, but are provided at this stage as an indication of the type of issues that we would like to work together with Infrastructure to clarify during the drafting of any subsequent legislation and implementation stage.



Coastal Shipping
cab sub - SBC...

s22(1)(a)(ii) Border Control and Clearance Framework | Customs Branch | P: s22(1)(a)(ii) | F: 02 6275 5745 | M: s22(1)(a)(ii)

s22(1)(a)(ii)

Australian Customs and Border Protection Service comments on the Exposure Draft Submission: DIRD Coastal Shipping

Overall

The Australian Customs and Border Protection Service (ACBPS) would prefer the language used in relation to importation to more accurately reflect how it operates. Specifically, ships are not 'required to be imported' by the *Customs Act 1901* (the Customs Act) nor 'imported' by ACBPS. Ships have a status of either being on an international voyage or imported, based on the facts and circumstances. Once the status is 'imported' the Customs Act requires entry for home consumption, and other regulatory requirements to be met. Neither the Customs Act nor the ACBPS 'requires' a ship to be imported. It either is or it isn't, and if it is then regulatory requirements flow as a consequence of this status.

- **Page 2** Last dot point – error in the word 'reduce'. It should be 'reduced'.
- **Page 3** 2(e) -s47E(d) [REDACTED]
[REDACTED]
[REDACTED]
- **Page 4** 2(a) suggest 'negatively impacting' rather than 'the viability of' Australian business.
- **Page 5** 8 – This paragraph does not accurately reflect importation. The following amendment is recommended. *'A provision in the Coastal Trading Act allows foreign flagged ships with a temporary licence to be treated as if they were on an international voyage. Without the maintenance of a permit akin to the functions of the current temporary licence, foreign ships on coastal voyages may be considered imported and as a consequence are required to be entered for home consumption under the Customs Act 1901 (the Customs Act).'*
- **Page 5** 9 – As above, this paragraph does not accurately reflect importation. The following amendment is recommended. *'Permits will be required to avert the consequences of a ship being considered imported. The policy objective of an open market for shipping services could not be realised if all foreign ships engaging in coastal trading are imported.'*
- **Page 5** 10 – Consider rewording the second sentence to the following: *'Once a ship is entered for home consumption the MCVs cease and the operator...'*
- **Page 6** 16 – Suggest this is amended to the following: *'One type of permit will be established to move cargo or passengers on voyages between places in Australia. This is necessary to provide a means of allowing foreign ships engaging in the domestic economy, to avoid the consequences of being imported and deliver the Government objective of coastal shipping sector open to foreign competition.'*
- **Page 12** – Amend the title of Attachment B to Customs Regulatory implication of the importation of ships

ATTACHMENT B

s47C

**CUSTOMS REGULATORY
IMPLICATIONS FOR OF THE IMPORTATION OF SHIPS**

s47C

s47C

s47C Under the *Customs Act 1901* (the Customs Act), the regulatory requirements attached to importation are triggered when a ship breaks its continuing international voyage to engage in activities other than the transport and delivery of international cargo and/or passengers while in Australia (this includes, but is not limited to, ships engaging in coastal trading). Once a ship has the status of imported, there are consequences under the Customs Act, the key consequence being the requirement for the ship to be entered for home consumption by the lodgement of import declaration. As a consequence of importation s47C there is a range of Australian laws that may apply to the owner of the ship, crew, passengers and cargo of the ship.

The Customs regulatory requirements for imported ships s47C are in place to ensure that Australian taxes and charges are applied consistently across all participants in the domestic economy and that any prohibited goods on board the s47C ship are appropriately identified and treated before domestic transport services commence. Those requirements also invoke work rights and visa requirements under other Australian laws intended to apply in Australian work places (rather than as compared to international voyages).

The *Customs Act 1901* (the Customs Act) does not require importation; it sets out the requirements applied once something is imported. If a ship is imported, the requirements under the Customs Act and those of associated legislation, which hinge on the ship being entered for home consumption under the Customs Act, are applied. The import declaration enables the acquittal of a range of border-related requirements in relation to revenue obligations and concessions, prohibited and regulated goods and quarantine. Import declarations are risk assessed by Customs and partner agencies prior to approving delivery into home consumption.

The issues arising from importation in relation coastal trading are related to the consequences of importation once a ship is operating completely within the domestic economy.

Once importation has occurred s47C additional domestic requirements are placed on transport equipment such as ships and aircraft because these 'goods' are also workplaces. In cases where a thing such as a ship is imported and has crew attached; a range of domestic requirements apply to the individuals working on board, including requirements around visas, pay and conditions and workplace conditions.

Current links between Temporary Licences and the importation of ships

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Freedom of Information Act 1982

s47C

Section 112 of *The Coastal Trading (Revitalising Australian Shipping) Act 2012* (the Coastal Trading Act) provides vessels covered by a temporary licence or an emergency licence with an exemption from the requirements associated with importation, when the nature of their domestic operations would otherwise

s47C indicate s47C

Most foreign flagged vessels operating in Australia are not s47C created as imported, because they are moving coastal cargo under the cover of a temporary licence. A licence may be granted for the carriage of goods from a port in a State or Territory to a port in the same State or Territory or in another State or Territory.

Different treatments for 'imported' ships versus 'international' ships

The most significant consequence of importation (and the requirement for an entry for home consumption) for foreign ships is that the work rights associated with the Maritime Crew Visas (MCVs) s47C cease. Foreign crews have five days to either leave Australia within five days, sign on to another international ship s47C or be granted another visa with work rights.

s47C —Once an imported ship has been imported and entered and then cleared for delivery into home consumption, Customs s47C control s47C ceases and the ship operates completely within the domestic economy. In contrast, ships with 'international' status remain under Customs s47C control: s47C the loading and unloading of ships stores (including alcohol and tobacco), the removal of any goods s47C, and the movement of people (including visitors) to and from the ship are reported, assessed and approved.

Treatment of ships unable to obtain a licence under the Coastal Trading Act

Some places where ships move domestic cargo to or from are outside the waters of a State or Territory; a licence cannot be issued under the Coastal Trading Act for the carriage of goods either to or from these places.

s47C As s47C ships undertaking these voyages cannot currently be granted a licence, they s47C are considered to be imported and as a consequence required to be entered for home consumption s47C and are subject to the control measures outlined above.

s47E(d)


The exclusion of roadsteads and other places appears to be an unintended omission in the drafting of the Coastal Trading Act.

s47E(d)



Sensitivities

The Customs regulatory requirements for importation s47C applies to all goods entering Australia, unless those goods are in transit or being transhipped. s47C



While the words 'import' and 'importation' are not defined in the Act, their meaning for the purposes of the Act has been considered by the High Court. The court's guidance that the factual circumstances surrounding a ship or aircraft's arrival in Australia determine if it is imported or there is an intention to import, has underpinned the approach ACBPS has taken in treating ships in Australia as either imported or on a continuing international voyage.

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Freedom of Information Act 1982

Specifically defining importation, or an exception to importation, in the Customs Act for the purposes of this particular circumstance would require an assessment of the potential impact of the definition on the full range of circumstances in which all goods are imported to Australia.

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s47C [REDACTED] Creating a statutory presumption that coastal trading vessels operating on a permit are not imported outside the general regulatory framework for importation in the Customs Act

s47C [REDACTED] remains the most only-available mechanism to ensure that these vessels are able to access the domestic market without being subject to the operation other Commonwealth Acts s47C [REDACTED]

Customs advises that bespoke changes to the importation framework could undermine the treatment of unrelated goods in the market and could bring about unnecessary pressure upon the Australian Government to s47C [REDACTED] create s47C [REDACTED] exemptions from the consequences of importation for other special circumstances.

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Freedom of Information Act 1982

ATTACHMENT B**CUSTOMS REGULATORY IMPLICATION OF THE IMPORTATION OF SHIPS**

Under the *Customs Act 1901* (the Customs Act), the regulatory requirements attached to importation are triggered when a ship breaks its continuing international voyage to engage in activities other than the transport and delivery of international cargo and/or passengers while in Australia (this includes, but is not limited to, ships engaging in coastal trading). Once a ship has the status of imported, there are consequences under the Customs Act, the key consequence being the requirement for the ship to be entered for home consumption by the lodgement of import declaration. As a consequence of importation, there is a range of Australian laws that may apply to the owner of the ship, crew, passengers and cargo of the ship.

The Customs regulatory requirements for imported ships are in place to ensure that Australian taxes and charges are applied consistently across all participants in the domestic economy and that any prohibited goods on board the ship are appropriately identified and treated before domestic transport services commence. Those requirements also invoke work rights and visa requirements under other Australian laws intended to apply in Australian work places (as compared to international voyages).

The Customs Act does not require importation; it sets out the requirements applied once something is imported. If a ship is imported, the requirements under the Customs Act and those of associated legislation, which hinge on the ship being entered for home consumption under the Customs Act, are applied. The import declaration enables the acquittal of a range of border-related requirements in relation to revenue obligations and concessions, prohibited and regulated goods and quarantine. Import declarations are risk assessed by Customs and partner agencies prior to approving delivery into home consumption.

The issues arising from importation in relation coastal trading are related to the consequences of importation once a ship is operating completely within the domestic economy.

Once importation has occurred additional domestic requirements are placed on transport equipment such as ships and aircraft because these 'goods' are also workplaces. In cases where a thing such as a ship is imported and has crew attached; a range of domestic requirements apply to the individuals working on board, including requirements around visas, pay and conditions and workplace conditions.

Current links between Temporary Licences and the importation of ships

Section 112 of *The Coastal Trading (Revitalising Australian Shipping) Act 2012* (the Coastal Trading Act) provides vessels covered by a temporary licence or an emergency licence with an exemption from the requirements associated with importation, when the nature of their domestic operations would otherwise indicateb

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Some places where ships move domestic cargo are outside the waters of a State or Territory; a licence cannot be issued under the Coastal Trading Act for the carriage of goods either to or from these places.

As ships undertaking these voyages cannot currently be granted a licence, they are considered to be imported and as a consequence required to be entered for home consumption and subject to the control measures outlined above.

s47E(d)



The exclusion of roadsteads and other places appears to be an unintended omission in the drafting of the Coastal Trading Act.

s47E(d)



Impacts of importation for operators

s47E(d)



Released by DIBP under the
Freedom of Information Act 1982

s47E(d)

Sensitivities

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Creating a statutory presumption that coastal trading vessels operating on a permit are not imported outside the general regulatory framework for importation in the Customs Act remains the most available mechanism to ensure that these vessels are able to access the domestic market without being subject to the operation of other Commonwealth Acts.

Customs advises that bespoke changes to the importation framework could undermine the treatment of unrelated goods in the market and could bring about unnecessary pressure upon the Australian Government to create exemptions from the consequences of importation for other special circumstances.

Released by DIBP under the
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Comments from Enforcement Operations

1. Not clear – While the permit is 12 months, it is not clear if a new permit should be applied for if a vessel departs Australia within the 12 month period or whether the permit would continue. It is not clear if a permit can be renewed while the vessel is in Australia meaning a vessel may be able to remain in perpetuity without ever departing. Not sure of the impact of this either way.
2. Not clear – Examples of vessels moving coastal cargo within a port or outside a port and back to the same port have occurred. These scenarios are not covered by the permit. Is it the intention to exclude this business need?
3. Confirmed – Intrastate trade is included. It is unclear whether this is via an opt-in provision or whether the Commonwealth is legislating for the States. ACBPS supports a consistent approach and will continue to apply a requirement for vessel operating intrastate without a national licence as imported. Noting issues of State sovereignty ACBPS supports a holistic approach to coastal trading.
4. Confirmed – All passenger ships are included and must have a permit.
5. Note some routes or types of vessels can be excluded. Not clear – who holds or can be delegated the power to exclude a route or type of craft.
6. Not clear – Vessels may carry both international and domestic cargo on the same voyage. While coastal cargo/passengers only need to be acquitted on an annual basis the reporting of international cargo under the Customs Act should not be altered.
7. s47E(d)
[REDACTED] The Act already extends to every External Territory.
8. Inwards/Outwards Clearance – It should be noted that without significant enhancements to existing vessel reporting, all vessels operating on the coast with a foreign flag will continue to be subject to inwards reporting and ACBPS outwards clearance processes.
9. s47E(d)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
10. Access to permit information – To ensure ACBPS and future Australian Border Force can appropriately risk assess vessels on an ongoing basis and plan intervention activity it is necessary that permit information is shared including issue and expiry vessel details, and conditions of permit. Any non-compliance or permit conditions or post voyage acquittal, changes to permit or conditions should also be shared.
11. Not clear – Are vessels only commercial in nature and how is commercial defined? Are superyachts and other pleasure craft able to access these provisions? Opening up impacts on small fishing and cruising charters may not have been considered.

s22(1)(a)(ii)

From: Kennedy Leanne <Leanne.Kennedy@infrastructure.gov.au>
Sent: Friday, 11 July 2014 9:12 AM
To: NYAKUENGAMA Sharon; s22(1)(a)(ii)
Subject: ATTACHMENT B Importation Customs edits clean ~~(SEC=PROTECTED, DLM=Sensitive-Cabinet)~~
Attachments: ATTACHMENT B suggested final for Customs review.docx
Importance: High

Morning Sharon s22(1)(a)(ii)

I have adopted practically every edit, barring a sentence that was reflected earlier. I've compared my edits with your final version in a proposed new final version. Grateful if you might confirm for me by noon today if you are happy with this version or need to change something.

I'm doing the sub now and will send that over shortly.

With thanks
 Leanne

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 Freedom of Information Act 1982

ATTACHMENT B

CUSTOMS REGULATORY ~~s47C~~ IMPLICATIONS FOR THE IMPORTATION OF SHIPS

Under the *Customs Act 1901* (the Customs Act), the regulatory requirements attached to importation are triggered when a ship breaks its continuing international voyage to engage in activities other than the transport and delivery of international cargo and/or passengers while in Australia (this includes, but is not limited to, ships engaging in coastal trading). Once a ship has the status of imported, there are consequences under the Customs Act, the key consequence being the requirement for the ship to be entered for home consumption by the lodgement of import declaration. As a consequence of importation, there is a range of Australian laws that may apply to the owner of the ship, crew, passengers and cargo of the ship.

The Customs regulatory requirements for imported ships are in place to ensure that Australian taxes and charges are applied consistently across all participants in the domestic economy and ~~s47~~ any prohibited goods on board the ship are appropriately identified and treated before domestic transport services commence. ~~These~~ These requirements also invoke work rights and visa requirements under other Australian laws intended to apply in Australian work places (as compared to international voyages).

The Customs Act does not require importation; it sets out the requirements applied once something is imported. ~~s47C~~

The import declaration enables the acquittal of a range of border-related requirements in relation to revenue obligations and concessions, prohibited and regulated goods and quarantine. Import declarations are risk assessed by Customs and partner agencies prior to approving delivery into home consumption.

The issues arising from importation in relation coastal trading are related to the consequences of importation once a ship is operating completely within the domestic economy.

Once importation has occurred additional domestic requirements ~~s47C~~ apply to transport equipment such as ships and aircraft because these 'goods' are also workplaces. In cases where a thing such as a ship is imported and has crew attached; a range of domestic requirements apply to the individuals working on board, including requirements around visas, pay and conditions and workplace conditions.

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Section 112 of *The Coastal Trading (Revitalising Australian Shipping) Act 2012* (the Coastal Trading Act) provides vessels covered by a temporary licence or an emergency licence with an ~~s47C~~ exemption from the requirements associated with importation, when the nature of their domestic operations would otherwise ~~s47C~~ indicate they would apply.

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port in a State or Territory to a port in the same State or Territory, or in another State or Territory. ✓

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The most significant consequence of importation (and the requirement for an entry for home consumption) for foreign ships is that the work rights associated with the Maritime Crew Visas (MCVs) cease. Foreign crew have five days to either leave Australia, sign on to another international ship or be granted another visa with work rights.

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Treatment of ships unable to obtain a licence under the Coastal Trading Act

Some places where ships move domestic cargo are outside the waters of a State or Territory; a licence cannot be issued under the Coastal Trading Act for the carriage of goods s47C to or from these places. ✓

As ships undertaking these voyages cannot currently be granted a licence, they are considered to be imported and as a consequence required to be entered for home consumption and subject to the control measures outlined above.

s47E(d)

[REDACTED]

The exclusion of roadsteads and other places appears to be an unintended omission in the drafting of the Coastal Trading Act.

s47E(d)

[REDACTED]

Impacts of importation for operators

s47E(d)

[REDACTED]

Formatted: Indent: Left: 0 cm,
Hanging: 0.75 cm, Add space between
paragraphs of the same style

s47E(d)

Sensitivities

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Customs ~~advises~~ advise that bespoke changes to the importation framework could undermine the treatment of unrelated goods in the market and could bring about unnecessary pressure upon the Australian Government to create exemptions from the consequences of importation for other special circumstances.

X the ACBPS.

The ACBPC advises

s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Friday, 11 July 2014 10:51 AM
To: 'Leanne.Kennedy@infrastructure.gov.au'
Cc: NYAKUENGAMA Sharon
Subject: FW: ATTACHMENT B Importation Customs edits clean ~~[SEC-PROTECTED, DLM-Sensitive Cabinet]~~
Attachments: ATTACHMENT B suggested final for Customs review.docx
Importance: High

Hi Leanne

We have a couple of minor amendment to this document, otherwise all the changes are fine. In the last section 'Sensitivities', the abbreviation for the Australian Customs and Border Protection Service is 'ACBPS'. I have amended the references in the attached document and accepted all the other changes. I have also amended 'advise' back to 'advises'.

Please contact either Sharon or myself should you require further clarification,

Regards

s22(1)(a)(ii)

Border Control and Clearance Framework | Customs Branch | P: s22(1)(a)(ii) | F: 02 6275 5745 | M: s22(1)(a)(ii)

From: Kennedy Leanne [mailto:Leanne.Kennedy@infrastructure.gov.au]
Sent: Friday, 11 July 2014 9:12 AM
To: NYAKUENGAMA Sharon; s22(1)(a)(ii)
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With thanks

Leanne

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s47E(d)



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s47E(d)



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s47E(d)



s47E(d)

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Comment [PL1]: Should be 'advises' not 'advise'

s22(1)(a)(ii)

From: NYAKUENGAMA Sharon
Sent: Friday, 11 July 2014 1:01 PM
To: KENNEDY Leanne (Infrastructure)
Cc: s22(1)(a)(ii)
Subject: FW: ATTACHMENT B Importation Customs edits clean ~~[SEC-PROTECTED, DLM-Sensitive Cabinet]~~
Attachments: ATTACHMENT B suggested final for Customs review.docx
Importance: High

Hi Leanne

s22(1)(a)(ii)

We suggest the following words also be included in the sub under 'implications'

- s47E(d)

Regards
 Sharon

Sharon Nyakuengama
 National Manager Customs Branch
 Australian Customs and Border Protection Service
 P: s22(1)(a)(ii) | F: 02 6274 4993 | M: s22(1)(a)(ii)
 E: sharon.nyakuengama@customs.gov.au
 W: www.customs.gov.au

From: s22(1)(a)(ii)
Sent: Friday, 11 July 2014 12:32 PM
To: NYAKUENGAMA Sharon
Subject: FW: ATTACHMENT B Importation Customs edits clean ~~[SEC-PROTECTED, DLM-Sensitive Cabinet]~~
Importance: High

Hi Sharon

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For your consideration.

Regards
 s22(1)(a)(ii)

Border Control and Clearance Framework | Customs Branch | P: s22(1)(a)(ii)
 6275 5745 | M: s22(1)(a)(ii)

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s47E(d)



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s47E(d)



Impacts of importation for operators

s47E(d)



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s47E(d)

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The ACBPS advises that bespoke changes to the importation framework could undermine the treatment of unrelated goods in the market and could bring about unnecessary pressure upon the Australian Government to create exemptions from the consequences of importation for other special circumstances.

Implications

The proposed licence will not specify activities, ports or cargo; rather it will state that a ship holds a license to engage in the coasting trade (domestic activities). The Coastal Trading legislation will retain the exclusion clause relating to licensed ships not being subject to import requirements. The licence prevents the consequences importation being triggered. s47E(d)

s47E(d)

s47E(d)



Released by DIBP under the
Freedom of Information Act 1982

s22(1)(a)(ii)

From: NYAKUENGAMA Sharon
Sent: Friday, 11 July 2014 1:56 PM
To: KENNEDY Leanne (Infrastructure)
Cc: s22(1)(a)(ii)
Subject: RE: ATTACHMENT B Importation Customs edits clean ~~[SEC-PROTECTED, DLM-Sensitive-Cabinet]~~

Of course. It will be a permit. Thanks Leanne.

Sharon

Sharon Nyakuengama
 National Manager Customs Branch
 Australian Customs and Border Protection Service
 P: s22(1)(a)(ii) | F: 02 6274 4993 | M: s22(1)(a)(ii)
 E: sharon.nyakuengama@customs.gov.au
 W: www.customs.gov.au

From: Kennedy Leanne [mailto:Leanne.Kennedy@infrastructure.gov.au]
Sent: Friday, 11 July 2014 1:12 PM
To: NYAKUENGAMA Sharon
Cc: s22(1)(a)(ii)
Subject: RE: ATTACHMENT B Importation Customs edits clean ~~[SEC-PROTECTED, DLM-Sensitive-Cabinet]~~

Thanks Sharon s22(1)(a)(ii) if I can replace licence with permit we're on.....

From: NYAKUENGAMA Sharon [mailto:sharon.nyakuengama@customs.gov.au]
Sent: Friday, 11 July 2014 1:01 PM
To: Kennedy Leanne
Cc: s22(1)(a)(ii)
Subject: FW: ATTACHMENT B Importation Customs edits clean ~~[SEC-PROTECTED, DLM-Sensitive-Cabinet]~~
Importance: High

Hi Leanne

s22(1)(a)(ii)

We suggest the following words also be included in the sub under 'implications'

- s47E(d)
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Regards
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Sharon Nyakuengama
 National Manager Customs Branch
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 P: s22(1)(a)(ii) | F: 02 6274 4993 | M: s22(1)(a)(ii)
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To: NYAKUENGAMA Sharon
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s22(1)(a)(ii)

Border Control and Clearance Framework | Customs Branch | P: s22(1)(a)

| F: 02 6275 5745 | M: s22(1)(a)(ii)

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s22(1)(a)(ii)

From: Kennedy Leanne <Leanne.Kennedy@infrastructure.gov.au>
Sent: Tuesday, 15 July 2014 9:50 AM
To: NYAKUENGAMA Sharon
Cc: Zielke Judith; s22(1)(a)(ii) BUCKPITT Jeff
Subject: RE: Coastal shipping implications for dry docking ~~[SEC-PROTECTED, DLM-Sensitive-Cabinet]~~

Morning Sharon

I'm sorry I missed you last night, I've left a message to catch you this morning. I believe the input you provided us last week more than adequately covers Marie's interests, we have a point on drydocking in the body of the submission and the material you provided has been reflected in the attachment as supplied.

I'm reluctant at this point to engage with s47E(d) ahead of the Submission going forward, I can't see how the proposed model in would fail to serve their needs. s47E(d)

I'm aware there's interest by the PM in making an announcement on the competitiveness agenda, including Coastal Shipping in the fortnight or so over the Cabinet meeting and am reluctant to consult with industry ahead of Cabinet. There's a recommendation to consult on the reforms before the drafting of our Bill; in my opinion that's the time to consult.

Let's discuss further when you get a moment. Thanks again for your support and input to the Submission, we are hoping to release the Exposure Draft today or tomorrow at the latest.

Best regards

Leanne Kennedy

A/g General Manager
 Maritime and Shipping Branch
 Department of Infrastructure and Regional Development

T: +s22(1)(a)(ii) M: s22(1)(a)(ii) E: leanne.kennedy@infrastructure.gov.au



Australian Government
 Department of Infrastructure and Regional Development

From: NYAKUENGAMA Sharon [mailto:sharon.nyakuengama@customs.gov.au]
Sent: Monday, 14 July 2014 5:51 PM
To: Kennedy Leanne
Cc: Zielke Judith; s22(1)(a)(ii) BUCKPITT Jeff
Subject: FW: Coastal shipping implications for dry docking ~~[SEC-PROTECTED, DLM-Sensitive-Cabinet]~~

Hi Leanne

Can you please give me a call to discuss the email from PM&C below before I respond.

We can provide you with the couple of sentences as suggested by Marie for the main body of the sub and are more than happy to contribute to your RIS process – especially as we think we can characterise this and other aspects of interaction with the Customs act as deregulatory.

As far as consulting with s47E(d) goes, my preference would be to do that together with you given that the policy approach we are taking is dependent on your proposal to extend the coastal shipping permit to passenger cruise ships.

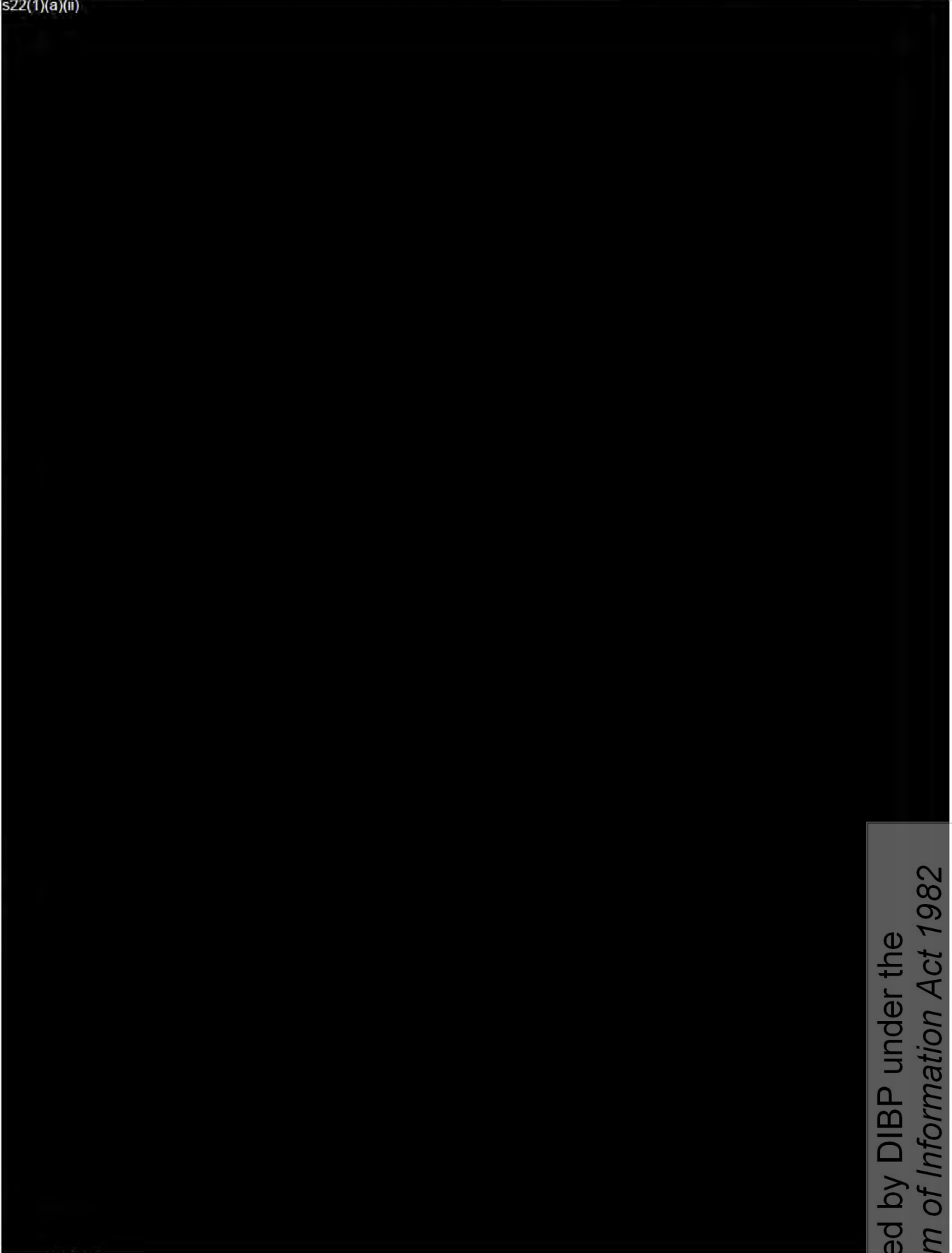
Regards
Sharon

Sharon Nyakuengama
National Manager Customs Branch
Australian Customs and Border Protection Service
P: s22(1)(a)(ii) | F: 02 6274 4993 | M: s22(1)(a)(ii)
E: sharon.nyakuengama@customs.gov.au
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s22(1)(a)(ii)



§22(1)(a)(ii)



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s22(1)(a)(ii)

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s22(1)(a)(ii)

From: NYAKUENGAMA Sharon
Sent: Wednesday, 16 July 2014 9:07 PM
To: KENNEDY Leanne (Infrastructure); 's22(1)(a)(ii)'@treasury.gov.au'; s22(1)(a)(ii)'@pmc.gov.au'; s22(1)(a)(ii)'@protected.employment.gov.au'; 'Kerryn VINE-CAMP'
Cc: 'Zielke Judith'; s22(1)(a)(ii)'
Subject: Coastal Shipping and dry docking (SEC-PROTECTED, DLM-Sensitive, Cabinet)
Attachments: C14_49918 Letter to Mr Morrison.pdf

Coastal Shipping IDC Colleagues,

Some of you will be aware that in parallel to the coastal trading review the Australian Customs and Border Protection Service (ACBPS) has been considering options for reducing the regulatory impact of the requirement to enter ships imported for dry-docking activities. This work has been undertaken at the request of the Minister for Immigration and Border Protection (MIBP) after representations to his office from the s47E(d)

ACBPS's advice to the MIBP has been that under the current legislative provisions foreign ships that undertake in dry-docking in Australia have discontinued their international voyage and are therefore imported. Once imported, an entry for home consumption is required to acquit a range of Customs requirements in relation to revenue and prohibited goods. As detailed in the Attachment to the Coastal Shipping Submission relating to Importation, the entry for home consumption, also triggers the application of a range of other domestic regulation, including the immediate cessation of work right under an MCV and a requirement to depart Australia or join another ship on an international voyage within 5 days.

s47E(d)

s47E(d)

The Prime Minister has responded to MIBP (attached) asking him to bring this issue forward for Cabinet consideration concurrently with the Coastal Shipping Submission in August, and to consult closely with his colleagues on the implications for immigration and employment status of the crew and the consequences of the proposal for other industries.

In the period between MIBP writing to the PM and receiving the PM's response, ACBPS became aware that the proposed Coastal Shipping reforms also include the proposed extension of coastal shipping permits to passenger cruise ships. All ships operating on a coastal shipping permit are also intended to have the benefit of a presumption against importation along the lines of current section 112 of the Coastal Trading Act. Our view is that the approach of granting a permit for a ship to engage in coastal shipping (rather than licensing of voyages that could be undertaken by any ship) in combination with a provision in the Coastal Shipping Act that provides a statutory presumption against importation, would mean that we could consider ships with a permit as 'not imported' if they

undertake dry-docking during the validity period of the permit. The proposal that coastal shipping permits will also be required for passenger cruise ships undertaking coastal voyages would extend this approach to dry docking for cruise ships as well as commercial ships operating on a coastal trading permit.

We consider that this option is lower in regulatory burden than the proposal to amend the Customs regulations to provide an alternative method of import clearance to an entry for home consumption that is the subject of the Minister Morrison's letter to the PM. The introduction of the requirement of a permit that gives a ship a status of 'not imported' would also provide cruise ship operators with stronger argument that the vessel is not imported therefore does not need to be entered for home consumption or subjected to an alternative import clearance model.

s47E(d)

ACBPS would still have the same powers in relation to a ship when in dry dock as it has in relation to a ship on a continuing international voyage, and would act within its current powers to manage risks in relation to prohibited goods and dutiable ships stores. We would, however, seek administrative advice from operators as to the increased value of a ship after undertaking dry docking in order for that value to be properly taken into account in Australia's trade statistics.

Infrastructure has kindly included the following paragraphs in Attachment B to the Coastal Shipping Submission at ACBPS's request

The proposed permit will not specify activities, ports or cargo; rather it will state that a ship holds a permit to engage in the coasting trade (domestic activities). The Coastal Trading legislation will retain a clause to the effect that ships with a permit will not be subject to import requirements. The permit prevents the consequences importation being triggered. The activities undertaken in dry dock are essentially domestic in nature. The effect of the proposed changes to the permit means that a foreign flagged ship holding a valid permit can undertake dry dock activities without the requirements of importation being triggered; in particular the ship would not need to be entered for home consumption to undertake dry dock activities.

As the proposed permit scheme will now apply to cruise ships; if a cruise ship has a permit to engage in the domestic economy and enters dry dock, then the ship will not be imported. Regulatory activities associated with a ship entering dry dock would continue to apply, such as monitoring and reporting all movement of goods and people on and off the ship.

s47E(d)

As the letter from the Prime Minister indicates that MIBP should consult with your Ministers in particular in relation to the consequences of the dry docking proposals, I would appreciate your advice as to whether you support the approach set out above to deal with this issue in the context of the Coastal Shipping Submission without the need for a separate submission on dry docking.

As I will be on leave for the next two days, if you require any further explanation of the proposal outlined above, please contact me on my mobile number below or call my colleagues s22(1)(a)(ii).

Regards
Sharon

Sharon Nyakuengama
National Manager Customs Branch
Australian Customs and Border Protection Service
P: s22(1)(a)(ii) | F: 02 6274 4993 | M: s22(1)(a)(ii)
E: sharon.nyakuengama@customs.gov.au
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s22(1)(a)(ii)



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~~PROTECTED Sensitive Cabinet~~

PRIME MINISTER

Reference: C14/49918

13 JUL 2014

The Hon Scott Morrison MP
Minister for Immigration and Border Protection
Parliament House
CANBERRA ACT 2600

Dear Minister

Thank you for your letter dated 17 June 2014 regarding proposed changes to the clearance processes for international ships and aircraft undertaking scheduled maintenance in Australia.

Deregulation in the shipping industry is a priority for our Government. Reforms to coastal shipping are being led by the Deputy Prime Minister and Minister for Infrastructure and Regional Development, the Hon Warren Truss MP and the Minister for Employment, Senator the Hon Eric Abetz.

s34, s47C



s34, s47C

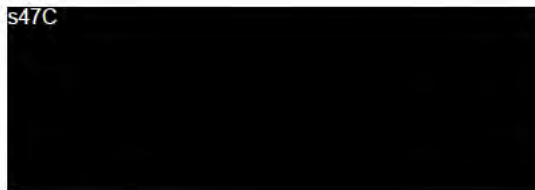


I have copied this letter to the Deputy Prime Minister, Minister for Employment, the Treasurer, the Minister for Finance and my Parliamentary Secretary, the Hon Josh Frydenberg MP.

Yours sincerely

TONY ABBOTT

s47C



Parliament House CANBERRA ACT 2600
Telephone (02) 6277 7700
www.pm.gov.au

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Freedom of Information Act 1982

s22(1)(a)(ii)

From: s22(1)(a)(ii)@infrastructure.gov.au>
Sent: Thursday, 18 September 2014 11:25 AM
To: KENNEDY Leanne (Infrastructure); s22(1)(a)(ii)
Subject: RE: Coastal Shipping briefs [SEC-PROTECTED, DLM-Sensitive:Cabinet]
~~[SEC-PROTECTED]~~

Categories: Awaiting advice

s22(1)

When speech has been delivered I will send you a copy, as well as anything else I can
Currently it contains the following (P21): but strongly suggest it be checked against delivery

To this end, the Government is considering implementing a significantly more flexible permit system to stimulate coastal shipping in Australia.

We are also considering options to reform the Australian International Shipping Register and expand its scope to potentially include coastal shipping services.

I am cognisant of the interaction between Customs importation requirements and the Coastal Trading Act and I will be working with my Ministerial colleagues to resolve this issue.

s22(1)(a)(ii)

Coastal Trading and Maritime Environment
Surface Transport Policy Division
Ph s22(1)(a)(ii)
Mob s22(1)(a)(ii)

s22(1)(a)(ii)

s22(1)(a)(ii)

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s22(1)(a)(ii)

s22(1)(a)(ii)

From: s22(1)(a)(ii)**Sent:** 28/10/2014 4:16 PM**To:** NYAKUENGAMA Sharon**Cc:** s22(1)(a)(ii)**Subject:** FW: Draft Agenda: Meeting to discuss coastal trading RIS [SEC-PROTECTED, DLM-Sensitive.Cabinet]

Hi Sharon

The meeting this morning was heavily focussed on the RIS and what was happening.

- Infrastructure is currently re-writing the RIS to better align it with OBPR advice (I gathered this is based on the current guide which sets out several questions, which have to be answered in relation to each aspect of the RIS.
- OBPS want some whole of economy modelling. Understood that the overall benefits would be small. The economist from Infrastructure disagreed with the position that the benefits were negligible claiming all the little things would add up to greater overall benefit. However I don't think this will deliver the big benefits required for a media story or something the Minister can rely on to push the measures. He is going to provide some wording to add weight to the RIS to suggest there will be some benefits from the changes.
- Infrastructure will model the 3 options included in the submission as well as the preferred option put to Cabinet.
- Infrastructure has re-engaged the consultant previously used to undertake the economic modelling to add more details to the TRIS.
- Infrastructure is looking for a new slot to go to Cabinet. (It is unlikely that anything will happen this year.)
- There was a recent article about deregulation which misquoted Josh Frydenberg about 'Dereg Day' and coastal trading legislation being deregulated. Nothing has been progressed to the point where this could be announced.
- I asked about the communications strategy – Leanne advised that the DPM had sent a letter to the PM, which provided a broad comms strategy for raising awareness. It was very high level and referred to media statements and speeches. I asked whether there was any mention of meetings with key peak bodies and industry but was advised it didn't go into that detail. Infrastructure is waiting for a response.

- OBPR noted the new RIS process involved providing 2 RISs for consideration. The first at the beginning was high level and simple. The second was at the very last minute prior to the legislation being implemented (developed with the Exmo).
- There was some discussion around having more discussion within Dept. of Employment around the Fair Work Act. There seemed to be some confusion over what was going back to Cabinet. Infrastructure understands that the proposal in the submission was essentially supported by Cabinet so was not planning to do another submission, however Employment thought another submission with changes was to be submitted. They have some 'tweaks' they consider may be required.
- OBPR suggested some more narrative around economics benefits was required.
- Infrastructure advised they were doing some further modelling around the larger cruise ships – to determine the impact of bringing them under the coastal shipping regime.
- There was a commitment by the DPM to consider passengers and cargo separately – elements of industry considered they had been unfairly treated by having treating cargo and pax carriers in the way.
- s47E(d)
- Leanne noted that Infrastructure had received a number of questions at Senate Estimates in relation to coastal shipping. They expected to receive further questions in writing. Employment noted they didn't even make it to appear before the committee and were waiting to see if they would be rescheduled to appear.

Happy to discuss further as required.

Regards

s22(1)(a)(ii)

Border Control and Clearance Framework | Customs Branch | P: s22(1)(a)(ii) | F: 02 6275 5745 | M: s22(1)(a)(ii)

s22(1)(a)(ii)



Australian Government

Department of Infrastructure and Regional Development

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C

Record of Meeting to Discuss Coastal Trading RIS

Date

28 October 2014

Attendees

Department of Infrastructure and Regional Development

Leanne Kennedy, s22(1)(a)(ii)

Deregulation: s22(1)(a)(ii)

Bureau of Infrastructure, Transport and Regional Economics (BITRE): s22(1)(a)(ii)

Department of Employment

s22(1)(a)(ii)

Deregulation: s22(1)(a)(ii)

Department of Prime Minister & Cabinet

s22(1)(a)(ii)

OBPR: s22(1)(a)(ii)

Australian Customs and Border Protection Service

s22(1)(a)(ii)

Key Discussion Points

Infrastructure Items

1. Discussion of actions taken and required to address OBPR advice to assist with making the final coastal trading RIS consistent with best practice
 - Infrastructure noted intent to restructure the existing RIS to:
 - still address the status quo, 3 options paper options, and the preferred option.
 - align more closely with the '7 RIS questions' in the Australian Government Guide to Regulation; and
 - improve the accessibility of the RIS for a layperson.
 - OBPR confirmed that it would be acceptable to structure the final RIS using the main '7 RIS questions' (i.e. as 7 main headings), but that explicitly addressing the sub-questions from the Australian Government Guide to Regulation would be unnecessary.
 - BITRE noted that whole of economy (CGE) modelling would be a significant expense, and unlikely to add much to the existing cost-benefit analysis.
 - All parties agreed that whole of economy modelling is not required.
 - OBPR queried the nature of the consultant's examination of broader economic impacts, including costs and benefits, as opposed to regulatory burden.
 - BITRE clarified that the consultant's (PAG) work:
 - uses BITRE's methodology;
 - uses methodology consistent with that already approved and accepted in the 2012 RIS;
 - provides information the broader economic impacts; and
 - is a cost benefit analysis, which expresses results in terms of Net Present Value.
 - OBPR/BITRE suggested that the presentation of findings in the final cost benefit analysis report and final RIS could clarify impacts on different business sectors.

Action: Infrastructure to provide OBPR with details of the work specifications provided to PAG

Action: OBPR to provide advice to Infrastructure and BITRE re presentation of cost benefit analysis before inception meeting with PAG (10:30am, Thursday 30 October 2014)

- Employment queried requirements around the inclusion of the status quo
- OBPR confirmed that the status quo is used as the base for the costing of scenarios, and that discussion and costings of the status quo included in the original RIS was satisfactory.
- OBPR also commented regarding any changes to the preferred option. In particular, that:
 - a long-form RIS has been prepared by the Department and submitted to the OBPR for early assessment;
 - if the preferred option is not changing, there is no need to resubmit the RIS for early assessment; and
 - if there are changes to the preferred option, it would be best practice to update the RIS to reflect those changes and resubmit the RIS for early assessment. The compliance costs would also need to be updated to reflect any changes to the preferred option and be agreed with the OBPR.

2. Update on progress and scope of further cost benefit analysis work commissioned

- Infrastructure confirmed that further cost benefit analysis commissioned from PAG, which will examine variants of the preferred Option.
- An inception meeting will be between Infrastructure, BITRE and the consultant on Thursday

Action: Infrastructure to also provide Employment with details of the work specifications provided to PAG

- Infrastructure noted that cruise ships will be considered separately in further cost benefit analysis.

Employment Items

- Employment clarified that their principal concerns were to ensure the structure of the final RIS aligns with best practice, to ensure their work aligns around with Infrastructure's without gaps or overlap, and to ensure all required costings are conducted.

Action: Infrastructure and Employment to continue liaising re RIS work and costings

PMC/OBPR Items

None.

Australian Customs and Border Protection Service (ACBPS) Items

- The ACBPS noted that it had provided formal advice to s47E(d) in relation to the interim process for international ships undertaking dry dock activities in Australia. This advice is that the ACBPS will not be enforcing the requirement to lodge an import declaration (entry for home consumption).


Other Items

- The notion of a 'narrative of benefits' in the RIS was discussed

Action: BITRE to provide/assist Infrastructure with a short block of text discussing the benefits of potential reform (eg increasing national competitiveness and the sustainability of shipping-dependent industries) after final PAG report is completed

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s22(1)(a)(ii)

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s22(1)(a)(ii)

~~PROTECTED~~

s22(1)(a)(ii)

A large rectangular area of the document is completely blacked out, indicating redacted content.

~~PROTECTED~~

From: s22(1)(a)(ii)

Sent: Tuesday, 4 November 2014 3:29 PM

To: s22(1)(a)(ii)

Cc: s22(1)(a)(ii)

Subject: RE: Cabinet consideration of coastal shipping [SEC-PROTECTED, DLM-Sensitive:Cabinet]

[SEC-PROTECTED]

~~PROTECTED~~

Thanks for this s22(1) Below is the timing I have outlined for my min sub, can you pls advise if you this wording is acceptable.

End of November to enable the Department of Infrastructure and Regional Development to provide Cabinet with an interim update of the reform process, including the timing of separate consideration of visa treatment

s22(1)(a)(ii)

Traveller Policy Section

Department of Immigration and Border Protection

Telephone: s22(1)(a)(ii)

Email: s22(1)(a)(ii)@immi.gov.au

~~PROTECTED~~

s22(1)(a)(ii)

s22(1)(a)(ii)

s22(1)(a)(ii)

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s22(1)(a)(ii)

From: s22(1)(a)(ii)@infrastructure.gov.au>
Sent: Tuesday, 18 November 2014 4:29 PM
To: s22(1)(a)(ii)@employment.gov.au; s22(1)(a)(ii)@employment.gov.au;
 s22(1)(a)(ii) (IMMI); s22(1)(a)(ii)
Cc: s22(1)(a)(ii)
Subject: Coastal Trading - Draft Transitional Arrangements ~~(BLM - For Official Use Only)~~
Attachments: CT Bill - Transitional arrangements one pager 181114.docx

Dear all,

Attached are draft transitional arrangements for the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2015. We would appreciate any comments you have, in particular whether the draft arrangements will cause any issues with your related work, by COB Monday 24 November 2014.

Happy to discuss if you have any queries.

Kind regards,

s22(1)(a)

(U)

Coastal Trading Section
 Maritime and Shipping Branch - Surface Transport Policy Division
 Department of Infrastructure and Regional Development

s22(1)(a)(ii)

s22(1)(a)(ii)@infrastructure.gov.au



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Department of Infrastructure and Regional Development

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~~FOR OFFICIAL USE ONLY~~**Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2015 – Transitional Arrangements**

The following transitional arrangements have been developed for the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2015 (the Bill). The aim of the transitional arrangements is to have a clean switch-over from the Licence system to the Permit system with minimal overlap between of the two systems. The commencement of the Bill will be done via proclamation to enable an appropriate start date for the permit system to be selected (this will provide flexibility in case the legislation is held up).

	On proclamation	Thirty days after proclamation
Permit system	Ability to apply for a permit commences	Ability to undertake coastal shipping under a Permit commences
Licence system	Ability to apply for a General, Transitional General, Temporary or Emergency Licence, or vary a Temporary Licence, ceases	Ability to undertake coastal trading under a General, Transitional General, Temporary or Emergency Licence ceases

~~FOR OFFICIAL USE ONLY~~

s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Monday, 24 November 2014 10:20 AM
To: s22(1)(a)(ii); s22(1)(a)(ii)@employment.gov.au'; s22(1)(a)(ii)@employment.gov.au'; s22(1)(a)(ii) (IMMI)
Cc: s22(1)(a)(ii) NYAKUENGAMA Sharon
Subject: RE: Coastal Trading - Draft Transitional Arrangements [DLM-For Official Use Only]

Hi s22(1)

Thanks for the opportunity to comment on the draft transitional arrangements for the Coastal Trading legislation. The Australian Customs and Border Protection Service has no issues with these proposed arrangements.

Regards

s22(1)(a)(ii)

Border Control and Clearance Framework | Customs Branch | P: s22(1)(a)(ii) | F: 02 6275 5745 | M: s22(1)(a)(ii)

From: s22(1)(a)(ii)@infrastructure.gov.au]
Sent: Tuesday, 18 November 2014 4:29 PM
To: s22(1)(a)(ii)@employment.gov.au); s22(1)(a)(ii)@employment.gov.au; s22(1)(a)(ii) (IMMI); s22(1)(a)(ii)
Cc: s22(1)(a)(ii)
Subject: Coastal Trading - Draft Transitional Arrangements [DLM-For Official Use Only]

Dear all,

Attached are draft transitional arrangements for the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2015. We would appreciate any comments you have, in particular whether the draft arrangements will cause any issues with your related work, by COB Monday 24 November 2014.

Happy to discuss if you have any queries.

Kind regards,

s22(1)(a)(ii)

Coastal Trading Section
 Maritime and Shipping Branch - Surface Transport Policy Division
 Department of Infrastructure and Regional Development
 s22(1)(a)(ii)
 s22(1)(a)(ii)@infrastructure.gov.au



Australian Government
 Department of Infrastructure and Regional Development

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