

13 August 2004

**JSA Comments on the Issues Paper
concerning the Review of Part X of the Trade Practices Act 1974**

With reference to the Issues Paper concerning the Review of Part X of the Trade Practices Act 1974 published in July 2004, the Japanese Shipowners' Association (JSA), a nation-wide shipowners' association consisting of 108 Japanese shipping companies, respectfully submits its comments.

- 1) JSA supports the comments separately submitted by the Shipping Australia Limited (SAL) which includes three Japanese liner shipping companies who are members of the JSA.

We respectfully submit our basic position on the current administered immunity from the competition laws for carriers' agreements (hereafter referred to as the "immunity system").

- 2) Our fundamental stance on the immunity system can be summarised as follows.

A current, effective and innovative liner shipping business and its infrastructure is established under the immunity system which enables member shipping companies of carriers' agreements including conferences, discussion agreements and consortia to save significant cost in providing reliable liner shipping services and to improve their service quality and level of efficiency. The immunity system is therefore useful for the shipping industry as well as the whole trading industry including shippers, who benefit from high-quality liner services. A repeal of the immunity system would lead to destructive competition among carriers which will seriously weaken the ability of carriers to invest in ships and other trade infrastructure required to meet the growing demands for ocean transportation. Such competition also may result in an oligopoly situation in liner shipping that would bring several negative consequences for the whole trading industry such as fewer service choices and reduced efficiency and quality in services. Hence, we strongly urge the Government of Australia not to take action that would weaken the ability of carriers, within the limits of Australian regulatory requirements, to

collectively address various issues affecting rates and services, as well as broader issues of stability of international trade to and from Australia, world economic trends and the supply/demand situation in the container shipping market.

- 3) The current Australian regulatory regime for liner shipping is remarkably successful. In the Australian liner trade, carriers perform their job effectively and efficiently and the market is highly competitive without regulatory conflicts with its major trading partners such as Japan and the United States where the immunity system was retained through exhaustive reviews in the late 1990's. Under the current regime, shippers in the Australia trade have benefited from robust service options and reasonable rates.
- 4) Recognising that carriers are given the privilege to organise legitimate agreements under the immunity system subject to limitations set forth in the law, the JSA considers that it is important for carriers to achieve maximum transparency in operating liner conferences/agreements in order to obtain good understanding from shipper industries and governments. In this regard, we would like to draw your attention to a consultation mechanism between carriers' agreements and the Japan Shippers' Council that has been well-established in Japan. This long-standing self-regulatory regime among private sectors works very well and it contributes towards achieving a proper balance between the interests of shippers and carriers under the immunity system.
- 5) We therefore do not see any need to introduce further regulations pertaining to the activities of carriers' agreements in trades to and from Australia. We therefore respectfully urge that the current Australian regulatory framework constructed by Part X of TPA should be retained. We would, of course, warmly welcome any opportunity to exchange views with the Productivity Commission on this critical issue.
