

Terms of Reference for a Review of the Interface Between the Land Transport Industries and the Stevedores at Port Botany

Reference to the Tribunal

The Independent Pricing and Regulatory Tribunal of NSW (IPART) is requested under Section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992* to undertake a review of the interface between the road transport industry, rail operators and the stevedores at Port Botany. Key background information for the Review is outlined at Attachment A.

Matters for Consideration

With the commencement of the Port Botany Expansion, the volume of containers handled at Port Botany will triple by the year 2025 to 3.9M TEU. At least 60% of this freight task will be handled by road. It is therefore imperative the issue of truck congestion and road transport efficiency is addressed.

IPART is requested to review the interface between the land transport industries and the Port Botany stevedores, including the vehicle booking system, rail access arrangements and the provision of any other services to industry by or in connection with the stevedore's business.

In advising on the above, IPART is requested to examine the following matters, and to develop and make recommendations on options available for addressing any issues which it considers materially impact on the efficiency of the port-land transport interface:

- an assessment of the cost base underpinning the provision of the vehicle booking system and services referred to above;
- structure and framework of charges and penalties (however described) payable by participants in the road transport industry and/or rail operators;
- impact of the vehicle booking system, and the manner of the provision of the services referred to above, on road transport movements;
- impact of road and rail pricing on the choice of mode by which containers are transported to and from the port;
- efficiency of the land side logistics chain at Port Botany, noting the work already done by FIAB.

The report should consider:

- whether charges and penalties are efficient;
- whether charges and penalties are fair to all users;
- whether the efficient allocation of space/movement of trucks to and from the Port is affected;

- arrangements which would help ensure that the stevedores provide a transparent and fair allocation of access and provision of services in connection with the terminals;
- any road and rail issues raised in addition to those considered by FIAB which are specifically related to the efficiency of the interface between the stevedores and land transport operators at Port Botany; and
- whether institutional changes can be made to improve the efficiency of the land side logistics chain.

Other matters

- IPART should consult with stakeholders and accept public submissions within the timetable for the investigation and report.
- IPART should have regard to the port competition and regulation principles set out in Clause 4.1 and Clause 4.2 of the Competition and Infrastructure Reform Agreement signed by COAG on 10 February 2006.
- IPART should take into account any relevant studies and practices undertaken both in NSW or other jurisdictions. A list of relevant NSW Government and industry reports is at Attachment B.

Timing

IPART is to investigate and provide a draft report to the Minister for Ports and Waterways within six months of commencement and a final report to the Minister after a further three months.

Background

The majority of containers at Port Botany (80%) are transported by road. The two stevedores, DP World (formerly P&O Ports) and Patrick, operate independent vehicle booking systems to manage the road movement of containers in and out of the port. Access to the terminals is arranged via subscription with each stevedore for truck slots per hour. The system also provides for penalties to discourage no shows or cancellations. Prior to the establishment of the VBS long truck queues commonly occurred as drivers simply waited in turn for access to the terminal.

Rail access charges to Port Botany are applied by the stevedores in part to recover the cost of servicing rail operations at the terminals. The access charges are applied on the basis of volume (per container) transported to and from the terminals. The magnitude of charges applied to individual rail operators is anecdotally high in comparison road transport. Consideration of the relative access charge per TEU would provide a meaningful comparison of the relative costs.

The stevedoring industry (generally) is currently under annual monitoring by the Australian Competition and Consumer Commission (ACCC). The ACCC's container stevedoring monitoring program is undertaken at the direction of the Federal Treasurer under Part VIIA of the Commonwealth *Trade Practices Act 1974* to monitor prices, costs and profits of container terminal operator companies at the ports of Adelaide, Brisbane, Burnie, Fremantle, Melbourne and Sydney. This is on the basis that stevedoring in Australia is dominated by the strong duopoly of Patrick and DP World. A report is prepared annually that monitors trends in container operator's costs, revenues and profits.

The ACCC reports the proportion of revenues earned from activities other than stevedoring has increased from 11 per cent in 2001-02 to 15 per cent in 2004-2005. In that period revenues from 'non-stevedoring' activities have doubled to \$112.5 million.

In its "Container Stevedoring Monitoring Report No. 8" for 2005-06 released in November 2006, the ACCC states "a proactive approach by port managers to managing certain land-side logistics arrangements may be necessary to ensure that the land side interface does not emerge as a transport bottleneck". The ACCC considers the current land-side interface arrangements for container stevedoring services needs further assessment.

The vehicle booking system (VBS) and rail access arrangements are part of the land-side interface between the port and connecting transport modes. Under the current arrangements, Patrick and DP World have a major role in managing the land-side interface. Both companies also provide road and rail transport services.

In a July 2005 report to the NSW Government on ways to manage the movement of increasing numbers of containers at Port Botany, the Freight Industry Advisory Board (FIAB) recommended the establishment of a Port Botany Logistics Chain Team to manage the logistics task, optimise the efficiency of the port-rail-road interface and enhance capacity on the infrastructure network.

Following a Roundtable meeting with industry on 14th September 2006, the Minister for Ports and Waterways has agreed to establish an industry/government taskforce to provide comprehensive advice to government on issues in the land transport logistics chain at Port Botany, including port operations, stevedoring, road and rail freight operations, intermodal terminal operations, container parks, planning and regulation. Its Terms of Reference will include vehicle booking systems and rail access charges.

According to the ACCC, increasingly, automated VBS are being used to manage the flow of containers into and out of ports. Revenue from this activity represents about 6.6 per cent of total "non-stevedoring" revenue and is therefore not a significant component of total revenues in the industry. However, the VBS component of "non-stevedoring" revenue is increasing. VBS revenue on a per unit basis increased 224 per cent in the five years to June 2006.

ACCC authorisations

The ACCC recently authorised the Container Logistics Action Group (CLAG) representing container carriers, freight forwarders, customs brokers, importers and exporters to negotiate collectively on behalf of current and future members with the stevedores on terms, prices and conditions of supply of a range of services and terminal access conditions. The authorisation, however, does not compel the stevedores to participate in negotiations.

The ACCC does not receive detailed cost and profit data on the VBS. It simply provides economic monitoring of annual revenue data provided by the stevedores.

Major issues

A range of services are supplied to the participants in the land transport of containers by or in connection with stevedoring activity at Port Botany, including the VBS, container storage, maintenance and repositioning services.

Major issues in connection with these services include:

- the transparency, applicability and affordability of charges and penalties;
- the fees charged for access to the services and whether any benefit received is commensurate with those fees;

- the level of penalties for missed bookings or late arrivals which may not be the carrier's own fault;
- the imposition of penalties to include Sundays and Public Holidays ; and
- whether there is adequate transparency in the way time slots are allocated.

Attachment B

- Container Stevedore Monitoring Report No 8 by ACCC Nov 2006
- "Mismatch of Hours" Report by NSW Sea Freight Council Jan 2005
- "Railing Port Botany's Containers" by the Freight Infrastructure Advisory Board July 2005
- Container Logistics Action Group (CLAG) submissions to ACCC seeking authorisation to collectively bargain with stevedores, March 2006 at www.accc.gov.au
- P&O Ports response to CLAG submission March 2006