

Australian Government, Productivity Commission

Australia's maritime logistics system

Submission of the

Australian Maritime Officers Union

February 2022

1. The Australian Maritime Officers Union (AMOU) welcomes the opportunity to make this submission to the Productivity Commission's inquiry into Australia's maritime logistics system.
2. The AMOU is registered under the Fair Work Act 2009 represents the professional and workplace interests of Ship's Masters (Captains) and Deck (navigating) Officers in the maritime 'blue water', offshore oil and gas, ferry, dredging and tourism sectors, Marine Pilots, tug Masters, bunker (refuelling) tankers, Stevedoring Supervisors, Port Services officers, vessel traffic services (VTS)/harbour control and professional/ administration/ supervisory/technical staff of port corporations and maritime authorities.
3. We note that in undertaking this inquiry the Federal Treasurer has asked the Productivity Commission to have specific regard to the ACCC's container stevedoring monitoring report.
4. For the information of the Productivity Commission the Maritime Union of Australia has industrial coverage of Grades 1-6 of the *Stevedoring Industry Award 2020*. The AMOU has industrial coverage of Grade 7 and above employees.
5. We make the following comment on the ACCC's container stevedoring monitoring report 2020-21:

Protected Industrial Action: Taking protected industrial action is a legislated right available to employees and employers in pursuit of industrial claims. Industrial action is only permissible for workers if they are bargaining for a new enterprise agreement; prove they are genuinely trying to reach a settlement; had potential action endorsed by a majority of effected employees by secret ballot and the employer is given 3 days notice of the action to be taken. Employers in response to protected action can, among other remedies, get return to work orders and apply for injunctions to suspend or termination action including where action jeopardises the economy (or part of it).

Enterprise Agreements: Enterprise Agreements are a settlement of industrial matters between employers and employees represented by bargaining representatives. Employers and unions do not get to vote on endorsing proposed agreements. Under the framework of the *Fair Work Act 2009*, following bargaining employers are required to issue to all effected employees a copy of the proposed agreement. Employers are required to explain the contents of the agreement to employees in appropriate ways, and following a period of not less than 7 days employers ask employees to accept or reject the employers offer. An agreement is accepted if a majority of effected employees vote to accept it. Before the Fair Work Commission can endorse an agreement it must be satisfied that, among other matters, that the agreement has been genuinely agreed by employees; passes the better off over all test and approving the agreement would not be inconsistent with or undermine good faith bargaining provisions.

6. The ACCC report in a number of places states that market participants have concerns about the effect of industrial action on their operations and makes comment on the appropriateness of enterprise agreement content.
7. Our industrial system leaves little space for those other than the immediate industrial players to determine if industrial action is a proportional response during protracted negotiations or the content of enterprise agreements.
8. It is the preference of the AMOU that our industrial system includes a genuine pathway for unions to negotiate industry level agreements. This is an option the Productivity Commission should consider in light of the assertions raised in the ACCC report.
9. We refer the Productivity Commission to the Senate, Rural and Regional Affairs and Transport References Committee, Policy, regulatory, taxation, administrative and funding priorities for Australian shipping, Report December 2020 with regard to port infrastructure and services. We consider the Recommendations of the Senate Committee on these matters to be sensible and should be taken up by the Productivity Commission.
10. We will make comment on all other matters following release of the draft report on this inquiry.