



Commissioner Julie Abramson  
Commissioner Stephen King  
Productivity Commission  
Level 8, Two Melbourne Quarter  
697 Collins Street  
Docklands Vic 3008, Australia

Geneva, 13 October 2022

Dear Commissioners,

FIATA, the International Federation of Freight Forwarders Associations, writes in relation to the Productivity Commission's Inquiry into Australia's Maritime Logistics System. FIATA considers it important for sector-specific laws distinguishing port-to-port and landside activities, that are periodically reformed and for increased monitoring for abuse of dominance to respond effectively to business and consumer needs.

Founded in 1926, FIATA is the world's oldest and widest representation of the freight forwarding and logistics industry with more than 40,000 members from 155 countries, comprising companies of all sizes. FIATA represents a wide range of supply chain actors including customs brokers, warehouses, trucking, rail, maritime and air cargo aggregators and NVOCCs.

FIATA's members globally have suffered from reduced reliability of services, increased freight rates, unjustified surcharges, and abuse of dominance in relation to vertical integration. FIATA conducted a global survey and recorded 93 instances of issues faced by forwarders with ocean carriers from 37 countries, which is attached. In response, FIATA's Presidency has prioritized advocacy for a level playing field. The FIATA Extended Board, at the 59<sup>th</sup> FIATA World Congress, Busan, 2022, passed a resolution calling for reform of the competition regulations governing the shipping industry at a global level.

FIATA seeks harmonized sector-specific regulations that are periodically reviewed to remain fit for purpose. The laws should address data security, transparency, clear limitations on the applicability of vessel sharing agreements only to port-to-port transport, and criteria whose breach will trigger investigations, to ensure fair play. Given the global nature of the shipping industry, coordination with other regulators is also encouraged to have a homogenous legal regime and wider monitoring of competition in liner shipping. These aspects are detailed in FIATA's maritime position paper attached. In this context, FIATA commends the work being undertaken by the Australian competition authority along with those of Canada, New Zealand and the United Kingdom.

A fair competitive regime is imperative to preserve the global competitiveness of SMEs and shippers in Australia and their trading partners in other parts of the world. Inaction will result in the consumer having less choice, paying artificially high prices and being subject to more shocks in the availability of essential imports that travel through these supply chains.

FIATA seeks to draw the Commission's attention to the effects of alliances and consortia between ocean carriers, detailed in the attachments, which allows them to reposition capacity rapidly in response to market demand and favourable rates as done in the recent past. The consequent loss of connectivity and rate increases have tangible detrimental effects on the global competitiveness of an

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economy. In addition to these concerns, unequal bargaining power in the maritime supply chains results in the levy of unjustified unilateral surcharges. FIATA calls upon the Productivity Commission to examine if such levies are productive indeed or remove much-needed liquidity from the market. The US-FMC's incentive principle for detention and demurrage charges and their recent Ocean Shipping Reform Act, 2022 place the burden of proof on ocean carriers and terminals as the ones imposing the charge to justify it. The prohibition of carrier retaliation, refusal to deal and a forum for redressal of shipper issues are also welcome changes that should be emulated globally. Such actions by regulators are needed to restore balance and mutual accountability in the supply chain.

FIATA invites the Commission to consider the resources attached in its review. IFCBAA, an Association Member of FIATA, also recorded its views in submission no. 34, February 2022 detailing concerns specific to the forwarders and customs brokers in Australia. FIATA requests the Commission for a thorough, holistic review of the issues that have been raised and to ensure that its future actions address them.

Sincerely,

Andrea Tang  
International Trade Lawyer  
On behalf of FIATA Director General and  
Chairperson of FIATA Working Group on Sea Transport.

#### Attachments

1. FIATA Maritime Position Paper, 2022.
2. Confidential FIATA Maritime Taskforce Survey (Parts 1 and 2).