

5 May 1999

Productivity Commission  
Liner Shipping (Part X) Inquiry  
Locked Bag 2  
Collins Street East  
45 Collins Street  
Melbourne VIC 8003

Dear Sirs

SUBJECT: REVIEW OF PART X  
ISSUES PAPER AND TERMS OF REFERENCE

P&O Nedlloyd Container Line Ltd appreciates the invitation of the Productivity Commission to submit comments in connection with the inquiry in respect of Part X of the Trade Practices Act 1974.

P&O Nedlloyd is a major carrier of Australia's waterborn exports and imports as, for many years, were its predecessors P&O Containers Ltd and Nedlloyd Lines B.V. We serve the Australian continent to and from all parts of the world. The enhancement of Australia's economic performance and living standards is also in our company's interest. This we aim to achieve by offering good services at competitive prices.

Liner shipping has evolved over the last few decades from a situation where each shipping line carried cargo booked by it on its individual vessels to consortia and alliances where member lines share ships and generally cooperate to reduce operational expenditure. By making an optimum use of economy of scale (one large container vessel replaces 7 to 8 conventional breakbulk ships) the savings achieved have been enormous. Yet it is fair and realistic to say that most if not all these savings have been passed on to the transport users, i.e. the shippers. The reason for this unequal sharing of benefits is the extremely competitive environment in which the liner shipping industry finds itself in almost all trades, including those to and from Australia.

It is no secret that financial results of all container liner shipping companies are, and have been for a considerable number of years, mostly unsatisfactory to modest at best. Many shipping lines were not able to cope any more on their own and disappeared from the scene or were taken over. This lack of profitability has led to a significant degree of consolidation in the industry in recent years.

Further cost reductions are always sought but again we expect these to be passed on to our customers in the current and expected competitive environment both in Australia and elsewhere.

If Australia is to keep a choice of frequent and reliable cost effective services for its exports and imports, there is a clear need for an environment which permits conferences and consortia to operate as heretofore. The likely consequences of a removal of the Part X regime are:

- less choice of services and operators
- fewer direct services, as for instance a European direct service would not be viable other than by operators grouping together in consortia
- freight rates unlikely to show a downward tendency since they are already sub-economic but rather likely to fluctuate wildly without the stability

brought about by the conference/consortia environment.

For Lines to make significant capital investments in the trades to/from Australia, there is a clear need for an environment in which conferences and consortia can function properly.

For example, PONL and its partners are planning a major investment in new ships/containers specifically for the Europe/Australasian trade. Without a certain environment in which the partners can enter into long term agreements, and the stable commercial environment provided by Part X, it may well not be possible to justify the investment, and as the present ships will soon be life expired, services would deteriorate significantly as a result.

Furthermore, it is our opinion that authorisation under Part VII of the Trade Practices Act would not give us the degree of comfort which we would need since the authorization procedure as required under Part VII will affect the efficient working of conferences and consortia and create uncertainty.

It is against this scenario that we strongly argue against a further weakening of the position of shipping lines and to retain Part X of the Trade Practices Act as recommended in the Brazil Report in 1993.

Apart from the above observations we would like to emphasize the importance of a greatest possible compatibility of regulatory regimes on both sides of the trades. Mr. Patrick Brazil visited both Brussels and Washington D.C. at the time and his Report contained the caution of the then Prices Surveillance Authority that the inherent international character of the liner shipping industry makes it quite probable that any active regulation in the area of inward trade will encounter jurisdictional problems.

Ideally, so as to achieve the greatest measure of compatibility with legal regimes in other major trading areas such as the USA and Europe, the same regulations should be applied to both the inward and outward trades.

The more uniformity or, at least, compatibility between types of regulatory regimes in the world, the more world trade growth will be facilitated and the easier it will be to meet the challenges posed by changing trade patterns due to globalisation. Continuation of a Part X - type regulatory regime will mean that Australia is actively contributing rather than inhibiting this process and in turn will be assisting its own liner exporters to both diversify and consolidate their marketing efforts.

Yours faithfully

R B Woods  
Managing Director