



AUSTRALIAN FEDERATION OF INTERNATIONAL FORWARDERS Ltd.

Submission

to the

Productivity Commission

Review

into

Part X

of the

Trade Practices Act 1974:

International Liner Cargo Shipping

August 13th, 2004

a. Overview of AFIF

The Australian Federation of International Forwarders Ltd (AFIF) is the peak industry Association representing service providers covering the total international logistics chain.

AFIF was created in July 1996 following the merger of two distinct organisations, namely: The Australian Federation of Airfreight Forwarders ('AFAFF'- formed in 1977) and The International Forwarders Association of Australia ('IFAA' - representing Seafreight Forwarders - formed in 1976).

AFIF has a membership of 204 corporate entities, ranging from organisations that operate several branch offices across Australia, to small and medium enterprises in a single location.

The membership includes in excess of 85% of organisations offering global logistics services to and from Australia, including almost all of the large multi-national companies. Percentage representation in terms of cargo moved is difficult to quantify, nevertheless it is generally acknowledged that in terms of sea cargo (by shipment numbers), Forwarders would provide services for between 65 - 70% of import and export manufactured items, transported in seafreight containers. We believe that these facts and figures indicate the significant role that Forwarders have in the global logistics industry.

A Forwarder is required to provide a variety of services ranging from acting as agent to organise international transport on behalf of their importer or exporter customers, right through to taking on the role of 'principal' in the transaction. The latter requires a Forwarder to provide and/or procure services for the total movement of goods from seller to buyer including: pre-shipment order follow up and inventory control; transport trade & shipping documentation; sea or air transport; cargo tracking; customs & quarantine reporting formalities; depot facilities, plus warehousing and land based distribution of the goods, all whilst taking on full legal responsibility as 'contracting carrier' in the transaction.

b. Involvement in the subject

Due to concerns in relation to the power of the shipping consortia and issues regarding representation relating to general oceanfreight matters, AFIF sought and was granted status as a *Designated Secondary Shipper Body (DSSB)* by the Federal Minister for the Department of Transport in 2001.

In April this year, AFIF responded to the ACCC Part X investigation into the Asia-Australia Discussion Agreement for Southbound Liner trades from North-East Asia. In addition, we were given the opportunity to express our position regarding the current review to Professor Julie Sloan and David Gilbert from the Productivity Commission during a meeting held in Melbourne on July 22nd.

c. AFIF view regarding the current investigation

The Australian Federation of Freight Forwarders is of the opinion that the current impasse of freight increases and shortage of tonnage is the direct result of the growth of the Chinese economy. During the Asian crisis no forecaster was able to predict the rapid growth and dominance this market has gained, in international shipping, within such a short period of time. It was, as a result, that forward planning was lacking in every aspect. Who would now be brave enough to give an accurate forecast for oil price levels for the immediate and medium term future?

Political decisions taken at one point in the world instantly reverberate through the global shipping market. One would trust that the removal of trade barriers and the opening of new markets for Australian primary produce, would level the traditional imbalance in the export and import trade and that the reasonably predictable import trade would be matched by a more predictable export trade. Australia has and always did have, a strong economy, which has outperformed many other major trading nations.

Shipping to and from Australia is a viable business for shipping lines and so is the involvement of freight forwarders. However, all parties must strive for constant improvements, not only with a view to the Australian situation but by keeping abreast of global developments, as shipping to and from Australia is inevitably influenced by developments and decisions made overseas.

Our Federation's opinion is that there is no compelling evidence that the shipping lines have failed in their contribution to Australia's economy and improvements under the regime of *Part X*. We would like to expand on this point later.

We would like to point out that the import / export trade has always been imbalanced. The importation of manufactured goods peaks in the last months of each year. The export trade is influenced by overseas buyers' short-term decisions, seasonal growth, trade barriers and exchange rates, all of which create difficulties for making accurate predictions.

Shortage in the import trade, for instance, can be caused by the empty return of reefers for the Australian export trade. Spot shortages can be caused when bulk ship rates hit an all time high and as demonstrated in a recent example, caused the Australian Wheat Board to make a decision to ship wheat in containers. However, the main reason for shortages is the demand for containers and shipping space in other trades. Shipping lines will always be tempted to return empty containers into a highly buoyant market, rather than sit on "stacks of empties" in the hope that uncertain export forecasts are accurate, which they hardly ever can be. In addition we have local imbalance, in so far as Sydney is predominantly an import port, Melbourne is more balanced and the other ports are export orientated ports.

We believe that considerable micro-efficiencies have been achieved but that on a macro scale the Australian situation remains somewhat inefficient due to these underlying factors. Therefore infrastructure improvements and efficiency gains are the obligation of our industry, although we look towards Government to steer a stabilising course.

Global shipping trade will follow strong markets without hesitation and sometimes at the detriment of other markets. Uncertainty as to the status of shipping in the Australian market would, from our observation, add instability. Removal of *Part X*, without taking into account developments in other countries and markets, would be de-stabilising from the Australian Federation of Freight Forwarder's point of view.

The next round of uncertainty in the global shipping market is imminent, when the 8000 'TEU' vessels, commonly referred to as the "*vacuum cleaners*", enter the market.

It is predicted that these giant vessels, will, on one hand attract containers into the transshipment trade, pushing freight rates downwards but, at the same time, they will cause congestion in the main ports if they do not sail inside very narrow arrival / departure windows. This is due to port infrastructure being insufficient for irregular arrivals and departures of these vessels. This will result in an upward trend in costs.

In any event, the current stabilising effect of more tonnage entering the China trade, levelling steel prices and bulk carrier rates, may be short lived. This would be at least until the supply and demand cycle of the "*vacuum cleaners*" becomes balanced. Although they will not sail to Australian ports, Australia will not be immune from this development therefore, the lines, and to some degree our industry, will have to deal with the challenges of an increased hub and spoke shipping structure that these global trends will create.

International shipping is a fundamental necessity for Australia's economy. International shipping formed conferences during the Tea Trade in the 1800's and was also applied to the '*Clipper*' trade from Australia. The conferences of the Tea Trade have long since been transformed by market forces, shippers' interests and Government guidelines. Such influences have provided the catalyst altering the traditional conferences into carrier-led initiatives such as alliances or discussion agreements to provide better, more efficient and more frequent services. *Part X* has served Australia since the 1970's and amendments introduced since then have taken into account relevant developments.

We are of the opinion that it would be unwise for Australia to radically and unilaterally discontinue the *Part X* provisions, leading to the prohibition of conferences, alliances or discussion groups. The result of Australia stepping far ahead, or to the side, of any of its trading partners would cause serious, if not irreparable, long-term damage to shipping, both to and from Australia.

It is our observation that Australia needs to orientate its regulation on its future free trade partners in North America and, in addition, its alignment with the European Union.

By simply using economic rationale, the elimination of exemptions, the prohibition of conference alliances and the ability to discuss volume contracts, would result in a “pure” and open shipping market, with benefits. However, the international reality would be that all and, we would like to clearly emphasise all, discussions would then move overseas. It has to be in the interest of shippers and the Government to know that discussions with the lines in Sydney and Melbourne carry some weight and, influence policy, shaped in London, Rotterdam, Hamburg, New York, Tokyo, Hong Kong; Shanghai etc.

Our industry would be most concerned if discussions such as: technical co-operation; improvements; implementation and any consideration of advancement were to move overseas. Australia would have to be considered as sitting on the end of a spoke, as far away from the hub as it was possible.

Rate discussions having moved off-shore, would most likely follow the same pattern, whereby the existing rate structures of the main trade on the North Atlantic, the North Pacific and the Europe Far East trade would determine the rate levels. There would be no serious input from Australia, other than the freight rates for the feeder vessels to and from Asia. The fact that the import freight rate levels of this trade are dominated by a very small group of corporations is well known. It stands to reason to ask how Australian shippers could have any influence on the main price setting pattern of the northern hemisphere shipping trade, dominated by global volume contracts between a relatively small number of major shipping lines and their global corporate customers ? Medium and small Australian shippers would be the ultimate losers. The down-scaling of direct sailing to Europe / Mediterranean and even to North America would most likely follow.

Our industry body would like to reiterate that Australia should be very mindful of legislation introduced by its major trading partners and not move from the course of stability.

It is therefore our recommendation to the ACCC to strengthen *Part X*, as the current legislation appears to contain no deterrent for the shipping lines to overstep the mark. Therefore the temptation is to align keen freight rate policy with the corresponding fine tuning of supply and demand.

The four principal objectives of *Part X* are to allow collaboration amongst shipping lines; to provide co-ordinated joint regular service; share capacity and agree on freight rates in order to provide for:

- Australian exporters and importers to have continued access to outward shipping lines
- Adequate frequency and reliability at internationally competitive freight rates.

- Stable access to export markets in all States and Territories.
- Australian flag shipping not to be unreasonably hindered.

Part X, should be widened to incorporate key conditions applicable to other trades and regulate the following:

- The ability to discuss and agree common tariff charges and rates;
- Loyalty contracts;
- Setting basic terms and conditions of service contracts;
- Conference members to co-ordinate and improve services;
- Conference members to set sailing schedules and other services;
- Conferences to share revenue and loss;
- Contain undue market power to limit any one line to a market share of no more than 1/3 of any market

In addition, extend similar obligations to non-conference lines.

We are of the opinion that the shipping lines involved in the Australian Trade have been responsible partners to Australian industry, exporters and importers. Before and during the period of reforms and improvement to the port operations, the lines maintained a balanced approach in the interest of all parties concerned. There have been substantial improvements in ship and port operations, which were only possible through long-term commitment and investments, in close co-operation between the lines and operators.

Our organisation represents the interest of its member's customers. The vital interest of our customers is stability in freight rates to allow for sufficiently accurate forward planning. Australian industry should not be exposed to a see-saw effect in freight rates, although the Australian trade cannot be immune to events in the main trade routes. Therefore supply and demand and price influencing factors must continue to contribute to freight rate fluctuations (rise and fall), however not at the levels experienced during recent years.

Our industry is of the opinion that in other trades, the forwarders bulk volume commitments to the lines, in exchange for loyalty contracts has added a stabilising element to freight pricing. This has not happened to the same degree in Australia.

Should the ACCC consider *Part VII* of the Trade Practices Act to regulate shipping lines, we believe it would give the signal to shipping overseas that the Australian Government is willing to change the regulations for the sake of change. Australian trade depends absolutely on efficient shipping and the Australian trade is of significant proportions. However, Australia is not in the main trade routes of the world and for Australian regulations to spearhead global developments, appears somewhat ambitious. Our opinion would differ if such action would be required in Australia's interest to protect a non-subsidised Australian national carrier. What may appear perfectly logical and economically viable for the Australian situation needs to be checked against the global situation. It should be noted that the Canadian Government, usually not inclined to "wait and see" on questions of air and sea transportation, is steering a careful course on matters related to similar issues.

Our recommendation is to strengthen *Part X* in line with overseas developments.

We would be pleased to consult with overseas forwarders' federations and submit suggestions in line with such developments later this year.

Yours sincerely,

Australian Federation of International Forwarders Ltd.

Fritz Heinzmann
Director, Seafreight