



3 September 2004

Review of Part X of TPA
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**PRODUCTIVITY COMMISSION INQUIRY INTO INTERNATIONAL LINER CARGO SHIPPING:
REVIEW OF PART X OF THE TRADE PRACTICES ACT 1974**

Introduction and Overview

This Submission is made on behalf of BlueScope Steel Limited (BlueScope Steel). We wish to comment on a number of the issues raised in the Issues Paper relating to the Commission's Review of Part X of the Trade Practices Act 1974.

The views expressed in this Submission include the following:

- The operation of market forces in the Australian liner trades during the past decade, particularly the level of competition in-between Conferences and also independent lines, has resulted in substantial improvements in freight rates for shippers, and improved access to adequate and reliable shipping services, notwithstanding current freight rate increases over the past twelve months.
- In view of the trends being experienced in global freight markets, there is some risk that abolition of Part X could result in added turbulence and volatility in the liner trades servicing Australia.
- Part X has provided a framework for exporters and carriers to negotiate, and ensured that service levels are such that Australian exporters are able to access export markets with a level of transparency, although this can be improved.
- Given the effective operation of market forces currently, and the present state of equilibrium under Part X, any move to make fundamental change should be preceded by a careful evaluation, and balancing, of anticipated benefits and risks.
- Under any amendment of the Part X regime which preserves the entitlement of shipping lines to engage in cartel activity (particularly in relation to pricing), whether by means of authorisation or otherwise, it would be important to explicitly maintain the elements of Part X which enable collective actions by shippers.

BlueScope Steel Limited

BlueScope Steel is the leading steel producer in Australia and New Zealand. With an annual global combined freight task of over 14 MT, we are a major user of seaborne freight in Australia. Within Australia this task comprises 9 MT in bulk shipping, 1.55 MT break bulk and 0.45 MT of containerised product moved from Port Kembla, Melbourne, Brisbane and Sydney to customers globally.

BlueScope Steel's Logistics business oversees and extends its involvement into the following operations:

- Vessel Chartering
- Liner Shipping Services
- Vessel Ownership
- Contract Management
- Land Logistics, including transport & warehousing
- Stevedoring
- Logistics Consultancy

As an integral part of our freight and logistics network, BlueScope Steel has an interest in issues relating to the provision of liner shipping services to and from Australia.

Indeed, BlueScope Steel has a containerised/liner shipping task of:

- over 15,000 twenty-foot equivalent units (teus) per annum from Australia;
- approximately 1,300 containers into Australia; and
- approximately 4,000 teus per annum of exports from our Asian operations.

We ship our products to all global regions, including Europe, Africa, India, North and South East Asia, U.S.A and the Caribbean. In all we deliver our products to over 100 ports globally.

Consequently, a major business objective is to ensure access to liner services, which are reliable, efficient, and cost effective, and underpin the competitiveness of our products in world markets where prices are under constant pressure.

The availability of such services over recent decades has occurred whilst Part X of the Trade Practices Act has been in operation.

Trends in Liner Freight Markets

The past decade has seen ongoing significant changes in traditional conference arrangements, including the growth of independent operators in the Australian liner trades. With the erosion of the strength of market share positions previously enjoyed by some operators, many of the traditional boundaries between conference and non-conference have changed. Independent lines have joined with other independents and new entrants have joined together to create consortia arrangements.

Our export trade routes have a mixture of conferences, independent operators and consortia providing services to Australian export shippers. All lines have generally demonstrated sustained ability to meet our requirements regularly.

A major trend observed throughout the 1990's has been the generally downward direction in freight rates in all trades before rebounding in early 2003 for imports and the following year for exports. There

has actually been some significant volatility in pricing since the late 1990's, and this would appear to be driven by market forces.

Today, in all trades, all rates are negotiable. Traditional practices have given way to more open approaches where all Australian exporters have access and can negotiate "blue water" freight rates with shipping lines of their choosing. This is the result of increased competition that exists for export shipments from Australia, with strong rivalry emerging between Conferences and consortia.

A further trend is the consolidation of global operators. This is driven by the fact that exporters are now purchasing their liner shipping overseas as part of the global liner market. There is now a kaleidoscope of liner shipping companies, from global operators to regional carriers, and these provide a full range of sea freight options to Australian exporters. Routing options now available to a particular destination can be many, providing Australian shippers with greater access to markets on competitive terms, where once we were reliant on the service of a few.

Traditional boundaries between liner shipping companies and NVOCC's, freight forwarders and third party logistics providers are continuing to blur, with the latter group in particular poised to take over some of the functions which have been the domain of the shipping company. For example, shipping lines have been known to provide freight forwarders volume based discounts to secure market coverage (instead of the shipping line providing the service through its own infrastructure). In this environment, the distinction between the 'blue water' component of rates and charges and other ancillary and land-based charges, never clear, will become more clouded. This provides a significant issue through a lack of transparent processes, which means key stakeholders do not have the degree of comfort that is required.

Technology has led to the development of larger and faster vessels, resulting in secure transit times and schedule integrity and a growing global focus on a hubs and spokes, with a greater emphasis on trans-shipments. This has enabled shipping lines to improve their services, offering weekly sailings and fixed day services for certain trade routes, and providing exporters with the frequency and reliability which is required to be globally competitive.

Some relevant features of the market are:

- Liner freight volumes are sensitive to changes in the shipping supply/demand balance, and commodity market conditions.
- Shifts in emphasis occur from time to time from containerised to break bulk exports, and vice versa as market offers and shipping arrangements are adjusted in response to economic conditions.
- Increased focus from customers in terms of reliability and frequency of service is being demanded and Australian manufacturers are required to meet these demands. With current economic activity these demands are on occasions not being met.
- There is growing pressure in some global regions for the removal of anti-trust or competition exemptions in respect of liner trades. These markets tend to be on trade routes with higher levels of service than Australian ports due to trade volumes or geographic position. However, some past analyses of abolition in Australia of the Part X regulatory regime have suggested this action would likely impact negatively upon Australian exporters on balance.

- There has been ongoing evidence of attempts by shipping lines to impose ancillary charges, covering items such as Port Service Charges (“PSCs”), Terminal Handling Charges (“THCs”) and Currency and Bunker Adjustment Factors (“CABAFs”) in a collective manner. This could be construed as an attempt to circumvent general freight rate increases and maintain margins.

The Effectiveness of Part X and Implications of its Abolition or Modification

On the whole, under Part X, Australian exporters have been well served by competitive and efficient liner shipping services:

- Service levels have been consistently high, and have improved further,
- Freight rates have been competitively priced, and
- Shipping capacity levels to and from Australia have grown.

We have seen rates rise again in the past 12-18 months and in recent times some lines have indicated they are not prepared to honour contracts. Service levels are currently tight due to increased global economic activity and a change by some exporters from break bulk/bulk shipping to containerised shipping.

Whilst collusion between shipping lines is commonly accepted practice globally, the protection granted Australian exporters under Part X has been highlighted to BlueScope Steel by its role as an exporter within South East Asia. In such regions cargo interests have struggled against the power held by shipping lines with the imposition of additional surcharges.

It is arguable that removal of Part X would lead to the demise of shipping lines or consortia from being able to service Australian exporters to existing levels, and would probably see added turbulence and volatility in the liner trades servicing Australia. This could result in:

i) Acceleration of the trend to mega-carriers

An inability to engage in collaborative behaviour to provide high quality service schedules will drive some shipping operators to seek to establish stronger positions in the Australian trades by “taking out” other players. Either through the impact of competition and aggressive pricing, or through takeovers and mergers, a more limited number of players with very strong market shares would be likely to emerge in the Australian trades.

ii) Changes in the nature of services provided to/from Australia.

The advent of “hub and spoke” services has been pronounced over the past ten years. The development of Australian liner services in the direction of being feeder services to the major Asian regional ports, linking into major East-West trunk routes, has consolidated. Many traditional point-to-point liner services (historically offered by Conferences) could collapse and be fundamentally restructured. Some erosion of service levels, and loss of direct services to some major Australian export destinations, would be likely to result.

iii) More volatile freight rates

If Conference lines were no longer permitted to reach agreement on freight rates, there would naturally be a downward pressure on freight rates, at least in the medium term. It could be expected that rates would be more volatile and opportunistic (compared to the relatively stable levels encouraged by the Part X framework) as, for example, shipowners seek to capitalise on any periods of shortage of cargo

space. BlueScope Steel would welcome outcomes, which involve continued downward pressure on freight rates.

Summary

Given the effective operation of market forces which has occurred, any move to make fundamental change should be preceded by a careful evaluation, and balancing of anticipated benefits and risks.

There presently appears to be a general level of satisfaction amongst the major participants in Australian importing/exporting (including a range of shipowners, both conference and non-conference, shippers and importers) with the state of relative equilibrium, which exists under the current system.

In our view, under any amendment of the Part X regime which preserves the entitlement of shipping lines to engage in cartel activity (particularly in relation to pricing), whether by means of authorisation or otherwise, it would be important to explicitly maintain the elements of Part X which enable collective actions by shippers.

Further, shippers must be allowed the option to negotiate their freight business with either an individual line or a conference, with assurance of confidentiality of such freight agreements to retain the overall effectiveness of rate negotiations.

As a member of the Australian Peak Shippers Association, BlueScope Steel has been active in ensuring that such charges can be justified, relate to the actual cost being incurred by the shipping lines, and, most importantly, ensuring that lines are not passing on and expecting Australian exporters to bear all the risks (and losses) associated with international liner shipping. For example, attempts to immediately pass on all the risks associated with Australian dollar currency fluctuations on world markets through unfair CABAF regimes, have been successfully resisted by shippers. An equitable process currently exists for reviewing CABAF triggers and formulae for reviewing PSCs.

Thank you for the opportunity to comment on the review of Part X. We would welcome the opportunity to provide further information to the Commission if required and I can be contacted on tel: (03) 9666 4133.

Yours faithfully

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