



20 December 2004

Review of Part X of TPA
Productivity Commission
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**REVIEW OF PART X OF THE TRADE PRACTICES ACT 1974: INTERNATIONAL LINER CARGO
SHIPPING
PRODUCTIVITY COMMISSION DRAFT REPORT**

This submission is made on behalf of BlueScope Steel Limited (BlueScope Steel). It provides brief comment on the key recommendations in the Productivity Commission's Draft Report, *Review of Part X of the Trade Practices Act 1974: International Liner Cargo Shipping*.

As stated in our original submission, BlueScope Steel believes that, on the whole, under Part X Australian exporters have been well served by competitive and efficient liner shipping services. During the time that the exemptions under Part X have been available, service levels have been high and improving, freight rates have been competitively priced, and shipping capacity levels to and from Australia have grown. Prices have risen and availability tightened in the past 12-18 months – however, we believe this is largely due to increased global economic activity, rather than any lessening of competition as a result of the operation of Part X.

Notwithstanding this, we note that the Commission has recommended either:

- 1) repealing Part X and, instead, allowing individual assessment and authorisation of agreements under Part VII of the Trade Practices Act where there is a net public benefit; or
- 2) modifying Part X to promote and protect confidential individual service contracts between carriers and shippers and either a) register only agreements that do not contain provisions to discuss or set prices and/or limit capacity, or b) exclude discussion agreements from eligibility under Part X, with the proviso that agreements not eligible for registration under Part X would remain eligible for authorisation under Part VII.

In light of the fact that the Commission has not recommended Part X be retained in its current form, BlueScope Steel believes the preferable option will be one which minimises disruption of the current arrangements between shippers and carriers, while at the same time promoting robust levels of service and capacity, which continue to meet the needs of Australian shippers.

Given our support for Part X and our belief that the objectives outlined in the preceding paragraph would not be achieved by the operation of 'market forces' alone, we support the second option proposed by the Commission – modifying Part X.

Given the importance of liner shipping to BlueScope Steel, we believe this approach would best facilitate the ongoing availability of efficient shipping services, which provide the capacity and service levels required by the Company.

In addition, in light of the two options being considered, we believe the Commission should have particular regard to the following:

- Under any modification of Part X which preserves the entitlement of shipping lines to engage in cartel activity (albeit, in this case, excluding pricing discussions and the limiting of capacity), it would be important to explicitly maintain the other elements of Part X which enable collective actions by shippers – for example, those arrangements that allow shippers to work together through industry associations.
- 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, in order to maintain the overall effectiveness of rate negotiations. This assurance will be particularly important if the Commission's preferred option, repeal of Part X, is adopted. If Part X is repealed and agreements assessed and authorised individually under Part VII, mechanisms must be put in place to ensure commercial confidentiality is respected and information that is prejudicial to the negotiation of successful commercial outcomes for shippers does not become available to third parties.

Thank you for the opportunity to comment on the Draft Report. We would be happy 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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