LINER SHIPPING SERVICES LTD

supplementary submission to

THE PRODUCTIVITY COMMISSION

REVIEW OF

PART X OF THE TRADE PRACTICES ACT

JULY 1999

INDEX

EXECUTIVE SUMMARY

- LSS recommends that the tentative conclusions arrived at by the Productivity Commission as set out in the position paper (page xxx) be carried through to the final report, not only because the conclusions reached are reflective of 88 percent of the submissions received to-date, which to a greater or lesser extent supported the retention of Part X, but also as a result of the robust reasoning the Commission has applied in reaching those tentative conclusions.

- The Commission has correctly identified that "The interests of Australian shippers in obtaining more efficient shipping services broadly coincide with the national interest and, at least in this context, serve as a good proxy for that community-wide interest." In that sense, Part X is fully transparent and therefore in the public interest. The remaining concerns regarding dispute resolution and the penalty provisions can be resolved if amendments are made to Part X as recommended in the main LSS submission and outlined in this supplementary submission.

- To ensure compatibility with the regulatory regimes of our major trading partners, the regulation of Australia's inward trades should be restricted to the designation of a national importer group to negotiate land-based costs levied by Conferences in Australia.

- LSS fully supports the tentative conclusion reached by the Commission that it has not been convinced that the authorisation provisions in Part VII would provide a regulatory framework that generates outcomes as good as, or better than, those currently achieved under Part X.

- The Part X regulatory regime is also superior in many respects to the other alternatives identified.

- LSS recommends that Discussion Agreements be encouraged in the future rather than inhibited in their foundation and operation. Equally, the joint setting of intermodal rates has demonstrative benefits for shippers in the Australian context when they have a clear choice between carrier and merchant haulage.

- The ability to collectively negotiate stevedoring contracts also has clear benefits for Australian shippers, as outlined in this submission. The setting of Terminal Handling Charges has been controversial, but a greater in-depth examination of the issue and the benefits for shippers from greater transparency and the subsequent higher level of pressure on stevedores to perform should result in support for the continuation of these charges being shown separate from the freight rate. Equally, greater detail regarding Port Service Charges is contained in this supplementary submission, and they have clearly had a beneficial effect in terms of reducing statutory port costs in Australia.

- Consolidating the Part X administrative functions within the ACCC is not supported as there are clear benefits in having an outside and independent body investigate any complaints that arise under Part X, which it is suggested in this submission could be initiated by the ACCC on its own initiative rather than just being requested by the Minister and/or on the basis of a specific complaint.

1. INTRODUCTION

1.1 LSS appreciates the opportunity to comment upon the points raised in the Productivity Commission's Position paper released on 29 June 1999. The Commission is to be commended for coming to grips with the many complex issues involved in this review in the relatively short period during which the Position paper was prepared.

1.2 LSS recommends that the tentative conclusions arrived at by the Commission as set out in the position paper (page xxx) be carried through to the final report, not only because the conclusions reached are reflective of 88 percent of the submissions received to-date by the Commission, which to a greater or lesser extent supported the retention of Part X, but also as a result of the robust reasoning the Commission has applied in reaching those tentative conclusions. In particular, that "Australia's interests are best served by a balanced and comparatively non-interventionist framework which recognises the role of Conferences while also promoting market competition and countervailing power of Australian shippers to ensure that a share of the resulting benefits of Conferences is passed on to shippers and that Part X provides one effective route to this end." In addition, the Commission has not been convinced that the Part VII authorisation provisions would provide a regulatory framework that generates outcomes as good as, or better than, those currently achieved under Part X and notes that the public interest appears to be aligned with, and represented by, Australian shippers.

1.3 The Commission expresses concern in the position paper, however, that Part X does not require public reviews of Conference arrangements, the dispute resolution procedures and penalty provisions may be somewhat limited and inflexible and also noted that importers generally are not given the same rights as exporters. These matters, amongst others, are addressed in this supplementary submission.

1.4 It is interesting that despite Conference arrangements being on the public record, other than those for which confidentiality has been granted, they have not been of great interest to the public to-date. Whether arrangements could be made to bring such matters more to the attention of the public remains a moot point. In addition, this submission builds on the recommendation in the main LSS submission that there be increased penalties for the breaching of specific undertakings (at a level commensurate with the seriousness of the breach), and restates the recommendation that there should be an agreed form of mediation as a last resort to resolve difficulties that cannot be resolved under the pro-commercial approach of Part X. The question of regulating the inwards trades is a more difficult issue.

1.5 In particular, the Commission has correctly identified the criteria for any desirable regulatory regime for an industry which does have some special economic characteristics and, importantly, is an international rather than domestic industry, i.e.

- promote market arrangements which generate efficient outcomes for Australian shippers;
- promote Australia's countervailing power;
- involve minimal regulation;
- be compatible with international regulatory regimes (i.e. be workable and enforceable);
- promote predictable outcomes for Australian shippers; and

- involve low maintenance and administration costs, and be transparent and flexible.

1.6 In many ways these criteria are an elaboration of the certainty of application, flexibility and efficiency criteria contained in the main LSS submission. An assessment of the possible alternative regulatory regimes canvassed in the paper using these criteria will clearly show that they are inferior to a Part X regime amended in the manner recommended in this supplementary submission.

1.7 The Part X regime would be able to protect the interests of Australian shippers even if global competition was to abate substantially. As noted in the position paper, it is not foreseen that there will be any significant reduction in excess capacity worldwide and certainly no change to market contestability in the foreseeable future. Part X should be reviewed from time to time to test its applicability to the changing international liner shipping scene. However, in the view of LSS member Lines there is nothing on the foreseeable horizon which would generate any concern regarding the protection of the interests of Australian shippers as far as international liner shipping arrangements are concerned.

1.8 A report in the Lloyds List Daily Commercial News of 19 July 1999 emphasises the value shippers place on countervailing power and the need to protect the national interest. It was noted that the Japan-US Eastbound Freight Conference will cease operations on 1 August 1999 as a result of the cessation of the East and Westbound Pacific Shipping Conferences, and that shippers in Japan have expressed frustration that without the conference apparatus, there was no formal channel for them to confront container Lines about rate increases.

Comments on Submissions

1.9 At Attachment A, is a brief summary and comment prepared by LSS on the submissions received to-date. As noted above, a significant majority of the submissions support the retention of Part X to a greater or lesser extent. Page 69 of the position paper notes that the ACCI would generally call for the termination, or failing that the wind-back, of Part X, but that submission did go on to say that ACCI also recognises the realities of international sea transport and trade which necessitates the retention of Part X for the foreseeable future.

Inward Shipping

1.10 On page 115 of the position paper it was noted that the Importers' Association of Australia argued that it was desirable to require inward Conferences to negotiate ocean-based charges because it was common for importers to purchase goods overseas on a Free On Board (FOB) basis and, consequently, for importers to negotiate directly with carriers. Member Lines of LSS have noticed no significant change in the terms of trade arrangements in recent years, but more importantly the regulation of international liner shipping cannot rely on the terms of trade arrangements, which can even differ from transaction to transaction. As Professor James Crawford (Whewell Professor of International Law, University of Cambridge) pointed out on pages 5-8 of Attachment D in the LSS main submission, "The economic and trading interests represented by

Australian shipper organizations are predominantly export interests. This is not just for legal reasons associated with Part X of the Act. These interests are comparatively coherent, and the entities concerned are legally and in most cases actually responsible for negotiating the terms on which shipping services are to be provided." (para. 15).

1.11 Professor Crawford also noted that properly speaking the shipper is the original party to the contract of carriage. In international trading practice this means that the shipper is almost always the exporter, even where the carriage is on FOB terms. A good illustration of the reluctance of the courts to hold otherwise is provided by The Tromp [1921], P. 337. See also, Heskell v. Continental Express Ltd, [1950] 1 All ER 1033, 1038. Attachment E of the LSS submission addresses the problems that could arise if Australia should seek to regulate the inwards trades in a similar manner to that which is provided for in the outwards trades, and the arguments will not be reiterated here. Nevertheless, LSS has recommended that statutory recognition be given to a properly constituted importer association for all of Australia, similar to the Australian Peak Shippers Association (APSA), to negotiate land-based costs applied by Conferences in Australia.

1.12 As the Commission points out, "The Brazil Review did not explicitly consider imposing wider obligations on inward conferences such as the requirement to negotiate on ocean-based charges and land-based charges in other countries (in instances where the Australian importer bears those costs directly)." In fact, it should be noted that the then Labor Government in considering its response to the Brazil Review recommendations did not accept that there should be any increased obligations on carriers in respect of inward shipping because of possible jurisdictional issues as far as other countries are concerned.

Liner Shipping Service Patterns

1.13 In Appendix D of the position paper there is an evaluation of liner shipping services to Australia, and amendments to this data have been provided directly to the Commission, but quite rightly the Commission cautions that the Australian liner shipping market is constantly changing and whilst the data presented in that appendix may not be precise it should give an indication of the current level of liner services to and from Australia. The more important changes that have occurred since the original services sheets were provided to the Commission involves the decision of member Lines of the Australia Middle East Gulf and West India/Pakistan/Sri Lanka Conference to announce an upgraded weekly fixed day service with transhipment via Singapore rather than the previous direct service, with an increase in frequency and spread of loading ports serviced. Cape Line, which introduced a new service in the North and East Asian trade, has since ceased trading, P&O Nedlloyd replaced five new vessels in the Australian to Mediterranean trade with slightly smaller and older vessels that are able to fully meet existing service requirements, and the Australia Northbound Shipping Conference (ANSCON) has also substantially upgraded its services with two direct port calls in North China.

2. EVALUATION OF PART X

Competition and Reliability of Sailing Schedules

2.1 On page 57 of the position paper, the LSS comment that "freight rates are extremely low and for $25 per TEU the loyalty of one shipper can switch from one carrier to another" is included, but the erroneous conclusion is drawn that, in other words, $25 per TEU is an upper limit for the premium shippers are willing to pay for Conference services. In fact, the shipper could be switching from one Conference carrier to another in the same or a different trade, e.g. such as using transhipment services. It is also possible that a Conference carrier could undercut a non-Conference carrier by $25 in order to try and secure a particular shipper's cargo. It is also noted on that page that the Commission intends to prepare international comparisons of freight rates for the final report, and in this respect attention is drawn to the table on page 13 of the main LSS submission which attempts to bring back to a common base for comparison the freight rates for canned fruit, dried fruit and rice in the Australia to Europe, Asia to Hamburg and US West Coast to Hamburg trades. It is acknowledged that a broader range of commodities could be included in such a comparison, but it is important to first of all compare dry cargo with dry cargo and reefer cargo with reefer cargo and generally for similar volumes being moved, e.g. it would be anticipated that large volume movements should move at lower rates than those that either move sporadically or in very small volume. Page 14 of the main LSS submission also outlines some rates in the major East-West trades, and LSS is certainly willing to work with the Commission to assist further in that international comparison of rates exercise.

2.2 On page 61, the Commission notes there is no data on reliability at this stage. The *Waterline* publication does track, to a limited extent, variations in reliability according to strict criteria which were developed with industry. It is acknowledged that there could be other measures that may also be of interest to the Commission in relation to reliability. As a general view, reliability of Conference services has been increasing, with certainly berthing windows becoming the norm and definite strides have been made in the direction of fixed day arrivals and departures in terms of both published sailing schedules and actual delivery. Further information in this respect can be made available to the Commission.

2.3 It is stated at the top of page 71 of the position paper that "Provided competition from existing players and potential new entrants constrains the market power of Conferences, Conferences will be compelled to operate efficiently, to provide services that shippers demand and, moreover, to price competitively." It can be clearly proved that for more than fifteen years a high level of competition has prevailed in the international liner shipping industry serving Australia and there is no reason to believe that that high level of competition will not continue to prevail in the future, particularly given competition between direct and transhipment services and the existing level of contestability in the industry. The growth in transhipment services as an avenue for providing increased competition, particularly over the last five years, should be emphasised.

2.4 The Commission invites participants' comments regarding access to port facilities and, to the knowledge of LSS member Lines, there has never been any inhibition to competition entering the market.

2.5 On page 73, a number of Lines are mentioned that generally operate outside the Conference system, and again it must be recognised that many Lines operate as members of a Conference in one trade area and non-Conference in others. However, FESCO could be added to that list as, along with COSCO, they are currently not members of any Conference arrangements in the Australian trades.

Operation of Part X

2.6 On page 77, it is noted that in a previous investigation by the then TPC it was claimed that the anti-rebate provisions of the United States Shipping Act, 1984 prevented a Conference from offering a refund to Australian shippers as compensation for breaching the requirements of Part X. This is a particular case that was eventually resolved commercially to the satisfaction of all parties, and it is not considered the types of stiffer penalties, as discussed later on in this submission, would contravene US law. The main point about US law is to have a general basis of compatibility in terms of exemption for liner Conferences, which Part X presently provides.

2.7 On page 78, the Commission notes that indeed LSS proposed a number of modifications to Part X, some of which would appear to have the effect of strengthening the obligations on carriers (e.g. in relation to penalties). The object of making those recommendations was to increase the efficiency of the operation of Part X, particularly in achieving its objectives and to provide a higher degree of flexibility in dealing with changes to liner shipping markets.

2.8 It is considered that the registration process for Agreements provides a high degree of transparency, particularly bearing in mind that shippers do impose the public interest test. Nevertheless, as noted earlier, Agreements are placed on a public register with the only exclusions being those which have met the criteria for confidentiality. It is also noteworthy that there has been no general public input to this inquiry to-date despite invitations to submit views being advertised in the print media.

2.9 The Commission also seeks information on the magnitude of the administrative and other regulatory costs, including the cost of delays associated with Part X. It is considered that there is room to increase the efficiency of Part X, perhaps in registering a broader range of behaviour that would avoid the kinds of Varying Conference Agreements that necessitate a full registration process and yet they only have minor, if any, impact on the actual operation of the Agreement. If the Commission agrees with this approach, more detailed measures could be discussed to achieve that objective.

3. ALTERNATIVE APPROACHES

Authorisation

3.1 The Commission conducts a comprehensive and frank assessment of the problems associated with seeking to authorise international liner shipping arrangements under Part VII of the Trade Practices Act. On page 89, the Commission discusses the possibility of a detailed industry code describing the types of allowable conduct being developed which could possibly speed up the authorisation process. In fact, it may be more closely related to the block exemption concept as supplied by the European Commission. It is not considered that an industry code is amenable to the authorisation process because of the case-by-case approach that process demands. This aspect, the unpredictability where authorisations can be revoked simply by a material change in circumstances, which is a common occurrence in international liner shipping, along with the costs and length of time required for authorisation, are the major reasons why LSS is firmly of the view that it is not a viable alternative to the operation of Part X of the Trade Practices Act.

3.2 The LSS comment that "the authorisation process would not be compatible with the type of regulatory regimes that exist under the laws of our major trading partners" is picked up by the Commission, which states it is unaware of reasons why an authorised Conference Agreement, which is identical to those currently in place, would be incompatible with overseas regimes. This is correct, but the LSS view is that it would be most unlikely to occur in practice, given the problems with the authorisation process raised above, and the fact that Australia's major trading partners provide for a predictable but conditional authorisation, which is identical to the Part X approach but not the Part VII approach.

3.3 LSS fully supports the Commission's views on page 97 of the paper that the Law Councils recommended changes to the TPA would have wider ramification beyond the scope of this review. In particular, the Law Council does not acknowledge that, for example, under United States jurisdiction Conferences would remain legal in both the inwards and outwards trades which, if the Law Council amendments were accepted, would be illegal in Australia.

3.4 In terms of assessing the nature and magnitude of administrative and compliance costs under the authorisation process, it is relevant to consider the much higher legal fees that would undoubtedly be involved compared to what occurs under Part X processes.

3.5 On page 103, the Commission notes that under Part X, transparent reviews of Agreements can be initiated only if there is a formal complaint from shippers or at the request of the Minister. LSS would not object to the ACCC having the power to initiate their own formal investigations if it was believed there had been a breach of carriers' obligations under Part X.

3.6 Whilst it is acknowledged that in terms of regulatory consistency there could be advantages in establishing Part X under a separate Act of Parliament; the force of this argument has been reduced with the increased role given the ACCC under the 1989 Amendments to Part X, which significantly increased the pro-competitive aspects of

the operation of Part X (e.g. in making all carriers subject to Section 46 prohibiting abuse of market power).

Notification

3.7 The Commission sets out the alternative to Part X of using the notification provision in Part VII, but this would require considerable modification to the existing notification procedures if it is to apply efficiently to the regulation of international liner shipping, and again the focus would be on the ACCC deciding what is not in the public interest rather than Australian shippers. In many ways, the proposal picks up the key elements of Part X and places them in another Part of the Act, and it is not clear what benefits would arise from doing so. It would not be a transitional measure to the full application of authorisation as the only viable notification regime would involve a predictable exemption process which is so important to achieve the benefits of certainty that presently apply under Part X. It would also be important under the notification alternative that appeals to the Australian Competition Tribunal reviewing an ACCC decision in relation to the revocation of a notification, should proceed while the Agreement or notified conduct stays on foot while the appeal process is under way. It is only through that arrangement would the criteria for certainty of application be fulfilled.

Block Exemption

3.8 On page 108, the Commission raises the prospect of the alternative of a block authorisation along the lines of arrangements that apply in Europe, under Regulation 4056/86. This would be a less transparent process than that which currently exists under Part X and it may not be acceptable to Australian shippers. As the Commission points out, it could also have implications for a large number of industries, other than the liner shipping sector.

4. POSSIBLE MODIFICATIONS TO PART X

Discussion Agreements

4.1 The issue of protecting the rights of Australian importers and the difficulties of seeking to regulate inwards shipping as far as the ocean components are concerned, are covered earlier in this submission. On page 117, the Commission seeks further input from participants with respect to Discussion Agreements and the latter's affect on efficiency and competition in liner shipping services. The Commission makes the very important point in this respect that the delicate balance of costs and benefits of Discussion Agreements is very similar to the debate about the regulation of Conferences themselves.

4.2 Pages 32-33 of the main LSS submission briefly addressed the question of Discussion Agreements. Another problem of seeking to provide a higher hurdle as far as registration is concerned, or imposing a greater burden of regulation on these types of Agreements, is to force the member Lines to form traditional Conference arrangements, which some observers would see as applying a more binding and

compulsory regime on the parties which could be considered less competitive than the non-binding consensus basis for decisions under Discussion Agreements. It is emphasised again that parties to Discussion Agreements must meet the minimum service level commitment to shippers which would not apply if these Agreements did not exist. It is incorrect, as APSA has maintained, that such fora are used simply to compare freight rates. They are aimed at providing greater stability and efficiency in the international liner trades in which they operate, and in many ways such arrangements are more reflective of current international trading patterns. It is interesting to note that two major Conferences have disbanded in the US trades following the introduction of the recent Amendments to the 1984 US Shipping Act, and yet the Discussion Agreements have been retained.

4.3 Potentially, it is submitted that Discussion Agreements can generate the efficiency and service benefits provided by Conferences while still maintaining a relatively competitive framework via the impact of transhipment services from other trades and the contestability of the market. There is adequate machinery in the existing Part X to deal with the problems of Discussion Agreements if they are found not to be providing adequate, economic and efficient shipping services. In addition, members remain subject to Section 46 of the Act which would prevent any abuse of market power.

4.4 LSS would recommend that, in fact, Discussion Agreements be encouraged in the future rather than inhibited in their foundation and operation.

Open Conferences

4.5 In relation to this issue, LSS supports the interim conclusions by the Commission that Conferences remain closed, given that member Lines should have the right to reject what they could well regard as a Line providing inferior shipping services to those provided collectively by the Conference.

Penalties and Damages

4.6 The LSS submission dealt with penalties and dispute settlement, and in general terms member Lines favour the recommendations made by the Brazil Committee Report (as set out on page 119 of the position paper). The Brazil Committee comments on mediation are strongly supported. However, the Brazil Review Panel underestimated the possible financial impact of the exemption for an individual Agreement being withdrawn. It is not considered appropriate that fines of up to $10 million for corporations (carriers) breaching undertakings be levied. A range of lower financial penalties should be provided, commensurate with the seriousness of the breach.

4.7 In applying the remedies and penalties proposed by Brazil, it is important that the specific undertakings to which penalties could apply if breached are clearly spelt out, and it is not recommended that damages also be applied if penalties can be levied for a breach of an undertaking in terms of failure to provide information requested by shippers, or failure to provide thirty day's notice to APSA of any change in negotiable shipping arrangements.

4.8 It should be clear that any damages resulting from the failure of shippers to provide reasonable information requested by shipowners under Section 10.41(b) should also be

available to carriers to pursue, and, secondly, thirty day's notice to APSA should be redefined to only relate to "across the board" freight rate increases, surcharges, and proposed changes in minimum service levels. This would reflect current practice, whereby APSA has not wanted to be advised of changes in freight rates negotiated with individual shippers or shipper groups, and the point being made, without going into all the detail, is that if monetary penalties and/or damages are to be applied, then the provisions which could be breached that could give rise to such penalties should be clear.

Intermodal Rates

4.9 The Commission raised the question whether it is desirable for Conferences to set intermodal rates collectively. The Productivity Commission correctly points out that the decision has been taken by the European Commission that joint pricing of inland haulage legs by shipping Lines is not, in the Commission's view, covered by the block exemption for shipping Conferences. However, at the time this issue was initially raised it was the subject of strong representations by Australian wool exporters and buyers, on the basis that "it is essential that efficient oncarriage arrangements exist to enable the wool to reach its final destinations without delay, and at a competitive price" (as reiterated in Interlaine's submission to this inquiry). This ability to set these rates collectively is available in the other countries with which Australia trades.

4.10 It is noted on page 15 of the position paper that more carriers are offering multimodal and door-to-door transport services rather than just sea carriage, and on page xxi it is noted that there is a "demand by shippers for a one-stop shop for their shipping requirements". It is also worth noting that it is proposed that the GST will not apply to the principal carrier if it includes an ocean leg and an inland transport movement. What is important in this debate is the degree of competition and that there should be encouragement for shipowners to involve themselves more in door-to-door movement than they do today.

4.11 In the twenty-first century, the technology of organisation will almost certainly have the scope to provide greater benefits to business and the community then technological development in hardware. Multimodalism, for example, now regards its main function as being able to achieve single, seamless management control over the total door-to-door operation, the ability to provide instantaneous communications, and fully interactive EDI information and automatic data processing.

4.12 Contrary to the point made by APSA, reducing the ability of Conferences to collectively agree intermodal rate making will most likely reduce flexibility and increase costs for shippers regarding inland haulage. At a recent integrated management forum held at the State Chamber of Commerce in NSW, a number of shippers called for one body to control the door-to-door movement and recommended that shipowners involve themselves more in this process than they have in the past. Where there is choice for the shipper it is not at all clear where the disincentives for competition arise. The greater volume offered by shipowners in buying these services will result in reduced costs for the recipients. This will not lead to a withdrawal from the market by freight forwarders, as many of them are very large multi-national companies, well equipped to compete with Conferences in this respect. It is important

that there be monitoring to ensure that there are no impediments to merchants having a free choice between using carrier haulage or arranging their own.

4.13 It is also worth noting that the new Overseas Shipping Reform Act of 1998 in the United States not only left untouched the collective inland rate-fixing authority for ocean carriers, but also extended that authority to allow for registered Agreements to negotiate jointly for inland services, subject to the normal anti-trust rules.

Terminal Handling and Port Service Charges

4.14 This issue also raises the question of where the cut-off between land and ocean transport should be, and in the position paper the Commission discusses the setting and itemising of terminal and port charges by Conferences.

4.15 Whilst they are related issues, there are in fact different arguments for the collective negotiation of stevedoring contracts, the levying of Terminal Handling Charges and Port Service Charges. The levying of stevedoring contracts on a per Consortium basis, that is collectively, is required because of the joint arrangements where various shipping Lines share space on a set number of vessels. Therefore the volume relating to the stevedoring contract is the volume provided by all those individual operators, which can substantially reduce the costs for both carriers and shippers alike. However, there is also an important policy point in that not allowing Conferences to set stevedoring rates is denying liner terms. In other words, liner shipping incorporates the stevedoring of the vessel at both ends of the journey and it is therefore artificially splitting those terms by allowing Conferences to set a bluewater rate but not a terminal-to-terminal rate. The contracts are between the stevedoring companies and the carriers and not the shippers as far as liner shipping is concerned, but of course this may not be the case with bulk or breakbulk shipping.

4.16 The debate about actual terminal stevedoring contracts needs to recognise the duopoly of two major stevedores nationally, and whether there have been any disbenefits from the fact that collective negotiations, at least on a Consortium basis, have been the norm rather than the exception. In the last fifteen years, stevedoring costs have declined substantially and have had a cushioning effect, to some extent, but have obviously not compensated for the significant reduction in freight rates. Applying inflation to the stevedoring rates in the early 1980s would result in rates over two and a half times the present stevedoring costs in money terms. What is clear, is that denying shipping companies the right to collectively negotiate stevedoring costs will reduce the pressure on stevedoring companies to lower costs and improve efficiency.

4.17 The collection of Terminal Handling Charges is a separate, although related, issue. A detailed background paper will be made available to the Commission, but at Attachment B there is clear evidence of a significant reduction in Terminal Handling Charges which were passed on to importers (they do not apply, as yet, in the outwards trades from Australia) in 1997. In terms of forty foot containers, reductions were indeed significant, primarily because of a change in the method of contracting from a per TEU to a per container or lift basis. Nevertheless, the essential point is that 80 percent of those reductions were passed on, in accordance with the formula, to importers. THCs provide for a transparent and direct passing on of costs which originally were for the account of cargo in conventional days. Stevedoring of the

vessel remains with the carrier if the internationally accepted formula is correct, and for a number of years the CENSA formula had the approval of the European Shippers' Council, although that approval was withdrawn in 1991. The setting of THCs is not unique to Australia and nearly all Australia's major trading partners have THCs in both the inwards and outwards trades.

4.18 As far as Europe is concerned, there are, for example, THCs in the ports served by members of the Australia to Europe Liner Association. There is also a Revised Trans-Atlantic Conference Agreement currently before the European Commission for approval that includes the ability to collectively establish THCs. These transparent charges are also prevalent in all the main ports of Australia's major liner trading partners.

4.19 Whilst APSA has objected to the setting of THCs in Australia in the outwards trades, it has been actively involved for many years in the negotiation of THCs at Destination in Australia's Northbound trades. In fact, APSA negotiated a formula for the application of Terminal Handling Charges at Hong Kong levied by the Australia Northbound Shipping Conference, for example, and a copy of this formula is provided at Attachment C. It provides for 68 percent of the actual stevedoring costs being levied on shippers, rather than the 80 percent levied in accordance with the CENSA formula.

4.20 THCs are transparent and can be verified, at least those levied by the Southbound Conferences in Australia. They are not a surcharge or the passing on of extra costs; it is a matter of showing more clearly the components of the through-transport costs. It is hoped that the transparent nature of THCs will bring pressure to bear in maintaining a competitive stevedoring industry. Burying such charges in the freight rate does not increase the competitiveness, but simply denies shippers the ability to understand, on a port-by-port basis, what the stevedoring charges are and how they are moving in line with costs in the community generally. In this respect, the ACCC itself has been using THCs to assist with its monitoring exercise of terminal costs in Australia. Such charges are not anti-competitive in that the final through-transport cost is what is important for the shipper, irrespective of how that cost is split out in the itemised invoice. There is a strong case for allowing the continued collective setting and negotiation of Terminal Handling Charges as applied separate from the stevedoring of the vessel.

4.21 Port Service Charges relate to a proportion of the statutory costs applied by Port Corporations being passed on, and they are made up of:

(i) wharfage on full containers which is a cargo charge by the local Port Authority and is a long-standing charge (export and import cargoes);

(ii) Port Pricing Additional (PPA) which was originally applied in 1990 (export and import cargoes); and

(iii) an Australian Quarantine and Inspection Service (AQIS) Container Clearance Charge for imports which was introduced in December 1996.

4.22 PPAs arose when the ports of Sydney, Melbourne and Fremantle decided in 1990 to shift a major proportion of their costs from the exporter/importer on to the shipowner. The cost of calling at Melbourne, for example, rose 300-600% overnight. The shipowners had no option but to on-pass such an increase in costs and this was the origin of the PPA, i.e. it is those additional costs over and above those which applied in calendar 1989. A major price restructuring exercise was subsequently undertaken in Adelaide, but no PPA applies in Brisbane, which has reduced shipowner costs, or in Tasmanian ports. All ports have reduced their costs since the introduction of PPAs and, whilst not solely responsible, the increased transparency of port pricing because of the PPA system has made a major contribution to that result.

4.23 The port charges involved in the PPA calculation are the Navigation Services Charge/tonnage charge or equivalent in each relevant port, wharfage on empty containers (excluding Sydney, Adelaide and now Melbourne) and berth hire in Melbourne, which is charged by the stevedores on a 'per berth hour' basis.

4.24 In the 1995/96 financial year, the AQIS Container Clearance Charges were $3 per container, but from 1 September 1996 this rose to $6 per TEU, that is $12 per forty foot container. This sudden increase in costs could not be absorbed by shipowners, especially when they were acting simply as collecting agents for AQIS as far as this charge was concerned. Subsequently, they were added to the inward PSCs and the current charge is $8 per container, which includes a $1 container administration collection fee.

4.25 At Attachment D is a list of the history of PPAs and Port Service Charges, and it is important to recognise that these charges are levied by nearly all carriers in the Australian international liner trades and are not confined simply to members of Conferences. Wharfage on full containers is collected on behalf of the Port Corporation, and if Lines were prevented from collecting this charge then it would be up to the individual Port Corporations to collect the charge from thousands of shippers, significantly increasing the administrative costs involved in the collection of that charge. It is strongly recommended that Lines be continued to be allowed to collectively set Port Service Charges.

Other Issues Relating to the Registration Process

4.26 In relation to variations to the registration process, the Commission notes that shipper bodies have the right to waive negotiations under a Conference Agreement, hence limiting the possibility of undue delays over minor changes to Agreements. Presumably this is referring to not requiring to negotiate minimum service levels and, whilst that can speed up the process, it is still a lengthy registration process for minor changes to Conference Agreements. The only additional comment LSS would make to those contained to the views expressed in the main LSS submission would be that the lower cost effects that could be involved in the minor variations to Agreements as far as shippers are concerned may be delayed in their delivery.

4.27 LSS has no concern with the deletion of the price discrimination provisions of Part X as they have not been used since their introduction in 1989, and it is not seen how their removal would, in practice, result in any disadvantages for shippers.

4.28 Consolidating all the Part X processes within one body, namely the ACCC, is not supported by LSS member Lines. The role of the ACCC could be expanded under Part X to include investigation of any issue relating to its operation that causes concern, which could be triggered by the Commission itself rather than waiting for a complaint from shippers or referral from the Minister. It is important that the investigatory (law enforcement) role for the ACCC be kept quite separate from an administrative and policy overview role.

4.29 It is doubtful whether there would be any significant administrative economies from consolidating the administrative functions within the ACCC, and it would be contrary to the whole thrust of Part X which, as pointed out elsewhere in the position paper, is an exception to the blanket imposition of national competition policy; in particular taking into account the need for comity between nations. Furthermore, it is very clear that Government policy in this area relates to the protection and promotion of shippers' interests, and such an approach does indeed coincide with the national interest.

Submission	Main Points	LSS' Comments
Interlaine and the Australian Wool Industries Secretariat (two separate submissions)	Wool interests support retention of Part X because of high level of services at competitive freight rates provided under that regulatory regime. The industry is contestable and exporters under Part X have an effective countervailing balance of power. Interlaine is also a strong supporter of the Decentralised Zone Charges (DZCs) in Europe provided by the Conference.	Wool trading interests and Conferences have worked together for many years under the Part X regime to facilitate Australia's wool exports.
Commonwealth Dept. of Transport & Regional Services	A detailed submission that, inter alia, points to the fact that Part X was designed to protect the interests of exporters and not to meet the interests of shipowners. Much is made of the tension that would arise if Australia attempted to apply a regime that would conflict with those of our major trading partners. The submission states that "justification for changing the present system should be based on whether alternative arrangements provide a more cost effective outcome, taking into account the welfare of the community as a whole." Various options are canvassed, but the preferred option involves increasing the overall efficiency of Part X. Various amendments are suggested for consideration, including providing importers with adequate countervailing powers, improving the information provided to shippers, extending Part X exemptions to inland depots to facilitate door-to-door services, increasing controls over Discussion Agreements, extending application of penalties and civil remedies, providing low cost dispute resolution measures and confirming Part X exemptions extend to the collective negotiation of stevedoring contracts as well as clarifying whether or not the exemptions include the collective setting of land-side charges.	The LSS submission advanced similar proposals to those of the Department as the preferred option for the future regulation of the international liner shipping industry. However, the present information requirements for exporters to assist with negotiations is considered adequate. Special treatment being applied to any particular Agreement, such as Discussion Agreements, cuts across the philosophy of Part X, which is generic in its approach. There are already provisions under Part X to deal with any such problems.

Submission	Main Points	LSS' Comments
Mr Brian Makins, Lecturer at the Australian Maritime College	Strong support for the continuation of the current Part X regime; if necessary, in a separate Shipping Act. Points out authorisation provisions of part VII of the Act are unworkable.	
P&O Nedlloyd Container Line Ltd	Liner shipping market is very competitive and to remove Part X would result in lower services and wildly fluctuating freight rates. Part X is required to support planned investment in those trades. Part VII authorisation would create uncertainty and affect the efficient functioning of Conferences. Need for compatibility between regulatory regimes for liner shipping throughout the world.	
Mr John Zerby, School of Economics, University of NSW	Briefly outlines the history of liner shipping regulation with especial reference to the USA. "A main objective of the current review of Part X should be to begin the process of determining the type of multilateral regulatory regime that best serves the interests of the nation and such determination should be made before changes to Part X are formally recommended. There is a need for greater conformity in regulatory regimes among major trading nations."	
ANL Container Line Pty Ltd	Points to the high level of services at extremely competitive rates of freight under the Part X regime. ANLCL still qualifies as an 'Australian flag' carrier and is protected by the Part X provisions, ensuring efficient Australian flag shipping is not unreasonably hindered from normal commercial participation in any outwards liner cargo shipping trade. Similar provisions relating to non-Conference carriers with substantial market power are also supported.	

Submission	Main Points	LSS' Comments
Sea Freight Council of W.A. and the W.A. Shippers' Council (two separate submissions)	Both councils are supportive of the countervailing powers for shippers under Part X. Part X represents a potential source of stability in the current period of uncertainty regarding possible future developments. The W.A. Shippers' Council does not see the need for Lines to be able to collude on shipping freight rates.	Importantly, both Councils recommend that Part X should be retained in the foreseeable future. The ability to discuss and agree freight rates underpins many of the more visible benefits of Part X, such as facilitating rationalised services provided by Consortia.
	Australian Peak Shippers' Association	A comprehensive submission. APSA support for Part X is most important from a Public Policy point of view and should be a major consideration for Government in considering the results of this review. LSS questions the appropriateness of some of the proposed changes to Part X: • round voyage data would create jurisdictional problems with the laws of our trading partners and, in any event, the absence of such data has not inhibited negotiations under Part X to-date; • no case has been advanced to support Part VI enforcement and remedies as all issues to-date have been resolved under Part X, as noted by APSA, and complaints can now be referred by APSA to the ACCC for investigation if need be; • Discussion Agreements contribute to trade stability and, as noted by APSA, rates are not binding on the parties. Importantly, minimum service levels are a commitment on all Discussion Agreement members.

Submission	Main Points	LSS' Comments
APSA (cont….)	Discussion Agreements operate to lessen competition according to APSA, and comparing freight rates between previous Conference/non-Conference carriers in a trade area is immoral. Conferences should be open. APSA believes exemptions should not be extended to intermodal rate making. A peak body for importers to, for example, address landside costs is supported. APSA believes freight forwarders should be registered under Part X and be deemed to be the agents of the carriers and not shippers. They should also lodge a security bond of A$250,000. Future funding of APSA's options could involve something similar to that provided to SMAs, the Export Market Development Grant or direct Commonwealth appropriation.	In many ways, Discussion Agreements are modern types of Conference Agreements, fully reflective of market trends; and rates are not compared between members but there is the opportunity to agree common rates on a non-binding consensus basis. • Open Conferences would not be supportive of Pooling Agreements, for example, and Discussion Agreements are very open to new members. it is not clear what advantages would occur in forcing Conferences to be 'open' ones? It is not clear why APSA is opposed to collective intermodal rate making, which could be very cost effective and shippers have choice..
South Australian Government	Part X arrangements have provided a critically important mechanism to ensure that there are frequent, reliable and stable shipping services avail-able in sometimes thin regional trades. With current inadequate returns, shipping Lines could relocate elsewhere to more rewarding services without Part X or similar mechanisms to support efficiencies in the use of shipping and stability in returns. Supply of reefer containers and reliable services are key critical elements in supporting the 'Supermarket to Asia' plan and the S.A. Government's 'Food for the Future' plan. Some non-Conference Lines have bypassed Adelaide due to low volumes at certain times during the year. Conferences generally have a more modern and reliable fleet of vessels. Extension of Part X to cover imports should be considered to enable transparency of import costs. Any alternatives to Part X must ensure predictability, be low cost and minimise administrative efforts, enable Lines to achieve economies of scale and provide countervailing powers for shippers. Authorisation is not supported.	A very well-argued case for the retention of Part X or similar regulatory mechanism.

Submission	Main Points	LSS' Comments
Council of European & Japanese National Ship-owners' Associations (CENSA)	Governmental authorities should take proper account of the regulations of their trading partners. Consistency of regimes is of critical importance. Different legal regimes would create serious uncertainty and disruption. Following recent reviews in Europe, Japan and the US, the necessary exemptions from anti-trust law remain in place. Possible new regulatory regimes in China and Thailand are less certain. Appreciate that account will be taken of OECD Common Principles of Shipping Policy and conclusions on the promotion of compatibility of Competition Policy. No evidence that activities of Conferences have inhibited market-driven responses. Part X and similar overseas regimes enable the various authorities to take full account of the issues of comity between nations and Part X should be retained.	An important caution regarding the possible risks associated with conflicting regulatory regimes from an international association.
Australian Chamber of Commerce and Industry (ACCI)	ACCI philosophically supports the termination of Part X but also recognises the realities of international sea transport and trade which necessitates the retention of Part X for the foreseeable future. Support greater efforts by the Australian Government to press within the GATS-WTO for a stronger rules-based, and more liberal, market access regime for the international maritime industry. A comprehensive multilateral competition agreement under the WTO would complement this work.	Full recognition of the need for an inter-nationally acceptable solution if there are real problems with a Part X type regulatory regime.
Australian Competition & Consumer Commission (ACCC)	The exceptional treatment of the regulation of the liner shipping industry (in Part X) is not justifiable nor consistent with the fundamental tenets of Australian competition policy that provide for consistency of regulatory approach from a national rather than sector specific regulator. As submitted to the 1993 review, the authorisation provisions in Part VII provide a transparent and public process but could still recognise the differences in liner shipping arrangements. Appropriate remedies need to be made available for parties that have suffered commercial detriment as a result of Conference agreements or	Australia's trading partners that apply national competition policies provide an exemption for international liner shipping. There cannot be a greater test of transparency than that applied by the actual liner exporters, who support retention of Part X. Public interest grounds for the exemptions have been clearly spelt out in many of the submissions received by the Commission.

Submission	Main Points	LSS' Comments
ACCC (cont….)	activities of non-Conference Lines with substantial market power. Any exemptions from the application of competitive conduct rules should only be justified on the showing of a clear public interest. Other industries engaged in similar forms of activity, including aviation - in which alliances are typical, have the authorisation process available. As a result of ACCC investigations under Part X, it is concluded that the Part X provisions lead to outcomes that are neither efficient nor equitable. Within other provisions of the Act, there is scope to develop processes that will satisfy realistic industry and user needs for a regulatory process that is flexible, cost efficient, timely and provides some certainty. Authorisation is the preferred option and in the ACCC view would not result in the dismantling of shipping Conferences. A range of options, including revised notification provisions, other than authorisation are identified but not preferred.	International aviation has, at the moment, much greater control over capacity via Government-to-Government Air Service Agreements than international liner shipping. The analogy would be more realistic if there were the same freedom of entry characteristics. Users of outward international liner services, Australia's exporters, argue against using the authorisation provisions. There are strong international comity arguments and economic reasons why overseas liner shipping should be subject to a regulatory regime different to other sectors of the economy. LSS, in its submission, supported the recommendations of the last review concerning proposed mediation arrangements and increased financial penalties for breaches of the Act. Importantly, such provisions would be included in a revised Part X. The bottom line is that Part X provides an automatic authorisation process which supports the necessary investment and level of services in the Australian trades and there are safeguards against abuse of any market power. It is the uncertainty of the authorisation process in Part VII that creates the major problems and it is better to retain Part X than to try and tinker with the existing authorisation provisions in part VII.

Submission	Main Points	LSS' Comments
Australian Shipowners' Association	The decline in Australia's shipping presence should not be interpreted as grounds for removing the provisions in Part X that afford Australian shipping a measure of access to Australia's outward liner cargo shipping. Advantage could be taken of the economic opportunities presented by 97.8% of Australia's external trade carried by foreign shipping. Australian shipping is efficient but is subject to severe constraints which are directly or indirectly associated with the requirement for firm policy settings in shipping, and positive steps are being taken to address these constraints.	Whilst the data presented includes bulk, breakbulk and liner shipping, the points made are nevertheless relevant to the existing provisions of Part X, which relate exclusively to international liner shipping.
The Importers' Association of Australia	The Association was formed in Melbourne in 1995. Part X was introduced to give some protection to exporters from powerful foreign ocean carriers. Importers do not have this protection. Unlike the past, there is now a large proportion of importers purchasing on an FOB basis and are directly involved in cost negotiations with carriers.[1] It is recommended that an Importer Peak Body have the same powers as APSA; alternatively, Part X should be abolished.	The LSS submission recommends a mechanism for investigation of complaints regarding inward shipping which could result in Government-to-Government consultations. In addition, LSS would support the designation of a Peak Importer Body to collectively consult with Lines on inland transport arrangements and costs in Australia.
Business Law Section; Law Council of Australia	Recommends repeal of Part X on the basis that no special circumstances have been demonstrated to exist which would justify the exclusion of application of the pro-competitive safeguards in Part IV of the TPA, and to the extent that international liner cargo shipping has special characteristics they can be adequately taken account of by relatively minor modifications in the application of Part IV to shipping agreements and practices. Loyalty Agreements are simply exclusive dealing arrangements and should be dealt with under the other existing provisions of the Act. The provisions in Part X relating to an individual member Line of a Conference being deemed to have the market power of	Similar comments apply to this submission as to the ACCC submission. In particular, no mention is made of similar Part X exemptions applying in most of Australia's trading partner countries. Importantly, the public benefit test in Part X is applied by the users - the liner exporters of Australia and not a Government regulator applying a general test applicable to all industries. Another point not emphasised in the submission is that Part X is aimed at

[1] LSS member Lines are not aware of any major change in the terms of trade (i.e. a shift from importer CIF purchases to FOB) over recent years and, importantly, the regulation of international liner trades is not dependent upon those terms of trade, e.g. would Australia only seek to regulate the inward trades if all export sales were on an FOB basis?

Submission	Main Points	LSS' Comments
Business Law Section; Law Council of Australia (cont…..)	the Conference as a whole (S.10.04) could be considered for inclusion in S.46. Similarly, registration of ocean carrier agents for the purposes of the Act should be continued, and there should be an amendment to ensure all relevant parties are brought within Australian jurisdiction. If any exemptions are to be retained, pooling should be excluded. Difficulties in extending Australia's jurisdiction to inward shipping are recognised, but it is believed they can be handled without extending the jurisdictional reach of the TPA. The objectives of Part X can be achieved via the other provisions of the Act.	protecting shipper, not shipowner, interests. The arguments are also dated, with no assessment of the high level of competition prevailing under the Part X regime and Loyalty Agreements, for example, have been replaced by Service Contracts. Relatively few lawyers are familiar with Part X and there have been very few court cases over its 33 year history.
National Farmers' Federation	NFF has been supportive of the overarching aims of the National Competition Policy (NCP). The Commission should seek for those who benefit from Part X to provide evidence that its rationale as a means by which the low cost provision of reliable and frequent shipping services are provided is currently justified. Essentially, NFF is anxious to avoid naïve analyses of competitive situations. NFF recommends a measured and predictable withdrawal of the protection offered by Part X. Users clearly have no basis for comparison. As suggested in the NFF submission to the 1993 review, there should be de-registration of Conferences on those routes with high traffic volumes and substantial non-Conference competition. There should also be guaranteed access to Part VII authorisation for 3 to 5 years for existing Conferences, subject to revocation in the event that abuse of market power is proven.	NFF clearly supports the objectives (in Part X) that Australia has access to comprehensive, regular and frequent shipping services. It is difficult to assess achievement of these objectives when not directly involved in day-to-day exporting. Whilst there is no basis of comparison since all Australia's trading partners have similar exemptions, experimentation with other regulatory regimes could clearly put at risk the achievement of those important objectives. Withdrawing exemption from one trade area would not work as a test of an alternative regime to Part X. Nearly all trades are exposed to a high level of competition from transhipment operators who could, in turn, be members of Conferences in other trades. A considerable amount of cargo would still then be carried in the trade to which Part X did not apply by Conferences still recognised under Part X (via transhipment)..

Submission	Main Points	LSS' Comments
Australian Peak Shippers Association (supplementary submission)	Responding to questions raised by the Commission, APSA notes that without Conferences the weaker Lines would be driven out of a trade by the stronger Lines, thus leading to a lessening of competition. APSA believes there should be no restrictions on entry to a Conference and the traditional Closed Conference is being replaced by much looser forms of associations, such as Discussion Agreements, which appear to have no restrictions on entry. Part X exemptions should not extend to intermodal rate making because the original intention was to cover port-to-port only and it lessens competition.	APSA appears to be supporting Discussion Agreements here whilst being critical of them in its original submission, but new members can only be admitted with the unanimous agreement of all existing members. Collective intermodal rate making should be encouraged, not inhibited, to facilitate multi-modal transport operations and it has, for example, the strong support of wool exporters and buyers. The LSS submission sought clarification of the intent of S.10.14 and S.10.22 in Part X, including collective intermodal rate making. In the view of LSS, Lines should have the power to collectively agree rates on a terminal-to-terminal basis and for inland haulage, at least in Australia, for both importers and exporters.
Department of Foreign Affairs and Trade	The Department supports retention of part X given the general consensus of support among Australia's exporters, the guarantees that smaller volume ports in Australia will continue to be serviced and the essential countervailing power for exporters provided by Part X. DFAT recognises that there is a view to ensure appropriate safeguards are in place and expects refinements in this area would be the focus of any amendments to Part X resulting from the current review. Developments in the WTO on maritime issues are also outlined.	An informative submission; making a major contribution to the current debate.

Submission	Main Points	LSS' Comments
BHP (Transport)	BHP(T) points out that in the 1990s: • service levels have been high, and have improved; • freight rates have declined substantially; • shipping capacity levels to/from Australia have grown. In view of the trends being experienced in global freight markets, abolition of Part X would probably result in added turbulence and volatility and , given the general level of satisfaction amongst shippers, any move to make fundamental change should be preceded by a careful evaluation, and balancing, of anticipated benefits and risks. If shipping Lines continue to be allowed to engage in cartel activity, whether by means of authorisation or otherwise, collective actions by shippers should continue to be allowed. There is no groundswell calling for the abolition of Part X. Whilst BHP(T) would welcome any further downward pressure on freight rates, it is conscious of predictions that there would be offsetting negative implications for service levels. Shippers acting collectively in accordance with Part X have been successful in avoiding attempts by shipping Lines to impose ancillary charges. Traditional boundaries between liner shipping companies and NVDCCs, freight forwarders and third party logistics providers are blurring, with the latter group in particular poised to take over some of the functions which have been the domain of the shipping company. In essence, abolition of Part X is likely to accelerate the trend to mega-carriers, increase the level of transhipment and increase the volatility of freight rates.	It is interesting that no reference is made to the exemptions similar to those in Part X provided by Australia's major trading partners, and the likely consequences if Part X was abolished. LSS would agree with BHP(T)'s observations regarding the other likely effects if there was no Part X-type regime, except it is not considered possible for there to be any greater downward pressure on freight rates.

Submission	Main Points	LSS' Comments
Tasmanian Government	As an island State, Tasmania is acutely aware of the important role shipping plays in moving goods efficiently and effectively in and out of Australia. The submission does not seek to restate the arguments by peak shipper bodies in support of part X, but points out that: • major beneficiaries of Part X are Australian exporters and not the shipping companies; • removal of part X will not result in shipping companies using the authorisation provisions of part VII; and • no evidence of any abuse of market power that would warrant the removal of Part X. If Part X is removed, then there would be: • a demise in the type of shipping services (often 'system critical' services) provided by conference lines with a major adverse impact on shippers and/or • a flagrant disregard for the relevant legislation that would be almost impossible to enforce. The market share enjoyed by conference lines suggests an absence of monopoly power and they provide exporters with an alternative shipping service to satisfy a specific market sector.	

THCs BY SELECTED CARRIERS - GENERAL CARGO ONLY - 1997

Port	Prior THCs		Revised THCs			
	A$/TEU	A$/FEU	A$/TEU	% Var.	A$/FEU	% Var.
From Japan/ Korea						
Brisbane	190	258	169	-11	173	-33
Sydney	190	258	169	-11	173	-33
Melbourne	183	251	169	-8	173	-31
Adelaide	207	221	203	-2	207	-6
Fremantle	148	240	157	+6	255	+6
From Hong Kong/Taiwan/Philippines						
Brisbane	190	258	187	-2	191	-26
Sydney	190	258	185	-3	189	-27
Melbourne	183	251	178	-3	182	-27
Fremantle	148	240	157	+6	255	+6
From South East Asia						
Brisbane	176	282	156	-11	156	-45
Sydney	178	215	167	-6	167	-22
Melbourne	178	217	165	-7	165	-24
Adelaide	188	188	189	+1	189	+1
Fremantle	183	185	171	-7	171	-8

Combined PSCs/THCs are levied in the **Europe-Australia trade** (the split being readily available if required), but the revision is almost solely due to changes in the Southbound THCs in Australia.

NOTE: COMBINED PSC/THC

Port	Prior PSC/THC		Revised PSC/THC			
	A$/TEU	A$/FEU	A$/TEU	% Var.	A$/FEU	% Var.
Brisbane	241.60	401.60	260.66	+8	409.89	+2
Sydney	248.53	317.86	245.18	-1	308.90	-3
Melbourne	251.33	320.94	245.84	-2	309.28	-12
Adelaide *	238.40	292.80	254.26	+7	296.08	+1
Fremantle	257.41	338.63	255.66	-1	324.05	-4

* S.A. cargo only - not landbridged cargo which attracts a different wharfage charge

AUSTRALIA MIDDLE EAST GULF

Port	Prior PSC/THC		Revised PSC/THC			
	A$/TEU	A$/FEU	A$/TEU	% Var.	A$/FEU	% Var.
Melbourne #	191.52	216.00	173.60	-9	173.60	-20
Fremantle #	203.26	200.13	173.60	-15	173.60	-13

\# Negotiations concluded end May 1997 and new THCs will be introduced at the same time as the revised Port Service Charges in July.

FORMULA FOR HONG KONG THC IN THE NORTHBOUND TRADE

		Account Cargo
A.	All clerical work and reporting associated with delivery of container, reporting condition of container and completion of documentation on delivery, reporting of container cell position within the stack, physical and clerical terminal planning.	7.5%
B.	Storage of full container within the time limits defined in the Conference tariff.	27.0%
C.	Unlashing of container, move of container from ship's deck/cell to ship's side, opening and closing of hatch covers including unsecuring and securing, movement of hatch covers from bay to bay or to quayside and vice versa.	-
D.	Internal transport of container from ship's side under hook to stacking area, lift off the ITV to stack.	-
E.	Location of container in the stack, internal transports to chassis/rail car and lift onto chassis/rail car.	24.0%
F.	Dangerous goods/overheight containers/ancillaries	9.5%
		68.0%

HISTORY OF PORT PRICING ADDITIONALS

CONFERENCE TRADE			1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97	1997/98	1998/99
			$/TEU	$/TEU	$/TEU	$/TEU	$/TEU	$/TEU	$/TEU	$/TEU	$/TEU
AELA											
Australia to Europe	PPA (Port Pricing Additional)	Sydney	9.81	10.82	17.33	1.92	5.56	-4.27	-0.80	-5.14	-3.15
		Melbourne	44.19	36.95	40.06	32.57	32.06	20.21	17.40	11.84	16.16
		Adelaide			-20.88	-22.89	-20.85	-27.40	-27.45	-27.45	-27.45
		Fremantle	10.49	10.18	6.64	8.99	2.61	2.80	4.85	6.10	8.55
ANSCON/JK											
Australia to Japan & Korea	PPA (Port Pricing Additional)	Sydney	15.42	7.09	9.01	3.55	3.57	3.02	13.58	8.14	7.66
		Melbourne	31.89	25.24	22.29	25.12	17.13	12.57	13.09	11.01	3.90
		Adelaide			-5.89	-3.68	-4.34	-2.33	-9.28	-10.12	-5.57
		Fremantle	2.47	2.09	4.25	3.19	-3.54	-3.61	-3.62	-0.85	0.51
ANSCON/AEA											
Australia to East Asia	PPA (Port Pricing Additional)	Sydney	8.79	14.26	15.47	7.19	6.88	3.15	3.08	0.51	1.60
		Melbourne	24.76	21.59	21.95	23.14	20.04	14.90	12.41	9.88	7.90
		Adelaide			-5.89	-3.68	-4.34	-2.33	-9.28	-10.12	-5.57
		Fremantle	2.47	2.09	4.25	3.19	-3.54	-3.61	-3.62	-0.85	0.51
AUSCLA/ACCAN/AMDA											
Australia to USA/Canada/Mexico	PPA (Port Pricing Additional)	Sydney	12.48	25.61	25.50	16.20	13.99	12.08	3.19	-0.19	N/A
		Melbourne	35.47	35.97	41.50	38.16	38.70	26.45	21.73	15.13	12.25
		Adelaide	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
		Fremantle	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
AMEG/AWIPSL											
Australia to Middle East Gulf -	PPA (Port Pricing Additional)	Sydney	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
West India/Pakistan/Sri Lanka		Melbourne	42.09	28.15	26.84	39.21	33.67	20.65	19.34	20.85	20.1
		Adelaide	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
		Fremantle	1.78	-4.78	-0.96	3.07	1.38	6.86	12.68	11.16	1.28

HISTORY OF EXPORT WHARFAGE

			1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97	1997/98	1998/99
			$/TEU	$/TEU	$/TEU	$/TEU	$/TEU	$/TEU	$/TEU	$/TEU	$/TEU
	Export Wharfage	Sydney	66.00	55.00	50.00	45.00	45.00	45.00	45.00	45.00	45.00
		Melbourne	55.00	55.00	55.00	46.76	46.76	37.40	34.30	33.00	25.90
		Adelaide	-	-	75.00	65.00	65.00	65.00	53.00	53.00	53.00
		Fremantle	47.30	49.20	49.79	49.79	49.79	49.79	47.30	47.30	47.30

ATTACHMENT D