Shippers call for protection against supply-chain charges

Competition pressures may be affecting container stevedores' TACs, but regulation is still needed, **Paul Zalai** writes

FREIGHT & TRADE ALLIANCE AND the Australian Peak Shippers Association engaged with Patrick Terminals executives in the weeks leading up to the 3 January 2023 announcement of adjustments to their landside fees.

The discussions centred on Patrick's investment in resilience and surge capacity, and the concept of increasing the differential in terminal access charges (TACs) administered on transport operators booking export deliveries versus import receivals (now approximately a 30% differential in rates).

ENTER COMPETITION

For the first time since inception of TACs (initially a $4.95 infrastructure surcharge per container introduced in October 2010 by DP World, Brisbane), we are witnessing a level of competitive tension between stevedores in the setting of these fees.

The changed operating environment over the past 12 months, with a significant reduction in the quantum of containerised trade at most Australian ports, appears to have been the catalyst for the changed approach adopted by Patrick.

As a result of the ongoing protected industrial action faced by DP World, Patrick has accepted sub-contracted vessels and additional volumes with some shippers (exporters, importers and freight forwarders) moving volumes to shipping lines using their stevedore services. Clearly this approach by shippers has its limitations depending on existing contractual arrangements, shipping line trade routes and capacity.

In an interesting move, Patrick has announced a comparatively conservative TAC increase on exports of approximately 7.5% at Australian east coast terminals from 4 March 2024 as compared with the DP World increases effective from 1 February 2024 being 52.52% in Melbourne, 38.8% in Sydney and 37.5% in Brisbane.

This suggests Patrick's intention is to retain and attract export shippers by financially incentivising them to use shipping lines that call at their facilities. This, combined with an extensive infrastructure spend aimed at improving rail and road interfaces, appears to be the new strategy in contrast to what we have previously experienced with stevedores simply following the leader and conveniently taking it in turns to make significant landside fee increases.

The news is not so encouraging for importers who face increases in the vicinity of 20% to 25% at Patrick's east coast ports and shippers using DP World facilities in Fremantle, whereby the TAC for both imports and exports increases by 41.68%.

In accordance with their terminal lease arrangements, we understand that Fremantle Ports has agreed to this increase in fees to support additional landside capital investment by Patrick in 2024. The Patrick notice also flags agreement with Fremantle Ports for landside fee levels at Patrick's Fremantle Terminal effective from next year (March 2025) to be $91.55 per full import container and $45.76 per full export container.

While a level of competition is now being witnessed, the fact remains that TACs have incredibly reached a new peak, exceeding $200 per container (Patrick imports East Swanson Dock being $204.60 from 4 March 2024) and we are also seeing similar rapidly escalating charges at empty container parks.

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THE NEED FOR REGULATION

We now more than ever need regulation to protect the supply chain from all incontestable charges.

The consistent position of FTA and APSA over many years of advocacy aligns with the Productivity Commission finding in their draft report (released 9 September 2022) in response to their review of Australia's maritime logistics system, recommending all charges be negotiated on a commercial in-confidence basis between the stevedore and their contracted client (shipping lines) negating the need to impose charges on third party transport operators who have no ability to influence service or price.

FTA and APSA argued that all businesses face a dilemma of how to deal with unavoidable costs such as rent, infrastructure investment/maintenance, labour and energy. Those same businesses are then forced to either absorb these costs or pass them on to their commercial clients. Similarly, stevedores and empty container parks should be forced to either absorb operating costs or pass these on to their commercial client (shipping lines). Shipping lines then have the choice to absorb or pass those costs onto exporters, importers and freight forwarders through negotiated freight rates and associated charges.

The existing voluntary arrangements established by the Victorian government and adopted by the National Transport Commission have proven to be futile, providing no ability to influence price, and giving stevedores tacit approval to inflate fees rapidly and significantly.

FTA and APSA note that the Productivity Commission deviated away from its original position in its final report (released 21 December 2022) to a recommendation of a mandatory code with the Australian Competition and Consumer Commission to act as the pricing regulator with special provisions to keep stevedores highly accountable for any charges imposed on the landside logistics sector. The proposed mandatory code will undoubtedly be an improvement to the current regime but will be less effective than simply allowing market forces to take effect by forcing cost recovery to take place exclusively via contracted commercial parties.

Should the federal government implement the Productivity Commission's revised recommendation and introduce a mandatory code, it is essential that it do so in its entirety as any watering down of this recommendation will have devastating impacts, leaving our essential containerised trade sector exposed to ongoing and uncontrolled spiralling costs.

Disappointingly, more than 12 months has passed since the Productivity Commission's final report, with the federal government yet to respond to the well-considered and pragmatic recommendations. FTA and APSA, in collaboration with the Container Transport Alliance Australia, will ramp up engagement with state and federal governments for action to meet the desperate need to ease inflationary pressures forced on imports and improve the competitiveness of Australian exports.

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