

"KEEPING AUSTRALIA'S INTERNATIONAL TRADE MOVING"



Australian Peak Shippers
Association Inc. (APSA)

MONDAY 28 JUNE 2021 - MEDIA RELEASE: **URGENT INTERVENTION REQUIRED TO PREVENT SUPPLY-CHAIN CRISIS**

Port Botany faces gridlock with exporters being the sacrificial pawns in calamitous negotiations between Patrick and unions.

During the last quarter of 2020, escalated industrial action faced by all three stevedores responsible for loading and unloading container vessels had crippling effects on the international trade sector resulting in many vessels by-passing Port Botany.

As well as resulting in additional time and cost to move imported goods back across state borders, the events left commerce scrambling for supplies and our regional producers with the dilemma on how to reach overseas markets with limited shipping services.

Rather than seeking compensation on contracted stevedores for failing to meet service requirements, salt was rubbed into the wounds of exporters and importers who paid an estimated \$330 million in congestion surcharges to recover vessel operational costs. This resulted in significantly diminished returns for manufacturers, farmers and regional communities whilst contributing to record high, multi-billion dollar profits by several foreign owned shipping lines.

The impasse between stevedores and workers was broken with separate 11th hour deliberations before the full Fair Work Commission (FWC) hearings resulting in both Patrick and DP World agreeing to continue out of court negotiations with the Maritime Union of Australia (MUA).

DP World subsequently successfully implemented an Enterprise Agreement with their employees. While Hutchison has experienced periods of ongoing industrial action, they have more recently reported that they too are close to resolution.

Unfortunately, unlike their competitors, Patrick and the MUA still have unresolved matters causing major disruption, noting their critically important operation handles more than 40% of overall containerised trade volume via Port Botany.

Over recent weeks the MUA re-instigated a series Protected Industrial Action (PIA) restrictions in what appears to have been designed to cause enough pain to Patrick to force their position in negotiations without taking extreme industrial action measures that would see the parties straight back to the FWC.

In a formal notice to rail operators accessing Port Botany, Patrick executive stated that they written to the MUA seeking an exception of certain roles from the industrial action within the rail operations to enable trains to access/ingress the terminal during the period of disruption.

Paul Zalai, Director of Freight & Trade Alliance (FTA) and Secretariat to the Australian Peak Shippers Association (APSA) notes Patrick has made the unilateral decision to cancel a significant proportion of rail windows from 24 June to 15 July 2021. *"This action, conducted without any consultation with exporters, will have devastating economic impacts on the New South Wales economy. We remain uncertain how much suffering is required before this action can be the pre-requisite trigger required to again take proceedings before the commission."*

The immediate result will mean that regional exporters reliant on rail to move goods to the port will again face additional logistics costs. Rail operators will be forced to terminate their journey at Sydney intermodal terminals with secondary road movements to be made to the port.

Zalai warns *“The additional cost is one factor, however a critical concern for the entire import and export supply-chain is that with a bumper season for the agriculture sector, container volumes will quickly mount at these transition points with the intermodals and empty container parks likely to very quickly become heavily congested.”*

“Despite constructive engagement with government and port representatives there are no obvious, workable contingency measures in an environment whereby Patrick are maintaining their position of cancelled rail windows. We are now seeking an urgent meeting with Patrick executives, but we do not expect that they will deviate away from their position, nor are we confident that that they and the MUA are likely to settle their differences after what has been an extensive and prolonged negotiation.”

In line with its recommendation in a [formal submission](#) to the Productivity Commission’s *Inquiry into Vulnerable Supply Chains*, FTA and APSA informed members today that the peak industry alliance is escalating its advocacy to the Attorney General for immediate FWC intervention and for the Federal Government to initiate a broader review on waterfront industrial relations.

Paul Zalai - Director Freight & Trade Alliance (FTA) | Secretariat Australian Peak Shippers Association (APSA) | Director Global Shippers Forum (GSF)

REFERENCE

Extract of FTA and APSA [formal submission](#) to the Productivity Commission’s *Inquiry into Vulnerable Supply Chains* – recommendation 5

5. INDUSTRIAL ACTION

5.1. Sustained waterfront industrial action

The Maritime Union of Australia (MUA) [and the Communications and Electrical Plumbing Union (CEPU) at DP World Australia (DPWA)] implemented a range of protected industrial actions at Australian ports, specifically during 2019 [DPWA and Hutchison Port Holdings (HPH)] and 2020 [DPW, HPH and Patrick Stevedoring] with the effect of significantly reducing the stevedores’ ability to operate its normal operations as well as the flexibility to increase production in light of increased demand by the supply chain and assist reduce bottlenecks and congestion.

Between November 2020 and January 2021 the MUA also initiated protected industrial action against Svitzer and their towage operations which included bans on overtime; use of Svitzer Australia’s planned maintenance system; use of Svitzer Australia’s online training courses; and bans on the performance of work on selected shipping line vessels.

In 2021 Victorian International Container Terminal (VICT) experienced similar stoppages and work bans from the MUA [and the Communications and Electrical Plumbing Union (CEPU) and Australian Maritime Officers Union (AMOU)], it was only stopped when the matter was raised to the Fair Work Commission and an interim order was set for no industrial actions for a period of two months.

5.2. Protected Industrial Action and operational impacts

The range of actions across the ports has included one or more of the following with stevedores reporting the following impacts:

- Bans on shift extensions: if a vessel or task is not completed within a shift, there is no ability to extend the shift in order to finish the task – this causes major disruption on the planning of the next shift, where labour and equipment must be redeployed;
- Ban on overtime: restricts the ability to resource additional labour at short notice due to unexpected disruptions in production. This results in the inability to deploy additional crane gangs to vessel delays, train

delays and the road program that may have fallen behind for numerous reasons. This action causes particular hurdles on the weekend but is also a restriction during weekdays;

- Various stoppages: disruptions of one, two, four, eight and twenty four hours. At DPWA in Melbourne there was an example of a 96 hour stoppage. These restrictions apply across all equipment, placing a significant limitation on available crane hours and also affecting vessels and road transport. One and two hour stoppages per shift appear to have been designed to cause maximum damage to the supply chain whilst still providing income to employees participating in the industrial action. At VICT this consisted of one, four and 12 hour stoppages. A 4 and 12 hour stoppage occurred prior to the Fair Work Commission interim order, without the interim order there was plans for a complete stoppage at the terminal for 36 hours having significant impact to the supply chain and shelf life for imports and exports.;
- Bans on the performance of upgraded positions: this has the effect of significantly reducing the ability to deploy skilled labour to operating equipment. In some cases, 50% of the workforce cannot be deployed to equipment required to be used to perform a normal shift.
- New PIA measures: disruption implemented against nominated vessels and sub- contracted vessels to and from other stevedores. These bans have been approved by the FWC and have the effect of stopping any work on vessels being performed by stevedores. These types of bans appear to be designed to have the same effect as stoppages but attempt to preserve earnings for employees allocated to a shift;
- Vessel bans: where nominated vessels have not been worked by stevedores for a nominated period of time; and
- Bans on working subcontracted vessels: where vessels that are subject to subcontracting arrangements from competing stevedores;
- Bans on interacting with parties outside of Australia: where certain Union members will not communicate with customers or parties that are located outside of Australia.

5.3. Impacts of industrial action on trade

Feedback received from container stevedores is that normal planned production is significantly affected, reducing capacity to increase production which enables recovery for delayed vessels or normal interruptions in the production cycle. However, the cumulative consequence of disruptions can snowball if the outturn disruptions exceed stevedore's ability to catch up, and that it can take several months to recover from a major disruption.

Shipping lines reported other impacts including reduced capacity as a result of vessel sliding to recover schedule delay, container shortages due to increased container turn-time and restrictions to reposition empty containers to demand locations as a result of reduced terminal productivity and vessel waiting times of up to 19 days.

This was evident during the period from September 2020 whereby several shipping lines in quick succession administered a 'Port Botany Container Surcharge' ranging from US\$285 to \$350 per TEU. It is conservatively estimated that this surcharge alone cost exporters and importers in excess of A\$330 million.

While the above provides some indication of the impacts of industrial action, the reputational damage and supply chain costs remains unquantified. Importantly, APSA has provided a [submission](#) to the Australian International Trade & Transport Industry Development Fund Ltd (AITTIDF) to fund an economic assessment of the impact of 'disruptive events'. As well as supporting advocacy for business continuity, the consultation, research and paper will also be a vital resource should industry representatives be called as an expert witness to quantify economic impacts of waterfront industrial action before the FWC.

RECOMMENDATION 5 (waterfront industrial relations reform) – the Federal Government to initiate a formal waterfront industrial relations review to provide immediate and continued business continuity for what is an 'essential service' and our international gateway for major supply chains.

ABOUT FTA / APSA

Freight & Trade Alliance (FTA) is the peak body for the international trade sector with a vision to establish a global benchmark of efficiency in Australian border related security, compliance and logistics activities. FTA represents 430 businesses including Australia's largest logistics service providers and major importers.

On 1 January 2017, FTA was appointed the Secretariat role for the Australian Peak Shippers Association (APSA). APSA is the peak body for Australia's containerised exporters and importers under Part X of the Competition and Consumer Act 2010 as designated by the Federal Minister of Infrastructure and Transport.

APSA is also a member and has board representation on the Global Shippers Forum (GSF) that represents shippers' interests and that of their national and regional organisations in Asia, Europe, North and South America, Africa and Australasia.

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