

The Parliament of the Commonwealth of Australia

Report On

**THE STEVEDORING LEVY (COLLECTION)
AMENDMENT BILL 1999**

**Report by the Senate Rural and Regional Affairs and Transport
Legislation Committee**

September 1999

© Commonwealth of Australia 1999

ISSN 1326 - 9372

This document was produced from camera-ready copy prepared by the Senate Rural and Regional Affairs and Transport Legislation Committee, and printed by the Senate Printing Unit, Department of the Senate, Parliament House, Canberra.

MEMBERS OF THE COMMITTEE

Members

Senator Winston Crane	LIB, Western Australia	Chairman
Senator Michael Forshaw *	ALP, New South Wales	Deputy Chairman
Senator Jeannie Ferris	LIB, SA	
Senator Sue Mackay	ALP, Tasmania	
Senator Julian McGauran	NP, Victoria	
Senator John Woodley	AD, Queensland	

* Senator Kerry O'Brien, ALP, Tasmania is a substitute member of the Committee for the purpose of considering the Bill

Participating Members

Senator Abetz	Senator Faulkner	Senator Mason
Senator Bartlett	Senator Ferguson	Senator O'Brien
Senator Boswell	Senator Gibson	Senator Parer
Senator Brown	Senator Harradine	Senator Payne
Senator Brownhill	Senator Hutchins	Senator Schacht
Senator Calvert	Senator Knowles	Senator Tchen
Senator Chapman	Senator Lightfoot	Senator Tierney
Senator Coonan	Senator McKiernan	Senator Watson
Senator Eggleston	Senator Murphy	

Committee Secretariat

Mr Andrew Snedden	(Secretary to the Committee)
Ms Robina Jaffray	(Principal Research Officer)
Mr John O'Keefe	(Senior Research Officer)
Ms Trish Carling	(Estimates/Research Officer)
Ms Rosalind McMahon	(Executive Assistant)
Ms Jade Ricza	(Executive Assistant)

Telephone (02) 6277 3510
Facsimile (02) 6277 5811

Internet www.aph.gov.au/senate
Email rrat.sen@aph.gov.au

TABLE OF CONTENTS

CHAPTER 1	1
THE COMMITTEE’S INQUIRY	1
Referral of the bill	1
Conduct of the Inquiry	1
Consideration of the Committee’s Report.....	1
Acknowledgments.....	1
CHAPTER 2	3
PROVISIONS IN THE BILL.....	3
Background	3
CHAPTER 3	7
ISSUES CONSIDERED BY THE COMMITTEE.....	7
Introduction.....	7
Necessity for the Appropriation of \$100 Million Proposed in the Bill.....	7
Redundancy and Administration of MiFCO	10
Effect of the Stevedoring Restructure Package on Stevedoring Costs and Charges.....	15
Survey of Stevedoring Industry Reform outcomes by the ACCC	17
CHAPTER 4	19
CONCLUSIONS AND RECOMMENDATION.....	19
Introduction	19
Committee conclusion.....	19
Recommendations	20
DISSENTING REPORT	21
SENATOR SUE MACKAY.....	21
SENATOR KERRY O’BRIEN	21
SENATOR JOHN WOODLEY	21

APPENDICES

APPENDIX 1

LIST OF SUBMISSIONS

APPENDIX 2

LIST OF WITNESSES APPEARING BEFORE THE COMMITTEE

APPENDIX 3

PATRICK STEVEDORES

Average Prices

APPENDIX 4

P&O

Trend in Unit Base Revenue

APPENDIX 5

**DEPARTMENT OF TRANSPORT AND REGIONAL SERVICES CROSS-MODAL &
MARITIME TRANSPORT DIVISION**

Answers to Questions on Notice

CHAPTER 1

THE COMMITTEE'S INQUIRY

Referral of the bill

1.1 On 20 June 1999, the Senate Selection of Bills Committee recommended to the Senate, and the Senate agreed, that the Stevedoring Levy (Collection) Amendment Bill 1999 (the Bill) be referred to the Rural and Regional Affairs and Transport Legislation Committee for consideration and report by 27 August 1999. On 24 August 1999, the senate agreed that the date for presentation of the Committee's report be extended to 21 September 1999

1.2 The Bill was referred to the Committee for examination and report by the Senate Selection of Bills Committee recommending that matters related to proposed expenditure of moneys to be appropriated by the Bill be subject to inquiry by the Committee.

Conduct of the Inquiry

1.3 In view of the short time provided for inquiry and report on the Bill, the Committee wrote directly to interested trade union, corporations, and government agencies that were interested in or affected by the Bill. To allow consideration of the views received by the Committee, the 4 written submissions received by the Committee were published on 27 August 1999. Submissions received after that date were published upon their receipt by the Committee Secretariat.

1.4 A full list of those who made written submissions to the Committee's inquiry is in Appendix 1.

1.5 The Committee held on public hearing on the bills in Canberra on 27 August 1999. A considerable amount of supplementary information sought by the Committee at the hearing was provided following the hearing.

1.6 A list of those who presented evidence to the Committee at the Committee's hearing is shown in Appendix 2.

1.7 Material provided to the Committee following its hearing is tabled with this report, together with submissions and *Hansard* of the hearing.

Consideration of the Committee's Report

1.8 The Committee met on 20 September 1999 to consider its report to the Senate on the Bills.

Acknowledgments

1.9 The Committee acknowledges the assistance and contribution made by all those who prepared submissions to the inquiry, and particularly to those witnesses who gave evidence at the Committee's hearing and subsequently provided supplementary evidence.

1.10 The Committee also acknowledges the considerable assistance provided to it by the Parliamentary Library Information Research Services, and particularly the PRS Digest examination of the Bill.

CHAPTER 2

PROVISIONS IN THE BILL

Background

Stevedoring Levy (Collection) Act 1998 (The Collection Act)

2.1 The Principal Act and the *Stevedoring Levy (Imposition) Act 1998* came into effect on 3 July 1998 and provide the legislative basis for the Government's plan to restructure working arrangements on the Australia waterfront

2.2 As a result of enactment of this legislation

- The Commonwealth has established the Maritime Industry Finance Company (MIFCo), a wholly owned Commonwealth company limited by guarantee, to administer a loan facility sufficient to pay out redundant waterside workers.
- Funds for the repayment of redundancies are to be recouped from participating stevedores via a levy on the loading and unloading of containers and vehicles in Australia [see: sections 7 and 8 of the Collection Act].
- The levy does not attach to bulk cargo and the major stevedores - Patrick Stevedores and P&O - have agreed that the levy will be absorbed into existing cost structures.
- The levy is presently \$6.00 per vehicle and \$12.00 per container, loaded or unloaded. Maximum rates of \$10.00 per vehicle and \$20.00 per container are permitted by the legislation.
- It is proposed that the scheme would be wound up within six or seven years.

2.3 Section 18 of the Collection Act provides that the Minister may authorise payments:

- in connection with 'qualifying redundancies'
- in connection with specified activities associated with the reform or restructuring of the stevedoring industry including: occupational health and safety programs, training programs and the introduction of new technology or the improvement of wharf facilities
- in respect of such restructuring activities as are prescribed by regulation,
- in respect of relevant administrative costs, and
- administrative costs incurred by the Commonwealth in connection with the collection of the levy.
- A maximum of \$250 million has been appropriated from which the Minister may authorise payment under section 18 (including payments to MIFCo to allow it to make repayments under its loan facility)

The Minister noted in his Second Reading Speech that:

The Government ...will only agree to fund those reform initiatives which have objectives or outcomes that are consistent with the Government's seven waterfront reform benchmarks as the basis for continuing improvement.

2.4 Those seven objectives in summary are:

- An end to the overmanning and restrictive work practices.
- Higher productivity. A commitment from the major stevedores to a benchmark of 25 lifts per hour as a national five port average.
- Greater reliability through less industrial disputation and less interruption through elimination of restrictive work practices. The level of industrial action on the waterfront should be no worse, and preferably better, than the national average for all industries.
- Injury and fatality levels must come back to the all industries' average or better.
- Lower costs throughout the 'logistics chain of the waterfront gateway'.
- A drive to make full effective use of the technology available to increase productivity and improve ship turnaround times.
- Improved training. We will actively promote training opportunities and apprenticeship programs ¹

Matters Occurring Since Enactment of the Collection Act in 1998

2.5 Since the Collection Act was passed in 1998 the following events have occurred:

- An interim agreement on the terms of the protracted dispute between Patrick Stevedoring and the Maritime Union of Australia (MUA) was reached June 1998. A final agreement was concluded on 3 September 1998 with financial guarantees being provided to the ACCC in respect of outstanding third party boycott claims against the MUA. (A \$3 million pay-out to injured third parties was made from the Stevedoring Industry Reform Small Business Compensation Fund in late June 1999. Further payments of up to \$4.5 million are anticipated ²
- On 22 January 1999, the Treasurer, Hon Peter Costello announced that he had directed the Australian Competition and Consumer Commission (ACCC) to monitor 'the prices, costs and profits relating to the supply of stevedoring services at container

1 Minister for Workplace Relations and Small Business, *Waterfront Reform: Seven Objectives*, 8 April 1998.

2 Australian Competition and Consumer Commission, *Press Release*, 29 June 1999.

terminals' in the ports of Adelaide, Brisbane Burnie, Fremantle, Melbourne and Sydney.³

- There has been a further significant decline in the number of waterfront workers since the start of 1998.
- Approximately 1400 stevedoring employees have taken redundancy packages under the present scheme and more are to come.⁴
- These industry-wide reductions represent a further decline in numbers employed on the docks from

- 1951	24,500
- 1961	22,600
- 1971	16,800
- 1981	8300
- 1990	8146
- 1991	5707
- 1993	3800
- to less than 300 in 1999.(12)	

- Figures for the first quarter after the settlement show a mixed result in terms of productivity improvement. Average crane rates in the five major ports dipped slightly in the 3 months to December 1998 with a significant improvement in Melbourne being offset by equally significant declines in Sydney, Brisbane and Fremantle. There was a marginal improvement in March Quarter of 1999 but the Sydney figure of 17.7 containers per hour is below the December 1997 figure.⁵
- By early July 1999, P&O Ports had reached agreement with all its workforce bar those in the West Swanson dock on revised work practices and manning levels.⁶ The matter was then scheduled to go before a Full Bench of the Australian Industrial Relations Commission.⁷

2.6 The present Bill was passed by the House of Representatives on 9 June 1999.

2.7 The Explanatory Memorandum to the present Bill states that when the legislation was enacted:

... the Government believed that [an appropriation of \$250 million] would provide sufficient funds to meet the costs arising from the implementation of reform and restructuring in the stevedoring industry ... However, the estimated number and cost

3 Hon Peter Costello, *Press Release No.3 of 1999*, 'Prices monitoring of container stevedoring services'.

4 Helen Trinca, 'Extra \$100 million for dock workers' redundancies', *Sydney Morning Herald*, 12 May 1999, p 58

5 Mark Davis, 'New port rates give little joy', *Australian Financial Review*, 1 April 1999.

6 Michael Bachelard, 'Defiant wharfies vote out P&O deal', *The Australian*, 2 July 1999

7 Michael Bachelard, 'Wharfies imposed upon', *The Australian*, 13 July 1999.

of redundancies is greater than anticipated. Therefore, the Government is seeking to ensure that it is able to authorise funding to meet the total expected cost of redundancies and ensure that sufficient funds are available for other worthwhile reforms and to meet the administrative costs associated with collection of the levy.

2.8 In the debate on the Bill in the House of Representatives and the Minister, closed the debate in the House by providing additional information on the scheme, noted:

As members opposite are aware, MIFCo has estimated that \$195 million will be required to meet the cost of redundancies. This is up from the original figure of \$148 million. MIFCo is negotiating a loan to cover that amount of principal. Contrary to the assertions of the member for Melbourne, the interest rates which the banks have offered MIFCo have not been falling. The current estimated interest cost for borrowing \$195 million over the term of the loan until 2010 is more than \$100 million. The total additional cost of redundancies and extra interest is therefore estimated to be in excess of \$100 million, and that is why the government seeks an additional \$100 million for the appropriation.

Main Provisions of the Bill

There is a single provision in the Bill; namely that provision is made in Item 1 for the maximum appropriation in relation to the waterfront legislation scheme to be increased by \$100 million.

CHAPTER 3

ISSUES CONSIDERED BY THE COMMITTEE

Introduction

3.1 The Bill proposes amendment of the *Stevedoring Levy (Collection) Act 1998* (the '1998 Collection Act') to authorise the appropriation of an additional \$100 million - to a total of \$350 million - for application to payment for redundancies funded by the Commonwealth under the 1998 stevedoring industry package.

3.2 The Committee has as the principal consideration raised by this reference, examined the stated necessity for the further appropriations provided for in the Bill.

3.3 In addition, the Committee has examined several issues arising from the stated need to increase funding for the stevedoring reform package, namely

- Administration of the redundancy program established under the 1998 industry reform program and administered by the Maritime, Industry Finance Company (MiFCO).
- Recoupment of moneys paid by way of redundancy payments from the participating stevedores through the loading/unloading levy on containers and vehicles
- Effect of the stevedoring restructure package implementation on both shipping costs and on stevedoring costs and charges
- Implementation and monitoring of achievement of the seven waterfront reform benchmarking goals set by the Government in 1998 as part of the stevedoring industry reform package.
- Proposed criteria for payments for industry efficiency improvement pursuant to section 18 of the 1998 Collection Act for purposes related to industry reform
- Surveys of stevedoring industry reform outcomes to be produced by the Australian Consumer and Competition Commission in 1999.
- Other matters raised during the Committee's public hearing on the Bill.

Necessity for the Appropriation of \$100 Million Proposed in the Bill

In the minister's second reading speech, the indication is that the further \$100 million proposed for appropriation by the Bill be applied in two areas of expenditure

The bill increases the appropriation within the existing legislation from \$250 million to \$350 million. The additional funds will be used to meet the greater than anticipated cost of redundancies.

The increased appropriation will also ensure that there are sufficient funds available for stevedoring companies seeking to implement worthwhile non-redundancy related reforms aimed at improving their operations.

These reforms could include the introduction of new technology such as electronic commerce; or new wharf facilities; occupational health and safety training programs aimed at reducing the rate of injury; or training programs aimed at improving the employee's ability to use new equipment.

The Government will be assessing each proposal carefully, and will only agree to fund those reform initiatives which have objectives or outcomes that are consistent with the Government's seven waterfront reform benchmarks as the basis for continuing improvement.

This bill will allow this work to continue, by ensuring that the Government has the funds available to assist stevedores to complete their redundancy programs and implement other worthwhile projects, aimed at improving productivity and efficiency.¹

3.4 During debate on the Bill in the House of Representatives on 10 June 1999, the Minister representing the Minister for Transport and Regional Services, in answer to Opposition questions, informed the House that the funds sought by the Bill are necessary to fund interest moneys due by MIFCo, as well as finalising redundancy payments

MIFCo has estimated that \$195 million will be required to meet the cost of redundancies. This is up from \$148 million. MIFCo is negotiating a loan to cover that amount of principal. Contrary to the assertions of the Member for Melbourne, the interest rates which the banks have offered MIFCo have not been falling. The current estimated interest cost for borrowing \$195 million over the term of the loan until 2010 is more than \$100 million. The total additional costs of redundancies and extra interest is therefore estimated to be in excess of \$100 million, and that is why the Government is seeking an additional \$100 million for the appropriation.²

3.5 In the course of the inquiry, the Committee sought detailed explanation as to how the sum of \$100 million was calculated and its intended application.

3.6 The Department of Transport and Regional Services and MIFCo were represented at the Committee's hearing by Dr Greg Feeney, First Assistant Secretary, in the Cross-Modal and Maritime Transport Division of the Department.

1 see, Minister's Second reading Speech, pp.1-2.

2 House of Representatives, *Hansard*, 10 June 1999, p.5301.

3.7 Dr Feeney told the Committee the original appropriation of \$250 million funded pursuant to the 1998 Collection Act represented the cost of redundancies, together with interest payable by MIFCo of some \$50 million.³ Dr Feeney noted the four 'major components' of the fund as 'redundancies, the interest bill, the non-redundancy funding and the West Australian costs'.⁴ Dr Feeney told the Committee that the total estimated cost of stevedore redundancies - calculated in February 1999 - was, in fact, \$148 million, calculated as follows

My understanding is that it was calculated that, based largely on the Patrick exercise, they expected of the order of 800 redundancies. They expected the average payout for those to be around \$100,000. That meant \$80 million for Patricks. They thought that P&O's restructuring would not be as extensive as that of Patricks and, using roughly the same assumptions, it was thought that \$60 million would be sufficient. Then an amount was allowed for the smaller stevedores. That is where the \$148 million comes from: \$80 million plus \$60 million plus \$8 million.⁵

3.8 The central reason for seeking an extra \$100 million was further explained by Dr Feeney

MIFCo have entered into the loan agreement with a syndicate, and that is, at the moment, to provide the principal of \$200 million to cover all the redundancies, or up to \$200 million, MIFCo only draws the amount of money it requires. That loan agreement provides for the repayment schedule that matches, as near as we can, the revenue stream from the levy. That involves repayment of principal and interest by 2010, and that will take the total cost of the loan, principal and interest, to some \$300 million. If the legislation was not passed, that would mean that principal and interest would have to remain under \$250 million.

Senator O'BRIEN, They have already borrowed, in effect, \$300 million, that is what you are saying.

Dr Feeney, No, they have already borrowed, when it is all finished, of the order of \$200 million. Again, they will be incurring interest every day. Under the current legislation, they cannot let that interest bill, plus the principal, plus the administrative cost and any other costs, go over \$250 million, so they are still operating at the moment within the current legislation obviously, by definition.⁶

3.9 Dr Feeney elaborated on this point

3 Evidence, 27 August 1999, p. 34.

4 Evidence, 27 August 1999, p. 37.

5 Evidence, 27 August 1999, p. 34.

6 Evidence, 27 August 1999, p.36.

...if the legislation is not amended to increase the appropriations to \$350 million, that means they [ie, MIFCo] have to live within the \$250 million. That means the principal is set at \$200 million. That means you have got to reduce your interest bill. The only way of reducing your interest bill is to concertina the loan, the repayments, so instead of paying it over the next 11 years you would have to repay it over the next three years.⁷

3.10 Other major components of the appropriation - non-redundancy costs and West Australian charges are dealt with in paragraphs..... below.

3.11 In answer to a question from the Committee Chairman, Senator Crane, as to the result if the Bill is not passed by the Parliament, Dr Feeney advised

...the important factor there is that if it is not passed the redundancy program payments are there and the people will be paid. There is no doubt about that. What will have to be done will be finding ways of reducing the interest bill that MIFCo pays. That requires the bringing forward of the repayment schedule substantially. That would result in the budget needing to be tapped to fund the difference between the revenue stream from the levy and the repayments over the next few years of the loan. That budget funding would not be able to be recruited through the levy because the levy still would be set at \$250 million. That would mean that the stevedores, as I said earlier, would get a windfall gain at the expense of the taxpayer. Essentially, they would be getting the value of money up front.⁸

Redundancy and Administration of MiFCO

Redundancies

3.12 In its written submission and in discussions with the Committee, the National Secretary of the Maritime Union of Australia (MUA) , Mr Coombs, expressed concern that the moneys sought under the Bill will allow stevedores to stated that

Notwithstanding the additional information provided by Minister Anderson [see Hansard 10 June 1999, page 5301] as to the revised allotment of the additional funds, including \$10M for contingencies, the MUA believes the additional funding is being sought to provide a 'cash box' to fund additional unnecessary and unwarranted further offers of redundancy to current weekly employees of existing stevedores who have already accessed the Fund, in an attempt to manipulate the proper balance between weekly full-time employees and casual employees by reducing the quantum of the former and substituting casual employees in their place. Such a 'cash box' would obviate the need for the Government to come back to the House of Representatives and this Senate and account for the purpose and utilisation of such funds.⁹

7 Evidence, 27 August 1999, p. 36.

8 Evidence, 27 August 1999, p. 41.

9 Submission dated 27 August 1999, Maritime Union of Australia, para. 20., p. 5.

3.13 In evidence, Mr Coombs told the Committee

From our point of view there is a huge credibility gap in the question of the statements that were made when this bill went through the House as to the unexpected additional redundancies. There is no evidence that there are any additional redundancies. There is no evidence to suggest that the original allocation of funds in respect of this bill the first time around will not prove to be sufficient in respect of the funding of redundancies now. The manner in which the loans are structured, the interest rates and all of that, are matters that obviously I am not capable or competent to comment on, but I certainly am competent to comment on the practical application of the redundancies. We can see no existence whatsoever, unless there is a change in this program, for an additional \$40 million or \$50 million for actual redundancy payments.¹⁰

3.14 In his discussion with the Committee, Mr Coombs also told the Committee that a number of employees of Patrick Stevedores had received redundancy payments, and had been subsequently re-employed to work at Patrick facilities by companies other than Patrick. Mr Coombs maintained that such practices were not in accord with the 1998 stevedoring industry reform plan which had as a principal aim

...the removal of significant numbers of stevedoring employees, who were to become redundant as a result of the introduction of new arrangements and new methods of work, which ostensibly was to create a surplus of labour.¹¹

3.15 The MUA's central submission was that

If those redundancies arose as a result of genuine reform it is arguable that employees identified as being surplus to the stevedores' needs would no longer be required to perform operational or supervisory duties. Such an outcome appears inconsistent with the reality that eventuated, whereby a significant number of non-operational employees were made redundant and terminated and then immediately re-engaged by Patrick Stevedores Holdings via the medium of a shelf company operating as a labour hire provider.¹²

3.16 When questioned by the chairman of the Committee, Senator Crane, on the best way of ensuring proper detailed accountability for payment of monies for redundancies, Mr Coombs said

... we say in the first instance that we do not believe that the application of MIFCo money in respect of supervisors has been appropriate and we believe that that establishes a standard that ought not be allowed to be repeated with any further funding. Secondly, with respect to this non redundant

10 *Evidence*, 27 August 1999, p.2.

11 Submission dated 27 August 1999, Maritime Union of Australia, para. 6., p. 2

12 Submission dated 27 August 1999, Maritime Union of Australia, para. 7., p. 2.

component to deal with training technology or whatever we say in our submission that we do not see any evidence as yet - any evidence whatsoever - that any of that is actually occurring. We say that before there is an opportunity for this bill to come into effect there needs to be detailed and proper accountability of the use of those funds.¹³

3.17 In respect of an assertion in the MUA's submission that monies appropriated by the 1998 Collection Act were applied to 'top up' redundancies payments in West Australian regional ports, Mr Coombs noted

The redundancies arrangements in those ports were not the industry redundancy arrangements. But this government through MIFCo topped up the Western Australian government's contribution to match the industry standard - something that I could not achieve if it was a claim, actually, but they did it. They did it for the sole purpose of insuring that they maximum attention of the workers so they could buy out those jobs. If that is not deserving of the scrutiny of the Senate, well, of course I am misguided, but I think it is.¹⁴

3.18 Mr Coombs pressed a point made in the MUA submission, that the Senate should be concerned to ensure that monies appropriated by the bill, should be applied for redundancy payments, and not for 'non-redundancy issues such as training and new technology'. He said

I am not suggesting to you at the end of the day, with the detailed explanation as to what the money is to be used for in respect of training and technology, we would remain opposed to it. But surely it requires some further detailed explanation than is currently incorporated in the bill for the House.¹⁵

3.19 In his evidence to the committee, Mr Chris Corrigan of Patrick Stevedores responded to matters raised by the MUA submission and by Mr Coombs. He told the committee that

The first point I would make that there is absolutely, in my view, no difference between these arrangements and the arrangements that were entered into at the behest of the Maritime Union in respect of the maintenance employees, except for one difference which I will draw to your attention in a moment. When it was finally agreed that we could contract out our maintenance employees certain restrictions were put on that - namely that we had to have a single supplier of those services nation wide for the period of the agreement. The maritime union insisted that those employees who were leaving our employ who were maintenance employees or received the redundancy package, and the next day they started with

¹³ Evidence, 27 August 1999, p6.

¹⁴ Evidence, 27 August 1999, p6.

¹⁵ Evidence, 27 August 1999, p7.

Maritime and Maintenance Services which I think you could say is also a shelf company in the context that it is being referred to - that is a company created for the purpose of employing these people - and the next day they started supplying maintenance services to us.

The big difference that exists in this circumstance, which was not only condoned but insisted upon by the Maritime Union is that the agreements that were entered into with the Maritime Union insisted those people have preference of employment with the new supplier of services MMS, whereas in the case of the Red D Hire arrangements no such arrangements exist as to preference of employment or indeed whether those people were going to be employed at all.

... all of those people received redundancy packages and yes people who formerly worked with us are supplying services to us in the same way.¹⁶

3.20 It was also pointed out by Mr Corrigan in his evidence that the 1998 Collection Act provides that any people re-employed by Patrick or any other stevedore as part of the restructure program, within the twelve month period have to refund redundancy monies received from MIFCo, to MIFCo.¹⁷

3.21 In its evidence to the committee, the Department of Transport and Regional Services Maritime Division addressed several issues in relation to redundancies.

In relation to "top up" payments in respect of redundancy payments in Western Australia, the committee was told that the legislation applying in Western Australia represented a difference between the redundancies proposed by the 1998 industry restructure package, and state legislation. The West Australian government had approached Commonwealth for funds to enable redundancies that occur in regional ports to be paid on a comparable basis to those elsewhere in Australia.¹⁸

3.22 The payments represented payments in respect of employees in five ports, Geraldton, Wyndham, Bunbury, Esperance and Albany. The agreement entered into between the Commonwealth and the West Australia has a limit of four million dollars, and any approach for variation of that arrangement would have to be made by the West Australian government.

3.23 In its discussion with the Committee, Mr Richardson of P & O described the P & O conduct of the redundancy program

Basically, we put a package forward which was similar to the objectives outlined to the government in terms of us obtaining MIFCo funding. On an enterprise by enterprise basis, we did not take a single overview as a

¹⁶ Evidence, 27 August 1999, p22.

¹⁷ Evidence, 27 August 1999, p23.

¹⁸ Evidence, 27 August 1999, p38.

national agreement; we went site by site. So we went to something like 17 different sites to negotiate with the committee at that site. We had federal organisers from the union plus people like myself from the corporate centre participating in the negotiations. But, by and large, it was a negotiation between the employees and their site management.

From that we got agreements. Under the Workplace Relations Act, we had to give the employees a couple of weeks with the documents that they were going to vote on at a stop-work meeting. There was then a stop-work meeting and, with the exception of Melbourne where the agreement was rejected on two occasions by the employees, all the other agreements went through pretty much on schedule. In the case of Melbourne, we made application to the commission to intervene, and terminated the bargaining period. The issue went to the full bench that determined that they would make an award of that Melbourne agreement, and that became effective on 2 August.

There are still two sites, Newcastle and Victoria, and regional stevedores to be concluded. For the bulk of it, from 21 June to 2 August we followed a process of certifying an agreement and terminating the employees. Within a week of certification under the agreement that we had with the union, and also to meet the government objectives to achieve reform as quickly as we could, for example, we would certify an agreement, say, on the Monday, terminate the employees on a Tuesday and they would leave our employment on the following Sunday, and the new agreement and the new working arrangements had to be applied on that following Monday, which was the first pay period after certification. From then on it has been a case of trying to manage the reaction to the changes. We have been through a fairly difficult couple of months.¹⁹

Recoupment of Monies Through the Stevedoring Levy

3.24 The committee was told that, monies recovered under the levy raised by the 1998 Levy Act, which is part of the 1998 Stevedoring restructure legislation, amounts to 8.9 million dollars over the 1998-99 financial year. The estimate of time that will be necessary to recover the full amount paid out for redundancies and interest from the levy is July 2010.²⁰

3.25 In its evidence to the committee, P&O told the committee that it had been paying the levy since February 1999 at a monthly rate of one million dollars per month.²¹

19 Evidence, 27 August 1999, p. 16.

20 Evidence, 27 August 1999, p35.

21 Evidence, 27 August 1999, p13.

Effect of the Stevedoring Restructure Package on Stevedoring Costs and Charges

3.26 The Committee asked the Chief Executive of the Australian Shipping federation, Mr Lachlan Payne, to outline his organisation's expectations regarding the level of prevailing stevedoring charges in Australia, in light of the stevedoring re-structure package

Our submission is that, firstly, the stevedores are the beneficiaries of a funding mechanism funded by levies on cargo, which were specifically not to be passed on. That was made quite clear in the minister's press releases in April last year. Secondly, if improved efficiencies are occurring within stevedores' cost structures, then there is a point at which we assert that it is no longer reasonable to expect those cost efficiencies to fund the amortisation of the investment. In other words, there is a point at which the efficiencies that are being gained overtake the cost of the levies, at which point the amortisation of the investment in the reform process is overcome, at which point price reductions could sensibly be expected. Once that investment is reasonably amortised, and in the absence of rate reductions, our contention is that it would be reasonable to assert that the levies would then, at least impliedly, be passed on.

The high visibility of the process in the community attaches a certain importance that should operate to impose a discipline to ensure that the benefits of reform are passed on. That was a widely publicised feature of what was going on in a large part of last year. So I think there is a not unreasonable expectation in the community that things will change. The question that I do not necessarily have the answer to is how that discipline could be established in the process.²²

3.27 Mr Payne told the Committee that a survey of shipping federation members, revealed that while there has been an improvement in stevedoring reliability in turnaround times since the introduction of the stevedoring industry restructuring package, the question of stevedoring rates has been very "a very patchy experience".

3.28 In further information provided to the Committee following the hearing on the bill, Patrick Stevedores advised the Committee that for that company the trend in stevedoring prices from 1985-1999 was generally downward. Attached as Appendix 3, Patrick's advice is an index of average prices for stevedoring costs from 1985 to June 1994, with data taken from the Prices Surveillance Authority PSA in respect of terminal handling charges representing industry figures. Data in the period since 1994 is an index of Patrick's over pricing. The stevedoring costs are expressed in dollars per TEU in constant 1985 prices and "show a relatively consistent downward trend in real stevedoring prices lower by 60 % in a fourteen year period".²³

22 Evidence, 27 August 1999. P. 8

23 Letter dated 1 September 1999 from Patrick Stevedores,

3.29 P&O Ports also provided the Committee with similar information on its stevedoring costs. A graph provided to the Committee by P&O is attached to the Committee report as Appendix 4

Implementation of seven waterfront perform benchmarking goals set in 1998.

3.30 As part of the stevedoring industry reform package, a number of goals were set by the government for benchmarking improvements in the operation of the stevedoring industry, following the start of the restructuring package in 1998. During the Committee's hearing, and in supplementary evidence, the Department answered a number of questions in relation to the achievement of these goals, in particular, goals related to productivity and reliability. The principal feature of this advice is:

a) Crane movements per hour, for national five port average, for the last four quarters are as follows

June quarter 1998	18.7
September quarter 1998	19.1
December quarter 1998	18.9
March quarter 1999	19.9

b) Over the last four quarters both availability indicator, ie the proportion of ship arrivals per berth is available within four hours of schedule berthing time was as follows:

June quarter 1998	68 per cent (affected by waterfront dispute)
September quarter 1998	91 per cent
December quarter 1998	87 per cent
March quarter 1999	93 per cent

c) ABS Australian Bureau of Statistic figures in relation to all industries average for industrial disputes does not provide specific figures for the stevedoring industry.

3.31 The Department told the Committee that the stevedoring workforce has been declining over the past twelve months has not been possible to produce accurate data. The Bureau of Transport Economics maintains unpublished data incorporating working days lost in the transport industry per month.

3.32 In relation to occupational health and safety benchmarks, the Department undertook to the Committee to provide work-related injuries per one thousand employees and fatalities in the stevedoring industry the Departmental reply is also in supplementary material which forms and is part of Appendix 5.

Proposed criteria for payments under Section 18 of the 1998 Collection Act

3.33 Under the 1998 Collection Act, in addition to payments made to MIFCO to allow it to repay its loans, Section 18 also provided for payments to be made from levy funds in connection with formal instruction of the industry on the following programs

- i) Occupation Health and Safety Programs
- ii) Training programs to improve the performance of work
- iii) Introduction of new technology for the improvement of wharf facilities.

3.34 The Committee has been informed that the criteria for payments under these headings of these areas have not yet been finalised and proposed guidelines for payments are with the Minister.

3.35 While Patrick Stevedores indicated an interest in payments being made under such a proposal, the Committee is concerned that P&O appeared to be unaware that the 1998 Collection Act provides for such payments from levy funds. In answer to a question from the Committee Chairman, Senator Crane, Mr Burgess of P&O noted that P&O are prepared to absorb the levy payable for redundancy costs, but that P&O had not indicated it was prepared to absorb the levy for non redundancy reform payments covered by Section 18 of the 1998 Collection Act²⁴ In correspondence to the Committee P&O reiterated the point that they did not relish the support for the MIFCO scheme never extended to payments for other purposes.²⁵

3.36 The Committee is concerned at this approach by P & O, and notes that other stevedores, who have contributed to the levy will not benefit to the same extent as the two large stevedores.

Survey of Stevedoring Industry Reform outcomes by the ACCC

3.37 During its hearing on the bill, the Committee held discussions with officers of the Australian Competition and Consumers Commission.

3.38 The Committee did so on the basis of a direction which the Treasurer gave to the ACCC in early 1999 to monitor prices, costs and profits relating to the supply of services by container terminals in a number of ports.

3.39 The ACCC officers told the Committee that their monitoring program and performance indicators have been developed within the ACCC, information has been sought by the principal stevedoring operators and the ACCC expects to report publicly on the outcomes of its surveys in late October 1999. It is expected that such

24 Evidence, 27 August 1999, p.15

25 Letter to Committee for P&O dated, 2 September 1999

information would then be published, subject to further direction from the Treasurer, annually by the ACCC.²⁶

3.40 The Committee has no further comment to make on this particular aspect of monitoring of the stevedoring industry restructure package, except to note that the ACCC is to publish such information in late October, and is intended to be considered as public information on industry reform progress, together with information produced in the MIFCO periodic reports, recommended by the Committee in its report on the 1998 legislation.

CHAPTER 4

CONCLUSIONS AND RECOMMENDATION

Introduction

4.1 During the course of the Committees inquiry into this Bill the Committee was able to follow up a number of matters raised in relation to the original legislative scheme for stevedoring industry reform examined by the Committee in 1998.¹

4.2 In this context the Committee, as it has noted earlier, took evidence from principal stevedoring companies, shipping users, and government, as well as the Maritime Union of Australia in relation to relevant considerations raised by the current legislation before the Committee.

4.3 The Committee notes that all this evidence was of considerable assistance to the Committee, and believes it will assist the Senate, not only in considering the import of the Bill but in ensuring that legislation passed by the Parliament in 1998 was being given effect to in accordance with the legislatures.

Committee conclusion

4.4 The Committee has examined the provisions of the Stevedoring Levy (Collection) Amendment Bill 1999 and concludes that the Bill can now be considered by the Senate and should be passed without amendment.

Section 18 – Stevedoring Levy Collection Act 1998.

4.5 The Committee notes the discussion in its report on the application of Section 18 of the 1998 Collection Act, and notes that, during debate on the Act in 1998, legislation was amended to provide for application of funds to a range of reform measures in the stevedoring industry.

4.6 The Committee further draws the Senate's attention to the preparation of guidelines for the distribution of funds under this section which are currently with the Minister for Transport and Regional Services for consideration.

4.7 The Committee believes that it would be appropriate for these guidelines to be published as soon as they have been approved, and preferably they should be tabled in the Parliament for Parliament's consideration. This will ensure that the level of

1 See, *Report on the Consideration of the Stevedoring Levy (Collection) Bill 1998 and Stevedoring Levy (Imposition) Bill 1998*, Senate Rural and Regional Affairs and Transport Legislation Committee, June 1998.

accountability required of the MIFCo in relation to redundancy payments and recovered levies, be complemented by some indication to the Parliament as to how other monies available under the stevedoring industry restructuring program are applied.

Recommendations

The Committee recommends that the Stevedoring Levy (Collection) Amendment Bill 1999 be passed by the Senate without amendment.

Senator Winston Crane

Committee Chairman

September 1999

Stevedoring Levy [Collection] Amendment Bill 1999.

DISSENTING REPORT

SENATOR SUE MACKAY

SENATOR KERRY O'BRIEN

SENATOR JOHN WOODLEY

Introduction

The Stevedoring Levy [Collection] Amendment Bill 1999 was referred to the Senate Rural and Regional Affairs and Transport Legislation Committee to enable the Parliament to properly scrutinise the provision of further funding for the restructuring of the Australian stevedoring industry.

The Minister for Transport and Regional Services, Mr John Anderson, failed to provide a proper explanation as to why an additional \$100 million was required, or how it might be spent, when the Bill was debated in the House of Representatives.¹ Mr Anderson was also asked a number of questions without notice about the funding increase but failed to give satisfactory answers.

Background

In April 1998 the Federal Government helped Patrick Stevedores engineer the illegal dismissal of 2,000 waterfront workers. The Government had earlier offered Patrick, and other Stevedores, assistance to pay out workers considered surplus to requirements and who were prepared to accept a redundancy package, through the Maritime Redundancy Facilitation Scheme [MRFS].²

A fully owned Commonwealth company, the Maritime Industry Finance Company [MIFCo] was established to fund the redundancy payments. MIFCo was provided with a Government guarantee for its borrowings. The money borrowed by MIFCo was to be repaid through the imposition of an industry levy.

¹ Current House Hansard page 4639, 2 June, 1999.

² Mr Peter Reith, Minister for Workplace Relations and Small Business, statement 18 December 1997.

The Stevedoring Levy [Collection] Bill 1998 and the Stevedoring Levy [Imposition] Bill 1998

The Stevedoring Levy [Collection] Act 1998 and the Stevedoring [Imposition] Act 1998 established the administrative apparatus by which redundant employees were to be paid out. Both Acts were the subject of an inquiry by this Committee in June 1998.³

During that inquiry the Opposition raised concerns about section 18 of the Stevedoring Levy [Collection] Bill that appeared to give almost unlimited discretion to the Minister as to how funding could be spent. The Opposition was also concerned that there was inadequate opportunity for the Parliament to scrutinise MIFCo. There was also concern that the package was designed to provide significant assistance to the two major stevedores, Patrick and P&O, and not the industry as a whole, but that the industry would have to pay the levy. It was considered unfair that some stevedores would have to pay for the restructuring of their competitors.

The Opposition proposed that the Bills be amended to ensure that only companies seeking to access funds should pay the levy. It was noted that only Patrick and P&O were consulted about the contents of these two Bills.

The Stevedoring Levy [Collection] Bill 1999

The Minister for Transport and Regional Services, Mr Anderson, introduced the Bill into Parliament on 2 June 1999⁴. In his second reading speech Mr Anderson said the additional funding provided through the Bill was needed to meet the greater than anticipated cost of redundancies. Mr Anderson also said the additional funding would ensure there were sufficient funds available for non-redundancy related reforms.

However, in response to a question without notice from the Member for Hinkler, Mr Neville, Mr Anderson told the House of Representatives that funding for non-redundancy reforms had been reduced by \$10 million not increased as he had inferred in his second reading speech.⁵

According to Mr Anderson the breakdown of the original \$250 million package was as follows:

\$148 million for redundancy packages;

\$50 million for interest;

\$2 million for administration;

\$10 million to top up redundancy packages paid to workers by the Western Australian Government that are below the industry standard; and

\$40 million for non-redundancy reforms.⁶

³Report on the consideration of the Stevedoring Levy [Collection] Bill 1998 and Stevedoring Levy [Imposition] Bill 1998, the Senate Rural and Regional Affairs and Transport Legislation Committee, June 1998.

⁴ Current House Hansard page 5749 2 June 1999.

⁵ Current House Hansard page 5301 10 June 1999.

The breakdown of the proposed \$350 million package is:

- \$195 million for redundancy packages;
- \$105 million for interest;
- \$6 million for administration;
- \$4 million for W.A. redundancy packages; and
- \$30 million for non-redundancy reforms.

The new package also has \$10 million allocated for contingencies.⁷

The fact that Mr Anderson has been forced to come back to the Parliament to seek support for an extension of the guarantee for MIFCo's borrowings from \$250 million to \$350 million confirms the lack of proper planning that has surrounded the Government's maritime adjustment strategy since March 1996.

According to the First Assistant Secretary, Cross Modal and Maritime Transport Division, Department of Transport and Regional Services, Dr Greg Feeney, the redundancy funding in the first package was based on the number of exits expected by Patrick Stevedores.

Senator O'Brien - .. "So where did the \$148 million come from?"

Dr Feeney – "My understanding is that it was calculated that, based largely on the Patrick exercise, they expected of the order of 800 redundancies. They expected the average payout for those to be around \$100,000. That meant \$80 million for Patricks. They thought that P&O's restructuring would not be as extensive as that of Patricks and, using roughly the same assumptions, it was thought that \$60 million would be sufficient. Then an amount was allowed for smaller stevedores. That is where the \$148 million comes from: \$80 million plus \$60 million plus \$8 million."⁸

Dr Feeney told the Committee those calculations were probably done by Mr Gillespie, the officer in charge of the Waterfront Maritime Team in the then Department of Workplace Relations and Small Business. He said the revised figure of \$195 million for redundancies was based on the actual payouts for workers leaving Patrick and estimates for P&O and other stevedores.⁹

Dr Feeney told the Committee the exposure of the Commonwealth to the activities of MIFCo is limited to the company's loans and its obligations to repay the principal, the interest and any administrative costs.¹⁰ He said the level of funding for redundancies in the amended package was too high as the original figure was estimated at \$195 million but the actual figure would be more in the order of \$185 million to \$190 million.¹¹ Dr Feeney told the

⁶ Current House Hansard page 5301, 10 June 1999.

⁷ Ibid page 5301.

⁸ Evidence RRA&T page 34.

⁹ Evidence RRA&T page 34.

¹⁰ Evidence RRA&T page 33.

¹¹ Evidence RRA&T page 34.

committee the total cost of the loan over the whole period would be of the order of \$300 million.¹²

Senator O'Brien also sought an explanation as to why the cost of administering the scheme had jumped from \$2 million to \$6 million.

Senator O'Brien – "Why did MIFCo's costs go from \$2 million to \$6 million?"

Dr Feeney – "When the original estimate was done, I do not think there was a full understanding of the intricacies of the operations of MIFCo and even of the collection of the levy."¹³

Dr Feeney's explanation is surprising given the fact that the then Department of Workplace Relations and Small Business, in developing the MIFCo arrangements, considered using the existing Stevedoring Levy Acts to facilitate redundancy payments to eligible workers through the Stevedoring Industry Finance Committee.¹⁴

Senator O'Brien also sought an explanation for the reduction in funding for non-redundancy reforms from \$40 million to \$30 million. Dr Feeney said that the provision of funding for non-redundancy reforms was "a top down calculation"¹⁵

He said the Government had decided that the provision of \$30 million was a reasonable upper limit.

The administration of funding for non-redundancy reforms

Dr Feeney said the focus had been on getting the redundancy funding in place and the Department of Transport and Regional Services had provided the Minister with guidelines for the administration of funding for non-redundancy reforms. He said the guidelines would not be the subject of regulation and there had not been any specific allocation of funds for areas such as training or logistics. The Executive officer, Cross Modal and Maritime Transport Division, Mr Brocklebank, said there was not a commitment to spend all of the \$30 million. He said that depended on the Minister's view of the applications.¹⁶

The Committee asked the Minister, Mr Anderson, for a copy of the guidelines to be applied in the assessment of applications for funding for non-redundancy reforms but he refused to provide those guidelines.

The Government's waterfront adjustment benchmarks

On 8 April 1998 the Government announced a number of benchmarks against which the effectiveness of its plan to restructure the Australian waterfront could be measured. The Minister responsible at the time, Mr Reith, said the Government expected the benefits of the

¹² Evidence RRA&T page 38.

¹³ Evidence RRA&T page 37.

¹⁴ Inquiry into the Stevedoring Levy [Collection] Bill 1998 and Stevedoring Levy [Imposition] Bill 1998, Senate Rural and Regional Affairs and Transport Legislation Committee, 15 June 1998. RRA&T page 70.

¹⁵ Evidence RRA&T page 38

¹⁶ Evidence RRA&T pages 38 and 39.

package to flow immediately. He said, however, “the Government expects that significant progress will be made towards achieving the key benchmarks within six months.”¹⁷

The performance benchmarks set by Mr Reith were:

A national five port average of 25 crane movements per hour by April 1999.

97 percent of ship calls find a berth available within 4 hours of the scheduled time by April 1999.

Industrial action by 1000 employees no more than the national average by April, 1999.

No more than 64 work related injuries per 1000 employees and no fatalities by 1 January, 2000¹⁸

Dr Feeney gave considerable weight to these benchmarks at the Committee hearing. He said they were the factors the Government expected to change as a result of the restructuring. He said they were the factors taken into account in looking at submissions for redundancy funding. ¹⁹ Funding, however, has already been provided, not in response to the achievement of the benchmarks, but only on a non-binding commitment to them

The Government failed to meet these targets.

Mr Brocklebank said: “I think the last figures for the March quarter this year gave a [crane] rate of around 19.1 national average which I think is the highest national average to that point.”²⁰

However, answers to a number of questions taken on notice claim the average number of crane movements per hour, national five port average, for the March quarter 1999 was 19.9, not 19.1, still well below the target rate of 25.²¹

The Department of Transport and Regional Services was not able to accurately quantify the level of industrial disputation in the stevedoring industry and therefore it is not possible to determine whether the target for industrial action per 1,000 employees of no more than the national average has been met. The Department was also unable to advise the Committee on whether or not the industry was on track to meet the occupational health and safety benchmark. Nor did the Department of Employment, Workplace Relations and Small Business initiate action to publish separate industrial dispute figures commencing July, 1998, as Minister Reith had committed it to do. The Department of Transport and Regional Services has advised the Committee that it intends to publish that data in the future.²²

¹⁷ Mr Peter Reith, Minister for Workplace Relations and Small Business, Overhaul of Australia’s Waterfront Launched Today. Statement by 8 April 1999 page 17.

¹⁸ Ibid attachment G.

¹⁹ Evidence RRA&T page 29.

²⁰ Evidence RRA&T page 40.

²¹ Answers to questions taken on notice RRA&T pages 39 and 40.

²² Answers to questions on notice RRA&T page 41.

The Department of Employment, Workplace Relations and Small Business also failed to commission an independent report to assess occupational health and safety in the industry as promised by the Minister, Mr Reith, in April last year.²³

Stevedoring charges

In evidence to the hearing into the Stevedoring Levy [Collection] Bill 1998 and the Stevedoring Levy [Imposition] Bill 1998 the Deputy Director of the National Farmers Federation, and a Director of P&C Stevedores, Mr James Ferguson, said Patrick Stevedores would enjoy a dramatic reduction in its costs as a result of the passage of the two Bills and the resulting funding of redundancy packages for its workers.

Mr Ferguson said:

“ Yes, we have done our sums very carefully. Using the example of Patrick, we believe that, with appropriate redundancies, the potential ongoing savings for Patrick are well in excess of \$50 million.”²⁴

Mr Ferguson said that these savings could be used to both lower charges and meet the cost of the redundancies over time. Mr Ferguson gave considerable weight to stevedoring rates and he said the vast majority of the stevedore costs were labour costs.²⁵ He said the settlement between Patrick and the Maritime Union of Australia would save the company in the order of \$70 to \$80 a box.²⁶

Evidence to the Committee in relation to the Stevedoring Levy [Collection] Amendment Bill 1999 not only confirmed that the Government has fallen well short of its performance benchmarks but also port users have received little benefit in the form of lower stevedoring charges or overall shipping costs.

The Chief Executive of the Australian Shipping Federation, Mr Lachlan Payne, told the Committee:

“The experience so far has been that there have not been rate reductions across the board, although there have been in some sectors. During most of this year rates have remained constant. There is an expectation that rates will rise in some areas. In a few areas certainly the anticipation of increases outweighs the anticipation of reductions.

Mr Payne said:

“I am a bit perplexed as to what that says about the waterfront reform program, I must admit.”²⁷

²³ Mr Peter Reith, Minister for workplace Relations and Small Business, Overhaul of Australia’s Waterfront Launched Today , 8 April 1998.

²⁴ Inquiry into the Stevedoring Levy [Collection] Bill 1998 and Stevedoring Levy [Imposition] Bill 1998, Senate Rural and Regional Affairs and Transport Legislation Committee, 15 June 1998 page 49.

²⁵ Ibid page 52.

²⁶ Ibid page 58.

²⁷ Evidence RRA&T page 9.

Mr Payne said in response to a question about the impact of the reform plan on farmers that:

“I could not speak about particular cargoes but there are ship operators who are experiencing higher not lower rates since the reform process.”²⁸

Senator O’Brien asked Mr Payne specifically about stevedoring charges on the Australia South East Asia trade.

Senator O’Brien:

“In terms of direct knowledge, some information has come to me that indicates that shipping lines servicing the Australia to South East Asia trade have been hit by dramatic increases in stevedoring rates. Has that been drawn to your attention?”

Mr Payne:

“I know they are unhappy with their situation. Again I am reluctant to go to particular areas, but I understand that is not an unreasonable assertion.”²⁹

The Chairman of Patrick, Mr Chris Corrigan, told the committee that his company’s stevedoring charges had declined. He pointed to the fact that the PSA had monitored stevedoring rates until 1995. However, he said in a recent round of contract negotiations Patrick had sought an increase but had failed to secure one. These contracts were negotiated after there had been a significant drop in the Patrick workforce and an associated significant drop in the companies cost structure. Mr Corrigan said there was no commitment to the Government that stevedoring rates would decline.

Mr Corrigan said:

You [Senator O’Brien] say that there was an expectation that this [the financial package to facilitate redundancies] would lead to a reduction in charges.

Senator O’Brien – Yes, stevedoring charges.

Corrigan - There is no doubt that that is the case, but I would point out to you that it is not one of the benchmark objectives. This expectation is not something that we entered into a commitment to do.”³⁰

Mr Andrew Burgess, director of Australia and New Zealand ports for P&O, also told the Committee that his company’s charges had declined significantly since 1994.³¹

The declining rates over the period identified by both Patrick and P&O reflect the effectiveness of the Waterfront Industry Reform Authority [WIRA] process.

Dr Feeney told the Committee that the movement in stevedoring charges is a function of the market in which the stevedores operate. He said that stevedoring charges would reach the level the market can bear. As referred to earlier in this report, Dr Feeney gave considerable

²⁸ Evidence RRA&T page 10.

²⁹ Evidence RRA&T page 10.

³⁰ Evidence RRA&T page 25.

³¹ Evidence RRA&T page 16.

weight to meeting the Government's performance benchmarks. He said that stevedoring charges were only a small part of the overall costs paid for by shippers.

Senator O'Brien asked about shipping charges and whether improved efficiency would be reflected in lower rates.

Dr Feeney – Shipping charges are another component. Shipping charges are historically very low at the moment. Freight rates are at an historical low. The expectation is there is pressure for shipping rates to go up”

Senator O'Brien – “So the shipping prices are going up; the stevedoring charges are not going to go down. People sending goods across the wharf are not getting any benefit and are not likely to for about eight years”

Dr Feeney – “I think the important thing is to look at it from a total logistics chain point of view.”

Senator O'Brien – “how are benefits going to flow to farmers, for example.”

Dr Feeney – “The point there is that the land component of cost is quite significant.”³²

While Dr Feeney told the Committee that reliability in the form of improved turn around times and lower demurrage costs was important in reducing costs the evidence to the Committee suggested that shipping charges were likely to increase not decrease. So the results of the restructuring to date have not translated into a lower cost structure for shippers.

Conclusion

The Patrick dispute cost taxpayers millions of dollars directly, port users tens of millions of dollars and the Australian economy hundreds of millions of dollars. There was an expectation by shippers and their customers that they would be able to recoup some of these losses through lower costs and a more efficient maritime transport sector. However, the evidence presented to the committee suggests that the Government has failed to achieve any of the performance benchmarks it set itself in April last year. The evidence to the committee also confirms that there is now upward pressure on both stevedoring costs and shipping costs.

The Department of Transport and Regional Services informed the Committee that there was never a commitment sought from the stevedores or offered by them to reduce their charges in response to significant and direct assistance from the Government to lower their cost structure.

Evidence to the Committee suggested that while the Government is seeking to extend the limit of funding for its maritime reform package from \$250 million to \$350 million, the actual additional funding required is in the order of \$50 million not \$100 million.

Dr Feeney told the Committee that funding required for redundancies would be less than the \$195 million provided for in the \$350 million package. He also said that funding of \$30 million for non-redundancy reforms was just an estimate. He said the cost of meeting MIFCo's borrowings would be in the order of \$300 million.

³² Evidence RRA&T pages 30 and 31.

Despite claims by the Minister for Transport and Regional Services, Mr Anderson, that additional funding is needed to ensure there are sufficient funds for non-redundancy reforms the level of funding for that purpose in the new package is actually reduced by \$10 million. Furthermore, there are still no approved guidelines for the provision of funding for these reforms despite the fact that the package is now some 18 months old. The distribution of this funding also appears to be entirely at the discretion of the Minister.

Finally, the Department of Transport and Regional Services has advised that the costs facing shippers could further increase if the Treasury decides that a Goods and Services Tax [GST] should apply to the levy.³³

Senators Mackay, O'Brien and Woodley recommend:

the Government appropriation for MIFCo be limited to \$300 million;

funding collected by the levy only be used to meet the costs of redundancy packages for workers seeking to exit the industry; and

the Government provide funding from existing programs, and apply the regulations governing the administration of those programs, to assist the stevedoring industry to implement non-redundancy reforms such as the application of new technology, increased workplace safety and an increase in the level of training in the industry.

Senator S Mackay

Senator K O'Brien

Senator J Woodley

³³ Answer to question taken on notice 27 August 1999.

APPENDIX 1

LIST OF SUBMISSIONS

Submission Number	Name
--------------------------	-------------

1. Strang Stevdoring Australia
2. Sea-Land (Australia) Terminals P/L
3. P&O Australia
4. Maritime Union of Australia

APPENDIX 2

LIST OF WITNESSES APPEARING BEFORE THE COMMITTEE

Friday, 27 August 1999

Committee Room 1S2, Parliament House, Canberra

Maritime Union of Australia

Mr John Coombs, National Secretary

Australian Shipping Federation

Mr Lachlan Payne, Chief Executive

P&O Australia

Mr Andrew Burgess, Director, Australia and New Zealand Ports
Mr John Richardson, Group General Manager, Corporate Affairs

Patrick Stevedores Holdings Ltd

Mr Christopher Corrigan, Chairman

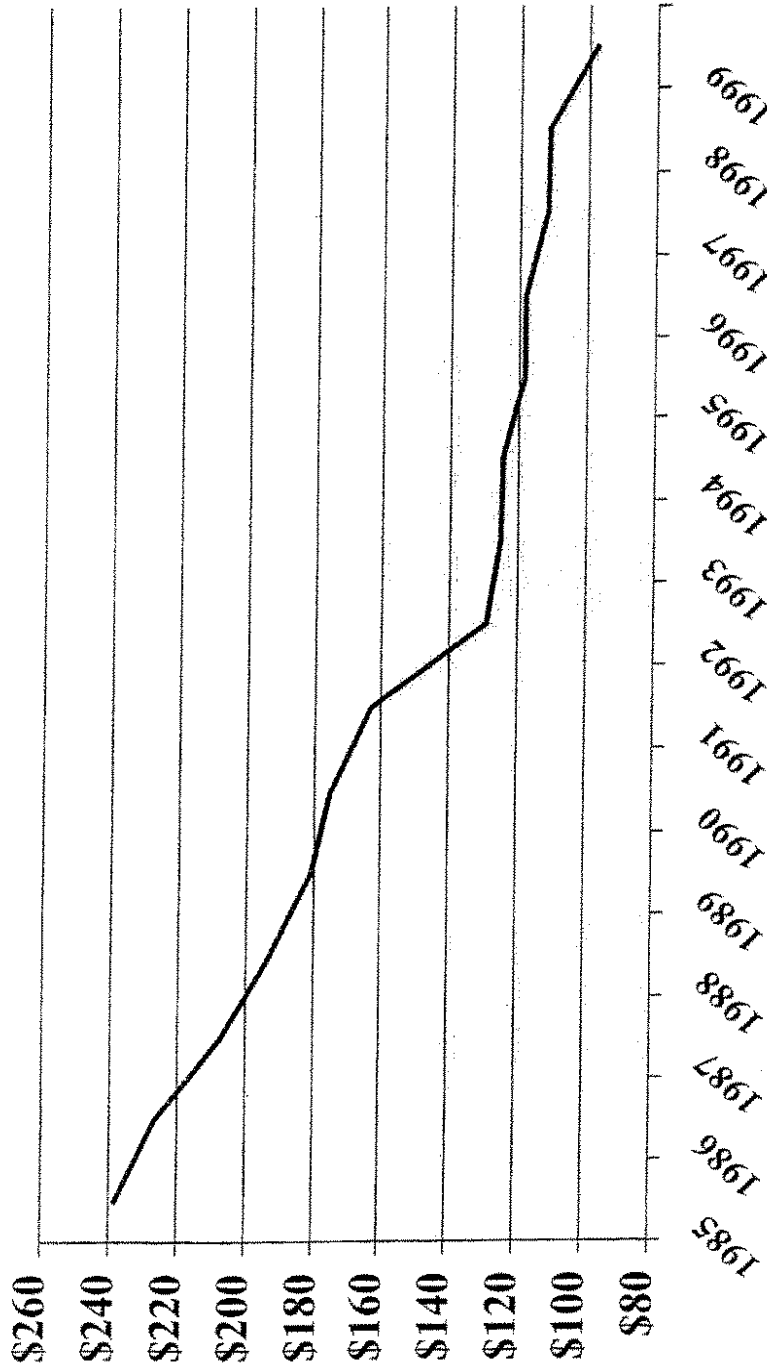
Cross-Modal and Maritime Transport Division, Department of Transport and Regional Services

Dr Gregory Feeney, First Assistant Secretary
Mr Winton Brocklebank, Executive Officer

Australian Competition and Consumer Commission

Mr Hank Spier, Chief Executive Officer
Mr Joe Dimasi, Executive General Manager, Regulatory Affairs

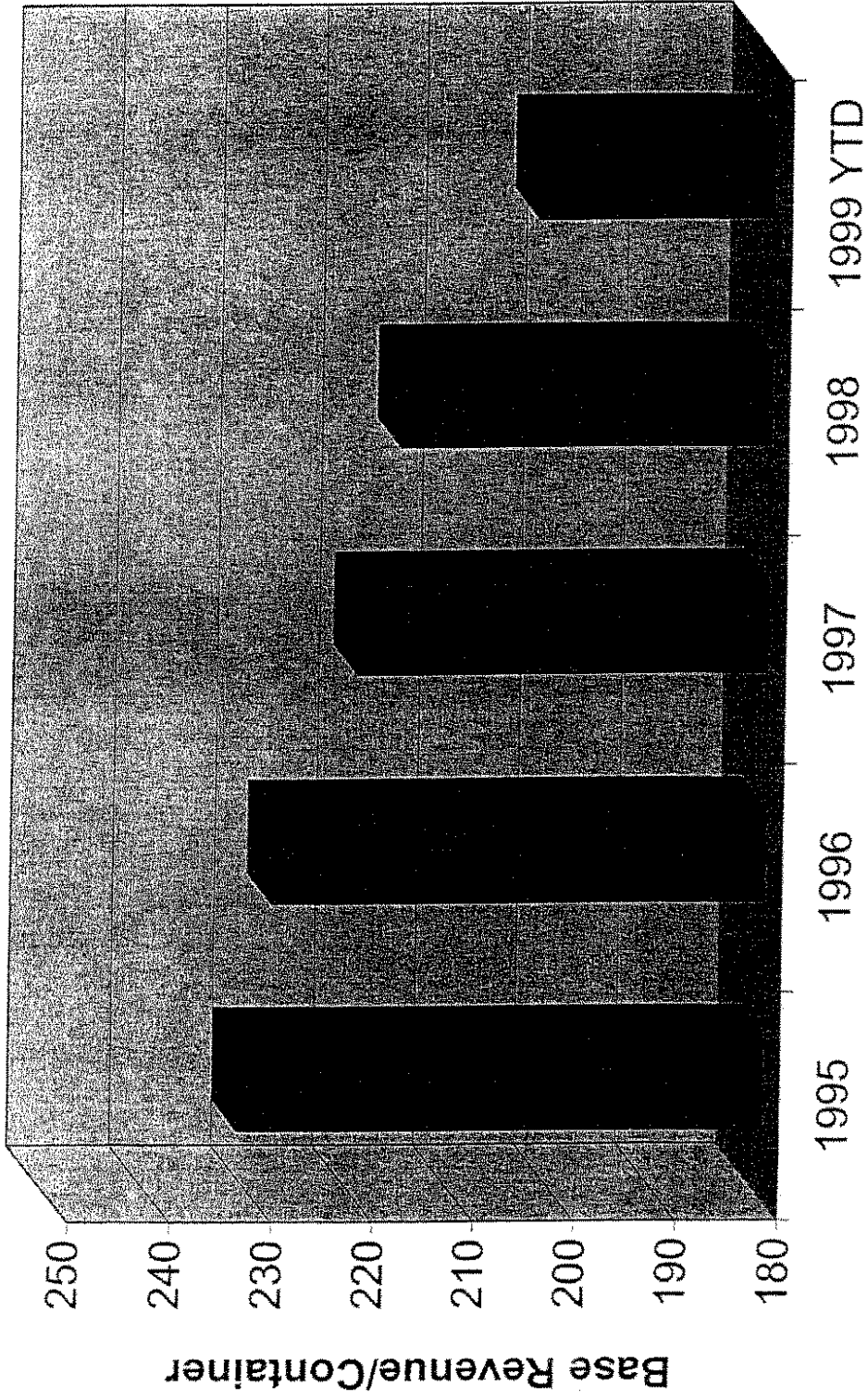
Average prices

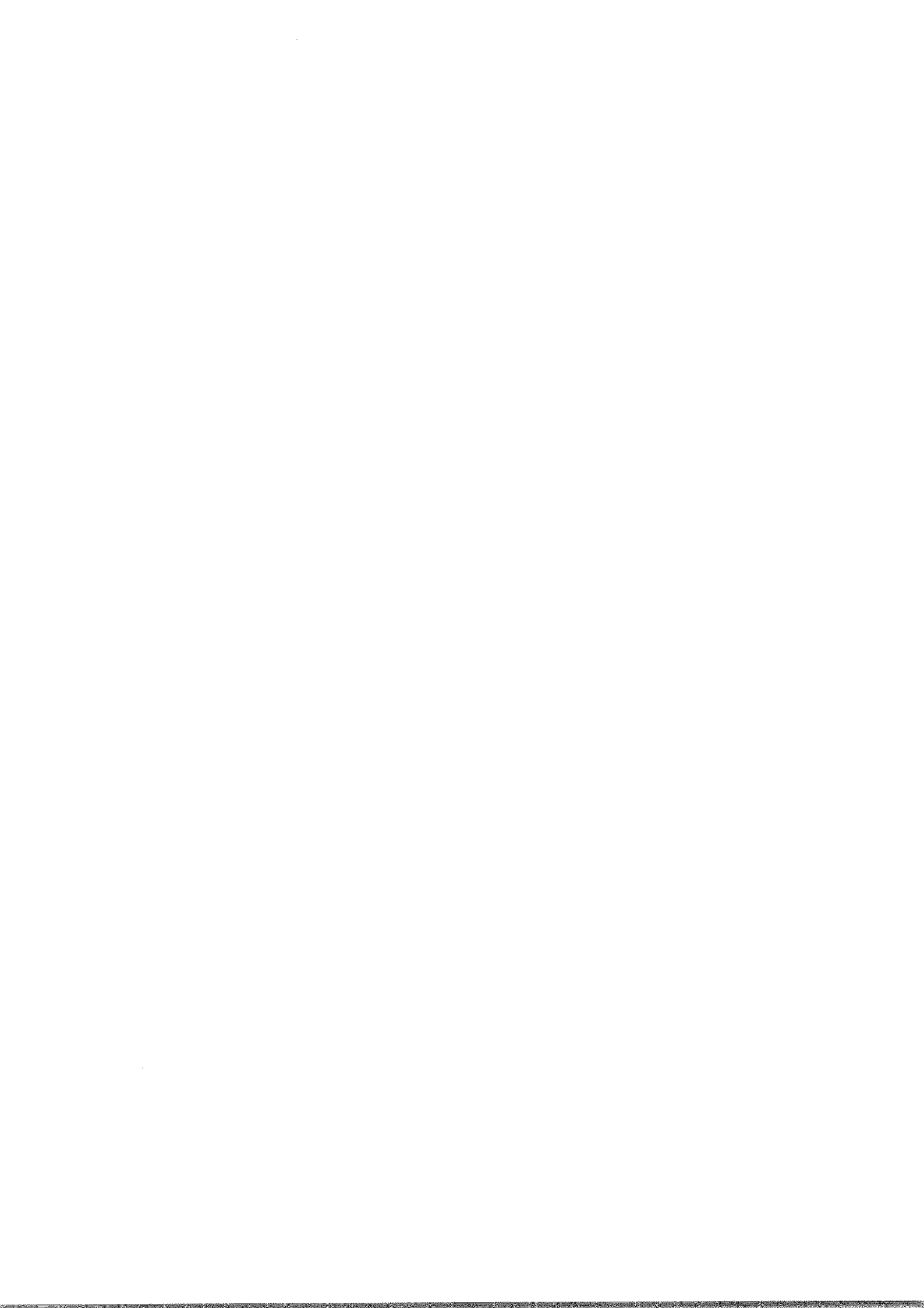


Per TEU in 1985 dollars



P&O Ports: Trend in Unit Base Revenue





APPENDIX 5

RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION
COMMITTEE HEARINGS: 27 AUGUST 1999

DEPARTMENT OF TRANSPORT AND REGIONAL SERVICES
CROSS-MODAL & MARITIME TRANSPORT DIVISION

Senator O'BRIEN asked (Hansard page no RRA&T 28):

Has the Department received any advice from Treasury whether the GST affects the stevedoring levy?

What is the Department's view on the impact of the GST on stevedoring charges generally?

ANSWER

The Treasury has advised there has been no decision yet on whether the stevedoring levy will be exempt from GST. A process for determining which Commonwealth charges, etc will be subject to GST is being undertaken. However, as the stevedoring levy is not, prima facie, for a good or service it is likely not to be subject to GST.

Senator O'BRIEN asked (Hansard page no RRA&T 32 and 33):

As I understand it, under the Audit Act, a Commonwealth guarantee had to be expressly authorised by an Act of Parliament? That is right, isn't it?

Also, under Department of Finance and Administration rules in relation to guarantees, a financial limit is specified as well as a specific period of the guarantee. Is that right?

ANSWER

The Australian Government Solicitor has provided advice, in respect of the setting up the borrowing facility and the Commonwealth guarantee, as follows.

It is correct that under section 70B of the *Audit Act 1901* (the Audit Act) guarantees of loans by the Commonwealth had to be authorised expressly by Commonwealth legislation. However, the situation changed with the enactment of the *Financial Management and Accountability Act 1997* (the FMA Act) and the repeal of the Audit Act. Section 70B was not replicated in the FMA Act. There is no longer a requirement that a Commonwealth guarantee must be authorised expressly by statute.

The Financial Management and Accountability Regulations (the FMA Regulations) made under the FMA Act expressly envisage that loan guarantees may be given where the relevant approvals to spend public money for the guarantee have been given under the FMA Regulations and the giving of the guarantee has been authorised by the Minister for Finance and Administration. The relevant approvals and authorisation were obtained in respect of the Commonwealth guarantee given in relation to MIFCo.

The Finance Circular dealing with limiting the Commonwealth's exposure when giving guarantees states that agencies should ensure that these instruments contain a financial limit, specify events and periods for review, and limit the scope of the particular instrument.

The guarantee fulfils these objectives. The guarantee provided by the Commonwealth is limited to the exposure of MIFCo under its loan agreement and for the period under the loan agreement the terms of which the Commonwealth is aware. The Commonwealth is therefore able to calculate its exposure with reasonable accuracy.

The guarantee does comply with the guidelines mentioned above. Indeed, the Minister for Finance and Administration issued the authority under reg 14(1) of the FMA Regulations.

Senator O'BRIEN asked (Hansard page no RRA&T 33):

Was a risk benefit analysis prepared on the proposal to increase the guarantee by \$100 million? Would it be intended to do such a risk benefit analysis?

ANSWER

The guarantee provided by the Commonwealth is limited to the exposure of MIFCo under its loan agreement. The only element of uncertainty in relation to this loan is the interest rate which must be fixed by July 2000. In the interim a floating interest rate is applicable. It is MIFCo's intention to fix the interest rate as soon as practicable. When this occurs there will be no risk associated with the agreement. The proposal to increase the guarantee (from \$155 million to \$220 million) did not affect the associated risks.

Senator O'BRIEN asked (Hansard page no RRA&T 35):

How much in interest was capitalised in relation to the initial loan?

ANSWER

At the time of entering into the loan facility of \$155m, \$7m of this was attributable to capitalised interest.

Senator O'BRIEN asked (Hansard page no RRA&T 39):

Mr Anderson in response to a parliamentary question from the member for Indi on 11 August said that improved waterfront productivity was reflected in improved export performance, reduced import costs, and increased national productivity. Is there any statistical evidence in support of this claim?

ANSWER

The Bureau of Transport Economics publishes national container port performance measurements in *Waterline*.

The data for the March and June quarters in 1999 reflect improved waterfront productivity across Australia's major container ports of Brisbane, Sydney, Melbourne, Adelaide and Fremantle. Containerised (twenty foot equivalent units) exports increased across the five ports by 9 per cent from 453,656 in January-June 1998 to 492,950 in July-December 1998.

The Bureau of Transport Economics preliminary data on liner shipping exports also shows an increase from 17,770 kilotonnes in 1997-98 to 20,119 kilotonnes in 1998-99.

The national port interface cost index shows that between the January-June 1998 and July-December 1998 periods, national import charges decreased by 1.6 per cent to \$655 per teu.

Crane movements per hour reflect an increase in national waterfront productivity. The five-port average crane movements per hour published for the most recent four quarters are:

June quarter	1998	18.7
September quarter	1998	19.1
December quarter	1998	18.9
March quarter	1999	19.9

Senator O'BRIEN asked (Hansard page no RRA&T 40):

The seven waterfront benchmarks announced by Mr Reith on 8 April 1998 included Attachment G 'Performance benchmarks at a glance'.

Under the heading 'Productivity', it states:

a) Target: 25 crane movements per hour, national five port average, by April 1999.

Under the heading 'Reliability', it states:

b) Target: 97% of ship calls find a berth within 4 hours of scheduled time, by April 1999.

The second target under this heading is:

c) Industrial action per 1,000 employees no more than the national average (current all industries average is 74 days per 1000 employees), by April 1999.

What is the data on these benchmarks?

ANSWER

a) The Bureau of Transport Economics within the Department of Transport and Regional Services prepares the quarterly publication *Waterline* that details stevedoring productivity across Australia's five largest container ports Brisbane, Sydney, Melbourne, Adelaide and Fremantle. The crane movements per hour, national five port average for the last four quarters are:

June quarter	1998	18.7
September quarter	1998	19.1
December quarter	1998	18.9
March quarter	1999	19.9

b) Reliability indicators are published quarterly in *Waterline*. In the last four quarters, the berth availability indicator (proportion of ship arrivals where a berth is available within four hours of the scheduled berthing time) was as follows:

June quarter	1998	68 per cent (affected by waterfront dispute)
September quarter	1998	91 per cent
December quarter	1998	87 per cent
March quarter	1999	93 per cent

c) The Australian Bureau of Statistics (ABS) current all industries average for industrial disputes (catalogue no. 6322) is published showing number of days lost per thousand employees. The ABS does not provide specific figures for the stevedoring industry.

As the stevedoring workforce has been declining over the past twelve months, it has not been possible to produce accurate data on that basis. The Bureau of Transport Economics maintains unpublished data incorporating working days lost in the transport

industry per month. The number of working days lost per month in stevedoring is reflected in the following table:

Working days lost per
month: Stevedoring

Apr-98	700
May-98	200
Jun-98	500
Jul-98	200
Aug-98	400
Sep-98	100
Oct-98	200
Nov-98	100
Dec-98	300
Jan-99	100
Feb-99	200
Mar-99	0
Apr-99	100
May-99	200

Source : Bureau of Transport Economics / ABS Industrial Disputes collection.

Senator O'BRIEN asked (Hansard page no RRA&T 41):

In relation to the occupational health and safety benchmark, these measures were:
No more than 64 work related injuries per 1,000 employees and no fatalities by 1 January 2000.

- a) What is the data on this?
- b) Has the government commissioned an independent report on progress in occupational health and safety?
- c) Has the Department of Employment, Workplace Relations and Small Business been publishing separate industrial dispute figures on a quarterly basis from 1 July 1998 in relation to the waterfront? If not, why not?

ANSWER

- a) The Department of Employment, Workplace Relations and Small Business has approached the National Occupational Health and Safety Commission on the number of work-related injuries and fatalities in the stevedoring industry. The information is not yet available.
- b) The Department of Employment, Workplace Relations and Small Business is yet to initiate the commissioning of an independent report to assess occupational health and safety.
- c) The Department of Transport and Regional Services assumed responsibility for maritime and waterfront reform from the Department of Workplace Relations and Small Business in October 1998.

The Department of Workplace Relations and Small Business had not initiated action to publish separate industrial dispute figures at that time.

Following completion of new agreements between stevedores and their workforce, the Department of Transport and Regional Services intends that figures relating to industrial disputes on the waterfront will be published in future editions of *Waterline*.

The Department of Transport and Regional Services is exploring options that would provide meaningful industry dispute data for the purposes of reform assessment.

Senator O'BRIEN asked (Hansard page no RRA&T 41):

If that material [relating to the impact of the legislation not being passed] could be provided to the committee in writing?

ANSWER

MIFCO has entered into a loan agreement with a syndicate of financiers to provide funds totalling around \$200m. These funds will cover all of the redundancies. It was necessary to have access to the funds by July 1999 to enable the redundancies to take place.

The loan agreement provides for a repayment schedule that matches the expected revenue stream from the Stevedoring Levy. This repayment schedule provides for the full repayment of principal and interest by 2010. Principal and interest are expected to total some \$300m. If the legislation is not passed repayment of principal and interest and administrative costs must not exceed \$250m.

The agreement with the financiers requires a review of the repayment schedule in the event that the legislation is not passed. Such a review would need to restructure the repayment schedule by bringing forward repayments to reduce the interest payable and ensure that the loan repayment does not exceed \$250m. It is estimated that the loan would need to be repaid in full within 3 or 4 years.

MIFCo's only source of funding is the Commonwealth. The Commonwealth's only source of non-budget funding is the revenue stream from the Stevedoring thus ensuring that no taxpayer funds are used to fund the industry restructuring. The revenue stream from the levy is expected to initially be around \$25m per year. It would not be sufficient to allow MIFCo to meet its responsibilities under the loan agreement.

To ensure that MIFCo remains solvent the Commonwealth would need to use budget funds to make up the difference thus reducing MIFCo's interest liability. Therefore the levy would collect only \$250m but the industry would receive benefits equivalent to about \$300m (taking into account interest avoided that would be borne by the taxpayer). This would represent a windfall gain for the stevedores at the expense of the Australian taxpayer.

Senator CRANE asked after the hearing:

Are there specific reporting requirements regarding MIFCo's expenditure?

ANSWER

MIFCo produces an annual report, including financial statements. These reports are tabled in Parliament.

Section 20 of the *Stevedoring Levy (Collection) Act 1998* details reporting by the Minister.

Section 20(1) provides for the Minister to prepare a report that includes: payments that were authorised; and the activities of MIFCo for which payments were received.

Section 20(2) provides for the Minister to table these reports. Reports are prepared on an annual basis, however, at the commencement of the scheme reports were provided for shorter reporting periods.

