



ACCC

AUSTRALIAN COMPETITION
& CONSUMER COMMISSION

Container stevedoring monitoring report

2022–23

December 2023



Acknowledgment of country

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Australian Competition and Consumer Commission
Land of the Ngunnawal people
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Glossary and abbreviations

ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
Berth	A ship's allotted space in a stevedore's container terminal.
BITRE	Bureau of Infrastructure and Transport Research Economics
Blank sailing	Where a shipping line cancels ('blanks') a scheduled service, or where certain ports are omitted along a particular route. Also known as a 'void' sailing.
Cargo owners	Importers and exporters, also known as shippers.
Competition and Consumer Act	<i>Competition and Consumer Act 2010</i> (Cth)
CPI	Consumer Price Index
De-hiring	The process of returning an empty container to either an empty container park or a terminal.
DP World	DP World Australia Ltd operates container terminals in Brisbane, Fremantle, Sydney and Melbourne.
EBIT	Earnings before interest and taxes.
EBITA	Earnings before interest, taxes, and amortisation.
Flinders Adelaide Container Terminal (FACT)	Flinders Adelaide Container Terminal Pty Ltd is wholly-owned by the South Australian port operator and is the sole container stevedore at Port Adelaide.
Freight forwarder	A person or a company that organises shipments for cargo owners to get containerised goods from the manufacturer or producer to a market, customer or final point of distribution.
Hutchison	Hutchison Ports Australia, a member (subsidiary) of CK Hutchison Holdings Limited. Hutchison operates terminals in Brisbane and Sydney.
Just-in-case	An inventory management strategy where businesses hold greater inventories of goods to protect against possible disruptions in the supply chain. Contrasts with a 'just-in-time' strategy.
Just-in-time	An inventory management strategy where businesses order and receive goods from suppliers only as they are needed to minimise warehouse space requirements. Contrasts with a 'just-in-case' strategy.
Landside operations	Operations facilitating the exchange of containers between land transport operators and container stevedores.
Lifts	A 'lift' refers to the lifting of a single container.
Monitored port	Ports subject to monitoring by the ACCC under Part VIIA of the Competition and Consumer Act; the international container ports of Adelaide, Brisbane, Fremantle, Melbourne, and Sydney. ¹
Maritime Inquiry	The Productivity Commission's inquiry into the long-term productivity of Australia's maritime logistics system, which commenced in 2021.
Maritime Union	Maritime Union of Australia, a division of the Construction Forestry Maritime Mining and Energy Union.

¹ The direction also requires the ACCC to monitor Burnie in Tasmania but it currently does not have a container terminal.

Operating profit	Measured by earnings (revenue less cost) before interest, taxes and amortisation.
Patrick	Patrick Terminals operates container terminals in Brisbane, Fremantle, Melbourne and Sydney.
Profit margins	In this report, this is the ratio of EBITA (earnings before interest, taxes, and amortisation) to total revenue.
Quayside operations	Lifting of containers on and off container ships at berth.
Real terms	A value expressed in the money of a particular base time period (e.g. 2022–23 dollars). Values in real terms remove the impact of inflation and provide a better comparison of values over time.
Shipping lines	These companies facilitate the ocean-borne transport of containerised cargo from one port to another. Shipping lines may be directly under contract from cargo owners or through intermediary logistics companies. Shipping lines are the primary customers of stevedores.
Stevedores	Firms that operate specialist equipment to lift containerised cargo on and off ships in Australia’s monitored container ports. Stevedores contract with shipping lines and port authorities.
Tangible assets	The physical infrastructure used by stevedores to provide container stevedoring services e.g. cranes, straddle carriers or automated stacking cranes.
Terminal access charge	Previously known as an infrastructure access charge. Charges collected by stevedores on land transport operators when collecting or delivering full containers.
TEU	20-foot equivalent unit. TEU is the standard unit of measurement for shipping containers. One TEU is equivalent to one 20-foot shipping container. One 40-foot shipping container is equivalent to 2 TEUs.
Terminal handling charge	These charges are issued by shipping lines to cargo owners to recover the costs involved in the handling of an ocean container. Different shipping lines will decide differently what costs are included in their freight rate and what costs are included in their terminal handling charge.
Transport operators	Truck or rail operators contract with cargo owners to transport container goods from the stevedores’ container terminals to the cargo owner and vice versa.
UN Conference	United Nations Conference on Trade and Development
Vehicle booking system	An online software tool that enables truck operators to book a time to pick up or drop off a container at the terminal.
Victoria International Container Terminal (VICT)	Victorian International Container Terminal Ltd is wholly owned by International Container Terminal Services Inc. and operates a container terminal in Melbourne.

Key industry insights and developments



The supply chain continued to recover in 2022–23

The supply chain operated in a more predictable way in 2022–23, with improvements in vessel schedule reliability helping to reduce congestion. Global shipping container freight rates fell considerably over the course of 2022–23 and are now largely back to pre-COVID rates.



Stevedores' industry returns remained near historical highs in 2022–23

Stevedores' industry profit margins remained near historical highs in 2022–23 but are more moderate over longer timeframes. We will continue to scrutinise whether any structural or behavioural market impediments are contributing to higher profits and whether any policy or regulatory responses are warranted.



Shipping lines support repeal of Part X

Shipping Australia and the World Shipping Council have expressed support for Part X of the *Competition and Consumer Act 2010* to be replaced with a narrower class exemption. Some of their members commented that the Part X registration process is burdensome and hampers their ability to respond quickly to changes in market dynamics.



Cargo owners remain concerned about unreasonably levied detention fees

Some shipping lines appear to have levied detention fees in 2022–23 in circumstances where cargo owners could not return containers on time due to factors outside their control. Cargo owners in Australia currently do not have adequate protection against such unreasonable practices.



Cargo owners face challenges making informed business decisions

When contracting with shipping lines, cargo owners are often unable to predict how the landside charges they would pay to stevedores and empty container park operators will vary over the life of their agreement. This makes it challenging for them to make informed business decisions.



Reforms are needed to improve the operation of the supply chain

Reforms across the supply chain are needed to address key industry concerns. Australia needs to repeal Part X, and provide greater protection to cargo owners against unreasonable detention fee practices and unpredictable increases in landside charges.

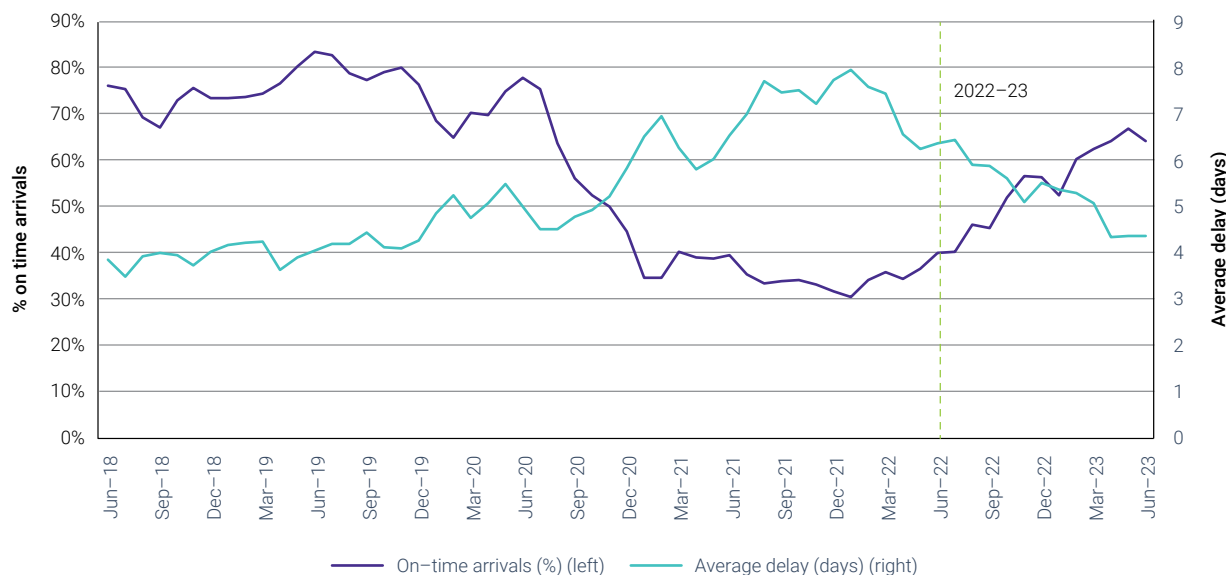
Executive summary

The supply chain continued to recover in 2022–23

The container freight supply chain operated in a more predictable manner in 2022–23, following 2 years of considerable disruption coinciding with the COVID-19 pandemic. In recent years, persistently low vessel schedule reliability exacerbated supply chain congestion and delays, and was one factor that led some businesses to hold higher levels of inventory than they otherwise would have. Vessel schedule reliability improved considerably over the course of 2022–23, rising from 39.9% in June 2022, to 64.2% in June 2023.

Figure 1, below, shows the proportion of vessels on major global trade routes that arrived at container ports ‘on time’² over the past 5 years.

Figure 1: Global vessel schedule reliability and average vessel delays, major global routes, June 2018 to June 2023



Source: Sea-Intelligence, ‘Global Liner Performance Report’, Issue 144, Sea-Intelligence, 2023. The data covers 34 trade lanes, including Asia-Oceania.

Despite the improvement, global vessel schedule reliability remains below the level recorded before the pandemic. The ACCC also understands that vessel schedule reliability in Australia may lag the global average. Market participants told us that several factors influence the reliability of shipping services on Australian trade routes, including bad weather, stevedore capacity and port closures.

Market participants informed the ACCC that some shipping lines have restructured their Australian services. One shipping line told us that it reconfigured its Australian network to call fewer ports per circuit in an effort to minimise the impact of potential delays at any single port. Another shipping line, ZIM, announced in August 2023 that it would no longer service Australia directly but would instead share vessels with Mediterranean Shipping Company.³ In addition to minimising the risk of delay and improving schedule reliability, it is likely that lower container volumes, higher shipping costs

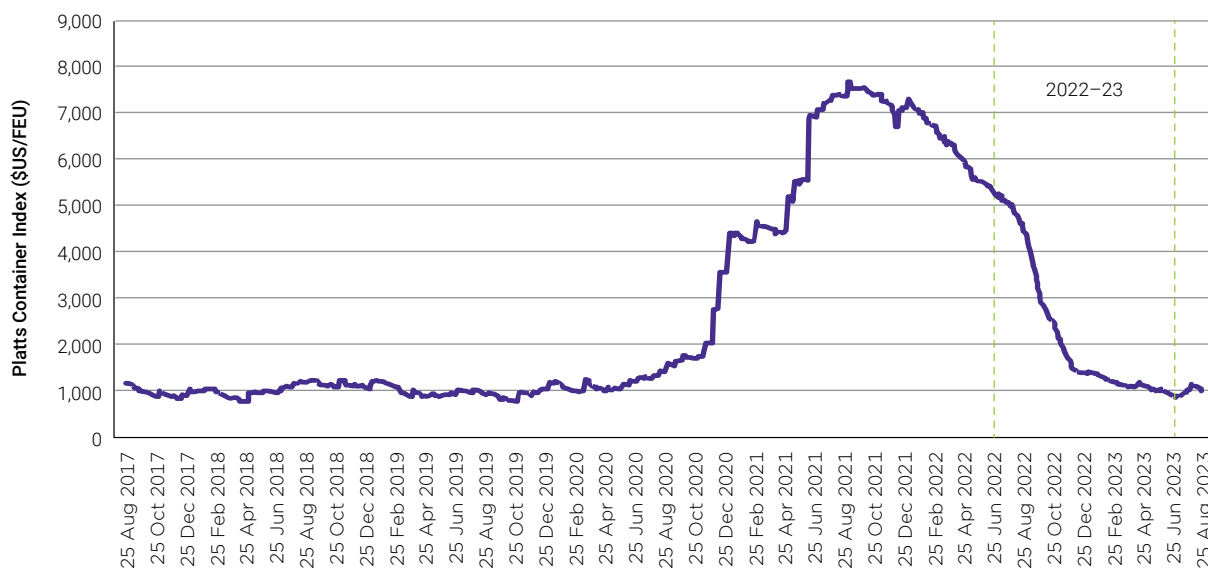
² Sea-Intelligence define ‘on-time’ as being one calendar day either side of the vessel’s scheduled arrival.

³ ZIM, [ZIM announces a structuring of its Oceania trade services](#), ZIM website, 2023, accessed 8 November 2023.

and lower ocean freight rates also contributed to some shipping lines' decisions to streamline their Australian services.

Globally, freight 'spot'⁴ rates had returned to their pre-COVID rates by June 2023. Figure 2, below, shows ocean freight rates on major global routes over the last 6 years.

Figure 2: Platts Container Index (US\$/40-foot equivalent unit), August 2017 to August 2023



Source: S&P Global Commodity Insights.

Note: The Platts Container Index is a weighted average of Platts' key container assessments including North Asia to North America and North Asia to North Continent routes. The index includes assessments of Australian trade routes.

Market participants told the ACCC that, while in many cases Australian freight rates had fallen considerably, rates had not decreased significantly for all container types. One exporter told us that freight rates for refrigerated ('reefer') containers were not significantly lower in 2023 than they were in 2022.

Cargo owners still face challenges

Despite the improvement in the supply chain, the ACCC's market enquiries suggest that some cargo owners still face a number of challenges. Market participants told us that cargo owners sometimes have limited choice of shipping services. Some market participants also said that there was a shortage of certain types of containers available for export, particularly 20-foot containers and refrigerated ('reefer') containers.

Cargo owners often lack the relevant information to make informed business decisions. When contracting with a shipping line, cargo owners do not know how landside charges that they pay to stevedores and empty container park operators, as part of the shipping line's service, will change over the life of the agreement.

In its Maritime Inquiry report, the Productivity Commission recommended that there should be a mandatory code for stevedores' landside charges.⁵ As part of its recommendation, the Productivity Commission said that stevedores' landside charges should only be changed once a year with

⁴ Spot rates refer to the price for one-off shipments, as opposed to a locked-in contract price for specific volumes over a period of time.

⁵ Productivity Commission, [Lifting productivity at Australia's container ports: between water, wharf and warehouse: Inquiry report](#), Productivity Commission, Australian Government, 2022, accessed 13 November 2023, p 43.

stevedores having to simultaneously notify a regulator of their planned changes. The ACCC supports steps that may help address cargo owners' inability to predict landside charges. The ACCC considers the lack of predictability to also be of concern for empty container park fees.

Some market participants informed us that some shipping lines charged them detention fees in 2022–23 in situations that were unreasonable to do so. Shipping lines charge detention fees if cargo owners continue to use containers beyond the agreed free period, to encourage cargo owners to return containers so that they can be reused. The ACCC considers that it is unreasonable for shipping lines to charge detention fees in circumstances where no level of detention fee can incentivise the cargo owner to return the container on the due date. As we noted last year, cargo owners in Australia currently do not have adequate protection against unreasonable detention fee practices.

Shipping lines agree that Part X is outdated and should be replaced with a more fit for purpose exemption regime

Part X of the *Competition and Consumer Act 2010* (Cth) (Competition and Consumer Act) enables shipping lines to register agreements that allow them to cooperate with other shipping lines in ways that would otherwise breach the Competition and Consumer Act's anti-competitive conduct provisions.⁶ This year, some shipping lines have said that the registration process hampers their ability to respond quickly to changes in market dynamics.

Most market participants the ACCC spoke with supported the repeal of Part X if it is replaced by a regime that, broadly:

- permits collaboration on operational matters such as vessel-sharing and slot charter arrangements
- is less administratively cumbersome
- provides legal certainty to shipping lines about what conduct is allowed
- results in overall public benefit.

Recently, Shipping Australia and the World Shipping Council presented a joint statement to the ACCC in which they indicated their support to repeal Part X and replace it with an appropriately tailored, narrower class exemption.

The ACCC supports the Productivity Commission's recommendation to repeal Part X. The exemption is outdated and could be replaced with a more targeted regime that delivers net benefits to Australians without unnecessary costs.

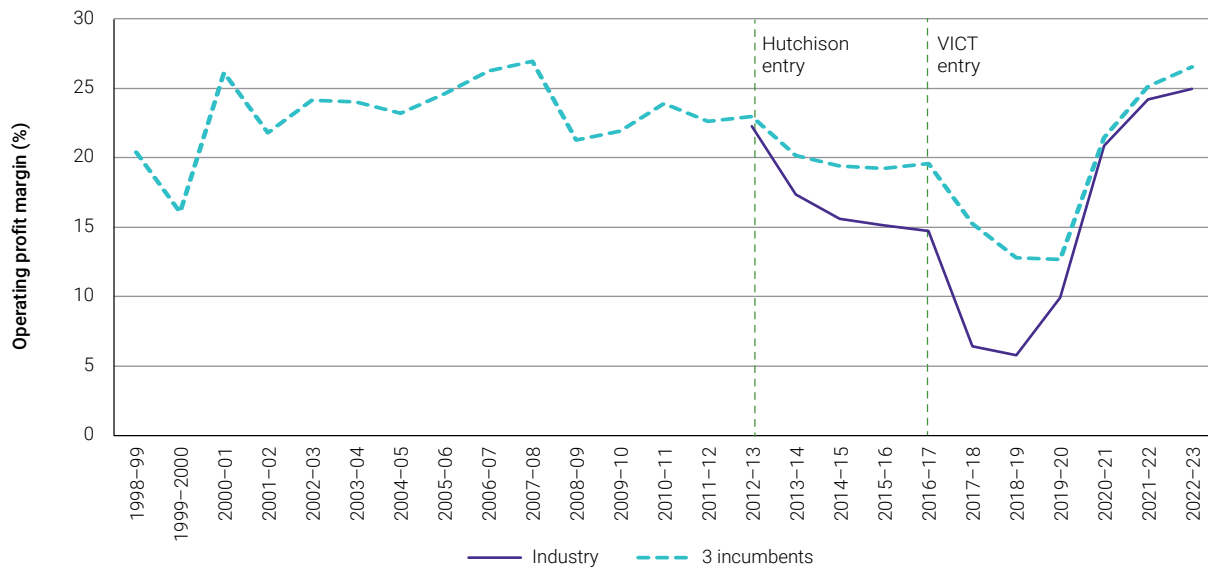
Stevedores' profits remain historically high

Multiple profitability metrics show that monitored stevedores' profits remained historically high in 2022–23. Figure 3, below, shows total operating profit margins for both the industry (all 5 monitored stevedores) and the 3 incumbents (Patrick, DP World and Flinders Adelaide Container Terminal).⁷

⁶ Shipping lines which have registered agreements are allowed to agree on prices, pool or apportion earnings, losses or traffic, regulate capacity and coordinate schedules.

⁷ In this report, operating profit margins refers to the ratio of EBITA (earnings before interest, taxes and amortisation) to total revenue.

Figure 3: Stevedores' total operating profit margins, industry & 3 incumbents: 1998–99 to 2022–23



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Stevedores' operating profits increased substantially during the pandemic, rising from a low of \$90.9 million in 2018–19 to \$481.6 million in 2022–23. Expressed as a share of stevedores' revenue, the industry profit margin rose from a low of 5.8% in 2018–19 to 24.9% in 2022–23.

The ACCC is aware that stevedoring is a capital-intensive, high-risk business, characterised by large fixed costs and significant economies of scale. We also understand that major stevedore investments are 'lumpy' (uneven over time) and anticipate long-term, rather than short-term, growth. Accordingly, it is important to also consider stevedores' performance over longer timeframes. Table 1, below, shows the average profit margins and rates of return on average tangible assets for the 5 monitored stevedores over various timeframes.

Table 1: Average industry operating profit margin and return on average tangible assets, various time periods

	Operating profit margin	Return on average tangible assets
1 year	24.9%	28.2%
5 year average	17.8%	16.3%
10 year average	16.0%	12.3%
15 year average	17.9%	14.4%

Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Average industry profits are lower over longer time periods because stevedores recorded historically low profit margins just prior to the pandemic.

Several factors may be affecting competition between stevedores

As part of our consultation, market participants have identified some factors that may be impacting on the intensity of competition between stevedores.

Shipping lines are focussing on costs and efficiency and this might be influencing their choice of stevedore

Market participants told the ACCC that shipping lines are focusing on minimising their costs in response to lower freight rates (and shipping line revenue, as a result) and lower container volumes. These changes in market dynamics have led some shipping lines to focus more on stevedores' efficiency.

In the event of a delay, shipping lines may choose to speed up their vessel or 'blank sail' (omit) a scheduled stop in order to get the vessel back on schedule. Vessel speed-ups burn more fuel and are expensive. While blank sailing may enable the vessel to get back on schedule and optimise vessel speed (reducing operating costs), doing so also means that they forgo revenue and are liable to pay storage fees to stevedores.

One market participant told us that shipping lines will likely continue to place increasing weight on stevedores' efficiency in the future as they slow their vessels down to reduce carbon emissions.

Due to their increased focus on efficiency and cost minimisation, some shipping lines appear to prefer to contract with the same stevedore across multiple ports. Some shipping lines explained to us that doing so simplifies the planning process and makes it easier to manage the impact of delays as they can require the stevedore to make up for lost time and reduce the need to speed up the vessel on the next leg of the journey.

This appears to advantage Patrick and DP World as they operate in the 3 east coast ports (Melbourne, Sydney and Brisbane) as well as Fremantle. Hutchison (Sydney and Brisbane) and Victoria International Container Terminal, on the other hand, may be less attractive to some shipping lines because they don't have a national presence.

Victoria International Container Terminal appears to be operating at near capacity

Victoria International Container Terminal has been unable to increase its share of the Melbourne market in recent years. One factor that could be contributing to this is the stevedore's capacity. ACCC analysis of data provided by the stevedore suggests that it operated near capacity over 2022–23.

A concrete structure called 'the knuckle'⁸ is currently constraining Victoria International Container Terminal's ability to service 2 large vessels simultaneously. It is possible that the knuckle is limiting Victoria International Container Terminal's ability to win further market share.

⁸ The knuckle is a section of the old quay that restricts berth length and impedes quay crane operations berth capacity.

The ACCC will continue to closely monitor container stevedoring to assess the need for policy or regulatory response

The ACCC has not yet reached a view on whether stevedores' recent higher profit margins, achieved primarily through higher landside charges, are likely to be temporary or sustained. On the one hand, the industry made significant investments over the past decade, particularly in the period between 2012–13 and 2014–15, and the recent higher profit margins may, at least in part, reflect the gradual decline in depreciation expenses since that time. In addition, stevedores' rapid surge in profits over the past few years coincided with the COVID-19 pandemic, which still affected the supply chain in 2022–23. On the other hand, there is emerging evidence that the new entrants of the last decade may not be as effective in competitively constraining the incumbent multi-port stevedores as we had observed pre-COVID and anticipated would continue.

In its Maritime Inquiry report, the Productivity Commission recommended introducing a mandatory code under which the ACCC would have the role of approving or rejecting changes to stevedores' landside charges.⁹ While we support steps that may improve cargo owners' ability to influence or predict landside charges, as mentioned earlier, we have not yet reached a view on whether a stronger policy or regulatory response is warranted.

We are considering a number of areas for further analysis that may put us in a better position to comment on stevedores' charges and recent high profit margins in future reports. We intend to consider additional profitability metrics, explore domestic and international profitability benchmarking, continue to examine factors that may be impacting on competition between stevedores and consider options for incorporating stevedores' productivity into our reporting.

Key reforms needed to improve efficiency of the supply chain

Container shipping is critically important to the Australian economy. A well-functioning, efficient supply chain ensures our exports remain competitive and Australian consumers are not paying higher than efficient prices for imported goods. While the supply chain appears to be operating more efficiently than it has in recent years, a number of challenges remain.

Cargo owners do not have sufficient information to be able to make effective business decisions. Cargo owners are unable to predict how stevedore and empty container park fees will change over time, making it very difficult for them to weigh up the total cost of shipping service options. The ACCC supports steps that may make it easier for cargo owners to determine all costs related to shipping lines' service offerings, including those charged by stevedores and empty container park operators.

As we noted last year, cargo owners need more protection against unfair detention fee practices. The ACCC supports consideration being given on how best to address this.

Part X of the Competition and Consumer Act is outdated and no longer fit for purpose. The ACCC supports the Productivity Commission's recommendation that Part X should be repealed and replaced with a more targeted regime.

We will also monitor broader developments in the supply chain to continue to inform the government and provide transparency to industry participants.

⁹ Productivity Commission, [Lifting productivity at Australia's container ports: between water, wharf and warehouse: Inquiry report](#), Productivity Commission, Australian Government, 2022, accessed 29 November 2023, p 220.

Key stevedoring results 2022–23

Revenue, cost, profit and investment^a

Total revenue
\$1,930 m
 ▼1.2%

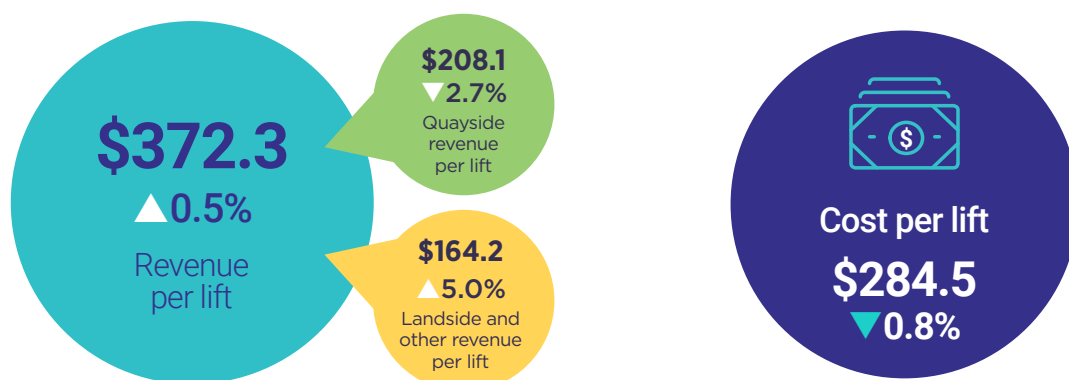
Total cost
\$1,475 m
 ▼2.6%

Profit margin^b
24.9%
 ▲0.8 pp

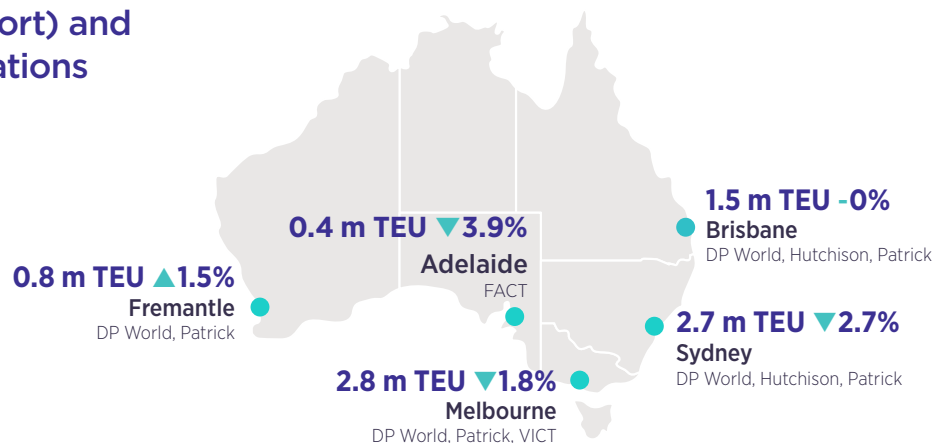
Investment (additions)
\$170.1 m
 ▼11.7%

Tangible asset base
\$1,715.7 m
 ▼5.5%

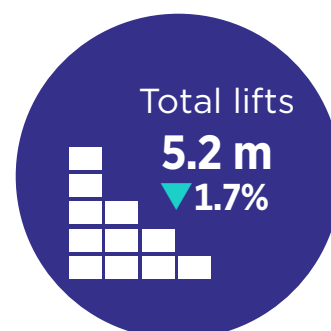
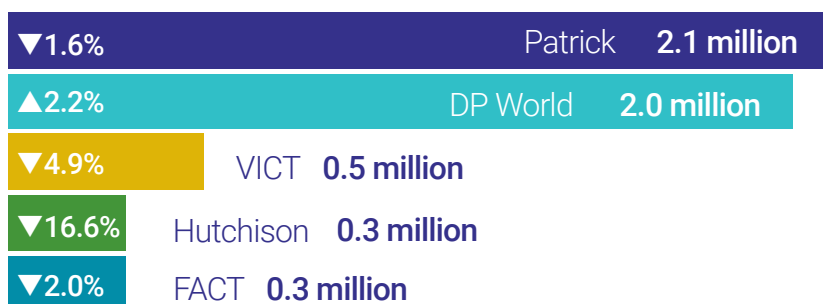
Operating profit (EBITA)
\$481.6 m
 ▲1.9%



Total TEU (by port) and stevedore's locations



Lifts per stevedore



Note: a All figures in real terms.
 b Earnings before interest, taxes and amortisation (EBITA) as a percentage of total revenue.

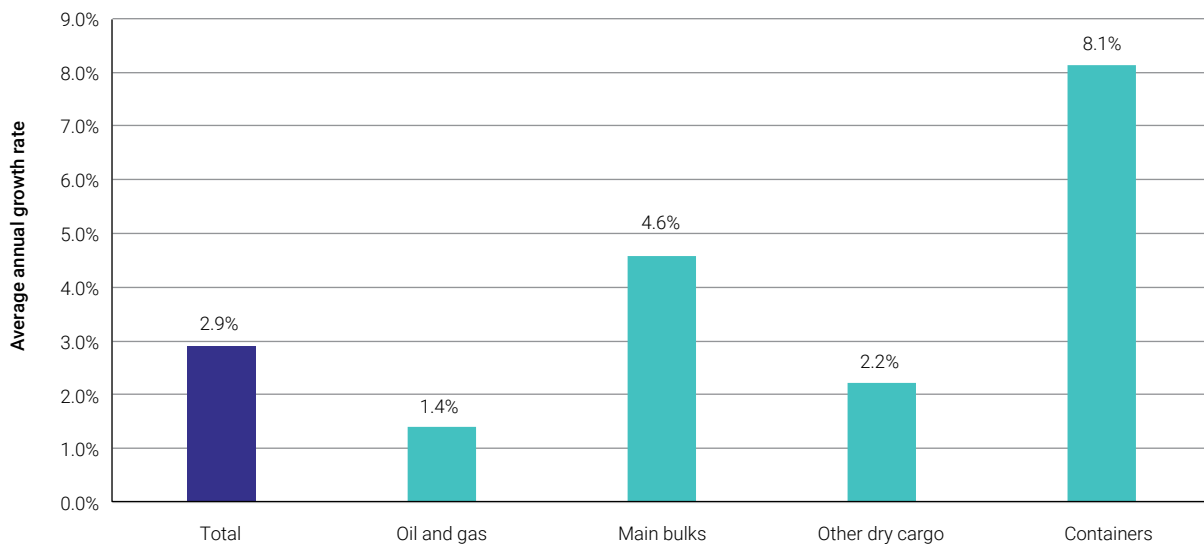
1. Introduction

1.1 The container freight supply chain in Australia

Development of containerisation has revolutionised the world maritime industry. The use of containers has dramatically lowered the cost of transporting goods across the globe. As global trade exploded over the past 70 years, containerised trade has become the dominant form of international shipping.

Figure 1.1 compares the average annual growth rate of container shipping volumes with other forms of shipping since 1980, and with seaborne trade overall.

Figure 1.1: Average annual growth rate of seaborne trade by shipping method, 1980–2017



Source: ACCC calculation of data from United Nations Conference on Trade and Development (UNCTAD), 'Review of Maritime Transport 2018', UNCTAD, 2018, accessed 27 October 2023, p 5.

As shown above, containerised trade has grown more than any other form of trade since 1980. The container freight supply chain consists of a broad range of participants including shipping lines, ports, stevedores, road and rail operators and empty container parks. In 1999, the Australian Government directed the ACCC to monitor prices, costs and profits of stevedores at container ports in Adelaide, Brisbane, Fremantle, Melbourne and Sydney.¹⁰ This is the ACCC's 25th report.

This chapter introduces:

- the importance of the supply chain to Australia
- the key supply chain participants
- how the ACCC conducts its monitoring.

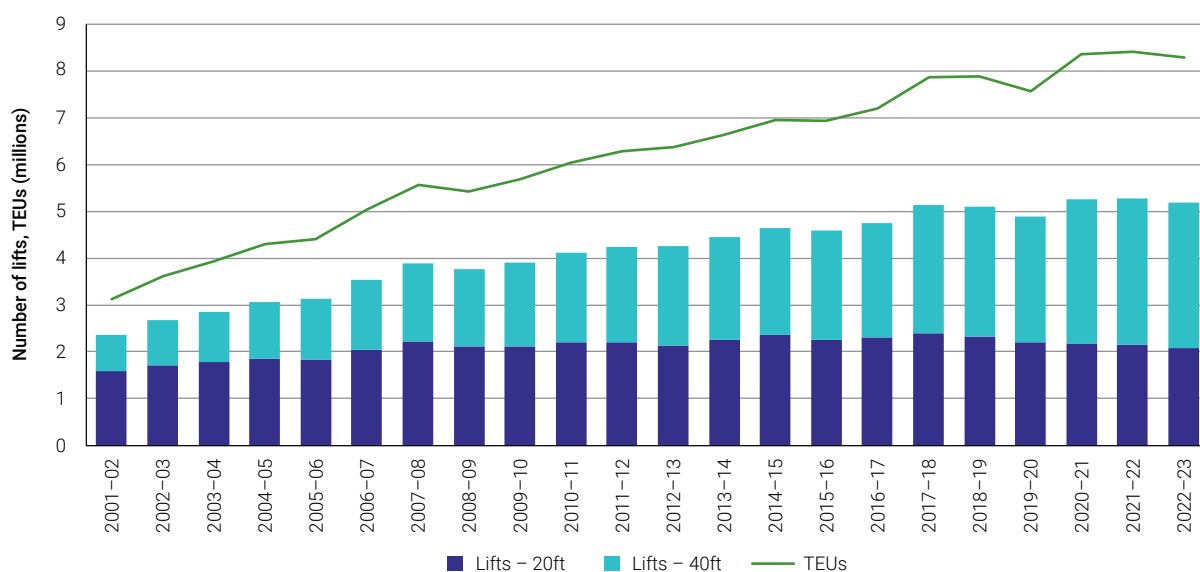
¹⁰ The direction also requires the ACCC to monitor Burnie in Tasmania but it currently does not have a container terminal.

1.1.1 Australia's economy is heavily dependent on container trade

The Australian economy has benefited significantly from global trade. Australia's exports and imports make up 26% and 20%¹¹, respectively, of Australia's gross domestic product. Australian exporters use the container freight supply chain to transport large quantities of agricultural products such as wheat, other grains and meat.¹² In addition, Australian retailers import significant quantities of manufactured goods, which are used by consumers or as intermediate inputs in Australian production processes.

Over the past few decades, Australia has become heavily reliant on containerised trade. Since the ACCC began monitoring in 1998–99, the volume of containers passing through Australia's 5 major container ports has increased significantly. Figure 1.2, below, shows an increase in total throughput (including both full and empty containers) by an average of 4.7% each year since 2001–02, when we first collected disaggregated data on container size.

Figure 1.2: Total annual throughput of Australia's five international container ports



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Note: Total throughput includes both full and empty containers.

The 2 main units of measurement of container stevedoring throughput are lifts (number of containers) and TEUs (equivalent number of 20-foot containers).¹³ The ACCC generally uses lifts as a unit of throughput because the operational cost to lift a container onto or off a ship does not change significantly between a 20-foot or 40-foot container.

11 The World Bank, [Imports of goods and services \(% of GDP\) – Australia](#) [data set], The World Bank, 2022, accessed 23 October 2023; The World Bank, [Exports of goods and services \(% of GDP\) – Australia](#) [data set], The World Bank, 2022, accessed 23 October 2023.

12 A Kemp, T Chen, S Morrison, C Lo, '[Containerised trade trends and implications for Australian ports](#)', report to the Port of Newcastle, HoustonKemp Economists, 2019, accessed 23 October 2023, p 12.

13 One 40-foot container is equivalent to 2 TEUs.

1.1.2 Efficient operation of the container freight supply chain is critical for Australia

Australia's distance from other markets means that the efficiency of the supply chain has a large bearing on our competitiveness in overseas markets and the cost of imported goods.

Australian exporters selling into international markets need to overcome differentials in shipping costs to effectively compete with rivals that are located closer to customers. Improvements in productivity and efficiency at Australian container ports, and the supply chain more generally, will lead to lower costs for Australian exporters. This will greatly assist them to be more competitive in global markets.

With the exception of petroleum products and vehicles, Australia's imports are dominated by manufactured goods that are typically shipped in containers. This means most of Australia's imported goods are transported into Australia using the container freight supply chain.¹⁴ Improving productivity and efficiency of the supply chain will lead to more timely and reliable delivery of many goods and lower prices for Australian households and businesses.

1.2 Participants in the container freight supply chain

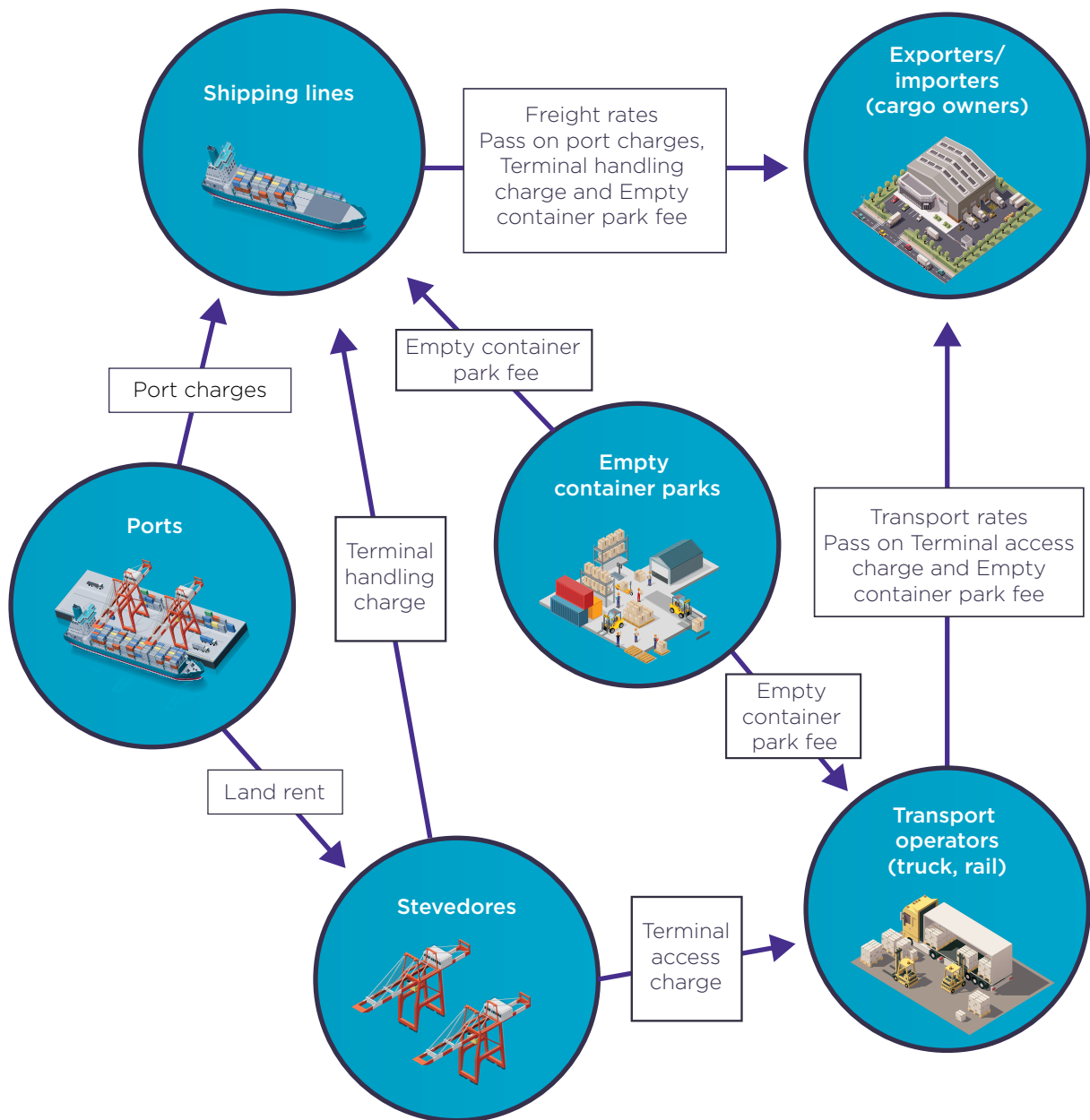
Figure 1.3, below, shows the contractual relationships and the flow of charges between parties in the supply chain (both represented by arrows). The arrows point from the service provider to the party paying the charges (which is not always the party that has chosen to use the service).

Figure 1.3 shows that the supply chain is an interconnected ecosystem of many service providers, all of which ultimately serve cargo owners.

The following sections explain the roles of the parties in the supply and how they interact with each other.

¹⁴ Bureau of Infrastructure, Transport and Research Economics (BITRE), '[Ports: Job generation in the context of regional development](#)', Information sheet 56, BITRE, Australian Government, 2014, accessed 23 October 2023, p 7.

Figure 1.3: Contractual relationships and flow of charges between parties in the supply chain



→ One party is charging another party for a service

1.2.1 Ports

The vast majority of Australia’s container shipping trade moves through 5 international container ports. These ports, located in Adelaide, Brisbane, Fremantle, Melbourne and Sydney, are currently the only significant container ports in their respective states. Four of these ports are privately owned, with the Port of Fremantle being government owned.

Ports manage a large area of land and accommodate tenants ranging from stevedores to warehouses. They also manage and provide access to infrastructure (such as port channels and berths) which allow vessels to dock and discharge and load cargo. Additionally, port operators

provide necessary day-to-day services to vessels to ensure they can navigate safely to, and from, their berths.

Ports impose a range of charges on shipping lines that use their facilities and services. These vary by port, but typically include vessel-based costs associated with the services they provide to shipping lines, such as:

- Port dues: these are charged to the vessel for each harbour entry, usually on a gross tonnage basis, and go towards the costs of basic port infrastructure and equipment.
- Pilotage fees: pilotage refers to assisting the master of a ship in navigation when entering or leaving a port or in confined water. The fee associated with this service is normally based on the ship's tonnage, draught, or length.
- Berth hire charges: the berth refers to the place in which a vessel is moored or secured, alongside a quay where a ship loads or discharges cargo. The charge is usually based on the duration of a vessel's stay and overall length.

Ports also usually charge cargo-based fees (per TEU) such as wharfage, based on the type and volume of cargo moving through the port.

1.2.2 Cargo owners

Cargo owners are the beneficial users of the supply chain. Cargo owners choose the key elements of the supply chain that are needed to transport their cargo from point of origin to the destination. Specifically, cargo owners choose:

- the port of origin and the destination port for transporting their goods, usually based on where the goods are made (or stored) and where the customers are located
- the shipping line service, which specifies: the shipping line (or the consortium of shipping lines) that will transport goods from the port of origin to the destination port and container stevedores at the port of origin and the destination port that will act as an 'intermodal'¹⁵ terminal for shipping lines and transport operators
- the transport operator (either rail or trucks) to transport the containers between the stevedore's terminal and either the cargo owner's warehouse or customer's premises, often via the transport operator's own distribution depot.

Cargo owners may also utilise the services of freight forwarders, who act as intermediaries to arrange some or all of the cargo's journey on their behalf. Freight forwarders deal directly with shipping lines and can hire transport operators for pickup and delivery of containers or supply those services themselves. Customs agents/brokers arrange clearance of cargo on behalf of importers.

A cargo owner's choice of shipping line is informed by a number of factors, including which shipping lines provide services on each Australian trade route. A cargo owner's choice is limited by the availability of services on its desired trade route and the availability of space on those services. When choosing between multiple shipping lines that offer suitable services (or multiple services offered by the same shipping line), cargo owners also take into account the 'bundle of prices' they expect to pay for using that service, which includes:

- the freight rates tendered by the shipping line for its services
- the pass-through charges that the shipping line includes in its tender (which covers the fees and charges that the shipping line expects to pay to all the relevant ports, stevedores and empty container parks)
- the landside fees and charges levied by stevedores

15 'Intermodal' refers to the transfer of goods from one mode of transport (such as shipping) to another (such as road).

- the fees and charges levied on transport operators by the empty container parks that are used by the shipping line.

Cargo owners contract a transport operator that provides the most suitable and cost-efficient services. Many agricultural exporters are located in regional areas far from ports and usually transport large volumes of produce. These exporters often prefer to use rail to transport their produce to the closest container port owing to the efficiencies of that mode of transport over longer distances and at larger scale. Many retailers store their imported products at warehouses in major cities that are located much closer to container ports, so they often prefer to use trucks to transport their cargo.

Cargo owners do not have a direct contractual relationship with ports, stevedores or empty container parks. Shipping lines and transport operators pay those service providers for their services and then pass on their fees and charges to cargo owners. Cargo owners ultimately pay for all the costs in the supply chain.

1.2.3 Stevedores

Container stevedores are firms that primarily act as an intermodal terminal for shipping lines and transport operators.¹⁶ Stevedores' primary services include:

- quayside: loading and discharging of container ships, primarily using ship-to-shore cranes once a ship has berthed
- at terminal: temporary storage (pending loading or pickup) and repositioning of containers
- landside: loading and discharging of trucks or rail, using equipment such as straddle carriers, rail-mounted gantry cranes, rubber-tyred gantries and automatic stacking cranes.

The quayside, at terminal and landside services are perfect complements. For each full container being imported, the stevedore performs the following as part of its service: it unloads the container from a vessel, provides temporary storage for the container at its terminal and provides access to, and loading services for, a transport operator to pick up the container. For each empty or full container being exported, the stevedore provides the following as part of its service: it provides access to a transport operator to drop off the container, unloads the container from the transport operator and provides temporary storage for it, then loads the container onto a vessel.

Stevedores can also provide versions of these services as ancillary services to shipping lines. In some instances, containers being sent from one port to another will need to be 'transhipped' via some third port to reach their ultimate destination. In such a case, a stevedore provides both quayside and at terminal services by unloading containers from one vessel, temporarily storing them pending arrival of the second vessel, then reloading those containers onto the second vessel bound for their destination. Transhipment might be required when there are no direct routes between the required origin and destination ports, or when a vessel originally bound for a destination port skips or 'blanks' that port, as might be the case with vessels already experiencing substantial delays.

As transhipments do not need to occur at any particular port, provided whichever terminal performing the transhipments is common to both legs of the container's journey, stevedores at different ports are able to compete to secure these transhipment volumes. In practice, this means that the revenues a stevedore may obtain from transhipments are different to, and often less than, what would be obtained for a full container at its origin or destination.

Stevedores also provide quayside, at terminal, and landside services to shipping lines with respect to empty containers. This is mainly to facilitate the repositioning of empty containers from Australia

¹⁶ 'Intermodal' refers to the transfer of goods from one mode of transport (such as shipping) to another (such as road).

to net export ports overseas.¹⁷ As empty containers are most commonly stored at empty container parks rather than in terminals' scarce yard area, the export of empty containers requires coordination between a shipping line and a terminal. A shipping line will utilise low periods with fewer landside pickup/drop-off bookings to perform a 'bulk run' of empty containers by contracting truck operators to shuttle empty containers from an empty container park to the terminal.

A stevedore operates the necessary equipment and labour to accomplish these functions. It leases land space and infrastructure from the relevant port authority, which in turn charges land rent to the stevedore. Land rent is the most significant component of stevedores' lease costs.

Stevedores compete for contracts to form part of a shipping line's service to cargo owners. The contracts require stevedores to provide berthing facilities to shipping lines in accordance with a specified sailing schedule. The contracts also require the provision of sufficient cranes, labour and other equipment. They can also require the stevedore to agree to certain key productivity standards. Typically, the length of stevedores' contracts with shipping lines ranges from 2 to 5 years.

On the landside, stevedores provide access to their respective terminals to transport operators. Stevedores use platforms such as the vehicle booking system to allocate time slots for trucks to drop off, or collect, full or empty containers at the terminal. Rail operators are offered access via rail windows.

Figure 1.4, below, shows the stevedores that are currently operating at the 5 monitored container ports in Australia.

Figure 1.4: Container stevedores in Australia's monitored ports



¹⁷ Some Australian ports are net exporters with respect to goods in particular kinds of containers. For example, the Port of Adelaide requires empty food-grade 20-foot containers to be sent to it to facilitate its heavy agricultural exports but remains a net importer of the more common 40-foot containers.

1.2.4 Shipping lines

Shipping lines contract stevedores and empty container parks at each port they intend to service. Shipping lines then contract with cargo owners to transport containerised cargo from ports of origin to destination ports, providing and operating container ships for this purpose.

A standard shipping service will typically involve a vessel calling at a series of ports on a predetermined route. Cargo owners usually prefer direct shipping services, where their cargo remains on the same vessel from the port of origin until its destination. However, direct services do not exist between all ports, and where a direct service does not exist cargo will be unloaded at an intermediate port known as a transshipment hub.

Shipping lines usually base their networks around these hubs, connecting short-distance, intra-regional 'feeder' lines with long-distance deep-sea lines. For instance, where direct services are not available between 2 ports, one vessel will transport cargo to a transshipment hub. There, this cargo will await shipment to its final destination on another vessel (perhaps after being transported to another hub).

Congestion or delays at one port may affect a vessel's ability to reach subsequent ports on its schedule. This can have significant flow-on effects, not just for the shipping line but also elsewhere along the supply chain. Stevedores and transport operators may lose productivity while equipment and labour sit idle. They may have to pay overtime and employ additional resources to clear congestion due to off-window arrivals.

Shipping lines typically have a range of options to mitigate scheduling disruptions, such as slowing down in anticipation of delays, or speeding up to recover lost time. Shipping lines may also skip a port altogether, 'roll' cargo to a later service or add additional capacity to clear congestion.

Shipping lines charge freight rates for their services to cargo owners (or the relevant freight forwarder) plus a range of surcharges or incentive-based fees (such as detention fees). Freight rates are set according to supply and demand and are closely correlated with fleet utilisation.¹⁸ Shipping lines also levy or pass on a range of other fees and charges including terminal handling charges, port charges (including wharfage costs and any customs or duties) and empty container park charges.

1.2.5 Transport operators

Transport operators provide a service of transporting cargo owners' cargo to and from ports. The majority of containers in Australia are currently transported by trucks, with a much smaller share handled by rail. In some cases, both road and rail are used for carrying containerised goods. With 'intermodal' freight, for example, trucks provide local pick-up from and delivery to the rail terminal.

Cargo owners choose which shipping line service they will use, which determines the stevedore that will handle their cargo. The transport operator must then go to the chosen terminal to pick up, or drop off, containers. Stevedores have standard agreements with truck operators for access to their terminal. These agreements allow truck operators to access the stevedore's terminal on standard terms and conditions. Truck operators do not have the option of negotiating their own individual terms of access (including prices).

The same arrangements apply for truck operators accessing empty container parks. Transport operators pass on the fees and charges levied by stevedores and empty container parks to cargo owners.

¹⁸ Department of Infrastructure, Regional Development and Cities (DIRDC), [Inquiry into National Freight and Supply Chain Priorities, Supporting paper No. 2 Maritime Freight](#), DIRDC, Australian Government, 2018, p 5.

1.2.6 Empty container parks

Shipping lines typically own the containers used to transport cargo. Shipping lines contract with empty container parks to store their empty containers after the containers are returned by transport operators. Empty container parks may also provide ancillary services such as container cleaning, repairs and repositioning. Empty container parks typically (but not always) have contracts with multiple shipping lines and allocate space for each shipping line to store their empty containers.

Empty container parks have booking systems and trucks must pay a fee (usually called a 'notification fee') to make a booking to collect or de-hire containers.¹⁹ Empty container parks can also issue redirections to cargo owners, freight forwarders and transport operators, requesting that empty containers be returned to an alternative location. For example, an empty container park operator or shipping line may issue a redirection when there is insufficient capacity at a site or if unforeseen issues arise.

1.3 The ACCC's container stevedoring monitoring program

The focus of the ACCC's monitoring has evolved since the monitoring program commenced in 1999. This section sets out the current focus of the ACCC's monitoring program and the steps taken in preparing this report.

1.3.1 The focus of the ACCC's monitoring

In 1998, there was a protracted labour dispute between Patrick and the Maritime Union of Australia (Maritime Union). Following the introduction of a workplace reform package by the Australian Government, the ACCC was directed by the government to monitor the prices, costs and profits of stevedores and provide a report to the Minister within 4 months of the end of every financial year.²⁰

Given the environment at the time the direction was made, the initial purpose of the monitoring regime was to assess the impact of the reforms and to monitor the potential for wage-driven cost increases.

Over time, the ACCC has shifted its focus to matters covered under Part VIIA of the Competition and Consumer Act. Specifically, Part VIIA stipulates that the ACCC must have particular regard to the following matters:

- the need to maintain investment and employment, including the influence of profitability on investment and employment
- the need to discourage a person who is in a position to substantially influence a market for goods or services from taking advantage of that power in setting prices
- the need to discourage cost increases arising from increases in wages and changes in conditions of employment inconsistent with principles established by relevant industrial tribunals.

Pursuant to Part VIIA, the ACCC monitors a range of matters, including the degree of competition between the stevedores, whether the stevedores' returns are indicative of excessive pricing, the

¹⁹ 'De-hire' refers to the process of returning an empty container to either an empty container park or a terminal.

²⁰ On 20 January 1999, the Federal Treasurer directed the ACCC under s 27A of the *Prices Surveillance Act 1983* (Prices Surveillance Act) to monitor prices, costs and profits of container terminal operator companies at the ports of Adelaide, Brisbane, Burnie, Fremantle, Melbourne and Sydney. The Prices Surveillance Act has since been repealed and the price surveillance provisions are now contained in Part VIIA of the Competition and Consumer Act. The direction under the former s 27A of the Prices Surveillance Act is now deemed a direction under s 95ZE of the Competition and Consumer Act.

level of investment by the stevedores and other port operators, and the degree of productivity and efficiency at Australian container ports.

The ACCC consider that to correctly interpret the data it collects and to understand the drivers behind the observed trends, it is essential to monitor developments across the entire supply chain. This is because the supply chain is an interconnected system of service providers, where developments in one part of the supply chain have flow-on effects on the operations of service providers in other parts of the supply chain.

The ACCC's monitoring serves a number of purposes, including:

- to inform governments' container freight policy and planning
- to provide transparency to industry participants about stevedores' operations to facilitate more informed decision making.

Relevant sections of Part VIIA are reproduced in Appendix C. The Ministerial direction setting out the ACCC's price monitoring framework is included in Appendix D.

1.3.2 Steps the ACCC took in preparing this report

The ACCC analysed data from a range of sources to examine issues affecting the overall supply chain

The ACCC obtained data from a range of sources in preparing this year's monitoring report, including:

- data collected on a voluntary basis from each of the 5 stevedores about their operations at the conclusion of the financial year
- data from the Bureau of Infrastructure, Transport and Research Economics in advance of the publication of its upcoming Waterline report
- data from S&P Global Commodity Insights on freight rates
- publicly available information about short-term and longer-term developments in the supply chain.

The ACCC appreciates the cooperation of all the parties that provided information in preparation for this report.

The ACCC consulted with market participants

The ACCC consulted with a wide range of parties across the supply chain, including stevedores, shipping lines, ports, cargo owners, freight forwarders, transport operators, industry bodies and the Maritime Union.

As part of our consultation, we sent out surveys to market participants across the supply chain. These surveys contained a range of questions, including about historical trends in the supply chain, key challenges experienced by market participants, the state of competition between stevedores and the broader operation of the supply chain. We received 20 survey responses. We also held meetings with a range of industry participants.

This consultation formed a vital part of this year's report preparation and the ACCC thanks participants for their time and contributions.

1.4 Outline of the 2022–23 Container stevedoring monitoring report

As in previous reports, the 2022–23 monitoring report continues to look at the financial performance of stevedores at Australia’s 5 container ports. To provide context and highlight the interconnected nature of the supply chain, this report also looks at developments across the entire supply chain.

Chapter 2 discusses the current state of the supply chain. It examines the extent to which the COVID-19 pandemic continued to affect supply chain participants and discusses recent developments in the container freight supply chain.

Chapter 3 discusses some of the long-term trends in the supply chain.

Chapter 4 examines stevedores’ financial performance. It discusses how stevedores’ profitability has changed over the course of the ACCC’s monitoring period and the drivers behind recent increases in profits.

2. State of the supply chain

Key points

- The container freight supply chain continued to recover in 2022–23, following 2 years of significant disruption coinciding with the COVID-19 pandemic.
- Vessel schedule reliability has improved considerably but is not yet back to its pre-COVID level. Some evidence suggests that improvements in vessel schedule reliability in Australia lag the global average.
- Global ocean freight rates have largely fallen back to where they were prior to the pandemic. The Australian picture, however, is nuanced. The ACCC understands that some cargo owners are still paying elevated prices for shipping certain types of containers.
- Cargo owners remain exposed to inefficiencies in the supply chain. When contracting with a shipping line, cargo owners lack the information about the landside charges they will pay, throughout the contracting period, to stevedores and empty container parks that are part of the shipping lines' service. This makes it very challenging for them to make informed business decisions.
- There are still some concerns about shipping lines charging detention fees in situations that were unreasonable for them to do so. While some market participants told us that shipping lines sometimes agreed to waive detention fees that had been levied unreasonably, this did not always happen. Cargo owners in Australia are not adequately protected against unreasonable detention fee practices.

As detailed in last year's report, the COVID-19 pandemic, and other developments, caused significant congestion and delays in the supply chain. This year, market participants informed us that the supply chain continued to recover.

This chapter is based on information we collected through our consultation process as well as other data sources (see Section 1.3.2). It describes the state of the supply chain and the impact that market dynamics in 2022–23 have had on various market participants.

2.1 The supply chain continued to recover in 2022–23

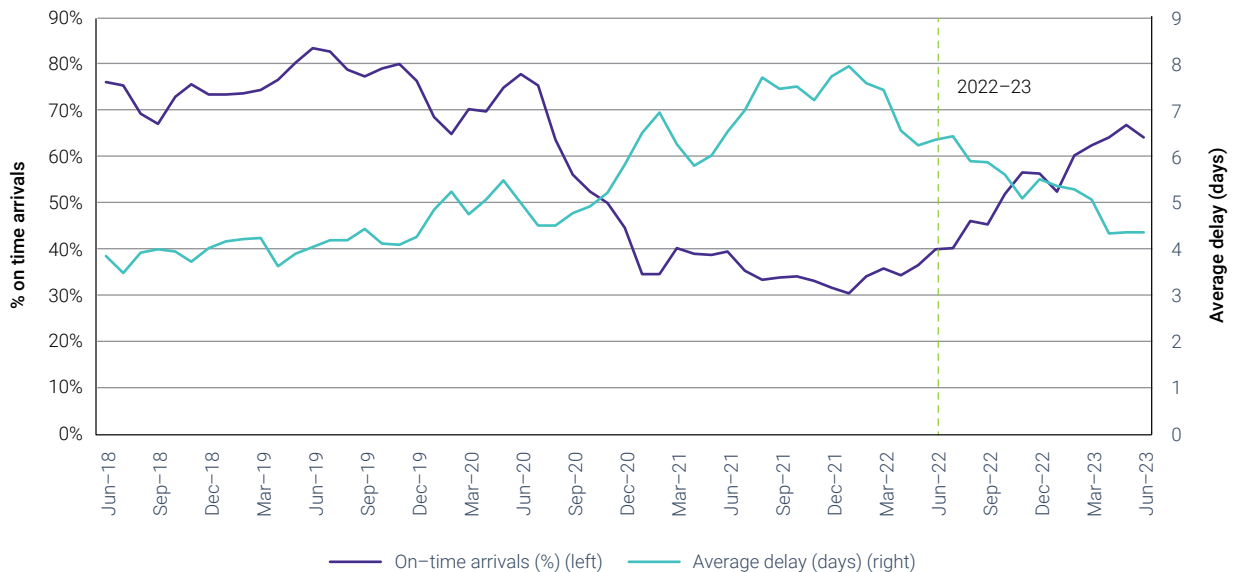
2.1.1 The supply chain appears to be operating in a more predictable manner

In recent years, the container freight supply chain has been characterised by significant congestion and delays. Persistently low vessel schedule reliability exacerbated these issues.

Global vessel schedule reliability improved considerably in 2022–23, continuing a trend that emerged in early 2022. Vessel schedule reliability is a commonly used industry metric which indicates the

proportion of vessel arrivals that were 'on-time'.²¹ Figure 2.1, below, shows the proportion of vessels that arrived at container ports on-time over the past 5 years, along with average vessel delays.

Figure 2.1: Global vessel schedule reliability and average vessel delays, major global routes, June 2018 to June 2023



Source: Sea-Intelligence, Global Liner Performance Report, Issue 144. The data covers 34 trade lanes, including Asia-Oceania.

Globally, 64.2% of vessels arrived on time in June 2023, up from 39.9% in June 2022 and the COVID-19 low of 30.4% in January 2022. That said, global vessel schedule reliability remains below the 74.8% average recorded over the 2 years to June 2020, just before vessel schedule reliability plummeted. The global average duration of vessel delays for late vessel arrivals, on the other hand, has recovered to pre-pandemic levels.

While data on Australian vessel schedule reliability is not as readily available, 61.1% of vessels on the Asia-Oceania trade lane arrived on time in June 2023, up from 20.2% in June 2022.²² Multiple industry participants told us that vessel schedule reliability at Australian ports has also improved in 2022–23 but that it lags the global average. One stevedore noted that vessel schedule reliability improved in the June quarter 2023 and that it expects it to improve further in 2023–24.

Poor vessel schedule reliability can have significant flow-on effects throughout the supply chain. In recent years, poor vessel schedule reliability was one of the factors that led importers to hold higher levels of inventory than they otherwise would have.²³ This put further pressure on shipping capacity and freight rates.

It is important for participants throughout the supply chain that ships arrive in a predictable way. One exporter of perishable goods told the ACCC that schedule reliability is critical to their operations and the most important factor they consider when choosing between shipping line options. They told us that they often saw their regular services 'blank sail'²⁴ and slow-steam (sail slower) in 2022–23 which resulted in reduced frequency of services to their export destinations.

21 Sea-Intelligence, the website that publishes data on global vessel schedule reliability, defines 'on-time' as being within one day either side of the scheduled arrival.

22 Sea-Intelligence, 'Oceania Liner September 2023 Performance Report', Issue 145, Sea-Intelligence, 2023.

23 Australian Competition and Consumer Commission (ACCC), [Container stevedoring monitoring report 2021–22](#), ACCC, Australian Government, 2022, p x.

24 A blank sailing is where shipping line either cancels a service or omits certain ports on a route. Market participants informed the ACCC that blank sailings still occurred in 2022–23.

Changes to vessel schedules and services can present particular challenges for exporters of perishable goods, where the cargo’s shelf life is particularly vulnerable to vessel delay. One exporter commented that, if they know in advance that a vessel will slow-steam or visit scheduled ports in a different order, they can proactively switch their cargo to another vessel. On the other hand, they explained that it is very costly to unload cargo at the next port and have it move to a different vessel if the ship’s schedule changes after it departs.

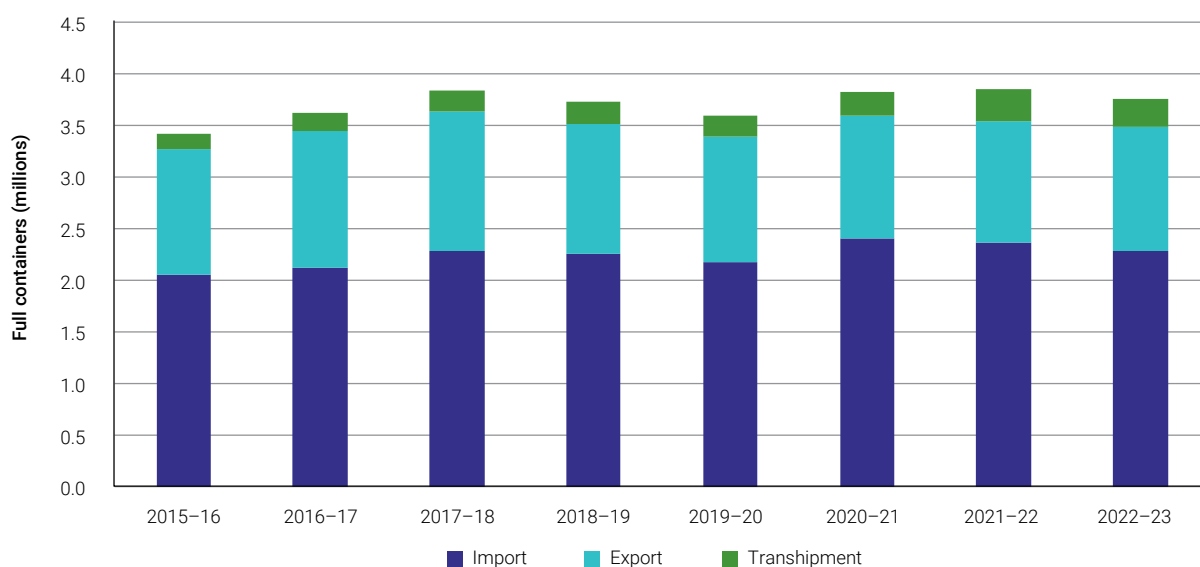
Market participants have told us that a number of factors influence the reliability of shipping services on Australian trade routes, including bad weather, stevedore capacity and port closures. One shipping line told us that weather events are the main reason that vessel schedule reliability remains below pre-COVID levels on Australian trade routes, followed by reduced buffer times between berth windows. The shipping line commented that the tight vessel line-up at Port Botany, in particular, made it difficult for them to change their services to improve schedule reliability.²⁵

2.1.2 Container volumes fell in 2022–23, likely reflecting softer domestic economic conditions

The number of full containers passing through the 5 monitored ports fell by around 103,100 (or 2.6%) in 2022–23, after rising by 42,300 (or 1.1%) in 2021–22. One industry observer noted that vessel capacity exceeds demand, despite continued blank sailings and recent vessel size downgrades on Australian trade routes.²⁶

Figure 2.2, below, shows total annual throughput since 2015–16, measured in terms of full container lifts.

Figure 2.2: Full container lifts, 2015–16 to 2022–23



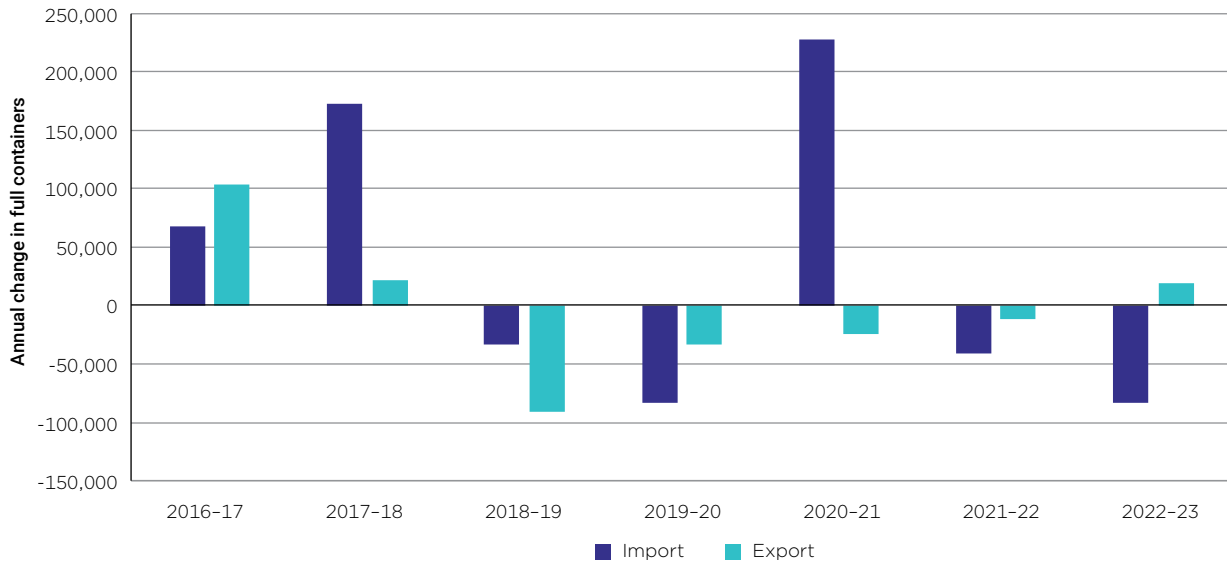
Source: ACCC analysis of information provided from stevedores as part of the monitoring regime.

²⁵ The shipping line said it faced similar issues at one terminal in Melbourne, leading it to withdraw that service. This occurred outside the current monitoring period.

²⁶ While there is a broader trend towards larger vessels globally, the more recent trend towards smaller vessels on some Australian trade routes appears to be related to lower volumes.

While full container volumes decreased overall, the number of full containers exported from the 5 monitored ports rose by around 18,900 (or 1.6%) in 2022–23, while the number of full containers imported fell by around 83,400 (or 3.5%).²⁷ Figure 2.3, below, shows the annual change in imports and exports on a full container lift basis.

Figure 2.3: Annual change in full import and export container lifts, 2016–17 to 2022–23



Source: ACCC analysis of information provided from stevedores as part of the monitoring regime.

Note: The chart excludes transshipments. Where stevedores provided coastal trade data, separately, this was also excluded.

Imports

Some market participants told the ACCC that domestic economic conditions, including high inflation and lower consumer confidence, led to weaker demand for imports and lower import container volumes in the second half of 2022–23. In addition, some market participants told us that businesses increasingly used up inventory that they had accumulated during COVID-19 when shipping capacity was scarce and congestion was a significant issue.²⁸ The ACCC understands that businesses which were able to use up some of their accumulated inventory in 2022–23 did not need to import as much.

Exports

One stevedore told us that lower container freight rates, relative to their COVID-19 peaks, had enabled Australian grain exporters to ship greater volumes in containers. The stevedore explained that exporters were unable to ship some low margin commodities, including grain, when freight rates were very high. These more accommodative conditions may help to explain why export container volumes rose in 2022–23.

While the stevedore noted that lower freight rates had a positive impact on container volumes, it also noted that China’s restrictions on certain Australian products had a negative effect on export volumes in 2022–23. Some of these restrictions began in 2020 and affected commodities including wine,

²⁷ Please note that these figures above exclude coastal trade volume where stevedores provided the data separately.

²⁸ As noted in last year’s report, market participants told the ACCC that some importers moved from a ‘just-in-time’ to a ‘just-in-case’ model of inventory management.

meat and timber.²⁹ This year, China agreed to conduct an expedited review of its duties on wine³⁰ and lift the ban on timber log imports from Australia.³¹

2.1.3 Some shipping lines have streamlined their Australian services

A number of industry participants told the ACCC that shipping lines adjusted their Australian services in 2022–23. One industry observer commented that all large carriers reconfigured their Australian loops.

For example, a shipping line, ZIM, announced in August 2023 that it was restructuring several of its trade routes, including those servicing Australia.³² Instead of servicing Australia directly, ZIM entered into a vessel sharing agreement with Mediterranean Shipping Company. ZIM reported a net loss of US\$213 million in the June quarter 2023, with revenue falling by 62% over the year.³³

It is likely that weaker container volumes and higher shipping line costs, as well as lower ocean freight rates, contributed to shipping lines adjusting their Australian services.

The ACCC understands that average container vessel charter rates have fallen but remain above pre-COVID levels.³⁴ While container freight rates (and shipping line revenue, as a result) have fallen significantly, charter rates (and shipping line costs, as a result) have not fallen to the same extent.

One shipping line explained to us that it had reconfigured its network to call fewer ports per circuit to minimise the impact of delays at any single port. When stevedores and shipping lines contract, they agree to allocated 'berth windows', during which the shipping line's vessel is expected to arrive and have its cargo unloaded and/or loaded by the stevedore. If a vessel is delayed at one port, it makes it more difficult for the shipping line to arrive on-window at the next port. If the vessel arrives 'off-window' (outside its scheduled berthing window), there may be no berths available and the vessel may have to wait. In this way, delays at one port can affect a vessel's ability to reach subsequent ports on schedule. In calling fewer ports per service, this shipping line told us that its Australian services would be less vulnerable to delays.

29 Department of Foreign Affairs and Trade (DFAT), [World Trade Organization \(WTO\) Trade policy review of China trade 2021 – Australia statement](#), DFAT website, n.d., accessed 14 November 2023.

30 Department of Foreign Affairs and Trade (DFAT), [Summary of Australia's involvement in disputes currently before the World Trade Organization](#), DFAT website, n.d., accessed 14 November 2023.

31 G McCubbing, '[This is not sustainable', timber processors warn after trade ban lift](#)', Australian Financial Review, 18 May 2023, accessed 14 November 2023.

32 ZIM, [ZIM announces a structuring of its Oceania trade services](#), ZIM website, 2023, accessed 8 November 2023.

33 ZIM, [ZIM reports financial results for the second quarter of 2023](#), ZIM website, 2023, accessed 8 November 2023.

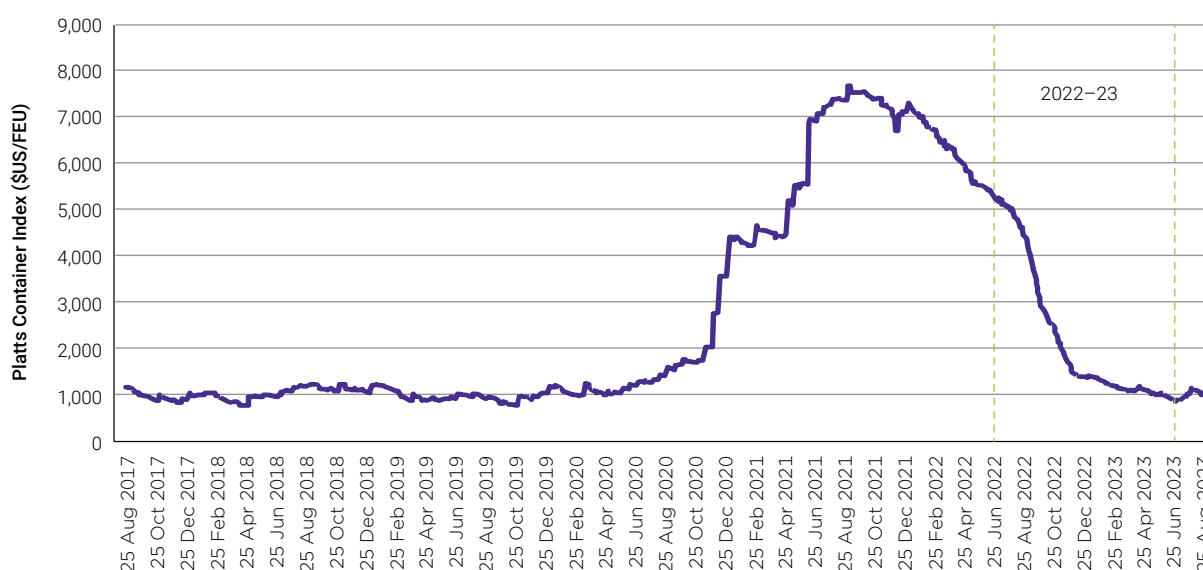
34 ING, [Global container shipping outlook: pressure mounts amid flood of new capacity](#), ING website, 2023, accessed 30 November 2023.

2.2 Global ocean freight rates have largely fallen to pre-COVID levels

2.2.1 Freight rates declined globally but the Australian story is more nuanced

Data from S&P Global Commodity Insights shows that global freight spot rates peaked in September 2021, as cargo owners everywhere competed to secure scarce space on vessels. As shown in Figure 2.4, below, ocean freight rates on major global routes have fallen substantially since that time.

Figure 2.4: Platts Container Index (US\$/40-foot equivalent unit), August 2017 to August 2023



Source: S&P Global Commodity Insights.

Note: The Platts Container Index is a weighted average of Platts' key container assessments including North Asia to North America and North Asia to North Continent routes. The index includes assessments of Australian trade routes.

The chart shows that the Platts Container Index fell sharply in the second half of 2022, continuing a trend that began earlier that year. Since December 2022, the index has fallen at a more gradual pace and was on a par with pre-COVID rates in June 2023.

While the data above refer to the global average, market participants have told us that 'spot'³⁵ ocean freight rates have fallen considerably in Australia as well.

The ACCC understands that freight rates have not come down for all container types. One exporter told us that freight rates for refrigerated ('reefer') containers were not significantly lower in 2023 than they were in 2022. Import and export freight rates can also vary. Some industry participants commented that some import freight rates had fallen to such an extent that they were equivalent to, or lower than, export ocean freight rates. They explained that this is highly unusual, with one stevedore telling us that it had not happened before.

³⁵ Spot rates refer to the price for one-off shipments, as opposed to a locked-in contract price for specific volumes over a period of time.

As the former Reserve Bank Governor noted in April, lower shipping prices should eventually be reflected in the prices Australians pay for goods.³⁶

2.3 Despite the recovery in the supply chain, cargo owners still face challenges

2.3.1 Cargo owners' choices are sometimes quite limited

While some market participants informed us that supply chain congestion persisted in the first half of 2022–23, the weight of the evidence available, including our market enquiries, suggests that the supply chain is functioning more effectively than it has in the last 2 years. That said, some cargo owners continue to face challenges in the supply chain.

As noted earlier, market participants told the ACCC that there are sometimes few alternative shipping line services available to cargo owners. One exporter told us that it had little ability to switch shipping lines because there were limited shipping line services on the trade route it uses. The exporter said that its choice was limited further by the perishable nature of its commodities and its need for food-grade refrigerated (reefers) containers. The exporter explained that, because its goods were perishable, there was an increased risk associated with vessel delays and schedule changes.

In addition, market participants informed us that there was a shortage of certain container types available for export, particularly 20-foot containers and reefers. As one market participant explained to us, because import volumes had fallen, there were fewer reefer containers available to be used for exports. The ACCC also understands that Australia tends to import manufactured goods in 40-foot containers but export goods (typically agricultural commodities) in 20-foot containers, leading to an imbalance in empty container supply and demand.

As noted earlier, some shipping lines have adjusted their Australian services. Shipping line services are publicly available and the ACCC understands that shipping lines update the market with changes to their shipping schedules. Some market participants, however, told us that shipping lines did not give them enough notice and this impacted on their business. One exporter told us that they monitor closely vessel schedules and often find changes to those schedules before the shipping line notifies them.

Market participants need to have access to relevant and timely information to make their choices. One exporter told us that they would like shipping lines to give them more notice of changes to their services so they can manage container shortages and make alternative arrangements. For this market participant, customer service was one of the factors they considered when choosing between shipping lines.

2.3.2 Cargo owners are exposed to unpredictable landside charges

As explained in Chapter 1, cargo owners are the beneficial users of the container freight supply chain. Cargo owners rely on a number of different service providers to transport their container from its point of origin to its destination but they only have a direct contractual relationship with some of these providers. Specifically, cargo owners do not have a direct contractual relationship with ports, stevedores or empty container parks.

This creates an unusual situation where cargo owners choose the service providers, either directly or indirectly, but cannot negotiate all the charges that those service providers levy for their services.

³⁶ P Lowe, [Monetary policy, demand and supply: address at the National Press Club](#), Reserve Bank of Australia, 5 April 2023, accessed 2 November 2023.

Specifically, when cargo owners are choosing which shipping service to use, they are simultaneously choosing the shipping line (or a consortium), the stevedore that the shipping line has partnered with for that particular service and the empty container park that the shipping line uses. Therefore, in deciding which shipping line service to choose, cargo owners take into account the 'bundle of prices' they expect to pay to all the service providers that form part of that service. A cargo owner would expect that bundle to include the following:

- the shipping line's freight rates
- the pass-through charges that the shipping line includes in its tender (covering the fees and charges the shipping line expects to pay at all the relevant ports, stevedores and empty container parks)
- the landside fees and charges levied on transport operators by the relevant stevedore
- the fees and charges levied on transport operators by the relevant empty container park.

Cargo owners which use the spot market to transport their containers appear to have access to sufficient information as to what these prices are at the time they contract with the shipping line. Those cargo owners can rely on these prices, along with other fees and charges levied by transport companies, customs brokers and freight forwarders, to make informed business decisions, including which shipping service to choose.

Most cargo owners, however, typically enter into agreements with shipping lines for multiple years. To make informed business decisions, cargo owners need to know what these prices will be over the term of the contract so that they can estimate the total cost of a particular shipping line service. The ACCC understands that, when a cargo owner enters into a multi-year contract with a shipping line, the shipping line's freight rates and pass-through charges, or the mechanisms to calculate them, will be agreed by the cargo owner and the shipping line and therefore 'locked in' for the duration of the agreement.

The fees and charges levied on transport operators by stevedores and empty container parks, however, are not part of this agreement and cargo owners have no means to influence or predict them. This lack of full information and ability to negotiate the level of these charges means that cargo owners cannot predict the total cost of the available shipping line services and are unlikely to be able to make informed business decisions.

As we discussed in the 2020-21 monitoring report,³⁷ the unpredictable nature of landside charge increases also affects transport operators. During the consultation process for that report, many transport operators noted that landside fee increases created cash flow issues for their business because there was often a gap between when they pay the fee to the stevedore and when they receive payment from cargo owners. While most transport operators were able to pass on fee increases to cargo owners, some transport operators told us that they had fixed contracts with their customers which prevented them from doing so.

Stevedores have periodically increased terminal access charges. These increases have generally been staggered and unsynchronised over time. By way of example, DP World's terminal access charges had not increased significantly in the past 2 years compared with other stevedores. On 31 October 2023, however, the stevedore announced significant increases to its terminal access charges at its Melbourne, Sydney and Brisbane terminals, particularly for full export containers, to be effective on 1 January 2024.³⁸ In Melbourne, for example, the terminal access charge on full export containers is set to rise by 52.5%.

37 Australian Competition and Consumer Commission (ACCC), [Container stevedoring monitoring report 2020-21](#), ACCC, Australian Government, 2021, p 54.

38 A Williams, '[DP World to raise landside fees at Australian terminals](#)', *Daily Cargo News*, 1 November 2023, accessed 17 November 2023.

In the presence of greater uncertainties in the level and changes of landside charges, it can be very challenging for an exporter to make an informed choice of shipping line or in deciding what volume to ship on that particular service. For example, an exporter might have entered into a contract with a shipping line during 2022–23, knowing that the shipping line used DP World on that particular service. It might have considered the then publicly available terminal access charges and determined that DP World's tariffs had not risen by as much as its competitors in recent years. Accordingly, the exporter may have contracted with a particular shipping line because, considering all the information available, it was the most cost-effective choice. After the further increase in DP World's terminal access charges come into effect in January 2024, the exporter may find itself under contract for a service that is more expensive, overall, than that offered by another shipping line that uses a different stevedore.

The Productivity Commission recommended a mandatory code for stevedores' landside charges

The Productivity Commission released its Maritime Inquiry report in January 2023. It recommended that there should be a mandatory container terminal operator code, developed by the Treasury and enforced by the ACCC, which should include that all stevedores' landside fees should only be changed once a year with stevedores required to simultaneously notify the ACCC and the industry of their planned changes.³⁹

The Productivity Commission also recommended that the ACCC should be able to reject increases if it considers them to be unjustified. It recommended that the ACCC could publish guidance on how it will assess whether the increases are reasonable and justified and that it should collect any data it needs to form its view.⁴⁰

The ACCC supports steps being taken that go some way to addressing the lack of predictability in landside charges faced by cargo owners. While the Productivity Commission's recommendation refers specifically to stevedores' charges, the ACCC considers the lack of predictability to be just as relevant for empty container park fees.

2.3.3 There are still some concerns about detention fees being levied unreasonably

Shipping lines charge detention fees to cargo owners for continuing to use containers beyond the agreed free period. This is to encourage the cargo owner to return the container so that it can be reused.

Several market participants told us that transport operators had difficulty de-hiring (that is, dropping off) empty containers at container parks in 2022–23. The most commonly cited reasons for this difficulty were that empty container parks were full and that their operating hours were restrictive. Transport operators do not choose the empty container park at which to de-hire a container; this decision is made by the shipping line. One transport operator told us that shipping lines will not change the de-hire depot. The transport operator also said that the problem was not limited to empty container parks and that it also struggled to book slots to return empty containers directly to stevedore terminals.

As we reported last year, cargo owners raised concerns with us that some shipping lines levied detention fees on them in circumstances where they could not return containers on time due to delays to which the shipping line contributed, such as by failing to make arrangements for the

39 Productivity Commission, [Lifting productivity at Australia's container ports: between water, wharf and warehouse: Inquiry report](#), Productivity Commission, Australian Government, 2022, accessed 13 November 2023, p 43.

40 Productivity Commission, [Lifting productivity at Australia's container ports: between water, wharf and warehouse: Inquiry report](#), Productivity Commission, Australian Government, 2022, accessed 13 November 2023, p 219.

container to be de-hired.⁴¹ The ACCC considers that, in circumstances where no level of detention fees can incentivise the cargo owner to return the container on the due date, the levying of the detention fees is unreasonable.

This year, some industry participants informed us that some shipping lines again charged them detention fees in 2022–23 in situations that were unreasonable to do so. One market participant described several different scenarios where this occurred:

- the detention clock started when the import cargo could not be collected from the wharf
- the detention clock ended when the export cargo boarded the vessel, rather than when it was received by the stevedore
- the nominated empty container park was full
- border and biosecurity related delays prevented the container from being released to the transport operator.

As with last year, some market participants informed us that while sometimes shipping lines agreed to waive fees that were incurred unreasonably, in some cases this has not happened. For example, one market participant said that some shipping lines are unwilling to extend the free period in situations where the container is held up due to random customs and quarantine evaluations.

Shipping lines have said that they have practices in place to allow cargo owners to challenge unreasonably incurred detention fees. For example, one shipping line informed us that it has a well-established dispute resolution process in place which allows customers to raise concerns about detention invoices. If the case handler assigned to the dispute finds the shipping line to be at fault, the shipping line will either waive the detention fee (if the shipping line is solely at fault) or negotiate the fee with the cargo owner (if it is partially at fault). The shipping line also noted that cargo owners can pre-purchase additional detention time upfront at a discounted rate.

As we noted in last year's report, cargo owners in Australia are not adequately protected against unreasonable detention fee practices.⁴²

41 See last year's monitoring report for a detailed discussion on detention fees.

42 Australian Competition and Consumer Commission (ACCC), [Container stevedoring monitoring report 2021–22](#), ACCC, Australian Government, 2022, p 61.

3. Long-term trends in the container freight supply chain

Key points

- Decarbonisation is likely to require industry investment in alternative fuels and technologies, which could lead to increased costs to cargo owners.
- Consideration of carbon emissions may be affecting how shipping lines choose stevedores, with DP World and Patrick's multi-port presence potentially making them more attractive than Hutchison and Victoria International Container Terminal.
- Market participants have expressed concerns that enterprise bargaining negotiations continue to cause disruption and economic costs to third parties in the supply chain.
- Support exists within the industry, including from some shipping lines, for the repeal of Part X of the Competition and Consumer Act. Some shipping lines have said that the administrative processes involved with Part X hamper their ability to respond quickly to changes in market dynamics.

Over the period of the ACCC's monitoring role, a number of long-term trends affecting the container freight supply chain have emerged. This chapter provides an update on some of the long-term trends identified in recent reports, based on key themes emerging from our market enquiries this year.

3.1 Decarbonisation

As mentioned in the Container stevedoring monitoring report 2020–21, there is a long-term trend in increased investment in sustainability to reduce the environmental footprint of container freight. Our market enquiries this year suggest that 'decarbonisation' is gaining momentum both globally and domestically.⁴³ Decarbonisation efforts appear to be influencing shipping line decisions that have an impact on Australia's container freight supply chain.

The International Maritime Organization's mandates to reduce greenhouse gas emissions are driving maritime decarbonisation. For example, from January 2023, owners and operators of existing ships are required to calculate the ship's annual operational Carbon Intensity Indicator and Carbon Intensity Indicator rating.⁴⁴ The carbon intensity of a ship refers to greenhouse gas emissions relative to the amount of cargo carried over distance travelled.⁴⁵ Carbon Intensity Indicator ratings range from A–E, with A indicating the best performance.⁴⁶ The framework outlines corrective action required for ships with poor Carbon Intensity Indicator ratings over consecutive years.⁴⁷

43 Multiple market participants raised the long-term trend of 'decarbonisation', which we understand broadly refers to reducing greenhouse gas emissions and overall carbon footprint.

44 Australian Maritime Safety Authority (AMSA), [Short-term measure to reduce greenhouse gas emissions from existing ships](#), AMSA website, 2023, accessed 30 October 2023.

45 Australian Maritime Safety Authority (AMSA), [Short-term measure to reduce greenhouse gas emissions from existing ships](#), AMSA website, 2023, accessed 30 October 2023.

46 International Maritime Organization (IMO), [EEXI and CII – ship carbon intensity and rating system](#), IMO website, 2023, accessed 24 October 2023.

47 International Maritime Organization (IMO), [EEXI and CII – ship carbon intensity and rating system](#), IMO website, 2023, accessed 24 October 2023.

In July 2023, the International Maritime Organization announced the adoption of a revised strategy to reduce greenhouse gas emissions from international shipping. The revised strategy set enhanced targets compared to the International Maritime Organization's 2018 Initial Strategy, including:⁴⁸

- an increased uptake of zero or near-zero greenhouse gas emission technologies, fuels and/or energy sources by 2030
- net-zero greenhouse gas emissions by close to 2050.

Shipping lines have already begun ordering ships that can run on alternative fuels.⁴⁹ The shipping line Maersk also announced the arrival of 'the world's first methanol-enabled container vessel' earlier this year.⁵⁰

The supply and development of infrastructure for 'bunkering'⁵¹ of alternative fuels will need to be addressed to accommodate these vessels. One example of work underway in this area is the Port of Melbourne's announcement of a Memorandum of Understanding with stakeholders including shipping lines, to explore establishing a green methanol bunkering hub in Melbourne.⁵²

3.1.1 Decarbonisation measures may lead to increased supply chain costs

Some industry participants have commented on the potential for higher costs attributable to maritime decarbonisation being passed on to cargo owners.⁵³ One industry participant told us that this will be an inevitable impact of decarbonisation.

One shipping line told us that a core focus of their decarbonisation strategy is investment in 'green' fuels and technologies.⁵⁴ Multiple market participants told us green fuels are currently more expensive and less energy dense than conventional fuels. One market participant said that this could mean ships will need to carry more fuel and therefore less cargo.

The United Nations Conference on Trade and Development (UN Conference) considered the potential impacts of decarbonisation in their 2023 Review of maritime transport report (Maritime review report).⁵⁵ The UN Conference noted that investment in alternative fuels and green technologies, as well as lower sailing speeds, are expected to increase maritime logistics costs.⁵⁶

48 International Maritime Organization (IMO), [Revised GHG reduction strategy for global shipping adopted](#), IMO website, 2023, accessed 24 October 2023.

49 For example, see United Nations Conference on Trade and Development (UNCTAD), ['Review of Maritime Transport 2023'](#), UNCTAD, 2023, accessed 24 October 2023, p 69. The report noted that 21% of vessels on order globally are designed to run on alternative fuels. This includes LNG, which remains a fossil fuel but has a lower carbon footprint than heavy fuel oils.

50 Maersk, [EU Commission President Names Landmark Methanol Vessel "Laura Maersk"](#), Maersk website, 2023, accessed 30 October 2023.

51 Bunkering refers to the process of refuelling a ship.

52 Port of Melbourne, [Green methanol MoU signed with Melbourne port](#), Port of Melbourne website, 2023, accessed 24 October 2023.

53 G Knowler, ['Pass-through fees could disincentivize carriers from decarbonizing: shippers'](#), S&P Global Market Intelligence blog, 17 January 2023, accessed 24 October 2023.

54 In United Nations Conference on Trade and Development (UNCTAD), ['Review of Maritime Transport 2023'](#), UNCTAD, 2023, accessed 23 October 2023, p 69, UNCTAD describes green fuels as fuels produced with electrolysis powered by renewable energy, including fuels produced from biomass sources.

55 The UN Conference conducts annual reviews of global maritime transport issues and the report series are available [here](#).

56 United Nations Conference on Trade and Development (UNCTAD), ['Review of Maritime Transport 2023'](#), UNCTAD, 2023, accessed 23 October 2023, p xxvii.

A stevedore told us that shipping lines are becoming increasingly conscious of vessel speed, as ships sailing faster means an increase in carbon emissions. Speeding up a vessel consumes more fuel, which increases carbon emissions.⁵⁷

The Maritime review report also flagged that compliance with International Maritime Organization measures is expected to result in lower vessel sailing speeds and alter effective shipping capacity.⁵⁸ The UN Conference noted that while effective container ship carrying capacity is forecasted to increase in the long term, there is uncertainty about fleet renewal timelines due to shipbuilding yard capacity constraints.⁵⁹

A stevedore told us their own decarbonisation initiatives will involve increased investment costs, and that they will need to recover those costs from customers. The stevedore also mentioned the possibility of further increases in costs related to Australia's energy market transition from fossil fuels to renewable sources.

3.1.2 Carbon emission considerations may influence shipping lines' choice of stevedore

Some industry participants have observed that decarbonisation considerations may make it more attractive for shipping lines to choose stevedores with a multi-port presence. This trend may favour Patrick and DP World, who operate in 4 of the 5 container ports, over Hutchison and Victoria International Container Terminal who have fewer terminals.

One stevedore told us that as shipping lines slow down vessels to reduce emissions, they place greater focus on expedited stevedore productivity to keep vessels on schedule. This view was also shared by some shipping lines.

Some shipping lines also told us that it can be beneficial to have the same stevedore servicing the vessel at each port. One shipping line said that this means it is better able to manage delays and make up for any lost time at the stevedores' previous terminals. If the stevedore can make up for lost time, this reduces the need to speed up the vessel on the next leg.

3.2 Industrial relations

This section covers some industrial relations developments in the industry since last year's report. It also sets out some of the Productivity Commission's final recommendations arising from its inquiry into Australia's maritime logistics system.

3.2.1 The Productivity Commission recommended reforms to industrial relations

The Productivity Commission considered industrial relations as part of its Maritime Inquiry and found that protected industrial action in container ports caused substantial disruption and economic costs to third parties in the supply chain.⁶⁰

57 O Merk, '[Reducing Shipping Greenhouse Gas Emissions: Lessons From Port-Based Incentives](#)', International Transport Forum and OECD, 2018, accessed 25 October 2023, p 15.

58 United Nations Conference on Trade and Development (UNCTAD), '[Review of Maritime Transport 2023](#)', UNCTAD, 2023, accessed 23 October 2023, p xxvi.

59 United Nations Conference on Trade and Development (UNCTAD), '[Review of Maritime Transport 2023](#)', UNCTAD, 2023, accessed 23 October 2023, p 38. We note that this statement refers to the global fleet and not specifically container ships.

60 Productivity Commission, '[Lifting productivity at Australia's container ports: between water, wharf and warehouse: Inquiry report](#)', Productivity Commission, Australian Government, 2022, accessed 25 October 2023, p 46.

The Productivity Commission recommended amendments to the *Fair Work Act 2009* (Cth) including:⁶¹

- prohibiting enterprise agreement content that imposes excessive constraints on productivity in container ports and costs on the supply chain
- adding more options for protected industrial action by employers
- making it possible to suspend or terminate industrial action that could cause important or consequential economic harm.

While the ACCC does not take a position on any potential changes to workplace relations laws, multiple market participants told us that industrial relations issues remain an ongoing challenge for the container freight supply chain in Australia.

3.2.2 Changes to the Fair Work Act

Some recent changes to the Fair Work Act 2009 could potentially have an impact on the container freight supply chain.

The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth) was passed in December 2022 and includes amendments to the *Fair Work Act 2009*.⁶² The amendments include changes in relation to bargaining disputes and industrial action, which came into effect in June 2023.⁶³

Notably, a bargaining representative can apply for an intractable bargaining declaration if the parties have been bargaining for at least 9 months and have reached an impasse.⁶⁴ Protracted enterprise agreement negotiations have long been a challenge for the container freight supply chain, with negotiations extending over multiple years in some cases.⁶⁵

Another significant change relates to single interest enterprise agreements. A single interest employer agreement is a type of multi-enterprise agreement that allows 2 or more employers with common interests to be covered by the same agreement.⁶⁶ The Productivity Commission noted that it is possible that these changes could enable multi-employer bargaining to occur in ports although likely not until 2025 when most enterprise agreements expire.⁶⁷

Shipping Australia have expressed concerns about the impact of these new changes on the supply chain, particularly the possibility of coordinated action across all sub-sectors of the supply chain simultaneously.⁶⁸

As noted by the Productivity Commission, it will take time and case law to gauge the impact of these changes on enterprise bargaining in Australia.⁶⁹

61 Productivity Commission, [Lifting productivity at Australia's container ports: between water, wharf and warehouse: Inquiry report](#), Productivity Commission, Australian Government, 2022, accessed 25 October 2023, pp 46–49.

62 Fair Work Commission, [Secure Jobs Better Pay Act – what's changing](#), Fair Work Commission website, 2023, accessed 25 October 2023.

63 Fair Work Commission, [Secure Jobs Better Pay Act – what's changing](#), Fair Work Commission website, 2023, accessed 25 October 2023.

64 Fair Work Commission, [Changes to bargaining declarations and determinations: intractable bargaining](#), Fair Work Commission website, 2023, accessed 25 October 2023.

65 For example, Patrick's last round of negotiations lasted for 2 years, as reported in the [ACCC Container stevedoring monitoring report 2021–22](#), p 22.

66 Fair Work Commission, [New single interest employer agreements](#), Fair Work Commission website, 2023, accessed 31 October 2023.

67 Productivity Commission, [Lifting productivity at Australia's container ports: between water, wharf and warehouse: Inquiry report](#), Productivity Commission, Australian Government, 2022, accessed 25 October 2023, p 275.

68 Shipping Australia, [Special report: Industrial relations](#), *Shipping Australia mid-year 2023*, 2023, accessed 16 October 2023.

69 Productivity Commission, [Lifting productivity at Australia's container ports: between water, wharf and warehouse: Inquiry report](#), Productivity Commission, Australian Government, 2022, accessed 25 October 2023, p 23.

3.2.3 Svitzer enterprise agreement negotiations caused some disruption

The long-running enterprise agreement negotiation between tugboat operator, Svitzer, and the Maritime Union was finally resolved in July this year when the Fair Work Commission approved a new national towage enterprise agreement.⁷⁰

As mentioned in last year's report, the Fair Work Commission ordered a 6-month suspension of Svitzer's protected industrial action in November 2022 after more than 3 years of negotiation.⁷¹

One stevedore told us that industrial action taken against Svitzer before the suspension impacted on the stevedore's operations substantially. The stevedore said that the industrial action affected their ability to deploy labour efficiently and disrupted their customers' vessel schedules. Other market participants also reported being impacted by these negotiations during the 2022–23 financial year.

3.2.4 Industrial action at DP World's terminals

DP World's enterprise agreement covering stevedoring operations expired in September this year.⁷² Protected industrial action has taken place at DP World's terminals in connection with enterprise agreement negotiations between the Maritime Union and DP World.

The protected industrial action has included multiple work stoppages and work bans on activity such as loading or unloading trucks and trains.⁷³ DP World has been quoted as saying the industrial action has 'unleashed substantial delays and disruptions across Australia's import and export supply chains'.⁷⁴

The Maritime Union told us that some of the key issues under negotiation are significant proposed wage cuts which, in some cases, may see a reduction of 32% of workers' income, and roster changes that could negatively impact the work-life balance of the workforce. The Maritime Union has said protected industrial action was taken because DP World refused to move on any claims over the previous 6 months of bargaining.

Some market participants expressed concerns that ongoing industrial action at DP World's terminals will likely cause significant disruption across the supply chain. One market participant highlighted that the supply chain is particularly vulnerable to the impacts of industrial action because buffer times between vessel windows have not yet recovered to pre-pandemic levels.

70 Svitzer, *National towage EA approved*, Svitzer website, 2023, accessed 16 October 2023. The new enterprise agreement is for a 4-year period to July 2027.

71 *Re Svitzer Australia Pty Limited* [2022] FWCFB 209 [Fair Work Commission decision].

72 I Ackerman, '[MUA gives notice of industrial action at DP World](#)', *Daily Cargo News*, 29 September 2023, accessed 16 October 2023.

73 I Ackerman, '[More industrial action at DP World](#)', *Daily Cargo News*, 24 October 2023, accessed 25 October 2023.

74 I Ackerman, '[More industrial action at DP World](#)', *Daily Cargo News*, 24 October 2023, accessed 25 October 2023.

3.3 Part X of the Competition and Consumer Act

Part X of the Competition and Consumer Act (Part X) allows shipping lines with registered agreements to:

- agree on prices
- pool or apportion earnings, losses or traffic
- regulate capacity
- coordinate schedules.

In the absence of Part X, these types of agreements would otherwise breach the Competition and Consumer Act's prohibitions on anti-competitive conduct.

In its Maritime Inquiry report, the Productivity Commission recommended that Part X of the Competition and Consumer Act be repealed.⁷⁵ The exemptions provided to shipping lines under Part X are broad and do not require shipping lines to show that their arrangements provide a net public benefit. When we discussed this recommendation with industry participants, we learnt that support for the repeal of Part X extends to some shipping lines.

Some shipping lines told us that Part X is outdated and inconsistent with international standards. Some shipping lines also said that Part X is administratively burdensome and time-consuming, hindering their ability to respond quickly to changing market dynamics. Shipping Australia and the World Shipping Council reflected similar views on the repeal of Part X (discussed in Box 3.1).

Most market participants we spoke with supported the repeal of Part X if it is replaced by a regime that, broadly:

- permits collaboration on operational matters such as vessel-sharing and slot charter arrangements
- is less administratively cumbersome
- provides legal certainty to shipping lines about what conduct is allowed
- results in overall public benefit.

Australia is geographically isolated and a smaller market relative to other destinations globally. Some of the market participants we engaged with emphasised the need for shipping lines to be allowed to coordinate on operational matters given Australia's unique challenges. Some market participants told us that doing so enables shipping lines to offer more services on Australian trade routes at lower costs, ultimately benefiting Australian consumers.

The ACCC supports the Productivity Commission's recommendation to repeal Part X. This exemption is outdated and could be replaced with a more targeted regime that delivers the net benefits without incurring unnecessary costs.

75 Productivity Commission, [Lifting productivity at Australia's container ports: between water, wharf and warehouse: Inquiry report](#), Productivity Commission, Australian Government, 2022, accessed 25 October 2023, p 42.

Box 3.1: Shipping Australia and the World Shipping Council support the repeal of Part X

Shipping Australia and the World Shipping Council provided a joint statement to the ACCC in November 2023 regarding their views on Part X. Below is a direct extract from their joint statement.

'Both the World Shipping Council and Shipping Australia have long held the same view on this topic. We are both of the view that, while there are many elements of Part X that are beneficial to society, such as exemptions for vessel sharing agreements, there is much in Part X that is outdated and inconsistent with best international standards.

Shipping Australia also notes that its members have advised that Part X is bureaucratic, causes delay, and unnecessary costs. Shipping Australia has been advised, for instance, because of the delays in the current system, it can take up to three months before a new service is approved to operate in Australia.

Such delays do not only prevent shipping companies from taking advantage of business opportunities, they also deprive Australian businesses of the ability to take advantage of business opportunities too.

Both the World Shipping Council and Shipping Australia therefore have much the same view of reform proposals of Part X, namely, to support its repeal and replacement with a narrower class exemption for the liner shipping sector that is appropriately tailored, and which produces administrative simplicity.'

4. Financial performance of stevedores

Key points

- At the industry level, the monitored stevedores have reported an unusually rapid surge in profits coinciding with the COVID-19 pandemic (2019–20 to 2021–22). The industry has reached historically high profit levels across multiple profitability metrics and this has continued in 2022–23.
- However, profits are lower over longer time frames due to lower profit levels achieved just prior to the pandemic. For example, the average return on tangible assets of the 3 incumbents over the past 10 years was 17.2%, well below the 30.2% recorded in 2022–23.
- The stevedores' surge in profits during the pandemic was predominantly due to increases in landside charges significantly exceeding the reduction in its quayside charges. In the period between 2019–20 and 2021–22, incumbents' landside revenue increased by \$61.43 per lift, whereas incumbents' quayside revenue decreased by only \$2.58 per lift. Some stevedores have said that the increases in landside charges have been part of restructuring to more closely align quayside and landside prices with the corresponding capital and operating costs.
- The ACCC has not yet reached a view on whether recent higher profit margins are likely to be temporary or sustained. There may be multiple drivers behind recent higher stevedoring profits. COVID-19 was still a factor in 2022–23 although its impact on the supply chain dissipated over the course of the financial year. The variation in stevedores' profits is also partly due to an investment cycle, given the significant investment that stevedores made in the period between 2012–13 and 2014–15.
- However, there also appear to be some factors impacting on competition between stevedores. For example, due to their increased focus on efficiency and cost minimisation, some shipping lines appear to be preferring to contract with stevedores that operate terminals across multiple ports. This appears to favour Patrick and DP World over Hutchison and Victoria International Container Terminal. Victoria International Container Terminal also appears to have been operating at near capacity in recent years.
- The ACCC will closely monitor and analyse stevedores' charges and financial performance. If the profit margins remain elevated on a sustained basis, we will closely scrutinise whether any structural or behavioural market impediments are contributing to this and whether any further policy or regulatory responses are warranted.

Stevedores are an integral component of the Australian logistics supply chain. The market for stevedoring services at each monitored container port is concentrated. During the first 13 years of ACCC monitoring, the stevedoring industry was largely composed of a duopoly between Patrick and DP World.⁷⁶ Throughout that period, we regularly raised concerns about the lack of competition between the 2 stevedores and the impact this had on the supply chain. The ACCC was most concerned about:

- sustained high operating profit margins earned by the 2 stevedores
- lack of investment in infrastructure, particularly to increase capacity, by the 2 stevedores
- lack of incentives for stevedores to efficiently respond to the requirements of their customers.

The ACCC was concerned that these observations indicated that cargo owners, and ultimately consumers, paid too much for stevedoring services.

The level of competition for stevedoring services at the 3 largest Australian container ports increased from 2013, following entry by Hutchison (in Brisbane in May 2013 and in Sydney in November 2013) and Victoria International Container Terminal (in Melbourne in April 2017).

As we reported previously, enhanced competition brought benefits. Between 2012–13 and 2019–20, stevedores made significant investments in equipment and infrastructure and the incumbent stevedores' operating profit margins fell. Since then, however, container stevedores' operating profit margins have increased substantially.

This chapter will cover:

- the methodology we use to measure industry profitability
- the trends in stevedores' profits
- the key drivers behind stevedores' profits
- the impact of market dynamics and other factors on stevedores' performance and competition.

The financial information in this chapter, and the broader report, only relates to stevedoring operations. The financial figures throughout the report are presented in real terms with values in 2022–23 dollars.⁷⁷

4.1 The ACCC's financial performance metrics

This section explains the methodology used by the ACCC in preparing the profitability measures for monitoring financial performance.

4.1.1 Earnings before interest, taxes and amortisation (EBITA)

There are typically 3 ways to measure operating profit (as a dollar amount):

- earnings before interest and taxes (EBIT)
- earnings before interest, taxes and amortisation (EBITA)
- earnings before interest, taxes, depreciation and amortisation (EBITDA).

⁷⁶ The ACCC commenced monitoring the Australian container stevedoring industry in 1998–99. While there were a few cases of entry and exit, stevedoring services at the major Australian container ports had been dominated by a duopoly until 2011–12. DP World's terminals were previously operated by P&O Ports until they were acquired by DP World in 2006. Appendix B shows the changes in stevedoring terminal ownership throughout the monitoring regime.

⁷⁷ Deflator series derived from the 'All groups CPI; Australia' data from Australian Bureau of Statistics (June Quarter 2023) '[Consumer Price Index \(CPI\) Index Numbers](#)' [time series spreadsheet]. Base year for the ACCC deflator series is 2022–23.

We can calculate each of these measures using accounting data collected as part of the ACCC's stevedore monitoring.

Historically, the ACCC used EBITA as the profit measure. Compared to EBIT and EBITDA, EBITA includes depreciation in the expenses but excludes the associated financing costs and amortisation of any intangible assets.

EBITA measures the earnings that a firm makes in its normal course of business, ignoring financial costs and the yearly write-off of long-term intangible assets. EBITA is a useful measure for comparing companies because it excludes accounting costs that can vary greatly between companies due to factors other than operating performance. For example:

- Interest payments can vary according to the choice of financing arrangements.
- Taxation can vary by jurisdiction or due to different tax minimisation techniques.
- Amortisation can vary depending on the subjective value placed on intangible assets such as goodwill or because of different takeover histories.

The ACCC recognises that both EBIT and EBITA can be a more appropriate measure of operating profit in the utility sector than EBITDA, as they account for depreciation of tangible assets in the overall cost. The ACCC considers that it is relevant to include the costs associated with the depreciation of tangible assets for infrastructure-based industries for which investment in infrastructure represents a sizeable proportion of overall assets.

The ACCC considers that measurement of the return on assets by means of EBIT relative to total fixed assets is the accounting measure that most closely resembles the concept of weighted average cost of capital. However, variations in accounting practices adopted by different stevedores for intangible assets, for example, differences when recognising and valuing licence rights or goodwill as intangibles, may drive differences in the annual amortisation amount. This has meant that there can be inconsistencies in the EBIT figures and intangible asset figures reported by stevedores. Therefore, the ACCC has preferred to use EBITA because excluding amortisation has allowed it to derive a more consistent and comparable profit estimate.

4.1.2 Operating profit, profit margins and return on tangible assets

The container stevedoring monitoring report presents operating profit in a number of different ways. The purpose of each indicator is to provide some context for the scale of the industry. These indicators are:

- operating profit, which is revenue less costs
- operating profit margin, which is EBITA as a percentage of revenue
- return on tangible assets, which is EBITA as a percentage of average tangible assets.

The ACCC had previously considered using return on total assets as a measure of profitability. Stevedores' assets can include a sizeable value for intangible assets, particularly goodwill and berth licensing agreements. The value attributed to intangibles may reflect an expectation, at the time of purchase or acquisition of assets for a business, to earn economic rents, that may make it harder to see changes in the profitability of providing services. For this reason, the ACCC had excluded intangible assets from the asset base in the past when assessing performance.

The ACCC's approach of excluding intangible assets creates a difference between the stevedores' statutory reports and our stevedoring monitoring reports. However, this is not unusual where price oversight of infrastructure is involved and is consistent with the broader ACCC approach with other industries (for example, airport monitoring).

The ACCC notes that even the return on tangible assets measure can be affected by changes in asset values arising from asset revaluations, transfers, and sales. Different asset valuation methods can make it difficult to compare businesses. They may also change over time, which would impact time series analysis. The ACCC has not attempted to evaluate the suitability of stevedores' asset valuations since prices are not regulated. However, stevedores are required to report asset values on a depreciated historical cost basis over time so that the ACCC can assess trends in profitability.

4.1.3 Enhanced reporting in response to the stevedores' feedback

During the consultation for this year's report, several stevedores commented that the ACCC's current approach to measuring profitability does not provide a sufficiently broad perspective to assess stevedores' profitability. The stevedores suggested that the ACCC enhance its reporting of stevedores' profitability, by:

- including a wider range of profitability metrics
- presenting all profitability indicators over extended and varied time periods, including 1 year, 5, 10 and 15 year time horizons
- using benchmarks against relevant domestic and international indexes.

The ACCC acknowledges that, in principle, there is merit in enhancing its reporting of stevedores' profitability, however, in practice it is constrained by the availability of consistent and reliable data. In response to stevedores' feedback, the ACCC has expanded its analysis in this report by including a broader range of timeframes for existing key metrics such as EBITA margin and return on average tangible assets.

We have also been exploring introducing additional profitability metrics, including a measure of EBIT relative to total assets, and have been consulting with stevedores on their treatment of intangible assets. There is significant variation among stevedores in the accounting treatment for recognising and valuing intangibles. Differences also exist between statutory financial reporting and voluntary reporting to the ACCC. Additionally, the internal accounting policies adopted by stevedores are subject to change over time.

We need to resolve these issues before introducing additional profitability metrics. To achieve this, we will seek more consistent and comprehensive data, including historical data, from the stevedores. We will then assess whether the quality and consistency of data is sufficient for meaningful interpretation of results.

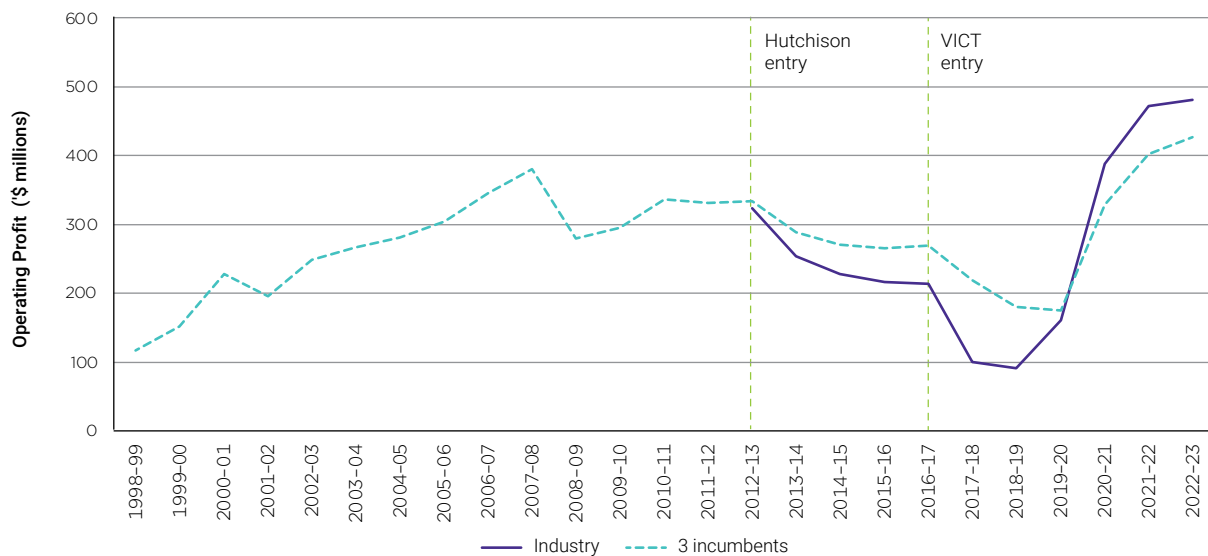
We will also explore options for developing both domestic and international benchmarks.

4.2 Stevedoring profitability increased significantly during the pandemic and remained elevated in 2022–23

4.2.1 Stevedores' operating profits at a historical high

Figure 4.1, below, shows the total operating profit (EBITA) levels for both the industry (all 5 stevedores) and the 3 incumbents (Patrick, DP World and Flinders Adelaide Container Terminal).

Figure 4.1: Stevedores' total operating profit, industry & 3 incumbents: 1998–99 to 2022–23



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

The 3 incumbents' operating profit increased from \$116.4 million in 1998–99 to \$380.1 million in 2007–08. Stevedore profits then fluctuated between 2008–09 and when Hutchison entered the market in late 2012–13.

Industry operating profits fell markedly, from \$323.6 million in 2012–13 to \$214.4 million in 2016–17. After Victoria International Container Terminal's entry in late 2016–17, industry profits declined further to a low of \$90.9 million in 2018–19. While the 3 incumbents were earning positive operating profits over this period, the new entrants incurred operating profit losses.

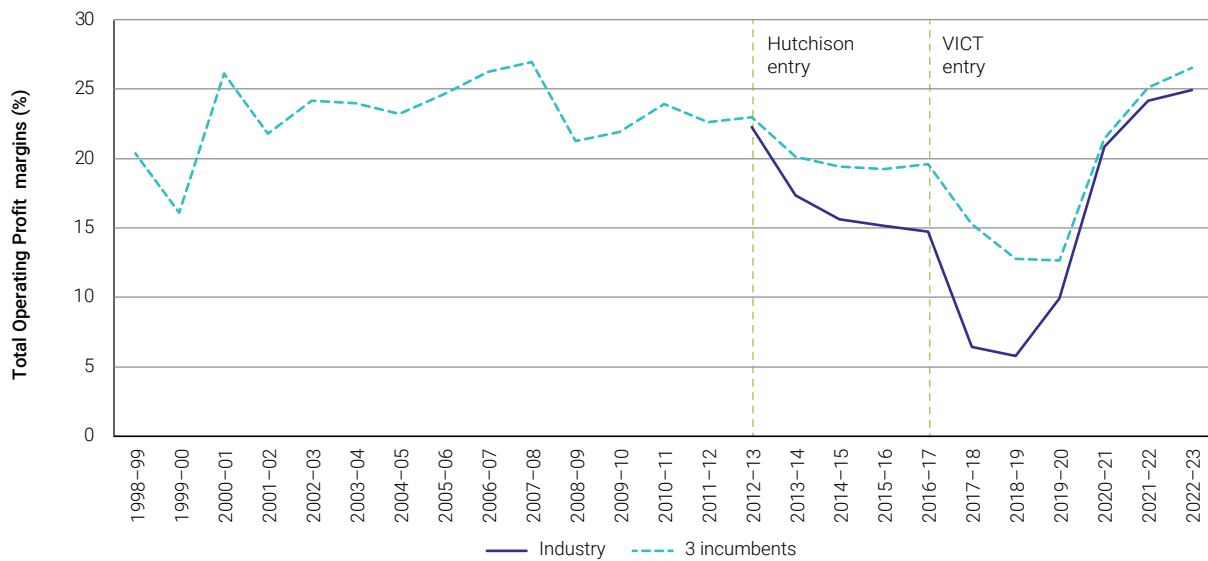
Stevedores' operating profits increased substantially during the pandemic, increasing to \$328.9 million for the incumbents and \$387.8 million for the industry in 2020–21. Stevedore profits have risen further since then, reaching a historical high of \$426.7 million for the 3 incumbents and \$481.6 million for the industry in 2022–23.

4.2.2 Operating profit margins remain elevated in 2022–23

As noted in Section 4.1, the ACCC uses 2 primary measures to monitor stevedores' profitability: operating profit margin and return on average tangible assets. Operating profit margin is broadly applicable across industries, while return on average tangible assets is particularly relevant to capital-intensive industries with significant tangible assets. Both metrics show a similar trend over time for the monitored stevedores.

Figure 4.2, below, illustrates how the total operating profit margins of the industry and of the 3 incumbents have changed during the ACCC’s monitoring period.⁷⁸

Figure 4.2: Stevedores’ total operating profit margins, industry & 3 incumbents: 1998–99 to 2022–23



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

The chart shows that the industry’s total operating profit margins from 2000–01 to 2012–13 ranged between 21% and 27%. The ACCC raised concerns about the stevedores’ sustained high profits in the monitoring reports during this period.

The ACCC is aware that stevedoring is a capital-intensive, high-risk business, characterised by large fixed costs and significant economies of scale. However, the ACCC considered that the stevedores’ level of profit prior to 2012–13 was likely to be excessive, in comparison to similar businesses.⁷⁹

In the period between 2012–13 and 2019–20, the total operating profit margins of incumbent stevedores fell significantly, dropping to 12.7% by 2019–20. During their start-up periods, both Hutchison and Victoria International Container Terminal incurred significant operating losses. This put downward pressure on the total operating profit margins of the industry as a whole, reaching a low of 5.8% in 2018–19. The operating profits of the 3 incumbents also fell, indicating that new entry was effective in increasing competitive pressure across the industry.

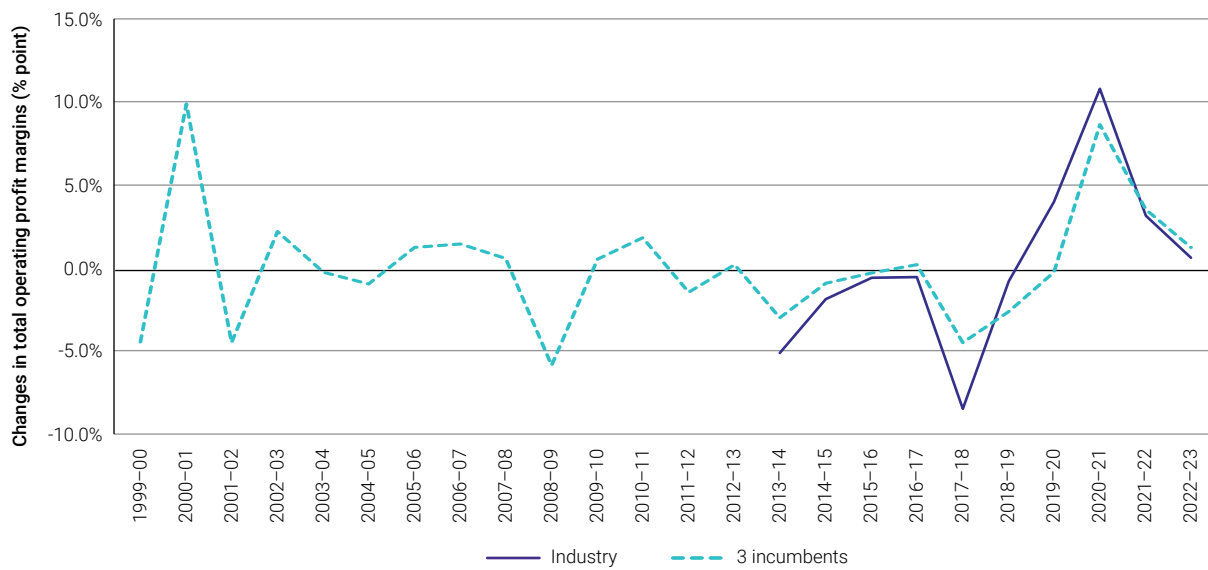
The industry’s total operating profit margins increased significantly during the COVID-19 pandemic, reaching 24.9% in 2022–23. This is the highest operating profit margin observed since 2007–08.

Figure 4.3, below, illustrates how the growth rate in total operating profit margins of the industry and of the 3 incumbents has changed during the ACCC’s monitoring period.

⁷⁸ The ACCC exempted Victoria International Container Terminal from providing data for the 2016–17 report as it commenced operation in the last quarter of the financial year, in April 2017. Victoria International Container Terminal commenced reporting its data in full for the 2017–18 monitoring program.

⁷⁹ Australian Competition and Consumer Commission (ACCC), [Container stevedoring monitoring report no.15](#), ACCC, Australian Government, 2013, p 56.

Figure 4.3: Annual changes in stevedores' total operating profit margins, industry & 3 incumbents: 1998–99 to 2022–23



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

The chart above highlights just how unusual the pandemic-affected years (2019–20 to 2022–23) were, historically. The data shows that the industry’s operating profit margins rose by 4.1 percentage points in 2019–20, followed by a further increase of 10.9 percentage points in 2020–21. Prior to COVID-19, such significant profitability fluctuations occurred only once during the monitoring period, more than 20 years ago.

While there has been significant fluctuation in the short-term, it is also important to consider performance over longer timeframes. Table 4.1, below, shows the average operating profit margins for the industry and 3 incumbents, over 1, 5, 10 and 15-year timeframes.

Table 4.1: Average operating profit margin for the industry and 3 incumbents

Year 2022–23	Operating profit margin	
	Industry	3 incumbents
1 Year	24.9%	26.5%
5 Year Average	17.8%	20.1%
10 Year Average	16.0%	19.4%
15 Year Average	17.9%	20.4%

As shown in the table, the 3 incumbents’ average operating profit margin over the past 10 years was 19.4%, which is below the 26.5% recorded in 2022–23. This is due to historically low operating profit margin levels that were reached just prior to COVID-19 by both the industry and the incumbents, as seen in Figure 4.2.

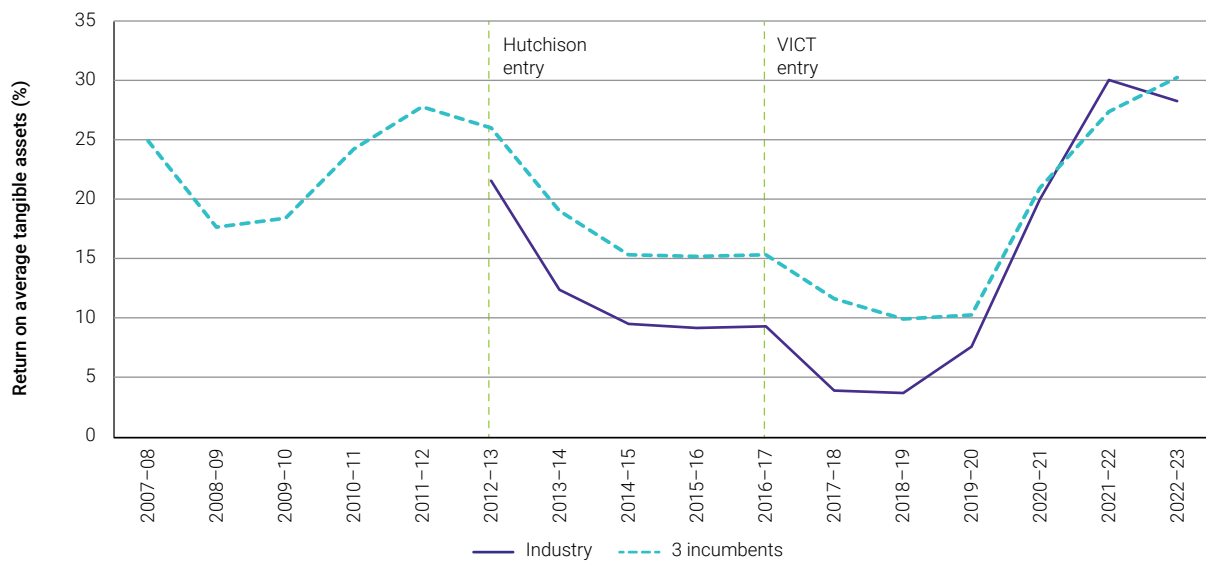
4.2.3 Returns on average tangible assets remain elevated in 2022–23

Rate of return on average tangible assets

As mentioned in Section 4.1, the return on tangible assets is an accounting profitability measure that provides an indication of stevedores' operating profits relative to the value of their deployed tangible assets (average of the year).

Figure 4.4, below, shows stevedores' return on average tangible assets from 2007–08⁸⁰ to 2022–23.

Figure 4.4: Stevedores' return on average tangible assets, industry & 3 incumbents: 2007–08 to 2022–23



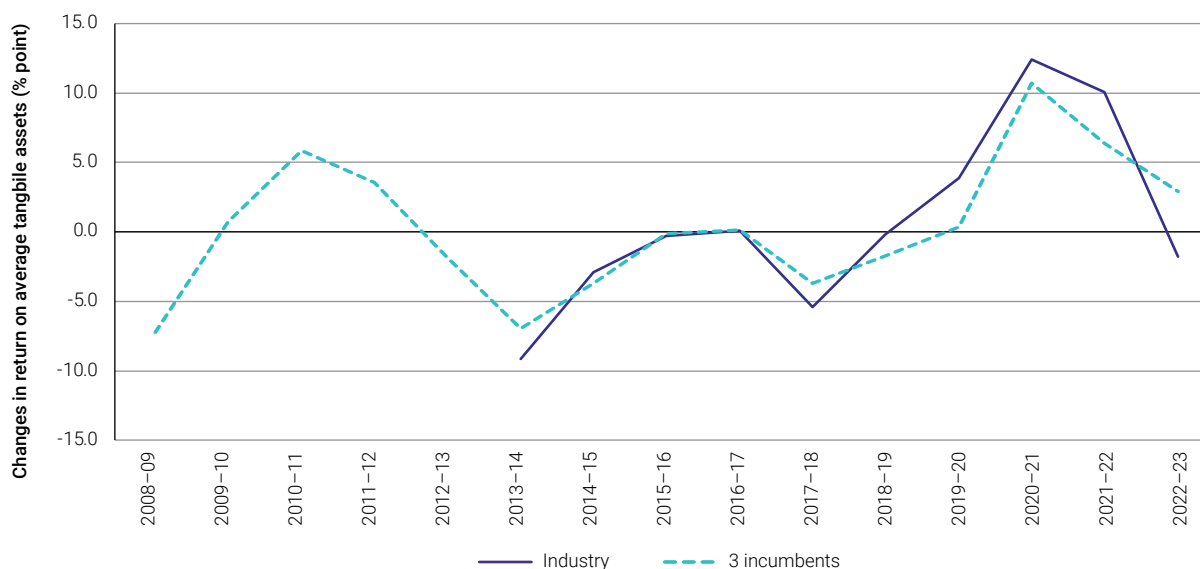
Source: ACCC analysis of container stevedores' submissions to the monitoring regime.

Note: Hutchison's write-off of its asset base, particularly in 2018–19, reduced the tangible asset base for the industry and inflated the reported industry return on tangible assets.

Figure 4.5, below, shows the change in stevedores' rate of return on average tangible assets from 2007–08 to 2022–23.

80 The ACCC start receiving tangible assets figures from the 3 incumbents in 2007–08.

Figure 4.5: Annual changes in stevedores' return on average tangible assets, industry & 3 incumbents: 2007–08 to 2022–23



Source: ACCC analysis of container stevedores' submissions to the monitoring regime.

Note: In calculating return on average tangible assets, neither EBITA nor asset values are indexed for inflation or other price deflator. Asset values recognise a write-down in the value of Hutchison's assets in 2015–16, 2018–19, and 2020–21.

The charts above show a similar trend to that for total operating profit margin (Figures 4.2 and 4.3, above).

As shown in Figure 4.4, above, the rate of return on average tangible assets peaked at 27.8% in 2011–12. The industry then saw a significant decrease in the rate of return on average tangible assets to a historical low of 3.7% in 2018–19. As mentioned in the 2018–19 monitoring report,⁸¹ this downward trend was due, most significantly, to the increased value of deployed tangible assets that occurred following Hutchison and Victoria International Container Terminal's entry, large-scale automation and the redevelopment of various Sydney and Brisbane terminals. Industry operating profits fell markedly during this period.

The industry and 3 incumbents reported a rapid increase in their return on average tangible assets during the COVID-19 pandemic, reaching a high of 28.2% for the industry and 30.2% for the 3 incumbents in 2022–23.

Table 4.2, below, shows the average rate of return on average tangible assets for the industry and 3 incumbents, over 1, 5, 10 and 15-year timeframes.

Table 4.2: Average rate of return on average tangible assets for the industry and 3 incumbents

Year 2022–23	Return on average tangible assets	
	Industry	3 incumbents
1 year	28.2%	30.2%
5 year average	16.3%	19.3%
10 year average	12.3%	17.2%
15 year average	14.4%	18.6%

81 Australian Competition and Consumer Commission (ACCC), [Container stevedoring monitoring report 2018–19](#), ACCC, Australian Government, 2019, p 74.

As shown in the table, although recent years have shown significant growth in the year-to-year asset return rate, the average return on tangible assets for the 3 incumbents over the past 10 years was 17.2%, well below the 30.2% recorded in 2022–23. This reflects the fact that the recent historically high returns were preceded by several years of relatively low returns, as shown in Figure 4.4, above.

There is considerable variation among individual stevedore’s annual return on tangible assets. While most stevedores reported an increase in return on tangible assets in 2022–23, some reported falls. There is also significant disparity in the size of these reported returns, which highlights the diverse financial performances within the industry.

4.3 Increased prices were the primary driver of higher profitability in recent years

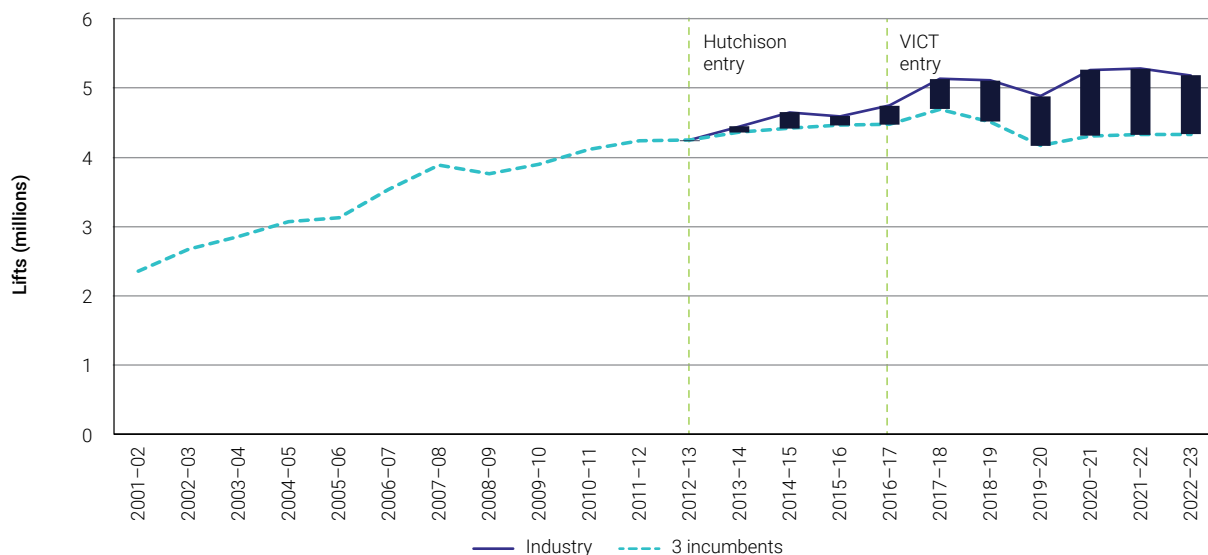
This section shows how stevedores’ throughput, revenues, costs and investments have changed over the course of the ACCC’s monitoring period.

4.3.1 Throughput has been relatively stable in recent years

The 2 main units of measurement of container stevedoring throughput are lifts (number of containers) and TEUs (equivalent number of 20-foot containers).⁸² The ACCC generally uses lifts as a unit of throughput because the revenues and costs of most stevedoring services are dependent on lifts rather than TEUs. For example, the operational cost to lift a container onto or off a ship does not change significantly between a 20- or 40-foot container.

Figure 4.6, below, shows the total number of lifts of the industry and of the 3 incumbents since 2001–02. The difference between the industry and the 3 incumbents represents the market share (share of lifts) gained by the new entrants.

Figure 4.6: Total throughput, industry & 3 incumbents: 2001–02 to 2022–23



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

⁸² One 40-foot container is equivalent to 2 TEU.

The chart shows that the overall number of industry container lifts has increased in a mostly linear trend since 2001–02, with some year-to-year fluctuations. Industry lifts have been largely flat in recent years and fell by 1.7% in 2022–23.

4.3.2 Higher landside charges are the primary driver of increased revenue

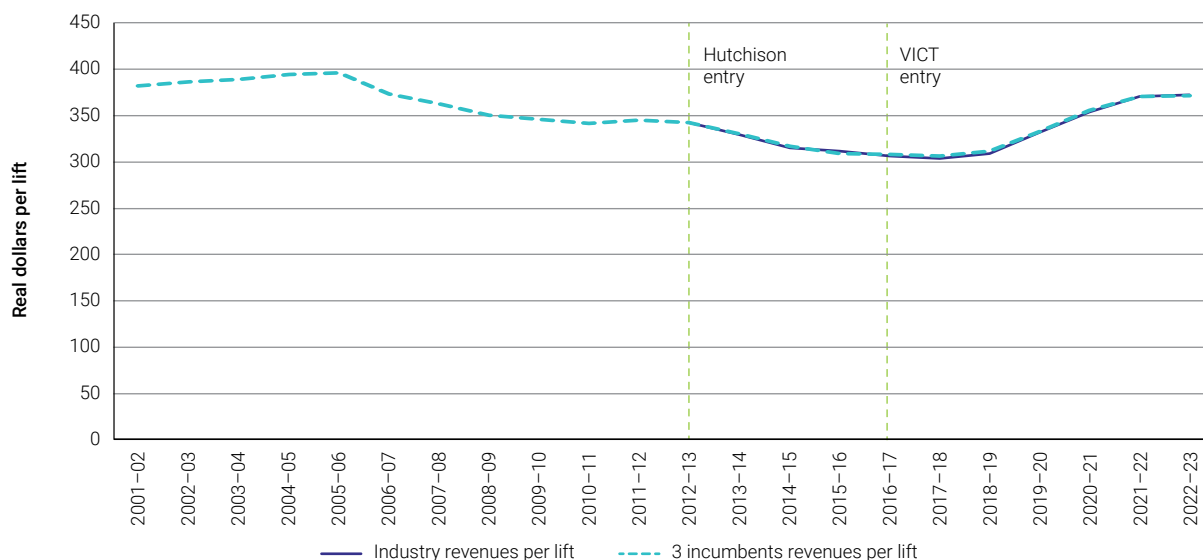
The ACCC uses unit revenues to provide an indication of average service prices per unit of throughput, rather than actual prices charged by stevedores.

Historically, the largest component of stevedoring revenue has come from quayside charges to shipping lines. The ACCC does not collect actual quayside prices charged by stevedores to shipping lines, which are commercially confidential. Stevedores also levy fixed and incentive based landside charges to transport operators. These charges are generally published on the stevedores’ websites.

The ACCC calculates total revenue per lift by dividing total revenue by the total number of container lifts performed each year. This includes all revenues and lifts of all types. This approximates average overall stevedoring charges but is not the actual price paid by cargo owners. Actual stevedoring charges vary for different container lift types, and for additional incentive-based charges. The ACCC does not currently collect revenue data disaggregated by container lift type.

Figure 4.7, below, shows how real total revenues per lift of the industry and the 3 incumbents have changed since 2001–02.⁸³

Figure 4.7: Real total revenues per lift, industry & 3 incumbents: 2001–02 to 2022–23



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

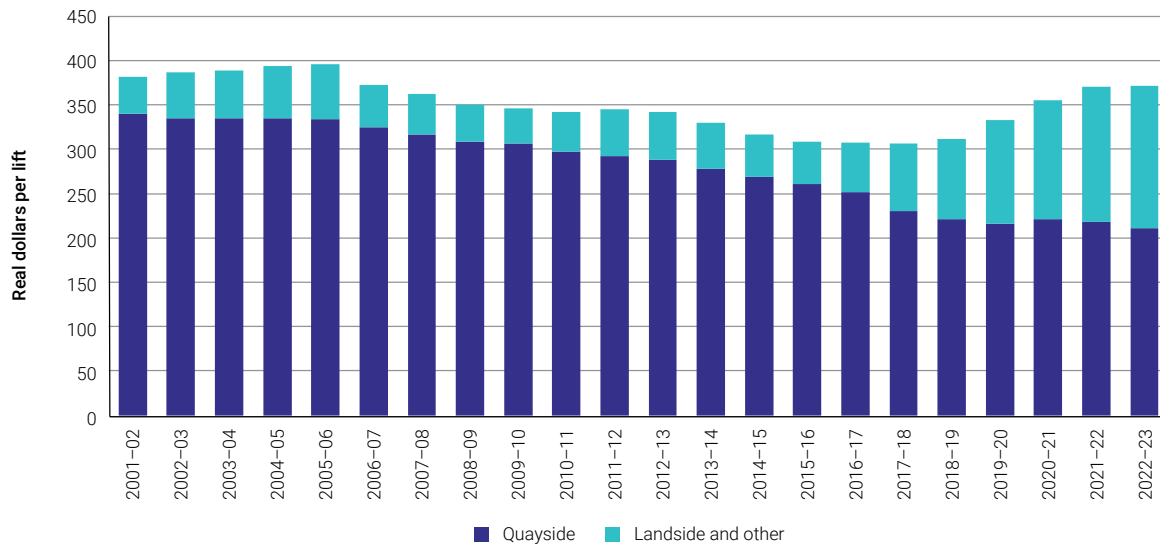
The chart shows that real total revenues per lift of the incumbents were relatively stable in the 5 years leading up to Hutchison entry in 2012–13. The real total revenues per lift fell in the period between 2012–13 and 2017–18 to their lowest point throughout the ACCC’s monitoring period. Effectively this means that stevedores were receiving the lowest prices for their services in 2017–18 despite the significant investment that was made by both incumbents and new entrants in the period between 2012–13 and 2017–18 (discussed further below).

⁸³ Stevedores only began reporting the number of lifts to the ACCC in 2001–02, so data between 1998–99 and 2001–02 is not available.

The real total revenues per lift increased significantly in the period between 2019–20 and 2021–22, which corresponds with the sharp increases in profits observed earlier.

To examine the drivers behind these increases, the ACCC will focus on the 3 incumbents. Figure 4.8, below, shows the components that make up the real total revenues per lift of the 3 incumbents. As discussed earlier, quayside revenue per lift is a proxy for the quayside charges shipping lines pay stevedores per container whereas landside revenue per lift is a proxy for the landside charges transport operators pay stevedores per container. As noted in Chapter 1, cargo owners ultimately pay for both quayside and landside charges.

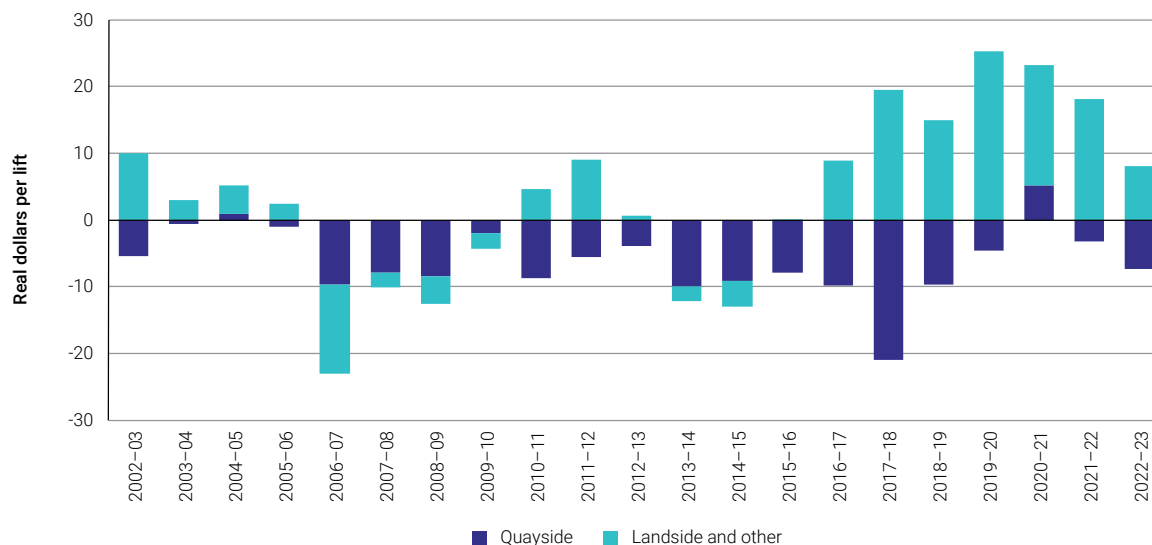
Figure 4.8: 3 incumbent real total revenues per lift, by component: 2001–02 to 2022–23



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Figure 4.9, below, shows the annual change in real quayside and landside unit revenue components of the 3 incumbents over the monitoring period. The values shown are the change in the unit revenue from each source from the previous year. For example, the quayside revenue per lift shown in 2002–03 in the graph below is the 2002–03 real quayside revenue per lift minus the 2001–02 real quayside revenue per lift. The analysis will focus on post-2006–07 changes in real revenues per lift to remove the effect of the end of the stevedoring levy in May 2006.

Figure 4.9: Annual change in 3 incumbent real revenues per lift, by source: 2002–03 to 2022–23



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Figures 4.8 and 4.9, above, show how the source of stevedores’ revenue has changed over time. During ACCC monitoring from 2001–02 to 2010–11, stevedores derived an average of 87% of their revenue from quayside charges to shipping lines. By 2022–23, this figure had decreased to 57%, with landside charges to transport operators accounting for 43% of the incumbent stevedores’ revenue.

Figure 4.9, above, shows that this resulted from a combination of decreasing quayside revenue and increasing landside revenue. Quayside revenue has been decreasing since 2006–07, with this decrease accelerating in the period between 2013–14 and 2018–19. As discussed in previous reports, combination of consolidation in shipping lines and new entry of Hutchison and Victoria International Container Terminal has allowed shipping lines to negotiate lower quayside charges with stevedores.

As mentioned in previous reports, stevedores began to significantly increase landside charges, particularly terminal access charges in 2016–17, which led to significant increase in landside revenues from that point. However, the impact of these increases on profits has not been uniform.

In the period between 2016–17 and 2018–19, the increase in landside revenue (\$43.34 per lift) was only slightly greater than the decrease in quayside revenue (\$40.50 per lift) and therefore had only a relatively small impact on stevedores’ profits. However, in the period between 2019–20 and 2021–22, the increase in landside revenue (\$61.43 per lift) was significantly greater than reduction in quayside revenue (\$2.58 per lift). This was a key factor in the significant increase in stevedores’ profits during this period. In 2022–23, landside revenue increased by \$8.14 per lift, while quayside revenue decreased by \$7.38 per lift.

As part of its final notice on the landside schedule of charges, Patrick has the following statement about the rebalancing:⁸⁴

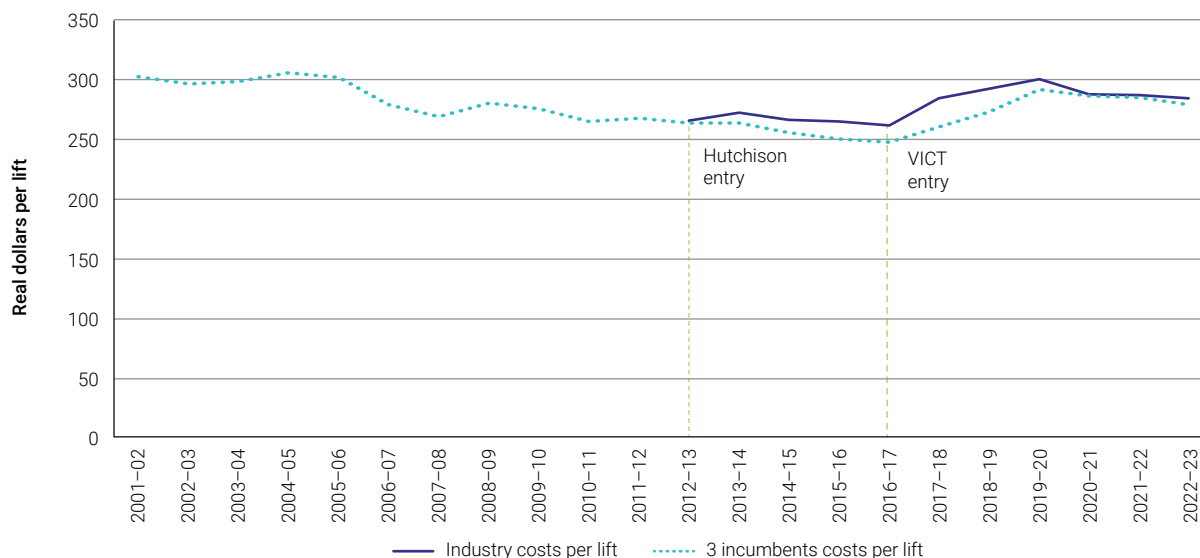
A restructuring of terminal operator fees to better reflect the capital requirements and operating costs of providing quayside and landside services to customers has occurred across the recent period. This restructuring has now largely delivered the improved cost causality outcomes sought on the East Coast. Fremantle arrangements will be reviewed in line with lease terms in 2024.

84 M Jovicic, ‘Patrick Terminals – Final Notice of changes to Landside & Ancillary Charges: Effective from 6 March 2023’, Patrick Terminals, 2023, accessed 17 November 2023.

4.3.3 No substantial cost savings in recent years

Figure 4.10, below, shows how real costs per lift of the industry and the 3 incumbents have changed since 2001–02.⁸⁵

Figure 4.10: Real costs per lift, industry & 3 incumbents: 2001–02 to 2022–23



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Figure 4.10 shows that total real costs per lift of the 3 incumbents declined slowly between 2004–05 and 2016–17 from \$306 per lift in 2004–05 to \$264 in 2012–13 (Hutchison entry), and then further reduced to \$248 per lift by 2016–17.

During 2012–13 to 2016–17, the new entrants’ real total costs per lift have been higher than the incumbents’ due to higher fixed costs and lower volumes associated with starting up a new terminal.

Real total costs per lift increased between 2016–17 and 2019–20 for both the industry and the 3 incumbents, reaching \$300 and \$292 per lift respectively, reversing a long-term trend of declining unit costs. Stevedoring businesses are characterised by economies of scale, which means unit costs generally decrease when throughput increases and vice versa. As shown in Figure 4.6, the incumbents throughput fell in the period between 2017–18 and 2019–20, largely due to loss of market share to Victoria International Container Terminal, which resulted in the higher unit costs.

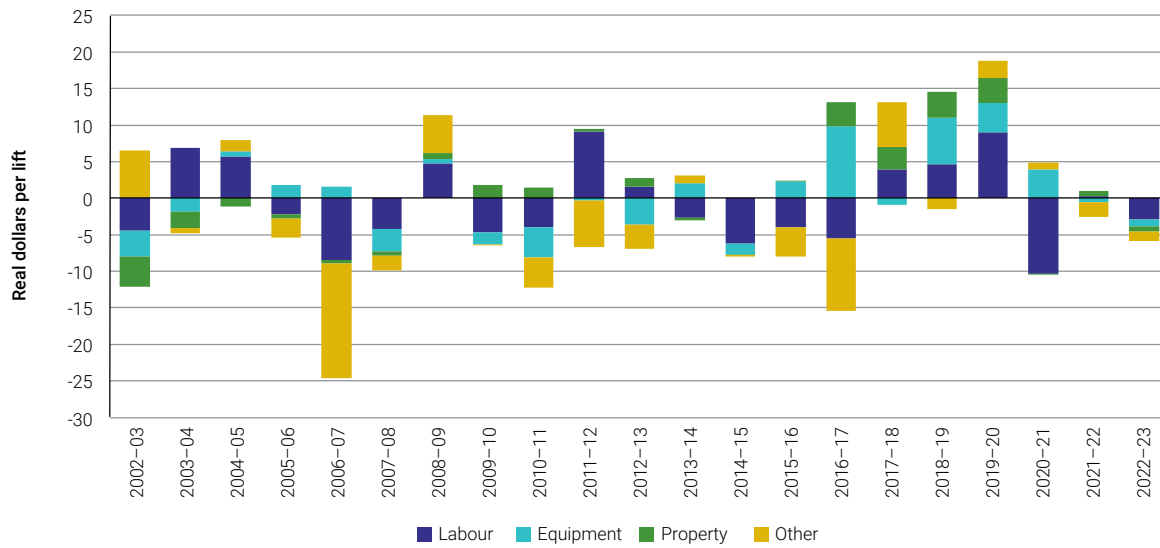
Unit costs have been gradually falling since 2019–20, reaching \$285 per lift for the industry and \$279 per lift for the 3 incumbents in 2022–23. This shows that the relatively minor cost savings have not been a key driver behind the sharp recent increases in stevedores’ profits.

Figure 4.11, below, shows the change in components of real total costs per lift of the 3 incumbents in each year over the monitoring period. This analysis focuses on the 3 incumbents as a group to remove the effects of new entrants’ higher costs and initial capital expenditures (heavy investment in the early business stages).

The values shown are the change in the unit cost of each component from the previous year. For example, the change in labour cost per lift in 2002–03 shown in the graph below is the 2002–03 real labour cost per lift minus the 2001–02 labour cost per lift. For each year, positive changes and negative changes are stacked respectively in the upper and lower segment of the chart. Overall unit cost is the net of all positive changes less all negative changes.

⁸⁵ Stevedores only began reporting the number of lifts to the ACCC in 2001–02, so data between 1998–99 and 2001–02 is not available.

Figure 4.11: Change in 3 incumbent real total costs per lift, by component: 2002–03 to 2022–23



Source: ACCC analysis of information received from stevedores as part of the monitoring regime

Figure 4.11 shows that although there was a notable \$10/lift reduction in labour costs in 2020–21, other unit costs have remained largely unchanged in the last 3 years. Specifically, since 2019–20:

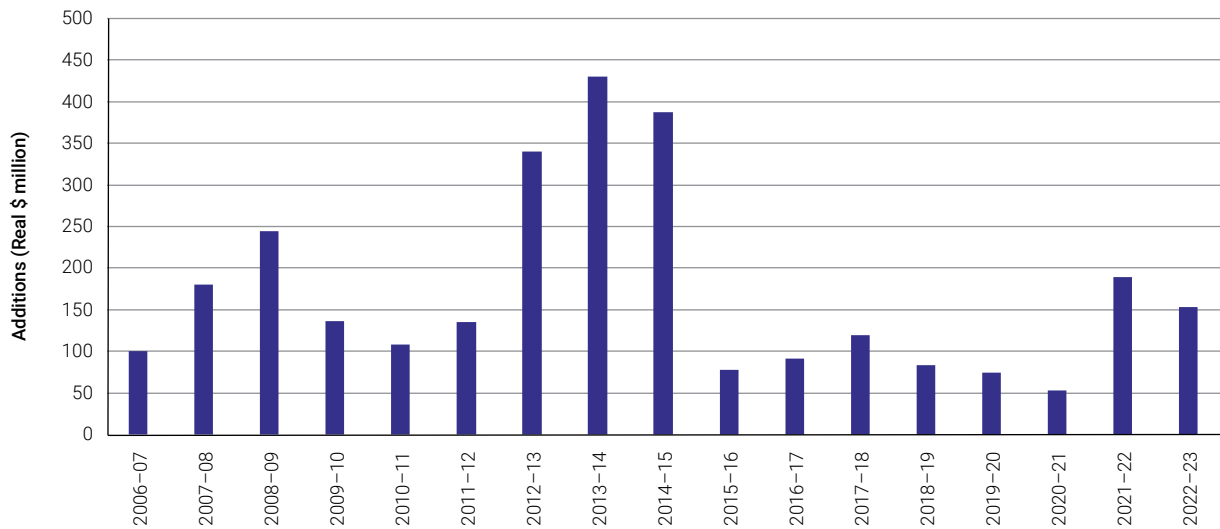
- labour costs per lift decreased by \$12.90
- equipment costs per lift increased by \$2.30
- property costs per lift remain unchanged
- other costs per lift decreased by \$2.43.

4.3.4 Investment cycle contributed to variations in profits but does not sufficiently explain the recent sharp increases

This section examines the investment trends and the value of the tangible asset base of stevedores and assesses their impact on profitability in recent years. The analysis starts in 2006–07, as this was the year we started collecting this data.

Figure 4.12, below, shows the aggregate annual investment made by the 3 incumbents over the past 15 years.

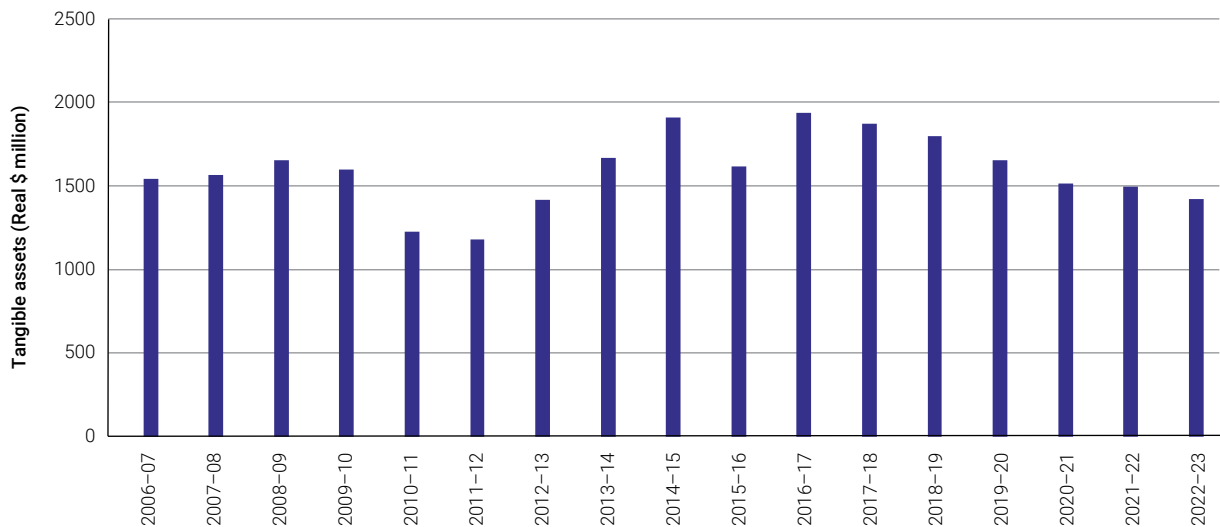
Figure 4.12: Aggregate annual investment made by the 3 incumbents: 2006–07 to 2022–23



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Figure 4.13, below, shows how the aggregate tangible asset base of the 3 incumbents changed over from 2006–07 to 2022–23. In this figure, the closing tangible asset base is equal to opening tangible asset base plus the additions net of disposals, depreciation and other impairment charges.

Figure 4.13: Tangible asset base for 3 incumbents: 2006–07 to 2022–23



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Note: The increase in asset base from 2015–16 to 2016–17 is largely due to Patrick’s asset revaluation following the Qube/Brookfield acquisition.

Figure 4.12 shows that the incumbent stevedores made substantial investment, particularly in capacity enhancement, in the period between 2012–13 and 2014–15, coinciding with Hutchison entering the market. Figure 4.13 shows that the incumbents’ asset base increased in this period because of this investment.

This affected the incumbent stevedores’ operating profit margins. Additional investments in tangible assets for capacity enhancement led to higher depreciation expenses over the asset lives, which initially reduced EBITA. This is because depreciation is an expense that reduces operating income. Despite the additional depreciation, the relatively stable trends in unit costs, as seen in Figure 4.10,

indicates that the effect of these additional investments on EBITA was only marginal or modest. As accumulated depreciation expense reduced the remaining asset base, this gradually pushed EBITA higher.

The major investments also had a similar cyclical impact on the returns on average tangible assets. Higher total asset value through additional net investments, which was not accompanied by proportional increase in operating profits, initially reduced the return on assets (because this metric is calculated as operating profits divided by average tangible assets). As the tangible asset base gradually reduced since 2017–18, this had a gradual upward effect on the returns on average tangible assets.

While these cyclical investment effects have contributed to the variations in annual returns, they do not sufficiently explain the sharp increases in profit margins in recent years.

During this year's consultation process, one stevedore provided its view on how the major investment in the period between 2012–13 and 2014–15 contributed to the observed results in the subsequent years (Box 4.1).

Box 4.1: Impact of major investments on returns

One stevedore commented that major investments like those made in the period between 2012–13 and 2014–15 are 'lumpy' and anticipate long-term growth (rather than short-term), leading to varying returns over the asset's lifecycle. The stevedore stated that significant capacity investment often leads to excess capacity initially, resulting in lower returns in the early years. Each operator's business case is based on an expectation that over time capacity utilisation would improve and so would the returns, with gradual increases in volumes and revenues.

The stevedore further commented that the cyclical effects relating to an aligned investment cycle were then compounded by the impact of competition in the market. The stevedore observed that this was seen in the historically low industry returns achieved in 2018–19, where multiple stevedores had significant surplus capacity following expansion investment and were competing fiercely to attract market share. The stevedore noted that it should be expected that this period would be followed by a recovery in industry profitability performance, including a period of higher than long-term average returns. Indeed, the stevedore commented that it would be of concern if this were not the case, as it would indicate that the stevedores are unable to achieve their business case expectations of higher returns as asset utilisation rises, to offset the low initial returns. Such an outcome could diminish the incentive for future capacity expansion investment.

4.4 Competition and market dynamics

In last year's report, we noted that market dynamics during COVID-19 appeared to be impacting on shipping and, as a result, the intensity of competition between stevedores. This section presents some new insights we learnt during this year's consultation process.

4.4.1 COVID-19 had some impact on stevedoring financial performance in 2022–23

As noted in Chapter 2, the supply chain was still affected by COVID-19 in 2022–23. In particular, global vessel schedule reliability in 2022–23 was not yet back to its pre-COVID level, which contributed to congestion and delays. This had some flow-on effects to the stevedores.

One such effect was evident in one stevedore's storage revenue. Stevedores have finite yard space and charge storage fees for containers that are left there beyond a certain period of time. The stevedore said that their 2022–23 storage related revenue was around 3 times the average over the 5 years prior to COVID-19. The stevedore explained that supply chain disruption in recent years led to containers staying in their yards for longer periods of time. As congestion in the supply chain resolves, the stevedore expects its annual storage revenue to reduce closer to pre-COVID levels, as shipping lines are incentivised to collect their containers more quickly to avoid excess storage charges.

4.4.2 Market dynamics appear to be influencing shipping lines' decision making, which may be affecting competition between stevedores

Shipping lines are focusing on minimising costs

As we reported last year, shipping lines earned higher profits in 2021–22 than in the previous 10 years combined.⁸⁶ Since then, however, freight rates (and shipping line revenue, as a result) have fallen considerably. As noted in Section 2.1.2, full container volumes fell in 2022–23, likely due to weaker domestic economic conditions. Market participants told us this year that shipping lines are responding to these changes in market dynamics by increasingly looking to minimise their costs. Maersk, for example, has imposed 'rigorous cost containment measures' during the year, in response to 'challenging market conditions'.⁸⁷

Lower revenue and higher costs have led some shipping lines to focus more on stevedores' efficiency

Some shipping lines told us that terminal productivity was a key factor in choosing a stevedore, with one shipping line reporting that it was seeing more operational performance metrics in its contracts. Another shipping line, while noting that prices were important, gave an example where it did not choose the cheapest stevedore option available. Some stevedores told us that shipping lines were increasingly interested in their efficiency.

As discussed in Chapter 2, poor vessel schedule reliability can result in congestion and delays. If a vessel misses a scheduled berth window, it may have to wait until a berth becomes available. This can make it more difficult for the vessel to reach subsequent ports on schedule. In the event of a delay, one shipping line explained to us that it has 2 options to get back on schedule: speeding up the vessel or 'blank sailing' (that is, omitting a port).

Shipping lines prefer not to speed up their vessels because it is expensive to do so, especially when fuel prices are high. One shipping line explained that vessels can consume US\$3–4 million of fuel on a round trip, so a speed-up 'might cost a few hundred thousand'. The shipping line said that stevedore productivity, when the vessel berths, is critical for scheduling and that minor cost savings can be overshadowed by significant productivity differences.⁸⁸

86 Sea-Intelligence, [USD 110bn carrier EBIT in 2021 \(so far...\)](#), Sea-Intelligence website, 25 March 2022, accessed 17 November 2023.

87 Maersk, [A.P. Moller – Maersk reports Q3 financial results in line with expectations, yet challenges lie ahead](#), Maersk website, 2023, accessed 17 November 2023. Maersk has already started cutting jobs and expects to reduce its employee headcount by a total of 10,000 by 2024.

88 The ACCC understands this to mean that shipping lines consider the total cost of their agreement with stevedores. If a shipping line saves money by contracting with the stevedore that has the lowest terminal handling charge, for example, but the shipping line's vessel is consistently delayed due to terminal inefficiency, it may well end up paying higher costs overall, once vessel speed-ups are considered, than it might have if it used a more expensive but more efficient stevedore.

One shipping line told the ACCC that, while blank sailing may enable them to optimise vessel speed, and reduce operating costs as a result, doing so also means that they forgo revenue and are liable to pay storage fees to stevedores.

As noted in Chapter 3, speeding up a vessel burns more fuel which leads to more carbon emissions. One stevedore told us that, as shipping lines slow their vessels down to reduce emissions, they place greater focus on expedited terminal productivity to keep vessels on schedule.

One market participant explained to us that shipping lines may carry less cargo, as the industry transitions to greener fuels which are more expensive and less energy-dense than traditional fuels. Accordingly, shipping lines are likely to continue to place increasing weight on terminal efficiency when choosing stevedores, going forward.

Some shipping lines appear to prefer multi-port stevedores

The market dynamics, discussed above, appear to have led some shipping lines to prefer to contract with stevedores that operate in multiple ports and to use the same stevedore at each Australian port visit.

Some shipping lines explained to the ACCC that doing so simplifies the planning process and makes it easier to manage the impact of delays. If a vessel is delayed at one port, the shipping line can ask the stevedore to make up that lost time at the next port. One stevedore told us that shipping lines are requiring 'expedited productivity' if there were earlier delays.

This appears to provide a comparative advantage to Patrick and DP World as they operate terminals in the 3 east coast ports (Melbourne, Sydney and Brisbane) as well as Fremantle. Both Hutchison (Sydney and Brisbane) and Victoria International Container Terminal (Melbourne) mentioned this during our consultation.

Industrial action may be impacting on shipping lines' choice of stevedores

Our market enquiries also suggest that current industrial relations disruptions at DP World's terminals may be making the stevedore a less attractive option for shipping lines. Throughput volume at DP World's Australian terminals was reportedly down by 30–40% since the Maritime Union commenced protected industrial action in October 2023.⁸⁹ This does not appear to have impacted DP World's performance in 2022–23 but could impact its performance in 2023–24.

4.4.3 Other constraints on stevedoring competition

The ACCC understands that there may be a number of other factors currently limiting competition between stevedores. In some cases, these factors are out of stevedores' control.

'The knuckle' may have limited Victoria International Container Terminal's ability to increase its market share

Victoria International Container Terminal established itself quickly after entering the Melbourne market in 2017, winning a considerable share of the port's container throughput. In recent years, however, the stevedore has been unable to improve its market share. One factor that could be contributing to this is Victoria International Container Terminal's capacity. ACCC analysis of data provided by the stevedore suggests that the stevedore operated near capacity over 2022–23.⁹⁰

89 I Ackerman, '[Industrial action causes throughput to plummet: DP World](#)', *Daily Cargo News*, 31 October 2023, accessed 12 November 2023.

90 The ACCC compared the stevedore's stated maximum terminal berth capacity with actual throughput data on a 20-foot equivalent unit basis.

A concrete structure called ‘the knuckle’⁹¹ is currently constraining Victoria International Container Terminal’s ability to service 2 large vessels simultaneously. We understand that the stevedore’s terminal effectively becomes a single berth operation if it is servicing a vessel with an overall length of more than 300 metres.⁹² It is possible that the knuckle is constraining Victoria International Container Terminal’s ability to win further market share. The knuckle is due to be removed by the end of 2023. According to the Port of Melbourne, the stevedore will then be able to service 2 vessels of up to 337 metres in length, each, simultaneously.⁹³

Victoria International Container Terminal has a monopoly on the servicing of large vessels

While the knuckle may be affecting Victoria International Container Terminal’s ability to service 2 large ships at once, the stevedore has a monopoly on larger vessels. Market participants told us that vessel size is increasingly influencing shipping lines’ choice of stevedore at the Port of Melbourne. We understand that this is due to a combination of constraints relating to the swing basin at Swanson Dock (where Patrick and DP World operate), the West Gate Bridge draught, quay crane draft and berth length.

One stevedore told us that, under current approvals, vessels with dimensions greater than 337 metres long and 45 metres wide are too large to call at Swanson Dock and must instead call at Webb Dock, where Victoria International Container Terminal operates. Given the trend towards larger vessels⁹⁴, these limitations will likely remain a factor constraining Patrick’s and DP World’s ability to compete for larger vessels in the future. On the other hand, shipping lines that prefer strongly to contract with stevedores that operate in multiple ports may choose to use smaller vessels, instead, rather than being forced to use Victoria International Container Terminal.

Hutchison continues to face challenges increasing its market share

As demonstrated at the start of this chapter, Victoria International Container Terminal’s and Hutchison’s entry into the market appeared to have increased the intensity of competition resulting in a fall in industry operation profit margins. The positive impact of the new entry, however, appears to have weakened in recent years.

Unlike Victoria International Container Terminal, Hutchison has failed to increase its market share of Sydney and Brisbane on a consistent basis. This is partly because it is reaching capacity as the market grows and partly because of its relatively smaller capacity. Larger services may not fit within the available marginal capacity.

The stevedore told us that its lack of a national offering (that includes Melbourne) has affected its ability to compete with Patrick and DP World in Sydney, while its smaller quay cranes, due to height restrictions, could also be a factor in the future as vessels become larger.⁹⁵ In addition, Hutchison does not appear to be investing in its terminal infrastructure and heavy machinery as much as other stevedores, which could be attributed to its smaller scale of operations. While the ACCC understands that stevedores’ investment is ‘lumpy’, as discussed in Box 4.1, above, Hutchison’s share of industry investment has been well below its market share of throughput in each of the last 4 years.

91 The knuckle is a section of the old quay that restricts berth length and impedes quay crane operations berth capacity.

92 Shipping Australia, [Port of Melbourne invests to accommodate bigger ships](#), Shipping Australia website, 2021, accessed 12 November 2023.

93 Port of Melbourne, [‘Webb Dock East Extension Project: Project update’](#) [video], Port of Melbourne website, 2023, accessed 17 November 2023.

94 The ACCC’s market enquiries suggest that shipping lines have been deploying smaller vessels on Australian trade routes recently, likely in response to lower volumes. Longer-term, however, the vessels are expected to increase in size.

95 It is worth noting that Hutchison now has secured approval to operate taller cranes in Sydney to match those of Patrick and DP World, and with the approval, Hutchison plans to acquire taller cranes.

4.4.4 The ACCC will continue to monitor closely whether increased stevedore profits are temporary or likely to be sustained

In last year's monitoring report, we noted that stevedores' profits had returned to the levels observed before Hutchison and Victoria International Container Terminal entered the market. We anticipated that, if stevedores' increased profits were due to the impact of the pandemic or the cyclical nature of investment, elevated profits would likely be temporary. However, we said that we would have concerns if elevated profits were sustained because of anti-competitive conduct or the exercise of market power by the stevedores.

Stevedores' profitability remained elevated in 2022–23. Based on available information, the ACCC considers that there may be multiple drivers behind recent higher stevedoring profits. As discussed, above, COVID-19 was still a factor in 2022–23, although its impact on the supply chain dissipated over the course of the financial year. The stevedores' profits are affected by an investment cycle as well, given the significant investment that stevedores made in the period between 2012–13 and 2014–15. However, there also appear to be some factors impacting on competition between stevedores.

As noted above, higher landside charges were the primary reason behind stevedores' increased profit margins in recent years. In its Maritime Inquiry report, the Productivity Commission recommended that the Treasury should develop a mandatory container terminal operator code relating to landside charges which the ACCC would enforce.⁹⁶ The Productivity Commission recommended that the code should allow stevedores to only change their landside charges once a year and that the ACCC would need to first consider and either approve or reject charge increases, depending on whether it believes the increases are justified.

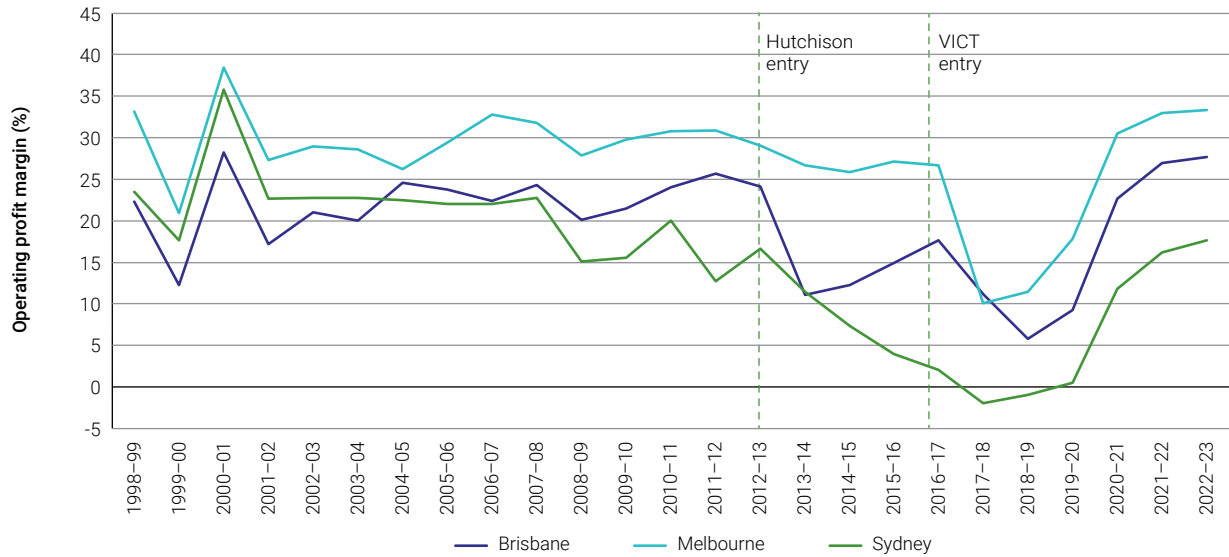
This year's consultation process provided several new insights on the container freight supply chain, the state of competition between stevedores and stevedores' financial performance. The nature of these insights offered some indication as to influences on stevedoring profits that may resolve or dissipate over time and influences that may be more enduring. While we support steps that may improve cargo owners' ability to influence or predict landside charges, as mentioned earlier, we consider that further analysis is required before stronger actions are considered.

The ACCC is considering a number of areas for further analysis that may put us in a better position to comment on whether recent high profit margins are likely to be sustained and whether any further policy or regulatory responses are warranted. As noted in Section 4.1, we intend to consider additional profitability metrics and explore options for both domestic and international profitability benchmarks. We will continue to monitor any identified and emerging factors that affect individual stevedore's ability and incentive to compete, on a port-by-port basis. We will also consider options for incorporating stevedores' productivity into our reporting.

⁹⁶ Productivity Commission, [Lifting productivity at Australia's container ports: between water, wharf and warehouse: Inquiry report](#), Productivity Commission, Australian Government, 2022, accessed 29 November 2023, pp 219–20.

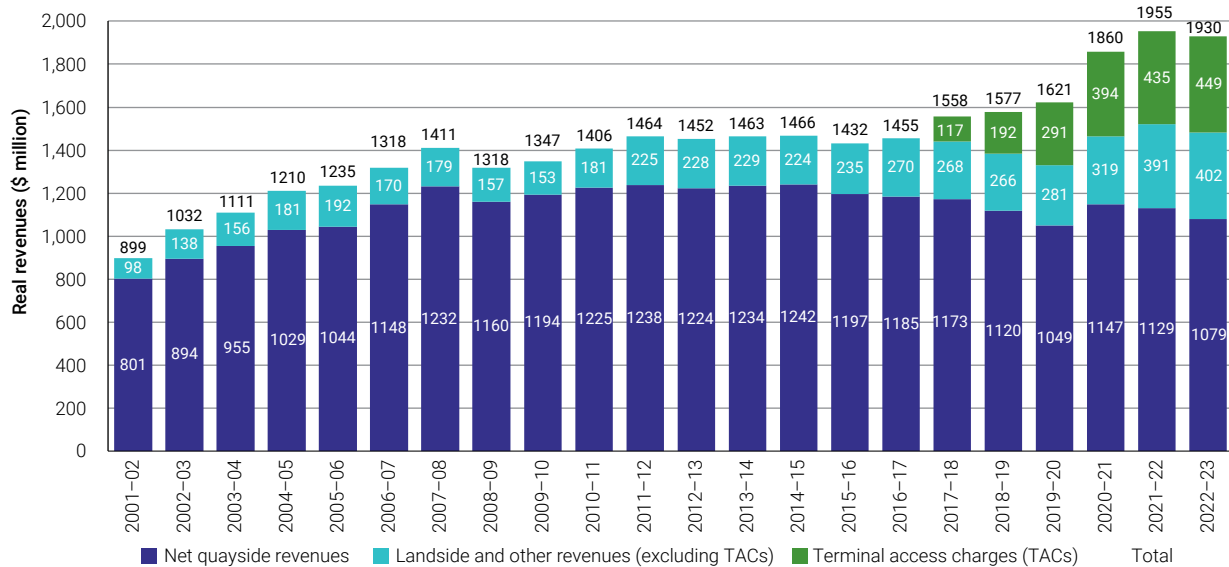
Appendix A: Additional graphs

Figure A.1: Stevedores' total operating profit margins in Melbourne, Sydney and Brisbane: 1998–99 to 2022–23



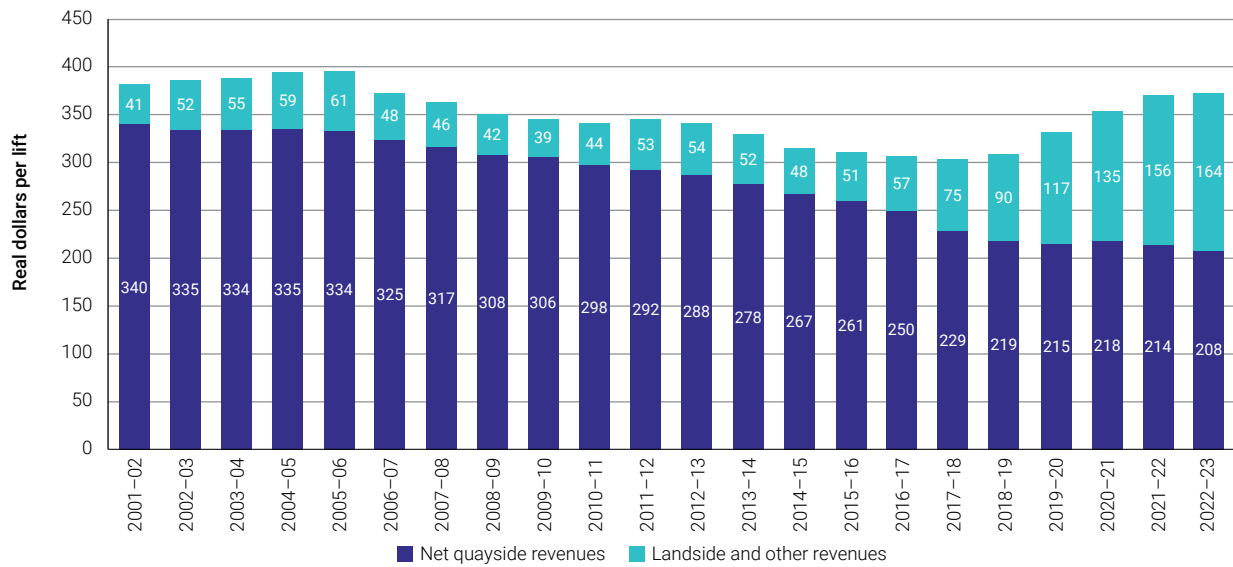
Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Figure A.2: Total industry revenues in real terms: 2001–02 to 2022–23



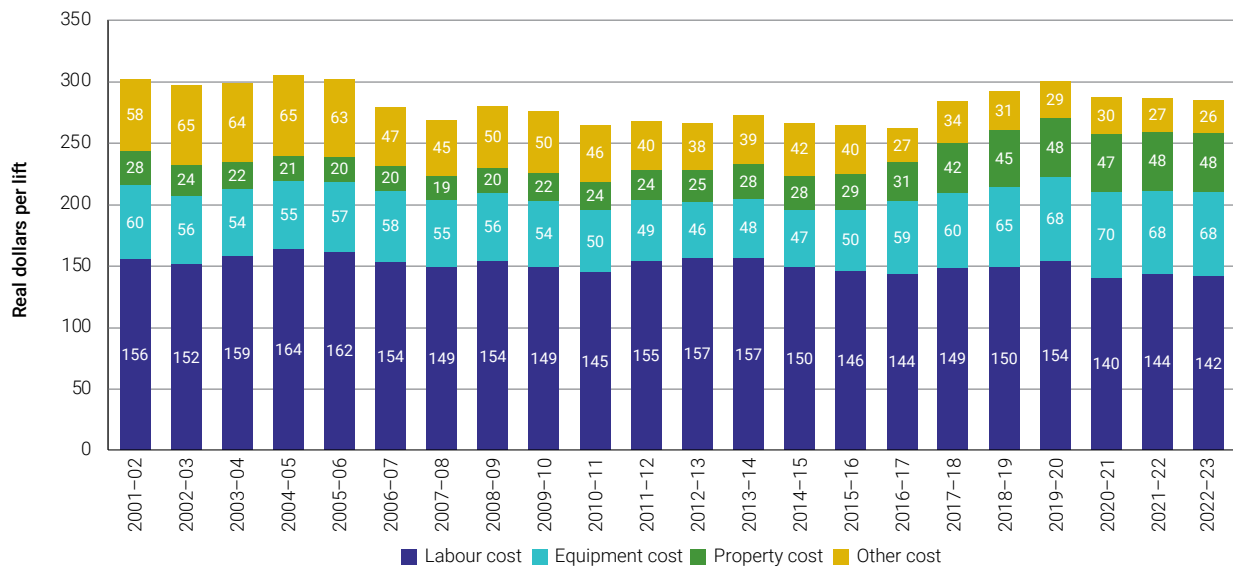
Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Figure A.3: Industry total revenues per lift in real terms: 2001–02 to 2022–23



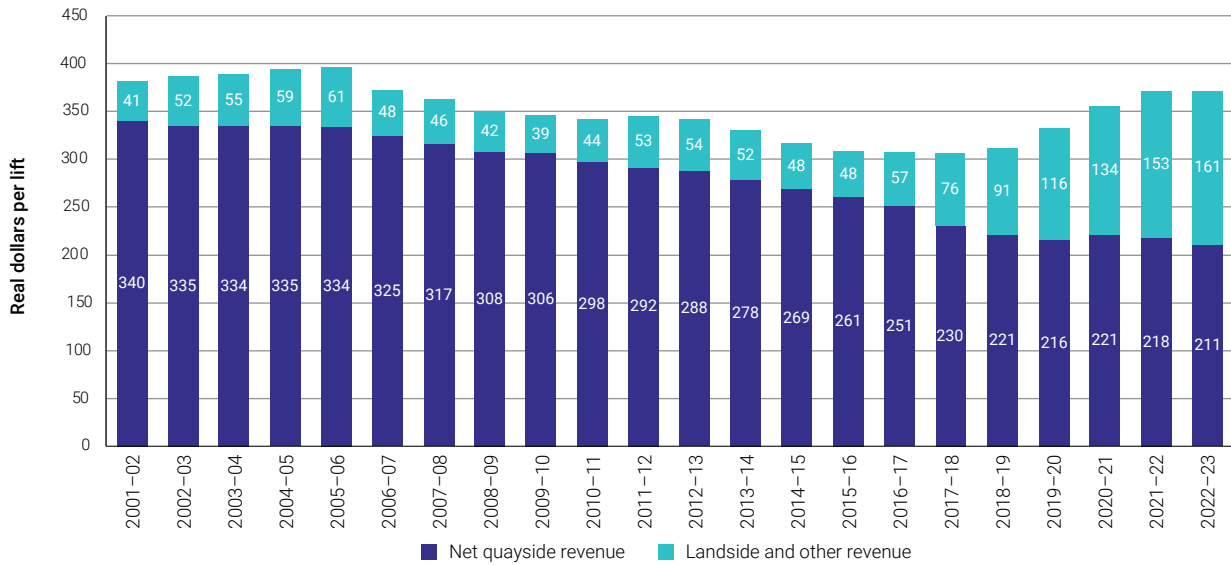
Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Figure A.4: Industry total costs per lift in real terms: 2001–02 to 2022–23



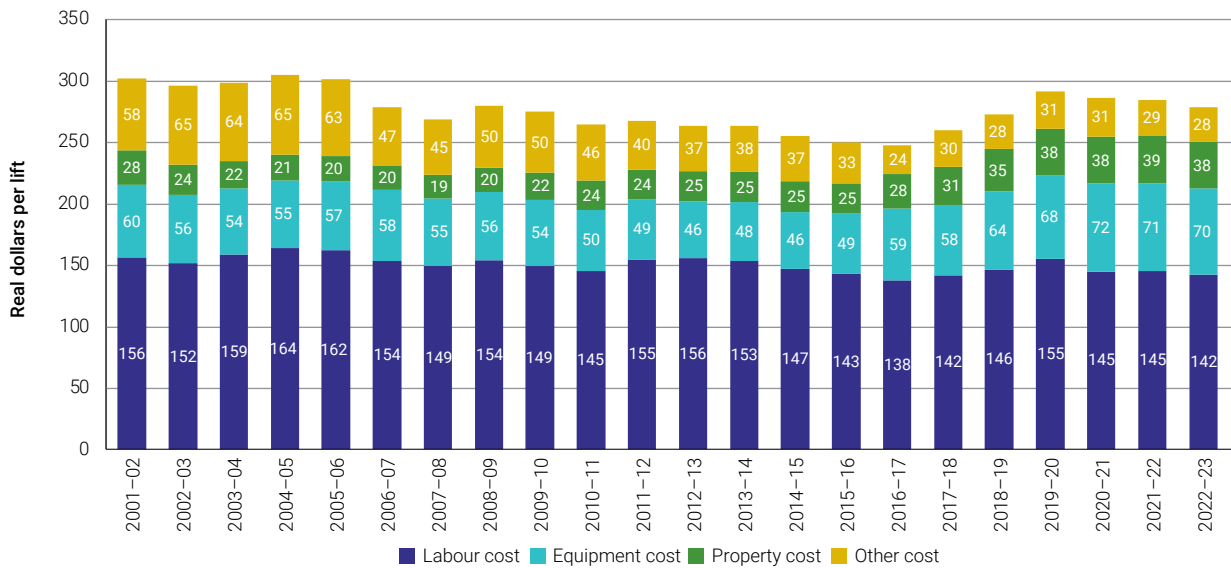
Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Figure A.5: 3 incumbents (Patrick, DP World and Flinders Adelaide Container Terminal) total revenues per lift in real terms: 2001–02 to 2022–23



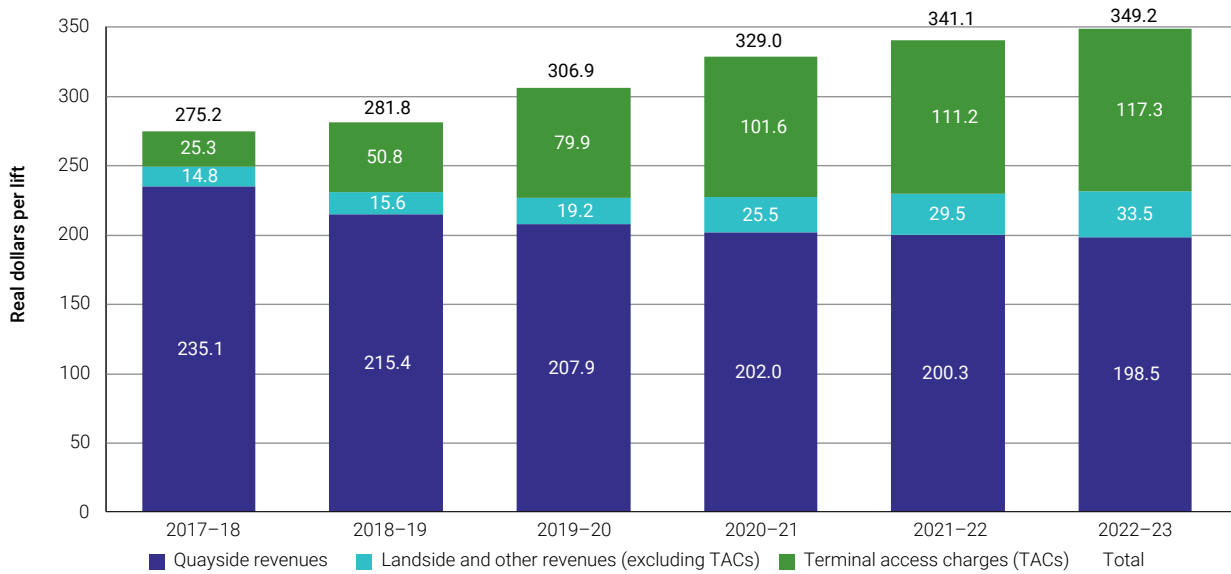
Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Figure A.6: 3 incumbents (Patrick, DP World and Flinders Adelaide Container Terminal) total costs per lift in real terms: 2001–02 to 2022–23



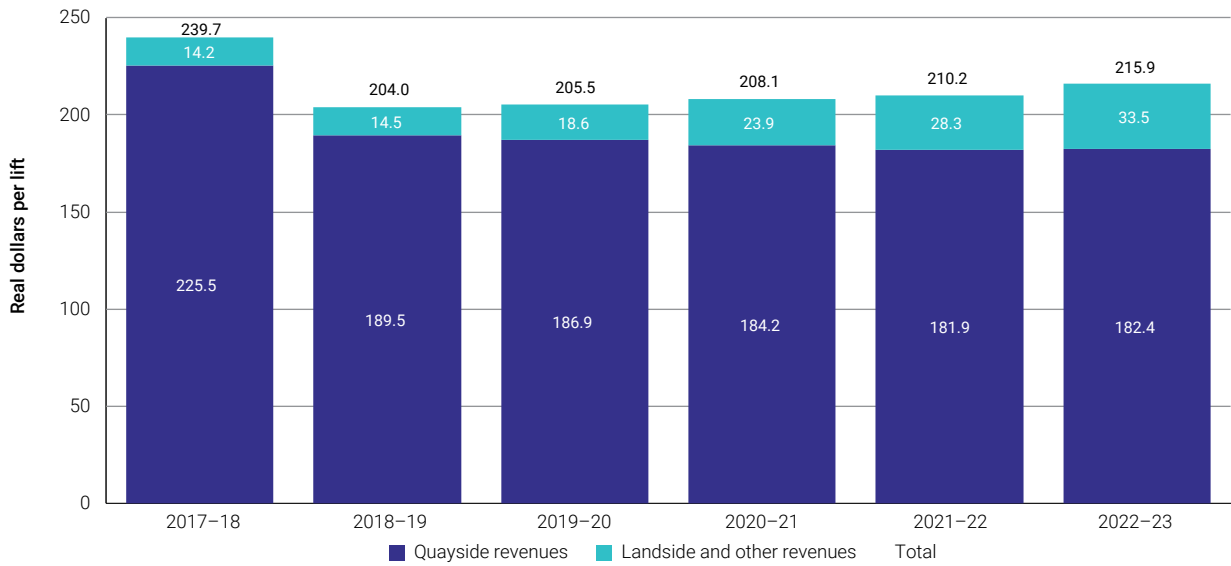
Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Figure A.7: Industry total revenues per lift for full containers in real terms: 2017–18 to 2022–23



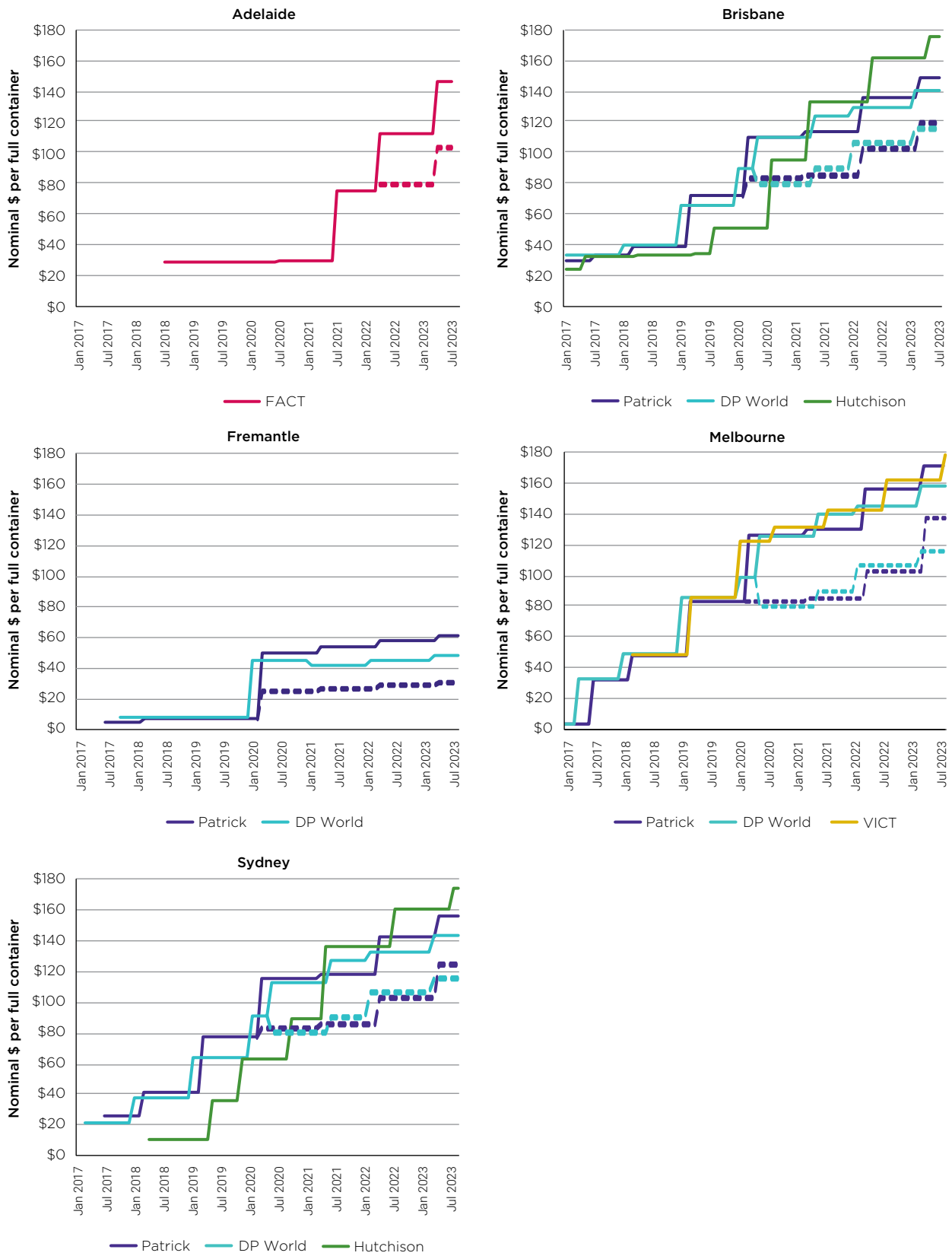
Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Figure A.8: Industry total revenues per lift for empty containers in real terms: 2017–18 to 2022–23



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Figure A.9: Terminal access charges levied by stevedores in nominal dollars at each monitored container port: January 2017 to July 2023



Source: ACCC analysis of publicly available stevedore pricing information.

Note: Solid lines indicate 'import' or both 'import & export' charges, while dotted lines indicate 'export' charges only.

Appendix B: Historical events

Table B.1: Selection of historical events throughout the monitoring regime affecting stevedoring throughput, revenue and costs

Month	FY	Event	Event category
Jan-98	1997-98	Waterfront dispute	Australia
Dec-98	1998-99	Sea-Land enters Brisbane	Stevedores
Jan-99	1998-99	Ministerial direction	Regulatory
Feb-99	1998-99	Start of stevedoring levy	Regulatory
Jun-99	1998-99	First ACCC Container stevedoring monitoring report	Regulatory
Aug-01	2001-02	Sea-Land exits Brisbane	Stevedores
Nov-01	2001-02	Port Adelaide privatisation	Ports
Jan-05	2004-05	DP World acquires CSX Adelaide	Stevedores
Mar-06	2005-06	DP World acquires P&O Ports	Stevedores
May-06	2005-06	End of stevedoring levy	Regulatory
Sep-08	2008-09	Global Financial Crisis	World
Nov-10	2010-11	Port of Brisbane privatisation	Ports
May-11	2010-11	Patrick exits Burnie	Stevedores
Jul-12	2012-13	FPH fully acquires FACT from DP World	Stevedores
Apr-13	2012-13	Port Botany privatisation	Ports
May-13	2012-13	Hutchison enters Brisbane	Stevedores
Jul-13	2013-14	Major shipping line consolidation	World
Nov-13	2013-14	Hutchison enters Sydney	Stevedores
Sep-16	2016-17	Port of Melbourne privatisation	Ports
Apr-17	2016-17	Victoria International Container Terminal enters Melbourne	Stevedores
Mar-20	2019-20	COVID-19 pandemic declared	World

Appendix C: Part VIIA, Competition and Consumer Act 2010

s. 95ZE

Directions to monitor prices, costs and profits of an industry

- (1) The Minister may give the Commission a written direction:
 - (a) to monitor prices, costs and profits relating to the supply of goods and services by persons in a specified industry; and
 - (b) to give the Minister a report on the monitoring at a specified time or at specified intervals within a specified period.

Commercial confidentiality

- (2) The Commission must, in preparing such a report, have regard to the need for commercial confidentiality.

Public inspection

- (3) The Commission must also make copies of the report available for public inspection as soon as practicable after it gives the Minister the report.

s. 95ZG

Exceptions to price monitoring

- (1) The Minister must not direct the Commission under this Division to monitor prices, costs and profits relating to a supply of goods or services of a particular description that is an exempt supply in relation to goods or services of that description.
- (2) The Minister must not direct the Commission under this Division to monitor prices, costs and profits of a State or Territory authority that supplies goods or services unless the State or Territory concerned has agreed to the direction being given.

s. 95G(7)

The Commission's functions under this Part

General

- (7) In exercising its powers and performing its functions under this Part, the Commission must, subject to any directions given under section 95ZH, have particular regard to the following:
 - (a) the need to maintain investment and employment, including the influence of profitability on investment and employment;
 - (b) the need to discourage a person who is in a position to substantially influence a market for goods or services from taking advantage of that power in setting prices;
 - (c) the need to discourage cost increases arising from increases in wages and changes in conditions of employment inconsistent with principles established by relevant industrial tribunals.

Appendix D: Ministerial direction

COMMONWEALTH OF AUSTRALIA

Prices Surveillance Act 1983

DIRECTION NO 17

(1) I, Peter Costello, Treasurer, pursuant to section 27A of the *Prices Surveillance Act 1983*, hereby direct the Australian Competition and Consumer Commission to undertake monitoring of prices, costs and profits relating to the supply of services by a container terminal operator company in ports at the following locations:

- (a) Adelaide;
- (b) Brisbane;
- (c) Burnie;
- (d) Fremantle;
- (e) Melbourne; and
- (f) Sydney.

(2) In this direction, 'container terminal operator company' means a provider of container stevedoring services in ports at the locations listed in paragraph (1).

(3) The ACCC is to report to me on its monitoring activities referred to in paragraph (1) within four months after the end of each financial year.



PETER COSTELLO

20 January 1999

