



## Statement of Issues

28 October 2021

### Cargotec – proposed merger with Konecranes

#### Purpose

1. Cargotec Corporation (**Cargotec**) proposes to merge with Konecranes Plc (**Konecranes**) pursuant to a combination agreement under Finnish law.
2. This Statement of Issues:
  - gives the Australian Competition and Consumer Commission's (**ACCC**) preliminary views on competition issues arising from the proposed merger,
  - identifies areas of further inquiry, and
  - invites interested parties to submit comments and information to assist our assessment of the issues.
3. Statements of Issues do not refer to confidential information provided by the parties or other market participants and therefore may not fully articulate the ACCC's preliminary position.

#### Overview of ACCC's preliminary views

4. The legal test which the ACCC applies in considering the proposed merger is section 50 of the *Competition and Consumer Act 2010* (the **CCA**). Section 50 prohibits acquisitions that would have the effect, or be likely to have the effect, of substantially lessening competition in any market.
5. The ACCC divides its preliminary views into three categories, 'issues of concern', 'issues that may raise concerns' and 'issues unlikely to raise concerns'.

## Issues of concern

### *Reduction of suppliers of straddle and shuttle carriers in Australia from two to one*

6. The ACCC's preliminary view is that the proposed merger is likely to substantially lessen competition in the supply of manual and automated straddle carriers and shuttle carriers to Australian customers.
7. Cargotec and Konecranes are the two largest global suppliers of straddle carriers and shuttle carriers, and are each other's closest competitors, with over 90 percent global market share combined. Other than lower-powered mini-straddle carriers described in paragraph 50 below, Cargotec and Konecranes are the only competitors who have supplied straddle carriers in Australia.
8. The ACCC's preliminary view is that the only potential alternative supplier (ZPMC) and the threat of new entry or expansion will not provide a strong competitive constraint on a combined Cargotec/Konecranes post-merger. This means that the proposed merger is likely to lead to a substantial lessening of competition and, for example, higher prices, reduced innovation and/or lower service levels for customers.

### *Reduction in the current suppliers of gantry cranes in Australia from three to two*

9. The ACCC's preliminary view is that the proposed merger is likely to substantially lessen competition in the supply of gantry cranes to customers in Australia. This includes variants such as automated and manual rail-mounted and rubber-tyred gantries.<sup>1</sup>
10. Cargotec is the largest supplier of gantry cranes in Australia, having supplied over 70 percent of gantry cranes over the past 7 years. Together, Cargotec and Konecranes have supplied over 90 percent of gantry cranes in Australia over the past 7 years.
11. The ACCC's preliminary view is that alternative suppliers and the threat of new entry or expansion will not provide a strong competitive constraint on a combined Cargotec/Konecranes post-merger. This means that the proposed merger is likely to lead to a substantial lessening of competition and, for example, higher prices, a reduced product and services range, or lower service levels for customers.

## Issues that may raise concerns

### *Consolidation in suppliers of mobile equipment*

12. The ACCC's preliminary view is that the proposed merger may substantially lessen competition in the supply of mobile equipment to Australian customers.<sup>2</sup>
13. The merged entity would become one of the largest supplier of mobile equipment in Australia, with approximately 40 percent share of supply of certain types of mobile equipment over the past three years. The merged entity would

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<sup>1</sup> Gantry cranes do not include ship-to-shore and mobile harbour cranes.

<sup>2</sup> Mobile equipment includes reach stackers, container handlers, and heavy forklift trucks.

face a strong competitive constraint only from Hyster (Adaptalift), and to a lesser extent from Clark Equipment, Sany and some smaller suppliers.

*Foreclosure of competitors in aftersales services*

14. The ACCC's preliminary view is that the proposed merger may substantially lessen competition in the supply of aftersales services for container handling equipment to Australian customers.
15. The merged entity may have the ability and incentive to restrict the supply of technical manuals, diagnostics equipment and spare parts to its customers. This would effectively shut out its competitors from providing the aftersales service of the container handling equipment that it supplies, particularly straddle and shuttle carriers, and gantry cranes.

**Issues unlikely to raise concerns**

*Supply of ship-to-shore cranes*

16. The ACCC's preliminary view is the proposed merger is unlikely to substantially lessen competition in the supply of ship-to-shore cranes (**STS cranes**).
17. Globally Cargotec and Konecranes supplied less than 5 percent of ship-to-shore cranes over the past 3 years, and would face a strong competitive constraint from a number of alternative suppliers post-merger.

*Supply of crane spreaders to container handling equipment manufacturers<sup>3</sup>*

18. The ACCC has considered whether the merged entity may have the ability and incentive to restrict sales of its market leading Bromma brand container handling spreaders to other manufacturers of container handling cranes. Our preliminary view is that such a strategy is unlikely to ultimately result in the substantial lessening of competition in any Australian markets.
19. We have not found any evidence that Cargotec currently supplies spreaders to its competitors on unfavourable terms, and the ACCC's preliminary view is that the proposed merger is unlikely to change Cargotec's ability and incentive to engage in this strategy. Further, a number of alternative suppliers would provide competitive constraint over a combined Cargotec/Konecranes post-merger, including RAM, Stinnis, and Elme. In addition, some quay and gantry crane suppliers like ZPMC and Kuenz are able to self-supply spreaders.

**Making a submission**

20. The ACCC invites submissions from interested parties, particularly on the following key issues:
  - the extent to which alternative suppliers of straddle and shuttle carriers, gantry cranes, and mobile equipment will be able to compete with a combined Cargotec/Konecranes,

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<sup>3</sup> A spreader is the piece of container handling equipment that grips the container.

- the impact of increased consolidation in suppliers of straddle and shuttle carriers, gantry cranes, and mobile equipment,
  - the impact of the proposed merger on the supply of aftersales services including maintenance and spare parts, and
  - the impact of the proposed merger on customers who acquire automated container handling equipment.
21. Interested parties should provide submissions by 5pm on 19 November 2021. Responses may be emailed to [mergers@acc.gov.au](mailto:mergers@acc.gov.au) with the title: Submission re: Cargotec/Konecranes - attention Will Sommers/Ben Roberts. If you would like to discuss the matter with ACCC staff or have any questions about this Statement of Issues, please contact Will Sommers on (03) 9910 9444 or Ben Roberts on (03) 9290 1497.
22. The ACCC anticipates making a final decision on 17 February 2022, however, this timeline can change. To keep up with possible timing changes and to find relevant documents, interested parties should visit the Mergers Register on the ACCC's website at [www.accc.gov.au/publicregisters/mergers-registers/public-informal-merger-reviews](http://www.accc.gov.au/publicregisters/mergers-registers/public-informal-merger-reviews).

### **Confidentiality of submissions**

23. The ACCC will not publish submissions regarding the proposed acquisition. We will not disclose submissions to third parties (except our advisors/consultants) unless compelled by law (for example, under freedom of information legislation or during court proceedings) or in accordance with s155AAA of the CCA. Where the ACCC is required to disclose confidential information, the ACCC will notify you in advance where possible so that you may have an opportunity to be heard. Therefore, please identify any confidential information that is provided to the ACCC. Our [Informal Merger Review Process Guidelines](#) contain more information on confidentiality.

### **About ACCC 'Statements of Issues'**

24. A Statement of Issues is not a final decision about a proposed acquisition. A Statement of Issues outlines the ACCC's preliminary views and identifies further lines of inquiry.
25. A Statement of Issues provides an opportunity for all interested parties (including customers, competitors, shareholders and other stakeholders) to ascertain and consider the primary issues identified by the ACCC. It is also intended to provide the merger parties and other interested parties with the basis for making further submissions should they consider it necessary.

## Industry background

### Container handling equipment

26. Container handling equipment is used to move, stack, load and unload containers at ports, inland intermodal terminals, and in other industrial applications.<sup>4</sup>
27. Container handling equipment includes cranes, horizontal transport equipment and mobile equipment.
28. **Cranes** can be categorised into quay cranes and gantry cranes:
  - quay cranes are used to load and unload containers and other cargo from ships and include STS cranes and mobile harbour cranes,
  - gantry cranes are used in the container yard and landside area for stacking containers and loading/unloading trucks and railcars. There are three main types of gantry cranes used in container yards:
    - i. rubber-tyred gantries (**RTGs**),
    - ii. rail-mounted gantries (**RMGs**), and
    - iii. automated stacking cranes (**ASCs**).<sup>5</sup>
29. **Horizontal transport equipment** is used to transport containers between quay cranes and the container yard. They also have the ability to lift and stack the containers. Horizontal transport equipment includes (automated and manual) straddle and shuttle carriers, terminal tractors, and automated guided vehicles.
30. **Mobile equipment** is used to transport and lift containers and other cargo in terminals and includes reach stackers, empty and full container handlers, and forklift trucks.

### Automated software and equipment

31. Container handling equipment may be manual or automated. Market feedback indicates that automation options are important in Australia, and Australian customers are major purchasers of ASCs and automated straddle and shuttle carriers globally.
32. In order to utilise and manage a fleet of automated equipment, a terminal requires automation software known as the Equipment Control System (**ECS**), for equipment selection, job optimisation and refinement. The ECS interfaces with the automation software on-board the equipment, which is tasked with job execution and equipment control.

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<sup>4</sup> Container handling equipment is also used in industries including mining, logistics, and storage.

<sup>5</sup> References to ASCs include automated rail-mounted gantry cranes (ARMGs).

## The parties

### Cargotec

33. Cargotec is a Finnish publicly listed supplier of material handling solutions, ranging from container handling equipment and services to engineering solutions for the maritime industry.
34. In Australia, Cargotec's Kalmar business supplies container handling equipment and services, including aftersales servicing and spare parts. Cargotec's Inver Port Services business provides maintenance and specialised engineering services to the stevedoring industry Australia wide.
35. Bromma, a division of the Kalmar business, supplies spreaders for use in container handling equipment.

### Konecranes

36. Konecranes is a Finnish publicly listed supplier of material handling solutions, ranging from container handling equipment and services to solutions for the general manufacturing and processing industries.
37. In Australia, Konecranes' Port Solutions business is involved in the sale of container handling equipment and terminal solutions. This includes Konecranes' brands such as Noell (acquired as part of Konecranes' acquisition of Terex' Material Handling and Port Solutions business) for automated and manual straddle and shuttle carriers. Konecranes mobile equipment is primarily supplied to customers by its distributor United Equipment.

## Other industry participants

### Cranes

#### *Shanghai Zhenhua Heavy Industries Co. Ltd. (ZPMC)*

38. ZPMC is a Shanghai Stock Exchange listed supplier of container handling equipment, as well as offshore heavy equipment, engineering machinery, engineering vessels and large metal structural parts. ZPMC is the largest port heavy-duty machinery equipment manufacturer in the world. Globally ZPMC is a major supplier of quay cranes and gantry cranes. Globally ZPMC has also supplied straddle and shuttle carriers. In Australia, ZPMC has supplied quay cranes and automated stacking cranes.

#### *Liebherr*

39. Liebherr is a German-Swiss manufacturer of construction machinery and equipment. Liebherr's container handling equipment includes quay and gantry cranes, as well as reach stackers.

#### *Kuenz*

40. Kuenz is an Austria based manufacturer of equipment across multiple industries including container handling. Kuenz manufactures gantry cranes and quay

cranes. Kuenz cranes are available to customers in Australia via its distributor PortxGroup.

### **Mobile equipment**

#### *Hyster-Yale Material Handling, Inc. (Hyster)*

41. Hyster supplies equipment primarily under the Hyster, Yale and Maximal brand names. Hyster's mobile container handling equipment includes reach stackers, container handlers, and forklift trucks. Hyster container handling equipment is available to customers in Australia via distributors including Adaptalift.

#### *Clark Equipment*

42. Clark Equipment is an Australian manufacturer of heavy machinery. Clark Equipment's mobile container handling equipment includes Omega branded reach stackers, container handlers, forklift trucks and other equipment.

#### *Sany Group (Sany)*

43. Sany is a Shanghai Stock Exchange listed heavy equipment manufacturing company. Sany's mobile container handling equipment includes reach stackers, container handlers, and terminal tractors. Sany also supplies ship-to-shore cranes and gantry cranes, including ASCs, RTGs and RMGs. In Australia, Sany supplies its equipment through a network of distributors.

#### *CVS Ferrari (CVS)*

44. CVS is an Italian manufacturer of heavy equipment. CVS' container handling equipment including reach stackers, heavy duty forklift trucks and empty container handlers are supplied via distributors including Lift Equipt, a heavy lifting operation specialising in forklift hire, sales, service, and parts.

### **Aftersales service**

#### *Infraworks*

45. Infraworks is an independent industrial services company. Within the container handling product and service market, Infraworks services include maintenance and equipment rebuilds.

#### *Programmed Industrial Services (Programmed)*

46. Programmed is a provider of operations and maintenance services across Australia and New Zealand, including for quay cranes, straddle carriers, reach stackers and spreaders.

#### *United Equipment*

47. United Equipment is one of Australia's largest privately owned forklift and access equipment companies and distributors. United Equipment also provides servicing and spare parts, including for Konecranes' mobile equipment.

**Adaptalift Group (*Adaptalift*)**

48. Adaptalift Group is one of Australia’s largest forklift hire and sales companies, distributing brand such as Hyster, Yale and Combilift as well as providing servicing and spare parts.

**Other container handling equipment suppliers**

49. Other container handling equipment suppliers include Mitsui, Uplifting, Combilift, Mobicon, Doosan, MLA Holdings, Mi-Jack, Taylor Machine Works, Inc., Komatsu, Wuxi Huadong Heavy Machinery Co., Ltd (HDHM) and Qingdao Haixi Heavy-duty Machinery Co., Ltd. (HHMC / CSSC).
50. The ACCC understands that Cargotec and Konecranes’ straddle and shuttle carriers are designed for high volume use, for example at large ports and intermodal terminals. The ACCC understands that suppliers such as Mobicon and Combilift manufacture straddle and shuttle carriers that may be used for lower volume applications, for example at a retailer’s warehouse. Market participants reported that straddle and shuttle carriers designed for lower volume applications are not a substitute for those designed for high volume use. Throughout this document, references to straddle and shuttle carriers refer only to straddle and shuttle carriers designed for high volume use.

**The proposed transaction**

51. On 1 October 2020 the parties entered into a combination agreement to merge under Finnish law. Upon completion, Cargotec and Konecrane’s shareholders will each hold approximately 50 percent of the shares and voting rights in the merged entity. The transaction is global in nature and is being reviewed by a number of international competition regulators including the EU’s Directorate-General for Competition, the US Department of Justice, and the UK’s Competition and Markets Authority.

**Market definition**

52. The ACCC’s starting point for considering which markets will be affected by the proposed acquisition is to identify the areas of overlap between the products and services actually or potentially supplied by the merger parties. The ACCC then considers other actual or potential suppliers of those products and services, as well as what other products and services constitute sufficiently close substitutes to provide a significant source of constraint on the merged entity.
53. Cargotec’s Kalmar business and Konecranes’ Port Solutions business overlap in the supply or potential supply of the following container handling equipment and services in Australia:

<b>Gantry cranes</b>	Rubber-tyred gantries
	Rail-mounted gantries
	Automated stacking cranes / automated rail-mounted gantries
<b>Horizontal transport equipment</b>	Straddle carriers (manual and automated)



	Shuttle carriers (manual and automated)
<b>Mobile equipment</b>	Reach stackers
	Empty container handlers
	Full container handlers
	Forklift trucks
<b>Aftersales services</b>	Supply of repair and maintenance services and spare parts
<b>Terminal consultancy services</b>	Terminal design services
	Terminal performance management services

**Choice of container handling equipment is made at the terminal design stage**

- 54. The ACCC understands that the choice of which type or combination of container handling equipment to use is dependent on the terminal design. Different types of container handling equipment may overlap in some functions, for example a port operator could choose to stack containers in a container yard using only gantry cranes, straddle carriers or mobile equipment, or could use a combination of equipment types. The decision on which type of container handling equipment to use is made based on a range of physical considerations, including available space, density of the stacking yard, and expected container throughput and future terminal expansions, as well as commercial considerations, including the expected return on investment in automated versus manual container handling equipment.
- 55. Market feedback is that once the terminal design has been implemented, this dictates what type of equipment the terminal operator will purchase when replacement or additional equipment is required. For example, if a terminal has been designed to primarily use straddle carriers, then reach stackers will not be considered as a replacement for straddle carriers. As customers reported a change in the type of equipment used can require significant terminal redesign and capital works, the ACCC’s preliminary view is that once the terminal design has been implemented, one type of equipment may not typically be substitutable for another.

**Automation and software**

- 56. Operators of both manual and automated terminals use Terminal Operating Software (**TOS**) to monitor and control logistics, including container inventory management and flow, job order creation, and gate operations.
- 57. Terminal design may include manual and/or automated container handling equipment. Automated equipment may require an Equipment Control System (**ECS**) to monitor, guide, and operate the automated equipment fleet in a safe and efficient manner. The ECS needs to be integrated with the TOS, in order to receive job orders, communicate with and effectively manage the automated equipment fleet. The ECS also needs to be integrated with the equipment’s on-board automation software for job execution and equipment control.

58. For some automated equipment, such as automated straddle carriers, they are currently provided as a package with the ECS for fleet management and control by Cargotec and Konecranes.

#### **Maintenance and spare parts**

59. Customers may self-maintain their container handling equipment, acquire maintenance services from the original equipment manufacturer (**OEM**) or a third-party, or choose a mixture of maintenance options.
60. Customers may be able purchase some standard spare parts (for example motors and brakes) from general third-party spare parts suppliers, however many parts are proprietary products, which can only be purchased through the OEM. Once a customer has chosen a particular piece of equipment, or a fleet of equipment, they are constrained to purchasing proprietary spare parts from the OEM for the life of the equipment.
61. Customers may require equipment servicing manuals and proprietary diagnostic equipment and/or software from the OEM in order to self-supply maintenance, or to enable a third-party to provide maintenance.

#### **Relevant markets**

62. The ACCC's preliminary view is that the markets relevant for assessing the competition effects of the proposed merger are:
- straddle and shuttle carriers
  - gantry cranes
  - mobile equipment
  - aftersales services
63. Our preliminary view is that when customers acquire the equipment above, they are also acquiring at the same time, or effectively locking themselves into acquiring in future, other related goods or services from the same supplier, including:
- for all equipment: proprietary spare parts, and
  - for some automated equipment:
    - i. the ECS that integrates with the equipment's on-board software,
    - ii. any additional equipment to be introduced into the automated fleet / system in future, and
    - iii. integration and software development services to assist in integrating with the TOS, and any future changes to the software environment.
64. Accordingly, the product markets listed above also include additional products and services.
65. It may be appropriate to divide these product categories further, for example manual vs automated, or separate markets for straddle carriers and shuttle carriers or for different types of mobile equipment, however the ACCC considers it is not necessary to come to a conclusion on market definition at this stage.

The ACCC invites comments from market participants on its preliminary views about the definition of the relevant markets. In particular market participants may wish to comment on:

- what considerations are involved when choosing to use automated straddle carriers rather than manual straddle carriers
- what considerations are involved when choosing to use ASCs rather than manual gantry cranes
- what considerations are involved when choosing to use one type of mobile equipment over another

### **Issue of concern: Significant consolidation in suppliers of straddle and shuttle carriers**

66. The ACCC's preliminary view is that the proposed acquisition is likely to substantially lessen competition in the supply of automated and manual straddle and shuttle carriers to Australian customers, as Cargotec and Konecranes are the two largest global suppliers. If the proposed merger proceeds, only ZPMC has the potential to provide a competitive constraint on the merger parties, and the ACCC's preliminary view is that any constraint imposed would be limited in the short to medium term.

#### **Closeness of competition between Cargotec and Konecranes**

67. Based on information currently available, the ACCC considers Cargotec and Konecranes are each other's closest competitors for the supply of straddle and shuttle carriers. The ACCC estimates Cargotec and Konecranes have over 90 percent of the combined global market share and 100 percent of the Australian market share. Market participants have reported a strong preference for Cargotec and Konecranes straddle carriers, and that the merger parties are the only competitors who have ever supplied straddle carriers in Australia. Cargotec and Konecranes have been active in recent customer tenders.

#### **Level of constraint from alternative competitors**

68. The ACCC's preliminary view is that alternative suppliers provide low competitive constraint on Cargotec and Konecranes.
69. Market feedback has indicated ZPMC is the only other supplier of straddle carriers and shuttle carriers considered globally by stevedores and inland intermodal terminal customers. ZPMC has less than 5 percent global market share and has not been successful in securing Australian sales to date. Some market participants considered ZPMC's straddle and shuttle carriers have not been proven in the market, and suffer from a weaker offering of aftersales support staff and spare parts distribution in Australia.
70. Customers report that ZPMC's automated straddle and shuttle carrier offering in particular is not widely proven, as ZPMC has only recently secured limited trial automated straddle carrier projects globally. Accordingly, market participants considered Cargotec and Konecranes to be the only proven options for

automated straddle and shuttle carriers. It is also uncertain whether, and if so when, ZPMC would supply these products in Australia.

### **Likelihood of new entry and expansion**

71. The ACCC's preliminary view is that barriers to entry for the supply of shuttle and straddle carriers are high. Customers have indicated they have a strong preference for suppliers with equipment that is proven in the market, and that choosing an untested supplier introduces an unacceptably high level of commercial risk. This is because customers require their equipment to handle a high volume of containers, with minimal outages, over a long life of approximately 10 – 20 years.
72. In addition, market participants report a key difficulty for new entrants is the requirement to establish trusted aftersales service staff, and a spare parts distribution network, located in Australia. Potential new entrants therefore need to invest significant resources in building customer relationships in order to demonstrate to the industry that their product, aftersales service, and spare parts distribution network work well.
73. The ACCC understands that a key requirement for customers of manual straddle carriers is that they can be converted to automated straddle carriers in future. Due to this customer expectation, a potential new entrant faces the additional difficulty of having to develop both a manual straddle carrier and a credible development path to an automated straddle carrier offering in order to enter the market at scale.
74. The ACCC's preliminary view is that once a customer has chosen a straddle or shuttle carrier supplier, the supplier has a strong incumbency advantage over competitors seeking to supply the customer with additional or replacement straddle or shuttle carriers. Market participants report limited instances of acquiring straddle and shuttle carriers from multiple suppliers, due to factors including:
  - a. the cost and time involved in training maintenance and driving crews on equipment from multiple suppliers,
  - b. the cost of purchasing, and space required to hold, multiple sets of spare parts,
  - c. the risk of choosing an unproven supplier given equipment life of 10 – 20 years, and
  - d. if the straddle or shuttle carriers are automated, our preliminary view is that the incumbency advantage is insurmountable, due to the additional complexity in integrating equipment from an alternative supplier into a terminal's existing Equipment Control System, or running two different Equipment Control Systems in parallel. We are not aware of this being achieved anywhere worldwide.
75. Market participants report that straddle and shuttle carriers require different technology, parts, research, design, and manufacturing experience compared to other types of container handling equipment. Accordingly, suppliers of other types of container handling equipment face difficulty in entering this market. Market participants also considered scale is important to reduce the cost of manufacturing shuttle and straddle carriers. Market participants have reported ZPMC to be the only new entrant to achieve limited success in the past 10 years.

76. Market feedback also show that at least one other major container handling equipment supplier has attempted and failed to enter the market, because it was unable to achieve economies of scale to be price competitive against Cargotec and Konecranes.

**Straddle and shuttle carriers are not interchangeable with other horizontal transport equipment or mobile equipment**

77. The ACCC considered whether other types of horizontal transport equipment or mobile equipment could replace the use of straddle or shuttle carriers. Market participants have indicated the choice to use straddle or shuttle carriers is made during the terminal operations design stage. Once a decision has been made to use straddle or shuttle carriers, they cannot be easily replaced by other types of horizontal transport equipment or mobile equipment without a significant redesign of terminal operations, and associated capital works.

**Automated straddle and shuttle carriers**

78. The ACCC understands that when a customer purchases automated straddle carriers, they have a strong preference for purchasing multiple related products and services as part of a package from a single supplier. This package includes the straddle carriers, automation software both on-board the equipment and controlling the whole fleet of straddle carriers (the ECS), proprietary spare parts, software integration services and some aftersales services. Customers prefer this package due to the complexity of delivering and supporting an automated straddle carrier system, and the increased ease of dealing with one supplier.
79. An ECS is required to manage an automated straddle carrier fleet. Due to the high complexity and risk involved in automating a straddle carrier fleet, customers reported a strong preference for purchasing the ECS, including the software integration services required to interface the ECS to their existing TOS, from their automated straddle carrier equipment supplier. Customers considered it is not feasible to integrate automated straddle carriers from different suppliers into one system, because each supplier's ECS is specifically designed to operate with the on-board automation software of their own automated straddle carriers.
80. Market participants report that although only Cargotec has a proven ability to deliver and support an automated straddle carrier package in Australia, Konecranes is a viable alternative given a recent successful project in New Zealand. Some customers expressed concern that if the proposed merger proceeds, their options for automated straddle carrier suppliers would be reduced from two to one for the foreseeable future.
81. The ACCC understands that automated container handling equipment is becoming increasingly important, particularly for Australian customers. Accordingly, the ACCC is also considering how difficult it would be in the future for a competitor to integrate additional types of automated equipment (such as automated guided vehicles or automated reach stackers) to a customer operating a Cargotec or Konecranes automated straddle carrier fleet.

The ACCC invites comments from market participants on its concerns in relation to straddle and shuttle carriers. In particular market participants may wish to comment on the following:

- whether ZPMC or other suppliers are, or are likely to become, a viable option for the supply of manual and automated straddle and shuttle carriers to stevedores and inland intermodal terminal operators
- the ease or difficulty of integrating automated straddle and shuttle carriers from one supplier with those of another (i.e. running mixed fleets)
- the ease or difficulty of integrating different types of automated equipment and software from different suppliers (e.g. mixing ECS with another supplier's automated straddle carrier or other automated equipment)
- the likelihood of automated guided vehicles, automated reach stackers, and other automated equipment being purchased in future, and the difficulty of integrating such equipment from a different supplier into an existing Equipment Control System, or running two different ECS in parallel
- whether users of straddle carriers and shuttle carriers can readily switch to using mobile equipment
- whether straddle carriers designed for low intensity use are comparable to straddle carriers designed for use by high volume stevedores and inland intermodal terminal operators

### **Issue of concern: Significant consolidation in suppliers of gantry cranes**

82. The ACCC's preliminary view is that the proposed acquisition is likely to substantially lessen competition in the supply of automated and manual gantry cranes, as Cargotec and Konecranes are the two largest suppliers to Australian customers. If the proposed merger proceeds, the merged entity would only face a moderate constraint from ZPMC, and a low level of constraint from Liebherr and Kuenz in the supply of gantry cranes.
83. Market participants report automation is important in the Australian market, and automated stacking cranes (**ASCs**) account for a large proportion of gantry cranes sold in Australia. Market participants generally reported that Cargotec and Konecranes are the preferred suppliers of ASCs, and ZPMC is an alternative option. Market feedback was mixed on whether Kuenz is a viable option. Accordingly, for the supply of ASCs in particular, the ACCC considers the proposed merger would reduce the number of proven competitors that are currently in Australia from three to two. The ACCC is continuing to consider the level of competition Kuenz provides.

### **Closeness of competition between Cargotec and Konecranes**

84. Based on information currently available, the ACCC considers Konecranes to be one of Cargotec's only competitors for the supply of gantry cranes to Australian stevedores and inland intermodal terminal operators. The ACCC estimates Cargotec and Konecranes have over 90 percent share of gantry cranes

delivered over the last 7 years in Australia. Cargotec and Konecranes have been active participants in recent customer tenders.

85. The ACCC is concerned that the proposed merger represents a large increase in concentration of suppliers of gantry cranes to Australian customers, which may result in increased prices or a reduction in customer service and product and service innovation.

#### **Level of constraint from alternative competitors**

86. Market participants report that apart from Cargotec and Konecranes, only ZPMC, Liebherr and Kuenz are considered by Australian customers as potential suppliers of gantry cranes. The ACCC has received mixed feedback about ZPMC, Liebherr and Kuenz' ability to satisfy the needs of Australian customers.

#### *ZPMC*

87. Market feedback reports ZPMC has had some recent success in supplying gantry cranes (including ASCs) to Australian stevedores, with approximately 5-10 percent market share of gantry cranes in operation. Some market participants report ZPMC has a cost advantage over alternative suppliers as it ships its gantry cranes to Australian customers fully assembled, benefits from the significant scale of its operations arising from its large Chinese customer base, and has lower labour and shipping costs compared to European manufacturers.
88. However, some market participants consider ZPMC is a limited alternative given a weaker offering of aftersales support staff and spare parts distribution in Australia.
89. The ACCC's preliminary view is that ZPMC would provide a moderate level of competitive constraint post-merger.

#### *Liebherr and Kuenz*

90. Market feedback indicates gantry crane suppliers with a manufacturing base in Asia, including Cargotec, Konecranes and ZPMC, are able to offer a lower cost product (due to cheaper labour and transport) compared to suppliers that manufacture in Europe such as Liebherr. The ACCC's preliminary view is that Liebherr would provide a low level of competitive constraint post-merger. The ACCC is continuing to consider the level of competition Kuenz provides.

#### **Likelihood of new entry and expansion**

91. The ACCC's preliminary view is that barriers to entry for the supply of gantry cranes are substantial, and are particularly high for ASCs due to the complexity of automation. Customers also indicated they have a strong preference for suppliers with equipment that is proven in the market. This raises the difficulty for potential new entrants to gain the confidence of customers, particularly given gantry cranes have an equipment life of 20 – 25 years, and purchases are infrequent.

#### *Automated stacking cranes*

92. The ACCC heard that ASCs are materially more difficult to develop than manual gantry cranes. One supplier of gantry cranes reported the barriers to developing

ASCs include high costs of developing automation technology, and difficulty securing customers given the high barriers to customers switching from their existing ASC supplier. Market feedback indicates that once a terminal operator has purchased ASCs from one supplier, the complexity of integrating ASCs from a different supplier into the customer's existing system acts as a deterrent to switching suppliers when purchasing additional or replacement ASCs. However, the ACCC heard one example of an Australian customer integrating ASCs from two different suppliers into their automation system.

The ACCC invites comments from market participants on its concerns in relation to gantry cranes. In particular market participants may wish to comment on the following:

- how closely Cargotec and Konecranes compete
- how closely alternative suppliers compete with Cargotec and Konecranes
- the ease or difficulty of integrating an ASC from an alternative supplier with an existing automation system and / or TOS
- the ease or difficulty for a supplier of manual gantry cranes to develop an automated gantry crane

## **Issues that may raise concerns: Consolidation in suppliers of mobile equipment**

93. The ACCC's preliminary view is that the proposed merger may substantially lessen competition in the supply of mobile equipment, such as reach stackers and container handlers, to customers in Australia. The merged entity would become one of the largest supplier of mobile equipment in Australia. It would face the most competitive constraint only from Hyster (Adaptalift) and to a lesser extent from Clark Equipment, Sany and some smaller suppliers.
94. When considering specific types of equipment, the ACCC holds stronger concerns in the supply of reach stackers, but is still considering any competitive impact on the supply of container handlers. The ACCC's preliminary view is that the proposed merger is unlikely to substantially lessen competition in the supply of heavy forklift trucks.

### **Closeness of competition between Cargotec and Konecranes**

95. Market share data show that Cargotec and Konecranes are among the top three suppliers of mobile equipment in Australia. This is supported by market feedback showing that most customers view Cargotec, Konecranes (through United Equipment) and Hyster as the top three mobile equipment suppliers in Australia. All three are seen as proven global suppliers able to supply local aftersales services, maintenance, and spare parts across Australia.
96. Accordingly, the ACCC considers Cargotec and Konecrane to be close competitors in the supply of mobile equipment in Australia. Post-merger, only Hyster (Adaptalift) would remain a close competitor to the merged entity.



### **Level of constraint from alternative suppliers**

97. Customers generally view Clark Equipment (the only Australian manufacturer) as a viable alternative. However, for some customers with global container handling operations, their Australian operation can only purchase mobile equipment as part of a global procurement program. Therefore, the Australian operations are not able to access Clark Equipment as a primary supplier, due to its lack of global presence.
98. Market feedback was mixed about Sany as a viable alternative. While Sany have made some sales in Australia, some customers saw Sany as a riskier option than the major mobile equipment suppliers because of a lack of local support and spare parts supply. In addition, some customers were not aware of Sany as a mobile equipment supplier in Australia.
99. Market share data show that there are several smaller mobile equipment suppliers. Market feedback show that for larger customers, these suppliers are not seen as viable alternatives.
100. Accordingly, the ACCC considers Clark Equipment and Sany would provide some competitive constraint on the merged entity.

### **Likelihood of new entry and expansion**

101. Market feedback is that barriers to entry and expansion for mobile equipment are materially lower than for the other container handling equipment covered above. However, alternate global suppliers have a limited commercial incentive to enter and stay in Australia due to the limited size of the Australian market, and they generally require a critical mass of expected sales and customers.
102. Suppliers face challenges in gaining customers because customers are inherently sticky to their incumbent supplier. Factors contributing to customer stickiness include: reluctance to change due to familiarity with incumbent equipment, cost of changing, unknown reputation of new supplier, lack of local support and spare parts requirements.

### **Heavy forklift trucks**

103. The ACCC's preliminary view is that the proposed merger is unlikely to substantially lessen competition in the supply of heavy forklift trucks, as there appear to be a large number of alternative suppliers that will provide a strong competitive constraint on a combined Cargotec/Konecranes post-merger. The ACCC has not heard concerns from market participants about heavy forklift trucks so far, but will continue to consider the likelihood of any competitive impact on their supply post-merger.

The ACCC invites comments from market participants on its concerns in relation to mobile equipment. In particular market participants may wish to comment on the following:

- whether the merged entity would be sufficiently constrained by Hyster (Adaptalift), Clark Equipment, Sany and other mobile equipment suppliers
- the ease or difficulty of new entry or expansion of existing mobile equipment suppliers in Australia, including through local distributors

- the likelihood of customers sponsoring new entry or expansion of existing mobile equipment suppliers in Australia
- whether different types of mobile equipment are readily interchangeable, including reach stackers, empty container handlers, full container handlers, and heavy forklift trucks

## Issues that may raise concerns: Aftersales service

104. The ACCC's preliminary view is that the proposed merger may substantially lessen competition in the supply of aftersales service of gantry cranes and straddle and shuttle carriers. The merged entity may have the ability and incentive to restrict or limit customers and competitors' access to its service manuals and training, fault-diagnostic equipment, and proprietary spare parts (collectively the **repair and maintenance inputs**) necessary for the supply of aftersales service.

### Level of constraint from alternative suppliers

105. Market feedback is that customers can repair and maintain gantry cranes and straddle and shuttle carriers by using the OEM, internal maintenance teams, or a third-party service provider (such as Programmed Industrial Services and Infracore). In order to undertake these tasks internally or through a third-party service provider, the customer requires access to the OEM's repair and maintenance inputs. Access to these inputs is particularly critical for the repair and maintenance of automated equipment, as they are more sophisticated and include on-board automation software.
106. The ACCC understands that the merger parties currently supply repair and maintenance inputs to customers, which allows them to choose how to maintain and repair their machines. The ACCC is considering whether, absent the constraint applied by Cargotec or Konecranes as an alternate supplier of equipment, the merged entity may be able to withhold or restrict access to those inputs.
107. For example, for automated straddle carriers where the merger parties are the only suppliers with widely proven products, customers currently have the option of switching to Konecranes to defeat any attempt by Cargotec to limit the customer's access to the necessary repair and maintenance inputs.
108. The ACCC is concerned that the proposed merger would remove this option for customers, which ultimately may lead to higher aftersales service costs or reduced levels of service.

The ACCC invites comments from market participants on its concerns in relation to the supply of aftersales service. In particular market participants may wish to comment on the following:

- whether service manuals and training, diagnostic equipment, and specialised spare parts are critical to undertaking repairs and maintenance of manual and automated gantry cranes

- whether service manuals and training, diagnostic equipment, and specialised spare parts are critical to undertaking repairs and maintenance of manual and automated straddle and shuttle carriers
- whether post-merger, a combined Cargotec/Konecranes would be more likely to limit access to the service manuals and training, diagnostic equipment, and specialised spare parts required for undertaking repairs and maintenance
- whether post-merger, a combined Cargotec/Konecranes could force customers to only use it to undertake repairs and maintenance, by restricting access to the service manuals and training, diagnostic equipment, and specialised spare parts required for undertaking repairs and maintenance

## ACCC's future steps

109. As noted above, the ACCC invites submissions from market participants on each of the issues identified in this Statement of Issues and on any other issue that may be relevant to the ACCC's assessment of this matter. Submissions should be emailed to [mergers@acc.gov.au](mailto:mergers@acc.gov.au) by no later than 5pm on 19 November 2021.
110. The ACCC will finalise its view on this matter after it considers submissions invited by this Statement of Issues.
111. The ACCC intends to publicly announce its final view by 17 February 2022. However, the anticipated timeline may change in line with the *Informal Merger Review Process Guidelines*. A Public Competition Assessment explaining the ACCC's final view may be published following the ACCC's public announcement.