



## Menu

## Stevedore making \$100m damages claim against unions

Thursday, November 30, 2017, 4:50pm

The operator of Melbourne's new third container terminal says it will launch legal action to end a picket allegedly organised by the MUA and CFMEU, while seeking damages of more than \$100 million.

Victoria International Container Terminal Ltd (VICT) alleges the MUA is demanding it re-engage an employee who was refused a Maritime Security Identification Card (MSIC).

VICT chief executive Anders Dømmestrup said the MUA wants the company to illegally employ a worker who is ineligible for the necessary waterfront security clearance.

"We are not willing to break the law by caving into the MUA's demands," he said.

"VICT is a start-up company and is looking to grow its business significantly in the next 12 to 18 months," he said.

"We would predict damages easily in excess of \$100 million through harm to our reputation and threat to our commercial prospects in the market, as well as lost revenues and severely undermining our business projections."

The company plans to take legal action in the Victorian Supreme Court, seeking an injunction against the alleged picket, as well as damages and penalties.

VICT is the first entry into Australia by its owner, the Manila-based International Container Terminal Services Inc (ICTS), which has faced sustained criticism from international transport unions over its operations in Africa, Indonesia and Papua New Guinea.

In Melbourne, it has completed the first phase of a new international container terminal, which has robotic ship-to-shore (STS) cranes and fully-automated operations from the gate to the quayside, and competes against existing container terminal operators, Patrick and DP World.

Dømmestrup said the picket damaged growth for the Port of Melbourne, which was sold by the Andrews Labor Government to the Lonsdale consortium of institutional investors.

"Port Botany has already surpassed the Port of Melbourne as the country's premier port.

"The reputational impact of the illegal picket will make it harder for the Port of Melbourne to close that gap."

Dømmestrup argued the issue for the MUA could have pursued action under the Fair Work Act if it was concerned about the worker and his interests.

"Instead, the MUA's intention is to damage VICT because it is not a conventional port operator that fits neatly into the operational and industrial relations mode with which the MUA is comfortable and which suits its interests.

"The illegal picket is intended to be a message to other port operators who might choose to compete with VICT in the areas in which we have a competitive advantage – modern, automated technology operated by a committed and well-trained workforce."

### Community angry at treatment of wharfie: MUA

For its part, the MUA said the dispute was "indicative of labour rights abuses" regularly adopted by the parent company International Container Terminal Services (ICTSI).

MUA deputy national secretary Will Tracey said a "community protest" had been held outside VICT for some days after a casual employee was denied shifts after taking action against management over workplace bullying and harassment.

Tracey said 22 workers on the VICT site did not have a Maritime Security Identification Card (MSIC) to work in the restricted landside zone and are awaiting processing.

He denied an assertion by VICT that the worker had lost an appeal over the refusal by regulatory authorities to grant an MISC.

"Twenty one workers have been treated fairly by VICT but one has been punished, most likely because he has taken court action against a manager on site who has been bullying and victimising workers."

"Community members are angry that a worker is being unfairly targeted by VICT and that worker happens to be a member of the MUA."

"So it's no surprise that the tight-knit Port Melbourne community has decided to stand up and defend this worker, as have other members of the broader community and other unions."

**Tracey claimed** the [VICT enterprise agreement](#) paid penalty rates and casual loading that was below the industry standard and was voted on by five workers chosen by the company.

He said the MUA had been seeking to establish minimum standards for wages and conditions, but the company has refused to negotiate with the union.

The lead union for the deal was the AMOU, but the MUA sought to be covered.

The International Transport Workers Federation (ITF) last month launched a [global report](#) into ICTSI which allegedly found a "pattern of severe safety deficiencies" across the Philippine-based company's network of terminals

"The ITF, and our union affiliates, have observed an emerging pattern of labour violations in the ICTSI network: a failure to respect the right to freedom of association; poor safety standards; and illegal outsourcing of labour," the report said.

Last year, the ACCC reported that hourly container movements were down at Australian ports but productivity was still up (see [Related Article](#)).

The ACCC said there were "signs of improvements" in the industry resulting from increased competition with "infrastructure in place to support a third stevedore in each of the three largest container ports", although the new operators like Hutchison had to work through initial problems in Port Botany and Brisbane.

It said that VICT might have a "secondary advantage" in operating a fully automated terminal at the Port of Melbourne from the end of 2016.

"This may enable VICT to avoid some of the labour disputes that have historically characterised the industry, making the stevedore more attractive to shipping lines," the ACCC said.

### Shippers want VICT to succeed

A spokesperson for the Australian Peak Shippers Association, Travis Brooks-Garrett, supported the VICT chief's position on the Melbourne picket.

"Any obstruction to our ports and terminals is a direct challenge to our export economy," Brooks-Garrett said.

"Victoria needs the VICT terminal to be successful.

"It is the only terminal that can accommodate larger vessels and as one of the most automated container terminals in the world it is a piece of infrastructure that Victorians should be proud of."

"Container terminals exist to facilitate trade which in turn stimulates the economy and creates jobs.

"I respect everyone's right to protest but if this is about jobs then paralysing Australia's container terminals, as we approach peak export season, is not the way to achieve that.

"The level of automation at VICT certainly does challenge the status quo on Australia's waterfront.

"The new jobs within VICT are very different to the traditional stevedore jobs but they have also created new opportunities for employees to gain new skills.


"I think therein lies the opportunities for unions as we enter the age of automation, in protecting jobs with a long-term view.

"We do not condone unfair work practices but any concerns should be addressed through the appropriate legal channels.

"We sincerely hope that the matter can be resolved without further disruption to our export economy."

[HOME](#) [SEARCH](#) [PRINT](#) [TOP](#)

## RELATED CONTENT

 [Hourly container lifts fall, but docks productivity up, says ACCC](#)

## LATEST JOBS

Media Organiser (Parental leave)  
Industrial Officer  
Senior Executive Lawyer/Branch Manager – Employment Standards  
Assistant Director, Private Sector Industrial Relations  
Employment Law – Associate / Senior Associate

[About us](#) · [Contact us](#) · [Terms of use](#) · [Privacy policy](#) · [FAQs](#) · [RSS / XML Feed](#)

**Specialist News**

Copyright © Workplace Express 2017. Workplace Express is a Specialist News Pty Ltd publication - ABN 33 093 580 413.