# AUSTRALIAN ROAD TRANSPORT INDUSTRIAL ORGANISATION

*Respect, Respond and Represent*

Vice President Watson

Fair Work Commission

11 Exhibition St

Melbourne   Vic   3001

By email: chambers.watson.vp@fwc.gov.au

Dear Vice President,

**Re: Submission of the Australian Road Transport Industrial Organisation (ARTIO) in Matter no: AM2014/90, Stevedoring Industry Award 2010**

Please find attached submissions by the Australian Road Transport Industrial Organisation in this matter, which is listed for hearing from 4 to 6 February 2015.

Please contact Paul Ryan, National Industrial Advisor, on 0415331031 should you need any further information.

Yours faithfully

Peter Garske

Secretary/Treasurer

21 January 2015

# FAIR WORK COMMISSION

### Award Modernisation - AM2014/90

### Application by the Maritime Union of Australia to vary the Stevedoring Industry Award 2010

### ARTIO (OBJECTOR) - OUTLINE OF SUBMISSIONS

1. The Australian Road Transport Industrial Organisation (ARTIO) notes that the Maritime Union of Australia (MUA) is seeking to vary the Stevedoring Industry Award 2010 (the Award) under the Award Modernisation process to extend the definition or area of work covered by the Award.

2. ARTIO objects to this attempt by the MUA to expand its sphere of coverage.

3. In particular, the definition of 'stevedoring industry' as suggested by the MUA in its submissions of 3 July 2014, especially in paragraphs (e) and (j) will clearly impact on ARTIO's members and their ability to work under the Road Transport and Distribution Award 2010.(RTD Award)

    a. As part of the proposed new definition of 'Stevedoring Industry' paragraphs (e) and (j) state:

       "(e) the haulage or **trucking of all types of cargo or other goods from wharf sheds, wharf storage or stacking areas to the ship or from the ship to the wharf shed, storage or stacking area**;

       (j) general functions and duties such as the lashing and unlashing of containers, working in a ships hold, driving of motor vehicles including buses, marshalling, general cleaning, cleaning and attendance to amenities areas and offices, mooring and unmooring of ships, **cleaning and maintenance of containers**, preparation and maintenance and repair of gear and equipment used in loading and unloading, **packing and unpacking of containers**, pallets or flats and the sorting, stacking, preparing, or otherwise handling of loose goods and cargo, preparation

and cleaning of ships' holds, removal or replacement of beams or hatches, plugging and unplugging of refrigerated containers, preparatory or closing work in relation to the loading or unloading of ships, the handling of dunnage or ballast, general inspection of vehicles and buildings, general duties in connection with the loading and unloading of ships and the provision of first aid." (emphasis added)

    b. These paragraphs do not specifically relate to the loading or unloading of cargo, containers or goods to or from ships which is the well-established and understood definition of what constitutes 'stevedoring work'.

4. The work referred to above has been performed by road transport and distribution companies working under the RTD Award and its predecessors going back to the Transport Workers' Award 1983, an Award of the Australian Industrial Relations Commission.

5. ARTIO submits that the RTD Award classification structure specifically covers work surrounding the packing/unpacking of containers and then loading or unloading them on trucks for delivery, which may be a wharf.

6. ARTIO submits that any definition of 'stevedoring work' howsoever expressed must be related directly to the 'loading and unloading' of a ship within the designated precincts of a wharf and that it must exclude the work of the driver of a truck engaged in the delivering of freight to or from the wharf.

7. The extended coverage sought by the MUA will simply lead to demarcation disputes about which union may have coverage, which Award is appropriate in applying the 'better off overall test' for the approval of collective workplace agreements or which award generally applies to the particular workplace.

8. It is noted that the Minister for Employment and Workplace Relations in the Ministerial Directions given to the President of the Australian Industrial Relations Commission specifically directed the Commission as follows:

> "The Commission is to have regard to the desirability of avoiding the overlap of awards and minimising the number of awards that may apply to a particular employee or employer. Where there is any overlap or potential overlap in the coverage of modern awards, the Commission will as far as possible include clear rules that identify which award applies."

9. The situation which has existed since the making of the relevant modern awards clearly delineates the award coverage between the stevedoring industry and the road transport and distribution industry and the MUA is simply attempting to increase the coverage of the Stevedoring Industry Award and thereby attract potential new members through industrial representation.

10. This application should be seen for what it is: a 'trojan horse' application by which the MUA can get access into areas where it has never industrially represented the workforce nor had the constitutional coverage under its rules to represent the workforce.

11. ARTIO submits that this part of the application by the MUA should be dismissed.