



Hoek van Holland, 5 September 2023

Dear Examining Authority,

Application by Associated British Ports for the Immingham Eastern Ro-Ro Terminal – Response to Examining Authority’s written questions and requests for information (ExQ1)

I write on behalf of Stena Line BV (SLBV) to provide a response to question BGC.1.5 contained within your written questions and request for information dated 7 August.

For the avoidance of any doubt, the question that has been raised is:

‘Stena to

- a) Explain when and why it will be ceasing all of its operations at the Port of Killingholme; and*
- b) Comment on whether, in its view, there are any operational factors mitigating against the expansion of unaccompanied Ro-Ro freight capacity at the Port of Killingholme.’*

Dealing with part a) of the question first.

Historically, SLBV’s operations at the Port of Killingholme were based on the following two contracts with CLdN Ports Killingholme Limited (CLdN) (and its predecessor intra-group company C.RO Ports Killingholme Limited):

- (a) a contract dated 3 July 2015 in respect of SLBV’s Europoort/Killingholme route service (the **Europoort Contract**); and
- (b) a contract dated 2 May 2000 in respect of SLBV’s Hoek/Killingholme route service (the **Hoek Contract**).

As explained below, these contracts were on differing terms as to duration.

The Europoort Contract was initially entered into for a period of 12 months but was extended and amended by agreement on various occasions. Latterly the contract was a ‘rolling agreement’ continuing unless or until terminated by either party on not less than three months’ notice. A longer duration of the contract was negotiated with CLdN, however CLdN withdrew from those negotiations before they could be finalised.

On 12 May, 2021 CLdN gave notice to SLBV to terminate the Europoort Contract on 31 December, 2021. Accordingly, in order to avoid disruption of the Europoort Service and maintain this service SLBV was obliged to seek an alternative Humber port. As part of the arrangements which SLBV has agreed with ABP as there were no other options in the Humber area, ABP agreed to provide port services to SLBV for the Europoort service, initially from a temporary facility pending construction of the proposed new berths/terminal, the subject of the IERRT DCO application.

The Hoek Contract (as extended from time to time) is due to expire on 1 May 2025.

During the period from early 2017 until 1 February 2019, the parties had sought to negotiate a new, single contract for both the Europoort route service and the Hoek route service which would have consolidated the contractual terms and extended the duration of the contract (albeit for differing durations in respect of each



service). Abruptly, on 1 February 2019, however, CLdN informed SLBV that, due to concerns over the uncertain future regulatory position regarding ferry operations between the United Kingdom and mainland Europe caused by the proposed “Brexit” arrangements being discussed between the UK Government and the EU, CLdN was suspending those negotiations.

This left SLBV in the unenviable position that the long-term future of its UK/Holland ferry services became uncertain (a concern highlighted by the subsequent expiry of the Europoort Contract as referred to above).

Subsequently, a dispute arose between the parties regarding certain capacity issues at Killingholme port, in part caused by the customs procedures required to be implemented at the port as a result of the Brexit arrangements. In summary, these related to the likely need to increase the time for which freight units would be required to be held at the port (‘dwell times’) and the availability of trailer ground slots at the port, both to cater for the extended dwell times and to allow SLBV’s anticipated expansion of its unaccompanied freight volumes on its services. In May 2021 – unbeknown to SLBV - CLdN communicated to SLBV’s customers new dwell time limits and significantly increased parking charges if dwell times were exceeded. In addition, CLdN also then notified SLBV of new maximum trailer ground slots, lower than those previously provided (although, due to operational changes, a higher number was available at weekends). In December 2021 CLdN then further reduced that maximum. CLdN warned Stena that if the new limits were not adhered to, CLdN would cease to provide services under the contracts, which might include a refusal to discharge SLBV’s vessels.

Operationally and commercially, this conduct would be significantly detrimental to SLBV’s business, based as it is on the need – in order to be competitive - to provide an efficient, reliable and regular ferry service for its freight customers.

It should be noted that CLdN group is also the owner of the former Cobelfret ferry operations (now rebranded as CLdN), a Ro-Ro ferry operator which operates from Killingholme in competition with SLBV on the UK/Holland routes. Since they came under common ownership, SLBV has been concerned that CLdN has sought to use its contractual position and the terminal capacity issues to favour its own operations, gain a competitive advantage over SLBV and, ultimately, to affect adversely SLBV’s business. This in turn would, we consider, have wider implications in terms of the choice and cost of services available to Ro-Ro freight customers operating from the Humber.

Given the contractual uncertainties and operational issues which have arisen, SLBV had no option but to seek an alternative location for its UK/Holland services on the Humber. Although CLdN has proposed a new contract at Killingholme for SLBV’s Hoek van Holland services, SLBV considers that the proposal made is disingenuous and designed only to interfere with the current DCO application – the unexpected offer was made around the time the current DCO application was being validated by the Planning Inspectorate in early 2023.

Furthermore, the contract terms offered were not acceptable to SLBV, for example, in terms of limited storage space being offered. Given the experience of previous contractual negotiations, SLBV consider that there is no certainty that a contract providing acceptable terms to SLBV would be able to be concluded.

Without the availability of the new IERRT facility at the Port of Immingham, SLBV would have no access to a Humber port for its current and future requirements.

As will be noted from ABP’s application documentation, meeting the urgent needs of SLBV makes up one of the strands of the need for the IERRT development.



Turning briefly, for completeness, to part b) of the question.

As will be noted from the response provided to part a) of the question above, SLBV consider that one key issue relating to the expansion of unaccompanied Ro-Ro freight capacity at the Port of Killingholme – which is not just a Ro-Ro freight facility but a facility which handles other port trades as well - is the extent to which landside storage capacity is made available for trailer ground slots. This has certainly been an ongoing matter of debate between SLBV and CLdN over recent years, particularly in circumstances where SLBV wish to grow their operations.

As already indicated, the issue of dwell times has formed a part of that debate. In respect of dwell time matters we would just take this opportunity to clarify the position relating to a statement that is made in the Relevant Representation of CLdN. At paragraph 3.3.2(d) it is stated that an average dwell time of 2.25 days dwell time is well in excess of the real world dwell time of our customers cargoes at Killingholme, particularly in respect of ‘just in time’ cargoes. By definition, ‘just in time’ cargoes will not spend significant time at a port, so dwell times will be low. However, the proportion of ‘just in time’ cargo that is transported in the form of Ro-Ro cargo is limited. In addition, we note that CLdN are referring to average dwell times and would simply highlight that some of our customers cargoes have a dwell time in excess of the 2.25 days and some cargoes have a dwell time of less than this. To clarify SLBV’s position, we are of the view that the average dwell times used by Associated British Ports in terms of the needs assessment are appropriate and we are also happy to endorse the information provided by the Associated British Ports on this point during ISH2.

A further important factor from SLBV’s perspective relating to the expansion of unaccompanied Ro-Ro freight at the Port of Killingholme is the fact that, as indicated above in response to part a) of the question, the owner and operator of that facility is also the owner of CLdN, a Ro-Ro ferry operator with services operating from the Killingholme facility that are in direct competition with the services operated by SLBV. This and the issues which arise from it are important matters which highlight that considering capacity matters is not simply a quantitative exercise. Other factors have to be taken into account in considering whether any possible capacity is suitable for the purposes for which it is required.

We trust that the above provides the information sought in answer to question BGC.1.5.

Yours sincerely,

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