

Hoek van Holland, 9th October 2023

Dear Examining Authority,

Application by Associated British Ports for the Immingham Ro-Ro Terminal – Response to Examining Authority’s written questions and requests for information (ExQ2).

I write on behalf of Stena Line BV (SLBV) to provide a response to questions BGC. 2.07 and NS.2.33 contained within your written questions and request for information dated 15 September 2023.

For the avoidance of doubt, Question BGC.2.07 is:

Potential for unaccompanied Ro-Ro expansion at Killingholme

Please expand on the answer given to part (b) of the ExA’s question BGC.1.5 in [REP2-065] including providing evidence to substantiate the points made about dwell time with direct reference to the ‘Volterra Report’ appended to the CLdN Written Representation [REP2-031].

SLBV is aware that the examining panel have been informed by the Applicant and various Interested Parties that dwell times at a Ro-Ro terminal can vary from time-to-time due to different influencing factors, and that dwell times across different terminals can also vary depending upon various factors. For example, dwell times will differ for each type of cargo depending on the supply chain, i.e., just in time delivery cargo will have relatively short dwell times due to the urgency of the cargo, whilst industrial cargoes will have longer dwell times. Availability of HGV drivers also continues to affect supply chains and dwell times. In addition, since Brexit the Customs Duty rules and requirements on goods moving between the UK and EU have changed and, it is considered, could lead to delays for collecting units from ports with a negative impact on dwell times.

SLBV will be participating (along with the Applicant, CLdN and DFDS) in the production of a Statement of Common Ground on dwell time and associated matters by Deadline 5, an action point arising out of ISH3. SLBV suspects that further clarity on dwell time and related matters will emerge through this four-way process.

Part (b) of ExA Question BGC.1.5 asked for our comments on whether ‘there are any operational factors militating against the expansion of unaccompanied Ro-Ro freight capacity at the Port of Killingholme.’ Our response to this question has been further expanded upon in the oral comments that were made by Mr Anders Peterson (Group Head of Port Development & Engineering Stena Line) at ISH3.

In summary, SLBV’s position is that, prior to the ISH3 hearing session and the publication of the Volterra report by CLdN in advance of that session, it was unaware that CLdN considered that they were able to expand the capacity of the Killingholme terminal as they now suggest – albeit at a high level only.

Leaving aside any questions over whether the expansion of storage suggested by CLdN is in reality achievable – and SLBV are unaware of any detail provided in this regard by CLdN – the possibility of enabling SLBV to benefit from any such storage expansion opportunities has never been presented to us throughout the various and lengthy negotiations that have been held between the two parties. Rather, any terms that have been offered by CLdN to SLBV have not been acceptable to us, in particular through the limitations which have been proposed in terms of storage space. In this regard we would note that the last offer was made to us in 2023 by which time, according to the Volterra report, the storage capacity of the Killingholme facility had apparently been expanded or was in the process of being expanded.



If CLdN were genuinely happy to retain SLBV's business and allow SLBV to compete and grow its business then we have to ask why we were never made aware of the now suggested storage capacity expansion as part of contract negotiations. In circumstances where an existing customer wants to grow its business, we find it strange that the port operator – if it considers it is able to expand its facility to cater for growth – does not make this clear within the negotiations. Through our negotiations, we have to say that the opposite position has been presented. It seems to SLBV that this simply adds to our concerns that CLdN has, and would continue to, favour its own operations to seek a competitive advantage over SLBV if we were to remain at Killingholme (assuming, of course, that were somehow possible).

In short, SLBV do not consider that the Port of Killingholme has the ability to meet our needs going forward. Leaving aside that we have doubts as to whether the Killingholme facility is able to expand and operate at the level indicated as possible by CLdN and provide for our operational needs, for example, could the berths accommodate the number, frequency and type of vessel likely to be required to achieve the activity level indicated, the fact remains that the Killingholme facility is, in effect, controlled by one of SLBV's main competitors. As such, at the Killingholme facility, we are not able to control various matters that make up our overall service offer which in turn affects our ability to provide a competitive and high-quality service. An example of such a matter was given in our answer to BGC.1.5 where we highlighted CLdN's ability to impose new dwell time limits on SLBV customers and significantly increase corresponding charges.

We trust that the above provides the information sought in answer to question BGC. 2.07.

We now respond to Question NS.2.33 which, for the avoidance of doubt, reads:

Effects arising from contingency of lack of tug availability

What would be the typical consequences if an additional tug was unavailable for a planned passage if a master during an "act of pilotage" for an arriving vessel (whether with a Humber pilot engaged or acting with the benefit of a Pilotage Exemption Certificate) determined dynamically that an additional tug would be required to make a safe manoeuvre at its commencement, having regard to the DFDS Written Representation [REP2-040] and the Harbour Master's answers to ExQ NS.1.14 [REP2-058] and NS.1.15 [REP2-059]?

SLBV has a contract with SMS TOWAGE. If it is not possible, for whatever reason, for them to arrange a tug an alternative tug supplier e.g. SVITZER HUMBER LTD is then arranged by SMS TOWAGE. In a situation that a tug is required, but is not available the vessel will either not depart the Port or it will not try to arrive at the Port. In the case of an arrival vessel, the Captain would decide to wait at an appropriate point and drop anchor until an appropriate solution were found.

We trust that the above provides the information sought in answer to question NS. 2.33.

Yours sincerely,

[Redacted signature]
S.M. van der Vlugt,
Senior Manager Port Development & Deputy Trade Director,
Business region North Sea.

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