

28 October 2021

CARGOTEC AND KONECRANES JOINT SUBMISSION TO THE COMMERCE COMMISSION ON COMPETITION IN MOBILE EQUIPMENT

Key: Confidential material in this submission has been removed. Its location in the document is denoted by [].

Confidentiality

- 1 Confidentiality is sought in respect of the highlighted information. Release of this information would be likely to unreasonably prejudice Cargotec Corporation (**Cargotec**) and/or Konecranes Plc' (**Konecranes**, together with Cargotec, the **Parties**) commercial position. The Parties request that they are notified if the Commerce Commission (the **Commission**) receives any request under the Official Information Act 1982 for the release of any part of the confidential information. The Parties also request that the Commission seek and consider their views as to whether the confidential information remains confidential and commercially sensitive before it responds to such requests.

Summary

- 2 The Commission is currently scheduled to make a decision on whether or not to give clearance to the proposed combination of Cargotec and Konecranes (the **Proposed Transaction**) by 3 November 2021. The Parties' position, as outlined in the clearance application, is that the Proposed Transaction is not likely to result in a substantial lessening of competition in relation to any product market in which the Parties overlap. However, without wanting to pre-judge the views of Commissioners, we anticipate that the Commission may choose to move to a Statement of Issues and extend the period of its review.
- 3 This submission explains why, if the Commission chooses to move to a Statement of Issues, it would be justified in excluding mobile equipment from that Statement of Issues.
- 4 Specifically, the Commission can be satisfied, without need for further consideration, that the Proposed Transaction is not likely to result in a substantial lessening of competition in any mobile equipment market in respect of New Zealand. The principal reason is that, whether assessed on the basis of a global market, or a hypothetical New Zealand market, the Parties' combined market share is comparatively low, and the Parties are not the strongest or closest competitors in relation to any category of mobile equipment.
- 5 On that basis alone, the Commission would be justified in excluding mobile equipment from any Statement of Issues. But in addition:
 - 5.1 there are a large number of established global suppliers of mobile equipment who already do or could readily supply customers in New Zealand, meaning there is sufficient effective competition in each mobile equipment market from existing players;
 - 5.2 competition has increased in recent years, and continues to increase, due to the rapid expansion of Chinese players who offer very competitive prices;
 - 5.3 barriers to entry or expansion to supplying mobile equipment are low; and

5.4 the Parties' future position in mobile equipment may not be as strong as global competitors who have been at the forefront of the industry trends.

6 We expand on each of the points above, before addressing the competitive conditions in relation to each relevant product market in the mobile equipment category (reach stackers, empty container handlers, forklift trucks and full container handlers).

The Parties are not the strongest or closest suppliers of mobile equipment in New Zealand

7 The Parties are not significant competitors for any of the types of mobile equipment in New Zealand. For each of the relevant products, the Parties' combined market share in New Zealand ranges from [] (for reach stackers) to [] (for empty container handlers). These are not levels of concentration that could plausibly give rise to a lessening of competition.

8 As set out below, Hyster is the market leader in relation to mobile equipment in New Zealand.

9 In addition, all global suppliers of mobile equipment have a largely comparable offering, and offer similar quality, performance, control and driver experience. The Parties are therefore not closer competitors to one another globally (or in New Zealand) than they are to other suppliers.

Merged entity will be constrained by strong global suppliers of mobile equipment already present in New Zealand

10 As set out in **Appendix A**, there are a number of globally significant suppliers of mobile equipment already active in New Zealand which will continue to act as an effective constraint on the Merged Entity following the Proposed Transaction:

10.1 In particular, Hyster is the market leader in mobile equipment in New Zealand, and a significant player globally. This is demonstrated by Hyster's market shares in New Zealand: Hyster is the largest supplier in relation to each type of mobile equipment in New Zealand, with [] market share for full container handlers, [] market share for empty container handlers, [] market share for reach stackers, and [] market share of heavy-duty forklift trucks. Hyster is at the forefront of innovation in mobile equipment,¹ with a well-established track record and high quality products.

10.2 Sany has expanded significantly in the global container handling equipment in the past ten years, developing quality products at low prices with favourable terms. Sany provides the full suite of mobile equipment in New Zealand,² via its distributor Portstar Machinery. Kalmar NZ considers that [

]. This is borne out in the market share data: Sany is the [] supplier of reach stackers in New Zealand (with a market share of [

¹ For example, in 2017 Hyster was the first company to launch an empty container handler with a lifting capacity of up for 11 tons, enabling customers to lift two empty containers at once.

² In New Zealand Sany sells mobile equipment through Portstar Machinery.

-) and the [] supplier of heavy-duty forklifts (with a market share of []).
- 10.3 The Parties believe that Hyster and Sany not only have a well-established track record for mobile equipment, but are very price competitive. For example, the Parties estimate that Sany offers mobile equipment at [], and Hyster on average prices equipment [].
- 10.4 Clark Equipment supply Omega Heavy Trucks (which offers the full range of mobile equipment) into New Zealand. Omega mobile equipment is commonly used in New Zealand.³ Omega is the [] supplier of reach stackers in New Zealand (with a market share of []), and also provides a competitive constraint in relation to empty container handlers, full container handlers, and forklift trucks.
- 10.5 In addition, ZPMC has recently started supplying mobile equipment in New Zealand through MTS Energy Limited, a distributor based in Auckland.⁴ The Parties understand that ZPMC offers reach stackers in New Zealand,⁵ and may also offer other types of mobile equipment. While any recent ZPMC sales for mobile equipment are not present in the 2017 to 2020 market share data (which is based on deliveries), this data clearly underestimates ZPMC's future market potential in relation to mobile equipment in New Zealand. The Parties expect ZPMC to leverage its existing ties and reputation in New Zealand (e.g. with Ports of Auckland and Port Otago) to win RFPs for mobile equipment.
- 10.6 Finally, Kalmar NZ understands that CVS Ferrari, a global supplier of mobile equipment, has recently started supplying mobile equipment in New Zealand in the last few months. Kalmar NZ understands that CVS Ferrari has actively provided quotes for mobile equipment to a number of customers and [].
- 11 All of the competitors listed above are strong competitors globally, with many suppliers selling many more units of mobile equipment globally each year than the total New Zealand annual demand for these products. For example, in the 2017-2020 period the total demand for reach stackers in New Zealand was 40 units. In the same period, Hyster sold [] times that number of units globally ([] units) and Sany sold [] times that number of units globally ([] units). In fact, there were at least four global suppliers (other than the Parties) that sold more units globally than the total demand for reach stackers in New Zealand. Similarly, in the 2017-2020 period there were at least seven global suppliers (other than the Parties) that sold more units globally than the total demand for heavy forklift trucks in New Zealand (which was 104 units), with two suppliers selling more than [] times the New Zealand demand in that period. This means that each of Hyster and Sany (who are already active in New Zealand) would be able to easily cover the entire demand for mobile equipment in New Zealand going forward.

³ Kalmar NZ understands that [].

⁴ See: <https://mts.co.nz/index.php/reach-stacker/>

⁵ See: <http://mts.co.nz/wp-content/uploads/2021/01/Reach-stacker-ZPMC-nz-booklet.pdf>

There are a number of strong global suppliers of mobile equipment that could easily expand their geographic reach to supply New Zealand customers

- 12 As indicated in **Appendix A**, there are a large number of strong global suppliers of mobile equipment which do not currently supply mobile equipment in New Zealand but could easily expand their geographic reach to supply New Zealand customers. For example, Heli and Hangzhou are strong global competitor for mobile equipment, in particular in relation to forklift trucks, where they each have a market share several times higher than the Parties' combined global market share.⁶ In addition, Taylor, CVS, Svetruck, Liebherr, ZPMC, XCMG and Toyota are also material global suppliers of mobile equipment.
- 13 Barriers to expansion are very low in relation to mobile equipment. For example:
- 13.1 Using distributors and dealers can readily facilitate entry. OEMs can easily enter into distributor or dealer agreements whereby independent third parties supply the OEM's products to customers. There are ample dealer/distributor options in New Zealand, as OEMs do not necessarily need to use specialised port equipment distributors/dealers, but can rely on distributors with experience in other heavy construction and load-handling equipment due to the commoditised and relatively simple nature of mobile equipment. As set out in the Application, there are many examples of dealer/distributor relationships in New Zealand, including the Parties themselves.⁷ Accordingly, customers are accustomed to dealing with third party distributors and dealers in New Zealand. This allows potential new entrants into New Zealand to quickly begin supplying mobile equipment to customers in New Zealand without an on-the-ground presence.
- 13.2 Buyers are able to easily switch suppliers of mobile equipment or operate a mixed fleet. Barriers to switching are low because mobile equipment products are largely standardised commodity products. Buyers therefore exercise significant countervailing power.
- 13.3 The geographic scope of the market for mobile equipment is global or at least regional, and customers look to OEMs' overseas activities when deciding whether to purchase their mobile equipment. This means that customers can easily turn to any global player even if they have not been active in New Zealand.
- 13.4 Mobile equipment is largely identical all over the world. Indeed the Parties themselves, who produce their mobile equipment in [] as well as [] do not generally distinguish their products according to location of the production facility.

⁶ Each of Heli and Hangzhou have a global market share for forklift trucks of []. This is [] than the Parties' combined market share for forklift trucks of [].

⁷ Application at [39]. Note that Kalmar [] do not generally distinguish their products according to location of the production facility. As noted at footnote 40 of the Application, []

New entry is likely in mobile equipment

- 14 There are no significant barriers to entry in mobile equipment, as demonstrated by successful market entry in the recent past. In particular:
- 14.1 all types of mobile equipment are produced in versatile manufacturing facilities and manufacturers can easily divert capacity to produce other types of mobile equipment;
 - 14.2 safety and regulatory standards worldwide for mobile equipment are easily met and quality and performance standards are not insurmountable barriers to entry as price is the main competitive parameter; and
 - 14.3 most of the critical components used to produce mobile equipment are readily available and commonly sourced from third parties.
- 15 Global competition in relation to mobile equipment has increased in recent years due to the rapid expansion of Chinese players, and the Parties expect Chinese players such as ZPMC⁸ and XCMG, to rapidly expand their presence in mobile equipment and drastically change the market structure in the coming years.

The Parties' future position in mobile equipment may not be as strong as global competitors

- 16 In assessing future competitive dynamics, customers' potential changing demands and the global trend towards electrification should be taken into account. As noted in the Application,⁹ electrification is a particular focus for New Zealand ports, and many port operators have made commitments to make their operations more sustainable.¹⁰ The Parties are lagging behind their competitors in this respect and so may, in the future, be less competitive.
- 17 Neither Cargotec nor Konecranes have made significant progress in the development of electric mobile equipment. For example, Cargotec does not offer electric reach stackers, and expects to produce an initial prototype of an electric reach stacker [], and Konecranes has only developed a hybrid reach stacker. In contrast, Sany developed an electric reach stacker in 2018 and offers a hybrid model which won an international design award in 2020.¹¹ Kalmar NZ considers []. Further, other competitors which could easily expand to supply New Zealand customers have begun to develop innovative

⁸ ZPMC is expected to expand its presence in mobile equipment in the next few years, following its successful global expansion strategy in the market for cranes where it has gained a leading position due to its supply of large volumes at aggressive prices.

⁹ Application at [54] to [56].

¹⁰ For example, Ports of Auckland has a goal of becoming a zero-emissions port by 2040. Several other ports (including CentrePort, Port Nelson, Lyttelton Port Company and Port of Tauranga) have also taken steps to make their operations more sustainable. Refer to Application at [55] for more detail.

¹¹ See: <https://www.oemoffhighway.com/trends/hybrids/press-release/21139967/sany-america-sany-hybrid-reach-stacker-wins-international-design-award>; https://www.sanyglobal.com/press_releases/651/

electric mobile equipment. For example, XCMG launched an electric reach stacker in 2018.¹²

No competition issues in relation to reach stackers

18 The Proposed Transaction cannot give rise to competitive concerns in relation to reach stackers. Specifically:

18.1 Neither Cargotec nor Konecranes is a material competitor for reach stackers in New Zealand. Notably, Konecranes [

].

Since the [

].¹³ Cargotec only supplied [] reach stackers in the 2017 to 2020 period in New Zealand. Consequently, even in a hypothetical New Zealand market, the implied combined market share of the Parties would only be [].¹⁴

18.2 The strongest competitors for reach stackers in New Zealand are Hyster, Sany and Omega, with market shares of [], [] and [] respectively in a hypothetical New Zealand market. As noted at paragraph 10.3 above, the Parties consider that Hyster and Sany in particular are very price competitive, and frequently offer reach stackers at prices lower than those offered by the Parties.

18.3 Sany and Hyster are also strong competitors globally for reach stackers (with global market shares of [] and [] respectively). Both Sany and Hyster have sold a comparable number of units globally in the past three years to the Parties (who have a combined global market share of []) and have achieved a [] market share to the Parties individually.

18.4 As noted above at paragraph 10.5, ZPMC has recently started supplying reach stackers in New Zealand through MTS Energy Limited, a distributor based in Auckland.¹⁵ While any recent ZPMC sales for reach stackers are not present in the 2017 to 2020 market share data (which is based on deliveries), the Parties consider this data clearly underestimates ZPMC's future market potential in relation to reach stackers in New Zealand and expect ZPMC to leverage its existing ties and reputation in New Zealand and become a material competitor for reach stackers in the foreseeable future.

18.5 In addition to Hyster and Sany, there are a large number of global suppliers of reach stackers¹⁶ offering comparable quality, performance, control and driver experience that could expand their geographic reach to supply New

¹² The Parties understand that ZPMC has also recently entered into a partnership with XCMG to expand its footprint and offerings, and XCMG has been heavily investing in container handling equipment and mobile equipment in particular recently.

¹³ For completeness, []].

¹⁴ Note that paragraph 245 of the Application noted that the implied combined market share of the Parties for reach stackers in New Zealand would be approximately 7%. This is incorrect; the correct market share is 5%.

¹⁵ See: <https://mts.co.nz/index.php/reach-stacker/>

¹⁶ The Parties understand there are at least 17 suppliers in the global market with reach stackers in their portfolio.

Zealand customers, such as Taylor, XCMG, CES, Dalian Forklift, FTMH, Uplifting, and Hangzhou. There will therefore continue to be effective competitive constraint in the supply of reach stackers to New Zealand customers.

18.6 Evidencing the low barriers to entry in reach stackers (and mobile equipment generally) is Swedish company Camblift, which is a new supplier of reach stackers. Publicly announcing its launch in 2021,¹⁷ it has been engaging with customers to supply reach stackers and has a stated mission of becoming a global supplier of reach stackers. It has been built up by ex-Cargotec employees (hiring their former chief engineer only 1.5 years ago). Its growth is evidence that entry is possible in a short period.

18.7 As noted above at paragraph 17, the Parties are falling behind their competitors in terms of the trend towards electrification in mobile equipment. This is particularly relevant to reach stackers.

No competition issues in relation to empty container handlers

19 The Proposed Transaction cannot give rise to competitive concerns in relation to empty container handlers. Specifically:

19.1 The most significant competitor in New Zealand in relation to empty container handlers is Hyster, with a market share of [] in a hypothetical New Zealand market. This is [] than the market shares for Cargotec ([]) and Konecranes ([]), reflecting Hyster's strong overall position in relation to mobile equipment. In addition, following the Proposed Transaction, the Merged Entity will continue to face competition from Omega, and the Parties expect Sany to appear as a strong competitor in relation to empty container handlers in the short to medium term, given Sany's success in relation to other types of mobile equipment in New Zealand, particularly reach stackers.

19.2 The global market for empty container handlers is characterised by the presence of a number of strong competitors in addition to the Parties. Globally, Hyster and Sany are the main competitors, and each has a global market share [] than Konecranes' market share (Hyster [] and Sany [] compared to [] for Konecranes). In addition, there are a large number of global suppliers for empty container handlers, as indicated in **Appendix A**. As such, there is a long tail of competitors that would be well positioned to take advantage of any attempt by the Parties to increase prices.

No competition issues in relation to forklift trucks

20 The Proposed Transaction cannot give rise to competition concerns in relation to forklift trucks under any geographic market, and even conservatively assuming a hypothetical segment for heavy-duty forklifts.¹⁸ Specifically:

20.1 Neither Cargotec nor Konecranes is a significant competitor for forklift trucks, either globally or in New Zealand. Globally, the Parties only have a combined

¹⁷ See: <https://www.worldcargonews.com/in-depth/in-depth/new-reach-stacker-design-coming-soon>

¹⁸ Refer to paragraphs [209] to [212] of the Application. A potential segment for heavy-duty forklifts would include forklift trucks with a lifting capacity of 10t and more. This segmentation recognises the fact that Cargotec's offering in forklift trucks focuses primarily on the production of forklift trucks specifically designed to handle heavier materials, while Konecranes focuses exclusively on heavier forklift trucks.

market share for heavy-duty forklift trucks of []. Looking at a hypothetical New Zealand market for heavy-duty forklift trucks, the Parties account for a relatively small part of the market (with a combined market share of []). Further, the aggregation is small, as Konecranes has only sold [] units in New Zealand over the 2017 to 2020 period, and has a market share of [].

20.2 There are several strong competitors of heavy-duty forklifts in New Zealand, with a higher or comparable market position, that will continue to constrain the merged entity post-Transaction. Hyster is the market leader for heavy-duty forklift trucks in New Zealand, with a market share of []. Hyundai is also a material competitor (with a market share of []), and Sany and Omega each [].

20.3 In addition, there are a number of global competitors of heavy-duty forklift trucks that have a significant market share globally, and could easily supply to New Zealand customers. In particular, Hangzhou and Heli are the market leaders in the supply of forklift trucks globally, with a global market share for heavy-duty forklift trucks of [] each. As indicated in **Appendix A**, there are many global suppliers with forklift trucks in their portfolio. As such, there is a long tail of competitors that would be well positioned to take advantage of any attempt by the Parties to increase prices.

No competition issues in relation to full container handlers

21 The Proposed Transaction cannot give rise to competition concerns in relation to full container handlers. Specifically:

21.1 Neither Cargotec nor Konecranes is a material competitor for full container handlers, either globally or in New Zealand. Cargotec [] supplied full container handlers in New Zealand in the 2017 to 2020 period. Indeed, Cargotec []. Konecranes [] has very limited sales of full container handlers, both globally and in New Zealand. In the 2017 to 2020 period Konecranes only sold [] full container handlers, and its market share was only []. Given Cargotec [] full container handlers in New Zealand, the Parties' combined market share for a hypothetical New Zealand market is only [].

21.2 Hyster is the strongest competitor for full container handlers in New Zealand, with a market share [] than the Parties' combined market share (Hyster's global market share is [] and its market share for a hypothetical New Zealand market is []). Omega is also a material competitor for full container handlers in New Zealand, with a market share of [] in a hypothetical New Zealand market.

21.3 Globally, Taylor is the strongest worldwide competitor for full container handlers with a market share of [], which is significantly higher than the Parties' global combined market share of [].

APPENDIX A: SUPPLIERS OF MOBILE EQUIPMENT**Table 1: Competitors that currently supply mobile equipment in New Zealand**

Competitor	Reach stackers	Full container handlers	Empty container handlers	Forklift trucks
Cargotec	x	x	x	x
Konecranes	x	x	x	x
Hyster	x	x	x	x
Sany	x	x		x
Omega	x	x	x	x
Crown				x
Toyota				x
Hyundai				x

Table 2: Competitors active in mobile equipment worldwide (non-exhaustive)

Competitor	Reach stackers	Full container handlers	Empty container handlers	Forklift trucks
Cargotec	x	x	x	x
Konecranes	x	x	x	x
Sany	x	x	x	x
Hyster	x	x	x	x
CVS	x	x	x	x
Taylor	x	x	x	x
Svetruck		x	x	x
Liebherr	x			
Toyota	x			x
ZPMC	x	x	x	x
XCMG	x	x	x	x
Heli	x		x	x
Clark Equipment (Omega)	x	x	x	x
Uplifting	x	x	x	x
Dalian Forklift	x	x	x	x
CES	x			x
Hangzhou – Hangcha Forklift	x			x
FTMH	x		x	x
SOCMA		x	x	x
LiuGong				x
Lonking				x