

Legal challenge pauses Transnet-ICTSI deal over bid irregularities

The transition of control over the Durban Container Terminal Pier 2 to the Philippines-based International Container Terminal Services Incorporated (ICTSI) has encountered legal resistance. An interim interdict by the Durban High Court has temporarily halted Transnet from proceeding with negotiations or finalizing the contract with ICTSI. This development follows a legal challenge from APM Terminals, a subsidiary of the Danish conglomerate AP Moller-Maersk, which was a contender for the contract.

APM Terminals has raised concerns regarding the awarding process to ICTSI, highlighting alleged irregularities. Specifically, ICTSI was permitted to use its market capitalization as evidence of solvency, a concession not extended to other bidders. This has led to questions about the fairness and transparency of the tender process.

The legal battle now progresses to a critical phase where APM seeks to have the contract award to ICTSI nullified. Concurrently, criticisms have been voiced about the operational model proposed in the deal, particularly Transnet's retention of a 51% stake and exclusive control over employment decisions, despite the CompCom's condition preventing worker retrenchment for three years.

This situation has sparked debate on the broader implications for Transnet's operational and financial restructuring. Experts argue that the current approach to Transnet's restructuring is fragmented and lacks a comprehensive economic and operational analysis. The legal challenge and the ensuing halt in contract proceedings with ICTSI present an opportunity to reassess and potentially refine the frameworks for private sector engagement and competition within South Africa's port operations.

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