

COMPETITION COMMISSION OF SINGAPORE

PUBLIC CONSULTATION ON PROPOSED BLOCK EXEMPTION ORDERS RECOMMENDATIONS FOR LINER SHIPPING AGREEMENTS

Comments by
Singapore National Shippers' Council



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Question 1

What are your views on the proposal to extend the block exemption for another five years with no changes to the proposed scope of coverage?

We were not in favour of the block exemption when it was introduced five years ago and we find even more reasons to object to the CCS' decision to recommend to the Minister for Trade and Industry to extend it for a further five years.

We find it difficult to fathom the argument that the block exemption is in the best interests of Singapore when it seeks to protect the liner shipping industry at the expense of the trading community. The block exemption is anathema to trade, and trade is such a vital part of Singapore accounting for 3.5 times of GDP.

A survey by the US Antitrust Modernization Commission questioned the justification of according antitrust exemptions to shipping conferences. As the commission noted, "the steepest declines in observed freight rates have coincided with a generalised decrease in conference power in the face of competition from strong independent operators and the implementation of competition enhancing legislation".

We know this to be true. There are more shipping conferences in Asia than in any other regions in the world, and the rates and surcharges we have to pay have gone up higher than any other regions in the region. Over a one-year period, freight rates ex Asia to the US have risen by over 180% to over US\$2,600 per 40-ft in June 2010.

The 'mini-boom', ahead of the economic recovery, enabled the container shipping industry to generate profits, with the largest carrier Maersk projecting full year net income of US\$2.5 billion. The same cannot be said for the trading community.

While rates have now reached pre-recession levels, the service levels have never worst. The lead time for delivery is longer, as lines adopt slow steaming, even containers with confirmed bookings have been bumped off because of the artificial shortage which was created, and surcharges are being imposed arbitrarily.

At the Global Shippers' Forum in Macau, Sep 6-7, which brought together shippers from Asia, Europe, US and Africa, it was obvious to all that carrier abuses in Asia and Africa were worst than they were in Europe and US, simply because shipping lines knew they could get away with it.

While Asian governments chose to do nothing to legitimate complaints, the US authority has responded to cancelled bookings, rolled cargo and container unavailability by launching investigations and public hearings which have resulted

in a bill being presented before Congress. When passed, the Shipping Act of 2010 will strip the antitrust immunity enjoyed by conferences and rate discussion agreements, forcing container lines to compete in the marketplace by providing the best price and service.

We accept the shipping industry is important to Singapore, and we should not do anything to jeopardise Singapore's hub status. But we are not convinced that liner shipping companies will carry out their threat to withdraw en-masse from the Singapore port should the CCS fail to extend the block exemption.

Shipping lines have opted to call at the Singapore port for sound commercial reasons – that it is efficient, price competitive and above all, it has the volume because of its unmatched connectivity. It has taken years for Singapore to build up this capability, and lines will find it difficult commercially and operationally to drop Singapore as their regular port of call. As this is an empty threat, the CCS should call their bluff.

Question 2

What are your views on the proposals on the filing requirements for the block exemption as presented in Table 1?

We are more concern with substantive changes rather than minor ones, which merely tweak the requirements on filing.

Question 3

What are your views on the impact of the proposed block exemption on your business – would you say it has a positive, negative or neutral impact? Why?

The proposed block exemption has a negative impact for shippers. The block exemption allows liner shipping companies to organise, to fix rates and surcharges, and terms of conditions. Asia has more shipping conferences than anywhere else in the world, and Asian shippers have had to put up with more surcharges than anywhere else in the world. The correlation between the two – shipping conferences and surcharges – is hard to miss.

Even when some of the charges or surcharges do not reference Singapore, Singapore based companies are affected because of their extensive trading ties. As we sell Chinese made products to India or Indonesia for example, the increased charges or surcharges would impact our bottom line. Why should we perpetuate a system which works contrary to our interests and that of our nation, whose fortunes are inextricably linked to trade?

Question 4

Do you have any comments on the proposals on the block exemption?

For over 100 years the liner shipping industry has been given the freedom to organise on the basis that the industry is different. Even when competition laws are introduced by countries to promote fair play within the market, liner shipping has been accorded exemption, a privilege enjoyed by few other industries. This has bred a sense of entitlement, and history has shown that the result of entitlement is largely negative.

Today, the liner shipping is still largely governed by the conference system, as rate agreements are permitted in the US under the US Ocean Shipping Reform Act (OSRA). Still the industry has limped from crisis to crisis, as bad decisions continue to be made on a grand scale. With the recent over-investment on ships and under-investment in containers, we have seen rate volatility, service unpredictably, prolonged delays, etc.

Does it make any sense to wish that such a system should prevail for the next 100 years?

We think not. We ask the CCS to reconsider the proposal it plans to make to the Minister for Trade and Industry and allow the block exemption to lapse after the existing five-year period.

In the past the CCS has argued that anti-trust exemption for liner shipping is an industry norm. While this may be true even today, things are about to change. We have it on good authority that the US would bring in the Shipping Act of 2010, which would remove antitrust exemptions to shipping conferences. As the US is the biggest economy with over US\$2 trillion in annual merchandise trade, Singapore's decision to extend the block exemption for liner shipping agreements for another five years could well put at odds with the US. If it is necessary for Singapore to extend the block exemption for liner shipping to align itself with international practice, we suggest a 2-3 year extension will more than suffice.

Background of Singapore National Shippers' Council

Singapore National Shippers' Council (SNSC) mission as a national body is to advance the collective interests of the business community in facilitating the movement of goods. Our vision is to be a driver for the shippers' community in meeting the challenges of the 21st Century and the New Economy. SNSC now plays a bigger role at the international level being one of the five key shippers' councils in ASEAN, and leadership at the Asian Shippers' Council (ASC), a key constituent in the Global Shippers Forum since 2005.