

International Chamber of Shipping

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International Freight Transport Services Inquiry
New Zealand Productivity Commission
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Dear Sir or Madam,

INTERNATIONAL FRIEGHT TRANSPORT SERVICES ISSUES PAPER JULY 2011

1. The International Chamber of Shipping (ICS) is grateful for the opportunity to submit comments to the New Zealand Productivity Commission on its July 2011 Issues Paper.
2. ICS is the principal international trade association for the shipping industry, representing all sectors and trades including containership operators, tanker operators and dry bulk carriers, as well as specialised trades such as chemical carriers and car carriers. The membership of ICS comprises national shipowners' associations from 36 countries. ICS represents over 80% of the world's merchant shipping tonnage.
3. ICS wishes to make a few remarks from the international perspective. Any major changes that might be proposed to the current maritime competition regime in New Zealand could have implications for the liner (container) shipping industry globally, not just for those companies involved in trades to and from New Zealand.
4. Liner shipping conferences and consortia agreements (permitting, *inter alia*, slot sharing) have existed worldwide for decades and have facilitated the

phenomenal success of international container shipping for almost 40 years. They have served to provide stability in what are generally volatile and cyclical markets, helping to guarantee the adequacy and efficiency of maritime services to the shipping industry's customers. The current regulatory environment in New Zealand encourages container lines to compete in terms of the quality of service that they provide, and does not inhibit competition.

5. ICS acknowledges the intention of New Zealand in wishing to examine carefully practices that might distort competition. However, consistent with the remarks on page 34 of the Issues Paper, ICS believes that it remains appropriate for exemptions or exclusions to apply to certain carrier agreements and that the existence of such agreements does indeed yield net benefits to shippers, exporters and consumers in New Zealand, as well as the economy of New Zealand as a whole.

6. The main purpose of this short submission is to emphasise that, whatever might be decided for reasons of national competition policy, ship operators trading to and from New Zealand are part of a global shipping market, and that the various maritime competition rules that apply in the Asia Pacific are currently broadly in alignment.

7. Competition rules in the United States and Latin America - not to mention virtually all of New Zealand's Asian trading partners including China (PRC), Japan and Singapore, reflect the recognition amongst governments that limited "anti-trust" exemptions for shipping ensure that shipping lines are able to increase their range of services and markets, satisfying shippers' (and consumers') demands more effectively, in terms of frequency, reliability, quality and price.

8. In particular we suggest that whatever New Zealand decides should be consistent with the APEC Guidelines Related to Liner Shipping adopted by the APEC member economies in June 2011 in Brisbane. A copy of the Guidelines is attached herewith.

9. We also suggest that account should be taken of the decision reached by the Japanese government, announced in June 2011 - following a long review - to retain its Antitrust Immunity System applicable to carrier agreements (including the operation of liner conferences) until 2015. The Japanese government announced that it had found no positive grounds for repealing a system which has been retained by many of Japan's major trade partners and, in particular, concluded that the EU prohibition of liner conferences in 2008 had led to increased volatility of freight rates in European trades, a rise in surcharges levied by individual carriers, and contributed to tighter market conditions following the rationalisation of services by individual carriers that ensued as a partial result.

10. In addition, account should also be taken of a similar decision taken by the government of Singapore to retain a block exemption for liner shipping agreements until December 2015, at which point the decision will come under review. This followed a public consultation by the Competition Commission of Singapore and its subsequent recommendation to renew the existing exemption regime.

11. The practices in shipping which currently exist, such as conference and consortia agreements in liner trades, serve shippers and their customers well and in response to question 25 of the issues paper, we believe there is a very strong case for their exemption from the competition provisions of the commerce act. They allow shipping services to cope better with the severe and sudden imbalances in trade flows that are a feature of global shipping markets, including intense seasonal fluctuations. Co-operation amongst liner companies helps them to commit to the long term investments required to operate their high value assets, i.e. ships and logistics infrastructure costing hundreds of billions of US dollars (a modern large containership can cost well over a hundred million US dollars to build, and millions of dollars a year to operate).

12. Reliable and stable shipping services have been the backbone of world trade and it is important that they continue to be so in the future. A nation such as New Zealand, with its relative geographical isolation, and its need to deliver large volumes of exports to trading partners and to facilitate the importation of components and raw materials, is dependent on maritime trade to sustain the wealth of its citizens. This cannot be achieved without reliable and stable shipping services. Ensuring the availability and stability of shipping services in New Zealand would therefore seem to be an essential element of any long term trade strategy.

13. We respectfully suggest that any radical changes to the current regime applicable to shipping could have an impact on the availability of liner shipping services needed to meet the New Zealand economy's requirements.

14. The very nature of international shipping services creates a *de facto* unstable environment since there is generally complete free access to shipping markets. New entrants can come in, and established shipping companies can extend their activities to new markets. But significant capital investment is required in vessels, logistic systems and other equipment, to guarantee the continuous and long term services required by customers, irrespective of short term trade variations.

15. Entry of short term services is relatively easy through the use of chartering tonnage. However, the available capacity in shipping always needs to exceed volumes shipped if operators are to be able to guarantee capacity to customers, taking into account the constant market changes, significant cyclical seasonal peaks in demand and, importantly, imbalances between demand for the inbound

and outbound legs of voyages to and from New Zealand. Ship capacity that is not utilised when a ship sails to or from New Zealand cannot be stored for later use. The potential to earn revenue from the available capacity on any sailing is lost once the vessel departs.

16. It is also important to recognise the commercial power enjoyed by large shippers, and that their control of large volumes of cargo provides them with significant negotiating strength.

17. ICS would add that shipping markets are remarkably open and current co-operative practices do not create any barriers to free access to trade. In co-operation with governments, the industry is active in encouraging the elimination of any limited protectionist measures that may still arise.

18. ICS hopes that these brief comments are useful. Their principal purpose is to encourage New Zealand to take full account of regimes governing shipping in the rest of the world, particularly with regard to its trading partners in Asia and the United States. Australia, for example, is a major trading partner of New Zealand which maintains an exemption for international liner shipping arrangements. We believe that New Zealand should take full account of the recognition given by other competition authorities to the benefits of current practices, such as liner conferences and consortia, in terms of efficiency of world trade, and the implications for national economies and the interests of consumers. We respectfully suggest that this is especially important for nations such as New Zealand that have such a very high dependency on the availability of reliable maritime services in order to maintain their position as major trading economies.

Yours faithfully

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