

International Chamber of Shipping

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Dr PB Jayasundera
Secretary
Ministry of Finance and Planning
The Secretariat
Colombo 1
Sri Lanka

15 January 2014

Dear Dr Jayasundera,

PROHIBITION OF OCEAN CARRIER SURCHARGES IN SRI LANKA

I am writing on behalf of the International Chamber of Shipping (ICS), which is the principal international trade association for shipowners, including operators of containerships that trade with ports and terminals in Sri Lanka.

The membership of ICS comprises national shipowners' associations from 35 countries which collectively represent over 80% of the world merchant fleet.

I am writing with respect to the new regulations made by the President under Section 10 of the *Licensing of Shipping Agents, Freight Forwarders Non-Vessel Operating Common Carriers and Container Operators Act, No. 10 of 1972*, published in *The Gazette of the Democratic Socialist Republic of Sri Lanka (No. 1842/16)* on Friday, December 27, 2013.

Specifically, the international shipping industry, as represented by ICS, is very concerned by the new law prohibiting certain surcharges from being charged by ocean carriers in Sri Lanka. ICS therefore fully endorses the detailed comments already made by the Asian Shipowners' Forum (ASF), which is ICS's regional partner in Asia.

ICS believes this major policy change would involve inappropriate interference by the Government of Sri Lanka into commercial relationships between ocean carriers and their customers.

As already clearly explained by the Asian Shipowners' Forum in its comments in support of the status quo, ICS reiterates that the shipping industry practice of imposing ancillary charges, such as Terminal Handling Surcharges (THCs), has existed worldwide for many years. Such practices are permitted by Sri Lanka's trading partners throughout the Asian region, not least by China, as well as by the United States. Indeed, we believe that the Sri Lankan law may be in direct conflict with laws of nations such as China and the United States, a point on which the Asian

Shipowner' Forum has expanded, as well as being in conflict with accepted commercial practice as recommended by the International Chamber of Commerce.

ICS emphasises that THCs and similar surcharges such as those relating to documentation fees, allow international containership operators to recover the costs of operating at terminals. They are based on cost recovery only, and increase transparency for customers with regard to charges relating to these services.

Historically such ancillary costs, which are affected by different factors to freight rates, have always been considered to be separate from basic freight charges covering the transportation of cargo by sea.

Any mandatory requirement for ocean carriers to charge an 'all in' fee will simply have the effect of reducing transparency. It may even have the effect of making the total cost to customers of importing/exporting containers to Sri Lanka more expensive since individual carriers will wish to ensure that they cover their ancillary costs.

ICS believes that those interests that have attacked the practice of THCs and similar surcharges have only made general allegations that such charges might be excessive without producing any firm evidence in support of their concerns, an issue on which the Asian Shipowners' Forum has already elaborated.

We would add that the international shipping industry is very disappointed about the apparent lack of consultation with stakeholders prior to the publication of these new rules prohibiting surcharges that may have profound consequences for ship operators trading to Sri Lanka.

As the Government is well aware, Sri Lanka has recently been very successful in developing itself as an important regional maritime hub. ICS therefore suggests that it is important for the Government of Sri Lanka to understand that the implementation of these new rules may have a negative impact upon the volume of cargo moved via Sri Lankan ports, especially when alternative transshipment hubs may be readily available in other countries nearby which continue to permit the practice of THCs and similar surcharges.

Together with ASF - and the national shipowners' associations around the world that form our membership - ICS kindly requests that the Government of Sri Lanka reconsiders its ban on surcharges, and delays implementation until there has been full and proper consultation with all parties concerned, including ocean carriers and their representatives.

We will be very grateful if the Government of Sri Lanka can give serious consideration to these comments.

Yours sincerely

Peter Hinchliffe
Secretary General