



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR TRADE

Directorate F – Enforcement, Market access, SMEs, Legal affairs and Technology  
Unit F1 – Single entry point on Enforcement, Market access and SMEs

## MARKET ACCESS COMPLAINT FORM

*You can use this form to provide information about a market access barrier or problem that you have encountered which results from an action by the government or public authorities in a country outside the Union. It will provide information that will help the Commission assess your case and form a view on how it may be taken forward. While you may not be able to provide all the information indicated, the more you are able to provide the faster and more effectively we can form an initial view.*

- You can find more details on the Single Entry Point (SEP) in the operational guidelines: [https://trade.ec.europa.eu/access-to-markets/en/form-assets/operational\\_guidelines.pdf](https://trade.ec.europa.eu/access-to-markets/en/form-assets/operational_guidelines.pdf)
- Before filling in this form on the website, please check if your problem is already registered in our trade barriers database: <https://trade.ec.europa.eu/access-to-markets/en/barriers>.
- The Single Entry Point (SEP) does not deal with trade defence issues (anti-dumping, anti-subsidy or safeguards). If you wish to submit complaint in the area of trade defence, you should follow up with [trade-defence-complaints@ec.europa.eu](mailto:trade-defence-complaints@ec.europa.eu). You can find more information about our trade defence policy and remedies at the following address: <https://ec.europa.eu/trade/policy/accessing-markets/trade-defence/>.
- Should the complaint concern an alleged breach by a Member State of EU law (including international agreements) please refer to the following website for further information: [https://ec.europa.eu/info/about-european-commission/contact/problems-and-complaints/complaints-about-breaches-eu-law/how-make-complaint-eu-level\\_en#administrative-steps-to-submit-a-complaint-to-the-european-commission](https://ec.europa.eu/info/about-european-commission/contact/problems-and-complaints/complaints-about-breaches-eu-law/how-make-complaint-eu-level_en#administrative-steps-to-submit-a-complaint-to-the-european-commission)

### CONFIDENTIALITY

- The European Commission will treat information received on a confidential basis<sup>1</sup>.
- In order to coordinate the EU's and Member States' enforcement actions, we may share general information about the reported trade barrier (description, sector, category and country imposing the measure) with national authorities of EU Member States.
- In case of questions regarding confidentiality, please contact the Single Entry Point.

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<sup>1</sup> All information collected through the use of the online-forms on this web page is treated as "Commission Use" in accordance with the security notice [C\(2019\) 1903](#) of 5.3.2019 implementing Article 9(2) of Decision (EU, Euratom) 2015/443. A reference is also made to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

**1. IDENTITY OF THE COMPLAINANT (OR HIS/HER REPRESENTATIVE) AND CONTACT DETAILS**

*This section collects information about you or the person/organisation you are representing. It also provides details of how we can contact you.*

- 1.1. First name: Damian**
- 1.2. Last name: Viccars**
- 1.3. Organisation/National Authority: Complaint Submitted Jointly by the World Shipping Council (WSC), The European Community Shipowners Association (ECSA) and the International Chamber of Shipping (ICS)**
- 1.4. Job title: Director of Government Affairs, Europe**
- 1.5. Email: [dviccars@worldshipping.org](mailto:dviccars@worldshipping.org)**
- 1.6. Telephone (including the international prefix) +32 (2) 305 7846**
- 1.7. Correspondence address: World Shipping Council, Rond-Point Robert Schuman 9, B-1000 Brussels**
- 1.8. Indicate whether the complainant is**
  - 1.8.1.* A Member State of the European Union (EU);
  - 1.8.2.* An exporter, importer or investor registered in the EU;
  - 1.8.3.* An EU or national trade association registered in the EU;
  - 1.8.4.* Other  
Please provide more details
- 1.9. Indicate the EU Member State(s) of your activity.**  
N/A

## 2. INFORMATION ABOUT THE TRADE BARRIER

*This section allows you to describe the barrier you have encountered or expect to encounter when it enters into force. This will help to see if this is a known problem and to understand better the nature of the issues raised.*

- 2.1. Which is the country imposing the trade barrier? Bangladesh**
- 2.2. Explain the trade barrier and how it is affecting/will affect your exports, imports or investments to the third country**

**Bangladesh Flag Vessel (Protection of Interest) Rule of 2023, adopted pursuant to the Bangladesh Flag Vessel (Protection of Interest) Act of 2019**

The measure affects the carriage of seaborne cargoes to/from Bangladesh by non-Bangladesh flagged vessels.

The purpose of the 2019 Law and its predecessors is to enhance the strength of Bangladesh's national merchant marine. However, the adoption and implementation of the 2023 Rule has already led to a number of problems, which has reduced overall competition for shipping services to and from Bangladesh, caused delays, congestion, and other operational disruptions at Bangladesh ports.

(See section 3 and 4 and attachments for further details)

- 2.3. To the extent possible, describe the relevant measure or draft measure (law, regulation, guideline, practice...) causing the problem and attach the text or other relevant documents**

**Bangladesh Flag Vessel (Protection of Interest) Rule of 2023, adopted pursuant to the Bangladesh Flag Vessel (Protection of Interest) Act of 2019**

Refer to Article 4 of the attachment. QUOTE: "4. Exemption certificate grant, establish, revoke etc - (1) The concerned authority shall examine the application received under the article 3, and after examining the said application, subject to the opinion of the State-owned Shipping Corporation and the Bangladesh Flag Ship Owner's Association, if it is deemed satisfactory, then will grant the exemption certificate within 3 (three) working days. " UNQUOTE

- 2.4. Indicate if the measure:**
- 2.4.1. Has entered into force and when**  
**Bangladesh Flag Vessel (Protection of Interest) Rule of 2023 entered into force on 5 February 2023**
- 2.4.2. Will soon enter into force and when**
- 2.4.3. Is still a draft currently under preparation**

- 2.5. Indicate the category of the trade barrier (you can find the list of barriers here: [Access2Markets trade barriers section](#))**

Discriminatory treatment vis-à-vis national treatment, Unjustified trade defence measures introduced by third countries, administrative burden.

- 2.6. Indicate**

- 2.6.1. the sector or sectors affected by the trade barrier (as indicated in [Access2Markets trade barriers section](#))**
- 2.6.2. the products or services affected by the trade barrier**
- 2.6.3. the Harmonised System (HS) code of your products or the [Extended Balance of Payments Services Classification \(EBOPS\)](#) of your services affected by the trade barrier<sup>2</sup>**

**Sea Transport, Freight (Sea): SC12**

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<sup>2</sup> [Product classification | Access2Markets \(europa.eu\)](#)

### 3. ECONOMIC/SYSTEMIC IMPACT

*This section will help us to assess the economic and legal impact of the barrier on your business or activity, as well as to get a sense of whether it impacts other businesses in the same sector or customers that rely on your input or services. It also helps us to see if there is a particular impact on SMEs. We recognise that you may not have full information to respond to all these questions.*

**3.1. To the extent possible, explain the economic impact of the trade barrier on your business and quantify the impact (for example what is the impact on your exports, imports, production, sales, or additional costs you incur).**

The Bangladesh Flag Vessel (Protection of Interest) Rule of 2023, is intended to reserve 50% of the country's maritime trade for Bangladesh flagged vessels.

However, its actual impact is much higher due to the absence of sufficient Bangladesh flagged vessels to carry that quantity of trade and the negative operational effects on foreign flagged ships.

According to data, more than 90% of container ships that visit ports in Bangladesh are foreign-flagged vessels, while only 8 (eight) container ships are registered under the Bangladesh flag. On average, 1300-1500 container vessels call Chittagong Port annually, carrying 3.0-3.2 million containers. It is therefore without question that 8 vessels are by themselves not capable of carrying 50% of the volumes in order to meet the growing needs of Bangladeshi importers and exporters.

The process for foreign service providers seeking an exemption certificate from this rule comes with issues such as delays in the issuance of exemption certificates, requirement for separate exemption application for carriage of import and export cargo, and exemption certificates with unfair conditions. This has resulted in service disruptions and business uncertainty.

(For further impacts on maritime transport operators please answers below and attached document 'Examples of Negative Impact (Summary)')

**3.2. Are you aware of any of the following being affected by the trade barrier (yes / no / not aware):**

**3.2.1. Other EU companies in the sector:**

**3.2.2. Other EU companies in different sectors:**

**3.2.3. SMEs in the EU**

**3.2.4. Domestic producers/services providers in the country of the trade barrier** No

**3.2.5. Other Member State(s) affected by the trade barrier:**

This measure impacts all EU Member States that have maritime commerce with Bangladesh

The measure undermines the EU's interest in maintaining efficient trade relations with Bangladesh as well as damaging the commitments set

down in the EU- Bangladesh Cooperation Agreement.

**3.3. Do you think that the measure violates any legal obligations of the third country (e.g. under WTO or EU Trade Agreement rules, other rules or legal principles such as transparency, non-discrimination, proportionality...)?**

The measure provides the Bangladesh Shipping Corporation (BSC) and Bangladesh Ocean Going Shipowners' Association (BOGSOA), which are private entities in Bangladesh, the authority to grant exemption certificates. Granting such authority to private entities can result in decisions being made in commercial interests of those few entities, as opposed to the public's interest. This can be considered in violation to the WTO's principles of national treatment as preferential treatment is given for shipping under Bangladesh flagged vessels, and there is discrimination against non-Bangladesh flagged vessels.

The process of seeking an exemption certificate comes with issues such as delays in the issuance of exemption certificates, requirement for separate exemption application for carriage of import and export cargo, and exemption certificates with unfair conditions. This has resulted in service disruptions and business uncertainty and can be considered to be in violation to the WTO's principles of predictability. It also violates the principles of transparency as there is no clarity on the type of conditions that may be imposed in the exemption certificates.

Additionally, as a general rule, and in accordance with the principle of freedom of navigation under the United Nations Convention on the Laws of the Sea ("UNCLOS"), the ports of every State should be open to foreign commercial vessels. Discriminatory cargo preference policies should not undermine such freedom of navigation.

Lastly, the Bangladesh Flag Vessels Act undermines the objective in article 4 of the Cooperation Agreement between the European Community and the People's Republic of Bangladesh on Partnership and Development to '...ensure effective application of the principle of unrestricted access to the international maritime market and traffic on a commercial basis'.

#### 4. ACTIONS

*This section allows us to see what action you or others may already have taken to address the problem and whether that produced any response from the country concerned.*

**4.1. Are you aware whether any EU Member State(s), industry association or company has raised the issue or taken action with the competent authorities in the EU or in the country of the trade barrier (including domestic courts)?**

The World Shipping Council, Consultative Shipping Group and International Chamber of Shipping, has submitted its respective representation papers to the Ministry of Shipping of the Government of the People's Republic of Bangladesh between May 2023 to August 2023 but there has been no replies so far. (see attached copies of the WSC and ICS letters).

**4.2. Are you aware whether any government or industry from a third country has raised the issue or taken action with the competent authorities in the country of the trade barrier (including domestic courts)?**

The local Bangladesh Container Shipping Association and Bangladesh Shipping Agents' Association has raised the issue directly with the Department of Shipping in Bangladesh on multiple occasions. However, the authorities have not been receptive to their concerns. It was also reported that there has been a more stringent interpretation of the law by the Department of Shipping in the recent months triggered by the drop in export volumes in Bangladesh.

The Bangladesh Container Shipping Association filed a writ petition on 22 August 2023 before the Hon'ble High Court Division of the Supreme Court of Bangladesh to challenge the requirement for the Department of Shipping to secure the opinion of the Bangladesh Ocean Going Ship Owners' Association prior to issuance of the waiver certificate.

On 27 August 2023, the courts issued a Rule Nisi with an interim order to suspend the requirement for seeking the opinion of the Bangladesh Ocean Going Ship Owners' Association in the issuance of the exemption certificate for a period of 6 months. The interim order was challenged by the Department of Shipping at the Hon'ble Appellate Division of the Supreme Court to which the Judge ruled in favor of on 20 September 2023. The writ petition is in the meantime pending further court hearing.

It should be noted that the writ petition only challenged a part of Article 4 that relates to seeking the opinion of the Bangladesh Ocean Going Shipowners Association and would only provide partial relief if the suspension order goes through. There are still issues with the waiver process that needs to be addressed (e.g. the need to seek the Bangladesh Shipping Corporation's opinion, requirement for separate waiver applications for import and export cargo).

**5. OTHER INFORMATION**

**Indicate any other consideration you see worth mentioning and provide any document or source of information you consider useful.**