



**EUROPEAN
TRANSPORT
WORKERS'
FEDERATION**

ETF Dockers Position

on the evaluation of

Consortia Block Exemption Regulation



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The EU's Consortia Block Exemption Regulation for liner shipping has existed since 1995 and was revised in 2010. Since then, it has been renewed, without modifications, every five years.

In March 2020, the European Commission decided to renew the CBER without modifications for another four years, disregarding the result of the stakeholders' consultation, which delivered a very critical view of how exemptions to consortia are granted.

As a result of the renewed exemption, carriers continued to exchange information between shipping lines operating in consortia to permit the sharing of space on vessels and the coordination of sailing schedules.

The ETF strongly opposed the prolongation of CBER, reiterating that an adequate analysis of the impact of liner shipping consortia on ports operations and landside transportation is needed and calling on the European Commission to act accordingly.

In fact, the rationale of CBER is to allow carrier consortia to jointly manage capacity "to adapt to fluctuations of demand and supply" (EC, 2009), while EU antitrust rules generally ban agreements between companies that restrict competition. The favourable treatment only applies to shipping lines with a combined market share of below 30% on a particular



trade corridor.

However, although the European Commission declares that the CBER no longer applies to two of the three global alliances, consortia with market shares over 30% have been a common practice for a long time¹ on many trade corridors to and from Europe.

The European Commission should not lose sight of the fact that the bargaining power of shipping lines has gotten more and more powerful to terminal operators over the last years due to the economy of scale, subsidies to the maritime sector and, more recently, the effects of the outbreak of Covid-19 pandemic and the massive disruptions in the global maritime logistics supply chain that followed.

Port workers, who never stopped performing their duties during the pandemic, making sure that the essential goods and medical supplies reached their destinations, had to pay the cost of the global maritime supply chain disruptions: the increasing pressure related to the huge number of blank sailings in 2020, together with the worsening levels of capacity availability and schedule reliability in 2021 and 2022 led to a significant deterioration of their working conditions, due to ever-growing peaks of activity.

Furthermore, the European Commission cannot overlook the fact that the landscape of the liner shipping industry has changed: carriers do not limit their services to port-to-port services but door-to-door, expanding in different transport modes along supply chains such as air freight and rail freight; they also exchange data on services which relate to the port and landside, which is made easier with developments in the area of big data and business intelligence and analytics.

In this scenario, the aggregation of liner companies in consortia encourages the establishment of oligopolies which create market distortions: consortia are often vertically integrated and exercise a dominant role by benefiting from the application of the tonnage tax for terminal operations.

This results in pressure on working conditions for all the workers along the supply chain: at sea, ashore in the ports and the logistic sector.

We, therefore, believe that the European Commission should properly analyse the impact of liner shipping consortia on ports operations and landside transportation, specifically in light of the following:

¹ Merk and Teodoro, 2022

Market changes

Sea freight consolidation increased concentration, and growing size of vessels (ULCVs) have a significant impact on the bargaining power of Container Shipping Lines towards terminals and other service providers, requesting substantial investments from terminals and infrastructure managers to comply with the needs of the shipping alliances, while a deterioration in the parameters of competition (price, quality) is observed.

This situation causes a cascade effect by putting downward pressure on working conditions and job security in ports.

Occupational health and safety are also affected, as alliances and the use of mega-ships cause greater peaks in the handling of containers. The labour schemes that are in place in several European ports guarantee the constant availability of qualified dockers to cope with peaks of activity, ensuring at the same time flexibility and job continuity for the workers. Therefore, the European Commission should promote policies and legislation oriented to retaining good quality and stable jobs in the port sector.

No redistribution of benefits

Transport workers and users do not by any means share the benefits deriving from CBER: the rising prices and the worsening of the quality of services prove that the favourable treatment set by CBER not only leads to cargo handling market distortion but also to an unbalanced relationship between the shipping companies that are part to the alliances and both the ports and the companies providing services in ports.

Sea miles being equal, the tariffs for transferring a container from the Far East to Europe have increased 600% over the last years. This phenomenon needs to be explained by exhaustive and transparent arguments, and the European Commission should be able to prove that there is no correlation between this trend and the application of CBER.

The extremely high freight rates during the Corona pandemic can also be defined as successful capacity management by shipping alliances. This capacity management, in combination with the extension of tonnage tax application on terminal holdings and port hinterland activities, contributes actively to a distorted market.

The capacity management enabled by CBER allows shipping alliances to actively influence sea freight rates by consolidating capacities, i.e. by adapting the network through blank sailings aiming to stabilise the sea freight rates in the event of a declining demand but constant supply.

As a result, it can be stipulated that in contrast to the original objective, the CBER has promoted a distortion of competition to the detriment of consumers.

Consortia are not an efficient way for providing services

The behaviour of the global lines and their consortia have created increases in rates and a reduction in the availability of capacity for customers in Europe. These trends have been made visible, especially after the Covid-19 pandemic.

As documented by recently published studies², on the one hand, the net profits of the shipping lines in 2021 rose to 50% - a net profit of 186 billion dollars.

On the other hand, the shipping companies keep further reducing their capacity to Europe, worsening service reliability and quality.

Covid-19 and supply chain disruptions

The behaviour and practices of container carriers over the last two years should be duly investigated, given the problems and disruptions in the maritime logistics supply chain.

One of the reasons for last year's port terminal congestion and the lack of container capacity is that carriers have been extremely selective in allocating capacity, hauling empty containers back to Asia to get better freight rates for imports. This led to unreliable schedules, with consequent operational issues affecting port workers and delays in the hinterland connectivity, with additional costs for other players in the supply chain.

While the withdrawal of shipping capacity could be justified in 2020 due to the decreased demand for transport, this line of argument cannot be used to explain the all-time low schedule reliability, which has been creating congestion and other issues in many port operations in 2021 and 2022.

Although the Covid-19 crisis objectively had severe economic consequences on the sector, in our view, the primary cause of the disruptions we are witnessing nowadays is not the pandemic itself but rather the profit-oriented choices of the shipping lines, facilitated by a regulatory regime that allows them to be exempted from competition rules.

As a Federation representing the European maritime workers, we strongly believe that the European Commission's evaluation on the Consortia Block Exemption Regulation should take into account all the above-mentioned significant changes that have been characterising the market over the past few years: vertical integration, ocean alliances, mega-ships, shipping lines' acquisition of additional functions in the supply chain, developments in information exchange, reduced availability and efficiency of services.

² ITF (2022), "Performance of Maritime Logistics", International Transport Forum Policy Papers, No. 106, OECD Publishing, Paris.

Furthermore, we consider it necessary to reiterate that **the application of the current exemptions allows the shipping lines participating in consortia to act as if they were the only players in the maritime industry and use these advantages as leverage to massively increase their profits at the expense of the rest of the supply chain, especially after the Covid-19 pandemic outbreak.**

The shipping cost rose significantly over the last two years, while the availability has shrunk progressively.

In the light of the above, we consider that the CBER has turned out to be a disproportionate and excessively liberal concession from standard competition rules that could continue causing severe and irreparable harm to the European workers of the sector, while the role of the European Commission should be to guarantee a true level playing field.

We believe instead that supporting the terminal operators and their employees rather than continuing to apply the CBER would ensure better socio-economic sustainability of the sector and good working conditions for dockworkers in Europe.

For these reasons, the ETF stands in favour of a repeal of the current CBER and calls on all the relevant European Commission services (MOVE, COMP and EMPL) to start a concerted approach based on the active participation of all involved stakeholders to formulate port and maritime policies able to ensure future social and economic sustainability in the EU maritime sector at large.

Bruxelles, October 2022