



# EUROPEAN SHIPPERS' COUNCIL

Ms Margrethe Vestager  
Commissioner for Competition  
European Commission  
B – 1049 Brussels  
Belgique

Brussels, 13 June 2018

**Dear Commissioner Vestager,**

**Subject:** Emergency Bunker Surcharge

The European Shippers' Council (ESC) has been informed by its members that most of the largest container liner companies have increased their freight rates as of June 1<sup>st</sup>, 2018, by adding an emergency bunker surcharge to the normal freight rate.

Under the present circumstances, the use of such instrument is unjustified. Oil prices had indeed been rising during the last month, but the latest hike cannot be assimilated to an emergency. Oil price fluctuations, up or down, had been frequently happening in the past years and no negative surcharge was applied when the barrel of oil went down to 40 US\$ some time ago.

The application of any emergency surcharge should be reserved for events that cannot be foreseen (such as a crisis influencing the availability of oil). In those situations, it would be unreasonable to have the carrier bear alone the impact on the price of bunker fuel.

On the contrary, under the present circumstances, the carrier can use a specific clause which exists in many contracts, except for all-in rates type of contracts or spot contracts, to revise the freight rates accordingly. Including such a clause in the contract is part of the negotiating process between the parties. If such a clause is not provided for in the contract in force, the price should remain the same until the contract is completed.

The fact that the container liners, who announced that they would apply such a surcharge, have been doing it almost simultaneously is, from ESC point of view, tantamount to price signaling, and therefore, is in contradiction with the spirit of the "GRI commitment" which liners agreed upon with the European Commission 2 years ago. At that moment, fourteen container liner shipping companies committed to





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increase price transparency for customers and to reduce the likelihood of coordinating prices by ending the practice of publishing and communicating General Rate Increase (GRI) announcements, i.e. changes to prices expressed solely as an amount or percentage of the change, along with several other measures to improve price transparency. This commitment was given legal force by a Commission Decision on 7 July 2016.

The current potential sign of restricted competition is also given at a time when the European Commission is starting the process of assessing the existing Consortia Block Exemption Regulation.

With this letter, we would like to make you aware of the present state of facts and urge the European Commission to act accordingly if any principles of fair competition are broken. ESC remains at your disposal for any further clarification you may require.

Yours sincerely,

**Nik Delmeire**

*Secretary General*

*European Shippers' Council*

CC   Violeta Bulc, Commissioner for Transport  
Henrik Hololei, Director-General for Mobility and Transport  
Hubert de Broca, Head of Unit: Antitrust, Post and Other Services, DG Competition  
Denis Choumert, Chairman of the European Shippers' Council

