



भारत सरकार / GOVERNMENT OF INDIA

पोत परिवहन मंत्रालय / MINISTRY OF SHIPPING

नौवहन महानिदेशालय / DIRECTORATE GENERAL OF SHIPPING

टेलीफोन: 91-22-25752040/1/2/3

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F. No. SL-JSA-4(16)/2010-III

21 MAY 2015

Dated: 21-05-14

Handwritten signature

Merchant Shipping Notice No.08 of 2015

Whereas the Ministry of Corporate Affairs, Government of India, vide its Notification S.O. 354 (E) dated 05.02.15 [Annexure: 01 page], published in the Gazette of India - Extraordinary, has exempted the vessel sharing agreements [VSAs] of the liner shipping industry from the provisions of section 3 of the Competition Act, 2002;

Whereas the aforesaid exemption is for a period of one year from the date of the publication of said notification, which shall be reckoned from 05.02.15 to 04.02.16;

Whereas the said exemption is in respect of the carriers of all nationalities operating merchant ships of any nationality from any Indian port;

Whereas during the said period of one year, the Director General of Shipping, Ministry of Shipping, Government of India, is required to monitor such agreements [VSAs];

Whereas the said exemption notification mandates that such agreements do not include concerted practices involving fixing of prices, limitation of capacity or sales and the allocation of market or customers.

Whereas for the purpose of monitoring such agreements, the persons (s) responsible for the operations of such ships in India have been mandated to file in the office of the Director General of Shipping, Govt. of India, Mumbai the copies of the existing VSAs and / or VSAs to be entered into by them which would apply to such operations during the said applicable period, along with the other relevant documents, within thirty days of the publication of the said notification or within ten days of the signing of such agreements (s), whichever is later and;

Whereas the Director General of Shipping, Govt. of India/ Indian Register of Shipping will evaluate the performance relating to the exemption to shipping lines, after 6 months from the date of coming into force of the notification, to know the benefits from the operation of the said exemption to the shipping lines and the trade and / or to examine whether these agreements have caused/ are causing any appreciable adverse effect on competition.

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Whereas the Director General of Shipping, Govt. of India is empowered to issue directions under section 411 of the Merchant Shipping Act, 1958, in public interest, or in the interest of Indian Shipping in relation to ships present in Indian waters, inter-alia.

Now therefore, the Director General of Shipping, Govt. of India, in order to put in place a system for receiving the aforesaid VSAs & to monitor the same, does hereby specify the following procedures to be followed by all concerned persons/entities, in this context;

1. The Indian Register of Shipping [IRS], a Recognised Organisation [RO] / classification society is hereby nominated to carry out the following functions, for and on behalf of the Director General of Shipping, Govt. of India, in this regard;

- 1.1 Receive copies of the Vessels Sharing Agreements (VSAs) and all allied documents/ information related to the same.
- 1.2 Scan the VSAs and maintain an electronic and structured master database thereof pertaining to all such VSA's.
- 1.3 Prepare monthly reports thereon in the form and manner specified by the Director General of Shipping, Govt. of India.
- 1.4 Provide all necessary information to the Director General of Shipping, Govt. of India in relation to the complaints that may be received, in this respect.
- 1.5 All the VSAs & related information –documents filled, till date, with the Director General of Shipping, Govt. of India, need not be filled with the IRS, once again. These records already available in this office so far, will be forwarded to IRS for this purpose.

2. The shipping companies/agents/operators who are responsible for operating liner services in India by way of a vessels sharing agreements [VSAs] are required to comply with the following measures, inter-alia. [in order to meet the objectives of the said notification];

2.1. File the VSAs, in Duplicate, with effect from the date of the issue of this notice with the Indian Register of Shipping [IRS], within a period of 10(ten) days from the date of signing of any VSAs that the shipping company/entity may enter into, including any amendments thereto. The address for communication with the IRS, for the purpose is as given below;

Indian Register of Shipping

[Attn.: Shri C. Sriramamurthy, Chief operating officer]

52, Adi Shankaracharya Marg,

Opposite Powai Lake, Powai, Mumbai-400 072,

[E-Mail: vsa@irclass.org]

2.2 Each shipping company/entity which is a part of a VSA shall, along with the filing of the VSA concerned, provide, through its Indian agents [incorporated under the Indian law(s)] a formal undertaking-cum- self-declaration, in the format as per the enclosed Annexure –II [02 pages], duly signed by the Managing Director of each such Indian agency company/entity, representing VSA , certifying that the operation under the filled VSA concerned, has not caused/ is not causing/ is not likely to cause any appreciable adverse effect on competition.

2.3 Each such member shipping line shall provide the details of the line-wise loading and discharging of cargo undertaken by them at each terminal that they operate in India, including the respective ports, as destination/origin point(s). This information required to be furnished on a monthly mode, for the preceding month, shall be provided within a fortnight of the following month.

2.4. File, in duplicate, within a period of 10(ten) days from the date of signing, copies of all/ any marine terminal operating agreement(s) entered into with the terminals that the shipping company/ entity operates at.

2.5. File, in duplicate, copies of existing slot charter arrangements that they may have been entered with any other Indian shipping company/ entity.

2.6. The Indian Register of Shipping may charge an appropriate and reasonable fee for the said services rendered by it, in this regard.

3. Grievance redressal mechanism:

3.1. Any aggrieved party making an allegation that the VSA filed, under this notification, with the Director General of Shipping, Govt. of India has caused, or is causing or is likely to cause any appreciable adverse effect on competition, may file a clear & detailed complaint, with due justification & backup documentation, in writing duly signed by the aggrieved person, to the DG Shipping, Govt. of India, at the following office address. Such a complaint should also be filed in an electronic form and be mailed at the following e- addresses;

3.1. Directorate General of Shipping,

Beta Building, 9th Floor,

I-Think Techno Campus,

Kanjur Marg (East), Mumbai – 400 042

Tel : 022- 25752040/1/2/3 Fax 022- 25752029/35

3.1.2. E-mail, IDs [Official]:

3.1.2 .1. amohd-dgs@nic.in

3.1.2.2. sgb-dgs@nic.in

4. This MS Notice may be reviewed from time to time & shall be valid till 04.02.16

5. This issues with the approval of the Director General of Shipping & ex-officio Additional Secretary to the Govt. of India.


[Ash Mohomad]

Assistant Director General of Shipping [MSL]

Encls: as above

To;

1. Secretary to the Govt. of India, Ministry of Shipping, GOI, for kind information
[Kind Attn.: Shri K. Touthang, Director]
2. Indian Register of Shipping, Mumbai.
3. Container Shipping Lines Association (India).
4. INSA / ICCSA / FOSMA / MASSA.
5. Hindi Section DGS, Gol, Notice for the issue of the Hindi version.
6. Computer Section, DGS, Gol for uploading this Notice on the official DGS website, for the information of all the shipping companies / agents / operators concerned.



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
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कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 5 फरवरी, 2015

का.आ. 354(अ).—केन्द्रीय सरकार, प्रतिस्पर्धा अधिनियम, 2002 (2003 का 12) की धारा 54 के खंड (क) द्वारा प्रदत्त शक्तियों का लोकहित में प्रयोग करते हुए, लाइनर पोत परिवहन उद्योग के जलयान हिस्सेदारी करार को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से एक वर्ष की अवधि के लिए किसी भी भारतीय पत्तन से किसी राष्ट्रीयता के सभी राष्ट्रों के प्रचालित पोतों की बाबत उक्त अधिनियम की धारा 3 के उपबंधों से छूट प्रदान करती है परंतु ऐसे करारों के अंतर्गत ऐसे सम्मिलित व्यवहार नहीं होंगे जिसमें कीमत नियत करना, क्षमता या विक्रय को सीमित करना और बाजारों या ग्राहकों का आर्बिटन अंतर्वर्तित है।

उक्त एक वर्ष की अवधि के दौरान, भारत सरकार के पोत परिवहन मंत्रालय, पोत परिवहन के महानिदेशक, ऐसे करारों को मानीटर करेंगे और भारत में ऐसे पोतों के प्रचालन के लिए उत्तरदायी व्यक्तियों, विद्यमान जलयान हिस्सेदारी करारों या किए जाने वाले जलयान हिस्सेदारी करारों की प्रतियों को, उक्त अवधि के दौरान प्रयोजनीयता के साथ अन्य सुसंगत दस्तावेजों को राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से तीस दिन के भीतर या ऐसे करारों पर हस्ताक्षर किए जाने के दस दिन के भीतर, जो भी पश्चात्पूर्वी हो, महानिदेशक, पोत परिवहन को फाइन करेंगे।

[फा. सं. 5/20/2011-सीएस]

मनोज कुमार, संयुक्त सचिव

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 5th February, 2015

S.O. 354(E).—In exercise of the powers conferred by clause (a) of Section 54 of the Competition Act, 2002 (12 of 2003), the Central Government, in public interest, hereby exempts the Vessels Sharing Agreements of Liner Shipping Industry from the provisions of Section 3 of the said Act, for a period of one year from the date of publication of this notification in the Official Gazette, in respect of carriers of all nationalities operating ships of any nationality from any Indian port provided such agreements do not include concerted practices involving fixing of prices, limitation of capacity or sales and the allocation of markets or customers.

During the said period of one year, the Director General, Shipping, Ministry of Shipping, Government of India shall monitor such agreements and for which, the persons responsible for operations of such ships in India shall file copies of existing Vessels Sharing Agreements or Vessels Sharing Agreements to be entered into with applicability during the said period along with other relevant documents within thirty days of the publication of this notification in the Official Gazette or within ten days of signing of such agreements, whichever is later, with the Director General, Shipping.

[F. No. 5/20/2011-CL-V]

MANOJ KUMAR, Jt. Secy.

Undertaking-cum-self declaration on the letter head on the company/entity in terms of the Merchant Shipping Notice No. 08 of 2015[F.No.SL-JSA-4(16)/2010-III] dated 21.05.15, issued by the Directorate General of Shipping, Govt. of India, while filing of vessel sharing agreements [VSAs].

I....., s/o Shri....., in my capacity as the Managing Director of M/s....., a company incorporated in India with registration no. [insert the registration number of the company], which is representing as the agency of India of the contracting party i.e [name of the principal] to the vessel sharing agreements[VSA] entered into onfor the shipping service.....,hereby undertake & declare on behalf of it said principal, that the VSA entered into between the following parties;

1.

2.

3.

4.

5.

6.

or more

has not caused/ is not causing/ is not likely to cause any adverse effect on competition during the tenure of this agreement..

2. I further certify that;

2.1. The VSA enclosed herewith does not, in manner what so ever, lead to fixing of prices, limiting production or sharing of markets (whether in writing or otherwise).

2.2. The said VSA also does not contain joint selling and purchasing provisions vis-a-vis with competitors.

2.3. Our company or its employees do not share any information about prices or business plans with competitors in any manner & at no time whatsoever.

Place: _____

Signature _____

Date: _____

Name _____

Designation _____

Seal of the
Organization