JAPANESE SHIPOWNERS' ASSOCIATION

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Comments of the Japanese Shipowners' Association on Hong Kong Competition Commission's Proposal to Issue a Block Exemption Order in Respect of Vessel Sharing Agreements

The Japanese Shipowners' Association (JSA) is a nationwide maritime organisation comprising Japanese registered shipowners, charterers and operators of ships. As of 1 December 2016, the JSA is composed of 122 member companies.

On behalf of the Japanese shipping industry, the JSA is grateful for the opportunity to comment on Hong Kong Competition Commission's (HKCC) proposal to issue a Block Exemption Order (BEO) in respect of Vessel Sharing Agreements (VSAs).

The JSA very much welcomes the HKCC's decision to issue a BEO for VSAs; however, we strongly hope that HKCC will re-consider its proposal with respect to Voluntary Discussion Agreements (VDAs). As it has been stated in the submission papers from International Chamber of Shipping and Asian Shipowners' Association, both of which JSA is a member of, the JSA believes both carrier agreements, VSAs and VDAs, create numerous efficiencies, and continue to be critically essential for carriers to maintain regular, high-quality and reliable liner shipping services, which are demanded by customers, in order to support the healthy development of global trade. Both VSAs and VDAs are complementary and support each other's functions, but it is also a definitive fact that both types of agreements have been present in Hong Kong for decades and are permitted by most of Hong Kong's major trading partners, including Japan. A block exemption in Hong Kong for both VSAs and VDAs would just maintain the status quo, which is important because with these agreements in place Hong Kong importers and exporters have enjoyed a highly competitive and stable shipping environment with numerous service options to meet their needs.

In this regard, it is noteworthy that when Japan recently renewed its own longstanding competition law exemption for both VDAs and VSAs, the government considered the positive impact that both types of agreements have on consumers and the Japanese economy as a whole. In addition, due consideration was given to similar exemptions that continue to be granted by Japan's major trading partners, particularly in Asia.

The HKCC writes that the VDAs do not fall within the scope of the exclusion for agreements enhancing overall economic efficiency, but if no block exemption for VDAs were to be granted, Hong Kong's regulatory regime would be at odds compared to regional competitors. If Hong Kong aims to maintain its competitiveness as a maritime centre and transshipment hub, as Hong Kong has always been up to now, it will be very much important that there will be no disruptions to its legislation among major trading countries. Moreover, relating to the One Belt One Road Initiative, if the government aims to achieve building a new type of maritime super-connector centre and fostering a business-friendly environment for the maritime industry, legal certainty as to the regulation of both VSAs and VDAs will be crucial.

We thus strongly believe both VSAs and VDAs meet the criteria for an exemption from Hong Kong Competition Ordinance, and we truly hope that HKCC reconsider their proposal with respect to VDAs.

Respectfully submitted by
The Japanese Shipowners' Association

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