CASE BE/0004

DECISION TO VARY (RENEW) THE COMPETITION (BLOCK EXEMPTION FOR VESSEL SHARING AGREEMENTS) ORDER 2017 (AS VARIED)

NOTICE OF VARIATION

31 July 2026

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I. INTRODUCTION AND EXECUTIVE SUMMARY

1. On 8 August 2017, the Competition Commission (the "**Commission**") issued the Competition (Block Exemption For Vessel Sharing Agreements) Order 2017 (the "**Order**") pursuant to section 15 of the Competition Ordinance (Cap. 619) (the "**Ordinance**").

2. The Order declares that certain activities of vessel sharing agreements between liner shipping companies ("**VSAs**") are excluded agreements, which means that those activities satisfy the conditions for exclusion from the first conduct rule for agreements enhancing overall economic efficiency in section 1 of Schedule 1 to the Ordinance (the "**Efficiency Exclusion**").

3. The Order, a Guidance Note explaining its terms, and a Statement of Reasons detailing the basis for the issuance of the Order, are available on the Block Exemption Orders Register on the Commission's website.

4. On 5 August 2021, the Commission initiated a consultation to review the Order (the "**1st Review**").

5. On 5 May 2022, the Commission initiated a consultation on its proposed renewal of the Order.

6. On 7 July 2022, the Commission issued its decision to renew the Order on the same substantive terms ("**2022 Variation Order**"). In light of the COVID-19 pandemic and the exceptional market volatility that was observed for the liner shipping sector during that period, the Commission decided to renew the Order for only four years in order to provide for a shorter timeframe before the Order would be further reviewed.

7. On 7 August 2025, the Commission initiated a second review of the Order (the "**2nd Review**").

8. On 11 June 2026, the Commission issued a notice under section 20(2) of the Ordinance regarding its proposal to renew the Order (the "**S.20 Notice**") and initiated a public consultation on its proposal (the "**S.20 Consultation**").

9. The Commission has carefully reviewed the representations received in the S.20 Consultation and considers that they generally support the findings and conclusions from the 2nd Review and did not raise any new arguments or concerns that had not previously

been considered. Accordingly, the Commission has decided to renew the Order for a period of five years on the same substantive terms, as proposed in the S.20 Notice.

10. To achieve the renewal, the Commission has varied the expiry date and the review periods in the Order pursuant to the variation procedure set out in section 20 of the Ordinance.

11. This variation is effected by the Competition (Block Exemption for Vessel Sharing Agreements) (Variation) Order 2026, which is published to the Commission's Block Exemption Orders Register available on the Commission's website and at its offices during ordinary business hours.

12. In accordance with the Commission's Applications Guideline, the Commission issues this Notice of Variation to explain the reasons for the variation.[1] The remainder of this Notice of Variation sets out:

(a) an overview of the Order (Part II);

(b) details of the 2nd Review and the S.20 Consultation conducted by the Commission (Part III);

(c) the Commission's findings on relevant developments since the 2022 Variation Order (Part IV);

(d) the basis for the Commission's variation (renewal) of the Order (Part V);

(e) the Commission's consideration of the representations (Part VI); and

(f) details of the variation (renewal) of the Order (Part VII).

II. OVERVIEW OF THE ORDER

13. The Order concerns VSAs, which are defined in paragraph (5) of the Order as "*an agreement or a set of interrelated agreements between liner operators in which the parties to such agreement or agreements discuss and agree on operational arrangements relating to the provision of liner shipping services, including the coordination or joint operation of vessel services, and the exchange or charter of vessel spac*e".

[1] Guideline on Applications for a Decision under Sections 9 and 24 (Exclusions and Exemptions) and Section 15 Block Exemption Orders, paragraph 14.8.

14. The following activities of VSAs have benefited from exemption from the first conduct rule pursuant to paragraph (6) of the Order since the issuance of the Order in August 2017:

    (a) the joint operation of liner shipping services including any of the following activities: (i) the coordination and/or joint fixing of sailing timetables and the determination of ports of call; (ii) the exchange, sale or cross-chartering of space or slots on vessels; (iii) the pooling of vessels and/or port installations; (iv) the use of one or more joint operations offices; (v) the provision of containers, chassis and other equipment and/or the rental, leasing or purchase contracts for such equipment;

    (b) capacity adjustments in response to fluctuations in supply and demand, which may be necessary for the operation of a joint service;

    (c) the joint operation or use of port terminals and related services; and

    (d) any other activity ancillary to those referred to in (a), (b) or (c) above and which is necessary for their implementation.

15. Such exemption is subject to certain conditions in paragraphs (7) and (8) of the Order, including that:

    (a) the parties to a VSA do not hold in a market a combined market share of more than 40% (or more than 45% for a period not exceeding two consecutive years) (the "**Market Share Limit**"); and

    (b) the agreement does not authorise or require price fixing, limiting capacity or the allocation of markets or customers.

16. The Guidance Note accompanying the Order provides further details on the Commission's interpretation of the Order's provisions, including guidance on market definition and the calculation of market shares for the purposes of the market share limit.

III. DETAILS OF THE 2ND REVIEW AND THE S.20 Consultation

The 2nd Review

17. In the 2nd Review, the Commission conducted an initial consultation seeking information, views and evidence from interested parties on a series of issues, including on market and

other developments since the 2022 Variation Order, to assist it to formulate a proposal on the future of the Order.[2]

18. The respondents to the initial consultation included local and global liner shipping industry associations; industry associations representing shippers, port operators and ship owners; chambers of commerce; a legislator; and a public body.

19. In the 13 submissions received:

    (a) 11 respondents expressly supported the renewal of the Order;

    (b) 1 respondent raised some concerns about the state of liner shipping competition but was not opposed to the renewal of the Order; and

    (c) 1 respondent opposed the renewal of the Order.

20. In addition to this initial consultation, the Commission benefited from, among others, meetings with key industry representatives; and responses to the Commission's requests for information submitted by the Hong Kong Liner Shipping Association (the "**HKLSA**") (who were the original applicant for the block exemption order in this matter).

S.20 Consultation

21. Based on the 2nd Review, the Commission provisionally concluded that the basis upon which the Order was issued remained satisfied (i.e., that VSAs within the scope of the Order continue to satisfy the four cumulative conditions of the Efficiency Exclusion) and that the Order continued to be merited and effective. This finding was further outlined in the S.20 Notice.

22. In response to the S.20 Notice, the Commission received nine representations.[3]

23. Seven representations were supportive of renewal of the Order.

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[2] See the Notice of Commission initial consultation regarding the review of the Competition (Block Exemption for Vessel Sharing Agreements) Order 2017 (as varied) dated 7 August 2025.

[3] The representations were from the following organisations: (1) Asian Shipowners Association; (2) Chartered Institute of Logistics and Transport in Hong Kong; (3) Hong Kong General Chamber of Commerce; (4) Hong Kong Liner Shipping Association; (5) Hong Kong Shippers' Council; (6) Hong Kong Shipowners Association; (7) Hong Kong Pilots Association; (8) International Chamber of Shipping; and (9) World Shipping Council.

24. The remaining two representations raised a limited number of concerns, namely those from the Chartered Institute of Logistics and Transport in Hong Kong and the Hong Kong Shippers' Council. These issues are addressed below in Part VI but do not cause the Commission to change its position as expressed in the S.20 Notice.

25. The remainder of this Notice of Variation sets out the findings from the 2nd Review and S.20 Consultation.

IV. FINDINGS ON RELEVANT DEVELOPMENTS SINCE THE ISSUANCE OF THE 2022 VARIATION ORDER

26. This section sets out the Commission's findings on developments since the issuance of the 2022 Variation Order in relation to:

(a) VSAs;

(b) exemptions from competition law for liner shipping agreements in other jurisdictions; and

(c) developments in the liner shipping market.

(a) VSAs

Form and terms of VSAs

27. Based on the information and views obtained in the 2nd Review and S.20 Consultation, the Commission has reached the finding that the form and terms of VSAs today are fundamentally the same as they were when the Order was issued.

28. In particular, VSAs continue to consist of agreements on operational arrangements relating to the provision of liner shipping services, ranging from simple agreements to purchase or reciprocally exchange capacity between members of the VSA, to more extensive agreements to coordinate the parties' respective sailing schedules and port calls and/or operate a joint service through pooling of vessels. In addition, VSAs in the form of "alliances" continue to be in use, which cover multiple trade routes rather than one trade, so that liner operators manage several joint shipping services worldwide.[4]

[4] See Statement of Reasons, paragraphs 2.27 to 2.30.

29. VSAs also continue not to authorise joint marketing or pricing of services.[5] The information and views gathered by the Commission, including from users of liner shipping services, suggest that VSA members still compete with each other (as well as with non-VSA members) on price and other competitive parameters such as customer service.

Usage of VSAs in Hong Kong

30. VSAs have continued to be widely used by shipping lines providing services calling at Hong Kong since the issuance of the 2022 Variation Order.

31. As set out in the following table, the liner shipping services calling at Hong Kong are, in the large majority, operated under VSAs.

Table 1: Proportion of services calling at Hong Kong operated under VSAs (2025)

Trade Route	Number of services	Services operated under VSAs	Percentage of VSA services by service count
Europe	4	4	100%
Middle East/Africa	4	3	75%
Transpacific	26	18	69%
Aus/NZ	12	5	42%
Intra-Asia	104	41	39%
Total	**150**	**71**	**47%**

Source: HKLSA

(b) Exemption of liner shipping agreements from competition law in other jurisdictions

32. Since the 2022 Variation Order, the following jurisdictions have either maintained their exemptions or issued or renewed an exemption for VSAs (subject to certain conditions) following a review:

(a) **Malaysia:** In 2025, the Malaysia Competition Commission conducted a public consultation on a new block exemption order for VSAs, the previous one having

[5] See Statement of Reasons, paragraph 4.11.

expired on 6 July 2025. The Malaysia Competition Commission has approved the new block exemption order for a five-year period, subject to certain conditions. The new block exemption order is now awaiting gazettement by the Attorney General's Chambers.

(b) **Singapore:** In 2024, the Competition and Consumer Commission of Singapore conducted a consultation on renewing the block exemption order for liner shipping agreements. Following the consultation, the block exemption order was renewed from 1 January 2025 to 31 December 2029.

33. As further explained in the subsequent section, a notable development is that the UK and EU reviewed their respective Consortia Block Exemption Regulations ("**CBERs**") and decided to allow them to expire in 2024.

(c) Developments in the liner shipping market since the issuance of the 2022 Variation Order

<u>Non-renewal of UK and EU CBERs</u>

34. On 10 October 2023, the European Commission (the "**EC**") announced its decision to allow its CBER ("**EU CBER**") to expire on 25 April 2024.[6] As part of its justifications for not renewing the EU CBER, the EC found that: (i) the EU CBER produced limited compliance savings because of the small number of agreements that fell within the exemption provided by the EU CBER; (ii) it was unclear the extent to which shipping lines understood the substantive provisions of the EU CBER; and (iii) the decision for shipping lines to enter into agreements with each other was more influenced by commercial reasons and operational costs rather than concerns about antitrust compliance costs.

35. As with the EC, the UK Competition and Markets Authority (the "**UK CMA**") made the decision on 9 February 2024 not to recommend renewal of its CBER (the "**UK CBER**").[7] In coming to its decision, the UK CMA concluded that: (i) it no longer had sufficient certainty

[6] EC, "Expiry of Commission Regulation (EC) No 906/2009 of 28 September 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia)", 10 October 2023, https://competition-policy.ec.europa.eu/document/download/144e8943-10f3-4fdd-abb6-4437d787e045_en?filename=2023_EC_communication_CBER_expiry_en.pdf.

[7] UK CMA, "UK Competition Law: Liner Shipping Consortia Block Exemption: Final report", 9 February 2024, available at: https://assets.publishing.service.gov.uk/media/65c4fb1214b83c000ea71587/Final_decision_CBER_pdfa.pdf.

that the shipping line agreements covered by the UK CBER would produce the efficiencies which outweigh their potential impact on competition; and (ii) renewing the UK CBER would give rise to insufficient benefits compared to a scenario where shipping lines would have to self-assess whether their agreements comply with competition law.

The changing nature of liner shipping at the Port of Hong Kong

36. The Port of Hong Kong has experienced a long-term trend of declining container throughput, both in relative and absolute terms. As of 2024, Hong Kong fell outside the top 10 ports and sat at 12th in the world in terms of total container volume.[8] However, the average number of weekly sailings and number of destinations reached at the Port of Hong Kong have seen recent upticks (see Table 2). Market participants have suggested that this is the result of the Port of Hong Kong becoming more of a hub for regional carriers and intra-Asia trade, which typically utilizes vessels with lower container capacity. Consequently, smaller vessels are calling at the Port of Hong Kong more frequently but with less cargo. Another indication that the Port of Hong Kong is becoming more focused on intra-Asia trade is that since 2022, 17 additional services with port calls at Hong Kong have been introduced and around two-thirds of these were intra-Asia routes.

Table 2 – Average Weekly International Container Vessel Sailings and Number of Destinations for Hong Kong

YEAR	AVERAGE WEEKLY SAILINGS	NUMBER OF DESTINATION
2019	300	420
2020	280	610
2021	270	590
2022	240	460
2023	320	490

Source: Government of Hong Kong[9]

37. In addition, less of the container throughput going through Hong Kong is transshipment. Between 2017 and 2020, approximately 70% of the throughput going through the Port of Hong Kong was transshipment. In contrast, between 2022 and 2024, transshipment constituted less than 60% of the throughput. This is another indicator suggesting that the

[8] See World Shipping Council, "The Top 50 Container Ports", https://www.worldshipping.org/top-50-container-ports.

[9] Available at: https://www.info.gov.hk/gia/general/202406/12/P2024061200319.htm.

Port of Hong Kong may be losing transshipment throughput in particular to the neighbouring ports in the Chinese Mainland.

Reconfiguration of the major global alliances

38. In recent years, the major global alliances have undergone significant reconfiguration. The 2M Alliance between Maersk and MSC concluded in January 2025. MSC, the leading shipping line by volume, is now operating without being part of any global alliance. MSC has independently introduced replacements or continuations of former 2M Alliance services. In February 2025, Maersk and Hapag-Lloyd formed the Gemini Cooperation covering their network on East-West trades. Following Hapag-Lloyd's departure from the THE Alliance, the remaining members, Ocean Network Express, Hyundai Merchant Marine and Yang Ming Marine Transport Corporation, formed the Premier Alliance in February 2025. The formation of the Premier Alliance has allowed its members largely to preserve the operational coverage previously offered by the THE Alliance, including the key East-West trade routes covering Hong Kong. The OCEAN Alliance, constituting CMA CGM, COSCO Shipping, Evergreen and OOCL, continues to operate and has been extended to at least 31 March 2032. The OCEAN alliance has introduced new services that include stops in Hong Kong.

39. As a result of the reconfiguration of the major global alliances, the combined market shares of the Alliances have become less concentrated on the key trade routes relevant to Hong Kong since the 2022 Variation Order.

Geopolitical instability

40. The Red Sea Crisis from the attack by the Houthis on more than 60 vessels in the Red Sea from October 2023 to March 2024 caused disruption to container traffic through the Suez Canal and led to diversions around the Cape of Good Hope. In addition, the Panama Canal experienced drought conditions and reduced water levels, resulting in shipping delays.

41. The liner shipping industry has also experienced volatility arising from shifting US tariff policies and significant increases to inflation.

42. More recently, the US-Israeli conflict with Iran has resulted in shipping lines suspending services and diverting vessels away from the Middle East with the Strait of Hormuz effectively closed to commercial maritime vessels.

V. BASIS FOR THE VARIATION (RENEWAL) OF THE ORDER

43. This section examines whether the basis upon which the Order was originally issued and renewed remains valid (and whether thus the further renewal of the Order is justified) in light of the findings from the 2nd Review and S.20 Consultation, with respect to the following matters:

(a) whether there have been any changes to competition concerns associated with VSAs compared to those identified when the 2022 Variation Order was issued;

(b) whether there have been any changes to the efficiencies associated with VSAs compared to those identified when the 2022 Variation Order was issued;

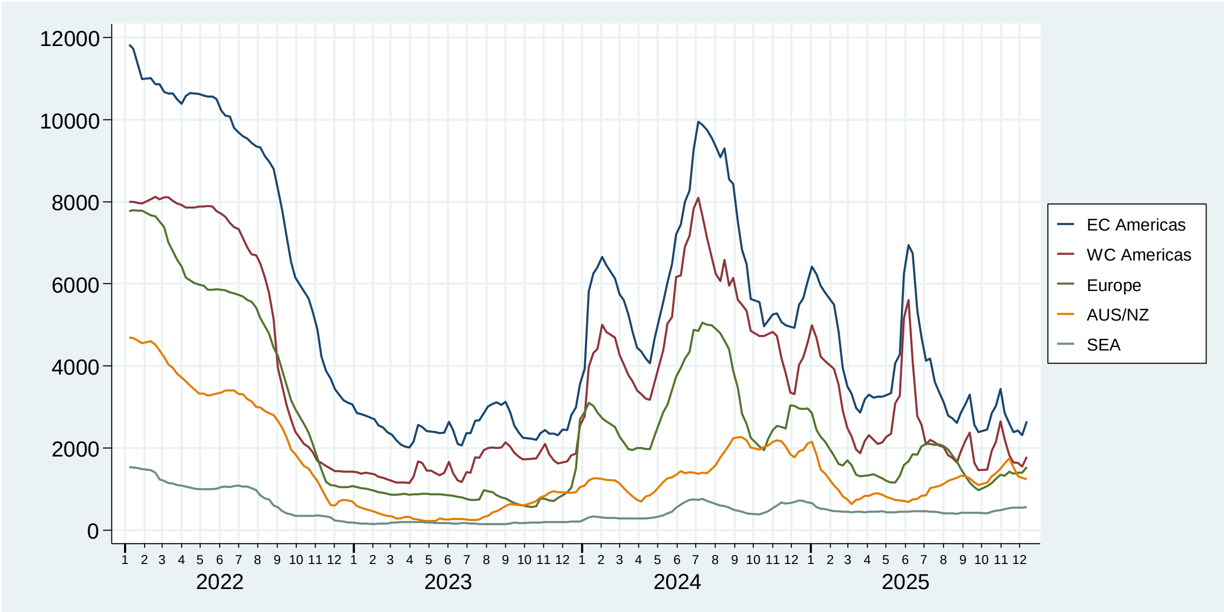
(c) whether the Market Share Limit in the Order remains appropriate; and

(d) whether the Order remains merited and effective.

(a) Competition concerns associated with VSAs

44. Based on the Commission's analysis of the Shanghai Containerized Freight Index from 2022 to 2025, freight rates on the five major trade routes remained high throughout the COVID-19 pandemic and displayed a high degree of volatility but have fallen towards the end of 2025 (see Figure 1). The high degree of volatility is likely influenced by the geopolitical instability described in paragraphs 40 to 42 above. In the absence of geopolitical instability, freight rates fell significantly in 2023.

Figure 1: Shanghai Containerized Freight Index (USD/TEU) for 5 Major Trade Routes: 2022-2025



Source: Clarksons Research, Shipping Intelligence Network

45. While the Commission's analysis of data from 2022 to 2025 indicates that freight rates fell to around 2023-levels, the Iran War and its impact on global oil prices have already likely caused freight rates to increase. As a result, freight rates are likely to continue to trend upward into the future if the Iran War is prolonged.[10]

46. In addition to pricing indicators, indicators relating to service quality suggest that Hong Kong shippers have not experienced reduced service quality since the 2022 Variation Order. As observed in Table 2, average weekly sailings increased by 33.3% and destination coverage rose by 6.5% from 2022 to 2023. Moreover, 17 new services have been introduced at the Port of Hong Kong since 2022.

47. The Commission's analysis of combined market shares also suggests that Hong Kong shippers have not faced reduced competitive conditions since the 2022 Variation Order.[11] Looking at the combined market shares on the Transpacific and Asia-Europe trade routes in 2021, these trade routes have become less concentrated since the 2022 Variation Order due to the restructuring of the global alliances (see Table 3). In 2021, the alliances constituted 88% and 98% of the combined market shares on the Transpacific and Asia-

[10] This is consistent with the data from the Shanghai Containerized Freight Index as observed in July 2026, available at: https://en.sse.net.cn/indices/scfinew.jsp.

[11] The Commission's analysis of the combined market shares considers the Alliances and MSC together as MSC only recently was no longer part of an alliance and remains a significant competitor even though independent.

European trade routes, respectively. But in 2025, the alliances only have 74% combined market share on the Transpacific trade, 74% on the Asia-Mediterranean trade and 80% on the Asia-North Europe trade. MSC remains a significant player, particularly on the Asia-Mediterranean trade with 22% market share.

Table 3: Capacity market share by major alliances and MSC on the Transpacific and Asia-Europe trades, 2021 and 2025

2021			2025		
	Transpacific	**Asia-Europe**		**Transpacific**	**Asia-Mediterranean / Asia-North Europe**
Ocean	38%	37%	**Ocean**	34%	39% / 37%
2M	26%	36%	**Premier**	22%	14% / 20%
			Gemini	18%	21% / 23%
THE	24%	25%	**MSC**	14%	22% / 19%
Total	**88%**	**98%**	**Total**	**88%**	**96% / 98%**

Source: 2021 data from BMT, 2025 data based on Clarksons Research, World Fleet Register (data extracted on 19th December 2025)

48. Furthermore, the Relevant Trades[12] remain fragmented with many shipping lines operating on them, albeit most of the shipping lines only have low combined market shares (see Table 4). This supports that the degree of competition on the Relevant Trades continues to be rigorous.

Table 4: Number of operators by market share on the Relevant Trades, Dec 2025

	AUS/NZ	INTRA-ASIA	ASIA - MEDITERRANEAN	ASIA - NORTH EUROPE	TRANS-PACIFIC
TOTAL NUMBER OF OPERATORS	18	50	42	29	21
WITH >5% CAPACITY SHARE	4	6	6	8	9
WITH 0.5%-5% CAPACITY SHARE	10	20	5	2	5
WITH <0.5% CAPACITY SHARE	4	24	31	19	7

Source: Clarksons Research, World Fleet Register (data extracted on 19th December 2025)

49. Finally, taking a forward-looking perspective, consideration of actual and expected capacity changes suggest that capacity in the shipping line industry has increased and is expected to only grow further (see Table 5). In the four-year period from 2022 to 2025,

[12] The Relevant Trades are Asia-North Europe, Asia-Mediterranean, Transpacific, intra-Asia and Asia-Australia (including New Zealand).

the average year-on-year increase of capacity was 8.7%. Further, for the next four years (2026 to 2029), the average year-on-year expected capacity increase is 7.4%. The increased actual and expected capacity may be expected to increase competition between carriers and put downward pressure on prices for liner shipping services.

Table 5: Actual and expected capacity changes 2022-2030[13]

YEAR	CAPACITY DELIVERY (MILLION TEU)	YEAR END TOTAL (MILLION TEU)	YOY INCREASE
2022	1.0	25.8	-
2023	2.3	27.8	8.9%
2024	2.9	30.8	10.5%
2025	2.1	32.9	6.7%
2026E	1.7	34.6	5.2%
2027E	2.9	37.6	8.5%
2028E	4.0	41.6	10.8%
2029E	2.2	43.8	5.2%

Source: Clarksons Research, Shipping Intelligence Network (data extracted on 19th December 2025)

50. In light of the foregoing analysis, the Commission concludes that VSAs do not raise any additional or increased competition concerns since the 2022 Variation Order.

(b) Efficiencies associated with VSAs

51. In this section, the Commission considers whether VSAs continue to meet the four cumulative conditions of the efficiency exclusion, which require that the relevant agreement:

(a) contributes to improving production or distribution or promoting technical or economic progress ("**Efficiencies Condition**");

(b) allows consumers a fair share of the resulting benefit ("**Fair Share Condition**");

(c) does not impose on the undertakings concerned restrictions that are not indispensable to the attainment of the objectives stated in paragraph (a) ("**Indispensability Condition**"); and

[13] Retired capacity in 2022-2025 is small relative to total capacity (<1%). Since estimates for retired capacity for 2026-2030 are not available, the forecasted year-end total does not take into account expected capacity retirements.

(d) does not afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the goods or services in question ("**Non-elimination of Competition Condition**").

Efficiencies Condition

52. In terms of the Efficiencies Condition, the Commission has reached the view that VSAs continue in principle to allow shipping lines to offer broader service coverage and higher service frequency and decrease the costs of entry and expansion on particular trades, than if shipping lines were operating alone.[14] The Commission takes this view based on the following:

(a) <u>Broader service coverage and increased sailing frequencies.</u> The HKLSA provided data showing that VSAs generally offer services with higher weekly number of ships than individual services on routes going through the Port of Hong Kong at a ratio of 1.8 times higher. Moreover, a significant proportion of the cargo carried by HKLSA members is carried on the vessels of VSA partners compared to their own vessels.

(b) <u>Increased economies of scale.</u> The HKLSA provided data showing that the average weekly capacity of independent operators was 4,092 TEU while those with VSA-deployed vessels averaged 7,470 TEU, representing an approximately 82.6% difference. It also provided the example of a 1,100 TEU vessel, which had an approximate cost of US$9.09 per TEU per day. By contrast, a 4,250 TEU vessel had a per-TEU cost of under US$5.91 per day.

Fair Share Condition

53. With respect to the Fair Share Condition, the Commission found at the time of the issuance of the Order that the above efficiencies should in principle offer customers higher service coverage and frequencies and, due to cost savings from use of larger vessels, lower rates, with respect to VSAs that did not exceed the Market Share Limit.[15] This finding continues to remain valid in light of the Commission's analysis of the current competitive conditions in paragraphs 48 to 50 above. More specifically, a competitive

[14] See Statement of Reasons, paragraphs 4.22 to 4.40.

[15] See Statement of Reasons, paragraphs 4.60 to 4.71.

market for liner shipping services helps ensure that the claimed efficiencies are passed through to shippers.

Indispensability Condition

54. With respect to the Indispensability Condition, the Commission finds that, since the form and terms of VSAs remain fundamentally the same, its original conclusion remains valid that VSAs are unlikely to impose restrictions on their members that are not indispensable to the attainment of efficiencies.[16] The 2nd Review and S.20 Consultation has not found evidence to suggest that the claimed efficiencies arising from VSAs could be achieved to the same extent through less anticompetitive means.

Non-elimination of Competition Condition

55. Finally, based on the Commission's analysis of market shares in paragraphs 48 to 49 above, the market with VSAs remains competitive. Therefore, VSAs have not violated the Non-Elimination of Competition Condition.

Conclusion on efficiency exclusion

56. Based on the foregoing and taking into account its assessment of competition concerns in the preceding section, the Commission has reached the conclusion that VSAs continue to likely meet the four cumulative conditions of the Efficiency Exclusion, provided the parties do not exceed the Market Share Limit set out in the Order.

(c) Market Share Limit

Appropriateness of Market Share Limit generally

57. The HKLSA takes the view that there should be no market share threshold in the Order. It argues that many jurisdictions, such as Australia, the Chinese Mainland, the United States, Japan, Malaysia, Singapore, South Korea, Taiwan and New Zealand, all have VSA exemptions with no market share threshold. However, if the Commission were to determine that the market share threshold continues to be required, the HKLSA considers that the current 40% threshold (or 45% for a period of two consecutive years) is more

[16] See Statement of Reasons, paragraphs 4.73 to 4.79.

than sufficient to ensure the economic efficiencies generated by VSAs outweigh any theoretical harm to competition.

58. In the 1st Review, the Commission maintained the position that the current Market Share Limit continues to be necessary and appropriate. The Market Share Limit ensures that each VSA is subject to competition from at least two other VSAs or independent parties in each relevant market in order to benefit from the Order. At this level of concentration, there is sufficient certainty that no VSA would enable its members to exercise market power individual or jointly, such that they would be unable to achieve rate increases by jointly deciding through the VSA to withhold capacity from the market. Further, the Market Share Limit helps ensure that shipping lines using VSAs remain incentivized to pass on efficiencies to consumers. Based on the evidence reviewed by the Commission as part of the 2nd Review and S.20 Consultation, the Commission finds that the current Market Share Limit continues to remain necessary and appropriate.

(d) Whether the Order continues to be merited and effective

59. While the Commission has concluded above that the activities of VSAs falling within the scope of the Order continue to meet the Efficiency Exclusion, it remains to be considered whether the Order continues to be merited and effective.

60. In this respect, the Commission considers that a block exemption order may be merited and effective, for example, where it concerns a category of agreements that are representative of agreements in wider use in one or more industries, where legal certainty as to the compatibility of such arrangements with the Ordinance is desirable, where there is a greater need for cooperation between undertakings in a particular sector as compared with other sectors in the economy or where the order brings other public benefit.[17]

61. The regulatory developments in the EU and UK, which allowed their respective block exemptions to expire,[18] provide an impetus for the Commission to consider whether the benefits of the Order outweigh those under a situation where shipping lines operating in

[17] See Guideline on Applications for a Decision under Sections 9 and 24 (Exclusions and Exemptions) and Section 15 Block Exemption Orders, paragraphs 5.3, 5.4, 5.7 and 11.3. The matters in section 19(3)(a), (b) and (c) of the Ordinance, which the Commission must consider when deciding whether or not to review a block exemption order, may also be noted.
[18] See paragraphs 34 and 35 above.

Hong Kong had to conduct a self-assessment of their VSAs for compliance with the Ordinance.

62. The HKLSA argues that the EU and UK developments are inapplicable to Hong Kong:

(a) Unlike in the EU and UK, Hong Kong does not have the same level of guidance in order to allow shipping lines to conduct self-assessment of VSAs, thus there would be greater legal uncertainty if the Order is allowed to expire.

(b) The market conditions in Hong Kong are significantly different to that of the EU and UK. The market in Asia includes a large number of smaller players cooperating through VSAs, particular on regional routes. As a result, shipping lines operating in Asia rely heavily on the Order rather than self-assessment.

(c) While most European jurisdictions no longer have block exemptions for VSAs, many Asian jurisdictions do, including those neighbouring Hong Kong. As such, if the Commission allows the Order to expire, this would make Hong Kong an outlier in Asia.

63. In order to assess whether small carriers[19] with VSAs derive greater benefit from the Order in comparison to the carriers subjected to EU CBER and UK CBER, the Commission conducted an analysis on the proportion of small carriers operating under VSAs in the intra-Asia trade. As shown in Table 6, there is a significantly larger proportion of VSAs with only small carriers on intra-Asia routes compared to intra-Europe routes.

Table 6: Share of all intra-Asia services and intra-Europe services involving VSAs and small carriers, 2026[20]

Measured by	Mode of Cooperation	2026	
		Intra-Asia	Intra-Europe
Number of Services	No VSA - Large Only	22%	34%
	No VSA - Small Only	26%	19%
	VSA - Large Only	6%	6%
	VSA - Small & Large	24%	36%

[19] For the purpose of this analysis, "small carriers" is defined as carriers that have not previously been part of a global alliance as members of these alliances are likely to have greater legal resources and experience to self-assess.

[20] The Commission also conducted sensitivity checks for other periods (2021), using other measures (such as ships deployed and weekly capacity) and considered only services calling at Hong Kong (rather than the whole trade) and found the results and conclusions to be consistent.

	VSA - Small Only	**23%**	**6%**

Note 1: Small carriers are defined as those who have not been part of the major global alliances while large carriers are those who have been part of the major global alliances
Note 2: Vessel providers, alliance partners and slotters are all counted as party to a VSA
Note 3: Intra-Asia and intra-Europe services are identified by the HKLSA
Source: Alphaliner

64. In addition, as indicated in paragraph 36 above, the Port of Hong Kong is becoming more of a regional hub for intra-Asia trade. This trend makes it more important that Hong Kong is aligned from a regulatory perspective with the other ports within Asia than those in other parts of the world.

65. In light of the foregoing, the Commission concludes that the Order continues to be merited and effective.

VI. CONSIDERATION OF THE REPRESENTATIONS

66. This Part of the Notice of Variation provides the Commission's consideration of the representations in fulfillment of the requirement in section 20(2)(b) of the Ordinance. The Commission's consideration below only addresses the salient points in the representations and should not be treated as an exhaustive, point-by-point rebuttal or, on the other hand, as adoption of such points.

Asian Shipowners' Association ("ASA")

67. The ASA welcomes the proposed renewal of the Order. It indicates that the proposed renewal would help ensure that Hong Kong's competition regime for liner shipping remains aligned with other major maritime jurisdictions. It would also provide continued legal certainty for carriers participating in VSAs serving trade routes to and from Hong Kong.

68. Further, the ASA states that maintaining the Order will help support Hong Kong's competitiveness as a leading international maritime and transhipment hub. In turn, this is expected to facilitate efficient and reliable liner shipping services, to the benefit of shippers, consumers and the broader economy, both in Hong Kong and internationally.

Chartered Institute of Logistics and Transport in Hong Kong ("CILTHK")

69. In light of the Commission proposing to renew the Order, the CILTHK does not oppose the renewal of the Order until 8 August 2031.

70. The CILTHK raises a number concerns about competition in the liner shipping industry. First, the coordination of sailing timetables and the collective management of capacity can act as tools for market manipulation rather than purely operational efficiency. The Commission has not received any evidence to substantiate the concern that VSAs are being used to manipulate the market in such a manner.

71. Second, the CILTHK suggests there should be alignment with the EU and UK, which let their CBERs expire. The Commission explains in paragraphs 63 and 64 above why it considers Asian jurisdictions to be better comparators for the purposes of its assessment.

72. Third, the CILTHK claims that oversight of the shipping line market should be more nuanced with point-to-point route assessments. The Commission, however, takes the view that point-to-point assessments would ignore the important market reality that many shippers can often choose between different neighbour ports for their shipments. As explained in the Guidance Note, "[p]orts within the same region at the end of a single trade may generally be considered as substitutable. This is on the basis that such ports are generally served by a dedicated groups of ships and there is the possibility of inland transport or transhipment between ports."[21]

Hong Kong General Chamber of Commerce ("HKGCC")

73. The HKGCC reiterates its position from the 2nd Review. It takes the position that the continuation of the Order is warranted to preserve a stable and predictable regulatory foundation for Hong Kong's shipping and logistics sector. It also recommends removing the Market Share Limit on the basis that it would be conducive to maintaining a competitive environment for the shipping and logistics sector. The Commission addresses why the Market Share Limit remains a vital part of the Order in paragraph 58 above.

HKLSA

74. The HKLSA welcomes the proposal to renew the Order. It maintains, however, its view that it is unnecessary for the Order to be subject to a fixed term. An opened-ended

[21] Guidance Note, paragraph 21(a).

exemption would further enhance regulatory certainty for shipping lines in Hong Kong. It suggests that the Commission could instead exercise its powers to monitor market developments and intervene where appropriate.

75. In regard to the duration of the Order, the Commission notes that section 15(4) of the Ordinance requires the Commission to commence reviews of block exemption orders within 5 years. The Commission considers that it is in the public interest for the Commission to periodically have to focus its attention on whether **any** block exemption order should be renewed given the important legal effect it has on the application of the Ordinance on the sector it addresses.

76. The HKLSA also remains of the view that it is unnecessary to keep the Market Share Limit since many other jurisdictions, including across Asia, do not have any market share thresholds. The Commission reasons for keeping the Market Share Limit are set out in paragraph 58 above.

Hong Kong Shippers' Council ("HKSC")

77. The HKSC claims that service quality has degraded and that global schedule reliability is at a "dismal" level of 44.21%. The Commission notes, however, the HKSC does not suggest that VSAs have caused any of the service quality issues.

78. The HKSC claims that the shipping line market remains highly coordinated and that MSC continues to share space with the Premier Alliance. Even setting aside the de-concentration of the global alliances, the Commission takes the view that (i) the Market Share Limit caps the degree of concentration level that would benefit from the Order; and (ii) shipping lines participating in space sharing agreements covered by the Order would still have to compete in relation to price and quality.

79. The HKSC asserts that point-to-point market caps are needed as determining market shares by trade routes dilutes structural monopolies and fails to protect regional shippers. The Commission repeats its response to the CILTHK on this same point.[22]

80. The Commission notes the HKSC's concern that VSAs allow large carriers to uniformly manipulate capacity through tactics like blank sailings and thereby exploit small- and medium-sized shippers. The Commission has not received or found any evidence that

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[22] See paragraph 72 above.

VSAs have contributed to increased blank sailings but will continue to monitor for any such developments.

81. The HKSC recommends the Commission to make shipping lines with VSAs operating in Hong Kong submit capacity data and cancellation metrics. The Commission observes that the shipping line market is relatively transparent, particularly in relation to capacity data, and that there are a number of existing third-party data providers, such as Drewry and Alphaliner.

Hong Kong Shipowners Association ("HKSOA")

82. The HKSOA supports the Commission's proposed renewal of the Order. It also makes a number of observations about developments in the liner shipping market that support the Commission's assessment contained in this Notice of Variation.

Hong Kong Pilots Association ("HKPA")

83. The HKPA supports the Commission's proposed renewal of the Order. It indicates that the Order allows shipping lines to collaborate on vessel space and schedules, which lowers shipping costs and fuel consumption, benefitting the environment and enhancing the competitiveness of the Port of Hong Kong.

International Chamber of Shipping ("ICS")

84. The ICS supports renewal of the Order for the following reasons:

(a) The Order played a pivotal role in promoting healthy competition and efficient and sustainable liner shipping operations.

(b) By allowing carriers to mitigate uncertainties, VSAs have greatly helped them respond to challenges caused by global price inflation, trade disruptions and issues with international water ways.

(c) VSAs do not involve the joint setting of freights rates or customer allocation and, thus, do not present anticompetitive risks.

(d) The liner shipping industry remains a crucial part of Hong Kong's economy.

World Shipping Council ("WSC")

85. The WSC supports the proposed renewal. It emphasizes that the Order benefits all VSAs, which vary in terms of structure, duration and geographic scope, and not just the major global alliances. Hong Kong benefits from a diverse range of VSAs, which are particularly important for smaller carriers in order to allow them to compete against larger rivals.

86. The WSC puts forward the same positions as the HKLSA in terms of the Order's duration and the Market Share Limit. The Commission's responses to the HKLSA on these positions are repeated here.[23]

VII. DETAILS OF THE VARIATION (RENEWAL) OF THE ORDER

87. Based on the Commission's conclusion that the activities of VSAs falling within the scope of the Order continue to meet the Efficiency Exclusion and that the Order continues to be merited and effective, the Commission is renewing the Order on the same substantive terms.

88. After the 1st Review, the Commission renewed the Order for only four years on the basis that the market conditions resulting from the COVID-19 pandemic merited a shorter timeframe between reviews so that developments could be examined more promptly. Now that the COVID-19 pandemic has passed and market conditions are more certain, the Commission is returning the duration the Order to five years. This will increase certainty for the liner shipping industry in Hong Kong.

89. Neither the 2nd Review nor the S.20 Consultation have revealed a need or basis to amend any other terms in the Order.[24] Thus, the Commission has decided to adopt the position proposed in the S.20 Notice and renew the Order on the same substantive terms and conditions for a further five years.

90. To achieve the renewal of the Order for a further period of five years, the Commission proposes to vary pursuant to section 20 of the Ordinance:

    (a) the existing expiry date in paragraph (4) of the Order, so that it expires on **8 August 2031**; and

[23] See paragraphs 75 and 76 above.
[24] See also paragraphs 27 to 29 above regarding the absence of material changes to the form of VSAs since the issuance of the Order and paragraph 58 regarding the continued appropriateness of the market share limit.

(b) the deadline for commencing a review in paragraph (2) of the Order, so that the Commission must commence a (third) review by **8 August 2030**.

91. Finally, the Commission notes that, while it has renewed the Order and will conduct another review as set out above, it is not obligated under the Ordinance to renew the Order or to further renew or review the Order upon the proposed expiry on 8 August 2031.