

BALANCING STAKEHOLDERS RIGHTS IN CONTAINERIZED SHIPPING

Whereto next?

Brussels,
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Background

- Traditionally Low Freight Rates
- Increasing Surcharge Types
- Lacking Vessel Investment by Liners
- Blank Sailings
- Unreliable Schedules - Delays
- Reduced Port Connectivity



Difficult Equation in the Pandemic and Post Pandemic Eras

- Disruptive Demand Volatility
- Capacity Removals – Delays in Capacity Additions
- Mid- and long-term contracts no longer available
- **On-the-spot contracts** becoming market norm
- ***Force Majeure*** - existing contract terms amended or not respected at all
- Sky-Rocketing Freight Rates (>400% year-on-year – Asia-Europe > \$4k / TEU)
- Port Congestion



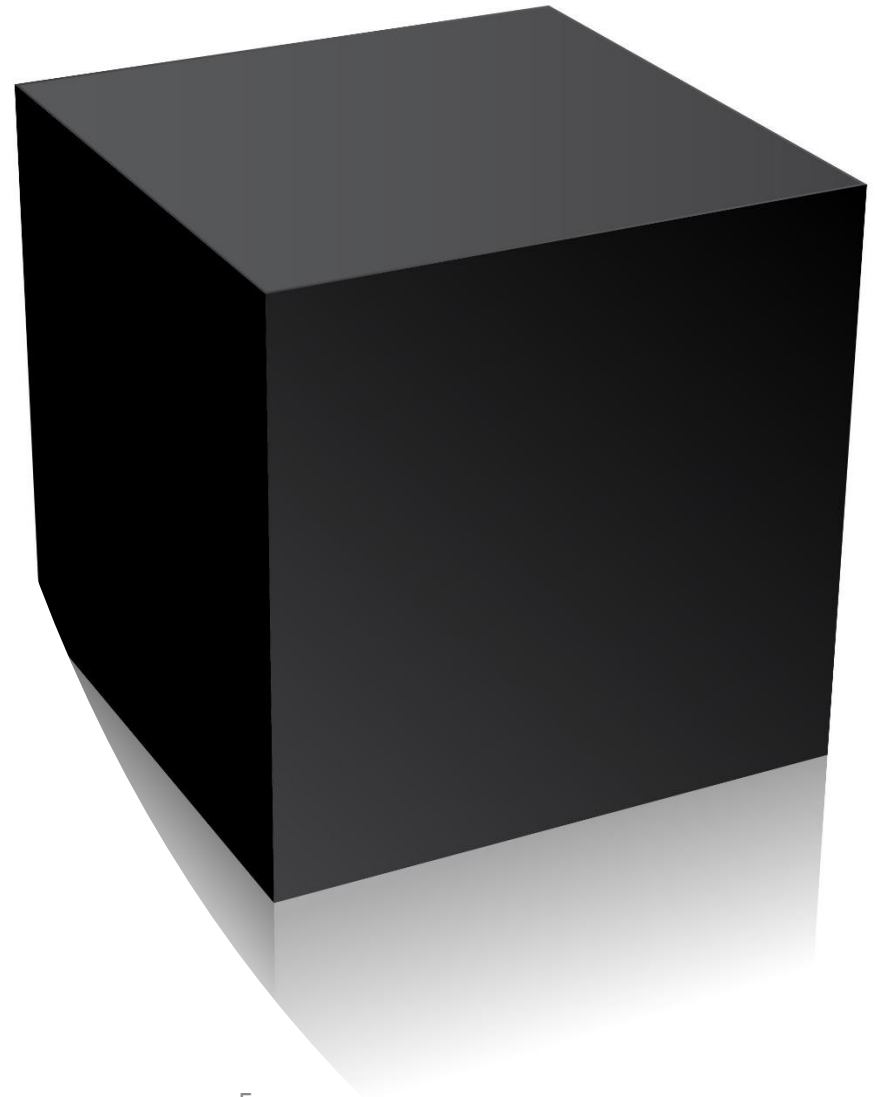
EU Antitrust Law Basics (Article 101 (3) TFEU – BER 906/2009)


- Liner Cooperation leads to improved schedules and capacity utilization
- No price and customer allocation agreements
- Temporary capacity reductions subject to regular reviews
- Efficiency benefits must be passed on to consumers in the form of
 - Lower freight rates
 - Improved connectivity
 - Reduced blank sailings
 - On-time schedules



The Black Box

- 30% Alliance Market Share
- Relevant Market Definition
- Self Assessment
- Lack of (cost) transparency
- Legal certainty?



A photograph showing the arms and hands of two people in business attire shaking hands. The person on the left is wearing a light blue pinstriped shirt, and the person on the right is wearing a light beige pinstriped shirt. The background is a plain, light blue-grey color.

Ethical (and Assertive) Cooperation: Some Principles

- Cost-oriented charging – no capacity auctions
- Narrow interpretation of force majeure
- Strict rules on blank sailings, schedule delays and port connection cancelations
- Efficient commercial dispute resolution via mediation / arbitration in a fast- moving business environment
- Re-introduction of mid- and long-term agreements with appropriate price revision clauses



...bearing in mind...

The role of EU and National
Regulators



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