

2024-09-02

### **OBJECTS AND REASONS**

This Bill will make provision for

- (a) advancement of the liner conference trade; and
- (b) facilitation of the orderly expansion of liner shipping in Barbados.

*Arrangement of Sections*

PART I

PRELIMINARY

1. Short title
2. Definitions
3. Purpose
4. Application
5. Act binds the State
6. Code to have force of law
7. Conference trades
8. Publication
9. Administration

PART II

DESIGNATION OF AUTHORITIES

10. Authority for shippers' councils
11. Authority for national shipping lines

12. Register of national shipping lines

PART III

DESIGNATION OF NATIONAL SHIPPING LINES

13. National shipping line criteria
14. Recognition of slot charters

PART IV

DESIGNATION OF SHIPPERS' ORGANIZATIONS AND SHIPPERS

15. Recognition of shippers' organizations and shippers
16. Establishment of regional inter-governmental committees

PART V

FILING OF CONFERENCE AGREEMENTS

17. Compliance with the Code
18. Non-compliant conference agreements

PART VI

FILING OF ANNUAL REPORTS

19. Filing of annual reports

PART VII

LEGAL CAPACITY OF CONFERENCES AND SHIPPERS'  
ORGANIZATIONS

- 20. Legal capacity of conferences and shippers' organizations
- 21. Information on conferences

PART VIII

PRECEDENCE OF CONCILIATION PROCEEDINGS OVER OTHER  
REMEDIES

- 22. International mandatory conciliation
- 23. Recommendations made by conciliators
- 24. Conciliation award against a conference

PART IX

SETTLEMENT OF DISPUTES AT THE NATIONAL LEVEL

- 25. National-level dispute settlements

PART X

PROCEEDINGS ARISING OUT OF THE CODE

- 26. Liability of members of conference
- 27. Proceedings by or against unincorporated conferences
- 28. Restrictions on legal proceedings

- 29. Time for bringing legal proceedings
- 30. Recommendations of conciliators

PART XI

MISCELLANEOUS

- 31. Local representation by conferences
- 32. Exclusion of shippers' councils
- 33. Non-conference members
- 34. Nomination of conciliators
- 35. Operation within commercial framework under Merchant Shipping Act, 2024
- 36. Maritime Trade Facilitation Directives
- 37. Maritime Compliance Obligations of National Shipping Lines
- 38. Shipping Alliances
- 39. Power to make regulations
- 40. Power to amend schedules
- 41. Revocation



## **BARBADOS**

A Bill entitled

An Act to establish a regulatory environment for advancement of the liner conference system and facilitate the orderly expansion of liner shipping in Barbados;

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

**Short title**

1. This Act may be cited as the *Merchant Shipping (Liner Conferences) Act, 2024*.

**Definitions**

2.(1) In this Act,

“Administration” means the Barbados Maritime Transport Administration;

“Article” means an article of the Code;

“Code” means the United Nations Convention on a Code of Conduct for Liner Conferences, 1974;

“conciliation” means international mandatory conciliation under Chapter VI of the Code;

“conference” has the meaning given by Chapter I of the Code;

“judgment” in relation to proceedings arising out of the Code, means a judgment, decree, order, award, recommendation or determination given or made in those proceedings;

“liner conference” has the meaning given by Chapter I of the Code;

“Minister” means Minister responsible for Shipping;

“National shipping line” has the meaning given by Chapter I of the Code.

“prescribed” means prescribed by regulations made under section 39(1);

“proceedings” in relation to the Code, means legal proceedings, conciliation proceedings, arbitration proceedings or any other proceedings for the determination or resolution of a dispute arising out of the Code;



“Register of National Shipping Lines” means the register referred to in section 12;

“Shipping alliances” refer to commercial agreements between shipping lines operating in the container shipping industry to enable:

- (a) route and service sharing;
- (b) sharing of vessel fleets;
- (c) terminal sharing;
- (d) cooperation in operations and logistics;
- (e) resources and knowledge sharing; and
- (f) the sharing of other benefits deriving from shipping alliances;

“slot charterer” means a shipping line that

- (a) functions as an independent shipping line;
- (b) belongs to a consortium or service; and
- (c) buys or leases slots from the principal operators of a vessel; and

“trade” has the same meaning as in the Code.

(2) For the purposes of this Act, conciliation proceedings relating to a dispute are instituted when a party to the dispute requests that it be referred to conciliation and are completed when the conciliator notifies the parties of his recommendations.

### **Purpose**

3. The purposes of this Act are to
- (a) give effect to the United Nations Convention on a Code of Conduct for Liner Conferences, 1974;
  - (b) create the enabling regulatory environment for advancement of the liner conference system in Barbados;

- (c) ensure the rights of participation in trade of national shipping lines to entitle them to carry a substantial share of Barbados' foreign trade in the international market;
- (d) balance the interests shippers and shipowners and to facilitate the orderly expansion of the liner trade;
- (e) attain more significant participation by Barbados in liner shipping, consistent with the International Development Strategy, and Sustainable Development Goals of the United Nations; and
- (f) provide for matters related thereto.

**Application**

- 4. The Act applies to conference trades serving Barbados, and applies to all commercial parties concerned, irrespective of nationality.

**Act binds the State**

- 5. This Act shall bind the State.

**Code to have force of law**

- 6. The Code shall have the force of law in Barbados.

**Conference trades**

- 7. Conference trades shall be conducted in accordance with the Code.

**Publication**

- 8. The Administration, upon the written request of the Minister, shall publish, in any appropriate format, the names of conferences that the Government of Barbados considers to fall within the scope of the Code.

**Administration**

9.(1) This Act shall be administered by the Barbados Maritime Transport Administration, in consultation with the Ministry responsible for Commerce.

(2) The Minister shall perform his functions under this Act, in consultation with the Minister responsible for Commerce and other relevant stakeholders.

PART II

DESIGNATION OF AUTHORITIES

**Authority for shippers' councils**

10. The Ministry responsible for Shipping is the appropriate authority in respect of matters concerning shippers' councils and shall perform the functions related to shippers' councils specified in the Code, and may take such administrative actions as are necessary to effectively implement the matters pertaining to shipper's councils.

**Authority for national shipping lines**

11. The Administration shall perform the functions specified in the Code related to national shipping lines, and may take such administrative actions as are necessary to effectively implement the matters pertaining to national shipping lines.

**Register of national shipping lines**

12. The Administration shall maintain an electronic Register of National Shipping Lines, in which it shall register

- (a) any vessel-operating carrier that has its ownership and head office in Barbados and is designated under section 13 as a national shipping line or recognized as one under section 14;

- (b) any lines belonging to, and operated by, a joint venture involving Barbados and another country if
  - (i) a majority share of the equity is held by public or private Barbadian shipping industry stakeholders; and
  - (ii) its head office of management and effective control is in Barbados or the other country; and
- (c) any other national shipping line designated by order, published in the *Official Gazette*, by the Minister.

### PART III

#### DESIGNATION OF NATIONAL SHIPPING LINES

##### **National shipping line criteria**

**13.** In order for a shipping line to be designated as a national shipping line, it shall meet the following criteria:

- (a) have its head office in Barbados;
- (b) if it is part of a joint venture, have its head office in Barbados or in a country participating in the joint venture;
- (c) be registered
  - (i) in accordance with the *Companies Act*, Cap. 308;
  - (ii) vessels comprising the line be registered in accordance with the *Merchant Shipping Act, 2024* (Act 2024- );
- (d) be majority-owned and operated by
  - (i) nationals of Barbados;
  - (ii) permanent residents of Barbados; or
  - (iii) a statutory corporation in Barbados;

- (e) have insurance or other equivalent form of financial security;
- (f) carry a complement of Barbadian seafarers, including the ship's master, of which not less than three-fourths are nationals of Barbados;
- (g) employ, if part of a joint venture, Barbadian seafarers in equal percentages to seafarers from the other countries participating in the joint venture;
- (h) serve the trade of Barbados;
- (i) be plying trade on major shipping routes;
- (j) be listed in the Register of National Shipping Lines; and
- (k) meet such other criteria as may be specified from time to time in a Maritime Trade Facilitation Directive issued under section

**Recognition of slot charters**

**14.(1)** Subject to subsection (2), shipping lines operating only as slot charters and not entire vessels shall be entitled to be recognized as national shipping lines for the purposes of the Code.

(2) The Minister, in consultation with the relevant conferences, may prescribe criteria for slot charters to be recognized as national shipping lines.

PART IV

DESIGNATION OF SHIPPERS' ORGANIZATIONS AND SHIPPERS

**Recognition of shippers' organizations and shippers**

**15.(1)** The Minister may designate by regulation the shippers' organizations and individual shippers that will have the right to consult with conferences.

(2) The Minister shall ensure administrative arrangements are put in place to reconcile any differences that may arise between different shippers' interests.

- (3) Where it is decided that individual shippers and representative shipper bodies should be designated for the purposes of consultation under Article 11 of the Code, the criteria to be adopted for that purpose may be set out by the Minister in regulations made under section 36(1).
- (4) Freight-forwarders may become members of locally based shippers' organizations.
- (5) Associations of freight-forwarders may participate in liner conferences.
- (6) Where shippers' organizations have set up a regional body for the purpose of consultations with conferences on a regional basis, the regional body may act on their behalf in consultations with conferences under Article 11 of the Code.
- (7) Agreements reached by regional bodies with conferences are binding on national shippers' organizations.

#### **Establishment of regional inter-governmental committees**

**16.** The Prime Minister, in consultation with the Ministers responsible for Shipping may facilitate the establishment of regional inter-governmental committees representing a number of governments, including Barbados, to participate in consultations with conferences on a regional basis.

### **PART V**

#### **FILING OF CONFERENCE AGREEMENTS**

##### **Compliance with the Code**

**17.(1)** In accordance with Article 6 of the Code, the following documents shall be made available upon request by the Administration:

- (a) conference agreements;
- (b) pooling agreements;
- (c) berthing agreements;

- (d) sailing agreements;
- (e) amendments to agreements referred to in paragraphs (a) to (d);
- (f) trade participation and loyalty arrangements; and
- (g) other documents directly related to, or that affect, the documents listed in paragraphs (a) to (f).

(2) The documents referred to in subsection (1) shall be filed annually with the Administration by members of a conference whose shipping lines serve Barbados.

(3) Where a shipping line of Barbados is a third country member of a conference serving the foreign trade between two other countries that are contracting parties to the Code, an agreement may be sought with the conference for regular submissions to it of the relevant conference agreements.

#### **Non-compliant conference agreements**

**18.** Conference agreements that do not comply with the requirements of the Code are void to the extent that they are inconsistent with the Code.

## PART VI

### FILING OF ANNUAL REPORTS

#### **Filing of annual reports**

**19.(1)** In accordance with Article 10 of the Code, conferences serving Barbados shall provide locally based shippers' organizations with annual reports of their activities.

(2) Such annual reports shall be submitted, on request, to the Barbados Maritime Transport Administration.

PART VII

LEGAL CAPACITY OF CONFERENCES AND SHIPPERS'  
ORGANIZATIONS

**Legal capacity of conferences and shippers' organizations**

**20.(1)** A conference or shippers' organization may institute proceedings as a party, or be named as a party, to legal proceedings in its collective capacity.

(2) Any notification to a conference or shippers' organization in its collective capacity shall also constitute a notification to each member of the conference or shipper's organization.

(3) Shippers' organizations that have a corporate legal status may participate in legal proceedings in that capacity.

**Information on conferences**

**21.(1)** Conferences operating in trades between Barbados and other contracting parties shall register, with the Administration, their names and addresses, a list of their members and the names of conference office bearers.

(2) The Administration shall make publicly available the information provided under subsection (1).



PART VIII

PRECEDENCE OF CONCILIATION PROCEEDINGS OVER OTHER  
REMEDIES

**International mandatory conciliation**

**22.** International mandatory conciliation invoked pursuant to Article 25, paragraph 3 of the Code shall have precedence over other remedies available in national law.

**Recommendations made by conciliators**

**23.(1)** Where a recommendation has been made by a conciliator in the resolution of a dispute and the recommendation has been accepted by the parties concerned, an application may be made to the High Court for enforcement of the recommendation.

(2) The Minister may make regulations setting out the procedures to be followed in an application under subsection (1).

**Conciliation award against a conference**

**24.** Where a conciliation award is made against a conference, the award shall be enforced against all conference lines, in proportion to their individual responsibilities, irrespective of whether any particular member line is a national entity of a contracting party.

PART IX

SETTLEMENT OF DISPUTES AT THE NATIONAL LEVEL

**National-level dispute settlements**

**25.(1)** Disputes between shipping lines of Barbados, or between organizations belonging to Barbados, shall be settled within the dispute settlement framework of Barbados, unless this would be inconsistent with the requirements of the Code.

(2) The following shall have access to national courts for the settlement of disputes:

- (a) shipping lines;
- (b) shippers organizations; and
- (c) shippers.

PART X

PROCEEDINGS ARISING OUT OF THE CODE

**Liability of members of conference**

**26.(1)** Where proceedings arising out of the Code are brought against a member of a conference in respect of damage or loss suffered by any person and other members of the conference are liable, jointly or otherwise, in respect of the same damage or loss, the liability of that member to make good that damage or loss shall be in proportion to its responsibility.

(2) For the purposes of subsection (1), the liability of other members of the conference is the liability that has been, or could be, established in proceedings brought before the same court or tribunal by or on behalf of the person suffering

the damage or loss, irrespective of under what law the issue of liability was or would be determined.

(3) In ascertaining the responsibility of a member of a conference for the purposes of subsection (1), regard shall be had not only to the member's part, if any, in the matters giving rise to the proceedings but also to its general involvement in the affairs of the conference, as indicated by its share of the conference trade, the nature of pooling arrangements to which it is a party and the extent to which it contributes to the administrative expenses of the conference.

(4) Subsections (1) to (3) apply to any proceedings in Barbados and to proceedings elsewhere in which the extent of the liability of a member of a conference falls to be determined by reference to the law of Barbados.

(5) Where in proceedings arising out of the Code

(a) judgment is given against a member of a conference in respect of damage or loss caused to any person; and

(b) the extent of the member's liability is not determined by reference to subsections (1) to (3),

the member shall not, if it is sought to enforce the judgment in Barbados, be liable to make good any greater proportion of that damage or loss than if the extent of its liability had been determined by reference to those subsections.

(6) A member of an unincorporated conference against which judgment is given, whether in Barbados or elsewhere, in proceedings arising out of the Code in respect of damage or loss caused by a breach of duty by the conference, shall not, by virtue of section 27(3), be liable to make good any greater proportion of that damage or loss than it would have had to pay if the proceedings had been brought against it and the other members of the conference in respect of a duty owed by all the members of the conference and the extent of its liability had been determined by reference to subsections (1) to (3).

(7) Subsections (5) and (6) shall not affect the enforcement in Barbados of a judgment required to be enforced there by virtue of any enactment on the enforcement of foreign judgments.

**Proceedings by or against unincorporated conferences**

**27.(1)** A conference that is not a body corporate may sue and be sued in its own name in proceedings arising out of the Code.

(2) Subsection (1) applies to any proceedings in Barbados and to proceedings elsewhere in which the capacity of a conference to sue and be sued in its own name falls to be determined by reference to the law of Barbados.

(3) A judgment given for or against an unincorporated conference in proceedings brought against the conference in its own name, whether in Barbados or elsewhere, is binding on the members of the conference, and such a judgment is enforceable

(a) against any property held in trust for the purposes of the conference, to the same extent and in the same manner as if the conference were a body corporate; and

(b) against any member of the conference, subject to section 26(5).

(4) Subsection (3) applies to judgments given by a court in Barbados or that are enforceable or entitled to recognition in Barbados.

**Restrictions on legal proceedings**

**28.(1)** Legal proceedings arising out of a dispute relating to the application or operation of the Code may be brought in Barbados only in the High Court.

(2) Proceedings arising out of a dispute to be resolved within the framework of the national jurisdiction concerned in accordance with Article 23, paragraph 2 of the Code shall not be entertained by the High Court except as permitted by that paragraph.

(3) The High Court shall stay proceedings before it if, on the application of a party to the proceedings made after entering an appearance but before delivering any pleadings or taking any other steps in the proceedings, it is shown that the

proceedings arise out of a dispute to which Article 23, paragraph 4 of the Code applies and that

- (a) the dispute has not been referred to conciliation in accordance with that paragraph or conciliation proceedings are still in progress; or
  - (b) the parties to the dispute have made an agreement on procedures *in lieu* of conciliation to which Article 25, paragraph 1 applies that is capable of being, or has been, performed.
- (4) The High Court may attach to a stay granted under subsection (3) such conditions as appear to it appropriate, including conditions with respect to the institution or prosecution of conciliation or other proceedings.
- (5) The High Court may remove a stay granted under subsection (3) if any attached condition is not complied with or if at any time it appears to the Court that the circumstances are such that a new application for the stay would not be granted.
- (6) Subsections (3) to (5) apply to an arbitration agreement referred to in Article 25, paragraph 1, in place of section 6 of the *Arbitration Act*, Cap. 110.

### **Time for bringing legal proceedings**

**29.** No legal proceedings arising out of a dispute relating to the application or operation of the Code shall be brought in Barbados more than 2 years after the date on which the cause of action accrued or 6 months after the date on which conciliation proceedings relating to the dispute were completed or abandoned, whichever is the later.

### **Recommendations of conciliators**

**30.(1)** Where a recommendation of conciliators has become binding as between two or more parties to a dispute in accordance with Article 37 of the Code, subject to subsection (2)

- (a) it shall be recognized in Barbados as conclusive as between the parties to which it relates; and

- (b) a party may apply to have the recommendation registered for enforcement in the High Court.
- (2) A recommendation shall not be recognized or enforced under subsection (1) if any of the circumstances mentioned in subparagraphs (a) to (d) of Article 39, paragraph 2 of the Code apply, unless the affected part of the recommendation can be severed in accordance with Article 39, paragraph 3 of the Code and the remainder of the recommendation can be recognized and enforced.
- (3) Where the conciliation and administration costs to be borne by a party to conciliation proceedings in accordance with Article 43, paragraph 1 of the Code have been determined, the person to whom those costs are to be paid may apply to have the determination registered for enforcement in the High Court.
- (4) A party in whose favour an award of costs for vexatious or frivolous proceedings has been made by conciliators under Article 43, paragraph 3 of the Code may apply to have the award registered for enforcement in the High Court.
- (5) The rules of the Court may provide for
  - (a) the manner in which an application is to be made for registration of a recommendation, determination or award under this section;
  - (b) the documents to be produced and the matters to be proved by a person seeking recognition of a recommendation or enforcement of a recommendation, determination or award;
  - (c) the manner in which a recommendation, determination or award is to be registered under this section; and
  - (d) the manner in which, and the conditions subject to which, such a recommendation, determination or award may be enforced.
- (6) Subject to paragraph (5)(d)
  - (a) a recommendation, determination or award registered under this section shall, for the purposes of its enforcement, have the same force and effect;

- (b) the registering court shall have the same powers in relation to its enforcement; and
- (c) the same proceedings for or with respect to its enforcement may be taken,

as if the recommendation, determination or award had been a judgment or decree originally given in the High Court and had been entered in that Court.

(7) Where a recommendation, determination or award is registered under this section, the reasonable costs or expenses of, and incidental to, its registration are recoverable as if they were sums recoverable under it, and carry interest as if they were the subject of an order for the payment of costs or expenses made by the High Court on the date of registration.

## PART XI

### MISCELLANEOUS

#### **Local representation by conferences**

**31.** In accordance with Article 21 of the Code, conferences shall establish local representation in Barbados or, where there are practical reasons to the contrary, regional representation.

#### **Exclusion of shippers' councils**

**32.** A shippers' council shall not be regarded as an appropriate authority for the purposes of this Act.

#### **Non-conference members**

**33.(1)** Nothing in this Act shall be construed so as to deny shippers an option in the choice between conference shipping lines and non-conference shipping lines.

(2) Non-conference shipping lines competing with a conference shall adhere to the principle of fair competition on a commercial basis.

(3) In the interest of the sound development of liner shipping service, non-conference shipping lines shall not be prevented from operating as long as they comply with the requirements of subsection (2).

#### **Nomination of conciliators**

**34.** In accordance with Article 30 of the Code, the Minister may appoint up to 12 members to a panel of conciliators, and shall ensure a record of their names are kept.

#### **Operation within commercial framework under Merchant Shipping Act, 2024**

**35.** To the extent practicable, parties to a liner conference shall operate within the commercial and contractual framework outlined under Division 10 of Part 35 of the *Merchant Shipping Act, 2024* (Act 2024- ).

#### **Maritime Trade Facilitation Directives**

**36.** The Minister may by notice published in the *Official Gazette* issue a maritime trade facilitation directive in respect of advancing liner trade and seaborne trade concerning national shipping lines.

#### **Maritime Compliance Obligations of National Shipping Lines**

**37.** National shipping lines shall comply with the relevant

- (a) vessel registration conditions, maritime safety, security and marine environmental protection requirements, contained in the *Merchant Shipping Act, 2024* (Act 2024- ) and statutory instruments thereunder;
- (b) atmospheric pollution prevention requirements, contained in the *Marine Transport (Emissions Control) Act, 2024* (Act 2024-2) and statutory instruments thereunder;



- (c) maritime labour protection requirements, contained in national seafaring laws;
- (d) general and operational requirements for vessels engaged on domestic voyages, in the case of smaller vessels participating in conference trades within the Caribbean Trading Area, as contained in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) and statutory instruments thereto; and
- (e) any other applicable maritime operational requirements, specified in any other enactment on shipping or a Merchant Shipping Notice.

### **Shipping Alliances**

**38.(1)** To facilitate maritime commerce and trade through shipping alliances and derive benefits from such alliances, the Minister may by regulations or Maritime Trade Facilitation Directive develop the enabling framework for maritime commerce and trade through shipping alliances.

- (2) Container ships participating in shipping alliances shall comply with
  - (a) international maritime safety, security, environmental protection and maritime labour protection standards; and
  - (b) any other applicable maritime operational requirements, specified in any other enactment on shipping or a Merchant Shipping Notice.

### **Power to make regulations**

**39.(1)** The Minister may make regulations pertaining to any or all of the matters addressed under, or incidental to, this Act.

- (2) The Minister may make regulations designating the shippers' organizations and individual shippers that would have the right to consultation with conferences and the criteria to be adopted for that purpose.

**Power to amend schedules**

**40.** The Minister may by order amend the schedules to regulations made under this Act.

**Revocation**

**41.** The *Liner Conferences Act*, Cap. 290 is repealed.

Read three times and passed the House of Assembly this  
day of \_\_\_\_\_, 2024.

**Speaker**

Read three times and passed the Senate this \_\_\_\_\_ day of  
, 2024.

**President**