

Commonwealth of Dominica



Office of the Maritime Administrator

TO: All Private Sector Advisors serving on Delegations to IMO

SUBJECT: Important Guidance for Private Sector Advisors

GUIDANCE:

The views of the private sector can be extremely helpful to the work of our delegations and we appreciate your willingness to assist. In particular, the Head of Delegation will look to you to provide your individual informed views on policy and technical details of matters under discussion; especially as such matters develop during the course of the meeting.

You have been asked to participate in this meeting as a representative of your private company or one or more private interests, which you represent. Accordingly, certain requirements will apply since you will be participating in this conference as a "private sector advisor (PSA)" and not as a representative.

Most importantly, you must not speak or negotiate for the Government or Registry of the Commonwealth of Dominica at any formal or informal meeting with foreign government officials, although the head of delegation or an accredited Dominica representative may call upon you to explain a technical or factual point. You may also obtain information about foreign government views, as requested by the head of delegation.

The head of delegation may solicit your views and information on any matter under consideration, but you will not be required to present any opinion or

information which you believe would be inappropriate or prejudicial to your organization's interest.

Private sector advisors shall not advocate positions outside of the Delegation during a conference or negotiation which would tend to undermine the tactical or substantive positions Dominica as determined by the head of delegation. Of course, you are not prohibited from expressing views on publicly available Dominica positions after the conclusion of the negotiation, so long as classified information is not released thereby.

We look forward to your active participation in the delegation's work. The head of delegation will determine when you may attend meetings of the delegation or any meeting with foreign officials.

Since the antitrust implications of your role may be pertinent, Please see **Appendix I** entitled "Antitrust Guidance Regarding Participation of Private Sector Advisors on Dominica Delegations to International Negotiations. "

Please note that private sector advisors are responsible for all their own expenses. We cannot compensate you or your organization for any expense incurred as a result of your participation on this delegation.

Appendix I

ANTITRUST GUIDANCE REGARDING PARTICIPATION OF PRIVATE SECTOR ADVISORS ON DOMINICA DELEGATIONS TO INTERNATIONAL NEGOTIATIONS

You are a private sector advisor invited by the Dominica Maritime Administration to present views and advice to Dominica Representatives on matters under discussion or negotiation among Dominica and other Governments. Because of the manner in which the Administration has arranged to obtain your views and advice, your participation in this effort does not create risks of antitrust liability.

Nevertheless, there are four antitrust issues which are relevant to you as you participate in these meetings. Experienced businessmen and women should find them familiar.

1. You should be reminded that, regardless of the fact that the governments involved may contemplate or discuss governmental arrangements restraining or stabilizing trade, these consultations do not provide license to engage in private agreements to fix prices, allocate markets, curb production, or engage in similar activities. You should, therefore, be prudent in what you discuss with other private sector advisors so that no arrangements could be created, either explicitly or implicitly.
2. No Dominica official is authorized to grant you exemptions for conduct that would otherwise violate the antitrust laws (e.g., private agreements). Therefore, you should be careful not to construe statements or comments of any Dominica official as somehow implicitly encouraging or authorizing you to do anything that would otherwise be illegal.
3. In general, there is no antitrust objection to your meeting with other private sector representatives on the delegation prior to any meeting with the head of delegation or any of the other delegates. However, this is subject to important caveats, since some of these private sector representatives may be officials of competing private entities. You should be aware that an agreement to provide any Government or agency with misleading information, so as to cause it to promote or take anticompetitive action may amount to an antitrust violation. You should also be aware that agreements among competitors to suppress the views of third parties or otherwise impede their access to officials on competitive questions may give rise to an antitrust violation. In any discussions with other private sector representatives these caveats should be borne in mind.

4. You are advised that you should be careful about disclosing confidential information about the operation of your respective enterprises to your fellow private sector representative delegation members. The sharing and exchanging of such information as your firm's specific or anticipated costs, prices, profit margins or production goals may create antitrust questions, if such exchanges have the effect of "stabilizing" prices or market conditions. Commercially sensitive information may, of course, be separately communicated to the head of delegation or his or her designee, who has assumed the responsibility for using such information on a confidential basis and for disseminating it only in the aggregate. In providing such information, we would advise you to do so only on an individual firm basis, not jointly. Of course, groups of enterprises, such as trade associations, are free to furnish the Delegation with non-confidential data which they regularly collect from an entire industry or from publicly available sources, or information which has been aggregated by an independent auditor or other independent body.

Any questions can be directed to:

Technical Department
Tel: + 1 508 992 7170
e-mail: technical@dominica-registry.com

-End-