

## Shipping Companies Operating the Taiwan-US Routes

1402<sup>nd</sup> Commissioners' Meeting (2018)

Case: 10 shipping companies operating the Taiwan-US routes was complained for violating the Fair Trade Law for jointly raising ocean freight rates and controlling transportation charges by cutting shipping schedule and available cargo spaces

Keyword(s): Ocean freight rate, international sea transportation agreement, international joint service organization, shipping company

Reference: Fair Trade Commission Decision of September 19, 2018 (the 1402<sup>nd</sup> Commissioners' Meeting)

Industry: Ocean Transportation (5010)

Relevant Law(s): Articles 14 and 15 of the Fair Trade Law

### Summary:

1. The FTC received complaints alleging that Evergreen Marine Corp. and nine other shipping companies (together hereinafter referred to as the shipping companies) jointly cut shipping schedule and available cargo spaces to control ocean freight rates and also jointly raised the transportation charges for Taiwan-US West Coast and Taiwan-US East Coast routes on several occasions. Therefore, the FTC launched an investigation.
2. Findings of the FTC after investigation:

The shipping companies operating the aforesaid routes filed their ocean freight rate increases with the US Federal Maritime Commission (hereinafter referred to as FMC) almost every month. The adjustment of ocean freight rate did not occur only on the dates indicated in the complaints. Meanwhile, the filed increases and the charges collected were not consistent whereas the shipment charges suggested by the Transpacific Stabilization Agreement (hereinafter referred to as TSA) and the charges filed by the shipping companies were also inconsistent. Furthermore, there weren't any evidences showing that the shipping companies had reduced cargo spaces instead of offering more cargo spaces during the high season. At the same time, there was no consistency in the increase or decrease of cargo spaces.
3. Grounds for non-disposition:
  - (1) The shipping companies were facing drastically declining demand in the market. The supply exceeded the demand and ocean freight rates went down by a large margin and some companies even suffered loss. Apparently, there was growing management pressure for the shipping companies. The shipping companies filed ocean freight increases with the FMC almost every month in order to comply with the requirement for advance filing of US Merchant Marine Act as well as to assure flexibility of operation adjustment in response to transportation charge decreases and frequent changes resulted from changes of supply and demand in the market. In the shipping market, competition was fierce, price adjustment information was open, and there was plenty of room for price negotiations. As the freight charges in the finalized contract was kept confidential, collusion in such a highly oligopolistic market was very unlikely and it was also almost impossible to institutionalize supervision and penalty mechanisms.

- (2) Furthermore, the rate increase suggestions by the TSA were non-binding to the member because they were voluntary and non-compulsory guidance. Inspections of the ocean freight rate increases filed with the FMC also showed that the margins of increase were not consistent. In addition, the shipping companies did not reduce supply of cargo spaces during the high season and there was no consistency in increase or decrease of cargo space supply. Each company evaluated and planned its cargo spaces in accordance with the demand in the high season and the slow season.
- (3) In summary, the FTC found it difficult to conclude the shipping companies had violated the regulation against concerted actions set forth in Article 15(1) of the Fair Trade Law and, therefore, did not make any sanctions on them.

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