THE INTERNATIONAL COMMERCE & LAW REVIEW Vol. 28 DEC 2005 pp. 39~61
The presentation of a thesis 2005. 11. 16
A fixed date of publishment 2005. 11. 21

US/European Shipping Regulatory Development and Its Impact on Liner Shipping Industry

Yang, Jung Ho*

Ⅰ. Introduction

Needless to say, the importance of liner services to world trade is well documented. Historically it has been accepted that liner service conferences are necessary to ensure stability and certainty in the movement of freight. For this reason liner shipping industry has been enjoyed antitrust immunity. However, liner shipping industry has experienced significant changes in the last several decades. There are several factors which liner shipping industry is facing with. Among other things, recent regulatory reform must be big challenge to the liner shipping conferences. Thus, this paper will discuss the

* Part time lecturer of Sungkyunkwan University, Business School

developments in the liner shipping regulation focused on the US and the EU with the future implications of US Ocean Shipping Reform Act of 1998 on the liner shipping industry.

II. Development of liner shipping regulation in U.S.

1. Shipping Act 1916

Under the Sherman Act of 1880 as the basic law on antitrust in the US increasing practice of shipping conferences conflicted with the US laws. Under the circumstances the Committee on Merchant Marine and Fisheries recommended legislation to regulate activities of conference through the study on problems of conference practice. This led to Shipping Act 1916 which provided antitrust immunity to agreements among common carriers in liner shipping industry under certain conditions.[1)]

Since then, a series of amendments to the Shipping Act 1916 permitting dual rate contracts as conferences sought to establish 'dual rate' which was illegal under the law. The antitrust immunity was retained together with the provision for dual rate contract that were made legal while the FMC (Federal Maritime Commission) which replaced the FMB (Federal Maritime Board) was given the authority to disapprove rates unreasonably high or low as to be detrimental to the US commerce.[2)] Hence, conference could not constitute a dual rate contract until it had been approved by the FMC. It also required for conferences to file their agreements for the first time.

---

1) Van der Ziel, "Competition Policy in Liner Shipping: Policy Options" , Proceedings from a conference organized by the International Association of Maritime Transport Policy (IAME) and the University of Antwerp (Antwerp, University of Antwerp), 1994, p. 76

2) Nair R., A Study of Economic Regulation of Liner Shipping and Its Effect on Structural Change in the Industry, PhD Thesis, Cardiff, 2001, p. 51

2. US Shipping Act 1984[3]

The liner shipping industry has undergone dramatic changes in the 1980s by containerization, increases in ship sizes, and intermodalism. This situation tempted liner conferences to make innovations in agreements which includes two tier tariffs, capacity management programs, intermodal tariffs, and restrictions on joint service particularly in transatlantic and transpacific trades. Moreover, the US-flag merchant fleet had seen a continuing decline in market share and revenues as more and more independent carrier entered into world trade. Under the circumstances, the 1984 Act enacted to protect US shipping from unreasonable foreign competition, discrimination, and protectionism of foreign fleets by foreign governments.[4] Main features of the Act can be summarized as follows.

1) Tariff

The statutory filing system established by the 1961 amendments of the Shipping Act 1916 was retained with some additions.[5] First, the class of cargoes exempt from mandatory tariff filing requirements was expanded. Second, filing of through rates covering through routes between US and/or foreign inland point was provided. Lastly, each conference is mandatorily required to provide that any member may take independent action on any rate or service item required to be filed in a tariff under Sec 8(a).

2) Independent Action

The Act extended the scope of the Independent Action to all agreements.

---

3) This Act repeals the 1916 Act and subject to the OSRA 1998.

4) Ira Lewis & David B. Vellenga, The Ocean Shipping Reform Act of 1998, Transportation Journal, Vol. 39 No. 4, Summer 2000, p. 28

5) R. Nair, Ph D Thesis, op. cit., p. 59

It became mandatory on any rate or service item for all conference agreements except for service contracts since Sec. 4(a) gave conferences the authority to regulate or prohibit their use of such contracts.[6]

3) Service Contracts

One of the notable changes is that carriers or conferences were permitted to enter into service contracts with shippers. It requires them to file such contracts confidentially with the FMC. However, essential terms required to publicly file with the FMC. In addition, shippers similarly situated were entitled to request carriers ,equivalent treatment by known as the "me-too " clause.[7] Thus, the principle of common carriage could be retained. Further, conferences were allowed to regulate or prohibit their use of service contracts and this provision offered conferences a means to restrict member' s right to enter into individual service contract.[8]

4) Intermodal Authority

Department of Justice reported that conferences applied intermodal tariffs and offered intermodal services received approval for intermodal authority from the FMC under the amended 1916 Act although there was no specific provision. The Shipping Act of 1984 specifically clarifies conference authority to set intermodal rates. However, only individual members were permitted to do so.[9] However, conference or two or more common carriers could not jointly purchase inland services.[10] Only individual members were permitted to do this.

---

6) B. Gardner et. al., "The Economic Regulation of Liner Shipping: The Impact of US and EU Regulation in US Trade" in The Handbook of Maritime Economics, edited by Costas TH. Grammenos, LLP, 2002, p. 332.

7) Ira Lewis & David B, op. cit., p. 31.

8) R. Nair, Ph D Thesis, op. cit., p. 62.

9) M.R. Brooks, Sea Change in Liner Shipping: Regulation and Managerial Decision Making in a Global Industry, Pergemon, 2002, p. 228.

10) Ibid, p. 228.

5) Prohibition of Loyalty Contracts

Loyalty Contracts, in which shippers promised all of their volume to members of a specific conference in order to receive discounts, essentially disappeared since this requirement was objectionable to the DOJ (Department of Justice)[11]

6) NVOCCs

The Act formally recognized NVOCCs. They were required to file tariffs with the FMC as carriers in respect of their relationship with shippers but were not permitted to offer service contracts. Moreover, they can not enjoy the benefit of antitrust immunity as they were considered as shippers in their relationship with carriers.[12]

3. US Ocean Shipping Reform Act (OSRA) 1998

OSRA has been established as a compromise between the requirements of NITL (National Industrial Transportation League) which object to antitrust immunity of conferences and change in the attitude of major US flag carriers for breaking through challenging competitive environment in the 1990s. OSRA had made substantial changes in its regulatory approach to the conference OSRA while retaining antitrust immunity. As a result, US regulation on liner conference moved closer to Europeans though significant regulatory gaps remain (See Table 1 below).

---

11) Ira Lewis & David B. op. cit., p. 28

12) M.R. Brooks, op. cit., p. 233

Table 1 Comparing US and EU Regulation on liner shipping

Same Treatment	U.S.	EU
Confidential service contracts	Permitted (OSRA)	Permitted
Conferences rules prohibiting individual service contracts	Not allowed (OSRA)	Not allowed by EC
Tariff-filing with government	Transferred to private sector agency (FMC)	None
Capacity agreements between ocean carriers	FMC becoming opposed	EC opposed (TSA case)
Consortium/vessel-sharing agreements between carriers	Permitted	Permitted, but demanding individual exemption rules in some cases
Closer monitoring of consortia with large market share	Introduced recently	Introduced since 1995
Different Treatment	**US**	**EU**
Conference inland rate-making	Permitted	Not allowed by EC ('not to below cost' ? Revised TACA)
Joint service contracts of conferences	Permitted	EC becoming opposed (TACA case)
Joint inland negotiations by ocean carriers	Permitted	Not permitted not as part of consortium, but exemption may be possible
Conference/non-conference discussion agreements	Permitted	Not allowed by EC
Forwarder/NVOCC service contracts with shippers	Not Permitted	Allowed in principle

Source: American Shipper, May, 1999

1) Tariffs

OSRA replaces the paper-based tariff filing system with electronic posting of tariffs on the internet and other online services. Therefore, carriers have to make them available to the public in an automated system instead of filing their tariff with the FMC.

2) Service Contracts

The most significant reform made in OSRA is allowing members of conferences to negotiate and enter into confidential service contracts with one or more shipper. Contrary to the common carriage principle, OSRA mandates that individual carriers must have the right to enter into confidential contracts with shippers.[13] Conferences can no longer interfere with the exercise of that right while voluntary guidelines[14] relating to the terms and conditions of service contracts could be adopted. Carriers will continue to file essential terms of service contracts, however, the strategic component[15] of the contracts now remain confidential. Hence, similarly situated shippers can not exercise "me-too" right.

3) Independent Action

Under OSRA conferences can no longer reject independent action on listed exempt commodities while it was possible under the 1984 Act. Further, OSRA expands this action by allowing individual carrier to enter into service contract without interference of conference.

4) Non-Vessel Operating Common Carriers (NVOCCs)

There was no specific change in the role of NVOCCs except that they are now fall under a category of Ocean Transportation Intermediaries, and become subject to a licensing requirement. They still could not enter into service contracts with shippers under OSRA despite of their legal status as carriers. Thus, NVOCCs have complained that they are discriminated against ocean carriers[16]. However, after all the FMC issued final regulations

13) Ibid., p. 230

14) These guidelines are illegal in the EU.

15) Strategic components include the origin and destinations for through intermodal movements, the line-haul rates, the service commitments, and the liquidated damages for non-performance.

permitting NVOCCs to enter into service contract with shippers as of December 15, 2005. These new regulations became effective on January 19, 2005.[17] NVOCCs may now enter into confidential NVOCC Service Arrangements ("NSAs") with their shipper customers.[18] There are some conditions and exclusions. It does not permit two or more NVOCCs to offer NSA in concert, in a concern that doing so may cause substantial reduction in competition due to the inability of either the DOJ under the antitrust laws or the commission under the Shipping Act to oversee such concerted behavior.[19]

5) Intermodal Authority

Carriers could not jointly purchase trucking and rail services under the Shipping Act of 1984. OSRA allows rate and service negotiations for inland transport by groups of carriers. However, these negotiations and the results are not exempt from antitrust law.

16) Federal Maritime Commission, The Impact of Ocean Shipping Reform Act of 1998, Washington DC, FMC, 2001

17) James A Calderwood, "FMC grants NVOCCs the right to negotiate shipper contracts" , Logistics Today, Vol. 46. No. 2, 2005, p. 13.

18) However, there are some conditions and exclusions. It does not permit two or more NVOCCs to offer NSA in concert, in a concern that doing so may cause substantial reduction in competition due to the inability of either the DOJ under the antitrust laws or the commission under the Shipping Act to oversee such concerted behavior (Philip Damas and Robert Mottley, "2004 NVOCC: FMC offers NVOs quasi-service contracts" , American Shipper, December 2004, p. 59).

19) Ibid., p. 59.

Table 2 Before and After OSRA

	Before and After OSRA	
	Before	After
Shippers	Public tariffs filed with the FMC Group contracts only with conference lines Publicly filed contract essential terms Competitor access to same contract terms Contract and tariff rates linked Global contracts not permitted Shippers must form association to jointly negotiate volume rates	Tariffs available through carriers Individual and multi-carrier joint contracts permitted Price, inland origin/destination, service terms confidential No "me-too" contracts Contract rates confidential, customized Global contracts recognized Any one or more shippers may contract with one or more carriers
Carriers	Contract rates linked to tariff; terms linked to comparable contracts Carrier-shipper relationship limited due to information security concerns May not offer percentage-based contracts Controlled carriers exempt from restrictions in home-country bilateral trades	Simplified, customized contracting tailored to shipper/carrier needs Individual, confidential contracts permit greater security Percentage-based contracts allowed No waiver of controlled carrier rules in bilateral trades
Conferences	Agreements permitted to share market information, coordinate pricing Authority to regulate member line contracting Contract information shared by group May not discriminate between shippers and intermediaries in contracting May not offer loyalty contracts	No change Individual contracts expressly allowed Contracts may be confidential May not discriminate among classes of shippers No change

Before and After OSRA

	Before	After
Intermediaries	Forwarders and NVOCCs are distinct, regulated differently	Forwarders and NVOCCs now "ocean transportation intermediaries"
	NVOCCs not licensed	NVOCCs must be licensed
	NVOCCs tariffs filed with FMC	NVOCCs must publish own tariffs
	NVOCC service contracts prohibited	No change
FMC	Central location for filing and public availability of tariffs, essential terms	Carriers maintain own tariffs; essential terms filed but only for internal use
	Review of agreements for anti-competitive effects	No change
	Enforcement against discrimination among shippers	Discrimination not regulated in individual contracts
	Enforcement against unfair foreign government and carrier practices	Rules strengthened predatory ratemaking

(Source: APL)

III. Development of liner shipping regulation in EU

1. Background

Within EU, the competition policy is governed by general rules of the European Community Treaty. The main provisions are laid down in the Art 81 and 82.[20] However, there were no specific implementing provisions with regard to the liner shipping.[21] Hence, there was considerable debate about its application to maritime sector.

20) This Article was renumbered under the Treaty of Amsterdam from Art 85 and 86.
21) R. Nair, Ph. D Thesis, op. cit., p. 16.

2. Regulations 4056/86

In 1970s the adoption of the UN Liner Code, which was in direct conflict with some of the principles of EC Treaty in member states led the EC to adopt Council Regulation 954/79 (the "Brussels package") and 1986 Maritime Packages. The Regulation 954/79 allowed member states to ratify the UN Liner Code subject to some reservations so as not to breach Community competition rules.[22] The Maritime Packages included the Regulation 4056/86 implementing the rule of Art 81 and 82 of the EC Treaty to maritime transport.[23] Adoption of Regulation 4056/86 in 1986 offered foundation for implementing the general rule of Art 81 and 82 of the EC Treaty to maritime sector. Art 3 of the Regulation 4056/86 grants liner shipping conferences a block exemption from the prohibition in Art 81 of the EC Treaty. The reason behind the Regulation is that conferences bring stability to the market assuring reliable liner services for shippers.[24]

3. Regulation 870/95

EC stated the need for separate regulation for consortia on the basis of its different nature from liner conference in that they intend to co-operation between the parties so as to improve the productivity and quality of liner shipping service.[25] It was also recommended by EC Commission that a regulation for shipping consortia granting block exemption from EC competition rules is needed.[26] After all, Commission Regulation 870/95 was

22) M.R. Brooks, op. cit., p. 15.

23) Niels C Ersbøll, EU Transportation, The European Antitrust Review, 2005, p. 95

24) Jurgen Mensching, "Liner shipping: Examining the development and impact of European legislation", Speech at Containerisation International 3rd Annual Conference "Global 2000", London, 22 March, 2000.

25) R. Nair, Ph D Thesis, op. cit.

26) Ibid.

adopted in 1995. The Regulation permits a block exemption to liner shipping consortia. However, it does not grant price fixing. This Regulation was expired in April 2000, and replaced by a new Commission Regulation 823/2000.

4. Recent changes in EU competition policy

1) Consultation paper on the review of Regulation 4056/86

In 2003 the Commission decided to initiate a review of Regulation 4056/86 to examine whether, in the light of changes of market conditions, block exemption of Regulation 4056/86 still have justification.[27] Consequently, EC published its Consultation Paper[28] proposing a repeal of the block exemption for liner conference. It concluded that[29]

- There is no conclusive evidence supporting the justification for a block exemption in the present market situation.
- Discussion agreements would not appear to provide a less restrictive alternative
- Repeal of the block exemption would not cause conflict of law between the EU and other countries.

Therefore, it can be expected that a new Regulation substitute for Regulation 4056/86 will be proposed in accordance with the consultation even though it is doubt whether the liner conference block exemption will remains or not.

---

27) Niels C Ersbøll, op. cit., p. 95

28) European Commission, Consultation Paper on the Review of Council Regulation (EEC) NO 4056/86

29) FTA, reform of Liner Shipping, September 2004 (Available at http://www.fta.co.uk/information/-focuson/shippers/pdfs/reform_liner_shipper.pdf)

2) Council Regulation 1/2003

On 16 December 2002, the Council adopted a new Regulation implementing Articles 81 and 82 of the EC Treaty simplifying the procedural rules applicable to all sectors, including maritime transport. As a result, Regulation 1/2003 replaces the provisions on procedures and sanctions contained in Regulation 4056/86 as from 1 May 2004.[30] This means that the same procedural rules apply to all cases, whether transport-related or not, falling under Articles 81 and 82 of the Treaty.[31]

5. Application of Council Regulation 4056/86 in landmark cases

The principles that govern the EU regulatory regime have been established largely by the decisions of Commission through individual cases. It should be notice that there are two underlying principles in applying the competition rules to liner conference.[32] First, EC considered that external competition is an essential factor for granting the block exemption. Second, the block exemption must be interpreted strictly like other exemptions. Main issues that have been dealt with are as follows.[33]

1) Inland Price Fixing

This issue has been dealt with in several cases that are TAA (Trans-Atlantic Agreement) and FEFC (Far Eastern Freight Conference) in 1994 and TACA (Trans-Atlantic Conference Agreement) in 1998. The Commission held that inland price-fixing is not covered by the block exemption on the ground that Regulation 4056/86 shall only apply to

30) European Commission, op. cit., p. 9.

31) Ibid.

32) Jurgen Mensching, op. cit..

33) It should be notice that there are two underlying principles in applying the competition rules to liner conference. First, EC considered that external competition is an essential factor for granting the block exemption. Second, the block exemption must be interpreted strictly like other exemptions (Ibid.).

international maritime service from or to one or more Community ports.[34] Therefore, inland price authority was beyond the scope of Council Regulation 4056/86. After the TACA decision, the Revised TACA agreement no longer contained inland tariff. Instead it contains so called ' not-below-cost' rules to the effect that the conference members may agree not to charge a price less than the direct out-of-pocket cost incurred by it for inland transport services when they offer inland transport as part of multimodal transport operation.[35] The Commission is now satisfied with the agreement.

2) Service Contract

The Commission objected to attempts by the conference to restrict individual service contract. In 1998 the Commission held the TACA had abused their dominant position by restricting the availability of individual service contracts.[36] According to that decision, conferences entering into joint service contracts have to seek individual exemption under Article 85(3) from the EC because the block exemption for liner conferences under the Regulation 4056/86 does not authorize joint service contracts.[37] In addition, conferences entering into joint service contracts cannot prohibit individual service contracts.[38] Furthermore, so called voluntary guidelines for the form and contents of service contracts were equally illegal while it is permissible under OSRA.[39]

34) Joos Stragier, "Recent developments in EU competition policy in the maritime sector" , The Shipping Forecast Conference, London, 25-26 April 2002.

35) Eric FitzGerald, "Stability v. Competitiveness," Transasia 99 Conference. Hong Kong, 25-27 August 1999, p. 6.

36) Joos Stragier, op. cit.

37) B. Gardner et al, op. cit., pp. 337-338

38) Ibid.

39) M.R. Brooks, op. cit., p. 230

3) Capacity Management Program

The Commission took the views that the block exemption under Regulation 4056/86 does not allow capacity non-utilization agreement. Thus, in the TAA (1994), the EATA (Europe Asia Trade Agreement, 1999), and the Revised TACA cases (2001) the Commission prohibited capacity management program on the ground that they were inconsistent with the purpose of Art 3(d) of Regulation 4056/86 which allows a conference to regulate the capacity offered by each of its members.[40] In fact, the purpose of this Article was to improve the scheduled transport service provided by the members of the conference.[41] However, the capacity management program in the three cases had the obvious purpose of raising freight rate by limiting supply.

4) Two-tier pricing

Both the TAA/TACA cases agree that common freight rate is prerequisite for conferences to benefit from the block exemption in Regulation 4056/86. Thus, whether a conference which has multi-tier tariff is coincidence with the definition of conference under Regulation 4056/86 was the issue.[42] The commission argued that the TAA was not a conference because its two-tier pricing practice was not common rate offering the same freight rate to a shipper for the transport of a given article by all members of a conference.[43]

40) The capacity management program in the three cases had the obvious purpose of raising freight rate by limiting supply, whereas the purpose of the Article was to improve the scheduled transport service provided by the members of the conference. (Joos Stragier, op. cit.).

41) Ibid..

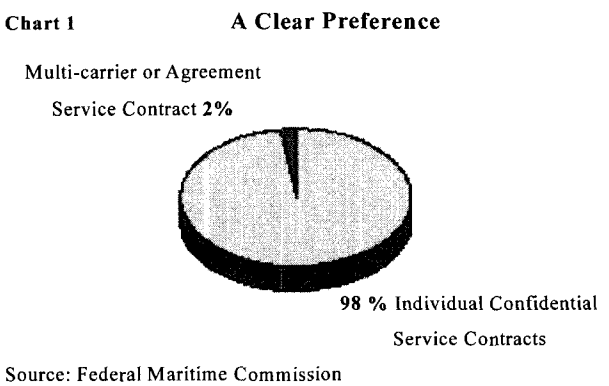
42) B. Gardner et al., op. cit., p. 319.

43) Joos Stragier, op. cit.

Ⅳ. Implications of Shipping Deregulations to Liner Shipping Industry

The most obvious change since OSRA has been dramatic increase of service contract. According to FMC report[44] there has been 200% rise in the number of service contract since OSRA made into effect. This result proves that service contracts played an important role in liner freight fixing. It is also be the case in the EU since TACA case. Moreover, as can be seen from the chart below, 98% of the 1,000 separate contracts surveyed were made individually. It implies that shippers prefer individual contracting with carriers to multi-carrier or agreement contracting. Under the circumstances, following implications can be inferred from the fact that contract confidentiality will be valuable tool for carriers and shippers in the new environment, and also service contracts can be used as a means that conference members can depart from conference rates without punishment.

Chart 1 A Clear Preference



44) FMC, op. cit.

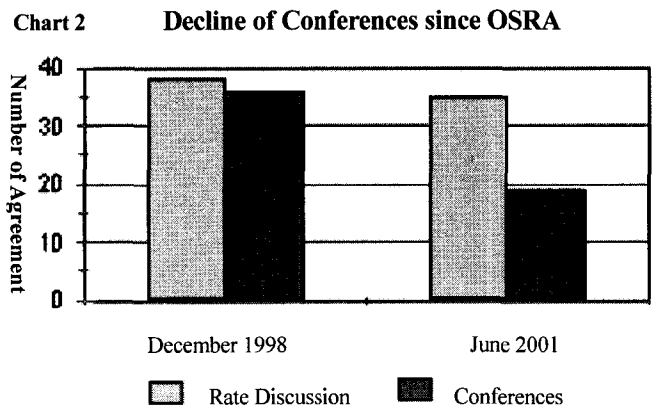
1. Restructuring in Liner Shipping Industry

The enactment of OSRA and changes of competition policy to the liner shipping industry in the EU has made liner conferences to experience upheaval. In fact, major conferences such as ANERA (Asia North American Eastbound Rate Agreement), TWRA (Transpacific Westbound Rate Agreement) dissolved in 1999, and TACA has lost significant membership since the passage of OSRA.[45] This result reflects deregulation measures of OSRA and EU regulatory policy may have contributed to the demise of conferences. On the other hand the discussion agreements have remained somewhat stable (See Chart 2). This is due to the fact that the discussion agreement involving independent carrier became the sole forum where carriers can share commercial information in most US liner trades as with the demise of the conference system. Thus, it can be expected that conference will transform themselves into administrative and information gathering forums.[46] What is more, shipper' s demand for global service requires carriers to expand into new markets, whereas deregulation diluted the role of conferences as the strong vehicle for such expansion. Under the circumstances, strategic alliance between carriers emerged as the key vehicle for carriers who are seeking to streamline operations and to achieve significant efficiencies.

45) James D. Retizes & Kelli L. Sheran, Rolling Seas in Liner Shipping, Review of Industrial Organization, Vol. 20 No. 1, 2002, p. 56.

46) Tony Brargie, "Re-inventing Conferences" , American Shipper, December 1998, p. 12

Chart 2 Decline of Conferences since OSRA



Source: Federal Maritime Commission

2. Closer, mutually beneficial working relations between shippers and carriers

The advent of just-in-time delivery requires integration of transport activity with other supply chain. Shippers desire for more specialized service providing the full range of integrated services. On the other hand it requires for carriers to differentiate their service from one another. Given this, individual one to one contract without interference of conferences will make it possible to build the true global partnerships that both seek in today' s marketplace.[47]

47) APL, Clear Sailing in Uncharted Seas: Container Shipping After Deregulation. (Available at www.apl.com/assets/applets/osra.pdf)

3. Greater choice, flexibility in contracting

Confidential service contract allowed by the OSRA EU competition policy offers shippers and carriers flexibility to negotiate customized service package and rates by allowing them to frame the terms and conditions of contract in accordance with their business requirements. Emphasis will be on market factors, strategic objectives, and adding overall value to the supply chain. In this context, permission of confidential service contract under OSRA might be viewed as an outcome of shipper' s desire for more specialized service[48]. Someone says that many of the deregulation measures of OSRA merely brought U.S. laws closer to the shipping competition regimes of other countries from the global perspective view.[49] However, on the other hand, alignment of competition policy to the liner conference in the US and other countries can encourage global contract. It is true that there are still some differences between the US and other countries (See table below). Nevertheless, the more compatibility there is, from a user standpoint, the more opportunities there will be to have global contracts.

V. Conclusion

In conclusion, there are many evidences that liner shipping industry is suffering dramatic change by deregulation. As a matter of course other elements such as changes in demand toward global intermodal service and aggressive marketing of independent carriers would one of its reasons. However, it is clear that regulatory reform in the US and the EU played a

48) James D. Retizes & Kelli L. Sheran, op. cit, p. 54.

49) P. Damas, "Non-U.S. regulators, shippers comfortable with OSRA" , American Shipper, May 2000, p. 38

critical role in changing liner market pro-competitive. It is true that there exist some differences in the US and EU regulatory regime. However, OSRA brought the US system closer to the EU system. In particular, US OSRA has resulted in significant changes of liner conferences. It is expected to be continued in the future. Carriers are concerned that this regulatory reform will undermine stability by destructive competition between shipping lines. However, it made the traditional conferences more flexible forms. Also the increase in one-to-one contracting have produced a more efficient and responsive negotiating process that results in business arrangements that are better tailored to the needs of individual shippers.

Bibliography

APL, Clear Sailing in Uncharted Seas: Container Shipping After Deregulation. (Available at www.apl.com/assets/applets/osra.pdf)

Brargie Tony, "Re-inventing Conferences", American Shipper, December 1998, pp. 12-16.

Brooks M.R., Sea Change in Liner Shipping: Regulation and Managerial Decision Making in a Global Industry, Pergemon, 2002

Calderwood James A, "FMC grants NVOCCs the right to negotiate shipper contracts", Logistics Today, Vol. 46. No. 2, 2005, p. 13.

Damas Philip and Mottley Robert, "2004 NVOCC: FMC offers NVOs quasi-service contracts", American Shipper, December 2004, pp. 56-61.

Ersbøll Niels C, EU Transportation, The European Antitrust Review, 2005, p. 95

European Commission, Consultation Paper on the Review of Council Regulation (EEC) NO 4056/86

Federal Maritime Commission, The Impact of Ocean Shipping Reform Act of 1998, Washington DC, FMC, 2001

FitzGerald Eric, "Stability v Competitiveness," Transasia 99 Conference. Hong Kong, 25-27 August 1999.

FTA, reform of Liner Shipping, September 2004 (Available at http://www.fta.co.uk/information/-focuson/shippers/pdfs/reform_liner_shipper.pdf)

Gardner B. et. al., "The Economic Regulation of Liner Shipping: The Impact of US and EU Regulation in US Trade" in The Handbook of Maritime Economics, edited by Costas TH. Grammenos, LLP, 2002

Lewis Ira & Vellenga David B., The Ocean Shipping Reform Act of 1998, Transportation Journal, Vol. 39 No. 4, Summer 2000, pp. 27-34

Mensching Jurgen, "Liner shipping: Examining the development and impact of European legislation", Speech at Containerisation

International 3rd Annual Conference "Global 2000", London, 22 March, 2000.

Nair R., A Study of Economic Regulation of Liner Shipping and Its Effection on Structural Change in the Industry, PhD Thesis, Cardiff, 2001

Retizes James D & Sheran Kelli L, Rolling Seas in Liner Shipping, Review of Industrial Organization, Vol. 20 No. 1, 2002, pp. 51-59.

Stragier Joos, "Recent developments in EU competition policy in the maritime sector", The Shipping Forecast Conference, London, 25-26 April 2002.

Ziel Van der, "Competition Policy in Liner Shipping: Policy Options", Proceedings from a conference organized by the International Association of Maritime Transport Policy (IAME) and the University of Antwerp (Antwerp, University of Antwerp), 1994, pp. 67-84

ABSTRACT

US/European Shipping Regulatory Development and
Its Impact on Liner Shipping Industry

Yang, Jung Ho

Historically shipping conference has enjoyed antitrust immunity in consideration of the importance of liner service in international trade in that it is essential to ensure stable movement of international freight. However, shipping deregulation which has been carried out for last decades in the US and EU has caused significant changes to the liner shipping market. In fact, most of shipping conferences have broken up or transformed as discussion agreement since shipping regulatory reform. However, on the other hands, it is also true that it has contributed to developmore efficient and responsive negotiating process that are better tailored to the needs of individual shippers.

Key Words : Liner Shipping; Shipping Deregulation; International Logistics.