Burning oil and bridges

At 1201 a.m. Saturday the Ocean Shipping Reform Act takes effect, opening a new age of ocean shipping. Like college students trying to cram an entire semester’s work into a single evening, customers and carriers are burning a lot of midnight oil while they attempt to reach agreement on service contracts.

Most of the interest has been focused on the Pacific import trade. Early indicators support lines’ hopes that this year’s import peak season level will exceed that of last year.

That would give the Transpacific Stabilization Agreement lines rate increases of $1,000 to $1,500 a container (their fervent hope since they realized how much money they “lost” last year by seeking only a $300 increase).

Meanwhile, the Federal Maritime Commission continues its investigation of last year’s Pacific inbound rate situation. In light of the FMC’s summary of its fact-finding report, collective penalties appear unlikely but individual fines against some lines seem probable.

Today there is concern that TSA lines may be violating contract confidentiality to maintain the voluntary rate guidelines, and TSA lines have decided that the best defense is a good offense — they strongly deny any confidentiality breach this year, and they take umbrage at the FMC’s investigation of last year.

Whatever their public posture, the lines recognize the severity of the scrutiny upon them. Some feel that lines sacrificed NAA, the new North Atlantic discussion agreement, to preserve their limited political capital with the FMC. (There was also some sentiment that European regulators would delay NAA regardless of FMC action.)

The National Industrial Transportation League has already complained to TSA management about alleged confidentiality breaches. This year, when contracts are being negotiated prior to the provisions of the shipping reform act taking effect, the question of when confidentiality begins is suddenly an issue, although antitrust remains in force.

Unless the reform act is properly implemented, the market risks distortion from anticompetitive behavior. Hopefully, steamship lines will overcome their traditional opposition to training and cavalier attitude toward antitrust matters.

If they don’t, we could soon be reading about the following scenarios:

In one, customers would have their business allocated. In such cases, lines would not discuss rates between themselves, but equally disruptive tactics to a fair market could be employed. Business would be divided up by the lines so that customers would receive competitive bids from only one or two lines.

In another case, the sales forces of competing lines would communicate rate intentions among themselves. Such exchanges have long been common in business-social settings. Personnel who are not aware of Ocean Shipping Reform Act prohibitions may seek to continue this practice.

Right now, the market situation is such that lines do not fear sailing light from Asia. There are rumors about certain accounts signing for less than the full intended increase. There are also rumors about steamship line senior management threatening immediate dismissal to any salesperson even considering less than the intended full increase.

The contracts for auto companies should be noteworthy. These accounts will place a great deal of pressure on the Japanese lines.

First, the Trans-Pacific container business constitutes only a small piece of the business relationship in terms of geography and commodity. Second, eastbound business from Japan to the United States is really backhaul business and not comparable with the rest of the eastbound trade.

The auto-parts business has no peak season and is the same volume every week through the year. (In fact, some general rate increase (GRI) of $1,000 to $1,300, nor would it be likely for a line to jeopardize its GRI program by granting an increase exception.

GRI rumors aside, many questions remain. New capacity is entering the trans-Pacific trade. No single deployment announcement will materially change the market, but the new capacity will at least absorb trade growth.

The economy is still strong, but everyone is anticipating some weakness and suspects importers are accelerating purchases to avoid possible exposure to Y2K problems.

Reviewing the state of export contracts could be revealing. Customers discarded as unprofitable two years ago are now avidly sought. No matter what volume is committed, customers often request lines renegotiate before fulfillment of the contract terms.

Given market conditions, lines see the futility of enforcing contracts above market level. Rather than realizing a short-term financial benefit by assessing liquidated damages, lines are reluctantly matching and lowering rates. This may or may not become the case for imports.

The Ocean Shipping Reform Act’s inception trumpets only the beginning of new commercial relationships. The market will need to resolve matters into the future. Customers have long memories for increases, yet they forget their past triumphs.

Bridges burned may not be replaced so easily. Meanwhile, the government will most certainly be watching carefully.

Good luck to all.

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