

Competition within international shipping and issues relating to competition policy

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Overview of fact finding studies and the history of discussion

(1) Overview of fact finding studies

I. Study period: April 2005 ~ March 2006

II. Study methods

(1) Questionnaire-based surveys of shippers and shipping companies

Questionnaires were sent out to shippers(companies)¹ and shipping service operators² (hereafter referred to as “shipping companies”) on November 28, 2005, with a return deadline of December 16, 2005. The number of questionnaires sent out and the response rates were as follows.

Subjects	Questionnaires sent out	Number of responses	Response rate
Shippers	1,970 companies	1,067 companies	54.1%
Shipping companies	46 companies	33 companies	71.7%

(2) Interviews with Shippers and shipping companies

Interviews were conducted with the following subjects between July and December 2005.

Shippers (nine companies)

Shipping companies (eight companies)

Japan Shippers' Council

Japanese Shipowners' Association

Japan Foreign Steamship Association

Shipping Conference and General Administration (SCAGA)

Japan International Freight Forwarders Association Inc.

Experts (six)

Ministry of Land, Infrastructure and Transport

(2) History of discussion of government regulations and competition policy by this study group

	Date	Details
1 st meeting	March 6, 2006	Discussion regarding the current state of international shipping
2 nd meeting	March 16, 2006	Industry interviews and discussion regarding competition in the international shipping industry and exemption systems
3 rd meeting	May 19, 2006	Finalization of draft report

¹ 1,970 companies from the first and second sections of the Tokyo Stock Exchange that either have cause to use international shipping services or are members of the Japan International Freight Forwarders Association were chosen as subjects.

² 46 Japanese and overseas shipping companies currently offering international shipping services were chosen as subjects.

Appendix 2

Chronology of shipping conferences and competition policy

Europe	USA	Japan
1875: Calcutta Conference (world's first shipping conference, covering routes between the UK and India)	1890: Sherman Antitrust Act enacted (1914: Outbreak of World War One)	
	1916: US Shipping Act enacted (• Exemption granted to international shipping cartels • Deferred rebate systems prohibited)	
	(1939: Outbreak of World War Two)	
1950: Adoption of dual rate systems on European and related routes 1958: EC Treaty brought into effect (Treaty of Rome) 1966: Adoption of deferred rate systems on European and related routes 1987: Common shipping policy based on the Treaty of Rome (block exemption) 2003: Dual rate systems (loyalty agreements) and fidelity rebates abolished by the European Conference 2004: European Commission Discussion Paper published (June) 2004: European Commission White Paper published (October) 2005: Abolition of Council Regulation 4056/86 (block exemption) proposed by European Commission 2006: Issue paper on guidelines regarding the application of competition law due to be published by the European Commission (September)	1961: Bonner Act (• Dual rate systems with a difference of 15% or less permitted • Reporting and disclosing conference tariffs made mandatory) 1984: US Shipping Act (• Dual rate systems prohibited • Independent action (IA) and service contracts (SC) introduced ¹ • Conference SC restrictions prohibited) 1988: Stabilization agreements concluded on North American routes 1998: Ocean Shipping Reform Act (• Right to nondisclosure granted for information such as shipping rates and details of services)	1947: Antimonopoly Act enacted 1949: Start of proceedings against the Far East Freight Conference 1949: Marine Transportation Law enacted (exemption regulations) 1950: Five principles of fair trade drawn up 1959: Partial revisions to the Marine Transportation Law (legalization of dual rate systems and deferred rate systems on the condition of being optional) 1999: Revisions to the Marine Transportation Law (advance agreement notification system and revision/restriction orders introduced) 2006: Abolition of specific unfair business practices in the shipping industry (Special Shipping Designation)

¹ i.e. the practice of concluding contracts between large-scale goods owners and shipping companies based on terms and conditions beneficial to goods owners, such as offering shipping rates that are more favorable than tariff rates.

Decision to Close Hearing Proceedings against the Far East Freight Conference (operational criteria regarding specific unfair trade practices in the maritime business ? i.e. “the five principles”)

Fair Trade Commission
December 23, 1959

Text of Judgment

Hearing proceedings for the present case shall be closed.

Reasons

The Fair Trade Commission decided to commence hearing proceedings in the present case against the shipping operators and goods owners listed below on April 16, 1949, on the grounds that shipping operators belonging to the Far East Freight Conference were suspected of violating the Antimonopoly Act and the Trade Association Act by concluding general cargo agreements with goods owners in Japan. However, as a result of the subsequent enactment of the Marine Transportation Law, which granted exemption from the Antimonopoly Act to agreements, contracts and joint action between shipping operators under certain conditions, the abolition of the Trade Associations Law and partial amendments to both the Antimonopoly Act and the Marine Transportation Law, there have since been numerous alterations to the laws and regulations applicable to the present case. In addition, on November 28, 1950, the Fair Trade Commission issued the respondents in the present case with a notice stating that hearing proceedings would be temporarily suspended on the condition that the following five provisions were incorporated into general cargo agreements.

- (1) The difference between shipping rates for contracted goods owners and non-contracted goods owners shall not exceed 9.5%.
- (2) FOB shipments whereby a foreign buyer specifies a shipping vessel shall be clearly exempted from the Conference Contract, with contracted goods owners able to ship their cargo via non-member vessels in such cases without suffering any penalty or sanctions.
- (3) If, after requesting a shipment by sending a notice to the Conference branch manager in Yokohama, a contracted goods owner does not receive a reply stating that there is freight space available within thirty days of the date on which the relevant notice was received by the branch manager within seven days, the contracted goods owner may obtain the required freight space from an alternative source without any infringement of their rights.
- (4) The amount of damages payable to the Conference by any contracted goods owner due to a breach of the Conference Contract shall be 50% of the total shipping rates that the relevant goods owner would have paid if they had shipped the relevant cargo via a Conference vessel.
- (5) Either party may terminate the contract by giving three months prior notice in writing to the other party.

The respondents in the current case have since complied with the above conditions, with other shipping conferences linked to goods owners in Japan also following suit for the most part, resulting in these conditions becoming established as common practice. The respondents are therefore no longer infringing upon the relevant provisions designated by the Fair Trade Commission under Specific Unfair Trade Practices in the Maritime Business (Notification No. 17).

Taking into account the above facts and various additional factors, it is considered appropriate to close hearing proceedings in the present case, as stated in the Text of Judgment.

? Specific Unfair Trade Practices in the Maritime Business (abolished April 13, 2006)

Fair Trade Commission
November 11, 1959 (Notification No. 17)

In accordance with provisions set out under Article 2 (7) of the Act concerning the Prohibition of Private Monopolization and the Maintenance of Fair Trade (Law No. 54 of 1947), the following shall be designated as specific unfair trade practices in the maritime business and Fair Trade Commission Notification No. 14 of 1953 (Specific Unfair Trade Practices in Maritime Business) shall be abolished.

Specific unfair practices in the maritime business

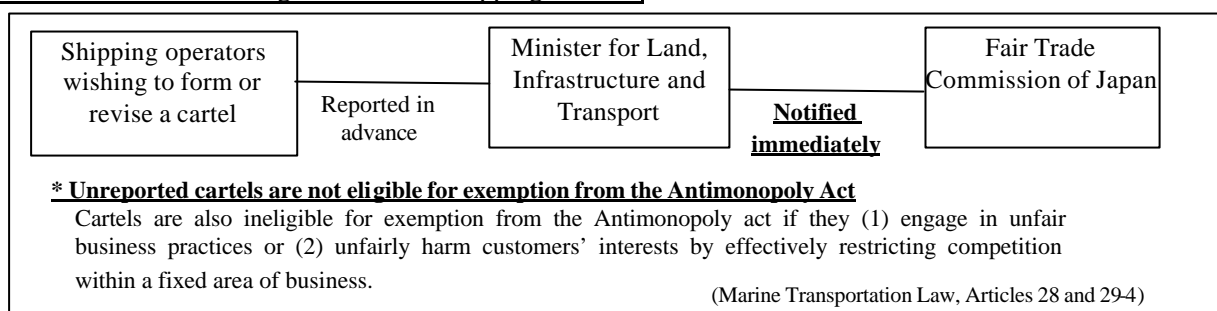
The following actions based on agreements or arrangements committed by a single shipping operator (a person or organization operating shipping services as defined in Article 2 (2) of the Maritime Transportation Law (Law No. 187 of 1949), the same hereafter) or shipping operators acting in unison

- (1) Offering unfairly discriminatory treatment with respect to shipping rates and charges and other shipping terms and conditions to specific goods owners or locations based on the volume of cargo shipped or the point of embarkation or destination
- (2) Unfairly disadvantaging the business activities of a shipping operator wishing to join the relevant conference or agreement to a large extent by imposing unfairly discriminatory membership requirements compared to other members or refusing membership without any reasonable or legitimate reason (surplus of tonnage, etc.)
- (3) Offering unreasonably favorable treatment with respect to shipping rates and charges and other shipping terms and conditions to goods owners that enter into an agreement stating that all cargo within a certain range will be shipped exclusively via shipping operators belonging to the relevant conference or agreement (hereafter referred to as "exclusive shipment contract(s)"), unfairly restricting goods owners from terminating exclusive shipment contracts or charging goods owners unreasonably high penalty charges or damages in the event that they breach an exclusive shipment contract
- (4) Charging goods owners unreasonable penalty charges or damages or providing unfavorable treatment with respect to shipping rates and charges and other shipping terms and conditions in the event that they ship cargo via non-member shipping operators on justifiable grounds, such as the lack of available tonnage via member shipping operators within a reasonable period
- (5) Unreasonably extending the relevant fixed period or unreasonably increasing shipping rates and charges subject to refunds if offering goods owners a partial refund on their shipping rates and charges for a fixed period on the condition that they exclusively ship all cargo within a certain range via member shipping operators
- (6) Refusing to conclude agreements with goods owners wishing to conclude exclusive shipment agreements if using deferred rebates (offering goods owners a partial refund on their shipping rates and charges for a fixed period on the condition that they exclusively ship all cargo within a certain range via member shipping operators and then continue to do so for a further fixed period (the same hereafter)), or providing goods owners that have entered into exclusive shipment contracts with unreasonably unfavorable treatment with respect to shipping rates and charges and other shipping terms and conditions compared to goods owners eligible for partial refunds on shipping rates and charges via a deferred rebate system

? The Japanese system of exemption for international shipping

Although international shipping cartels have been exempted from the Antimonopoly Act since its enactment under the Marine Transportation Law, the enactment of the A bill aimed at abolishing depression cartel systems and rationalization cartel systems and abolishing the exemption systems to the AMA on July 23, 1999 also established regulations regarding the involvement of the Fair Trade Commission.

1. Framework for handling international shipping cartels



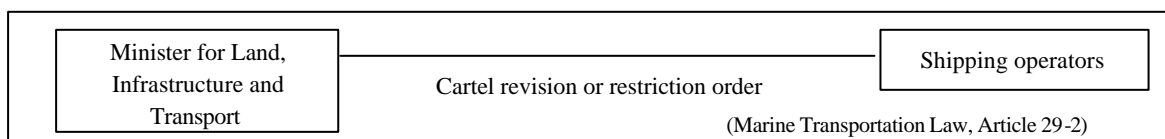
(*) The underlined parts of the above diagram were added as a result of the bill to revise AMA of 1999 (i.e. prior July 1999 there was no obligation to notify the Fair Trade Commission and unreported cartels were also exempt).

2. Regulations in response to problematic international shipping cartels

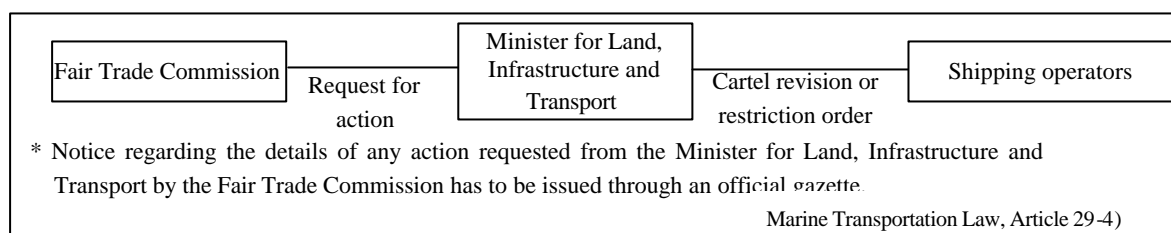
If the activities of any international shipping cartel (1) unfairly harm users' interests, (2) are unfairly discriminatory, (3) unfairly restrict entry or withdrawal or (4) restrict competition more than absolutely necessary based on the aim of the agreement, the Minister for Land, Infrastructure and Transport is obliged to issue the relevant cartel with a revision or restriction order. The procedure for doing so is as follows.

* The following regulations were established as a result of the bill to revise AMA in 1999.

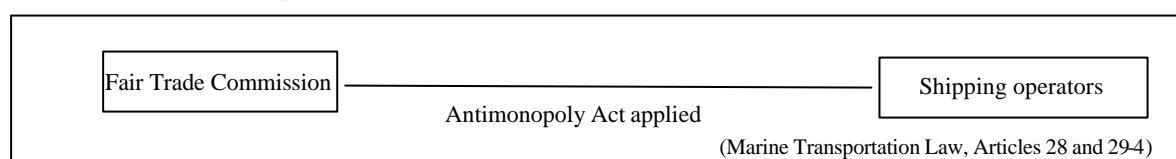
I. Issuing a revision or restriction order upon receipt of a cartel report



II. Issuing a revision or restriction order after a request for action from the Fair Trade Commission



III. In the event that the Minister for Land, Infrastructure and Transport does not issue a revision or restriction order within one month of official notice of the Fair Trade Commission's request for action (II)



The bill to revise AMA of 1999 (reference)

The bill to revise AMA of 1999 was the final legislative stage of reviews to the system of exemption from the Antimonopoly Act approved by the Cabinet after a three year plan to promote the relaxation of regulations from March 1995 onwards. Its purpose was to make any outstanding adjustments in relation to exempt cartels omitted from the bill to revise AMA of 1997. The main points were as follows.

Revisions to the Antimonopoly Act	Recession cartel and rationalization cartel systems abolished
Abolition of the Antimonopoly Act Exemption Act	Exemption for cooperative associations incorporated into Article 24 of the Antimonopoly Act and exemption for other organizations abolished (stock exchanges, Japan Securities Dealers Association, etc.)
Revisions to individual laws	?Scope of domestic shipping cartels reduced (Marine Transportation Law) ?Procedural regulations established in relation to international shipping cartels (Marine Transportation Law) ?Procedural regulations established in relation to the activities of domestic shipping associations (Domestic Shipping Association Law) ?Procedural regulations established in relation to international aviation cartels (Civil Aeronautics Law) ?Procedural regulations established in relation to the activities of environmental health associations (Healthy Environment Law)

Comparison of agreements exempt from competition law in Japan, the US and the EU
(Details of the relevant clauses outlined in footnotes)

[Exemption procedure]

	Japan	USA	EU
Reporting agreements	Mandatory Marine Transportation Law, Article 29-2 (<i>hereafter referred to as "Marine Law"</i>)	Mandatory Shipping Act, Article 5 (a)	Not required Block exemption under Council Regulation 4056/86

[Extent of exemption for container liner cartels]

Key

: exempt

× : not exempt

: treated as exempt in practice despite not being eligible for exemption or exemption not being specified by the competition authorities

Contents of agreement	Japan	USA	EU
Common tariffs (binding)	Marine Law, Articles 28 and 29-2 ¹	× Shipping Act, Article 5 (c) ² (control over member shipping companies not permitted)	Council Regulation 4056/86, Article 3 ³
Rate restoration guidelines	Marine Law, Articles 28 and 29-2	Shipping Act, Article 4 (a) ⁴	Council Regulation 4056/86, Article 3 ⁵
Surcharges	Marine Law, Articles 28 and 29-2	Shipping Act, Article 4 (a)	Council Regulation 4056/86, Article 3
THC	Marine Law, Articles 28 ⁶ and 29-2	Shipping Act, Article 4 (a)	Not specified by competition authorities ⁷
Dual rate systems	Marine Law, Articles 28 and 29-2	× Shipping Act, Article 7 (b) ⁸	? Council Regulation 4056/86, Article 5 ⁹
Fidelity rebate systems	Marine Law, Articles 28 and 29-2	× Shipping Act, Article 10 (b) ¹⁰	? Council Regulation 4056/86, Article 5 ¹¹
Deferred rebate systems	Marine Law, Articles 28 and 29-2	× Shipping Act, Article 10 (b)	Council Regulation 4056/86, Article 5
Guidelines on inland transport rates	× Marine Law, Article 28	Shipping Act, Article 4 (a)	× Council Regulation 4056/86, Article 1 ¹²

[Exemption for irregular liner agreements]

	Japan	USA	EU
Irregular liner agreements	Marine Law, Article 28 (no differentiation between types of agreement)	× Shipping Act, Article 3	Council Regulation 1/2003 is not applicable to irregular liners ¹³

[Exemption for consortiums and alliances]

	Japan	USA	EU
Consortium and alliance agreements	Marine Law, Article 28 (no differentiation between types of agreement)	Shipping Act, Article 3	Block exemption until April 2010 under Council Regulation 823/2000 ¹⁴

¹ Marine Transportation Law, Articles 28 and 29-2: Exemption is not applicable in the event that unfair business practices are employed or in the event that users' interests are unfairly harmed by operators effectively restricting competition within a fixed area of business. Exemption is only applicable in the event that the contents of the relevant agreement (1) do not unfairly harm users' interests, (2) are not unfairly discriminatory, (3) do not unfairly restrict entry or withdrawal and (4) do not restrict competition more than absolutely necessary based on the aim of the agreement.

² US Shipping Act, Article 5: An ocean common carrier agreement may not-- (3) adopt mandatory rules or requirements affecting the right of an agreement member or agreement members to negotiate and enter into service contracts. An agreement may provide authority to adopt voluntary guidelines relating to the terms and procedures of an agreement member's or agreement members' service contracts if the guidelines explicitly state the right of the members of the agreement to not follow these guidelines.

³ Council Regulation 4056/86, Article 3: Agreements, decisions and concerted practices of all or part of the members of one or more liner conferences are hereby exempted from the prohibition in Article 85 (1) of the Treaty, subject to the condition imposed by Article 4 of this Regulation, when they have as their objective the fixing of rates and conditions of carriage, and, as the case may be, one or more of the following objectives.

⁴ US Shipping Act, Article 4: This Act applies to agreements by or among ocean common carriers to (1) discuss, fix, or regulate transportation rates, including through rates, cargo space accommodations, and other conditions of service.

⁵ European Commission Council Regulation 4056/86, Article 3: Agreements, decisions and concerted practices of all or part of the members of one or more liner conferences are hereby exempted from the prohibition in Article 85 (1) of the Treaty, subject to the condition imposed by Article 4 of this Regulation, when they have as their objective the fixing of rates and conditions of carriage, and, as the case may be, one or more of the following objectives.

⁶ Marine Transportation Law, Article 28: "The conclusion of agreements or contracts, or joint actions by ship operators concerning freight rates, charges, other transport conditions, trade routes, ship deployment and cargo loading on the routes between a Japanese port and a port of other regions outside Japan."

⁷ In a speech given in London in October 2005, European Council DG Competition, Director Lowri Evans stated that "It is far from clear that the joint fixing of terminal handling charges falls within the scope of the conference block exemption regulation". On the subject of the extent of block exemption, European Commission Council Regulation 4056/86 states that "It shall apply only to international maritime transport services".

⁸ US Shipping Act, Article 7: This Act does not extend antitrust immunity [...] (4) to any loyalty contract.

⁹ European Commission Council Regulation 4056/86: The shipping lines' members of a conference shall be entitled to institute and maintain loyalty arrangements with transport users, the form and terms of which shall be matters for consultation between the conference and transport users' organizations.

¹⁰ US Shipping Act, Article 10: No common carrier, either alone or in conjunction with any other person, directly or indirectly, may [...] (7) offer or pay any deferred rebates.

¹¹ European Commission Council Regulation 4056/86, Article 5: Loyalty arrangements must comply with the following conditions: (a) Each conference shall offer transport users a system of immediate rebates or the choice between such a system and a system of deferred rebates.

¹² European Commission Council Regulation 4056/86, Article 1: It shall apply only to international maritime transport services

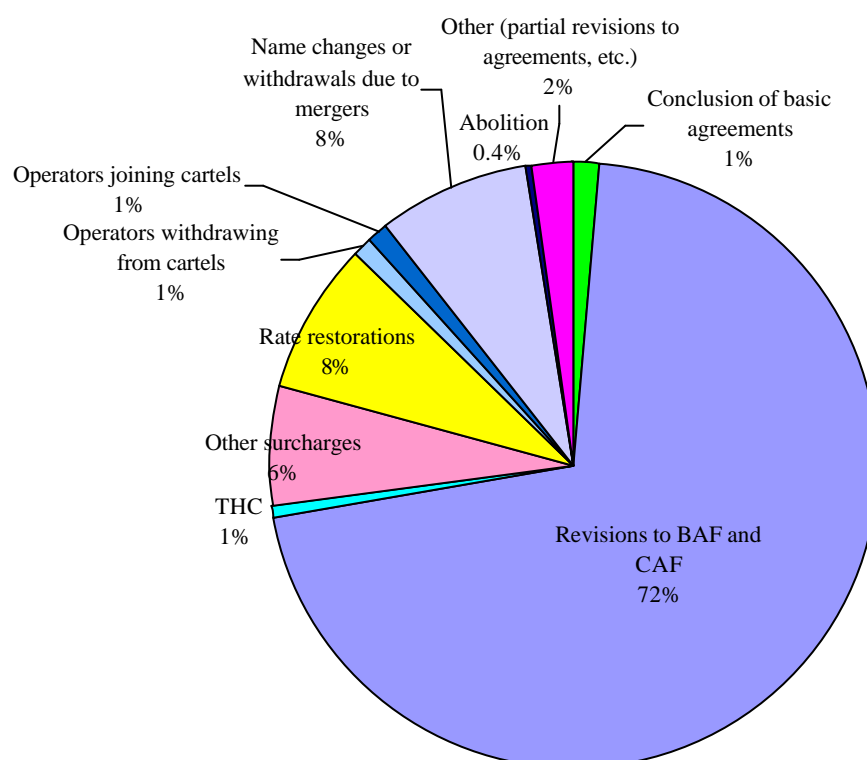
¹³ European Commission Council Regulation 1/2003, Article 32: This Regulation shall not apply to: (a) international tramp vessel services as defined in Article 1(3)(a) of Regulation (EEC) No 4056/86.

¹⁴ Provisions set out in European Commission Council Regulation 823/2000 grant consortiums within shipping conferences exemption from competition law without having to apply for exemption on the condition that their share of market is less than 30%, or 35% for non-member consortiums. It also grants exemption to consortiums with a share of 50% or less if no action is taken by the European Commission within six months of the relevant consortium being reported.

Notification regarding international shipping cartels in accordance with the Marine Transportation Law (FY2005)

• Breakdown of reports received in fiscal 2005 (685 in total)

	%	No. of reports
Conclusion of basic agreements	1.5%	10
(1) Revisions to BAF and CAF	70.7%	484
(2) THC	0.7%	5
(3) Other surcharges	6.3%	43
(4) Rate restorations	8.0%	55
(5) Operators withdrawing from cartels	1.3%	9
(6) Operators joining cartels	0.9%	6
(7) Name changes or withdrawals due to mergers	8.0%	55
(8) Abolition	0.4%	3
(9) Other (partial revisions to agreements, etc.)	2.2%	15



(Compiled by the Fair Trade Commission of Japan based on notifications during fiscal 2005)

Appendix 7

Methods used by shipping companies to set out revisions to and determine shipping rates

(1) Methods used by shipping companies to set out revised shipping rates

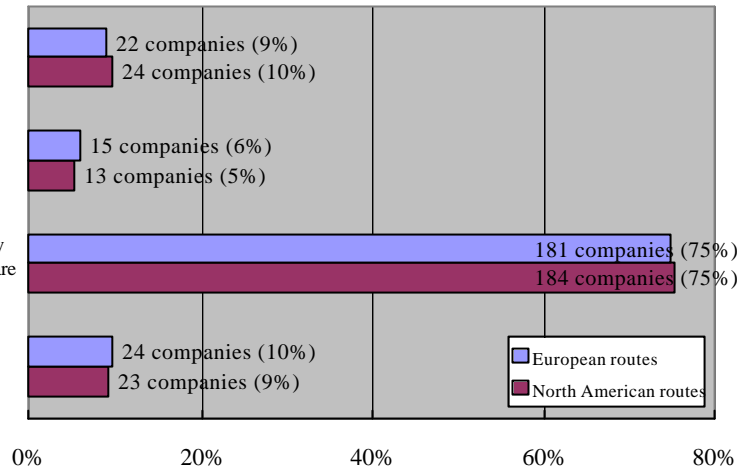
(* Responses from European and North America routes only, excluding Chinese routes on which there are no regular liner cartels)

Surcharges are set out at the same level by all shipping companies regardless of whether they are members of shipping conferences or agreements or not.

Surcharges are set out at same level by member companies belonging to shipping conferences or agreements, but are determined on a case by case basis by other shipping companies.

Surcharges are set out by on a case by case basis by all shipping companies regardless of whether they are members of shipping conferences or agreements or not.

Other



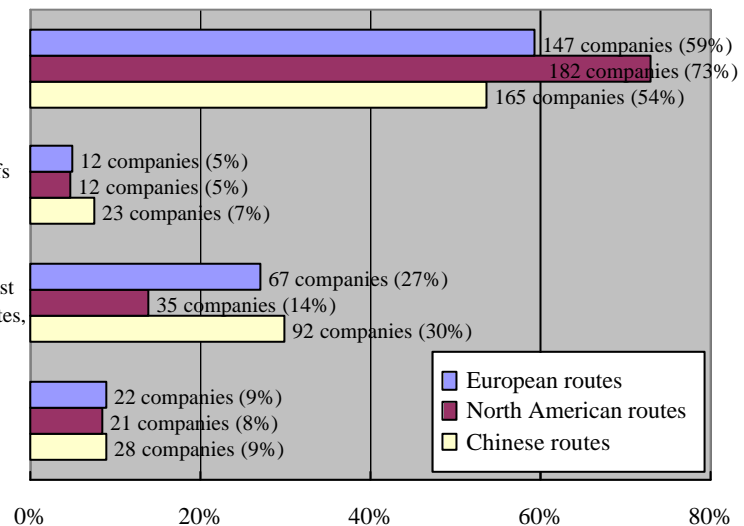
(2) Methods used to determine shipping rates with shipping companies

We conclude fixed-period contracts with individual shipping companies and determine shipping rates with each company on a case by case basis.

Shipping rates are determined in line with tariffs agreed between shipping companies.

We use the shipping company that offers the best terms on a case by case basis (accepting estimates, tendering, etc.)

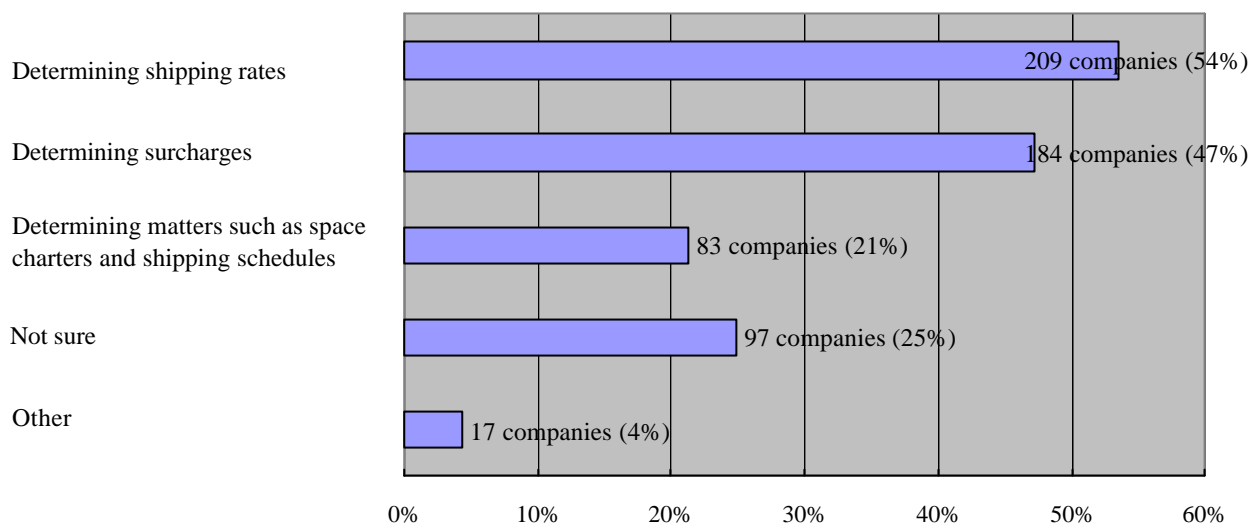
Other



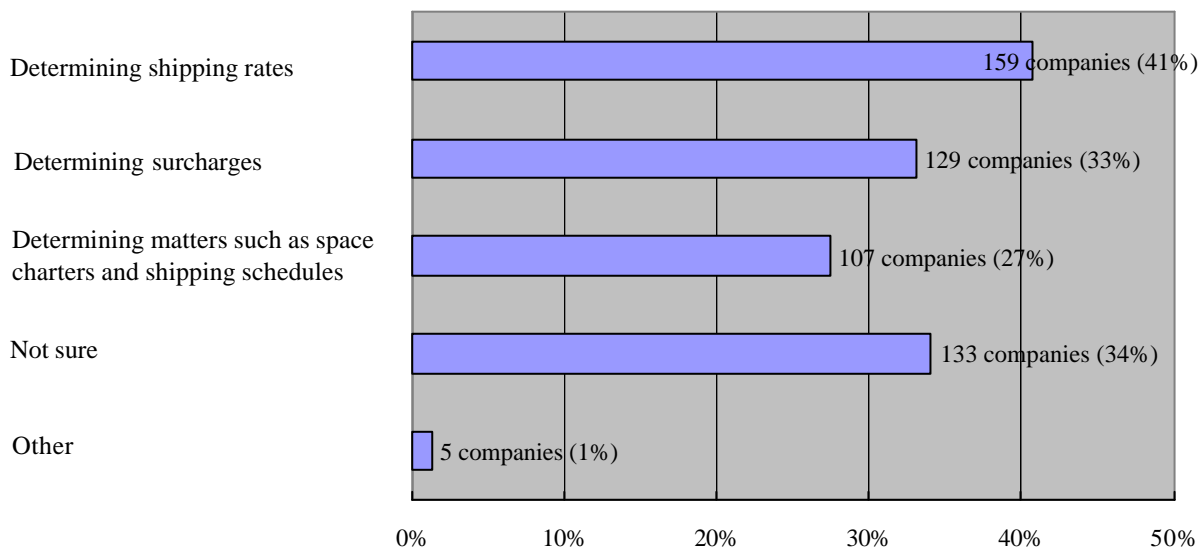
(Survey of shippers, Fair Trade Commission of Japan)

Awareness of the functions performed by shipping conferences and stabilization agreements

(1) Awareness of the functions performed by shipping conferences (multiple answers permitted)



(2) Awareness of the functions performed by shipping conferences (multiple answers permitted)



(Survey of shippers, Fair Trade Commission of Japan)

Appendix 9

Details of rate restorations reported in fiscal 2005

North American routes

•Transpacific Stabilization Agreement (TSA) [outgoing North American routes]

Date	Items affected	Details of changes
4/15/2005	Goods bound for the east coast	Deferment of peak season surcharge guidelines

•Westbound Transpacific Stabilization Agreement (WTSA) [incoming North American routes]

Date	Items affected	Details of changes
4/15/2005	Wastepaper	Rate revision of \$50/FEU
5/1/2005	Vegetables	Rate revision of \$150/FEU
7/1/2005	Protein products containing beef or pork	Deferred rate revision of \$600/FEU
7/1/2005	Animal hide	Rate revision of \$150/TEU
9/1/2005	Dried fruit and nuts	Rate revision of \$80/TEU
9/1/2005	Wastepaper	Rate revision of \$50/FEU
9/1/2005	Timber	Rate revision of \$100/TEU
9/1/2005	Onions shipped in dry containers	Rate revision of \$740/FEU
9/21/2005	Apples	\$2600/FEU
10/1/2005	Citrus fruit from the east coast	\$4662/FEU (\$3.7 per package)
12/1/2005	Citrus fruit from the west coast	\$2100/FEU (\$3.7 per package)
3/1/2006	Seafood	Crabs: \$6600/FEU (plus agreements for other individual items of seafood)
3/15/2006	Goods shipped in regular containers and small lot containers	Rate revision of \$160/TEU
4/1/2006	Chemicals and plastics	Rate revision of \$80/TEU

European routes

•Japan Europe Freight Conference (JEFC) [outgoing European routes]

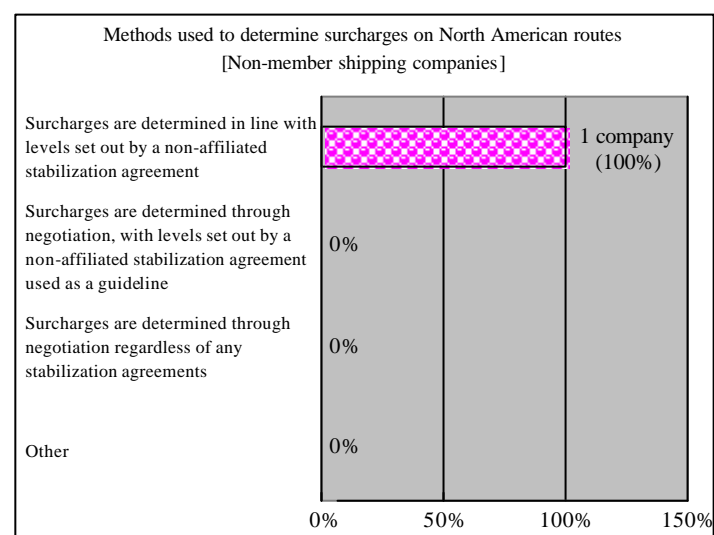
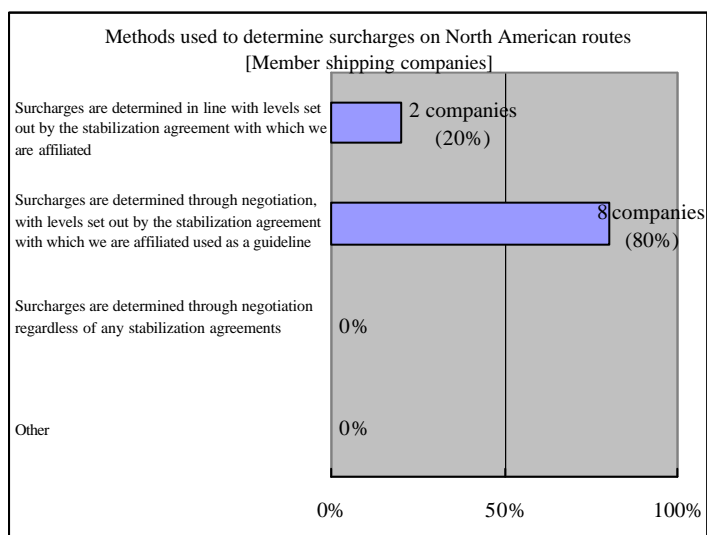
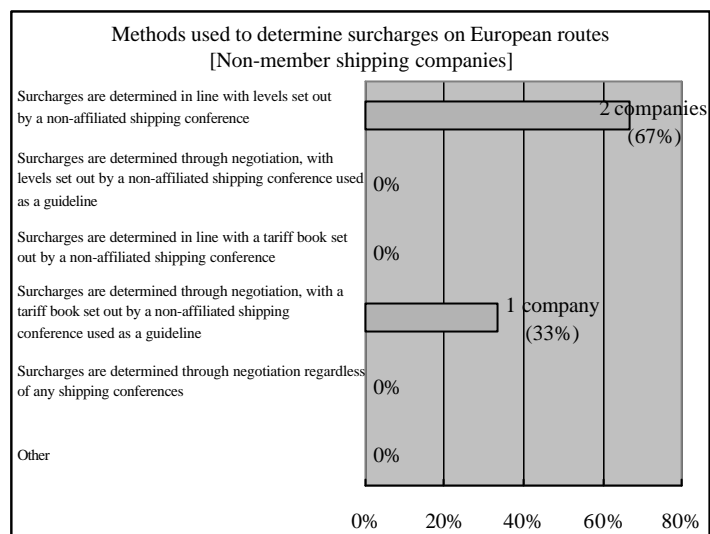
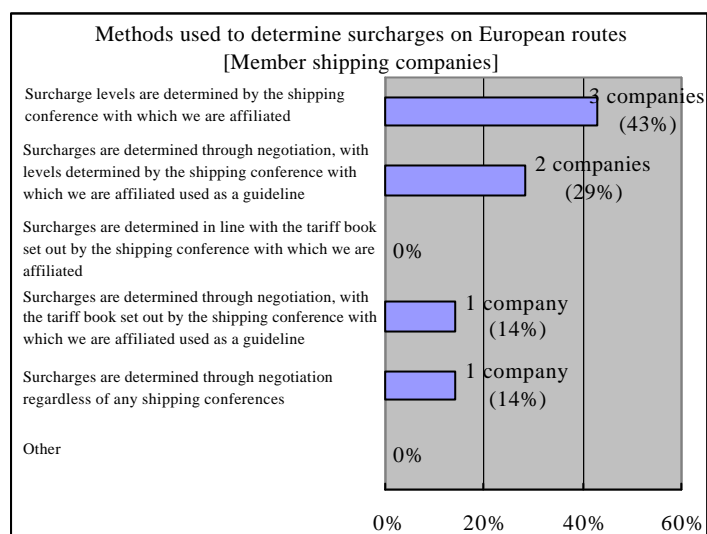
Date	Items affected	Details of changes
4/1/2006	Shipping rates from Japan to Northern Europe and the Mediterranean	Rate restoration of \$200/TEU (one year contracts) or \$150/TEU (six month contracts)

•Far East Freight Conference [incoming European routes]

Date	Items affected	Details of changes
6/1/2005	All goods apart from wastepaper and plastic scraps	Rate revision of \$100/TEU
	Waste paper and plastic scraps	Rate revision of \$200/TEU
9/1/2005	Regular and frozen/refrigerated goods	Rate revision of \$100/TEU
	Special containers (flat rack/open top containers, etc.)	Rate revision of \$150/TEU
11/1/2005	Timber, used paper and plastic scraps	Rate revision of \$100/TEU
4/1/2006	Shipping rates on goods shipped from Northern Europe to Asia	Rate revision of \$50/TEU
6/1/2006	Shipping rates on goods shipped from Northern Europe to Asia	Rate revision of \$75/TEU
4/1/2006	Shipping rates on goods shipped from the Mediterranean to Asia	Rate revision of \$50/TEU
6/1/2006	Shipping rates on goods shipped from the Mediterranean to Asia	Rate revision of \$75/TEU

(Compiled by the Fair Trade Commission of Japan based on notifications during fiscal 2005)

Methods used to determine surcharges



(Survey of shipping companies, Fair Trade Commission of Japan)

Appendix 11

BAF calculation methods used by the Transpacific Stabilization Agreement

- (1) Based on shipping company statistics, shipping company usage rates for the nine major refueling ports are agreed as follows.

Los Angeles	22.22%
Singapore	18.90%
South Korea	15.67%
Seattle	10.21%
Taiwan	10.08%
Auckland	9.64%
Hong Kong	5.67%
New York	4.51%
Japan	3.10%
<hr/>	
Total	100.00%

- (2) Based on statistics for member shipping companies, usage rates for Bunker A and Bunker C are determined as follows.

Bunker A	6.24%
Bunker C	93.76%
<hr/>	
Total	100.00%

- (3) Based on the above predetermined usage rates, the weighted average price per ton of fuel is calculated from Bunker A and Bunker C prices provided for individual ports by Platts¹
- (4) Weighted averages for fuel and BAF rates are determined in advance based on statistics for member shipping companies. BAF are then calculated based on the table of rates below.

¹ Platts is a private company that provides data, details of trends and price indices relating to global energy markets such as crude oil, natural gas and electricity.

BAF calculation method under the Transpacific Stabilization Agreement

Fuel price (weighted average price/ton)	BAF charge (per TEU)
Less than \$80	-
\$80-\$99	\$4
\$100-119	\$40
\$120-139	\$70
\$140-159	\$105
\$160-179	\$140
The same pattern continues for prices \$180 and over (i.e. BAF increases by \$35/TEU for every \$20 increase in the weighted average fuel price).	

[BAF calculation ? example]

Assuming that fuel price data provided by Platts puts the price of Bunker A for the Port of Los Angeles at \$220-230 per ton and Bunker C at \$100-110 per ton:

- (1) Weighted average for Bunker A = $\$225 \times 22.22\% \times 6.24\% = \underline{\$3.119/\text{ton}}$
- (2) Weighted average for Bunker C = $\$105 \times 22.22\% \times 93.76\% = \underline{\$21.875/\text{ton}}$
- (3) (1) + (2) = \$24.994/ton

The weighted average fuel price for the Port of Los Angeles would therefore be \$24.994 per ton.

- (4) Weighted average fuel prices are also calculated for the other eight ports apart from Los Angeles in the same way as in the above steps (1) to (3) based on fuel price data provided by Platts.
- (5) The weighted averages from the above points (3) and (4) are added together to calculate the weighted average fuel price per ton.
- (6) BAF are then determined in line with the above table based on the results of point (5).

(Source: Compiled by the Fair Trade Commission of Japan based on information provided by Shipping Conference and General Administration (SCAGA) and the Transpacific Stabilization Agreement)

BAF calculation methods used by the European Conference

- (1) Based on shipping company statistics, shipping company usage rates for individual refueling regions are agreed as follows.

Europe	48.25%
Middle East	1.70%
Far East	50.05%
<hr/>	
Total	100.00%

- (2) The reference value is set at 653.27, the Cockett Marine Oil² Bunker C price index for September 29, 1989.
- (3) The reference value for Bunker C prices is \$94.77 per ton, the average price for September 29, 1989, when the Cockett Marine Oil index first came into use.
- (4) The weighted average volume of fuel consumed for each TEU container shipped via container vessel (return trip) is 1.2569 tons.
- (5) 94.77/ton ((3)) is multiplied by 1.2569 ((4)) to calculate the standard fuel price per TEU:
\$119.12
- (4) The latest Bunker C price index from Cockett Marine Oil is divided by the reference value in the above point (2) to work out the rate of fluctuation.
- (5) A fixed value (100%) is subtracted from the rate of fluctuation ((4)), which is then multiplied by the standard fuel price to calculate BAF.

(Source: compiled by the Fair Trade Commission of Japan based on data provided by Shipping Conference and General Administration (SCAGA))

² Cockett Marine Oil Ltd. is an independent company that provides indices relating to trends in the fuel (oil) market.

FEFC Lump Sum BAF System

BAF 計算式(March'06 Review for application from 1/May/06)

<Date: 01/Mar/06>

	① weight		② Cockett Index		Result
Europe	48.25%	x	2122.60	=	1024.15
Middle East	1.70%	x	2028.80	=	34.49
Far East	50.05%	x	2122.90	=	1062.51
	100.00%				2121.16
	a. Average weighted Index				2121.16
③	b. Average Cockett Index as at 29/9/89				653.27 (固定値)
	c. Change a. over b.				224.70%
④	d. Bunker cost per TEU				119.12 (US\$:固定値)
	e. c. times d. (BAF for TEU)				267.66 (US\$)

<Note>

- ① Bunker offtakes as calculated by FEFC accountants
- ② The Cockett Marine Oil Bunker Market report indices for 01/Mar/06
- ③ Cocket Index average when NT90 Tariff constructed
- ④ Average Conference Bunker price as calculated by Accountants
ie Bunker cost per ton US\$94.77 @1.2569 tons used to move 1 TEU on
round voyage = US\$119.12

(SCAGA提供資料)

Appendix 12

CAF calculation methods used by the European Conference

- (1) Based on costs for member shipping companies belonging to the Japan Europe Freight Conference, in 2003 a London-based independent organization calculated the percentages of currencies used by each country, as shown below.

UK	GBP	7.92%
EC	Euros	18.49%
Sweden	SKR	0.91%
Denmark	DKK	4.59%
Norway	NOK	0.26%
Russia	RUB	0.25%
Japan	JPY	7.41%
Turkey	TRL	0.07%
Egypt	EGP	0.55%
Singapore	SGD	4.24%
Malaysia	MYR	0.77%
Indonesia	IDR	0.61%
Vietnam	DONG	0.16%
Thailand	THB	0.51%
Hong Kong	HKD	5.25%
China	YUAN	4.16%
Taiwan	TWD	1.85%
Philippines	PHP	0.22%
South Korea	KRW	2.75%
<u>USA</u>	<u>USD</u>	<u>39.03%</u>
Total		100.00%

- (2) The rate of fluctuation between exchange rates for January 2, 2003 and average recent exchange rates (according to the Financial Times) is calculated every month.
- (3) The rate of fluctuation is calculated for each currency and then multiplied by the percentages in the above point (1) to get the weighted average for each currency. CAF are charged if exchange rates fluctuate by 5% or more.

(Source: compiled by the Fair Trade Commission of Japan based on data provided by Shipping Conference and General Administration (SCAGA))

Monthly Average

5.4

Percent

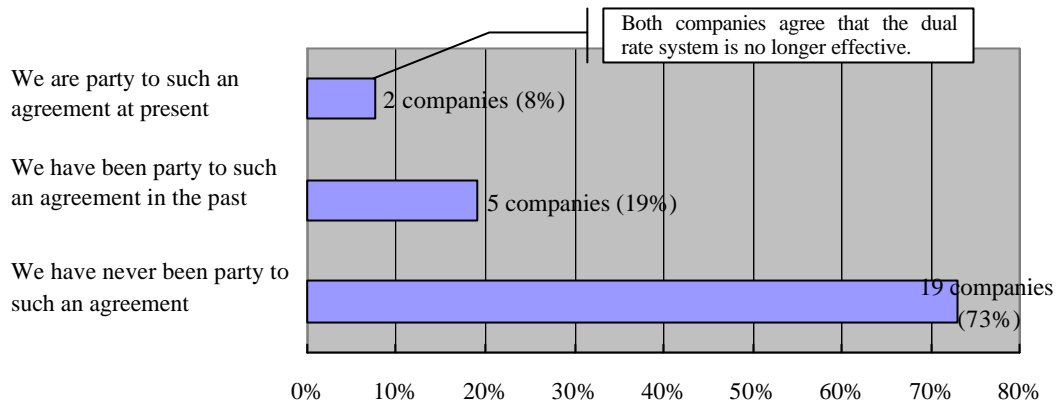
COUNTRY	CURRENCY	Rate of Exchange As Published 2006年3月1日		BASE RATE 2-Jan-03	Variance against 2-Jan-03	FEFC CAF		
						CURRENCY	WEIGHT %	Re/Devaluation
UK	GBP	0.5710		0.6212	8.7916%	GBP	7.92	0.6963
EC	EURO	0.8387		0.9529	13.6163%	EURO	18.49	2.5177
Sweden	SKR	7.9182		8.7133	10.0414%	SKR	0.91	0.0914
Denmark	DKK	6.2585		7.0784	13.1006%	DKK	4.59	0.6013
Norway	NOK	6.7488		6.9278	2.6523%	NOK	0.26	0.0069
Russia	RUB	28.0281		31.9500	13.9927%	RUB	0.25	0.0350
Japan	JPY	115.8250		118.6700	2.4563%	JPY	7.41	0.1820
Turkey	TRL	1.3145		1.6600	26.2838%	TRL	0.07	0.0184
Egypt	EGP	5.7337		4.6300	-19.2494%	EGP	0.55	(0.1059)
Singapore	SGD	1.6212		1.7345	6.9887%	SGD	4.24	0.2963
Malaysia	MYR	3.7150		3.8000	2.2880%	MYR	0.77	0.0176
Indonesia	IDR	9,182.5000		8950.0000	-2.5320%	IDR	0.61	(0.0154)
Vietnam	DONG	15,910.0000		15401.0000	-3.1992%	DONG	0.16	(0.0051)
Thailand	THB	39.1580		43.1000	10.0669%	THB	0.51	0.0513
Hong Kong	HKD	7.7587		7.7984	0.5117%	HKD	5.25	0.0269
China	YUAN	8.0402		8.2770	2.9452%	YUAN	4.16	0.1225
Philippines	PHP	51.6600		53.3850	3.3391%	PHP	0.22	0.0073
Taiwan	TWD	32.4505		34.7700	7.1478%	TWD	1.85	0.1322
Korea	KRW	971.0000		1186.0500	22.1473%	KRW	2.75	0.6090
USA	USD	1.0000		1.0000	0.0000%	USD	39.03	0.0000
TOTAL						TOTAL	100.00	5.2858

* Turkish Lira revalued on 1.1.05

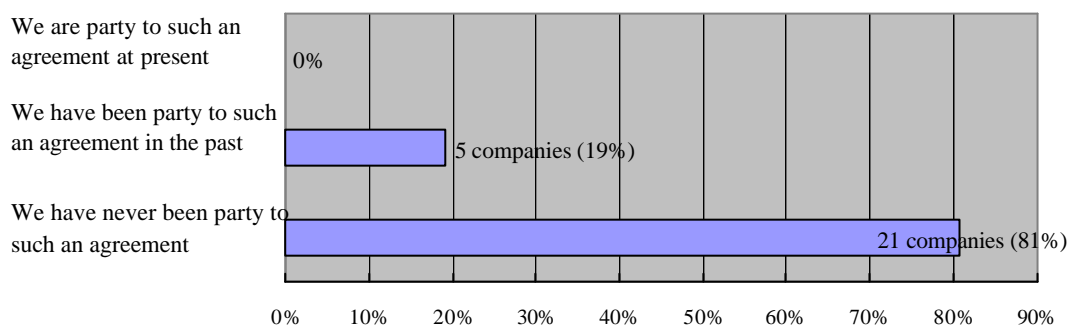
Appendix 13

Agreements regarding dual rate, fidelity rebate and deferred rebate systems

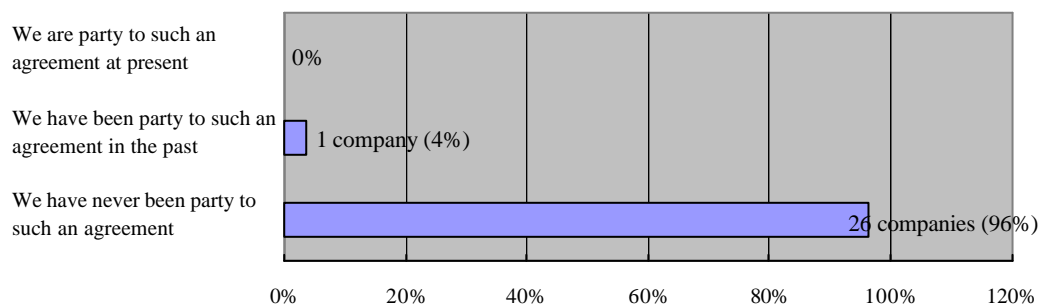
(1) Are you party to a dual rate agreement?



(2) Are you party to a fidelity rebate system?



(3) Are you party to a deferred rebate system?



(Survey of shipping companies, Fair Trade Commission of Japan)

Routes retaining dual rate systems on paper

Route	Direction	Abbreviation	Title of conference or agreement
Far East	Outgoing	BOBCON	Bay of Bengal/Japan / Bay of Bengal Conference
	Outgoing	FESAMEC	Far East/South Asia-Middle East Conference
	Both	JCFC	Japan/Ceylon Freight Conference
	Both	JPFC	Japan/Philippines Freight Conference
Africa	Outgoing	FEEA	Far East/East Africa Freight Conference
	Outgoing	JWAAC	Japan/West Africa (Angola/Cameroun Range) Freight Conference
	Outgoing	JWANS	Japan/West Africa (Nigeria/Senegal Range) Freight Conference
Oceania	Outgoing	JSPFC	Japan/South Pacific Freight Conference
South America	Outgoing	JLA	Japan-Latin America Eastbound Freight Conference
	Outgoing	JWCSA	Japan-West Coast South America Freight Conference ¹
	Outgoing	JMEX	Japan-Mexico Freight Conference

(Source: data provided by Shipping Conference and General Administration (SCAGA))

¹ Dual rate system scheduled to be abolished in June 2006