

The JFTC issued Cease and Desist Orders and Surcharge Payment Orders against International Ocean Shipping Companies

March 18, 2014
Japan Fair Trade Commission

The Japan Fair Trade Commission (JFTC) today issued cease and desist orders and surcharge payment orders against Nippon Yusen Kabushiki Kaisha, Kawasaki Kisen Kaisha, Ltd., Wallenius Wilhelmsen Logistics, AS and Nissan Motor Car Carrier Co., Ltd, under Article 7(2) and Article 7-2(1) of the Antimonopoly Act (AMA), finding that they violated Article 3 (prohibition of unreasonable restraint of trade) of the AMA with regard to international ocean shipping services for automobiles ^(Note1).

The JFTC also made a request to the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) to take necessary measures on cartels exempted from AMA application (exempted cartels) ^(Note 2) related to international ocean shipping services, including abolition of the exempted cartels.

(Note 1) Services for transporting cars and trucks by roll-on, roll-off vessels, such as PCCs (Pure Car Carriers) and PCTCs (Pure Car and Truck Carriers).

(Note 2) “Exempted cartels” refers to an agreement among shipping companies regarding freight rates, ship arrangements, etc. on which notification is made to the MLIT, under Article 28 and 29-2(1) of the Marine Transportation Act.

1. The Violators, the Numbers of the Cease and Desist Orders and the Surcharge Payment Orders, and the Surcharge Amounts

	Name of Violator	Address	Number of Cease and Desist Orders Served	Number of Surcharge Payment Orders Served	Surcharge Amounts (yen)
1	Nippon Yusen Kabushiki Kaisha (NYK LINE)	2-3-2 Marunouchi, Chiyoda-ku, Tokyo, Japan	4	4	13,101,070,000
2	Kawasaki Kisen Kaisha, Ltd. (“K” LINE)	2-1-1 Uchisaiwai-cho, Chiyoda-ku, Tokyo, Japan	4	4	5,698,390,000
3	Wallenius Wilhelmsen Logistics, AS (WWL)	Strandveien 12 Lysaker 1324 Norway	2	2	3,495,710,000
4	Nissan Motor Car Carrier Co., Ltd. (NMCC)	1-2-2 Uchisaiwai-cho, Chiyoda-ku, Tokyo, Japan	1	1	423,310,000
5	Mitsui O.S.K. Lines, Ltd. (MOL)	2-1-1 Toranomom, Minato-ku, Tokyo, Japan	—	—	—
Total					22,718,480,000

(Note 3) “—” means a company that is found to be a violator but not subject to a cease and desist order or a surcharge payment order.

2. Outline of the Violations

The companies, respectively listed as violators in the table below, from at least as early as around mid-January 2008 until September 6, 2012, for the purpose of maintaining existing transactions and preventing freight rates with respect to particular international ocean shipping services for automobiles ^(Note 4) from falling, agreed to mutually refrain from contending for customers by not offering lower freight rates and to raise or maintain freight rates, and thereby, contrary to the public interest, substantially restrained competition in the fields of particular international ocean shipping services for automobiles in ocean routes respectively listed in the table below.

In accordance with the agreements, the companies, among other things:

- (1) fixed freight rates and/or colluded freight rate quotations to submit to consignors among the companies who have trade with the same consignors at negotiating with the consignors; and
- (2) refrained from bidding against one another for the purpose of securing incumbent trades.

Ocean Route	Violators
North American route ^(note 5)	NYK LINE, "K" LINE, WWL and MOL
European route ^(note 6)	NYK LINE, "K" LINE, WWL, NMCC and MOL
Middle and Near Eastern route ^(note 7)	NYK LINE, "K" LINE and MOL
Oceanian route ^(note 8)	NYK LINE, "K" LINE and MOL

(Note 4) "Particular international ocean shipping services for automobiles" means the services for transporting new cars and trucks from Japan to other countries, upon demand of consignors, namely automobile manufactures and trading companies, located in Japan.

(Note 5) "North American route" comprises routes between ports in Japan and ports in the United States of America (including Puerto Rico), Canada or Mexico.

(Note 6) "European route" comprises routes between ports in Japan and ports in European countries (regarding the Russian Federation, only those located on the Baltic Sea coast) or on the Mediterranean Sea and the Black Sea coasts.

(Note 7) "Middle and Near Eastern route" comprises routes between ports in Japan and ports in/on Sri Lanka, the west coast of India, Pakistan, Iran, Iraq, Kuwait, Saudi Arabia, the UAE, Bahrain, Qatar, Oman, Yemen, Jordan, Djibouti or Sudan.

(Note 8) "Oceanian route" comprises routes between ports in Japan and ports in Australia (excluding Darwin and Fremantle ports), New Zealand or Papua New Guinea.

3. Outline of the Cease and Desist Orders

- (1) Each company who received the cease and desist order shall adopt at its board of directors a resolution on confirming that the agreements in the above 2 has terminated and that it will independently determine its freight rates and customers to deal with.
- (2) Each company who received the cease and desist order shall notify the other violators and its customers of the measures taken in accordance with the above (1),

and shall make the measures well-known to its employees.

(3) Each company who received the cease and desist order shall not engage in the same conducts as those referred to in the above 2 in the future.

(4) Each company who received the cease and desist order shall take necessary measures to make its employees thoroughly informed about guidelines on compliance with the AMA and to conduct regular trainings for executives and sales persons and regular audits by the legal department.

4. The Surcharge Payment Orders

Each company shall pay the surcharge listed in the above 1 by June 19, 2014.

5. The Request to the MLIT

(1) As a result of its investigation, the JFTC found that the freight rates were decided through bilateral negotiation between consignors and the shipping companies on the North American route, the Middle and Near Eastern route and the Oceanian route, hence the tariffs (freight rate tables which are uniformly applied to all consignors) stipulated in the exempted cartels were rarely or never applied to the actual transactions.

(2) Reflecting the facts mentioned in above (1) and etc., the JFTC requested the MLIT to take necessary measures swiftly on exempted cartels related to the international ocean shipping services, including abolishing the existing exempted cartels for the North American route, the Middle and Near Eastern route and the Oceanian route.