

General description of Russian liner shipping market

1. The annual load volume freighted with containers through ports of the Russian Federation is approximately 4 mln. TEUs. The prevailing routes are the Far East and the South-East Asia – Russia (St. Petersburg, Novorossiysk), North America – Russia (St. Petersburg, Novorossiysk). For the last few years, the Federal Antimonopoly Service of the Russian Federation (the FAS Russia) has analyzed in details the market of container liner shipping on the route the Far East and the South-East Asia – Russia. It was found that foreign companies provide for approximately 99% of such shipping. In accordance with UNCTAD statistics, there are no Russian companies among the 50 largest world container operators.

2. Liner shipping market is regulated foremost by international legal acts. The most important of them are the following:

- “Convention on a Code of Conduct for Liner Conferences”, 1974 (Hereinafter – the Code). The Code was ratified by the USSR and the Russian Federation. Meanwhile, the Code has a limited scope of implementation because of a number of reasons: it was ratified not by all the countries and with significant reserves; liner conferences, a subject of the Code, does not exist nowadays in the form they were considered in the Code;

- Ocean Shipping Regulation Act (1998, OCPA), which develops the previous US Acts on shipping (1916, 1984);

- Regulation of European Council № 4055/86 and № 4056/86 dated 22 December 1986 (amended and revised);

- Japanese Law on Shipping 1949/1999;

- Notification of the Ministry of Transportation of PRC No. 2009-20 on Order of providing for information on tariffs and their changes dated 10 June 2009.

3. The most significant legal act of the Russian Federation in the sphere of liner shipping is Merchant Shipping Code of the Russian Federation No. 81-FZ dated 30 April 1999 (hereinafter – MSC RF). MSC RF has a limited practical implementation for evaluation liner shipping companies' activity on the territory of the Russian Federation.

4. The Ministry of Transport of the Russian Federation developed a draft of the Federal law “On amendments to MSC RF in terms of public regulation of liner shipping” (hereinafter – the draft law), which establishes legal regulation of liner shipping in the Russian Federation. At present, the draft law is approved by all the concerned federal executive authorities, including the FAS Russia, and introduced to the Government of the Russian Federation. The draft law is supposed to regulate not the economic sphere but its structural organization.

The authority, responsible for registration of liners, would be the Federal Marine and River Transport Agency of the Russian Federation. The main features of registration proceeding would be the following:

The first feature is tariffs publicity. The draft law establishes conditions when container, ferry and passenger liners must provide public information on its activity, under which condition it operates and on which tariffs. In accordance with the draft law, a carrier would be able to change the tariffs on-line.

The second feature is equal requirements for foreign and Russian carriers (before the draft law foreign carriers had to meet additional requirements).

The draft law establishes specific terms and definitions, main requirements to liner shipping companies, conditions of their registration and cancelling, the reasons of cancelling.

The draft law also stipulates issuing of institutional act – Regulation on shipping liners, which establishes registration proceeding and matters of closedown of liner companies in case of violations of requirements.

5. Nowadays liner shipping is carried out in accordance with such principles as publicity of service providing to indefinite number of people, providing information before shipping contracting, announcing schedule of liner shipping, keeping conditions in terms of cargo and passenger capacities. All these criteria are included obligations of liner shipping companies.

6. It should be noted that there are no exceptions or restrictions for liner shipping companies or liner conferences from Russian legislation. Their activity is considered equally to other enforcement spheres. All requirements and provisions of the Federal law dated 26 July 2006 No. 135-FZ “On Protection of Competition” (hereinafter – the Law on protection of competition) are applied to liner shipping.

Experience of the FAS Russia on case investigation of violation of antimonopoly legislation on the liner shipping market

7. In 2013 the FAS Russia jointly with the Ministry of Internal Affairs of the Russian Federation conducted a number of dawn raids in relation to 14 Russian companies – agents of the largest international liner shipping companies. During the dawn raids it was found that liner shipping companies set the same charges to the rate of freights (GRI) for freightage on the route South-Asia, Far East – North Europe (including St. Petersburg). It could give evidence to existence of agreement on the market of liner shipping that is violation of Clause 1 Part 1 Article 11 of the Law on protection of competition.

8. In the end of 2013 the FAS Russia initiated the case on violation of antimonopoly legislation of the Russian Federation against CJSC “Maersk”, LLC “Mediterranean Shipping Company Rus”, LLC “CMA CGM Rus”, LLC “APLCIS”, LLC “K” Line Rus”, LLC “NYK Line (Rus)”, LLC “OOCL (Russia) Limited”, LLC “China Shipping Agency Russia”, LLC “Hyundai Merchant Marine CIS”, CJSC “ZIM Russia”, LLC “COSCO Russia”, LLC “Evergreen Shipping Agency Limited”, LLC “Ocean Container Services”.

9. The FAS Russia suspects that the largest international shipping companies signed anticompetitive agreement on simultaneous and equal setting of GRI for freightage on the routes the South-East Asia, the Far East – St. Petersburg/ St. Petersburg – the South-East Asia, the Far East.

10. Now the consideration of the case is suspended for carrying detailed scientific analysis of the market. The FAS Russia attracts experts in the sphere of liner shipping to this analysis. Experts are supposed to assess the information as well as the documents received during dawn raids. Moreover, issues on pricing on the market of liner shipping will be investigated, and the results of participation of shipping companies in various alliances will be evaluated.

11. Analysis, conducted by the FAS Russia, is the first large-scale study of liner shipping market in terms of competition issues in the Russian Federation. The

analysis is supposed to be completed in the middle of 2015. After that, the continuation of case investigation is expected.