

LEGAL UPDATES

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Proposed Steamship Alliance Could Impact Global Shipping Market

An important vessel sharing agreement by three of the world's largest steamship companies serving Asia, Europe and the United States has been submitted to the Federal Maritime Commission for approval. The net effect of this filing, if gone unchallenged, would be to provide these three carriers with anti-trust immunity for implementing certain practices normally in violation of anti-trust statutes. The Federal Maritime Commission said it would accept public comment on the "P3 Network Vessel Sharing Agreement" of Maersk, Mediterranean Shipping and CMA CGM until midnight Friday, Nov. 29.

The proposal from the three carriers would allow them to share vessels and engage in related cooperative operating activities in international trade between Asia, North Europe, the Mediterranean and the United States. Notice of the agreement was published in the Federal Register on Oct. 30. Current law provides that if the commission takes no action to seek an injunction or require additional information, the agreement will become effective 45 days after the original filing date of Oct. 24, i.e., on Dec. 8.

Comments should address data and information related to the legal standards embodied in Section 6(g) of the 1984 Shipping Act – as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. §41307(b)(1) – which states if the maritime commission "determines that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost, the commission, after notice to the person filing the agreement, may bring a civil action in the United States District Court for the District of Columbia to enjoin the operation of the agreement."

The commission has in the past accepted comments filed after the deadline.

What This Means to You

The Wall Street Journal on Nov. 20 stated that the P3 Alliance (as it is called) has joint control of 43 percent of the Asia-Europe container shipping, 41 percent of the trans-Atlantic trade and about 24 percent of the trans-Pacific market. The main concern by shippers is that the P3 Alliance would exert undue control on the supply side – vessel space – and, therefore, unfavorably impact pricing to unreasonably high levels. This agreement is coming at a time when ocean freight pricing has been on the decline.

Contact Information

For more information concerning this or other transportation and maritime issues, please contact your Husch Blackwell attorney or an attorney in our Transportation group.