

ORIGINAL

(S E R V E D)
(October 27, 2006)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

Docket No. 06-10

**Transport Express, Inc. and The Intermodal Carriers Conference, American
Trucking Associations v. Sinotrans Container Lines, Co., Ltd. and Sinotrans
Shipping Agency (NA), Inc.**

Notice and Procedural Schedule

Notice is given that a Complaint, Memorandum Facts and Arguments, and a Motion for Protective Order have been filed with the Federal Maritime Commission ("Commission") by Transport Express, Inc. and the Intermodal Motor Carriers Conference of the American Trucking Associations ("Complainants"), against Sinotrans Container Lines, Co. Ltd. and Sinotrans Shipping Agency (NA), Inc., ("Respondents"). In its Complaint and Memorandum of Facts and Arguments, Transport Express, Inc., asserts that it is a California corporation and a certified motor carrier under the laws of California. Intermodal Motor Carriers Conference asserts that it is an affiliated conference of the American Trucking Associations, Inc. ("ATA"), which is a non-profit trade organization for the trucking industry. Complainants allege that Respondent Sinotrans Container Lines is a vessel-owning ocean common carrier and is affiliated with the U.S. based Respondent, Sinotrans Shipping Agency. Complainants contend that both they and Respondents are participants in the Uniform Intermodal Interchange

and Facilities Access Agreement (“UIIA”) which is administered by the Intermodal Association of North America (“IANA”). Complainants assert that Respondents terminated Complainant Transport Express’ UIIA motor carrier agreement in retaliation for a dispute over whether returned equipment had been damaged by Transport Express and related invoiced charges. In addition, Complainants allege that Respondents took actions and made misrepresentations that directly interfered with Transport Express’ business relations with one of its customers and another motor carrier resulting in loss of business and damage to their reputation. Complainants contend that the actions of Respondents violate 10(b)(10) and 10(d)(1) of the Shipping Act of 1984 (“The Act”) (46 U.S.C. 41104.10 and 41102(c)) by unreasonably refusing to deal and not observing just and reasonable practices.¹ Complainant prays the Commission: (a) find that Respondents violated 10(b)(10) and 10(d)(1) of the Act; (b) direct Respondents to reinstate Complainant’s interchange rights; (c) prohibit Respondents from terminating any agreement with any motor carrier in response to an assertion by that carrier of any right or defense the motor carrier may have as a party to the UIIA; (d) award Complainants \$2,102.00 in damages, plus interest, plus attorneys fees, plus any other sum the Commission deems appropriate, and that any further order or orders be made as the Commission determines to be proper.

As indicated above the Complainants have also filed a Motion for Protective Order with respect to portions of Exhibits X and Y to Complainants’ Memorandum of

¹ Citations to provision of the Shipping Act are as recodified into subtitle IV of U.S. Code Title 46, as enacted into positive law by Public Law 109-304 (October 6, 2006). See Public Law 109-304, section 18(c).

Fact and Arguments.² Respondents shall file their response to the Complainants' Motion for Protective Order no later than November 13, 2006 (See 46 C.F.R. 502.74). Respondents shall also advise whether they consent to this Complaint being processed under the shortened procedures of Subpart K (See 46 C.F.R. 502.181-187). Should Respondents consent to the shortened procedure, Respondents' Answering Memorandum shall be served no later than twenty-five (25) days after the Administrative Law Judge issues his ruling on Complainants' Motion for Protective Order (See 46 C.F.R. 502.183). Should Respondents not consent to the shortened procedure, Respondent shall file an answer to the Complaint pursuant to the Commission's Rules of Practice and Procedure, within twenty (20) days of the Administrative Law Judge's ruling on the Complainants' Motion for Protective Order (See 46 C.F.R. 502.64).

This proceeding has been assigned to the Office of the Administrative Law Judges. Complainants have requested that their complaint be handled Pursuant to Subpart K – Shortened Procedure of the Commission's Rules (46 C.F.R. 502.181 - 187). With the consent of the parties and with the approval of the presiding officer, this proceeding may be conducted under the shortened procedure without oral hearing, except that a hearing may be ordered by the presiding officer at the request of either party to the proceeding or at the presiding officer's discretion. If Respondents do not consent to this shortened procedure, the matter will be governed by Subpart E of the Commission's Rules. Pursuant to the further terms of 46 C.F.R. 502.61, the initial

² As required by the Commission's Rules, Complainants also filed a "Public" redacted version of the Memorandum of Facts and Arguments which is being provided to the Respondents. The Confidential version may be made available pursuant to the Administrative Law Judges ruling on the Motion for Protective Order.

decision of the presiding officer in this proceeding shall be issued by March 27, 2007,
and the final decision of the Commission shall be issued by June 22, 2007.³

A handwritten signature in black ink, appearing to read "BL VanBrakle". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Bryant L. VanBrakle
Secretary

³ Should this proceeding not be conducted pursuant to Subpart K, these dates will be adjusted.