

(S E R V E D)  
( April 10, 2007 )  
(FEDERAL MARITIME COMMISSION)

**FEDERAL MARITIME COMMISSION**

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**Docket No. 07-03**

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**Armstrong World Industries, Inc.**  
**v.**  
**Expeditors International of Washington, Inc.**

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**Notice of Complaint and Assignment**

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Notice is given that a complaint and First Request for Production of Documents has been filed with the Federal Maritime Commission ("Commission") by Armstrong World Industries, Inc. ("AWI"). Complainant asserts that it is a corporation under the laws of the State of Pennsylvania whose principle business is as a designer and manufacturer of floors. Complainant alleges that Respondent, Expeditors International ("Expeditors") is a corporation under the laws of the State of Washington and is licensed by the Federal Maritime Commission as an Ocean Transportation Intermediary, Non-Vessel-Operating Common Carrier. Complainant alleges that they used the services of Respondent for their ocean transportation requirements around the world, including from the Far East to Complainant's facilities in the U.S. through U.S. West Coast Ports. Complainant asserts that during the 2005 peak shipping season

Respondent "triple charged AWI for the pass-through peak season shipping charges assessed under Respondent's ocean shipping contracts with its Vessel-Operating Common Carriers." Complainant alleges that the additional charges constitute violations of the following Sections of the Shipping Act of 1984 ("The Act"): Section 10(b)(4)(a) (46 U.S.C. §1709(b)(4)(a)) (now 46 U.S.C. § 41104) for unfair or unjustly discriminatory practices in the matter of rates and charges; Section 10(b)(8) (46 U.S.C. App. § 1709(b)(8)) (now 46 U.S.C. § 41104) for the imposition of undue and unreasonable prejudice and disadvantage; and Section 10(d)(1) (46 U.S.C. App. §1709(d)(1)) (now 46 U.S.C § 41102(c)), for failure to establish just and reasonable regulations and practices relating to or connecting with receiving or handling of property. Complainant requests the Commission to: (a) find Respondent to have violated the above referenced sections of the Act; (b) direct Respondent to pay \$216,765.00 and such other amounts proven by evidence in this proceeding, interest, and attorney's fees; and (c) impose any other relief as the Commission determines to be proper, fair, and just.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 C.F.R. 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Pursuant to the further terms of 46 C.F.R. 502.61, the initial decision of the presiding officer in this proceeding shall be issued by April 9, 2008, and the final decision of the Commission shall be issued by August 7, 2008.



Bryant L. VanBrakle  
Secretary