

Staying vigilant in 2008

2008 would be a vigilant year for Hong Kong shippers. The outlook for the US market is gloomy. Christmas sales were varied among the different retailers, but generally sales concentrated at extreme price ends of products. There is little argument that the extended growth the US economy has enjoyed is now over. The debate is whether the US Federal Government could mitigate the property market crisis and prop up the slipping economy.

The European market looks better than the US as it continues to benefit from a strong Euro. However, economic growth for EU countries is forecast to fall below 2%. Trade imbalance is expected to aggravate. And there is also worry of how much Europe could insulate itself from a worsening US economy.

On the cost front, the mainland's new Labour Law and increase of minimum wage are going to push labour costs up by as much as 40%. Energy costs are seen to remain high; the yuan will appreciate further; environmental requirements will be further tightened; and more items will be grouped under the "restricted" and "forbidden" categories in the Outward Processing Trade. Hong Kong manufacturers will be challenged by a much harsher business environment. Indeed, there is a clear need for the Central Government to reduce the surging trade surplus.

Added to the long list of new challenges this year is how shippers could safeguard their own interests in a chaotic logistics market. Partly, the uncertainties are a result of the anti-trust activities of foreign regulatory

authorities. The EU Competition Committee abolished shipping conferences' anti-trust immunity in September 2006, but its impact will be felt this October when liner conferences and discussion groups must officially disband. After the two-year grace period, shipping conferences like the Far Eastern Freight Conference (FEFC) that fix rates and set standard tariffs, will cease to exist.

While awaiting a decision of whether shipping lines should be allowed to convene and discuss market supply and demand after October, as proposed by the European Liner Affairs Association (established May 2003), shippers worry that shipping lines would introduce new charges or adjust charge levels without any restrictions or obligation in the post-conference period. To European shippers, this might not be a big concern since fierce competition among shipping lines mean very competitive terms for them. However, Asian shippers fear that while shipping lines are heavily discounting to the European shippers, the lines would seek revenue compensation elsewhere, i.e. from Asian shippers through layers of local charges.

And there is room for them to exploit Asian shippers. Asian exporters are obliged to ship with the nominated lines under FOB terms and overseas buyers insist on purchasing in FOB terms because then, they could make use of their large global freight volumes to negotiate better terms with shipping lines. Meanwhile, on the other end, Asian shippers have to contend with the burden of Terminal Handling Charges along with many other local charges.

The same situation extends to the air freight market as well. Regulatory authorities from Europe, the US and with cooperation with those from Asia, have raided offices of major airlines as part of their investigation into airlines' collective pricing over surcharges and alleged price-fixing on cargo operations. From European media reports, BA, Air France, KLM, SAS, Lufthansa and Cargolux were visited in February 2006, and some reports said Japan Airlines, Cathay Pacific, Singapore Airlines, LAN, Polar Air cargo, Korean Air, Asiana and ANA also came under scrutiny. Requests for information were said to have been received from both the EC and the US Dept of Justice (DOJ).

Subsequently, British Airways reportedly paid up to US\$700 million to the DOJ for both passenger and cargo fuel surcharge setting. Other airlines were also reported to have 'settled' sums for transgressions in discussing and setting fuel surcharges.

Last year, anti-trust regulators once again went scouting for law breakers and searched several major air cargo freight forwarders' offices, in an extension of the airlines' probe. EGL, Kuehne+Nagel, Expeditors, Panalpina and Schenker were reported in the media to have been targeted by the investigations.

As a consequence, the local Hong Kong Association of Freight Forwarding and Logistics Ltd., HAFFA, has stopped publishing its Ancillary Charges Guideline since October 2007. The guideline is simply that: a reference list of ancillary charges which have been put together

among HAFFA and the Council. Although not binding, the guideline serves as a reference for the market and provides caps on local charges. Though not regulatory in nature, the guideline serves as a sticking point if and when unscrupulous service providers try to levy outrageous charges against shippers.

The Council considers that improvement in the transparency of charges would be a big help. Shipping lines, airlines and freight forwarders should be required to publish their full tariffs that list out all and every single itemised cost. They should be required to charge in accordance with their tariffs and any violation should be punished. To facilitate this requirement, a licensing system should be in place for shipping lines, airlines, and freight forwarders/logistics companies. Indeed, the Council has been urging the SAR Government to establish such a licensing system for improvement of tariff transparency, and protection of shippers against carriers' misdeeds such as wrongful release of cargo at destination, cargo loss and damage, etc. At present, protection to shippers is far insufficient. Shippers are entrusting millions worth of cargo to freight forwarders who need only a normal Business Registration to operate. There are many cases that freight forwarders just close their offices to evade liabilities and are free to just set up another company with a new name and continue doing the same type of business. These freight forwarders tend to offer very favorable terms to their overseas agents in order to secure business and the Hong Kong shipper would have to ship with them under nomination.

The Council is exploring the feasibility of continuing to publish a guideline of ancillary charges to replace that of HAFFA's. In doing so, we hope to establish a market reference and hope to remind all shippers that before shipment, it is important to ask for a full quotation that lists out all charges –at origin, freight, and at destination. Shippers should pay attention also to all other terms and conditions to ensure that there would be no unexpected charges, a fact of life in an unregulated market environment.