CONTAINER NEWS

FMC rules shipments cannot be declined for commercial reasons, ignores box lines' objections

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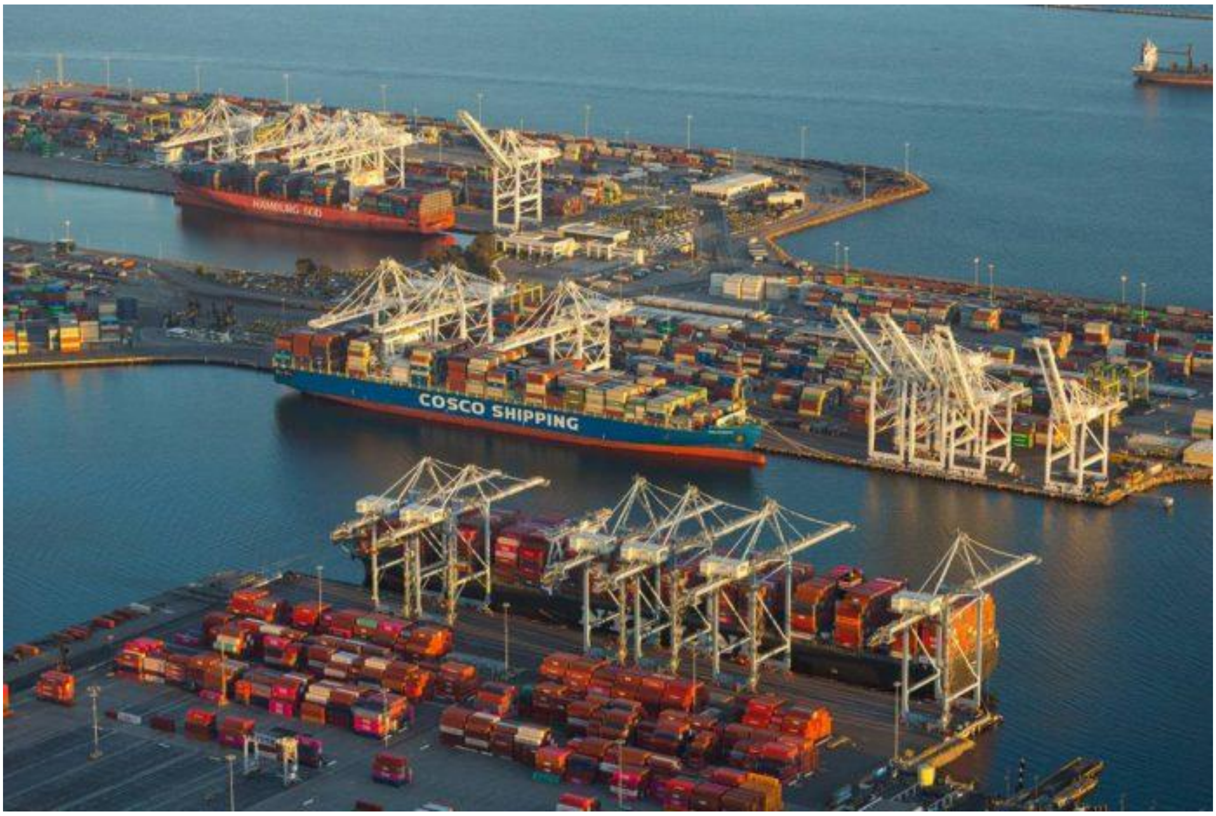

COSCO container vessel at the Port of Long Beach

Despite major container lines' objections, the US Federal Maritime Commission (FMC) has decreed that liner operators cannot use "business decisions" to refuse to move containers already booked.

As per the Ocean Shipping Reform Act (OSRA), the move aims to help US exporters who struggle to secure space for their shipments.

The Biden administration passed the OSRA in 2022, in response to pleas from US shippers who found it difficult to secure slots when the Covid-19 pandemic caused logistical bottlenecks and rising freight costs.

MSC and World Shipping Council (WSC) argued that by expressly removing business decisions from the regulatory text, the FMC is actually saying that business factors will no longer be considered in evaluating reasonableness.

French carrier CMA CGM also voiced opposition, saying it is not feasible to serve customers who refuse to pay, mis-declare cargo, improperly package hazardous cargo and/or book vessel space which they failed to fulfill. CMA CGM asserted that continued service to customers, as well as the viability of the supply chain, depends on carriers being able to exercise legitimate business discretion.

German box line Hapag-Lloyd argued that business factors are necessary considerations to ensure the safety of personnel and the operational success of a voyage.

COSCO-owned shipping company OOCL also gave feedback, arguing that business factors will always be part of any consideration—and should remain so in any free market economy.

Shipping lines have stated they have seen delays in the movement of export cargo due to a lack of mutual commitment between shippers and common carriers leading to cancellations of vessel space accommodation by either party, sometimes up to the day of sailing. This contributes to uncertainty for both the shippers and common carriers.

The FMC appeared to be influenced by the trade imbalance the United States is facing.

The commission said: “There’s a long-running US trade deficit in goods (approximately US$1 trillion in 2023) and an imbalance of imports and exports moving through US ports in international trade. Vessel-owning common carriers, particularly those on the major east-west trade lanes between the US and Asia and the US and Europe, make operational decisions regarding the import and export goods they carry based on both economic and engineering considerations.”

US imports feature higher value items on average and the rates that shippers pay to move these goods are historically higher than the rates paid to move US exports.

In its guideline, FMC also stated that shipping lines cannot cherry-pick by prioritising more profitable cargoes over others, a point that Hapag-Lloyd contended.

Hapag-Lloyd stated that liner operators are for-profit companies, and profit is important to ensuring a competitive and sustainable service. The Hamburg-based firm asserted that customers' consistent fraudulent behaviour and non-payment for services can affect the company's bottom line, and that in such instances, an ocean carrier should be allowed to refuse dealing with the offending customers.

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