

The Grand Alliance

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On 30 March 2000, the Commission, applying Article 7 of Regulation 870/95,²¹ decided not to oppose exemption of the Grand Alliance consortium agreement. This decision was the last decision to be taken under Regulation 870, bringing the total number of exemptions granted under that regulation to eleven. The block exemption provided for in Regulation 870 has subsequently been renewed by Regulation No 823/2000,²² with minor amendments, for a further period of five years. In accordance with the transitional arrangements provided for in Regulation 823, the Grand Alliance will benefit from exemption for the life of that Regulation; i.e. until April 2005. The Grand Alliance consortium comprises the carriers Hapag-Lloyd Container Linie GmbH, Malaysia International Shipping Corporation BHD (MISC), Nippon Yusen Kaisha (NYK), Orient Overseas Container Line Limited (OOCL) and P&O Nedlloyd. Although the Grand Alliance operates joint liner shipping services on several major trade lanes, exemption was sought only for the

consortium's service between ports in Northern and Southern Europe and ports in the Far East.

All Grand Alliance lines operate within the Far Eastern Freight Conference (FEFC) on the Far East trades. Article 6(1) of Regulation 870 provided that a consortium operating within a conference, in order to benefit automatically from exemption, must possess a share of the direct trade between the range of ports it serves of less than 30%.²³ As the Grand Alliance exceeded this threshold,²⁴ it applied for exemption under the simplified opposition procedure provided for in Article 7 of the Regulation. Under this procedure, which has been maintained, with minor amendments, in Regulation 823, a consortium with a trade share²⁵ exceeding the above threshold but below 50%, will be deemed exempt unless the Commission raises objections within six months of notification.

With regard to the Grand Alliance notification, one element gave the Commission

some cause for concern. The FEFC lines together have a significant share of the total volume carried by container vessel on the Far East trades. While independent lines certainly offer some competition to the conference lines, it is not as strong as that provided by independents on most other major trades. This, together with the fact that individual service contracts – which provide some assurance of competition between carriers – are not a feature of the Far East trades, led the Commission to request the Grand Alliance to supplement its notification with further and more detailed evidence of effective competition.²⁶

Following an extended examination, the Commission was finally satisfied that the members of the consortium are, and will remain, subject to effective competition. Evidence was provided, *inter alia*, of frequent switching by shippers both as between the members of the Grand Alliance and as between these lines and other lines. The lines were also able to provide proof of considerable fluctuation of the market shares of the individual Grand Alliance lines over a relatively short time-span. Both of these elements indicate that there is substantial competition on service, if not

²¹ Commission Regulation 870/95 of 20 April 1995 – OJ No L89 of 21.4.95, p. 7.

²² Commission Regulation (EC) No 823/2000 of 19 April 2000 – OJ 20 April 2000.

²³ In Regulation 823, the words 'trade' and 'trade share' have been replaced by 'market' and 'market share'.

²⁴ The exact figure is confidential.

²⁵ Amended to 'market share' in Regulation 823.

²⁶ It is a condition of exemption that the consortium members are subject to actual or potential effective competition, either on price or service or both (Article 5 of Regulations 870 and 823).



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price, between the consortium members and between these lines and outsiders (other conference lines and independents).

As the consortium clearly fulfilled all other conditions for exemption set out in Regulation 870/95, the

Commission accordingly decided not to oppose exemption.

