

Abstract

At the beginning stage, liner conferences had been operating independently without any restriction. As a result, liner conferences in the past had significant influence on marine transportation. Some agreements of liner conferences such as loyalty arrangements made by and between conferences and shippers were able to create economic values to conferences and their members. In addition, some actions of conferences such as blocking other ships from conferences routes were considered trade barriers. From such incidents, several countries tried to issue laws to control conference operation.

On April 17, 1974, United Nations Conference on Trade and Development approved of a relevant law i.e. UN Convention on a Code of Conduct for Liner Conferences 1974. This is the first effort at the international level to manage liner conferences systematically. This Convention comprises two main sections. Divided into two sub sections, the first section mentions general rules and liner conferences operations. The first sub section covers member relationships on membership application and trade participation of liner conferences, and the second subsection covers relationship between conferences and shippers on their loyalty and freight rates. The second section consists of provisions and machinery for settlement of disputes related to adaptation and implementation according to the Convention. This Convention has set separate dispute settlement process named International Mandatory Conciliation which is different to general conciliation process.

In the study on whether Thailand should apply this Convention, the researcher studied legal measures of the important country, USA. It was found from the study that only the establishment of opened liner conferences was approved in the USA with independent action and service contract. However, loyalty arrangements are prohibited under anti-monopoly laws.

In addition, the researcher studied the operation of liner conferences in EU because several state members of EU have endorsed and accepted this Convention. At

the beginning, EU allowed state members to approve this Convention, but later issued laws named block exemption. As a result, the operation of liner conferences does not breach anti-monopoly laws. However, since October 2008 onwards, EU has repealed block exemption laws so liner conference is illegal.

For Thailand, little attention is paid to this Convention and no specific law mentions liner conferences. In this study, the researcher analyzed and compared the objectives of liner conferences with Trade Competition Law B.E. 2542 (1999) since the provisions of this Act are similar to anti-monopoly laws where liner conference operation is considered monopoly. In addition, as Thai liner companies are members of some important liner conferences such as Thailand – Japan Freight Conference or Japan-Thai Freight Conference, even being the member of this Convention, Thailand will not obtain any benefit since Japan is not the member of this Convention.

Therefore, after considering current situations, for Thailand, it is improper to apply this Convention.