

{ S E R V E D }
{ February 28, 1994 }
{ FEDERAL MARITIME COMMISSION }

FEDERAL MARITIME COMMISSION

INFORMAL DOCKET NO. 1758(I)

UNIROYAL GOODRICH TIRE COMPANY

v.

NEDLLOYD LINES

Decision of Joseph T. Farrell, Settlement Officer¹

Reparation Awarded in the Amount of \$3,894.00, Plus Interest.

By its complaint filed with the Commission on October 12, 1993, Uniroyal Goodrich Tire Company ("Uniroyal") seeks a total of \$3,894.00 plus interest from Nedlloyd Lines ("Nedlloyd"). The amount claimed represents an alleged overcharge² arising from one shipment that Nedlloyd transported from Charleston, South Carolina

¹ Both parties having consented to the informal procedure set forth in Subpart S of the Commission's Rules of Practice and Procedure (46 CFR 502.301-305), this decision will become final unless the Commission elects to review it within 30 days of the date of service.

² Uniroyal did not specifically cite Section 10(b)(1) of the Shipping Act of 1984. No such specification is required with respect to overcharge claims (see 46 CFR 502.304(a), Exhibit No. 1).

to Felixstowe, England on July 14, 1991.³ The governing bill of lading describes a quantity of "Pneumatic Tires". Uniroyal, as the shipper, prepaid Nedlloyd's assessed freight and ancillary charges.

Nedlloyd assessed the cargo at the rate of \$1,880.00 per 40-foot container, plus surcharges, supposedly in accordance with the relevant provisions of the conference tariff, USA-North Europe Rate Agreement Tariff FMC 10 ("Tariff").⁴ Uniroyal argues that the shipment was covered by the USA-North Europe Rate Agreement Service Contract No. A-1066 ("Contract"), and should have been rated accordingly. In response to service, Nedlloyd expresses concurrence with Uniroyal, and requests permission to issue a refund.⁵

The July 14, 1991, bill of lading describes three 40-foot containers of "pneumatic tires". The Contract, during the period of shipment, provided the all-inclusive rate of \$780.00 for 40-foot containers of that commodity moving from Charleston to Felixstowe. The Settlement Officer concurs with the parties that the Contract

³ The bill of lading notes that the cargo moved from Felixstowe to Southam, England by "oncarrier". However, the destination inland charges were paid by the consignee, and are not incorporated in Uniroyal's claim.

⁴ The Settlement Officer's review of the tariff failed to confirm the accuracy of this assessment. However, the issue is moot, in light of the determination that the service contract constitutes the correct basis for rating.

⁵ Nedlloyd actually advised the Settlement Officer that freight correctors would be executed, and refunds issued. Inasmuch as Nedlloyd's comments imply an offer of settlement, the matter was referred back to the parties. However, no settlement has been reported within the time allotted. Such a settlement would have precluded the awarding of interest to which Uniroyal is otherwise entitled. (46 CFR 502.253)

should, in fact, have governed this shipment. The overcharges in question did, in fact, occur, and reparation must be awarded. Uniroyal has correctly calculated the amount of overcharge to be \$3,894.00. In addition, Uniroyal is entitled to the compounded interest mandated by Rule 253 of the Commission's Rules of Practice and Procedure. Nedlloyd will be informed of the sum certain payable to Uniroyal as interest when it is informed of the Commission's final action in this proceeding.⁶


Joseph T. Farrell
Settlement Officer

⁶ Confer Footnote 1.