

The Autorité penalizes the three main container handling companies for having agreed on the prices of their services

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As it had indicated at the time of the publication of its two opinions relative to the competition situation in the fuel and distribution sectors in the overseas territories (DOM), the Autorité de la concurrence is carrying investigations in several overseas markets in order to ensure their proper competitive operation.

Today, subsequent to a self-referral in November 2009 on the practices within the port handling sector on Reunion Island, it is issuing a decision in which it fines the companies SAMR, SGM Manutention and Somacom, for having jointly agreed on the prices of their port handling services within the Reunion Port, for 23 years. It also calls on the Syndicat des entreprises de manutention portuaire de La Réunion (SEMPR) to stop establishing and disseminating an agreed handling rate intended for maritime companies that provide services to Reunion Island.

The three handling companies were jointly setting the price invoiced to their customers

Until 1987, the prices for port handling services had been set by prefectural decree. After that date, which corresponds with the entry into force of the ordinance of 1 December 1986 relative to the freedom of prices and competition, prices were no longer fixed by prefectural decree in the absence of a legal basis.

The handling companies SAMR, SGM Manutention and Somacom then reached an agreement to jointly set the main element comprising the price for the handling service (referred to as the "commerce rate") that would be invoiced to their customers. The anticompetitive agreements that continued unabated from 1987 to 2002 involved almost all of the handling activities at the Reunion Port and were strictly applied by the three companies.

Penalties in principle in view of the modest size of the market in question and of the existence of mitigating circumstances

The *Autorité de la concurrence* has fined the three firms in question, but has adjusted the amount of the fines in order to take into consideration the small size of the market in question, as well as the existence of mitigating circumstances. Indeed, the legal framework for port handling prices remained uncertain after the entry into force of the aforesaid ordinance of 1 December 1986, as the public authorities never adopted a legal framework that would serve to govern the prices of this service, while nevertheless being aware of the agreement between the companies. The Autorité has furthermore invited the public authorities to clarify the applicable price structure in order to ensure the legal certainty¹.

Undertakings	Penalties applied
SAMR	€25,000
Somacom	€25,000

SGM Manutention	€20,000
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¹ In 1988, a decree established an exception to the complete liberalization of the prices in this sector, while no text was thereafter adopted in order to organise how these prices would be set.

> Consult the full text of decision 11-D-01 of 18 January 2011 regarding practices implemented on the port handling sector