

25, 2003. However, in light of the information provided by the Maritime Administration and the Department of State, the Commission has determined to open a brief comment period to allow all persons interested in the petition a full and fair opportunity to comment.

Conclusion

As the Commission will consider the recommendations of the Maritime Administration and the Department of State, and is concerned that all interested parties have an opportunity to comment, the Commission has determined that it will invite further comments from the shipping public in this proceeding. The Commission will consider the petition in light of these further comments at a meeting to be scheduled promptly after close of the comment period.

Therefore, it is ordered that interested parties may file comments relevant to this proceeding until February 23, 2004.

By the Commission.

Bryant L. VanBrakle,
Secretary.

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FEDERAL MARITIME COMMISSION

[Petition No. P6-03]

Petition of Sinotrans Container Lines Co., Ltd. for a Full Exemption From the First Sentence of Section 9(c) of the Shipping Act of 1984, as Amended

Served: January 22, 2004.

Order

By petition filed August 11, 2003, Sinotrans Container Lines Co., Ltd. ("Sinolines" or "Petitioner") requested that the Federal Maritime Commission ("FMC" or "Commission") exempt it from certain provisions of section 9 of the Shipping Act of 1984, 46 U.S.C. app. 1708 ("Controlled Carrier Act"). The requested exemption would enable Sinolines to reduce tariff rates immediately, rather than subject to the 30-day waiting period prescribed by the Controlled Carrier Act.¹ Notice of the filing of the petition was published in the **Federal Register** on August 19, 2003, and interested parties were given until September 5, 2003, to file comments. 68 FR 49776. For the reasons

¹ Section 9(c) states, in relevant part: "Notwithstanding section 8(d) of this Act and except for service contracts, the rates, charges, classifications, rules, or regulations of controlled carriers may not, without special permission of the Commission, become effective sooner than the 30th day after the date of filing with the Commission." 46 U.S.C. app. 1708(c).

set forth below, the Commission has determined to re-open this proceeding for a brief comment period before it makes its final determination in this matter.

I. The Petition

Sinolines explains that ocean common carriers, with the exception of controlled carriers, are permitted to reduce their rates effective immediately upon filing.² Only controlled carriers are subject to the 30-day waiting period for reductions in tariff rates, as set forth in section 9(c).³

On March 27, 1998, the Commission granted China Ocean Shipping (Group) Ltd. ("COSCO") a limited exemption from the 30-day waiting requirement of section 9(c), allowing COSCO to decrease its tariff rates to levels which would meet or exceed those of its competitors with no waiting period. *Petition of China Ocean Shipping (Group) Company for a Limited Exemption from Section 9(c) of the Shipping Act of 1984*, Petition No. P1-98, 28 S.R.R. 144 (1998) (hereinafter "1998 Order"). COSCO has since filed another request, seeking the authority to reduce tariff rates on less than 30 days notice, regardless of whether it is meeting a rate published by a competitor. Petition No. P3-99, *Petition of China Ocean Shipping Group (Company) for a Partial Exemption from the Controlled Carrier Act*, 64 FR 17181 (April 9, 1999). Sinolines, in the instant petition, seeks the same relief as requested by COSCO in Petition No. P3-99.

II. Comments

The Commission received seven comments in response to Sinolines' petition from: The American Institute for Shippers' Associations, Inc.; Coaster Company of America; Expeditors International; Zen Continental Company, Inc.; Translink Shipping,

² Section 8(d) of the Shipping Act of 1984 ("Shipping Act") requires that all common carriers, controlled or otherwise, must give thirty days' notice for rate increases. 46 U.S.C. app. 1707(d).

³ Section 3(8) of the Shipping Act defines "controlled carrier" as:

an ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by the government under whose registry the vessels of the carrier operate; ownership or control by a government shall be deemed to exist with respect to any carrier if—

(A) a majority portion of the interest in the carrier is owned or controlled in any manner by that government, by any agency thereof, or by any public or private person controlled by that government; or

(B) that government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier.

46 U.S.C. app. 1702(8).

Inc.; Vitasoy International Holdings, Ltd.; and American President Lines, Ltd.

Recently, the Commission received letters from the Maritime Administrator, Captain William G. Schubert, and from the Under Secretary of State for Business, Economics and Agricultural Affairs, Alan P. Larson, reporting on the recently-signed bilateral Maritime Agreement with China.⁴ Both the Maritime Administrator and the Under Secretary of State urge the Commission to favorably consider the petitions of three Chinese controlled carriers currently under review by the Commission.⁵ The Maritime Administrator also urges U.S. carriers and shippers to support these petitions.

III. Discussion

The comment period in this proceeding originally closed on August 25, 2003. However, in light of the information provided by the Maritime Administration and the Department of State, the Commission has determined that it will open a brief comment period to allow all persons interested in the petition a full and fair opportunity to comment.

Conclusion

As the Commission will consider the recommendations of the Maritime Administration and the Department of State, and is concerned that all interested parties have an opportunity to comment, the Commission has determined that it will invite further comments from the shipping public in this proceeding. The Commission will consider the petition in light of these further comments at a meeting to be scheduled promptly after close of the comment period.

Therefore, it is ordered that interested parties may file comments relevant to this proceeding until February 23, 2004.

By the Commission.

Bryant L. VanBrakle,
Secretary.

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⁴ The Commission will include these letters in the record of the proceeding.

⁵ In addition to the instant Petition, they are: Petition No. P3-99, *Petition of China Ocean Shipping (Group) Company for a Partial Exemption from the Controlled Carrier Act*; and Petition No. P4-03, *Petition of China Shipping Container Lines Co., Ltd. for Permanent Full Exemption from the First Sentence of Section 9(c) of the Shipping Act of 1984*.