

*Agreement No.:* 011117–032.

*Title:* United States/Australasia Discussion Agreement.

*Parties:* P&O Nedlloyd Limited; Australia-New Zealand Direct Line; Contship Containerlines; Hamburg-Sud; Compagnie Maritime Marfret, S.A.; Wallenius Wilhelmsen Lines AS; CMA CGM, S.A.; Fesco Ocean Management Limited; A.P. Moller-Maersk A/S; and Lykes Lines Limited, LLC.

*Synopsis:* The amendment deletes Contship Containerlines as a party to the agreement.

*Agreement No.:* 011275–015.

*Title:* Australia/United States Discussion Agreement.

*Parties:* Hamburg-Sud; P&O Nedlloyd Limited; Australia-New Zealand Direct Line; LauritzenCool AB; Seatrade Group NV; FESCO Ocean Management Inc.; A.P. Moller-Maersk A/S; and Lykes Lines Limited, LLC.

*Synopsis:* The amendment revises the parties' minimum service levels under the agreement and removes reference to Hamburg-Sud's trade name.

*Agreement No.:* 011407–007.

*Title:* Australia/United States Containerline Association.

*Parties:* Hamburg-Sud, P&O Nedlloyd Limited, Australia-New Zealand Direct Line, and Lykes Lines Limited, LLC.

*Synopsis:* The amendment removes reference to Hamburg-Sud's trade name.

*Agreement No.:* 011868.

*Title:* CSCL/NLL Cross Space Charter, Sailing and Cooperative Working agreement—AAC Service.

*Parties:* China Shipping Container Lines Co., Ltd. and Norasia Container Lines Limited.

*Synopsis:* The agreement would authorize the carriers to share vessel space in the trade between the West Coast of the United States and the Far East. The parties request expedited review.

By Order of the Federal Maritime Commission.

Dated: January 23, 2004.

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 04–1807 Filed 1–27–04; 8:45 am]

**BILLING CODE 6730–01–P**

## FEDERAL MARITIME COMMISSION

[Petition No. P3–99]

### Petition of China Ocean Shipping (Group) Company for a Partial Exemption From the Controlled Carrier Act

Served: January 22, 2004.

#### Order

By petition filed March 31, 1999, China Ocean Shipping (Group) Company (“COSCO” or “Petitioner”) has requested that the Federal Maritime Commission (“FMC” or “Commission”) partially 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 COSCO to reduce tariff rates immediately, rather than subject to the 30-day waiting period prescribed by the Controlled Carrier Act, or the partial exemption granted by the Commission in 1998.<sup>1</sup> See *infra* at 3.

Notice of the filing of the Petition was published in the **Federal Register** on April 8, 1999, and interested parties were given until May 7, 1999 (later extended to September 7, 1999, in response to unopposed motions of American President Lines, Ltd. (“APL”) and Sea-Land Service, Inc. (“Sea-Land”)), to file comments. 64 FR 17181 (April 8, 1999). For the reasons 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

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

<sup>1</sup> 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).

<sup>2</sup> Section 8(d) of the Shipping Act of 1984 (“Shipping Act”) requires that all common carriers, controlled or otherwise, must give 30 days notice for rate increases. 46 U.S.C. app. 1707(d).

<sup>3</sup> 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—

On March 27, 1998, the Commission granted 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”). In the current petition, COSCO seeks authority to reduce rates on less than 30 days notice, regardless of whether it is meeting a rate published by a competitor.

#### II. Comments

COSCO filed supporting comments from many of its shipper, freight forwarder/customs broker and NVOCC customers: Evapco, Inc.; Metro International Trading Corporation; McQuay International; Kamden International Shipping, Inc.; Shintech, Inc.; Consolidated Factors, Inc.; Fresh Western International, Inc.; Kanematsu USA, Inc.; Paramount Export Company; Nichirei Foods, Inc.; Twin City Foods, Inc.; Mincepa Inc., K-Swiss; DSL Transportation Services; Global Transportation Services, Inc.; Pacific/Atlantic Crop Exchange; Action Freight & Logistics USA, Inc.; Golden Gem Growers, Inc.; Louis Dreyfus Export Corp.; Beical International (USA) Corp.; LandOcean Management, Inc.; Medical Books for China International; AEI Ocean Services; BWVI (USA), Inc.; Trans USA Corp.; Tanimura and Antle; Porky Products, Inc.; ANRO; Suncoast Moving and Storage; Hellman International Forwarders, Inc.; Ponica Industrial Co., Ltd.; Norman Kreiger, Inc.; Freight Solutions International; Zen Trading Co., Ltd.; Forte Lighting, Inc.; Zen Continental Co., Inc.; AFS Logistic Management, Inc.; Coaster Co. of America; Edward Mittelstaedt, Inc.; Chase Leavitt (Customhouse Brokers), Inc.; Inter-Freight Logistics, Inc.; Calcot, Ltd.; Phoenix International Freight Services, Ltd.; Titan Steel Corporation; Pfizer, Inc.; Allen's Family Foods, Inc.; Townsends, Inc.; Boston Logistics, Inc.; Asian Metals & Alloys Corp.; MSAS Global Logistics, Inc.; Polonez Parcel

(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).

Service, Inc.; Ionics, Inc.; Del-Tank International, Ltd.; and the MI Group.

The Commission also received comments from AEI Ocean Services; the Baltic and International Maritime Council; Zhang Liyong, President of China Ocean Shipping Company Americas, Inc.; U.S. Senator Patty Murray, together with U.S. Representatives Norm Dicks and Jim McDermott (all of Washington); American President Lines, Ltd.; and Sea-Land Service, Inc.

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.<sup>4</sup> 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.<sup>5</sup> 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 September 7, 1999. 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.

<sup>4</sup> The Commission will include these letters in the record of the proceeding.

<sup>5</sup> In addition to the instant Petition, they are: 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*; 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*.

By the Commission.

**Bryant L. VanBrakle,**  
Secretary.

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## FEDERAL MARITIME COMMISSION

[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

Served: January 22, 2004.

#### Order

By petition filed July 31, 2003, China Shipping Container Lines Co., Ltd. ("China Shipping" 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 China Shipping to reduce tariff rates immediately, rather than subject to the 30-day waiting period prescribed by the Controlled Carrier Act.<sup>1</sup> Notice of the filing of the petition was published in the **Federal Register** on August 8, 2003, and interested parties were given until August 25, 2003, to file comments. 68 FR 47310. For the reasons 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

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

<sup>1</sup> 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).

<sup>2</sup> Section 8(d) of the Shipping Act of 1984 ("Shipping Act") requires that all common carriers, controlled or otherwise, must give 30 days notice for rate increases. 46 U.S.C. app. 1707(d).

<sup>3</sup> 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

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). China Shipping, in the instant Petition, seeks the same relief as requested by COSCO in Petition No. P3-99.

#### II. Comments

The Commission received comments in response to China Shipping's Petition from the American Institute for Shippers' Associations, Inc. 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.<sup>4</sup> 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.<sup>5</sup> 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

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. 1702(8).

<sup>4</sup> The Commission will include these letters in the record of the proceeding.

<sup>5</sup> 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. 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*.