

**(S E R V E D )**  
**( APRIL 8, 1996 )**  
**(FEDERAL MARITIME COMMISSION)**

**FEDERAL MARITIME COMMISSION**

**WASHINGTON, D.C.**

April 8, 1996

**DOCKET NO. 95-10**

**PUERTO RICO SHIPPING ASSOCIATION**

**v.**

**PUERTO RICO PORTS AUTHORITY**

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**NOTICE OF MINOR ADJUSTMENT TO SETTLEMENT AGREEMENT  
AND APPROVAL THEREOF**

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On March 20, 1996, I ruled that the subject complaint was dismissed with prejudice, as requested by the parties under their settlement agreement, and that the settlement agreement was approved. As explained in the ruling, the agreement settled not only the instant complaint proceeding but two other proceedings before other tribunals and terminated litigation concerning one of respondent's tariff rules and a special "escrow fund" which complainants had established that had delayed payment of disputed charges in respondent's tariff. The settlement agreement thus fully comported with the strong policy

favoring amicable resolution of disputes at reduced time and expense to the parties and to the Commission.

The parties have now advised that they have made a slight adjustment to the schedule of payments of respondent's wharfage and dockage rates and fees, mainly affecting one group of rate payers (general cargo). This adjustment would further improve the settlement agreement, making it more equitable amongst the various rate payers because it would reduce somewhat the wharfage rate increases for general cargo interests during the first fiscal year (1996) before raising the rates for fiscal year 1997. The result of this change to the original rate schedules would not affect the overall amount of additional revenue that respondent PRPA has agreed to receive for two fiscal years. This adjustment would also make the allocation of rate increases more equitable compared to the various other categories of cargo interests which had not borne the same proportionate rate of increase in the first fiscal year under the original schedule. The revised rates have been approved by complainant Association's membership and by the respondent's Board of Directors.

The minor adjustment to the original rate schedules makes the original agreement more equitable among the various categories of rate payers and its prompt approval will enable the respondent PRPA to receive payment of moneys needed to support the Port's operations and port development programs. As indicated in the original rulings of March 20, 1996, payment of these moneys has been delayed because of the establishment of an "escrow fund" by the complainant Association, which fund will terminate upon successful consummation of the instant agreement. The parties therefore request that the Commission take prompt action to approve the agreement and permit the parties to achieve

the benefits of their settlement agreement. As noted, the present change is a minor adjustment to the original agreement and does not change its essential terms.

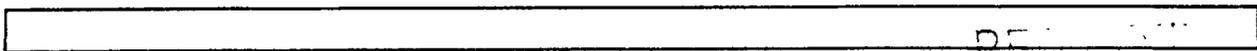
The adjustment to the original settlement agreement is therefore approved.<sup>1</sup>



Norman D. Kline  
Administrative Law Judge

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<sup>1</sup>The change to the rate schedule is attached as Exhibit B-1, which replaces the original Exhibit B, attached to the March 20, 1996 rulings. The amendment to the agreement is also attached.



RECEIVED

MAR 29 1996

**AMENDMENT  
TO  
SETTLEMENT AGREEMENT  
(First Amendment)**

entered into by and between

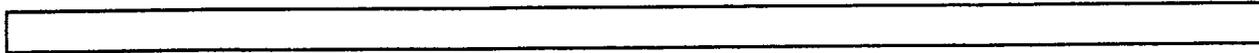
**PUERTO RICO PORTS AUTHORITY**  
G.P.O. BOX 362829  
SAN JUAN, PUERTO RICO 00936-2829

and

**PUERTO RICO SHIPPING ASSOCIATION**  
P.O. Box 6024  
Old San Juan Station  
San Juan, Puerto Rico 00905

**FLORIDA CARIBBEAN CRUISE ASSOCIATION**  
2701 Ponce de Leon Boulevard - Suite 203  
Coral Gables, Florida 33134

March 29, 1996



**AMENDMENT**  
**TO**  
**SETTLEMENT AGREEMENT**  
**(First Amendment)**

This Amendment to the Settlement Agreement dated March 8, 1996 by and between the parties hereto (the "Settlement Agreement") is entered into effective as of March 8, 1996, by and between the **Puerto Rico Ports Authority** (hereinafter the "Authority"), a public corporation and an instrumentality of the Commonwealth of Puerto Rico, created pursuant to Act No. 125 of May 7, 1942, as amended (the "Enabling Act"), the **Puerto Rico Shipping Association**, an unincorporated association organized under the laws of the Commonwealth of Puerto Rico (hereinafter the "Association"), the **Members of the Association** set forth in Exhibit A to the Settlement Agreement that hereafter actually execute the Settlement Agreement as amended by this Amendment, and their affiliates by virtue of controlling, being controlled by, or being under common control with such Members (the "Association Members"), the **Florida Caribbean Cruise Association**, a non-profit corporation organized under the laws of the State of Florida (the "FCCA"), and **those other persons or entities that are not Association Members and that actually hereafter execute and thereby subscribe to the Settlement Agreement as amended by this Amendment** and their respective affiliates by virtue of controlling, being controlled by, or being under common control with, such persons or entities (the "Other Users").

**WITNESSETH:**

**WHEREAS**, the parties hereto executed the Settlement Agreement to settle all claims between them as more fully described and limited in said Settlement Agreement;

**WHEREAS**, Exhibit B to the Settlement Agreement sets forth the agreed Maritime Tariff Rates that would be adopted in the New Tariff to be filed pursuant to Paragraph 4.A(2) of the Settlement Agreement; and

**WHEREAS**, the parties believe that certain adjustments to the Wharfage and Dockage rates to be incorporated in the New Tariff are necessary to make such New Tariff more equitable to all concerned;

**NOW, THEREFORE**, in consideration of the foregoing recitals and of the respective covenants, promises, representations, and agreements set forth below, and intending to be legally bound, the parties hereto agree as follows:

**1. RECITALS.**

The foregoing recitals are hereby incorporated by reference as though fully set forth in this Paragraph and, as so incorporated by reference, are agreed to by the parties to this Amendment

to the Settlement Agreement.

**2. AMENDMENT.**

The Settlement Agreement is hereby amended by substituting the attached Exhibit B-1 in place of Exhibit B to the Settlement Agreement, and all references in the Settlement Agreement to the rates in the New Tariff shall be deemed to refer to the revised rates set forth in the attached Exhibit B-1.

**3. CERTAIN DEFINITIONS.**

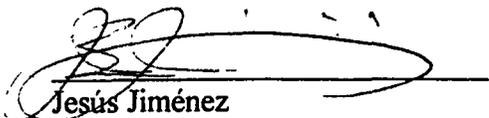
All capitalized terms that are not specifically defined herein shall have the same meaning and definition given to such terms in the Settlement Agreement.

**4. CONTINUITY.**

Except as changed above, all of the provisions, covenants, agreements and exhibits of the Settlement Agreement shall continue in effect as agreed in the Settlement Agreement.

**IN WITNESS WHEREOF**, the parties hereto execute this Amendment to the Settlement Agreement, consisting of a total of three (3) pages, including the following execution continuation page, plus one exhibit, each page of which bears the signatures or initials of the respective duly authorized representatives of the Authority, the Association, and the FCCA, effective as of the date first written above.

ATTEST

  
Jesús Jiménez

**PUERTO RICO PORTS AUTHORITY**

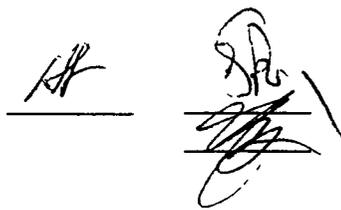
By:   
Herman Sulsona  
Executive Director

ATTEST

  
Iván Cintrón

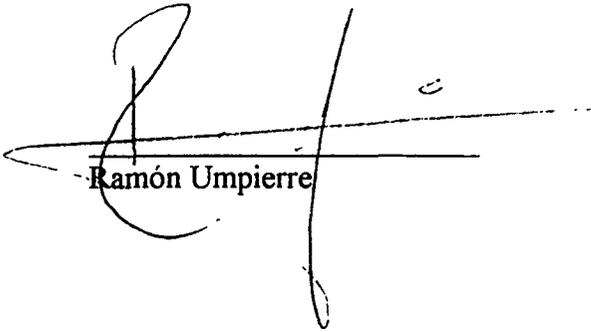
**PUERTO RICO SHIPPING ASSOCIATION**

By:   
Fernando L. Rivera  
President



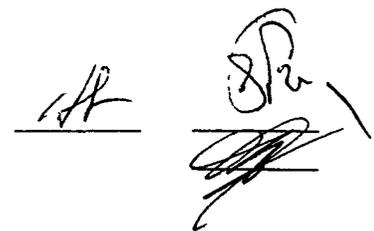
ATTEST

FLORIDA CARIBBEAN CRUISE  
ASSOCIATION

  
Ramón Umpierre

By:   
José O. Busto

[NOTE: Separate pages will follow for the execution of each Association Member and Other User].



**EXHIBIT B-1**

**MARITIME TARIFF RATES**

<b>Wharfage</b>	<b>FY96 Base Rate</b>	<b>FY96 Surcharge</b>	<b>FY97 Base Rate</b>	<b>FY97 Surcharge</b>
Autos	5.3456	1.5763	5.6663	1.2101
General	1.0400	0.4224	1.1024	0.5833
Container	1.3104	0.4118	1.3890	0.2967
Empty Containers	5.9800	1.8816	6.3388	1.3537
Transship	1.0000	NONE	1.0000	NONE
Liquid	0.0155	0.0049	0.0164	0.0035
<b>Dockage (GRT Days)</b>				
Cargo (Off-Shore)	0.1283	0.0064	0.1360	0.0440
Cargo (Fuel)	0.0714	0.0224	0.0756	0.0162
Cargo (PR and VI)	0.0963	0.0303	0.1021	0.0218
Cargo (NOS)	0.1456	0.0458	0.1543	0.0330
Cruise Ships	0.0642	0.0189	0.0680	0.0133
<b>Passengers</b>	9.1100	NONE	9.6500	NONE
<b>Harbors (GRT Days)</b>	0.0400	NONE	0.0400	NONE

*Handwritten signatures and initials.*