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Congress of the United States
House of Representatives
Washington, D.C. 211515-1806

October 9, 2003

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SUBCOMMITTEE ON HEALTH

The Honorable Bryant L. Van Brakle, Secretary
Federal Maritime Commission
800 North Capitol Street, N.W.
Room 1046
Washington, D.C. 20573

RECEIVED
FEDERAL MARITIME COMMISSION
OCT 11 11 21 AM '03

Re: P5-03
Petition Of National Customs Brokers and Forwarders Association
of America, Inc. for a Limited Exemption From Certain Tariff
Requirements of the Shipping Act Of 1984

Dear Commissioner:

I understand that the National Customs Brokers and Forwarders Association of America has requested the Commission to exempt non-vessel operating common carriers (NVOCCs) from being required to establish, maintain and enforce rate tariffs with their customers. In view of the changes in the ocean shipping marketplace that have occurred since the enactment of the Ocean Shipping Reform Act (OSRA) of 1998, I fully endorse the NCBFAA's petition and urge the FMC to favorably consider that request.

During consideration of OSRA, Congress was concerned about the economic regulation of the open ocean shipping industry. Congress ultimately concluded that the rigid system of common carrier tariffs was archaic, burdensome and inefficient and that shippers should be able to enter into confidential service contracts with steamship lines. Based on the Commission's report, these revisions to the Shipping Act have now proven to be beneficial to shippers and carriers alike and have made the ocean-shipping marketplace far more efficient and competitive. Indeed, it now appears that the movement to contract carriage has been so successful that few shippers, carriers and NVOCCs ever look at or otherwise use common carrier tariffs as a means to establish pricing for the movement of cargo.

In addition to authorizing carriers and shippers to enter into ocean service contracts, Congress also expanded the FMC's exemption authority to provide a mechanism by which the Commission could exempt individual companies or the industry as a whole from burdensome and unnecessary regulatory requirements. Based upon a reading of the NCBFAA petition, it appears that NVOCC

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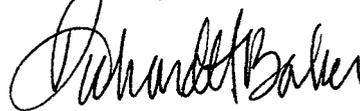
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rate tariffs are unduly burdensome and no longer serve a useful purpose, since the rates between those entities and their customers normally are individually negotiated and only later memorialized in tariff form. By exempting NVOCCs from what appears now to be largely a formalistic requirement, the FMC would be implementing the Congressional policy to deregulate in those situations where regulation is not necessary to protect the public interest and would help make the ocean shipping industry a more efficient and competitive market.

Finally, I am also aware of several petitions filed by various NVOCCs seeking an exemption that would permit them to enter into confidential ocean service contracts with their customers. While I believe that each of those petitions should be judged on its own merits, I see no reason for the Commission to establish an arbitrary size of asset test as a basis for issuing such exemptions.

In closing, OSRA provided the FMC with the tools necessary to oversee the transition of ocean shipping from being overly regulated to an efficient, market-driven industry. I believe that the Commission should exercise its authority in this area and should render an equitable and appropriate decision based upon the merits of the various petitions that are pending.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard H. Baker". The signature is fluid and cursive, with the first name "Richard" being the most prominent.

Richard H. Baker
Member of Congress

RHB/jm