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FEDERAL MARITIME COMMISSION

Memorandum

TO : Bryant L. VanBrakle, Secretary DATE: December 3, 2003

FROM  Rebecca F. Dye, Commissioner

SUBJECT : Petition No. P5-03 - Petition of National Customs Brokers and Forwarders Association of American, Inc., for a Limited Exemption From Certain Tariff Requirements of the Shipping Act of 1984

On December 2, 2003, I met with Mr. Bill McInerney, Chief Executive Officer, Phoenix International, Ms. Lisa R. Domingo, PIX Line Manager, PIX Line Ocean Consolidation Services, Mr. Juerg Bandle, Senior Vice President, Kuehne & Nagel, Mr. J.H. Kent, Kent & O'Connor, as well as Mr. Edward Greenberg of the law firm Galland, Kharasch, Greenberg, Fellman & Swirsky at their request to receive their views on the National Customs Brokers and Forwarders Association's (NCBFAA) petition to the Federal Maritime Commission. The petition requests a limited exemption from the provisions of Sections 8 and 10 of the Shipping Act of 1984 which require non-vessel operating common carriers to establish, publish, maintain and enforce tariffs setting forth ocean freight rates.

Mr. Greenburg stated that the ocean shipping industry has changed dramatically since the enactment of the Ocean Shipping Reform Act of 1998 when goods were mostly shipped under a filed tariff. Most goods in international ocean transportation are now shipped under confidential service contracts. Mr. McInerney and Mr. Bandle discussed at length their belief that tariffs are no longer used by their customers. Ms. Domingo discussed a study she did about the high cost of tariff publication. Her company pays approximately \$105,000 a year on to its tariff publisher to maintain a list of tariffs for exported shipments. She also found that her company spends another \$47,000 a year in staff time to maintain its exported goods tariffs. It costs Ms. Domingo's company approximate \$57 a shipment to maintain a tariff. Mr. Greenburg also discussed how the Ocean Shipping Reform Act of 1998 liberalized the Commissions statutory exemption authority under Section 16 of the Shipping Act of 1984.