

中国船舶代理行业协会无船承运人专业委员会
NVOCC Committee of China Association of Shipping Agency

Comments on Notice of Proposed Rulemaking

Non-Vessel-Operating Common Carrier Service Arrangements

Docket No. 04-12

On October 28, 2004, the Federal Maritime Commission ("the Commission") issued a Notice of Proposed Rulemaking ("NPR"), which allows non-vessel-operating common carriers ("NVOCCs") to offer NVOCC Service Arrangements ("NSAs"), individually-negotiated confidential contracts between NVOCCs and their shipper-customers, and sought comments on this proposed rule from the public, which shall be submitted to the Commission on or before November 19, 2004.

The NVOCC Committee of China Association of Shipping Agency ("CASA") would like to provide the following comments.

1. We fully agree with the Commission's standpoint, and the definition of NSA shipper contained in the proposed rule Sec. 531.3 (m), that an NVOCC can only enter into an NSA as a carrier party with one or more NSA shippers that do not include NVOCCs or a shippers' association whose membership includes NVOCCs. In view of the fact that, in many shippers' associations, both beneficial cargo owners ("BCOs") and NVOCCs are members, we believe it is not reasonable to prohibit these shippers' associations whose membership includes both BCOs and NVOCCs to enter into NSAs as NSA shippers. To be in line with the Commission's standpoint, we would like to propose, besides that a shippers' association whose membership does not include NVOCCs is eligible to enter into an NSA, a shippers' association with both BCO and NVOCC members should also be eligible to enter into an NSA, provided that the BCO members entitled to access the NSA have been listed in the NSA filed with the Commission.

2. If an NSA is entered into by a BCO, we believe it is necessary to list its affiliate or affiliates that are also BCOs in the NSA and allow the affiliates to ship under the NSA if the BCO signing the NSA so requests.

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3. If the above proposals could be adopted by the Commission, we would like to make other related proposals that

- (1) the NSA shipper shall certify its status, i.e., a cargo owner, a shippers' association whose membership does not include NVOCCs, a shippers' association with NVOCC members, or others, on the signature page of the NSA;
- (2) insert in Sec. 531.6 (b) (9) the following words:
the legal names of affiliates who are also BCOs entitled to access the NSA, the legal names of BCO members in the shippers' association whose membership does not include NVOCCs but only specific members are entitled to access the NSA, or whose membership includes NVOCCs but only BCO members are entitled to access the NSA.

4. As for the issues raised in the NPR concerning the NVOCC affiliates, we believe that it is necessary to include the wholly-owned subsidiaries of an NVOCC which is a carrier party to an NSA to participate as carrier parties to that NSA, subject to that the subsidiaries have published tariffs, or have published joint tariff with its principal and provided financial responsibilities in the manner and the amount as required by the Commission.

NVOCC Committee of CASA

After being approved by the Ministry of Civil Affairs of this country, NVOCC Committee of China Association of Shipping Agency (CASA), as a division of CASA, was founded on December 1, 2003, with the view to strengthening the exchanges between NVOCC operators, maintaining fair market competition conditions and assisting the government in promoting a healthy development of the NVOCC business.

NVOCC Committee members are member enterprises of the China Association of Shipping Agency that are engaged in NVOCC operations. 28 representative NVOCC enterprises are elected standing members of the NVOCC Committee, whose office rooms are located at the Secretariat of CASA, and famous senior experts in our trade are invited to help us in our work, giving valuable instructions. NVOCC Committee provides consultation services on related businesses, technology, law and information to member enterprises, and gives necessary and adequate assistance to those whose legal rights and interests are infringed. It also organizes business trainings to them for better operation and management amelioration, and, under the guidance of the government, it conducts market investigation and research, and contributes to improving relevant laws and regulations.

NVOCC Committee plays an important role in strengthening self-governance within this business sector as well as in regulating corporate behaviour, promoting international exchanges and cooperation, and pushing forward the healthy development of the industry

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