

ORIGINAL

(S E R V E D)
(October 27, 1997)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

DOCKET NO. 96-20

PORT RESTRICTIONS AND REQUIREMENTS
IN THE UNITED STATES/JAPAN TRADE

ORDER

The Federal Maritime Commission ("Commission") has been informed by the Maritime Administration, Department of Transportation, that the United States and Japan Government negotiators have come to terms on certain agreements which, when fully ratified, will constitute a comprehensive agreement to reform port restrictions and requirements that are the subject of this proceeding. These agreements are referenced in the letter of October 20, 1997, from Acting Maritime Administrator John E. Graykowski to Commission Chairman Harold J. Creel, Jr., and are attached to the draft letter of October 20, 1997, from the Government of Japan to the Government of the United States, and the draft letter of October 24, 1997, as of 6:30 p.m., from the Government of the United States to the Government of Japan (the

'Agreements") . Ratification will be complete upon the exchange of the Government-to-Government letters. The Commission has been provided with copies of these documents, and concurs that their implementation would indeed constitute substantial and meaningful reform of the practices at issue in this case.

As a result of these developments, the three Japanese liner shipping companies subject to the assessment of fees in this proceeding, Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines Ltd., and Nippon Yusen Kaisha (the "Japanese Carriers") have submitted a petition requesting that upon ratification of the Agreements by all parties, the Commission suspend the effectiveness of the Final Rule, thereby suspending the assessment and collection of fees and the requirement for the Japanese Carriers to report vessel calls, and stating that it will expect to collect only information periodically in the normal course to remain apprised of changes in port conditions resulting from implementation of the Agreements. The Japanese Carriers also requested that if a complaint relating to matters in this docket is lodged with the Commission at any time by interested persons, the Commission will immediately notify the Secretary of State of such complaint, and will request the Secretary of State to seek resolution of the outstanding matter(s) through diplomatic channels.

The terms of this petition were made available to the parties in this proceeding, as was opportunity for comment.

DISCUSSION

We note that, by separate Consent Order, the Commission and the Japanese Carriers undertook various obligations, including the Commission's agreement to take no action for a period of two weeks in Docket No. 96-20, whether by request for assistance to the U.S. Coast Guard or Customs Service, court action to collect any and all fees assessed, or otherwise, though assessments would continue to accrue, pending the process of ratification of the Agreements. We find that it would be appropriate, if the Agreements are ratified within this two week period, for the Commission to suspend the effectiveness of the Final Rule, and to compromise any and all remaining assessments for the months of October and November, 1997.

The Commission has been advised by the U.S. Department of State that, following discussions with the Government of Japan, there exist important foreign policy considerations that warrant the confidentiality of the petition filed by the Japanese Carriers and the instant Order, for a limited period of time. The Commission therefore has determined that this filing be withheld from public disclosure to the fullest extent permitted by law.

The Commission also finds merit in the petitioners' requests regarding consultation.

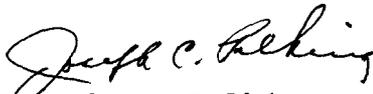
THEREFORE, IT IS ORDERED, That upon ratification of the Agreements within two weeks of the issuance of this Order, the Commission will execute immediately a compromise of any and all remaining assessments levied on the Japanese Carriers for the months of October and November, 1997.

IT IS FURTHER ORDERED, That upon ratification of the Agreements within two weeks of the issuance of this Order, the Commission will immediately suspend the effectiveness of the Final Rule, thereby suspending the assessment and collection of fees and the requirement for the Japanese Carriers to report vessel calls and any other reporting requirements, and state that it will expect to collect information periodically in the normal course to remain apprised of changes in port conditions resulting from implementation of the Agreements.

IT IS FURTHER ORDERED, That if a complaint relating to matters contained in this docket is lodged with the Commission at any time by interested persons, the Commission immediately will notify the Secretary of State of such complaint, and will request the Secretary of State to seek resolution of the outstanding matter(s) through diplomatic channels.

IT IS FURTHER ORDERED, That, for a period of not less than two weeks from the issuance of this Order, this Order and the petition submitted this date by the Japanese Carriers shall be withheld from public disclosure to the fullest extent permitted by law.

By the Commission.


Joseph C. Polking
Secretary