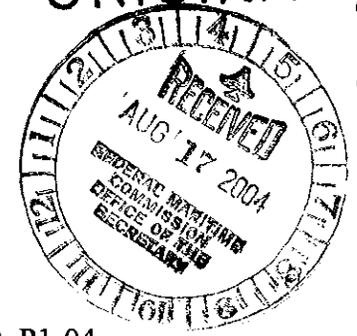


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**BEFORE THE
FEDERAL MARITIME COMMISSION**

PETITION OF DANZAS CORPORATION
D/B/A DANMAR LINES LTD.,
DANZAS AEI OCEAN SERVICES, AND
DHL-DANZAS AIR AND OCEAN

PETITION NO. P1-04

**COMMENTS OF DANZAS CORPORATION, LIMITED TO FMC PETITION NO.
P1-04, TO THE JOINT SUPPLEMENTAL COMMENTS REQUESTING
EXPEDITED ADOPTION OF A CONDITIONAL EXEMPTION FROM TARIFF
PUBLICATION**

Danzas Corporation d/b/a Danmar Lines Ltd., Danzas AEI Ocean Services and DHL Danzas Air and Ocean (hereinafter "DHL Danzas"), the petitioner in FMC Petition No. P1-04, submits these brief comments in support of the position urging expedited adoption of a conditional exemption from tariff publication stated in the Joint Supplemental Comments (the "Comments") filed with the Federal Maritime Commission (the "Commission") on August 3, 2004 by the above captioned joint commenters. Consideration of DHL Danzas' comments is, of course, subject to the Commission's threshold decision of whether to grant the motion for Leave to File Joint Supplemental Comments the Comments. If that motion is granted, DHL-Danzas requests that these comments be considered. If that motion is denied, DHL-Danzas requests that these comments be considered withdrawn.

The Comments were filed in eight separate Commission dockets.¹ However, as a party to only one of those, FMC Petition No. P1-04, DHL-Danzas' reply is limited solely to that proceeding and addresses the Motion only as it affects Petition No. P1-04.

DHL Danzas is, of course, familiar with its own Petition (P1-04), and also the exemption Petitions that have been filed with the Commission by other petitioners. It is also well aware of the comments submitted in response to those petitions. The exemption language stated in the "common approach" advocated in the Comments is substantially consistent with the relief requested in all of these petitions, especially those included in the petition filed by DHL Danzas. The Comments offer a legally sustainable and commercially acceptable means to resolve the concerns expressed in the petitions and offer a means by which the Commission can proactively conform its regulations to industry needs. Therefore, Danmar Lines, Ltd. fully supports the position taken by the Comments.

The exemption proposed in the Comments include four elements:

1. The Commission would use the exemption authority granted to it under Section 16 of the Shipping Act of 1984, as amended (the "Act") to exempt certain agreements between NVOs and shippers from statutory and regulatory tariff publication requirements and from the corresponding Prohibited Acts provisions of Sections 10(b)(1), (2), (4) and (8) of the Act. Danmar Lines, Ltd. again emphasizes its opinion that it cannot be seriously questioned that the Commission has this authority.
2. To be eligible for an exemption, the NVO would have to move cargo under a written agreement with one or more shippers. The terms of that agreement would provide that the

¹ Petitions No. P3-03, P5-03, P7-03, P8-03, P9-03, P1-04, P2-04 and P4-04.

shipper would commit to provide a certain volume or portion of cargo over a fixed time and the NVO would provide a certain rate and defined level of service.”²

3. The agreement would be filed confidentially with the FMC and would be required to include certain specified provisions, such as:
 - Origin and destination port ranges,
 - Origin and destination geographic areas in the case of through intermodal shipments,
 - Commodity or commodities,
 - Minimum volume or portion,
 - Line-haul rate,
 - Duration,
 - Service commitments, and
 - Liquidated damages, if any.
4. The Commission would retain jurisdiction over the agreement to the same extent that it now has jurisdiction over service contracts. This provision will allow the Commission to monitor the implementation of the exemption.

DHL Danzas supports the Comments and agrees that granting the exemption is consistent with the requirements of Section 16 of the Act because the exemption would both promote competition and benefit commerce. Therefore, DHL Danzas believes that the Commission has the authority to grant the requested exemption. Further, as more fully discussed in its petition, Danmar Lines, Ltd. also agrees that the exemption is fully justified by the need to meet current industry requirements.

² The Comments refer to an agreement “other than a bill of lading. . .” Danmar Lines, Ltd. understands this to mean that the exemption, if granted, would not prevent the NVO from issuing a bill of lading or similar transportation document, so long as its terms did not conflict with those of the written agreement described in the Comments.

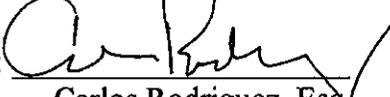
DHL Danzas also agrees with the position expressed in the Comments that further investigation of the issues raised in the petitions and the comments on any of the petitions is unnecessary. The Comments serve to synthesize the differences in approach taken by each of the separate petitioners, and in fact are jointly submitted by the vast majority of those petitioners. They offer a single position that is acceptable to all of the petitioners. As the Comments point out, the first of the related exemptions was filed over a year ago. Nearly all of those petitions explain in detail one or more of the commercial needs for which the exemption is requested. As the Comments state, since the first petition was filed over one year ago, the Commission

. . . has solicited comments on multiple occasions, collected submissions from hundreds of parties involved in all aspects of the maritime industry and from government interests, and meetings have been held between the individual Commissioners and interested parties.

The Comments do not propose new or additional issues for the Commission to consider. DHL Danzas submits that the Commission now has before it a fully developed record that more than adequately justifies granting the exemption as urged in the Comments.

Respectfully submitted,

DANZAS CORPORATION
d/b/a Danmar Lines Ltd.

By: 

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August 17, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of August, 2004, served a copy of foregoing Comments of Danzas Corporation, Limited to FMC Petition No. P1-04, to the Joint Supplemental Comments Requesting Expedited Adoption of a Conditional Exemption from Tariff Publication upon the following:

- a) The parties to FMC Petition No. P1-04,
 - b) The parties that submitted the Motion, and
 - c) The parties served by the commenters,
- by causing a copy thereof to be dispatched via first-class mail, postage prepaid to the following:

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