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COMMENTS OF CV INTERNATIONAL, INC. ON  
NVOCC NEGOTIATED RATE ARRANGEMENTS  
DOCKET NO. 10-03  
RIN 3072-AC38

I am Michael W. Coleman, President of CV International, Inc. CV International conducts business as an international freight forwarder and customs broker, with an in-house NVOCC operating as CV Ocean Transport (Lic. 3454 N/F). We maintain offices in Norfolk, VA, Charlotte, NC, and Atlanta, GA with an independent global agent network.

I previously submitted a Verified Supporting Statement for the Petition of the National Customs Brokers and Freight Forwarders Association of America (NCBFAA) for Exemption from Mandatory Rate Tariff Publication (Docket No. P1-08). Thank you for granting the Petition and the exemptions requested and for the opportunity to comment on the Proposed Rule.

My comments below support the Proposed Rule resulting from the NCBFAA's petition and request consideration be given to amending the Proposed Rule to allow parties to a negotiated rate to amend that rate at any time in the form of written agreement and to provide rate publishing exemption to all lawful Non-vessel Operating Common Carriers (NVOCC), including those that are foreign registered. The Proposed Rule corrects an outdated system of regulations while providing the framework to ensure that the relationship between shippers and NVOCCs remains fair and balanced.

Fair and reasonable rates are controlled by a competitive market, not the required tariff filing system, and the Proposed Rule therefore appropriately eliminates the tariff filing requirement. The market for ocean freight rates is highly competitive and shippers have access to a wide variety of sources for rate quotations. Therefore, NVOCCs are forced to provide shippers with the most cost-effective alternatives available to meet their shipping needs. To my knowledge, we have never had a case where one of our shipper customers has used a published tariff to review the marketability of an ocean freight rate.

The principles of contract law currently manage the relationship between shippers and NVOCCs and the Proposed Rule appropriately adopts that system of management. To my knowledge, we have never had an inquiry about our published tariff nor has it ever been used to settle any rate dispute. All of our shipper customers currently rely on rate matrixes or other forms of written quotation to verify that the rates we quote are the rates that we charge. Rates

that are negotiated with shippers by our staff are always memorialized in writing, most often in an e-mail. Therefore, the “memorialized in writing” requirement of the Proposed Rule would correspond with our current operating procedure and compliance would be simple and reasonable. Furthermore, it would be simple and reasonable to add a note to our e-mails and quotations indicating that the exempt rates are subject to our Company’s rules tariff which would be published on our website providing free public access and included in our quotations.

Rate publication is a time consuming and expensive burden that distracts our staff from their primary focus of facilitating compliant international trade and the Proposed Rule appropriately eliminates that expense and distraction. CV Ocean Transport regularly maintains over eight contracts with major vessel operators, servicing numerous shippers and multiple trade lanes. Under the current regulations, we have to dedicate staff to managing tariff updates through our tariff publishing agent to comply with the regulations. Our staff should be solely focused on providing accurate rate updates to the appropriate customer shippers and managing the success of their international transaction without the distraction of ensuring that rates are published in an unused tariff.

The Final Rule should include language specifying that shippers and NVOCCs can amend rates at any time, as long as the amendment is agreed to by both parties and memorialized in writing. NVOCCs, particularly in today’s volatile ocean freight market, need to have the flexibility to accommodate sudden increases imposed by Vessel Operating Common Carriers (VOCCs) and be able to utilize the rates of alternative VOCCs if necessary. So long as negotiated rates are originally memorialized in writing, and any changes require written amendment acknowledging both parties consent, the principles of contract law will adequately protect shippers from any attempts of discriminatory or unfair ocean freight pricing.

The Final Rule should extend exemption from tariff filing to all lawful NVOCCs, including those that are foreign registered. The request for exemption was intended to apply to the entire industry and not discriminate in favor of a particular group within the industry. Most concerning, however, is that if the Final Rule discriminates against lawful foreign registered NVOCCs, it is possible that foreign governments will take retaliatory discriminatory action against U.S. licensed NVOCCs.

The tariff filing requirement is an archaic process and it no longer serves any legitimate purpose in today’s competitive ocean freight market. The Proposed Rule is an appropriate and

long overdue amendment to the current regulations. I respectfully request that the Commission ensure that the Final Rule be kept simple, meaningful, and in a form similar to the Proposed Rule and again thank them for their action and consideration in this matter.

I, Michael W. Coleman, declare under penalty of perjury that I have read the foregoing and it true and correct to the best of my knowledge, information, and belief.

June 4, 2010

A handwritten signature in cursive script that reads "Michael W. Coleman". The signature is written in black ink and is positioned above a horizontal line.

Michael W. Coleman