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SECRETARY
FEDERAL MARITIME COMMISSION

Before the
FEDERAL MARITIME COMMISSION
Washington, D.C. 20573

ORIGINAL

Petition No. P 6-03

PETITION OF
SINOTRANS CONTAINER LINES CO., LTD. (SINOLINES)
FOR A FULL EXEMPTION FROM THE FIRST SENTENCE OF
SECTION 9 (C) OF THE SHIPPING ACT OF 1984, AS AMENDED

Pursuant to 46 C.F.R. 502.69 and Section 16 of the Shipping Act of 1984, as amended (the "Shipping Act" or "Act"), Sinotrans Container Lines Co., Ltd., known as Sinolines, petitions for a full exemption from the first sentence of Section 9 (c) to permit it lawfully to reduce its tariff rates on publication.

Sinolines is an ocean common carrier providing container service in the transpacific trades and is a controlled carrier as defined in the Shipping Act. Section 9 (c) of the Act, permits Sinolines to decrease its tariff rates no sooner than thirty days after the date of publication or with special permission. Section 8 (d) of the Act permits other (non-controlled) carriers to reduce their tariff rates on publication. If the requested relief is granted, it will put Sinolines on equal footing with these other carriers, while maintaining the substantive rate standards applicable to controlled carriers and the Commission's oversight of these standards.

Concurrently with the filing of this Petition, Sinolines withdraws its Petition P2-03. Therefore, if the current Petition is granted, Sinolines will be permitted to reduce its tariff rates effective upon publication, regardless of whether those rates meet, exceed or

are lower than the rates of a competing ocean common carrier.

In support of our Petition, we state the following:

1. This Petition meets the two criteria for an exemption in Section 16. Section 16 of the Act authorizes the Commission to exempt a party from “any requirement of this Act if it finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce.” First, rather than reduce competition, the exemption increases competition by permitting Sinolines to compete for cargo by reducing its tariff rates. Cargo is often time sensitive, so cargo opportunities must be seized or lost. Carriers often reduce their tariff rates to induce cargo, and the exemption will make Sinolines more competitive. Second, rather than being detrimental to commerce, the exemption promotes commerce because it gives shippers and consignees another carrier to compete for their business. See the attached Affidavit of Li Xiaolong (“Li Affidavit”), General Manager of Sinolines, at paragraph 1.

3. Although Section 9 (c) of the Act permits a controlled carrier to reduce its rates with special permission, it is impractical here. Sinolines must act immediately to be competitive. Special permission may take more than one day (especially if there is an intervening weekend or holiday). Moreover, the filing fee for a special permission application may equal or exceed the potential profit in a small shipment and discourage Sinolines from competing for the shipment. See Li Affidavit at paragraph 2.

3. The exemption will not facilitate rate abuse. If this Petition is granted, Sinolines will be permitted to reduce rates upon publication and without regard to whether the rates are lower than the rates of competing carriers. Section 9 (a) of the Act prohibits controlled carriers from maintaining rates “that are below a level that is just and

reasonable, . . .”. This is a concern about predatory rates, set unreasonably low by a controlled carrier with foreign government support seeking “to displace carriers operating under normal commercial considerations.” Report of the Committee on Commerce, Science, and Transportation on S.414 (July 31, 1997) at 27. While this is a concern about controlled carriers generally, there is no basis on which the Commission could conclude that the exemption will facilitate rate abuse by Sinolines. Notably, Sinolines operates under normal commercial considerations and is owned by a company whose shares are publicly traded and which has a large percentage of non-governmental shareholders. Sinolines is expected to make a profit. See Li Affidavit at paragraph 3. Therefore, an exemption will further a declared purpose of the Act “to promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing greater reliance on the marketplace.” Section 2(4). The exemption will provide the commercial flexibility merited in this case, as we are aware of no instance of alleged rate abuse by Sinolines. See Li Affidavit at paragraph 4.

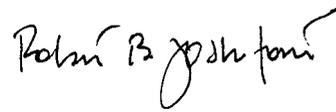
4. The Commission will maintain effective oversight under the substantive rate standards of Section 9(a). If there were any misuse of the exemption, the Commission has the ultimate power to “revoke any exemption” under Section 16 of the Act.

5. The relief we seek has also been requested by other Chinese carriers China Ocean Shipping (Group) Company in P3-99 and China Shipping Container Lines Co., Ltd. in P4-03.

6. Granting this exemption increases competition, promotes commerce, and is consistent with congressional intent, while maintaining the controlled carrier rate standards and Commission oversight required by the Act. We submit the requested full

exemption should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert B. Yoshitomi". The signature is written in a cursive style with a prominent flourish at the end.

Robert B. Yoshitomi

August 8, 2003

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Affidavit

I, Li Xiaolong, am the General Manager of Sinotrans Container Lines Co., Ltd., **known** as **Sinolines**. **I make** this **Affidavit** to support our Petition for a Full Exemption **from** the First Sentence of Section 9 (c) of the Shipping Act of 1984, as amended, submitted by our counsel in our **behalf**. We seek authority to reduce our tariff rates on publication.

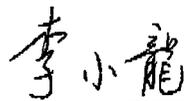
1. Sinolines is a controlled carrier under the Shipping Act. As such, we cannot reduce our tariff rates **in** U.S. trades **until** thirty days **after** publication. Non-controlled carriers can reduce **their tariff** rates on publication. The transpacific trades are extremely competitive, **and** other carriers regularly reduce their tariff rates to compete for business. However, when we tell a customer that we can offer a competitive tariff rate but the customer must wait thirty days for the tariff rate to be effective, the customer is no longer interested in using us. This puts us at a severe competitive disadvantage, makes us a second class carrier, and causes business opportunities to be lost by us and our current and potential customers. The exemption will promote commerce because Sinolines will be available to oompete for this business and give shippers and consignees **another** possible carrier.

2. I understand we **can** ask the Federal Maritime Commission for special permission to reduce rates **on** a case-by case basis. Special permission is impractical here. **Sinolines** must act immediately to be competitive. Special permission may take more than one day (especially if there is **an** intervening weekend or holiday). Moreover, the **filing** fee for a special permission application may equal or exceed the potential profit in a small shipment and discourage Sinolines **from** competing for the shipment,

3. Sinolines is a commercial enterprise operating under market principles. We are not subsidized and are expected to be profitable. The government **of the Peoples'** Republic of China no longer has the right to approve or disapprove the directors and officers of Sinolines. Moreover, we are a subsidiary of a company whose shares are publicly traded and under **large** non-governmental ownership. The shares of Sinolines are held by Sinotrans Limited (ten percent) **and** Sinotrans Eastern Company Ltd. (ninety percent). The shares of Sinotrans **Eastern** Company are held by **Sinotrans** Limited (holding ninety-five percent directly and the other five percent indirectly). Sinotrans Limited is a public company whose shares are traded on the Hong Kong **Stock** Exchange with about forty-two percent of the current ownership by public (non-government) investors. The other shares (about fifty-eight percent) of **Sinotrans** Limited are held by **China** National Foreign Trade Transportation (Group) Corp.

4. It is not always possible to document a competitor rate which we want to meet. Sometimes the rate is in a confidential service contract, so there is no published rate of a competitor which we can document. Moreover, sometimes we **will** want to reduce our rates below **that of other carriers**, and we will be permitted to do so, if our Petition is granted. However, there is no good reason to believe we will use the exemption for rate abuse. Our company has **never** been accused of predatory or unreasonably low rates.

5. I declare under penalty of perjury under the laws of the **United** States of America that the foregoing is true and correct.



Li Xiaolong

Signed in Shanghai, China
August 08, 2003