

1, 2001 or "to the owner [of the vessel] on October 1, 2001 if any ownership interest in that owner is transferred to or otherwise acquired by a foreign individual or entity *after such date*," (emphasis added).

"Petitioners are "owners" and "mortgagees" who acquired their interests in the Vessels prior to October 1, 2001, and who intend to continue to hold those interests on and after October 1, 2001. The U.S.-Japan FCN is a self-executing treaty which is binding on MARAD as a matter of federal domestic law.⁴⁶ Under ordinary principles of statutory construction, the AFA and the Treaty should be construed to avoid conflict and to give effect to each. The federal courts have recognized that federal statutes should be construed in a manner to avoid conflict with international treaties. Thus, federal statutes "ought never to be construed to violate the law of nations if any other possible construction remains."⁴⁷ Only where Congress has expressed the clear intent to depart from the obligations of a treaty will the provisions of later federal legislation be found to conflict with and supersede U.S. treaty obligations.⁴⁸ Here, it is apparent from the terms of Section 213(g) that Congress affirmatively intended to avoid conflict with international treaties such as the U.S.-Japan FCN by exempting "owners" and "mortgagees" from provisions of the AFA which would otherwise be inconsistent with U.S. treaty obligations. The inconsistency between Sections 202 and 203 of the AFA and the requirements of the U.S.-Japan FCN is demonstrated above with respect to Petitioners. Accordingly, under Section 213(g) of the Act, the provisions of Sections 202 and 203 "shall not apply" to Petitioners "to the extent of * * * such inconsistency."

"The exemption provided by Section 213(g) is not limited to ownership or mortgage interests in existence on October 1, 2001, but rather applies to an "owner" or "mortgagee" on October 1, 2001 and extends the exemption "to the extent of the inconsistency" between the Act and the Treaty "with respect to" the vessel in which the "owner" or "mortgagee" holds an interest. Petitioners qualify as "owners" and "mortgagees." Petitioners are, therefore, exempt from the requirements of the AFA "to the extent of the inconsistency" between the AFA and

the Treaty. As demonstrated above, the "inconsistency" between the AFA and the Treaty is two-fold: (1) The Treaty protects the existing ownership and preferred mortgage interests of Petitioners in the Vessel and related contract rights (including the exclusive marketing agreement) which the AFA would impair, prohibit or restrict; and (2) the Treaty protects future transactions between Alyeska or its Japanese shareholders and the Vessel Owner, which the AFA would prohibit or restrict, including future loans, preferred mortgages and other financing and contractual arrangements which Petitioners may deem necessary or appropriate to protect their existing businesses and their existing interests in the Vessel and the Vessel Owner. Thus, Section 213(g) exempts Petitioners entirely from the restrictions and limitations of Sections 202, 203 and 204 of the AFA and MARAD's implementing rules with respect to the Vessel."

This concludes the analysis submitted by Petitioner for consideration.

Dated: February 16, 2001.

By order of the Maritime Administrator.

Joel Richard,

Secretary, Maritime Administration.

[FR Doc. 01-4468 Filed 2-22-01; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34009]

Toledo, Peoria & Western Railway Corporation—Trackage Rights Exemption—Peoria and Pekin Union Railway Company

Peoria and Pekin Union Railway Company (P&PU) has agreed to grant overhead trackage rights to Toledo, Peoria & Western Railway Corporation (TP&W) over P&PU's track between the point of connection between The Burlington Northern and Santa Fe Railway Company and P&PU near Darst Street in Peoria, IL, milepost 2.1, and the point of connection between P&PU and TP&W at North Main Street in East Peoria, IL, commonly known as P&PU Junction, milepost 0.0, a distance of approximately 4 miles.¹

The transaction is scheduled to be consummated on or shortly after February 16, 2001.

¹ A redacted version of the amendment to the trackage rights agreement between TP&W and P&PU was filed with the verified notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for a protective order. A protective order was served on February 14, 2001.

The trackage rights will enable TP&W to enhance competitive service for intermodal traffic and provide more efficient and economical routings and service for this traffic.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34009 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, Esq., Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided: February 15, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01-4524 Filed 2-22-01; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995,

⁴⁶ See, e.g., *Zenith Radio Corp. v. Matsushita Electric Industrial Co., Ltd.*, 494 F. Supp 1263, 1266 (E.D.Pa. 1980).

⁴⁷ *McCulloch v. Sociedad Nacional de Marineros de Honduras*, 370 U.S. 10, 21 (1963).

⁴⁸ *Id.* See, also, *Sumitomo Shoji America, Inc. v. Avagliano, et al.*, 457 U.S. 176 (1982).