

MARKED COPY

GULF/SOUTH AMERICA DISCUSSION AGREEMENT

FMC AGREEMENT NO. 011707-015 ~~040~~

MODIFICATION NO. 15 ~~10~~

3RD ~~2ND~~ REVISED PAGE NO. 1

1. Full Name of the Agreement. The full name of this Agreement is the Gulf/South America Discussion Agreement.
2. Purpose of the Agreement. The purpose of this Agreement is to permit the parties to consult, discuss, and develop a non-binding consensus on rates, charges and other aspects of the Trade (as defined in Article 4) through the activities authorized hereunder.
3. Parties to the Agreement. The names and addresses of the principal offices of the parties to this Agreement are set forth in Appendix A.
4. Geographic Scope of the Agreement. The geographic scope of this Agreement is the trade (the "Trade"), via any combination of direct, transshipment or intermodal service, between (a) U.S. Gulf ports and U.S. inland and coastal points via such ports and (b) ports in Colombia, Ecuador, Chile, Argentina, Venezuela and Trinidad, and inland and coastal points via such ports.
5. Overview of Agreement Authority.
 - (a) The parties are authorized to exchange information, meet, consult, discuss and where appropriate enter into consensus or agreement upon the terms and conditions of their respective tariffs, service contracts and other transportation contracts, rates, charges, rules, practices and other aspects of the services provided by them or other carriers in the Trade, whether or not contained in a tariff or service contract, and any other aspects of the Trade, including: (i) tariffs, service contracts based upon volume or share of cargo, volume incentive programs, time volume arrangements, bills of lading, and all other types of transportation contracts, ~~(ii) voluntary rate guidelines relating to the terms and procedures on service contracts entered into by one or more parties, provided that the guidelines explicitly state the rights of the parties not to follow the guidelines (it being understood that any such guidelines shall be confidentially submitted to the U.S. Federal Maritime Commission),~~ (iii) (ii) port-to-port, intermodal, overland, landbridge, interior point, proportional, through, combination, joint, minimum, maximum, volume, time/volume, project, ad valorem, commodity, FAK and all other types of rates, ~~(iii) (iv)~~ currency adjustment, fuel adjustment, interest, terminal, demurrage, detention, consolidation, equalization, broker, freight forwarder and all other types of charges, allowances, freight adjustments, commissions and payments, (iv) ~~(v)~~ equalization, alternative port service, vessel sailings and movements, receipt, storage, handling and delivery of cargo or equipment, shipper credit, collection, equipment use and rental, free time practices, commodity classifications, and all other types of practices or terms and conditions of carriage of cargo, (v) ~~(vi)~~ vessel charter hire and terms and conditions,

MARKED COPY

GULF/SOUTH AMERICA DISCUSSION AGREEMENT

FMC AGREEMENT NO. 011707-015 ~~040~~

MODIFICATION NO. ~~15~~ ~~40~~

3RD ~~2ND~~ REVISED PAGE NO. 2

vessel fuel and incidental expenses, and stevedoring and other port expenses, and ~~(vi)~~ ~~(vii)~~ all other aspects of the Trade, including cargo carryings, revenue, competition, shippers, trade flows and trends, commodities, legislation, regulation, agents, terminal facilities and practices, and equipment movements and availability.

~~(b) This Agreement shall be divided into the following three sections: (i) the WCSA Section, relating to the sub-trades to and from the Pacific Coast of Colombia, Ecuador and Chile, (ii) the ECDA Section, relating to the sub-trades to and from Argentina, and (iii) the NCSA Section, relating to the sub-trades to and from Venezuela, the Atlantic Coast of Colombia, and Trinidad.~~

~~(e) Meetings and other actions under this Agreement shall be conducted on a section by section basis.~~

~~(b)~~ ~~(d)~~ For purposes of this Agreement, the parties, or any of them, may meet in person, by telephone or by internet connection and may exchange information by written, fax or internet exchanges. Some or all of the parties may also meet jointly with shippers, forwarders, regulators, or other persons or organizations relating to any matter within the scope of this Agreement.

~~(c)~~ ~~(e)~~ No party shall be bound to adhere to any agreement or decision reached under this Agreement, except as set forth in Article 6(b).

~~(d)~~ ~~(f)~~ This Agreement does not authorize the parties to publish a joint tariff.

(e) Any two or more of the parties may jointly enter into service contracts for cargo moving in the Trade or any portion thereof. The parties may also adopt voluntary, non-binding guidelines relating to the terms and procedures of a party's or parties' service contracts, which guidelines shall be submitted to the Federal Maritime Commission confidentially. The parties are not required hereunder to agree upon, or if they do agree to adhere to any agreement relating to, any rates, charges, practices, conditions of service, or other matters discussed hereunder.

(f) Any two or more parties may charter space among themselves on vessels operated by them for cargo moving in the Trade provided that such charter is on an ad hoc, interim (i.e. for a term not exceeding 90 days), sporadic or emergency basis. The parties may agree on such other terms and conditions as they may agree, and in that connection may jointly establish sailing schedules, port rotation, and sailing limitations and jointly advertise sailings on each other's vessels. For each calendar quarter, the parties shall submit to the Federal Maritime Commission on a confidential basis a report

MARKED COPY

GULF/SOUTH AMERICA DISCUSSION AGREEMENT

FMC AGREEMENT NO. 011707-015

MODIFICATION NO. 15

1ST REVISED ORIGINAL PAGE NO. 3

specifying, for each such space charter under which cargo moved during the quarter, (i) the names of the parties from and to which space was chartered, (ii) the amount of space chartered expressed in twenty-foot equivalent units (TEUs), (iii) the commencement and (if applicable) termination dates, and (iv) the ports of loading and discharge.

(g) The parties are authorized to enter into understandings or arrangements implementing this Agreement; provided that no such arrangement requiring filing under Section 5 of the Shipping Act of 1984 shall become effective unless and until it has been filed and become effective thereunder.

6. Officials of the Agreement and Delegations of Authority.

(a) This Agreement shall initially be administered by the parties themselves, but they may thereafter appoint such additional administrative officials as they may deem appropriate to carry out the terms of this Agreement.

(b) The parties shall share the cost of meetings and other expenses incurred in carrying out this Agreement as they may from time to time determine.

(c) Legal counsel for this Agreement and for the parties hereto each shall have the authority, with full power of substitution, on behalf of the parties to file this Agreement with the U.S. Federal Maritime Commission, to execute and file with such Commission any modification to this Agreement agreed to by the parties, and to execute and submit to such Commission any associated materials in support thereof.

7. Membership, Withdrawal, Readmission and Expulsion. Any carrier in the Trade in a sub-trade of any Section may be admitted or readmitted as a party to this Agreement member of the Section on unanimous consent of the existing parties. ~~members of the Section.~~ Any party may withdraw from this a Section or the Agreement on at least six months' notice to the other parties, provided that no such notice may become effective prior to June 30, 2001. A party may withdraw on notice to the other parties in the event of an insolvency, bankruptcy or reorganization of another party or in the event of a material breach of this Agreement or any implementing arrangement that is not corrected within 30 days after notice to the breaching party. A party may be expelled from this Agreement any Section by vote of a majority of the parties to this Agreement. Any such change in membership shall become effective upon the effectiveness under Section 5 of the Shipping Act of 1984 of a modification hereof embodying such change in membership.

8. Voting. Voting under this Agreement shall be by majority of all the parties. ~~in any Section shall be by majority of the members of the Section.~~

MARKED COPY

GULF/SOUTH AMERICA DISCUSSION AGREEMENT

FMC AGREEMENT NO. 011707-015

MODIFICATION NO. 15

ORIGINAL PAGE NO. 4

9. Duration and Termination of the Agreement. This Agreement shall continue in effect indefinitely, provided that this Agreement may be terminated at any time by the written agreement of all parties. The U.S. Federal Maritime Commission shall be notified promptly of any such termination of this Agreement.

10. Miscellaneous. This Agreement and any modification hereof shall become effective on the first date on which it may be lawfully implemented under the U.S. Shipping Act of 1984 and shall be binding upon and enure to the benefit of only the parties hereto. Any notice hereunder shall be in writing and sent to each other party at its address set forth in Appendix A (or such other address as the party shall have specified by notice hereunder) and shall be deemed to have been given upon receipt thereof.

MARKED COPY

GULF/SOUTH AMERICA DISCUSSION AGREEMENT
FMC AGREEMENT NO. 011707-015 ~~014~~
MODIFICATION NO. 15 ~~14~~
13TH ~~12TH~~ REVISED PAGE NO. A1

APPENDIX A

Parties ~~Members~~

The following are the respective names and addresses of the principal offices of the parties to this Agreement; ~~and Sections to which they are members:~~

<u>Name</u>	<u>Office Address</u>	<u>Section(s)</u>
BBC Chartering Carriers GmbH & Co. KG ¹	Hafenstrasse 12 D-2678 Leer, Germany	WCSA
BBC Chartering & Logistic GmbH & Co. KG ¹	Hafenstrasse 12 D-2678 Leer, Germany	WCSA
Industrial Maritime Carriers, L.L.C	Suite 2400 One Canal Place 365 Canal St. New Orleans, LA 70130-1112	WCSA, ECSA, NCSA
Seaboard Marine Ltd.	8050 N.W. 79 Ave. Miami, FL 33166	WCSA, NCSA

¹ BBC Chartering Carriers GmbH & Co. KG and BBC Chartering & Logistic GmbH & Co. KG shall be treated as a single party with joint and several liability under this Agreement.