FMC Agreement No.: 011223-009 Effective Date: Friday, January 6, 1995
Downloaded from www.FMC.GOV on Thursday, April 27, 2017

AMENDMENT OF
FMC AGREEMENT NO. 203-011223

WHEREAS, the Parties wish to amend the Transpacific Stabilization Agreement, FMC No. 203-011223, as amended previously (the "Agreement"), for the purposes of (a) including India, Pakistan, Bangladesh and Sri Lanka in the Agreement's geographic scope (Article 4), except with regard to the capacity management program established under the Agreement which will continue unchanged, (b) updating certain country names in the existing geographic scope, (c) lengthening the period in which the Parties may act to extend each succeeding term of the capacity management program, from no later than three months to no later than 30 days before the expiration of the term then in progress, and (d) clarifying, updating and restating portions of the Agreement authority set forth in Article 5 and Appendix C;

NOW, THEREFORE, in accordance with subarticle 8.2, the Parties have taken action upon the unanimous vote of all of them to amend the Agreement as reflected by Revised Page Nos. 1, 6, 8, 9, 10, 29 and 30 which are attached hereto and made a part hereof.

EFFECTIVE
JAN 0 6 1995
UNDER THE
SHIPPING ACT
OF 1984
Federal Maritime Commission

IN WITNESS WHEREOF, the Parties have caused this amendment of the Agreement to be executed on their behalf by their duly authorized representatives, as reflected by Revised Page Nos. 24, 25 and 25a, also attached hereto and made a part hereof.

FMC Agreement No.: 011223-009 Effective Date: Friday, January 6, 1995
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

TABLE OF CONTENTS

ARTICLE	PROVISION	PAGE
ARTICLE 1 -	NAME OF AGREEMENT.	2
ARTICLE 2 -	PURPOSE OF AGREEMENT	2
ARTICLE 3 -	PARTIES TO AGREEMENT	5
ARTICLE 4 -	GEOGRAPHIC SCOPE OF AGREEMENT.	6
ARTICLE 5 -	AUTHORITY.	7
ARTICLE 6 -	AGREEMENT OFFICIALS AND DELEGATIONS OF AUTHORITY	11c
ARTICLE 7 -	MEMBERSHIP AND WITHDRAWAL.	15
ARTICLE 8 -	VOTING	16
ARTICLE 9 -	DURATION AND TERMINATION	17
ARTICLE 10 -	REPORTING REQUIREMENTS	17
ARTICLE 11 -	INCOME AND EXPENSES.	19
ARTICLE 12 -	INDEPENDENT ACTION	20
ARTICLE 13 -	ARBITRATION.	20
ARTICLE 14 -	SECURITY INSTRUMENT.	22
-- -	SIGNATURE PAGES.	24
APPENDIX A -	Parties to Agreement	26
APPENDIX B -	Quarterly Calculation of Maximum Allowed Cargo Capacity	28
APPENDIX C -	Statement of Revenue Policy Objective	29
APPENDIX D -	Reporting to the FMC	31
APPENDIX E -	Rules and Procedures for Charter Activities	33

FMC Agreement No.: 011223-009 Effective Date: Friday, January 6, 1995
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

ARTICLE 4 - GEOGRAPHIC SCOPE OF AGREEMENT

4.1 The Agreement covers the trades and various subtrades (collectively, the "Trade") from ports and points in the Far East and Indian Sub-continent to ports in the United States and to interior and coastal points in the United States via such ports. For purposes of the Agreement, "Far East" means Japan, Siberia Russia, Korea, People's Republic of China, Taiwan, Hong Kong, Macao, Thailand, Democratic Kampuchea (Cambodia), Vietnam, Singapore, Malaysia, Laos, Myanmar, Brunei, Philippines and Indonesia; and, "Indian Sub-continent" means India, Pakistan, Bangladesh and Sri Lanka. "United States" means the continental United States, Alaska, Puerto Rico and the U.S. Virgin Islands.

4.2 The containership capacity management program established pursuant to subarticles 5.1 through 5.8 and other provisions of the Agreement shall apply to the portion of the Trade from ports and points in the Far East to ports in the United States and to interior and coastal points in the United States via such ports (the "Far East origin trade"), and shall not apply to the remaining portion of the Trade (the "Indian Sub-continent origin trade") unless and until an appropriate amendment of the Agreement has become effective in accordance with the regulations of the FMC.

FMC Agreement No.: 011223-009 Effective Date: Friday, January 6, 1995
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

ARTICLE 5 - AUTHORITY

5.1 The Parties hereby agree to establish a Maximum Allowed Capacity in the Far East origin trade for each Party in accordance with this Agreement, and in implementation of such Maximum Allowed Capacity to agree upon various procedures for the maintenance and enforcement thereof. Each Party agrees to abide by its Maximum Allowed Capacity. A Maximum Allowed Capacity shall not be established in the Indian Sub-continent origin trade.

5.2 The Maximum Allowed Capacity for each Party is calculated as set forth in Appendix B to this Agreement and shall be in effect for one year (i.e., four consecutive Accounting Periods) or such other term as the Parties agree pursuant to subarticle 5.3 hereof. The Maximum Allowed Capacity for any Party may be increased or decreased by action of the Parties at any time, provided that the total of all Parties' Maximum Allowed Capacities for any Accounting Period may not be reduced to less than 82 percent of the total of all Parties' actual cargo capacities in the Far East origin trade during such Accounting Period, prior to reduction pursuant to this Agreement, unless and until an appropriate amendment of this Agreement has become effective in accordance with the regulations of the FMC; and, provided further, that the Chairman, Secretariat, counsel to the Agreement or other designee of the Parties will notify the FMC in

FMC Agreement No.: 011223-009 Effective Date: Friday, January 6, 1995
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

writing, in the form of an updated Appendix B hereto, on or before 30 days following any other action by the Parties that does not require the filing of an amendment, as aforesaid, to increase or decrease a Party's Maximum Allowed Capacity.

5.3 Unless otherwise agreed, action by the Parties to extend and recalculate the Maximum Allowed Capacity of each Party for an additional term or terms is required no later than 30 days before the expiration of the year or other term that is then in progress. Written notice will be given to the FMC on behalf of the Parties (as in subarticle 5.2 above) on or before 30 days following any action by the Parties to extend and recalculate the Maximum Allowed Capacity of each Party, including any related action taken pursuant to subarticle 7.4. Such notice may be given as part of the minutes of a meeting of the Parties hereunder, filed pursuant to the FMC's regulations. If the Parties fail to reach agreement as to the extension and recalculation of the Maximum Allowed Capacity of each Party within the agreed time, this Agreement shall terminate as of the expiration of the term that is then in progress.

5.4 The Market Survey Committee will meet, review, analyze and discuss cargo market conditions in the Trade from time to time, and will review and recommend any adjustments in the

FMC Agreement No.: 011223-009 Effective Date: Friday, January 6, 1995
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

Maximum Allowed Capacity of any Party or Parties for action by the Parties. The Market Survey Committee may establish procedures and guidelines for its activities.

5.5 Should one or more Parties desire to change the Maximum Allowed Capacity during or before any Accounting Period, that Party or Parties shall provide the Chairman with written notice of its proposal, whereupon the Chairman shall take appropriate steps to place the matter before the Parties for decision.

5.6 If a Party should exceed its Maximum Allowed Capacity for any Accounting Period, it will be assessed a penalty of US$500 per TEU of cargo carriage or fraction thereof by which the Party's Maximum Allowed Capacity was exceeded during that Accounting Period. The penalty shall be assessed and collected by the Secretariat in accordance with the procedures designated in subarticle 5.8. The Secretariat's assessment against any Party shall be final, subject only to appeal by Arbitration under Article 13. The Secretariat shall invest and take action with respect to the Fund in accordance with Article 11.

5.7 A Party that fails to reach its Maximum Allowed Capacity during a particular Accounting Period shall not be entitled to offset, transfer or reallocate such undercarriage.

5.8 In the event that the Secretariat determines that any penalty or late charge provided for under this Agreement is to be assessed, consistent with the direction of the Parties, he shall

FMC Agreement No.: 011223-009 Effective Date: Friday, January 6, 1995
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

notify the Party to be assessed by telex and registered mail with copies to all other Parties. The penalty or late charge assessment shall be paid by the Party within 15 days after it receives notice of such assessment, without regard to whether the Party chooses to exercise its right of appeal by Arbitration under Article 13, after which time the penalty or late charge shall be levied directly against the Party's security instrument; provided, however, that should the penalty or late charge assessment be overturned in whole or in part by the Arbitrator, the excess amount of the penalty or late charges shall be refunded promptly to the Party.

5.9 The Parties may collect, exchange and disseminate statistics and other information relevant to the Trade. The Parties may also discuss and evaluate all aspects of the Trade, including but not limited to general revenue recovery and restoration, other rate and charge adjustments and service matters, containership capacity structure and adjustment of the Maximum Allowed Capacity for any or all Parties in anticipation of cargo demands. Consistent with the purpose stated in subarticle 2.1 hereof, it is the intention of the Parties to pursue an overall revenue policy objective in the Trade, as described in Appendix C hereto. Such a revenue policy objective shall be maintained hereunder pursuant to subarticle 5.10 and other

FMC Agreement No.: 011223-009 Effective Date: Friday, January 6, 1995
Downloaded from www.FMC.GOV on Thursday, April 27, 2017

AMERICAN PRESIDENT LINES, LTD.

By: _____ Date Signed: November 9, 1994
Name: Frank Masi
Title: Vice President, Sales & Pricing

EVERGREEN MARINE CORP. (TAIWAN) LTD.

By: _____ Date Signed: November 9, 1994
Name Jones Wu
Title: Deputy Senior Vice President, Project Division

HAPAG-LLOYD AKTIENGESELLSCHAFT

By: _____ Date Signed: November 9, 1994
Name: M. Barragan
Title: Manager, Conferences & Pricing

HANJIN SHIPPING CO., LTD.

By: _____ Date Signed: November 9, 1994
Name: J.S. Lee
Title: Team Manager, Marketing & Sales Team

HYUNDAI MERCHANT MARINE CO., LTD.

By: _____ Date Signed: November 9, 1994
Name: J.H. Lee
Title: General Manager, Container Business Division

KAWASAKI KISEN KAISHA, LTD.

By: _____ Date Signed: November 9, 1994
Name: K. Kuroya
Title: Assistant General Manager Liner Department

A.P. MOLLER - MAERSK LINE

By: _____ Date Signed: November 9, 1994
Name: Per Heisselberg
Title: General Manager, Transpacific Services

FMC Agreement No.: 011223-009 Effective Date: Friday, January 6, 1995
Downloaded from www.FMC.GOV on Thursday, April 27, 2017

MITSUI O.S.K. LINES, LTD.

By: _____ Date Signed: November 9, 1994
Name: T. Miyata
Title: Deputy General Manager, North America Division

NEPTUNE ORIENT LINES, LTD.

By: _____ Date Signed: November 9, 1994
Name: Whye Yip Khuen
Title: Manager, Marketing/Pricing North America Service

NIPPON YUSEN KAISHA

By: _____ Date Signed: November 9, 1994
Name: S. Todaka
Title: Assistant General Manager North America Division

OOCL (U.S.A.) Inc., for and on behalf of
ORIENT OVERSEAS CONTAINER LINE, INC.

By: _____ Date Signed: November 9, 1994
Name: M.K. Wong
Title: Vice President, Pricing Transpacific Trade

SEA-LAND SERVICE, INC.

By: _____ Date Signed: November 9, 1994
Name: W.H. Niemann
Title: Vice President, Conferences & Agreements

YANGMING MARINE TRANSPORT CORP.

By: _____ Date Signed: November 9, 1994
Name: J. Tsao
Title: Manager, Eastbound Marketing/Pricing, Transp. Div., Business Department

FMC Agreement No.: 011223-009 Effective Date: Friday, January 6, 1995
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

[This Page is intentionally left blank.]

FMC Agreement No.: 011223-009 Effective Date: Friday, January 6, 1995
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

APPENDIX C

STATEMENT OF REVENUE POLICY OBJECTIVE

In order that the Parties may address effectively the severe structural and competitive problems caused by instability of rates and services in the Trade, they have agreed upon an overall policy objective that rates and revenues will be restored to reasonable levels; provided that the effectuation of such revenue improvement in the Trade shall be in full regard for the requirements of the Shipping Act of 1984, including without limitation the mandatory right of independent action of each Party that is a member of one or more Conferences identified in subarticle 5.13(a) of the Agreement, and as consistent with the Shipping Act's purpose to sustain a healthy competitive environment for cargo transportation services in U.S. foreign commerce.

Accordingly, all Parties will use their best efforts, subject to the above proviso, to effect increased rates, charges and surcharges, cost recovery, economies and efficiencies in the trades and various subtrades covered by the Conferences and this Agreement, as steps toward revenue improvement in the Trade. The Parties will communicate with each other concerning any actions proposed and taken, for the purpose of achieving coordination of

FMC Agreement No.: 011223-009 Effective Date: Friday, January 6, 1995
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

the implementation dates and in the amount of revenue improvement, including rates, rules and practices, pursuant to tariffs and service contracts of all Parties, while observing any applicable confidentiality requirements under the Conferences or other relevant agreements in the Trade.