Original Title Page

TRANSPACIFIC STABILIZATION AGREEMENT

FMC AGREEMENT NO. 011223-027
(2nd Edition)

A Cooperative Working Agreement

Among Ocean Common Carriers

EFFECTIVE
FEB - 4 2002
UNDER THE SHIPPING ACT OF 1984
Federal Maritime Commission

This Agreement is herein republished.
It does not contain an expiration date.

FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003
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	2
ARTICLE 4 -	GEOGRAPHIC SCOPE OF AGREEMENT	2
ARTICLE 5 -	AUTHORITY	3
ARTICLE 6 -	AGREEMENT OFFICIALS AND DELEGATIONS OF AUTHORITY	11
ARTICLE 7 -	MEMBERSHIP AND WITHDRAWAL	13
ARTICLE 8 -	VOTING	13
ARTICLE 9 -	DURATION AND TERMINATION	14
ARTICLE 10 -	INCOME AND EXPENSES	14
ARTICLE 11 -	INDEPENDENT ACTION	14
ARTICLE 12 -	ARBITRATION	15
ARTICLE 13-	SERVICE CONTRACTS	15
SIGNATURE PAGES		
APPENDIX A -	Parties to Agreement	
APPENDIX B -	Rules and Procedures for Charter Activities	

FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003 FEB - 4 2002
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

ARTICLE 1 - NAME OF AGREEMENT

The name of this Agreement is the Transpacific Stabilization Agreement.

ARTICLE 2 - PURPOSE OF AGREEMENT

The purpose of the Agreement is to promote a commercially viable and economically sound transportation system in the Trade covered by this Agreement, to foster commerce, service and stability in the Trade and, as a matter of overall policy, to effect revenue recovery and restoration, reduce costs, improve profitability and increase efficiency of the Parties' transportation operations.

ARTICLE 3 - PARTIES TO AGREEMENT

The names and principal office addresses of the Parties to the Agreement are listed in Appendix A hereto.

ARTICLE 4 - GEOGRAPHIC SCOPE OF AGREEMENT

The Agreement covers the trades and various subtrades (collectively, 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. 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. "United States" means the continental United States, Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands.

ARTICLE 5 - AUTHORITY

5.1 The Parties (or any two or more of them, subject to the provisions of Articles 5.2 and 5.7) are authorized to:

(a) Exchange information and points of view, discuss, evaluate, and reach voluntary, non-binding agreement on any and all aspects of: tariffs, service contracts, general rate and revenue levels, specific rates and charges, maintaining, increasing and decreasing rates and charges, service items, classifications, practices, terms, conditions, rules and regulations applicable to transportation of cargo in the Trade and to services provided in connection therewith, notice periods for changing rates and service items, port-to-port rates, overland rates, minilandbridge rates, intermodal rates, proportional rates, through rates, inland rates, inland portions of through rates, joint rates,

minimum rates, class rates, surcharges, arbitraries, volume rates, time/volume rates, project rates, unit rates, commodity rates, freight-all-kinds rates, volume

incentive programs, loyalty arrangements or fidelity commission systems, consolidation, consolidation allowances, rates on commodities exempt from tariff filing, absorptions, equalization, substituted (alternate port) services, allowances, freight forwarder compensation, brokerage, and conditions determining such compensation, brokerage and the payment thereof, commissions payable to booking agents, sales agents, receiving agents or other agents, brokers or other persons, receiving, handling, storing and delivery of cargo, liabilities and bill of lading conditions, designation of base ports and points, pickup and delivery charges, free time practices, detention and demurrage, container depots, terminals and other points of cargo receipt, vanning and devanning, furnishing equipment to or leasing equipment from shippers, consignees, inland carriers and others, collection agents at destination, rules regarding the time and currency in which the Parties collect rates and charges, credit terms and conditions, suspension and restoration of credit privileges, handling of delinquent accounts and interest thereon, and practices, rules, regulations and matters ancillary to transportation of cargo in the Trade;

(b) Collect, exchange and disseminate statistics, data, reports, documents and other information relevant to the Trade, to discuss same and to

FEB - 4 2002
FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

reach agreement on actions to be taken based on such information. Such statistics and information include, but are not limited to: economic forecasts; past, present or expected future conditions in all or any portion of the Trade; general economic trends affecting the industry such as fiscal and monetary policies of national governments and/or international bodies; trends in trade growth or development; trade and cargo flows and imbalances; expected demand for liner transportation services in the Trade; past, current, or expected containership capacity (owned and/or chartered) deployed or to be deployed in the Trade by Parties and/or non-Parties; carrier revenues, profits and losses; the Parties' round-trip economics in the Transpacific trades (eastbound and westbound) and factors relating thereto, including the costs and logistics of repositioning vessels and equipment, the costs, revenues and profitability of round-trip voyages and their respective components, and economic, trade and operational trends or conditions (including supply and demand, present or

expected) affecting the Parties' round-trip voyages; operational or technological developments and changes affecting the transportation services provided by the Parties; proposed or enacted legislation, regulations or policy of any national or sub-national government (including courts); actions by third parties such as terminal operators or conferences thereof, ports, other vessel-operating and non-vessel-operating common carriers, shippers or shipper groups, canals, tug operators, inland carriers, or other persons concerned with the Trade; and

(c) Discuss, consider, exchange information and data, negotiate, reach agreement or consensus upon and, as provided herein, to establish, implement and maintain, jointly or individually, transportation rate policies, practices and guidelines, including those relating to all aspects of the separate tariffs and service contracts of each of the Parties, and of conferences and other agreements effective under the Shipping Act of 1984, as amended, in which one or more Parties may participate, applicable to transportation of cargo in the Trade and to services provided in connection therewith. Such rate policies, practices, and guidelines include general revenue recovery and restoration, other rate and charge increases, decreases or other adjustments; service matters; identification, recovery, containment, or reduction of carrier costs, and the realization of economies and efficiencies in the Trade or any portion

FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003 - 4 2002
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

thereof; and the application, negotiation, bid, proposal or implementation of specific rates, charges and conditions, and adjustments thereof, and/or differentials among Parties' rate levels, charges, or services, applicable to certain cargo. Such ratemaking guidelines may include service contract guidelines adopted pursuant to Article 13.4 hereof, and other agreed-upon procedures, standards, timetables, centralized communications and other common or coordinated processes with respect to all aspects of service contracts, including existing or proposed contract rates, terms, negotiations, bids, or proposals, to assist the Parties in implementing the Agreement's guidelines and policy objectives in the Trade or subtrades thereof. The Parties or one or more of them may communicate with each other concerning any actions proposed or taken, for the purpose of achieving coordination of the implementation thereof and in the amount of revenue improvement, including rates, rules and practices, pursuant to tariffs and service contracts of each Party, while observing any applicable confidentiality requirements. Specifically, and without limitation, Parties may voluntarily notify each other in advance, through the Agreement's

Secretariat or directly, of planned or proposed rates, charges, rules, terms, conditions, proposals and other actions, including any pertinent basis or circumstance, in order to permit research, discussion and/or evaluation of such actions in light of the Agreement's guidelines and objectives and to provide relevant feedback and comments from other Parties.

5.2 Nothing in this Agreement may be construed as obligating any Party to adhere, other than voluntarily, to any uniform or differential rates, charges, service items, rules, practices, guidelines, policies or other actions taken hereunder (except to the extent that the Parties may agree from time to time to incur a common expense or contractual obligation to third parties or vendors, the costs of which shall be shared among the Parties as provided herein), or as limiting a Party's right independently to continue to make changes in its tariffs, service contracts, rules and practices. This Agreement does not authorize any common tariffs. The Parties will, to the extent required by law or as determined by each of them, publish and file their own separate tariffs and service contracts, and/or will participate in the separate tariffs and service contracts of conferences and other authorities effective in the Trade, provided that the Parties, or some of them, may establish coordinated or common processes for monitoring under Agreement guidelines and effecting

FEB - 4 2002
FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

tariff and service contract filings made, or proposed to be made, on their behalf. Such processes may include a central filing entity responsible for processing, publishing, filing, amending and maintaining tariffs, service contracts and related materials on the Parties' behalf, and under such terms and conditions as each participating Party may approve, which central filing entity may also serve in administrative and/or managerial capacities for the Agreement. Except with respect to particular individual service contracts, existing or proposed, the Parties, either directly or through the Agreement's secretariat, may communicate regarding, or seek clarification or explanation of, a Party's actual or apparent fulfillment or lack of fulfillment of an Agreement guideline or objective. Any two or more of the Parties are authorized to caucus or otherwise discuss, consider and exchange information concerning any matter within the scope of this Agreement; provided, however, that while such Parties may reaffirm any previous agreement reflected in minutes and/or voluntary service contract guidelines filed with the Federal Maritime Commission, they may not reach agreement except through a vote of the Agreement or of a duly established committee or subcommittee of the Agreement, at a meeting or as otherwise provided for under Article 8 of this

Agreement, and reported in minutes filed with the Federal Maritime Commission. Provided, however, said Parties may reach common positions and communicate same to any other Party or Parties or the full Agreement membership for consideration, discussion or negotiation.

5.3 (a) Each Party is authorized, as needs arise, to charter, cross-charter, subcharter and exchange (collectively, "charter") vessel capacity offered in the Trade by another Party or Parties on such commercial terms (including trading or exchange of space or equipment, assumption of equipment lease costs, or monetary payments) as may be mutually agreed between them to reflect market circumstances at the time of the charter. Such chartering is authorized hereunder pursuant to the rules and procedures set forth in Appendix B to this Agreement. No Party has any obligation under this Agreement to charter vessel capacity to any other Party, except as Parties may from time to time mutually agree.

(b) Any charter arrangements which are entered into between or among the Parties pursuant to Article 5.3(a) and Appendix B of this Agreement shall be reported to the FMC as part of any quarterly Monitoring Reports required by the Agreement, describing for each such arrangement (a) names of Charterer and Owner, (b) TEU measurement of all Cargo carried, (c) sailing date (or, if more than one sailing is involved, commencement and termination dates) and (d) ports from and to which the arrangement applies. If the Parties enter into no such charter arrangement during the applicable period, the Monitoring Report will so indicate.

FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003 4 2002
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

5.4 This Agreement does not authorize the Parties to engage in conduct prohibited by the Shipping Act of 1984.

5.5 The Parties are authorized to exchange information with, make proposals and/or recommendations to, and/or consider and act upon proposals/recommendations of, the Ocean Carrier Equipment Management Association, FMC Agreement No. 011284 ("OCEMA"), with respect to activities authorized by or pending before OCEMA and this Agreement and to advise OCEMA of the disposition of such matters.

5.6 For the convenience of shippers in the Trade, as provided in Article 13 hereof, any two or more parties to the Agreement are authorized to discuss, agree on, negotiate, and, upon the agreement of a shipper(s), enter into joint service contracts with one or more shippers for the movement of cargo within all or any part of the trade covered by this Agreement.

5.7 Notwithstanding any other provision of this Agreement, nothing in this Agreement shall: (a) authorize the exchange of named shipper information from existing or proposed individual service contracts (except for the authority contained in Article 5.6); or (b) permit TSA or any of its members to enter into any voluntary non-binding agreement except for any such agreement reached at a meeting or pursuant to a vote as provided in this Agreement for which

minutes are filed with the Federal Maritime Commission. Nothing in this Agreement shall derogate from the authority of any TSA member or members under any other agreement, including an existing agreement that is filed with the Federal Maritime Commission and effective under the Shipping Act of 1984.

ARTICLE 6 - AGREEMENT OFFICIALS AND DELEGATIONS OF AUTHORITY

6.1 The Parties are authorized to retain a Secretariat to administer the Agreement and to appoint an Executive Director and such other Agreement officials as they may deem necessary and appropriate. Subject to the direction of the Parties, the Secretariat and Executive Director shall have general responsibility for supervising and monitoring day-to-day activities under the

Agreement, including maintaining all records of the Agreement and administering all documentation and reporting requirements applicable to or under the Agreement.

6.2 The Secretariat shall make reports to the Parties as required or directed from time to time, and shall take any other actions as directed by the Parties to further the purposes of the Agreement.

6.3 Meetings of the Parties will be held as needed, either in person, by teleconference, video conference, or other electronic means, and will be called by the Executive Director (or the chairman of a committee or subcommittee hereunder in the case of a committee meeting) upon at least ten calendar days' electronic notice of the time and place, to be followed as soon as possible by an agenda. An emergency meeting may be called upon at least five calendar days' electronic notice, unless all Parties (or all Parties that are members of a committee hereunder for which an emergency meeting is called) receive without objection a shorter notice for the particular emergency meeting called.

6.4 Upon action taken by the Parties in accordance with this Agreement, the Executive Director and the counsel to the Agreement are each authorized to execute and file on the Parties' behalf minutes of meetings and other documents as required by law.

6.5 The Parties will establish such standing, advisory and ad hoc committees as they deem desirable for the furtherance of the purpose of the Agreement. Such committees may establish procedures and guidelines for their activities, as consistent with the overall direction of the Parties.

ARTICLE 7 - MEMBERSHIP AND WITHDRAWAL

7.1 Any ocean common carrier that regularly operates liner vessels in the Trade may become a Party to the Agreement upon application to the Secretariat, execution of the Agreement and action by the Parties.

7.2 All changes in the Parties to the Agreement will be effective in accordance with the regulations of the FMC.

7.3 Any Party may withdraw from the Agreement at any time by providing not less than thirty (30) days' written notice of withdrawal to the Secretariat. A Party that has given notice of withdrawal shall have no vote on matters before the Agreement.

ARTICLE 8 - VOTING

Agreement action, including modifications to this Agreement, shall be upon unanimous vote of all Parties who are then entitled to vote. Voting may

be accomplished during a meeting as well as by telephone, video conference, e-mail, telefax, telex, or any electronic or other means as designated by the Agreement Secretariat.

ARTICLE 9 - DURATION AND TERMINATION

This Agreement shall commence on the Effective Date and shall remain in effect until terminated by a unanimous vote of the Parties.

ARTICLE 10 - INCOME AND EXPENSES

10.1 The Parties shall pay in equal shares all monthly invoices from the Secretariat including, but not limited to, the following:

(a) Secretariat's fee and expenses;

(b) Counsel's fee and expenses; and

(c) Other general expenses (travel, communications, consultants, etc.) as agreed from time to time.

10.2 Any Party resigning from this Agreement shall remain liable for its share of Agreement expenses through the date on which its resignation becomes effective

ARTICLE 11 - INDEPENDENT ACTION

Nothing in this Agreement shall abridge, expand or otherwise alter the right of independent action of any Party who is a member of a conference or rate agreement effective in the Trade.

ARTICLE 12 – ARBITRATION

Any disputes arising out of or in connection with this Agreement shall be resolved by arbitration before a single arbitrator in the San Francisco Bay Area, California, USA, said arbitrator to be agreed upon by the Party or Parties on opposing sides of the issue. Failing such agreement, the arbitrator shall be appointed by the President of the Society of Maritime Arbitrators of New York, Inc. The arbitration shall be conducted pursuant to the procedural rules of the said Society of Maritime Arbitrators.

ARTICLE 13 - SERVICE CONTRACTS

13.1 Any two or more Parties to the Agreement may negotiate and enter into service contracts with one or more shippers, as that term is defined in the Shipping Act of 1984, as amended, for the movement of cargo within all or any part of the trade covered by this Agreement. Such contracts shall be referred to herein as "joint service contracts." Any Party may also enter into an individual contract in the trade.

13.2 The Party(ies) involved shall be responsible for filing any individual or joint service contract with the Federal Maritime Commission and for

FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003 4 2002
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

publishing any essential terms of such contracts as required by the Shipping Act of 1984, as amended, and any applicable FMC regulations. To the extent authorized by the Party(ies), and if and to the extent permitted under applicable FMC regulations, the Agreement Secretariat may also file and/or publish, or perform other administrative services with respect to, individual or joint contracts. The Secretariat shall not disclose the rates or terms of such contracts to other TSA members without the consent of all carrier Parties participating in the contract.

13.3 No Party to the Agreement shall be required to disclose to the Agreement or any other Party a negotiation on an individual or joint service contract or the terms and conditions of any such service contract other than those terms and conditions required to be published under the Shipping Act of 1984, as amended.

13.4 The Parties to the Agreement may discuss and, by a unanimous vote, agree on, adopt, repeal, or amend guidelines regarding rates, charges, rules, contract provisions, and any and all terms and/or procedures of all or a portion of any joint or individual service contracts entered into by a Party or Parties. Such guidelines shall be voluntary, and each Party to the Agreement has the right not to follow any or all of the guidelines in any given service

FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003 - 4 2002
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

contract. No penalty of any kind may be imposed on a Party due to its failure to follow or adhere to any guideline adopted by the Agreement pursuant to this Article 13. Any guidelines adopted pursuant to this Article shall be confidentially submitted to the Federal Maritime Commission in the form and manner required by FMC regulations.

FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003 B - 4 2002
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

Transpacific Stabilization Agreement
FMC Agreement No. 011223-028
(2nd Edition)

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have agreed this 19th day of September, 2003, to amend this Agreement and to cause the Agreement, or true counterparts hereof, to be executed by their duly authorized representatives.

A.P. Moller-Maersk A/S
trading under the name of
Maersk Sealand

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact.

American President Lines, Ltd.
And APL Co. Pte. Ltd. (Operating
as A Single Carrier)

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact.

Hapag-Lloyd Container Linie GmbH

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact

Mitsui O.S.K. Lines, Ltd.

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact

P&O Nedlloyd B.V.

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact

Nippon Yusen Kaisha Line

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact

EFFECTIVE NOV - 6 2003

Transpacific Stabilization Agreement
FMC Agreement No. 011223-028
(2nd Edition)

SIGNATURE PAGE (Continued)

P&O Nedlloyd Limited

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact

Orient Overseas Container Line, Inc.

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact

Yangming Marine Transport Corp.

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact

Cosco Container Lines Ltd.

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact

Kawasaki Kisen Kaisha, Ltd.

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact

CMA CGM S.A.

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact

Hanjin Shipping Co., Ltd.

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact

Hyundai Merchant Marine Co., Ltd.

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact

EFFECTIVE NOV - 6 2003

Transpacific Stabilization Agreement
FMC Agreement No. 011223-028
(2nd Edition)

SIGNATURE PAGE (Continued)

Evergreen Marine Corp. (Taiwan) Ltd.

By: David F. Smith
Name: David F. Smith
Title: Attorney-in-Fact.

EFFECTIVE NOV - 6 2003

APPENDIX A

PARTIES TO AGREEMENT

American President Lines, Ltd.
and APL Co. PTE Ltd. (Operating
as a Single Carrier)
1111 Broadway
Oakland, CA 94607

A.P. Moller-Maersk A/S
trading under the name of Maersk Sealand
50, Esplanaden
DK-1098 Copenhagen, Denmark

CMA CGM S.A.
4 Quai d'Arnec
P.O. Box 2409
Marseille 13215 Cx2 France

Cosco Container Lines Ltd.
1551-1555, Chang Yang Road
Shanghai, 200090
People's Republic of China

Evergreen Marine Corp. (Taiwan) Ltd.
Evergreen Building
330 Minsheng East Road
Taipei, Taiwan 104
Republic of China

Hanjin Shipping Co., Ltd.
25-11, Yoido-dong, Youngdeungpo-ku
Seoul, Korea

Hapag-Lloyd Container Linie GmbH
Ballindamm 25
20095 Hamburg, Germany

APPENDIX A (Cont'd)

Hyundai Merchant Marine Co., Ltd.
2-15th Floor, Mukyo Hyundai Building
96, Mukyo-Dong, Chung-Ku
Seoul, Korea

Kawasaki Kisen Kaisha, Ltd.
Hibiya Central Building
2-9, Nishi-Shinbashi 1-Chome
Minato-ku, Tokyo 105
Japan

Mitsui O.S.K. Lines, Ltd.
1-1, Toranomon 2-Chome
Minato-ku, Tokyo 105-91
Japan

Nippon Yusen Kaisha
Yusen Building
3-2, Marunouchi 2-Chóme
Chiyoda-ku, Tokyo 100-91
Japan

Orient Overseas Container Line Limited.
31st Floor, Harbor Centre
25 Harbor Road
Wanchai, Hong Kong

P&O Nedlloyd B.V. One Meadowlands Plaza, 12th Floor East Rutherford, NJ 07073	) Single (shared) vote under Article 8) of the Agreement and a single share of) expenses under Article 10
P&O Nedlloyd Limited One Meadowlands Plaza, 12th Floor East Rutherford, NJ 07073	)

FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

APPENDIX A (Cont'd)

Yangming Marine Transport Corp.
271 Ming De 1st Road
Chidu, Keelung, Taiwan 206
Republic of China

FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

APPENDIX B

RULES AND PROCEDURES
FOR CHARTER ACTIVITIES

In implementation of Article 5.3 of the Agreement, the Parties hereby establish the following rules and procedures governing their voluntary, mutual chartering, cross-chartering, subchartering and exchange (collectively, "chartering") of available capacity on their respective vessels operated in the Trade.

1. Definitions

A Party who charters vessel capacity from another Party is referred to as a "Charterer" and a Party whose vessel capacity is chartered by another Party is referred to as an "Owner".

2. Parties' Rights and Obligations

(a) A Party may advise any other Party at any time of the need for, or the availability of, vessel capacity for charter pursuant to this Agreement. Except as provided in paragraph (b) below, an Owner may charter to another Party capacity under the Owner's operational control on any transpacific, feeder, relay or other vessel utilized for transportation of cargo.

(b) Any Party not entitled to vote on Agreement matters may not charter vessel capacity from another Party pursuant to this Agreement until its

FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017
FEB - 4 2002

right to vote is restored; and, no Party shall so charter capacity to any Party not entitled to vote.

(c) A charter of capacity hereunder shall be of a duration not longer than 90 days, or until completion of a voyage commenced during such 90-day period on which capacity is chartered, whichever is later.

(d) A Charterer shall pay any monetary obligations incurred to an Owner hereunder no later than the time agreed between the Owner and the Charterer, but if not other-wise agreed no later than 30 days after the ocean transportation on a particular vessel is completed.

(e) Nothing herein shall be construed as a demise or partial demise of any vessel of any Party. At all times during any voyage on which cargo, containers or other equipment are carried pursuant to a charter hereunder, the Master, his delegates, the officers and crew shall be and remain the employees and agents of the owner and not the employees or agents of the Charterer.

(f) Cargo shipped under a charter pursuant to this Agreement shall be consigned to the Charterer and transported by the Owner on a contract basis.

(g) For purposes of implementing charters under this Agreement, any Party who participates in a charter or similar arrangement in the Trade with another Party or Parties pursuant to a separate agreement filed and effective in accordance with the regulations of the FMC shall be permitted to discuss and agree on common positions regarding charters hereunder.

FEB - 4 2002
FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

(h) Applicable laws, regulations, orders, resolutions and such other governmental policies requiring cargo to be carried in whole or in part by a national-flag carrier shall be observed, or appropriate waivers obtained.

(i) The Parties shall establish suitable, timely reporting to the Secretariat of charter activities under the Agreement.

4. Responsibility for Loss or Damage

Owners assume liability as provided in the United States Carriage of Goods by Sea Act, 46 U.S.C. §§1301-1315 ("COGSA"), for containers, chassis, proprietary cargoes or other equipment while in the custody and under the control of Owners. Such items shall be considered "goods" within the meaning of COGSA, and Owners' liability to Charterers for loss or damage thereto shall be determined in accordance with the provisions of COGSA. However, owners shall not be responsible for loss or damage to cargo in the container or other equipment or to the container or other equipment itself that does not result from any act or omission of Owners or their agents or employees, or the master, officers or crew of Owners' vessel.

Owners shall bear and pay for, and at their sale cost and expense, defend, protect, indemnify and save harmless Charterers from any legal liability for loss or damage to cargo, containers or other equipment carried under the terms of this Agreement while in the custody or under the control of Owners. Notwithstanding the foregoing, in the event of any conflict between the terms

FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017
FEB - 4 2002

and conditions of any charter, bill of lading or other transportation agreement between an Owner and a Charterer, and the terms and conditions of this Article 4, such other agreement shall take precedence over this Article.

5. Insurance

Owners will, as to their vessels, provide, pay for and provide any Charterer of capacity on their vessels with satisfactory evidence of, full form Hull, P & I, war risk and financial responsibility for oil pollution insurance within ten days after receipt of request therefor from such Charterer. The amounts of such insurance and deductibles thereunder will be placed and maintained in accordance with prudent shipowning practice. Owners further agree to provide any Charterer with written notice prior to cancellation of any such insurance and prompt notice of any change, modification or non-renewal of such insurance or non-payment of premiums therefor.

6. Resolution of Disputes

Except as otherwise specifically provided in a charter arrangement under this Agreement, any dispute or claim (other than for cargo loss or damage) arising thereunder which is not amicably settled by the Parties to the charter shall be resolved by arbitration in accordance with Article 12 of the Agreement.

FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003 - 4 2002
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

7. Amendment

These rules and procedures may be modified and amended only in accordance with Article 8 of the Agreement and upon the effectiveness of an appropriate amendment of the Agreement pursuant to the regulations of the FMC.

FMC Agreement No.: 011223-028 Effective Date: Thursday, November 6, 2003- 4 2002
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017