

~~CNCOSSL~~/Matson Pacific Islands Vessel Sharing Agreement

FMC Agreement No. 201345

Effective Date:

Commencement Date:

~~CNCOSSL~~/MATSON PACIFIC ISLANDS VESSEL SHARING AGREEMENT

WHEREAS, ~~THE CHINA NAVIGATION COMPANY PTE. LTD.~~ SWIRE SHIPPING PTE. LTD. and MATSON SOUTH PACIFIC LIMITED each independently operate various liner shipping services under their own trade names in various trades throughout the world;

WHEREAS, the parties wish to expand and improve their respective liner shipping services in the South Pacific island trades, including calls at American Samoa;

WHEREAS, the parties wish to cooperate to establish a new service in the trades covered by this Agreement, and to independently offer the new service to their respective customers under their individual trade names;

WHEREAS, by cooperating to establish the new service, the parties expect to achieve efficiencies and economies in respective services in the trades covered by this Agreement;

THEREFORE, in consideration of the premises, and the mutual covenants, terms and conditions set forth herein, the parties hereto agree as follows:

ARTICLE 1: FULL NAME OF THE AGREEMENT

The full name of this Agreement is the ~~CNCO~~SSL/MATSON PACIFIC ISLANDS VESSEL SHARING AGREEMENT (hereinafter referred to as this "Agreement" or "VSA").

ARTICLE 2: PARTIES TO THE AGREEMENT

The parties to this Agreement (each a "Party," and collectively, the "Parties") are:

~~The China Navigation Company Pte. Ltd.~~ Swire Shipping Pte. Ltd. ("~~SSL~~CNCO")

Unit 27-01, 300 Beach Road, The Concourse

199555

Singapore

and

Matson South Pacific Limited ("Matson")

68 Anzac Avenue

Auckland Central

Auckland, 1010

New Zealand

For purposes of this Agreement:

- a) The "Vessel Operator" shall be the Party which is the owner, disponent owner, or charterer of the Vessel, and is operating that Vessel in the Service; and
- b) The "Container Operator" shall be the Party which is entitled to slots on the vessels of the Vessel Operator pursuant to the terms of this VSA, and which is the Carrier under its bill of lading or other contract of carriage in respect of goods carried

under this VSA.

ARTICLE 3: UNDERTAKING AND PURPOSE

The purpose of this Agreement is to expand and improve the liner shipping services independently operated by ~~CNCO-SSL~~ and Matson in the trade covered by this Agreement. The Parties will accomplish this purpose by cooperating to establish a new Service utilizing vessels contributed, and independently operated, by each of the Parties hereto. The Parties shall share space on the vessels employed in the new Service according to the terms of this Agreement.

ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT

The initial service structure of this Agreement covers the trade between and among ports in New Zealand, Tonga, Fiji, Samoa, American Samoa, the Cook Islands and Niue (hereinafter the "Trade"). Service which does not involve American Samoa is included for informational purposes only.

ARTICLE 5: AGREEMENT AUTHORITY

5.1: The Service

The port rotation in the Service shall be:

Loop 1: Auckland (New Zealand), Nuku'alofa (Tonga), Lautoka* (Fiji), Suva (Fiji), Apia (Samoa) , Niue, Vava'u (Tonga), Nuku'alofa (Tonga), Auckland (New Zealand), Marsden Point (New Zealand), Auckland (New Zealand)

Initially, ~~CNCO-SSL~~ shall provide one (1) vessel and Matson shall provide two (2) vessels. The

Parties

shall discuss and mutually agree upon the timing, location, and other aspects of phasing-in and phasing-out of the Vessels to be deployed in the Service.

The Parties may also discuss and agree to the conditions upon which a Party may substitute a vessel for a Vessel deployed in the Service, provided that (i) any substitute Vessel shall satisfy the requirements of Article 5.2 hereof, and (ii) the substitute Vessel shall be phased-in at the same position in the cycle as the Vessel it replaces unless otherwise mutually agreed, and (iii) all additional costs including but not limited to transshipment and feeder expenses due to substitution of a Vessel by a Party shall be for the account of the Party substituting the Vessel. The Parties may establish other operational requirements for Vessel substitution as they shall deem appropriate.

The Parties may also consult and agree upon

- a) the number, type, and capacity of vessels to be operated by each of them in the Service,
- b) the allocation of space on vessels deployed in the Service, and
- c) the terms upon which each may charter additional slots to the other on vessels deployed in the Service,

provided that any change in the number of vessels deployed in the Service in excess of the increase or decrease of one vessel contemplated in Article 5.1 may only be accomplished by amendment to this Agreement filed with the U.S. Federal Maritime Commission ("FMC"). The Parties shall notify the FMC of any decrease or increase in the size of the vessels deployed, but such changes shall not require an amendment to this Agreement.

Each Party shall operate its own Vessels deployed in the Service, and shall pay for the fixed and variable costs associated therewith, including, but not limited to, daily running costs, charter hire, bunkers, port charges, dry docking, repairs and insurance.

5.4: Vessel Scheduling and Performance

From time to time the Parties will agree on sailing schedules for the Service based on a pro-

date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the VSA; and

- (a) Use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

ARTICLE 15: HARDSHIP

In the event that a Party considers that any cause, happening, or event not within its control substantially impairs its ability to enjoy its rights or carry out its obligations hereunder, then at its request, the Parties shall meet with all reasonable dispatch in order to consider such possible adjustment of the terms hereof as may be mutually acceptable.

ARTICLE 16: NOTICES

All notices required by this Agreement shall be sent by facsimile or other electronic means, with a confirmation copy sent by registered mail, return receipt requested, addressed as set forth below. All other written communications pertaining to or in connection with this Agreement may be sent by facsimile or other electronic means, addressed as set forth below:

1. ~~The China Navigation Company Pte. Ltd.~~ Swire Shipping Pte. Ltd.
Address: 300 Beach Road. #27-01 The Concourse, 199555 Singapore
Phone: +65 6603 9400
Fax/email: jeremy.sutton@~~swirencos~~swireshipping.com
2. Matson South Pacific Limited
Address: 68 Anzac Avenue, Auckland Central, Auckland, 1010, NZ

the FMC and shall become effective in accordance with the terms of the Shipping Act of 1984, as amended.

ARTICLE 20: COMPLIANCE WITH U.S. LAWS

The Parties shall at all times comply with all applicable laws and regulations of the United States in force during the term of this Agreement. Any consequences resulting from non-compliance by a Party with U.S. laws or regulations shall be borne in full by the non-compliant Party.

ARTICLE 21: COUNTERPARTS

This Agreement may be executed in two or more counterparts. Each such counterpart shall be deemed an original, but all together shall constitute one and the same instrument.

ARTICLE 22: SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the dates set forth below.

~~The China Navigation Company Pte. Ltd.~~

Swire Shipping Pte. Ltd.

Matson South Pacific Limited

By: _____

By: _____

Name:

Name:

Title:

Title:

Date:

Date: