

SETTLEMENT AGREEMENT BETWEEN
THE FEDERAL MARITIME COMMISSION
AND AGREEMENTS AND OCEAN CARRIERS
OPERATING IN THE EASTBOUND TRANSPACIFIC TRADES

This SETTLEMENT AGREEMENT (the "Settlement Agreement") is entered into as of this 11th day of September, 2003, by and between, on the one hand, the Federal Maritime Commission ("Commission") and, on the other hand, the Transpacific Stabilization Agreement, FMC Agreement No. 011223 ("TSA" or "TSA Agreement"), the Indamex Agreement, FMC Agreement No. 203-011692 ("Indamex"), the Indamex/TSA Bridging Agreement, FMC No. 205-011784 ("Indamex Bridging Agreement"), the Evergreen/Lloyd Triestino/Hatsu Marine Alliance, FMC No. 233-011745 ("Alliance"), the Evergreen/Lloyd Triestino/Hatsu Marine Alliance/TSA Bridging Agreement, FMC No. 205-011799 ("Alliance Bridging Agreement") (TSA, Indamex, Indamex Bridging Agreement, Alliance, and Alliance Bridging Agreement being referred to collectively herein as the "Agreements"), and each of the ocean carrier member lines of the Agreements, namely, American President Lines, Ltd., APL Co. PTE Ltd., A. P. Moller-Maersk SeaLand, CMA CGM S.A., Cosco Container Lines Company Ltd., Evergreen Marine Corp. (Taiwan) Ltd., Hanjin Shipping Co., Ltd., Hapag-Lloyd Container Linie GmbH, Hyundai Merchant Marine Co., Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kabushiki Kaisha, Orient Overseas Container Line Limited, P&O Nedlloyd B.V., P&O Nedlloyd Limited, Yangming Marine Transport Corp., Hatsu Marine Ltd., Lloyd Triestino di Navigazione, S.p.A., Contship Containerlines, Division of CP Ships (UK) Limited, and Shipping Corporation of India, Ltd. (collectively, the "Members"). The Commission, Agreements, and Members shall together constitute the Parties hereto.

WHEREAS, the Commission believes that the Agreements and the Members engaged in activities that may have violated various provisions of the Shipping Act of 1984, as amended, 46 U.S.C. app. §1701 et seq. (the "Act" or "Shipping Act of 1984"), and that may have violated various sections of the Commission's regulations, including 46 CFR §§ 535.706(a) and (b); and

WHEREAS, the Commission has considered and investigated fully all of the allegations made in a joint petition filed with the Commission by the National Customs Brokers and Forwarders Association of America, Inc. and the International Association of NVOCCs on May 10, 2002 (the "Petition"); and

WHEREAS, in connection with the foregoing, the Commission instituted Fact Finding Investigation No. 25 - Practices of Transpacific Stabilization Agreement Members Covering the 2002-2003 Service Contract Season, on August 23, 2002, pursuant to which the Investigative Officer issued a Section 15 Order to the TSA Agreement and its Members, requested and reviewed numerous documents, and conducted hearings at which it heard testimony from NVOCCs, ocean common carriers and other witnesses; and

WHEREAS, following receipt of the confidential report of the Investigative Officer in Fact Finding Investigation No. 25, the Commission issued an Amended Fact Finding Order to continue investigation of all issues identified in the initial Order instituting the Fact Finding Investigation, and issued two Section 15 Orders to the Agreements and their Members and requested and received additional documents and information; and

WHEREAS, in the course of its investigation of the activities of the Agreements during the period 2000 to the present, the Commission expressed concern that the broad authority of the TSA and other Agreements and Members' activities under those Agreements, including but not limited to discussions with regard to rate and capacity issues, may have contravened the

provisions of Section 6(g) of the Act and/or have been in violation of other provisions of the Act or the Commission's regulations; and

WHEREAS, the Parties have agreed that the Commission's concerns with the future use of broad TSA Agreement authority may be addressed through this Settlement Agreement by TSA's amendment of its operational authority to prohibit, or delete authority for, certain activities currently authorized under its Agreement, and by termination of the two bridging agreements; and

WHEREAS, the Agreements and the Members deny that they have engaged in any practices that may have contravened the provisions of Section 6(g) of the Act and/or have been in violation of other provisions of the Act or the Commission's regulations, and believe that their activities were at all times undertaken in full conformity with the Agreements and in any event with a reasonable basis to conclude they were undertaken pursuant to an agreement on file with the Commission and in effect under the Act at the time the activities took place; and

WHEREAS, resolution of the allegations made in the Petition and issues otherwise investigated in Fact Finding 25, and through the Commission's Section 15 Orders, may require the institution of adjudicatory proceedings before the Commission or the United States District Court for the District of Columbia, the outcome and timing of which are uncertain and which may or may not result in changes to the operations of the Agreements following extensive and expensive litigation; and

WHEREAS, the Parties hereto believe it is in the best interests of the Commission, the Agreements, the Members and the shipping public to resolve the above-referenced proceedings and all outstanding disputes on the terms set forth herein, whereby significant and immediate changes to the operation and scope (and in some cases termination) of the Agreements are assured;

NOW, THEREFORE, in consideration of the premises herein, it is hereby agreed as follows:

1. Cancellation Of Agreements

(a) Within ten (10) days after the date the Commission enters into this Settlement Agreement, the members of the Indamex Bridging Agreement shall file or cause to be filed amendments to or notifications with the Commission canceling the Indamex Bridging Agreement.

(b) Within ten (10) days after the date the Commission enters into this Settlement Agreement, the members of the Alliance Bridging Agreement shall file or cause to be filed amendments to or notifications with the Commission canceling the Alliance Bridging Agreement.

2. Amendments to TSA Agreement

Within ten (10) days after the date the Commission enters into this Settlement Agreement, the members of TSA shall amend the TSA Agreement, as set forth in Exhibit 1 to this Settlement Agreement, to:

(a) Eliminate the Indian Subcontinent from the geographic scope of the TSA Agreement;

(b) Eliminate the authority in the TSA Agreement, and prohibit TSA and its members from:

(i) sharing named shipper information from existing or proposed individual service contracts; and

(ii) entering into any voluntary non-binding agreement except for any such agreements reached at a meeting of the Agreement or a duly authorized committee or subcommittee thereof, or by a vote of the members as provided for in Article 8 of the Agreement, for which minutes are filed with the Federal Maritime Commission;

(c) Eliminate the authority of members of the TSA agreement to discuss or reach agreement on capacity rationalization within TSA. For the purposes of this Settlement Agreement, the term "capacity rationalization" means any reduction, stabilization, or other limitation on vessel capacity offered to shippers in any manner whatsoever. Provided, however, that this limitation shall not affect TSA members' actions under vessel sharing, alliance, or charter agreements, including any existing agreements (except for TSA), that are filed and effective under the Act, and provided that the members of TSA will continue to retain the authority to discuss and exchange information on past, current, or expected containership capacity (theirs or others) in the TSA trade as currently authorized under the TSA Agreement.

3. Commitments by TSA and Its Members

a. Neither TSA nor its members shall file with the Commission a capacity rationalization agreement among the TSA members in the trade covered by the TSA Agreement during the three-year period commencing on the date the Commission enters into this Agreement. For purposes of this paragraph, the term "capacity rationalization agreement" means any agreement that authorizes the parties to discuss or agree on reduction, stabilization, or other limitation on the vessel capacity offered to shippers in the trade in any manner whatsoever. This paragraph shall not apply to actions pursuant to, or the filing or amendment of or by, vessel sharing, alliance, or charter agreements in the trade, including any existing agreements (except for TSA).

b. TSA shall file with the Commission minutes of any meeting of the TSA, including committees and subcommittees, whether held in person or by teleconference or other means, at which vessel capacity of any kind is discussed, regardless of whether final action is authorized at the meeting and regardless of whether such minutes are required to be filed under the Commission's regulations, and such minutes shall in all respects be treated as if filed under Commission regulations.

c. TSA will provide to the Commission copies of any reports, studies, analyses, fact sheets, or data (including a summary of oral reports) provided or distributed to the TSA

members or the TSA secretariat that relate to vessel capacity, and such copies shall in all respects be treated as if filed under Commission regulations.

d. TSA will file with the Commission minutes of all TSA meetings, including committees and subcommittees, whether held in person or by teleconference or other means, at which rate matters are discussed, regardless of whether final TSA action is authorized at the meeting and regardless of whether such minutes are required to be filed under the Commission's regulations. TSA will list in those minutes, and provide copies of, all reports, studies, analyses, fact sheets, or data that are circulated or discussed at the meeting. Oral reports will be summarized in the minutes or in a separate memorandum attached to the minutes. All such minutes, copies and memoranda shall in all respects be treated as if filed under Commission regulations.

e. TSA will file all minutes required to be filed with the Commission pursuant to this Settlement Agreement or Commission regulations within fifteen (15) days following the date of the meeting.

f. Notwithstanding the general authority within the TSA Agreement to create committees or subcommittees, TSA will not establish any committee or subcommittee whose purpose or function is to discuss or agree upon rates, charges, terms, or conditions intended to apply solely or separately to the transportation of cargo for non-vessel operating common carriers ("NVOCCs").

g. Notwithstanding the general authority within the TSA Agreement to establish voluntary service contract guidelines, TSA will not establish any voluntary service contract guidelines or otherwise reach any agreement pertaining to the timing of negotiations for service contracts with NVOCCs which differs from the timing of service contract negotiations with other shippers.

h. Notwithstanding the general authority within TSA to establish voluntary service contract guidelines, TSA will not establish any voluntary service contract guidelines or otherwise reach any agreement with respect to general rate increases or surcharges that

distinguish between shippers based on the status of the shipper as an NVOCC or a beneficial cargo owner.

i. Within ten (10) days after the date the Commission enters into this Settlement Agreement, TSA will amend its confidential voluntary service contract guidelines to reflect, and be consistent with, the requirements and obligations of this Settlement Agreement.

4. Semi-Annual Meetings

Commencing in February 2004, representatives of TSA will meet semi-annually with representatives of the Commission to review the activities of TSA, including committee and subcommittee structure, service contract activity, supply and demand conditions in the trade, any complaints about TSA received by the Commission, and TSA will report to the Commission regarding the state of the trade.

5. Settlement Payment

Within five (5) days after execution of this Settlement Agreement by all Parties, the Agreements and the Members collectively will pay to the Commission a settlement payment in the amount of \$1,350,000.00.

6. Release

(a) By entering into this Agreement, the Commission agrees:

- (i) To terminate Fact Finding Investigation No. 25; and
- (ii) Not to initiate any proceedings with respect to the Section 15 Orders issued on September 12, 2002 and May 30, 2003.

(b) This Settlement Agreement shall forever bar the commencement, continuation, or institution by or on behalf of the Commission, whether before the Commission or before any court, of any civil action, claim, demand, investigation, assessment proceeding or other claim for

civil penalties or other relief against any of the Agreements or Members, individually or collectively, for alleged violations or conduct in contravention of any provision of the Shipping Act of 1984, as amended, including an action under Sections 6(g) and 6(h), Commission regulations, or Commission orders, or any other law or regulation under which the Commission may seek relief, which occurred or may have occurred prior to the date this Settlement Agreement is entered into, and which arises from any activity(ies), transaction(s) or practice(s) which was (or were) (i) described in the Order of Investigation dated August 23, 2002, the Amended Order of Investigation dated May 30, 2003, or any of the Section 15 Orders issued on May 30, 2003 and September 12, 2002, or (ii) disclosed or described to the Commission, or otherwise referred to, in testimony, documents, or other materials provided to the Commission in response to the Section 15 Orders, or provided to the Commission or any Investigative Officer pursuant to Fact Finding No. 25 or in minutes or voluntary service contract guidelines filed with the Commission prior to the date of the execution of this Settlement Agreement.

(c) The Commission has reviewed all allegations and available evidence developed during the course of Fact-Finding Investigation No. 25 or the Section 15 Orders, including the allegations made in the Petition, and agrees that this Settlement Agreement fully resolves all issues and controversies arising therefrom.

7. Records

Prior to the date of execution of this Settlement Agreement, the Agreements and the Members have furnished to the Commission, pursuant to Fact Finding Investigation No. 25, Section 15 Orders, or otherwise, minutes of Agreement meetings and other commercial or financial records and information relating to the business or trade of the person furnishing such records. All such materials were provided to the Commission on a confidential basis and are deemed by the Commission to be "confidential records" and "investigative records" within the

meaning of the Freedom of Information Act, 5 U.S.C. §552(b) (4) and (7) or are exempt from disclosure under 5 U.S.C. §552(b) (3) or 46 C.F.R. §535.608 or Section 6(j) of the Act. Upon the execution of this Settlement Agreement by the Commission, such records heretofore furnished shall be accorded confidential treatment to the full extent permitted by law.

8. No Admission Of Liability

It is expressly understood and agreed that this Settlement Agreement is not and shall not be construed to be an admission by any of the Agreements or any of the Members to any violation of law or regulation. This Settlement Agreement is entered into by the Agreements and the Members solely to avoid protracted, costly litigation.

9. No Third-Party Beneficiaries

This Settlement Agreement is not intended to create any rights or enforceable interests in any entity not a signatory hereto.

10. Execution

This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed to constitute an original.

11. Effectiveness of Agreement

This Settlement Agreement will become effective when executed by the Agreements and their Members and by the Commission.

IN WITNESS WHEREOF, the Commission, the Agreements and each of the Members have executed this Settlement Agreement as of the day and year first set forth above.

ON BEHALF OF THE
FEDERAL MARITIME COMMISSION

By: Bryant V. Brakke
Title: Secretary
Date: September 11, 2003

TRANSPACIFIC STABILIZATION AGREEMENT

By: David F. Smith
Title: Attorney-in-Fact
Date: September 11, 2003

INDAMEX AGREEMENT

By: David F. Smith
Title: Attorney-in-Fact
Date: September 11, 2003

INDAMEX/TSA BRIDGING AGREEMENT

By: David F. Smith
Title: Attorney-in-Fact
Date: September 11, 2003

THE EVERGREEN/LLOYD TRIESTINO/
HATSU MARINE ALLIANCE

By: David F. Smith
Title: Attorney-in-Fact
Date: September 11, 2003

THE EVERGREEN/LLOYD TRIESTINO/HATSU MARINE ALLIANCE/TSA BRIDGING AGREEMENT

By: *David F. Smith*
Date: *Attorney-in-Fact*
Title: *September 11, 2003*

AMERICAN PRESIDENT LINES, LTD.

By: *[Signature]*
Title: *Attorney-in-Fact*
Date: *September 11, 2003*

APL CO PTE LTD

By: *[Signature]*
Date: *Attorney-in-fact*
Title: *September 11, 2003*

A.P. MOLLER-MAERSK SEALAND

By: *Marie J. Jick*
Title: *Attorney-in-fact*
Date: *September 11, 2003*

CMA CGM S.A.

By: *Marie J. Jick*
Date: *September 11, 2003*
Title: *Attorney-in-fact*

COSCO CONTAINER LINES COMPANY LTD.

By: *Richard D. Ylark*
Title: *Attorney*
Date: *September 11, 2003*

EVERGREEN MARINE CORP.
(TAIWAN) LTD.

By: *Marcel J. Link*
Title: *Attorney-in-fact*
Date: *September 4, 2003*

HANJIN SHIPPING CO, LTD.

By: *Marcel J. Link*
Title: *Attorney-in-fact*
Date: *September 11, 2003*

HAPAG-LLOYD CONTAINER LINE GmbH

*m08
BLV*

By: *Marcel J. Link*
Title: *Attorney-in-fact*
Date: *September 11, 2003*

HYUNDAI MERCHANT MARINE CO., LTD.

By: *E. J. J. J. J.*
Title: *Attorney-in-fact*
Date: *September 11, 2003*

KAWASAKI KISEN KAISHA, LTD.

By: *John P. Meade*
Title: *Vice President - Law, "K" Line America, Inc., Agent*
Date: *September 11, 2003*

NETSUI O.S.K. LINES, LTD.

By: *Michael G. Peters*
Title: *Attorney-in-fact*
Date: *September 11, 2003*

NIPPON YUSEN KABUSHIKI KAISHA

By: *Wang J. Liu*
Title: *Attorney-in-fact*
Date: *September 4, 2003*

ORIENT OVERSEAS CONTAINER
LINE LIMITED

By: *Wang J. Liu*
Title: *Attorney-in-fact*
Date: *September 4, 2003*

P&O NEDLLOYD B.V.

By: *Neal M. Mayer*
Title: *ATTORNEY-IN-FACT*
Date: *September 11, 2003*

P&O NEDLLOYD LIMITED

By: *Neal M. Mayer*
Title: *ATTORNEY-IN-FACT*
Date: *September 11, 2003*

YANGMING MARINE TRANSPORT CORP.

By: *Wang J. Liu*
Title: *Attorney-in-fact*
Date: *September 4, 2003*

HATSU MARINE LTD.

By: *Wang J. Liu*
Title: *Attorney-in-fact*
Date: *September 11, 2003*

LLOYD TRIESTINO DI NAVIGAZIONE, S.P.A.

By: *Marc J. Lick*
Title: *Attorney-in-fact*
Date: *September 11, 2003*

CONSHIP CONTAINERLINES, DIVISION OF CP SHIPS (UK) LIMITED

By: *Marc J. Lick*
Title: *Attorney-in-fact*
Date: *September 11, 2003*

SHIPPING CORPORATION OF INDIA, LTD.

By: *Marc J. Lick*
Title: *Attorney-in-fact*
Date: *September 11, 2003*

Exhibit 1

Original Title Page

TRANSPACIFIC STABILIZATION AGREEMENT

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

A Cooperative Working Agreement

Among Ocean Common Carriers

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

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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

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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,

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

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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

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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

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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 (except for rationalization of vessels or vessel capacity); identification, recovery, containment, or reduction of carrier costs, and the realization of economies and efficiencies in the Trade or any portion

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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

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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

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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

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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.

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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.

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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

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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

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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

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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

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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.

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SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have agreed this ____ day of _____,
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 SeaLand

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

By: _____
Name:
Title:

By: _____
Name:
Title:

Hapag-Lloyd Container Linie GmbH

Mitsui O.S.K. Lines, Ltd.

By: _____
Name:
Title:

By: _____
Name:
Title:

P&O Nedlloyd B.V.

Nippon Yusen Kaisha Line

By: _____
Name:
Title:

By: _____
Name:
Title:

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SIGNATURE PAGE (Continued)

P&O Nedlloyd Limited

By: _____
Name:
Title:

Orient Overseas Container Line, Inc.

By: _____
Name:
Title:

Yangming Marine Transport Corp.

By: _____
Name:
Title:

Cosco Container Lines Ltd.

By: _____
Name:
Title:

Kawasaki Kisen Kaisha, Ltd.

By: _____
Name:
Title:

CMA CGM S.A.

By: _____
Name:
Title:

Hanjin Shipping Co., Ltd.

By: _____
Name:
Title:

Hyundai Merchant Marine Co., Ltd.

By: _____
Name:
Title:

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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 SEALAND
50, Esplanaden
DK-1098 Copenhagen, Denmark

CMA CGM S.A.
4 Quai d'Arnac
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

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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, Toranomom 2-Chome
Minato-ku, Tokyo 105-91
Japan

Nippon Yusen Kaisha
Yusen Building
3-2, Marunouchi 2-Chome
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) Single (shared) vote under Article 8
East Rutherford, NJ 07073) 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)

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APPENDIX A (Cont'd)

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

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

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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.

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(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 sole 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

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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.

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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.