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July 15, 2011

Karen V. Gregory, Secretary
Federal Maritime Commission
800 North Capitol Street, N.W. Room 1046
Washington, D.C. 20573-0001

Re: Comments on Adjustment of FMC Optional Bond Rider
Docket No. 11-09

Dear Federal Maritime Commission:

I am writing today in response to your request for comments on the captioned topic and will address the questions in the same order as they appear on the docket:

1. The optional rider is a fair and equitable methodology used in lieu of posting a cash bond in China. It allows our company to pay an annual bond fee instead of tying up capital in a Chinese bank. Bonding is a more palatable option by far. The fee for the rider as charged by our bond company is reasonable and affordable. It has helped keep our cost of doing business in China at a stable level. Conversely the posting of a cash equivalent would be felt more acutely by impinging on our cash flow. Having the bond rider allows us to expand our offering in China without having to make significant investment of cash.

2. We understand that world currencies fluctuate and that the basis of the original bond amount was to insure the cash equivalent of 800,000 RMB converted to $ 96,000 at the time of the original rulemaking. We also agree that an increase in demonstrated bond coverage is warranted due to the lower value of the US dollar today. The advantage of doing this is that we address China's concerns, and at the same time preserve the status quo that allows bonding in lieu of a cash deposit. There is no real disadvantage except the added administration of bonds coming due annually on different dates for different NVOCC's. This will require some prorating of premiums and possibly additional billing, but is of small consequence compared to having the bonding agreement rescinded.

3. Continued adjustment up and down would multiply the administrative disadvantages discussed in question 2 by the number of times the 20% threshold is achieved in the course of a year. Additional premiums and return premiums could become onerous for NVOCC's and the bond companies if we witness a period of frequent swings in currency. The likelihood however is that there will be few changes annually, and the fee differences will be small, reasonable and affordable, so ultimately not a large impact on business costs and operations. It is workable.

I would offer and additional comment that Instead of looking at a rider adjustment based on currency fluctuation against 800,000 RMB alone, it might be a better idea to gain China's agreement to review the overall bond amount posted by each NVOCC for all operations. Since NVOCC's add $ 10,000 bond equivalent per branch office to the original $ 75,000 bond requirement, many NVOCC's already demonstrate financial responsibility in excess of the 800,000 RMB based on the number of branch offices they operate. A more reasonable approach might be for China to determine the exchange value to be assigned in a given 12 month period, and allow NVOCC's to offset the bond coverage based on total bond value, adding any additional coverage as might be required to make up any shortfall not already covered by multiple branch offices. This would limit the bond transactions significantly, while providing simplicity and stability for all involved. Annual assessment/adjustment would be a more simplified approach than monitoring for swing amounts through the year.

In conclusion, the China Bond Rider program has been very successful for the NVOCC community. It is important to keep it going, and necessary to track the bond value as it compares to the currency conversion of 800,000 RMB. When doing so however a more equitable approach might be to consider the total bond amounts posted for each NVOCC (including branch offices) rather than base amount plus currency offset to reach the 800,000 RMB equivalent.

Executed on July 15, 2011

Richard J. Roche
Director of International Transportation