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March 22, 2012

Docket 11-22, Notice of Inquiry
NVOCC Negotiated Rate Arrangements – Tariff Filing Exemption

We are commenting on the aforementioned Notice of Inquiry representing Panalpina, Inc., which acts in the capacity of Freight Forwarder (FMC License #375-F) and also as the US resident agent for Panalpina's global NVOCC, Pantainer (H.K.) Limited (Org # 023561).

We thank the Commission for ruling in favor of the tariff filing exemption, thus recognizing that the shipping public relies on the standard business practice of receiving quotations to obtain rates, and not on NVOCC tariffs. Your decision also demonstrates that you recognize that NVOCCs are paying exorbitant costs to maintain tariffs that are infrequently, if ever, viewed by the shipping public. We also appreciate that you have reached out, as promised, for additional comments on the requirements, as well as revisiting your decision to exclude properly bonded foreign NVOCCs from this relief.

Our comments below focus on your exclusion of properly bonded Foreign NVOCCs in good standing.

As we have commented previously, both in front of the Commission and in writing, we request that you reconsider your decision and allow NVOCCs in good standing, which are properly bonded according to the statute, Pantainer (H.K.) Limited, specifically, the same relief from the financial and administrative burden that you have allowed other similarly situated NVOCCs.

As an NVOCC Pantainer (H.K.) Limited, requires that all of its global agents, the overwhelming majority of which are Panalpina owned offices, sign an agency agreement and adhere to a strict set of written requirements. These requirements focus on the proper handling of NVOCC operations, proper preparation and control of bills of lading, and adherence to the local country regulations. This includes global instructions on the requirements of the Federal Maritime Commission (regulations and tariff filing requirements). At great expense, Pantainer (H.K.) Limited has trained global offices to ensure compliance. Foreign offices are audited by Pantainer (H.K.) Limited Corporate staff to ensure compliance. These audits include compliance to the U.S. tariff rate filing requirements. In the US, FMC compliance is a key component of our overall compliance program and our US FMC compliance staff conducts regular audits to monitor adherence, by our US business offices, to the FMC regulations.

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All quotations are subject to confirmation and contracts contingent upon strikes, delay in delivery and other causes beyond our control. No insurance coverage is effected except upon express instructions given in writing by the customer. Rates subject to change without notice. All shipments handled as per Terms and Conditions of Service which are available upon request. FMC No. 375

Panalpina, Inc., in its capacity as a U.S. freight forwarder, is licensed, with a current, up to date bond, listing all of our 35 branch offices. In our capacity as agent for and on behalf of Pantainer (H.K.) Limited, these same offices, including the hundreds of U.S. citizens that we employ, also handle the agent responsibilities for the NVOCC. While being held to the already high standards of the Pantainer global entity, Panalpina, Inc. conducts regular trainings, monitors the rate filing process and, as noted above, has a robust audit program as part of our overall Trade Regulation Compliance framework. Nevertheless, we continue to bear the burden of a six figure annual tariff filing cost that similarly situated multi-national NVOCCs, such as ourselves, are no longer required to bear, solely because they maintain an NVOCC license - not based on their merits.

Whether an NVOCC is headquartered in the United States ("Licensed") or in another country (bonded with proper US representation), any NVOCC with a global network faces the same challenges in training and monitoring foreign locations. The difference is not US vs. Foreign, or Tariff vs. NRA. It is whether or not an NVOCC is making its best effort to comply with the rules. If a company does not follow the requirements of the NRA, the Commission has the authority to rescind the privilege. There is no reason that this authority could not be equally administered to both licensed and properly bonded NVOCCs in good standing. From a practical standpoint, an NVOCC is certainly not going to jeopardize either its license or bond over the improper use of NRAs. The ability to remove the privilege should stand on its own merit.

We respectfully ask that you consider our concern in being treated differently than similarly situated competitors, as demonstrated below:

Pantainer (H.K.) Limited Properly Bonded Multi-National NVOCC	US Licensed Multi-National NVOCC
Bonded as allowed by the FMC (no previously published differentiation in taking this option) Represented by Panalpina, Inc. which holds a forwarder OTI License (375F)	Holds OTI License(s)
Employs primarily foreign individuals in foreign locations	
Maintains a robust compliance program including written procedures, training, monitoring, auditing of both US and foreign offices	Maintains a robust compliance program including written procedures, training, monitoring, auditing of both US and foreign offices
Provides written quotations to customers as is the standard industry business practice	Provides written quotations to customers as is the standard industry business practice
Maintains transportation documentation in the US for both inbound and outbound shipments	Maintains transportation documentation in the US for both inbound and outbound shipments
Creates bills of lading at foreign origin offices for US bound cargo	Creates bills of lading at foreign origin offices for US bound cargo

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Pantainer (H.K.) Limited Properly Bonded Multi-National NVOCC	US Licensed Multi-National NVOCC
Continues to bear the administrative and financial burden of tariff publishing. Panalpina pays over \$115,000 annually to a tariff publisher for the <u>sole purpose of complying with FMC regulations</u> . There is no commercial / business benefit. Customers do not visit the Pantainer Tariff to obtain rates. This puts Pantainer (H.K.) Limited at a <u>competitive disadvantage</u> to similarly situated multi-national NVOCCs.	Enjoys relief from tariff publishing and the associated administrative and financial burden, giving these similarly situated companies a financial and <u>competitive advantage</u>

We therefore request that you reconsider your concerns and grant the same relief to properly bonded NVOCCs in good standing that you have granted to US Licensed NVOCCs. If you remain uncomfortable with that, we request that you review Pantainer (H.K.) Limited on our own merits. We would welcome the opportunity to address your concerns as they relate to Panalpina, Inc. acting as agent for and behalf of Pantainer (H.K.) Limited.

We thank you for the opportunity to comment. We respectfully request your consideration of the above points, especially regarding granting relief to foreign NVOCCs in good standing, or Pantainer (H.K.) Limited on its own merits.

I declare under penalty of perjury that I have read the foregoing and it is true and correct to the best of my knowledge, information, and belief.

Sincerely,



Paulette Kolba
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 Panalpina, Inc. as agent for and on behalf of
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cc : Panalpina, Inc.
 Robert Ernest, Area Head of Legal Services, USA & Canada, Senior Vice President
 Christine Berghofer, Area Trade Regulation Compliance Manager USA, Vice President
 John Wierzbicki, Area Head of Ocean Freight USA, Senior Vice President

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