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OFFICE OF THE SECRETARY
FEDERAL MARITIME COMMISSION

January 18, 2011

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

**RE: RESPONSE TO NOTICE OF INQUIRY; E.U. REPEAL OF THE
LINER CONFERENCE BLOCK EXEMPTION**

Ms. Gregory;

Enclosed please find responses to the FMC's Notice of Inquiry concerning the European Union's repeal of the liner conference block exemption. These responses are submitted by APL Co. Pte Ltd and American President Lines, Ltd. (together "APL"). Please note that these responses contain confidential information. We enclose both a confidential version of the document as well as a public version of the document (in duplicate).

The information marked "Confidential" is commercially and competitively sensitive information. We request that confidential information submitted herewith be held in strict confidence and not publicized or disseminated in any way outside of the FMC.

Please do not hesitate to call if you have any questions.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "R. Sappio", written over a horizontal line.

Robert F. Sappio
American President Lines, Ltd.

Enclosure

- 1) APL Response to Notice of Inquiry (Confidential)
- 2) APL Response to Notice of Inquiry (Public Version) (2 copies)

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**APL Responses to EU Questionnaire
January 18, 2011**

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FMC E.U. Study Notice of Inquiry Questions
OFFICE OF THE SECRETARY
FEDERAL MARITIME COMMISSION
Identifying Information (Please provide the information requested below with your NOI response.)

Name of Respondent: Robert F. Sappio
Respondent's Title/Position: Senior Vice President for Pan-American Trades
Contact Information: Telephone and E-mail 1-602-586-4682 robert_sappio@apl.com
Name and Address of Company or Other Entity: APL Co. Pte Ltd and American President Lines, Ltd.
Type of Company or Other Entity: Vessel-Operating Ocean Carrier (VOCC)

Section A: General Questions

1. Based on your experience since September 2006 (when the European Union announced its decision to terminate the block exemption for liner shipping conferences to take effect October 2008), what impacts, if any, have you identified on your company's commercial activities, in any trade lane, that you would attribute to the termination of the E.U. conference block exemption? Please explain. If you believe there have been such impacts, please indicate when that impact first occurred.

APL Response:

The termination of the block exemption coincided with the worst global financial and economic crisis in over 60 years. We believe that the effects of the crisis masked whatever separate impact the revocation of the block exemption may have had. As a consequence, it is impossible to draw any meaningful conclusions about short and medium term impacts of the change in EU law.

2. Based on your experience since October 2008 (when the E.U. exemption for liner conferences was terminated) has any class of shipper or class of vessel-operating common carrier received a competitive advantage or been put at a competitive disadvantage as a result of the E.U. decision to terminate the exemption? If so, please explain.

APL Response:

See response to Question No. 1

3. Based on your experience since October 2008 (when the E.U. exemption for liner conferences was terminated), have differences between U.S. and E.U. liner shipping competition regulations created any problems for your company? If so, please explain.

APL Response:

APL did not experience any significant problems in the North Europe/U.S. trade related to the change in E.U. law, as APL was not a member of TACA prior to that time.

4. Does your company view cooperation among ocean carriers in operational agreements (e.g., vessel sharing agreements, alliances, consortia, etc.) as generally having a positive, neutral or negative impact on the availability or cost of liner shipping services? Please explain. Does the E.U. market share threshold of 30% for such operational agreements have any effect with respect to that impact? If so, please explain.

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APL Response:

Vessel sharing agreements are a critical component of the global liner ocean transportation system. VSAs allow efficient deployment of vessel capacity, increased competition between carriers in secondary markets, better service choices for shippers and better service quality through the peaks and troughs of the business cycle. The application of the E.U. market share threshold of 30% has not been a factor for APL's services to date, but is a potential consideration in designing new services. APL, along with its New World Alliance partners, presented detailed information to the FMC as part of the FMC's recent inquiry into alliance activities and operations.

Section B: Questions about the North Atlantic Trade (North Europe/U.S.)

5. Approximately what percent of your company's freight earnings (lines, OTIs) or shipping expenses (shippers) involves international shipping in the North Europe/U.S. trade? Does your company's business involve US imports (westbound service) only, U.S. exports (eastbound service) only, or both? Please explain briefly.

APL Response:

Confidential Materials Excluded

6. How, and to what extent, did the recent economic recession (2008 – 2009) affect your company's liner shipping-related business in the North Europe/U.S. trade? Please explain.

APL Response:

APL reduced its Transatlantic capacity by 300 TEUs per week eastbound and westbound in response to reduced demand. Demand has not dictated a return of this capacity to the market.

7. Based on your experience prior to July 2008, when the Trans-Atlantic Conference Agreement (TACA) disbanded, did the existence of TACA have any impact on your liner shipping-related business in the North Europe/U.S. trade? If so, please explain.

APL Response:

APL was not a member of TACA at the time the liner conference block exemption was repealed. APL's business in the North Europe/U.S. trade, although affected by the financial crisis, did not otherwise materially change following October 2008.

8. Based on your experience in the period from October 2008 to the present (i.e., since the E.U. block exemption was terminated), has there been any significant change(s) in liner services in the North Europe/U.S. trade that you attribute to the E.U. terminating the block exemption? For example, changes in:
- a. the level of freight rates and surcharges;
 - b. the frequency with which rates or surcharges are adjusted upward or downward (rate volatility);
 - c. the assessment of surcharges;
 - d. the level of competition among ocean carriers;
 - e. the service contracting practices or terms offered by ocean carriers;
 - f. the availability of vessel capacity and container equipment; or
 - g. the level or quality of liner services (including customer service, billing accuracy, etc.)

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If so, please identify and explain those changes.

APL Response:

See response to Question No. 7.

9. For CY 2010 to date, please estimate the percentage of your annual business (by volume) in the North Europe/U.S. liner trade that moved under (a) annual (or longer) service contracts, (b) shorter-term freight agreements, (c) spot rates, and (d) other (please specify). Has that changed significantly since October 2008? If so, please explain.

APL Response:

Confidential Materials Excluded

10. Following repeal of the E.U. block exemption, ocean carriers created a global information system under *Container Trade Statistics, Ltd.* (CTS) in which a majority of ocean carriers serving the North Europe/U.S. trade participate. CTS provides certain data free on its web site, including indices of the carriers' aggregated average revenue per TEU by month. CTS also sells other data. To what extent, if at all, does your company access and use CTS Europe/U.S. trade data, and (if it does so) for what purpose(s)?

APL Response:

APL no longer participates in the CTS data program. APL does purchase commercially available trade data, including CTS products.

Section C: Questions about the Transpacific Trade (Far East/U.S.)

11. Approximately what percent of your company's freight earnings (lines, OTIs) or shipping expenses (shippers) involve international shipping in the Far East/U.S. trade? Does your company's business involve U.S. imports (eastbound service) only, U.S. exports (westbound service) only, or both? Please explain.

APL Response:

Confidential Materials Excluded

12. How, and to what extent, did the recent economic recession (2008-2009) affect your company's liner shipping-related business in the Far East/U.S. trade? Please explain.

APL Response:

Confidential Materials Excluded

13. Based on your experience from January 2006 to the present, have the activities of the Trans-Pacific Stabilization Agreement (TSA) or the Westbound Trans-Pacific Stabilization Agreement (WTSA) had any significant impact on your company's liner shipping-related business in the Far East/U.S. trades? If so, please explain.

APL Response:

TSA and WTSA have a significant positive impact for the industry. Carriers can share market data and by doing so better understand changes in the market. This leads to more rate predictability and stability, which shippers consistently stress is important

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to them. TSA and WTSA also provide a mechanism for dialogue and information sharing between carriers and shippers. Carrier/shipper forums, for example, permit the carriers and shippers to discuss market trends, shipper priorities, equipment availability, carrier concerns, anticipated changes in rates and other subjects. These discussions have been well received by shippers. Shipper advisory groups have been extremely useful, allowing carriers to better understand their customers' priorities and needs. As reflected in the minutes filed by TSA, TSA discusses and in some instances agrees on guidelines concerning some of the above matters. However, the guidelines are voluntary; and decisions on such matters are taken by lines individually, not collectively.

14. Based on your experience in the period from October 2008 to the present, have there been any significant characteristics of liner services in Far East/U.S. trades that you attribute to actions taken by TSA or WTSA member lines acting collectively? For example:
- a. the level of freight rates and surcharges;
 - b. the frequency with which rates or surcharges are adjusted upward or downward (rate volatility);
 - c. the assessment of surcharges;
 - d. the level of competition among ocean carriers;
 - e. the service contracting practices or terms offered by ocean carriers;
 - f. the availability of vessel capacity and container equipment; and
 - g. the level or quality of liner services (including customer service, billing accuracy, etc.)

If so, please identify and explain those characteristics.

APL Response:

See response to Question No. 13.

15. For CY 2010 to date, please estimate the percentage of your annual business (by volume) in the Far East/U.S. liner trade that moves under (a) annual (or longer) service contracts, (b) shorter-term freight agreements, (c) spot rates, and (d) other (please specify)? Has that changed significantly since October 2008? If so, please explain.

APL Response:

Confidential Materials Excluded

Section D: Questions about the Europe – Asia Trade (Far East/Europe)

16. Approximately what percent of your company's freight earnings (lines, OTIs) or shipping expenses (shippers) involve international shipping in the Far East/Europe trade? Does your company's business involve European imports (westbound service) only, European exports (eastbound service) only, or both? Please explain briefly.

APL Response:

Far East/Europe liner trade represents approximately 12% of APL's freight revenues. APL is involved in both the westbound and eastbound trade.

17. How, and to what extent, did the recent economic recession (2008-2009) affect your company's liner shipping-related business in the Far East/Europe trade? Please explain.

APL Response:

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Far East/Europe liner trade suffered a drop in demand of roughly 20% as shippers reduced their inventory due to a drop in demand in Europe.

18. Based on your experience *prior to* October 2008 (i.e., before the Far East Freight Conference (FEFC) disbanded), did the existence of FEFC have any impact on your liner shipping-related business in the Far East/Europe trade? Please explain.

APL Response:

We believe the FEFC generally helped moderate market volatility, and provided greater predictability and uniformity in terms of ancillary charges such as bunker surcharges, THCs and documentation charges.

19. Based on your experience in the period *from* October 2008 to the present (i.e., since the E.U. block exemption was terminated), has there been any significant change(s) in liner services in the Far East/Europe trade that you attribute to the E.U.'s ending of the block exemption? For example, changes in:
- a. the level of freight rates and surcharges;
 - b. the frequency with which rates or surcharges are adjusted upward or downward (rate volatility);
 - c. the assessment of surcharges;
 - d. the level of competition among ocean carriers;
 - e. the service contracting practices or terms offered by ocean carriers;
 - f. the availability of vessel capacity and container equipment; and
 - g. the level or quality of liner services (including customer service, billing accuracy, etc.)

If so, please identify and explain those changes.

APL Response:

The termination of the block exemption coincided with the worst global financial and economic crisis in over 60 years. We believe that the effects of the crisis masked whatever separate impact the revocation of the block exemption may have had. As a consequence, it is impossible to draw any conclusions about short and medium term impacts of the change in E.U. law.

20. For CY 2010 to date, please estimate the percentage of your annual business (by volume) in the Far East/Europe liner trade that moved under (a) annual (or longer) service contracts, (b) shorter-term freight agreements, (c) spot rates, and (d) other (please specify)? Has that changed significantly since October 2008? If so, please explain.

APL Response:

Approximately 30% of Far East/Europe volumes moved on annual contracts. The balance moved on short term rate agreements of 90 days or less or on spot market rates.

21. Following repeal of the E.U. block exemption, ocean carriers created a global information system under *Container Trade Statistics, Ltd.* (CTS), in which a majority of ocean carriers serving the Far East/Europe trade participate. CTS makes certain data free on its web site, including indices of the carriers' aggregated average revenue per TEU by month. CTS also sells other data. To what extent, if at all, does your company access and use Far East/Europe trade data, and (if it does so) for what purpose(s)?

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APL Response:

APL no longer participates in the CTS data program. APL does purchase commercially available trade data, including CTS products.

Section E: Comparisons Among Trades

22. Based on your experience since October 2008 (since the E.U. block exemption was terminated) are there differences in the characteristics of the Far East/U.S. trade versus the Far East/Europe or North Europe/U.S. trades that you attribute to differences between U.S. and European liner competition regulations? For example, differences in:
- a. the level of freight rates and surcharges;
 - b. the frequency with which rates or surcharges are adjusted upward or downward (rate volatility);
 - c. the assessment of surcharges;
 - d. the level of competition among ocean carriers;
 - e. the service contracting practices or terms offered by ocean carriers;
 - f. the availability of vessel capacity and container equipment; and
 - g. the level or quality of liner services (including customer service, billing accuracy, etc.)

If so, please explain those differences.

APL Response:

The termination of the block exemption coincided with the worst global financial and economic crisis in over 60 years. We believe that the effects of the crisis masked whatever separate impact the revocation of the block exemption may have had. As a consequence, it is impossible to draw any conclusions about short and medium term impacts of the change in E.U. law. Certain characteristic historical differences in the trades (different mix of BCO/OTI cargo, length of rate agreements or service contracts) have remained essentially unchanged, however. Competition between carriers is vigorous in all trades.

23. Please identify any significant similarities and dissimilarities (for example, cargo volumes, scope or scale of operations, shipper mix, geography, market concentration levels, contracting practices, legal requirements, etc.) that existed in liner shipping markets in the (1) Far East/U.S. trade and the (2) Far East/Europe trade during the period 2006-2010. In your opinion, how (if at all) would those similarities and dissimilarities likely impact a comparison of liner pricing and service behavior across those two trades?

APL Response:

No response.

Section F: Additional Questions for Vessel-Operating Common Carriers

FOR VOCCs ONLY:

24. Please estimate the percentage of your liner revenues (globally) that were earned in each of the following trade lanes during CY 2010 to date:
- a. North Europe/U.S. liner trade
 - b. Far East/U.S. liner trade
 - c. Far East/Europe liner trade
 - d. All other liner trades

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e. Total (all liner trades combined)

If those percentages changed significantly during the 2006 through 2010 period, please describe and explain the change.

APL Response:

Confidential Materials Excluded

25. In each of the three major East-West trades, please estimate the percent of cargo your company carried for beneficial cargo owners (BCO) accounts, (b) OTI accounts, (c) other accounts (if any, please explain) during CY 2010 to date:

Has the relative ranking of shipper types in these trade lanes changed significantly during the 2006 through 2010 period? If so, please describe and explain the change.

APL Response:

Confidential Materials Excluded

26. In each of the three major East-West trade lanes, please indicate which lanes have tended to be the relatively most profitable and which was the relatively least profitable for each year between 2006 and 2010 (inclusive). [Write *M* for most, and *L* for least.]

Far East/U.S. Far East/Europe North Europe/U.S.

- a. 2006 _____
- b. 2007 _____
- c. 2008 _____
- d. 2009 _____
- e. 2010 _____

If those rankings changed significantly during the 2006 through 2010 period, please explain the reason(s) for the change.

APL Response:

No response.

27. Based on your experience during the period *from January 2006 to the present*, have there been any significant changes in the nature of your business in the *North Europe/U.S.* liner shipping market related to *changes* in:

- a. Seasonality of cargo movements;
- b. Commodity values;
- c. Directional cargo imbalances (imports vs. exports);
- d. Number of carriers serving the trade; or
- e. Minimum scale (# and size of vessels) needed to serve the trade efficiently

If so, please identify and explain those changes.

APL Response:

The decrease in value of the U.S. Dollar relative to the Euro has caused the eastbound volumes to increase over time. The trade is relatively balanced now as a result. Setting aside the drop in demand due to the financial crisis, the characteristics of the market have otherwise remained the same.

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28. Based on your company's experience in the *North Europe/U.S.* trade, please identify any substantial changes that occurred in your liner business (operations, marketing, pricing, etc.) in the two years following repeal of the E.U. liner conference exemption (CY 2009 and 2010) as compared with the two years preceding the repeal (2006 – 2007)? If any, please explain.

APL Response:

APL Response: No substantial change. APL was not a member of TACA.

29. Based on your experience during the period from January 2006 to the present, have there been any significant changes in the nature of your business in the *Far East/U.S.* liner shipping market related to *changes* in:
- a. Seasonality of cargo movements,
 - b. Commodity values
 - c. Directional cargo imbalances (imports vs. exports)
 - d. Number of carriers serving the trade; or
 - e. Minimum scale (# and size of vessels) needed to serve the trade efficiently

APL Response:

Early 2010 saw an increase in westbound volumes, apparently due to currency exchange rates and increased demand for U.S. products. This increase has apparently now subsided, and cargo imbalances remain close to normal historical levels. The trade has also experienced operational changes due to the introduction of larger vessels. Setting aside the drop in demand due to the financial crisis, the characteristics of the market have otherwise remained the same.

If so, please identify and explain those changes.

30. Based on your experience during the period from January 2006 to the present, have there been any significant changes in the nature of your business in the *Far East/E.U.* liner shipping market related to *changes* in:
- a. Seasonality of cargo movements;
 - b. Commodity values;
 - c. Directional cargo imbalances (imports vs. exports);
 - d. Number of carriers serving the trade; or
 - e. Minimum scale (# and size of vessels) needed to serve the trade efficiently

If so, please identify and explain those changes.

APL Response:

No response.