

(S E R V E D)
(June 11, 2001)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

DOCKET NO. 01-06

EXCLUSIVE TUG FRANCHISES -
MARINE TERMINAL OPERATORS
SERVING THE LOWER MISSISSIPPI RIVER

ORDER TO SHOW CAUSE

On August 21, 2000, the Federal Maritime Commission ("Commission") served an order pursuant to section 15 of the Shipping Act of 1984 ("Shipping Act"), 46 U.S.C. app. § 1714, upon sixty-seven ocean common carriers serving the lower Mississippi River.¹ That Order required the carriers to furnish certain information pertaining to the practices of a growing number of marine terminal operators which have entered into exclusive arrangements for tug services to be performed for vessels calling at their facilities. Also on August 21, in addition to the Commission's Order, the Bureau of Enforcement sent to carrier agents, terminal operators, ports and tug operators informal requests for information on the use and impact of the exclusive arrangements. The Commission's Order and the separate informal requests for information followed informal complaints made to the Commission's staff, including a detailed position paper by organizations whose memberships include a substantial portion of the vessel operators and agents serving the lower Mississippi. These

¹ "Lower Mississippi River" as used in the Order, and herein, means the Mississippi River from Baton Rouge south to the mouth of the river, including the ports of Baton Rouge, New Orleans, Plaquemines, St. Bernard's and South Louisiana.

complaints alleged that many dry bulk terminals along the lower Mississippi River have entered into exclusive arrangements with tug companies resulting in higher costs to vessel operators and the stifling of competition for tug services in the dry bulk trades.

Sixty responses to the Commission's Order were received from carriers, including twelve responses and comments from vessel operators who were not included among those served but who separately contacted the Commission and requested the opportunity to participate. Responses to the informal requests were received from thirty-one marine terminal operators, each of the four tug companies providing tug assist services on the lower Mississippi River, four lower Mississippi River ports, ten carrier agents and the Steamship Association of Louisiana.

The responses identified twelve terminal operators, listed in Attachment A, which have entered into exclusive tug arrangements at eighteen terminal facilities on the lower Mississippi River. Ten of the twelve terminal operators implemented their respective exclusive arrangements since the Commission's February 3, 1999 decision in Docket No. 96-06, *River Parishes Company, Inc. v. Ormet Primary Aluminum Corporation*, 28 SRR 751 (1999) (hereafter "*Ormet*").

Jurisdiction

Section 3(14) of the Shipping Act of 1984 defines "marine terminal operator," in pertinent part, as a "person engaged in the United States in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier. . . ." Based on the responses received by the Commission relative to vessels which have called at the twelve terminal operators' facilities, each of the twelve terminal operators have served vessels carrying cargo rated under an ocean common carrier's published tariff, carrying cargo on behalf of two or more shippers on a single voyage or carrying on the same vessel tariffed cargo inbound and untariffed dry bulk cargo outbound. Attachment B identifies the vessels of tariff publishing ocean common carriers,

the corresponding contracting MTO at whose facilities these vessels called and the date of call. Attachment C identifies vessels (and the operator or agent for each) carrying the cargo of two or more shippers on the same voyage, the marine terminal called and the date of each such vessel call. As each of the vessels identified in Attachments B and C appears to have been operated in common carriage, each of the twelve terminal operators appears to be a marine terminal operator providing facilities "in connection with a common carrier" and, therefore, subject to the Commission's jurisdiction.²

Merits

The information received by the Commission indicates that the practice complained of involves a dry bulk marine terminal operator entering into an agreement with a single tug company to perform all regular tug assist services for vessels calling at its terminal facilities. The dry bulk terminal operators (hereafter "contracting MTOs") then, in their respective terminal schedules, require vessel operators to use their exclusive tug company and pay the tug assist charges set forth in the terminal operator's rate schedule. The tug assist charges which vessel operators must now pay at the closed terminals are higher than those paid by the vessel operators before implementation of the exclusive arrangements. Prior to these exclusive arrangements, the vessel operator negotiated directly with the tug company of its choice and paid lower tug assist charges.

Attachment D identifies the tug assist charge level under the exclusive arrangement for each closed terminal operator; examples of tug assist charge levels that were paid by the vessel operators for tug assists which occurred at each such MTO's facilities prior to closure; and the percent increase in costs to the vessel operator.

² *Activities, Tariff Filing Practice and Carrier Status of Containerships, Inc.*, 9 FMC 56, 5 SRR 865, (1965), *Prudential Lines, Inc. v. Continental Grain Co.*, 25 FMC 203, 21 SRR 1172 (1982).

The contracting MTO makes a profit on the difference between the amount paid to the MTO by the vessel operator and the amount paid by the MTO to the exclusive tug company. The amount paid by the contracting MTO to the tug company per tug assist, however, appears to be approximately the same as the tug companies received when dealing directly with the vessel operators.

Prior to the exclusive arrangements, when the tug companies were able to negotiate directly with the vessel operators, each of the four tug companies on the lower Mississippi River was able to perform tug services at all of the now closed terminal facilities. Two of the four tug companies operating on the lower Mississippi River have been awarded eleven of the twelve exclusive contracts with one tug company receiving no contract. The effect of the exclusive arrangements is the elimination of competition for tug services at the closed terminal facilities as well as increased costs for tug services to the detriment of vessel operators.

Also based upon the responses received, vessel operators cannot escape the implementation and enforcement of these higher charges because, in the dry bulk trade, the shipper, not the vessel owner, dictates the terminal(s) which must be called. In other words, the vessel operator has no choice in the terminal selection regardless of any exclusive tug arrangement.

Section 10(d)(1) of the 1984 Act, 46 U.S.C. 1709(d)(1), provides, in pertinent part, that:

No . . . marine terminal operator may fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property.

It appears that each of the contracting MTOs has established, observed and enforced unreasonable practices and regulations related to and connected with the handling, receiving and delivery of property in violation of this section by requiring tug services to be provided pursuant to an exclusive arrangement. These arrangements: (a) eliminate the vessel operator's choice of the tug company

used to serve its vessel when calling at these terminal operators' facilities; and (b) establish, in the respective terminal schedules, requirements that vessel operators must use the tug company designated and pay the increased charges as a condition to being permitted to call at the terminal facilities. Vessel operators are harmed by the elimination of their choice of tug company and by the substantially higher tug assist charges they must pay resulting from the market power each contracting MTO is able to exert at its facilities.

The market for tug services after implementation of the exclusive tug arrangements on the lower Mississippi River is fundamentally altered from the pre-implementation market by inserting the contracting MTOs as middlemen between the vessel operators and the tug companies. The entry of an MTO as middleman eliminates the buyer/seller relationship between the vessel operator and the tug company, replacing it with two new buyer/seller relationships. The first is the sale of tug services by the tug company (the seller) to the MTO (the buyer), and the second is the sale of tug services by the MTO (the seller) to the vessel operator (the buyer).

The relevant geographic market for tug assist services for dry bulk vessel operators prior to the implementation of the exclusive arrangements was the entire lower Mississippi River. The dry bulk vessel operators serving the lower Mississippi were able to "buy" tug assist services from any or all of the four tug assist companies (the "sellers" of such services) operating on the lower Mississippi. The marine terminal operators played no role in the purchase of tug services in this competitive market.

With respect to the new MTO/vessel operator relationship, where the MTO is the seller of tug services to the vessel operator, the relevant geographic market for tug assist services is each terminal facility because the vessel operators can only choose the single tug company exclusively serving the terminal. In this newly created market, resulting from the MTO inserting itself as

middleman, the MTO has the market power to maintain its price substantially above its costs without fear of losing any vessel operator business.

Responses to the Commission's Section 15 Order indicate that vessel operators do not have the ability to select the terminal called and that the tug costs are paid by the vessel operator. Increases in these costs are not passed on to shipper customers due to the price sensitivity of the dry bulk transportation market and the economic leverage of the dominant dry bulk shippers.

There is, moreover, no incentive to negotiate where the shipper and the terminal are the same entity. In response to the Commission's request for information, several of the contracting MTOs indicated that substantial percentages of the cargo moving via their terminal facilities belonged to them or to their parent or a related company. For example, 100 percent of the shipments through the terminal facilities of Zen-Noh were shipped by Zen-Noh or its affiliate(s); Cargill reported a percentage of 65; ADM reported 60 percent; and Peavey reported 50 percent. As these figures indicate, a significant percentage of the shipments at over half of the closed terminals is being made by the terminal operators themselves, rendering carriers even more captive in such situations.

A closed terminal operator can, therefore, increase tug prices without the normal fear of losing shipper or carrier customers. As a result, each dry bulk grain terminal is a self-contained market. There are no substitute tug companies which the vessel operators may choose as an alternative and, thus, obtain tug services at more competitive prices.

Other indications that an appropriate competitive business environment does not exist include reduction in customer choice, complaints from shippers or carriers, and a showing of higher prices with no improvement in the level of service. *Ormet*, at 769 n.27, 770-71. As indicated in Attachment D, substantially higher prices are being charged at the closed terminals, complaints by a significant portion of the vessel operators serving the lower Mississippi have been lodged and vessel operators'

ability to choose the tug company serving their vessels has been completely eliminated. Also, there appears to have been no beneficial change in the safety or efficiency of tug assist services provided at the closed terminal facilities which would offset the harm inflicted upon vessel operators and tug companies as a result of these exclusive arrangements.

These disadvantages are present at each of the closed terminal facilities; however, their overall impact on the users of tug assist services on the lower Mississippi can be better appreciated by observing the scope of commerce affected by these exclusive arrangements. Based on information provided to the Commission, of the 2952 total dry bulk vessel calls in the lower Mississippi in 1999, 2625 of those calls were at the terminals which are now closed. Thus, 89 percent of the dry bulk vessel calls in the lower Mississippi area were at terminals which now have exclusive tug contracts.³

Section 10(d)(4) of the 1984 Act, 46 U.S.C. 1709(d)(4), provides that:

No marine terminal operator may give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person.

It appears that this section has been violated by the imposition of undue and unreasonable prejudice or disadvantage upon vessel operators by each of the contracting MTOs as a result of their having entered into arrangements with a single tug company. These arrangements remove vessel operators' ability to seek competitive tug assist services at the closed terminal facilities and mandate the tug company to be used and charges to be paid as a condition to being permitted to call.

³ The total number of dry bulk vessel calls on the lower Mississippi River for 2000 was 2,757; however, calendar year 2000 data for the number of calls made at the twelve closed terminals is not available. Nonetheless, the percentage of dry bulk vessel calls at the closed terminals would only drop from 89 to 88 percent if the entire reduction in dry bulk calls from 1999 to 2000 occurred at the closed terminals. It should be noted that none of the contracting MTOs challenged the 1999 vessel call data although it was made available to MTOs which requested a copy.

Moreover, contracting MTOs which ship their own, or a parent's or affiliate's, cargo ("proprietary cargo") via their terminal facilities are given undue and unreasonable preference or advantage with respect to such cargo over the cargo of other shippers using these contracting MTOs' facilities inasmuch as the profit from the payment of tug charges by vessel operators carrying such proprietary cargo would reduce such terminal operators' costs of handling their proprietary cargo below that paid by other shippers.

Section 10(d)(4) also appears to have been violated with respect to River Parishes Company, Inc. ("RIVCO"), the sole tug company which has been awarded none of the exclusive contracts, as the contracting MTOs have preferred the other three tug assist companies competing on the lower Mississippi to RIVCO's prejudice or disadvantage. The exclusive arrangements have distorted the competitive market for tug assist services from one where RIVCO was able to compete for any and all of the business of dry bulk vessel operators on the lower Mississippi, to one where it is totally precluded from serving any vessel which calls at one of the closed terminals.

NOW THEREFORE, IT IS ORDERED That, pursuant to sections 11 and 14 of the Shipping Act of 1984, 46 U.S.C. app. 1710 and 1713, each of the entities listed in Attachment A to this Order is directed to show cause why the Commission should not find that the exclusive tug assist service arrangements entered into by each of them are unreasonable practices in violation of section 10(d)(1) of the Shipping Act of 1984, 46 U.S.C. app. 1709(d)(1), and/or result in undue or unreasonable preference or advantage or unreasonable prejudice or disadvantage in violation of section 10(d)(4) of the Shipping Act of 1984, 46 U.S.C. app. 1709(d)(4).

IT IS FURTHER ORDERED That, pursuant to sections 11 and 14 of the Shipping Act of 1984, each of the entities listed in Attachment A is directed to show cause why the Commission should not order each of them to cease and desist from operating under its exclusive tug assist

service arrangements, including publication of any terminal tariff or schedule which attempts to enforce or implement any provision related to the provision of such tug services;

IT IS FURTHER ORDERED That this proceeding is limited to the submission of affidavits of facts and memoranda of law;

IT IS FURTHER ORDERED That any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR § 502.72. Such petition shall be accompanied by the petitioner's memorandum of law and affidavits of fact, if any, and shall be filed pursuant to the schedule set forth below;

IT IS FURTHER ORDERED That the entities listed in Attachment A to this Order are named as Respondents in this proceeding. Affidavits of fact and memoranda of law filed by Respondents and any intervenors in support of Respondents shall be filed no later than July 18, 2001;

IT IS FURTHER ORDERED That the Commission's Bureau of Enforcement be made a party to this proceeding;

IT IS FURTHER ORDERED That reply affidavits and memoranda of law shall be filed by the Bureau of Enforcement and any intervenors in opposition to Respondents no later than August 17, 2001;

IT IS FURTHER ORDERED That rebuttal affidavits and memoranda of law shall be filed by Respondents and intervenors in support of Respondents no later than September 17, 2001;

IT IS FURTHER ORDERED That:

(a) Should any party believe that an evidentiary hearing is required, that party must submit

a request for such hearing together with a statement setting forth in detail the facts to be proved, the relevance of those facts to the issues in this proceeding, a description of the evidence which would be adduced, and why such evidence cannot be submitted by affidavit;

(b) Should any party believe that oral argument is required, that party must submit a request specifying the reasons therefor and why argument by memorandum is inadequate to present the party's case; and

(c) Any request for evidentiary hearing or oral argument shall be filed no later than September 17, 2001;

IT IS FURTHER ORDERED That notice of this Order to Show Cause be published in the Federal Register, and that a copy thereof be served upon each Respondent at its last known address;

IT IS FURTHER ORDERED That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR § 502.118, as well as being mailed directly to all parties of record;

FINALLY, IT IS ORDERED That pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR § 502.61, final decision of the Commission in this proceeding shall be issued by March 18, 2002.

By the Commission.


Bryant L. VanBrakle
Secretary

Attachment A

Marine Terminal Operators

ADM/Growmark River Systems, Inc.

Bunge Corporation

Cargill, Incorporated

Cenex Harvest States Cooperatives

CGB Buoys

Gulf Elevator & Transfer Co.

International Marine Terminals

L&L Fleeting, Inc.

Ormet Primary Aluminum Corporation

Peavey Company

St. James Stevedoring Co., Inc.

Zen-Noh Grain Corporation

Closed Terminals Serving Vessel Operators with Published Tariffs ATTACHMENT B

<u>Marine Terminal Operator</u>	<u>Common Carrier</u>	<u>Vessel Name</u>	<u>Date of Vessel Call</u>
ADM/Growmark	COSCO (Hong Kong) Shipping Co., Limited	Searadiance	9/26/00
	Tokai Shipping Co., Ltd.	Alabama Rainbow	6/10/00
	Tokai Shipping Co., Ltd.	Japan Rainbow II	6/4/00
	Gulf Africa Line AG	Viborg	4/14/00
	Tokai Shipping Co., Ltd.	Canadian Rainbow II	4/5/00
	Tokai Shipping Co., Ltd.	Louisiana Rainbow II	3/17/00
	Tokai Shipping Co., Ltd.	Alabama Rainbow	1/30/00
	Tokai Shipping Co., Ltd.	Louisiana Rainbow	10/19/99
Bunge	A.P. MOLLER-MAERSK SEALAND	Alaska	12/7/00
	COSCO Bulk Carrier Co., Ltd.	Meng Hai	3/28/00
	Hyundai Merchant Marine	Pacific Champ	2/4/00
Cargill	A.P. MOLLER-MAERSK SEALAND	Arizona	1/1/01
	Gulf Africa Line AG	Blue Master	12/16/00
	A.P. MOLLER-MAERSK SEALAND	Alaska	12/7/00
	Gulf Africa Line AG	Viborg	7/24/00
	COSCO Bulk Carrier Co., Ltd.	Meng Hai	3/28/00
	Gulf Africa Line AG	Viborg	1/10/00
	Sanko Steamship Co., Ltd.	Oriental Express	1/1/00
	Conti Line, Inc.	M/V Eastwood	11/3/99
Cenex-Harvest States	Gulf Africa Line AG	Viborg	7/24/00
	Conti Line, Inc.	M/V Eastwood	11/3/99
	Gulf Africa Line AG	Viborg	9/22/99
	Gulf Africa Line AG	Silverford	7/20/99
CGB Buoys	COSCO (Hong Kong) Shipping Co., Limited	Searadiance	9/26/00
International Marine Terminals	COSCO (Hong Kong) Shipping Co., Limited	Yick Kam	5/8/00
L&L Fleeting	Tokai Shipping Co., Ltd.	Japan Rainbow II	11/22/99

Closed Terminals Serving Vessel Operators with Published Tariffs ATTACHMENT B

<u>Marine Terminal Operator</u>	<u>Common Carrier</u>	<u>Vessel Name</u>	<u>Date of Vessel Call</u>
Ormet-Burnside	Gulf Africa Line AG	Blue Master	12/16/00
	Gulf Africa Line AG	Viborg	11/14/00
	Gulf Africa Line AG	Blue Master	10/24/00
	Gulf Africa Line AG	Silverfjord	9/12/00
	Gulf Africa Line AG	Silverfjord	2/15/00
	Gulf Africa Line AG	Viborg	1/10/00
	Gulf Africa Line AG	Viborg	9/22/99
	Peavey	Hyundai Merchant Marine Gulf Africa Line AG	Pacific Champ Silverfjord
St. James Stevedoring		Gulf Africa Line AG	Blue Master
Zen-Noh	Tokai Shipping Co., Ltd.	Oregon Rainbow III	10/23/99
	Tokai Shipping Co., Ltd.	Oklahoma Rainbow II	8/4/99

Vessels Calling at Closed Terminals - Two or more Shippers' Cargo Onboard

ATTACHMENT C

Terminal Operator	Vessel Operator/Agent	Vessel Name	Date of Vessel Call	Shippers with Cargo Onboard Vessel
ADM/Growmark	Bottiglieri di Navigazione	Alpha Happiness	06/13/00	Bunge Corporation Conagra Feed Ingredient Merchandising Company Alfred C. Toepfer International Inc.
	PacNav	Zephros	05/09/00	ADM - Rice, Inc. ADM Latin America, Inc.
	Global Management Inc.	Taeschor	01/25/00	ADM - Export Co. Cargill Incorporated
	Global Management Inc.	Darya Chand	11/10/99	Lois Dreyfus Corporation Alfred C. Toepfer International Inc.
	San Juan Navigation	Aspilos	11/01/99	San Juan did not provide shippers names but indicated multiple shippers
	PacNav	Western Friend	05/04/99	Farmland Industries, Inc. Agroproductos Y Services Bunge, S.A.
	Saroc	Tomis Spirit	01/15/99	Alfred C. Toepfer International Inc. Overseas Commodity Corp. Contibunge Cargill, Inc.
	Global Management Inc.	Oinoussian Leader	01/04/99	Contibunge Bunge Corporation Alfred C. Toepfer International Inc. Conagra Feed Ingredient Merchandising Company
	Global Management Inc.	Atlantic Savior	09/16/98	Conagra Feed Ingredient Merchandising Company Alfred C. Toepfer International Inc.
	Global Management Inc.	Alpha Gemini	08/27/98	Alfred C. Toepfer International Inc. A.G. Processing Inc.

Vessels Calling at Closed Terminals - Two or more Shippers' Cargo Onboard

ATTACHMENT C

Terminal Operator	Vessel Operator/Agent	Vessel Name	Date of Vessel Call	Shippers with Cargo Onboard Vessel
	Global Management Inc.	Noble Star	05/27/98	Alfred C. Toepfer International Inc. ADM Export Co. Contibunge
Bunge	A.P. MOLLER-MAERSK SEALAND	Alaska	12/07/00	National Cooperative Business Assoc. ACDI/VOCA
	Bottiglieri di Navigazione	Alpha Happiness	06/13/00	Bunge Corporation Conagra Feed Ingredient Merchandising Company Alfred C. Toepfer International Inc.
	Global Management Inc.	Aurora Amethyst	06/03/00	Bunge Corp. Tradigrain Inc.
	Global Management Inc.	Otrada	04/01/00	Bunge Corporation Peavey Company
	Global Management Inc.	Meng Hai	03/28/00	Conagra Feed Ingredient Merchandising Company Cargill Incorporated
	Global Management Inc.	Multi Purpose 4	02/28/00	Bunge Corporation Louis Dreyfus Corporation
	Global Management Inc.	Pacific Champ	02/04/00	Bunge Corporation Peavey Company
	Global Management Inc.	Atlantic Savior	09/16/98	Conagra Feed Ingredient Merchandising Company Alfred C. Toepfer International, Inc.
Cargill	A.P. MOLLER-MAERSK SEALAND	Arizona	01/01/01	National Cooperative Business Assoc. ACDI/VOCA
	A.P. MOLLER-MAERSK SEALAND	Alaska	12/07/00	National Cooperative Business Assoc. ACDI/VOCA

Vessels Calling at Closed Terminals - Two or more Shippers' Cargo Onboard

ATTACHMENT C

Terminal Operator	Vessel Operator/Agent	Vessel Name	Date of Vessel Call	Shippers with Cargo Onboard Vessel
	PacNav	Leader	10/27/00	Cargill, Inc. The Scoular, Co.
	PacNav	Winner	10/16/00	Cargill, Inc. The Scoular, Co.
	Baumaine AS	Joyous Age	08/26/00	J.H. Russell Forwarding, as agent for Karr & CIE AG (Zug, Switz.) Cargill, Inc.
	PacNav	Allainhorn	08/16/00	Cargill, Inc. Noga Commodities
	Global Management Inc.	Meng Hai	03/28/00	Conagra Feed Ingredient Merchandising Company Cargill Incorporated
	Global Management Inc.	Multi Purpose 4	02/28/00	Bunge Corporation Louis Dreyfus Corporation
	Global Management Inc.	Taeschor	01/25/00	ADM - Export Co. Cargill Incorporated
	Sanko Steamship	Oriental Express	01/01/00	Sanko did not provide shippers names but indicated there were 3 shippers with 6 Bills of Lading issued
	Conti Line, Inc.	M/V Eastwood	11/03/99	World Share Catholic Relief Services Government of Nicaragua
	San Juan Navigation	Aspilos	11/01/99	San Juan did not provide shippers names but indicated multiple shippers
	Dan Gulf Shipping	Top Explorer	09/13/99	Soufflet USA ACDI/VOCA

Vessels Calling at Closed Terminals - Two or more Shippers' Cargo Onboard

ATTACHMENT C

Terminal Operator	Vessel Operator/Agent	Vessel Name	Date of Vessel Call	Shippers with Cargo Onboard Vessel
	Dan Gulf Shipping	GTS Sunrise	07/24/99	National Cooperative Business Assoc. ACDI/VOCA
	Satoc	Tomis Spirit	01/21/99	Alfred C. Toepfer International Inc. Overseas Commodity Corp. Contibunge Cargill, Inc.
Cenex-Harvest	Global Management Inc.	Aurora Amethyst	06/03/00	Bunge Corp. Tradigrain Inc.
	Global Management Inc.	Darya Chand	11/10/99	Lois Dreyfus Corporation Alfred C. Toepfer International Inc.
	Conti Line, Inc.	M/V Eastwood	11/03/99	World Share Catholic Relief Services Government of Nicaragua
CGB Buoys	Nogat Shipping Limited	Nogat	12/19/00	Tioxide Europe, S.L. Kronos International Inc.
	COSCO (Hong Kong) Shipping Co.	Searadiance (Inbound)	09/26/00	13 U.S. destination BLs issued to the following: Winfield Industries (H.K.) Ltd. Minmetals International Non-Ferrous Metals Trading Co. Zhu Kuan Company of Zhuhai Sez Hebei Xinji Barium Salts Group Co., Ltd Tianjin Foreign Trade Corp. China National Minerals Import And Export Corp. Shandong Industrial Harbin Metals & Minerals Import & Export Co., Ltd Qinghai Xinji Metals and Metals Co., Ltd.

Vessels Calling at Closed Terminals - Two or more Shippers' Cargo Onboard

ATTACHMENT C

Terminal Operator	Vessel Operator/Agent	Vessel Name	Date of Vessel Call	Shippers with Cargo Onboard Vessel
	Stellar Maritime S.A. & SIBA Shipping S.A. (Cosco Tianjin agent)	Halo Cygnus (inbound)	07/02/00	Shanxi Zhong LH Energy Resources (Group) Co. Ltd. 12 U.S. dest. BLs (cargo destined to Mexico for 8 shippers was also included on board) Torch Auto Parts I&E Co. Ltd. Jinxi Steel Pipe Plant Haicheng Bei Hai Minerals Inc. Liaoning Jiayi Enterprise Ltd. Minmetals Orient Import & Export Trading Co., Ltd. Haicheng Xiyang Refractories Materials Corp. Dashqiao City New Type Fused Magnesite Factory Shaanxi Fuyuan Import & Export Corp. Oriental Bohai Co (H.K.) Ltd.
GETCO/L&L Fleeting	A.P. MOLLER-MAERSK SEALAND	Arizona	01/01/01	National Cooperative Business Assoc. ACDI/VOCA
	Western Bulk	MV Cargo Endurance	06/25/00	Western Bulk did not provide shippers names but indicated cargo for 2 consignees was on board.
	Nafilos Shipping Agencies	Sofia	11/12/99	Bunge Corporation AGF Trading, LLC Alliance Grain, Inc.
	PacNav	Svilen Russev	06/30/99	ADM - Rice, Inc. Zen-Noh Grain Corp.
	PacNav	Western Friend	05/04/99	Farmland Industries, Inc. Agroproductos Y Servicios Bunge
	Saroc	Tomis Spirit	01/18/99	Alfred C. Toepfer International Inc. Overseas Commodity Corp. Contibunge Cargill, Inc.

ATTACHMENT C

Vessels Calling at Closed Terminals - Two or more Shippers' Cargo Onboard

Terminal Operator	Vessel Operator/Agent	Vessel Name	Date of Vessel Call	Shippers with Cargo Onboard Vessel
IMT	Global Management Inc.	Oinoussian Leader	01/04/99	Contibunge Bunge Corporation Alfred C. Toepfer International Inc. Conagra Feed Ingredient Merchandising Company
	Global Management Inc.	Noble Star	05/27/98	Alfred C. Toepfer International Inc. ADM Export Co. Contibunge
	Global Management Inc.	Mehmet Bay	09/15/00	Guangxi Metals Nanchuan Minerals
	COSCO (Hong Kong) Shipping Co.	Yick Kam	05/08/00	Liaoning Metals & Minerals Import & Export China Guangxi Longguang Talc Development Co., Ltd. Guilin Guiguang Talc Development Co., Ltd. Guangzhou Machinery I and E Limited Guizhou Corundum Abrasive Co., Ltd. China National Chemicals I/E Corp. Zhanjiang Economic and Trade Holdings Co., Ltd. The 7th Grinding Wheel Factory Import and Export Corporation
Peavey	Global Management Inc.	Otrada	04/01/00	Bunge Corporation Peavey Company
	Global Management Inc.	Athinoula	02/11/00	Bunge Corporation Peavey Company Tradico
	Global Management Inc.	Pacific Champ	02/04/00	Bunge Corporation Peavey Company
	Global Management Inc.	Ince Express	12/16/99	Bunge Corporation Peavey Company

Vessels Calling at Closed Terminals - Two or more Shippers' Cargo Onboard

ATTACHMENT C

Terminal Operator	Vessel Operator/Agent	Vessel Name	Date of Vessel Call	Shippers with Cargo Onboard Vessel
Zen-Noh	Naffilos Shipping Agencies PacNav	Sofia Svilen Russev	11/12/99 06/30/99	Bunge Corporation AGF Trading, LLC Alliance Grain, Inc. ADM - Rice, Inc. Zen-Noh Grain Corp.

Attachment D

Tug Assist Charge Levels Before and After Implementation of Exclusive Arrangements

Marine Terminal Operator	Tug Assist Charge <u>Under Exclusive Tug Arrangement</u>	Tug Assist Charge <u>Prior to Exclusive Tug Arrangement</u>	Percent Increase
ADM/Growmark	1,650 ¹	1,134	46%
Bunge	1,650	1,472	12
Cargill	1,650	1,140	45
Cenex Harvest States	1,650	1,365	21
CGB Buoys	1,850	1,590	16
GETCO	1,850	1,446	28
IMT	1,700 ²	- ³	-
L&L Fleeting, Inc.	1,850	1,508	23
Ormet/Burnside	1,550	1,134	37
Peavey Company	1,650	1,387	19
St. James	1,850	1,570	18
Zen-Noh	1,650	1,089	51

¹ This is the charge at three of the four ADM/Growmark facilities. The charge at ADM/Growmark's Gemini facility is \$100 higher, at \$1,750 per tug assist.

² IMT's tug assist charge was increased from \$1,600 per vessel effective January 1, 2001.

³ No information was provided on the tug assist charges which would have applied at IMT prior to the exclusive arrangement. IMT's exclusive arrangement went into effect in February, 1988.