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Secretary

From: Gary Ferrulli [ferrullig@mindspring.com]
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To: Secretary
Subject: Response to FMC Inquiry on EU Study
Attachments: EUStudyProposedNOI_Questions[1].txt

Attached are responses to questions posed in the FMC Notice of Inquiry An Analysis of the European Union Repeal of the Liner Conference Block Exemption.

If there are any questions regarding this filing, please notify the undersigned.

Gary Ferrulli, President
Global Logistics & Transport Consulting
Chandler, AZ

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FMC E.U. Study Notice of Inquiry Questions

Identifying Information (Please provide the information requested below with your NOI response.)

Name of Respondent: (individual) Gary Ferrulli

Respondent's Title/Position: President

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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.

The impacts were minimal; carriers offerings are roughly the same and reflect market place activities.

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.

Not really, again the market place dictates what actions that carriers take and with Service Contracts available
there isn't much that can be done in a regulated vs deregulated environment. Larger shippers and NVOCC'swill always have
an advantage over medium and small shippers in terms of both rates and services. In the era of tariffs rates were
relatively equal for shippers, the end of tariff rates ended relative competitive rates for the medium and small shippers.
And in Service Contracts carriers will not only grant lower rates, they are more likely to grant service concessions,
including space and equipment guarantees, to larger shippers and NVOCC's.

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.

No, we understand there are regulatory differences that relate mostly to the carriers, not to shippers.

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.

We believe that they are helpfull to cargo interests because they provide access to carriers that would not otherwise
be serving particular trades. Historically few carriers were "global", but due to operating alliances, there
are now many. And it would be foolish to ignore the economic benefits to the carriers that are derived from
these alliances. Those savings are a significant reason why shipping rates today between major global ports are not much different than
those of 20 years ago.
Without the Alliances, shippers would have fewer choices for services in some trades, and would have
only a handfull of choices for global services, some carrier costs would go up, and we would expect average rates to climb.

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.

My clients move a total of 85,000 containerloads (not TEU's) globally per year. Approximately 12% of that total
is in the Trans Atlantic with 30% being US exports and 70% US imports

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.

My clients volumes globally fell 30% between the beginning of 2008 and the end of 2009. The decrease in the Trans Atlantic trades was 36% US exports and 33% US imports.

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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.

Yes and no; yes in that we had to deal with TACA as well as the carriers which added an additional step or two in particular transactions between my clients and the carriers in those trades. And possibly carrier responses to shippers requests was influenced by what they had done within the Agreement. And "no" because we had reasonably good relationships with the carriers, we were able to work with them to accomplish what we needed to. However there is no apparent connection between the volume of business that we do in the US/European trades and TACA being in existance or not.

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;
not really, rate levels are a reflection of the market
b. the frequency with which rates or surcharges are adjusted upward or downward (rate volatility);
we don't know yet as after TACA was done away with the global economy collapsed and brought all rate levels down very quickly, then the carriers tried to recover very quickly - this appears to be an anomoly in the normal course of business in the US/European trades having nothing to do with the existance or non existance of TACA.
c. the assessment of surcharges;
Surcharges always have been an avenue for carriers to generate revenue and things haven't changed that much since the demise of TACA. To the degree that some of the charges have been eliminated, they were also eliminated in Service Contracts while TACA was still alive.
d. the level of competition among ocean carriers;
Not much has changed, competitiveness like rates is a function of the market so when supply exceeds demand the competitiveness increases, but when demand exceeds supply, the competitiveness deminishes.
e. the service contracting practices or terms offered by ocean carriers;
Again, not much noticeable change. Some lines seem more willing to considerlengthier contracts, again these are reflections of the marketplace.
f. the availability of vessel capacity and container equipment;

There were some difficulties in early 2010 with both space and equipment availability, but that was resolved by April.
And my clients have specific space and equipment availability requiremenst built into the Service Contracts, so we
experienced very few problems in this area .
g. the level or quality of liner services (including customer service, billing accuracy, etc.)
With the great financial losses suffered by the ocean carriers in 2009, services did deteriorate and change
as carriers tried to manage capacity. We are now getting better notification of when services will change
which will help in out planning processes, but changes in services do create planning problems.
Customer service and documentation remain inconsistant, with a few carriers improving, a few staying the
same and a few getting worse.

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.
Our strategy in Contracting is to have a known cost factor for as long as possible so we Contract between
70 and 80% under annual contracts, using the spot market as little as possible and short term Contracts
for "new" movements that come up during the course of the business year.

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)?
We use CTS, and other purchased data, to assess in general terms where our contracted rates stand
with the "trade". We understand that there is a wide disparity between rates that large shippers
obtain (including NVOCC's) and those that the medium and smaller shippers are able to obtain.

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.
Nearly 70% of our annually combined 85,000 containerloads (not TEU's) are in the Trans Pacific trades.
Of that, 70% is imports from Asia, 30% Exports from the US.

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.
Volumes began dropping in December 2007 and continued through 2009 - total decline in volume was
approximately 31% during that time frame. In 2010 we regained nearly 85% of that decline.

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.
Again, we believe that commercial activities are a function of the market, however the presence of TSA etc,
did likely speed up the rate "recovery" by the carriers in 2010. However, when we compare what happened in the
Trans Pacific vs. the Trans Atlantic or other trades that we Contract for, the timing was very close,
meaning that there was little difference in the outcome in TSA vs non-TSA trades. This would indicate that
the actions of the carriers stemmed from their severe economic distress.
While our volumes dropped in all trades, it had nothing to do with ocean freight rates or the existance of
TSA/WTSA etc, it was a function of the global economy being severly stressed.

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;
Yes, during 2008 the rates dropped suddenly and significantly and in 2010 the rates increased numerous
times - the first a function of the global markes collapsing and carriers chasing marketshre; the second the
carriers trying to recover massive losses in 2009.
b. the frequency with which rates or surcharges are adjusted upward or downward (rate
volatility);
The frequency in the downward direction was two cycles and lowered rates 30-40% in

six months; while the increases
took place over a ten month period and appear to be questionable early into 2011.
c. the assessment of surcharges;
Those have always been negotiable absent the fuel surchagres of 2008/2009 where carriers were adamant about allowing
the charge to float and not be fixed for the year.
d. the level of competition among ocean carriers;
We don't see a great deal of difference in the competitive mood of the carriers, except to note that during 2010 they
were reticent to be agressive in trying to capture cargoes, they seemd more interested in restoring rates and
charges to former levels. New entrants to the trade, while interesting, are difficult to assess as we have to have
reliable and dependable services and we have no idea if they will be around for any period of time and what level of
service they will provide.

e. the service contracting practices or terms offered by ocean carriers;
We have to negotiate vigorously to get in the specific language we need to protect the service levels we require, but
that is part of the negotiating process and we have done this for over 5 years now.
f. the availability of vessel capacity and container equipment;
For the past 5 years we have stipulated space and equipment requirements by time frames in all of our contracts,
and there are penalties if the carriers don't deliver. We have had only minor issues with this because we have
a good mutual understanding with our carriers of what is required. We also have provided to them a "rolling forecast"
every 2 weeks that depicts the next 6 weeks of volumes by port pairs and during the five years period the cargo interests
have become increasingly better at forecasting.
g. the level or quality of liner services (including customer service, billing accuracy, etc.)
Again with the economic downturn the carriers service levels deteriorated through 2008 and 2009, but are now getting
better. The biggest issue for my clients are the changes in schedules and how much notice we get for those changes. It is
difficult to plan well if the service providers are changing services frequently and with little notice.

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.
We try to contract for as close to 80% as possible and for the 2010 contract cycle,

we will be very
close to that number. Our objective is to have a known costs that we are relatively sure are
competitive in the market. We use spot rates in instances where we have new movements and need to
move the cargo quickly, then change to a shorter term contract until we hit the regular contract cycle again.

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.

Less than 10% and they are 75% European imports, 25% European exports.

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.

Dramatic drops through 2008-2009 (30-35%). And in 2010 we saw a 65-70% recovery.

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.

Not much, we negotiated with carriers for Service Contracts and with relatively small combined
volumes (less than 10,000 loads) we knew we wouldn't get rates competitive with the larger
shippers or NVOCC's. Our focus, particularly the past five years, has been on services
equipment and space and we see virtually no difference in our abilities to negotiate those
since the FEFC disbanded.

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;

These are a function of the market having little to do with the FEFC or any other Agreement.
b. the frequency with which rates or surcharges are adjusted upward or downward (rate
volatility);
The volitility was a function of economy.
c. the assessment of surcharges;
They have always been negotiable, again absent the floating fuel surcharge beginning in 2008.
d. the level of competition among ocean carriers;
The economic declines beginning in late 2007 had some carriers more agressive at that time because of
their relationships with the NVOCC's, but that is the norm in these trades.
e. the service contracting practices or terms offered by ocean carriers;
We see little change in the contracting practices absent the required floating fuel surcharges and the
adamant need for increases in 2010.
f. the availability of vessel capacity and container equipment:
We have negotiated these into our contracts for 5 years.
g. the level or quality of liner services (including customer service, billing accuracy, etc.)
The quality did fall off during the poor economic conditions, having virtually nothing to do with the
existance or non-existance of FEFC.

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.
Approximately 72% moved under annual contract and would have been higher but my clients forecasting
for 2010 was below what was actually shipped. We try to contract for 80% regardless of the vloumes.

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)?
We subscribe to three data services, including CTS, to view the markets as a whole and relate our
movements to those of the markets.

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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.)

The simple answer is no; the relationships that we had with carriers pre Oct. 2008 and today are
about the same. Any changes that we have experienced and note in response to questions above we
believe relates to the economic conditions that have existied since Oct. 2008 and have virtually
nothing to do with the regulatory changes.

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?

The Asia/US trades have always been different than that Asia/Europe in that the Asia/US has been annual
contracts while the Asia/Europe have traditionally been quarterly, making the Asia/Europe somewhat more
volitile, subject to change.
The incresing volumes from Asia to Europe in 2006-2007, actually starting before that time, caused carriers
to build larger and more efficient vessels causing them to have a lower cost base to offset the lengthier
round trip voyages.
More modern and efficient terminals in Asia and Europe vs. the US West Coast have allowed those costs to
be better controlled, the work rules at US West Coast terminals keeping productivity low and costs high for
both the carriers and the US importers/exporters.

And the Asia/Europe market is heavily influenced by the relationship of certain carriers to NVOCC's, they get
preferential pricing and service offerings (as do some very large BCO's).

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 ___ %
e. Total (all liner trades combined) 100 %

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

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:

BCO OTI Other

f. North Europe/U.S. liner trade ___% ___% ___%
g. Far East/U.S. liner trade ___% ___% ___%
h. Far East/Europe liner trade ___% ___% ___%

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.

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.

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.

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.

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

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.