



WORLD SHIPPING COUNCIL  
PARTNERS IN AMERICA'S TRADE

**Comments of the  
World Shipping Council**

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**Before the  
United States Customs Service**

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**In the Matter of**

**Advance Cargo Manifest Filing Proposed Rulemaking  
For Vessels Loading Cargo at Foreign Ports for Transport to  
the United States  
Proposed Changes to 19 C.F.R. Parts 4 and 113**

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**September 9, 2002**

# I. Introduction

The World Shipping Council (the “Council”) is a non-profit trade association of over forty international ocean carriers, established to address public policy issues of interest and importance to the international liner shipping industry. The Council’s members include the leading ocean liner companies from around the world -- carriers providing efficient, reliable, and low-cost ocean transportation for America’s international trade. The members of the World Shipping Council are major participants in an industry that has invested over \$150 billion in the vessels, equipment, and marine terminals that are in worldwide operation today. Today, over 800 ocean-going liner vessels, mostly containerships, make more than 22,000 calls at ports in the United States each year -- more than 60 vessel calls a day. The industry generates over a million American jobs and over \$38 billion of wages to American workers. The industry provides the knowledge and expertise that built, maintains, and continually expands a global transportation network that provides seamless door-to-door delivery service for almost any commodity moving in America’s foreign commerce. The Council’s member lines<sup>1</sup> include the full spectrum of carriers from large global lines to niche carriers, offering container, roll on-roll off, and car carrier service as well as a broad array of logistics services.

The members of the Council have worked closely with the U.S. government and the Customs Service to address the need for enhanced security of international maritime commerce. International liner shipping companies have provided nearly unanimous support for Customs’ Trade Partnership Against Terrorism (C-TPAT), supported research initiatives such as Operation Safe Commerce, supported the U.S. government’s efforts at the International Maritime Organization to develop new security standards for ships and marine terminal operations, supported the Customs Service’s Container Security Initiative to establish enhanced screening and inspection capabilities at ports around the world, and supported maritime security legislation before the Congress. The industry has done so recognizing the importance of securing America’s trade and world trade from the threat of terrorist attack.

The World Shipping Council’s comments<sup>2</sup> on this proposed rulemaking are made in a continued spirit of commitment to address these challenges with measures that are both meaningful and effective, and which continue to preserve the immense benefits that the American economy, American businesses and American consumers receive from the free and efficient flow of international commerce.

The United States is the largest trading nation in the world for both exports and imports, accounting for roughly 20 percent of the world trade in goods. The free flow of international trade is crucial to the smooth functioning of our national economy. In 2001, America imported more than \$1.14 trillion in goods, of which capital goods, consumer

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<sup>1</sup> A list of the World Shipping Council’s member companies is provided as Attachment A.

<sup>2</sup> These comments were developed with the assistance and input of member lines’ representatives on the Customs Electronic Systems Action Committee (CESAC).

goods, and industrial supplies and materials made up 26%, 25% and 24% of that total respectively.<sup>3</sup> Exports support an estimated one in five U.S. manufacturing jobs, and agricultural exports account for about 25 percent of American farmers' gross cash sales. Indeed, one in every three acres is planted for exports.<sup>4</sup>

Much of that vital international trade moves by sea. In 2001, America's ocean-borne commerce amounted to more than \$719 billion. Approximately \$490 billion of that commerce moved into and out of U.S. ports in containers – roughly 11.4 million TEUs of import cargo (valued at over \$345 billion), and another 6.6 million TEUs of export cargo (valued at over \$143 billion). The international ocean transportation system that moves those exports and imports is an integral part of the network of product supply chains that links American importers and exporters with overseas customers and suppliers, intermediate and final manufacturers, domestic carriers, distributors, and retail outlets.

The Council appreciates and supports the efforts by the federal government to enhance protection of this infrastructure, not only in order to protect lives and property, but to protect the economic vitality of America and its trading partners. It is difficult to quantify the magnitude of the costs – much of it in reductions in economic activity – that a shutdown of container seaports as a result of terrorism would produce. Nevertheless, a recent, detailed study of the potential impact of a shutdown of West Coast container ports, estimated that the likely costs of port closures, just on the West Coast, would cause a reduction in U.S. GNP of \$4.7 billion after five days, \$19.4 billion after ten days, and \$48.6 billion after 20 days. And, these numbers don't begin to assess the impact in other countries' economies. Obviously, the consequences could be very substantial.

Our comments recognize the need both to protect this trade and to allow it to continue to operate efficiently and reliably. Our comments also address the reality that this proposed rulemaking is the single most substantial proposed change to how America's international maritime commerce would be conducted since September 11. Its ramifications will affect virtually every shipper, every importer, every port, every marine terminal operator, every transportation intermediary, every bank financing American international trade, and every maritime carrier involved in the transportation of goods by sea to the United States. It will affect the U.S. Customs Service, its operating systems and capabilities, and its staffing. It will affect the cost and speed of international commerce. The principles and issues involved are substantial and numerous. The agency's objective cannot be achieved unless both the affected commercial parties and the agency itself are fully prepared to implement such a new regime.

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<sup>3</sup> "U.S. Trade in 2001," at [www.ustr.gov/reports/2002.html](http://www.ustr.gov/reports/2002.html) (see Annex 1). See also, U.S. Census (www.census.gov), Foreign Trade Division, Exports and Imports of Goods by Principal End Use Category.

<sup>4</sup> Robert B. Zoellick, U.S. Trade Representative, in a speech to the Council of Foreign Relations, on October 30, 2001. Pages 5-6. While these proposed regulations apply only to inbound cargo manifests, or imports, it is important to recognize that reciprocity is an important part of the international movement of goods. U.S. exports could be subjected to the same kinds of rules by foreign governments as the Customs Service is proposing for imports. Ensuring a careful, successful implementation of this proposal could have positive consequences from the perspective of our trading partners' governments, and thus on how they may treat U.S. exports.

With full support for the efforts of the U.S. and other governments to establish enhanced security while ensuring the efficient flow of commerce, we offer the following comments to this proceeding.

## II. Cargo Manifests: General

Today a cargo manifest is the document that states what a carrier has loaded aboard a vessel for delivery to the United States. The creation, submission, and retention on board of the manifest are tasks that are the responsibility of the vessel carrier and are regulated by law and regulations. Proper manifesting is a requirement for allowing the entry of inbound vessels and for the issuance of a permit to unlade.

We recognize that the cargo manifest has become a document that is used by the government to prescreen cargo for national security reasons. It was not designed for this purpose and has some limitations in this regard. We nevertheless recognize that currently the government does not feel that it has better information systems for this task, and thus the industry would like to cooperate to the extent practicable.<sup>5</sup> It is essential, however, that the role, the limitations, and the ramifications of the manifest be kept in mind.

First, the proposal in this docket changes the manifest from being a document declaring what the vessel operator has actually loaded onto the vessel. Today, a manifest is not created until the vessel operator knows what is on board and has departed the loading port. This proposed rule requires a carrier to create and file a manifest for what it *expects* will be loaded on board. Accordingly, the advance manifest will unavoidably list shipments that will not be loaded for various reasons, including “overbookings” and operational delays.

Second, because vessel operations are dependent on the Customs Service’s treatment of the manifest, we must express opposition to any regulatory change that would allow third parties, who are not agents of the vessel operator, to have a role in providing manifest information, if those third parties’ actions could in any way result in operational delays or costs for the vessel carrier or otherwise impact vessel operations. If a third party is given a role by the government in filing manifest information, then that

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<sup>5</sup> As Customs considers new mechanisms and systems for gathering cargo information, we wish to stress the need to recognize both the limited scope of the cargo manifest and its operational implications. The ocean bill of lading and the corresponding manifest *only* reflect the contract of carriage. The name of the shipper, the consignee, and the cargo description are relevant to the transportation contract and have been required elements of cargo manifests for many years. The manifest should not be used, however, to acquire information beyond the present scope of a manifest or the transportation contract (e.g., information regarding purchase orders, or country of product origin), nor should third parties be allowed to file information required in a manifest unless the vessel operator is relieved of both the responsibility for filing that information *and* any consequence of third parties’ failure to abide by regulatory requirements. While this may not be an issue in the present proposal (subject to how Customs responds to the issues raised in Part III. 9 E of these comments), it is an issue that has been discussed a great deal, and therefore worthy of comment.

filing party must be solely responsible for that information's compliance with government requirements. It would be inherently unfair, as well as disruptive to commerce, for government regulations to impose operational burdens or regulatory penalties on vessel operators for independent third parties' failures, omissions or transgressions. It is understandable and appropriate that a vessel carrier's operations could be adversely affected if *it* fails to comply with applicable requirements. It is not appropriate, however, for the acts or failures of a third party, authorized by the government to file its own information, to jeopardize the operations of a vessel or the timely, reliable delivery of the cargo of many other shippers aboard a vessel.

Finally, it is essential that the government understand, contrary to the background statements in the proposed rulemaking<sup>6</sup>, that this proposal is a *very* significant regulatory action and that it will have a significant economic impact, not only on a substantial number of small entities, but on major enterprises as well. The government may determine that this proposal is necessary for security reasons, but it should do so only with the understanding that it will delay commerce, it will significantly increase carrier and shipper costs, and it will require trade processes to change significantly. The extent to which it will delay commerce and increase operating and supply chain costs will depend on how effectively the industry implements these proposed requirements, how efficiently, reliably and expeditiously the Customs Service performs its responsibilities, and how much time all parties have to undertake the necessary actions to make this proposed system work as efficiently as possible. We support Customs' objective in this rulemaking, but there are many issues and challenges that must be addressed if it is to be a success. As discussed in more detail in Part III.14 of these comments below, the Council requests that the effective date for any final regulation be twelve months from the time it is published in the Federal Register.

### **III. Issues Raised by the Proposed Rulemaking**

#### **1. Timing of Filing Advance Manifests**

The proposed rule provides that "Customs must receive from the carrier the vessel's Cargo Declaration, Customs Form 1302, or a Customs approved electronic equivalent, 24 hours before such cargo is laden aboard the vessel at the foreign port."<sup>7</sup>

Today, a vessel that will arrive in the United States submits one cargo manifest. Because this proposed rule requires a manifest to be filed in advance of loading, vessels engaged in multiple foreign port calls before arriving in the United States would need to file multiple advance manifests – one for each foreign port of loading.

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<sup>6</sup> The proposed rule's background explanation states: "[I]f adopted, the proposed amendments would not have a significant economic impact on a substantial number of small entities" (67 Fed. Reg. 51521), [n]or do they meet the criteria for a significant regulatory action as specified in E.O. 12866." (67 Fed. Reg. 51521-22).

<sup>7</sup> Section 4.7(b)(2)

The World Shipping Council understands and supports the government's objective of advance shipment information and the Container Security Initiative. We recognize that the Customs Service has taken the position that: "An essential element of CSI is advance transmission of vessel cargo manifest information to Customs. Analysis of the manifest information prior to lading will enable overseas Customs personnel to identify high-risk containers effectively and efficiently, while ensuring prompt processing of lower risk containers."<sup>8</sup> The Council is committed to working with Customs to make this strategy successful.

We recognize that, as a result of this proposed rule, the U.S. Customs Service will have a substantial operational impact on vessel and marine terminal operations at every foreign port that loads cargo aboard a ship destined for the United States. The industry understands and supports the U.S. government instituting rules to "protect the United States and a significant part of the global trading system – containerized shipping—from terrorists and the implements of terrorism, including weapons of mass destruction."<sup>9</sup> The industry expects, and the continued efficient flow of commerce requires, however, that the U.S. government act "promptly", "effectively and efficiently"<sup>10</sup> in analyzing and acting on this information.

This point is a critically important foundation for our comments on this proposed rulemaking and for the initiative's success. This proposed rule will require substantial changes in how a large percentage of U.S. commerce moves today, because U.S. cargo documentation requirements currently can be addressed after vessel loading and during transit. Preparing a cargo manifest for a ship loading hundreds or thousands of containers requires time. Requiring the submission of a cargo manifest 24 hours before loading in a foreign port will require shippers to provide carriers with cargo documentation as much as 24 to 72 hours *before* that 24 hour filing requirement, depending on volumes being loaded and the capabilities in that foreign port. That can easily mean that shippers will have to provide cargo documentation information a week or more earlier than they do today. But, this involves more than the earlier transmission of data. Many of the cargo manifest items are, as the proposed regulations specify, information from the carrier's bill of lading. Carriers will not be able to complete an advance manifest with information that is on the bill of lading, until the bill of lading is created, and that will not occur until the cargo has been tendered to the carrier. This will create a major issue of where received containers will be stored while they await this Customs screening process. This raises difficult and costly issues for carriers, terminal operators, and shippers around the world who are not currently prepared for such a change.

If this proposal is to accomplish its objective, and if the burden it would create on commerce is to be justifiable, then it is *essential* that the Customs Service ensure that it can and will analyze the submitted cargo manifest information and identify those

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<sup>8</sup> 67 Fed. Reg. 51520.

<sup>9</sup> *Id.*

<sup>10</sup> "Analysis of the manifest information prior to lading will enable overseas Customs personnel to identify high-risk containers *effectively and efficiently, while ensuring prompt processing of lower risk containers.*" 67 Fed. Reg. 51520 (emphasis added).

shipments that require further inspection or action promptly, consistently, and *significantly before vessel loading commences.*

Vessel planning and stowage requires the vessel operator and stevedore to know before loading what cargo should not be loaded. In order to do that, they must be able to know at what time they can with confidence finalize the vessel stowage plan. If changes are to be made in the stowage plan, they must be known sufficiently in advance of the commencement of the loading operation to adjust the plan.

For example, if the cargo manifest is filed 24 hours before loading, but the vessel carrier does not learn of Customs' decision to "hold" a box until 30 minutes before loading, it would be very difficult to make the necessary adjustments without significant operational disruption and expense. If Customs does not inform the carrier of a "hold" until after loading has begun or after sailing, the resulting costs, delays, and service failures can be quite substantial.<sup>11</sup> Nor are the effects of vessel delay necessarily limited to the particular vessel, because at busy ports a vessel that remains at berth longer than scheduled may affect the operations of other vessels scheduled to use that berth.

First, we assume that under this proposal cargo on the advance manifest is clear to be loaded unless Customs informs the carrier to "hold" the loading of that cargo. We request confirmation of this.

Second, we wish to emphasize that it is very important for carriers to know how long Customs' review and analysis of the advance manifest will take. The reason is that carriers will want to work backwards from that number in planning when they will file the advance manifest and when to establish cargo "cut-off" times. If, for example, a carrier wants to have its stowage plan finalized 12 hours before loading, but Customs requires the full 24 hours to analyze the information, then the carrier may decide that it needs to file the manifest 36 or more hours in advance of loading. However, if Customs can provide an assurance that it can analyze and communicate back to the vessel carrier within a short, reasonable period of time after receiving the manifest (e.g., within 4 hours of filing), the vessel carrier would not need to file its manifest filing earlier than 24 hours.

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<sup>11</sup> The Council has supported CSI and "advance" awareness and inspection, because it is the logical approach for security enhancement, and because the costs and disruptions to carrier operations and the dependent supply chains can be so substantial when U.S. ports of discharge are used by Customs for unpredictable container inspections. For example, the Customs Service has recently implemented a new program for the x-raying of containers deemed to be "high risk". Carriers, brokers and importers have not yet been able to obtain clear guidelines from Customs about the program's implementation in the various seaports in the United States. However, its implementation has already cost carriers and their customers hundreds of thousands of dollars. To give one example, a vessel was required to offload 18 containers in the first U.S. port of discharge for inspection, rather than their subsequent U.S. destination port. The vessel was stowed for those boxes to be unloaded at destination. The costs to the carrier of complying with this unloading and restowing demand from Customs exceeded \$30,000 – almost \$2,000 per inspected box -- and caused the vessel to become significantly off schedule. Another request to unload for inspection at the first port of call, rather than the U.S. destination port, required 144 container moves to unload seven containers for Customs to inspect. Another carrier incurred similar costs of roughly \$10,000 for the inspection of three containers on board that were stowed for a subsequent foreign destination. The security screening system must not produce such results.

While we recognize Customs cannot guarantee that it would never request a “hold” on a container during the full 24 hours, we request clarification as to whether vessel carriers can under normal circumstances safely assume that Customs will notify them of any holds on advanced manifested cargo within a defined number of hours from the time of submission, and if so, what that number of hours is. This request is very important because the response to it – perhaps more than the 24 hour rule itself – will directly determine how carriers must plan their operations.<sup>12</sup>

Third, the proposed rulemaking states that the advance cargo manifest “will enable overseas Customs personnel” to analyze the information and “identify high-risk containers effectively and efficiently.”<sup>13</sup> We are unclear about how this would or could work. First, there are a limited number of U.S. Customs officials present in a limited number of foreign ports. Vessel loading operations for ships destined for the U.S. occur on a “24 hour/7 days a week” basis in different time zones around the world. Even in CSI ports where U.S. Customs officials may be present, they will presumably not be working on a 24x7 basis. If the vessel manifests are to be examined by local Customs personnel, will the number of hours required for analysis be longer if the manifest is filed outside the Customs personnel normal “business” working hours?

Fourth, how will the Customs Service perform this analysis and communication function in the vast majority of foreign ports where there are no “overseas Customs personnel”? We can only assume that the Customs Service will perform this function remotely from the United States. This will *require* Customs to operate a cargo manifest analysis and communications center on a 24x7 basis. Such a center could handle both non-CSI port loadings and CSI port loadings when Customs personnel are off-duty. In any case, we do not see how this proposal can be implemented before such a center is in operation and has been successfully tested as both an analytical and communications center.<sup>14</sup>

If carriers and shippers incur the substantial costs and delays that this proposal would produce, and Customs is unable to reliably and promptly identify and communicate in ample time before loading which cargo shipments require inspection or further review, this entire exercise would be an unjustifiable and costly mistake.

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<sup>12</sup> There can also be inevitable delays in the transmission of the relevant information that the agency and the carrier must consider. For example, there may be a load-port agent of the carrier who will transmit the cargo information to the vessel carrier, who will need to transmit the data to its U.S. agent or office, who will transmit the information to Customs – and then the inverse transmission of any “hold” notices back to the load port. Furthermore, in some less developed countries, power and communications failures are not uncommon and could affect operations far more dramatically under these proposed rules. A rapid analysis and assurance of communication from Customs could help carriers deal with these kinds of issues within the proposed 24 hour period.

<sup>13</sup> 67 Fed. Reg. 51520.

<sup>14</sup> We note that such a center would also offer the possibility of having a uniform, global standard for the time Customs needs to analyze cargo manifest information, as discussed earlier.

## **2. Number of Filings and Workload**

First, we would like to be certain that the Customs Service appreciates how many manifest filings this proposed rule would create, so that the agency can be certain that its systems and personnel are ready to handle the resulting information flow and analysis. Today, there is one manifest per sailing to the United States regardless of the number of foreign ports of loading. Under this proposal, as noted above, there would be many filings for a single sailing. For example, a vessel service from Australia (that today provides one manifest filing 48 hours before arrival in a U.S. port) would require a manifest filing 24 hours before loading in Australia, but that may be several weeks before the vessel actually arrives in a U.S. port, and the vessel could stop at many other foreign ports in Asia before arrival in the U.S.. That single sailing could generate more than ten manifest filings under this proposal.

In the background analysis of the proposed rule, the agency states that its “estimated annual frequency of responses” for a carrier is 100. We do not know how that number was derived, but it is certainly incorrect and too low. A single weekly trans-Pacific service that calls at five Asian ports would generate 260 annual filings by a single vessel carrier offering that service. A substantial number of vessel carriers would each have thousands of foreign load port manifest filings per year.

Customs systems and personnel must be prepared, not only for a much higher volume of manifest filings, but a more compressed time to perform the security prescreening analysis. Today, Customs has two days to analyze an electronically filed manifest before a carrier arrives in port. Under this proposed rule, the security analysis will be compressed into a number of hours before loading. The Customs Service receives millions of import bills of lading for container shipments. With NVOCCs’ house bills of lading being added to the system under this proposed rule, those numbers will significantly increase.

Customs personnel and systems capacities need to be scaled to and prepared for the receipt and analysis of, and timely response to, a much heavier flow of information in a more compressed time frame under this proposal. If Customs actually expects the additional workload from this proposal to be what is stated in the Federal Register description of the rulemaking, then we are very concerned that the agency may not adequately appreciate what will be required of it.

Second, we request clarification from Customs regarding how AMS will handle the advance manifest transmissions and amendments. To meet the requirements of “advance” manifest filing, vessel carriers will have to transmit “partial” manifests – the first foreign port as it is completed, then the second foreign port, then the third foreign port, etc. Carriers are concerned that today AMS cannot distinguish adding a full port transmission from regular amendments. As a result, a carrier’s AMS “report card” would show hundreds of amendments simply by complying with the new proposed requirements, and this could negatively reflect on their accuracy rating. Accordingly, we

request that Customs make whatever additional AMS programming modifications may be necessary to make such distinctions.

Third, we seek clarification as to whether a final manifest filing will continue to be required 48 hours prior to arrival in the United States, including all the cargo information relating to cargo actually loaded.<sup>15</sup>

### **3. Non-Electronic Filings**

The proposed rule is intended to strongly encourage electronic filing, although it is technically not required. In foreign ports where there are no U.S. Customs personnel to receive a hard copy cargo manifest, how and where should the vessel operator file the documents?

### **4. Canada**

A vessel with U.S. destination cargo that calls in a Canadian port but not a U.S. port would not be covered by these proposed regulations. Similarly, U.S. destination cargo on a vessel that is unloaded in a Canadian port before the vessel calls at a U.S. port would not be subject to these proposed regulations. Canadian customs regulations require cargo manifests to be filed prior to cargo discharge; standard industry practice is to file 24 to 72 hours before vessel arrival.

The pronounced difference in regulatory burden between the proposed rulemaking and Canadian law would create a substantial incentive to route U.S. destination cargo through Canadian ports rather than U.S. ports in order to avoid these proposed requirements. It would also create a disincentive to route Canadian destination cargo through U.S. ports due to the proposed Freight Remaining on Board rules.<sup>16</sup> The consequences for U.S. ports that compete with Canadian ports for business could be significant.

We oppose disparate government regulatory treatment of the same cargo that creates such incentives. We urge the U.S. and Canadian governments to establish common policies and practices.

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<sup>15</sup> We note that the Coast Guard, in a pending proposed rulemaking regarding advance Notices of Arrival, proposes, inter alia, to require ships entering U.S. ports to file inward cargo manifests with the Customs Service AMS system 96 hours prior to vessel arrival, rather than the current 48 hours, and rather than the 24 hours before loading proposed in this rulemaking. Docket No. USCG-2001-11865. The World Shipping Council has filed comments opposing this part of the Coast Guard's rulemaking because 96 hours in advance of arrival does not appear to meet any Customs Service requirement or strategy, the issues involved with the government's strategy regarding cargo manifest filing are both numerous and complex, and these issues should be within the sole, coordinated authority of Customs to decide. We hope that the Customs Service will confirm with the Coast Guard that Customs' cargo manifest filing requirements should be handled by the Customs Service, and not through Coast Guard rulemaking.

<sup>16</sup> See Part III.8 of these comments.

## **5. Need for Flexibility to Address Non-Containerized Shipments**

The rationale provided by the Customs Service for the proposed rulemaking is based on containerized cargo.<sup>17</sup> The potential risk of sealed containers as a conduit for terrorist use is widely discussed. This risk is based in significant part on the fact that the vessel operator does not and cannot open sealed containers and must rely on the shipper's cargo declaration of the container contents. No such case or rationale has been stated for cargo that is not in a sealed container.<sup>18</sup>

The proposed rule would apply to all inbound cargo shipments, including bulk and breakbulk shipments.

A bulk vessel cannot state with accuracy how many gallons or tons of cargo it will be carrying until after loading is completed. A breakbulk operator transporting cocoa or coffee beans will not know how many tons of beans it is going to load 24 or 48 hours before loading (unless they are containerized and it has a shipper's declaration for the container). Similarly, a breakbulk operator transporting non-containerized sawn timber could have a great deal of difficulty obtaining the level of cargo detail necessary for an advance pre-loading manifest.

Because bulk and most breakbulk cargo is not concealed like containerized cargo, there should be less inherent security risk, and because such operations cannot realistically submit accurate cargo manifests until after loading has concluded, we request that the Customs Service not include bulk and unsealed breakbulk shipments in this proposed rulemaking. The burden of this proposed rulemaking on Customs and on containerized cargo would be significant enough and would create enough issues requiring resolution.

If, after the container cargo manifest system is implemented and the issues involved with its operation are addressed, a further review determines that bulk and breakbulk cargo manifests should be submitted before loading, those issues could be addressed through a subsequent rulemaking.

## **6. Need for Flexibility to Address Secure, Specific Supply Chains**

The rationale for the proposed rulemaking is "to identify high-risk containers effectively and efficiently, while ensuring prompt processing of lower risk containers."<sup>19</sup> We understand and support this rationale.

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<sup>17</sup> The rulemaking background information speaks of "the Container Security Initiative", protecting "a significant part of the global trading system – containerized shipping – from terrorists", targeting and inspecting "high risk sea containers in foreign ports", and identifying "high-risk containers effectively and efficiently, while ensuring prompt processing of lower risk containers". 67 Fed. Reg. 51520.

<sup>18</sup> In this context, sealed container would be broader than an ISO standard container, but would include sealed wooden crates as well.

<sup>19</sup> 67 Fed. Reg. 51520

We urge Customs to consider whether it is possible to recognize in advance lower-risk shipments that would not need to be subjected to the delays that could result from this proposal. If a shipper can satisfy the Customs Service that its shipments are low risk, should it have to go through the advance filing process envisioned in this proposal? We offer several concepts in this regard for the agency's consideration.

First, Customs' Trade Partnership Against Terrorism (C-TPAT) is a program whose specific intent is to create such lower risk containers. The promised C-TPAT benefit of expedited Customs cargo clearance in the U.S. port of discharge may be less than the costs and delays that would result from this proposed advance cargo manifest rulemaking. We request that Customs consider whether it would be appropriate to exempt from the proposed advance cargo manifest filing requirement cargo that is tendered to a C-TPAT sea carrier by a shipper that is a C-TPAT importer, using a C-TPAT intermediary. If C-TPAT is not yet sufficiently developed to provide such consideration, is there a time frame within which it might serve this function?

A second recommendation is that Customs exempt from the advance manifest requirement cargo tendered by a shipper who has had the container inspected and certified by an inspection service acceptable to the U.S. Customs Service prior to delivery to the vessel carrier. Such measures should provide enhanced security and could be overseen and controlled by Customs Service requirements. If such steps have been taken, we request consideration be given to exempting such cargo from the advance manifest process.

Finally, as a variant of the above suggestion, we request that Customs consider whether it could establish a procedure through which it could grant waivers from the advance filing requirement for those shippers that can otherwise satisfy Customs that their containers are in fact low risk.

## **7. Empty Containers**

The proposed rulemaking would amend 19 C.F.R. section 4.7a(c)(1) to require that the inward cargo manifest declaration list "any empty containers that are on the vessel."<sup>20</sup> Under the proposal, this information and form must be filed "24 hours before such cargo is laden aboard the vessel at the foreign port".

Our concern here is not in providing Customs with a list of the specific empty containers coming into a U.S port, if that is what Customs wants. Our concern is that it is not practical, and often not possible, to provide an accurate list of empties 24 hours before loading. First, empty containers are generally drawn out of a pool of empties, and are not specifically identified that early in the process. Second, empties are added or subtracted at the last minute depending on changing equipment needs and estimates and time available for loading. For example, if loaded containers do not show up on time, are "held" from loading, or are "rolled" to a subsequent voyage, the carrier should be able to

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<sup>20</sup> 67 Fed. Reg. 51523

add empties on the vessel immediately before sailing. Without the flexibility to adjust the number of empties that are loaded, overall logistics optimization and equipment overhead would be adversely affected.

If Customs wants to require that the carrier provide a list of empty containers before arrival in a U.S. port, that can be done, but we request that the proposal not require such a list 24 hours before loading.

## **8. Freight Remaining On Board**

A significant number of vessel services call at foreign ports after discharging their cargoes in U.S. ports, for example, an Asia-California-Panama-Asia service. The cargo originating in Asia, which is destined for Panama is considered “foreign cargo remaining on board (FROB)” under Customs’ regulations, and the proposed regulations provide that such FROB must be separately listed as part of the cargo manifest filing. It is not clear from the proposed regulations what information requirements apply to this cargo.

First, we request clarification as to whether the required information for FROB is the same as for U.S. destination cargo.

Second, Customs needs to understand that, regardless of what information is required, this will be quite a surprise and cause significant difficulties to many foreign shippers, who may not be doing business in or with anyone in the United States.<sup>21</sup>

Third, if these proposed requirements apply equally to FROB as they do to U.S. destination cargo, that fact may have significant operational and vessel deployment ramifications. Carriers have expressed concern that if they serve a foreign market by using a vessel that calls in a U.S. port before arrival in that foreign country, these advance manifesting requirements will make their service uncompetitive vis-à-vis services that call on that country without first calling at U.S. ports. For example, a European exporter shipping its goods to Latin America may refuse to use a service that requires such advance documentation if it can use a service that doesn’t call in the U.S. and thus doesn’t require early cargo documentation.

Carriers have made investments and vessel deployment decisions based on current law and the ability to serve foreign-to-foreign markets competitively with ships that call at U.S. ports. We request Customs to reconsider whether it is necessary to subject FROB to the same standards as U.S. destination cargo. If it is, carriers will need adequate time to make whatever marketing and operational service changes they may need to make to

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<sup>21</sup> For example, in non-U.S. trades NVOCCs do not exist as distinct legal entities. Consolidated shipments by foreign freight forwarders of FROB shipments (where the foreign forwarders are shippers in their relation to the vessel carriers) would raise the issues discussed in Part III. 9 of these comments regarding NVOCCs, but without the ability of such forwarders to file in AMS as NVOCCs would do. What would be required in such a situation?

adapt to the consequences of the proposed rule and still satisfactorily serve these foreign markets with competitive service.

## **9. Non-Vessel Operating Common Carriers' Manifest Filings**

The Council strongly supports the Customs Service proposal that provides for NVOCCs to file their own manifests and to obtain their own carrier bond. We do wish to raise several issues that arise in the context of NVOCCs filing their own manifests. These issues require resolution regardless of whether the NVOCC manifest must be filed 24 hours before loading or 48 hours before vessel arrival.

### ***A. Definition of NVOCCs Eligible to File in AMS***

For NVOCCs to file their manifests in AMS, the proposed regulation provides that they must be “*licensed* by the Federal Maritime Commission and in possession of an International Carrier Bond” from Customs.<sup>22</sup> NVOCCs are licensed by the FMC, however, only if they are “in the United States”, i.e., organized or with a presence in the U.S.. NVOCCs not “in the United States” can still do business in U.S. trades without a license so long as they have a tariff and performance bond on file with the FMC. The result of the present drafting of the Customs proposal is that unlicensed NVOCCs could not use AMS to file their manifest information with Customs, but would have to give their manifest information to ocean carriers to transmit for them. There are a substantial number of such unlicensed NVOCCs. Ocean carriers have no desire to do NVOCCs’ paperwork for them. Furthermore, there is no apparent reason to disallow such legally operating NVOCCs from filing in AMS. We recommend that the proposed rule be changed to allow an NVOCC to file in AMS if it has a tariff on file at the FMC and has a Customs International Carrier Bond.

Vessel carriers may or may not have interest in the expense, time and staffing that would be required to submit NVOCCs’ cargo manifest information if NVOCCs elect not to file with the Customs Service themselves. Ocean carriers are not staffed for such work, and would certainly have to charge for such additional non-transportation services. Accordingly, we encourage Customs to facilitate NVOCCs’ use of AMS.

### ***B. What Information Must the NVOCC File?***

The proposed regulations state that, when NVOCCs transmit their manifest information via AMS, they transmit the “corresponding required cargo manifest information”.<sup>23</sup> We request clarity and specificity regarding what that includes. Is it the same fifteen enumerated items that the vessel carrier must provide? Ocean carriers need

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<sup>22</sup> Section 4.7(b)(3)(i).

<sup>23</sup> Section 4.7(b)(3)(i)

to be clear on this as they may be asked to file the information for NVOCCs that do not file in AMS.

### ***C. What Must the Ocean Carrier's Manifest Show for NVOCC Cargo?***

We request clarification from Customs regarding what information the vessel carrier must show on its advance manifest for containers that are tendered to it by an NVOCC that is filing its own manifest in AMS. We recommend that the vessel carrier be required to simply identify the NVOCC as the shipper, and provide the bill of lading number and the container number. The rest of the necessary information should be supplied by the NVOCC in its filing.

### ***D. Notification of Vessel Carrier***

The proposed rulemaking “would recognize the status of an NVOCC as a manifesting party and would obligate any NVOCC having such a bond and electing to provide cargo manifest information to Customs electronically under section 4.7 and 4.7a to transmit such information to Customs in an accurate and timely manner. Breach of these obligations would result in liquidated damages against the NVOCC.”<sup>24</sup> If NVOCC's do not file their own manifests, then the proposed rule provides that the NVOCC must provide all the necessary manifest information to the vessel carrier for filing with Customs.

First, we request that the Customs Service clarify how the vessel carrier will know that the NVOCC has filed in AMS. Can the vessel carrier simply accept the NVOCC's representation that it has filed?

Second, it is essential that the Customs Service notify the vessel carrier of any “hold” of an NVOCC's container in order to ensure that the container is not loaded and that it can be inspected before loading. We request confirmation that this will happen.

Third, we request that the Customs Service clarify how it will notify the vessel carrier that an NVOCC container has been determined by Customs as requiring inspection or further attention before loading.

Fourth, will Customs need the same amount of time to analyze the NVOCC's manifest and communicate to the vessel carrier if there is an issue warranting a “hold” on an NVOCC's container as it will need to analyze the vessel carrier's manifest? For the same reasons as discussed in Section III.1 above, it is very important that ocean carriers know when they can be confident that Customs has completed its review of the NVOCC's submitted information and determined whether to “hold” the container, so that the ocean carrier can plan with certainty to load such a container without risk of having to unload it after it is stowed.

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<sup>24</sup> 67 Fed. Reg. 51521

### ***E. NVOCCs Responsible for Their Own Obligations***

Because this proposal would recognize NVOCCs as independent manifesting parties with International Carrier Bonds, subject to liquidated damages for breach of their obligations, we request that the final rule clearly state that vessel carriers' operations will not be subject to disruption or penalty, and their manifests will not be found to be incomplete, if an NVOCC is in breach of its Customs' filing obligations (except, of course, if the vessel carrier failed to manifest the NVOCC containers on its own manifest, if it loaded NVOCC cargo after it was instructed by Customs not to load, or if it knew the information that the NVOCC was filing was false).

### ***F. NVOCC Co-Loading***

It is common for a container tendered by an NVOCC to be a "co-loaded" container, in which multiple NVOCCs provide cargo and are "shippers" in their relation to the "master" NVOCC. In such cases, the "master" NVOCC is the shipper with whom the vessel carrier contracts. The "master" NVOCC in turn contracts with the co-loading NVOCCs. Similarly, NVOCCs may accept cargo from a freight forwarder and list the forwarder as the shipper. In such cases, odd, unknown or high-risk shipments will not be identifiable, and could in fact be concealed, if the co-loading NVOCC or freight forwarder is listed in the manifest filing as the shipper, and the true shippers' and consignees' identities and their cargo are not revealed.

Because the proposed rule provides that vessel carriers may end up filing NVOCCs' cargo manifests, we request clarity on what is required for co-loaded containers. In particular, we request clarity on items 8 and 9, which require the shipper's name and address and the consignee's name and address.

First, we assume that, in a "consolidated" container with multiple shippers' cargo tendered by a single NVOCC, each shipper and each consignee must be listed, so that for such a single NVOCC's container (i.e., not a "co-loaded" container), the shipper, cargo description and consignee information from each of the NVOCC's house bills of lading would be the information source. Please confirm that this is the case.

Second, in the case of a "co-loaded" container, the "master" NVOCC – who may have a minority share of the cargo in the container -- will issue bills of lading to its own customers, but also contract with one or more co-loading NVOCCs. In that case, the master NVOCC's house bill of lading may show the co-loading NVOCC as the shipper, but the true shipper and the true consignee of the co-loaded cargo (and perhaps an accurate cargo description) will not be shown on the master NVOCC's house bill of lading. If this process is going to have any value for security screening purposes, then it would appear necessary that the relevant information from all the co-loading NVOCC's house bills of lading must be provided as well as the "master" NVOCC's house bills in order to produce a cargo manifest that provides Customs with the actual shippers' and consignees' names and the accurate, precise cargo descriptions. If this is not required,

then there is a substantial loophole that would undermine the integrity and effectiveness of the proposed rulemaking. We request clarification whether the shipper, consignee, and cargo description information from all NVOCC house bills of lading (“master” NVOCC and co-loading NVOCC) must be included in the advance cargo manifest filing.

Finally, we request clarification whether Customs will permit a freight forwarder to be listed as the shipper, rather than the actual shipper.

## **10. Variations from Advance Filed Manifest**

### ***A. “Overbookings”***

Under any system that requires a carrier to file a cargo manifest 24 hours before loading (and thus obtain all cargo information 24 to 72 hours before that filing deadline), there will necessarily be uncertainty about whether all the cargo manifested will in fact be loaded aboard the vessel. In fact, it is certain that not every container manifested that far in advance will in fact be loaded. Thus, there will be “overbookings” reflected in such an advance filing. We request confirmation that there is no problem if cargo manifested in advance does not get loaded aboard the vessel.

### ***B. Corrections***

The Customs Service is aware that manifest corrections are often filed after the initial manifest is filed in AMS. Customs Directive No. 3240-067A addresses Manifest Discrepancy Reporting. Some carriers report that a substantial percentage of their filings receive corrections that are provided by their shipper customers, ranging from a new consignee because the goods have been sold in transit, to piece count corrections, to cargo description changes. One major carrier estimates that 31% of its bills of lading are amended one or multiple times after vessel loading.

It is important that Customs consider and state the policy it will adopt regarding corrections. There is a conundrum here. Customs expects a cargo manifest to have all the items of required information, and it presumably expects the shippers to provide as complete and accurate information as possible, especially if the first filing is used for security screening purposes. Because of the time pressures created by this proposed rule, it is reasonable to expect that there will be questions about how much accuracy is expected on an advance manifest. Neither Customs nor carriers want shippers providing preliminary information that they know they will change before arrival. Many shippers may do this if there is no consequence to them for providing incorrect information.

Carriers should not be caught in the middle of this situation, because they are not able to control it. The proposed regulations recognize that carriers must be able to rely on the shipper’s declaration of the contents of a sealed container, and thus we seek confirmation that carriers will not be subject to penalties for incorrect or corrected (as opposed to omitted) manifest cargo information provided by shippers. Carriers would

also appreciate any additional guidance that Customs can provide on how it will address corrections.

## **11. Comments on Enumerated Manifest Information Items**

The proposed new 19 C.F.R. Section 4.7a(c)(4) enumerates fifteen required manifest information items. The following are comments on a number of the various specified items.

### ***Items 1,6, and 12: Ports***

Item 1 requires “the foreign port of departure”, Item 6 requires “the first port of receipt of the cargo by the inward foreign ocean carrier”, and Item 12 requires “the foreign port where the cargo is laden on board”. This has generated some confusion, and we request clarification.

First, what does Item 1 mean? If it means the port where the cargo is being loaded, it is the same as Item 12. If it means the first port of lading for transshipped cargo, how is it different from Item 6? If it means the first port of lading for transshipped cargo where a different carrier handled the first movement, the filing carrier may have no way of answering this question.

Second, Item 6 appears intended to obtain information about the first port of receipt for *transshipped* cargo. We request clarity on that, and that for non-transshipped cargo, Items 6 and 12 would be the same.

We request clarity on these three port items and also recommend that, when Customs considers clarification of these questions, it consider the definitions submitted by the Trade Support Network Multi-Modal Manifest Committee to the Customs Service Subject Matter Experts in June of this year, which should provide useful guidance.

### ***Item 7: Cargo Description***

Item 7 requires a “precise description” of the cargo. While we understand that “FAK” and “general cargo” are not acceptable, it is unclear what is acceptable.

First, the proposed regulations state that this requirement can be satisfied by the Harmonized Tariff Schedule numbers if that information is provided by the shipper. We request clarity on how many HTS digits are needed in this regard.

Second, we note that, aside from the agency’s answer to the above request for clarification on HTS numbers, there are no clear Customs guidelines that are uniformly applied for what would be an acceptable, non-HTS description. For example, is “general

department store merchandise” acceptable, and, if not, what would be an acceptable description for such cargo?

We request that Customs confirm that a filing carrier, in the absence of knowledge to the contrary, is entitled to rely on “the shipper’s declared description” to be not only accurate, but precise in all of its particulars, *unless*, on its face, the description is inconsistent with Customs regulations (e.g., no FAK) or headquarters approved, publicly issued guidelines.

Third, we very strongly urge the Customs Service to adopt clear guidelines that are uniformly applied at all U.S. ports. Disparate interpretations of such requirements by different Customs officials at different port, or even within the same port, are not logical, fair or acceptable. Shippers and carriers deserve to know as clearly as possible what is required, and those requirements should be uniformly applied.

#### ***Item 8: Shipper’s Identification Number***

In its January 17, 2002 White Paper on “Improving Security for International Liner Shipping”, the World Shipping Council recommended that the government consider the establishment of identification numbers for shippers and consignees. Item 8 states that the manifest should list “the shipper’s name and address, *or* an identification number”. We request clarification regarding what kind of identification number is intended or acceptable in this regard. Will Customs be issuing such numbers? Must it be a U.S. government issued number, such as an IRS number? Can it be a numbering system of which the Customs Service is unaware? We request further clarity and guidance on this issue in Item 8, and the same issue in Item 9.

#### ***Item 9: Consignee Information***

Item 9 of the required manifest information is “the consignee’s name and address, or the owner’s or owner’s representative’s name and address, or an identification number, from all bills of lading.”

Today, “to order” bills of lading may be used pursuant to which there will be no consignee.

First, we request clarification regarding whether this proposed rule requires a consignee’s name, or requires a consignee’s name only if there is one, and thus “to order” bills of lading remain acceptable.

Second, we seek confirmation that “owner’s or owner’s representative” means the cargo owner.

Third, we request clarification regarding when “owner’s or owners’ representative” is to be or can be used. For example, if there is a consignee, can the shipper decline to disclose the consignee by naming the cargo owner? Is the “owner” to be used only if there is no consignee? Must a person listed as an owner have a U.S. address?

Finally, we request confirmation that the regulations will continue to accommodate goods sold in transit, and that the consignee’s name can be changed after filing if the goods are sold.

#### ***Item 10: Notice of Boarded Cargo Discrepancies***

Item 10 of the proposed mandatory advance manifest information is: “Notice that actual boarded quantities are not equal to quantities as indicated on the relevant bills of lading (except that a carrier is not required to verify boarded quantities of cargo in sealed containers).” With the proposed rule requiring the manifest to be filed 24 hours *before* loading, there will be no “actual boarded quantities” in an advance manifest. We request clarification regarding what is intended in this regard.

The Council strongly supports the parenthetical language used in this item.

#### **12. “Complete” Manifests**

The proposed regulations would amend 19 C.F.R. section 4.8(b) to provide that for the granting of preliminary vessel entry, a “complete” manifest must be presented and accepted by Customs. It is important that Customs clearly define, in a manner that will be uniformly applied in all U.S. ports, what would constitute an incomplete manifest.

#### **13. Treatment of “Suspect” Cargo**

We have several requests for clarification regarding actions and expectations after the Customs Service identifies a container as “high risk” or otherwise requires inspection or attention before it is to be loaded on a vessel destined for the United States.

First, what information will the carrier receive, and how will it be transmitted to the carrier? This issue is very relevant in terms of carriers’ information systems.

Second, what will Customs direct the carrier to do with the container, and will Customs be contacting other parties as well?

Third, in ports where Customs has personnel, they can presumably conduct, participate in, or observe any needed inspections. What policies and practices will be applied in ports where Customs has no personnel? How will a container selected for

inspection in such a port become approved for loading, and how will the carrier be so informed?

Finally, what will Customs want a carrier to do if the shipper declines the inspection? For example, for a very low value commodity, the shipper may not be willing to pay the cost of inspection and simply want to divert the container to a non-U.S. location.

#### **14. Effective Date of Proposed Regulations**

The proposed regulations are silent on the issue of when they might be made effective. The World Shipping Council believes it is essential to allow adequate time for carriers, NVOCCs, shippers, terminal operators and ports, agents, third party intermediaries, banks, and foreign governments around the world to be prepared for these changes to how U.S. international trade is to be conducted.

Furthermore, Customs should not require the shipping and trading community to be ready to operate under these proposed changes until Customs itself is ready, which as discussed above will not only require addressing a substantial number of very real and legitimate questions about the meaning and effectiveness of this proposed regulation, but also ensuring that a Customs manifest analysis center can implement the new system on a reliable 24 hour a day – seven day a week basis.

One major ocean carrier has estimated that these proposed changes could require that company to spend an additional \$15 million in new systems, operating costs, and personnel. These regulatory changes will require many tens of millions of dollars of expenditures by carriers. Depending on the carrier, these may include systems re-engineering, new software, new hardware, and enhancements to mainframe computer systems. It will require training agents, sales and marketing personnel, and terminal operations personnel. It will involve training foreign marine terminal operators who will have to treat U.S. destination cargo differently from other cargo in their terminal. It will require shippers and NVOCCs to prepare for the changes, and the new regulatory regime cannot be implemented or work effectively until the NVOCC community is operationally using AMS.<sup>25</sup> It will require the U.S. government and the industry to inform and educate the world trading community and other governments about these new requirements.

It may be instructive to provide one example of the work that will be required to adapt to these proposed changes. Today, many major ocean carriers conduct and control their Automated Manifest filings from their U.S. documentation centers, having invested substantial sums on the necessary systems, processes and personnel. To meet the challenge of data transmission prior to loading, entire workloads may have to be shifted overseas, with education, training and work being done at foreign locations. The burden

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<sup>25</sup> There are roughly 2,840 NVOCCs, with tariffs on file at the Federal Maritime Commission, operating in the U.S. foreign trades, and only a very small percentage of those entities are currently prepared for filing in AMS.

of moving this workflow to multiple overseas locations to handle this advance data entry, including “chasing after” complete details before cargo can be loaded, would involve an enormous amount of work, substantial financial costs, and profound changes to elements of international business transactions that carriers have little ability to control.

In addition, the 24 hour advance manifest proposal would require adaptation in international business rules, including, but not limited to, the field of banking and finance, letters of credit, and “just in time” inventory management.

There are many real and legitimate issues we have raised in these comments that we believe Customs must address in this rulemaking if it is to be clearly understood and capable of smooth implementation. We request that the Customs Service allow twelve months from the time the proposed rules are finalized before they become effective.<sup>26</sup> We believe this is a reasonable period that would allow: carriers and shippers to be properly prepared for the new requirements, including systems and training requirements; the Customs Service to be properly prepared; the Canadian diversion problem to be addressed via discussion and coordination with the Canadian government; the NVOCC community to be prepared; vessel carriers to make whatever deployment changes may be needed if FROB cargo is covered; and foreign marine terminal operators to plan for how they would accommodate the additional number of containers that will likely be in a marine terminal prior to vessel loading as a result of this proposal.

## **IV. Conclusion**

The World Shipping Council and its Members support the Customs Service’s efforts to establish effective mechanisms to improve maritime cargo security and to perform security prescreening of containers before they are loaded on vessels destined for the United States. The Council will continue to work with the Customs Service to help it meet the government’s enhanced security requirements. In that regard, we can support the objective of this proposed rulemaking.

These proposed regulations do involve very substantial changes, however, and they do far more than change vessel information filing requirements. They change how America’s international trade will be conducted. Accordingly, we appreciate not only the commitment that the Customs Service has shown to enhancing the security of global trade and the maritime transportation network that moves our commerce, but its continued acknowledgment of the importance of an efficient, reliable, and fast transport system to the American economy.

We believe that each of the questions and requested clarifications we have posed above should be thoroughly and clearly addressed before implementation. The United

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<sup>26</sup> Please also consider that, if other nations were to demand that U.S. exports had to comply with before-loading manifest filing obligations with their government as Customs is proposing here, it would be essential to have comparable time to comply.

States has the clear right and duty to protect itself and its trade from terrorist risks. At the same time, because it is the largest trading nation touching businesses across the globe, major adjustments to its trading laws should be undertaken in a manner that all of its government and commercial trading partners can clearly understand and reasonably adapt to.

The complexity and scope of the proposed changes in the way the world conducts trade with the United States justify proceeding with *deliberate* speed in addressing these proposed changes. The case for careful deliberation is reinforced by the Congressional enactment of Section 343 of the recently enacted Trade Act of 2002, instructing the Secretary of the Department in which the Customs Service resides to promulgate regulations governing the electronic transmission of cargo information to be used for security purposes. That law requires careful weighing of a number of factors. Although it is clear that Customs has taken the position that Section 343 does not govern this rulemaking, this appears to be the kind of rulemaking Congress had in mind when it passed the new law. We believe this rulemaking and Customs' deliberations of the issues raised should be sensitive to the spirit, if not the letter, of that Act.

We hope these comments and suggestions are helpful. Since September 11, the Members of the World Shipping Council have supported the Customs Service's efforts to address the real, current security risks through both words and deeds. They will continue to work with the agency in the same spirit to support the implementation of these proposed rules in a manner that is clear, workable, and as accommodating to the movement of American commerce as is practicable.

## Attachment A

### Member Companies of the World Shipping Council

APL  
Atlantic Container Line (ACL)  
China Ocean Shipping Company (COSCO)  
China Shipping Group  
CMA-CGM  
CP Ships  
(including Italia Line, Lykes Lines, Contship  
Containerlines, TMM Lines, and ANZDL)  
Crowley Maritime Corporation  
Compania Sud-Americana de Vapores (CSAV)  
Evergreen Marine Corporation  
(including Lloyd Triestino, and Hatsu Marine Ltd.)  
Great White Fleet  
Hamburg Sud  
(including Columbus Line, Crowley American  
Transport and Alianca)  
Hanjin Shipping Company  
Hapag-Lloyd Container Line  
HUAL  
Hyundai Merchant Marine Company  
Kawasaki Kisen Kaisha Ltd. (K Line)  
Maersk Sealand  
Mediterranean Shipping Company  
Mitsui O.S.K. Lines  
NYK Line  
Orient Overseas Container Line, Ltd. (OOCL)  
P&O Nedlloyd Limited  
(including Farrell Lines)  
Safmarine  
Senator Lines  
Torm Lines  
United Arab Shipping Company  
Wallenius Wilhelmsen Lines  
Yangming Marine Transport Corporation  
Zim Israel Navigation Company