Legal Requirements for Ocean Shipments to the United States

The Federal Maritime Commission (FMC) is the federal agency responsible for regulating international ocean transportation to and from the United States. The Shipping Act of 1984 establishes the requirements that the FMC enforces. The legal requirements applicable to transportation or forwarding companies sending shipments to the United States include the following:

- A foreign company issuing its own bill of lading for shipments to the United States must (a) publish a tariff in accordance with FMC regulations, and (b) file a bond with the FMC in the amount of $150,000.
- The penalty for violating this requirement is a fine of up to $40,000 per shipment.
- Whether or not the carrier receives money for transporting the cargo is not relevant to the violation. There are also no exemptions for "spot business".
- It is unlawful for a licensed U.S. NVOCC, such as MIQ, to handle cargo transported under bills of lading issued by companies that do not meet the tariff and bond requirements set forth above. The penalty for doing this is also a fine of up to $40,000 per shipment.

What this means:

- If your company does not meet the tariff and bond requirements set forth above, you may not issue your company's ocean bills of lading for shipments to the United States
- If your company does not meet the tariff and bond requirements set forth above, your ocean shipments must move on the vessel operator's bill of lading. That bill of lading must show the names of the actual shipper and actual consignee, while clearly designating MIQ Logistics as the Notify Party. Please note, MIQ can be shown as the consignee f you agree and MIQ to do so for a specific shipment.
- If your company does not meet the tariff and bond requirements set forth above, MIQ legally cannot (a) Accept a shipment on your house bill of lading, or (b) Collect any ocean freight that is different from what the steamship line is charging
- If there are profits/handling fees these can be invoiced on your debit note as origin charges, other collect charges, or handling, and we both can share in profit only on these handling fees. In the event of a prepaid shipment where the ocean freight has been marked up, that profit should also be shared.
- Please provide a Master Bill consigned to the actual importer and NOT MIQ and show MIQ as the Notify Party. Please ensure that any charges on your debit note reflect ocean freight as paid to the steamship line and any other costs listed separate.

We can arrange for MIQ to issue an MIQ house bill but this requires planning as follows:

- FMC regulations require that sell rates are filed in the NVOCC's (OTI) tariff BEFORE picking up cargo from a shippers facility, so coordination of filing of sell rates must be done prior to arranging for a shipment. On ocean shipments destined to the U.S. MIQ destination branch will be required to file these rates and confirm with origin
- MIQ destination branch will be responsible for preparing the MIQ house bill and providing a copy to origin showing the sell rates on the ocean B/L.
- Origin office can coordinate AMS filing for the house bill data with the carrier if preferred. If the carrier will be completing the AMS filing, please ensure MIQ destination is notified 48 hours prior to loading on the vessel. If MIQ is to file the AMS the attached AMS form must be completed and sent to the MIQ AMS Group (AMS@MIQ.com) a minimum of 48 hours prior to loading on a vessel. MIQ AMS Group will respond within 24 hours with the AMS

confirmation number. **Cargo many not be loaded on a vessel without receipt of the AMS Confirmation number**. If MIQ files the AMS the standard free for filing is $25.00

- In most cases MIQ destination station will charge origin $50.00 processing fee for Ocean B/L preparation and tariff filing

The undersigned acknowledges receipt of these guidelines and will ensure the operations staff is provided with this information.

Signature:______________________________________

Printed Name:___________________________________

Title of Signer:__________________________________

Date:____

For foreign NVOCCs that do not have an office or employees in the United State the way for this company to obtain legal authority to operate in the U.S. trade lanes is to register with the FMC. A foreign based company may contact the FMC for specific documentation and requirements in addition to publishing a tariff and filing a bond in the amount of $150,000 with the FMC.

The Shipping Act and the FMC regulations make a distinction between U.S. based NVOCCs and foreign based NVOCCs. To operate in the U.S. trades, U.S. based NVOCCs are required to apply for a license to the FMC. Foreign based NVOCCs are not eligible to apply for a license, but they can obtain authority to operate by registering as described above. Once the NVOCC has obtained its registration, it can operate just like U.S. licensed NVOCCs with one exception. It will only be able to use agents in the United States that have a license as either an NVOCC or ocean freight forwarder.