## FOSTER PEPPER PLLC

# CONTRACTING INTERMODAL TRANSPORTATION

**Transportation & Logistics Council** 

Charleston, SC

March 19-21, 2018

#### Participants

Mostly U.S. terminology

 Non-Vessel Operating Common Carrier (NVOCC)

Ocean Freight Forwarder (OFF)

Freight Forwarder (surface - FF)

Freight Broker (transportation broker property broker - FB)

Indirect Air Carrier (IAC)







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#### Shippers Association

- Private club
- In bed with the competition



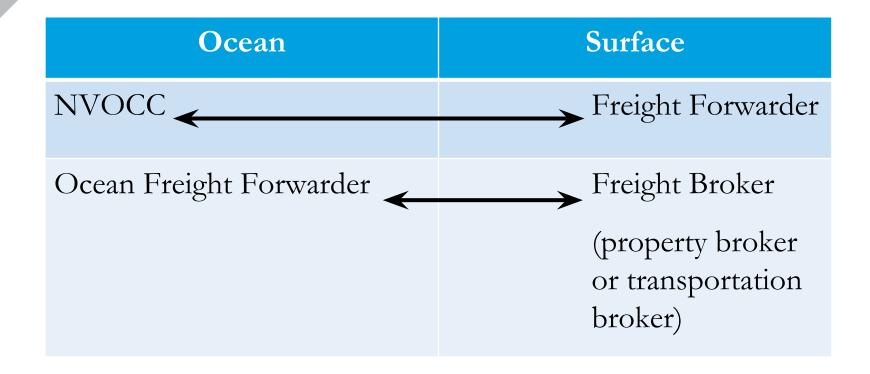
#### Licensing and Regulation

- Federal Maritime Commission
- Federal Motor Carrier Safety
   Administration (USDOT)
- Surface Transportation Board





#### Broker, Forwarder and NVOCC Considerations



#### Interconnected Services

- Intermediaries wear different hats
- Often commonly owned and operated entities

- Consolidation (NVOCC and FF)
- Issuance of documentation







Forwarding services – all







#### Through bill of lading

- Intermodal service
- NVOCC/FF model
  - Books transportation through carriers
  - Often through own volume contracts
- Liability start to finish

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#### Contracting NSA

- NVOCC Service Arrangement (NSA)
- Confidential NVOCC contracts with shippers.
- Previous environment
  - Historic
  - Ocean Shipping Reform Act



#### Contracting NSA

- Like service contracts, confidential
- Pricing
- Often commodity or lane specific



#### Contracting NRA

- Negotiated Rate Agreement (NRA)
- Contract between a shipper and eligible NVOCC
- Specific transportation service regarding a stated cargo quantity
- From origin to destination, on and after carrier's receipt

of cargo

 (or originating carrier in the case of through transportation)

#### Contracting considerations

- Volume and pricing
- Intermediaries' contracts with carriers
- Special needs of cargoes (securement; temperature; seasonal delivery)
- Liability
- Forum selection



#### Contracting negotiating position

- High competition among intermediaries
- Thin margins
- Many new startups

Different positions with carriers

- Shippers accustomed to leveraging their volumes
- Insurance issues



### FOSTER PEPPER PLLC