

# WINSTON & STRAWN LLP

35 WEST WACKER DRIVE  
CHICAGO, ILLINOIS 60601-9703

43 RUE DU RHONE  
1204 GENEVA, SWITZERLAND

BUCKLESBURY HOUSE  
3 QUEEN VICTORIA STREET  
LONDON, EC4N 8NH

1700 K STREET, N.W.  
WASHINGTON, D.C. 20006-3817

(202) 282-5000

FACSIMILE (202) 282-5100

[www.winston.com](http://www.winston.com)

333 SOUTH GRAND AVENUE  
LOS ANGELES, CALIFORNIA 90071-1543

200 PARK AVENUE  
NEW YORK, NEW YORK 10166-4193

21 AVENUE VICTOR HUGO  
75116 PARIS, FRANCE

101 CALIFORNIA STREET  
SAN FRANCISCO, CALIFORNIA 94111-5894

CONSTANTINE G. PAPAIVIZAS

(202) 282-5732

[cpapavizas@winston.com](mailto:cpapavizas@winston.com)

May 8, 2006

## By Facsimile Transmission and By E-Mail

Commodity Procurement Policy & Analysis Division  
Farm Service Agency  
U.S. Department of Agriculture  
1400 Independence Avenue, SW, Rm. 5755-S  
Washington, D.C. 20250-0512

Attn: Richard Chavez

Re: Notice of Proposed Rule Supplemental re Procurement of Commodities  
for Foreign Donation, RIN 0560-AH39, 71 Fed. Reg. 17,767 (April 7,  
2006)

Dear Mr. Chavez:

Thank you for the opportunity to comment on the supplemental Notice of Proposed Rulemaking referenced above (the "SNPRM"). The following comments are submitted on behalf of our client Liberty Maritime Corporation ("Liberty").

On March 9, 2006, Liberty submitted comments in the original Notice of Proposed Rulemaking in this docket. At that time, Liberty commented on, among other things, the requirement that the proposed rule comply with cargo preference requirements. Liberty commented to the effect that the Commodity Credit Corporation ("CCC") should be mindful of its cargo preference obligations and the statutorily mandated oversight role of the U.S. Maritime Administration ("MarAd"). Liberty urged CCC to reflect the necessity to comply with cargo preference requirements in the final rule or the preamble to that rule.

The SNPRM goes a long way toward addressing this comment. It indicates that "CCC will, of course, comply with cargo preference requirements" and it includes a provision in the proposed rule that "CCC will award the contract for the purchase of the commodity that results in the lowest-landed cost and would be transported in compliance with cargo preference requirements." The proposed rule also provides that "extenuating circumstances" may preclude

WINSTON & STRAWN LLP

Commodity Procurement Policy & Analysis Division

May 8, 2006

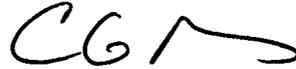
Page 2

award based on lowest landed cost, but that "in all such cases, commodities would be transported in compliance with cargo preference requirements."

Despite these positive changes, the NPRM and SNPRM remain unclear as to how the cargo preference requirements will be complied with in the context of the changes contemplated in the proposed rule and in the implementation of the Freight Entry Booking System ("FBES"). The mechanism for compliance with the Cargo Preference Act of 1954 and implementing regulations and policies remains unstated. Liberty continues to recommend that CCC explain how cargo preference requirements will be applied and complied with before CCC proceeds to a final rule.

Thank you for your consideration of these comments. Liberty appreciates the opportunity to provide its views.

Very truly yours,



Constantine G. Papavizas

Counsel to Liberty Maritime Corporation