

52nd
Annual Report

Federal Maritime
Commission
Fiscal Year 2013



Federal Maritime Commission

52nd Annual Report

for

Fiscal Year 2013



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LETTER OF TRANSMITTAL



FEDERAL MARITIME COMMISSION

WASHINGTON, D.C. 20573-0001

March 31, 2014

To the United States Senate and House of
Representatives:

Pursuant to Section 103(e) of Reorganization Plan No. 7 of 1961, and Section 208 of the Merchant Marine Act, 1936, now codified, as amended, at 46 U.S.C. §306(a), I am pleased to submit the 52nd Annual Report of the activities of the Federal Maritime Commission for fiscal year 2013.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mario Cordero", is written over a faint, light blue horizontal line.

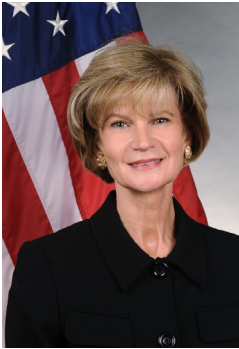
Mario Cordero

Chairman

MEMBERS OF THE COMMISSION



Mario Cordero
Chairman
Appointed 2011
Term Expires 2014



Rebecca F. Dye
Commissioner
Appointed 2002
Term Expires 2015



Richard A. Lidinsky, Jr.
Commissioner
Appointed 2009
Term Expired 2012



Michael A. Khouri
Commissioner
Appointed 2009
Term Expires 2016



William P. Doyle
Commissioner
Appointed 2013
Term Expired 2013

SENIOR COMMISSION OFFICIALS

Chief Of Staff	<i>Mary T. Hoang</i>
Counsel to Commissioner Dye	<i>Edward L. Lee, Jr.</i>
Counsel to Commissioner Lidinsky	<i>Michael J. Gordon</i>
Counsel to Commissioner Khouri	<i>John A. Moran</i>
Counsel to Commissioner Doyle	<i>David J. Tubman, Jr.</i>
General Counsel	<i>Rebecca A. Fenneman</i>
Secretary	<i>Karen V. Gregory</i>
Chief Administrative Law Judge	<i>Clay G. Guthridge</i>
Director, Office of Consumer Affairs & Dispute Resolution Services	Vacant
Director, Office of Equal Employment Opportunity	<i>Keith I. Gilmore</i>
Inspector General	<i>Jon Hatfield*</i>
Managing Director	<i>Vern W. Hill**</i>
Deputy Managing Director	<i>Florence A. Carr</i>
Director, Strategic Planning and Regulatory Review	<i>Austin L. Schmitt</i>
Director, Bureau of Certification and Licensing	Vacant

Director, Bureau of Enforcement *Peter J. King*

Director, Bureau of Trade Analysis.....*Sandra L. Kusumoto*

* Interim

** Assumed position in June 2013.

FMC MISSION

To foster a fair, efficient and reliable international ocean transportation system and to protect the public from unfair and deceptive practices.



I. THE COMMISSION

A. Functions

The Federal Maritime Commission (FMC) is an independent agency responsible for the regulation of oceanborne transportation in the foreign commerce of the United States for the benefit of U.S. exporters, importers, and the U.S. consumer. The principal statutes administered by the Commission are the Shipping Act of 1984 (Shipping Act), the Foreign Shipping Practices Act of 1988 (FSPA), Section 19 of the Merchant Marine Act, 1920 (1920 Act), and Sections 2 and 3 of Pub. L. No. 89-777, 80 Stat. 1350, 46 U.S.C. 40101-44106.

The Commission's regulatory responsibilities include:

- Reviewing and monitoring operational and discussion agreements among ocean common carriers and marine terminal operators (MTOs) to ensure that they do not cause substantial increases in transportation costs or decreases in transportation services;
- Maintaining and reviewing confidentially filed service contracts and non-vessel-operating common carrier (NVOCC) Service Arrangements between ocean common carriers and shippers to guard against detrimental effects to shipping in the U.S. foreign trades;
- Providing a forum for exporters, importers, and other members of the shipping public to obtain relief from ocean shipping practices or disputes that impede the flow of commerce and otherwise cause economic harm;
- Ensuring that common carriers' tariff rates and charges are published in private, automated tariff systems and electronically available to the shipping public;

- Monitoring rates, charges, and rules of government-owned or -controlled carriers to ensure that they are just and reasonable and not unfairly undercutting private competitors;
- Issuing passenger vessel certificates evidencing financial responsibility of vessel owners or charterers to pay claims for personal injury or death, and to reimburse passengers in the event of nonperformance of a voyage or cruise;
- Licensing ocean transportation intermediaries (OTIs) in the U.S. to protect the public from unqualified, insolvent, or dishonest companies;
- Ensuring that OTIs maintain financial responsibility to protect the shipping public from financial loss;
- Protecting the shipping public from economic harm by investigating rates, charges, classifications, and practices of common carriers, MTOs, and OTIs and acting to stop unjust or unlawful practices that violate the Shipping Act; and
- Taking action to address unfavorable conditions arising out of foreign government or business practices in the U.S.-foreign shipping trades.

The Shipping Act applies to the operations of common carriers and other persons engaged in the U.S. foreign commerce. Under the Shipping Act, the general U.S. antitrust laws - the Sherman and Clayton Acts - do not apply to certain agreements between or among ocean common carriers and MTOs. The Commission conducts preliminary reviews and performs ongoing oversight of such agreements and can take action to address agreement activity that does not meet the requirements of the Shipping Act, or that violates the Shipping Act.

The Commission carries out its regulatory responsibilities by conducting informal and formal investigations. It holds hearings, considers evidence, renders decisions, and issues appropriate orders and regulations. The Commission also adjudicates and mediates disputes involving regulated entities, the shipping public, and other affected individuals or interest groups.

B. Organization

(Also See Appendix A: FMC Organizational Chart)

The Commission is composed of five Commissioners appointed by the President with the advice and consent of the Senate. Commissioners serve five-year, staggered terms, and no more than three members of the Commission may belong to the same political party. The President designates one of the Commissioners to serve as Chairman. The Chairman is the chief executive and administrative officer of the Commission.

The Commission's organizational units consist of: the Office of the General Counsel (OGC); the Office of the Secretary (OS); the Office of Consumer Affairs and Dispute Resolution Services (CADRS); the Office of Administrative Law Judges (OALJ); the Office of Equal Employment Opportunity (OEEO); the Office of the Inspector General (OIG); the Office of the Managing Director (OMD); the Offices of Human Resources (OHR), Budget and Finance (OBF), Management Services (OMS), and Information Technology (OIT); the Bureaus of Certification and Licensing (BCL), Enforcement (BOE), and Trade Analysis (BTA); and the Commission's Area Representatives (ARs). In fiscal year 2013, the Commission had a post-sequestration appropriation of \$22,839,425. That appropriation supported the employment of 119 full-time equivalent positions during

the fiscal year. The majority of the Commission's personnel are located in Washington, D.C., with ARs in Houston, Los Angeles, New Orleans, New York, Seattle, and South Florida.

II. YEAR IN REVIEW

In fiscal year 2013, the Commission kept a watchful eye on a fragile economic recovery in Europe, slow growth in U.S. GDP, and a reduction in China's GDP growth rate and the impact on the international container trade. The combination of weak freight rates and disappointing cargo volumes translated into lower average operating margins, with many liner operators expected to once again end the calendar year with sharply reduced earnings. Given current and expected supply and demand dynamics, carriers likely will have to continue to rely on cost cutting measures to address their on-going financial challenges. By the final quarter of the fiscal year, reports were emerging that several major carriers and carrier alliances likely would be expanding operational cooperation on an unprecedented scale.

The Federal Maritime Commission's mission is to foster a fair, efficient and reliable international ocean transportation system, and to protect the public from unfair and deceptive practices. The highlighted actions under the Commission's Strategic Goals provide an overview of agency activities in pursuit of its mission.

Strategic Goal 1: Maintain an Efficient and Competitive International Ocean Transportation System

Under Strategic Goal 1, the Commission is committed to maintaining an efficient and competitive international ocean transportation system and enhancing trade efficiency through the use of various types of agreement authority. Competitive ocean transportation facilitates commerce, economic growth, and job creation. Competition among participants in U.S. liner trades fosters competitive rates and encourages a variety of service offerings for the benefit of U.S. exporters

and importers, and ultimately consumers. The Shipping Act grants ocean carriers and MTOs limited antitrust immunity for activities pursuant to agreements they file with the Commission. The Commission performs competition analysis of carrier and MTO agreements and subsequent monitoring of their activities to guard against possible abuse of that limited immunity, to avoid unreasonable increases in transportation costs or decreases in transportation services, and to guard against other activities prohibited by the Shipping Act.

Trade Oversight: During the fiscal year, the Commission continued to closely monitor the shipping activities of carriers and produced a number of reports and analyses concerning, for example, the Consolidated Chassis Management Pool Agreement (CCM); the Port of Lake Charles, Louisiana's changes to local stevedoring services; and the G-6 Alliance Agreement involving operational cooperation between two major global alliances serving U.S. trades. Other major monitoring activities included reviewing data and meeting minutes provided by three global alliances, and conducting bi-annual information meetings with representatives of the *Transpacific Stabilization Agreement (TSA)*.

The CCM filed an amendment to change its model for governance of its regional chassis pools which elicited comments from maritime labor, motor carrier associations, and others. Given potential concerns regarding the impact of the CCM amendment, the Commission issued a formal Request for Additional Information. The Commission continues to monitor the availability of chassis by third parties as carriers move away from providing chassis to their shippers.

Following up on its fiscal year 2012 *Study of the 2008 Repeal of the Liner Conference Exemption from European Union Competition Law*, the FMC continued to update data

useful for evaluating the impact, if any, of the European Union's repeal of its block competition law exemption for liner conferences.

Monitoring Foreign Practices: The Commission monitors potentially restrictive activities of foreign governments that may create conditions unfavorable to U.S. oceanborne trade, and determines whether any action is necessary to remedy such activities. During the fiscal year, the Commission informally pursued several matters that involved potentially restrictive foreign practices including new legislation, new interpretations of existing legislation, and new regulations of non-domestic carriers' terminal handling charges. The FMC continued to monitor and participate, both formally and informally, in international agreement negotiations that could affect foreign-borne cargo shipments to the United States. For example, the Commission began a close look at changes to Chinese tax law that may unfairly impact U.S. shippers and non-Chinese carriers. Implementation of China's value-added-tax system is being closely reviewed and the Commission will continue to pursue clarity of its implementation. In addition, the Commission tracked consumer inquiries regarding possible foreign restrictive shipping practices.

The FMC continued its international outreach efforts by attending and coordinating events with foreign embassies and counterparts, and monitoring foreign laws and practices to determine whether there are any unjust non-market barriers to trade.

Maritime Environmental Committee: The Commission's Maritime Environmental Committee hosted several public forums and events, including presentations on: *MARAD's Alternative Fuel Sources and Environmental Projects*, a discussion on alternative fuel source viability; *Emerging Environmental Transportation Technologies*, a discussion on

present and future environmental programs and technologies in the industry; and *Environmental Best Practices in Cruise Line and Passenger Vessel Industries*, a presentation and discussion on environmental best practices employed by the cruise line and passenger vessel industries. The Commission also hosted the *2nd Annual Port Environmental Initiatives* where representatives from the Maryland Ports Administration, Port of Seattle, and Georgia Ports Authority gave presentations and engaged in discussions on water quality issues and sustainability initiatives at ports.

Strategic Goal 2: Protect the Public from Unlawful, Unfair and Deceptive Practices and Resolve Shipping Disputes

Consistent with the Commission's Strategic Goal 2, the FMC engages in a variety of activities that protect the public from financial harm, including assisting in the resolution of disputes related to the shipment of goods or the carriage of passengers, investigating and prosecuting unreasonable or unjust practices, and ruling on private party complaints alleging violation of the Shipping Act. These activities contribute to the integrity and security of the nation's import and export supply chains and ocean transportation system. In addition, the FMC ensures financial coverage of passenger vessels to indemnify passengers in the event of nonperformance. Pursuant to these regulatory responsibilities, the Commission undertook a number of significant actions during the fiscal year to address issues affecting American consumers who ship their personal goods overseas or take cruises.

Investigations and Enforcement Proceedings: The Commission's Area Representatives handled hundreds of informal complaints typically alleging unlawful activity.

When possible, compliance with statutory and regulatory requirements was achieved informally. In other instances, investigations were conducted to determine the extent of any unlawful activity. The Commission's Bureau of Enforcement investigated and prosecuted possible illegal practices in many trade lanes, including the Transpacific, North Atlantic, West Africa, Central and South American, and Caribbean trades. Cumulatively, BOE collected more than \$3 million in civil penalties. (See Appendix E)

In cooperation with other agencies, the ARs participated in various enforcement initiatives sponsored by local law enforcement, the U.S. Department of Justice, the Department of Homeland Security (including U.S. Customs and Border Protection (CBP) and Immigration and Customs Enforcement), the Department of Commerce, and the Federal Motor Carrier Safety Administration (FMCSA). This participation and sharing of information contributed positively to the investigation of a wide range of unlawful activity. The Commission also signed an updated Memorandum of Understanding (MOU) with the CBP to share data from the Automated Commercial Environment-International Trade Data System in order to enhance facilitation and enforcement of ocean carriers and other entities involved in ocean trade between the U.S. and foreign countries.

Ombuds Services and Educational Outreach: The Commission received 1,211 complaints that resulted in the opening of ombuds cases. These included 229 commercial cargo matters, 857 household goods matters, and 116 cruise passenger matters. The Commission also issued 9 consumer alerts with respect to household goods and cruise passenger matters. The large increase in household goods complaints (200 percent over fiscal year 2012) was related to the failure of a single, large OTI during the fiscal year. Commercial cargo-related complaints continued to be increasingly complex and

problems from OTIs with overextended finances and inability to complete the ocean transportation continued to be an issue. The Commission's Office of Consumer Affairs and Dispute Resolution Services also served as mediators in 13 mediation matters. It is anticipated that the number of mediation matters handled by CADRS will increase in the coming years due to a revised Commission procedural rule that requires an initial mediation conference at the outset of formal private complaint proceedings.

Ocean Transportation Intermediaries: In accordance with the Commission's Plan for Retrospective Review of Existing Rules, the Commission issued an Advance Notice of Proposed Rulemaking (ANPRM) that proposes modifications to the Commission's OTI rules governing the licensing, financial responsibility requirements, and duties of OTIs. The ANPRM is intended to adapt regulations to changing industry conditions, improve regulatory effectiveness, improve transparency, streamline processes, and reduce regulatory burdens. Suggested rule modifications include increasing minimum bonding amounts originally set in 1999, implementing a new license renewal process, and establishing a new hearing process for license denial or revocation actions. The ANPRM also sought comment on filing and payment of claims, priorities for claims, and methods of improving reporting provisions by surety companies to promote faster and more equitable allocation to claimants. At the close of the fiscal year, the Commission had received 90 comments on this proposal.

The Commission also revised its rules to extend an exemption from the tariff publication requirements of the Shipping Act and certain Commission regulatory requirements to foreign-based, unlicensed NVOCCs that agree to negotiated rate arrangements (NRAs) and also comply with a new registration and renewal process.

Passenger Vessel Operators: As part of its efforts to protect the public and ensure financial coverage for cruise passengers, the Commission issued a final rule on February 13, 2013, to increase the maximum coverage requirement from \$15 million to \$30 million per cruise line, and required that this cap be adjusted every two years based on the Consumer Price Index for All Urban Consumers (CPI-U). This increase reflects the effects of inflation and the growth of the cruise industry since the current \$15 million cap was set in 1990. The Commission's final rule also implemented a 5-year expiration date on PVO performance certificates.

Information Technology: The Commission prepared a 2014-2018 Information Resources Management (IRM) Strategic Plan in support of the agency's Strategic Plan covering the same time period. The IRM plan describes how IRM activities help accomplish agency missions, and ensures IRM decisions are integrated with organizational planning, budget, procurement, financial management, human resources management, and program decisions. The Commission also enhanced its information technology capabilities in a number of areas including implementing the first phase of a multi-year transition to use Enterprise Content Management (ECM) technology to manage its business activities and information needs.

III. DEVELOPMENTS IN MAJOR U.S. FOREIGN TRADES

A. Worldwide

The world's container trade expanded by nearly 2 percent during the fiscal year compared to an expansion of almost 3 percent in 2012. As the fiscal year came to a close, 181 containerships lay idle, representing 2.4 percent of the total fleet capacity measured in TEUs (twenty-foot equivalent container units). In contrast, 255 ships, representing 3.4 percent of the containership fleet capacity, lay idle at the end of fiscal year 2012.

The world's container shipping industry remained as concentrated during fiscal year 2013 as it had been in prior years. At the close of the year, the top five container operators controlled 46 percent of the world's containership capacity; the top three controlled nearly 37 percent; and the top ten controlled almost 64 percent. The world's top three operators are: APM-Maersk (14.9 percent), Mediterranean Shipping Company (MSC) (13.5 percent), and CMA CGM (8.5 percent).

Container volumes in the U.S. liner trades expanded 1.9 percent to roughly 30 million TEUs, compared to 29.4 million last year. The U.S. share of the world's container trades was 16 percent. U.S. container imports continued to grow, expanding 2.7 percent to 17.9 million TEUs, compared to 17.5 million in 2012. This was still well below the record of 18.6 million reached in fiscal year 2007. U.S. container exports also rose, albeit by less than 1 percent to 12 million TEUs. As a result, the U.S. container imbalance worsened; for every 100 loaded containers exported from the U.S., 150 were imported, compared to 147 imported in fiscal year 2012.

The world containership fleet continued to expand. The fleet's nominal capacity grew by approximately 6 percent. At the end of the fiscal year, 4,990 containerships, with a total fleet capacity of 17.2 million TEUs, were available to serve the world's container trades. In addition, there were orders worldwide for 480 new containerships with an aggregate capacity of 3.7 million TEUs, which is equivalent to 21.3 percent of the existing fleet capacity.

B. Asia

In terms of container cargo volumes, Asia is our primary trading region. Asia was responsible for 61 percent of U.S. container trade volumes (exports and imports combined). Of these volumes, Northeast Asia accounted for 52.5 percent of all U.S. container cargo and Southeast Asia accounted for 8.5 percent. The Ports of Los Angeles and Long Beach handle approximately 44 percent of all containers originating from or destined to Northeast and Southeast Asia. Sixty-six percent of all U.S. container imports originated from Asia, and the region received slightly more than 50 percent of all U.S. container exports.

The *Transpacific Stabilization Agreement* is the major agreement in the transpacific trade. It is a fifteen-member discussion agreement with voluntary pricing authority. TSA covers both the inbound container trade from Northeast and Southeast Asia to the U.S., and outbound exports from the U.S. to Asia. TSA's geographic scope also includes parts of the Indian Subcontinent (i.e., Bangladesh, Pakistan and Sri Lanka, but not India). TSA's share of the U.S. inbound Asia trade was approximately 94 percent.

Northeast Asia accounted for 87 percent of transpacific imports, with most originating in the People's Republic of China (PRC). The U.S. imported 11.9 million TEUs of Asian goods, compared to 12 million TEUs last year, representing a decline of 1.3 percent over the previous fiscal year.

TSA announced a series of General Rate Increases (GRIs) for short-term (spot) markets in the eastbound (U.S. import) trade during the summer and early fall of 2013. After making some initial gains, none of the GRIs proved successful. TSA closed the fiscal year without instituting the sort of revenue recovery that the member lines reported was needed to support the levels of service they provided.

C. Australia and Oceania

The Oceania trade includes the nations and territories of Australia, New Zealand, Papua New Guinea, Western Samoa, and other South Pacific islands. In the outbound direction of the trade, container volume is greater. However, during the fiscal year, U.S. container exports declined by 2.7 percent compared to fiscal year 2012. U.S. imports from the region grew 3.3 percent. By volume, the ratio of exports to imports in the trade was 1.67 to 1. The leading export commodities were auto parts, general merchandise, grocery products, paper, and tires. The top two container import commodities were meat and wine. Other leading imports included paper, beverages, and lumber.

Carriers providing direct service in the trade are linked through a patchwork of agreements. Two main rate discussion agreements cover the trade. Six carriers participate in the *United States/Australia Discussion Agreement* (USADA) in the outbound direction, and six carriers participate in the *Australia and New Zealand-United States Discussion Agreement* (ANZUSDA) in the inbound direction. In addition,

five carriers serving the Pacific Islands participate in the Pacific Island Discussion Agreement. Further, a number of major carriers serve the trade through transshipment arrangements. With the exception of one carrier, all of the carriers that serve the trade directly operate their services through several vessel sharing agreements.

Pacific International Line (PIL) does not participate in agreements in the trade and operates a direct service in the outbound direction from Long Beach to ports in Australia, New Zealand, and China. Since entering the trade in 2011, PIL's market share has grown to over 10 percent of the total container exports from the U.S. Pacific Coast. Given the extent of cooperation among a limited number of carriers through a network of agreements, the Commission closely monitors the carriers' activities in this trade. As competitive conditions in the trade have improved, the Commission terminated a previously issued Section 15 Order in June 2013. The Order was issued in 2009 to require additional reporting information from the agreement carriers to help the Commission assess the impact of carrier activities on competition in the trade.

D. Indian Subcontinent and The Middle East

The growth rate of U.S. container trade with the Indian Subcontinent (exports and imports combined) was flat at 1 percent. Exports from the U.S. to the Subcontinent increased by 1.2 percent. U.S. imports from the Subcontinent increased by 0.9 percent. U.S. container trade with the Middle East similarly grew by 1 percent. U.S. imports were up 2.6 percent over 2012 levels and U.S. exports increased by only 0.5 percent. In this region, TSA is the rate discussion agreement covering part of the U.S. outbound container trade. Its geographic scope covers U.S. exports to the Indian Subcontinent countries of Bangladesh, Pakistan, and Sri Lanka, but not to India or to the Middle East. TSA's market share for

exports to Bangladesh, Pakistan, and Sri Lanka was 16 percent. No major rate discussion agreement covers U.S. exports to or imports from the Middle East.

U.S. container imports from the region essentially remained flat at 678,000 TEUs from the Indian Subcontinent and 170,500 TEUs from the Middle East. The U.S. total trade (imports and exports) was approximately 1.1 million TEUs with the Indian Subcontinent and 786,000 TEUs with the Middle East.

The TSA is the only rate discussion agreement covering U.S. inbound container movements from the Indian Subcontinent countries of Bangladesh, Pakistan and Sri Lanka. TSA had roughly 87 percent market share of U.S. imports from the countries of Bangladesh, Pakistan, and Sri Lanka.

E. North Europe

During the fiscal year, U.S. container trade with North Europe (imports and exports together) increased by 2 percent compared to the preceding fiscal year. Vessel capacity in the trade increased by nearly 3 percent in each direction in comparison to the preceding fiscal year, and the average vessel utilization was reported to have been 78 percent in the outbound direction and 92 percent in the inbound direction.

There were a number of service changes in the transatlantic trade. Most notably, Zim Integrated Shipping Services, Ltd. (Zim) exited the trade. Zim discontinued participating in the Atlantic Express (ATX) service by removing its vessel and withdrawing from the *Grand Alliance/ZIM/HSDG Atlantic Space Charter Agreement*. Orient Overseas Container Line (OOCL), as a member of the Grand Alliance, replaced the vessel that Zim removed and continued to operate the ATX service with Hamburg Sud. In addition, a new service was

introduced into the U.S. market by MSC in conjunction with Compania Sud Americana De Vapores, S.A. (CSAV) under the *MSC/CSAV Ecuador-North Europe Vessel Sharing Agreement*. In this agreement, MSC and CSAV expanded their weekly loop service between ports in Ecuador, Panama, and North Europe by adding U.S. port calls in the South Atlantic region. CMA CGM and Compagnie Maritime Marfret S.A. (Marfret) added vessel capacity to the trade by increasing the service frequency of their pendulum service from fortnightly to weekly calls at ports between Australia/Oceania, Columbia, Panama, the U.S., and North Europe. The carriers operated the pendulum service under the *CMA CGM/Marfret Vessel Sharing Agreement*. In other agreement activity, Maersk Line and CMA CGM entered into separate agreements to charter vessel space from APL Co. Pte Ltd., on the Americas Europe Express (AEE) service operated by members of the New World Alliance. Under its agreement, CMA CGM also supplies APL with vessel space on its Amerigo service in the Mediterranean trade.

F. Mediterranean

There were several major service changes in the Mediterranean trade during the fiscal year. In March, members of the Grand Alliance and the New World Alliance combined and reconfigured their services between the U.S. Atlantic Coast and Asia under the *G6 Alliance Agreement (G6)*. Two of the G6 services that transit the Suez Canal, the Asia Suez Express (AZX) and the South China Vietnam Express (SVS), now also call at South Europe ports on the Mediterranean. Evergreen Line participates in the SVS service under the *G6/ELJSA Slot Exchange Agreement*, and Zim charters space on the AZX service under the *G6/Zim Transpacific Vessel Sharing Agreement*. Zim also entered into a new reciprocal space charter agreement with COSCO Container Lines Co. Ltd. (COSCO), the *COSCO/Zim Slot Charter Agreement*. Under this

agreement, Zim charters vessel space from COSCO between the U.S. and China, and COSCO charters space between the U.S. and Mediterranean on the Zim Container Atlantic (ZCA) service. Maersk Line discontinued its dedicated West-Med service that it operated with CMA CGM under the *CMA CGM/Maersk Line Space Charter, Sailing Cooperative Working Agreement*. To service the trade, Maersk Line upgraded and added port calls in South Europe to its Middle East Container Line, MECL 1 and 2. CMA CGM entered into a vessel sharing arrangement with Hapag Lloyd to continue its Amerigo service in the trade under the *CMA CGM/HLAG U.S.-West Med Vessel Sharing and Slot Exchange Agreement*. By the end of the fiscal year, vessel capacity in trade had increased by about 10 percent in each trade direction.

G. Africa

Cargo volumes between the U.S. and Africa increased 2 percent during the fiscal year. The increase in cargo volumes included a 0.5 percent increase in U.S. exports to Africa to 321,193 TEUs. Imports from Africa increased about 7 percent from the previous fiscal year to nearly 101,500 TEUs. The top commodities exported to Africa included automobiles, grocery products, fresh and frozen poultry, and auto parts. The top container commodities imported from Africa included cocoa beans, apparel, and aluminum (wire, bars, and sheets).

The Republic of South Africa dominates the U.S. liner trade with Africa, accounting for approximately 24 percent of the overall container volume and 43 percent of imported containers from the continent. Nigeria is the United States' second largest trading partner in the region, with 13 percent of container volumes, and Ghana is third with almost 10 percent.

H. Central America and The Caribbean

U.S. export cargo to Central America increased 2 percent to 597,300 TEUs and U.S. import cargo increased 8 percent to 781,400 TEUs during the fiscal year. Waste paper accounted for the largest share of U.S. containerized exports at 13.3 percent. The second largest export commodity category was fabrics, yarns, and raw cotton accounting for 8.9 percent. Grocery products accounted for about 6 percent and used automobiles and apparel accounted for about 5 percent each. On the import side, fresh fruit made up 56 percent of all imports from the region. Almost three quarters of the fresh fruit imported consisted of bananas. The second largest commodity imported from this region was clothing and apparel, with nearly 15 percent of the total.

Five of the largest regional carriers in the U.S./Central America trade participated in the *Central America Discussion Agreement* (CADA): Seaboard Marine, Crowley Liner Services, King Ocean, Dole Ocean Cargo Express, and Great White Fleet. The combined market share of CADA members was 62 percent for exports and 70 percent for imports.

In the liner trade between the U.S. and the Caribbean, U.S. exports, mainly of food, consumer goods, and manufactured products, decreased 5 percent to 462,000 TEUs. Imports to the U.S. increased by 5 percent to 169,700 TEUs.

Carriers in the U.S./Caribbean trade participated in four rate discussion agreements covering discrete trades: (1) the *Caribbean Shipowners Association*; (2) the *Florida-Bahamas Shipowners and Operators Association*; (3) the *Aruba Bonaire and Curacao Discussion Agreement*; and (4) the *Bermuda Discussion Agreement*.

I. South America

Containerized trade with South America (exports and imports combined) was nearly 1.9 million TEUs during the fiscal year, a 2 percent increase over the previous fiscal year.

The South America region is generally divided between the west coast and east coast of the continent. Just over 50 percent of the region's cargo moved between the U.S. and the west coast of South America. U.S. export cargo to that coast grew 2 percent to 476,800 TEUs, and imports from the region grew just over 2 percent to 465,900 TEUs. The three largest U.S. exports to this region included waste paper, synthetic resins, and general merchandise cargo. On the U.S. import side, fresh fruit, still wines, and fresh vegetables were the top commodities moving in the trade.

Most of the carriers providing direct service to the west coast of South America are members of the *West Coast of South America Discussion Agreement (WCSADA)*. Membership during the fiscal year remained unchanged and consists of seven regional carriers (Seaboard Marine, Trinity Shipping, Ecuadorian Line, Frontier Liner Services, King Ocean, Compania Chilena de Navegacion Interoceanica, and Interocean Lines) and three global carriers (Hamburg Sud, CSAV, and CMA CGM). Peru was dropped from the geographic scope due to expectations of a change in Peru's competition law.

The combined market share for WCSADA members was 46 percent for the outbound direction and 31 percent for the inbound direction. The U.S. inbound trade includes four carriers that are not members of WCSADA (i.e., Dole Ocean Cargo Express, Great White Fleet, Network Shipping, and Banacol Colombia) that mainly transport proprietary cargo, consisting of fresh fruits and vegetables. The agreement also

faces competition from global carriers, such as NYK, Maersk Line, Evergreen, MOL, Hapag-Lloyd, and Zim. Only NYK provides a direct service to the U.S. Pacific Coast. The latter five carriers serve the trade via transshipment hubs in Panama, Mexico, and countries in the Caribbean. Several other regional carriers compete with WCSADA carriers, including Tropical Shipping, Antillean Lines, Isabella Shipping, Industrial Maritime Carriers, and West Coast Industrial Express.

The trade between the U.S. and the east coast of South America accounted for slightly less than 50 percent of the liner cargo in this region. As in past years, no active rate discussion agreement operated in this trade. U.S. exports to the east coast of South America remained about the same - at about 551,500 TEUs during the fiscal year. The top export commodities included auto parts and waste paper. Imports from the region increased 4 percent to 378,700 TEUs during the same period. Top commodities included logs and lumber, granite, and coffee.

IV. THE FOREIGN SHIPPING PRACTICES ACT OF 1988

A. In General

The Foreign Shipping Practices Act of 1988, effective August 23, 1988, directs the Commission to investigate and address adverse conditions affecting U.S. carriers in U.S. oceanborne trades, when such conditions do not exist for foreign carriers in the United States under U.S. law or as a result of actions by U.S. carriers or others providing maritime or maritime-related services in the United States.

During the fiscal year, the Commission monitored potentially unfavorable or discriminatory shipping practices by a number of foreign governments. However, no direct FSPA action was necessary.

B. Top Twenty U.S. Liner Cargo Trading Partners

Pursuant to the FSPA, the FMC must include in its annual report to Congress “a list of the twenty foreign countries which generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States,” 46 U.S.C. § 306 (b)(1).

The Journal of Commerce’s Port Import Export Reporting Service (PIERS) database was used to derive the Commission’s list of top twenty trading partners. The most recent complete calendar year for which data are available is 2012. Table 1 lists the twenty foreign countries that generated the largest volume of oceanborne liner cargo in bilateral trade with the United States in 2012. The figures in Table 1 represent each country’s total U.S. liner imports and exports combined in thousands of loaded TEUs.

There was a 2 percent year-to-year increase in liner volumes in the United States' bilateral trade with its top twenty trade partners. The membership of the top twenty list has remained the same, and the top eight countries have remained identical, since 2009. Seven trading partners in the top twenty had a negative growth rate - South Korea, Taiwan, Hong Kong, Brazil, Indonesia, Belgium and Luxembourg, and Thailand.

Table 1: Top Twenty U.S. Liner Cargo Trading Partners (2012)

Rank	Country	TEUs (000)
1	China (PRC)	10,974
2	Japan	1,484
3	South Korea	1,329
4	Taiwan (ROC)	1,107
5	Hong Kong ¹	841
6	Germany	830
7	India	789
8	Vietnam	734
9	Brazil	579
10	Belgium & Luxembourg	562
11	Indonesia	515
12	Italy	503
13	Thailand	477
14	Netherlands	450
15	United Kingdom	409
16	Guatemala	368
17	Malaysia	348
18	Honduras	345
19	Chile	324
20	Australia	323

¹ Although Hong Kong reverted to Chinese control in July 1997, PIERs continues to report data separately for Hong Kong because of its status as a major transshipment center.

V. SIGNIFICANT ACTIVITIES BY ORGANIZATIONAL UNIT

A. Office of the Secretary

The Office of the Secretary serves as the focal point for matters submitted to and emanating from the Commission. It is the public's main contact point with the FMC. The Office receives and processes a variety of documents filed by the public, including all filings in adjudicative and administrative proceedings.

The OS is responsible for conducting business under and ensuring compliance with the Freedom of Information, Government in the Sunshine, and Privacy Acts. Among a myriad of public information functions, the office maintains a public reference/law library, a docket activity library, and the Commission's historical decisions; oversees the maintenance, organization, and content of the Commission's website; and serves as the Commission's public information/press office. During the fiscal year, the OS continued to administratively process and direct all filings addressed to the Commission and its component offices, including agreements filed under Section 5 of the Shipping Act. The office also issued 44 orders and notices in docketed proceedings on behalf of the Commission.

The OS enhanced the Commission's website with new communication features that engage the public on the most recent Commission and industry developments. Website content organization was significantly improved to render a more citizen-centered platform. Some of the improvements made included: the launch of USAsearch as our primary search engine; adding our Twitter feed to the homepage and increased twitter interactions; reorganization and consolidation of navigation to reflect the public's usage of

the website; and new pages to highlight important content relating to our mission including posting public comments on agreements and a new page consolidating upcoming events. The website also supports the goals of the agency's Plain Writing Act of 2010 Plan and the President's directive that government should be transparent, participatory, and collaborative. The office worked with other Commission components to publish alerts warning consumers of complaints received about certain household goods movers, and providing updates on the operational status of international cruises.

The process of electronically scanning/imaging Commission records is an integral function of the office which supports preservation of and staff access to Commission documents, and supports the agency's Continuity of Operations (COOP) and disaster recovery. The OS continued to digitize and post to the FMC's website, current and historical Commission records which facilitates public access to and transparency of Commission activities. The OS also implemented new agency-wide procedures and provided additional training to staff designed to improve FOIA processing time; continued to lead an agency-wide team to review the Commission's Rules of Practice and Procedure and revised its rules concerning appearance and practice before the Commission, and parties to proceedings and rulemaking. The OS also conducted an agency-wide System of Record (SOR) review of existing FMC data systems and any proposed systems for compliance with the Privacy Act. Twenty-seven systems were reviewed and updated, with new notices prepared for 5 new data systems. In addition, the OS modernized the Commission's procedures for publication of documents in the Federal Register.

B. Office of the Administrative Law Judges

Under the direction and management of the Chief Administrative Law Judge, the Office of Administrative Law Judges holds hearings and renders initial or recommended decisions in formal rulemaking and adjudicatory proceedings as provided by the Shipping Act, and other applicable laws and other matters assigned by the Commission, in accordance with the Administrative Procedure Act and the Commission's Rules of Practice and Procedure.

The OALJ has the authority to administer oaths and affirmations; issue subpoenas; rule upon offers of proof and receive relevant evidence; take or cause depositions to be taken; regulate the course of the hearing; hold conferences for the settlement or simplification of the issues by consent of the parties; dispose of procedural requests or similar matters; make decisions or recommend decisions; and take any other action authorized by agency rule consistent with the Administrative Procedure Act.

At the beginning of the fiscal year, 14 formal proceedings were pending before the OALJ. Seven new formal proceedings were added and two formal proceedings were remanded by the Commission. OALJ issued 14 initial decisions or orders subject to review by the Commission in 12 proceedings; initial decisions resolving 8 contested proceedings; initial decisions on default in 2 proceedings; 2 orders granting dismissal against individual respondents in 1 proceeding; and initial decisions approving settlements in 2 proceedings. The Secretary issued a notice of voluntary dismissal in 1 proceeding.

1. Final Action by the Office of Administrative Law Judges and subsequent Commission action.

EuroUSA Shipping, Inc., Tober Group, Inc., and Container Innovations Inc. - Possible Violations of Section 10 of the Shipping Act of 1984 and the Commission's Regulations at 46 C.F.R. § 515.27 [Docket No. 06-06]

On May 11, 2006, the Commission issued an Order of Investigation and Hearing to determine whether respondents, three NVOCCs licensed by the Commission, violated Section 10(b)(11) of the Shipping Act in their dealings with OTIs that did not have bonds and/or tariffs pursuant to requirements of the Shipping Act and to determine whether Tober Group, Inc., violated Section 10(b)(2)(a) by providing service in the liner trade that was not in accordance with the rates and charges contained in a published tariff. On December 31, 2012, the administrative law judge issued an initial decision on remand on the investigation against Tober finding that it did not violate Section 10(b)(11) and did violate Section 10(b)(2)(a) on 279 shipments. The decision imposed a civil penalty of \$433,000. On March 20, 2013, BOE filed exceptions to the initial decision.

On September 10, 2013, a majority of the Commission issued an Order Affirming in Part, Reversing in Part, and Vacating in Part Initial Decision on Remand, in which it concluded that Tober violated Sections 10(b)(11) and 10(b)(2)(a) of the Shipping Act, and the Commission's regulations at 46 C.F.R 515.27, by knowingly and willfully accepting cargo from, or transporting cargo for, the account of an entity acting as an OTI without a tariff or bond, and by providing service in the liner trade that was not in accordance with rates and charges in a published tariff. The Commission ordered Tober to remit \$1.5 million as a civil penalty for 255 violations of Section 10(b)(11), and 279 knowing and willful violations of Section 10(b)(2)(a) of the Shipping Act. The Commission also ordered that the proceeding be discontinued.

Parks International Shipping, Inc., Cargo Express International Shipping, Inc., Bronx Barrels & Shipping Supplies Shipping Center, Inc., and Ainsley Lewis a.k.a. Jim Parks - Possible Violations of Sections 8(a) and 19 of the Shipping Act of 1984, as well as the Commission's Regulations at 46 C.F.R. Parts 515 and 520 [Docket No. 06-09]

On September 19, 2006, the Commission issued an Order of Investigation and Hearing to determine whether respondents violated Section 8 of the Shipping Act by operating as NVOCCs without publishing tariffs showing rates and charges, and Sections 19(a) and (b) by operating as OTIs without obtaining a license from the Commission and without providing proof of financial responsibility in the form of surety bonds. An initial decision dated February 5, 2010, dismissed claims against respondents Bronx Barrels and Ainsley Lewis. BOE did not pursue claims against them on remand. On December 31, 2012, the Administrative Law Judge (ALJ) issued an initial decision on remand finding that respondents Parks International and Cargo Express violated Sections 8 and 19 and imposed civil penalties of \$18,000 on Parks International and \$388,000 on Cargo Express. On February 26, 2013, BOE filed exceptions to the initial decision. The Commission issued a final decision September 16, 2013, affirming the Initial Decision in part, and reversing in part. The Commission imposed civil penalties in the amount of \$484,000 against the two remaining respondents.

Anderson International Transport and Owen Anderson - Possible Violations of Sections 8(a) and 19 of the Shipping Act of 1984 [Docket No. 07-02]

On March 22, 2007, the Commission issued an Order of Investigation and Hearing to determine whether respondents violated Section 8 of the Shipping Act by operating as an NVOCC without publishing tariffs showing rates and charges,

and Sections 19(a) and (b) by operating as an OTI without obtaining a license from the Commission and without providing proof of financial responsibility in the form of surety bonds. On December 31, 2012, the ALJ issued an initial decision on remand finding that respondents operated as an OTI without a license and bond, but had not operated as an NVOCC. The decision imposed a civil penalty of \$40,500 and entered a cease and desist order.

On June 25, 2013, the Commission issued an Order Affirming in Part, Reversing in Part, and Vacating in Part Initial Decision on Remand. In its Order, the Commission concluded that respondents violated Sections 8 and 19 of the Shipping Act, and the Commission's regulations at 46 C.F.R 515.3, 515.21, and 520.3, by operating as an OTI in the U.S. trades without obtaining a license from the Commission, without providing proof of financial responsibility, and without publishing tariffs. The Commission ordered respondents to pay a civil penalty of \$132,000 for 22 knowing and willful violations of the Shipping Act; cease and desist from holding out or operating as an OTI in the U.S. foreign trades until and unless a license is issued by the Commission and respondents publish a tariff and obtain a bond; that respondent Owen Anderson cease and desist from working in any capacity for any entity providing OTI services in the foreign commerce of the U.S. for a period of one year; and that Owen Anderson cease and desist from serving as investor, owner, shareholder, officer, manager or administrator in any entity engaged in providing OTI services for five years. The Commission also ordered that this proceeding be discontinued.

Mitsui O.S.K. Lines Ltd. v. Global Link Logistics, Inc., Olympus Partners, L.P., Olympus Growth Fund III, L.P., Olympus Executive Fund, L.P., Louis J. Mischianti, David Cardenas, Keith Heffernan, CJR World Enterprises, Inc. and Chad J. Rosenberg [Docket No. 09-01]

On May 5, 2009, Mitsui filed a complaint alleging that Global Link, a licensed NVOCC, violated Sections 10(a)(1) and 10(d)(1) by engaging in a practice it called “split routing” on multimodal shipments by issuing a bill of lading to a land carrier in the U.S. directing shipments to a destination other than the destination on the Mitsui through bill of lading. Mitsui alleged that as a result, Global Link used an unjust or unfair device or means to obtain ocean transportation for property at less than the rates or charges that would otherwise apply. Mitsui alleged that the other parties, owners of Global Link at the time it engaged in the practice, were also liable. Global Link filed cross claims against the other respondents. On July 9, 2013, the ALJ issued an initial decision finding that Mitsui knew about the split routing practice. Therefore, Global Link had not used an unfair device or means to obtain the lower rates. The cross claims were dismissed. On July 31, 2013, Mitsui filed exceptions to the initial decision and the proceeding is currently pending before the Commission.

SSA Terminals, LLC and SSA Terminals (Oakland), LLC v. The City of Oakland, Acting by and Through its Board of Port Commissioners [Docket No. 09-08]

On December 16, 2009, Complainants SSA Terminals, LLC and SSA Terminals (Oakland), LLC filed a complaint alleging that they suffered actual injury when Respondent, the City of Oakland, acting by and through its Board of Port Commissioners (hereinafter “the Port”), violated the Shipping Act (46 U.S.C. §§ 41106(2) and (3) and 41102(c)) by: (1) imposing an undue or unreasonable prejudice or disadvantage

with respect to the complainants; (2) giving an undue or unreasonable preference or advantage to an unrelated non-party; (3) refusing to deal or negotiate with the complainants; and (4) failing to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, and storing or delivering property. On November 8, 2010, the ALJ issued an Order denying a motion to dismiss on Eleventh Amendment sovereign immunity grounds. On December 13, 2011, the Commission affirmed this ruling and on July 26, 2013, the District of Columbia Circuit denied respondents' petition for review. On August 20, 2013, the Secretary issued a notice that the parties jointly filed a voluntary dismissal pursuant to Commission Rule 72. On the same date, the Commission issued a notice to review the dismissal. On September 3, 2013, the Commission ordered the parties to file their settlement agreement and ordered the ALJ to issue an initial decision reviewing the settlement. On September 23, 2013, the ALJ issued an initial decision approving the settlement. The proceeding is currently pending before the Commission.

Marine Repair Services of Maryland, Inc. v. Ports America Chesapeake, LLC [Docket No. 11-11]

On July 11, 2011, Marine Repair Services of Maryland, Inc., filed a complaint alleging that Ports America Chesapeake, L.L.C. violated Section 10(d)(4) of the Shipping Act by giving undue and unreasonable preference to itself and to Multimarine Services, Inc., with regard to the performance of maintenance and repair work on containers and chassis and on refrigerated containers at Seagirt Marine Terminal and Dundalk Marine Terminal in the Port of Baltimore. Marine Repair Services further alleged that Ports America Chesapeake acted in violation of Section 10(d)(3) by unreasonably refusing to deal and negotiate with regard to the performance of maintenance and repair work at Seagirt and Dundalk. On

January 10, 2013, the administrative law judge issued an initial decision dismissing the complaint. On March 20, 2013, the Commission served a notice not to review.

OC International Freight, Inc.; OMJ International Freight, Inc.; and Omar Collado [Docket No. 12-01]

On April 2, 2012, the Commission issued an Order of Investigation and Hearing to determine whether respondents knowingly and willfully obtained ocean transportation at less than the rates and charges that would otherwise be applicable by permitting unrelated entities to unlawfully access OMJ's service contracts; operated as an ocean transportation intermediary without a license and bond; and whether to affirm the denial of the application of OC for an OTI license. On March 26, 2013, the ALJ issued an initial decision finding violations of Section 19 but finding no violation of Section 10(a)(1). On July 22, 2013, the Commission issued an Order Remanding for Further Proceedings. The Commission affirmed the Section 19 violations, the issuance of a cease and desist order, and denial of OC's license application. The Commission vacated the determination that respondents did not violate Section 10(a)(1) and the civil penalty.

The Auction Block Company, an Alaska Corporation, and Harbor Leasing, LLC, an Alaska Limited Liability Company v. the City of Homer, a Municipal Corporation, and its Port of Homer [Docket No. 12-03]

On April 2, 2012, The Auction Block Company and Harbor Leasing, LLC, filed a complaint against The City of Homer and its Port of Homer alleging that the City and Port are marine terminal operators that violated the Shipping Act by unreasonable prejudice or preference, refusal to deal, and unfair practices. On May 20, 2013, the administrative law judge issued an initial decision dismissing the complaint and finding that the complaint exceeds the jurisdiction

of the Commission. Complainants filed exceptions to the decision and the proceeding is currently pending before the Commission.

Shipco Transport Inc. v. Jem Logistics, Inc., and Andi Georgescu, an Individual and d/b/a Jem Logistics, Inc. [Docket No. 12-06]

On April 18, 2012, Shipco filed a complaint alleging that respondents violated Sections 8 and 19 of the Shipping Act by operating as an ocean transportation intermediary without a license, bond, or tariff and violated Section 10(a)(1) by knowingly obtaining ocean transportation at less than the rates and charges that would otherwise be applicable. Respondents did not answer or otherwise respond to the complaint and did not respond to an order to show cause why a decision on default should not be entered. On March 26, 2013, the ALJ issued an initial decision on default finding that respondents violated Sections 8, 19, and 10(a)(1). Respondents were ordered to cease and desist operating as an OTI without a license, bond, and tariff and to pay a reparation award of \$8,050 for actual injuries caused by the violation of Section 10(a)(1). On April 4, 2013, respondents filed an answer to the complaint that the Secretary construed as a motion to vacate the initial decision addressed to the Commission. On August 21, 2013, the Commission affirmed the initial decision.

Century Metal Recycling Pvt. Ltd. v. Dacon Logistics, LLC d/b/a Coda Forwarding; Great American Alliance Insurance Company; Avalon Risk Management; Hapag-Lloyd America, Inc.; and Mitsui OSK Lines [Docket No. 12-09]

On October 19, 2012, Century Metal filed a complaint alleging that respondents violated Section 10(d)(1) of the Shipping Act, 46 U.S.C. § 41102(c). All respondents but Dacon settled or were dismissed from the case. Dacon failed to answer or otherwise respond to the complaint and did not

respond to an order to show cause why an initial decision on default should not be entered. On June 20, 2013, the ALJ entered an initial decision on default finding that Dacon violated Section 10(d)(1) when it failed to pay ocean freight to the vessel-operating common carriers that transported 30 contains of scrap metal to India. The decision ordered a reparation award in the amount of \$323,663.71. On July 16, 2013, the Commission issued a notice of Commission determination to review and the proceeding is currently pending before the Commission.

Lisa Anne Cornell and G. Ware Cornell, Jr. v. Princess Cruise Lines, Ltd. (Corp), Carnival plc, and Carnival Corporation [Docket No. 13-02]

On January 30, 2013, complainants filed a complaint alleging that respondent cruise ship lines refused to permit them to sail on their cruise ships in violation of Section 10(b)(10) of the Shipping Act, 46 U.S.C. § 41104(10). The controversy stemmed from a dispute over a refund of money paid to a fine arts auction company that operates on the cruise ships after Lisa Cornell cancelled a purchase of works of art. Complainants had been involved in litigation for several years in Florida courts with the auction company, an affiliate of the cruise lines. Respondents filed a motion to dismiss or alternatively for summary judgment. On July 23, 2013, the administrative law judge issued a summary initial decision dismissing most claims, but found that respondent Princess violated Section 10(b)(10) and entered a cease and desist order. The judge found that complainants did not meet their burden of offering evidence that they had suffered actual injury as a result of the violation. On August 14, 2013, both parties filed exceptions to the decision and the proceeding is currently pending before the Commission.

Seagull Maritime Agencies Private Ltd. v. Gren Automotive, Inc.; Centrus Automotive Distributors Inc.; and Liu Shao, Individually [Docket No. 13-03]

On February 22, 2013, Seagull Maritime, an NVOCC, filed a complaint alleging that respondent shippers violated Section 10(a)(1) of the Shipping Act, 46 U.S.C. § 41102(a), by not paying freight and other charges due Seagull Maritime. On July 8, 2013, the Secretary served a notice that the parties jointly filed a voluntary dismissal pursuant to Commission Rule 72. On August 7, 2013, the Commission issued a notice that it intended to review the dismissal, and on August 16, 2013, ordered the parties to file any settlement papers memorializing the settlement and remanded the proceeding to the ALJ. On September 4, 2013, the administrative law judge issued an initial decision approving the settlement. On October 22, 2013, the Commission served a notice not to review.

2. Pending Proceedings

At the end of the fiscal year, 11 formal proceedings were pending before the OALJ.

C. Office of the General Counsel

The Office of the General Counsel provides legal counsel to the Commission. This includes reviewing staff recommendations for Commission action for legal sufficiency, drafting proposed rules to implement Commission policies, and preparing final decisions, orders, and regulations for Commission review. In addition, OGC provides written and oral legal opinions to the Commission, its staff, and the general public in appropriate cases. As described in more detail below, the General Counsel also represents the Commission before courts and Congress, and administers the Commission's international affairs program. The OGC has delegated

authority to make determination of controlled carrier status. Also, the FMC's ethics official is designated by the Chairman as a collateral duty and located in the OGC.

1. Rulemakings and Decisions

The following are rulemakings and adjudications representative of matters prepared by the OGC:

NVOCC Negotiated Rate Arrangements [Docket 11-22], 32 S.R.R. 350

On March 2, 2011, the Commission issued a final rule, promulgating 46 C.F.R part 532, regulations which govern the exemption of licensed NVOCCs from their tariff rate publication obligations when entering into a “negotiated rate arrangement” (NRA). Commission Docket No. 10-03, 76 Fed. Reg. 11351, effective April 18, 2011.

On February 26, 2013, the Commission published a Notice of Proposed Rulemaking to extend the NRA exemption to foreign-based unlicensed NVOCCs. 78 Fed. Reg. 13011. The Commission received six comments. A Final Rule was issued on July 12, 2013 revising Commission rules imposing registration requirements on foreign-based unlicensed NVOCCs and extending an exemption from certain provisions and requirements of the Shipping Act and Commission regulations to foreign-based unlicensed NVOCCs that utilize negotiated rate arrangements.

EuroUSA Shipping, Inc., Tober Group, Inc., and Container Innovations, Inc. - Possible Violations of Section 10 of the Shipping Act of 1984 and the Commission's Regulations at 46 C.F.R § 515.27 [Docket No. 06-06], 32 S.R.R. 578; Parks International Shipping Inc., Cargo Express International Shipping Inc., et al. - Possible Violations of Sections 8(a) of the Shipping Act and the Commission's Regulations at 46 C.F.R., parts 515 and 520 [Docket No. 06-09], 31 S.R.R.

1166 ; Anderson International Transport and Owen Anderson - Possible Violations of Sections 8(a) and 19 of the Shipping Act [Docket No. 07-02], 32 S.R.R. 568, 32 S.R.R. 1678.

As described in the previous OALJ section, the Commission decided a series of cases alleging violations by various household goods movers, imposing civil penalties and cease and desist orders.

Smart Garments v. Worldlink Logistics Services, Inc., 33 S.R.R. 65 (FMC 2013); Bimsha International v. Chief Cargo Services, Inc. and Kaiser Apparel. Inc., 32 S.R.R. 1861 (FMC 2013); Yakov Kobel and Victor Berkov v. Hapag-Lloyd A.G., Hapag-Lloyd America, Inc., Limco Logistics, Inc., International TLC, Inc., 32 S.R.R. 1720 (FMC 2013).

This year the Commission decided a series of cases that clarified the scope of Section 10(d)(1) of the Shipping Act to include violations of the Shipping Act where a regulated entity fails in a single instance to observe and enforce just and reasonable practices.

2. Litigation

The General Counsel represents the Commission in litigation before courts and other administrative agencies. Although the litigation work largely consists of representing the Commission upon petitions for review of its orders filed with the U.S. Courts of Appeals, the OGC also participates in actions for injunctions, enforcement of Commission orders, actions to collect civil penalties, and other cases where the Commission's interest may be affected by litigation. The following is representative of matters litigated by the office:

City of Oakland v. Federal Maritime Commission, United States Court of Appeals for the District of Columbia Circuit, Case No. 12-1080

On February 9, 2012, the City of Oakland filed a petition for review of the Commission’s Order in FMC Docket 09-08, SSA Terminals, LLC, et al. v. The City of Oakland, upholding the ALJ’s denial of its motion to dismiss on the ground of Eleventh Amendment sovereign immunity. On March 26, 2012, the FMC filed the certified index to the record. The court granted SSA Terminals’ Motion to Intervene on March 29, 2012. The Commission filed its brief July 5, 2012, and on July 18, 2012 the Intervenor filed its brief. The Commission filed its Final Brief on August 24, 2012. Oral argument was held on April 9, 2013. On July 26, 2013, the Court entered an Opinion and Judgment in favor of the Commission, and denying the petition for review.

3. Legislative Activities

The OGC represents the Commission’s interests in all matters before Congress. The OGC reviewed and commented on 117 bills, proposals, and congressional inquiries. On January 1, 2013, the Senate Committee on Commerce, Science and Transportation confirmed a Presidential nominee that OGC prepared for such confirmation. OGC prepared and coordinated testimony for the agency’s fiscal year 2014 budget authorization hearing held before the U.S. House of Representatives’ Committee on Transportation and Infrastructure’s Subcommittee on Coast Guard and Maritime Transportation. In addition, OGC helped prepare the Commission’s Chairman for the House Subcommittee on Coast Guard and Maritime Transportation hearing regarding regulatory review, on September 10, 2013.

4. Foreign Shipping Restrictions and International Affairs

The OGC is responsible for the administration of the Commission's international affairs program. The OGC monitors potentially restrictive foreign shipping laws and practices, and makes recommendations to the Commission for investigating and addressing such practices. The Commission has the authority to address restrictive foreign shipping practices under Section 19 of the Merchant Marine Act of 1920 and the Foreign Shipping Practices Act of 1988. Section 19 empowers the Commission to make rules and regulations governing shipping in the foreign trade to adjust or meet conditions unfavorable to shipping. The FSPA directs the Commission to address adverse conditions that affect U.S. carriers in foreign trade and that do not exist for foreign carriers in the U.S.

The OGC pursued informally several matters involving potentially restrictive foreign practices. This included legislation, interpretations of existing legislation, and regulations of non-domestic carriers' terminal handling charges. OGC also finalized a requested change by the Ministry of Transport of the People's Republic of China to revise the FMC's rules implementing a US-PRC bilateral understanding addressing the ability of U.S. NVOCCs to do business in China. The OGC advised the Commission on developments relating to the application of the People's Republic of China's new regulations implementating a nationwide value-added-tax on international transportation services. The OGC served as a technical adviser to the U.S. delegation regarding Chinese requirements for rate-filing and related issues at the 6th U.S.-People's Republic of China Consultations on the Maritime Bilateral Agreement held in Hangzhou, People's Republic of China in November 2012. At the end of the fiscal year, the OGC prepared background information for Commissioner

Doyle's participation in the 7th U.S.-People's Republic of China Consultations on the Maritime Bilateral Agreement held in Chicago, Illinois in November 2013.

Another responsibility of the OGC is the classification of controlled carriers subject to Section 9 of the Shipping Act. Common carriers that are owned or controlled by foreign governments are required to adhere to certain requirements under the Shipping Act, and their rates are subject to Commission review. The OGC investigates and makes appropriate recommendations to the Commission regarding the status of potential controlled carriers. The OGC, in conjunction with other Commission components, also monitors the shipping activities of controlled carriers. The OGC last republished this list of Controlled Carriers on August 22, 2012, 77 Fed. Reg. 51801 (August 22, 2012). A current list is found below in this report.

The OGC continued to take the lead in accomplishing the agency's performance goals relating to eliminating restrictions that unjustly disadvantage U.S. interests. OGC monitors foreign laws and practices to determine whether there are any unjust non-market barriers to trade. Where appropriate, the OGC recommends Commission action.

D. Office of Equal Employment Opportunity

The FMC Office of Equal Employment Opportunity (EEO) Program follows federal EEO and personnel management laws, concepts, procedures and regulations to develop, implement, and manage a comprehensive program of equal employment opportunity. The program is statutorily mandated with required activities in complaints processing, adjudication, affirmative employment program planning, workforce diversity management, special emphasis programs, community outreach, monitoring and evaluation.

Operational responsibility for compliance with federal EEO policies and programs lies with the Commission's front line managers. The Director of EEO works independently under the direction of the Chairman to provide advice to the Commission's senior staff and management on improving and carrying out its policies and program of non-discrimination, workforce diversity, and affirmative employment program planning.

The office works closely with senior management and with the Commission's Office of Human Resources to: (1) monitor affirmative employment programs; (2) expand outreach and recruitment initiatives; (3) improve the representation, career development and retention of women, minorities and persons with disabilities; (4) provide adequate career counseling; (5) facilitate early resolution of employment-related problems; and (6) develop program plans and progress reports.

E. Office of the Inspector General

The Inspector General Act of 1978 (IG Act), as amended, establishes the responsibilities and duties of an Inspector General. The IG Act was amended in the 1980s to increase the number of agencies with statutory Inspectors General, culminating in 1988 with the establishment of numerous Inspectors General (IGs) in smaller, independent agencies, including the Federal Maritime Commission. Currently, there are 73 statutory IGs within executive and legislative departments and agencies. The mission of the OIG, as identified in the IG Act, is to:

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.

- Promote economy, effectiveness and efficiency within the agency.
- Prevent and detect fraud and abuse in agency programs and operations.
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.
- Keep the agency head and Congress informed of problems in agency programs and operations.

To ensure objectivity, the IG Act empowers independent IGs to determine what reviews to perform; to access all information deemed by the IG to be relevant to the reviews; and to publish findings and recommendations based on the reviews. During the fiscal year, the OIG issued the following audit reports and evaluations:

Audit Report Number	Subject of Audit
A13-01	Audit of FMC’s Transit Benefit Program
A13-02	Evaluation of the FMC’s FY 2012 Privacy and Data Protection
A13-03	Evaluation of the FMC’s Compliance with the Federal Information Security Management Act FY 2012
A13-04	Independent Auditor’s Report of FMC’s FY 2012 Financial Statements
A13-04A	FY 2012 Financial Statement Management Letter

In addition to these completed audits and reviews, the OIG performed fieldwork on the following: fiscal year 2013 financial statement audit; Federal Information Security Management

Act evaluation; an audit of expenditures for furnishing or re-decorating Commissioners' offices; and an audit of FMC's physical security program. The OIG's audit program was peer reviewed by another OIG and received a "pass" rating.

The OIG investigations unit received and responded to several complaints during the fiscal year. The IG Act provides that the IG may receive and investigate complaints or information concerning possible allegations of fraud, waste and abuse occurring within FMC programs and operations by employees or contractors. Matters of possible wrongdoing are referred to the OIG in the form of allegations or complaints from a variety of sources, including FMC employees, other government agencies, and the general public.

OIG staff also participated in several activities and meetings associated with the Council of the Inspectors General on Integrity and Efficiency (CIGIE); the Federal Audit Executive Council (FAEC); Council of Counsels to the Inspector General (CCIG); and the Assistant Inspector General for Investigations Committee.

F. Office of Consumer Affairs and Dispute Resolution Services

The Office of Consumer Affairs and Dispute Resolution Services is responsible for developing and implementing the Commission's Alternative Dispute Resolution (ADR) programs. CADRS provides *ombuds* and mediation services to assist parties in resolving international ocean shipping disputes. Exporters experiencing cargo shipping problems can contact the Commission's Rapid Response Team, created to quickly address cargo export problems. Such services are available to the shipping public at any stage of a dispute regardless of whether litigation has been filed at the Commission (or

another jurisdictional forum) for the purpose of avoiding the expense and delay inherent in litigation, and to facilitate the flow of U.S. foreign commerce.

CADRS *ombuds* and Rapid Response Team services are available to assist parties involved in ocean shipping transactions including: commercial shipments, shipments of household goods and personal effects, as well as problems that arise between cruise lines and passengers. Typical examples of complaints handled by CADRS staff in the commercial context include situations in which an NVOCC or VOCC has placed a hold on cargo in its possession, often for sums owed under a different contract of carriage. In such instances, CADRS works with parties to facilitate timely release of cargo and to address the underlying pre-existing dispute. Another example involves situations where an NVOCC has received cargo from its customer and taken payment for the transportation of the cargo, but has failed to deliver the cargo. In such matters, CADRS staff coordinates with the parties to facilitate delivery and to avoid additional demurrage/detention/storage charges. CADRS often assists household goods shippers who have unwittingly used unlicensed entities that demand additional payment and/or abandon the goods and refuse to communicate with the consumer. In these matters, CADRS staff works with parties to locate and to arrange for delivery of such shipments.

CADRS also receives a significant number of complaints from consumers involving problems with cruise lines. The most common examples of these complaints are cruise cancellations, changes of itinerary, difficulties encountered with connecting transportation (i.e., flight cancellations), reports of discrepancies in cruise advertising, and problems with passenger documentation (i.e., refused boarding due to

failure to have appropriate personal identification). CADRS facilitates between consumers and the cruise lines to assist in resolving disputes arising from such difficulties.

The Commission received 1,211 complaints during the fiscal year that resulted in the opening of *ombuds* cases. These included 229 commercial cargo matters, 857 household goods matters, and 116 cruise passenger matters. Commercial cargo-related complaints continued to become increasingly complex and problems resulting from ocean transportation intermediaries with overextended finances and inability to complete the ocean transportation continued to be an issue. In addition, passenger complaints about cruise lines, such as cancellations due to vessel propulsion system difficulties, unannounced cruise changes of itinerary, and difficulties involved with missed flights continued to be problematic. CADRS mediators provided services in 13 matters, especially assisting parties in overcoming obstacles to delivery of transported goods.

In addition to its ADR services, CADRS Settlement Officers adjudicate small claims involving complaints seeking reparations up to \$50,000 for violations of the statutes within the Commission's jurisdiction. CADRS staff also adjudicate special docket proceedings in which filers seek to waive or refund a portion of ocean freight under the Commission's special docket rules. During fiscal year 2013, CADRS issued 10 informal docket decisions; and issued 1 special docket decision.

CADRS continued to reach out to the shipping public through educational sessions with shippers, ocean transportation intermediaries, vessel operators, port authorities, trade associations, and an educational institution. In addition to public outreach, CADRS continued to coordinate

with other federal, local, and state governmental entities to combat domestic and international moving fraud through the auspices of the FMC-FMCSA MOU.

G. Office of the Managing Director

The Managing Director (MD) serves as the Commission's senior executive responsible for the management and coordination of the Commission's operating bureaus, exercising administrative direction or guidance over all units of the Commission. In addition to the major operating bureaus, the MD oversees the Commission's Area Representatives and all administrative offices.

The MD is the Commission's Chief Operating Officer and is responsible to the Chairman for the management and coordination of the following:

- Bureau of Certification and Licensing
- Bureau of Enforcement
- Bureau of Trade Analysis
- Area Representatives
- Office of Budget and Finance
- Office of Human Resources
- Office of Information Technology
- Office of Management Services

The MD is responsible for implementing the regulatory policies of the Commission, as well as the administrative policies and directives of the Chairman.

In addition, the MD provides administrative guidance to the:

- Office of the Secretary
- Office of General Counsel
- Office of Consumer Affairs and Dispute Resolution Services
- Office of Administrative Law Judges
and administrative assistance to the:
- Offices of the Commissioners
- Office of the Inspector General
- Office of Equal Employment Opportunity

The OMD coordinated the development and issuance of an Advanced Notice of Proposed Rulemaking for OTIs, the issuance of a Final Rule to require registration of all foreign-based NVOCCs involved in U.S. trades and to extend the NRA tariff exemption to registered foreign OTIs, and a Final Rule on Passenger Vessel Operations. Pursuant to an MOU with the FMCSA, the office continued cooperation to provide enhanced protection and assistance for consumers. The OMD coordinated activities with other agencies to leverage existing government assets. Pursuant to signed MOUs with the Surface Transportation Board and the Census Bureau, trade data was shared. In addition, the OMD oversaw coordination with Department of Defense agencies and U.S. Agency for International Development regarding issues affecting ocean transportation.

The MD coordinated the development of a long-range plan for information technology (IT). The focus of the plan is to improve internal IT efficiencies through development and implementation of an enterprise platform solution that will improve data collection, storage and retrieval to support all Commission programs, and enhance both internal and external interface of Commission electronic systems and databases. An

assessment of the agency's IT program demonstrated the need for significant upgrades of existing systems and for disaster recovery options. Plans have been developed to make these needed upgrades as funding is available.

1. Area Representatives

The Commission maintains a presence in Southern California, South Florida, New Orleans, New York, Houston and Seattle through Area Representatives based in each of these locales. These representatives serve major ports and transportation centers within their respective areas and beyond. In representing the Commission, ARs act as a conduit for information to and from the maritime industry and the shipping public, resolve complaints and disputes between parties involved in international oceanborne shipping (often coordinating with CADRS), investigate alleged violations of the shipping statutes, and function as an intelligence resource. They provide advice and guidance to the shipping public, collect and analyze information of regulatory significance, and assess industry conditions. The ARs frequently cooperate and coordinate with other federal, state and local governmental agencies and departments, providing shipping expertise and information and relaying Commission policy. The ARs inform the public regarding Commission requirements and services through activities such as seminars, participating in various conferences and industry events, making presentations, and through various local community contacts.

During the fiscal year, hundreds of informal complaints were handled by the ARs, many of which involved unlawful activity. When possible, compliance with statutory and regulatory requirements was achieved informally. In other instances, the ARs conducted investigations to determine the extent of unlawful activity, such as unlicensed OTI activities, misdescription of commodities by shippers, and improper service contract rate application by ocean carriers.

Investigative actions by the ARs led to several enforcement matters referred to the Bureau of Enforcement for pursuit of civil penalties. Investigative activity by the ARs assists the FMC in ensuring fair competition by all participants in the trades to and from the United States.

The ARs also made a number of presentations to interested industry audiences in their areas, explaining OTI licensing requirements and compliance with the new NRA Tariff Rate Exemption. ARs worked closely with a number of law enforcement agencies, including local jurisdictions such as the New York City Police Department, New Jersey State Police, and Houston Police Department; and federal agencies, including the Federal Bureau of Investigation, the U.S. Department of Justice, the Department of Homeland Security including CBP and Immigration and Customs Enforcement (ICE), the Department of Commerce (DOC) and the FMCSA.

ARs continued to provide valuable assistance in implementing recommendations of Commission Fact Finding Investigation No. 27, *Potentially Unlawful, Unfair or Deceptive Ocean Transportation Practices Related to the Movement of Household Goods or Personal Property in U.S.-Foreign Oceanborne Trades*. The ARs have been actively involved in reaching out to the public, consumer groups, trade associations, and other government agencies in efforts to achieve regulatory compliance and protection for the shippers of household goods and personal effects.

2. Office of Budget and Finance

The Office of Budget and Finance administers the Commission's financial management program and is responsible for offering guidance on optimal use of the Commission's fiscal resources. OBF is charged with interpreting government budgetary and financial policies and programs, and developing annual budget justifications. The office also administers

internal control systems for agency funds, travel, work years, and cash management. Additionally, OBF manages the Commission's Travel Charge Card Program and administers all budget execution functions.

In addition to preparing and process a myriad of reports and accounts payable documents, OBF collected and deposited \$3,319,566 to the U.S. Treasury from fines and penalty collections, publications, reproductions, and user fees; worked with Bureau of Public Debt staff and the Commission's independent auditors regarding the audits of fiscal years' 2012 and 2013 financial statements. The Commission received an unqualified opinion for 2012 and 2013.

3. Office of Human Resources

The Office of Human Resources administers a comprehensive human resources program that is true to merit system principles, mission driven, and promotes a diverse workforce. Program areas include position management and classification, policy, recruitment and staffing, workforce and training development, workforce planning and analysis, performance and awards management, compensation and benefits, work/life and employee relations, personnel and information security, executive resources, and the Federal Employee Viewpoint Survey.

In addition to managing various hiring, benefits and educational programs, the OHR streamlined human resources functions through various human resources information systems, including the new electronic employee official personnel file, Paycheck 8 time and attendance, electronic questionnaires for investigations and enhanced self-service personnel actions available online. In addition, OHR coordinated with other administrative units and the General Services Administration's Managed Service Office on matters pertaining to Homeland Security Presidential Directive 12

and the issuance of federal employee credentials, including activities to implement physical and logical access provision. The OHR also administered the Federal Employee Viewpoint Survey, analyzed results, prepared interpretation and trend analysis, worked with senior leadership to identify and reinforce successful activities and develop strategies to address areas of improvement, and worked with the Partnership for Public Service in connection with metrics and utilizing results of the *Best Places to Work* rankings.

4. Office of Information Technology

The Office of Information Technology provides management support to the program and administrative operations of the Commission with respect to information technology (IT), and thus is responsible for ensuring that the Commission's IT program is administered in a manner consistent with applicable rules, regulations, and guidelines.

During the fiscal year, among the number of reporting requirements that are directly related to OIT, it completed the technical implementation of the foundation for the FMC Enterprise Platform Solution, a data and content management platform. This platform is the basis for the modernization of all FMC applications. The OIT also completed technical implementation of Pay.gov, which when instituted by the FMC Bureaus and Offices, will offer the public a new payment method through the U.S. Department of the Treasury's collection service.

5. Office of Management Services

The Office of Management Services directs and administers a variety of management services functions that principally provide administrative support to the regulatory program operations of the Commission. The Director of the Office serves as the Commission's Principal Contracting Officer.

In conjunction with other administrative offices and operational bureaus, OMS negotiated with the agency's physical security contractor to acquire, install and implement security enhancements, to include updating and installation of additional card readers to access offices and security cameras at the agency's entrances, to monitor staff and guests within agency facilities, in accordance with HSPD-12 initiatives. Due to budgetary constraints, OMS played an active role to negotiate the reduction of the agency's key contracts in accordance with sequestration reduction requirements to include contracts for legal publications, IT services and/or database maintenance, IT database updates/expansion, headquarter's office space, and other related services.

OMS provided guidance and led the agency's response to OMB's *Freeze the Footprint* initiative implemented throughout the federal government. It also provided guidance, assistance, and collaborated with the OIT to re-compete the agency's requirement for Wireless Telecommunication Services and expand the program for smart-phone use. In addition, OMS expanded and revised the agency's procurement program policy statement to include recent changes in federal regulations and updated acquisition procedures.

H. Bureau of Certification and Licensing

The Bureau of Certification and Licensing is responsible for the Commission's ocean transportation intermediary licensing and registration program and passenger vessel certification program. The Bureau:

- Licenses, registers and regulates OTIs, including ocean freight forwarders and non-vessel-operating common carriers;

- Issues certificates to owners and operators of passenger vessels that have evidenced financial responsibility to satisfy liability incurred for nonperformance of voyages or for death or injury to passengers and other persons;
- Manages programs assuring financial responsibility of OTIs and PVOs, by developing policies and guidelines, and analyzing financial instruments and financial reports; and
- Develops and maintains information systems that support the Bureau's programs and those of other Commission entities.

1. Licensing of Ocean Transportation Intermediaries

OTIs are transportation middlemen for oceanborne cargo moving in the U.S.-foreign trades. There are two types: NVOCCs and ocean freight forwarders. NVOCCs are common carriers that do not operate the vessels by which transportation is provided. Ocean freight forwarders in the U.S. arrange for the transportation of cargo with a common carrier on behalf of shippers and process documents related to those shipments. Both NVOCCs and OFFs must be licensed by the Commission if they are located in the U.S. NVOCCs doing business in the U.S.-foreign trades but located outside the U.S. (foreign NVOCCs) may choose to become licensed, but are not required to do so. If not licensed, foreign-based NVOCCs must register with the Commission and establish financial responsibility. All NVOCCs, whether licensed or registered, must publish electronic tariffs that contain the NVOCC's rates, charges, rules, and practices.

If an OTI is a licensed NVOCC, it must file a Form FMC-1 and publish a tariff. Prior to July 19, 2013, non-U.S. based NVOCCs that did not wish to be licensed had to provide the Commission with proof of financial responsibility in the amount of \$150,000, file a Form FMC-1, and publish a tariff. A foreign-

based NVOCC must list in its tariff an agent for service of process in the United States, and it must use a licensed OTI for OTI services performed on its behalf in the United States.

On July 12, 2013, the Commission issued a final rule that requires foreign-based, unlicensed NVOCCs to register with the Commission. In order to register, non-U.S. based NVOCCs must submit Form FMC-65, containing their name, address, and contact information, including an email address, as well as the identity of its legal agent for service of process with contact information for the agent. The rule required all existing foreign-based, unlicensed NVOCCs to register no later than October 19, 2013. The Commission received 336 new OTI applications and 259 amended applications, issued 267 new OTI licenses and 129 amended licenses, and revoked 263 licenses. At the end of the fiscal year, 994 OFFs, 1,746 U.S. NVOCCs, 1,918 joint NVOCC/OFFs, and 75 foreign NVOCCs held active OTI licenses. An additional 1,259 foreign-based NVOCCs maintain proof of financial responsibility on file with the Commission, but choose not to be licensed; these entities are required to file the new Form-65 to become registered. Overall, there were 93 more licensed and/or bonded OTIs, representing approximately a two percent increase, to 5,992, during the fiscal year. U.S. NVOCCs may file riders to their existing NVOCC bonds to meet financial responsibility requirements imposed by the Chinese government. The Commission received 326 new and amended riders providing optional proof of financial responsibility for NVOCCs serving the U.S.-China trade last year; 35 riders were terminated. At the end of the fiscal year, 419 U.S. NVOCCs had riders on file. As part of its continuing outreach effort, BCL handled over 6,000 inquiries regarding licensing and related OTI issues. Figure 1 shows the number of ocean freight forwarders and NVOCCs that held active OTI licenses over the past five fiscal years from 2009 through 2013.

Active OTI Licensees 2009-2013

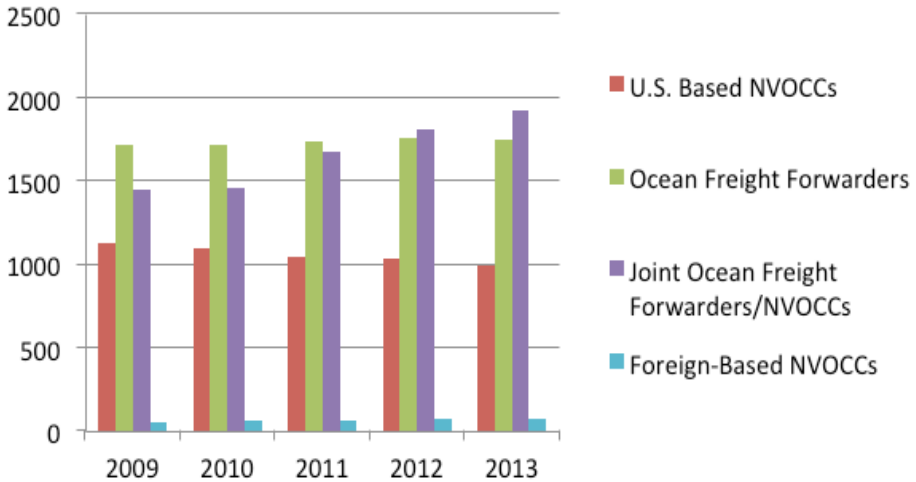


Figure 1

OTI Applications Received 2009- 2013

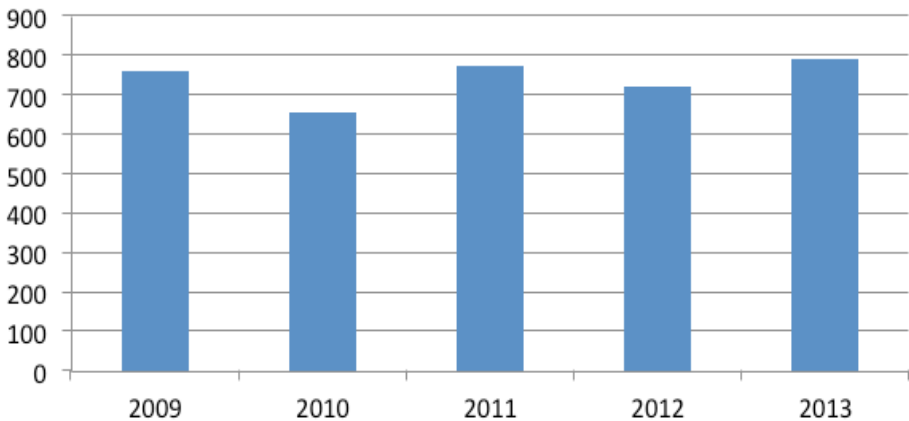


Figure 2

The Commission's goal is to complete 75 percent of all OTI license applications within 60 calendar days. During the fiscal year, BCL exceeded this goal completing over 87 percent of all OTI applications within 60 calendar days. Figure 2 shows the number of OTI applications received by the FMC over each of the last five fiscal years, 2009 through 2013.

3. Passenger Vessel Certification

The Commission administers the passenger vessel operator program as described under 46 U.S.C. §§ 44102-44103, which requires evidence of financial responsibility for vessels which have berth or stateroom accommodations for 50 or more passengers and embark passengers at U.S. ports and territories. At the end of the fiscal year, the program encompassed 204 vessels and 40 operators, which had aggregate evidence of financial responsibility coverage in excess of \$326 million for nonperformance and over \$712 million for casualty.

Certificates of performance cover financial responsibility for the indemnification of passengers for nonperformance of transportation. This requirement also helps prevent unscrupulous or financially weak operators from operating from U.S. ports. The required levels of coverage for nonperformance are determined by Commission regulation. Even after an operator has ceased operations and dissolved its corporate existence, the evidence of financial responsibility is still valid and available to claimants.

Certificates of casualty are required to cover liability that may occur for death or injury to passengers or other persons on voyages to or from U.S. ports. The law provides for \$20,000 coverage per person for the first 500 passengers, and the scale decreases to \$5,000 per person for passengers in excess of 1,500. U.S. Customs and Border Protection are directed to refuse clearance to any vessel which does not comply with

the FMC's evidence of financial responsibility requirements for casualty and performance. During the fiscal year, the Commission approved and issued 8 casualty certificates and 11 performance certificates.

In conjunction with CADRS, BCL offers information and guidance to the cruising public on passenger rights and obligations regarding monies paid to cruise lines that fail to perform voyages. When cruise lines fail to perform because of bankruptcies or other reasons, the Commission works closely with the cruise line and the financial responsibility provider to facilitate the refund process. The public is kept informed through FMC press releases posted on the Commission's website and advice given to passengers who contact staff. No cruise operator ceased operation with unperformed cruises during the fiscal year.

The Bureau reviewed PVO activities and operations by monitoring current industry events and examining cruise lines' unearned passenger revenue (UPR) information. Oversight of cruise line operations and activities ensures compliance with applicable statutes and Commission regulations. A remote review program was implemented that provides BCL an additional mechanism of safeguards for cruise lines participating in the Commission's PVO program. Remote reviews include an examination of accompanying summaries and schedules, comparison of monthly UPR calculations to UPR as reported on the general ledger, verification of UPR semi-annual reporting calculations, and other auditing procedures to accomplish the program review objectives. The review also seeks to determine the adequacy of cruise lines' systems of controls over monies received from passengers for water transportation and other services.

On February 21, 2013, the Commission amended its rules regarding the establishment of passenger vessel financial responsibility for nonperformance of transportation, which became effective April 2, 2013. Some of the significant changes include, increasing the maximum coverage requirement from \$15 million to \$30 million per cruise line over a two-year period with an adjustment to the cap every two years based on the Consumer Price Index for All Urban Consumers (CPI-U); providing relief from coverage requirements by means of substituting alternative forms of protection for PVOs with unearned passenger revenue that is no more than 150% of the cap (i.e., UPR of \$45,000,000 or less); and initiating a 5-year expiration cycle for each certificate from the date of issuance. All Certificates issued as of April 2, 2013, will have a 5-year expiration date. Certificates for all remaining vessels in a PVO's fleet will be issued on an interval basis and will contain a 5-year expiration date.

4. Database Systems

The Bureau hosts two active databases, the Regulated Persons Index (RPI) and the FMC-18 for OTI applications.

1. The RPI is a database containing records of licensed OTIs, ocean common carriers, and other entities doing business with the Commission. A key function of the RPI is to display on the Commission's website, a list of compliant OTIs so that carriers and others can ascertain whether an OTI is properly licensed, bonded, and if required, has posted the location of its automated tariff. The OTI list also indicates whether an NVOCC has filed an optional rider for additional proof of NVOCC financial responsibility for China activity.
2. The automated Form FMC-18, Application for an Ocean Transportation Intermediary License, permits filers to complete an OTI application online, attach electronic

documents, and submit the application electronically. The filing system incorporates security features to protect applicant data, by detecting and preventing unauthorized system intrusions. During the fiscal year, 92 percent of all incoming OTI applications received were through the electronic system.

The Bureau is currently working with the agency's Office of Information Technology to create a more robust and efficient electronic OTI licensing system. Both of the Bureau's databases will be assimilated into the new system, which will not only be more efficient, but also will remove the stovepipes between all the existing systems, thus eliminating the need for duplicate data entry. This fiscal year saw the completion of the enterprise solution's foundation, the enterprise store, which will be the repository for the Commission's critical data.

I. Bureau of Enforcement

The Bureau of Enforcement is the primary prosecutorial arm of the Commission. BOE attorneys serve as trial attorneys in formal proceedings instituted under Section 11 of the Shipping Act, and in investigations instituted under the FSPA. BOE attorneys also may be designated investigative officers in nonadjudicatory fact-finding proceedings. BOE monitors all other formal proceedings, including relevant court proceedings, in order to identify major regulatory issues and advise the MD and the other bureaus. The Bureau also participates in the development of Commission rules and regulations and serves on inter-bureau task forces and special committees. On occasion, under the direction of the General Counsel, BOE attorneys may participate in matters of court or other agency litigation to which the Commission is a party.

Through the agency's investigative personnel, and information provided by the industry and other government entities, the Bureau provides liaison and legal advice in investigations of the shipping activities of ocean common carriers, OTIs, shippers, ports and terminals, and other persons to ensure compliance with the statutes and regulations administered by the Commission. Monitoring activities include: (1) service contract and NVOCC service arrangement and negotiated rate arrangement reviews to determine compliance with applicable statutes and regulations; (2) reviews and audits of ocean common carrier, NVOCC and ocean freight forwarder operations, including compliance with licensing, tariff, and bonding requirements; (3) audits of PVOs to ensure the financial protection of cruise passengers; (4) monitoring of agreements among ocean carriers and MTOs; and (5) various studies and analyses to support Commission programs. Investigations involve alleged violations of the full range of statutes and regulations administered by the Commission, including: illegal or unfiled agreements; abuses of antitrust immunity; unlicensed OTI activity, including servicing of noncompliant OTIs by VOCCs and licensed NVOCCs; illegal rebating; misdescriptions or misdeclarations of cargo; untariffed cargo carriage; unbonded OTI and passenger vessel operations; and various types of consumer abuses, including failure of carriers or intermediaries to carry out transportation obligations, resulting in cargo delays or financial losses for shippers. The Bureau adheres to the agency's objectives of obtaining statutory compliance and ensuring equitable trading conditions.

BOE prepares and serves notices of violations of the shipping statutes and Commission regulations and may compromise and settle civil penalty demands arising out of those violations. Other BOE investigations may be resolved through compliance measures. If settlement is not reached,

Bureau attorneys act as prosecutors in formal Commission proceedings that may result in settlement or in the assessment of civil penalties. BOE also participates, in conjunction with other Commission units, in special enforcement initiatives, fact-finding investigations and rulemaking efforts.

During the fiscal year, BOE investigated and prosecuted possible illegal practices in many trade lanes, including the Transpacific, North Atlantic, West Africa, Central and South American and Caribbean trades. These market-distorting activities included various forms of unfiled agreements, rebates and absorptions, misdescription of commodities and misdeclaration of measurements, and unlawful use of service contracts, as well as carriage of cargo by and for untariffed and unbonded NVOCCs. Of note, the Bureau's efforts in pursuing inquiries regarding the major car carriers in the Japan-U.S. trades (and in other U.S. trades inbound as well as outbound), culminated in two separate settlements relating to unfiled carrier agreements, netting \$2,325,000 in penalty payments. Cumulatively, the Bureau collected more than \$3 million in penalties, during the fiscal year. Figure 3, below, shows civil penalties collected by the FMC over the last five fiscal years.

Major investigations completed during fiscal year 2013 addressed investigations of household goods movers allegedly operating as unlicensed OTIs, including those VOCCs and licensed NVOCCs that provided service to unlicensed movers. Three longstanding docketed proceedings were completed by the Commission upon review of the Bureau's exception to decisions by the ALJ below, resulting in the assessment of substantial civil penalties on the unlicensed, unbonded operator and its principals, as well as against the NVOCC offering services to such unlicensed operators. Each case also culminated in issuance of a cease and desist order barring the company and individual respondents from operating as

Civil Penalties Collected Fiscal Year 2009 – 2013

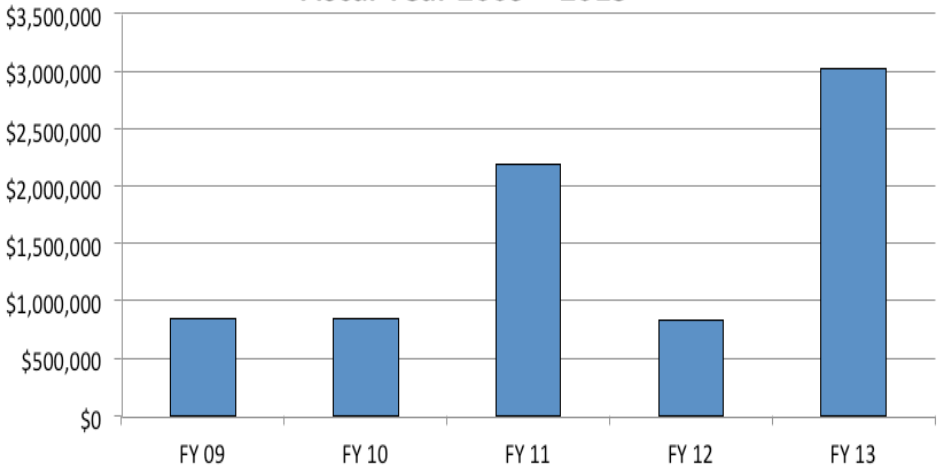


Figure 3

an OTI or OTI agent for a period of 5 years. Upon filing of exceptions by the Bureau, the Commission also remanded the Initial Decision in Docket No. 12-01, a formal investigation of OMJ International, OC International, and Mr. Omar Collado to determine whether respondents violated Section 10(a) (1) of the Shipping Act by providing service to an unlicensed, unbonded NVOCC, and whether respondents should still qualify to be licensed as an OTI. Additional briefs were ordered by the ALJ in August 2013, with a further decision expected therein by October 2013. In Docket No. 13-01, the Bureau submitted a motion for summary judgment and supporting affidavits seeking findings of violation of Sections 10(a)(1) and 10(b)(2) of the Shipping Act, assessment of civil penalties, and revocation of the OTI license of respondent United Logistics (LAX) Inc. for unlawfully accessing service contracts to which United Logistics was neither the shipper signatory nor an affiliate. The matter remained pending before the administrative law judge for decision at the end of the fiscal year.

At the beginning of the fiscal year, 9 enforcement cases were pending final resolution by the Bureau, the Bureau was party to 5 formal proceedings, and there were 12 matters pending which the Bureau was monitoring or for which it was providing legal advice. During the fiscal year, 17 new cases were referred for enforcement action or informal compromise; 13 were compromised and settled, administratively closed, or referred for formal proceedings; and 13 enforcement cases were pending resolution at fiscal year's end. Also, 1 formal proceeding was initiated; 3 formal proceedings were completed, and 3 were pending at the end of the fiscal year. Additionally, BOE opened 6 matters involving monitoring or legal advice, completed or closed 2 such matters, and 16 were pending at the end of the fiscal year.

The compliance audit program continued during the fiscal year. This program, conducted by BOE staff primarily by mail, reviews the operations of licensed OTIs to assist them in complying with the statutory requirements and the Commission's rules and regulations. The audit program also includes review of entities holding themselves out as VOCCs where there is no indication of current vessel operations. During the fiscal year, 82 audits were commenced, 74 audits were completed (including audits carried over from fiscal year 2012), and 12 remained pending in BOE on September 30, 2013. During 2013, BOE continued to report to the Commission regarding the most prevalent compliance issues encountered in the audit program and to identify those same issues on the Commission's website, in accordance with recommendations of the agency's Inspector General (Report OR12-01, issued March 2012).

BOE completed its first full year under a formal MOU with the Census Bureau, U.S. Department of Commerce, providing FMC with access to the Census' Automated Export System (AES) database. The completed MOU accommodates and

respects Census' ongoing concerns for data security in any subsequent handling and use of otherwise confidential U.S. export shipment data. Such data may be used only for FMC law enforcement purposes.

Interaction between BOE the Commission's ARs, and the CBP with respect to the exchange of investigative information continues to be beneficial to all parties. Cooperation with CBP included staff interactions and joint field operations to investigate entities suspected of violating both agencies' statutes or regulations. Such cooperation also has included local police and other government entities, including the U.S. Attorney's Office and the Federal Bureau of Investigation, when necessary.

J. Bureau of Trade Analysis

The primary function of the Bureau of Trade Analysis is the oversight of concerted activity by ocean common carriers and marine terminal operators under the standards of the Shipping Act. Further, BTA administers the Commission's agreements, service contract, NVOCC Service Arrangements and NVOCC Negotiated Rate Arrangements programs, and monitors the accessibility and accuracy of published tariffs. The Bureau's major program activities include:

- Administering comprehensive trade monitoring programs to identify and track relevant competitive, commercial, and economic activity in the major U.S. foreign trades, and to advise the Commission and its staff on current trade conditions, trends and regulatory concerns affecting oceanborne liner transportation;
- Conducting systematic surveillance of carrier activity in areas relevant to the Commission's administration of statutory standards;

- Developing economic studies and analyses in support of the Commission’s regulatory responsibilities;
- Providing expert economic testimony and support in formal proceedings;
- Processing and analyzing ocean common carrier and MTO agreements;
- Reviewing and processing service contracts, NSAs and amendments filed by ocean common carriers, conferences of such carriers, and NVOCCs; and
- Reviewing tariff publications in automated systems of carriers and conferences and ensuring that tariffs are accessible to the public and accurate, and overseeing application of the NRA regulations.

1. Agreement Filings and Review

Under Sections 4 and 5 of the Shipping Act, all agreements by or among ocean common carriers to fix rates or conditions of service, pool cargo revenue, allot ports or regulate sailings, limit or regulate the volume or character of cargo (or passengers) to be carried, control or prevent competition, or engage in exclusive or preferential arrangements, are required to be filed with the Commission. Except for certain exempted categories, agreements among MTO’s and among one or more MTOs and one or more ocean common carriers also are required to be filed with the Commission. Generally, an agreement becomes effective 45 days after filing, unless the Commission has requested additional information. These agreements are reviewed pursuant to the standard set forth in Section 6(g) of the Shipping Act, 46 U.S.C. §41307(b)(1). Effective agreements are exempt from U.S. antitrust laws, and instead subject to Shipping Act restrictions and Commission oversight.

BTA received 127 agreement filings, and analyzed and processed 131 agreement filings during the fiscal year. Statistics on agreement filings are contained in Appendix C. Figures 4 and 5, illustrate the trend in agreement filings since fiscal year 2009.

(a) Ocean Common Carrier Agreements

There are two broad categories of ocean common carrier agreements filed with the Commission: (1) pricing agreements, where the main focus is on rates, and (2) operational agreements, where the focus can range from the sharing of vessel space to the management of an internet portal. Descriptions of the two categories of agreements follow:

(1) Pricing Agreements

There are two types of pricing agreements: conference agreements and rate discussion agreements (RDAs). Conference agreements provide for the collective discussion, agreement, and establishment of common ocean freight rates and practices by groups of ocean common carriers. Conferences publish a common rate tariff in which all the member lines participate. RDAs also focus on rate matters, but unlike conferences, any consensus on rates reached under RDAs is non-binding on the parties. RDA member lines each publish their own tariff. At the end of the fiscal year, there were three effective conference agreements, and 24 RDAs on file.

Conference agreements have become largely irrelevant to U.S. liner shipping. No new carrier conference agreement has been filed with the Commission since fiscal year 2000. The remaining three conferences cover only government cargoes.

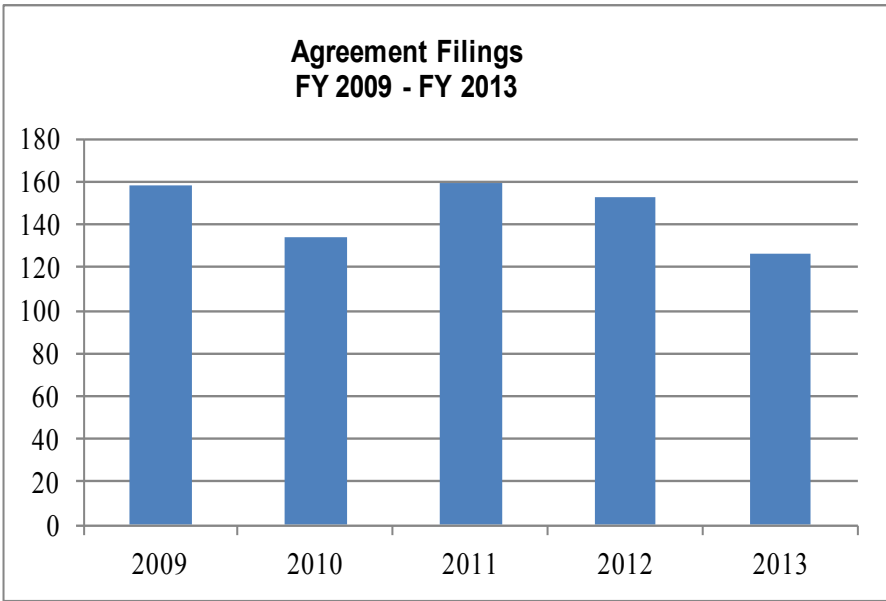


Figure 4

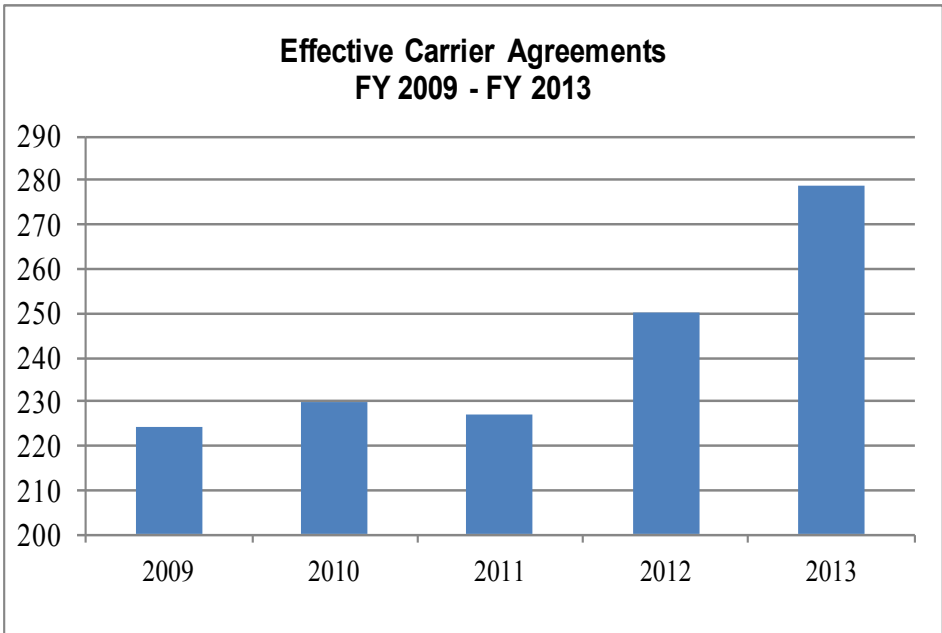


Figure 5

Significant
Activities

Today, RDAs are the primary pricing forum in U.S. trade lanes. Since fiscal year 2000, the number of RDAs on file has declined from 36 to 24 agreements. During the fiscal year, RDA filings involved, for the most part, adding or removing members. Two new RDAs were filed last year.

(2) Operational Agreements

Operational agreements include vessel-sharing agreements, joint service agreements, cooperative working agreements, and discussion agreements without rate authority. At the end of the fiscal year, operational agreements accounted for 87 percent of all carrier agreements on file.

Vessel-sharing agreements (VSAs) typically authorize some level of service cooperation with the goal of reducing an individual line's operating costs. VSAs range from alliance agreements, which involve close operational cooperation across multiple trade lanes, to slot charter agreements, which require only minimal commitments. VSAs account for the vast majority of filed carrier agreements, 80 percent at the end of the fiscal year. They also accounted for 65 percent of carrier agreement filings received last year.

Under joint service agreements (JSAs), two or more carriers operate a combined service under a single name in a specified trading area. The joint service issues its own bills of lading, sets its own rates, and acts as an individual ocean common carrier. No new JSAs or amendments to existing JSAs were received last fiscal year. At the end of the year, there remain six JSAs on file with the Commission.

Many cooperative working agreements (CWAs) are non-pricing agreements that tend to deal with unique operational considerations relating to acquisitions, sharing of administrative services, or internet portal management. Other CWAs filed with the Commission include agency, sailing,

trans-shipment, and equipment interchange (including chassis pooling) agreements. At the end of the year, there were 16 CWAs on file; a net decrease of one CWA during the last fiscal year.

Discussion agreements without rate authority provide ocean common carriers a vehicle for discussing matters of mutual interest other than rates. Typically, these agreements focus on macro-economic, regulatory, safety or security issues. At the end of the fiscal year, there were eight such agreements on file.

(b) Marine Terminal Operator Agreements

Marine terminals, operated by both public and private entities, provide facilities, services, and labor for the interchange of cargo and passengers between land and ocean carriers, and for the receipt and delivery of cargo from shippers and consignees. BTA is responsible for reviewing and processing agreements between and among MTOs.

BTA received 13 MTO agreement filings during the fiscal year for a year-end total of 151 MTO agreements on file - up from 149 the previous year. Figure 6 below shows the trend of MTO agreements on file over the last five years.

Terminal leases accounted for about 40 percent of the MTO agreements on file, followed by MTO discussion agreements, MTO joint ventures, and service agreements. Over the last five years, leases and services agreements experienced deep declines, due largely to the filing exemption afforded under the Commission's regulations and notifications of previously unreported terminations. MTO discussion agreements experienced the largest increase in numbers over the last five years, due mainly to the MTOs' need to discuss environmental,

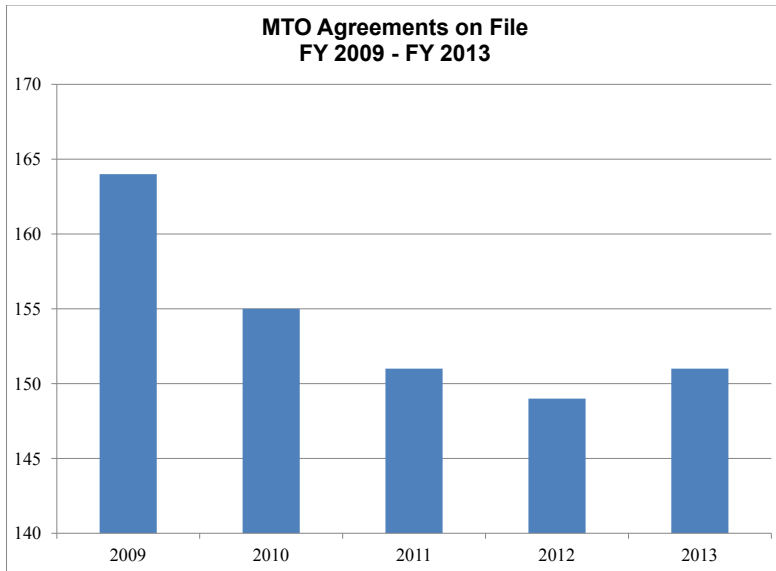


Figure 6

infrastructure, security, and congestion issues that the ports are facing today. During the fiscal year, MTO discussion agreements declined from 21 to 19.

Figure 7 provides the types of MTO agreements on file at the end of the fiscal year.

3. Monitoring and Economic Analysis

The systematic monitoring of common carrier activities and commercial conditions in the U.S. foreign trades is an integral part of the Commission’s responsibilities under the Shipping Act. The shipping activities of certain types of MTO agreements are monitored in a similar fashion. Monitoring helps ensure that carriers and marine terminal operators comply with the statutory standards of the Shipping Act and the requirements of relevant Commission regulations. BTA administers monitoring programs, and conducts research into current trade conditions, emerging commercial trends, carrier pricing and service activities, and other issues that may affect U.S. liner shipping.

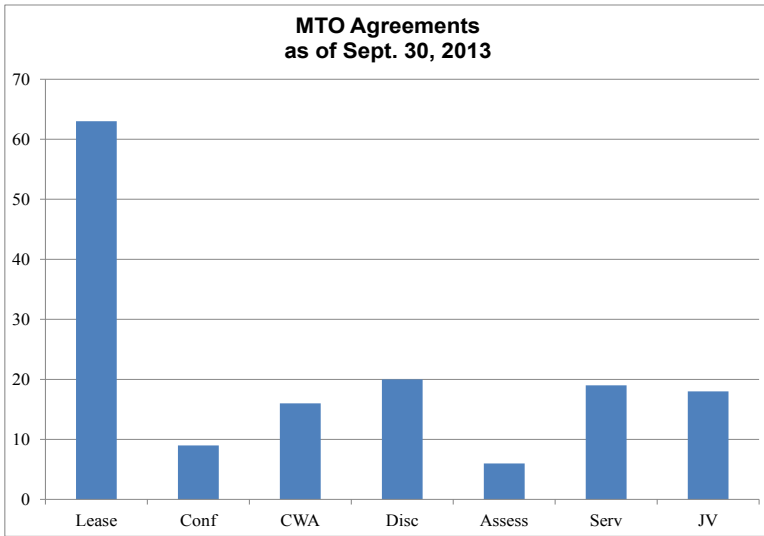


Figure 7

The Commission’s monitoring program examines carrier competition in individual U.S. trade lanes, including market share, concentration, barriers to market entry, and coordination among carriers. The program also examines alternative service options and alternative supply sources, cargo volume trends, congestion bottlenecks, commercial pricing practices, operational cost pressures, service offerings, vessel capacity utilization, service contracting activity and shipper complaints.

BTA produced various reports and analyses concerning, for example, the Consolidated Chassis Management Pool Agreement; the Port of Lake Charles, Louisiana’s changes to local stevedoring services; and the G-6 Alliance Agreement involving operational cooperation between two major global alliances serving U.S. trades. Other major monitoring activities included preparing a report on the TSA and Westbound Transpacific Stabilization Agreement rate increase and surcharge proposals and their impact; reviewing data

and meeting minutes provided by three global alliances; and conducting bi-annual information meetings with representatives of the TSA.

4. Tariffs

The Shipping Act requires common carriers and conferences to publish their tariffs electronically, in private systems. These electronic tariff systems contain rates, charges, rules, and practices of common carriers operating in the U.S. foreign commerce. BTA monitors the public accessibility of these private tariff systems and reviews published tariff material for compliance with the requirements of the Shipping Act. The Bureau also determines whether to grant applications for special permission to deviate from tariff publishing rules and regulations. During the fiscal year, BTA received and processed four special permission applications and no service contract correction applications.

The Bureau is responsible for processing the electronic Form FMC-1, *Tariff Registration Form*, required to be filed with the Commission by common carriers, conferences, and MTOs. The data identifies the location of common carrier tariffs, including common carrier and conference service contract essential terms publications or any MTO schedules. At the end of fiscal year 2013, 5,252 tariff location addresses were posted on the Commission's website. Of that number, 4,913 tariff addresses were for NVOCCs. The Bureau also collaborates with other Commission bureaus and offices to verify that VOCCs and NVOCCs comply with the Commission's licensing, bonding and tariff publication requirements.

The Commission provides regulatory relief, allowing licensed NVOCCs to "opt out" of the requirement to file rate tariffs providing they use NRAs exclusively. In fiscal year 2013, the Commission extended this relief to foreign registered NVOCCs. All NVOCCs are required to keep records

of their NRAs, which must be memorialized in writing, for a period of five years. Additionally, NVOCCs are required to maintain rules tariffs which must be made available free of charge. It is anticipated that NVOCCs will continue to take advantage of this opportunity, thereby significantly reducing the number of rate tariffs that BTA must review to ensure compliance with applicable regulations. By the end of the fiscal year, 525 NVOCCs had filed prominent notices or a rule in their respective tariff indicating that they have invoked the exemption - up 14 percent from 465 in fiscal year 2012.

5. Service Contracts

Service contracts are an alternative to transportation of cargo under tariff rates. Service contracts enable the parties to tailor transportation services and rates to their commercial and operational needs and to keep these arrangements confidential. During the fiscal year, the Commission received 48,802 new service contracts, compared to 47,664 in fiscal year 2012, and 556,285 contract amendments, compared to 498,727 in fiscal year 2012.

Original service contract or NSA filings that contain clerical errors can be corrected within two business days by filing a “corrected transmission” copy into SERVCON (FMC’s service contract filing system). During the fiscal year, 5,515 records involving corrected transmission copies were filed into SERVCON.

6. Service Arrangements

Commission rules allow NVOCCs to offer transportation services pursuant to individually negotiated, confidential service arrangements with customers, known as NSAs, rather than under a published tariff.

During the fiscal year, 1,635 NSAs and 2,019 amendments to NSAs were filed by a total of 95 NVOCCs. Of the 1,273 NVOCCs that are registered with the Commission to file NSAs, only 204 (about 16 percent) have done so. Those 204 NSA users represent approximately 4 percent of all registered NVOCCs.

7. Controlled Carriers

A controlled carrier is an ocean common carrier that is, or whose operating assets are, owned or controlled directly or indirectly by a foreign government. The Shipping Act provides that no controlled carrier may maintain rates or charges in its tariffs or service contracts that are below a level that is just and reasonable, nor may any such carrier establish, maintain, or enforce unjust or unreasonable classifications, rules or regulations in those tariffs or service contracts. In addition, tariff rates, charges, classifications, rules, or regulations of a controlled carrier may not, without special permission of the Commission, become effective sooner than the 30th day after the date of publication.

The Commission's staff monitors U.S. and foreign trade press and other information sources to identify controlled carriers and any unjust or unreasonable controlled carrier activity that might require Commission action. During the fiscal year, four controlled carriers operated in the U.S. trades:

1. American President Lines, Ltd. and APL Co., Pte. (RPI No. 000240) - Republic of Singapore;
2. COSCO Container Lines Company, Limited (RPI No. 015614) - People's Republic of China;
3. China Shipping Container Lines Co., Ltd. and China Shipping Container Lines (Hong Kong) Company, Ltd. (RPI No. 019270) - People's Republic of China; and

4. Hainan P.O. Shipping Co., Ltd. (RPI No. 022860) - People's Republic of China.

8. Marine Terminal Schedules

Pursuant to the Ocean Shipping Reform Act (OSRA), MTOs may make available to the public a schedule of rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public shall be enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions. Pursuant to the Commission's regulations governing MTO schedules, any terminal schedule that is made available to the public must be available during normal business hours and in electronic form. Each MTO must notify the Bureau of the electronic location of its terminal schedule by submitting Form FMC-1 before commencing operations. A total of 245 MTOs have filed Form FMC-1, with 141 electing to voluntarily publish their terminal schedules by the end of the fiscal year. The internet addresses of these MTO terminal schedules are posted on the Commission's website.

9. Automated Database Systems

The Bureau currently maintains and uses the following automated databases and filing systems: (1) Form FMC-1 System; (2) SERVCON, the system for filing service contracts and NSAs (as well as internal database systems related to SERVCON registration forms); and (3) the Agreement Profile Database.

At the end of the fiscal year, the Form FMC-1 System reflected the tariff location addresses of 193 VOCCs, 4,913 NVOCCs, 5 conferences, and 141 MTOs. An additional 104 MTOs have registered by filing a Form FMC-1 and, as permitted under Commission rules, do not publicly post a MTO schedule.

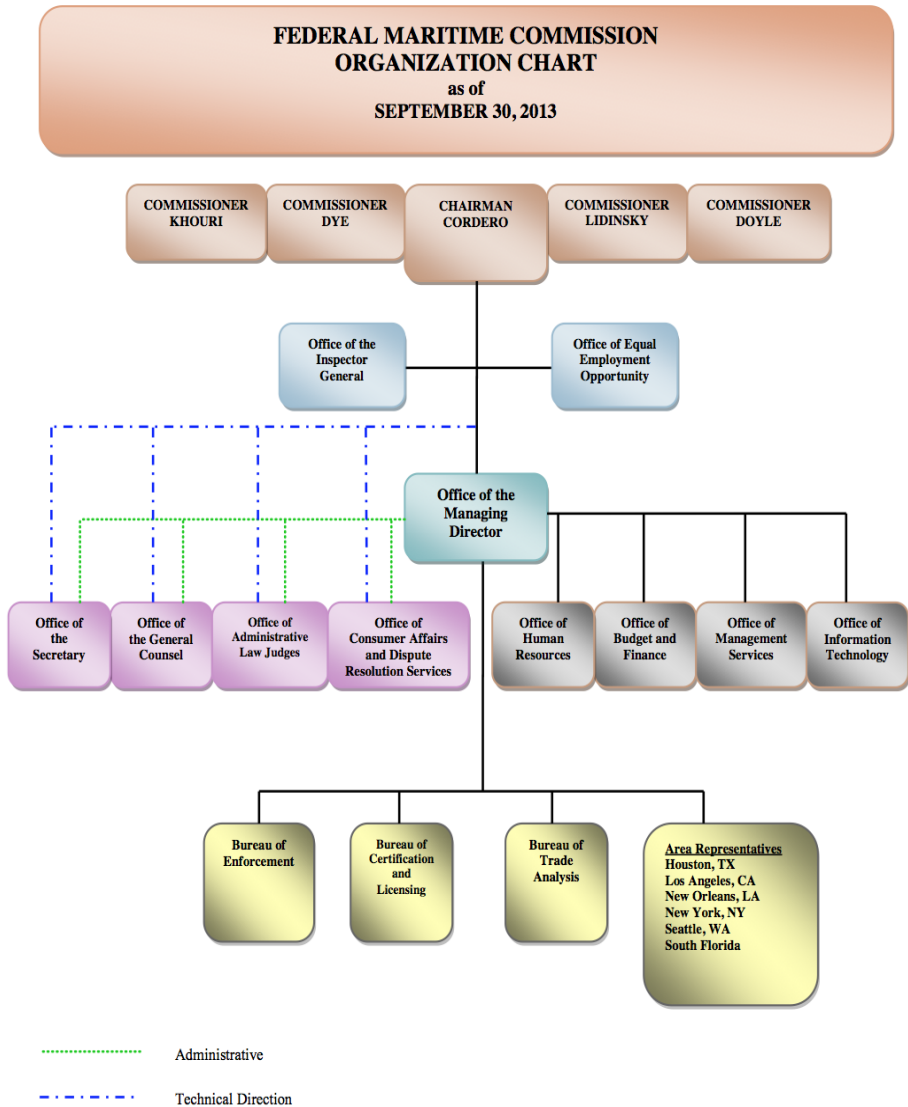
The Commission's Office of Service Contracts staff validated that VOCCs were providing common carriage service in the waterborne commerce of the U.S.

SERVCON contains service contract and NSA data, most of which is available only to the Commission's staff due to confidentiality requirements. Carriers must register to file service contracts by submitting Form FMC-83, and NVOCCs must submit Form FMC-78 to file NSAs.

The Agreement Profile Database contains information about the status of carrier and terminal agreements, as well as related monitoring reports. These databases and filing systems provide support for many of the Commission's programs and the Bureau's monitoring efforts. Through specially tailored reports, the Commission makes certain database information available to the general public. BTA also maintains an electronic library of effective carrier and MTO agreements. This library is accessible through the Commission's website.

VI. APPENDICES

APPENDIX A - Federal Maritime Commission Organization Chart



APPENDIX B - Commission Proceedings

Formal Proceedings

Orders of Investigation Initiated	1
Formal Complaints Filed	6
ALJ Initial Decisions Issued*	14
Initial Decisions Reviewed.....	3
Exceptions Filed to Initial Decisions	8
Fact Finding Orders Issued	0

Rulemakings

Advanced Notice of Proposed Rule.....	1
Proposed Rules	1
Final Rules	3

Informal Dockets

Informal Complaints Filed.....	5
Settlement Officer Decisions Issued	10
Settlement Officer Decisions Reviewed	3

Notice of Inquiries Issued

0

Hearings Held

1

APPENDIX C - Agreement Filings And Status

Agreements Filed in FY 2013 (including modifications and terminations)

Carrier	114
Terminal	13
Total.....	127

Agreement Processing Categories in FY 2013

Forty-Five Day Review	39
Expedited Review	6
Exempt-Effective Upon Filing.....	80
Rejection of Filing	0
Formal Extension of Review Period	2
Withdrawals.....	4
6(g) Injunction.....	0
Total.....	131

Carrier Reports Submitted for Commission Review

Minutes of Meetings	716
Voluntary Service Contract Guidelines	85
Monitoring Reports.....	563
Total.....	1,364

Agreements on File as of September 30, 2013

Conference.....	3
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Rate Discussion 24

Non-Rate Discussion. 8

Joint Service 6

Vessel-Sharing 222

Cooperative Working & Other 16

Terminal 151

Total..... 430

APPENDIX D - Form FMC-1 Tariff Location Addresses - Service Contract and NSA Filings and Special Permission Applications

Form FMC-1 Filings

VOCCs	193
OTI/NVOCCs	4,913
MTOs	245
Conferences	5

Electronic Service Contract Documents

New Service Contracts	48,802
Service Contract Amendments	556,285

NVOCC Service Arrangement (“NSA”) Documents

New NSAs.....	1,635
NSA Amendments.....	2,019

Special Permission Applications

Granted.....	4
Denied	0
Pending	0
Withdrawn	0

APPENDIX E - Civil Penalties Collected

American Freight Line - Southeast Inc.....	\$ 85,000
China International Freight Co. Ltd.	80,000
East-West Logistics Inc.	55,000
Versatile International Corp.....	55,000
Top Shipping Logistics Co. Ltd. et al	142,500
Whale Logistics (Shanghai) Co. Ltd.	70,000
Koil, Inc. dba VShip Co.	75,000
UTi, United States, Inc.	140,000
Kawasaki Kisen Kaisha.....	1,100,000
Nippon Yusen Kaisha.....	1,225,000
Total Civil Penalties Collected	\$ 3,027,500

APPENDIX F - Statement of Appropriations, Obligations and Receipts

Appropriations:

For necessary expenses of the Federal Maritime Commission as authorized by Section 201(d) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 307), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefore, as authorized by 5 U.S.C. 5901-5902, \$22,839,425: Provided, That not to exceed \$2,000 shall be available for official reception and representation expenses.

Public Law 113-6	\$24,100,000
Rescission	\$48,200
Presidential Sequestration.....	\$1,212,375
Total Budgetary Resources.....	\$22,839,425

Obligations and Unobligated Balance:

Net obligations for salaries and expenses for the fiscal year ended September 30, 2013

	\$22,829,174
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Statement of Receipts:

Deposited with the General Fund of the Treasury for the Fiscal Year Ended September 30, 2013:

Publications and reproductions, fees and vessel certification and freight forwarder applications.....	\$ 221,366
Fines and Penalties	\$ 3,098,200
Total General Fund Receipts	\$ 3,319,566

