Twelfth Annual Report of the Federal Maritime Commission

Fiscal Year Ended June 30, 1973

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FEDERAL MARITIME COMMISSION
WASHINGTON, D.C.

June 30, 1973

HELEN DELICH BENTLEY, *Chairman*
GEORGE H. HEARN, *Vice Chairman*
ASHTON C. BARRETT, *Member*
JAMES V. DAY, *Member*
CLARENCE MORSE, *Member*

LETTER OF TRANSMITTAL

Federal Maritime Commission
Washington, D.C. 20573

Office of the Chairman

July 1, 1973

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

Pursuant to section 103(e)(2) of Reorganization Plan No. 7 of 1961, and section 208 of the Merchant Marine Act, 1936, as amended, I respectfully submit the Annual Report of the Federal Maritime Commission for the fiscal year 1973.

Sincerely,

Helen Delich Bentley
Chairman

Federal Maritime Commission (Fiscal Year 1973)

Clarence Morse — James V. Day — Helen Delich Bentley, Chairman — Ashton C. Barrett — George H. Hearn, Vice Chairman

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SCOPE OF AUTHORITY AND BASIC FUNCTIONS

The Federal Maritime Commission was established as an independent agency by Reorganization Plan No. 7, effective August 12, 1961. Its basic regulatory authorities are derived from the Shipping Act, 1916; Merchant Marine Act, 1920; Intercoastal Shipping Act, 1933; Merchant Marine Act, 1936; Public Law 89–777 of November 6, 1966; and Public Law 91–224, approved April 3, 1970.[1]

The Commission is composed of five Commissioners appointed by the President with the advice and consent of the Senate. The Commissioners are appointed for 5-year terms, with not more than three of the Commissioners being appointed from the same political party. The President designates one of the Commissioners to be the Chairman, who also serves as the chief executive and administrative officer of the agency.

The statutory authorities and functions of the Commission embrace the following principal areas: (1) Regulation of services, practices, and agreements of common carriers by water and certain other persons engaged in the foreign commerce of the United States; (2) acceptance, rejection, or disapproval of tariff filings of common carriers engaged in the foreign commerce of the United States; (3) regulation of rates, fares, charges, classifications, tariffs, regulations, and practices of common carriers by water in the domestic offshore trades of the United States; (4) licensing independent ocean freight forwarders; (5) investigation of discriminatory rates, charges, classifications, and practices in the waterborne foreign and domestic off-

[1] Executive Order 11548, dated July 20, 1970, delegates to the Federal Maritime Commission the responsibility and authority, pursuant to Public Law 91–224 "Water Quality Improvement Act of 1970," to issue regulations concerning requirements for the certification by the Commission of proof of financial responsibility of certain vessels to meet the liability to the United States for the discharge of oil.

shore commerce; (6) issuance of certificates evidencing financial responsibility of vessel owners or charterers to pay judgments for personal injury or death, or to repay fares in the event of nonperformance of voyages or cruises; (7) issuance of certificates evidencing financial responsibility of vessel owners, charterers and operators to meet the liability to the United States for the discharge of oil; and (8) rendering decisions, issuing orders, and making rules and regulations governing and affecting common carriers by water, terminal operators, freight forwarders, and other persons subject to the Commission's jurisdiction.

The Commission's headquarters is located at 1405 I Street NW., Washington, D.C. 20573. There are four field offices located as follows:

Atlantic District	26 Federal Plaza, Room 4012, New York, N.Y. 10007.
Pacific District	681 Market Street, Room 618, San Francisco, Calif. 94105.
Pacific District (Southern California).	Post Office Box 3184, Terminal Island Station, San Pedro, Calif. 90731.
Gulf District	Post Office Box 30550, 610 South Street, Room 945, New Orleans, La. 70190.
Puerto Rico Office	Old San Juan Post Office Building, Room 108A, Comerico and Tanca Streets, Post Office Box 3168, San Juan, P.R. 00904.

HIGHLIGHTS OF THE YEAR

Fiscal 1973—the twelfth year of existence for the Federal Maritime Commission—saw continued, spectacular progress in technology in the maritime industry.

LASH and SEABEE operations continued their development and roll-on roll-off vessels enjoyed increased popularity.

In keeping with vessel development, heavy investments in shoreside facilities at ports large and small were on the increase.

Along with technological development came signs that the industry was on the threshold of truly integrated intermodal systems for cargo carriage.

Progress, however, raised serious regulatory problems with which the Commission had to cope.

LASH and SEABEE operations have opened up new jurisdictional areas for the Commission on the inland waterway systems of the United States. Terminals which heretofore were involved only in local carriage, are now engaged in the foreign and domestic offshore commerce.

The enormous capital investment required in the containerization age has led to carriers seeking working arrangements—and in some cases outright corporate mergers—to use their resources more efficiently.

These attempts to streamline services have led to a growing chorus of complaints from port interests that cargo is being diverted to single "load centers" to the detriment of the smaller ports.

The industry was also plagued with the economic phenomena which have disrupted all segments of our society. Currency devaluation, inflation, environmental impact—all made their mark during fiscal 1973.

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In addition, an ominous trend seemed to be developing in lesser developed countries toward the employment of more and more sophisticated economic devices to reserve cargo for national-flag lines.

At the close of fiscal 1973, then, the Commission was faced with the problem of resolving revolutionary regulatory disputes without hindering maritime development.

LASH/SEABEE Operations

LASH/SEABEE operations continued to develop during 1973. In addition to the original LASH services between U.S. Gulf ports and ports in Europe, these barge operations have expanded to U.S. South Atlantic ports and to South America and the Far East.

LASH/SEABEE tariffs on file with the Commission offer services to river ports on the Mississippi River and the river system tributary thereto, as well as to coastal ports and cities which are not served directly by oceangoing vessels.

The conflicts between the Interstate Commerce Act and the Shipping Act, 1916, raised jurisdictional questions as to these unique all-water services. This Commission and the Interstate Commerce Commission again cooperated to facilitate progress in this area. After a thorough study and discussion of the requirements of both the applicable statutes, the agencies issued a joint statement of policy reserving regulation of the LASH/SEABEE ocean carrier to the FMC when true LASH/SEABEE services are offered, and at the same time the ICC retained its regulatory authority over the towboat operator.

Intermodal Services

Intermodal services offered by carriers in our foreign waterborne commerce, in connection with inland rail carriers, continued to expand. The year 1973 saw a new mini-bridge service inaugurated from the Gulf Coast to Europe via South Atlantic ports and a U.S. flag carrier filed

the first joint truck/ocean rates between the Far East and Boston via New York.

Competition between intermodal services and all-water routes has grown in the trades between the United States East Coast and Japan and between Europe and the U.S. West Coast. Ports which have traditionally handled these cargoes in all-water service, are experiencing losses of traffic to the so-called mini-bridge intermodal routes. The Commission is directly involved in these developments, both through formal proceedings before it and by close surveillance of carrier and conference practices. Through these efforts the Commission intends to insure that carrier/conference practices do not adversely affect the public interest and the U.S. foreign commerce.

During this year the Federal Maritime Commission worked closely with the Interstate Commerce Commission to permit intermodalism to develop within the framework of existing law. To date however, these efforts have resulted only in tariffs filed to and from port cities.

This Commission has continued to advocate the need for intermodal legislation which will foster the development of true intermodal transportation services to inland points throughout the nation.

Sea-Land Service and United States Lines Merger

On February 12, 1973, the Commission served its report in Dockets Nos. 69–56 and 70–51 wherein conditional approval was granted to agreements which would result in the merger of U.S. Lines, Inc. and Sea-Land Service, Inc. under the common ownership of R. J. Reynolds Tobacco Co. and affiliates. Originally the agreement provided for a 20-year time charter to Sea-Land of 16 containerships owned by U.S. Lines, with a later option to purchase. This agreement was subsequently modified to provide for the merger of the two steamship companies under ownership of Sea-Land's parent, R. J. Reynolds, with compensation of $65 million flowing to Walter Kidde & Co. (parent of

U.S. Lines). In approving the arrangement, the Commission claimed jurisdiction under section 15 of the 1916 Act over the objection of the Department of Justice and others. Numerous conditions were attached to approval, which were designed to insure that U.S. Lines and Sea-Land would continue to be operated independent of and in competition with each other. At year's end the matter was pending review in the U.S. Court of Appeals.

Currency Devaluation

The Commission served its report in Docket No. 72–5 on September 12, 1972, wherein it determined unlawful the conference's attempt to institute a short notice increase of rates on dual-rate contracts as a result of currency devaluation. The United States had announced its intention to devalue the U.S. dollar but had not taken official action. The conference sought to increase rates on less than 90-day notice required by contract, relying on the "currency devaluation" clause of its contract. The Commission found that 90-day notice was required because the contract clause required official governmental action before the clause could be invoked and the U.S. Congress had not yet acted. The Commission also emphasized its authority to reject such rates without hearing where violations exist and where the premise used to support the filing is an obvious nullity as a matter of substantive law.

Labor Relations

On August 25, 1972, the Commission served its report on remand from the Court of Appeals in Docket No. 70–3. In its previous decision (11–9–71) the Commission concluded that the Boston Shipping Association, a multi-employer collective bargaining unit, was subject to the Shipping Act.

Also found subject to section 15 of the Act were the incorporation papers and by-laws forming the association, the agreement as to allocation of labor gangs among stevedores, and the agreement among and between the association members as to the "first call-recall" system implemented via the labor agreement.

As a result of the views expressed by the Departments of Justice, Labor, and the National Labor Relations Board, following a petition to review in the First Circuit Court of Appeals, the Commission sought and obtained a remand for the purpose of considering the views of those parties who had not previously participated in the case.

In its decision on remand the Commission reiterated its claim of jurisdiction over the Shipping Association but reversed itself on the other issues, finding that the matters under consideration were entitled to a "labor exemption" from the antitrust and shipping laws because they involved mandatory subjects of collective bargaining which were products of *bona fide*, arm's length bargaining.

Military Rates

The Commission has for some time been concerned with the level of rates bid for military cargo. It would appear that the rate level is so low that commercial cargo may be burdened with correspondingly high rates. In an attempt to resolve this problem, the Commission published its General Order 29. Under the criteria set forth in the order, carriers must demonstrate that their bid rates are compensatory.

Peruvian Cargo Reservation

In its report served March 22, 1973, in Docket No. 71–71, the Commission approved an agreement between Prudential-Grace Lines and Compania Peruana de Vapores which permitted the former to participate more freely in the West Coast to Peru trade.

The Peruvian government had enacted decrees reserving certain cargoes in the trade to its own national-flag line. The agreement gave Prudential-Grace "equal access" to these cargoes. The agreement was protested by a third-flag line who alleged that the agreement excluded it from the trade.

The Commission, in approving the agreement, found no reasonable possibility of adverse effect on competitors which might outweigh the benefits which will flow from approval.

This delicate balancing of interests is illustrative of problems arising under cargo allocation laws of foreign governments.

U.S. OCEANBORNE COMMERCE IN REVIEW

Freight Rates and Surcharges in Foreign Commerce

Numerous general rate increases were filed with the Commission during fiscal year 1973 to offset rising costs to the carriers as a consequence of continued world-wide inflation. Surcharges were continued in order to account for differences in costs brought about by currency variations, port congestion, bunker increases, and war risk charges.

Currency Surcharges

A ten percent devaluation of the United States dollar on February 12, 1973, the second devaluation in fourteen months, resulted in both foreign and American flag carriers filing currency surcharges in their freight tariffs to offset losses incurred in converting U.S. dollars to foreign funds. During this fiscal period, numerous foreign currencies were adjusted upwards in relationship to the U.S. dollar while other currencies were allowed to float. Thus, a further rash of adjustment surcharges was filed in the applicable freight tariffs in our foreign commerce. The Commission staff expended considerable effort in evaluating the level of currency surcharges filed by conferences and independent carriers to insure that they were set at a justifiable level. Numerous requests for special permission to invoke surcharge increases in less than the statutory filing period were received but only those with satisfactory supporting evidence were permitted by the Commission. However, in no event were currency surcharges permitted to become effective on less than 90 days' notice unless the provisions of the merchants' freighting contracts so provided.

Port Surcharges

During fiscal year 1973 there was an increase in port surcharges throughout the world. Where possible, the Commission attempted to verify reported conditions at these ports through the cooperation of the Department of State and the involved carriers. Information regarding congestion at foreign ports is provided by the Department of State and is utilized by the Commission to determine whether a port surcharge is warranted. Where port surcharges were assessed on a one-way basis, the Commission requested that the conferences explain why the surcharge was not shared equally by the exporter and importer. This program was successful in reducing or cancelling many surcharges from governing tariffs.

Bunker Fuel Surcharges

Bunker prices were unsteady as they were during fiscal year 1972. As a result, surcharges continued to account for increases in cost to the carriers depending upon price and location of purchase. There were indications that the situation would become worse during the coming year.

Port Detention Surcharges

During this period, the Commission issued a show cause order (Docket No. 72–58) against the United States/South & East Africa Conference (Agreement 9502). This order directed the conference to show cause why the assessment of the 25 percent port detention surcharge at Mombasa, Kenya, East Africa in the export trade of the United States from U.S. Atlantic and Gulf ports to ports in South and East Africa should not be eliminated as unjustly discriminatory and contrary to the public interest in violation of Sections 15 and 17 of the Shipping Act, 1916. The order was directed at the outbound conference only since the inbound conference serving U.S. Atlantic and Gulf ports did not assess a similar surcharge. Although the inbound conference published a 15 percent surcharge, it did not subsequently become effective.

While the proceeding was pending, the conditions at the ports in question improved and in December of 1972, both rate-making groups voluntarily agreed to eliminate the surcharges and notice was served discontinuing the proceeding.

War Risk Surcharges

In the Vietnam area there was a need to continue a surcharge to account for increases in war risk insurance and crew bonuses. The Commission had on hand data enabling it to determine the need for the continued existence of the surcharge and kept the matter under review in order to seek its elimination when appropriate. During the year the surcharge was reduced from a high of $5.00 per ton to $1.70 per ton.

Rate Disparities

Rate Disparities in the North Atlantic Trade

Following a comprehensive study of freight rates assessed by the conferences and three leading independent lines serving the inbound and outbound North Atlantic European trades, the staff submitted a recommendation to the Commission that an Order to Show Cause be served against the conferences and the lines. The Commission approved the recommendation and served an appropriate order on August 4, 1972, under Docket No. 72–40. The staff study of approximately 102 rate disparities was appended to the order.

In October the Commission stayed its investigation in this case to permit the parties to consult and resolve the issues on an informal basis. By the close of the fiscal year the conferences serving the North Atlantic European trades resolved 36 of the 102 commodity rate items.

Rate Disparities in the United States/Japan Trade

After continued Commission efforts toward the elimination of unjustified rate disparities in the United States/Japan trade failed to produce the desired results, the Commission served

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orders against the outbound and inbound conferences on May 23, 1973 to show cause why the Commission should not order elimination of unjust discrimination resulting from disparities in their import/export rate structures.

On June 22, 1973, the Commission indefinitely postponed the date for responding to the show cause order pending action on a request for alternative procedures submitted by respondents. Respondents and Hearing Counsel have reached agreement on the procedures to be followed during the course of these proceedings.

Environmental Rate Disparity Issues

The staff worked with both the Environmental Protection Agency and the Council on Environmental Quality to revise proposed Commission rules for the implementation of the National Environmental Policy Act. Every effort was made to anticipate the various problems which might arise regarding rate matters and include the most equitable method of resolving these problems in our regulations.

There are two proceedings pending before the Commission which encompass environmental questions. One proceeding was instituted by the Commission on its own motion and the other arose as a result of a complaint filed by an exporter of wastepaper in the fall of 1971. Both proceedings relate to rates on virgin materials (woodpulp) as compared with recyclable or recycled materials (wastepaper) in two different trades.

The staff also spent considerable time and effort in a similar matter to reach an amicable settlement between certain carriers serving the Far East trade and exporters of scrap metal who alleged that their rates were unjustly high when compared with virgin metals.

Trends in Trade by Geographic Area

United Kingdom-Continent

The Continental-U.S. Gulf Freight Association Agreement No. 9988, conceived primarily to serve LASH/SEABEE and containership operators, was approved by the Commission

on October 3, 1972. It covers the trade from the Bordeaux-Hamburg range, including inland points or places served via said range, to United States ports in the range between Cape Canaveral, Florida and Brownsville, Texas, including ports, places, or points on inland waterways tributary to said ocean ports and ranges. Under the agreement the parties may serve ports or places on the said tributary waterways, e.g., the Mississippi River, and maximize the use of their specialized equipment. This agreement expires on December 4, 1974.

The North Atlantic Westbound Freight Association Agreement No. 5850, as amended, was modified on March 6, 1973 to extend the conference's authority in the South Atlantic to include ports tributary to coastal ports situated on inland waterways which are navigable by LASH barges and deep draft ocean vessels of member lines.

These two agreements reflect what is anticipated to develop as a trend for conferences with LASH/SEABEE vessel operating members to extend the scope of such agreements to the inland navigable waterways in order to maximize the benefits to be obtained by the use of such specialized vessels and equipment.

There have been several agreements approved involving conferences or conference carriers on the one hand and independent carriers on the other. In every instance these arrangements are designed to provide some means of accord between operators of different types of service such as container operators versus breakbulk, or mini-bridge operators versus all-water carriers.

Another type of agreement which has come into vogue is the so-called "Discussion Agreement." Such agreements usually provide for the exchange and development of information and data by the parties with respect to their operating experiences and conditions in the trade for the purpose of defining problem areas and determining whether they may be alleviated by further agreement. Significant among these is the recently filed Canadian-American Discussion Agreement (No. 10057) among two U.S. and two Canadian East Coast conferences serving the United Kingdom and Europe.

Far East

Agreement No. 9975, a containership service agreement among five Japanese flag carriers in the trade between Japan and U.S. Atlantic Coast ports, initially approved by the Commission on August 16, 1972, provided for the implementation of a seven-vessel containership service. Approval was temporary through November 15, 1972, in order to allow time for the impact of the agreement to be evaluated. The agreement was extended to June 30, 1973 and October 29, 1973, by subsequent Commission orders. The agreement has been implemented to the benefit of the member participants. The space chartering arrangements among the parties for the carriage of loaded and empty containers on each other's vessels have provided for maximum vessel utilization. The Commission has under review an application for continued approval of the arrangement for a five-year duration effective from the date of commencement of the voyage by a containership thereunder, i.e., August 22, 1972.

Agreement No. 9981 approved June 20, 1972, entitled the "Far East Discussion Agreement," is among 27 United States and foreign flag carriers operating in the trade between ports in the United States and the Far East. It covers an arrangement for cooperation in the development and exchange of information relating to various phases of common carrier services in such trade. The application for a one-year extension of the arrangement was approved by the Commission on May 15, 1973, terminating on June 20, 1974. A review of the reports filed on behalf of the carriers indicates considerable activity with respect to improving methods for the compilation of cargo data and matters relating to changes in the internal structure of the arrangement. Negotiations are underway for the formation of a cargo pool contemplated in the trans-Pacific trades to minimize the effect of overtonnaging and to stabilize the services. There is now pending before the Commission a similar arrangement (Agreement No. 10050) among 10 United States flag carriers, members of Agreement No. 9981, which will allow greater cooperation among the member carriers in

arriving at a common position with respect to their participation in Agreement No. 9981.

Latin America

The trend in Latin America to encourage national flag merchant ship growth through cargo allocation laws continued in fiscal 1973. This encouraged the filing of bilateral pooling, sailing, and equal access agreements between U.S. flag carriers and government-owned or -controlled Latin American carriers. There are currently 16 such pooling agreements in effect.

Three of the 16 agreements, i.e., Agreements Nos. 10027, 10028 and 10029 involving the U.S./Brazil trade, were approved by the Commission on January 30, 1973, for five-year terms and are multilateral in nature.

A new type of bilateral agreement, termed a "free access" arrangement (Agreement No. 10064), covering the U.S. Gulf/Colombia trade is pending Commission action. If approved, it will permit the parties to have free access to the total import and export cargo available in the trade.

A new development utilizing the discussion type arrangement is beginning to surface in the Latin trades. The U.S. Atlantic Coast/Brazil Discussion Agreement (No. 10054) which was filed on May 14, 1973, is pending Commission action. The agreement, among Moore-McCormack Lines Incorporated, Companhia De Navegacao Lloyd Brasileiro, and Companhia De Navegacao Maritima Netumar, S/A, the respective national flag carriers of the United States and Brazil directly concerned with the carriage of cargo in the trade between the two countries, is intended to encourage just and economical cooperation among the carriers in promoting commerce between their countries and to provide more efficient service for shippers.

The economic growth of Brazil is creating a demand for a flexible ocean service which will require ocean systems comprised of varying combinations of containerization, unitization, breakbulk and heavy lift services, feeder services, port complexes, and related systems. The agreement will permit the carriers to jointly plan the integrated

use of their combined assets to accommodate existing requirements for total container transport systems and to plan for the rational use of these assets in serving the separate and differing transport demands created within the geographical sectors mentioned.

Intermodalism

At the close of fiscal year 1973, 28 conferences had applied for permission to extend their jurisdiction to include the establishment and implementation of rates on cargo to or from inland points in the United States and/or inland points in other countries within the scope of the various approved conference agreements. Twenty-six of these applications have been granted and two are pending Commission action, one of which is under consideration in a formal proceeding.

Only one conference has implemented its system and has intermodal rates on file with the Commission, i.e., the North Atlantic Westbound Freight Association (Agreement No. 5850). This Association has a "Tariff of Inland Charges in England, Scotland and Wales" which supplements the Association's F.M.C. Tariff No. 31, naming rates from Great Britain and Northern Ireland and Eire to North and South Atlantic ports of the United States.

Of the 26 intermodal systems approved by the Commission, 10 relate to conferences in the United States/European trades, 10 to the United States/Latin American and Caribbean trades, and six involve conferences in the United States/Far East and Australian trades. The applications for intermodalism in the Far East trades have generated opposition from one independent carrier which already has intermodal rates on file with the Commission in the trade. In each of the eight Far East Conference trades, various member lines of the conferences and independent carriers have filed so-called "minibridge" tariffs with the Commission covering through water/rail services between the Far East and inland points in the United States, and United States Atlantic and Gulf ports, and adjacent points.

Implementation of LASH and Roll-On/Roll-Off Services

Lighter-Aboard-Ship (LASH) service involves a mother-ship and a complement of barges or lighters. This type of service is best suited for trades with inland waterway systems tributary to the ocean ports which are navigable by barge but not deep draft ocean vessels. LASH vessels operate between the United States and the Continent, United Kingdom, Far East, and the East Coast of South America.

During fiscal 1973, because of the growing number of LASH services, several conferences and rate agreements were modified to accommodate such services by extending their jurisdiction to points and ports located on inland water-ways tributary to the range of ocean ports covered by their basic agreements.

Roll-On/Roll-Off (RoRo) designates a type of ocean service whereby cargo is moved on and off the vessel by means of wheeled containers of vehicles. During fiscal 1973, RoRo services continued to be most extensively used in the U.S. North Atlantic/European trades, although a very viable service exists in the Puerto Rican and Australian trades. Most recently, a new joint service was approved for the establishment of a RoRo service between U.S. Gulf and East Coast ports and Guatemala. This same joint service is also planning to expand its service to El Salvador and Honduras. There is also an indication that this type of service will soon be introduced into the Hawaiian trade.

Terminal Operations and Modernization

The marine terminal industry, which furnishes the vital connection between ocean carriers and the shipping public it serves, is also regulated by the Commission. Terminal operators are required to publish and file tariffs with the Commission setting forth the rates, charges, rules and regulations for services offered at their facilities. Certain agreements between terminal operators and/or common carriers by water are required to be filed prior to their imple-mentation in order that the Commission may determine whether they qualify for the antitrust immunity accorded under Section 15 of the Shipping Act, 1916.

In both primary areas of Commission terminal regulation—tariffs and agreements—the Commission's activities have increased in direct relationship to the industry's growth in providing for the demands of innovative shipping technology.

The impact exerted on the terminal industry by the continually accelerating rate of transition in transportation systems has increased the importance of the role of both the Commission and industry in this area.

Aside from providing the traditional facilities necessary for handling breakbulk and bulk cargoes, the terminal industry also provides the pivotal point of land/sea interchange in the intermodal scheme—the point at which the inherent technological advantages and efficiencies of intermodalism over traditional shipping systems can be maximized.

Thus, in response to the institution of new shipping methods such as LASH/SEABEE barges as well as the use of larger containerships, the terminal industry has been engaged in an unprecedented program of modernization and expansion involving the expenditure of millions of dollars. New berths are being built and older facilities are being modernized to accommodate these new services. Mobile cranes and assembly areas for serving LASH/SEABEE barges, ramps for loading and unloading roll-on/roll-off vessels, rail interchange facilities, container cranes, and supporting upland handling areas for container cargo are essential for the efficient handling of intermodal traffic, and virtually every U.S. port is committed to seeing that its facilities and services are readied for use as expeditiously as possible.

In addition, the development and/or improvement of marine terminal facilities on the nations "fifth coast"—our vast inland waterway system—is well under way. River ports that once handled only regional and interstate movements are now handling an increasing proportion of our waterborne foreign commerce due to the advent of LASH/SEABEE and miniship systems. The inauguration of new inland waterway systems such as the Arkansas-Verdigris Navigation System has enabled previously landlocked

cities such as Tulsa, Oklahoma, to function as ports handling our foreign commerce.

Development of Containerization

The use of containers continues to flourish and gain acceptance in the world's transport communities. Major ocean ports, domestically and worldwide, are rapidly moving ahead with the development of new and additional pier and harbor facilities to make them more attractive and responsive to the newer generation containership. Involved are facilities for the handling of LASH vessels, combination LASH-containerships and roll-on/roll-off ships, as well as the pure containership.

While containerization development is increasing at most U.S. ports, its progress at Great Lakes-St. Lawrence Seaway ports has been slow. However, although no U.S. Great Lakes port offers full container handling facilities yet, a bill in the Illinois legislature seeks a $5 million appropriation to build container facilities at the Port of Chicago.

Containerization, representing the root of intermodalism, has fostered the integration of transport modes so that goods can flow virtually without interruption from the door of the supplier to that of the overseas buyer. For example, the container revolution has spawned such U.S. railroad innovations as all-unit trains of containerized cargo subject to a prior or subsequent ocean movement. This is commonly known as a "mini-bridge" service. On August 11, 1972, Seatrain Lines, Inc. began to ship containers on 60-car unit trains between California and New Jersey over the Sante Fe and Penn Central Railroads. By the mini-bridge system, transit time for a container shipment from an East Coast port to Japan is approximately 17 days. Although the shipper's charges are identical, the same cargo traveling by containership via the Panama Canal would take between 23 and 31 days.

Despite the overwhelming acceptance of containerization there are still obstacles to be overcome such as over-tonnaging, profitable return on investment, the high cost of

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developing ports and facilities, and general economic uncertainties. The container or "box" has created problems not the least of which is the plan of four United States and three foreign "all container" carriers operating in the North Atlantic to form a revenue pool with the right to adjust sailings and port calls. The plan, covered by Agreement No. 10000, is the subject of Docket No. 72–17. Interest in and opposition to the pooling agreement is wide.

The five Japanese carriers operating a container service between Japan and United States Atlantic Coast ports under Agreement No. 9975 are providing a substituted feeder service to ports on the Atlantic Coast range that are not served by direct call on each voyage. The substituted service is performed by water carriers certificated by the Interstate Commerce Commission and at rates to the ocean carriers which are on file with that agency. In addition, these same Japanese lines provide a substituted feeder service, inbound and outbound, to and from Boston via the Port of Halifax, Nova Scotia under connecting carrier arrangements with Maritime Coastal Containers, Ltd. Under these arrangements, the ocean carriers apply the through rates of the Far East Conference outbound and those of the Japan-Atlantic & Gulf Freight Conference inbound on the service to Boston. The rates of the feeder carrier between Boston and Halifax assessed the Japanese lines are on file with the Commission.

The Uniform Intermodal Interchange Agreement (UIIA), which sets the rules under which water, rail and highway carriers will interchange containers in the United States, was finalized in May, 1973. The UIIA's drafters, including representatives from the Steamship Operators Intermodal Committee (Agreement No. 9735), the Association of American Railroads and the truck industry's Equipment Interchange Association and Federal officials, see the agreement's long-range impact as hastening intermodalism.

Emerging competition by the Far Eastern Shipping Company (FESCO), the Soviet flag ocean carrier, is becoming a serious concern to shipping firms in the Pacific trades.

Fesco has introduced its first fully-cellular containership on routes between Japan, Hong Kong, and California ports. According to the planning outline revealed by FESCO, large new containerships scheduled for the Pacific routes will be ready for service within two years.

Domestic Commerce

Tariff Filing Activity

A total of 15,180 pages of domestic tariffs were received for filing during fiscal year 1973. This represents a 70 percent increase in the number of pages filed during the previous year. Of the total number filed this year, 1,865 pages were rejected due to various tariff circular violations.

The Commission has the authority to waive the 30-days' notice provision of all tariff filings submitted in the domestic offshore trades. These special permissions may be granted in the discretion of the Commission upon showing good cause. In fiscal year 1973, 160 special permission applications were received in the domestic trade of which 116 were granted and 31 denied by the Commission. Thirteen applications were withdrawn.

During fiscal year 1973 there were a total of 277 domestic tariffs on file.

Price Commission

Early in 1973, the Price Commission suspended regulations requiring certification by the Federal Maritime Commission that rate increases were approved in compliance with the provisions of the Economic Stabilization Act and Price Commission regulations. As a result of these changes, the Federal Maritime Commission modified its financial data requirements in support of a proposed rate increase. Under its new policy, a proposed rate increase in the domestic offshore commerce must be cost justified and non-inflationary while meeting a minimum standard of assuring continuing adequate service.

Freight Forwarders Compensation

A survey was conducted into the extent freight forwarders' brokerage is paid in the domestic offshore trades. The survey disclosed that in the Puerto Rican trade freight forwarders' compensation is generally paid only by the small carriers, while in the less lucrative trade areas, such as Guam, American Samoa, and the U.S. Virgin Islands, brokerage is more extensive. In the American Samoa and Guam trade areas, the level of compensation is approximately 1.25 percent and is paid by the majority of the carriers in the trade.

Review of Freight Forwarder Compensation Rules

Commission rules permit the payment of compensation to freight forwarders. However, the Commission believes that such compensation should not be used as a device by carriers to buy cargo. Compensation should be fixed at a level to adequately and fairly pay forwarders for services rendered. Since compensation varies trade by trade, a review is being made of all tariffs to determine whether the carriers are acting in a manner consistent with Commission rules and regulations.

Container Description

As part of a continuing endeavor to bring about a clear and definite statement of rates pertaining to container-load shipments, exception was taken to rate filings where the carrier attempted to publish an open ended rate on furniture in trailerload shipments. The rates in question were ordered suspended, and an investigation was instituted into the lawfulness of the subject rates and charges.

The Commission is preparing a proposed rulemaking to clarify container rates.

Inactive Tariffs

An audit was conducted of all tariffs on file in the domestic offshore trades so that inactive publications could be

cancelled. As a result of the audit, approximately 27 tariffs were voluntarily cancelled by the carriers as no longer active. At the same time, the Commission issued Show Cause Orders against 26 carriers and subsequently cancelled the tariffs in question.

Automobiles

The Seventh Annual FMC Guide on Shipping Automobiles with automobile manufacturers' measurements for the 1973 model automobiles was published in November. This year, automobile weights, as submitted by the manufacturers, were included for informational purposes.

Non-Vessel Operating Common Carrier

The Federal Maritime Commission is responsible for insuring that common carriers by water in domestic offshore commerce establish and maintain just and reasonable rates. In an effort to establish a consistent standard by which the Commission may evaluate the reasonableness of rates published by nonvessel operating common carriers (NVOCCs), the Commission has undertaken a study of their operations. In connection with this study, the Commission has issued a total of 205 Section 21 Orders requestioning financial and operational data of all NVOCCs operating in the domestic trades.

Offshore State and Territory Activity

The Commission has been active in its responsibility and jurisdiction over the carriers engaged in our domestic offshore trades. Discussions are continually being held with the carriers, officials of the offshore states and territories, and with other interested parties.

Puerto Rico

The Puerto Rico trade moved to the brink of a rate war during the first quarter of fiscal year 1973 when a major carrier in the trade proposed what amounted to across the board reductions on less than trailerload (LTL) shipments.

This initiated a chain reaction upon the part of the competing carriers who followed suit with similar reductions. The magnitude of the proposed reductions was viewed by some nonvessel operating common carriers as a direct threat which would squeeze them out of the trade. Relative stability was restored to this element of the trade when the carriers reconsidered their decision to pursue LTL cargo and cancelled their proposed reductions.

Again a potential rate war was averted by the Commission's decision to suspend and investigate a major carrier's proposed reduced contract rates on canned tuna fish and pet food moving from Puerto Rico to U.S. Gulf and Atlantic ports. The Commission considered the drastic nature of the reductions and the potential repercussions to be of sufficient impact on the trade to warrant the investigation and suspension.

A major innovation in the domestic offshore commerce was a proposed intermodal landbridge service between California and Puerto Rico. The tariff publication failed under analysis to reveal a compensatory rate structure and appeared by its technical composition to violate provisions of the Intercoastal Shipping Act, 1933. As a consequence, the publication was made the subject of a docketed proceeding and was later cancelled by the carrier.

Hawaii

General rate increases of 12½ percent, filed by the two major water carriers serving the Hawaii trade, precipitated a wave of increases filed by nonvessel operating common carriers in order to close the gap between their current rate structures and the existing rates of the underlying water carriers.

For some time the ratemaking practice in the West Coast/Hawaii trade has been rather predatory with rates being set primarily by competitive pressures rather than a rational cost plus profit methodology. The increases filed on the part of the water carriers appeared to finally force the issue, resulting in the wave of increases filed by approximately 42

percent of the NVOCCs actively serving the West Coast/Hawaii trade. As a result of Executive Order 11723, the increases filed by the NVOCCs were temporarily curtailed. However, it was anticipated that with the expiration of the freeze period early in fiscal year 1974, the balance of the involved NVOCCs would also file for appropriate increases.

The level of these increases still appears to be set as a competitive reaction, and it is felt that the rate level will remain depressed. These marginally remunerative NVOCC rate levels have been typical of this trade and have contributed to the growth of misdescribed cargo and the financial collapse of at least one NVOCC during the fiscal year.

While the carriage of lumber is a highly sought after commodity by carriers serving between the Pacific Northwest and Hawaii, in the past, carriers have maintained high rates for this movement. After repeated prodding from the Commission, the carriers have begun offering volume incentive lumber rates to the shippers who are presently experiencing more favorable rates and improved service.

A forty-one day strike against the Pacific Maritime Association ended December 7, 1972, just in time to release holiday cargoes destined for the Islands.

American Samoa

Proposed general increases filed by two major carriers in the American Samoa trade were placed under investigation and suspended for a period to and including November 30, 1973. The proposed increases have caused a great deal of concern to the citizens of American Samoa who have expressed the fear they may be forced to increase trade with foreign countries if the proposed increases are allowed to go into effect.

Guam

The Territory of Guam, as with American Samoa, is remotely situated in the Pacific. Its people depend almost entirely upon ocean transportation for their daily needs. In those instances in which goods are supplied by foreign

sources, the related ocean services are subject to different regulation than the services offered from the various states and territories. The Commission is acutely aware of problems related to ocean services respecting Guam and has and will continue to fully discuss any problem areas. Toward this end, meetings have been held with the carriers and official representatives of the Government of Guam in an effort to resolve any dispute over which the Commission has jurisdiction.

Alaska

Waterborne commerce between the contiguous 48 States and the State of Alaska which does not involve a joint undertaking is regulated by this Commission. Although the preponderance of cargo moves under the regulatory jurisdiction of the Interstate Commerce Commission, the FMC regulated carriers were largely successful in holding the line on increased rates and, in fact, one of the carriers serving Alaska has been able to expand its service.

In the fall of the year, when most carriers suspend service to the far North regions due to the close of the navigation season, the Commission received requests from carriers willing to risk the ice at higher rate levels. The Commission allowed higher rates on less than otherwise applicable 30 days' notice to offset the increased insurance costs incurred as a result of the additional period of service.

Virgin Islands

The Federal Maritime Commission undertook a trade study of traffic between the U.S. mainland and the Virgin Islands at the request of the Maritime Administration, U.S. Department of Commerce, in connection with its work on the Merchant Marine Act, 1920. The study, which was completed in the relatively short period of three months, was furnished to the Maritime Administration as well as the Governor of the Virgin Islands and other interested parties.

Agreements Review

Pursuant to the Shipping Act, 1916, the Commission reviews section 15 agreements in order to establish whether these agreements should be approved, disapproved, or modified. Unless approval is obtained prior to implementation of the concerted arrangements, the parties to the agreement may be liable to a penalty of not more than $1,000 for each day such violation continues. Where approvals have been obtained from the Commission, the parties are granted immunity from the application of the U.S. antitrust statutes.

The surveillance of approved agreements involves a review of the basic agreement and any modifications in order to determine whether it continues to meet the requirements of section 15 of the statute, and the applicable General Orders of the Commission, and is in conformity with the latest Commission and Court decisions. If not, correspondence is initiated with the parties to the agreement in order to have the necessary changes incorporated into the agreement.

During fiscal year 1973, 182 carrier agreements and 156 terminal agreements were filed for Commission consideration. A statistical table of receipts and total active agreements is attached as Appendix A.

Conference Minutes

In fiscal year 1973, the minutes of 1,788 meetings of conference and ratemaking agreements were filed with the Commission and reviewed by the staff.

The minutes of many conferences and ratemaking groups do not always provide the Commission with meaningful information. Therefore, in order to strengthen the Commission's continuing surveillance program, it has proposed in rulemaking proceeding Docket No. 73–5, that certain substantive changes relative to the filing of minutes be made. If approved, more meaningful and useful information will be obtained. Conference minutes which are accurate and complete as to those matters discussed, in addition to those on which action has been taken at a meeting, will enable the Commission to better determine that the parties are carrying out the functions authorized in their agreement.

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Shippers' Requests and Complaints

The phrase "shippers' requests and complaints" means any communication requesting a change in tariff rates, rules, or regulations, objecting to rate increases or other tariff changes, protesting alleged erroneous billings due to an incorrect commodity classification, incorrect weight or measurement of cargo, or other implementation of the tariff. Routine requests for rate information, sailing schedules, space availability, and the like are not included in the foregoing. General Order No. 14 requires the filing of quarterly reports by conference and ratemaking groups to determine whether shippers' requests for rates, rate reductions, and/or complaints are being handled promptly and fairly. During the year the conferences received and acted upon 7,463 requests and complaints, of which approximately 67 percent were granted in whole or in part. The surveillance of this activity serves as a barometer indicating the manner in which shipper requests are acted upon. Should a request be denied, shippers may call upon the Commission informally for assistance or they may seek resolution of their disputes through the filing of a formal complaint.

In fiscal year 1973, 390 separate reports covering shippers' requests and complaints were filed and reviewed by the staff.

In connection with its rulemaking proceeding, Docket No. 73–5, the Commission has requested that certain additional data such as the identification of the commodity, rule or practice, and the amount of the rate adjustment sought be included in the quarterly reports. If implemented, the staff will be able to improve its surveillance to the benefit of the shipping public. The incorporation of ratemaking agreement "practices" clearly shows why shippers' complaints concerning concerted ratemaking agreements, tariffs' rules and regulations, must be reported to the Commission.

Self-policing of Conference and Rate Agreements

Self-policing reports are intended to inform the Commission of the extent to which conferences and rate agreements are policing the activities of their member lines with

respect to malpractices and breaches of agreements or tariffs. The Commission is concerned that parties to such agreements are not as actively engaged in self-policing as required by section 15 of the Shipping Act, 1916 and is considering deletion of self-policing from Docket No. 73–5 and promulgating a separate rulemaking proceeding dealing specifically with this matter. The promulgation of this rulemaking proceeding should result in conference and ratemaking agreements modifying their basic agreements to include more stringent self-policing provisions.

In an effort to improve the effectiveness of self-policing in the North Atlantic-European trades, the Commission approved Agreement No. 9978 on August 3, 1972, establishing a common self-policing system among five conferences in the North Atlantic. This system provides for the appointment of a neutral organization known as the "Enforcement Authority" which is required to investigate and maintain continuing surveillance over the activities of the member lines of all the member conferences. To effect this system, the Enforcement Authority has investigators located in all of the major ports served by the member conferences.

Since approval of this Agreement, one additional conference has joined and several others, including some rate agreements, are in the process of joining. Eventually, it is anticipated that many conferences and rate agreements operating between the United States and Europe may become parties. Thus far, the "Enforcement Authority" has conducted several hundred investigations and has imposed numerous fines for malpractices or breaches of agreements or tariffs. Noting the effectiveness of this system, conferences in other trades are now exploring the possibility of setting up a similar system.

In fiscal 1973, 154 self-policing reports were filed with the Commission and reviewed by the staff.

Operating Reports

In view of the increasing number of reports being submitted by conferences with intermodal authority, and by

parties to such new agreements as space chartering arrangements (primarily in the Japanese trade), the staff has established a new report category known as the "Operating Report." In view of the changes in the industry resulting from advanced technology, it is expected that the number of these reports will increase in the future. The reports require a detailed analysis by the staff in order to ensure that the activities of the parties and their operations do not exceed the scope of their approved agreements. Forty-eight such reports were filed and reviewed by the Commission in fiscal 1973.

Pooling Statements

Pooling statements are filed with the Commission to keep it apprised of the activities and financial settlements of the parties to the pooling agreements. These statements, usually filed on a semiannual or annual basis, are quite complex and require a detailed audit. The majority of such agreements covers the Latin American trade and usually receives the approval of the Government of the Latin American country served, in addition to Commission approval, before they may be implemented.

Twenty-five pooling statements were filed with the Commission and audited by the staff in fiscal 1973. An upward trend of such statements is anticipated due to increased pooling activity in the Latin American trades.

Dual Rate Contract Systems

Common carriers or conferences of such carriers in foreign commerce are allowed to enter into dual rate contracts with the approval of the Commission under section 14(b) of the Shipping Act, 1916.

There has been considerable activity in the area of conference dual rate systems. Four conferences applied for initial dual rate systems. Two were granted, one is pending Commission action, and the other (submitted by Section A of the Inter-American Freight Conference) was withdrawn before approval. Six conferences were granted permission

to modify contracts to cover intermodal movements to and from inland points in Europe and the United Kingdom. One conference in the Australian trade was granted currency devaluation authority upon application. One application filed to merge two conferences and their dual rate contract systems in the Spain and Portugal/U.S. North Atlantic westbound trade is pending Commission action, as well as the applications of two inbound conferences from Japan to the United States for a reduction to 9.5 percent from the presently approved spread or differential of 15 percent between contract and non-contract rates.

Informal Complaints

This was the second full year of existence for the Office of Informal Complaints within the old Bureau of Enforcement. The Office was established to provide the consuming public with a point of contact to air grievances and secure prompt, inexpensive, and uniform resolution of problems on an amicable, cooperative basis.

There were 50 informal complaints pending at the beginning of fiscal year 1973, and during the year 374 new ones were received, an increase of 48 (15 percent) over fiscal 1972. At the year's end only 42 were pending, final action having been concluded on 382. Of the new complaints received, 325 (87 percent) related to practices of water carriers in the foreign and domestic offshore trades, 33 (9 percent) related to the activities of independent ocean freight forwarders, 15 (4 percent) related to practices of marine terminal operators, and 1 related to a shipper.

The Commission has no statutory authority to adjudicate loss and damage claims but does have general authority under sections 14, Fourth (c) and 17 of the Shipping Act, 1916 to correct practices found to be unfair or discriminatory. There was a significant increase in fiscal year 1973 in the number of complaints against carriers relating to the adjustment and settlement of claims. One hundred ninety-five such claims were received, an increase of 97 percent over the 99 received in fiscal year 1972. This increase appears to stem

from a greater awareness on the part of shippers of our efforts to assist in this area.

Informal complaints against marine terminal operators are generally concerned with the application of tariff rates, rules or regulations. Under section 17 of the Shipping Act, 1916, every terminal operator must establish, observe, and enforce just and reasonable regulations and practices relating to or connected with the receiving, handling, storing or delivering of property. Upon receipt of a complaint indicating a possible violation of section 17, the staff contacts the parties involved, requests all available information surrounding the dispute, and upon receipt and review of such information renders an opinion based upon applicable court or Commission decisions or previous staff determinations. In the great majority of cases handled, the complaints are resolved at the staff level without recourse to a more formal settlement of the problem. Thirty cases received staff study and appropriate action during the past fiscal year.

In early 1973, several cotton shippers complained that a conference had illegally threatened to suspend their dual rate privileges for breach of contract unless specified damages were paid. The question at issue was whether the cotton shippers had the legal right to select the carrier with respect to certain shipments which had been transported via non-conference vessels. Determining that no attempt had been made to resolve the matter pursuant to procedures set forth in the contract, the Commission ordered the conference to show cause why the dispute between it and the respective shippers should not be submitted to arbitration as provided for in the contract, why it should not be ordered to cease and desist from suspending and/or threatening to suspend its contract with the shippers, and why the Commission should not disapprove its shippers' rate agreement for failure to abide by its terms as required by Section 14(b) of the Shipping Act, 1916. This matter was still pending at the close of the fiscal year.

Field Activities

Field activities of the Commission, coordinated from

Washington, D.C., are conducted in the United States through three districts—the Atlantic District, the Gulf District, and the Pacific District. Offices for these Districts are located in New York City, New Orleans, and San Francisco. Each of the three Districts, headed by a Director, is staffed with investigative and audit personnel.

The program of the Commission is carried out in San Juan, Puerto Rico through its Area Representative, who is a contact point with the shipping industry and the commercial community in San Juan.

Investigative Cases

Investigations conducted by field activities covered a wide range of alleged or suspected violations of the regulatory provisions of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933; determination of the fitness and ability of applicants for independent ocean freight forwarder licenses; compliance checks of operating freight forwarders already licensed; special inquiries; and audits related to the issuance of certificates of financial responsibility to cruise vessel operators.

At the beginning of the fiscal year, 367 investigative cases were in process of completion. During the fiscal year 683 new investigative cases were received and 686 cases were completed. This represents a 17 percent increase in volume of new cases received and a 31 percent increase in cases completed compared to the previous fiscal year.

Penalties Levied

During the fiscal year a total of $159.026.79 was levied against 25 carriers by court imposed fine or compromise settlement by the Commission for violations of the shipping statutes. This represents a 50 percent increase in number of carrier violations penalized and a 50 percent increase in dollar penalties over the previous year.

At the end of the year 364 cases were pending completion of investigation, or pending final action within the Commission under its authority to compromise civil penalty

claims, or pending disposition of criminal cases by the Department of Justice.

Container Surveillance

The Commission continued its program to maintain surveillance of container traffic in order to detect false billing designed to obtain transportation at less than the carrier's applicable rates. Inspections of container and/or review of applicable shipping documents were made on a spot-check basis on import cargoes. Appropriate corrective actions were taken when discrepancies were discovered.

SURVEILLANCE/COMPLIANCE/ ENFORCEMENT

Tariff Review and Filing

Foreign Commerce

In the foreign commerce of the United States there were 3,151 tariffs on file at the end of fiscal year 1973. Such tariffs and amendments thereto were examined to insure compliance with the Shipping Act, 1916, other related statutes and various Commission General Orders. Such examination took into account the following areas:

1. Section 18(b) and General Order 13 which prescribe tariff filing rules and regulations;
2. Section 15 as to whether a tariff might require approval thereunder or whether rates and practices contained therein might extend beyond the Commission's authority;
3. Section 14(b) and the various provisions of the dual rate contract systems as approved by the Commission;
4. Sections 14, 16 and 17 which proscribe unjust discriminations and undue or unfair preference or advantage;
5. General Order 4—The rate or rates of compensation to be paid to licensed freight forwarders in a carrier's outbound tariff;
6. General Order 8—Rules and regulations with respect to free time and demurrage on inbound shipments to New York;
7. General Order 10—Tariffs publishing export rates on green salted hides must contain a rule that requires the shipping weight for purposes of assessing transportation charges;
8. General Order 26—Tariffs that are filed indicating outbound rates at New York or Philadelphia must contain a rule regulating free time and demurrage at those ports.

There was an increase in tariff filings over fiscal year 1972 of approximately 18,000 filings. This action was brought about by the increased activity relative to currency sur-

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charges, devaluation of the U.S. dollar, revaluation of other currencies, bunker surcharges, and by shortages and increases in the price of fuel oil. Further, during fiscal year 1973, carriers and conferences implemented general rate increases to offset spiralling costs of operation. Conversely, numerous rate reductions were filed at the request of shippers who indicated they could not ship at the higher rates.

Tariff Filing Statistics for Foreign Commerce

Filings Received	159,219
Filings Accepted	158,433
Filings Rejected	786

Special Permission Applications

The Shipping Act, 1916, authorizes the Commission, in its discretion and for good cause shown, to permit increases in rates or issuance of new or initial rates on less than statutory notice. Generally, the reasons cited for the need to advance an effective date include one or more of the following: lack of any service, lack of a specialized service, expiration of a letter of credit, specific flag vessel required, and requirement of a particular government.

Special Permission Application Actions

Granted	67
Denied	33
Withdrawn	15

Comparison of Foreign-to-Foreign Increases

Section 17 of the Shipping Act, 1916, provides that no common carrier by water in foreign commerce shall demand, charge, or collect any rate, fare, or charge which is unjustly discriminatory between shippers or ports, or unjustly prejudicial to exporters of the United States as compared with their foreign competitors. In this connection, the Commission subscribes to certain trade publications and newspapers, both domestic and foreign, from which information is

obtained relating to rate activity in foreign-to-foreign trades. The staff maintains surveillance over these publications in order to determine the level of rate increases and surcharges applied by foreign carriers and/or conferences in comparison with the activity of carriers and/or conferences serving United States ports. Port conditions are also noted in these publications. The information derived from these publications provides the Commission with an insight into conditions at ports and trading ranges throughout the world. These publications have revealed that rates in the foreign-to-foreign commerce have increased on approximately the same level as rates in United States commerce. Generally, where congestion occurs at a particular port, all conferences, whether in the United States or foreign commerce, will assess a surcharge to offset additional expenses incurred. It has been noted that the foreign conferences have also established bunker surcharges and currency surcharges. From the information available. it appears that no concerted effort has been made on behalf of conferences and/or independent carriers serving United States ports to assess rates higher than those in effect in foreign-to-foreign commerce. The information has proved helpful in the past and the Commission is continuing to maintain surveillance.

Inactive Tariff Program

The Office of Tariffs and Practices maintains a program to determine the status of tariffs on file which have not been revised for a period of 12 months or more and are not being utilized. During the fiscal year 1972, 62 dormant tariffs were eliminated from the Commission's files.

Informal Protests

Beginning fiscal year 1973 the Bureau of Compliance had 84 informal complaints pending. During the year it received 148 new complaints which encompassed mainly rate disparities. rate protests. and tariff rules. One hundred and forty-nine were processed to an appropriate conclusion on the basis of no violation or in a manner in which the Com-

mission was able to negotiate with parties concerned to obtain a satisfactory settlement of the issues involved and to assure that exporters' ability to compete in the foreign marketplace is not hampered by rate levels or discrimination.

Tariff Matter Questioned

The staff maintains a tariff review program wherein rules and regulations which appear contrary to the shipping statutes are questioned and their removal requested of the filing agents. The following matters were acted upon during the year:

- Failure to include a bill of lading specimen in the tariff or include a reference in the bill to appropriate statutes such as the Carriage of Goods by Sea Act.
- Publication of duplicating and conflicting rates.
- Participation of two or more carriers in a tariff without an approved agreement to do so.
- Questionable free time and delivery rules.
- Application of container rate rules.
- Improper Freight Forwarder Compensation rules.
- Change without appropriate notice rules.
- Rules related to absorption and/or equalization giving rise to discrimination or prejudice among or between persons, localities or ports.
- Less than full disclosure of the service offered under intermodal tariffs.

Ocean Freight Forwarders

Congress amended the Shipping Act, 1916, in 1961 through the enactment of Public Law 87–254, which provided for the licensing and regulation of ocean freight forwarders by the Federal Maritime Commission. Pursuant to the statute, the Commission promulgated General Order No. 4, which governs the conduct and activities of regulated forwarders and sets forth the criteria which must be met by freight forwarder applicants in order to be licensed. Since the enactment of the licensing statute, a total of 1,498 firms have been licensed, after a thorough investigation as to each applicant's fitness, willingness and ability to properly perform ocean forwarding functions in the public interest.

Licensing

At the end of fiscal year 1973, there were 991 active licensed independent ocean freight forwarders. Ninety-five new applications were received and 82 were approved—an increase of 6 applications over fiscal year 1972.

Also, the Commission revoked 42 outstanding licenses for various reasons and 13 applications were denied or withdrawn.

Eight cases, involving possible denial of applications, suspension or revocation of existing freight forwarder licenses, were formally docketed for investigation and hearing.

GSA Forwarding Contracts Reviewed

During fiscal year 1973, Section 21 Orders requesting certain statistical information were issued against freight forwarder licensees who were successful low bidders for GSA forwarding contracts at various U.S. ports of export. The collection of this data was considered essential in order for the Commission to determine whether these bids were in full compliance with the Commission's regulations and appropriate statutory requirements. Complaints had alleged that certain of these bids were in violation of Commission General Order 4 and provisions of the Shipping Act, 1916. The data received is being analyzed to determine whether further action by the Commission is necessary.

Possible Forwarder-Shipper Connections Under Investigation

Examination of information furnished by all licensed ocean freight forwarders in response to a questionnaire sent out in fiscal year 1972 indicated that some freight forwarders were not in full compliance with certain provisions of the Commission's General Order No. 4, and may have had affiliation or control relationships with export shippers and/or consignees in violation of substantive Commission regulations and the shipping statutes. Steps are being taken to resolve these problems either through voluntary compliance or,

where necessary, full-scale regulatory enforcement actions. The most serious matter in this regard involves situations where a freight forwarder may be improperly affiliated with an export shipper or consignee which is prohibited by the licensing statute.

Automatic Data Processing System Instituted

An automatic data processing system which lists all license number, affiliations, and branch offices of all currently licensed freight forwarders, and is updated and reissued yearly. for distribution to Commission Field Offices. The licensed freight forwarders; and is updated and reissued yearly for distribution to Commission Field Offices. The program will maintain freight forwarder information on a current basis, and will be extremely useful in carrying out the Commission's continuing regulatory program. It will also be used as a current mailing list for distribution of important regulatory information to the freight forwarding industry.

Rulemaking Proceedings

The Commission's rules applicable to licensed independent ocean freight forwarders are continually reviewed in order to keep the Commission's regulations in concert with the public interest and abreast of the many changes which have occurred in the industry. It became apparent during fiscal year 1973 that it was necessary to revise General Order No. 4 by adding and clarifying certain provisions and eliminating others which are no longer applicable.

Preliminary meetings were held with freight forwarding industry association representatives for the purpose of determining industry views on preliminary rule revisions. Further industry discussions will be held and a formal rulemaking proceeding will be initiated during fiscal 1974.

Water Pollution Financial Responsibility

Since June, 1970, the Federal Maritime Commission has had the responsibility for carrying out the provisions of

section 11(p)(1) of the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970. On October 18, 1972, Congress redesignated section 11 as section 311.

Section 311(p)(1) requires domestic and foreign vessels over 300 gross tons, including certain barges of equivalent size, which use any port or place in the United States, or the navigable waters of the United States, including the Panama Canal, to establish and maintain evidence of financial responsibility with the Federal Maritime Commission. In the event that oil is discharged into the navigable waters and contiguous zones of the United States, the vessel responsible for the discharge will be liable to the United States for the cost of removal.

The evidence of financial responsibility must be in the amount of $100 per gross ton of a subject vessel, or $14 million, whichever is less.

The Commission's General Order No. 27 prescribes rules to implement the statutory oil pollution financial responsibility requirements. Vessels which have complied with the financial responsibility requirements are certified by the Commission. The rule establishes the qualifications required by the Commission for the issuance of Certificates of Financial Responsibility (Oil Pollution) as well as the basis for denial, revocation, modification, or suspension of such Certificates.

Amendment to the Act

On October 18, 1972, Congress approved the Federal Water Pollution Control Act Amendments of 1972. The 1972 amendments added enforcement measures to the financial responsibility requirements for the cleanup of oil spills. Further, it provides for the addition of "hazardous substances" to the class of pollutants for which vessel owners or operators must evidence financial responsibility. Pursuant to section 311(b)(2) of the Act, the Administrator of the Environmental Protection Agency is required to issue regulations designating hazardous substances.

The above-mentioned amendments, as well as the Commission's General Order No. 27, will be incorporated into a new or revised General Order during fiscal 1974.

New Certificates to be Required

Because of the 1972 amendments all vessels (approximately 20,150) currently covered by oil pollution Certificates will eventually require new pollution Certificates evidencing coverage for both oil and hazardous substances. In addition, non-self-propelled barges over 300 gross tons which do not have oil on board, but carry hazardous substances, will require the new Certificates.

Enforcement Procedures to be Coordinated

The newly enacted enforcement authority also involves certain functions of the U.S. Coast Guard and the U.S. Customs Service. Accordingly, in order to efficiently and effectively obtain full compliance with the Act it will be necessary for the three agencies to adopt coordinated enforcement procedures.

Enforcement under section 311(p) provides for fines not to exceed $10,000, denial of vessel entry or detainment of vessels by the Coast Guard, and refusal of clearance to foreign ports by the Customs Service.

Insurers Examined

Generally, vessel owners and operators elect to demonstrate their financial responsibility by submission of evidence of insurance. Such insurance is written not only by American insurance firms, but by underwriters throughout the world.

The Commission must analyze and verify the financial capability of the insurer before accepting any insurance agreement. During the 1973 fiscal year one domestic and 11 foreign underwriters received Commission approval as acceptable insurers.

Certificates Issued

During fiscal year 1973, applications were received covering 3,747 vessels. Certificates were issued to 3,582 of these vessels. At the same time, Certificates covering 2,797 vessels were revoked for various reasons, including sale of the vessel to new owners and scrapping. Applications covering 108 vessels were withdrawn.

At the end of the fiscal year, 20,150 vessels were covered by valid Certificates, and 402 applications were pending.

The work of the Commission does not cease once a vessel is certified. In fact, it increases due to changes of insurance companies by vessel operators, substitution of one type of evidence of financial responsibility for another, annual and semi-annual submission of financial data by self-insurers, transfer of ownership, charters, name changes, and similar situations which necessitate daily updating and continuous servicing of records together with the revocation and recall and the reissuance of numerous Certificates.

Automation Initiated

An automated record retention system was developed and put into its initial phase of operation with respect to pollution data. This system provides accurate and current lists of vessels, vessel particulars (e.g., flag, tonnage, registration numbers), owners and operators, and the underwriters for each vessel. It also quickly supplies analytical data for our regulatory needs. The availability and accessibility of this information greatly enhances our compliance and enforcement program.

Passenger Vessel Certification Indemnification-Certification

Pursuant to Public Law No. 89-777, enacted November 6, 1966, protection is provided passengers by requiring the owners, charterers, or operators of American and foreign passenger vessels, having accommodations for 50 or more passengers and embarking passengers at United States

ports, to furnish evidence of financial responsibility to meet any liability to which they may be subject for personal injury or death, and to indemnify passengers in the event of the nonperformance of a voyage or a cruise.

During fiscal year 1973 the Commission approved 71 applications for Certificates of Financial Responsibility. There were 18 new applications for Certificates of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation and 18 new Applications for Certificates of Financial Responsibility to Meet Liability for Death or Injury.

Amendments to issued certificates are often required because of a variety of changes occurring during the normal course of certificants' operations, such as the addition of vessels to fleets, vessel name changes, corporate name changes, and an alteration in their corporate, partnership, or managerial organization. During this reporting period, 35 such amendments to existing certificates were presented and approved.

Certificates Revoked

Nineteen certificates were revoked due to the withdrawal of vessels from service, transfer to foreign-to-foreign operations, ownership, or the termination of passenger vessel operations.

Statute Effective

The passenger public has amply benefited from the protection afforded by Public Law No. 89–777 and the regulations prescribed in the Commission's General Order No. 20 over the past seven years.

Again this year, the statute was instrumental in safeguarding passengers where a certificant experienced financial difficulty and eventually ceased operations before completing a scheduled cruise. We know of no instances where a passenger sustained a loss of his deposit or fare as a result of such an occurrence.

Passenger Conference and Carrier Agreements

On July 17, 1972, the Commission approved Agreement No. 9857 which established the Florida Caribbean Cruise Association. This agreement was subsequently modified to permit the institution of a uniform fuel oil surcharge to meet the rapidly rising costs of bunkers.

The Commission approved numerous passenger agency agreements and cooperative working agreements whereby a passenger carrier directly, or through its subsidiaries, represents other passenger carrying cruise ships.

The Commission approved 13 passenger conference or passenger carrier agreements during fiscal year 1973. Six agreements were pending at the close of the fiscal year.

SPECIAL STUDIES AND PROJECTS

Economic Studies

The Office of Economic Analysis was active in four major special studies and projects in fiscal year 1973. These projects were:

(1) Assembling and analyzing data relating to Non-Vessel Operating Common Carriers (NVOCCs) in the Domestic Offshore Trades;

(2) Studying exchange rate movements and their relationship to freight rates in light of the dollar devaluations of December 1971 and February 1973;

(3) Developing a major new computerized information system for data relating to the Commission's regulatory needs; and,

(4) Continuation of the study of military rates in accordance with the recommendations of the Sealift Procurement and National Security (SPANS) Study.

A study was undertaken to learn more about the operations and information kept by the Non-Vessel Operating Common Carriers (NVOCCs) in the domestic offshore trade so that a financial information reporting requirement could be developed for use in evaluating rate changes filed by these persons. A questionnaire was sent to over 200 NVOCCs and a proposed annual financial and operating reporting system was developed and forwarded to the Commission. The proposed system is the subject matter of Docket No. 73–15.

A study relating to exchange rate fluctuations was a result of the currency surcharges noted in the Eleventh Annual Report of the Federal Maritime Commission. Since the basic economic conditions that created the need for currency

surcharges seemed likely to continue for some time, a need was recognized to establish special rules and procedures governing the filing, documentation, and granting of currency surcharges. The study of this problem is still underway although some tentative proposed guidelines were drafted before the end of the fiscal year.

A computerized information system was planned and started toward the end of fiscal year 1972. During fiscal year 1973, the Office of Economic Analysis continued development of a computerized Marine Information System (MARIS) that will process vessel, carrier, tariff, and agreement information generated by the Commission's activities in conjunction with vessel and commodity movement data compiled by the Census Bureau.

The MARIS system will provide on a timely basis a broad range of definitive information that has hitherto been unavailable from any source, such as the identity, number, types, itineraries, and carryings of all vessels in the U.S. oceanborne foreign commerce, and the market share (by commodity) of each carrier in a trade. The system will enable the Commission to identify significant shifts in commodity movements between ports and carriers, to police pooling agreements and validate pool share reports, to monitor the effect of rate changes on the movement of commodities, to determine the status of containerization in any trade, and to forecast the potential for containerization of ports and trade routes.

The system will be a valuable tool and assist the Commission in evaluating the economic impact and justification of proposed agreements. It will also aid in the Commission's program to eliminate rate disparities by providing for a positive identification of reciprocal commodity movements and by facilitating the matching of commodity movements data with tariff descriptions. The system will also automate the oil pollution certification and freight forwarder records of the Commission, providing for more efficiency and responsiveness in the discharge of these responsibilities.

The Commission approved the proposed system design and finalized contractual agreements for the programming

and use of the necessary computer facilities in January 1973. Detailed system design, programming, coding, and conversion of relevant records was also begun in January 1973.

MARIS is composed of a number of closely related and interactive sub-systems. First priority was given to the Oil Spill sub-system due to operational requirements and because vessel and carrier files generated for this system will form the essential basis for the functioning of the other sub-systems. The Oil Spill sub-system was fully operational in July 1973 and the balance of the system will be completed and functioning during fiscal year 1974.

The study relating to the SPANS project started in 1972. This project was conducted in the Office of Economic Analysis until October of 1972 and then assigned to a staff in the Office of the Managing Director. This staff, the SPANS Study Group, took over primary responsibility for the project although it maintained very close liaison with the Office of Economic Analysis by means of an *ad hoc* advisory committee, the SPANS committee, which was chaired by the Director, Bureau of Certification and Licensing, and had a membership comprising the Director, Bureau of Hearing Counsel; Chief, Office of Economic Analysis; and Director, Sealift Procurement Studies.

Two important recommendations of the study were: first, that the FMC should review the rates offered by carriers bidding under the military procurement system with a view to disapproving rates so low as to be detrimental to commerce; and second, that to facilitate such review, the Maritime Administration and the FMC should devise a standard industry-wide cost accounting system that would provide the Commission with information necessary to ascertain carriers' costs.

The Commission took action on the first of these recommendations in the promulgation of General Order No. 29 in November of 1972. The concept of General Order No. 29 is to require carriers in the foreign commerce of the United States who bid on requests for proposal (RFPs) published by the Military Sealift Command (MSC), to bid at rate levels

which equal or exceed the fully distributed costs of the carriage of that cargo. The statutory basis of General Order No. 29 is section 18(b)(5) of the Shipping Act, 1916, which, in relevant part, directs that the Commission shall disapprove any rate which the Commission finds is ". . . so unreasonably high or low as to be detrimental to the commerce of the United States."

The SPANS Study Group also designed a series of Section 21 Order questions aimed at gathering specific cost data from selected carriers relating to their bid rates on RFP–700, 2nd Cycle.

The Section 21 Orders were served on the subject carriers in the late part of January 1973, and upon receiving the carriers' responses thereto, the FMC SPANS Study Group conducted a number of comprehensive cost analyses on the data received. These analyses covered the level of bid rates for the carriage of military cargoes between the U.S. West Coast and Japan, the U.S. East Coast and Continental Europe, and the U.S. Gulf Coast to Continental Europe. In all, some 27 separate rates were analyzed in great depth and Dockets No. 72–64 and No. 72–65 were opened. At the end of the fiscal year, these dockets were completed through the evidentiary stages of the hearings.

To carry out the second of the recommendations concerning uniform cost accounting and information, the Maritime Administration solicited proposals for a project to "create a mechanism wherein the FMC will be able to quickly and accurately determine the applicable costs involved in shipping certain kinds of cargo by the various shippers along the various trade routes." The project was to include two steps, the development of (1) cost accounting standards prerequisite to a uniform cost accounting system (UCAS), and (2) a cost information reporting system (CIRS) to obtain cost data and operating statistics from carriers' books and records, make calculations and provide information for the FMC. The SPANS Study Group and the SPANS Committee participated extensively as did an Industry Advisory Group (composed of representatives of all subject carriers) in the process of selecting a private contractor. The

private contractor was to have the task of developing and implementing the Uniform Cost Accounting System (UCAS) and the Cost Information Reporting System (CIRS). In December 1972 the contract was awarded to the firm of Peat, Marwick, Mitchell & Co. In the succeeding months, the Director of the SPANS Group worked very closely with the private contractor in the developmental stages of the UCAS and the CIRS by assisting in defining goals and objectives of the systems. At various seminars and meetings with the Industry Advisory Group, the Director of the SPANS Group acted with the private contractor in informing the carriers about the progress of the UCAS and CIRS and analyzed the carriers' comments, ideas, and criticisms concerning these systems. A draft of the UCAS was circulated and discussed by all participants at a meeting in Washington, D.C. in May 1973.

Review of Bill of Lading Provisions

Bills of lading contain numerous provisions, many of which actually predate the movement of United States commerce. Such provisions may be contrary to and inconsistent with today's transportation systems and technological changes. Some bills also appear to provide certain carrier-imposed clauses which are inconsistent with the provisions of the Carriage of Goods by Sea Act.

The Commission has had an interest in this matter along with other government agencies and commercial interests. This combined interest has resulted in the development of "The U.S. Standard Master for International Trade." This improved paperwork system includes a bill of lading form which can be produced with all the other documents necessary to export goods. The Commission has endorsed the use of this bill of lading form and encouraged its use by ocean carriers. The response to this effort has been gratifying, since virtually every major carrier in our foreign commerce now accepts this form. Antiquated paperwork and delivery delays resulting therefrom will soon be a thing of the past.

Tariff Rules Revision

The Commission entered into a rulemaking proceeding to revise its tariff filing rules. The revised rules will be improved to benefit tariff users. The rules under consideration provide for tariff standardization and simplification. They will also provide more precise standards for filing tariff matters and it is expected that tariff interpretation and rate application will be more certain and at the same time less difficult. The rules will also recognize the development of intermodal operations and provide specific instruction in the construction and filing of multi-mode tariffs. Comments have been received from the public and the proceeding is in its final stages.

Interagency Meetings

From time to time, representatives of the Commission have met with representatives of various other government agencies. For the most part, these meetings took place after a carrier or conference took an action which was considered, in the opinion of one or more of the agencies, to be detrimental to U.S. trade or commerce. Although in many instances the matter was resolved through the cooperation of the carriers and conferences, it was concluded that periodic meetings for the purpose of discussing mutual problems and exchanging information would be advantageous. Thus, in the early part of 1973 a committee was formed and meetings scheduled every other month unless a particular matter required that a special meeting be called. In addition to the Commission, the committee is comprised of representatives of the Department of Agriculture, the General Services Administration, and the Agency for International Development. The meetings provide considerable knowledge and assistance to the agencies. Problems related to through billing regarding intermodalism, bill of lading clauses, surcharges, rate levels, lighter-aboard-ship operations, and service patterns are among the areas that have been discussed by the committee.

Carrier Information and Commodity Data Bank

The Commission commenced a program in the spring of 1973 to determine the type of service, i.e., breakbulk, container-LASH, Ro-Ro, etc., offered by all common carriers over which the Commission has jurisdiction. In some areas there is a lack of service or a lack of specialized service while other areas are overtonnaged to the extent that carriers are operating below capacity. Overtonnaging is one of the causes of malpractices and with vessel data available in addition to commodity data, the Commission believes it will be in a better position to deal with various problems that might arise in any trading area.

Further, a commodity data bank will be an effective tool for dealing with rate disparities. The Commission will not have to rely on outside sources for information. The data bank will contain accurate information furnished to the Commission by the Department of Commerce.

Proposed Rulemaking on Currency Devaluation

Because of the two recent historic devaluations of the U.S. dollar and the growing instability of the international monetary system, the Commission concluded that conferences and carriers employing dual rate systems needed broader authority under their contracts to increase rates in the event of the devaluation of their tariff currencies. Generally, increases in rates for such purpose are subject to ninety days' notice except where Congress has officially devalued the dollar. In this respect, the Commission has decided to institute a rulemaking proceeding to consider the use of a contract provision which would permit short-notice rate increases under dual rate contracts due to extraordinary fluctuations in the international exchange rate of tariff currencies. A feature of the proposed rule is that it would also provide for rate reductions in cases where the tariff currency increases in value, thus providing contract shippers with similar protection.

Rulemaking Concerning Agreements and Terminals

On February 23, 1973, the Commission published in the Federal Register a Notice of Proposed Rulemaking covering section 15 agreements (Docket No. 73–5). The rules will coordinate all current General Orders and guidelines of the Commission concerning section 15 agreements into one General Order. Additional requirements are included in the rules in order to assist the Commission in carrying out its regulatory functions. Some of the changes proposed are: (1) detailed information which the proponents of agreements will be required to file as part of their statement of justification; (2) a requirement that every self-policing system must provide for an independent individual or body who is directed to constantly police the activities of the members through inspection of books and records, surprise audits, and investigations of rumors of malpractices; (3) requirements that minutes of meetings be broadened to include all matters discussed at the meeting, reports of activities of ad hoc committees or other designated bodies, and the showing of the number of parties voting for and against any matter voted on; and (4) a requirement that conference and rate agreements file annual cargo data reports. At the close of fiscal year 1973, the proceeding was still pending.

During fiscal year 1973, the Commission approved initiation of a proposed rulemaking proceeding to amend General Order 8. The effect of the proposed amendment would be to establish uniform rules and regulations governing free time on import containerized cargo at the Port of New York. The present rule does not cover containerized cargo and it is necessary to correct and update the rule to avoid the possibility of discrimination against shippers using containers for the shipment of their cargoes.

Docket No. 71–75, "Rules Governing the Filing of Agreements Between Common Carriers by Water and/or 'Other Persons' Subject to the Shipping Act, 1916," was initiated in fiscal year 1972. The time for filing comments on the proposed rules has been postponed until further notice of the Commission. This proceeding, when concluded, will

establish new guidelines for the filing of marine terminal agreements under section 15 of the Shipping Act, 1916.

Initiation of other rulemaking proceedings is under consideration, i.e., (1) an amendment to General Order No. 15, "Filing of Tariffs by Terminal Operators," (2) uniform strike storage and demurrage rules nationwide, (3) container detention rules, and (4) a proceeding to set forth the duties of shippers, carriers, and forwarders with respect to descriptions of commodities on shipping documents.

Inland Terminal Project

During the past fiscal year, the staff has been engaged in a program to identify inland terminals subject to the Commission's jurisdiction. This undertaking commenced shortly after a Joint Jurisdictional Statement was released by the Interstate Commerce Commission and the Federal Maritime Commission. This statement declared that the Federal Maritime Commission would have jurisdiction over "the transportation of freight in through movements between foreign and United States ports."

With the advent of LASH/SEABEE barge operations and so-called mini-vessel service, cargo need not be transshipped at an intermediate U.S. port, but may move directly between U.S. inland ports and overseas. It has, therefore, become necessary to identify those inland terminals which, due to their service in connection with LASH/SEABEE barges and mini-ship operations, come under Commission regulation. More specifically, the Commission's General Order 15, which requires the filing of terminal tariffs, and its possible application to these terminals is the focal point of one phase of this project.

A program has also been initiated with respect to the filing of any possible Section 15 agreements between inland terminals, subject to the Commission's jurisdiction and the carriers they serve, who are likewise subject to the Commission's jurisdiction.

Foreign Government Discrimination

In light of the growing tendency of foreign governments to issue laws, decrees, rules, or regulations which may establish conditions unfavorable to our Merchant Marine, the Commission has instituted a rulemaking proceeding entitled "Regulations To Adjust Or Meet Conditions Unfavorable To Shipping In The Foreign Trade" (Docket No. 72–62, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920. As an initial step, all discriminatory situations which may require section 19 action will be identified. This rulemaking is designed to provide the Commission with the necessary vehicle to effectively deal with foreign discriminatory situations adverse to the interests of our Merchant Marine.

PROCEEDINGS BEFORE ADMINISTRATIVE LAW JUDGES

Administrative Law Judges preside at hearings held after receipt of a complaint or institution of a proceeding on the Commission's own motion.

Administrative Law Judges have the authority to administer oaths and affirmations; issue subpenas; rule upon offers of proof and receive relevant evidence; take or cause depositions to be taken whenever the ends of justice would be served thereby; 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 fiscal year 1973, 58 proceedings were pending before Administrative Law Judges. During the year, 80 cases were added, which included 7 cases reopened and remanded to Administrative Law Judges for further proceedings. The judges held 38 prehearing conferences, conducted hearings in 16 cases, and issued 24 initial decisions in formal proceedings, and 13 initial decisions in special docket applications.

Cases otherwise disposed of involved 32 formal proceedings.

Decisions of Administrative Law Judges (in proceedings not yet decided by the Commission)

Docket No. 65–39—*Empire State Highway Transportation, Inc.* v. *American Export Lines, Inc. et al.* and Docket No. 65–46—*Truck Loading and Unloading Rates at New York Harbor.* Truck loading and unloading rates at the Port of

New York were found to be lawful. The proposed new tariff rule, as modified, defining composite hourly cost for labor and machinery for truck loading and unloading at the Port of New York was found to be lawful. Agreement No. 8005 was also found to be lawful. Finally, truck loading and unloading rates and practices and the practices and ratemaking activities of the New York Terminal Conference pursuant to Agreement No. 8005 were found to be lawful.

Docket No. 71–12—*United States of America* v. *Columbia Steamship Company, Inc.* Reparation was awarded because respondent violated section 18(b)(3) of the Act by charging a rate for transportation different from that published in its tariff on file with the Commission.

Docket No. 71–29—*Baton Rouge Marine Contractors, Inc.* v. *Cargill, Incorporated.* The charges assessed and the conditions imposed by respondent operators of a marine terminal elevator on stevedores as a prerequisite to loading vessels at Port Allen, Louisiana were found to be a modification of a lease between respondent and the Greater Baton Rouge Port Authority, previously approved by the Commission, whose implementation prior to filing with and approval by the Commission is unlawful under section 15. The fact that one of the stevedores was owned by the respondent did not constitute an unreasonable preference or advantage under section 16 First where the charges and conditions were assessed and imposed on all stevedores equally. The charges assessed and the conditions imposed were not reasonably related to the services provided by the respondent, and constituted unjust and unreasonable practices violative of section 17.

Docket No. 71–53—*Sea-Land Service, Inc.—General Increases in Rates in the U.S. Pacific/Puerto Rico Trade.* The increased rates filed by Sea-Land Service, Inc., in the Pacific Coast/Puerto Rico Trade were found to be lawful. In so doing the revenue ton-mile allocation factor for allocation of costs to the trade rather than the container-mile allocation was applied.

Docket No. 71–57—*Agreement No. 8760–5—Modification of the West Coast United States & Canada/India, Pakistan,*

Burma & Ceylon Rate Agreement. An amendment expressly providing general overland ratemaking authority in an approved conference rate agreement did not require a demonstration that the amendment was required by a serious transportation need, or necessary to secure important public benefits because the authority was implicit in the conference agreement.

Docket No. 71-76—*Bethlehem Steel Corporation* v. *Indiana Port Commission.* A provision in the tariff of the respondent which assessed a harbor service charge against all vessels entering the Burns Waterway Harbor was found violative of section 17 because the respondent did not in fact render services to vessels incident to their proceeding to and from the docks.

Docket No. 71-89—*In the Matter of Agreement FF 71-7 (Cooperative Working Arrangement).* While parties to a preorganization agreement may be within the jurisdiction of this agency, nevertheless, where the subject matter is within the jurisdiction of the ICC pursuant to section 33 of the Act, the agreement is not required to be filed with this agency. As the subject matter of the final agreement was within our jurisdiction, filing was required.

Docket No. 71-94—*Equality Plastics, Inc. and Leading Forwarders, Inc.: Possible Violations of Section 16, First Paragraph, Shipping Act, 1916.* It was found that respondents violated section 16 First of the Act by attempting to obtain transportation at less than the rates and charges which would otherwise be applicable.

Docket No. 72-38—*The Carborundum Company* v. *Venezuelan Line.* It was held that complainant had furnished sufficient information to permit the respondent carrier to determine the weight of the pallets at the time of shipment and was entitled to pallet allowances prescribed by the respondent's tariff regulations. Where such information was not furnished, the complainant was entitled only to a partial allowance.

Docket No. 72-50—*Florida-Panama Forwarders, Inc.—Independent Ocean Freight Forwarder License No. 1085.*

Revocation or suspension of the license of the freight forwarder was withheld pending its paying a common carrier by water the freight it received from the shipper for transportation and compliance with other conditions.

Docket No. 72–53–*General Mills, Inc.* v. *State of Hawaii, Department of Agriculture.* Respondent's rate on flour from Vancouver, British Columbia, to Hawaii was not shown to be unlawful under section 16 First.

Docket No. 73–19–*Rohm and Haas Company* v. *Moore McCormack Lines, Inc.* Where the complainant established that a product consisted of Lignin Pitch but was assessed higher rate by classifying the shipment as Chemicals, N.O.S., it was held that the claimant was overcharged and reparation awarded.

Judges also issued initial decisions in Docket Nos. 71–4, 71–9, 71–46, 71–67, 71–97, 72–15, 72–55, 72–56, 72–57, 73–11, Special Docket Nos. 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, and Informal Docket Nos. 287(I). and 288(I), described under "Decisions of the Commission."

Pending Proceedings

At the close of fiscal year 1973 there were 62 pending proceedings, of which 42 were investigations initiated by the Commission. The remaining proceedings were instituted by the filing of complaints by common carriers by water, shippers, conferences, port authorities or districts, terminal operators, trade associations, the United States in its own name, and instrumentalities thereof.

FINAL DECISIONS OF THE COMMISSION

In proceedings other than rulemaking, the Commission heard 11 oral arguments, and issued 22 decisions. Eighteen proceedings were discontinued or dismissed without report, and two were referred or remanded to the Office of Administrative Law Judges for hearing.

The Commission also issued 13 decisions involving special docket applications and six decisions involving informal dockets (claims against carriers in the amount of $1,000 or less).

Docket Nos. 69–56—*Agreement No. 9827 Between United States Lines, Inc. And Sea-Land Service, Inc. (And Walter Kidde & Co., Inc. And R. J. Reynolds Tobacco Co., Guarantors): and 70–51—Agreement of Merger No. 9827–1 Among R. J. Reynolds Tobacco Company, RJI Corporation, Sea-Land Service, Inc.: And Walter Kidde & Company, Inc.. United States Lines. Inc.*—

Agreement which would result in the merger of United States Lines. Inc. and Sea-Land Service under the common ownership of R. J. Reynolds Tobacco Co. and affiliates was found subject to Commission jurisdiction and was approved subject to conditions designed to insure that U. S. Lines and Sea-Land would continue to be operated independent of and in competition with each other.

Docket No. 70–3—*United Stevedoring Corp.* v. *Boston Shipping Association*—

In proceedings on remand from the U.S. Court of Appeals for the First Circuit. the incorporation papers and by-laws forming the Boston Shipping Association. and agreements among its members as to allocation of labor among stevedores and the "first call-recall" system found to be entitled

to a "labor exemption" from the antitrust and shipping laws and thereby not required to be filed and approved under section 15 of the Act.

Docket No. 70-9—*Bolton & Mitchell, Inc.—Independent Ocean Freight Forwarder License No. 516*—In a report on reconsideration the Commission reaffirmed its previous conclusions that respondent freight forwarder was involved in numerous violations of the Commission's rules and as a result of certain activities possessed an unlawful shipper connection. License permitted to be retained on condition that violations be cleared up and shipper connection removed.

Docket No. 70-14—*McCabe, Hamilton & Renny Co., Ltd.* v. *C. Brewer Corporation, d/b/a Hilo Transportation And Terminal Company*—Adopted initial decision wherein respondent terminal operator's rates and practices regarding loaning of its labor force were found not to violate section 16 First or 17 of the 1916 Act.

Docket No. 70-28—*General Investigation of Pickup and Delivery Rates and Practices In Puerto Rico*—Carrier's rate increases for pickup and delivery services in Puerto Rico were found just and reasonable as meeting only the increase in fixed costs. Various tariff provisions and practices regarding pickup and delivery found unlawful and ordered ceased or modified.

Docket No. 70-45—*Norman G. Jensen, Inc.—Independent Ocean Freight Forwarder License No. 800*—Freight forwarder found to control or be controlled by a person who is a shipper to foreign countries in contravention of licensing standards. License permitted to be retained on condition that unlawful association with the shipper be terminated.

Docket No. 71-4—*United States of America* v. *Farrell Lines, Inc.*—Adopted initial decision finding that complainant failed to adduce sufficient evidence to indicate that an ocean shipment of plastic pipe was improperly rated by the carrier. Reparation denied.

Docket No. 71-9—*Ross Products, A Division of NMS Industries, Inc. and Taub, Hummel & Schnall, Inc.—Possible Violations of Section 16, First Paragraph, Shipping*

Act, 1916—Adopted initial decision finding that practice of respondent custom house broker of showing indifference to apparent discrepancies in shipping documents was not of such a degree as to constitute violation of the Act, and that respondent consignee was not shown to have knowingly consented to a misdescription on bills of lading for purposes of obtaining transportation at less than applicable rates.

Docket Nos. 71-15—*Harry Kaufman d/b/a International Shippers Co. of N.Y.—Independent Ocean Freight Forwarder License No. 35 and Forwarding Activities of Irving Betheil and Stephen M. Betheil* and 71-47—*Independent Ocean Freight Forwarder License Application—Supreme Shippers, Inc.*—Adopted the initial decision wherein freight forwarder's license is revoked for permitting use of and transferring of license to another without prior approval of the Commission; and further application for license in another name is denied because of participation in the application by officer and shareholder of original licensee who participated in the wrongdoing.

Docket No. 71-18—*Matson Navigation Company—General Increase in Rates In The U.S. Pacific/Hawaiian Trade*—Increased rates and charges of respondent found not to be unjust, unreasonable or otherwise unlawful in that they will not produce an excessive rate of return.

Docket No. 71-37—*Purchase of Ships—Matson Navigation Company, Sea-Land Service, Inc., Reynolds Leasing Corp.*—Respondents' failure to file for Commission approval their agreements for the sale and purchase of two uncompleted containerships did not violate section 15 of the 1916 Act.

Docket Nos. 71-46 and 71-67—*Johnson & Johnson International* v. *Venezuelan Lines*—Adopted initial decision wherein reparation was denied on an alleged overcharge of ocean freight inasmuch as claimant failed to prove that commodities shipped were other than that described on the bill of lading.

Docket No. 71-71—Agreement No. 9932—*Equal Access To Government-Controlled Cargo And Interim Cooperative Working Arrangement—Agreement No. 9939—Pooling,*

Sailing And Equal Access to Government-Controlled Cargo Agreement—Equal access and revenue pooling agreement among carriers in U.S. West Coast/Peruvian trade found approvable under section 15 of the 1916 Act in that the record shows no reasonable possibility of adverse effect on competitors which might outweigh the benefits which will flow from approval thereof.

Docket No. 71–76—*Bethlehem Steel Corporation* v. *Indiana Port Commission*—Affirmed on reconsideration a prior order asserting jurisdiction over respondent's operations as an "other person" subject to the 1916 Act.

Docket No. 71–92—*C. E. Tolonen Co., Inc.*—Granted respondent's request to discontinue proceedings looking towards revocation of freight forwarder license in exchange for suspension of license for a period of ninety days.

Docket No. 71–97—*Independent Ocean Freight Forwarder Application—Alvarez Shipping Co., Inc.*—Applicant for freight forwarder's license found unfit to carry on the business of forwarding because of unlicensed forwarding operations in violation of section 44 of the 1916 Act.

Docket No. 72–5—*Australia/U.S. Atlantic & Gulf Conference, Proposed Imposition of Currency Adjustment Surcharge*—Increase of freight rate under "currency devaluation" provision of Shippers Rate Agreement not authorized where devaluation has not been accomplished by official governmental action of the governmental body with authority over the currency in question. Rejection of such rate filing without hearing held to be proper.

Docket No. 72–15—*Rates, Practices, Rules and Regulations of North Atlantic Mediterranean Freight Conference Relating To the Movement of Heavy Lift Cargo*—Adopted initial decision wherein conference's proposal to amend its heavy-lift rules was approved. Proposal granted heavy-lift rate modifications to shippers to better reflect service on modern container or roll-on/roll-off equipment.

Docket No. 72–51—*New York Shipping Association—NYSA–ILA Man-Hour/Tonnage Method of Assessment; Possible Violation of Sections 15, 16, and 17, Shipping Act,*

1916—Assessment formula agreement between employer association and union whereby fringe benefit programs are to be funded found subject to approval under section 15 of the 1916 Act, and further found not to be "labor exempt" from the requirements of that section.

Docket No. 72–56—*United Nations Children's Fund* v. *The Delta Steamship Lines, Inc.*—Adopted initial decision wherein reparation in the amount of $2,080 was ordered for the assessment of a rate found to be so unreasonably high as to be detrimental to the foreign commerce of the United States.

Docket No. 72–57—*Uniroyal International* v. *Farrell Lines*—Adopted initial decision wherein claim for reparation for alleged ocean freight overcharge was denied on basis of evidence as to effectiveness and utilization of the commodity in question and consequent tariff item application.

Docket No. 73–6—*In The Matter of Agreement No. T–2719*—Agreement for lease of grain elevator facilities at Houston, Texas, found not subject to section 15 of the 1916 Act inasmuch as lessee does not intend to service common carriers and thereby falls outside the definition of "other person" subject to the Act.

Docket No. 73–11—*Kraft Foods* v. *Prudential Grace Lines*—Adopted initial decision wherein claimant was awarded reparation in the amount of $180.92 for misrating of a shipment via respondent carrier; claim not defeated by conference rule requiring such claims to be brought within six months of shipment.

RULEMAKING

The following rulemaking proceedings, instituted during fiscal year 1973 are still in progress.

Docket No. 72-41—*Truck Detention at the Port of New York*—

Docket No. 72-54—*Procedures for Implementation of the National Environmental Policy Act*—

Docket No. 72-62—*Regulations to Adjust or Meet Conditions Unfavorable to Shipping in the Foreign Trade*—

Docket No. 73-4—*Non-Vessel Operating Common Carriers of Used Household Goods—Exemption from FMC Tariff Filing Requirements*—

Docket No. 73-5—*Section 15 Agreements Under the Shipping Act, 1916*—

Docket No. 73-15—*Financial Reports by Non-Vessel Operating Common Carriers by Water in the Domestic Offshore Trade.*

The following final rules were published during the fiscal year as a result of rulemaking proceedings.

General Order 16: Amdt. 9—*Informal Adjudication of Small Claims; Settlement Officers*—Docket No. 71-33—

General Order 4 (Rev.) Amdt. 2—*Licensing of Independent Ocean Freight Forwarders: General Requirements*—Docket No. 72-4—

General Order 29—*Criteria for Establishing the Level of Military Rates not Detrimental to Commerce of U.S. under Section 18(b)(5) of the Shipping Act, 1916*—Docket No. 72-43—

General Order 30—*Collection and Compromise of Civil Penalties*—Docket No. 72-60.

The following rulemaking proceeding was discontinued without adoption of rules.

Docket No. 72-36—*Truck Detention at the Port of New York;* discontinued August 14, 1972.

The following proceedings instituted prior to this fiscal year reported were still pending at year's end.

Docket No. 71-22—*Schedule of Fees and Charges*—

Docket No. 71-74—*Quarterly Report of Freight Loss and Damage Claims*—

Docket No. 71-75—*Rules Governing Filing of Agreements Between Common Carriers by Water and/or "Other Persons" Subject to the Shipping Act, 1916;* Proceedings stayed until further notice.

ACTION IN THE COURTS

At the beginning of fiscal year 1973, five petitions to review Federal Maritime Commission orders were pending in the various U.S. Courts of Appeals.

Four more petitions were filed during the year. Of these, two of the appeal proceedings had been completed and the remaining 13 were pending briefing, argument, or decision as of June 30, 1972.

During fiscal year 1973, three petitions for certiorari were filed in the Supreme Court, two of which were denied.

SIGNIFICANT CASES

The following were among the more significant Commission cases in the courts:

Federal Maritime Commission v. *Seatrain Lines, Inc., et al.*, 411 U.S. 726 (1973), involved a Commission order approving, under section 15 of the Shipping Act, 1916, the sale of six vessels and related assets by the Oceanic Steamship Co. to Pacific Far East Lines, Inc. In affirming a lower court decision (460 F.2d 732 (D.C. Cir. 1972)), the Supreme Court found that while the Commission may have authority to approve on-going or continuing agreements between carriers, and thereby giving such agreements antitrust law immunity, such jurisdictional authority did not extend to mergers and asset acquisitions which involve essentially a single, noncontinuing event.

American Mail Line Ltd. and American President Lines, Ltd., et al. v. *Federal Maritime Commission, et al.*, No. 73–1252 (D.C. Cir.), and consolidated cases, concerns the Commission's conditional approval of R. J. Reynolds Tobacco Co. acquiring from Walter Kidde & Co. stock ownership of United States Lines, Inc. Reynolds, which is the owner of Sea-Land Service, Inc., is required by the Commission's order to maintain the competitive independence of each of these water carriers. This case is pending review by the D.C. Circuit Court of Appeals.

New York Shipping Association, Inc., International Longshoremen's Association, AFL–CIO v. *Federal Maritime Commission and United States of America*—In this proceeding application is made to the Court of Appeals for the 2nd Circuit to review the Commission's determination that it has jurisdiction under the Shipping Act's section 15 over an agreement to allocate assessments between carriers, termi-

nal operators and other maritime employers for the purpose of raising monies necessary to fund various fringe benefits for maritime laborers who are members of the ILA. The agreement differs from that which the Supreme Court found subject to FMC's jurisdiction in *Volkswagenwerk* v. *Federal Maritime Commission*, 390 U.S. 261 (1968), in that, unlike the case in *Volkswagenwerk*, the maritime employees union is a party to the agreement.

District Council of the Port of Philadelphia, International Longshoremen's Association, et al. v. *Seatrain Lines, et al.*, Civ. Act. No. 73–812 (E.D., Pa.), involves a union local complaint for damages alleging violations of the Shipping Act and the antitrust laws by four steamship lines for past alleged diversions of cargo at Philadelphia. The FMC petitioned to intervene and requested the District Court of the Eastern District of Pennsylvania to stay the Shipping Act issues pending final determination by the FMC of matters within its primary jurisdiction. The case was pending argument before the Court on June 30, 1973.

Transamerican Trailer Transport, Inc. v. *Federal Maritime Commission, et al.*, No. 24019 (D.C. Cir.), and consolidated cases, presents for review the propriety of Commission approval of an assessment formula allocating costs of a labor accord reached by the International Longshoremen's Association and NYSA, a multi-employer bargaining unit, comprised of ocean carriers, terminal operators, etc., calling at the Port of New York, and employer groups generally associated with loading, unloading and handling of such carriers. The assessment formula developed by NYSA, and modified by the Commission, is an attempt to allocate the costs of various benefits called for in the agreement between the union and NYSA. The case was pending argument before the Court in June 1973.

United States v. *Seatrain Lines, Inc., et al.*, C. No. 129–73 (D.N.J., 1973), charges Seatrain with over 650 violations of the criminal provisions of section 16 of the Shipping Act, 1916, on certain shipments made in the North Atlantic trade in early and mid-1970. Section 16 prohibits a carrier from favoring certain shippers by the giving of rebates or pref-

erential treatment in connection with their shipments. This criminal case, which is now pending trial, also names one present official and two former Seatrain officials as defendants.

Settlement and Non-Adjudicatory Matters

The Commission has continued its enforcement claim program under the Federal Claims Collection Act of 1966, and, with the enactment of P.L. 92–416 (86 Stat 653) amending the Shipping Act to permit the compromise of civil penalties provided by that Act, has initiated several compromise claims under this new authority since September, 1972. During fiscal 1973, settlements totalling over $83,500 were made with 16 carriers for violations of tariff filing provisions of section 18 of the Shipping Act, 1916, and Section 2 of the Intercoastal Shipping Act, 1933. When combined with the recoveries from civil penalty actions brought in court or settled before litigation, over $151,200 was collected for violations of statutes administered by the Commission.

LEGISLATIVE DEVELOPMENT

Intermodal Transportation on a Through Bill, Single Factor Rate in the Foreign and Domestic Offshore Trades Progresses with Hearings Before House Merchant Marine and Fisheries Committee

The Commission's proposed legislation transmitted to the Congress on June 6, 1972, would amend the Shipping Act, 1916, to provide for the establishment of single-factor rates under a through bill of lading for the transportation of property in the foreign and domestic offshore commerce of the United States.

Introduced in the House as H.R. 15465, this bill was the subject of hearings both in Washington and San Francisco in September, 1972. Chairman Bentley appeared before the Subcommittee on Merchant Marine of the Merchant Marine and Fisheries Committee of the House on September 18, 1972. The Chairman pointed out that the present regulatory structure in trades covering point-to-point international trading involves at least two agencies, at least two or more different carriers, different rate bases, different documentation and constantly varying liability. The small and middle-sized American businessmen are deterred by the plethora of red tape and overlapping charges involved. The fact that the Federal Maritime Commission has expertise in the foreign trading practices of the United States suitably equips it, the Chairman stated, to oversee the fast-growing intermodal movement.

The hearings provided a valuable forum for many segments of the maritime and related trading industries to go on record regarding this vital question. At the request of the Chairman of the Merchant Marine and Fisheries Committee

the Commission revised its proposal to meet many of the objections raised at the hearing. Two major revisions were the exclusion of the nonvessel operating common carrier as an "intermodal carrier" and the elimination of the licensing provisions. This revised bill was introduced in the first session of the 93rd Congress as H.R. 8097.

Federal Water Pollution Control Act Contains F.M.C. Recommended Enforcement Provisions

Public Law 72–500, enacted into law October 18, 1972, amended the Federal Water Pollution Act by providing the Environmental Protection Agency and other agencies having responsibilities under the Federal Water Pollution Control Act with additional authorities with which to prevent, reduce and eliminate pollution of water. Among other things this Public Law includes provisions subjecting a vessel owner or operator to fines of up to $10,000 for failure to establish financial responsibility or for violation of any regulation issued in connection with the financial responsibility provisions of the Federal Water Pollution Control Act. Said Public Law further authorizes the Secretary of the Treasury to deny clearance to any vessel failing to produce evidence of compliance and authorizes the U.S. Coast Guard to deny access to any port or place in the United States and to detain any vessel about to depart which fails to establish financial responsibility. Thus the principal additional legislation which this Commission had proposed to assist in carrying out its responsibilities with respect to water pollution control was enacted as a part of Public Law 92–500 rendering unnecessary further action on S. 2619 which had been introduced at the request of the Federal Maritime Commission.

Comprehensive Report on the Activities of the Federal Maritime Commission Presented to the Full Committee on Merchant Marine and Fisheries of the House

On November 2, 1972, Chairman Bentley submitted to the Committee on Merchant Marine and Fisheries of the

House of Representatives, a comprehensive report on the activities of the Federal Maritime Commission since 1967.

The presentation covered the broad scope from the general mission of the Commission to specific program evaluations, conclusions and future anticipated operations.

The Chairman stated that ". . . we have carried out our mission in a manner which sought to assure that everyone affected, the carrier as well as the shipper, was treated fairly, without discrimination, prejudice or preference. We have avoided regulating for the sake of regulation; have done all in our power to protect and foster the commerce of the United States and to negate discrimination against American flag ships." The fact that there are many problems in need of resolution as new transportation modes spread throughout the world was stressed, and in conclusion the Chairman said that "The Commission is confident that it can and will contribute its expertise and resources to the ultimate solution of such problems. . . ."

Other Legislative Activity

Responsibility Outlined

Chairman Bentley appeared before the full House Merchant Marine and Fisheries Committee on March 12, 1973 to outline the various statutes under which this Commission derives its basic responsibilities. The history of ocean transportation in our foreign commerce was briefly discussed, outlining the various competitive practices which led to eventual enactment of the Shipping Act, 1916, our principal basic statutory authority. The subsequent enactments and reorganization plans affecting this Commission and its predecessors were briefly treated, culminating in Reorganization Plan No. 7 of 1961 which separated maritime promotional and regulatory functions. The Chairman pointed out that since that time, effective regulation of the maritime industry as contemplated by the shipping statutes has been actively and effectively maintained.

Discriminatory Rates on Recyclable Goods

With ecological concern a national priority, the Federal Maritime Commission was asked to testify before the Senate Committee on Commerce concerning three bills—S. 1122, S. 1593, and S. 1879—which seek to eliminate alleged discrimination in the rate structure for recyclable materials which are moved in the foreign commerce of the United States by regulated common carriers by water.

Chairman Bentley testified, on June 11, 1973, that the Commission is concerned about our environment and supports the goal of preserving natural resources through recycling-related activities. However, it is the Commission's feeling that existing statutory authority, and complaint and investigatory processes appear adequate. In the opinion of the Commission, further legislative proposals are unnecessary at this time.

It is the Commission's belief, Mrs. Bentley pointed out, that to impose overly complex duties with unrealistic deadlines is not conducive to impartial treatment of all parties. The Chairman urged that Congress not "tie our hands with impossible, unnecessary tasks. . . ."

Transporting Merchandise by Barge

On June 15, 1973, Vice Chairman George H. Hearn appeared before the Subcommittee on Merchant Marine of the House Merchant Marine and Fisheries Committee and presented the views of the Commission on a bill, H.R. 4009. The legislation would confer exclusive regulatory jurisdiction on the Commission for certain barge movements of containers or containerized cargo between U.S. points when the barge is used as a substitute service for a call at a port in lieu of a vessel call by a common carrier by water. In accordance with interpretation of the Interstate Commerce Commission, even though the transportation between the two U.S. points is in the foreign or domestic offshore trade and moving on a through ocean bill of lading, the local movement is subject to the Interstate Commerce Act. This results

in unnecessary and fragmented duplication of regulation. Enactment of this legislation would eliminate such duplication and provide for regulation of the entire movement by a single regulatory agency.

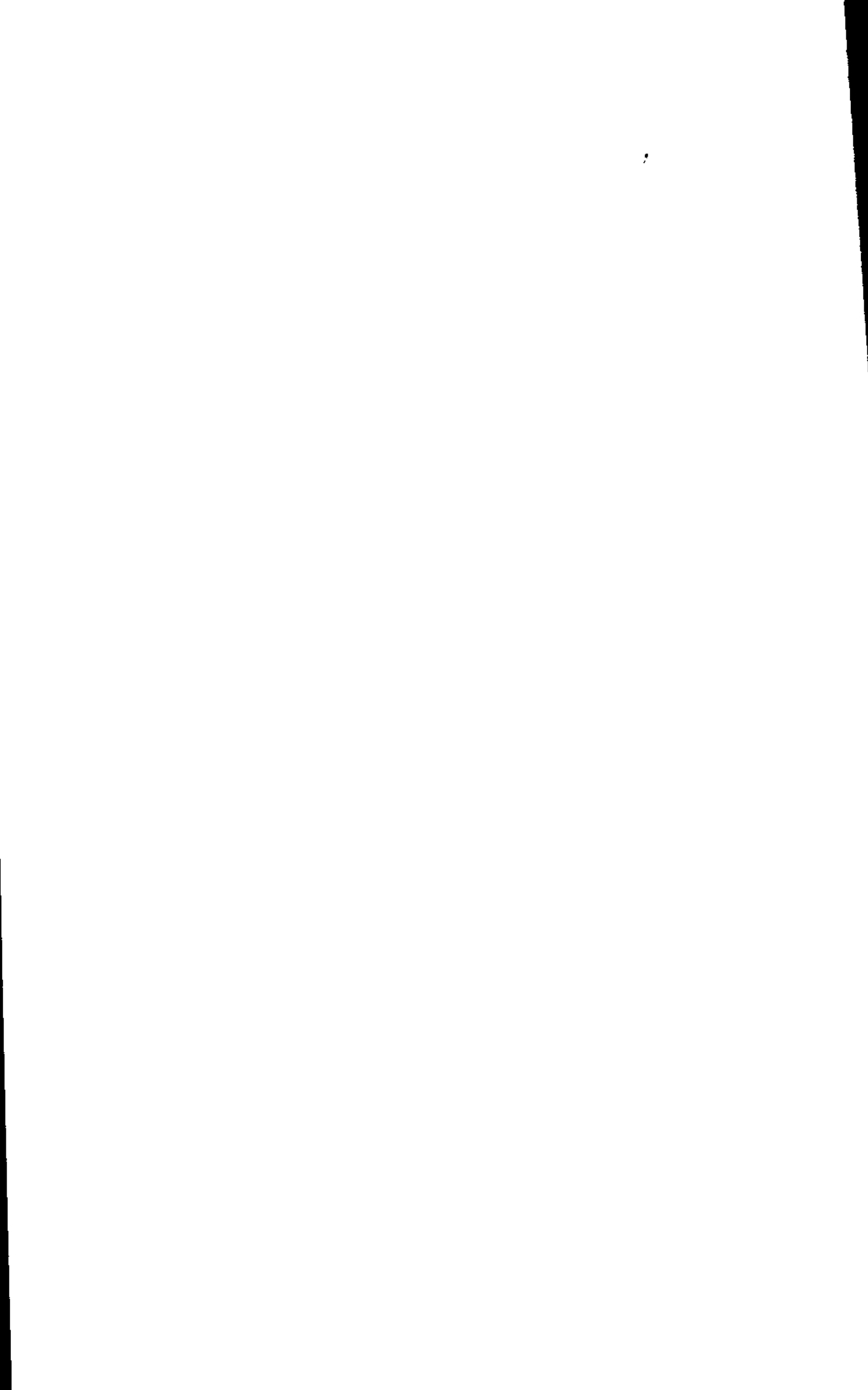
Uniform Commodity Descriptions and Tariffs

On June 29, 1973, Chairman Bentley testified before the subcommittee on Foreign Commerce and Tourism of the Senate Committee on Commerce in support of S. 1488. The bill provides for a system of uniform commodity descriptions and tariffs filed with the Commission. The legislation contemplates a uniform classification and description of commodities and provides for the identification of disparities between the inbound and outbound rates.

If the filing did not contain a statement of the applicable rate for the transportation of the same commodity in the opposite direction, the Commission would be authorized to reject the filed rate, making its use thereafter unlawful. S. 1488 provides the needed authority to insure that Americans engaged in the foreign waterborne commerce of the United States will not be at a disadvantage in international trading. Passage of S. 1488 would be a step toward our ultimate objective of eliminating all freight rate disparities.

Legislation Studied

During fiscal year 1973, the Commission made studies of many bills that had been introduced in the Congress, and filed reports thereon with the appropriate Committees.



ADMINISTRATION

Commissioners

There have been no changes in Commission membership during fiscal year 1973. Helen Delich Bentley of Maryland continued to serve as Chairman. Other Members were Ashton C. Barrett of Mississippi; James V. Day of Maine; George H. Hearn of New York; and Clarence Morse of California.

On July 26, 1972, Commissioner Hearn was elected by his colleagues for a second time to the vice chairmanship of the Federal Maritime Commission succeeding Commissioner Barrett.

Statement of Appropriation and Obligation for the Fiscal Year Ended June 30, 1973

APPROPRIATION:	
Public Law 92-544, 92nd Congress, approved October 25, 1972: For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902	$5,679,000
OBLIGATIONS AND UNOBLIGATED BALANCE:	
Net obligations for salaries and expenses for the fiscal year ended June 30, 1973	5,523,421
Unobligated balance withdrawn by the Treasury	155,579
STATEMENT OF RECEIPTS: DEPOSITED WITH THE GENERAL FUND OF THE TREASURY FOR THE FISCAL YEAR ENDED JUNE 30, 1973:	
Publications and reproductions	12,431
Freight forwarder license fees	14,400
Oil pollution application and certificate fees	130,192
Fines and penalties	146,277
Miscellaneous	1,139
Total general fund receipts	304,439

Appendix A
Statistical Abstract of Filings
Fiscal Year 1973

SECTION 15 AGREEMENTS:	
Foreign commerce	174
Domestic offshore	8
Terminal	156
SECTION 14b DUAL RATE CONTRACTS:	
New systems (includes modifications)	18
REPORTS REVIEW:	
a. Shippers' requests and complaints	390
b. Minutes of meetings	1.788
c. Self-policing of conference and rate agreements	154
d. Pooling statements	25
e. Operating reports	48
APPROVED AGREEMENTS ON FILE AS OF JUNE 30, 1973:	
Conference	82
Rate	33
Joint conference	10
Pooling	22
Joint service	45
Sailing	24
Transshipment	291
Cooperative working, agency and container interchange	109
Domestic offshore	21
Terminals	335
Dual rate contract systems	62
Total	1.034
TARIFFS:	
Tariff pages filed.	
Foreign	159.219
Domestic Offshore	15.180
Terminal	6.756
Tariffs on file as of June 30. 1973:	
Foreign	3.151
Domestic	277
Terminals	535

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