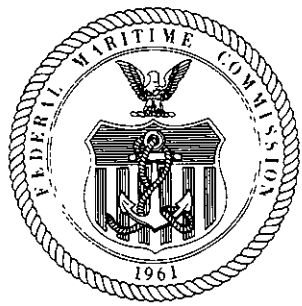
13th annual report

of the

FEDERAL MARITIME COMMISSION



Fiscal Year Ended June 30, 1974

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FEDERAL MARITIME COMMISSION
WASHINGTON, D.C.

June 30, 1974

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

Federal Maritime Commission
Washington, D.C. 20573

Office of the Chairman

July 1, 1974

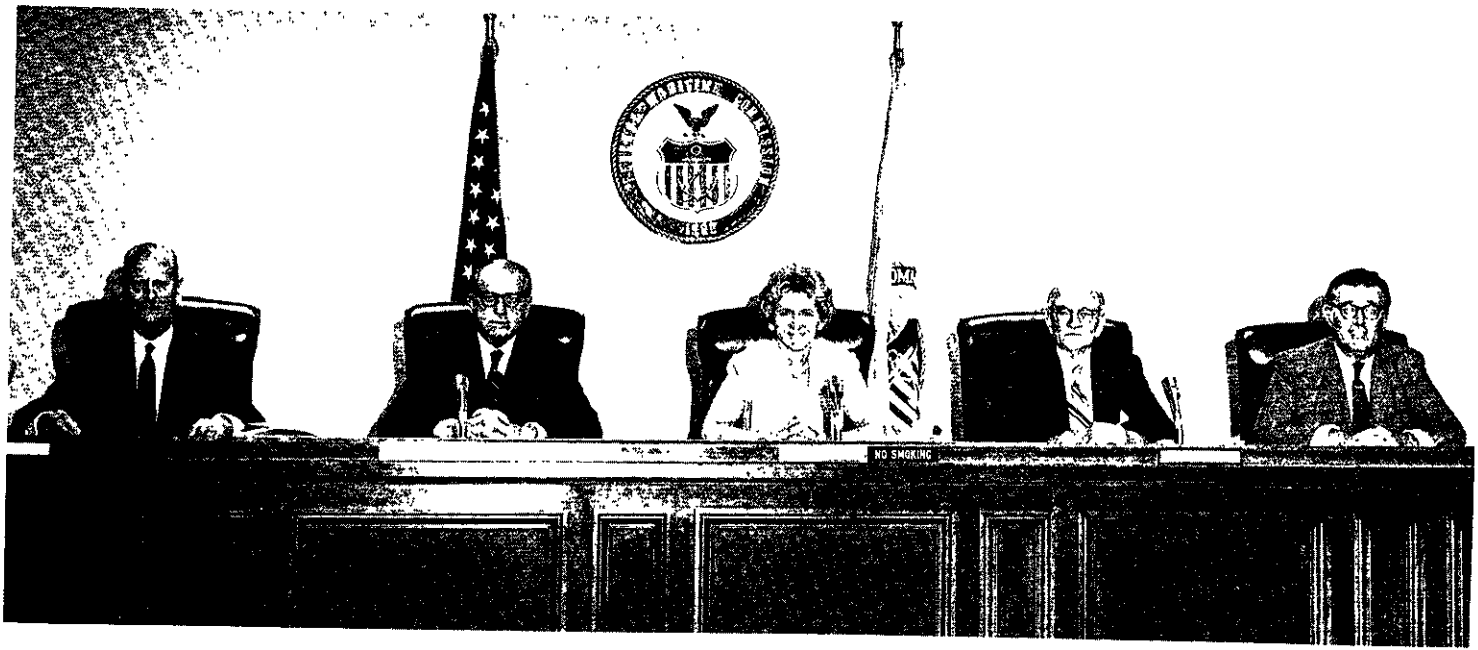
TO THE SENATE AND HOUSE OF REPRESENTATIVES:

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 1974.

Sincerely,

Helen Delich Bentley

Helen Delich Bentley
Chairman



Clarence Morse

James V. Day
Vice Chairman

Helen Delich Bentley
Chairman

Ashton C. Barrett

George H. Hearn

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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 offshore commerce; (6) issuance of certificates evidencing financial responsibility of vessel owners or charterers to pay judgments for

[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 Improvment 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.

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 hazardous substances; 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 1100 L Street, N.W., Washington, D.C. 20573. There are field offices located as follows:

Atlantic District	6 World Trade Center, Suite 603, New York, New York 10048.
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	Post Office Box 3168, Old San Juan Station, Old San Juan, P.R. 00904.

Highlights of the Year

Fiscal year 1974 saw continued expansion of the containerization age with technological advancement spreading to more and more trade areas.

Overshadowing this growth, however, were the twin crises of inflation and energy shortages.

The tremendous capital investment attendant to technological change was made more onerous by soaring worldwide inflation. As a result, there was an increasing trend toward carriers grouping together in one type of combination or another to minimize their capital outlays.

In the first part of the fiscal year, the cost of bunker fuel rose at an alarming rate driving up the cost of transportation as carriers were continually forced to increase rates.

The shortage of fuel on the world market led to cut-backs and slowdowns in service to combat the effects of limited availability of fuel.

Against this backdrop, the Federal Maritime Commission exerted its statutory authority to the utmost to insure the continued viability of U.S. oceanborne commerce.

The Commission's efforts were directed toward alleviating the effects of the energy crisis. In addition, the Commission renewed its efforts to bring order to intermodalism.

Fuel Crisis

As the fuel crisis became acute, the Commission moved rapidly in assisting to offset its effects.

Conferences were encouraged to rationalize sailings to fully utilize ship capacity where they possessed such authority; where conferences did not have the authority, they were urged to give serious consideration to applying to the Commission for approval of rationalization plans.

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The Commission also suggested that carriers combine their efforts in other ways. The International Council of Containership Operators was formed to discuss, among other things, fuel and energy requirements. This agreement was promptly approved by the Commission.

Carriers and conferences were granted permission to put rate increases and surcharges into effect on less than statutory notice where justification was shown.

In addition, the Commission established a new Office of Energy Utilization and Conservation to provide a central source for information, help, and guidance. This office was of significant assistance to carriers in locating sources of fuel and expediting government assistance to the industry.

Inflationary Effects and Concerted Activities

Burgeoning world-wide inflation had a marked effect on steamship operators attempting to institute and expand already highly expensive services such as LASH/Seabee and roll-on/roll-off.

In an effort to offset this effect, carriers combined together to amalgamate their resources.

Thus, the Commission approved an arrangement among U.S. and foreign-flag carriers in the Far East trades for the interchange and lease of containers, chassis, and related equipment.

The Commission also approved the Uniform Intermodal Interchange Agreement providing for interchange of containers among water, rail, and highway carriers.

Another form of concerted activity by carriers which has gained increased use is the discussion agreement. Under such Commission-approved arrangements, groups of carriers, and even conferences, discuss rates, rules, and regulations in entire trade areas. Any actions proposed thereunder, however, must be submitted to the Commission for its scrutiny.

Intermodalism

The often tortuous journey toward true intermodal transportation continued.

More and more conferences sought and received authority to discuss and develop intermodal systems.

The Commission's principal efforts in the advance of intermodalism continued to be in the legislative arena. As it has since 1972, the Commission urged the Congress to bring order to intermodalism by passage of legislation conferring jurisdiction over the "intermodal carrier" with the Federal Maritime Commission. It is our position that intermodalism can only reach full flower under the regulatory guidance of this agency.

Jurisdiction Upheld in Labor Pact

The United States Court of Appeals for the Second Circuit upheld the Commission's jurisdiction over an agreement among the International Longshoremen's Association and the New York Shipping Association which allocated certain costs of their labor contract among NYSA members.

The parties had contended that since the allocation agreement had been made a part of the basic labor contract, the Commission's jurisdiction was ousted.

Merger Order Vacated

The United States Circuit Court for the District of Columbia vacated an order of the Commission approving an acquisition by R. J. Reynolds Industries of United States Lines.

The Commission had approved the arrangement subject to extensive conditions designed to maintain U.S. Lines' competitive viability with another Reynolds subsidiary, Sea-Land Service, Inc.

The Court concluded that the Commission could not assert jurisdiction over such acquisitions by the imposition of "ongoing" conditions.

Portland Diversion Case

In fiscal year 1974, the Commission settled a longstanding controversy involving service at the Port of Portland, Oregon.

Carriers and conferences were following the practice of serving Portland through the Port of Seattle, Washington, with related overland truck and rail movement. This occasioned a protest and request for investigation from Portland in light of their diminished terminal revenues.

The Commission resolved the dispute by requiring that no car-

rier could engage in the practice unless it provided a direct service to Portland on no less than alternate sailings.

Cotton Controversy

Upon petition of various cotton shippers, the Commission conducted an investigation of the practices of the Pacific Coast European Conference with respect to its dual rate contract system.

The Conference had announced its intention to assess penalties against any shipper found to have used a non-conference carrier.

The Commission directed the Conference to cease and desist the practice pending completion of arbitration proceedings provided for in the contract.

Commonwealth Enters Carrier Field

At fiscal year's end, the Commonwealth of Puerto Rico proclaimed its intention to enter the field of common carriage.

Under its proposal, the Commonwealth would acquire the fleets of the principal carriers in the Atlantic and Gulf-Puerto Rico trades.

This novel situation undoubtedly would present unique regulatory problems.

U.S. Oceanborne Commerce in Review

INTERMODALISM

Tariffs

Carriers and conferences continue to file intermodal tariffs with the Commission under which there is an offering to provide a through service. Such tariffs have generally been limited to service in the following trades:

U.S. West Coast and the United Kingdom—Europe via Atlantic and Gulf Ports Gateways

U.S. East and Gulf Coasts and Japan via Pacific Coast Ports Gateways

U.S. Gulf Coast and the United Kingdom—Europe via South Atlantic Ports Gateways

Inland Points in the United Kingdom to U.S. North Atlantic Ports

Inland Points in Italy to U.S. Atlantic Coast Ports

U.S. Atlantic Ports to Iran via Ports in Turkey

Although presently limited, it is expected that intermodalism will very shortly commence to accelerate since conferences have in the recent past been granted intermodal authority by the Commission. The use of such authority will result in a large increase in the number of intermodal tariffs on file.

In the past it was somewhat difficult for the carriers to offer either containerized or intermodal services to the developing nations. Today, however, containerization and other technological changes, long a reality in the developed nations, are now being advanced in the developing nations. Generally, the trade between the U.S. and developing nations has been characterized by exports of manufactured goods from the U.S. and imports, for the most part, of raw

goods and certain food stuffs, such as coffee, tea and cocoa. Because of the physical characteristics of some of these goods and the perishable nature of others, containers were not considered as the ideal way of transport. Accordingly, little or no container traffic moved to or from the developing nations. However, carriers and shippers have been experimenting in these trades. The countries themselves have been improving port facilities, building roads, developing rail systems and otherwise making improvements which will be economically beneficial to them. These developments will, it is anticipated, give rise to an increase in containerization and intermodalism requiring additional tariffs to be filed and further surveillance by the Commission.

Although it is presently anticipated that intermodal tariff activity will increase many times, this increase will be of greater proportion should legislation be enacted which would permit the carriers to operate unencumbered by conflicting regulatory agency restraints and the possibility of running afoul of our antitrust statutes.

Agreements

During fiscal year 1974, two rate agreements were granted initial authority to establish and implement rates on cargo to or from inland points in the United States and/or inland points in foreign countries within the scope of their respective agreements. This brings to 32 the total number of agreements which have intermodal authority. At the close of the year, three applications for inland authority were pending, one of which (the Pacific Westbound Conference) is the subject of an investigation and hearing in Docket No. 72–46.

Also during the year, two conferences, the North Europe-U.S. Pacific Freight Conference and the Trans-Pacific Freight Conference of Japan/Korea implemented their intermodal authority by filing intermodal rates with the Commission. This makes a total of three conferences that have implemented this authority and are now in a position to offer intermodal through services.

Of the 32 agreements with inland authority, a great number have dual rate systems in effect. However, only five have requested and received approval to extend the coverage of their dual rate contracts to inland points. All five are in the European trades. The Pacific Westbound Conference has applied to extend its dual rate system to

include its OCP territory and its application is presently under consideration in a formal proceeding (Docket No. 71–54).

LASH/Seabee Services

Lighter-Aboard-Ship (LASH) service involves a mothership 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 by 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.

Developments have continued to take place with respect to LASH service during fiscal year 1974. Within the past 18 months, three LASH interchange agreements have been approved which permit the parties to interchange barges and related equipment in conjunction with their LASH liner operations. There is also presently pending before the Commission a modification to a conference agreement in the Continental/U.S. North Atlantic trade which would allow any conference member that operates a LASH service to charter lighters to any vessel operating common carriers for employment in the same type service. There is also indication that an established carrier in the U.S. West Coast/South Pacific and Far East trades plans to inaugurate its LASH service on two new routes from the U.S. West Coast to Indonesia and Mainland China. This same carrier also has plans to eliminate the carriage of containers entirely and employ its vessels wholly within the LASH concept.

Roll-On/Roll-Off Services

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 or vehicles. During fiscal year 1974, a new RORO service was introduced into the U.S. West Coast/Hawaii trade. At the end of fiscal year 1974, there was pending before the Commission for approval a new rate agreement which would establish a new RORO service in the trade between Florida ports and ports in the Netherlands Antilles. There is also indication that a RORO operator in the U.S. Atlantic/Puerto Rican trade has plans to move into other deepwater trade routes, possibly including a new North Atlantic RORO service. This same carrier recently indicated that substantial proliferation of its operations throughout the world can be anticipated.

DEVELOPMENT OF CONTAINERIZATION

Equipment

Intermodal containers lead all categories of freight equipment in a survey of projected average annual growth rates. There are almost one billion dollars worth of containers now in operation, a figure that is expected to rise to almost three billion dollars by 1980 via annual growth increments of 20 percent.

Gulf Coast

For example, the seaports which rim the Gulf of Mexico continued a carefully planned search for more and better intermodal cargoes during the past year. There is evidence that container activity will center upon Houston and New Orleans as the major ports for this trade. Other ports such as Beaumont, Mobile and Galveston are making determined bids to become a part of the container trade or at least to have significant facilities for it. Generally, most other port cities are content in their traditional roles as breakbulk or specialized bulk centers. The smaller ports are focusing on LASH/Seabee services to spearhead their intermodal trade and relying upon their established commodities to maintain their business. Houston has retained its position as the leading container port in the Gulf, and by building new facilities hopes to assure its preeminence. New Orleans has taken a significant step in its bid for more container movements by opening a new berth to put into service the first for-hire container crane in the port.

Latin America

Progress is slow in Latin America. One of the major factors for this is the overall lack of financial resources. In the Caribbean and Central American countries, RORO services appear to be sufficient for their needs at the present time.

Great Lakes

While containerization development is sweeping at most U.S. ports, its progress at Great Lakes-St. Lawrence Seaway ports continues to be slow. Expenditures toward modernization remain rather small, as do container movements.

Far East Interchange Agreement

During fiscal year 1974, the Commission approved Agreement No. 10032 covering an arrangement entered into by eight U.S. and foreign flag carriers for the interchange and lease of containers, chassis, trailers and related equipment in connection with their regular common carrier services in the trades between United States ports and Far East ports in the range from Japan to and including the West Coast of India and Pakistan. The purpose of the agreement is to facilitate and coordinate the development of intermodal services through container interchange. The agreement provides for the participation of other carriers which apply and agree to abide by the terms and conditions. Since the date of approval, two foreign flag carriers have become signatories.

Container Agreement

Another significant development during fiscal year 1974, was the implementation of the Uniform Intermodal Interchange Agreement (UIIA). This agreement was finalized in May 1973, and sets forth the rules under which water, rail and highway carriers interchange containers in the United States. The drafters of the UIIA, 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.

Leasing

Although containerization continues to play an increasingly prominent role in the world trade community, one of the major factors which impedes the expansion and further development of the concept is the huge investments required to buy and operate the containers. Not everyone can meet this requirement. However, a viable solution to this problem appears to be container leasing. The idea is to help carriers reduce the operating costs and related problems associated with transporting containers. Container leasing is becoming more and more popular due to the realization that the concept of containerization is no longer a port-to-port system, but rather an intermodal system including overland movement, door-to-door.

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TRENDS IN TRADE BY GEOGRAPHIC AREA

United Kingdom-Continent

In this geographic area, discussion agreements continue to be employed by both small and large groups of carriers for the purpose of determining whether or not they can and should enter into agreements of a more substantive nature. During fiscal year 1974, four new discussion agreements were approved ranging in size from a two-party agreement to a 39-party agreement. With the approval of these four agreements there are now nine discussion agreements in this area. Those approved during this period include: (1) an agreement among five U.S. conferences and four Canadian conferences (10057) for the purpose of exploring ways of diminishing or eliminating disruptive cross-border competition; (2) an agreement among seven container-RORO carriers serving the U.S. Atlantic Coast/Iberian Peninsula Trade (10058); (3) an agreement between an American flag line and an Italian flag line (10106) to discuss the feasibility of a cooperative working arrangement; and (4) an agreement among 39 non-container carriers to study and to take action where necessary relative to terminal practices applicable to non-container operators (10109).

A new type of agreement which is coming into use in this area is the cross-charter arrangement whereby container carriers agree to charter space to each other for the movement of their own cargo in lieu of using their own vessels. This type of arrangement has been proposed as both an energy conservation measure and as an emergency measure where a carrier's vessel is in a distressed situation and cannot make a scheduled port call. One of the latter type arrangements has been approved and one of the former is pending Commission action.

Also, in fiscal year 1974, Soviet flag lines were quite active in Section 15 matters. They joined two rate agreements in the North Atlantic-North Europe trade which permits them to discuss and agree on rates and practices with the conferences and several independent lines in this trade. In addition, they received Section 15 authorization for four transshipment agreements with an American flag carrier covering service between U.S. Gulf ports and Soviet Baltic and Black Sea ports.

Latin America

Agreement No. 10064, a new type of bilateral agreement termed a "free access" arrangement, which was pending at the close of fiscal year 1973, was approved by the Commission during fiscal year 1974. This agreement, covering the U.S. Gulf/Colombia trade, permits the parties thereto to have free access to the total import and export cargo available in the trade. Early in fiscal year 1974, Agreement No. 10066, another "free access" agreement which is virtually identical to Agreement No. 10064, except that it covers the U.S. East and West Coast/Colombia trade, was filed with the Commission for approval, and is presently under investigation in Docket No. 74–5.

Indian Ocean

A new development, that of a pooling arrangement, surfaced during fiscal year 1974 in the Indian trade. The Calcutta and Bangladesh/U.S.A. Pool Agreement (No. 10123) which was filed on April 5, 1974, is pending Commission action. The agreement, among five of the six members of the Calcutta, East Coast of India and Bangladesh/U.S.A. Conference, would establish a revenue pool of earnings derived from the transportation of cargo, with certain exceptions, from Calcutta and ports in Bangladesh to U.S. Atlantic and Gulf ports. In addition to the pooling and apportionment of revenues under the agreement, a rationalization of sailings is also contemplated thereunder. The initial term of the arrangement would be for five years from the date of any approval accorded by the Commission.

Far East

On February 19, 1974, the Commission approved Agreement No. 10107, entered into by the member lines of the Trans-Pacific Freight Conference (Hong Kong), as one party only, with Orient Overseas Line, Orient Overseas Container Line, Pacific Far East Line, Inc., and Zim Container Line, Inc., independent carriers operating in the conference trade from ports in Hong Kong and Taiwan to ports on the West Coast of the United States.

On the same date the Commission also approved Agreement No. 10108, covering an identical arrangement of the member lines of the New York Freight Bureau (Hong Kong) with American Export

Lines, Inc., Orient Overseas Line, Orient Overseas Container Line, and Zim Container Line, Inc., independent carriers, to apply in the trade from Hong Kong and Taiwan to United States Atlantic and Gulf ports.

These agreements cover arrangements whereby the said parties may confer, discuss and agree upon rates, charges, classifications, practices and related tariff matters, to be charged or observed by them in said trades but with the reservation of the right of each of them to alter for itself any rate, charge, classification, practice, or related tariff matter thus agreed upon or theretofore in force upon first giving the other parties at least 48 hours advance notice. The arrangements also authorize the joint study for the introduction of fair and reasonable charges and regulations for positioning, use and inland carriage of containers and related equipment, terminal handling, storage and other accessorial services for containerized and unitized cargo, under terms and conditions set forth in the agreement.

Conditions prevailed in the trades which threatened a breakup of the conferences. The conferences were of the view that the problems of the trades could be resolved expeditiously if the major independent lines could be persuaded to become conference members. Agreements Nos. 10107 and 10108 were entered into for the express purpose of creating an appropriate ratemaking arrangement between the conference lines and the independent carriers.

Since the date of approval of these agreements, more viable self-policing systems have been incorporated in the conference agreements. The authority of the conferences' self-policing systems, as well as the conferences' dual rate systems, has been made applicable to the independent carriers under Agreements Nos. 10107 and 10108.

The Japanese Revenue Pool, Agreement No. 10116, has been filed by six Japanese flag carriers covering an arrangement for the pooling and division of revenues by these carriers under their approved space chartering arrangements (Agreements Nos. 9718, 9731 and 9835) in the trades, eastbound and westbound, between Japan and ports in California, Oregon and Washington, including overland common point cargo as authorized by applicable conference agreements.

The minutes of meetings of the 25 United States and foreign flag carriers comprising the membership of the Far East Discussion Agree-

ment No. 9981, contain matters relating to the format, voting requirements, type of cargo and the allocation of shares among the carriers for incorporation in a master revenue pooling arrangement to apply in the United States/Far East trades. The pooling arrangement is still in the discussion stage.

Worldwide Discussion Agreement

The general trend in discussion agreements continued during the past year with the filing of and approval by the Commission of Agreement No. 10099, a worldwide discussion type agreement. This agreement established the International Council of Containership Operators (ICCO) by three American and eight foreign flag containership companies operating worldwide. The purpose of the ICCO agreement is to provide a forum for discussion and exchanges of information with respect to a wide range of international maritime concerns including, but not limited to, environmental controls, intermodal regulations, technological developments, fuel and energy requirements, monetary and fiscal policies, port development and other governmental programs which affect maritime activities.

FREIGHT RATES AND SURCHARGES IN FOREIGN COMMERCE

General Rate Increases

Fiscal year 1974, as in prior years, saw the filing of numerous general freight rate increases. Worldwide inflation continued to accelerate, requiring carriers to reassess their freight rate positions for the purpose of accommodating extraordinary increases in the cost of operation. Additionally, as in the past, many surcharges were maintained and others newly implemented to account for specific situations or problem trading areas.

Surcharges

Surveillance over surcharges continues as an important function of the Commission. While the Commission recognizes that carriers must be compensated for increases in costs related to conditions beyond their control, such as labor difficulties, port congestion, warlike conditions, currency fluctuations and increases in bunker prices, the Commission is also concerned regarding the effect surcharges have

upon those engaged in the sale of goods in our foreign commerce. Accordingly, the Commission obtains as much data as possible in order to determine the validity of a given surcharge and the extent to which it should remain in effect. Through cooperation of the carriers and data received from the Department of State and other sources, the program has been successful in that numerous surcharges have been reduced and others not maintained beyond the need therefor.

During the energy crisis commencing in 1973, carriers were required to pay tremendous increases in the price of fuel oil. The alternative to a suspension or reduction of service was the implementation of a surcharge to offset the increase in cost. For the most part shippers recognized the dilemma of the carriers and preferred payment of the surcharge rather than a demise of service. However, the Commission maintained vigilance over the situation and, through working and meeting with the carriers, was able, at the close of the fiscal year, to have many bunker surcharges reduced. Others were expected to be reduced shortly. Periodic meetings are scheduled with carrier representatives and wherever warranted the Commission will seek additional reductions.

Currency and port congestion surcharges were also reduced or eliminated in a great many tariffs as a result of the Commission's surveillance.

Activity in this important program shall be maintained in order to insure that surcharges do not have a detrimental effect on our commerce and to further insure their cancellation when no longer warranted.

Disparities

Another important program of the Commission involves rate disparities which occur when carriers quote rates higher in one direction than the other on the same or similar commodities in a reciprocal trade. Such disparities may have a harmful effect on the ability of U.S. exporters to compete with their foreign counterparts. Accordingly, it is endeavored to have such inequities expunged from freight tariffs.

Disparate rate situations were considered by the Commission in three proceedings—Docket 1114, *Iron and Steel Rates, Export-Im-*

port; Docket 1171, *Outbound Rates Affecting the Exportation of High-Pressure Boilers (Utility Type), Parts and Related Structural Components;* and Docket 65–45, *Investigation of Ocean Rate Structures in the Trade Between United States North Atlantic Ports and Ports in the United Kingdom and Eire—North Atlantic United Kingdom Freight Conference, Agreement No. 7100, and North Atlantic Westbound Freight Association, Agreement 5850.* In these proceedings, the Commission set out guidelines for treatment of rate disparities requiring carriers and conferences to justify their existence.

As a result of the decisions in the referred-to proceedings, the Commission instituted a program under which rate studies are made in reciprocal trades. Whenever a study reveals the existence of disparate rates, an effort is made to resolve such situation on an informal basis. The program has been successful in that a number of disparate rates have been adjusted allowing exporters to ship their goods under lower rates. However, there have been instances in which the Commission has had to resort to formal proceedings to deal with disparate rate situations. In this respect cases are pending in the North Atlantic Continental trades and the trades between U.S. Atlantic, Gulf and Pacific ports and ports in Japan. In the former trades many of the disparities have been resolved, while in the latter trades initial remedial rate action is taking place.

In addition to the disparate rates uncovered by the Commission, shippers also bring such matters to the Commission's attention on an individual basis. Here too there has been success in correcting disparate rates, again affording shippers the opportunity to promote the sale of their goods in the foreign marketplace.

The obvious importance of this program and the positive effect on our commerce resulting therefrom mandates that the Commission's efforts be intensified in this area.

TERMINAL GROWTH

The role of marine terminal industry is to furnish the vital connection between the ocean carrier and the shipping public it serves. In addition, the terminal industry also provides the pivotal point of land/sea interface in the intermodal scheme, a point at which the inherent technological advantages and efficiencies of intermodalism

over traditional shipping systems can be best maximized. At this point, it appears that the first generation of terminal development and modernization to accommodate container and LASH/Seabee transportation systems is presently drawing to a close. Millions of dollars have been expended in the construction of new berths and rehabilitation of older facilities. Container cranes and supporting upland handling areas for container traffic, mobile cranes and assembly areas for serving LASH/Seabee barges, specialized berths for loading and unloading roll-on/roll-off cargo and rail interchange facilities either have been or are in the process of being constructed at virtually every major U.S. port.

The involvement of our vast inland waterway system in waterborne foreign commerce is also continuing to grow due to the utilization of the recently inaugurated LASH/Seabee and miniship systems. Not only is cargo that once moved overland between coastal ports and inland destinations now moving directly to and from the American heartland, but the impetus towards the development of additional export-oriented industry is growing as well, due to the easier access to direct ocean transportation.

Surveillance, Compliance, and Enforcement

AGREEMENTS REVIEW

Section 15 of the Shipping Act, 1916, provides that continued approval shall not be permitted any conference agreement which fails to provide certain terms and conditions for admission and readmission to conference membership, and withdrawal therefrom without penalty. It further provides that the Commission shall disapprove any such agreement after notice and hearing, on a finding of inadequate policing of the obligations under it, or for failure to adopt and maintain reasonable procedures for promptly and fairly hearing shippers' requests and complaints. Section 15 also clearly indicates criteria for agreements that will not be approved or permitted continued approval. One of the criteria for denying approval is an agreement that is in violation of the Shipping Act.

During fiscal year 1974, 154 carrier agreements were processed under Section 15. A statistical table of receipts and total active agreements appears as Appendix A.

The surveillance of approved agreements involves a review of the basic agreement and modifications thereof in order to determine that it continues to meet the requirements of Section 15, and the applicable Commission's General Orders, i.e., 6, 7, 9, 14, 17, 18, 23 and 24, and is in conformity with the latest Commission and Court decisions and Commission policy. If the agreement is no longer in conformity with the above criteria, correspondence is undertaken with the agreement parties in an attempt to have the agreement modified to bring it into conformity. Occasionally the agreement parties comply only after the implementation of a formal proceeding against them. Under our surveillance program 153 agreements have been reviewed. Forty-three letters have been sent concerning certain of these agreements to determine if they are still in effect or should be canceled.

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Reports are filed by parties to agreements which are analyzed to determine that no malpractices are being committed by the parties, that the parties are not engaged in activities beyond the scope of their agreement, and the impact of their activities upon competitors and the shipping public.

Minutes of Meetings

It is the responsibility of the Commission to insure that the parties to Section 15 conference and ratemaking agreements are at all times complying with the Shipping Act, 1916, and with their approved agreement. In order to discharge this responsibility, the Commission must be fully and currently apprised of the manner in which conference operations are being and will be carried out, and requires that meaningful and timely reports, such as minutes, be furnished it. While the agreement parties now inform the Commission only with respect to matters discussed upon which they have taken *action,* rules have been proposed in Docket 73–5 which will require the parties to summarize all discussions in their minutes. This will keep the Commission better informed as to their activities.

As more discussion agreements are entered into, the Commission is imposing requirements that minutes of meetings between the parties and copies of data exchanged between the parties be filed with the Commission.

In fiscal year 1974, 1913 sets of minutes of meetings of conference, ratemaking and discussion agreements were filed with the Commission and reviewed by the staff.

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. Under Docket No. 73–5, it is proposed that the definition of shippers' requests and complaints be broadened to include the reporting of such other requests and complaints as those pertaining to carriers' "practices." Experience has shown that reports of shippers' requests and complaints submitted to the Commission are almost always restricted to the reporting of requests relative to rate

adjustments only, whereas conferences and rate agreements do receive complaints relative to carrier activities which have been established by concerted action of the participating lines in any conference or other ratemaking group.

In fiscal year 1974, 325 reports covering shippers' requests and complaints were filed with the Commission and reviewed by the staff.

Self-Policing Reports

Pursuant to the Commission's General Order 7, conferences and rate agreements with three or more parties are required to provide for a self-policing system and to file reports of policing activities during the months of January and July each year covering the preceding six-month period. Approximately 95 conferences and rate agreements are currently subject to these requirements. During fiscal year 1974, these conferences and rate agreements filed 191 semiannual self-policing reports with the Commission. In addition, pursuant to a special requirement, four quarterly reports were submitted by the Executive Director of the Associated North Atlantic Freight Conference (ANAFC) covering the policing activities of the Association's member conferences.

As for actual self-policing activity during this period, there were approximately 700 investigations commenced or in progress with about 200 being completed by years end. Of the completed investigations about 100 resulted in proven violations with penalties being levied in about forty percent of the cases and warnings being issued in the others. Although this may give the impression of widespread self-policing activity, it actually represents the experience of ten or fifteen conferences and rate agreements. Also, approximately 400 of the investigations were conducted by ANAFC alone. However, this covers the activities of its eight member conferences which have seven or more carriers each.

In view of the many conferences and rate agreements whose self-policing systems have apparently failed to aggressively deter malpractices, the Commission has instituted a rulemaking proceeding (Docket No. 73–64) to propose stronger self-policing requirements under General Order 7. It has also instituted a formal investigation (Docket No. 74–7) to determine whether the self-policing systems of four conferences in the Far East trade are adequate within the meaning of Section 15 of the Shipping Act, 1916.

Pooling Statements

Pooling statements are filed with the Commission to keep it apprised of the activities of the parties to pooling agreements providing data on the financial settlements made between the parties pursuant to the terms of the pool formula in the basic agreement. Such statements are usually filed on a semiannual and/or annual basis. They are often quite complex, especially when they involve overcarriage and undercarriage forfeiture provisions, and require a considerable amount of time for audit and review. A few of the more recent pooling agreements provide for the filing of monthly pool reports which, of necessity, have increased the review work thereon. Additional time is needed when follow-ups are required on delinquent pooling statements to ensure compliance by the parties with the terms of their agreements. The majority of pool agreements cover the Latin American trades. They usually require the approval of the Latin American Government served in addition to Commission approval before they may be implemented. The policy of the foreign government involved and the conditions desired by the participating Latin American flag line (usually government-owned) have to be given due consideration in the processing of such agreements and the frequency of the reports to be filed following the implementation of the agreement.

Sixty-three pooling statements were filed with the Commission for audit by the staff. This figure represents more than a 100 percent increase over the number of such statements filed with the Commission during fiscal year 1973. A further upward trend in the filing of pooling statements is anticipated due to increasing pool activity in the Latin American trades and the requirement in some pooling agreements that monthly reports be filed with the Commission. In this regard, however, there is one pooling agreement which originally provided for the filing of monthly reports that has recently been modified to delete the monthly filing requirement in favor of quarterly and annual reporting.

There have been several occurrences of a time lapse between the due date and the actual filing of pooling statements which is caused, to a large degree, by the fact that settlement under the pool must be agreed to by all participants, including the foreign flag participant(s) and because of the increasing complexity of the agreements' pool formula.

Operating Reports

In view of the increasing number of reports being submitted (1) by conferences with intermodal authority, and (2) by parties to such new agreements as space chartering agreements (primarily in the Japanese trade), in addition to the traditional reports submitted by parties to cooperative working arrangements and sailing agreements, in our Twelfth Annual Report we established a new report category, i.e., "Operating Reports." In view of technological changes in the industry, it is expected that such reports will continue to increase in the future. These reports, in many instances, require a detailed analysis in order that the Commission be aware of the activities of the parties, and assured that their operations do not exceed the scope of their approved agreements. Sixty-eight operating reports were filed with the Commission and reviewed by the staff in fiscal year 1974.

Nonexclusive Transshipment Agreements

On May 14, 1968, the Commission published General Order 23 which exempted nonexclusive transshipment agreements (agreements which do not prohibit either carrier from entering into similar agreements with other carriers) from the requirements of Section 15. However, such agreements must be filed in the format outlined in the General Order and the involved tariff(s) must contain language required by the order. The Commission is relieved of reviewing such filings as is the Managing Director who has been delegated authority to approve transshipment agreements filed in conformity with Commission Order No. 1 (Revised). Since the publication of this General Order, through June 30, 1974, 453 nonexclusive transshipment agreements have been filed with the Commission. Fifty-five have been terminated, resulting in 398 such agreements being in effect. In view of the magnitude of these agreements, in numbers alone, we are incorporating them for the first time in the annual report and including them in the statistical workload summary appended hereto.

Domestic Agreements

During fiscal year 1974, 17 domestic offshore carrier agreements were filed for Commission consideration. A statistical table of receipts and total active agreements is set forth in Appendix A.

Thirty-five sets of minutes of meetings of domestic offshore conference and ratemaking agreements were reviewed.

TARIFF REVIEW

FOREIGN COMMERCE

Filings

During fiscal year 1974 there were 3182 tariffs on file representing an increase of approximately fifty percent over those on file a decade ago. Tariffs have become considerably more complex in recent years as a result of further development of containerization and intermodalism, other technological changes, competition and changing trade patterns. The tariffs and amendments thereto receive staff scrutiny and analysis taking into account the requirements of:

—Section 18(b) and General Order 13 which prescribe tariff filing rules and regulations;

—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;

—Section 14(b) and the various provisions of the dual rate contract systems as approved by the Commission;

—Sections 14, 16 and 17 which proscribe unjust discriminations and undue or unfair preference or advantage;

—General Orders of the Commission relating to freight forwarder compensation, import and export demurrage and other matters.

In fiscal year 1974 in excess of 194,000 tariff filings were received, an increase of approximately 22 percent over those received in fiscal year 1973. Expanded trade, currency fluctuations, bunker price increases, general increases to offset added costs of operation all contributed to the increase in receipts. Additionally numerous rate reductions were filed to accommodate shippers' requests for lower transportation costs.

Statistical Abstract

Filings received:	194, 620
Filings accepted:	192, 527
Filings rejected:	2, 093

Special Permission Applications

Freight tariffs by statute must be filed with the Commission 30 days in advance of becoming effective. However, the statute provides that the Commission may, in its discretion and for good cause shown, allow a tariff to become effective on less than such notice. An application to advance an effective date is scrutinized to determine the accuracy of allegations related to good cause and thereafter an appropriate recommendation is made as to whether the application should be granted or denied. In fiscal year 1974, 546 special permission applications concerning foreign commerce were received of which 477 were granted, 47 denied and 22 withdrawn.

The majority of the applications were concerned with short notice to implement bunker surcharges to account for the sudden extraordinary increase in the cost of fuel oil as discussed elsewhere in this report.

Programs and Surveillance Activity

In addition to the requirement that tariff matter be examined to insure compliance with the timeliness provisions of the statute, further scrutiny must be made with respect to compliance with other important statutory provisions and General Orders of the Commission.

Conference tariffs are examined for the purpose of determining whether they are filed consistent with the authority granted under approved agreements. All tariffs are examined to insure that rate structures, rules or regulations do not unjustly discriminate between or among particular persons or ports or give undue preference or advantage to any particular person, locality or description of traffic as proscribed by statute.

Whenever it is determined that there is a statutory deficiency, contact is made with the tariff filing entity and an effort made to have the particular matter or situation corrected at the informal level. Should informal negotiations fail, an appropriate recommendation is made to the Commission for formal determination.

There are additionally ongoing Commission programs established for the purpose of examining: (1) bills of lading to insure provisions contained therein are not inconsistent with the statutes over which the Commission has jurisdiction, (2) freight forwarder compen-

sation rules, (3) intermodal tariffs vis-a-vis port-to-port tariffs, and (4) trading area patterns and characteristics.

Further, the Commission receives complaints from shippers in which allegations are made concerning rate levels or the practices of carriers or conferences. Extensive time and effort is spent in endeavoring to render assistance to each complainant.

Additionally, meetings are held with other Government agencies, particularly those engaged in shipping, for the purpose of discussing and seeking solutions to problems of mutual concern. Similar meetings are held when requested or appropriate with representatives of shipper associations.

The shipping statutes proscribe any rate activity which results in unjust prejudice to American exporters as compared with their foreign counterparts. The Commission seeks, therefore, to obtain as much data as possible through various trade journals concerning the implementation of surcharges and general rate increases in foreign-to-foreign trades. The data received is compared with that in the Commission's files. Generally foreign-to-foreign carriers are faced with operating and port costs not unlike those of the carriers serving U.S. foreign commerce. There has been a worldwide trend toward higher transportation costs to account for both anticipated, extraordinary, and unexpected costs. Surcharges to offset currency fluctuations, bunker increases and port congestion applicable in U.S. foreign commerce are also applicable in foreign-to-foreign trades. There is no indication that foreign-to-foreign carriers are taking predatory rate actions designed to be detrimental to U.S. exporters.

Tariffs under which no service is offered nor contemplated are not only meaningless but may also be confusing to shippers and carriers actively engaged in performing a service. Accordingly, the Commission takes steps to have dormant tariffs cancelled by the filing entities. Each year numerous tariffs are cancelled under this program.

Conferences under the provisions of General Order 14 are required to report to the Commission all actions taken with respect to shippers' requests and complaints. In fiscal year 1974 the reports indicated that 6213 requests were made for rate adjustments of which 3573 or approximately 57 percent provided rate relief to shippers. Should a request be denied, shippers may call upon the Commission for assistance.

During the fiscal year the Commission and the Department of Commerce published a revised edition of the booklet, "Ocean Freight Rate Guidelines for Shippers." This informative booklet was updated and expanded in the new edition. The publication is designed to provide United States exporters, particularly new or prospective exporters, with general information on the more important elements of ocean shipping, including such areas as Documentation, Cargo Insurance, Packing and Containerization. The booklet also summarizes a wide range of technical services and assistance programs offered to exporters by both the Commission and the Department of Commerce.

DOMESTIC COMMERCE

Filings

The Commission's regulation over rates in the domestic offshore trades is prescribed by section 18(a) of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933. In the domestic offshore trades, unlike the U.S. foreign commerce, the Commission has authority to suspend a rate prior to its effectiveness and embark upon hearings to determine the reasonableness of the proposed rate or practice. In making recommendations to the Commission regarding the exercise of its suspension power, care must be taken to consider changing trade patterns as the shipping industry reacts to and anticipates: (1) shifting competitive positions; (2) labor relations; (3) other governmental actions; and (4) advancing technology.

During fiscal year 1974, 11,276 tariff pages were filed of which 912 were rejected. Additionally, 190 applications for special permission to waive the provisions of the Intercoastal Shipping Act, 1933, or the Commission's regulations were considered.

Energy Crisis

When the energy crisis emerged, domestic offshore carriers were quick to assess the impact of the increased fuel costs and requested permission from the Commission to file bunker surcharges. The Commission responded by waiving otherwise applicable tariff filing regulations to facilitate the surcharge filings while simultaneously requiring full cost justification of the increased cost of fuel. In instances where the carriers could fully and demonstrably justify the fuel costs

by paid invoices, fuel contracts and projections of increased cost, the surcharges were permitted. Thus the financial stability of the steamship lines serving the domestic offshore commerce of the United States was preserved while at the same time the Commission protected the consumer against unfair pricing practices.

NVOCC Study

The Commission attempted to ascertain the general participation in the domestic offshore trades of nonvessel operating common carriers. Utilizing Section 21 Order data submitted by the NVOCC's and General Orders No. 5 and 11 reports, the revenues of the NVOCC's were compared to the revenues of vessel operators by trade routes. The NVOCC payments to the underlying water carriers were then reviewed to indicate the importance of this revenue to total revenues of the vessel operators.

The study indicates that during 1972 the active general commodity NVO's contributed 4.2 percent of the gross revenues of the thirteen underlying vessel operators they utilized. This represents 3.4 percent of the total gross revenues of all vessel operators in the domestic trades.

Automobile Shipping Guide

In December the Commission published the eighth annual edition of the FMC Guide on Shipping Automobiles, Automobile Manufacturers' Measurements for the 1974 model year automobiles. The 1974 guide was smaller than those of prior years as only 14 of the 24 automobile manufacturers submitted the necessary data. Furnishing of this information to the Commission, which is used to assist the automobile shippers, is voluntary on the part of the automobile manufacturers. There was no explanation from the automobile manufacturers for their sudden lack of cooperation.

Puerto Rico

At the close of the 1974 fiscal year the Puerto Rico Maritime Shipping Authority (PRMSA), established in June 1974, began negotiating the acquisition of the assets of the three major lines serving Puerto Rico from the U.S. East Coast. PRMSA proposes to operate a merchant marine with the announced intention of giving preferential rate treatment to commodities considered essential to Puerto

Rican based industries. As PRMSA commences operation, the Commission will vigilantly monitor developments in this area.

The Commission suspended and made the subject of a docketed proceeding the proposed reduction by a major carrier of its "Freight All Kinds" rate applicable from Jacksonville, Florida to Puerto Rico, since the carrier failed to also reduce their FAK rates from other Atlantic Coast ports. The Commission, in 1967, found a similar situation to be unlawful.

Minimum charges per shipper-loaded containers or trailers, which became effective in March and April of 1974, are the subject of docketed proceedings now before the Commission. The carriers submitted justification at the time of the filing of the proposed charges claiming a need to more adequately cover out-of-pocket costs.

The Commission placed under suspension and investigation a proposed uniform wharfage charge at all North and South Atlantic ports through which Puerto Rican cargo is handled. The subject wharfage charges were placed under suspension and investigation for possible violation of the Shipping Act, 1916, and to determine whether they are lawful and reasonable under the standards set forth in the Shipping Act.

Alaska

In response to the needs of the Alaska trade due to the building of the Alaska Pipeline. the currently effective exemption from the Intercoastal Shipping Act, 1933 and the Shipping Act, 1916, and regulations applicable thereto for the carriage of miscellaneous cargoes between Seattle, Washington and Houston, Texas, on the one hand, and Beechy Point and Tigvariak Island (Prudhoe Bay) via the Gulf of Alaska, the Bering Sea and the Arctic Ocean, on the other hand, was amended by the Commission to apply to all ports in the contiguous United States (except ports in the Mississippi River System above Baton Rouge, Louisiana) and to eliminate the liquid in bulk restriction of one of the carriers in connection with Houston, Texas. The Commission also extended the exemption, as amended, through December 31, 1975.

Hawaii/Guam

The U.S. West Coast/Hawaii and Guam trade has been left with one dominant underlying water carrier, due to the acquisition by that

carrier of a major portion of the assets of its major competitor, who simultaneously withdrew from the trade. The remaining carrier, who previously had not served Guam, has generally maintained the same rate levels applicable to Guam which were in effect prior to the purchase.

General rate increases in the amount of fifteen percent were effected in the U.S. West Coast/Guam trade during fiscal 1974. A proposed increase in the identical amount by the only carrier serving Guam from the U.S. East Coast was placed under suspension as there were indications that the carrier would earn an excessive rate of return if the increase was allowed. The carrier decided not to pursue the matter and withdrew from the proceeding.

DUAL RATE CONTRACT SYSTEMS

Section 14b of the Shipping Act, 1916, authorizes the Commission to approve dual rate contract systems by any common carrier or conference of such carriers in foreign commerce which would otherwise be violative of the antitrust statutes.

During fiscal year 1974, 18 dual rate contract systems or modifications were processed by the Commission.

The Trans-Pacific Freight Conference of Japan and the Japan-Atlantic and Gulf Freight Conference filed applications providing for a spread of 9.5 percent between the contract and non-contract rates. The Commission approved the applications but also directed the institution of appropriate proceedings to determine whether the systems should be continued or disapproved. The proceedings have been assigned Dockets Nos. 73–62 and 73–63 and are pending consideration before an Administrative Law Judge.

The Commission approved the application of the American West African Freight Conference to extend the term of its dual rate contract system covering coffee, cocoa and bulk vegetable oils in less than full shipload lots in its westbound trade, for an indefinite period.

The Commission also approved the application of the Red Sea and Gulf of Aden/U.S. Atlantic and Gulf Rate Agreement to extend the term of its dual rate contract system on coffee for an indefinite period.

The petition of the South and East Africa/U.S.A. Conference to

extend the term of its dual rate contract system on general cargo (except coffee) for an indefinite period was likewise approved.

Wallenius Line filed an application to extend its dual rate contract system on new automobiles, trucks and miscellaneous four-wheeled vehicles (unboxed) moving from U.S. North Atlantic and Great Lakes ports to ports in the LeHavre/Hamburg range, and to Scandinavian Baltic ports, to apply to ports in the United Kingdom. Commission action thereon is pending.

The Commission set for hearing modifications to the dual rate contract systems of the Pacific Coast European Conference (5200–DR–3) and the North Atlantic French Atlantic Freight Conference (7770–DR–4). These modifications provide for carrier authority to raise rates in the event of *de facto* devaluation of the tariff currency. This course was taken because the proposed modifications were completely lacking in any procedural specifications and shipper safeguards designed to meet the criteria upon which the proposed rulemaking in Docket No. 73–53 (covered below) is based.

TERMINALS

All U.S. terminal operators serving common carriers by water are required to publish and file with the Commission tariffs specifying the rates, charges, rules and regulations governing the services offered at their facilities. Also, certain agreements between terminal operators and/or common carriers by water are required to be filed prior to their implementation for a determination by the Commission as to whether or not they qualify for the antitrust immunity accorded under section 15 of the Shipping Act, 1916.

Tariff Filing

In the course of fiscal year 1974, a total of 6,116 tariff filings were received on behalf of terminal operators. At the conclusion of the fiscal year, the Commission had a total of 544 active terminal tariffs on file.

Agreements Review

During fiscal year 1974, 164 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 1974, 141 minutes of meetings of terminal and domestic offshore carrier conference and ratemaking agreements were filed with the Commission and reviewed by the staff.

Rulemaking

The continuing trend of marine terminal operators to operate simultaneously as stevedores and operators of terminal facilities, coupled with the tremendous increase in containerized movements and roll-on/roll-off vessels has resulted in the filing of agreements between terminal operators and water carriers providing for all-inclusive terminal/stevedoring services. Such agreements have raised jurisdictional problems inasmuch as the question of jurisdiction over the activities of entities acting strictly as stevedores has never been ruled on by the Commission.

In order to provide guidance to the industry with respect to the section 15 filing requirements for these types of agreements, the Commission has decided to revise the proposed rules in Docket No. 71–75, *Rules Governing the Filing of Agreements Between Common Carriers and/or "Other Persons" Subject to the Shipping Act, 1916.* The purpose of the revision is to clarify the status of terminal/stevedore agreements and to propose an exemption under section 35, Shipping Act, 1916, for certain types of agreements. It is expected that this revision will be published in the Federal Register and comments received during fiscal year 1975.

Alternatives were explored with respect to the promulgation of a rulemaking proceeding to establish uniform standards applicable in strike situations where the water carrier or its agent, the terminal operator, is unable to tender import cargo for delivery or load export cargo. This measure is being considered since there are currently no uniform rules covering the application of storage and demurrage charges for cargo which can not be removed from marine terminal facilities due to labor difficulties. Only at the Port of New York (export and import cargo) has the Commission imposed specific rules and regulations which afford shippers and consignees protection from the assessment of demurrage and/or storage charges in the event of labor tie-ups which prevent the movement of cargo. Although many other ports do provide some sort of relief in the event of a strike, there

currently exists a lack of uniformity between ports, no relief for export cargoes, and no uniform regulations applicable when the water carrier or terminal operator in other than strike situations is unable to either tender import cargo for delivery or load export cargo, through no fault of the shipper/consignee.

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 that statute, the Commission promulgated its General Order 4 which sets forth the criteria which must be met by freight forwarder applicants in order to be licensed, and governs the conduct and activities of regulated forwarders.

Licensing

Since the enactment of the licensing statute, a total of 1559 firms have been licensed, after a thorough investigation as to each being "fit, willing and able" properly to perform ocean forwarding functions in the public interest.

At the end of fiscal year 1974, there were 1029 active licensed independent ocean freight forwarders. One hundred and nineteen new applications were received and 79 were approved—an increase of 24 applications over fiscal year 1973.

Denials and Revocations

During fiscal year 1974, the Commission revoked 41 outstanding licenses for various reasons and 15 applications were denied or withdrawn.

Significant Proceedings

Significant freight forwarder cases instituted by the Commission during the fiscal year were: Docket 74–6, *Hugo Zanelli, d/b/a Hugo Zanelli & Co.*, which found that the licensed forwarder was a purchaser of shipments to foreign countries in violation of Sections 1 and 44, Shipping Act, 1916, and the Commission's General Order 4, and Docket 74–10, *Freight Forwarder Bids on Government Shipments at United States Ports, Possible Violations of the Shipping Act, 1916,*

and General Order 4, which is an investigation with respect to the bidding practices of certain forwarders on General Services Administration forwarder service contracts.

This investigation was the result of Section 21 orders requesting certain statistical information issued against freight forwarder licensees who were successful low bidders for GSA forwarding contracts at various U.S. ports of export and will determine whether these bids were in violation of Commission General Order 4 and provisions of the Shipping Act, 1916.

Examination of Forwarder-Shipper Connections

There is a continuing examination of all licensed ocean freight forwarders to determine whether they may have affiliation or control relationships with export shippers and/or consignees in violation of substantive Commission regulations and the shipping statutes. Steps are 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, a relationship prohibited by the licensing statute.

Automatic Data Processing System

An automatic data processing system which lists all licensed independent ocean freight forwarders was established in 1973. This compilation identifies the name, address, license number, affiliations and branch offices of all currently licensed freight forwarders; and is updated and reissued approximately every four months, for distribution to Commission Field Offices. The program maintains freight forwarder information on a current basis, and is extremely useful in carrying out the Commission's regulatory program. It was used during fiscal year 1974 as a basis for providing regulatory information to the freight forwarding industries and the steamship lines.

Rulemaking Proceedings

The Commission's rules applicable to licensed independent ocean freight forwarders, General Order 4, 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. Proposed revisions are in the process of being completed and a proposed rulemaking proceeding will be instituted in fiscal year 1975.

PASSENGER VESSEL CERTIFICATION

Sections 2 and 3 of Public Law 89–777 respectively require evidence of financial responsibility, from vessel owners, charterers and operators of passenger vessels of fifty (50) or more passengers, who embark passengers at United States ports, to meet liability for death or injury and to indemnify passengers in the event of nonperformance of a voyage or cruise.

Certificates Issued

The Commission approved 42 applications for certificates of financial responsibility. There were 9 new applications for Certificates of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation; 10 new applications for Certificates of Financial Responsibility to Meet Liability for Death or Injury; and 23 amendments to existing certificates as certificants added vessels to their fleets. changed their corporate names and altered their corporate, partnership and managerial organizations.

Certificates Revoked

The Commission revoked 30 certificates covering vessels which were withdrawn from service or which are now operated under different ownerships.

Enforcement

On August 24, 1973, the Commission served its Order of Investigation and Hearing on Windjammer Cruises, Inc. and Windjammer Cruises, Ltd., *Docket No. 73–54*, for allegedly embarking passengers at United States ports in violation of Sections 2 and 3 of Public Law 89–777 and the Commission's General Order 20, which implements the statute. This matter is currently in litigation.

One new certificant abruptly ceased passenger operations during the 1974 fiscal year. These situations require continuous surveillance

by the Commission, including investigation and financial audits by the Commission's field investigators. Once again the financial protection afforded to passengers under Public Law 89–777 was amply demonstrated. No passengers suffered any loss of a deposit or prepaid fare due to the cancellation of schedule sailings because of the fuel oil problems or as the result of any certificant's cessation of operations.

Passenger vessel operations during fiscal year 1974 encountered many difficulties. The oil shortage created uncertainty as to the availability of fuel; the increase in the cost of bunkers affected profitability; and, some vessels scheduled for long voyage cruises had to be withdrawn from service. The imposition of fuel oil surcharges to effect bunker price increases resulted in complaints from passengers who had made reservations and found themselves faced with increased fares as a result of the fuel oil surcharges.

Passenger Conference and Carrier Agreements

During fiscal year 1974, the Commission approved 11 passenger conference and passenger carrier agreements. These included passenger agency and sales agreements and cooperative working arrangements between passenger carriers, or their subsidiaries, and other passenger carriers; revision of conference rules concerning travel agents and group organizers and the institution of a fuel oil surcharge. At the end of the year 3 agreements were pending Commission action.

WATER POLLUTION FINANCIAL RESPONSIBILITY

The Federal Maritime Commission is charged with the responsibility for carrying out the provisions of section 311(p)(1) of the Federal Water Pollution Control Act.

Section 311(p)(1) requires domestic and foreign vessels over 300 gross tons, including certain barges of equivalent size, using any port or place in the United States, or the navigable waters of the United States, including the Panama Canal, to establish and maintain with the Federal Maritime Commission evidence of financial responsibility to meet the liability to the United States to which such vessels could be subjected for the removal of oil or hazardous substances discharged into United States waters.

The financial responsibility requirements with respect to oil have been in effect since April 3, 1971, and the requirements with respect to hazardous substances will become effective when the Environmental Protection Agency establishes a list of such substances. It is anticipated that this list will be issued sometime during the next fiscal year.

Level of Responsibility

The evidence of financial responsibility must be in the amount of $100 per gross ton of a subject vessel, or $14 million, whichever is the lesser. Such evidence, usually in the form of insurance, is maintained to indemnify the United States Government for costs incurred in the removal of discharges into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone.

The Commission's regulations implementing the oil pollution financial responsibility requirements, General Order 27, provide for the certification of vessels having complied with the statutory financial responsibility requirements; set forth the procedures whereby the owners or operators of subject vessels may establish the required evidence of financial responsibility; and establish the qualifications required by the Commission for the issuance of certificates, as well as the basis for denial, revocation, modification, or suspension of certificates.

Enforcement Provisions Added

The Federal Water Pollution Control Act Amendments of 1972, enacted on October 18, 1972, provide that any vessel not in compliance with the finanical responsibility requirements may be subjected to a fine not to exceed $10,000, and may be denied entry or detained by the United States Coast Guard, or may be refused clearance by the United States Customs Service. The Commission's General Order 27 was amended to incorporate these enforcement provisions.

Coordination of Enforcement Procedures

The enforcement authority with respect to the financial responsibility requirements involves functions of the United States Coast Guard and the United States Customs Service. Accordingly, it is

necessary for the Commission to coordinate the enforcement activity with these two agencies to assure that subject vessels entering and leaving United States waters are in compliance with the financial responsibility requirements.

Enforcement under section 311(p) provides for fines not to exceed $10,000, denial of vessel entry or detention of vessels by the Coast Guard, and refusal of clearance to foreign ports by the Customs Service. By the close of the fiscal year the three agencies involved had agreed to a coordinated enforcement program.

Filing Requirements Deleted

General Order 27 as originally issued provides for the establishment of evidence of financial responsibility by qualification as a self-insurer. The regulations required self-insurers to submit annual and semiannual financial statements as well as annual credit rating reports.

Experience has demonstrated that the filing of semiannual financial statements and annual credit rating reports by self-insurers serves no useful purpose in determining the financial responsibility of such persons. Accordingly, these requirements were deleted from General Order 27, it being the sense of the Commission that the filing of annual financial statements, certified by appropriate certified public accountants, is sufficient for this purpose. However, the amended regulation provides that the Commission, as it deems necessary, may require the more frequent submission of financial data.

New Implementing Regulations Issued

The Federal Water Pollution Control Act Amendments of 1972 provides for the addition of "hazardous substances" as a class of pollutants for which vessel owners and operators must evidence financial responsibility. The addition of hazardous substances will not become effective, however, until the Environmental Protection Agency issues regulations designating the hazardous substances.

Because of the addition of hazardous substances, all vessels previously certified as having evidenced financial responsibility for removal of oil must be recertified evidencing that they have met the financial responsibility requirements for hazardous substances, as well as oil. The Commission issued General Order 31 on October 17, 1973 implementing this change. This new General Order is to become

effective and replace General Order 27 on the date the Environmental Protection Agency's list of hazardous substances becomes effective, and is intended to provide for orderly compliance with the hazardous substance requirement by the more than 20,000 presently certified vessels.

Insurers Examined

Generally, vessel owners and operators elect to demonstrate 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 determine the financial capability of the insurer before accepting any evidence of insurance executed by such insurer. During the fiscal year the Commission approved two independent foreign underwriters and a foreign consortium of 115 individual underwriters.

Certificates Issued

During the 1973 fiscal year, applications were received covering 3,126 vessels; certificates were issued to 2,793 vessels; certificates covering 2,511 vessels were revoked for various reasons, including sale of the vessel to new owners; and applications covering 81 vessels were withdrawn.

At the end of the fiscal year, 21,147 vessels were covered by valid certificates, and applications involving the certification of 674 vessels were pending processing.

The workload does not diminish 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 submission of financial data by self-insurers, transfer of ownership charters, vessel name changes, and similar situations which necessitate daily updating and continuous servicing of records together with the revocation, recall, and the reissuance of numerous certificates.

Automatic Data Processing

An automated record retention system became operational during the fiscal year. This system provides accurate and current lists of

vessels, vessel particulars (i.e., flag, tonnage, registration number), owners and operators, and the underwriters covering each vessel. At the close of the fiscal year the accuracy and completeness of the data was being verified, and plans were developed to provide extensive analytical data for the Commission's regulatory needs.

INFORMAL COMPLAINTS

Effective September 1, 1973, both domestic and foreign informal complaints (except complaints dealing with rates and rate problems) were assigned to the newly created Office of Domestic Commerce and one employee is now responsible for processing the bulk of informal complaints, with specific complaints concerning domestic tariffs and terminal problems being referred to the Office's Tariffs and Terminal Branches for resolution. This not only resulted in a more efficient utilization of manpower but in a substantial monetary savings to the Commission. This more efficient method of handling such complaints has increased our ability to serve the general shipping public with fewer personnel in an expedited manner.

There were 42 informal complaints pending at the beginning of fiscal year 1974, and during the year, 301 new ones were received. At year end, only 35 complaints were pending, final action having been concluded on 308. Of the new complaints received, 252 (84%) related to practices of water carriers in the foreign and domestic offshore trades, 29 (10%) related to practices of marine terminal operators, 16 (5%) related to the activities of independent ocean freight forwarders and 4 (1%) related to shippers.

In addition to the foregoing, the Office of Tariffs and Intermodalism handled informal complaints dealing mainly with rate problems and/or protests. At the close of fiscal year 1973, 83 informal complaints of this nature were pending. During fiscal year 1974, 172 new complaints were received, making a total of 255 cases to be acted upon. At the close of fiscal year 1974, 174 cases had been resolved, leaving 81 to be carried forward into fiscal year 1975. Of the new complaints received, 124 (73%) dealt with shipper-consignee problems concerning rate protests and disparities. The remaining 48 (27%) fell into miscellaneous categories.

FIELD ACTIVITIES

The Commission maintains District offices in New York City, New Orleans and San Francisco and has stationed an Area Representative in San Juan, Puerto Rico, in an effort to keep in contact with the regulated shipping industry and the shipping public. The New York office handles matters at ports in the U.S. North Atlantic Coast and the Great Lakes; the San Francisco office handles matters at ports on the U.S. Pacific Coast, Hawaii, Guam and Alaska; and the New Orleans office handles matters at ports on the U.S. Gulf Coast, U.S. South Atlantic Coast and offshore areas. Thus all major ports of the United States are covered by the Commission's field offices.

These offices furnish information, advice, counsel and access to Commission public documents to the industry and other interested persons. They receive and resolve informal complaints, investigate violations of the shipping statutes and conduct field audits, compliance checks, special surveys and studies of maritime problems. They conduct investigations of freight forwarder applicants to determine their fitness to be licensed by the Commission. They make audits of passenger vessel operators to determine the adequacy of performance bonds required by the Commission.

New Investigative Cases

Field activity includes investigation and documentation of a variety of alleged or suspected violations of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933. A total of 677 new investigative cases were opened during the fiscal year while 601 cases were completed. Alleged carrier violations were principally of the following variety: (1) commencing common carrier operations without complying with the Commission's tariff publication and filing requirements; (2) assessing rates higher or lower than those authorized by the carriers' tariffs on file with the Commission; (3) carrying out agreements with other carriers without obtaining prior approval of the Commission; and (4) unlawful rebating of ocean freight, and the like.

Alleged shipper violations most frequently involved misdescription of cargo or underdeclaration of weights or measurements to carriers to obtain lower transportation charges.

Most of the freight forwarder investigations involved new applicants seeking a license from the Commission to engage in business. In some instances applicants unlawfully engaged in forwarding activities prior to licensing by the Commission. Investigations of applicants are essential to establish whether they are fit, willing and able to perform such operations as required by statute.

Civil Penalties Collected

During the year a total of $138,438.86 in civil penalties was collected by the Commission from 17 carriers and forwarders pursuant to its authority under P.L. 92–416 and the Federal Claims Collection Act of 1966.

At the end of the year 418 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.

Surveillance of Container Traffic

The Commission continued its efforts to uncover false billing of container cargoes to obtain transportation at less than applicable tariff rates on file with the Commission. Container cargoes (import) were inspected on a spot-check basis. In other instances applicable import shipping documents were compared to expose discrepancies. Wherever discrepancies were found appropriate penalty or corrective actions were taken.

Cargo Theft

Further consideration was given by the Commission to the issuance of final rules requiring common carriers by water subject to its jurisdiction to file quarterly reports of loss, damage and theft claims (Docket No. 71–74). The purpose of the rules is to provide the Commission with information which will enable it to carry out its statutory functions. Additionally, it is expected to provide the Commission as well as other government agencies, legislative committees and Federal and local law enforcement agencies with the type information which will benefit the entire industry.

The rules adopted July 1, 1974 apply only to common carriers by water in domestic offshore commerce, with an effective date yet to

be finalized. In due course the rules are expected to be extended to common carriers by water in United States foreign commerce as well.

In this connection the Commission continues to participate as a member of the Interagency Committee on Transportation Security. The loss, damage and theft claims statistics which the Commission expects to collect after its rules become effective will complement similar data already collected by the Interstate Commerce Commission with respect to truck transportation, by the Civil Aeronautics Board with respect to air cargo transportation, and by the Customs Service on import cargo.

Special Studies and Projects

Currency Devaluation Under Dual Rate Contracts

During 1971–1973, the deterioration of the exchange position of the dollar and certain other world currencies caused carriers in the foreign commerce of the United States to sustain large losses. This problem was especially acute for those conferences employing dual rate contract systems, since the Commission had earlier held that the existing short notice provisions (less than 90 days' notice) did not apply to "de facto" devaluations of the tariff currency.

Since major fluctuations appeared to no longer be exceptional events, a rulemaking proceeding was instituted to modify General Order 19, which governs dual rate contract systems, to provide conferences with dual rate systems a means whereby they could initiate short notice currency surcharges in the event of any kind of currency fluctuation resulting in the relative depreciation of the tariff currency.

Self-Policing Rules

Initially, changes to the Commission's self-policing rules under General Order 7 were included with the other proposed rules pertaining to Section 15 agreements in Docket No. 73–5. However, because of the number and intensity of the objections to the proposed self-policing rules, the Commission decided to delete them from Docket No. 73–5 and place them in a separate rulemaking proceeding in order to give them the full consideration they require.

After consultation with a representative group of conference chairmen concerning major objections to the original proposals, the Commission, on October 17, 1973, published notice in the Federal Register of a separate rulemaking proceeding (Docket No. 73–64) to consider changes to its self-policing rules to meet some of the objections raised by the conferences.

The modified rules, however, still retain the Commission's original intent in changing its self-policing rules, i.e., to increase the viability of self-policing by requiring conferences and rate agreements to establish a continuing surveillance and audit procedure rather than rely solely on the filing of complaints. Also, more comprehensive reporting requirements are proposed in order to enable the Commission to better evaluate the adequacy of self-policing.

Following publication in the Federal Register, the conferences still objected to certain elements of the proposed rules even though many of the previously complained of requirements had been deleted or mitigated. However, after further consideration and consultation, the Commission proposed additional changes to eliminate some of the more objectionable elements which it feels will not seriously impair the basic purpose of the proposed rules.

Automation of Records of Agreements

Forms were developed to implement the inclusion of Section 15 agreement and General Order 23 transshipment agreement records into the Commission's automated record detention system. It is anticipated that in August 1974, an initial runoff will be made. From this program detailed agreement information can be developed in a short period of time. This will assist the Commission in the prompt analysis of any Section 15 matters with respect to approved and/or pending agreements. In addition, from these records, the Commission's publication *Approved Conference, Rate and Interconference Agreements in the Foreign Commerce of the United States*, which is in great demand by the shipping industry, will be re-issued in fiscal year 1975.

Cotton in the United States Gulf/Far East Trade

In early February 1974, representatives of the American Cotton Shippers Association (ACSA) met with the staff to apprise it of the serious shortage of vessel accommodations for cotton shipments from U.S. Gulf ports to the Far East and to seek such assistance as the Commission might provide in resolving the problem. ACSA representatives advised that the cotton industry had commitments to deliver approximately 1.1 million bales of cotton from the Gulf to the Far East area through May 1974.

Through constant contact with ACSA representatives, the Far East Conference Chairman and the Commission's Gulf District Office, it became rather apparent that the only logical way of obtaining a resolution would be for the carriers to increase tonnage in the trade by chartering additional vessels or diverting ships from other trades. The necessary incentive would be increased rates.

On April 1, 1974, the Far East Conference petitioned the Commission for a waiver of the 90-day provision for increasing rates pursuant to Article 5(c) of the conference dual rate contract (extraordinary conditions not enumerated in the contract), and that special permission be granted to waive the 30-day notice requirement of Section 18(b) of the Shipping Act. The Commission approved the proposed action, requiring only 15 days' notice of increased rates. As the conference had opened the rates as of April 1, 1974, the member lines increased their individual rates on cotton.

According to information furnished by the ACSA, the backlog of cotton reported during March 1974 had been reduced by one million bales by the end of June. The conference filed increased minimum rates to become effective on June 15, 1974, which were canceled before said effective date. The Commission is closely monitoring the conference's activities with respect to cotton rates.

Foreign Government Discrimination

A study and analysis of existing foreign governmental laws and decrees affecting U.S. flag carriers relative to the provisions of Section 19(1)(b) of the Merchant Marine Act, 1920, was prepared by the Commission staff during fiscal year 1974. The study provides a brief summary of those laws and decrees of foreign nations which could give rise to conditions unfavorable to shipping in the foreign commerce of the United States, in particular, as they affect U.S. flag carriers. Matters relative to foreign governmental laws and decrees are kept under continuing surveillance in order that the Commission may be aware of any significant developments in this area as they occur.

Bunker Fuel Shortage

As the Government agency responsible for the regulation of waterborne transportation by common carriers of passengers and property in the foreign and domestic offshore commerce of the United States,

the Federal Maritime Commission has a vital interest in preserving this transportation which is essential for the public convenience and necessity. Therefore, when the fuel shortage became acute in the latter part of calendar year 1974, the Commission immediately took action to effect energy conservation measures in the maritime industry and to assure the availability of necessary bunker fuel in ports throughout the world so that the free flow of our domestic and foreign oceangoing commerce would not be interrupted by these shortages.

The Commission took the position that sufficient bunker fuel should be allocated to both foreign and domestic vessels on an equitable basis to assure that any vessel, without regard to flag would be able to complete its scheduled voyage without concern as to its ability to obtain adequate fuel at a foreign port. Similarly, the Commission advocated the prudent use of such allocations by the implementation of extensive fuel conservation measures, without a reduction of needed space availability in the various trades.

The Chairman met with representatives of the foreign and domestic carriers serving our ports, and requested that the carriers unilaterally avoid the unnecessary waste of bunker fuel by implementing fuel conservation measures such as speed reduction, reduced sailings, maximum utilization of vessel space equipment, and the revision of sailing schedules. The carrier representatives were also advised that any energy conservation agreements between the carriers which were subject to approval by the Commission under section 15 of the Shipping Act, 1916, would receive expedited processing by the Commission. Three such agreements were approved. The carriers did implement such measures, and it is estimated that these voluntary unilateral conservation programs resulted in fuel savings of from 10 to 25 percent.

The Commission also worked closely with the Federal Energy Office in the promulgation and administration of the fuel allocation regulations implementing the Emergency Petroleum Allocation Act of 1973. A Federal Maritime Commission staff attorney was detailed to work full time at the Federal Energy Office in drafting the original allocation regulations.

By independent efforts, the Commission successfully stressed the need for allocation of bunker fuel to foreign vessels at United States ports; an allocation for cargo vessels of 100 percent of current re-

quirements for bunker fuels; and a similar fuel allocation level for support equipment used to provide necessary shoreside services.

In addition, the Commission staff has served on several Federal Energy Office task forces. The Commission members testified orally and submitted written testimony to various Congressional Committees considering emergency energy legislation.

When certain carriers were unable to obtain needed bunker fuel, both in the United States and abroad, the Commission assisted them by contacting the Federal Energy Office, fuel suppliers, and other carriers that might have had surplus fuel supplies. Every effort was made to avoid the stranding of vessels or aborted voyages.

Section 19 of the Merchant Marine Act of 1920 empowers the Federal Maritime Commission to impose reciprocal conditions on foreign nations or carriers who impose barriers upon United States flag vessels unfavorable to shipping in the foreign trade. The Commission was prepared to use this standby authority if necessary, and, therefore, worked closely with the State Department and other Government agencies to insure non-discriminatory allocation of bunker fuel to United States vessels at foreign ports.

By the end of fiscal year 1974, the fuel availability had improved to the extent that ample bunker fuel supplies were available. However, should such a situation occur again, the Commission is prepared to assist the vessels operating in the waterborne foreign and domestic offshore commerce of the United States in obtaining a fair share of the fuel supplies available.

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 1974, 62 proceedings were pending before Administrative Law Judges. During the year, 66 cases were added, which included 1 case reopened and remanded to Administrative Law Judges for further proceedings. The judges held 36 prehearing conferences, conducted hearings in 17 cases, and issued 28 initial decisions in formal proceedings, 4 initial decisions in special docket applications, and 3 decisions in small claim proceedings.

Cases otherwise disposed of involved 14 formal proceedings and 1 small claim.

The Commission adopted 8 formal decisions and 3 special docket decisions.

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

Docket No. 70–53—*Levatino & Sons, Inc.* v. *Prudential-Grace Lines, Inc.* Respondent was found to have violated sections 14 First and 16 First by failing to observe reasonable booking and loading procedures in connection with shipments of Chilean fruit for a limited

period of time in 1967. Respondent was found not to have discriminated against complainant unjustly; subjected complainant to undue disadvantage; given rebates; or entered into agreements with warehouse companies which required the approval of the Commission pursuant to section 15.

Docket No. 71–54—*Pacific Westbound Conference—Application to Extend its Exclusive Patronage (Dual Rate) Contract System to Include its OCP Territory.* The amendment of respondents' dual rate contract to include overland common point territory was found not violative of section 14(b) and was approved. It was found further that Canadian ports properly are included within Pacific Westbound Conference's organic agreement, and there are no jurisdictional or policy reasons for not including Canada in dual rate contracts. Finally, it was found that Section 5 of the Federal Trade Commission Act had no application to the Conference's proposed amendment of its dual rate contract.

Docket No. 71–85—*Independent Ocean Freight Forwarder Application—Air-Mar Shipping, Inc.* Applicant for independent ocean freight forwarder's license violated section 44(a), Shipping Act, 1916, in that it performed forwarder activities without being licensed by the Commission. At time of decision the applicant had ceased such activities and was found to be otherwise fit, willing and able to carry on the business of forwarding and to conform to the provisions of the Act.

Docket No. 71–93—*Viking Importrade Inc. and Bernard Lang & Co., Inc. Possible Violations of Section 16, First Paragraph, Shipping Act, 1916.* Mere misdescription alone of various inexpensive commodities as toys or novelties resulting in transportation by water being provided at rates lower than rates otherwise applicable, although effected by an importer and a freight forwarder, was found insufficient to establish a knowing and willful violation of section 16 First.

Docket No. 72–17—*Agreement No. 10,000—North Atlantic Pool.* A proposed pooling arrangement was approved upon the pool signatories filing of a rationalization plan, i.e., an adjustment of each member's capacity to its share and reduction of port calls with concomitant withdrawal of excess tonnage. Other specified conditions imposed by the Commission, if met, would result in approval for three years.

Docket No. 72–41—*Truck Detention at the Port of New York.* This recommended decision is limited to only that part of the subject proceeding concerned with proposed Rule B(1)(a) of the proposed Truck Detention Rules published by the Commission. Proposed Rule B(1)(a) concerns documentation of delivery orders and of dock receipts. It was found that prelodging of delivery orders (used in connection with import cargoes) should be prohibited as proposed in proposed Rule B(1)(a). It was further found that prelodging of dock receipts (used in connection with export cargoes) should be permitted to be continued provided that a fee of $15 is assessed for each prelodged dock receipt.

Docket No. 72–46—*Pacific Westbound Conference Extension of Authority for Intermodal Services.* Proposed agreement whereby conference requested authority to publish intermodal tariffs—in effect, establish port-to-point, point-to-point, point-to-port through and joint rates with inland connecting carriers was deemed unapprovable because no present transportation need for such authority was shown and the public interest did not call for approval at this time.

Docket No. 72–61—*In the Matter of Agreements Nos. T–2455—T–2553.* Agreements for sub-leasing of container terminals in the Port of Philadelphia were found subject to the provisions of section 15 of the Shipping Act, 1916, and, although implemented prior to Commission approval, are not otherwise unjustly discriminatory or unfair between carriers; do not operate to the detriment of the commerce of the United States; and are not contrary to the public interest. The agreements were found not to grant undue or unreasonable regulations and practices relating to the receiving, handling, storing or delivering of property.

Docket No. 73–24—*Agreement No. T–2635–2 Pacific Maritime Association Final Pay Guarantee Plan.* An agreement which relates to a collective bargaining agreement between PMA and the ILWU and which would fund the plan by an assessment formula on cargoes, was found not to subject automobiles to any violation of sections 16 and 17 of the Shipping Act, and was approvable under section 15 thereof.

Docket No. 73–36—*Abbott Laboratories* v. *United States Lines.* A shipment described as Intravenous Solution Sets was charged the higher Cargo N.O.S. rate instead of the lower more appropriate rate

under Sets, Parenteral Administration, Empty. Reparation, in the amount of the difference between the two rates, was awarded.

Docket No. 73–50—*The Campbell Soup Company* v. *The United States Lines, Inc.* Reparation was denied inasmuch as respondent charged and collected only those amounts properly due pursuant to its tariff. Respondent's tariff was found just and reasonable and not otherwise unlawful.

Docket No. 74–6—*Hugo Zanelli d/b/a Hugo Zanelli & Co.* Respondent, a licensed ocean freight forwarder was found to have acted as a purchaser and seller of certain shipments on behalf of foreign consignees, in violation of sections 1 and 44 and regulations of the Commission issued thereunder. Respondent was ordered to cease and desist from such activities and to conform his operations to the requirements established by those laws and regulations, in lieu of revocation of his license.

Judges also issued initial decisions in Docket Nos. 69–21, 69–29, 71–30, 71–42, 71–43, 72–24, 73–21, 73–23, 73–25, 73–26, 73–31, 73–33, 73–44, 73–51, 73–59, 73–65, Special Docket Nos. 457, 458, 459, 460, Informal Docket Nos. 301(F), 303(F), and 304(F), described under "Decisions of the Commission."

Pending Proceedings

At the close of fiscal year 1974 there were 80 pending proceedings, of which 43 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 six oral arguments and issued 26 decisions. Nine proceedings were discontinued or dismissed without decision and three were referred or remanded to the office of Administrative Law Judges.

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

Docket No. 65–39—*Empire State Highway Transportation Inc.* v. *American Export Lines Inc. et al.* consolidated with Docket No. 65–46 *Truck Loading and Unloading Rates at New York Harbor*—Proposed New York Terminal Conference tariff rule which defines the composite hourly cost of labor and forklift truck employed in truck loading and unloading at the Port of New York was found reasonable and lawful. Complaint challenging level of truck loading and unloading rates was dismissed inasmuch as the rates were not shown to be unlawful.

Docket No. 69–21—*Transconex, Inc.—General Increase in Rates in the U.S. South Atlantic/Puerto Rico-Virgin Islands Trades* consolidated with Docket No. 69–29—*Consolidated Express, Inc.—General Increases in Rates in the U.S. North Atlantic/Puerto Rico Trade*—In proceedings on remand from the U.S. Court of Appeals, respondents were found to have sustained their burden of proving their rates in the Puerto Rican trade to be just and reasonable by demonstrating past and projected financial experience.

Docket No. 70–9—*Bolton & Mitchell, Inc.—Independent Ocean Freight Forwarder License No. 516*—The Commission in two supplemental reports clarified its earlier findings regarding respondent freight forwarder's unlawful "financing" and "reinvoicing" activities and affirmed its conclusions that such activities must be discontinued if respondent is to retain its license.

Docket No. 70–19—*Intermodal Service to Portland Oregon*—Indirect service to Portland, Oregon from Far Eastern ports by members of Trans-Pacific Freight Conferences of Japan and Hong Kong whereby cargo is discharged from ocean vessel at Seattle, Washington and transported by overland carrier to Portland at ocean carrier's expense, was found to be lawful under the Shipping Act on condition that each carrier providing such service serves Portland *directly* by water with a frequency no less than alternate sailings.

Docket No. 71–12—*United States of America* v. *Columbia Steamship Co. Inc.*—Although respondent carrier had by error charged a rate not published or on file with the Commission, it was found that the violation of the Shipping Act did not entitle complainant to reparation when a prior agreement fixing the rates to be charged existed between the parties.

Docket No. 71–32—*Agreement Nos. DC–38 and DC–38–1—Association, Puerto Rico Trades—1968*—Agreement creating Puerto Rico Ocean Services Association between carriers in the U.S./Puerto Rican trade providing for uniform tariff rules, regulations, and practices (except ocean freight rates) was granted a *limited* one-year approval, subject to several conditions, because of less than satisfactory record as to demurrage and related activities during initial trial approval period of agreement.

Docket No. 71–57—*Agreement No. 8760–5—Modification of the West Coast United States & Canada/India, Pakistan, Burma & Ceylon Rate Agreement*—Amendment to conference agreement providing explicitly for previously implicit general overland ratemaking authority was found to have been adequately justified by respondent and approvable under section 15 of the Shipping Act, 1916.

Docket No. 71–76—*Bethlehem Steel Corporation* v. *Indiana Port Commission*—Assessment by respondent of a "Harbor Service Charge" on every vessel entering the harbor where no services are provided nor benefits conferred was found to be an unreasonable practice under section 17 of the Shipping Act, 1916.

Docket No. 71–89—*In the Matter of Agreement FF 71–7*—Agreement among independent ocean freight forwarders to form a corporation to engage in the business of international and domestic freight forwarding; and further agreement between the newly

founded corporation and an Interstate Commerce Commission domestic freight forwarder for the purchase of the forwarder's operating rights, was found subject to FMC jurisdiction and approvable except insofar as the agreements authorize indefinite and uncertain proposed operations.

Docket No. 71–94—*Equality Plastics, Inc. and Leading Forwarders, Inc. Possible Violations of Section 16, First Paragraph, Shipping Act, 1916*—Consignee of ocean freight shipment was found to have knowingly and willfully consented to misdescription by foreign shippers of commodities on bills of lading in order to obtain transportation by water at rates less than those otherwise applicable in violation of section 16 First. Customhouse broker on same shipments was found not to have violated section 16 First inasmuch as evidence of broker's indifference to apparent discrepancies on shipping documents was insufficient to establish a knowing and willful attempt to illegally obtain lower rates.

Docket No. 72–24—*In the Matter of Agreement No. T–2598*—Agreement between Canaveral Port Authority and Eller and Company granting Eller an exclusive franchise for terminal operations at Port Canaveral was found subject to section 15 and found approvable, even though exclusive, inasmuch as the evidence shows, among other factors, that the current traffic at the Port does not warrant additional operators.

Docket No. 72–38—*Carborundum Company* v. *Venezuelan Line*—Shipper's claim for reparation on alleged overcharge by carrier of ocean freight was granted only in part inasmuch as it was not shown that the entire shipment in question met all the minimum requirements for obtaining the "pallet allowance" provided for in carrier's tariff.

Docket No. 72–39—*Ocean Freight Consultants* v. *Royal Netherlands Steamship Company*—Shipper's claim for reparation on alleged overcharge by carrier of ocean freight was denied inasmuch as shipper had failed to meet its burden of proof that the commodity shipped was entitled to a rate other than that which was actually assessed by the carrier.

Docket No. 72–53—*General Mills, Inc.* v. *State of Hawaii Department of Agriculture*—Respondent carrier, in providing common carrier service during longshoremen's strike of 1971 and announcing its rates would be based on Matson Lines West Coast Tariff, un-

reasonably failed to include in its tariff a containerload rate on stacked and baled unprepared flour, resulting in injury to complainant and entitling him to reparation.

Docket No. 73–18—*Possible Breach of Pacific Coast European Conference Rate Agreement*—Dispute between respondent conference and certain dual rate contract signatory shippers as to whether such shippers had the legal right to select the carrier at the time certain shipments of cotton were made on non-conference vessels was directed to be submitted to arbitration pursuant to the terms of the Conference's Shipper Rate Agreement. Pending outcome of arbitration, conference was ordered to cease and desist assessing penalties against the cotton shippers and suspending any of those shippers rights under the Agreement.

Docket No. 73–19—*Rohm and Haas Company* v. *Moore McCormack Lines, Inc.*—Shipper's claim for reparation on alleged overcharge by carrier of ocean freight was granted only in part inasmuch as shipper failed to demonstrate sufficient facts to indicate with reasonable certainty and definiteness the validity of a portion of the claim.

Docket No. 73–23—*Kraft Foods* v. *Prudential Grace Line*—Shipper's claim for reparation on alleged overcharge by carrier of ocean freight was denied inasmuch as it was not shown that the shipment in question met all the minimum requirements for obtaining the "pallet allowance" provided for in carrier's tariff.

Docket No. 73–25—*Seatrain Lines, California, General Increases in Rates in the U.S. Pacific Coast/Hawaiian Trade*—Carrier's 12½ percent general rate increase in the U.S. Pacific Coast/Hawaiian trade was found reasonable based on uncontroverted evidence demonstrating need to recover spiraling costs.

Docket No. 73–31—*Rohm and Haas Company* v. *Flota Mercante Grancolombiana, S.A.*—Shipper's claim for reparation on alleged overcharge by carrier of ocean freight was granted inasmuch as evidence of record conclusively demonstrated that commodity shipped was other than that for which rate was assessed.

Docket No. 73–44—*Kraft Foods* v. *Moore McCormack Lines, Inc.*—Shipper's claim for reparation on alleged overcharge by carrier of ocean freight was denied on basis of carrier tariff rule which requires claims for adjustment of freight charges involving alleged

errors of weight or measurement to be presented to the carrier in writing before the shipment leaves the custody of the carrier.

Docket No. 73–51—*Rohm and Haas Company* v. *Seatrain Lines, Inc.*—Shipper's claim for reparation on alleged overcharge by carrier of ocean freight was denied on the basis that certain portions of the shipments exceeded the permissible value limitation prescribed by the carrier's minimum containerload tariff provision.

Docket No. 73–59—*Merck Sharp & Dohme International A Division of Merck & Company, Inc.* v. *Atlantic Lines*—Shipper's claim for reparation on alleged overcharge by carrier of ocean freight was denied on basis that shipper did not prove with reasonable certainty and definiteness that a commodity described as "Dextrose Anhydrous USP (Glucose)" qualified for the dry corn sugar rate appearing in the carrier's tariff.

Docket No. 73–65—*Union Carbide Inter-America, Inc.* v. *Venezuelan Line*—Shipper's claim for reparation on alleged overcharge of ocean freight was awarded where shipper conclusively demonstrated that the commodity shipped was carried in fibre drums and thereby entitled to the rate prescribed in the carrier's tariff for such shipments.

Rulemaking

The following rulemaking proceedings, instituted during fiscal year 1974, are still in progress.

Docket No. 73–39—*Filing of Tariffs by Common Carriers by Water in the Foreign Commerce of the United States and by Conferences of Such Carriers.*

Docket No. 73–40—*Filing of Tariffs by Common Carriers by Water in the Domestic Offshore Commerce of the United States.*

Docket No. 73–53—*Rules Governing the Filing of Increases in Contract Rates on Less than Statutory Notice in the Event of Tariff Currency Devaluation.*

Docket No. 73–64—*Additional Provisions and Reporting Requirement Applicable to Self Policing under General Order 7.*

Docket No. 74–11—*Miscellaneous Amendments to Rules of Practice and Procedure.*

Docket No. 74–13—*Rules Regarding Filing of Protests to Tariff Filings.*

Docket No. 74–16—*Proposed Waiver of Statutory Requirements on United States and Canadian Cross-Border Traffic.*

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

General Order 29; Amendment 1—*Regulations Governing Level of Military Rates—Miscellaneous Amendments*—Docket No. 73–43.

General Order 31—*Financial Responsibility for Removal of Oil and Hazardous Substances*—Docket No. 73–48.

General Order 5, Amendment 7—*Uniform System of Accounts for Maritime Carriers*—Docket No. 73–68.

General Order 27, Amendment 7—*Financial Responsibility for Oil Pollution Cleanup; Enforcement Provisions*—Docket No. 74–1.

General Order 27, Amendment 8 and General Order 31; Amendment 1—*Financial Responsibility for Removal of Oil and Hazardous Substances; Reporting Requirements*—Docket No. 74–19.

The following rulemaking proceeding was referred to the Office of Administrative Law Judges for hearing and initial decision.

Docket No. 73–55—*Uniform Rules and Regulations Covering Free Time on Import Containerized Cargo at the Port of New York.*

Action in the Courts

Petitions to review Federal Maritime Commission orders in various U.S. Courts of Appeals at the beginning of fiscal year 1974 totaled 14. Eight more petitions were filed during the year to review Commission orders, and one petition was filed to review a District Court decision affecting FMC's subpoena authority.

As of June 30, 1974, nine appeal proceedings had been completed and the remaining 14 were pending briefing, argument or decision. One FMC decision was also the subject of a petition for certiorari filed in the Supreme Court.

During this fiscal year, the Commission also participated as *amicus* and filed briefs in the appeal of a private District Court action.

Significant Cases

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

American Mail Line Ltd., et al. v. *F.M.C. et al.*, —— F. 2d —— (D.C. Cir. 1974), dealt with Court review of the Commission's order conditionally approving R. J. Reynolds Tobacco Company's acquisition of the United States Lines, Inc., which was to be held and operated in competition with another Reynolds subsidiary, Sea-Land Service, Inc. In vacating the Commission's order, the Court found that Section 15 of the Shipping Act did not give the Commission jurisdiction over mergers or acquisitions by steamship companies even though such transactions may include some "ongoing" or continuing obligations, nor could the Commission establish jurisdictional authority over such acquisitions by the imposition of continuing covenants requiring Commission supervision.

Sea-Land Service, Inc. v. *Federal Maritime Commission,* D.C. Circuit No. 73–2014, is a challenge to a set of Commission regulations (46 C.F.R. Part 549) establishing a rate floor for military cargo carried in foreign commerce. While Sea-Land Service limited its challenge to only the rule which permits ocean carriers to use a

"uniform capacity utilization factor" in calculating their future costs for purposes of bidding on military cargo, the Department of Justice—in its role as statutory respondent—is advocating reversal of the entire Commission Order on behalf of the Military Sealift Command, Department of Defense, arguing that the Commission may not disapprove rates pursuant to Section 18(b)(5) of the Shipping Act through general rule making, but may proceed only by adjudication. The case is pending argument before the Court.

On January 28, 1974, the United States Court of Appeals for the District of Columbia Circuit issued its decision in *Transamerican Trailer Transport, Inc.* v. *FMC*, 492 F. 2d 617 (D.C. Cir. 1974), affirming the Commission's report and order in *Agreement No. T–2336—New York Shipping Association*, 15 F.M.C. 259 (1972) in which the Commission granted approval to an agreement (as modified by it) which allocated among the members of the New York Shipping Association (NYSA), employers of maritime labor, assessments for the purpose of raising monies to fund various fringe benefits for maritime laborers which the NYSA was obligated to pay under a collective bargaining agreement with the International Longshoremen's Association. The Court held that the Commission, following the standards enunciated by the Supreme Court in *Volkswagenwerk* v. *FMC*, 390 U.S. 261 (1968), had properly weighed the assessments imposed upon types of cargoes in light of the benefits received, and that the Commission's determinations were supported by substantial evidence.

On April 8, 1974 the United States Court of Appeals for the Second Circuit issued its decision in *New York Shipping Ass'n, Inc.* v. *Federal Maritime Comm.*, 495 F. 2d 1215 (2nd Cir. 1974) affirming the Commission's report and order in *New York Shipping Association*, 16 F.M.C. 381 (1973) in which the Commission asserted jurisdiction under Section 15 of the Shipping Act, 1916, over an agreement between the International Longshoremen's Association (union) and the New York Shipping Association (NYSA) to allocate assessments between carriers, terminal operators, stevedores, and other maritime employers for the purpose of raising monies necessary to fund various fringe benefits for maritime laborers. The assessment allocation agreement differed from the previous NYSA assessment allocation agreement, the Commission's modified approval of which was affirmed by the United States Court of Appeals

for the District of Columbia Circuit (See *Transamerican Trailer Transport, Inc.* v. *FMC,* supra), in that the agreement was part of the collective bargaining agreement, to which the union was a party. In affirming the Commission's decision, the Second Circuit held that the agreement in this case was indistinguishable from that which the Supreme Court found subject to the Commission's jurisdiction in *Volkswagenwerk* v. *FMC,* 390 U.S. 261 (1968), and that the Commission was not deprived of jurisdiction because the union and some of NYSA's members were not subject to its regulatory authority.

Federal Maritime Commission v. *Port of Seattle*—The District Court for the Western District of Washington (S.D. Wash., Civ. 22–72H2) denied the Commission's application for full enforcement of discovery orders finding the Commission to be without jurisdiction to investigate certain consolidation services performed by the Port of Seattle on inbound ocean shipments. The Commission has appealed the order of denial to the Court of Appeals for the Ninth Circuit and the case has been briefed and is now pending argument.

Norman G. Jensen, Inc. v. *Federal Maritime Commission,* —— F. 2d —— (8th Cir. 1974)—In this case the Commission found that Jensen's affiliation with an export consulting firm denied it the independence required by Section 16 of the Shipping Act. The United States Court of Appeals for the Eighth Circuit reversed the Commission in holding that the particular relationship between Jensen and its affiliate did not disqualify Jensen from holding a freight forwarder's license because, in the Court's view the affiliate had not become a shipper within the meaning of the statute, and because the relationship was not likely to result in rebates to the actual shippers under Section 16.

Non-Adjudicatory Matters

During the past fiscal years, the Commission has initiated 13 claims under the settlement and compromise authority of the Federal Claims Settlement Act of 1966, and Public Law 92–416. These claims were for alleged violations of Sections 18 and 44 of the Shipping Act, 1916, and Section 2 of the Intercoastal Shipping Act, 1933. Most of the alleged offenses involve infractions of the tariff filing provisions under the shipping statutes. Total collections from the Commission's enforcement claims program exceeded $100,000.00 in fiscal year 1974.

Legislative Development

Proposed Uniform Commodity Tariff System

Subsequent to hearings in late June, 1973, the Senate Commerce Committee reported S. 1488.

This bill, a duplicate of the Commission's legislative proposal (93–3) submitted to the Office of Management and Budget would allow the Commission to set up a uniform commodity tariff system and require carriers to file rates which would show the inbound/outbound disparities.

If the carrier's filing did not include a statement of the applicable rate for the transportation of the same commodity in the opposite direction the Commission could reject the filed rate, making its use thereafter unlawful. S. 1488's enactment will insure that American shippers engaged in the foreign waterborne commerce of the United States will not be at an international trading disadvantage.

On April 23, 1974, S. 1488 was passed by the Senate and referred to the House Merchant Marine and Fisheries Committee for further action.

Intermodal Proposals

Since 1972 the Commission has transmitted to the Congress proposed legislation which 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.

Present regulatory structure requires point-to-point through shipments to involve at least two regulatory agencies, operating under different statutes. This raises rate, documentation and liability questions for the shipper.

The Commission's proposals for the 92nd and 93rd Congress were reflected to varying degrees in four measures—H.R. 739, H.R. 8097, H.R. 12428, and H.R. 12429.

Working closely with the staff of the House Merchant Marine and Fisheries Committee legislative development has taken place and major revisions made. The major alteration of previous intermodal proposals was the exclusion of nonvessel operating common carriers and other carriers as "intermodal carriers"—only common carriers by water can qualify for that status under H.R. 12429.

Hearings were scheduled to commence in mid-August, 1974, for government agencies and in September, 1974, for private industry and other interested parties.

Alaska Pipeline Law

P.L. 93–153, signed into law November 16, 1973, popularly known as the Alaska Pipeline Law, contained two provisions directly affecting the Federal Maritime Commission.

Section 204(c)(3) requires vessel operations using pipeline facilities to evidence proof of financial responsibility to the Federal Maritime Commission for clean-up of pollution incidents up to a $14,000,000 amount, regardless of the size of the vessel. Thus, no vessel will be allowed to ply this lucrative, developing trade until the Commission has issued such a financial ability certificate.

Section 409 of this Act alters the existing procedure for collection of information from the public by requiring the Commission to proceed through the General Accounting Office when undertaking such a survey to insure nonduplication of expense and effort.

Both statutory provisions are being fully implemented by appropriate Commission action.

Energy Crisis Response

On the legislative, Office of Management and Budget (OMB), and Federal Energy Office (FEO) fronts, the Commission was called upon to respond during the energy crisis. On November 14, 1973, Chairman Bentley appeared before the House Interstate and Foreign Commerce Committee and set the tone of the Commission's response. In seeking to "contribute substantially to alleviating the fuel shortage," as it affects our foreign and domestic offshore waterborne trades, the Commission pledged to do everything possible under its existing and additionally granted authority.

During the length of the crisis the Commission examined in detail over 10 bills and numerous OMB and FEO proposals.

Minimum Rates for Nonnational Flag Carriers

On December 6, 1973, Chairman Bentley appeared before the Merchant Marine Committee of the Senate Commerce Committee testifying in behalf of S. 2576, a bill which would provide for minimum rate provisions by non-national flag carriers in the foreign commerce of the United States.

As proposed, the bill would prohibit a non-national flag carrier from filing a rate which is lower than that of the lowest national flag carrier in a given trade.

If S. 2576 is enacted, Mrs. Bentley pointed out ". . . we can deal effectively with the rate predators . . . and all segments of the American economic system involved in foreign trading will be put on notice that they can ship American, and receive reliable and efficient services, at prices dictated by the trade."

Independent Freight Forwarders

The role of the Federal Maritime Commission with respect to the independent ocean freight forwarder and the effects on the potential exporter was the topic of testimony delivered by Chairman Bentley March 26, 1974, before the Subcommittee on Government and International Trade of the House Select Committee on Small Business.

After outlining the policies, programs and practices of the Commission concerning the entry of the U.S. small businessman into the international trade of the U.S., Mrs. Bentley pointed out that in recognition of the many small businesses engaged in ocean freight forwarding the Commission "has not imposed excessive or detailed reporting requirements" on them. The Commission also has tried, she pointed out, to assist them in every possible way in playing a vital role in the cargo transportation field.

Information Gathering

The Subcommittees on Intergovernmental Relations and Budgeting, Management and Expenditures of the Senate Committee on Government Operations held hearings concerning the collection, tabulation and dissemination of information showing corporate structure, stock ownership, debt holding and related data pertinent to the shipping industry.

On June 25, 1974, Chairman Bentley pointed out that the Federal Maritime Commission gathers such information on an annual basis

through the medium of two annual reports. After describing the reports and information system in some detail, Mrs. Bentley concluded that to date "this data has proven adequate for purposes of administration of the legislation under which we act." Although the Commission asked for no additional authority in this regard, close liaison with the committee will be maintained for possible legislative initiatives.

Barge Bill Passes

On April 2, 1974, the House of Representatives passed H.R. 12208 which would confer exclusive jurisdiction on the Federal Maritime Commission over movements of merchandise by barge in the foreign and domestic offshore commerce. The bill would resolve the question of whether the Interstate Commerce Commission or Federal Maritime Commission has regulatory jurisdiction over the movement in the Port of Sacramento by barges and containers and containerized cargo between Sacramento and San Francisco.

The Commission, which has strongly supported such legislative actions in the past, looks toward Senate action during the second session of the 93rd Congress.

Legislation Studied

During fiscal year 1974, the Commission made studies of many bills that had been introduced in the Congress and advised the Office of Management and Budget on various legislative proposals submitted for comment.

Administration

There have been no changes in Commission membership during fiscal year 1974. 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 November 27, 1973, Commissioner Day was elected by his colleagues for a third time to the vice chairmanship of the Federal Maritime Commission succeeding Commissioner Hearn.

Statement of Appropriation and Obligation for the Fiscal Year Ended June 30, 1974

APPROPRIATION:	
Public Law 93–162, 93rd Congress, approved November 27, 1973: 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	$6,000,000
Public Law 93–305, 93rd Congress, approved June 8, 1974: Second Supplemental Appropriation Act, 1974, to cover increased pay cost	385,000
Appropriation availability	6,385,000
OBLIGATIONS AND UNOBLIGATED BALANCE:	
Net obligations for salaries and expenses for the fiscal year ended June 30, 1974	6,288,398
Unobligated balance withdrawn by the Treasury	96,602

STATEMENT OF RECEIPTS: DEPOSITED WITH THE GENERAL FUND OF THE TREASURY FOR THE FISCAL YEAR ENDED JUNE 30, 1974:	
Publications and reproductions	11,288
Water pollution application and certificate fees	120,012
Fines and penalties	132,071
Miscellaneous	1,656
Total general fund receipts	265,027

Appendix A

STATISTICAL ABSTRACT OF FILINGS FISCAL YEAR 1974

SECTION 15 AGREEMENTS:	
Foreign commerce	180
Domestic offshore	17
Terminal	164
SECTION 14b DUAL RATE CONTRACTS:	
New systems (includes modifications)	16
REPORTS REVIEW:	
Shippers requests and complaints	325
Minutes of meetings	2,089
Self-policing of conference and rate agreements	195
Pooling statements	63
Operating reports	68
APPROVED AGREEMENTS ON FILE AS OF JUNE 30, 1974	
Conference	80
Rate	36
Joint conference	10
Pooling	21
Joint service	44
Sailing	24
Transshipment	287
Cooperative working, agency and container interchange	114
Domestic offshore	28
Terminals	350
Dual rate contract systems	64
Nonexclusive transshipment agreements	398
TARIFFS:	
Tariff pages filed:	
Foreign	194,626
Domestic offshore	11,276
Terminal	6,116
Tariffs on file as of June 30, 1974:	
Foreign	3,182
Domestic offshore	255
Terminal	544

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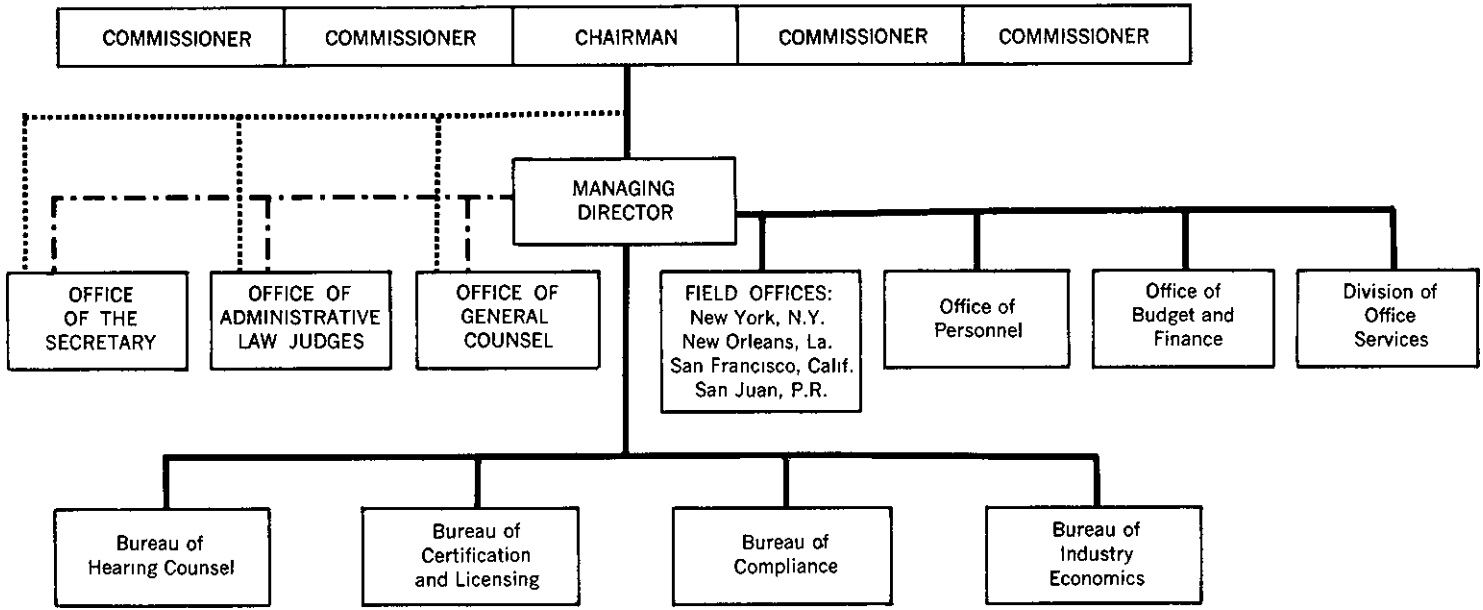
FEDERAL MARITIME COMMISSION



Technical Direction .....

Administrative Direction — · — · —

September 15, 1973

Helen Delich Bentley
Chairman