22nd annual report

of the
FEDERAL MARITIME
COMMISSION

Fiscal Year Ended September 30, 1983

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Federal Maritime Commission
Washington, D.C. 20573

Office of the Chairman

To the U.S. 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 am pleased to submit the twenty-second annual report of the activities of the Federal Maritime Commission for fiscal year 1983 (ending September 30, 1983).

Sincerely,

Alan Green, Jr.
Chairman

MEMBERS OF THE COMMISSION

Alan Green, Jr.
Chairman
Appointed 1981
Term Expires 1986
(R) Oregon

James J. Carey
Vice Chairman
Appointed 1981
Term Expires 1985
(R) Illinois

Robert Setrakian
Commissioner
Appointed 1983
Term Expires 1987
(D) California

Thomas F. Moakley
Commissioner
Appointed 1977
Term Expires 1988
(D) Massachusetts

James V. Day
Commissioner
Appointed 1962
Term Expires 1984
(R) Maine

I

THE COMMISSION

History

The Federal Maritime Commission was established as an independent regulatory agency by Reorganization Plan No. 7, effective August 12, 1961. As successor to the Federal Maritime Board, the Commission was charged with the administration of the regulatory provisions of the Shipping Act, 1916. The shipping laws of the United States were thus separated into two categories -- regulatory and promotional -- with the responsibilities associated with promotion of an adequate and efficient U.S. Merchant Marine being assigned to the Maritime Administration, now located within the Department of Transportation. The Federal Maritime Commission was given responsibility over the regulation of the ocean commerce of the United States.

Function

The Federal Maritime Commission is responsible for the administration of varying portions of a number of Federal statutes. Chief among these are the Shipping Act of 1916, the Intercoastal Shipping Act of 1933, and the Merchant Marine Acts of 1920 and 1936. In recent years, several other acts or amendments have been passed by the Congress and signed into law that modify or expand on these basic statutory responsibilities.

The Commission's principal regulatory responsibilities are as follows:

* Regulation of services, practices, and agreements of U.S.- and foreign-flag common carriers by water and other persons engaged in U.S. foreign commerce.

* Receipt and review of tariff filings (but not the regulation of rates) by U.S.- and foreign-flag common carriers by water engaged in the U.S. foreign commerce.

* Protection of U.S. commercial and policy interests, U.S. shippers, and carriers engaged in the foreign commerce of the United States from the rules and regulations of foreign governments and/or the practices of foreign-flag carriers that have an adverse effect on the commerce of the United States.

* Regulation of rates, charges, classifications, tariffs, and practices of U.S. ocean common carriers in the domestic offshore trades of the U.S.

* Licensing of independent ocean freight forwarders.

* Issuance of passenger vessel certificates evidencing financial responsibility of vessel owners or charterers to pay judgments for personal injury or death or to repay fares for the nonperformance of a voyage or cruise.

* Investigations of discriminatory rates, charges, classifications, and practices of U.S.- and foreign-flag ocean common carriers, terminal operators, and freight forwarders operating in the foreign and/or domestic offshore commerce of the United States.

* Rendering decisions, issuing orders, and adopting rules and regulations governing common carriers by water in U.S. foreign and domestic offshore commerce, terminal operators, freight forwarders, and other persons subject to shipping statutes of the United States.

The Commission's primary responsibility and most visible activities involve the administration of section 15 of the Shipping Act, 1916. Section 15 grants groups of ocean common carriers (conferences) exemption from U.S. antitrust laws (as contained in the Sherman and Clayton Acts) once Commission approval of conference agreements has been obtained. The FMC reviews and evaluates all proposed agreements to ensure that they do not exploit the grant of antitrust immunity, and to prevent abuses associated with concerted rate-making and other potentially anticompetitive activities.

Beyond the Commission's section 15 responsibility to regulate the activities of competing ocean carriers in the commerce of the United States, the FMC is also concerned with the treatment of the shipping public by ocean carriers and conferences. The Shipping Act, 1916 prohibits carriers and

conferences from discriminating or using otherwise preferential practices in dealing with shippers or other parties engaged in U.S. commerce. The law also requires carriers and conferences to make their rates and practices (commonly known as tariffs) publicly available, and that the applicable rates and charges indicated in the tariff are actually charged for services rendered. Only those rates on file with the Commission can be charged. The Commission has limited authority to set these rates or to disapprove tariffs lawfully filed in the U.S. foreign commerce. The FMC does not possess the authority to limit entry into the oceanborne commerce of the United States.

Generally, the Commission is responsible for ensuring equity and stability in the conduct of U.S. oceanborne commerce. Given the large percentage of U.S. foreign trade that is transported by ocean liner shipping services or facilitated by other entities under the regulatory purview of the Commission, the Commission's role must be to promote efficiency and economy in the U.S. foreign commerce comensurate with commercial requirements, as well as to protect the U.S. shipping public.

Organization

The Federal Maritime Commission is composed of five Commissioners appointed by the President for five-year terms with the advice and consent of the United States Senate. Not more than three members of the Commission may belong to the same political party. The President designates one of the Commissioners to serve as Chairman. The Chairman is the chief executive and administrative officer of the agency.

Six offices are directly responsible to the Chairman -- Office of Administrative Law Judges, Office of the General Counsel, Office of the Secretary, Office of Policy Planning and International Affairs, Office of the Managing Director and Office of Equal Employment Opportunity. Four operating bureaus report to the Director of Programs and are responsible for the Commission's regulatory programs. Several administrative offices report to the Director of Administration. Appendix A gives a graphic representation of the Commission's organization.

In fiscal year 1983, the Federal Maritime Commission was authorized a total of 290 permanent positions and had a total appropriation of $11,770,000. The majority of the Commission's personnel are located in Washington, D.C., with field offices in New York, Chicago, San Francisco, Los Angeles, New Orleans, Miami, and San Juan, Puerto Rico.

II

THE YEAR IN REVIEW

The Federal Maritime Commission's twenty-second year of operation proved to be an exciting one and one that was very rewarding in many different areas. The FMC continued to make substantial progress in alleviating the unnecessary burden of regulation borne by the U.S. maritime industry, while, at the same time, promoting regulatory policies that will improve the conduct of oceanborne commerce in the United States. Legislative initiatives were pursued to improve the statutes under which U.S. foreign and domestic liner shipping must operate. Furthermore, the agency's various administrative activities and managerial initiatives served to aid in the modernization of the FMC and its regulatory function.

Legislative Initiatives

At the end of the 97th Congress and throughout the first session of the 98th Congress, the Federal Maritime Commission worked diligently with the U.S. Congress and the Administration to obtain legislation that will modernize the scheme of ocean liner shipping regulation in the foreign commerce of the United States. These efforts met with partial success in the 97th Congress when the House of Representatives passed H.R. 4374 by an overwhelming vote of 350 to 33. At the close of the 97th Congress, however, the Senate had not taken action on a companion bill. As the 98th Congress opened, the Senate did pass a reform

measure (S. 47) that carried forward all major points of the FMC's suggested regulatory reform package. Although similar legislation had not been passed by the House of Representatives at the close of the fiscal year, it appears likely that the momentum created by this reform effort will continue and that a new and revised regulatory scheme for ocean shipping will be in place in the very near future.

In January of 1983, the Commission completed an extensive and in-depth inquiry into the regulation of the domestic offshore trades. Subsequent to that inquiry, the Commission advised the appropriate committees of the U.S. Congress of the need to reform the regulatory regime governing the level of ocean freight rates in these trades. The domestic offshore trades comprise port-to-port cargo movements between the mainland United States and Puerto Rico, Hawaii, Alaska, the U.S. Virgin Islands, and other U.S. island communities. In exercising public utility-type rate regulation over the level of rates in these trades, the Commission's regulatory role is far more extensive in the domestic offshore commerce than that over international shipping. Such regulation has historically proved troublesome for the Commission and has not always led to optimal results, either for the shipper or the carrier.

In correspondence with the U.S. Congress, the Commission suggested that rate of return regulation in the domestic offshore trades be eliminated; collective rate-making among carriers in the trade be prohibited; and the jurisdictional overlap between the Interstate Commerce Commission and the FMC be eliminated. It

is axiomatic that competition, where not artificially constrained, is a better regulator of prices than are government programs. The Commission indicated that competition, rather than government regulation, must be relied upon as the primary means of ensuring reasonable rate levels in the domestic offshore trades. At the close of fiscal year 1983, the Congress had taken no action on the FMC's suggestions.

Finally, the Commission made a report to Congress in compliance with P.L. 97-35, the Budget Reconciliation Act of 1981. P.L. 97-35 amended sections 1 and 44 of the Shipping Act, 1916 to allow persons who are controlled by or affiliated with shippers or consignees engaged in the United States foreign commerce, and persons who have beneficial interests in shipments, to be licensed as independent ocean freight forwarders. The Budget Act amendment also provided that independent ocean freight forwarders may not receive compensation from common carriers by water for services on shipments in which they or their affiliates have a beneficial interest. The Commission was required to report to the Congress on its enforcement experience regarding this amendment.

During the relatively short period (21 months) since the enactment of this amendment, the Commission reviewed the files of some 1600 licensed forwarders and identified 46 of whom had shipper affiliations. The Commission's investigators audited 29 of the 46 and identified 11 who may have received compensation from common carriers by water on 1 or more shipments in which the forwarder or its affiliate had a beneficial interest. Civil

penalty actions or other enforcement proceedings against these forwarders are being considered. Based on the Commission's experience with the Budget Act amendment, the Commission reported to Congress that "it would not appear that the incidence of possible violations of the compensation prohibition militates against the extension of that amendment."

Given the recent enactment of the Export Trading Company Act (P.L. 97-290) the Commission acted to avoid a potential problem involving the effective enforcement of the Budget Act amendment. The Budget Act amendment prohibited the licensing of a person who is a shipper, consignee, seller or purchaser of shipments to foreign countries. The Export Trading Company Act, on the other hand, allows export trading companies to take title to goods and provide what are essentially freight forwarding services to others without reference to the licensing requirements of the Shipping Act, 1916. The problem arises if an export trading company were to take title to goods. In that case, according to current law, the ETC could not be licensed in its own name to perform forwarding services for other shippers as contemplated by the Export Trading Company Act.

In order to promote the full use of the Export Trading Company Act and the expansion of U.S. export trade, Federal Maritime Commission Chairman Alan Green, Jr. and Secretary of Commerce Malcolm Baldridge sent a joint letter to the Congress indicating the existence of this potential problem and suggesting that shipping legislation currently under consideration be amended accordingly. The necessary changes were incorporated

into the pending regulatory reform legislation. Hopefully, these changes will obviate the need for further action in this area.

Policy Developments

Commission activities under section 19 of the Merchant Marine Act of 1920 increased dramatically during the past fiscal year. Significant situations arose in which the Commission was requested, in the words of section 19, "to make rules and regulations effecting shipping in the foreign trade not in conflict with law and order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade, whether in any particular trade or upon any particular route or in commerce generally, and which arise out of or result from foreign laws, rules, or regulations or from competitive methods or practices employed by owners, operators, agents, or masters of vessels of a foreign country."

Specifically, formal Commission proceedings were instituted to investigate allegations of conditions created by the governments of Venezuela and the Philippines that are unfavorable to shipping in the foreign trade, detrimental to foreign commerce, or contrary to the public interest of the United States. These two important situations will be explained in greater detail below. However, such situations are clear indications that section 19 activities constitute an increasingly important and vital function of the Commission.

As unilateral actions to artificially apportion markets on a national-flag basis are on the rise, and given the disturbing

proliferation of cargo preference regimes among some of our trading partners in the developing world, the Federal Maritime Commission is being forced to assume a broader regulatory role as a protector of U.S. interests in the conduct of its own foreign commerce. The Code of Conduct for Liner Conferences--issued under the auspices of the United Nations Conference on Trade and Development--is a manifestation of this trend toward substituting non-market cargo allocation schemes for active and effective market forces in international commercial shipping. As the UNCTAD Code becomes effective on October 6, 1983, the Commission expects the number of section 19 petitions and complaints to increase as U.S. carriers, third-flag carriers, U.S. shippers, and other parties engaged in the U.S. foreign commerce recognize and respond to adverse conditions resulting from the trade-restrictive actions of foreign governments.

In September of 1983, the Commission sought to halt the practice by longshoremen of stripping and stuffing containers holding cargo for more than one shipper located within a 50 mile radius of a port. The FMC asked District Judge Henry Werker in the Southern District of New York to enjoin ocean common carriers from allowing implementation of the controversial "50-Mile Rule" to continue. Citing the Commission's ongoing proceeding to determine the legality of the 50-mile container rule under the 1916 Shipping Act and the 1933 Intercoastal Shipping Act (Docket No. 81-11), the Commission sought a preliminary injunction of the practice until it had concluded this proceeding and handed down a final ruling. The filing papers included twenty-three affidavits

from shippers and consolidators who alledged that they were suffering "irreparable injury" from enforcement of the 50-mile rule. The Commission's request for an injunction was denied because the court determined that equities and hardships presented by both sides in the case appeared to be evenly balanced.

In another policy area, the Commission continues in its effort to promote development of an automated tariff filing system by the private sector. The FMC plans to seek public comment on this initiative in view of the dramatic advances in computer technology and the widespread demand for rate and service information in oceanborne commerce. Public comment will be sought in order to determine if a paperless electronic system for the filing, storage, and retrieval of tariff information could realistically be developed to service the needs of the Commission, as well as the needs of the many and varied interests that use this information in the conduct of U.S. foreign and domestic commerce. The development and operation of such a system would be subject to oversight by the FMC; however, it is assumed that the system would be maintained at a location remote from the Commission and operated by one or more FMC-approved private sector contractors at no cost to the government. Public announcement of this initiative is expected early in fiscal year 1984.

It should be noted that this initiative is taken in concert with the President's Private Sector Initiatives Program to increase public awareness of the importance of public/private

partnerships and to remove barriers to the development of effective programs that are administered by private organizations. The Commission is of the opinion that the private sector is uniquely able and most willing to perform this function on a cost-effective and market-oriented basis.

The Commission also instituted an inquiry into the regulation of the port and marine terminal industry near the end of the fiscal year. This effort is being led by Commissioner Robert Setrakian. Public comment was requested on the issues of filing and approval of terminal agreements; the need for continued antitrust immunity for marine terminal operators; and the Commission's future role in marine terminal regulation. This comprehensive inquiry reflects the Commission's determination to continually review its regulation of various elements of the maritime industry in light of the changing legal, economic, and technological environment in which the industry operates and to which the Commission must be responsive. Once the inquiry is complete, the Commission may well decide to institute proceedings to revise its regulation of this aspect of the maritime industry.

During the year, the Commission also made considerable progress in facilitating innovative and reasonable rationalization arrangements among ocean common carriers. In the U.S./Far East Trade, the Commission approved an agreement by two U.S.-flag operators to provide for the joint operation of a feeder vessel (Agreement No. 10459 between Sea-Land and American President Lines). This arrangement allowed these two carriers to provide lower cost, rationalized service in the trade between the Philippines and Taiwan.

Given the increasing importance of intermodal cargo movements in the U.S. foreign commerce, the Commission took several significant actions regarding intermodal authority. The Commission has recognized and fully supports commercially viable intermodal services. During the year, the Commission employed the standards laid down in Agreement No. 6200-20 to approve intermodal authority for six conference or rate making agreements, and is considering seven applications involving the U.S. North Atlantic/European Trades for action early in fiscal year 1984. This large increase in the number of applications for intermodal authority by conferences reflect the growing importance of intermodal cargo movements to the commerce of the United States and the positive effect that efficient and competitive intermodal services have on the movement of U.S. import and export cargoes.

Further improvements to the Commission's approach to intermodal authority were made during the year. The Commission established more reasonable standards for intermodal authority applications by joint services. When applying to the Commission for intermodal authority, existing joint services were requested to address the issues of shipper demand, operational capability, and scope of the proposed intermodal service. The Commission has determined that the justification required of joint services to obtain section 15 authority to offer intermodal rates and services should be considerably less than that placed on conferences and rate agreements. The Commission granted four such applications during the year.

Administrative and Managerial Initiatives

Beyond reducing the burden of regulation on those subject to FMC jurisdiction by pursuing legislative reform of its statutory mandate, the Commission continued to review its regulatory activities with an eye toward implementating the exemption authority found in section 35 of the Shipping Act, 1916. This authority allows the Commission to exempt activities from regulation where it finds that the exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory or detrimental to the commerce of the United States. For the most part, these actions exempt certain activities or entities within the maritime community from the filing and reporting requirements of the Commission.

Although section 35 is the Commission's principal vehicle for easing the burden of regulation, a less obvious form of regulatory relief is found in the establishment of uniform rules of procedure. Such rules impose a degree of "regimentation", but they do so in a way that is an improvement over previous practice. More importantly, in developing uniform procedures and in taking other similar steps, the Commission has brought a greater degree of "certainty" to the regulatory process--an all-important factor to the business and maritime community in its dealings with the Federal Government. For example, the Commission has issued a rule that would simplify and expedite the discovery and pre-hearing procedures in Commission proceedings. It was the Commission's experience that the old procedures too often resulted in unwarranted delays that, in turn, translated

into higher costs to all participants. Also, rules were promulgated that ensure the fair and orderly processing of commercial section 15 agreements and improve the potential for commercial resolution of disputes.

The Commission continues to strive for better utilization of the human and capital resources available to it. Significant among its accomplishments during the year include the Commission-initiated transfer of an entire functional unit to a more appropriate location within the Federal Government. On May 5, 1983, President Reagan signed Executive Order 12418 that transfers from the FMC to the U.S. Coast Guard certain functions relating to the certification of financial responsibility of vessels for oil and hazardous substance pollution liability. This transfer will serve to rationalize disparate, duplicative and often uncoordinated administrative functions previously performed to various degrees by the Coast Guard, the FMC, and the Department of Transportation. Consolidation of this largely administrative function will result in substantially increased operating efficiencies and certain economies of scale for the government, better service to the vessel operators and the general public, and a Commission better able to fulfill its primary statutory role in regulating international liner commerce. The Commission intends to pursue the transfer of its passenger vessel certification function to the U.S. Coast Guard through legislative means during the next fiscal year.

The Commission has also embarked on an effort to improve utilization of its available workspace. The above-mentioned

transfer and a sizeable decrease in total Commission personnel have reduced agency staffing to 1967 levels and made significant space reductions possible. A decrease of over 16% of the Commission's total office space is expected to have taken place by the close of calendar year 1983. In furtherance of the objective to improve workspace utilization, the agency has taken it upon itself to institute a "cluster" system, whereby certain secretarial and clerical functions are combined to more effectively and efficiently serve a number of different operational units within the organization. In addition, heretofore disparate functions have been consolidated into a single office to achieve greater efficiencies, including improved utilization of available workspace. These actions have been taken as part of the Commission's longer term plan for achieving greater efficiency, increased productivity, and improved overall performance. For example, during the year, the Office of the Chairman reduced its workspace by 35%, the Office of the Managing Director effected a 48% reduction in space, and the agency abolished its in-house print shop.

Not only does the clustering of secretarial and clerical personnel lead to greater operational efficiency, but it also lends itself to better utilization of office automation and word processing equipment. The agency is presently establishing workstation clusters that are fully supported by modern technology.

During the 1983 fiscal year, Chairman Green, with the support of all his fellow Commissioners, instituted a major

internal management reorganization at the FMC. Beyond anticipating the required organizational structure in the event that the maritime regulatory reform legislation were to be enacted, the Commission felt that it was necessary to restructure itself in order to better meet the regulatory demands being made of it under the 1916 Shipping Act. In many respects, a modernized and more responsive agency has resulted from the reorganization. The FMC has been able to achieve a better deployment of available managerial talent.

This reorganization has also set the stage for a critical assessment of the role and function of the field offices in the regulatory mission of the agency. Although this is an ongoing project, it became evident early on in the project that one such office clearly served no useful purpose. The agency's Mid-Atlantic Field Office was effectively abolished in March of 1983. The Commission has undertaken this comprehensive program in order to reform the structure of its field operations and to improve the efficiency of its enforcement activities. Inherent in remote field enforcement activities are the problems of operational coordination and effective communications. Such problems are being directly addressed by the Commission in initiating this program.

In light of the Commission's reorganization and staff reductions in the field, unnecessary supervisory layers have been eliminated in hopes of bringing the field operations closer in line with Commission enforcement activities. Enforcement guidelines have been established to better allocate Commission

resources in line with headquarters-mandated enforcement priorities. A system of monitoring investigative case activity has been instituted and should provide management with greater knowledge of field office productivity and assist in improving agency planning efforts. Furthermore, case referral deadlines were established to facilitate the progress of cases from investigation to review to final prosecutorial action. Communication channels were clarified in order to ensure that cases are handled rapidly and deliberately. This includes better use of Commission capabilities to electronically transmit documents between and among the field offices and headquarters.

Regarding improvements made to the regulatory process, the Commission has made great strides in establishing improved internal procedures and in expediting the processing of commercial agreements for approval by the Commission pursuant to the Shipping Act, 1916. Beyond revising internal rules and deadlines, this effort involved creation of an Agreements Review Board in August of 1982. The group of high-level FMC officials was established in order to set priorities and clarify legal and policy questions at an early stage in the processing of these commercial agreements. The Board's effectiveness in its first full year of operation has been substantial, and the Board will likely play a major role in Commission agreement activities under the anticipated Shipping Act of 1984.

During the year, the Commission finalized a proposal to restructure its existing schedule of fees and charges to more accurately reflect the true cost to the agency for services

rendered to the public and the regulated industry. A proposal to add new user fees where none existed previously was also finalized. These updated fees and charges became effective in March of this year, and are designed to ensure a fair return as required by law and regulation.

During the year, the Commission also made considerable changes to its system of filing tariffs for carriers engaged in the domestic and foreign commerce of the United States. Given the significant advances in technology, and the considerable burden attached to receiving the burgeoning number of tariff pages filed annually, the Commission provided for 24-hour receipt of permanent filings, including the use of electronic filing methods. The experiment, if successful, will be extended to the domestic offshore trades in the first quarter of fiscal year 1984. These changes should allow the regulated industry to be more responsive to changing market conditions, and promote greater commercial flexibility by and among the entire shipping public. Taken in conjunction with the Commission's ongoing effort to promote a paperless and automated tariff filing system, major changes in the Commission's tariff filing function are to be expected. Until now, and for the last 22 years (since tariff filing requirements were first imposed by the U.S. Congress) the system of filing tariffs in the U.S. commerce has remained largely unchanged.

COMMISSION DECISIONS

OFFICE OF THE SECRETARY

The Office of the Secretary is responsible for preparing a regular weekly agenda of matters subject to consideration by the Commission and recording subsequent action taken by the Commission on these items; receiving and processing formal complaints involving violations of the shipping statutes and other applicable laws; issuing orders and notices of actions of the Commission; maintaining official files and records of all formal proceedings; receiving and responding to subpoenas directed to Commission personnel and/or records; administering the Freedom of Information, Government in the Sunshine, and Privacy Acts; responding to information requests from the Commission staff, maritime industry, and the public; authenticating instruments and documents of the Commission; issuing agency publications and documents related to formal proceedings before the Commission; and compiling and publishing bound volumes of Commission decisions. The Secretary's Office also participates in the development of rules designed to reduce the length and complexity of formal proceedings, the ongoing evaluation of the efficiency of the Commission's organizational structure, and implementation of legislative changes to the shipping statutes.

During fiscal year 1983, the Office of the Secretary published Volume 22 of the Commission's decisions, revised the

listing of systems of records under the Privacy Act, and revised procedures for filing of section 15 agreements.

Informal Dockets

The Informal Docket Activity is a component of the Office of the Secretary and is responsible for the initial adjudication of claims filed by shippers against common carriers by water engaged in the foreign and domestic offshore commerce of the United States. These claims must be predicated upon violations of the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, for which reparation of less than $5,000 is sought. The vast number of claims received under this program constitute shippers' requests for freight adjustments arising from alleged overcharges by carriers in violation of section 18(b)(3) of the Shipping Act, 1916. The Informal Docket Activity received 70 new cases and issued orders or decisions disposing of 139 informal docket claims.

Informal Inquiries and Complaints

In the course of its regulatory mission, the Commission receives a wide range of inquiries and complaints from various segments of the maritime industry and the public at large. In order to respond to these informal inquiries, the Commission created the Office of Informal Inquiries and Complaints (formerly the Office of Consumer Affairs). This office seeks the resolution of complaints by acting as an informal liaison between the shipping public and various aspects of the maritime industry.

During fiscal year 1983, a total of 808 complaints and requests for information were processed by the office, over 40% more complaints and inquiries than during the previous year. Through the activities of this office, complainants were able to make savings and secure refunds in the amount of $184,450.

Final Decisions of the Commission

Additionally, the Office of the Secretary assisted in the formal proceeding program of the Commission. During fiscal year 1983, the Commission heard oral argument in two formal proceedings and issued 17 decisions concluding formal proceedings. Thirty formal proceedings were discontinued or dismissed without decision (including determinations not to review Administrative Law Judge orders terminating proceedings). Eleven Administrative Law Judge initial decisions in formal proceedings became administratively final upon passage of the time for the Commission to determine whether to review. No proceedings were remanded to the Office of Administrative Law Judges.

The Commission also concluded 116 special docket applications and 143 informal dockets involving claims against carriers. These procedures combined resulted in refunds or waivers of freight charges to shippers in the amount of $2,389,298.

In rulemaking proceedings, the Commission issued 8 final rules and discontinued five proceedings without decision.

Significant Formal Proceedings

Docket No. 83-18 - Filing of Tariffs by Common Carriers in the Foreign Commerce of the United States, 22 S.R.R. 259 (1983).

This effort amended existing tariff filing rules to permit conferences and rate agreements to file, on behalf of member line controlled carriers, lower rates on less than 30 days' notice, if such rates are intended to meet independent action rates or open rate actions of member lines who are not controlled carriers. It also permits controlled carrier members of conferences or rate agreements to initiate action or lower rates on open-rated commodities to a level at or above a conference stated minimum.

Docket Nos. 82-32 and 82-33 - Filing and Service Fees, 21 S.R.R. 1517 and 1575 (1983).

These rules raised the level of certain fees already assessed by the Commission, and initiated new fees for other Commission actions (i.e., the filing of complaints, petitions for declaratory orders and general petitions; special docket applications; requests for informal adjudication of small claims and conciliation services; foreign and domestic tariff special permission applications; and applications for passenger vessel certification). Persons requesting specified Commission services will be required to pay a reasonable fee for them, thereby alleviating the burden on the general taxpayer.

Docket No. 82-8 - Compliance with General Order 7, Revised, Self-Policing, 21 S.R.R. 1395 (1982).

The Commission proceeded against five rate agreements for failure to comply with the independent, neutral body self-policing requirements of General Order No. 7 (46 C.R.F. Part 528). Two agreements subsequently met the requirements and were dismissed from the proceeding. The remaining three agreements were granted an exemption from the independent self-policing authority requirement so that one of their officers or employees could act as the head of their policing authority.

Docket Nos. 82-1 and 82-10 - California Cartage Company, et al. v. Pacific Maritime Association, 21 S.R.R. 1533 (1983).

These consolidated complaint proceedings were brought pursuant to the Maritime Labor Agreements Act of 1980. The Commission found that it had jurisdiction over a maritime labor agreement on the basis that its combined effects with a prior agreement resulted in the funding of fringe benefit obligations by assessments levied on an "other than man-hour basis." The Commission further found that complainants, who alleged only an indirect competitive injury resulting from the agreement and who paid no assessments either directly or indirectly, were not within the classes of interests protected by the MLAA and lacked standing to file a complaint under that statute.

Docket No. 81-64 - Midland Pacific Shipping Co., Inc. - Independent Ocean Freight Forwarder No. 1299, et al., 22 S.R.R. 181 (1983).

The Commission assessed civil penalties in excess of $25,000 and ordered the surrender of a respondent's license as an independent ocean freight forwarder.

Docket No. 81-28 - Transportacion Maritima Mexicana, S.A. v. Board of Commissioners of the Port of New Orleans, 21 S.R.R. 1525 (1983).

The Commission found that the Port of New Orleans had failed to establish that its dockage penalty on assembled cargo, which is based on the length of the vessel, is rationally related to the Port's need to discourage cargo storage in its transit space. However, the Commission denied complainant reparation because it had failed to demonstrate that the charge assessed was unreasonably high.

Docket No. 80-22 - International Paper Co. v. Seatrain Pacific Services, et al., 22 S.R.R. 337 (1983).

The Commission found that complainant had failed to prove that a currency conversion surcharge calculated as a percentage of the underlying freight rate was unjustly discriminatory or otherwise in violation of the Shipping Act, 1916 when applied equally to all-water and intermodal movements. It held that surcharges need not be apportioned on the basis of the underlying costs of each movement of cargo and may be equally levied on all cargo on either a per ton or percentage basis.

Docket No. 76-63 - Filing of Agreements by Common Carriers and Other Persons Subject to the Shipping Act, 1916, 22 S.R.R. 234 (1983).

The Commission granted, in part, petitions for reconsideration of the final rules issued in this proceeding. These amendments to the Commission's Rules for processing section 15 agreements are for the purpose of further clarifying the status and treatment of supporting statements, and for allowing communications between Commission staff and agreement proponents in the case of uncontested agreements.

Puerto Rico Maritime Shipping Authority - Petition for Emergency Relief, 21 S.R.R. 1311 (1983).

The Commission denied a request to reconsider or modify the Commission's Order in FMC Docket 81-10, Sea-Land Service, Inc., Trailer Marine Transport Corp., Gulf Caribbean Marine Lines, Inc., Puerto Rico Maritime Shipping Authority - Proposed General Rate Increases in the Puerto Rico and Virgin Island Trades, to refund freight charges collected as a result of a general rate increase found unjust and unreasonable under the Intercoastal Shipping Act, 1933, as amended. It found that post-record evidence of financial setbacks which did not amount to an inability to pay the refunds were not an adequate basis to reopen the proceeding after the refund order had been reviewed and sustained by the Court of Appeals. The Commission also declined to specify the manner of payment of the refunds.

Future Activities

During fiscal year 1984, the Commission, through the Office of the Secretary, anticipates revising the procedures for handling requests for "business confidential" information under the Freedom of Information Act; compiling Volume 23 of the Commission's decisions; review and revisions of regulations implementing the Freedom of Information, Privacy, and Government in the Sunshine Acts; revision of rules of procedure caused by legislative changes; and development of an integrated, agency-wide report on formal proceedings, and informal inquiries and complaints.

ADJUDICATORY PROCEEDINGS BEFORE ADMINISTRATIVE LAW JUDGES

Administrative Law Judges conduct hearings and render decisions in adjudicatory proceedings following receipt of a complaint or after a formal proceeding is instituted by the Commission itself. The Commission has six Administrative Law Judges under the direction of a Chief Judge. Proceedings which come before the Administrative Law Judges include, among many other things, the approvability of section 15 agreements; adjudication of discriminatory practices between various parties subject to the 1916 Shipping Act; adjudication of shipper complaints under section 18(b)(3) of the Act; freight forwarder license cases; and domestic rate cases.

Administrative Law Judges have the authority to administer oaths and affirmations; issue subpoenas; rule upon offers of

proof and receive relevant evidence; take depositions or cause them 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 1983, 89 proceedings were pending before Administrative Law Judges. During the year, 163 cases were added. The judges held 27 prehearing conferences, conducted hearings in 5 cases, and issued 19 initial decisions in formal proceedings, and 106 initial decisions in special docket applications. Cases otherwise disposed of involved 28 formal proceedings, 9 special docket applications and 39 informal proceedings.

At the close of fiscal year 1983, there were 51 pending proceedings, 9 of which were investigations initiated by the Commission. The remaining proceedings were instituted by the filing of complaints or applications by common carriers by water, shippers, conferences, port authorities or districts, terminal operators trade associations, or stevedores.

LEGISLATION AND LITIGATION

OFFICE OF THE GENERAL COUNSEL

The Office of the General Counsel advises the Commission on legal issues and provides it with legal counsel on matters under consideration. The office reviews the legality of proposed Commission rules, renders formal and informal written opinions on pending adjudicatory matters, and prepares draft decisions and orders for ratification pursuant to Commission action.

Litigation

The Office of the General Counsel is also responsible for defending and enforcing Commission orders in court. This litigation work largely consists of representing the Commission in petitions for review of its orders in the Circuit Court of Appeals. While most of these appeals are brought in the U.S. Court of Appeals for the District of Columbia, some others are litigated in the U.S. Circuit Courts in New York, New Orleans, and San Francisco. Other litigation handled by the General Counsel's office consists of orders for enforcement, injunction suits and assisting the Department of Justice in civil penalty actions and other prosecutions in the U.S. District Courts. The Commission or its employees are also represented by the General Counsel's office in proceedings occasionally brought in the State Courts and before other government agencies.

At the close of the 1983 fiscal year, 17 of the 30 appeal cases that were carried over or filed during the year were decided or terminated, either through settlement or by withdrawal of the review petitions. Of the 8 cases in District Court, 4 were resolved by decision or settlement. Three Supreme Court petitions for certiorari, 1 U.S. Court of International Trade and 1 collections proceeding comprised the balance of the litigation work handled by the General Counsel's office during this fiscal period.

Significant cases that have been decided or are still awaiting resolution are as follows:

National Association of Recycling Industries, Inc. v. American Mail Line, Ltd., et al., C.D.Cal. Civ. No. 82-0895.

The United States District Court in Los Angeles entered an order dismissing the plaintiffs' complaint. Plaintiffs had contended that the defendant shipping lines' rates on wastepaper were unreasonably high and unjustly discriminatory in violation of the Shipping Act and that the defendants were therefore liable for treble damages under the antitrust laws even though they had set their wastepaper rates pursuant to an FMC-approved conference agreement. Because the theory of law advanced by the plaintiffs threatened the viability of the Commission's authority under section 15 of the Shipping Act to exempt price-fixing by shipping lines from the antitrust laws, the Commission filed an amicus curiae brief with the District Court urging dismissal of the complaint. The case is now on appeal to the United States Court of Appeals for the Ninth Circuit.

NYSA, et al. v. FMC and USA, D.C. Cir. No. 82-1347.

The New York Shipping Association challenged the Commission's order in Docket No. 81-11, "50-Mile Container Rules" Implementation by Ocean Common Carriers Serving U.S. Atlantic and Gulf Coast Ports - Possible Violations of the Shipping Act, 1916, which held that the "50 mile container rules" are subject to the Commission's jurisdiction under the Maritime Labor Agreements Act of 1980 (P.L. 96-325). The proceeding was removed from the court's docket with leave to reinstate upon completion of Docket No. 81-11.

Refrigerated Express Lines, Pty. Ltd. v. FMC, D.D.C. No. 81-1892.

Refrigerated Express Lines, a breakbulk carrier, sought review of certain Commission orders denying its petition for issuance of rules under section 19 of the Merchant Marine Act of 1920. The carrier alleged that its exclusion from the Australian meat trade, by a decision of the Australian Meat & Livestock Corporation to designate only container carriers, had created a condition unfavorable to U.S. foreign trade within the meaning of the 1920 Act and the Commission's rules at 46 C.F.R. Part 506. The U.S. Court of Appeals for the D.C. Circuit affirmed a District Court decision which had upheld the Commission's orders. The Court of Appeals gave notice to the broad discretion vested in the agency by section 19.

United States and Federal Maritime Commission v. Dynamic International Freight Forwarder, Inc., E.D. Mich. No. 83-C.V. 1141.

The United States District Court in Detroit entered an order enforcing a civil penalty of $2,500 assessed by the Commission against defendant Dynamic International Freight Forwarders in FMC Docket No. 80-5, Dynamic International Freight Forwarder, Inc. - Independent Ocean Freight Forwarder License Application and Possible Violation of Section 44, Shipping Act, 1916. The court also granted the Commission's request that Dynamic and its chief officer be permanently enjoined from engaging in unlicensed ocean freight forwarding.

The Boston Shipping Association, Inc. v. F.M.C. & U.S.A., 1st Cir. No. 82-1617.

The Court of Appeals affirmed the Commission's Report and Order in Docket Nos. 81-30 and 81-31, Boston Shipping Association v. New York Shipping Association, et al., which held that the requirement that container royalty assessments be paid to longshoremen at ports where containers were first handled had not been shown to violate the Shipping Act, 1916 or the Maritime Labor Agreements Act of 1980.

United States and Federal Maritime Commission v. ABC Containerline, N.V., et al., 83 Cir. 6571 (HFW) (S.D.N.Y.).

The United States and the Commission sought a preliminary injunction in aid of the agency's jurisdiction and to prevent

irreparable injury pending resolution of Docket No. 81-11, "50-Mile Container Rules" Implementation by Ocean Common Carriers Serving U.S. Atlantic and Gulf Coast Ports - Possible Violations of the Shipping Act, 1916. The injunction was denied because the Court determined that the equities and hardships presented by both sides appeared to be evenly balanced.

Legislation

During fiscal year 1983, the Commission was well represented in discussions of legislation being considered by the U.S. Congress. The Commission provided substantive and technical assistance to the Congressional Committees and members of Congress in their deliberations over various maritime regulatory matters.

Shipping Act Reform

During the first session of the 98th Congress, legislation to reform and update the regulation of ocean shipping in the U.S. foreign commerce was again introduced. Early in the session, the Senate Commerce Committee favorably reported S. 47, a bill nearly identical to S. 1593 which was considered in the 97th Congress. The bill was then referred to the Senate Judiciary Committee which held a hearing on the measure and filed its report on February 22, 1983. On March 1, S. 47 passed the full Senate on a vote of 64-33.

As passed by the Senate, S. 47 continues the antitrust immunity available to agreements among carriers and others, but

proposes changes to procedures for processing and investigating agreements. The bill requires that carrier and marine terminal agreements must continue to be filed with the FMC but provides a 45-day effective date for all agreements unless rejected or suspended by the Commission. The "preapproval review" of agreements under current section 15 standards and procedures, including the "public interest" standard, has been eliminated. Standards governing agreements under the proposed reform Act are confined to specifically enumerated "prohibited acts" applicable to concerted activity. The burden of proof in any proceeding affecting an agreement will be on the party opposing the agreement. S. 47 specifically extends Commission jurisdiction to conference intermodal agreements; mandates independent action for conferences having loyalty contracts or operating in OECD trades (i.e., trade between members of the Organization for Economic Cooperation and Development); continues the requirement for open conferences; maintains the tariff filing and adherence requirements of the 1916 Act; authorizes time/volume rates and service contracts; adds a new authority under which the Commission may respond to restrictions on access by U.S.-flag carriers to cross trades and provides for a Government Accounting Office study on the deregulation of ocean shipping.

The companion measure in the House, H.R. 1878, was introduced on March 3, 1983 and was the subject of hearings before both the House Merchant Marine and Fisheries Committee and the House Judiciary Committee. On October 17, 1983, the bill was considered by the full House under suspension of the rules and

was passed by voice vote. As initially passed, H.R. 1878 is very similar to S. 47 with several notable exceptions - namely, it contains a general standard applicable to substantially anticompetitive agreements; mandates different time limits on FMC action on agreements; proposes two- and ten-day time limits on independent action applicable to all conference agreements; eliminates FMC regulation of and antitrust immunity for loyalty contracts; and establishes a Presidential Commission to study the deregulation of ocean shipping.

At the time of publication, a House and Senate conference committee is meeting to reconcile the differences between S. 47 and H.R. 1878.

Hearings

On February 2, 1983, Chairman Alan Green, Jr. testified before the Merchant Marine Subcommittee of the Senate Committee on Commerce, Science and Transportation in support of S. 47. In March, Commissioner James J. Carey testified before the House Merchant Marine Subcommittee in support of H.R. 1878. Thereafter, H.R. 1878 was referred to the House Judiciary Committee which held two days of hearings into the antitrust implications of the new legislation. The Commission's General Counsel, C. Jonathan Benner, and the Director of the Commission's Office of Policy Planning and International Affairs, Dr. Robert A. Ellsworth presented the Commission's views before the Monopolies and Commercial Law Subcommittee of the House Judiciary Committee. Throughout the first session of the 98th Congress,

the Commission's staff has worked closely with members of Congress and their staffs regarding the shipping reform legislation, providing both technical and substantive input.

The Export Trading Company Act & Other Legislation

On October 9, 1982, P.L. 97-290, the Export Trading Company Act, was signed into law by President Reagan. Its purpose is to encourage the formation of export trading companies (ETC'S) by permitting financial institutions to invest in such companies. An ETC is expected to provide assistance to smaller companies in the development of export markets. Among the services that an ETC may provide are freight forwarding and transportation. Before an ETC may offer freight forwarding services, the company must satisfy the licensing requirements and regulations contained in section 44 of the Shipping Act, 1916 and the Commission's rules. The Commission believes the Export Trading Company Act may have a significant positive impact on the maritime commerce of the United States.

In April of 1983, Chairman Green testified in opposition to H.R. 2562, a bill that proposed to repeal FMC jurisdiction over common carrier practices arising from maritime collective bargaining contract obligations. This opposition is based on the Commission-held belief that authority to examine the legality of the practices of common carriers is necessary and appropriate to the Commission's responsibility to ensure adequate protection of the interests of shippers, ports and other carriers. The House Merchant Marine Subcommittee considered H.R. 2562 in a mark-up

session on September 5th. However, an effort to report the bill to the full committee failed by a vote of 15-9 against the bill.

The Commission also took interest in the progress of S. 121, a bill that would consolidate various trade functions now under the jurisdiction of the United States Trade Representative and the Commerce Department into a new Department of Trade. Hearings on S. 121 were held during the spring and summer before the Senate Governmental Affairs Committee. The bill was considered further and marked up during the late summer and early fall. No action on a companion bill in the House had occurred at the time of publication.

The Commission also followed legislation (S. 1080 and H.R. 2337) that would reform administrative procedures governing all agency rulemaking and court review of agency proceedings. Congressional action on these general regulatory reform bills was not forthcoming.

POLICY PLANNING AND INTERNATIONAL AFFAIRS

The Office of Policy Planning and International Affairs was created in April 1983 and is responsible for conducting a full range of international affairs activities, strategic planning, policy briefings, and ongoing economic research and analysis to support the Commission in its statutory mission. In its planning function, the office ensures that the Commission is able to anticipate future developments likely to affect liner shipping and international trade. Office activities include: monitoring the actions of foreign governments -- laws, decrees, and cargo preference policies -- affecting ocean shipping in the foreign trades; providing technical assistance regarding U.S. maritime regulatory policy in intragovernmental and government-to-government discussions of international shipping policy; forecasting trade developments and global economic trends; and analyzing legislative actions, and operational and structural changes in the shipping industry that affect the environment of international liner shipping. The office conducts economic research and studies to enable the Commission to meet its regulatory responsibilities. The office also provides expert economic testimony in the Commission's formal docket proceedings concerning section 15 agreements.

Policy Planning Issues

Maritime Regulatory Reform Legislation

In fiscal year 1983, Congress was on the verge of approving maritime regulatory reform legislation (The Shipping Act of 1983). The Congressional intent of this legislation is to clarify the antitrust immunity pertaining to agreements and activities subject to Commission regulation, to expedite consideration and review of agreements filed with the FMC, and to redefine the powers of the Commission as an independent regulatory agency.

There are several provisions in the legislation of particular relevance to the Commission's planning functions. First, the House version reinstituted a general public interest standard (section 5(g) of H.R. 1878) which requires a balancing between the benefits of certain anticompetitive arrangements and the costs due to a possible harmful reduction in competition. Second, both the Senate and House bills have provisions that empower the Commission to investigate potentially unfair actions that exclude or unduly restrict the operations of U.S.-flag vessels in the foreign-to-foreign trades, and to take appropriate action (up to and including tariff suspension). Finally, the House bill also establishes a Presidential Study Commission -- with the Chairman of the FMC as a member -- that will address a number of major issues germane to the legislation. The findings of the Study Commission are to be reported within two years following enactment of the legislation. In addition, the House

bill requires the FMC to report back to Congress within five years after enactment on the impact of the legislation on international ocean commerce.

Notice of Inquiry for Port Regulation

The Commission issued its "Notice of Inquiry and Intent to Review Regulation of Ports and Marine Terminal Operators" in September of 1983. The Notice was issued in order to comply with the Regulatory Flexibility Act's requirement to review all Commission regulations periodically. The Notice reflects the Commission's concern that its regulation of the port industry be updated in light of the changing legal, economic, and technological environment in which the industry operates. In addition, the Notice addresses the need for continued antitrust immunity for the port industry. The Commission and its Inquiry Officer, Commissioner Robert Setrakian, invited comments from the port industry, the shipping public, and all interested parties on these issues. As a result of this inquiry, the Commission may decide to initiate a proposed rulemaking procedure to revise all or a portion of its regulations affecting ports and marine terminal operations.

Tariff Automation

Section 18(b) of the Shipping Act of 1916 requires every common carrier by water in the U.S. foreign commerce and each conference of such carriers to file tariffs with the FMC and adhere to the specified rates and charges in the tariffs. It is

the responsibility of the FMC to prescribe the form and manner in which tariffs shall be published and filed.

At the end of the fiscal year, the FMC had approximately 4500 tariffs on file. New and replacement tariff pages are filed at the FMC at a rate of nearly 600,000 per annum. This number is expected to continue to grow. Clearly, given the sheer volume of pages, an automated tariff system would enhance the filing, retrieval and analysis of ocean freight tariffs.

The FMC has begun an evaluation of the potential for, and possible implementation of, an automated tariff system. As part of this evaluation, the Office of Policy Planning and International Affairs conducted a study on the potential for automating the tariff system. In the study, "Tariff Automation: A Survey of Industry Views," it was concluded, based on interviews with maritime industry representatives, that the tariff system could and should be automated.

The conclusions reached in this study, along with other efforts within the FMC to increase the efficiency of the tariff system, have prompted the Commission to actively pursue ways in which tariff automation can be implemented.

International Affairs

In an increasingly interdependent world, where the actions of one nation often affect the vital interests of a trading partner, the Commission has become more cognizant of the economic and political events which are reshaping the structure of the liner shipping industry. Foreign governments are increasingly

active in implementing cargo sharing regimes, involving themselves in conference pricing decisions, and regulating the activities of liner conferences.

The laws and decrees of foreign governments -- which have now been given the appearance of legitimacy with the entry into force of the UNCTAD (United Nations Conference on Trade and Development) Code of Conduct for Liner Conferences -- have the potential of restricting the transport of all or, in some cases, certain specific cargoes to national-flag lines and the carriers of the reciprocal trading partner. Under these schemes, waivers are used to sanction the use of third-flag carriers. These trade restrictions can limit the options of shippers to select the carrier offering the best service at the most favorable rates. The Federal Maritime Commission presently has statutory authority, under section 19 of the Merchant Marine Act of 1920, to protect U.S. interests in its foreign trades.

The cargo preference decrees of foreign nations can also be used to restrict the operations of U.S. carriers in the cross trades. The pending maritime reform legislation proposes to empower the Commission to apply retaliatory sanctions against the carriers of nations that discriminate against U.S. carriers in the foreign-to-foreign trades. This legislative change will enhance and strengthen the Commission's role in its efforts to preserve and protect an efficient transportation system and allow the carriage of cargoes at competitive rates in the liner trades.

Throughout the year, the Commission has provided technical advisors to a government policy group designed to formulate and

coordinate U.S. shipping policy. This group is formally known as the Interagency Shipping Policy Group and is composed of members from the Department of Transportation, Department of State, the Office of the U.S. Trade Representative and the Departments of Justice and Commerce. The Commission has also been represented in a technical capacity throughout the course of U.S. discussions with European and Japanese government officials in the Consultative Shipping Group (CSG). The members of the CSG meet to discuss problems facing international shipping interests of the U.S. and other Western nations engaged in the world's liner trades. Given the entry into force of the UNCTAD Code and the proliferation of cargo preference regimes around the world, the CSG and the U.S. have been discussing approaches to maintaining open and competitive access to the world's liner trades.

During fiscal year 1983, the Commission was actively involved in the following areas of international affairs:

Restrictive Cargo-Sharing Decrees and Laws of Foreign Governments - Section 19 Activities

There has been a sharp trend towards cargo-sharing agreements during the past decade. As the UNCTAD Code enters into force, the United States will likely experience increased pressure from trading partners in the developing world to conclude bilateral maritime agreements that reserve significant shares of their liner trades for their own national-flag carriers. In the past, several foreign governments have enacted laws, decrees, and other cargo preference legislation and implemented onerous restrictions on oceanborne cargoes that serve

to discriminate against carriers in the U.S. liner trades. Such limitations have, in certain circumstances, reduced the options of shippers to obtain the best service available at the most favorable rates, thus adversely affecting the import of foreign goods and export of U.S. products. Complaints about such discrimination have resulted in Commission actions to remove conditions unfavorable to shipping in the U.S. liner trades. Under section 19 of the Merchant Marine Act, 1920, the Commission possesses great power to retaliate against discriminatory activities by foreign carriers and governments.

The Commission has exercised section 19 authority in two instances during fiscal year 1983 to respond to complaints about discriminatory actions by foreign governments or their national lines in the U.S. liner trades. These cases involved the Philippines in Docket No. 83-45 and Venezuela in Docket No. 82-58.

Under Executive Order 769, the Philippine Maritime Industry Authority (MARINA) was instructed to ensure that 80 percent of all Philippine export and import liner cargoes -- not already reserved under P.D. 1466 -- be reserved for the national-flag carriers of the Philippines and its bilateral trading partner and shared equally. P.D. 1466, a Presidential decree, stipulates that all government-sponsored cargoes should be transported solely by Philippine-flag vessels. Complaints by shippers and third-flag carriers in the U.S./Philippine trades about the Philippine Government's discriminatory actions have resulted in a section 19 action by the Commission in Docket No. 83-45.

Venezuela represents another example of a nation that has adopted unilateral measures at variance with U.S. policy and the 40-40-20 cargo sharing provisions of the UNCTAD Code (of which the U.S. is not a party). In Docket No. 82-58, the Commission acted on complaints by Delta Steamship Lines, Inc. and Coordinated Caribbean Transport, Inc.. The Commission subsequently found that these two U.S. carriers providing services in the U.S./Venezuelan liner trades and U.S. commerce generally were adversely affected by Venezuelan Government cargo-reservation decrees. The Commission considered the issuance of remedial sanctions in response to these complaints under section 19 of the Merchant Marine Act of 1920. The proceeding was, however, suspended on January 14, 1983, pending the outcome of diplomatic negotiations between the U.S. and Venezuela to resolve the issue. The discussions resulted in a grant of associate status for the two U.S.-flag carriers by Venezuela on an interim basis, pending the conclusion of a formal government-to-government agreement in the trade. Subsequently, Concorde/Nopal -- a third-flag carrier in the U.S./Venezuelan trade -- complained that the Venezuelan Government's currency exchange system had, in effect, made all liner trade cargoes subject to the Venezuelan cargo-reservation decree. This situation effectively precluded shipment of all cargoes on third-flag vessels in the trade. Following consideration of this complaint, and subsequent to further diplomatic efforts, Concorde/Nopal was also granted associate status in the trade subject to certain conditions. This issue will be the subject of

further diplomatic negotiations in early 1984. At that time, a more permanent solution to the problem will be sought.

The UNCTAD Code of Conduct for Liner Conferences

The UNCTAD Code of Conduct for Liner Conferences entered into force on October 6, 1983. The Code sets out provisions that regulate the operations of liner conferences. The major provisions of the Code regulate ocean shipping practices dealing with conference membership, cargo allocation, freight rates, conference-shipper consultations and the international settlement of disputes.

The U.S. is one of the few major trading nations that does not plan to ratify the Code. This means that the provisions in the Code will affect virtually all non-U.S. liner trades. Given the implementation of the Code in the world's liner shipping business, the Commission has closely examined the Code and its potential for affecting U.S. interests in trades governed by the Code, as well as its indirect affect on U.S. trades.

As the UNCTAD Code becomes effective and garners further support among many sizeable trading nations, competition in ocean liner shipping may be greatly reduced and access to foreign trades severely limited. The FMC possesses the statutory authority to help keep liner trades open. The Commission will likely be called upon to perform its increasingly important function as a protector of U.S. interests in foreign oceanborne commerce. The U.S. Interagency Shipping Policy Group, presently engaged in discussions regarding steps to ensure the greatest

degree of freedom in the world's liner trades under the Code, has been fully advised of the Commission's authority to support open liner trades.

U.S./Consultative Shipping Group (CSG) Discussions

The U.S. has held a series of discussions with the Consultative Shipping Group (CSG) regarding the coming into force of the UNCTAD Code of Conduct for Liner Conferences. The CSG is primarily composed of major European nations and Japan, all of which plan to ratify the Code. In an effort to maintain access to liner trades wherever possible, discussions between the U.S. and the CSG have focused on guarantees of reciprocal competitive access for U.S. and CSG vessels in their respective trades with developing countries that are parties to the Code. The main concern for the United States regarding the trades between CSG countries and the Codist developing countries (those having ratified the Code) is that U.S. carriers may be limited in or eliminated from the trade due to restrictive practices of certain developing country governments or the commercial practices of specific conference lines. The primary concern of the CSG nations is that the U.S., not being in agreement with the provisions of the Code, will enter into bilateral agreements with these developing countries, thus restricting the access of CSG vessels in the U.S./developing country trades.

Throughout the fiscal year, the Commission has had observers present during the discussions between the U.S. and the CSG. In these meetings and in the planning sessions of the U.S.

Interagency Shipping Policy Group held in preparation for the discussions, the Commission has offered technical advice and counsel regarding the authority of the FMC as it relates to topics under discussion.

Bilateral Negotiations

Growing conflicts between the liner shipping policies of the United States Government and certain developing countries have resulted in increased government-to-government bilateral negotiations. The FMC has provided technical advisors to the Interagency Shipping Policy Group in discussions with the Venezuelan and Philippine Governments. It is expected that this involvement will increase in the coming year as continued conflict is expected with various developing countries that attempt to unilaterally enforce cargo-preference programs in the U.S. liner trades.

Foreign Maritime Laws and Regulations

The Commission continues to expand and update its files on foreign maritime laws, regulations and regulatory structures. It seems likely that future jurisdictional conflicts between the FMC and its foreign counterparts will increase. U.S. carriers, shippers and consignees will be forced to conduct business in a more complex international regulatory setting as a growing number of countries promulgate conflicting and often trade-restrictive shipping laws. In maintaining accurate and timely information on counterpart agencies abroad, the Commission is better able to

anticipate areas of regulatory conflict with our trading partners and deal with that situation at an earlier, less critical stage. In particular, the FMC has monitored the progress of the European Economic Community's Proposed Regulation on Maritime Transport, and the maritime regulatory activities of such important developing countries as the Philippines, Brazil, and Nigeria.

III

SIGNIFICANT COMMISSION PROGRAM ACTIVITIES DURING THE YEAR

The Commission's statutory responsibilities are chiefly carried out through various bureaus within the agency. Under the direct control of the Director of Programs, these bureaus are largely organized by statutory function. Section 15 agreement processing and analysis, tariff filing and enforcement, hearings, passenger vessel certification, freight forwarder licensing, and investigations comprise the primary functional activities of the four bureaus within the agency. Each bureau is composed of several offices. The entire Commission receives management and administrative support from other Commission offices under the direction of the Director of Administration. During the year, the Commission underwent a major internal management reorganization involving its bureaus and support offices. Appendix A indicates the Commission's organization at the close of fiscal year 1983.

REGULATORY PROGRAMS

AGREEMENTS PROCESSING REVIEW BOARD

In August of 1982, the Commission established an Agreements Processing Review Board consisting of the following representatives: Director of Programs; Deputy General Counsel; Director, Office of Policy Planning and International Affairs;

and Director, Bureau of Agreements and Trade Monitoring. This action was taken for the purpose of expediting agreement processing.

The principal function of the Review Board is to include key officials representing all essential components of the agency at an early stage in the review of each agreement. This facilitates the identification of any troublesome issues or other problem areas associated with the analysis and processing of each agreement. The Board is also charged with the continual examination of the FMC's agreement review process and recommending ways to further improve the handling of agreements by the Commission.

On January 1, 1983, the Commission put into effect new agreement processing rules. These are reflected in General Order 24 regarding the public filing and comment process, and Commission Order 104 regarding the agency's internal processing machinery. These procedures streamline the public comment process and establish time frames for internal processing. Agreements have been categorized according to degree of competitive ramifications and specific time frames for processing attach accordingly.

The Review Board also recommended the use of an experimental agreement processing procedure which would put less emphasis on lengthy written staff analysis and more emphasis on oral presentation of matters to the Commission. This experiment was conducted in anticipation of being faced with accelerated processing deadlines under new legislation. The experiment

demonstrated that such a procedure could indeed be used to significantly reduce the processing time of agreements.

At the suggestion of the Board, additional reductions were made in the handling time of non-controversial agreements for which approval is anticipated. By presenting an order of approval to the Commission at the same time that the Commission initially considers an agreement, considerable additional review was eliminated and thus, the approval process following Commission action was greatly expedited.

Of further significance is the fact that, largely through Review Board impetus, the Commission has established additional uniform guidelines regarding various types of agreements and the amount and type of justification required for approval. These clear guidelines benefit both the filing parties and the Commission staff. Most notably, guidelines have been established in the areas of intermodal authority (both conference and joint service) and independent action. Numerous agreements have been expeditiously processed under these guidelines.

The following statistics reflect the improvement in agreement processing time in the current fiscal year versus the previous one, 1982. This improvement is a product of the work of the Review Board, its newly developed procedures, and the Bureau of Agreements and Trade Monitoring staff working within the framework of these procedures.

In fiscal year 1983, the average total processing time for agreements handled under authority delegated to the Director, Bureau of Agreements and Trade Monitoring, was reduced from 103

days from date of filing to 40 days. This represents a 61% reduction in processing time. During the same period, the average processing time on all other agreements completed during the period was reduced by 39% to 186 days from date of filing. This figure includes agreements which had been referred to investigation and hearing by the Commission. More meaningful perhaps is the fact that the average processing time at the bureau level for these same classes of agreements was reduced by 44% to 93 days from the date of filing. These improvements are significant and bode well for the future.

BUREAU OF AGREEMENTS AND TRADE MONITORING

The Bureau of Agreements and Trade Monitoring is responsible for analysis and review of all agreements filed under section 15 of the Shipping Act, 1916. The bureau, with the help of the Agreements Processing Review Board, has been instrumental in achieving the expeditious processing of the agreements at the Commission. This cooperation has greatly facilitated more timely and responsive Commission action on these commercial matters. In striving to assess the transportation need to be served and the public benefit to be accomplished through the concerted activities of ocean common carriers by water, conferences of such carriers, and other persons subject to the Shipping Act, 1916, the bureau monitors the changing rate and service patterns of international shipping and trade; analyzes conference activities, various mandatory conference reports and statements submitted by

ocean carriers; and reviews self-policing contracts. The bureau is also charged with determining whether the benefits and objectives upon which Commission approval of the agreement was predicated are truly being realized and whether continued approval of an agreement is warranted. Given the rapidly changing international shipping environment, surveillance of Commission-approved section 15 agreements constitutes an increasingly important function of the Commission.

Processing

At the beginning of fiscal year 1983, there were 147 applications for section 15 approval on file with the Commission. During the year, 396 additional applications were received, resulting in a total of 543 applications available for processing. The Commission approved 233 new or modified section 15 agreements during the year. The overwhelming majority of Commission approvals were conditional, requiring that the parties to an agreement refile a modified agreement to meet specific conditions imposed by the Commission. In such cases, should the parties fail to meet the conditions, the approvals would be null and void. Conditions are imposed by the Commission in order to protect the public interest or provide the Commission with information necessary to maintain adequate surveillance over the activities of the parties involved in a section 15 agreement.

In addition to the agreements approved, 10 were disapproved during the year and 20 were withdrawn. Action was also completed during the year on 143 miscellaneous filings, including various

petitions for specific Commission action and cancellation of agreements. In addition, 29 filed agreements were ultimately found not to be subject to section 15 of the Shipping Act, 1916. Section 15 applications on hand at the close of the fiscal year numbered 108, representing a significant reduction from the number of agreements pending at the start of fiscal year 1983.

As indicated above, the establishment of the Agreements Processing Review Board, together with new and revised agreement processing rules which became effective on January 1, 1983, have served to measurably improve the agency's agreement processing procedures. A vast majority of agreement applications are acted upon by the Commission within 90 days of initial filing. Even the most complex commercial agreements are usually considered within 150 days of filing. Given the likely change in the Commission's legislative authority with the imminent passage of a new shipping law, the Commission has anticipated those changes necessary to accomodate a greatly accelerated timeframe within which agreements become effective.

Surveillance

Under present statutory authority, the Commission is obliged to disapprove, cancel or modify any agreement that, after notice and hearing, is found to be operating contrary to the public interest and other significant statutory standards. The Commission is also authorized to maintain adequate surveillance over the activities of parties to approved agreements in order to ensure continued compliance with the Shipping Act, 1916, and Commission rules.

A new Office of Trade Monitoring was established to begin operating on November 1, 1983. The primary responsibilities of this unit are to: (1) detect unfiled agreements; (2) detect activity beyond the scope of existing approved agreements; (3) determine whether conditions in a particular trade have changed sufficiently so as to undermine the original justification for approval of a specific agreement; (4) determine whether continued approval of an existing agreement is consistent with current Commission decisions, rules and policies; (5) monitor agreement self-policing activity to ensure compliance with mandatory policing obligations; and (6) review minutes of meetings filed pursuant to General Order 18. The office will also perform necessary monitoring through other information sources, such as tariffs, various conference reports, periodicals, and shipper complaints.

A particular aspect of adequate surveillance is the careful review of reports to ensure that the regulated entities authorized to act concertedly do so in accordance with the applicable statutory standards. These reports include: the minutes of meetings filed pursuant to the Commission's General Order 18; Shipper Requests and Complaint reports filed pursuant to General Order 14; Self-policing reports filed pursuant to General Order 7; and Ad Hoc reports resulting from a specific Commission order.

In fiscal year 1983, a total of 2629 minutes of meetings were filed with the Commission, mostly by parties to Conference and Rate Agreements. These minutes keep the Commission informed

of the activities of the parties to approved agreements and aid in the detection and prevention of possible statutory violations. The Commission also reviewed 103 Shipper Requests and Complaint reports. These reports are required by rule and indicate the degree to which Conferences and Rate Agreements (except two-party agreements) are maintaining effective procedures to fairly and promptly consider shippers' requests and complaints (usually concerning freight rates). The Commission is considering instituting a rulemaking proceeding for the purpose of reducing the annual reports covering Shipper Requests and Complaints from detailed reports to a single, statistical summary.

Section 15 of the Shipping Act, 1916, specifically requires the Commission to disapprove or modify any agreement upon a finding of inadequate self-policing. General Order 7, Revised (46 CFR 528) requires that all ratemaking agreements (except those between two parties) contain provisions describing the methods and standards used by independent policing authorities to investigate and adjudicate breaches of the agreement by any of the membership (e.g., rebating, charging other than applicable rates in the tariff), and to assess penalties for such breaches. The ratemaking groups that are subject to the requirements of the General Order are required to file with the Commission semiannual reports which cover the group's self-policing and adjudicatory activities. In fiscal year 1983, 149 of these reports were filed with the Commission.

During the year, a notice of proposed rulemaking to modify the self-policing requirements of section 15 agreements was

prepared. The proposal was issued by the Commission early in fiscal year 1984, and includes requirements for an ongoing cargo inspection program, annual audits of each member line of a conference or rate-fixing group, and adoption of a standard uniform self-policing report format. These changes should provide the Commission with uniform, comparable data to better assess the adequacy and efficacy of self-policing.

Program to Eliminate Inactive Agreements

The Commission's increased surveillance activities have uncovered many approved section 15 agreements that are dormant and may no longer be necessary. During fiscal year 1983, the Bureau of Agreements embarked on a program to review all section 15 agreement files approved and on file with the Commission as of September 30, 1981. The review program was structured to determine which of the approved agreements were active. The bureau, under delegated authority, terminated 72 dormant agreements. A total of 146 such agreements have been so terminated in the preceding 24 months.

Inquiry into the Regulation of the Marine Terminal Industry

On September 14, 1983, the Commission published in the Federal Register a Notice of Inquiry for the purpose of soliciting public comment on the regulation of ports and marine terminal operators under the Shipping Act, 1916. The issues to be addressed include the filing and approval of terminal agreements, the need for continued antitrust immunity for marine

terminal operators, and the Commission's future role in marine terminal regulation. It is the Commission's purpose in instituting this proceeding to ensure against any unnecessary or inappropriate regulatory burden on predominantly commercial activities while continuing to adequately protect the public interest.

Types of Agreements

Marine Terminal and Shoreside Agreements

Marine terminals, operated by both public and private entities, provide the facilities and labor for the interchange of cargo between land and sea carriers, and for the receipt and delivery of cargo to shippers and consignees. Agreements entered into between terminal operators and other persons subject to the Shipping Act (e.g., those involving the lease, license or other use of property, dock or berthing space, or for services to be performed for carriers) may require the approval of the Commission under section 15 of the Shipping Act, 1916. In addition, the Commission maintains surveillance over the activities of parties to terminal agreements.

During fiscal year 1983, the bureau processed to completion 152 agreements and agreement modifications providing for the use and provision of port and terminal services and facilities.

The Commission is also charged with handling certain labor-management agreements pursuant to the Maritime Labor Agreements Act of 1980 (P.L. 96-325, 94 Stat. 1021). The Act provides that

such agreements, to the extent they provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized, shall be deemed approved upon filing with the Commission. During fiscal year 1983, only 7 labor-management agreements of this type were filed.

Pooling and Equal Access Agreements

Commercial pooling agreements apportion cargo and/or revenues among carriers. In some cases, increased efficiency and economy can result from the pooling of vessels, equipment and other resources. Also, these agreements often set forth sailing requirements and other features relating to overall service efficiency. Equal access agreements formalize national-flag carrier access to cargo whose movement is controlled by the government of the reciprocal trading partner through cargo preference laws, import quotas, or other restrictions. Several section 15 agreements contain both pooling and equal access provisions.

At the end of fiscal year 1983, there were nine pooling agreements, three equal access agreements, and five combined pooling/equal access agreements approved and in effect. The preponderance of these agreements apply to the U.S./South American trades and are justified by proponents of such agreements on the basis of reduced impediments to entering the trade, energy conservation, rationalization of sailings and efficient vessel deployment. Thirteen such agreements affect the

U.S. oceanborne commerce with Argentina, Brazil, Chile and Colombia.

During fiscal year 1983, the Commission took several significant actions on pooling and equal access agreements. Short-term renewals were granted upon request to the two southbound U.S./Peru pooling and equal access agreements (Nos. 10041 and 10044). However, both agreements subsequently expired without further renewals during the latter part of the fiscal year. A one-year extension was granted to the U.S. East and West Coast - Colombia Equal Access Agreement (No. 10066). For the first time, the Commission required the filing of periodic reports of operations under an equal access agreement. An equal access agreement between the two major Philippine-flag and the four principal U.S.-flag operators in the United States/ Philippines trade (No. 10461) was also filed during the year. This agreement encountered unprecedented and vociferous opposition from shipper and third-flag interests. As a consequence, the agreement was set down for investigation and hearing in Docket No. 83-22. Docket No. 83-22 was discontinued shortly after the prehearing conference as a result of the proponents' withdrawal of the agreement from Commission consideration. An amendment to the Italy/U.S. North Atlantic (WINAC) Pool (No. 10286-2) providing for a substantial broadening of the discretionary authority of this commercial pool was also set down for investigation and hearing in Docket No. 83-29. The Commission took this action for the purpose of determining whether the requested modification of the underlying agreement

would, in fact, facilitate the attainment of the objectives for which the pool had originally been approved. Finally, applications to further extend the pendente lite approvals of the two Japanese-flag commercial revenue pooling arrangements in the Japan-United States trades (Nos. 10116-5 and 10274-4), pending an outcome of the investigation in Docket No. 82-54, were denied. The parties were granted approximately two months to terminate their pooling accounts. The issue of the pools' overall approvability under Shipping Act standards remained, however, before the Commission in Docket No. 82-54.

Space Charter Agreements

Space charter agreements authorize the chartering (or cross-chartering) of vessel space or container slots between or among vessel operators. The essential objective of an arrangement of this type is to facilitate carrier access to vessel accommodation in specific trade routes beyond that which would otherwise be available to a carrier operating entirely on its own. Space chartering arrangements are generally entered into for one of two reasons: (1) force majeure space charters authorize chartering only when circumstances beyond a carrier's control (e.g., war, Acts of God, etc.) prevent it from shipping cargo on its own vessels, thus avoiding unnecessary delays and/or expenses for consignees; or (2) strictly commercial space chartering arrangements that are ongoing operational undertakings among carriers to facilitate the rationalization of overall fleet operations and to reduce overtonnaging in given trades. This

latter category also generally contains authority to agree on schedules, itineraries and the exchange of equipment. At the end of fiscal year 1983, there were nineteen active space charters in effect. Nine of these agreements operated in the U.S./Far Eastern trades, and an additional agreement in this trade, while not strictly a space charter, provided for the joint operation of a feeder vessel by two U.S.-flag operators (No. 10459). The remaining ten agreements involve the trades between the U.S. and the Caribbean, the Mediterranean, Europe, West Africa and the East Coast of South America.

In the course of the fiscal year, the Commission took several significant actions on a wide variety of space charter agreements. The Mediterranean-U.S. Atlantic Force Majeure (No. 10051) was extended and subsequently granted a request to expand its authority to include U.S. Gulf Coast ports. The Sea-Land/Hanjin space charter in the Korea trade was also extended. A new space charter arrangement between two Argentine-flag carriers in the U.S./East Coast of South America trade (No. 10453) was conditionally approved, as was an agreement between Dutch and Paraguayan liner operators in the U.S./Argentina-Uruguay-Paraguay trade (No. 10463). A multi-operator agreement in the West Coast of South America trade (No. 10467) encountered substantial opposition, and was set down for investigation and hearing in Docket No. 83-47. A combined space charter/equal access agreement between national-flag carriers in the U.S./Bolivian trade (No. 10440) was protested by competitive interests in the trade and subsequently set down for investigation and

hearing in Docket No. 83-10. The agreement was then withdrawn from further Commission consideration. A similar agreement in the U.S./Morocco trade (No. 10470) was conditionally approved during the year.

Perhaps the most significant Commission action involving space charter agreements during fiscal year 1983 dealt with extensions of four space charter agreements among various combinations of six major Japanese-flag operators (No. 9718, 9731, 9835 and 9975). These agreements were scheduled to expire in August, 1983. Together with two related revenue pooling agreements among the same operators, these agreements were the subject of proceedings before the Commission under Docket No. 82-54 to determine their approvability under Shipping Act standards. U.S.-flag operators had protested that the agreements were, among other things, insufficiently justified and served to exacerbate serious overtonnaging in the transpacific trades. The Commission granted pendente lite approval to the required extensions of these agreements pending the outcome of Docket No. 82-54, on the condition that the proponents freeze the level of vessel capacity deployed in the trade at its current level.

During the year, the Commission also granted pendente lite approval of extensions requested for two space charter agreements in the U.S./Korean trade (Nos. 10332 and 10371), pending the outcome of Docket No. 83-28. This formal proceeding was instituted initially to determine the approvability of two agreements (Nos. 10457 and 10458) that were to have been replaced.

Conference and Ratemaking Agreements

Conference and ratemaking agreements provide for the collective discussion, agreement and establishment of ocean freight rates and practices by groups of ocean carriers. Such agreements are limited to a geographic area or trade route, with the basic distinction being that "conference" agreements usually cast a major or dominant influence on the rates within their trade, whereas "rate" agreements typically have lesser influence. Conference agreements are generally characterized by comparatively large numbers of member carriers, complex interrelationships, stringent collective ratemaking procedures and limited opportunity for independent action by individual members. Rate agreements, on the other hand, are typically composed of small memberships (sometimes only two), have simple organizational structures, utilize comparatively democratic ratemaking procedures and provide very liberal opportunities for individual, independent action.

During the fiscal year, the Commission concluded the processing of 132 conference and rate agreements or amendments to such agreements: 54 were ultimately approved; 5 were disapproved; and 73 were either cancelled, withdrawn or rejected. At the end of the year, 110 conference and rate agreements were in effect.

Discussion Agreements

Discussion agreements provide for common carriers by water, conferences and other persons subject to the Commission's jurisdiction to meet, exchange views and recommend action on matters of industry concern. However, discussion agreements do not usually authorize the implementation of agreed-upon courses of action without further specific Commission approval. At the conclusion of fiscal year 1983, there were fourteen such agreements in effect, eleven dealing with common carrier activities and three dealing with marine terminal activities.

Significant actions taken by the Commission in this area during the fiscal year included an extension of the U.S. Flag-Far East Discussion Agreement (No. 10050); the approval of an expansion of authorized areas for discussion and recommendation of the Far East Trades Self-Policing Agreement (No. 10305); a three-year extension of the Lykes/China Ocean Shipping Company Discussion and Sailing Agreement (No. 10376); and the approval of the Nigeria/United States Discussion Agreement (No. 10407).

Joint Service Agreements

Joint service and consortia agreements generally establish a new and separate line or service to be operated by otherwise independent liner operators as a joint venture in a given trade. The resulting line or service operates very much like a single carrier, generally fixing its own rates, publishing its own tariffs and issuing its own bills of lading; however, its authority to operate is strictly confined to those activities

specifically set forth in the section 15 agreement authorizing its operation.

At the conclusion of the fiscal year, 23 approved joint service and consortia agreements were in effect, covering virtually every major U.S. foreign trade with services varying from specialized automobile carrier operations to containerized and Ro/Ro services.

The most significant developments in this area during the fiscal year involved applications for intermodal authority for several joint services. In this regard, the Commission established general criteria concerning the showing of shipper demand, operational capability and scope that joint services should address when applying to the Commission for operating authority. Joint service intermodal authority applications considered and granted by the Commission during the fiscal year included those filed by the Associated Container Transportation (Australia), Ltd. Containership Service Agreement (No. 9767-1); Euro Pacific (No. 9902-13); Pacific America Container Express (No. 9925-2); and Johnson Scanstar (No. 9973-9). In addition, the Commission granted applications to extend the Euro Pacific joint service (No. 9902) and the Barber Blue Sea joint service (No. 10137).

Trade Area Developments

Transatlantic

During much of fiscal year 1983, depressed world economic conditions and vigorous non-conference competition has continued to aggravate a highly competitive situation affecting various conferences serving the transatlantic trade routes. Significant overtonnaging and a strong U.S. dollar have added to the disruption of cargoes moving eastbound from the United States. Some carriers have taken self-correcting measures by rationalizing vessel sailings. Conferences have sought to improve their individual position by requesting intermodal ratemaking authority and allowing conference members a right of independent action. Other conferences, recognizing serious problems with a contract rate system, have voluntarily decided to terminate that system. Improved cargo movements and better vessel utilization (particularly westbound) are to be anticipated as economic conditions continue to improve in the United States and among the trading partners of the U.S.

Transpacific

Excess capacity (overtonnaging) also plagues the transpacific trade routes. With too many ships chasing too few cargoes, freight rates have been hovering at historically low levels. This situation is reputed to have caused a significant reduction in the membership of shipping conferences. Conferences are experiencing substantial competition from an increasing

number of non-conference carriers operating in the trade heretofore dominated by the conferences. In response to declining membership, often the result of cumbersome rate-setting practices, some conferences have asked for authority to allow members a right of independent action (on rates). A strong U.S. dollar has also caused cargo imbalances in the trade with westbound cargoes vastly exceeding eastbound exports. The situation in this trade is not expected to improve significantly in the near future.

Africa

The American West African Freight Conference was granted intermodal authority during fiscal year 1983 and has promptly implemented such authority. Two other African (eastbound) conferences are expected to seek intermodal authority sometime within the next year.

Rulemaking

Section 35 of the Shipping Act, 1916 provides the Commission with authority to exempt for the future any class of agreements between persons subject to the Act, or any specified activity of such persons, from any requirements of the Act or the Intercoastal Shipping Act, 1933, upon a finding that an exemption will not substantially impair effective regulation, be unjustly discriminatory or be detrimental to commerce. For some time the Commission has been reviewing its regulations in an effort to remove or modify any regulation which imposes an undue burden on

latter category also generally contains authority to agree on schedules, itineraries and the exchange of equipment. At the end of fiscal year 1983, there were nineteen active space charters in effect. Nine of these agreements operated in the U.S./Far Eastern trades, and an additional agreement in this trade, while not strictly a space charter, provided for the joint operation of a feeder vessel by two U.S.-flag operators (No. 10459). The remaining ten agreements involve the trades between the U.S. and the Caribbean, the Mediterranean, Europe, West Africa and the East Coast of South America.

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affected parties. Toward that end, the Commission has continued its efforts at limiting the exercise of its authority over agreements to those areas where it is clearly necessary and productive.

During fiscal year 1983 the Commission, in light of strong public comment, took final action in Docket No. 81-54. The Commission chose not to adopt a proposed rule that would include as part of the Uniform Merchant's contract (46 CFR 538.10) a third rebuttable presumption "that the merchant paying the freight charges on a given shipment has the legal right to select the ocean carrier." In addition, the Commission instituted a proposed rule to exempt nonexclusive transshipment agreements from the "filing" requirements of section 15 (Docket No. 83-43). The Commission is also exploring the feasibility of instituting proceedings to exempt from regulation a number of other agreement categories and clarify existing regulations, including those involving certain marine terminal agreements.

Other Significant Developments

Intermodalism

The development of intermodalism continued to play a significant role in marine transport during fiscal year 1983. The Commission's criteria for approval of conference intermodal ratemaking authority as first articulated in American West African Freight Conference (Agreement No. 7680-39), 20 S.R.R. 1196 (1981) and Japan/Korea Atlantic & Gulf Freight Conference

(Agreement No. 3103-67), 20 S.R.R. 1173 (1981) were affirmed in the previous year in three separate orders disapproving Agreements Nos. 6200-20, 9988-8 and 9522-44. The Commission, in listing the types of factual demonstrations needed to justify approval of conference intermodal through rate authority, has clearly indicated its full support for commercially viable intermodal services. During fiscal year 1983, the Commission employed the guidelines laid down in the Agreement No. 6200-20 Order to approve intermodal authority for the Malaysia/Pacific Rate Agreement, the Gulf/Mediterranean Freight Conference, the Thailand/Pacific Freight Conference, the American West African Freight Conference, the Pacific Coast/European Conference, and the Peoples Republic of China/U.S.A. Eastbound Rate Agreement.

Nine other intermodal amendments were filed during the year. Seven of these involve the U.S. North Atlantic/European trades and one covers the Atlantic & Gulf/West Coast of South America trade. The Commission is expected to act on this authority soon after the close of fiscal year 1983. The U.S. Atlantic & Gulf/ Australia-New Zealand Conference's request for intermodal authority was protested and is being investigated in Docket No. 83-53.

At the end of fiscal year 1983, there were 49 agreements that have authority to offer through intermodal services -- 35 conference agreements, and 14 rate agreements. Out of the total of 49, 13 had inland authority both in the United States and overseas, 8 had inland authority limited to the United States, *and 28 had inland authority limited to overseas. The amount of*

U.S. trade and commerce moving under intermodal through services has reached substantial proportions and indications are that it will continue to increase in the future as the relevant technology continues to develop and evolve.

In the area of intermodal authority for non-conference agreements such as joint services, the Commission sought to clarify uncertainty regarding justification for section 15 intermodal authority. The Commission has indicated that the burden on joint services to obtain section 15 authority to offer intermodal rates and services was considerably less than that on conferences and rate agreements. Ordinarily, joint services will merely have to demonstrate a need for intermodal services and a willingness to satisfy such a need.

Right of Independent Action

In order to preserve the integrity of the conference system, while recognizing the needs of conference members and shippers for competitive flexibility, the Commission has determined that authority to exercise independent action on 30 days notice is presumptively approvable (through Agreements Nos. 161-40, 14-49 and 5700-32). Numerous filings of independent action authority followed the Commission's pronouncement in this regard, most notably by the seven North Atlantic conferences.

Elimination of Dual Rate Contracts

The Commission is aware of a growing tendency on the part of conferences to question the need for continuing the maintenance

of a dual rate contract system. These systems have been substantially weakened by the spread of intermodalism and the difficulties encountered by the conferences in determining whether shippers are bound to the contract when they possess the legal right to ship. Furthermore, pending legislation essentially renders such contracts useless. Five exclusive patronage contract systems were voluntarily terminated during the fiscal year by the following conferences: the North Atlantic Westbound Freight Association; the North Atlantic United Kingdom Freight Conference; the North Atlantic Baltic Freight Conference; the North Atlantic French Atlantic Freight Conference; and the Scandinavia Baltic/U.S. North Atlantic Westbound Freight Conference.

Increased Importance of Hong Kong Conferences

On September 12, 1983 the Commission approved amendments to the two inbound Hong Kong conferences, the Trans Pacific Freight Conference (Hong Kong) (No. 14-49) and the New York Freight Bureau (No. 5700-32). These amendments provide for the right of independent action on 30 days' notice, reduction in the voting requirement (to a simple majority), and flexibility for members to divulge their positions on conference matters to shippers and consignees. The two Hong Kong rate agreements (Agreements Nos. 10107 and 10108) were officially terminated as a consequence. Participation in the rate agreement was sacrificed for the relative benefits of conference membership. The inbound Hong Kong trades have recently been characterized by substantial

overtonnaging and trade instability. In making conference membership a more attractive proposition (as indicated by the change in membership from the rate agreements to the conferences), these amendments should facilitate the conferences' efforts to become greater stabilizing forces in the inbound Hong Kong trades.

Extension of the Peoples Republic of China/USA Eastbound Rate Agreement

Agreement No. 10414, the PRC-USA Eastbound Rate Agreement, originally approved October 30, 1981, was accorded an indefinite extension and was allowed to extend the scope of the agreement to cover through intermodal (interior point and mini-landbridge) movements in the United States. As the only rate-fixing arrangement in the inbound PRC trade, it allows the parties -- all U.S.-flag lines -- an opportunity to address, in a collective and unified fashion, the many operational impediments that have been imposed by PRC authorities. Hopefully, a commercially viable liner service will be developed soon in this trade.

Appendix C summarizes the Commission's agreement activity for fiscal year 1983.

BUREAU OF TARIFFS

The Bureau of Tariffs plans, develops, administers and analyzes programs and activities in connection with the pricing of services by common carriers by water, conferences of ocean common carriers, and terminal operators in the foreign and

domestic offshore commerce of the United States; reviews, files and rejects tariff filings; approves or disapproves special permission applications; and initiates recommendations, collaborating with the Bureau of Hearing Counsel and other elements of the Commission as warranted, for formal action and proceedings by the Commission. By the close of the fiscal year, the bureau was also responsible for the licensing of independent ocean freight forwarders under the provisions of the Shipping Act, 1916; administration of the controlled carrier statutes; and the certification of owners and operators of passenger vessels as to their financial responsibility to satisfy liability incurred by nonperformance of voyages or resulting from injury or death in accordance with Public Law 89-777.

Foreign Commerce

Tariff Activity

In fiscal year 1983, the number of tariff pages filed increased by 100,283 or 21.5% over fiscal year 1982. The number of tariffs on file with the Commission at the end of fiscal year 1983 increased to 4231, a 17% increase from the previous fiscal year. A major cause for the increase in the total number of tariffs on file is heightened competition among carriers for inland intermodal cargoes.

During the year, the Commission continued its program to place cancelled tariffs on microfiche for record-keeping purposes in lieu of their transfer to government storage facilities. At

the end of fiscal year 1983, 1.5 million cancelled tariff pages were on microfiche. Additional tariff activity is summarized at Appendix D.

Terminal Handling Charges

Terminal handling charges are additional assessments paid over and above the basic transportation rates. During the year, various port interests had objected to the assessment of these additional charges by some carriers and requested appropriate Commission inquiry into the practice.

In fiscal year 1983, as a result of a petition filed by the North Atlantic Ports Association, the Commission conducted an investigation into the application of terminal handling charges. It was concluded that the publication of separate terminal/container handling charges from the basic ocean freight rates does not violate U.S. shipping statutes.

Consolidation Rules and FAK Rates for NVOCCs

The International Association of NVOCCs protested the changes made by several North Atlantic Conferences in their consolidation rules and FAK rates for NVOCCs. Prior to the Commission's consideration of these new rules, the conferences reinstated the old rules, thereby rendering the complaint moot.

Tariffs for Bulk Commodities

The Commission published in the Federal Register its decision to rescind the stay of effectiveness of an interpretive

rule adopted in Docket 80-70. On June 27, 1983, the rule became effective and implemented new tariff filing rules regarding the transportation of bulk cargoes in intermodal equipment. The rule provides that the transportation of bulk commodities, when loaded and carried in containers, trailers, rail cars, or similar intermodal equipment (with the exception of LASH or Seabee barges) moving in the foreign commerce of the United States, is subject to the tariff filing requirements of section 18(b) of the Shipping Act, 1916.

Management - ILA Rules on Containers

Tariffs containing the International Longshoremen's Association rules on containers were filed with the Commission covering virtually all water carriers serving U.S. Atlantic and Gulf ports. The rules set forth the manner in which carriers will handle certain containerized cargoes. Pursuant to a special permission request, the Commission permitted carriers to cross reference their tariffs to the rules on containers tariffs on less than the statutory notice period. However, the lawfulness of the implementation of these rules remains the subject of Docket 81-11.

Time/Volume Rates and Contracts

In December, 1982, the Commission concluded its rulemaking proceeding permitting the use of time/volume rates. Under these provisions, shippers are permitted to contract with carriers for volume rates for a prescribed period of time. The Commission's

proposals received overwhelming support from importers and exporters who value the ability to fix their future transportation costs.

By July, however, two conferences had sought to expand the concept of time/volume rates. By Order of investigation in Docket 83-31, the Commission is testing the lawfulness of the Volume Incentive Program. The salient feature of the program is that a conference proposes to make a refund to shippers based upon the total freight dollars received by the members of the conferences over a twelve month period. Litigation in this matter continued into fiscal year 1984.

Around-the-Clock and Electronic Tariff Filing

In Docket No. 80-56, the Commission provided for 24-hour receipt of permanent tariff filings, including the use of electronic filing methods. Privileges to file temporary tariffs by telex were eliminated. In allowing around-the-clock tariff filing, the Commission has provided the industry with the means to react to changing market conditions as they occur. In addition, the electronic transmission of tariffs is a permanent and reliable alternative to prior "temporary" telegrams.

Through Intermodal Service

Pursuant to a special permission request, the Commission granted authority to a carrier to permit the establishment of a through motor/ocean intermodal service without requiring such carrier to publish and file the through rate in a single

intermodal tariff with the Commission. Under the special permission authority, the through rate is constructed by combining the "proportional intermodal rate" in the ocean carrier's tariff with a rate contained in the participating, Interstate Commerce Commission regulated motor carrier's tariff. This experimental special permission will expire on September 8, 1984.

Intermodal Rates - U.S./United Kingdom-European Trades

The Commission approved special permission for continuing authority to establish new or initial rates on one day's notice in the U.S. Atlantic and Gulf/United Kingdom and European trades. This action is designed to allow common carriers subject to the Commission's filing requirements to effectively compete with foreign competitors who do not have such obligations. The Commission expects to consider a rulemaking proceeding to allow all carriers and conferences similar authority early in the next fiscal year.

Currency Adjustment Factors

Upon consideration of comments received from interested parties, the Commission discontinued Docket No. 82-56 on September 6, 1983. This proceeding involved a proposed rulemaking on tariff filing procedures and requirements for publishing currency adjustment factors. The comments indicated minimal support for the rulemaking. In view of the present strength of the U.S. dollar, the urgency and need for currency

adjustment factors has virtually disappeared. The Commission remains concerned with the matter of surcharges in general and will continue to review proposals to collectively address the tariff filing requirements regarding bunker, currency and port congestion surcharges.

Controlled Carrier Program

The number of controlled carrier special permission applications increased significantly in fiscal year 1983. This was largely due to the increased competitiveness of two controlled carriers in the Far East trade, National Galleon Shipping Corporation and Neptune Orient Lines, Ltd. During the fiscal year, 255 controlled carrier special permission applications were processed (versus only 27 in FY 1982).

During the first half of fiscal year 1983, special permission was granted to the Pacific Westbound Conference, Rate Agreement 10107, Rate Agreement 10108 and the Thailand Pacific Freight Conference to allow the Conference/Rate agreement members who were controlled carriers to meet the independent action rates of the non-controlled carrier members on immediate filing notice instead of the usual 30 day notice. The applications were filed by the various rate-fixing groups in order to attract controlled carriers to their memberships, and are indicative of growing conference concern over the competitiveness of some controlled carriers in the Far East trade. The Commission has adopted a rule in Docket No. 83-18 that amended its tariff filing requirements to allow conferences and rate agreements to file

lower rates for member line controlled carriers on less than 30 days' notice. This provision is limited to meeting the independent action rates of member-line, non-controlled carriers on open rated commodities.

On July 11, 1983, Pharaonic Shipping Company (S.A.E.) and Empresa Maritime del Estado (Empremar Lines) were added to the list of controlled carriers subject to the regulatory requirements of section 18(c) of the Shipping Act, 1916. The addition of these two carriers brings the number of carriers classified by the Commission as controlled to a total of twenty-four.

The Commission notified Malaysian International Shipping Corporation Berhad (MISC) by letter dated July 21, 1983, that it has been classified as a controlled carrier within the meaning of section 1 of the Shipping Act, 1916. MISC notified the Commission of its intention to rebut the Commission's finding. At the close of the fiscal year, MISC's status had not been finally resolved.

The Commission is also examining MISR Shipping Company, an Egyptian carrier, and Flota Bananera Ecuatoriana S.A., an Ecuadorean carrier, to determine if they should be classified as controlled carriers. Determination as to the status of these carriers should be made early in fiscal year 1984.

Elimination of Redundant Regulations

In fiscal year 1983, the Commission approved a final rule to delete 46 C.F.R. Part 534 from the Code of Federal Regulations

since it duplicated the regulations applicable to the transportation of green salted hides published in 46 C.F.R. 536.5(d)(17). This action did not change the original regulations in any manner, but merely provides a single codification of the regulation.

Domestic Commerce

The Intercoastal Shipping Act, 1933, and sections 17 and 18(a) of the Shipping Act, 1916, require the filing of rates, charges and rules describing the practices of common carriers in the U.S. domestic offshore trades, as well as of marine terminal operators. Unlike Commission involvement in foreign commerce, the Commission is charged with regulating the level of rates in the domestic offshore commerce from the mainland to Alaska and the offshore communities of Hawaii, Guam, Puerto Rico, American Samoa, and the U.S. Virgin, Midway, Johnston, Wake and Northern Mariana Islands. In order to carry out these duties, the Commission reviews and analyzes the tariff filings of ocean common carriers and terminal operators in these trades.

Tariff Activity

The Office of Domestic Tariffs has on file 258 domestic offshore tariffs filed by 307 carriers, and 424 terminal tariffs filed by 320 terminal operators. There were approximately 18,000 domestic carrier tariff revisions and 6,000 terminal tariff revisions filed during the year.

Additional tariff activity is summarized at Appendix D.

Around-the-Clock and Electronic Tariff Filing

As a result of a prior amendment to foreign filing requirements permitting receipt of permanent tariff filings, including electronic tariff filings on an around-the-clock basis, Sea-Land Service, Inc. filed a petition for rulemaking to extend such tariff filing privileges to the domestic offshore commerce. The Commission considered its petition and acted to issue a proposed rule to allow around-the-clock and electronic tariff filing in the domestic trades.

Significant Commission Activities by Trade Area

U.S. Mainland/Puerto Rico/Virgin Islands

A proposed general rate increase (GRI) was filed by Sea-Land Service, Inc. The effective date of the GRI was to be October 15, 1982. The Commission thoroughly reviewed the GRI and considered the several protests, as well as the support data submitted by Sea-Land. The Commission found that the representations of the protestants were not sufficient to warrant suspension or investigation of the general rate increase. The GRI covered a five percent increase in the trades between U.S. Atlantic and Gulf ports and ports in Puerto Rico and the Virgin Islands. The GRI also involved a three percent increase both southbound and northbound in Sea-Land's Canadian intermodal tariff. Sea-Land publishes joint rail-water, water-rail, motor-water, and water-motor commodity rates between San Juan, Puerto Rico, and Canadian ports via Elizabeth, New Jersey. Sea-Land

subsequently postponed the effective date of the three percent increase to January 1, 1983.

Sea-Land Service, Inc. also proposed an additional general rate increase of ten percent to become effective September 1, 1983. The increase was to apply between U.S. Atlantic and Gulf ports and ports in Puerto Rico and the Virgin Islands, except for the service between the Virgin Islands and Florida. No protests were received. However, the Government of the Virgin Islands requested that it be given additional time to adequately review the materials submitted in support of the Sea-Land request. Cooperation between Sea-Land and the Government of the Virgin Islands resulted in a Sea-Land request for postponement of the general increase insofar as it applied to the U.S. Virgin Islands. In view of the lack of protests and a determination by the Commission that there were no compelling financial or economic reasons for preventing the increase from becoming effective, that portion of the general increase applying to Sea-Land's service between the U.S. Atlantic and Gulf ports and ports in Puerto Rico became effective as scheduled. The Government of the Virgin Islands did protest the increase as it applied to the Virgin Islands. After reviewing the protest of the Government of the Virgin Islands and Sea-Land's supporting data for the service in question, the Commission determined to permit this portion of Sea-Land's increase to become effective on October 1, 1983.

The Puerto Rico Maritime Shipping Authority continued to transfer its tariffs to the Interstate Commerce Commission. Tariff FMC-F No. 3 was cancelled; it had named joint rail-water,

water-rail, motor-water and water-motor commodity rates between ports in Puerto Rico and the U.S. Virgin Islands and ports in Canada when moving via Elizabeth, New Jersey. This latest move by the Puerto Rico Shipping Authority left this particular carrier with only one domestic tariff on file with the FMC that applied to ports in Puerto Rico and ports in the U.S. Virgin Islands. At the fiscal year's close, the Puerto Rico Maritime Shipping Authority had a total of two tariffs on file with the FMC.

U.S. Mainland West Coast/Hawaii

In the U.S. Mainland West Coast/Hawaii trade, Matson Navigation Company, Inc. filed a 7.5 percent general rate increase between U.S. Pacific Coast ports and ports in Hawaii. The Commission did not receive any protests to the increase, and subsequently determined that the increase would not result in an unjust or unreasonable rate of return on rate base.

U.S. Mainland/Alaska

Kugkaktlik Ltd., a common carrier serving the trade between Bethel, Alaska, and eight villages north of the Kuskokwim River in Alaska, had petitioned the Commission for an extension of its tariff filing exemption from the tariff and regulatory rate requirements previously granted to them. Kugkaktlik also requested an expansion of the exemption so that the scope of its operations could include four additional villages (Quinahagak, Goodnews Bay, and Platinum south of the Kuskokwim River, and Mekoryuk on the north). The request also included the addition

of two vessels now utilized by Kugkaktlik. The petitioner stated that the conditions that existed for the previous exemption now include the additional villages and vessels. The petition was opposed by Kuskokwim Transportation Company, a FMC-tariffed common carrier engaged in the transportation of general commodities in direct competition with Kugkaktlik. Kuskokwim also contends that the conditions under which the original exemption was approved no longer exist. The Commission will consider this petition early in fiscal year 1984.

Financial Analysis

The Office of Financial Analysis provides accounting and financial expertise to ensure the reasonableness of rates for the transportation of cargo and other services provided by common carriers in the offshore waterborne commerce of the United States. The office also provides technical accounting assistance to other activities within the Commission.

Foreign Commerce

Through the Office of Financial Analysis, the Commission continued its program of systematically reviewing cargo rates offered by commercial carriers to the Military Sealift Command under the request for proposal competitive system. In connection with this activity, orders to provide financial data to support certain rates were issued to two carriers under the authority of section 21 of the Shipping Act, 1916. Based on the review of this data, a determination was made that the questioned rates

were not so low as to be detrimental to the commerce of the United States within the meaning of section 18(b)(5) of the Act.

Domestic Commerce

The accumulation of data and evaluation of pertinent activities in the domestic commerce continued. The financial and operating data contained in annual reports submitted by vessel operators under General Order 11 were made part of a five-year summary of cargo handling statistics and operating results, thus, providing a comparative overview of activity in the domestic offshore trades. Finally, the Commission's program of monitoring bunker fuel costs continued. This activity provides necessary information that assists the Commission in better evaluating the projections of fuel costs contained in rate actions filed by carriers in the domestic offshore trades.

Other Continuing Operations

The office provided accounting and financial expertise to the Bureau of Certification and Licensing in the evaluation of companies seeking to gain or retain self-insurer status in connection with water pollution and passenger vessel certifications. Similar assistance was provided to the Bureau of Hearing Counsel in connection with illegal activities by vessel operators and freight forwarders for determining whether and to what extent a violator is capable of paying a fine.

BUREAU OF HEARING COUNSEL

The Bureau of Hearing Counsel participates as trial counsel in formal adjudicatory dockets, non-adjudicatory investigations, rulemaking proceedings when designated by Order, and other proceedings initiated by the Commission. Bureau attorneys serve as Hearing Counsel, where intervention is permitted, in formal complaint proceedings instituted under section 22 of the 1916 Shipping Act. In addition to the formal proceedings in which the bureau participates as party, the bureau monitors all other formal proceedings in order to ascertain that all issues affecting the shipping industry and/or the general public, as distinguished from purely private disputes between the litigating parties, are adequately developed. On request, the bureau also furnishes advice to the staff and the shipping public. On occasion, the bureau participates in matters of court litigation by or against the Commission. Bureau attorneys review enforcement reports developed by the Bureau of Investigations, prepare and serve claim letters, and finalize the compromise and settlement of civil penalty claims for alleged violations of the shipping statutes and regulations. If settlement is not reached, the bureau acts as prosecutor in formal Commission proceedings that may involve the assessment of such penalties.

During fiscal year 1983, the Commission settled or adjudicated 42 malpractice cases totalling $411,250 in civil monetary penalties. More than one third of these fines were imposed against foreign firms. Appendix E provides a complete listing of the civil penalties assessed or settled.

As of the close of fiscal year 1982, the bureau had 24 formal proceedings pending. During the year, 17 new proceedings were received and 18 were completed, resulting in 23 formal proceedings on hand as of September 30, 1983. The bureau provided advice to the staff on more than 100 projects during the fiscal year.

In order that policy and legal positions in any proposed Commission action be more consistent and definitively articulated, various programs and procedures were initiated or intensified during the year to enhance communications between the Bureau of Hearing Counsel, as attorney for the staff, and the staff itself. These endeavors have had the intended result of expediting the processing of civil penalty claims. Furthermore, the Commission has been able to create a more effective and realistic deterrent to the ocean shipping industry by assessing greater civil penalties, to the extent practical and equitable, for violations of the shipping statutes or regulations.

Among other things, these programs and procedures involve more frequent meetings of various elements of the Commission's staff, including Hearing Counsel and litigation and policy review boards. Such meetings allow staff elements to jointly discuss policy and legal issues, finalize staff positions, and provide continuity in Commission hearings and enforcement activities. Because of their clearly beneficial effect upon the staff's function, these programs and procedures will be continued in fiscal year 1984.

BUREAU OF INVESTIGATIONS

The Bureau of Investigations is responsible for monitoring the U.S. ocean commerce in an effort tc curtail illegal rebating and other malpractices by carriers, shippers, consignees, and other persons subject to the Shipping Act, 1916. The Bureau consists of a headquarters staff and seven field offices organized into five districts. District offices are located in Chicago, New Orleans, New York, San Francisco, and San Juan, Puerto Rico. The New Orleans and San Francisco offices have suboffices in Miami and Los Angeles, respectively. These offices represent the Commission within their geographical areas, provide liaison between the Commission and the maritime industry and the shipping public, and investigate alleged violations of the statutes and regulations administered by the Commission. Such violations can include the following: carrier and shipper malpractices, such as illegal rebates of freight charges, and misclassification, misdescription or misdeclaration of cargo shipments; unlawful common carrier rates in U.S. foreign and domestic offshore trades; unlawful agreements among carriers or others; unlicensed ocean freight forwarder activity; and passenger vessel operator activities.

At the beginning of the fiscal year, there were 534 field investigations of all types in progress. There were 550 new investigations initiated during the year, making a total of 1,084 cases on hand and scheduled for investigation. Completed investigations totaled 720, leaving 364 cases pending at the end

of the fiscal year. Appendix F summarizes the Commission's investigative activities.

In comparison to fiscal year 1982, the Commission experienced a 10% (or 61 case) reduction in new investigations and a 9% (or 68 case) reduction in completed investigations. However, productivity per investigator actually increased during the year in light of a 12% reduction in the number of field investigators.

During the year an Investigative Record Information System was developed and established to track and monitor investigations from their initiation to their completion. This automated system facilitates the production of management reports to ensure that deadlines are met and priorities established. In this connection, guidelines have been developed to enable field investigators to know the order of priority for various types of violations for which investigations are conducted. It is expected that these guidelines will be subject to periodic review to ensure that the priorities remain valid.

BUREAU OF CERTIFICATION AND LICENSING

Financial Responsibility for Water Pollution

During the year, the Commission continued to administer the vessel financial responsibility provisions of three water pollution statutes: The Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977; the Trans-Alaska Pipeline Authorization Act; and the Outer Continental Shelf Lands Act

Amendments of 1978. Pursuant to these laws and delegations of authority from the President, domestic and foreign vessel operators were required to maintain on file with the Commission evidence of their financial ability to meet potential liability for cleanup costs and certain other damages resulting from spills of oil and hazardous substances. Vessel operators who are unable or unwilling to demonstrate their ability to meet such liability are prohibited from operating in U.S. waters. The Commission is not responsible for the setting of environmental standards, field enforcement of the certification requirements or cleanup activities related to spills. These activities are accomplished by the Environmental Protection Agency, U.S. Customs Service and the U.S. Coast Guard, respectively.

The certification program provides an incentive for prompt cleanup of a spill without costly and time-consuming government intervention. Ecological damage is reduced because a vessel operator must maintain pollution liability insurance in order to operate in U.S. waters. In the event of an accident, an operator has much to gain by utilizing such insurance protection and expediting the cleanup process before wind, tide, and current magnify the area of damage, and thus, the cost to the vessel operator or insurer.

Pursuant to the above-mentioned laws, vessel operators submitted and kept on file with the Commission satisfactory evidence of insurance, surety bonds, guarantees, or self-insurance that guarantee reimbursement to the U.S. Government and other damaged parties, up to the limits required by law. The

Commission issued Certificates of Financial Responsibility (Pollution) for vessels which met the financial responsibility requirements. The Commission cooperated with the U.S. Customs Service and the U.S. Coast Guard to assure compliance with the requirement that such certificates be carried on board the subject vessels. Failure of a vessel to carry a certificate results in automatic detainment of the vessel until such time as the vessel has complied with the law.

During fiscal year 1983, the Commission received 7,415 requests for certificates. An additional 521 requests for certificates were carried over from fiscal year 1982. About 7,300 requests for certificates were processed, and 2,872 certificates were revoked (due to sale, scrapping, or sinking of the vessels). At the end of the year, there were 24,681 vessels of all types and flags carrying valid certificates.

Freight Forwarders

Section 44 of the Shipping Act, 1916 (46 U.S.C. 841b) vests the Commission with authority for the licensing and regulation of independent ocean freight forwarders. The ocean freight forwarding industry is comprised of persons who, in effect, hold themselves out to shippers as export departments for hire. Ocean freight forwarders serve export shippers by arranging for the ocean transportation of cargo by common carriers, and by handling the paperwork, legal requirements, safety requirements and other incidentals related to such exports. Ocean freight forwarders receive payment for handling an export shipment from the

exporter, and they also receive compensation from the ocean carrier whose vessel was selected by the forwarder to carry the cargo.

In 1961, the U.S. Congress enacted section 44 to combat malpractices by ocean freight forwarders. At that time, malpractices in the freight forwarding industry were rampant. Recognizing the importance of maintaining a favorable climate for U.S. businesses, especially small businesses lacking sufficient expertise to do their own exporting, Congress found that licensing and limited oversight of ocean freight forwarders were necessary. Section 44 seeks to eliminate secret, illegally preferential rebates, and to ensure that unscrupulous, incompetent and financially irresponsible persons are prevented from operating with impunity. Although the number of ocean freight forwarders has increased since 1961, forwarder involvement in malpractices is now more the exception rather than the rule.

The continued maintenance of fiduciary responsibility, technical qualifications and financial responsibility of an ocean freight forwarder are currently ensured by means of Commission licensing requirements, including maintenance of a surety bond. Once issued, a license need not be renewed. However, the bond must remain in place, the amount of which depends upon the number of offices an ocean freight forwarder operates.

Several years ago, the Commission issued completely revised rules (General Order 4, 46 C.F.R. Part 510) governing the licensing and operation of ocean freight forwarders. This was

the first extensive revision of the rules since they were initially issued in December of 1961. During the fiscal year, after a year and a half of experience under the revised rules, the Commission issued a notice of proposed rulemaking seeking to fine-tune certain sections of the rules, to clarify other sections, and to lessen the burden upon the forwarding industry by proposing to delete overly burdensome rules.

During fiscal year 1983, the Commission received 184 new applications for ocean freight forwarder licenses, in addition to the 40 applications pending from the previous fiscal year. Of these applications, 143 were approved, 6 were withdrawn during the processing stage, and 42 incomplete applications were returned to the applicants. One hundred three previously issued licenses were revoked, primarily because certain licensed forwarders failed to maintain the surety bonds required by section 44 of the Shipping Act.

In addition to applications for new licenses, the Commission received 163 applications requesting approval of transfers of licenses and other organizational changes. Twenty-four applications for transfers and other organizational changes were carried over from the previous fiscal year. One hundred thirty-three of these requests were approved during the fiscal year. Eleven requests were administratively closed as applicants did not wish to pursue their requests.

Every few years, an on-site compliance investigation is conducted as part of the Commission's effort to ensure that each licensed ocean freight forwarder complies with the provisions of

the Shipping Act and the Commission's regulations. During the year, 187 investigative reports were reviewed with the following results: 31 warning letters were sent to licensees in connection with minor infractions explaining how to avoid recurring infractions; one formal proceeding was instituted to determine the continued fitness of a licensee in light of apparent violations of the Commission's regulations; and 34 cases involving violations of a somewhat more serious nature were referred to the Commission's Bureau of Hearing Counsel for the assessment of appropriate civil penalties. The remainder of the cases were determined to require no formal corrective action, indicating that, for the most part, forwarders are adhering to Commission regulations.

Other activities during the year included: the processing of 636 surety bond actions including new bonds, riders to bonds and the cancellation of bonds; the review of 28 uniform fee schedules filed by ocean freight forwarders pursuant to section 510.32(h) of General Order 4; the review and processing of 36 informal complaints concerning, in the majority of cases, monies owed by forwarders to others; and the receipt and review of 1,595 anti-rebate certifications required to be filed by forwarders pursuant to section 510.35(c) of General Order 4. At the end of the year, there were 1,599 licensed ocean freight forwarders, representing a slight increase (35) over fiscal year 1982.

Passenger Vessel Certification

The Commission administers sections 2 and 3 of Public Law 89-777 (46 U.S.C. 817 d and e). These sections apply to owners, charterers and operators of U.S.- and foreign-flag passenger vessels having 50 or more berth or stateroom accommodations that embark passengers at ports in the United States. The law requires these parties to demonstrate to the Commission that they are financially able to meet statutorily prescribed liabilities in the event of death or injury to passengers or other persons, and to refund deposits and fares in the event of nonperformance of voyages or cruises.

The Commission's regulations (46 C.F.R. Part 540) permit evidence by insurance, surety bond, escrow account, guaranty or self-insurance. Certificates (Performance) are issued upon receipt of adequate evidence of financial responsibility to refund deposits or fares. Certificates (Casualty) are issued upon receipt of adequate evidence of financial responsibility to cover claims for death or injury to passengers or other persons. These certificates must be presented at the last United States port of call. Without them, clearance is refused by U.S. Customs Service until the Commission confirms that compliance has been achieved. No detainments occurred during the year.

During fiscal year 1983, 51 applications for certificates were received: 20 new certificates were issued, 27 existing certificates were amended, and applications for 4 certificates were withdrawn. Fourteen certificates were revoked for reasons such as withdrawal of vessels from U.S. trades or completion of scheduled cruises.

During fiscal year 1983, the Commission completed Docket No. 82-33, Filing and Service Fees and Docket No. 83-30, Security for the Protection of the Public. Docket No. 82-33 amended certain Commission rules (46 C.F.R. Part 540) by instituting filing fees for passenger vessel certificate applications. The fees were based upon the cost to the Commission of processing certificate applications. After evaluating the comments received on the proposed rule, it was decided that the fees were reasonable and they became effective on March 10, 1983. The filing fee for a Certificate (Performance) is $1,600 and for Certificate (Casualty) is $800.00.

Pursuant to section 610 of the Regulatory Flexibility Act, the Commission instituted Docket No. 83-30 in order to review the above-mentioned rules and determine if amendments or modifications of the regulations were necessary. Since no comments were received from interested parties in response to the notice of Intent to Review-Request for Comments, and the Commission was unaware of any need or basis for amending or modifying the requirements of Part 540 at that time, the proceeding was discontinued.

Transfer of Functions

Pursuant to Executive Order 12418 of May 5, 1983, the Commission's responsibilities in the area of water pollution certification for vessels was transferred (i.e., redelegated) to the U.S. Coast Guard in the Department of Transportation. The transfer occurred on September 19, 1983 and the Coast Guard

assumed complete responsibility for the program on October 1, 1983. Nineteen staff positions were transferred as well.

During the 13 years in which the Commission initiated and administered the program, U.S. taxpayers were saved an estimated $400 million in cleanup costs. During the later stages of the Commission's administration of the program, the administrative costs were offset completely by user fees so that all costs of administration were returned to the U.S. Treasury. All in all, the program was an unqualified success in that it accomplished its purpose -- protecting U.S. taxpayers and certain other parties -- while also resulting in indirect protection to the environment.

Inasmuch as the vessel financial responsibility function involves the entire portion of the world's vessel operating industry, which either totally or partially conducts its business in United States waters, the Coast Guard's mailing address, telephone and telex numbers are set forth here:

Commandant (G-WFR-2/21)
U.S. Coast Guard Headquarters
2100 Second Street, S.W.
Washington, D.C. 20593

Telex: 248324
Telephone: (202) 426-8806

All correspondance or questions involving the certification of vessels for oil or hazardous substance spill liability should be directed to this Coast Guard Unit.

Passenger vessel certification functions remain a responsibility of the Commission. A new Office of Passenger Vessel Certification was created within the Bureau of Tariffs to

accommodate these functions. The Office of Freight Forwarders was also transferred to the Bureau of Tariffs. The Commission's Bureau of Certification and Licensing was eliminated effective September 27, 1983.

ADMINISTRATIVE ACTIVITIES

The Director of Administration is responsible for implementing the administrative programs of the Commission as established by the Chairman. Several offices of the Commission are involved in the administrative support of the Commission's regulatory programs.

The Office of Personnel plans and administers personnel management programs, including recruitment, placement, employee training and development, position classification, occupational safety and health, and employee relations. During fiscal year 1983, the office developed or revised Commission administrative procedures relating to a wide variety of personnel management programs, including Occupational Safety and Health, Reduction in Force, Adverse Action Appeals, Employee Compensation for Disability or Death, Incentive Awards, Performance Appraisal, Administrative Work Week and Hours of Duty, and Granting and Withholding Within-Grade Increases. The office participated with OPM in establishing a consortium of small agencies for the provision of employee assistance counseling services. Efforts continued during 1983 to educate supervisors to their responsibilities in the areas of employee performance, conduct, awards, and discipline. In this connection, the office endeavored to explain the relationships between performance problems and conduct issues, and informally counseled supervisors with respect to particular employee problems. In seeking to resolve performance or conduct-related problems, the office

worked closely with Commission legal advisors to ensure that employees affected by disciplinary or other adverse actions were accorded due rights.

The Office of Personnel also assisted in making necessary arrangements for the smooth transfer of the Commission's Bureau of Certification and Licensing to the U.S. Coast Guard within the Department of Transportation, an action mandated by Presidential Executive Order. To cope with the continuing problem of attrition in its clerical ranks, the office successfully implemented a personnel overhire system to ensure that loss of employees did not result in loss of continuity in Commission programs. During fiscal year 1983, following nationwide searches, two critical managerial positions were filled (Director, Office of Regulatory Policy and Planning and Director, Office of Equal Employment Opportunity). In addition, approximately 30 positions were filled through the Office's recruitment efforts. After having experienced severe cutbacks in training funds in recent years, the Commission was able to provide formal training for 32 employees. The office is also responsible for distribution of information regarding health benefits, Hatch Act restrictions on political activities, the blood donor program, and all personnel reduction programs.

The Office of Energy and Environmental Impact, located within the Office of the Secretary, ensures Commission compliance with the National Environmental Policy Act of 1969 and the Energy Policy and Conservation Act of 1975. These Acts require the Commission to complete analyses of the energy and environmental

aspects of all section 15 agreements and docketed proceedings before it. Where Commission action is likely to have a significant impact upon energy conservation or the environment, the office is called upon to complete an analysis of the situation, and when necessary, prepare energy and environmental impact statements. During fiscal year 1983, the office reviewed 274 section 15 agreements and 60 docketed proceedings. Of these, 299 were categorically excluded from any environmental analysis, while an analysis of the reamining 35 resulted in "findings of no significant impact." It was not necessary to prepare any formal energy or environmental impact statements during the year.

The Office of Management Services was formed this year through the merging of the Office of Administrative Services and the Office of Management Evaluation and Review. The office provides procurement, property and space management, contracting, communications and photocopying services for the Commission; conducts internal management studies and audits to assess internal controls, and efficiency, effectiveness and economy in the use and management of agency resources; and determines if desired program results and objectives are being effectively achieved, and the extent to which applicable laws, regulations and Commission policies are receiving compliance.

The office is responsible for obtaining Office of Management and Budget clearances of reporting and recordkeeping requirements imposed on the public, and otherwise implementing the Paperwork Reduction Act of 1980. The Director serves as Inspector General and is charged with conducting internal audits to identify and investigate waste, fraud and abuse.

During fiscal year 1983, the office conducted a vulnerability assessment of the Commission, in compliance with the Federal Managers' Financial Integrity Act of 1982 and OMB Circular A-123, with respect to its internal control systems. An internal audit of the Commission's financial control systems was conducted jointly with the Office of Financial Analysis. An audit followup program was also initiated. The office was involved with several other components of the Commission in the analysis of need for and procurement of new word/information processing equipment. Efforts were expanded to ensure compliance by the Commission with the requirements of the Paperwork Reduction Act of 1980 and OMB's recent regulations implementing that Act. Information and word processing services were also provided to various bureaus and offices. In an effort to lower overall costs, the agency's in-house printing facility was disbanded and its services replaced by a private contractor. Space management plans were also developed and implemented that reduced agency-wide office space by 21 percent.

In fiscal year 1984, the office plans to complete work on an information/automation requirements analysis project, begin the procurement of automated equipment, and provide assistance in the Commission's attempt to arrive at a long-range acceptable solution for the automation of tariffs. Emphasis will also be placed on a total information resources management plan. Auditing of major program and financial activities including internal controls will continue, focusing on those areas previously assessed and identified as more highly vulnerable.

The Office of Budget and Financial Management administers the Commission's financial management program, and is responsible for optimal utilization of the Commission's physical, fiscal, and manpower resources. The office is charged with interpreting government budgetary and financial policies and programs, and developing annual budget justifications for submission to the Congress and the Office of Management and Budget. The office also administers internal control systems for agency funds.

During fiscal year 1983, the office implemented the increase in filing and service fees for Commission activities. Fees were revised to meet current costs of providing services. The office also received approval from the Treasury Department to utilize the electronic funds transfer system for the deposit of fines and penalties in order to hasten the flow of funds going into the Treasury and to reduce paperwork. In addition, the office helped in the smooth transfer of the Commission's vessel certification function to the Coast Guard by ensuring that all checks received by the Commission for Certificates of Financial Responsibility were promptly recorded and delivered to the Coast Guard, and by assisting the new function at the Coast Guard with procedural matters.

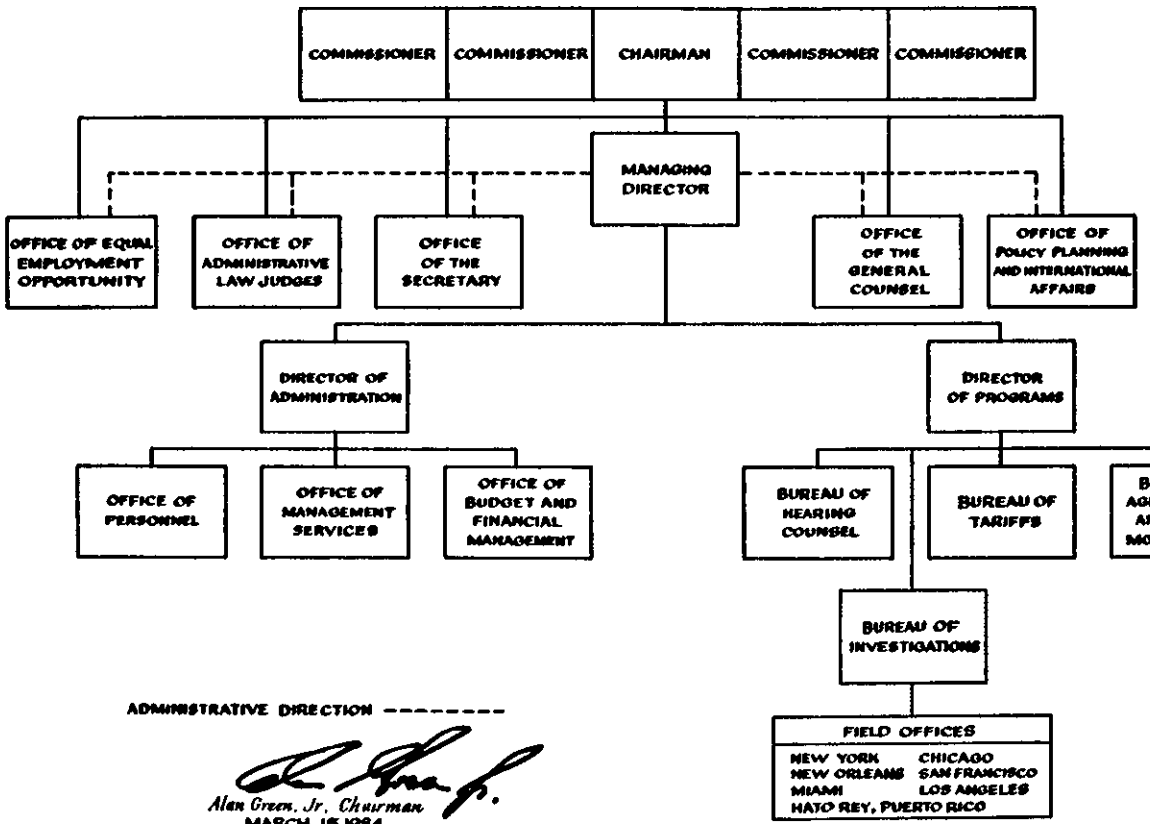
Appendix G summarizes appropriations, obligations and receipts for fiscal year 1983.

APPENDICES

APPENDIX A

ORGANIZATION CHART

FEDERAL MARITIME COMMISSION



Alan Green, Jr., Chairman
MARCH 15, 1984

APPENDIX B

COMMISSION PROCEEDINGS -- FISCAL YEAR 1983

Formal Proceedings		
Decisions	17	
Reconsiderations	0	
Discontinuances & Dismissals	30	
Not Reviewed	11	
Remand	0	
Total		**58**
Special Dockets		**116**
Informal Dockets		**143**
Oral Arguments		**2**
Rulemakings		
Final Rules Issued	8	
Discontinued	5	
Total		**13**

APPENDIX C

AGREEMENT FILINGS AND STATUS--FISCAL YEAR 1983

Sections 14b and 15 Agreements Filed in FY 1983

(including modifications)

Foreign and Domestic Commerce	256
Terminals	133
Labor-Management	7

Conference Reports Submitted for Commission Review

Shippers' Requests and Complaints	103
Minutes of Meetings	2,629
Self-Policing of Conference and Rate Agreements	149
Pooling Statements	13
Operating Reports	48

Approved Agreements on File as of September 30, 1983

Conference	76
Rate	34
Joint Conference	8
Pooling	23
Joint Service	22
Sailing	20
Transshipment	24
Cooperative Working, Agency & Container Interchange	65
Dual Rate Contract Systems	41
Terminals	676
Labor-Management Approvals and Exemption	226
TOTAL	1215

APPENDIX D

TARIFF FILINGS AND STATUS - FISCAL YEAR 1983

Foreign Commerce

Total Number of Tariff Filings

Received	566,748
Rejected	12,489
On Hand 10/1/82	3,603
On Hand 10/1/83	4,231

Special Permission Applications

Granted	423
Withdrawn	32
Denied	28
Total	483

Domestic Commerce

Total Number of Tariff Filings

	Terminals	Domestic Offshore	Total
Receive	6,055	18,258	24,313
Rejected	0	673	673
On Hand 10/1/82	570	234	804
On Hand 10/1/83	424	258	682

Special Permission Applications

Domestic Offshore

Granted	64
Withdrawn	3
Denied	9
Pending	0
Total	76

Investigation and Suspension Memoranda

Domestic Offshore

Completed	5
Pending	5
Total	10

APPENDIX E

CIVIL PENALTIES ASSESSED OR SETTLED - FISCAL YEAR 1983

Name	Amount
Savir, Inc.	$2,000.00
Harrington as Agents for Atlanttrafik Express (F)	1,000.00
Kenneth Barnes (West Coast Intl.)	5,000.00
Evergreen Line (F)	15,000.00
Caribbean Container Line (F)	1,000.00
King Ocean Services S.A. (F)	2,000.00
C. Itoh & Co.	5,000.00
Intercorp Forwarders, Ltd.	3,000.00
Mar Azul Motorship, Inc. (F)	1,000.00
Quast & Co., Inc.	4,000.00
Guam Freight Forwarders - Consolidators	5,000.00
Latinvan, Inc	5,000.00
Taijo Gyogyo (F)	4,000.00
Rex Air Ocean Freight	5,000.00
Nichiro Gyogyo Kaisha (F)	3,500.00
Empresa Lineas Maritimas Argentinas (ELMA) (F)	3,500.00
Barlovento Line (F)	5,000.00
Hoegh Ugland Auto Liners, Inc. (F)	70,000
Ruben Dario d/b/a Royal Sales & Shpg.	5,000
Polish Ocean Lines (F)	30,000
Naviera Continental SA (F) (NAVICON)	2,000

Appendix E (cont.)

Antillean Marine Shpg. Co.	3,500
Munford, Inc.	27,500
Harper Robinson & Co.	3,000
Midland Pacific	8,500
Leyden Shipping	17,500
Person & Weidhorn	1,000
James J. Boyle & Co.	27,500
Nissui Shpg. Corp. (F)	6,000
MTS Agencies Inc.	6,000
Commercial Int'l Fwdg.	2,000
Middle East Shipping Co.	1,500
Diamond Shamrock Corporation	15,000
Hawaiian Distribution System	1,750
Alberto Llona d/b/a Castle Int'l Company	1,000
Hayakawa Fwdg. Inc.	1,000
Satin Air Freight Inc.	5,000
Via Sea Carrier Corp., Int'l (F)	7,500
Trans Modal Inc.	8,000
Air Freight Int'l/RG Hobelmann	76,000
Sanko SS Co., Ltd. (F)	5,000
Puerto Rico Maritime Shipping Authority	10,000
Cumulative Total, FY 1983	**$411,250**

Note: (F) indicates a foreign-owned company.

APPENDIX F

FIELD INVESTIGATIONS - FISCAL YEAR 1983

	Malpractices	Tariff Violations	Forwarder and Other Matters	TOTAL
Pending 09/30/82	182	94	258	534
Opened FY 1983	83	74	393	550
Completed FY 1983	157	81	482	720
Pending 09/30/83	108	87	169	364

APPENDIX G

STATEMENT OF APPROPRIATIONS, OBLIGATIONS AND RECEIPTS

FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 1983

Appropriations:

Continuing Resolutions P.L. 97-276 and 97-377: 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 therefore, as authorized by 5 U.S.C. 5901-5902; Provided, that not to exceed $1,500 shall be available for official reception and representation expenses.	$11,500,000
Public Law 98-63, 98th Congress, approved July 30, 1983: Supplemental Appropriations Bill to cover increased pay cost.	270,000
Appropriation availability	$11,770,000

Obligations and Unobligated Balance:

Net obligations for salaries and expenses for the fiscal year ended September 30, 1983	$11,754,000
Unobligated balance returned to Treasury	16,000

Statement of Receipts: Deposited with the General Fund of the Treasury for the Fiscal Year Ended September 30, 1983:

Publications and reproductions	$ 57,451
Fees for Vessel Certification	439,537
Fines and penalties	1,065,084
Total general fund receipts	$ 1,562,072

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