Sixth Annual Report

OF THE

Federal Maritime Commission

Fiscal Year Ended June 30, 1967

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FEDERAL MARITIME COMMISSION

WASHINGTON, D.C.

June 30, 1967

JOHN HARLLEE, *Chairman*

ASHTON C. BARRETT, *Vice Chairman*

JAMES V. DAY, *Member*

JAMES F. FANSEEN, *Member*

GEORGE H. HEARN, *Member*

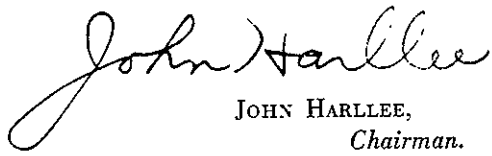
THOMAS LISI, *Secretary*

LETTER OF TRANSMITTAL

FEDERAL MARITIME COMMISSION,
Washington, D.C. 20573,
October 16, 1967.

To the Senate and the House of Representatives:

Pursuant to section 103(e) of Reorganization Plan No. 7 of 1961, and section 208 of the Merchant Marine Act, 1936, I respectfully submit the Annual Report of the Federal Maritime Commission for the fiscal year 1967.



JOHN HARLLEE,
Chairman.

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HIGHLIGHTS OF THE YEAR

The Federal Maritime Commission continued during this fiscal year to administer the programs and discharge its responsibilities for the regulation of the waterborne foreign and domestic offshore commerce of the United States. These programs and responsibilities were executed pursuant to certain provisions of the Shipping Act, 1916; Merchant Marine Act, 1920; Intercoastal Shipping Act, 1933; and Merchant Marine Act, 1936.

The highlights were:

Legislative Action—89th Congress

Public Law 89–777, enacted November 6, 1966, expanded the regulatory authority of the Commission to insure that ship owners and operators are financially responsible to pay judgments for personal injury or death and to insure repayment of fares in the event of nonperformance of voyages. Final rules to implement these statutory provisions were published by the Commission on March 11, 1967, and May 16, 1967.

Public Law 89–778, enacted November 6, 1966, authorizes the Commission to exempt agreements between persons subject to the Shipping Act, 1916, or any specified activity of such persons, from the requirements of the 1916 Act, or the Intercoastal Shipping Act, 1933, when it finds that such exemption will not substantially impair effective regulation or be unjustly discriminatory or detrimental to commerce. On April 22, 1967, the Commission by rule exempted from the filing and approval requirements of section 15, Shipping Act, 1916, nonexclusive cooperative working agreements between licensed independent ocean freight forwarders. This, and proposed rules for further exemptions, will result in a savings to government and industry.

Commission Rules

In other significant rulemaking proceedings, the Commission:

Established, by amendment to General Order 16, a shortened procedure for adjudication of shippers' claims for $1,000 or less against common carriers in the waterborne commerce of the United States. The procedure benefits the shippers, carriers, and the government in avoiding the time and expense of protracted litigation in the settlement of small claims.

Issued rules, in General Order 19, to facilitate the preparation and processing of applications for Commission approval of dual rate contract systems in the foreign commerce of the United States. The publication in these rules of a "Uniform Merchant's Contract" determined by the Commission to comply with provisions of law for approval of dual rate contracts relieves conferences and carriers of the laborious task of searching numerous Commission precedents to determine what constitutes an approved form of contract. The use of the standard contract will expedite approval and reduce processing costs for the carriers, conferences, and the Commission.

Provided, by rules issued as Amendment to Tariff Circular No. 3, for greater stability in ocean freight rate costs for the shipment of passenger automobiles in the domestic offshore trades. Passenger automobiles vary extensively in size and are susceptible to mismeasurement. To assure identical treatment for shippers, the rules require that tariffs naming rates and charges for automobiles use either (a) the cubic measurements prescribed by the manufacturer or individually measured by the carrier of such automobiles for the purpose of computing the freight charge; or in the alternative (b) the actual weight of the automobile for the purpose of computing the freight charge. Pursuant to the measurement rule the Commission published and made available on a subscription basis an official classification of Automobile Manufacturers' Measurements to assure uniformity to carriers and shippers.

Established, by rules issued as Amendment to Tariff Circular No. 3, special permission requirements for filing project rates. These rules permit carriers in the domestic offshore trades to waive certain tariff filing rules under the special permission authorization when publishing rates applicable to the transportation of commodities required to construct and operate industrial plants, when such equipment and commodities are not for sale in commercial markets.

Court Decisions

Ludlow Case. On August 29, 1966, the United States Court of Appeals, Second Circuit, in *Federal Maritime Commission and Ludlow Corporation* v. *A. T. DeSmedt et al.* 366 F. 2d 464, affirmed an order of the United States District Court for the Southern District of New York to enforce subpenas duces tecum issued pursuant to section 27

of the Shipping Act, 1916. The subpenas had been issued against officers and agents of certain common carriers by water, members of the Calcutta, East Coast of India and East Pakistan/U.S.A. Conference serving the inbound trade from East India and Pakistan ports to United States Atlantic and Gulf of Mexico ports. Petition for certiorari to the United States Supreme Court was denied on December 5, 1966. Under this landmark decision, the Commission's subpena power to compel production of evidence located outside of United States' borders was upheld. The Court found that the cost data and revenue information sought by the Commission were relevant to the investigation to determine whether certain freight rates were so unreasonably high as to be detrimental to the commerce of the United States and the public interest, and in violation of sections 14(b), 15, and 18(b), of the Shipping Act.

It should be noted, however, that in upholding the subpena power the Court of Appeals was not unmindful of the problem of enforcing compliance with an order of production. The Court was concerned with the effect of the statutes of certain foreign governments that prohibit their nationals from producing documents located abroad. Thus, when the matter was returned to the district court for enforcement of the order of production, the Court found that, in fact, foreign law prohibited the production of the documents and, therefore, it could not impose contempt sanctions on the individual respondents for noncompliance. But, the matter of noncompliance was submitted to the Federal Maritime Commission and it issued an order requiring the conference to show cause why its agreement should not be canceled in view of their refusal to comply with section 27 of the Shipping Act, 1916. The Commission found that the conference by not complying with section 27 had not fulfilled the requisites of section 15 of the Shipping Act, 1916, and the Commission ordered the conference agreements canceled.

Judicial Affirmation of Commission Power To Proceed With Rulemaking. On March 31, 1967, the United States Court of Appeals, District of Columbia Circuit, *Pacific Coast European Conference* v. *The Federal Maritime Commission*, 376 F. 2d 785, upheld the use of the Commission's rulemaking authority under section 43 of the Shipping Act, 1916. Petition for rehearing was denied on May 11, 1967. This judicial milestone in support of administrative rulemaking held that

the Commission could by general rules articulate enforceable standards which it could then apply to particular agreements subject to section 15. Under the statutory authority of the 1961 amendments to the Shipping Act, 1916, the Commission had promulgated General Order 9 setting forth specific rules to implement the statutory requirement of "reasonable and equal terms and conditions for admission and readmission to conference membership". The Court found that as the Commission acted within the authority entrusted to it by Congress, the rule is merely an extension and implementation of the statutory language. Consequently, failure of parties in conference agreements to comply with the rule was sufficient to find a violation of the Act itself. On this basis, the Commission could then withdraw approval of a prior approved agreement.

Commission Decisions

The Commission's decisions in formal cases are covered in another section of this report. However, the following were of particular significance:

Docket No. 65–48—Triple Rate Contract System. On January 17, 1967, the Commission disapproved the application of the *North Atlantic Portugal Freight Conference* to institute an exclusive patronage (dual rate) contract system which proposed two levels of contract rates below noncontract rates: (1) fifteen percent below noncontract rates where both shipper/consignor and receiver/consignee signed the exclusive patronage contract; and (2) seven and one-half percent below noncontract rates where either shipper/consignor or receiver/consignee signed. The decision in this case set a precedent for future guidance by interpretation of the statutory language of section 14 (b) (7) as permitting only one spread (not two levels) between ordinary rates and contract rates.

Docket No. 65–52—Modifications of Dual Rate Contract Language. By Commission order served March 24, 1967, *Japan-Atlantic and Gulf Freight Conference and Trans-Pacific Freight Conference of Japan* were permitted to modify the prompt release and false declaration clauses of their contracts but their requests to modify the affiliates, charter-vessel exclusion, suspension, and natural routings clauses were denied. As the Commission's General Order 19, final rules for dual rate contract systems, was issued September 22, 1966, the decision of the Commission subsequent thereto establishes precedent for use of the "Uniform Merchant's Contract" language of General Order 19 unless the applicant furnishes sufficient evidence to justify a departure.

Docket No. 66–27—Two-Level Rate Structure Based on Vessel Registry. On July 22, 1966, the Commission ordered the *Persian Gulf Outward Freight*

Conference to cease and desist from carrying out prior to Commission approval a two-level system of rates based upon vessel flag and to strike all such tariff rates from the Conference tariffs. The Conference had established and filed two levels of rates for the same commodities providing one rate for cargo shipped via U.S.-flag vessel and another lower rate for cargo shipped via foreign-flag vessel. The Commission found that the two-level rate system introduced an entirely new scheme of rate combination and discrimination not provided in the basic approved section 15 agreement and would require approval of a new agreement prior to effectuation.

Other Significant Activities

In other regulatory activities, the Commission in fiscal year 1967: instituted, on its own motion, 47 formal proceedings under statutory provisions of the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933; issued 48 final decisions involving 50 formal proceedings; approved under provisions of section 15 of the 1916 Act, 215 carrier agreements, 110 terminal agreements and 267 freight forwarder cooperative working agreements; licensed 61 freight forwarders; issued 55 certificates to passenger ship owners and charterers attesting to financial responsibility to satisfy judgments in event of nonperformance of contracted transportation; processed over 121,500 pages of tariff filings; granted 339 and denied 31 special permission requests to effect new or increased freight rates in advance of the statutory filing time; initiated action to resolve over 600 informal complaints and concluded its action with respect to 467 such complaints; participated in 21 cases in litigation before the courts involving the decisions and orders of the Commission; concluded 511 field investigations; initiated three legislative proposals; and continued an aggressive management improvement program with emphasis on improving service to the public.

Special Activities of the Commissioners

In keeping with their responsibilities for assuring general public and industry understanding of the Commission, its aims and policies, the Chairman of the Commission and the Commissioners engaged in a number of special activities.

These included appearances before Congress; talks made to various groups in the United States and abroad; television and radio appearances; and special articles in the daily and trade press.

As examples, in October 1966, Chairman Harllee made two appearances before the House Merchant Marine and Fisheries Committee. The first was in support of legislation to exempt any class of agreements between persons subject to the Shipping Act, 1916, or Intercoastal Shipping Act, 1933, when such exemption would not substantially impair effective regulation, be unjustly discriminatory or be detrimental to commerce of the United States. The second was to favor the enactment of legislation to protect traveling public from financially irresponsible steamship operators in the cruise trades.

In May 1967, the Chairman presented the views of the Commission to the Senate Commerce Committee regarding legislation to amend section 27, Shipping Act, 1916. This legislation would allow the Commission to adopt pretrial deposition and discovery procedures to be used in hearings.

Commission Vice Chairman Ashton C. Barrett spoke at a Transportation Seminar at Tulane University in New Orleans; before a convention of United States Movers and Warehousemen; and before the Traffic Club of the United States.

Commissioner James V. Day went to Brazil, Uruguay, and Argentina in April of 1967 to explain American regulatory policy to Latin American shipping officials. He participated in special ceremonies to aid Maine ports; visited the Maine Maritime Academy to take part in their Silver Anniversary and Awards; and made a talk to the Foreign Freight Forwarders and Brokers Association in New York in January 1967.

Commissioner George H. Hearn, in November of 1966, undertook special contacts in behalf of the Commission with Scandinavian and British insurance writers as a part of the safety-of-life-at-sea responsibilities of the Commission. Commissioner Hearn led a panel on containerization at the National Defense Transportation Association convention in Berlin and was the principal speaker in Maritime Day ceremonies on May 22, 1967, aboard the *Santa Rosa* in Port Everglades, Fla.

Commissioner James F. Fanseen, in April 1967, was sworn in by the Chief Justice of the United States, the Honorable Earl Warren. Commissioner Fanseen, in order to orient himself to the regulatory responsibilities of the Commission, undertook an intensive study of port and regulatory conditions in England, France, Norway, Sweden, Denmark, and the Netherlands. He participated in special

Army Reserve ceremonies at Curtis Bay in Baltimore, Md., to encourage the more efficient handling of military supplies to Vietnam.

Commemoration of 50th Anniversary

The Commission, on September 7, 1966, commemorated the 50th anniversary of the signing of the Shipping Act of 1916. The special ceremony was attended by industry representatives, congressional and Government representatives, as well as shipping representatives of several foreign governments.

SCOPE OF AUTHORITY AND BASIC FUNCTIONS

The Federal Maritime Commission was established by Reorganization Plan No. 7, effective August 12, 1961, as an independent agency, to administer the functions and discharge the regulatory authorities under the Shipping Act, 1916; Merchant Marine Act, 1920; Intercoastal Shipping Act, 1933; and Merchant Marine Act, 1936.

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

The statutory authorities and functions of the Commission embrace the following principal areas: (1) regulation of services, practices, and agreements of common carriers by water and certain other persons engaged in the foreign commerce of the United States; (2) acceptance, rejection, or disapproval of tariff filings of common carriers engaged in the foreign commerce; (3) regulation of rates, fares, charges, classifications, tariffs, regulations, and practices of common carriers by water in the domestic offshore trade of the United States; (4) investigation of discriminatory rates, charges, classifications, and practices in the waterborne foreign and domestic offshore commerce; (5) issuance of certificates of financial responsibility to passenger ship owners and charterers to insure payment of judgments for personal injury or death and repayment of fares in the event of nonperformance of voyages; and (6) rendering decisions, issuing orders, and making rules and regulations governing and affecting common carriers by water, terminal operators, freight forwarders, and other persons subject to the shipping statutes.

INTERNATIONAL COMMERCE

Carrier Agreements

Section 15 of the Shipping Act, 1916, authorizes the Commission to grant exemptions from the provisions of the antitrust statutes to common carriers by water in the commerce of the United States and to other persons subject to the Act, in instances in which such carriers or persons enter into arrangements, undertakings, or agreements regarding anticompetitive activities enumerated in that section. Such activities include fixing rates, controlling competition, pooling or apportioning earnings or traffic. allotting ports or regulating sailings, limiting or regulating the volume or character of traffic to be carried, and providing for exclusive, preferential, or cooperative working arrangements. The agreements are required to be filed and must be approved by the Commission unless it finds, after notice and hearing, that the agreement (1) is unjustly discriminatory; (2) operates to the detriment of the commerce of the United States; (3) is contrary to the public interest; or (4) is in violation of the Shipping Act, 1916.

Activity in Processing Section 15 Agreements

The Commission has achieved a high degree of currency in the processing of foreign carrier agreements. The processing time has been cut from an average of over 135 days to an average of 55 days from the date of filing. This is considered optimum as it includes a 20-day Federal Register notice period during which interested parties must be given the opportunity to file comments or protests concerning any agreement pending before the Commission.

At the beginning of fiscal year 1967, there were 56 agreements pending Commission approval under section 15, consisting of 28 agreements and 28 modifications to existing approved agreements.

During the year, 230 agreements were filed (85 new agreements and 145 modifications). The Commission approved 212 agreements; 32 were withdrawn by the parties as a result of informal discussions requesting clarification or revision of the agreements; and of the balance of 42 agreements, at the close of fiscal year, 37 were in process of staff analysis and 5 were in formal proceedings.

At the close of fiscal year 1967, there were 645 active approved agreements consisting of 136 conference and rate agreements; 13 joint conference agreements; 51 joint service agreements; 19 pooling agreements; 29 sailing agreements; 302 transshipment agreements; and 95 miscellaneous cooperative working arrangements.

Shippers' Requests and Complaints

The Shipping Act, 1916, as amended by Public Law 87–346 (75 Stat. 764) provides that: "The Commission shall disapprove any such agreement, after notice and hearing, on a finding * * * of failure or refusal to adopt and maintain reasonable procedures for promptly and fairly hearing and considering shippers' requests and complaints."

Commission rules to implement this statutory requirement, adopted in the form of General Order 14 (46 CFR 527), effective July 9, 1965, require that conference and ratemaking groups file quarterly reports covering all shippers' requests and complaints received, or pending at the beginning of such calendar quarter. These reports are used by the Commission in determining whether conferences and other ratemaking groups are giving appropriate attention to the rate and shipping problems of U.S. exporters and others.

A review of the 362 reports received in fiscal year 1967 indicates that the action taken by the carrier groups has been favorable to shippers in 72 percent of the cases, thus affording the shipper lower rates, refund of overcharges, or other benefits. This relatively high percentage of favorable action is attributed to the serious attention the carrier groups regularly accord shippers' requests, to the reporting requirements of General Order 14, and to the Commission's watchfulness and concern over freight rate matters and shipping problems.

Rules Requiring the Filing of Minutes and Reports of Concerted Activities

It is the responsibility of the Commission to insure that parties to agreements approved under section 15 of the Shipping Act, 1916, as amended, are complying with the requirements of their agreements, and that their operations under such agreements are not detrimental to the commerce of the United States, contrary to the public interest or otherwise in violation of the Act.

In discharge of this responsibility, the Commission by General Order 18 (46 CFR 537), effective September 1, 1966, requires that conference agreements, agreements between or among conferences, and agreements whereby the parties are authorized to fix rates, state (1) the manner in which the joint business of the parties may be carried out; i.e., full conference meeting, agents' meeting, principals' meeting, owners' meeting, through committees or subcommittees, telephone or oral polls, or through any other procedure by which the business of the joint parties may be conducted; (2) quorum requirements and the types of vote necessary to take various actions; and (3) that there shall be filed with the Federal Maritime Commission within 30 days after each meeting of the conferences or parties to the agreement, a report of matters within the scope of the agreement which are discussed or taken up at any such meeting and the action taken with respect to each such matter.

These rules have been effective in informing the Commission of the manner in which parties to agreements are carrying out their authorized activities. During fiscal year 1967, 36 minutes items were investigated. The situations involved such matters as:

1. Conference members agreeing to application of conditions of cargo carriage not properly set out in conference tariffs; conferences were directed to amend tariffs accordingly.

2. Actions taken by conference members which required modifications of agreements; conferences were requested to modify agreements and obtain Commission approval thereof prior to implementation of these actions.

3. Continuation of membership in conferences where carriers had failed to maintain obligations to serve the trade; formal proceedings may be required to resolve these violations of agreements.

4. Failures by conferences to report applications for admissions

to membership and other membership changes; conferences were directed to promptly report such matters and clarify actions taken.

5. Statements in minutes that contract dual rate systems will be instituted and general tariff rate increases adopted; Commission staff advised conferences of procedures to be followed and justifications required for such actions.

Exclusive Patronage (Dual Rate) Contracts

Section 14(b) of the Shipping Act, 1916, enacted by Public Law 87–346, effective October 3, 1961, authorizes the Commission to permit, with certain specified statutory safeguards, the institution by carriers or conferences of carriers of a contract system, available to all shippers and consignees equally, which provides lower rates to a shipper or consignee who agrees to give all, or a fixed portion of his patronage to such carriers or conference of carriers. The statute requires that the Commission approve such dual rate contract systems unless it finds that the contract, amendment or modification thereof will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters or ports or between exporters from the United States and their foreign competitors.

FISCAL YEAR 1967 ACTION WITH RESPECT TO EXCLUSIVE PATRONAGE (DUAL RATE) CONTRACT SYSTEMS

(a) Approved Dual Rate Contract Systems:

As of July 1, 1966	54
Approved during fiscal year 1967	5
Approved systems as of July 1, 1967	59

(b) Dual Rate Contracts filed for approval pursuant to section 14(b), Public Law 87–346 during fiscal year 1967:

	New systems	*Modifications to existing systems*
Pending July 1, 1966[1]	5	5
Filed fiscal year 1967	6	1
Approved during fiscal year 1967	5	4
Applications withdrawn before approval	3	2
Pending July 1, 1967	3	0

[1] Adjusted from the Fifth Annual Report to reflect two modifications as "New systems" in accordance with Court decision.

Of the 59 systems above which had been approved as of July 1, 1967, seven are not being implemented by the conferences. Four of these involve the inactive Cuban trade while three approved systems have not been placed in active operation. Thus, as of July 1, 1967, there are 52 approved dual rate contract systems which are in active operation.

Rules for Dual Rate Contract Applications

Final rules concerning the filing of applications for permission to institute new dual rate contract systems and to modify existing systems were published in the Federal Register on September 22, 1966 (46 CFR 538). The rules, which were issued as Commission General Order 19, set forth the filing procedures and provide a "Uniform Merchant's Contract" which complies fully with the provisions of the Shipping Act, 1916, as amended.

The new rules will facilitate the preparation and processing of applications for Commission approval of dual rate contract systems pursuant to section 14(b) of the Shipping Act. In addition, the publication of the form of uniform contract will relieve conferences and carriers of the task of searching numerous Commission precedents to determine what constitutes an approved form of contract. Applications which comport with this uniform contract can be processed more expeditiously and at less cost to carriers, conferences, and the Commission.

Freight Rates

Section 18(b) of the Shipping Act, 1916, sets forth requirements with respect to the filing of ocean freight rates by common carriers by water in the foreign commerce of the United States. Rules and regulations implementing this section are published in Federal Maritime Commission General Order 13 (46 CFR 536). The purpose of the statute and order is to provide for public notice with respect to the establishment and assessment of rates and practices with respect thereto, to facilitate commerce through the establishment of improved, uniform, and unambiguous tariffs, and to guard against unjustly discriminatory rates and practices.

Pursuant to section 18(b) of the Shipping Act, 1916, and the Commission's General Order 13, carriers and conferences of carriers

submitted 105,668 pages of tariff filings in the fiscal year 1967. These filings included new and initial tariffs and amendments to previously filed tariffs. Of this number, 947 were rejected for failure to conform with statutory requirements and/or provisions of General Order 13. On the basis of averages indicated by a survey, the total tariff filings received during the year resulted in the establishment of 211,336 new or initial rates and 264,170 rate changes. At the end of fiscal year 1967, a total of 2,514 tariffs were on file with the Commission. A total of 116 tariffs were canceled by the carriers without replacement.

Consistent with the President's policy of improving service to the public, the Commission installed a Telex in its offices at Washington, D.C., August 10, 1966. The new facility permits receipt by the Commission of tariff filings and other urgent communications 24 hours a day, 7 days a week, from subscribers to the Telex System and from persons sending telegrams via Western Union Telegraph Offices. Experience over the past year shows that the service has been used extensively and has served as a benefit to carriers and shippers alike.

Special Permission Applications

Section 18(b) of the Shipping Act, 1916, authorizes the Commission, in its discretion and for good cause, to waive the 30 days filing notice provisions set forth in that section. The Commission received 252 special permission applications to waive these filing notice provisions during the year, approved 220 and denied 23. The remaining nine were withdrawn by the applicants.

Freight Rate Surcharges

When conditions at a specific port or area are such that vessels are delayed beyond the normal period for loading and discharge, it is a common practice for ocean carriers to establish a surcharge as compensation for the extraordinary expenses involved. Since surcharges materially increase the cost of ocean services and might adversely affect the marketing capability of shippers, the Commission maintains surveillance to assure that surcharges are not assessed where conditions do not warrant; and when warranted, are not set at exorbitant levels.

The Commission's last annual report covered the favorable results of its joint effort with the Agency for International Development

(AID) and others in obtaining reductions from $7.50 to $3.75 per ton in war risk compensation surcharges applicable to Vietnam ports. In further attention to war risk and vessel detention surcharges in the port of Saigon, and a finding that port congestion has decreased materially, a congestion surcharge in effect since November 1965, was reduced from $8.25 to $5.00 per ton.

Other surcharges which have recently been eliminated, canceled, or suspended are: Persian Gulf ports of Dammam and Khorramshahr—10 percent suspended until November 1, 1967; Buenos Aires, Brazil—$3.50 per ton canceled; Pireaus, Greece—reduced from 20 to 19 percent and subsequently canceled; Beirut, Lebanon—10 percent canceled; Ashdod, Israel—10 percent canceled; Manila, P.I.—$2.50 per ton, canceled; and Okinawa—$3.50 per ton, canceled.

General Freight Rate Increases

To discharge its obligations under the statute and insure that ocean rates are not set at levels which may impede ocean movement, the Commission considers carefully the impact of general freight rate increases placed into effect from time to time by conferences in the U.S. foreign commerce.

An example is the 12½-percent general rate increase placed into effect this year by a steamship conference serving the U.S.-Australian trade. The conference provided a list of the factors which it considered to warrant the increase, but the Commission was not wholly satisfied by the explanation. In view of complaints from some shippers protesting the increase, other shippers in the trade were canvassed to learn the extent to which shippers might have a serious export problem as a result of the then pending higher rates. Additional shippers advised that the increased rates would inhibit their ability to market their products in the trade and asked that the Commission take some action to afford them rate relief. Representatives of the Commission met with the conference lines in New York City and it was agreed that the shippers desiring rate reductions would receive full consideration upon direct application to the conference. Eighteen shippers submitted applications for rate reductions directly to the conference, and in 12 instances, the rates were lowered.

Computer Processing of Freight Rates

The Commission's pilot project to apply data processing techniques to the retrieval of voluminous freight rate data was continued during

the fiscal year. The records of 34 conference tariffs are now on magnetic tape and six additional tariffs are in the final processing stages. The data bank of 40 tariffs will then contain the major conference tariffs in the trade between the United States, the United Kingdom and the Atlantic, Channel, and North Sea ports of continental Europe. These tariffs represent the services furnished by more than 60 steamship lines operating in the trades mentioned. Studies are continuing in collaboration with representatives of other government agencies and the shipping industry, to achieve the systems correlation necessary for full automation of transportation documentation in the shipping industry.

International Relations

The Commission continued a course of cooperative effort in resolving dissensions about its regulatory activities in the international commerce. This calls for close liaison with other government agencies concerned with international shipping as well as with foreign shipping attachés and international organizations.

During the period under review, Chairman John Harllee and Commissioner George H. Hearn attended the International Maritime Consultative Organization meeting in London; Commissioner James V. Day and Special Assistant Edwin F. Stetson went to Argentina, Brazil, and Uruguay to discuss the problems of international shipping, port operations, and containerization; and Commissioner George H. Hearn moderated a symposium on containerization at the National Defense Transportation Association meeting in Berlin, Germany.

The Commission held a series of meetings with the European and Japanese shipping attachés to discuss the issuance and implementation of General Order 18, covering conference activity; proposed General Order 19, uniform dual rate contracts; and proposed Commission rules on drafting of conference and other section 15 agreements. During this period, the Commission received as official visitors the Honorable Justice Richard Moulton Eggleston, President of the Australian Trade Practices Tribunal of the Government of Australia; and Admiral J. C. De Macedo Soares Guimaraes, Chairman of the Brazilian Merchant Marine Commission. Shipping problems affecting the respective governments were discussed.

The Commission also held a series of meetings to establish a working group to study data on the U.S.-Japan Trade Route

Foreign Discriminations

The question of foreign shipping discriminations remained active during fiscal year 1967. Foreign governments made several proposals which, if implemented, would have created problems in this field.

A continual close watch is being maintained on the question of multilateral shipping convention proposed by the Latin American Free Trade Association (LAFTA), as implementation of this agreement is still under active consideration.

DOMESTIC OFFSHORE COMMERCE

The Federal Maritime Commission regulates rates and practices of domestic offshore common carriers by water serving the trades between the continental United States and Alaska, Hawaii, Puerto Rico, Guam, American Samoa, and the Virgin Islands, pursuant to the provisions of the Intercoastal Shipping Act, 1933, and the Shipping Act, 1916.

Regulatory Activity

Freight Rates

The Intercoastal Shipping Act, 1933, requires that carriers file with the Commission and keep open to public inspection schedules showing all the rates, fares, and charges for, or in connection with, transportation between ports served in the domestic offshore trade. The Commission accepts or rejects tariff filings in accordance with the requirements of the statutes and the Commission's rules and regulations.

In fiscal year 1967, the Commission examined 11,703 pages of freight and passenger tariff filings, rejected 195 tariff pages, and accepted the remainder. Examination of the rates and other tariff provisions resulted in the institution by the Commission of 17 formal proceedings placing tariff matters under investigation and/or suspension pending hearing and adjudication.

The Commission's practice of meeting with domestic offshore water carriers, shippers, and representatives of the governments of the domestic offshore areas to negotiate, conciliate, or otherwise resolve disputes on an informal basis resulted in eliminating approximately 31 potential formal proceedings. This represents a substantial savings in both time and money to the Commission and to the carriers and shippers.

Special Permission Applications

Section 2 of the Intercoastal Shipping Act, 1933, provides that no change may be made in tariff rates, fares, charges, classifications, rules or regulations, except by publication, filing, and posting of new tariff schedules. Such changes cannot become effective earlier than 30 days after the date of filing with the Commission. Upon application of the carrier, the Commission may, in its discretion and for good cause, allow the changes to become effective on less than 30 days' notice. In this fiscal year, the Commission approved 119 special permission applications, denied eight, and three were withdrawn by the applicants.

Carrier Agreements

Agreements between carriers in the domestic offshore trades are subject to section 15 of the Shipping Act, 1916, which requires that such agreements be filed for approval before effectuation. Each agreement or modification is examined to determine whether it represents the true and complete understanding of the parties; would be unjust, discriminatory, or unfair as between carriers, shippers, exporters, importers, or ports; operate to the detriment of the United States: violate the Shipping Act; or is contrary to the public interest.

One carrier agreement was pending at the end of fiscal year 1966. Two agreements and two modifications to approved carrier agreements were filed with the Commission during fiscal year 1967. One of the agreements is pending further investigation. and one is being set down for hearing. The others were approved by the Commission.

Special Studies

The Alaska Trade Study was completed and sent to the Government Printing Office for publication. This regulatory staff analysis is believed to be the most exhaustive study of the ocean transportation needs of a particular region ever made by a regulatory agency.

The study is comprised of eight chapters and various appendixes. Chapter I contains the introduction, recommendations, and conclusions; Chapter II discusses the economy and traffic flow; Chapter III describes the transportation system to, from, and within Alaska; Chapter IV analyzes ocean freight rates and ratemaking practices; Chapter V evaluates services and rates in the northwest region of Alaska, and discusses harbor and terminal conditions; Chapter VI

covers terminals, their rates and practices particularly in southeast and south-central Alaska; Chapter VII covers regulatory and jurisdictional matters, while Chapter VIII reviews Alaska's material resources, economic potential, and the need for experimental rates and new modes of service to remote areas. The study would not have been so comprehensive without the cooperation of the Alaska Congressional Delegation, Alaska state officials, many Federal agencies, and various shippers, carriers, terminals, and other segments of the maritime industry.

A similar study has been started in the Puerto Rican and Virgin Islands trades. The purpose is to gather and evaluate economic data on ocean transportation services, rate inequities, and discriminatory practices, and to study their economic effect on the public.

TERMINAL OPERATORS

The Commission is responsible for the regulation of the activities of marine terminal operators pursuant to the provisions of the Shipping Act, 1916. This entails the processing of terminal agreements and policing and regulating terminal practices.

In carrying out this responsibility, the Commission in fiscal year 1967:

1. Set July 14, 1967, as the date by which terminal operators must comply with tariff filing rules in Docket No. 875 (General Order 15 (46 CFR 533)). The United States Court of Appeals for the District of Columbia Circuit affirmed General Order 15 on April 17, 1967.

2. Published staff reports in Fact Finding Investigation No. 4 (North Atlantic Ports) dealing with the Ports of New York, Philadelphia, Baltimore and Hampton Roads, and Fact Finding Investigation No. 5 (South Atlantic and Gulf Ports) dealing with all South Atlantic and Gulf Coast Ports. These investigations developed facts for determining whether free time, demurrage, and storage practices at terminals are fair and whether terminals discriminate against truck traffic in favor of rail traffic.

A circular letter was dispatched to free time and demurrage conferences, inbound steamship conferences, and water carriers serving the port of New York, stating that (a) testimony and information gathered at New York relating to collection of demurrage bills on import cargo showed that in many instances carriers have not taken reasonable steps to collect demurrage bills; (b) failure to take reasonable steps to assess and collect demurrage charges may amount to an unlawful rebate and may be contrary to the provisions of the Shipping Act; and (c) the Commission intends to make periodic spot checks of demurrage billing and collections in order to assure that reasonable steps are taken in this matter.

Also, a letter dated June 29, 1967, was directed to all water carriers serving the Port of New York, outbound Atlantic Coast Steamship Conferences, and New York and Philadelphia terminal operators, stating the Commission's position that excessive free time allowances are contrary to the provisions of the Shipping Act, 1916; urging that they take immediate steps to provide a free time period and demurrage charges on export cargo; and stating that, if reasonable rules and regulations are not in force within six months, the Commission would institute proceedings directed toward establishment of free time regulations on outbound cargo.

3. Concluded a staff study of the various factors affecting the handling and movement of overseas traffic through the Port of Boston and a review of the Port's position in relation to other North Atlantic ports. Issues considered were the physical facilities of the Port, truck, rail, and related maritime services, cargo volume trends at the North Atlantic ports, Boston's market potential, labor organization, stevedoring, and various charges at the ports. The study was conducted in conjunction with the staffs of the Interstate Commerce Commission and the Civil Aeronautics Board.

4. Dismissed the rulemaking and investigation proceeding in Docket No. 965, relating to free time, wharf demurrage, and storage practices at Pacific coast terminals.

5. Instituted an investigation (Docket No. 66–48) to determine whether rates, rules, and regulations contained in tariffs or members of the Pacific Northwest Tidewater Elevators Association were contrary to section 17 of the Shipping Act, 1916. Instituted a further proceeding (Docket No. 66–48 Sub. 1) relating to further increases in the rates under investigation in Docket No. 66–48.

6. Instituted an investigation (Docket No. 66–51) to determine whether Agreements No. T–1953 and T–1953–A between the Port of Oakland and Matson Navigation Company would operate to breach Agreement No. T–27 between Encinal Terminals and Matson Navigation Company. This proceeding was dismissed and a further proceeding (Docket No. 66–68) was instituted to determine whether the rentals contained in Agreements No. T–1953 and T–1953–A are noncompensatory, resulting in prejudice to other ports or terminals.

7. Instituted an investigation (Docket No. 67–18) to determine whether Agreement No. T–1986 between the City of Long Beach

and South Bay Warehouse Corporation is subject to the provisions of section 15 and whether Agreement No. T–1985 between the City of Long Beach and Evans Products Company and Agreement No. T–1986 are approvable under the standards of section 15 of the Shipping Act, 1916.

8. Examined 4,212 terminal tariff filings to determine whether they were in conformity with the provisions of the Shipping Act, 1916, or an approved conference agreement to which the terminal may have been a party.

9. Reviewed the minutes of 145 terminal conference meetings to determine whether any action reflected therein was violative of the Shipping Act.

10. Reviewed 85 quarterly reports covering shippers' requests and complaints submitted by terminal ratemaking conferences in accordance with the Commission's General Order 14.

11. Considered 113 informal complaints concerning the activities of terminal operators or other persons subject to the Act, and concluded its findings and actions with respect to 49 cases. Of the 64 pending complaints, 45 are in formal proceedings.

12. Processed 110 terminal agreements filed pursuant to section 15 of the Shipping Act, 1916. Fifty-one of these agreements were determined not to be subject to the Act, 49 were approved, and 10 were withdrawn. Seventeen were pending final action at the end of the year, three being the subject of formal dockets.

FREIGHT FORWARDING

Licensing

Section 44, Shipping Act, 1916, requires the Commission to license independent ocean freight forwarders found to be fit, willing, and able to function as such. As a consequence, the Commission conducts an investigation of all applicants in order to make such findings.

As of the end of fiscal year 1966, 903 licenses had been issued and 92 applications were pending. During fiscal year 1967, 39 new applications were received; 61 licenses were issued; 20 applications were denied or withdrawn; and 50 continued in process. Thirty licenses, issued previously, were revoked.

Agreements

Ocean freight forwarders frequently enter into joint working arrangements or cooperative working agreements with other forwarders. From July 1 to April 22, 1967, 267 such agreements were filed with and approved by the Commission.

On April 22, 1967, the Commission by rule issued pursuant to Public Law 89–778, 79 Stat. 195, exempted nonexclusive cooperative working agreements between licensees from the filing and approval requirements of section 15, Shipping Act, 1916.

Rulemaking Proceedings

Experience gained in the licensing and regulation of independent ocean freight forwarders indicates a continuing need for revision and amendment of the basic rules of business conduct which establish a code of ethical business practices, duties, and obligations applicable to licensees. These rules are contained in General Order 4, as amended.

As originally promulgated, section 510.22(a) of General Order 4 prevented licensees from charging or collecting ocean freight compensation (brokerage) in the event the licensee requested the ocean carrier or the ocean carrier's agent to perform freight forwarding services, unless no other licensee was willing and able to perform such services. On September 3, 1966, the Commission published amendment 9 to General Order 4, allowing port-wide exemptions from the rule to carrier agents who also operate as licensed independent ocean freight forwarders upon a finding of insufficient forwarding services at the port. During fiscal year 1967, six such exemptions were granted by the Commission.

A comprehensive review of actual operating experience pursuant to the regulations prescribed in General Order 4, conducted during the previous fiscal year, indicated that extensive revision of certain rules was necessary. By notice published October 22, 1966, the Commission amended the rules to (1) allow an oceangoing common carrier to perform ocean freight forwarding services on cargo carried on its own bill of lading, free of charge, provided the tariff of the carrier indicates this practice; (2) provide for Commission approval of branch offices of licensees; (3) include a time limit within which a licensee would be required to pay over to carriers freight monies advanced by a shipper; (4) provide for the filing of rate schedules for accessorial services rendered by licensees; (5) prohibit the payment of ocean freight compensation to a licensee whose name appears on an ocean bill of lading as shipper or as agent for an undisclosed principal; and (6) require carriers to specify in their tariffs, rates of ocean freight compensation to be paid to licensees. The effective date of certain of these amendments was postponed pending Commission action on petitions for reconsideration filed with the Commission by the forwarder associations. The Commission denied the petitions and the forwarder associations petitioned the U.S. Court of Appeals for review of four of the amendments, and for an interlocutory injunction postponing the effective date of the four rules pending review by the Court. On April 14, 1967, the Court of Appeals ordered that the effective date of the rules pertaining to free freight forwarding services by carriers be stayed, but allowed the other amendments to become effective April 20, 1967. The decision of the Court on its review of the four rules is pending.

On June 14, 1967, in conformity with the licensing statute, the Commission amended Rule 510.9 of General Order 4 (46 CFR 510.9) to provide for automatic revocation of a license for failure of a licensee to maintain a valid surety bond on file with the Commission.

PASSENGER INDEMNITY

The enactment of Public Law 89–777 on November 6, 1966, expanded the regulatory authority of the Commission over passenger ship activities. Sections 2 and 3 of the statute (80 Stat. 11356), which are administered by the Commission, pertain to the financial responsibility of passenger vessel owners and charterers, as well as persons arranging, offering, advertising, or providing transportation on a passenger vessel.

Section 2 of the statute requires owners and charterers of vessels having berth or stateroom accommodations for 50 or more passengers, and embarking passengers at United States ports, to establish financial responsibility to meet any liability incurred for death or injury to passengers or other persons on voyages to or from United States ports. Section 3 requires persons arranging, offering, advertising, or providing passage on such vessels to establish financial responsibility for indemnification of passengers for nonperformance of transportation. The statute specifies that section 2 become effective August 7, 1967, and section 3 on May 5, 1967.

Upon enactment, the Commission established within its existing organizational structure a Passenger Vessel Certification Branch, and initiated numerous staff conferences with representatives of shipowners and charterers, insurance and surety firms, attorneys, other government agencies, and diplomatic representatives of many foreign nations. As a result of these meetings, the Commission identified the many complex problems and obstacles that required disposition before promulgating rules to implement the statute. Thus the Commission avoided delays which could have prevented issuance of implementing rules in the limited time allotted.

Rulemaking Proceedings

In December 1966, the Commission published proposed rules to implement sections 2 and 3 of the statute. Oral argument was heard

by the Commission in both proceedings on February 8, 1967. Final rules were published for section 3 on March 11, 1967, and for section 2 on May 16, 1967. The rules are designated Federal Maritime Commission General Order 20 (46 CFR 540).

The rules incorporate the sense of the Commission that assets or securities accepted by the Commission from applicants, insurers, guarantors, escrow agents, or others as evidence of financial responsibility must be physically located in the United States. This requirement was of significant importance since the major portion of marine insurance is underwritten by foreign insurers, in foreign markets. The Commission considered that the intent of the Congress under the statute was to have the assets readily available in the United States to pay any judgment obtained from United States courts.

The Commission's staff met with insurance underwriters to work out the problems and questions and to assure that underwriting firms' insurance policies were acceptable to the Commission. A unique document, called a guaranty, was developed as a result of these negotiations. The guaranty was designed to cover the risks specified in the statute. It is executed by an insurer and submitted to the Commission in lieu of insurance policies. This arrangement has to a large extent been instrumental in facilitating compliance by the carriers.

To avoid the imposition of undue restrictions on applicants, the Commission issued Amendment 1 to General Order 20 on April 1, 1967. This amendment provides for the use of a combination of alternative methods to evidence financial responsibility.

Certification

Since November 6, 1966, the Commission received 57 applications for certificates of financial responsibility to indemnify passengers for nonperformance of transportation. Of this total, 55 certificates were issued and two applications were pending at the close of the fiscal year. In addition, 50 applications for certificates of financial responsibility to meet liability incurred for death or injury to passengers or other persons were received. At the close of the fiscal year, nine of these certificates had been issued and 41 applications were pending.

FINANCIAL AND ECONOMIC ANALYSIS

Transport Economics

Attention to ocean freight rates and the general economics of ocean transportation was sharpened by formal proceedings in Docket 65–45—an investigation of the ocean rate structures in the U.S. North Atlantic/United Kingdom and Eire trade—to determine inter alia whether the outbound rate structure or any individual outbound rate may be higher than the inbound rate structure or any individual reciprocal inbound rate, and if so, whether the disparate rate structures, or individual rate disparities, may be detrimental to the commerce of the United States, contrary to the public interest or otherwise in violation of the Shipping Act, 1916.

In the course of these proceedings, hearings were held intermittently between July 12, 1966, and April 6, 1967, in New York City, Washington, D.C., and Chicago, Ill. During the course of the hearings, the Department of the Treasury and the Small Business Administration intervened. The Department of the Treasury expressed concern over the balance of payments problem as it might be affected by rates maintained by respondent conferences in the subject trade area. The Small Business Administration was concerned over the effects of such rates on the ability of small business exporters to compete in the market place, pursuant to its duty to aid, counsel, and protect the interests of small business concerns.

The hearings were concluded in April 1967 and the case is pending the receipt of the briefs of the parties.

Financial Analysis

By General Order 21, Audits and Auditing Procedures, published in the Federal Register April 4, 1967 (46 CFR 513), the Commis-

sion provides for the audit of books and records of carriers engaged in the domestic offshore trades of the United States for the purpose of verifying reports submitted pursuant to General Orders 5 and 11. These reports show, respectively, the financial condition of the carrier as a corporate entity and the results of its operations in the trades subject to the Commission's regulation. The rulemaking proceeding was instituted by the Commission in April 1966 following the remand of the U.S. Court of Appeals for the District of Columbia in *Alcoa Steamship Company* v. *Federal Maritime Commission and United States of America,* 121 U.S. App. D.C. 144, 348 F. 2d 756 (1965).

During fiscal year 1967, financial reports were received from 37 carriers under provisions of General Order 11, and 39 under provisions of General Order 5. Analysis of this financial data continues to be of material assistance in expediting action on general rate cases and making determinations respecting changes in tariffs for individual commodities or groups thereof.

ENFORCEMENT AND COMPLIANCE

Informal Complaints

The Commission's efforts in settling informal complaints are directed toward resolving the controversies to the satisfaction of the parties concerned without resort to expensive and protracted formal proceedings.

To this end, the Commission has (1) implemented rules requiring carriers to establish procedures for disposition of shippers' complaints and file reports of actions taken; (2) published, in conjunction with the Department of Commerce, "Ocean Freight Guidelines for Shippers" to assist exporters and importers in presenting their complaints and requests for rate reductions to carriers and conferences; and (3) stressed mediation procedures in resolving cases presented to the Commission.

These policy and procedural devices are proving to be effective in resolving shippers' complaints through cooperative negotiation with the parties concerned. This year, nearly all of the complaint cases acted upon by the Commission were resolved, in conjunction with shippers and carriers, by a determination of no violation or by adjustment satisfactory to the shipper.

Three hundred and fifty-five of these complaints related to rates, agreements and other shipping problems in the foreign commerce of the United States. Through Commission action in investigation and negotiation with shippers and carriers, 280 cases were resolved by determination of no violation or by satisfactory adjustment including rate reductions or other benefits to shippers in nearly 50 instances. There were 75 cases in process at the close of the year, five of which were the subject of formal docketed proceedings before the Commission. Seven cases found to be in violation of the Shipping Act, were under consideration by the Department of Justice.

Additionally, the Commission considered 268 informal complaints involving freight rates, tariffs, agreements, and practices of domestic offshore carriers, terminal operators, and freight forwarders. Of this number, 187 were resolved satisfactorily with the parties by determination of no violation or by satisfactory adjustment. There were 81 cases in process at the close of the year of which 45 were in formal docketed proceedings [34 of the 45 are the subjects of Dockets 65–14 and 65–46].

Field Investigations

Legislation enacted in fiscal year 1967 placed additional emphasis on the Commission's investigative responsibilities and program. While the previous year saw the initiation of the container inspection program and a reemphasis of compliance activities relating to malpractices generally, the current year saw investigations resulting from Commission rules implementing Public Law 89–777, as well as continued emphasis on the container inspection program and compliance activities.

During the year, 378 cases were opened and 511 investigations were completed. The pending active caseload at the year's end was 209. Investigative activities resulted in fines and/or settlements totaling $68,350 for violations of the shipping statutes for the fiscal year.

The domestic container inspection program, which began late in fiscal year 1966, was continued with effective results. Inspection reports disclosing 46 substantial violations by six shippers were referred to the Department of Justice for prosecutive action. Warning letters were sent to 24 shippers involved in minor first-inspection violations. Steamship lines in these trades have reported that the Commission's inspection program has been instrumental in increasing freight revenue by substantial sums.

Formal Proceedings

The Commission on its own motion instituted 47 proceedings involving various regulatory matters. It reopened for reconsideration four proceedings previously completed and 28 complaints were filed. Seventy-five cases were concluded either through Commission decision, satisfaction of complaint, or discontinuance of proceeding.

The high incidence of complaint cases is due to the fact that 17 shippers filed complaints seeking reparations for overcharges which were barred by carrier self-imposed time limits less than the 2-year statute of limitations. The filing of these complaints coincided with the Commission reopening for reconsideration its Docket No. 65–5—*Proposed Rule Covering Time Limit on the Filing of Overcharge Claims*, which is presently pending a hearing.

The Commission continued to obtain compliance with its general orders by conferences serving the United States trades through the institution of seven show cause proceedings. These cases were generally concluded by conference compliance without the need for a hearing. Surveillance of the offshore domestic trades was continued with the institution of nine formal proceedings including three general revenue cases of which two were in the Alaska trade and one in the Guam trade. The Guam case was discontinued when the carrier canceled its increase.

The status of the Commission docket in formal proceedings is indicated below:

Investigations:	*Beginning fiscal 1967*	*New dockets and remanded cases*	*Concluded fiscal 1967*	*Pending beginning fiscal 1968*
Section 15	20	27	30	17
Sections 14, 16, 17	4	1	1	4
Section 18(b)(5)	2	1		3
Complaints	15	28	11	32
Dual Rate Contracts	3	2	3	2
Freight Forwarder Licensing	5	2	7	
Rate Proceedings	7	9	9	7
Rulemaking	9	9	14	4
Totals	65	79	75	69

PROCEEDINGS BEFORE HEARING EXAMINERS AND FEDERAL MARITIME COMMISSION

At the beginning of the fiscal year 43 proceedings were pending before Hearing Examiners. Sixty-six cases were added during the fiscal year, which included seven cases remanded by the Commission for further proceedings by the Examiners. The Examiners conducted hearings in 33 cases, held prehearing conferences in 34 cases, and issued 23 initial decisions during the fiscal year.

In proceedings other than rulemaking, the Commission heard 16 oral arguments involving 17 proceedings and issued 48 decisions involving 50 proceedings. Of these proceedings, 12 were discontinued or dismissed without report, five were remanded to Examiners, and one was referred to the Chief Examiner for evidentiary hearing. At the end of the fiscal year, there were 12 proceedings pending decision by the Commission.

Final Decisions of the Commission

Docket No. 873—*Investigation of Passenger Steamship Conferences Regarding Travel Agents.* On remand from the United States Court of Appeals for the District of Columbia Circuit, the Commission reaffirmed its decision of January 30, 1964, holding that the unanimity rule of the Atlantic Passenger Steamship Conference and the tie in rule of the Trans-Atlantic Passenger Steamship Conference were contrary to section 15 of the Shipping Act, 1916.

Docket No. 916—*Investigation of Practices, Operations, Actions and Agreements in the West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Trade.* Three carriers in the trade were found to have violated section 15 of the Act by entering into and carrying out an arrangement to pay commissions to selected forwarders without prior approval of the Commission.

Docket No. 1153—*Truck Loading and Unloading Practices at New York Harbor.* Supplementing its report of May 16, 1966, the Commission found

that the practice of the New York Terminal Conference in collecting revenue from lightermen and refunding it to carriers was not in violation of its conference agreement.

Docket No. 1166—*Agreements No. 6200–7, 6200–8, and 6200–B of the United States Atlantic and Gulf Australia-New Zealand Conference.* On remand from the United States Court of Appeals for the District of Columbia Circuit, the Commission reaffirmed its decision of August 26, 1965, holding that the right of the Atlantic and Gulf sections of the conference to veto any lower rate set by the Great Lakes section was contrary to the standards of section 15 of the Act. The Commission modified its previous opinion by finding the voting procedures of the Great Lakes section approvable under section 15.

Docket No. 1182—*Rates From Jacksonville, Fla., to Puerto Rico.* Sea-Land Service was found not to have justified (1) elimination of the differential between its rates and the lower rates of TMT Trailer Ferry; and (2) institution of its own differentially lower rates between Jacksonville and Puerto Rico and other Atlantic Ports and Puerto Rico. Sea-Land's lower rate on scrap from Puerto Rico to Jacksonville was found to be lawful.

Docket No. 1187—*Reduced Rates on Machinery and Tractors From United States Atlantic Ports to Ports in Puerto Rico;* Docket No. 1187 (Sub. 1)—*Further Reduction in Rates on Machinery and Tractors From United States Ports to Ports in Puerto Rico.* On remand from the United States Court of Appeals for the District of Columbia Circuit, the Commission reaffirmed its decision of May 10, 1966, holding that it has the authority to require (1) that cargo move through naturally tributary areas in the absence of valid factors militating against such a result and (2) that, where it becomes necessary in the public interest, high-value commodities move at rates high enough to sustain carriage of essential low-value commodities at rates lower than would be permitted if the usual transportation factors were the only consideration. The Commission modified its previous opinion by finding that exercise of the aforementioned authority was unnecessary in the instant circumstances and further found that all rates of all carriers were lawful.

Docket No. 1218—*Sea-Land Service* v. *TMT Trailer Ferry.* TMT Trailer Ferry was found to have violated section 18(a) of the Shipping Act, 1916, and section 2 of the Intercoastal Shipping Act, 1933, by failing to disclose in its tariffs the fact that it offered refrigerated cargo service, and by charging, demanding, and collecting compensation different from and greater than that specified in its legally filed tariff. A cease and desist order was issued.

Docket No. 65–1—*Matson Navigation Company—Reduced Rates on Flour From Pacific Coast Ports to Hawaii.* Matson's rates were found to be compensatory and justified as a means of meeting unregulated barge competition.

Docket No. 65–12—*Crown Steel Sales, et al.* v. *Port of Chicago Marine Terminal Association, et al.* The complaint of various steel importers was dismissed on the grounds that the assessment and collection of inland carrier loading and unloading charges by respondents was not, as alleged, in violation of any applicable section of the Act.

Docket No. 65–17—*Transshipment and Apportionment Agreements From Indonesian Ports to U.S. Atlantic and Gulf Ports.* The carriage of cargo contemplated by and the carriers party to the agreements under investigation were found to be within the intent and meaning of secion 1 of the Act and the agreements were approved subject to removal therefrom of certain exclusive dealing provisions which were found contrary to the public interest. On petition for reconsideration by intervener Holland-America Line, the decision was modified to restate intervener's position regarding the jurisdictional issue.

Docket No. 65–19—*Transshipment and Through Billing Arrangement Between East Coast Ports of South Thailand and U.S. Atlantic and Gulf Ports.* The agreement providing for transshipment at Singapore was found subject to section 15 of the Act and was approved thereunder.

Docket No. 65–48—*North Atlantic Portugal Freight Conference Exclusive Patronage (Triple Rate) System and Contract.* The Commission adopted the decision of the Examiner denying respondents' application on the grounds that the proposed system and contract were unjustly discriminatory between shippers and exporters, detrimental to the commerce of the United States, contrary to the public interest and otherwise unlawful in that it provided for more than one spread between ordinary and contract rates.

Docket No. 65–52—*Japan-Atlantic and Gulf Freight Conference and Trans-Pacific Freight Conference of Japan—Modification of Dual Rate Contract.* Respondent conferences were permitted to modify their dual rate contracts as to prompt release and false declaration clauses. Applications to modify the affiliates, chartered vessel exclusion, suspension, and natural routings clauses were denied.

Docket No. 66–4—*Application for Independent Ocean Freight Forwarder License: James J. Boyle & Co.* The applicant was held unfit for licensing in view of the fact of record that he had knowingly and willfully operated as a forwarder without lawful authorization. On reconsideration, the matter was reopened and referred to the Chief Examiner for the taking of further evidence. This proceeding was subsequently discontinued by the presiding examiner following the death of Mr. Boyle.

Docket No. 66–14—*Cuban Agreements.* Approval of various conference agreements in the United States-Cuba trade was continued since their dormant state was due solely to the embargo imposed by the Government of the United States.

Docket No. 66–15—*In the Matter of Joint Agreement Between Five Conferences in the North Atlantic Outbound European Trade.* Agreement 9448, as modified by the Commission, was approved subject to filing thereof by the conferences.

Docket No. 66–16—*Portalatin Velazquez Maldonado, et al.* v. *Sea-Land Service, et al.* The complaint was dismissed on the ground that respondents, truckers performing the pickup and delivery portion of a door-to-door contract of ocean transportation, were not persons subject to the Act.

Docket No. 66–17—*Application for Independent Ocean Freight Forwarder License: Heskel Saleh d/b/a/ Eastern Forwarding Service.* The application was granted on the condition that applicant cease collecting unearned brokerage and establish an office and perform his services independently of any shipper.

Docket No. 66–27—*Persian Gulf Outward Freight Conference—Establishment of a Rate Structure Providing for Higher Rate Levels for Service via American-Flag Vessels Versus Foreign-Flag Vessels.* The two-level rate structure was found not to be authorized by the basic conference agreement and its use was prohibited prior to submission and approval pursuant to section 15 of the Act.

Docket No. 66–28—*Boston Shipping Association, et al.* v. *Port of Boston Marine Terminal Association, et al.* The complaint was dismissed on the ground that respondents' assessment of "strike storage" against the vessel was authorized by their basic agreement and did not, as alleged, constitute a violation of any applicable section of the Act.

Docket No. 66–29—*Hong Kong Tonnage Ceiling Agreement.* The proceeding was discontinued upon a showing that one of the parties to the agreement had withdrawn its approval thereof, thus leaving no agreement to be considered by the Commission.

Docket No. 66–30—*Application for Independent Ocean Freight Forwarder License: E & R Forwarders.* The application was denied on the ground that applicant was a "dummy" forwarder of the kind Congress intended to eliminate by enactment of section 44 of the Act.

Docket No. 66–33—*Modification of New York Terminal Conference Agreement.* The modification to the agreement, permitting the charging of demurrage and establishing free time on export cargoes, was found not violative of the Act and was approved.

Docket No. 66–36—*Outward Continental North Pacific Freight Conference—Noncompliance With General Orders.* The conference was ordered to amend its basic agreement upon a finding that it did not comply with Commission General Orders 7, 9, and 14, which orders are valid and reasonable promulgations of rules pursuant to sections 15 and 43 of the Act.

Docket No. 66–42—*In the Matter of Carriage of Military Cargo.* The Cargo Commitment Contract of the Military Sea Transportation Service of the Department of Defense was found not to be a dual rate contract within the meaning of section 14b of the Act and not otherwise violative of the Act.

Docket No. 66–52—*In the Matter of Petition of New York Freight Bureau (Hong Kong) for a Declaratory Order.* The action of one of the member lines in withdrawing its approval of the amended conference agreement prior to approval by the Commission operated to remove the document from the Commission's consideration.

Docket No. 66–66—*Corn Products Company* v. *Hamburg-Amerika Lines.* The Commission adopted the decision of the Examiner in granting reparations to complainant upon a finding that respondent violated section 18(b)(3) of

the Act by charging a higher rate than that properly on file at the time of the shipment.

The Commission denied applications made under Rule 6(b) of the Commission's Rules of Practice and Procedure in the following proceedings: Special Docket Nos. 399, 401, and 402.

Decisions of Hearing Examiners

(In proceedings not yet decided by Commission)

Docket No. 1083—*Investigation of Rates in the Hong Kong-United States Atlantic and Gulf Trade.* It was determined that respondents, except Sabre, charged rates so unreasonably low as to be detrimental to the commerce in violation of section 18(b)(5) of the Shipping Act, 1916. Respondents' tariff provisions for "Chinese Merchandise" and "Chinese Provisions" provide rates which are unjustly discriminatory to shippers not of Chinese descent and grant undue and unreasonable preference and advantage to particular persons and traffic, in violation of sections 16 First and 17 of the Act. Thai Lines, Ltd., China Union Lines, Isbrandtsen Steamship Co., and Eddie Steamship Co. charged rates other than those on file in violation of section 18(b)(3) of the Act. Thai Lines, Ltd., granted rebates in violation of sections 16 Second, 17, and 18(b)(3) of the Act.

Docket No. 65–13—*Rates on U.S. Government Cargo.* Agreement No. 8086–2 (AGAFBO) and Agreement No. 8186 (WCAFBO) will be canceled unless amended to reflect changed conditions. Approval of Agreement No. 8493 (TPAFBO) is continued. It has not been shown that AGAFBO, WCAFBO, or TPAFBO, or their members jointly, carried out any agreement before being filed and approved under section 15 of the Shipping Act, 1916 (the Act), or that any of the members of AGAFBO, WCAFBO, or TPAFBO charged rates on nonmilitary household goods which were not properly on file with the Commission.

In its tender of rates filed with MTMTS, Liberty-Pac International Corporation (Liberty-Pac) offered to transport, free of charge, empty Conex boxes from Germany, without provision therefor in its tariff on file with the Commission, but no such boxes were actually transported. No violation of section 18(b)(1) of the Act shown. Further, it has not been shown that any respondent has charged rates which are unduly unreasonable, or unjustly discriminatory with respect to goods sponsored by the Government, or that the rates on Government cargo filed by AGAFBO, Waterman Steamship Corp., and Sapphire Steamship Lines, Inc. (Sapphire), were so unreasonably high or low as to be detrimental to the commerce of the United States, except that the temporarily reduced rates of AGAFBO were unreasonably low.

The member lines of AGAFBO, individually or together with other lines did not act to exclude any other carrier from the carriage of Government cargo, in violation of section 14 Second of the Act. United States Lines violated section 14 Third of the Act by refusing refrigerated space to MSTS

because the latter patronized Sapphire. There were no unfiled agreements, subject to section 15 of the Act, between Sapphire, Liberty-Pac, or Pioneer Overseas Corp. relating to the transportation of Government cargo.

Docket No. 65–14—*Free Time and Demurrage Practices on Inbound Cargo at New York Harbor.* Free time and demurrage rules, regulations, and practices on import cargo at the Port of New York found not shown to be unjust and unreasonable, except in certain respects for the future. New rules prescribed.

Docket No. 66–9—*Agreement No. T–1870; Terminal Lease Agreement at Long Beach, Calif.* Agreement No. T–1870 between the City of Long Beach, Calif., and Sea-Land of California, Inc. (1) is not unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors; (2) does not operate to the detriment of the commerce of the United States; (3) is not contrary to the public interest; and (4) does not violate the Shipping Act, 1916. It is therefore approved pursuant to the provisions of section 15 of the Shipping Act, 1916.

Docket No. 66–35—*The Boston Shipping Association, Inc., et al.* v. *Port of Boston Marine Terminal Association and Massachusetts Port Authority.* It was found that where one party to a terminal conference agreement contemplating a change in the tariff filed under the agreement. complies with the procedures set forth in the agreement permitting independent action. and then independently effectuates the tariff change only at its terminal, such change does not require prior approval of the Commission under section 15. Where a Boston terminal establishes wharfage as a charge against the vessel that theretofore had been charged against the cargo, such vessel charge does not violate section 16 or 17 of the Act, even though other terminals in Boston charge wharfage to the cargo. Complaint dismissed.

Docket No. 66–45—*Agreement for Consolidation and Merger Between American Mail Line, Ltd., American President Lines, Ltd., and Pacific Far East Line, Inc.* It was determined that the Federal Maritime Commission has jurisdiction pursuant to section 15 of the Shipping Act, 1916, over agreements to merge among competing carriers subject to said Act. Agreement among competing carriers to merge or consolidate into a single corporation upon accomplishment of certain conditions, including stockholder approval of corporate plan of merger to be developed, is sufficiently definite for Commission action pursuant to section 15 of said Act. Activities of carriers' joint planning groups to develop organizational. operational, and financial plans for merged companies. and details of corporate plan of merger. do not require prior Commission approval. Agreement to merge approved pursuant to section 15 of said Act where substantial administrative and operating economies and improved operational efficiency and transportation service will result. merger will not have destructive or stifling effect upon competition or competitors or lessen competition except for elimination of service competition among merging carriers, adequate competition will

remain, and benefits of merger will outweigh any potential injury. Prior approval of agreement among affiliated competing carriers, providing for purchasing and data processing to be performed by jointly owned corporation, continued in effect.

Docket No. 66-49—*Investigation of Rates on Household Goods—North Atlantic Mediterranean Freight Conference.* It was determined that commerce of the United States, as used in the Shipping Act of 1916, as amended, means intercourse between one State and another, or a foreign nation and includes cargo, whether governmental, or private, whether part of a commercial shipment or not, moving between one State and another, or a foreign state and/or the instrumentalities used to move cargo between one State and another, or a foreign country. American Export and Prudential charging the Department of State $81.50 per ton for household goods transported to Mediterranean ports from U.S. ports (except base ports in Italy for which goods, they charged $60 per ton), and at the same time charging U.S. military departments $36.20 per ton for the transportation of similar household goods in a similar manner over similar routes, and the difference in rates not being justified by any transportation condition, have given undue and unreasonable preference or advantage, to the U.S. military departments and have unjustly discriminated against the Department of State in violation of sections 16 and 17 of the Act. One instance of a protracted delay in the handling of one shipper's complaint is insufficient evidence of a section 15 violation, particularly where other evidence shows that within an 18 month period about 300 complaints have been expeditiously handled and no other shipper has complained. Absent other evidence of intention to control the actions of a conference, the fact that a majority of the member lines of a conference are foreign-flag is insufficient to show that the foreign-flag lines dominated the conference in violation of section 15 with regard to the establishment of rates for U.S. government cargo that are required by law to be transported on U.S. vessels, when available.

There is insufficient evidence in the record to show that the rates charged by the common carriers have been unreasonably high in violation of section 18(b)(5) of the Act.

The Examiners also issued decisions in Docket Nos. 1153, 1182, 1218, 65-12, 65-48, 65-52, 66-15, 66-16, 66-17, 66-28, 66-30, 66-33, 66-66, and Special Docket Nos. 401 and 402, described above under "Final Decisions of the Commission".

Pending Proceedings

At the close of the fiscal year there were 58 pending proceedings, of which 28 were initiated on the Commission's own motion, and the remainder were instituted by formal complaints and applications filed by conferences, trade associations, shippers, individual steamship operators, and others.

RULEMAKING PROCEEDINGS

The following rulemaking proceedings, instituted in fiscal year 1967, are in progress:

Docket No. 67–29—*Rules of Practice and Procedure: Miscellaneous Amendments.* Proposed rules published April 27, 1967.

Docket No. 67–34—*Common Carriers by Water in the Foreign Commerce of the United States: Exemption From Tariff Filing Requirements.* Proposed rules published May 30, 1967.

The following rules were published during the fiscal year:

General Order 4—Practices of Licensed Ocean Freight Forwarders, Ocean Freight Brokers, and Oceangoing Common Carriers, Amendment 9 (Operations of Carrier Agents); Amendment 10 (General Revision); Amendment 11 (Exemption of Certain Agreement): and Amendment 12 (Revocation or Suspension of Licenses).

General Order 16—Rules of Practice and Procedure. Subparts S and T (Small Claims Procedures).

General Order 19—Contract Rate Systems in the Foreign Commerce of the United States.

General Order 20—Security for the Protection of the Public With Respect to Liability for Nonperformance of Voyages; and Liability for Death or Injury.

General Order 21—Audits and Auditing Procedures.

Amendments to Tariff Circular No. 3 (Weights and Measurements of Automobiles and Special Permission Requirements for Filing Project Rates).

LITIGATION

Seventeen petitions to review Federal Maritime Commission orders were pending in the various United States Courts of Appeals at the beginning of the fiscal year. During the year, 13 petitions were filed in the Courts of Appeals. Twenty-one cases were disposed of during the fiscal year, leaving nine cases submitted for decision, pending briefing, or pending argument on June 30, 1967.

Three appeals from decisions of United States District Courts were pending at the beginning of the fiscal year, and two appeals were filed during the fiscal year. All five cases were disposed of during the year, the decisions in all cases being favorable for the Commission.

Five petitions for writs of certiorari were filed with the Supreme Court of the United States during the fiscal year, four by private litigants and one by the Commission. The Commission opposed three of the private party petitions, and took no position on the fourth. Three of these petitions were denied and one was granted. The latter case, which the Commission had opposed, is pending briefing on the merits and argument during the next term. The Court will rule on the Commission's petition during the next term.

Some of the more important cases decided in the Courts of Appeals were:

Federal Maritime Commission v. *E. C. Caragher, et al.*, 364 F. 2d 709 (2d Cir. 1966), which held that Federal Maritime Commission subpenas were fully enforceable where issued by the Commission in an investigation to determine whether certain ocean freight rates were in violation of section 18(b)(5) of the Shipping Act, 1916, or certain practices of ocean carriers were in violation of sections 14, 16, or 17 of the Act. The Court of Appeals disagreed with the District Court's holding that an investigation commenced pursuant to section 18(b)(5) of the Act is not an investigation into alleged violations of the Act. The Court stated:

"Investigations brought to enforce this type of regulatory provision are brought pursuant to section 22 of the Act; they quite clearly concern matters that might have been made the object of complaint. It follows that, unless there

is strong countervailing evidence of a contrary intent, Congress intended that the Commission could exercise its section 27 subpoena power in furtherance of such investigations." 364 F. 2d at 717.

Federal Maritime Commission and Ludlow Corporation v. *A. T. DeSmedt, et al.*, 366 F. 2d 464 (2d Cir. 1966), *certiorari denied*, 385 U.S. 974 (1966), which affirmed an order of the U.S. District Court for the Southern District of New York enforcing obedience to Commission subpenas. The Court, one judge dissenting, held that the Commission had power to issue subpenas which required the production of evidence from outside the United States.

Stockton Port District v. *Federal Maritime Commission*, 369 F. 2d 380 (9th Cir. 1966), *certiorari denied*, 386 U.S. 1031 (1967), which affirmed an order of the Commission determining that certain port equalization rules and practices were not unlawful "in the case of port equalization against the Port of Stockton on cargo loaded at San Francisco or any other port located on San Francisco Bay, * * *"

Volkswagenwerk Aktiengesellchaft v. *Federal Maritime Commission*, 371 F. 2d 747 (D.C. Cir. 1966), which affirmed a determination by the Commission that an agreement among the members of the Pacific Maritime Association was not an agreement required to be filed with and approved by the Commission pursuant to section 15 of the Shipping Act, 1916. The Association's agreement provided for the funding of the costs of a "mechanization and modernization" agreement between the Association, on the one hand, and the International Longshoremen's and Warehousemen's Union on the other. This latter agreement was a significant departure from previously existing management-labor practices in that the Union permitted automation in return for financial guarantees that its members would not be penalized by such automation. The Court also affirmed the Commission's determination that the method of funding the costs did not violate either section 16 or section 17 of the Act. On June 12, 1967, the Supreme Court granted Volkswagenwerk's petition for writ of certiorari to review the opinion and judgment of the Court of Appeals, and the case will be heard by the Supreme Court during October Term, 1967.

Aktiebolaget Svenska Amerika Linien, et al. v. *Federal Maritime Commission*, 372 F. 2d 932 (D.C. Cir. 1967), which reversed an order of the Commission disapproving the "unanimity" and the "tie in" rules of the Atlantic Passenger Steamship Conferences. The Commission's order and accompanying report had been issued in its Docket No. 873, after proceedings conducted pursuant to a remand by the same Court in 1965. On June 16, 1967, the Commission filed a petition for a writ of certiorari with the Supreme Court, seeking review of the opinion and judgment of the Court of Appeals.

Flota Mercante Grancolombiana v. *Federal Maritime Commission*, 373 F. 2d 674 (D.C. Cir. 1967), which affirmed, after remand from the Supreme Court of the United States (*Consolo* v. *Federal Maritime Commission*, 383 U.S. 607 (1966)), an order of the Commission awarding reparations to Consolo, a shipper of bananas, for unjustly and unreasonably being denied

space on Flota's ships. The Court of Appeals considered questions undecided by the Supreme Court which related to the Commission's determination of the reparations award and stated:

"We are satisfied, after a thorough review of the record, the Commission's opinions, and the briefs of the parties, that the Commission made every effort to set the reparations figure at a level that would be fair to both of the parties. Mathematical precision in such a case is impossible, especially when an agency is hemmed in by the material in the record before it. While we may not have decided all of the issues as the Commission did, we find no basis for disturbing its views. The final award reflects the careful consideration of many factors and a concern for the interests of the parties. We are satisfied that the award rests upon a sufficient evidentiary base and reflects a proper exercise of agency discretion." 373 F. 2d at 681.

Federal Maritime Commission v. *New York Terminal Conference, et al.*, 373 F. 2d 424 (2d Cir. 1967), which affirmed an order of the United States District Court for the Southern District of New York (reported at 262 F. Supp. 225) enforcing subpenas for the production of evidence in an investigation conducted pursuant to section 22 of the Shipping Act, 1916. The Court rejected the contention, advanced on appeal, that an investigation into stevedoring and terminal practices was beyond the Commission's statutory authority.

Persian Gulf Outward Freight Conference v. *Federal Maritime Commission*, 375 F. 2d 335 (D.C. Cir. 1967), which affirmed an order of the Commission holding that a revision of tariff rates to establish one set of rates for cargo carried on American-flag ships and another set of rates for cargo carried on foreign-flag ships constituted a modification of the conference's basic agreement. The Court also approved the use of the "show cause" procedure employed by the Commission in the proceedings before it, holding that the conference "was afforded an opportunity to demonstrate what facts it felt were material to the issue before the Commission." 375 F. 2d at 341.

States Marine Lines, Inc., et al. v. *Federal Maritime Commission*, 376 F. 2d 230 (D.C. Cir. 1967), which held that a steamship conference "neutral body" policing system must provide fair treatment to a conference member accused of violating the conference agreement. The Commission had approved self-policing systems for two Japanese trade conferences, and had determined that that neutral body might continue business or professional relationships with the member lines. The neutral body would only be disqualified from acting on a complaint, the Commission determined, if the business or professional relationship was with an accused member. The Court stated that it could not "lightly dismiss the Commission's findings concerning the impracticality of requiring strict neutrality" (376 F. 2d at 237), but it remanded the proceedings to the Commission for the inclusion in the systems of procedures for internal review of a neutral body's decisions. The Court was of the opinion that appeal of a neutral body's decisions to arbitration would provide a check against abuse and would insure that "the Neutral

Body would have to demonstrate the accused's guilt by using only the evidence made available to the accused." 376 F. 2d at 240.

Pacific Coast European Conference, et al. v. *Federal Maritime Commission,* 376 F. 2d 785 (D.C. Cir. 1967), which upheld the use of the Commission's rulemaking authority derived from section 43 of the Shipping Act, 1916, in promulgating rules concerning admission to, and withdrawal and expulsion from, steamship conferences. The Commission had ordered that approval of the conference's agreement be withdrawn, unless compliance with its rules was forthcoming. In affirming the order, the Court rejected the conference's contention that the Commission could not withdraw approval of a conference agreement for noncompliance with the Commission's rules:

"This contention has the antique virtues of simplicity and straight-forwardness. The difficulty is that it is a doctrinal archaism in modern administrative law. It comes, indeed, at a time when many knowledgeable voices have been urging the agencies to make greater, rather than less, use of their rulemaking authority in the interest of more precise definition of decisional standards." 376 F. 2d at 789.

The Alabama Great Southern RR Company, et al. v. *Federal Maritime Commission,* ___ F. 2d ___ (D.C. Cir. No. 19,798, decided April 17, 1967), which affirmed the Commission's rules requiring the filing of tariffs for terminal services rendered by rail carriers and others who own or control port terminal facilities. The Court held that the rules did not infringe upon the jurisdiction of the Interstate Commerce Commission and were permissible as a means of keeping the Maritime Commission informed as to matters within the latter's jurisdiction. The Court noted that "at this point we would not be warranted in attempting to delineate the limits of such jurisdiction before any action has been taken or proposed by either Commission." The Court concluded that the advance filing requirement in the rules "in no way militates against our conclusion that the Order has placed upon the Petitioners no unreasonable or unpermitted burden."

American Export Isbrandtsen Lines, et al. v. *Federal Maritime Commision,* ___ F. 2d ... (D.C. Cir. No. 20,414, decided June 12, 1967), which affirmed a decision of the Commission concerning the Military Sea Transportation Service's program for procurement of ocean transportation for military cargoes. In 1966 MSTS proposed a system of competitive bidding for the procurement of ocean transportation for its cargoes, whereas previously it had negotiated rates with individual carriers and with conferences. The Commission determined that the competitive bidding system did not result in the formulation of dual rate contracts which require the prior approval of the Commission before they may be implemented (section 14(b), Shipping Act, 1916) and was not an unjust or unfair device or means which violated section 16 of the Act.

During the fiscal year, the Commission referred to the Department of Justice for consideration 25 cases involving violations of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, and rendered the Department all necessary assistance in connection therewith.

LEGISLATIVE PROPOSALS

The Commission submitted three legislative recommendations to the Congress during the fiscal year. The first, would amend the Intercoastal Shipping Act of 1933, to authorize the Commission to require a carrier to keep accurate accounts of monies received on account of increases in rates when such rates go into effect at the end of a period of suspension, and to order refunded any portion of any such increases thereafter found not to be justified (S. 705 and H.R. 4329).

The second, would amend section 27 of the Shipping Act, 1916, to authorize the Commission to adopt pretrial deposition and discovery procedures to be used by parties in statutory hearings before the Federal Maritime Commission (S. 706 and H.R. 4231). The Chairman, Federal Maritime Commission, presented the views of the Commission to the Subcommittee on Merchant Marine and Fisheries of the Senate Committee on Commerce at hearings on this proposal (S. 706) on May 8 and 9, 1967.

The third, would amend the Shipping Act, 1916, to authorize the Federal Maritime Commission to permit a carrier either to refund, or to waive the collection of, a portion of a carrier's published freight charges (S. 1905 and H.R. 9473).

The Commission also made studies of numerous other bills introduced into Congress and submitted pertinent comments.

The Chairman, in October 1966, appeared before the House Merchant Marine and Fisheries Committee in support of Public Law 89–777 and Public Law 89–778. These laws, enacted November 6, 1966, are included in the "Highlights" and elsewhere in this report.

ADMINISTRATION

Commissioners

Commission members for the full fiscal year were: John Harllee, Rear Admiral, U.S. Navy (Retired), Chairman; Ashton C. Barrett of Mississippi; James V. Day of Maine; and George H. Hearn of New York.

Commissioner John S. Patterson's appointment terminated September 21, 1966, with entrance on duty as member, Subversive Activities Control Board.

James F. Fanseen, of Maryland, was appointed Commissioner on April 20, 1967, for the term expiring June 30, 1971.

In accordance with the policy of rotating the Vice Chairmanship, the Commission on September 13, 1966, elected Ashton C. Barrett as Vice Chairman, succeeding John S. Patterson.

Personnel

There were 270 employees on duty as of June 30, 1967.

The Commission continued its career development program by hiring largely at the trainee level. A training program for Investigators was introduced for the first time, and training seminars were employed effectively in increasing the knowledge and skills of the man on the job.

A series of evening seminars on Regulation of Ocean Shipping, under the leadership of the Managing Director, Edward Schmeltzer, was attended by professional employees of the Federal Maritime Commission; representatives of other government agencies, and shipping attachés of foreign embassies. In other training, emphasis was placed on improving service to the public and professional performance standards for secretaries and supervisors.

The fifth anniversary of the Federal Maritime Commission was observed with an employee awards ceremony on August 12, 1966, at which time 25 employees were recognized for reaching significant service milestones in their government careers; and 57 employees received awards for special achievements in improving operations and service to the public.

Management Improvement Program

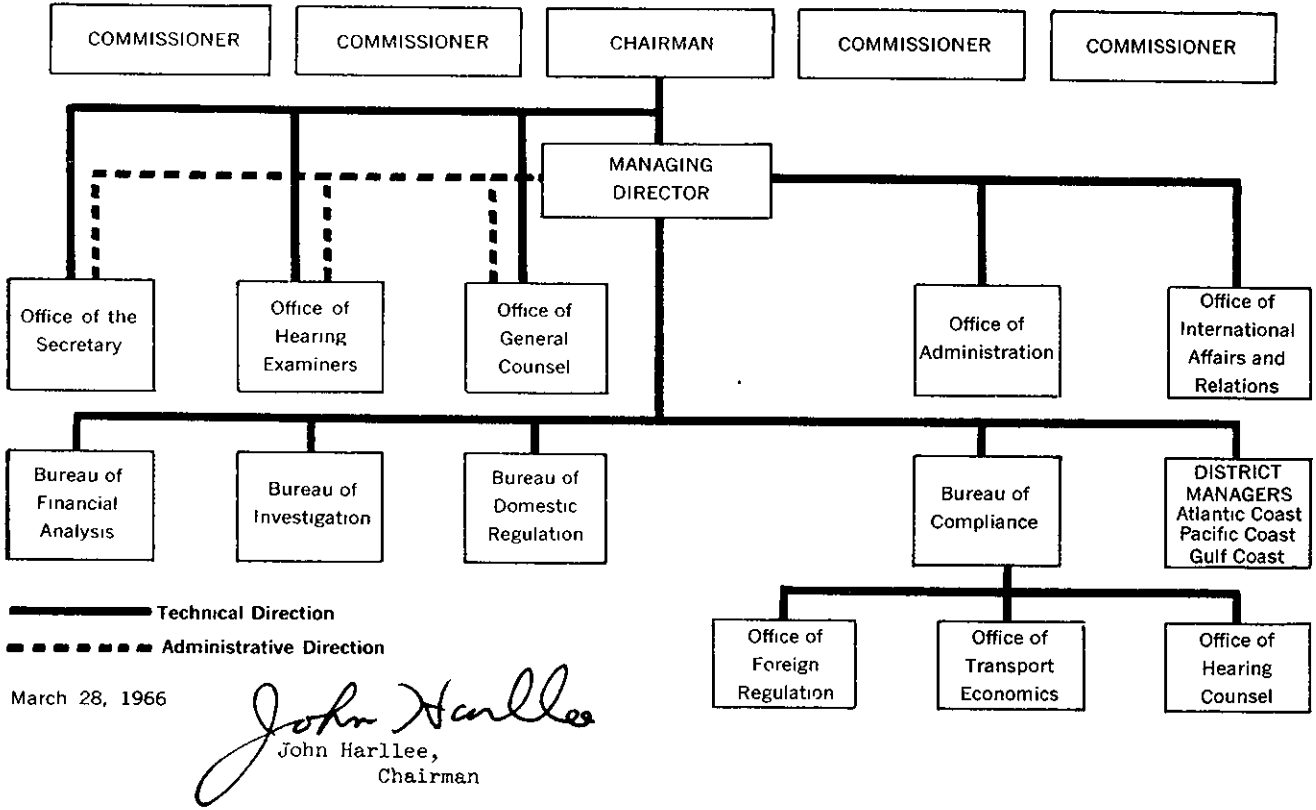
In continuance of an aggressive management improvement program, the Commission, in fiscal year 1967, achieved notable progress in reducing paperwork through legislation and rulemaking proceedings discussed elsewhere in this report.

Additionally, in the interest of improving service to the public, the Commission increased employee effectiveness in communications and service through agency and interagency training programs, and effected significant improvements in its public reference facilities.

Through the facilities of its Public Reference Room, the Commission now offers "one-stop service" to the general public and the shipping industry relative to most information on Commission functions and activities.

A pilot study of the application of automatic data processing to agreements was completed and the results applied in programing the preparation, reproduction, and issuance of a new subscription service to be made available through the United States Government Printing Office at a nominal charge. This service now provides a compilation listing of approved agreements of common carriers by water in the foreign commerce of the United States. The listing includes conference, rate and interconference agreements, showing agreement numbers, current membership, trade areas, representatives and their addresses and other information pertaining to the agreements listed. Application of automatic data processing in this instance has thus achieved a currency in information on section 15 agreements not heretofore possible.

FEDERAL MARITIME COMMISSION



March 28, 1966

John Harllee,
Chairman

Statement of Appropriation and Obligation for the Fiscal Year Ended June 30, 1967

APPROPRIATION:	
Public Law 89–797, 89th Congress, approved November 8, 1966: For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms, or allowances therefor, as authorized by the Act of September 1, 1954, as amended (5 U.S.C. 5901)	$3,375,000
Public Law 90–21, 90th Congress, approved May 29, 1967: Second Supplemental Appropriation Act, 1967, to cover increased pay costs incurred under the Act of July 18, 1966 (P.L. 89–504)	44,000
Appropriation availability	3,419,000
OBLIGATIONS AND UNOBLIGATED BALANCE:	
Net obligations for salaries and expenses for the fiscal year ended June 30, 1967	3,405,235
Unobligated balance withdrawn by the Treasury	13,765
STATEMENT OF RECEIPTS DEPOSITED WITH THE GENERAL FUND OF THE TREASURY FOR THE FISCAL YEAR ENDED JUNE 30, 1967:	
Duplication of records and other documents	6,191
Freight forwarder license fees	26,100
Fines and penalties	64,500
Miscellaneous	606
Total general fund receipts	97,397

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