FEDERAL MARITIME COMMISSION

17th

Annual Report

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Federal Maritime Commission
Washington, D.C. 20573

Office of the Chairman

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

Pursuant to section 103(e)(2) of Reorganization Plan No. 7 of 1961, and section 208 of the Merchant Marine Act, 1936, as amended, I respectfully submit the Seventeenth Annual Report of the Federal Maritime Commission. This report covers Fiscal Year 1978, a reporting period that began October 1, 1977 and ended September 30, 1978.

Sincerely,

Richard J. Daschbach
Chairman


FEDERAL MARITIME COMMISSION
1961

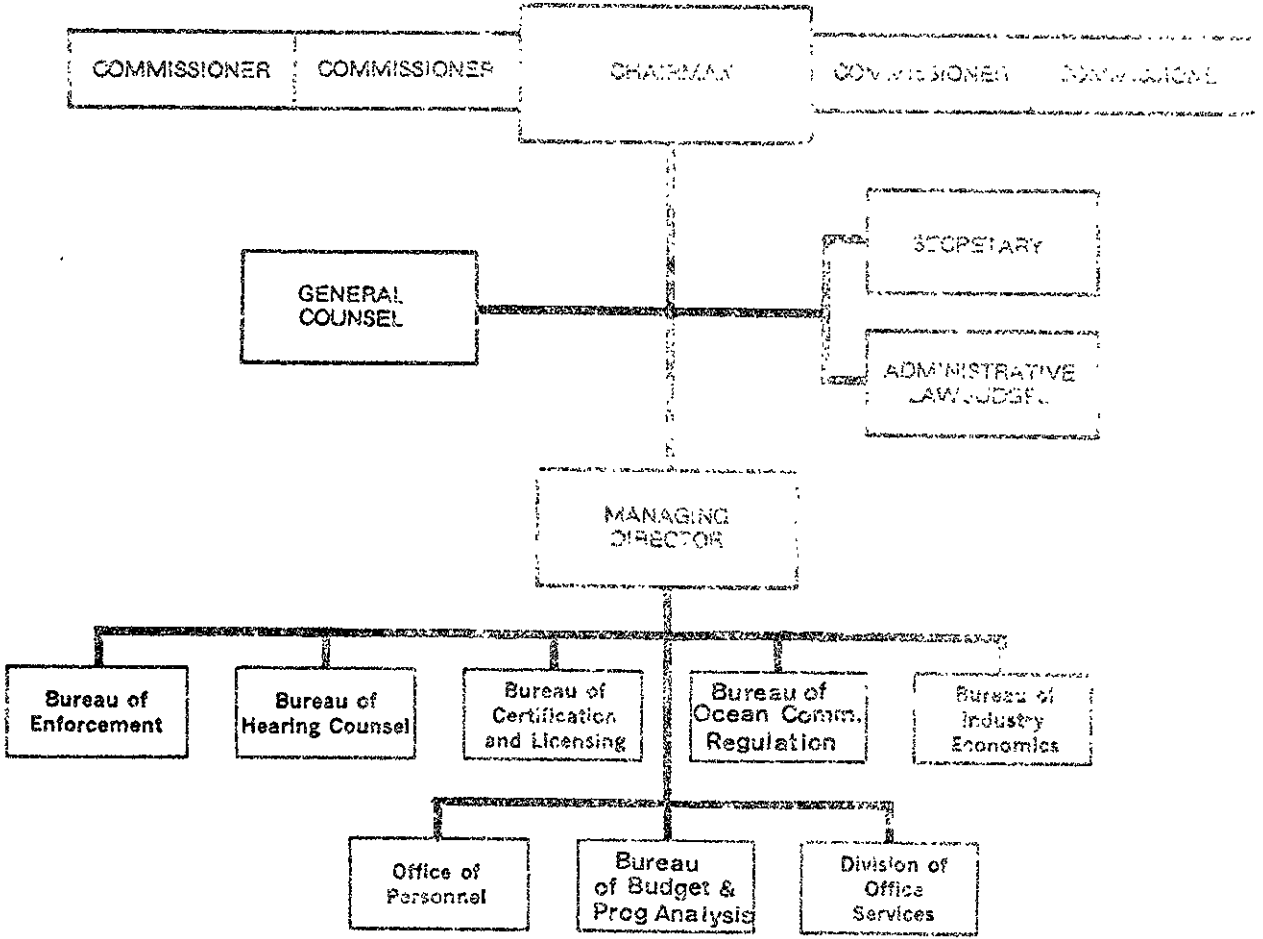
ADMINISTRATION

There were no changes in the Commission's membership during Fiscal Year 1978. The current Commissioners are:

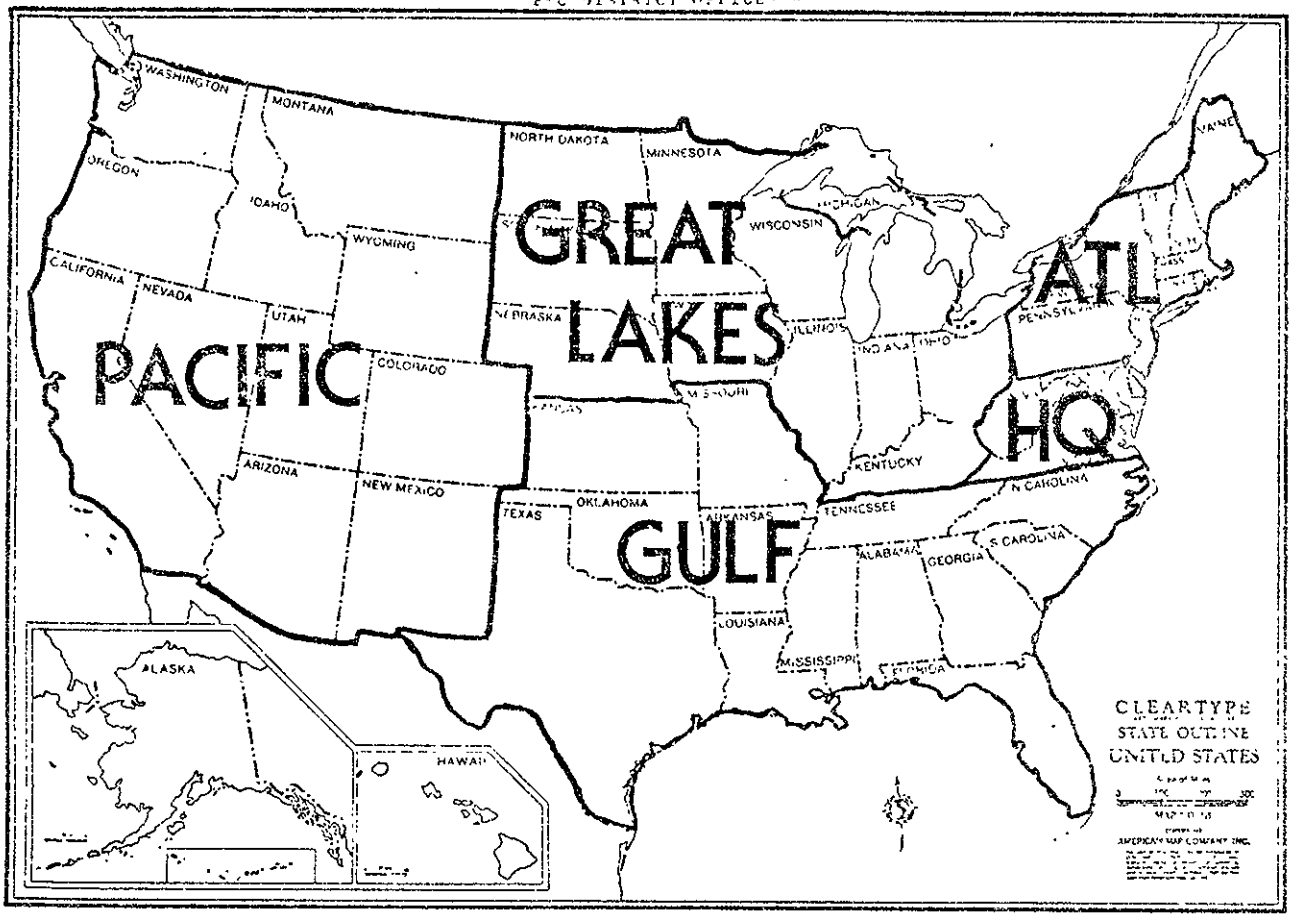
	APPOINTED	TERM EXPIRES
Richard J. Daschbach, Chairman (D) New Hampshire	1977	June 30, 1982
Thomas F. Moakley, Vice Chairman (D) Massachusetts	1977	June 30, 1983
James V. Day, Commissioner (R) Maine	1962	June 30, 1979
Karl E. Bakke, Commissioner (R) Virginia	1975	June 30, 1980
Leslie L. Kanuk, Commissioner (D) New Jersey	1978	June 30, 1981

Federal Maritime Commission

FEDERAL MARITIME COMMISSION



EMC DISTRICT OFFICES *



* The Commission has an additional District Office located within the Commonwealth of Puerto Rico.

THE FUNCTIONS OF THE FMC

SCOPE OF AUTHORITY AND BASIC FUNCTIONS

The Federal Maritime Commission (FMC) was established as an independent regulatory agency by Reorganization Plan No. 7, effective August 12, 1961. Its basic regulatory authorities are derived from the Shipping Act, 1916, and subsequent laws vesting in it additional jurisdiction for the regulation and protection of U.S. ocean commerce.

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

The FMC's establishment followed a series of Congressional hearings which found the dual promotional and regulatory responsibilities of the Federal Maritime Board to be in conflict. Therefore the reorganization divided the Maritime Board into two separate agencies: The Maritime Administration of the Department of Commerce (MarAd), charged with the development, subsidization, and promotion of the U.S. merchant marine; and the Federal Maritime Commission, entrusted with the regulation of the domestic offshore and foreign waterborne commerce of the United States.

The Commission's main responsibilities include:

1) The regulation of ocean carrier ratemaking in our foreign and domestic offshore trades;
2) Investigation of discriminatory rates and practices among shippers, carriers, terminal operators, and freight forwarders;
3) Licensing of independent ocean freight forwarders;
4) Passenger vessel certification; and
5) Certification of vessels to ensure fiscal responsibility for oil pollution and hazardous substances.

The Commission's regulation is intended to allow the flow of U.S. foreign commerce to realize its full potential and to ensure efficiency in the ocean common carriage of goods. When this goal is achieved, the FMC satisfies its principal objective: ensuring that shippers transport and consumers receive goods and services at a fair and equitable price, through methods that comport with the shipping laws of the United States.

Perhaps the Commission's most visible activities occur in carrying out its obligations under section 15 of the Shipping Act, 1916. Since this legislation exempts ocean carrier conferences from the Sherman and Clayton antitrust laws, the Commission is charged with carefully evaluating all agreements between and/or among entities subject to the Shipping Act to ensure that they do not exploit

their antitrust immunity. The anticompetitive effects of any agreement considered by the Commission must be weighed against its potential public benefits. During the reporting period, 169 carrier agreements were processed under section 15 of the Shipping Act, involving a total of roughly six hundred separate steamship lines.

The Commission's responsibilities and authority are often confused with those of other maritime or regulatory agencies. Unlike the Interstate Commerce Commission, for example, the FMC is extremely limited in its authority to set rates or to disapprove tariffs already lawfully filed and has no authority to limit entry into U.S. ocean commerce.

Unlike the Maritime Administration, with which the Commission is often confused, the FMC is a regulatory, not a promotional agency. The Commission not only has no responsibility for promoting the U.S.-flag merchant marine or shipbuilding industry, but can protect the U.S.-flag fleet only to the extent that the maintenance of a competitive U.S. merchant marine serves the general public interest.

Despite these restrictions, however, the Commission does have responsibility for ensuring stability and equity in the U.S. ocean commerce. Since over 95 per cent of U.S. foreign trade is waterborne, the Commission's importance in protecting the shipping public and the consumer, as well as promoting efficiency and economy in our foreign commerce, cannot be overemphasized.

The Federal Maritime Commission is a relatively small agency, with [illegible] permanent positions allocated for Fiscal Year 1978 and a total FY 1978 budget appropriation of $9,324,000. Most of the Commission's employees are located in Washington, D. C., although the FMC maintains district offices in New York, Chicago, San Francisco, New Orleans, and Rio Piedras, Puerto Rico, with sub-offices in Los Angeles, Savannah, and Miami.

The current Chairman, Mr. Richard J. Daschbach of New Hampshire, was sworn into office on August 24, 1977.

HISTORICAL

DEVELOPMENTS

U.S. OCEANBORNE COMMERCE IN REVIEW

There is widespread consensus that the evolution of U.S. regulation of the international ocean transportation industry focuses around four watershed events: the inception of ocean carrier conferences in the 1870's; the Alexander Report, a Congressional study made in 1914; the subsequent enactment of the Shipping Act in 1916; and the Celler Report, another comprehensive Congressional review completed in the early 1960's.

The Industrial Revolution and the ensuing expansion of world trade had given rise to the need for a more efficient form of ocean transportation than the sailing vessels then in use. The advent of the steamship, whose performance was relatively unafferted by weather conditions, provided the essential ingredient necessary for an effective liner service - regularity of sailings.

This breakthrough created a surge in the available steamship tonnage during the middle and late 19th century. Burgeoning and unbridled competition soon led to serious overtonnaging and increasingly frequent rate wars on most major trade routes.

Those lines that decided to operate the steamship ultimately sought to minimize the effects of destructive competition through cooperation, and the first steamship conferences were formed. It is generally believed that the first conference originated in the U.K./Calcutta trade during the 1870's.

The concept rapidly gained in popularity during the next several decades and, as the new transportation system expanded into the U.S. foreign commerce, conflict with U.S. antitrust laws became inevitable. In 1911, the Department of Justice brought suit against three conferences, charging them with violation of the Sherman Act through agreements and practices in restraint of trade.

Although the intervention of World War I dissolved most of the conferences in question, the Justice Department's action, coupled with a British review of shipping rings, had already served as impetus for Representative Joshua Alexander's House Merchant Marine and Fisheries Committee to undertake a comprehensive study of shipping conferences and their practices.

The Alexander Report found that carrier conferences conveyed several inherent advantages to the shipping public:

1) Greater regularity and frequency of service;
2) Stability and uniformity of rates;
3) Economy in the cost of service;
4) Better distribution of sailings;
5) Maintenance of U.S. and European rates to foreign markets on a parity; and
6) Equal treatment of shippers through the elimination of secret agreements and underhanded methods of discrimination.

The Committee Report expressed the belief that termination of conference agreements would result either in rate wars or consolidation through common ownership. Neither alternative seemed more attractive than the existing system.

In addition to the advantages of ocean carrier conferences, however, the 63rd Congress found many abuses inherent in the conference system, as has every subsequent Congress that has studied the industry. Therefore it created the U.S. Shipping Board, a predecessor of the FMC, to regulate U.S. ocean commerce and curb the excesses arising from concerted rate-making.

Chairman Alexander's Committee concluded in its final report that imposition of antitrust policies on the ocean shipping industry would prove counterproductive, finding instead that the conference system was worth retaining under the scrutiny of increased Federal regulation.

The Shipping Act, 1916, evolved from this report and remains today, as amended, the guiding legislation of the Federal Maritime Commission.

Few changes were made in either the scope or substance of U.S. ocean shipping regulation for nearly the next half century. Changes in ocean freight regulation during the period 1916-61 were essentially indirect by-products of an increasing emphasis upon the need for a strong and healthy U.S.-flag merchant marine, as manifested in the Merchant Marine Acts of 1920 and 1936.

Between 1958 and 1962, the House Merchant Marine and Fisheries and Judiciary Committees each conducted an exhaustive review of the U.S. ocean commerce and monopoly problems in the liner shipping industry (the Bonner and Celler Committees, respectively).

The findings of the two groups did not differ substantially from those of their predecessor, the Alexander Committee. Abuses still existed within the conference system, including rebating, secret agreements, and discriminatory treatment of shippers.

At the same time, it was determined that the conference system's virtues still outweighed its faults, although it was necessary to further increase Federal regulation in order to limit future transgressions. The inapplicability of antitrust principles was also reemphasized.

Representative Celler's Judiciary Committee stressed three reasons for preserving antitrust immunity for the conference system:

1. Existing institutional structures of long and historical standing should not be set aside except as a last resort.
2. The conference system is an international one that could not be eliminated and might not be improved merely by withdrawal of lines, foreign as well as U.S., operating in the foreign commerce of the United States.

> 3. Outright elimination of the conference system in the U.S. foreign commerce ... might well result in inflicting severe hardship upon our merchant marine and in creating substantial rate instability presently undesired by U.S. shippers.

The final congressional reports also noted that the dual promotional and regulatory functions of the old Federal Maritime Board were incompatible, leading to President Kennedy's Reorganization Plan No. 7, which was put into effect on August 12, 1961.

The reorganization vested responsibility for the promotion and subsidization of the U.S. merchant marine in the Maritime Administration of the Department of Commerce. The regulation of our foreign and domestic offshore waterborne commerce was placed in the hands of the Federal Maritime Commission.

After 1961, no substantive changes in the scope of the Commission's regulation, outside the area of licensing vessels for water pollution liability, occurred until the 95th Congress. In 1978, the Congress, through passage of the domestic rates and controlled-carrier bills, again increased the FMC's regulatory authority and affirmed its virtually exclusive jurisdiction over some of the most serious problems currently existing in our foreign ocean commerce.

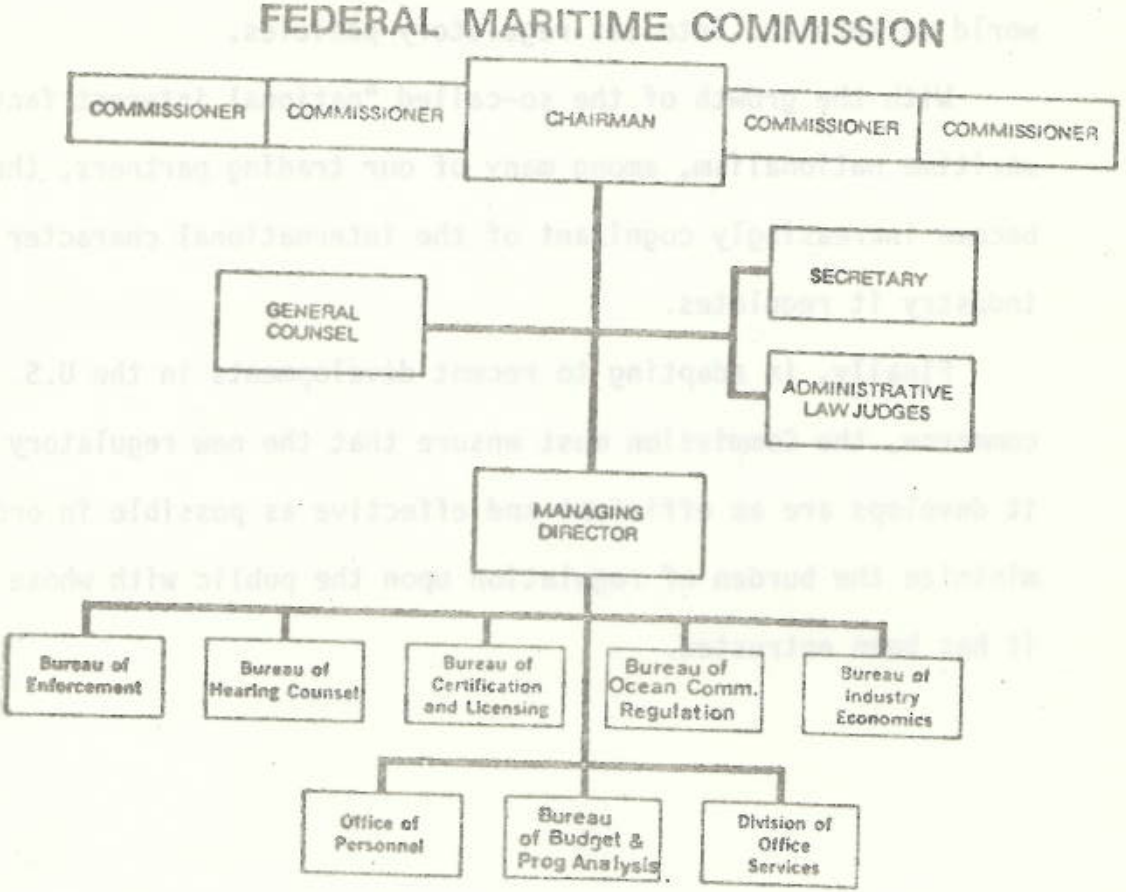
The pattern that was first established in 1914 has continued until the present day, and was re-affirmed as recently as October 18, 1978 when President Carter signed the Ocean Shipping Act of 1978 (P.L.95-483).

Although many of the challenges currently facing the FMC date back to the inception of U.S. regulation of the ocean shipping industry, new challenges continually arise. The Commission must constantly incorporate political, commercial, and technological changes in the world marketplace into its regulatory policies.

With the growth of the so-called "national interest factor", or maritime nationalism, among many of our trading partners, the FMC must become increasingly cognizant of the international character of the industry it regulates.

Finally, in adapting to recent developments in the U.S. ocean commerce, the Commission must ensure that the new regulatory policies it develops are as efficient and effective as possible in order to minimize the burden of regulation upon the public with whose interest it has been entrusted.

THE ORGANIZATION



Office of the Commissioners

The Chairman of the Federal Maritime Commission serves as the chief executive and administrative officer of the Commission. The Chairman, with the other four Commissioners, is responsible for establishing the policies of the Commission.

The Commission makes rules and regulations to interpret, enforce, and ensure compliance with the Shipping Act, 1916, and other shipping statutes. The five Commissioners meet regularly as a collegial body to consider matters under adjudication, propose and adopt rules, order investigations, and establish regulatory policies. The Chairman and other Commissioners testify before the Congress on legislation affecting regulation of the U.S. ocean commerce. Commissioners frequently chair internal agency committees or task force groups focusing upon a particular aspect of the Commission's regulation or procedures.

In administering the policies of the Commission, the Chairman prescribes the Commission's programs, goals, and objectives. In addition, the Chairman's Office serves as a central clearinghouse for disseminating information on the activities and functions of the Commission to the Congress, other government agencies, the maritime industry, news media, and the general public.

Office of the Managing Director

The Managing Director is responsible for the direct administration of Commission staff, activities, and programs. He assists and advises the Chairman and other Commissioners and is responsible for directing staff activities to ensure the timely accomplishment of Commission goals and objectives.

Office of the General Counsel

The General Counsel's Office serves as the law advisors to the Commission, providing it with legal counsel on all matters under consideration. The staff reviews and approves the legality of proposed Commission rules and regulations; renders formal and informal written opinions on pending adjudicatory matters; and prepares draft decisions and orders for ratification pursuant to Commission action.

The Office of the General Counsel also concludes settlements of certain Shipping Act violations, especially rebating, and represents the Commission in most matters before the courts.

The General Counsel's Office is divided into two sections: the Division of Reports, Opinions, and Decisions, and the Division of Legislation, Orders and Legal Research and Assistance, each headed by a Deputy General Counsel.

The Administrative Law Judges

The FMC has seven administrative law judges under the direction of a Chief Judge. The administrative law judges conduct hearings and render decisions in formal rulemaking and adjudicatory proceedings.

Initial decisions of the ALJ's are subsequently reviewed for final action by the Commission, or in some instances, adopted without review. Judges have the authority to administer oaths, issue subpoenas, rule upon motions and offers of proof, receive evidence, take depositions, regulate the course of hearings and take any other action authorized by agency rules or the Administrative Procedures Act.

The majority of proceedings before the administrative law judges involve the approvability of section 15 agreements, adjudication of discriminatory practices between various parties subject to the Shipping Act, adjudication of shipper complaints under section 18(b)(3) of the Act, and, domestic rate cases.

Office of the Secretary

The Secretary's Office performs functions roughly analogous to those carried out by a clerk of court. The responsibilities of the Office of the Secretary include: 1) preparing the agenda for Commission meetings; 2) receiving and processing formal complaints involving violations of the shipping statutes and other applicable laws; 3) issuing orders and notices of Commission actions; 4) maintaining official files and records of all formal proceedings; 5) receiving and responding to subpoenas directed to Commission personnel and/or records; 6) administering the Freedom of Information and Government in the Sunshine Acts; 7) responding to information requests from the Commission staff, the regulated industry and the public; and 8) providing copies of decisions of the ALJ's, Commission reports, publications, and miscellaneous documents to interested parties.

In addition, the Secretary's Office has recently become an active participant in the development of rules designed to reduce the length and complexity of formal proceedings, review of the Commission's statutory mandate, and evaluation of the internal organization of the Commission.

Bureau of Hearing Counsel

The Bureau of Hearing Counsel serves as the FMC's resident "watchdog" of the public interest in the Commission's docketed proceedings, although public interest considerations are foremost in all staff regulatory activities. Hearing Counsel participates as trial counsel in all formal adjudicatory dockets, some rulemaking, and other proceedings such as show cause cases, petitions for declaratory order, and fact finding investigations, all of which are initiated by the Federal Maritime Commission. Attorneys from the Bureau participate fully in prehearing discovery, examine and cross-examine witnesses, prepare and file briefs, motions, exceptions, and other legal documents, and participate in oral arguments before the Administrative Law Judges and the Commission itself. They act as hearing counsel, where intervention is permitted, in formal complaint proceedings initiated under section 22 of the Shipping Act. Hearing Counsel attorneys furnish consultative and advisory services on special Commission projects, serve, as appropriate, in matters of court litigation by or against the Commission, and recommend improvements in the Commission's decision-making process, including the Rules of Practice and Procedure.

Bureau of Ocean Commerce Regulation

Formerly the Bureau of Compliance, the Bureau of Ocean Commerce Regulation (OCR) is the largest at the Commission, employing 88 personnel who are responsible for both the planning and administration of regulatory programs which address nearly all facets of the FMC's activities.

Foremost among the Bureau of OCR's responsibilities are the review and analysis of all agreements filed under section 15 of the Shipping Act, evaluation of dual rate contract systems, and analysis of foreign and domestic tariff filings which set forth the rates and practices which shape the flow of U.S. waterborne commerce.

Although the Bureau of Ocean Commerce Regulation supervises all segments of the ocean shipping industry, their most visible activities are reflected in their recommendations to the Commission on section 15 conference agreements filed for approval.

Regular analysis of trade patterns, conference activities, self-policing contracts, pooling statements, and operating reports is essential to the successful performance of the Bureau's duties.

Bureau of Industry Economics

The Bureau of Industry Economics develops and analyzes financial, economic, environmental, and energy data required for the effective performance of the Commission's regulatory duties. The Bureau's economic expertise may be utilized in docketed proceedings, promulgation of new rules and regulations, analysis of ocean carrier conference agreements, or development of long-range regulatory policies.

The Bureau is functionally divided into four operating offices: the Offices of Economic, Financial, and Environmental Analysis, and the Office of Data Systems. It is expected that the role of economic and environmental analysis in determining Commission activities will grow apace with the increasing need to reduce the effects of inflation, minimize the economic burden of regulation, and address the problem of dwindling energy resources.

As an example of the functions performed by the Commission economists, staff participated in the following projects during the past fiscal year:

1) Assisted in the preparation of the Commission's draft submission to the Interagency Maritime Task Force outlining future regulatory policies;

2) Completed a study of the U.S. West Coast/Hawaiian trade, addressing the configuration of the fleet serving the trade, the major moving commodities, the impact of ocean transportation costs on the cost of living in Hawaii, and the recent history of rate increases in the trade;

3) Continued research into the feasibility of permitting carriers to set up "allowances for funds used during construction", an account created for ratemaking purpose;

4) Initiated a Virgin Islands trade study;

5) Participated in a Commission working group for the preparation of studies, the North Pacific and North Atlantic liner trades; and

Continued assessment of metrication developments in the shipping industry;

Prepared a proposed rule on currency adjustment factors; and

6) Prepared a rule to amend General Order 11 to redefine the criteria used in the computation of an ocean common carrier's rate base.

The importance of Commission efforts to evaluate energy use in general and fuel consumption in particular has grown apace with the worldwide depletion of oil and natural gas reserves. During the past year, the Commission's Office of Environmental Analysis continued its activities under the National Environmental Policy Act of 1969 (NEPA) and the Energy Policy and Conservation Act of 1975 (EPACA). In FY 1978, 40 proceedings were reviewed to determine whether energy and environmental assessments were needed. Work continued on a major Environmental Impact Statement concerning recyclables and a Final Impact Statement dealing with minibridge operations.

The Commission expects to rely heavily upon staff expertise in the area of energy utilization in order to develop future regulatory policies which encourage the most efficient and economical transportation strategies possible.

Bureau of Enforcement

The Commission's enforcement program involves more than its efforts to eliminate cash rebates and more sophisticated forms of malpractice from our foreign trade.

In the literal sense, it includes investigations into unlawful common carrier rates and agreements in our ocean commerce, compliance checks of ocean freight forwarder activities, and periodic follow-up passenger vessel audits of ships which have been granted certificates of financial responsibility.

But the FMC's enforcement activities, in conjunction with its self-policing initiatives, also represent an effort to bring the ocean common carriers of all flags that trade in the U.S. foreign commerce into compliance with U.S. maritime law.

The Commission firmly believes that carriers operating in our trades must do so according to our rules. The Commission's campaign against illegal rebating is just the spearhead of its program to achieve adherence to the laws of the United States in all aspects of our ocean commerce, and to ensure the acceptance and credibility of U.S. regulatory powers among those who seek to participate in the carriage of our foreign trade.

Although the enactment of an anti-rebating law would be greatly welcomed as an invaluable addition to our authority, the FMC's anti-

rebating campaign continues to gain momentum in the interim. The Commission is currently focusing efforts upon systematic monitoring of trades for malpractices, revision of existing procedures for initiating and conducting investigations as well as concluding settlements, and analysis of more sophisticated forms of malpractice more difficult to detect than cash rebating. Efforts are also underway to provide follow-up analysis of trades in which major settlements have been reached to determine the extent to which malpractices have actually been curtailed.

In activities conducted during the past reporting period, the Commission increased the investigative staff of the Bureau of Enforcement in an intensive effort to curtail illegal rebating and other malpractices by carriers, shippers, consignees, and others operating in U.S. foreign commerce. District offices are strategically situated to cover activities in areas surrounding principal United States ports.

The District offices represent the Commission within their respective geographical areas. In addition to conducting investigative activities, the District Offices, and their sub-offices, serve as focal points for Commission activities in these areas. They provide information, assistance advice and access to the Commission's public documents to all interested parties.

Bureau of Certification and Licensing

The Bureau's primary responsibilities involve certification of vessels under various Federal anti-pollution laws to ensure liability for spills of oil and hazardous substances. Over 26,000 vessels fall within the Commission's jurisdiction in its administration of section 311 of the Federal Water Pollution Control Act (FWPCA), the Trans-Alaska Pipeline Authorization Act (TAPAA), and, most recently, the Outer Continental Shelf Lands Act Amendments of 1978 (OCSLA).

The Bureau of Certification and Licensing also has responsibilities for the licensing and regulation of independent ocean freight forwarders and the certification of passenger vessels for liability incurred by casualties or non-performance of scheduled voyages.

The Federal Maritime Commission is responsible for the administration of the financial responsibility and vessel certification provisions contained in section 311 of the Federal Water Pollution Control Act (FWPCA) and section 204(c) of the Trans-Alaska Pipeline Authorization Act (TAPAA). Due to major differences between the two statutes, the FWPCA program is administered separately from the TAPAA program.

On September 18, 1978, the President signed into law the Outer Continental Shelf Lands Act Amendments of 1978 (OCS). Section 305 of that Act contains financial responsibility and vessel certification provisions, and indications are that the Commission will be delegated the responsibility for implementing those provisions. Therefore, a third water pollution program, unrelated to the FWPCA and TAPAA programs,

will be administered by the Commission. Regulations for an OCS vessel certification program were being drafted at the end of the year.

The Congress, the Administration and the involved industries concur in the desirability of consolidating the FWPCA, TAPAA, OCS and other related laws into one comprehensive "superfund" law which would end the existing patchwork of water pollution statutes. Enactment of a superfund law is expected early in 1979.

The ocean freight forwarding industry is comprised of individuals who, on behalf of shippers, arrange for export ocean transportation of cargo by common carriers by water. Pursuant to section 44, Shipping Act, 1916, enacted in 1961, the Commission is charged with the licensing and regulation of independent ocean freight forwarders. Federal Maritime Commission General Order 4 sets forth the criteria which must be met by applicants for freight forwarder licenses and governs the conduct and activities of licensed forwarders.

During fiscal year 1978, the Commission revoked 60 outstanding licenses and 25 applications were denied.

The Commission also administers sections 2 and 3 of Public Law 89-777 which require vessel owners, charterers and operators of U.S. and foreign-flag passenger vessels having 50 or more berth or stateroom accommodations and embarking passengers at United States ports, to establish financial responsibility to meet liability incurred for death or injury and to indemnify passengers in the event of nonperformance of a voyage or cruise.

Office of Budget and Program Analysis

The Office of Budget and Program Analysis was restructured at the direction of the Managing Director in order to ensure optimal utilization of physical, fiscal, and manpower resources. It formulates recommendations and interprets budgetary policies and programs; prepares budget justifications; develops and administers fiscal plans and systems of internal control for agency funds; is responsible for financial management policies, procedures, and planning; and performs ongoing evaluation of agency workload, productivity, and the effectiveness and efficiency of agency programs.

Division of Office Services

The Division of Office Services provides most physical resources for the Commission and its field offices, including communications, printing, duplicating, and mail room services, procurement of supplies and equipment, space management, building services, safety programs, and records storage and retrieval.

Office of Personnel

The Office of Personnel plans and administers personnel management programs for the Commission in compliance with Federal laws and regulations. These include recruitment, placement, employee development and training, position classification, employee relations, equal employment opportunity, and other employee related activities. The office advises the Commission on all personnel matters and ensures the maintenance of a progressive personnel program within the Commission.

FISCAL

YEAR

1978

HIGHLIGHTS AND REFLECTIONS OF THE YEAR

During Fiscal Year 1978, the Federal Maritime Commission identified and made progress toward five specific short-term objectives:

1) Complete statutory review and development of legislative recommendations to the Congress which will make the Commission more responsive to shipping needs of the future;
2) Analysis and evaluation of FMC organization to determine how best to use existing resources with the greatest possible efficiency, effectiveness, and economy;
3) Development of strategies for streamlining the Commission's decision-making process without sacrificing the quality of its regulatory decisions;
4) Full utilization of all Commissioners; and
5) Development of a Great Lakes District Office to address the maritime needs of our nation's fourth seacoast.

These objectives were established as stepping stones toward two longer-range goals which are essential to effective regulation:

1) Developing a balance between the interests of shippers and carriers; and

making the Commission more responsive to the public and protective of the public interest.

It quickly became apparent that the Commission could never achieve these goals within the constraints of its existing statutory framework and with the backlog of docketed proceedings that existed at the start of the reporting period. During Fiscal Year 1978, significant action was taken on both fronts.

The political, technological, and geographical developments which have altered the character of the world marketplace in recent years were never contemplated by the Congress which drafted the Shipping Act, 1916.

Consequently, a Statutory Review Committee was created at the FMC early in Fiscal Year 1978 to examine the Commission's statutory needs, develop and prioritize goals, and prepare a comprehensive package whose implementation will address the most pressing issues in contemporary maritime affairs.

Many of the changes advocated by the Statutory Review Committee, headed by the Chairman, were passed by the Congress during the reporting period, and several were signed into law by the President. Chairman Daschbach and Vice Chairman Thomas F. Moakley testified eleven times during the 95th Congress on behalf of proposed legislation needed to improve the effectiveness of FMC regulation, and the Commission worked closely with the Congress in areas requiring revision of outdated U.S. maritime laws.

The Congress passed H.R. 9998, the controlled carrier bill, by an overwhelming margin. It was approved by President Carter on October 18, 1978. The Ocean Shipping Act of 1978 (P.L. 95-483) better enables the Commission to contain the threat posed by state-controlled carriers which penetrate the U.S. liner trades without regard for the traditional market considerations with which competing carriers must contend.

H.R. 6503, which amends the Intercoastal Shipping Act of 1933, was also easily passed by the Congress and subsequently signed into law. This statute enlarges the Commission's power to suspend rate increases in the U.S. domestic commerce and ensures greater equity for shippers in disputed domestic rate cases.

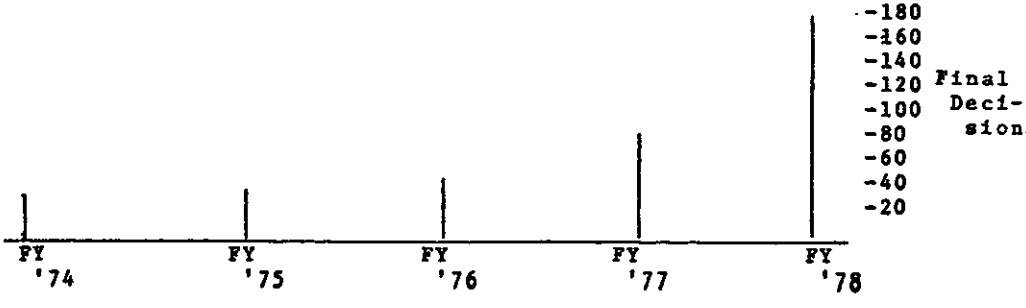
Anti-rebating legislation was also strongly supported by the FMC. H.R. 9518 passed the House by a resounding 390-to-1 margin and by voice vote in the Senate. This legislation was viewed as a key tool in the Commission's aggressive campaign to eliminate malpractices in the U.S. ocean commerce. The bill was pocket vetoed by the President.

A similar bill was introduced in the 96th Congress, shortly after the end of the reporting period, and the Federal Maritime Commission will continue to actively participate in the development of legislation designed to enhance the effectiveness of its regulatory functions. The Statutory Review Committee will complete recommendations for regulatory reform of the Shipping Act and present them to the Congress in 1979.

Regulatory reform has also been reflected in the Commission's successful efforts to reduce its regulatory backlog and eliminate unnecessary procedural delay. During Fiscal Year 1978, the Commission issued 193 decisions and nine rules, compared to 38 decisions issued in FY '74, 39 in FY '75, 40 in FY '76, and 104 in FY '77. During the period 1973-77, the FMC issued an average of seven rules annually.

During June, 1978 alone, the Commission held ten meetings on 51 agenda items, heard four oral arguments, considered 15 items by notation, issued 25 initial decisions and 17 final decisions.

COMMISSION DECISIONS



More importantly, there was no evidence that the volume of Commission activity compromised the quality of the decisions rendered. On the contrary, the time, effort, and analysis devoted to these cases by both the Commission and its staff appeared to prove that the FMC's regulatory process could be expedited without compromising its responsibility to provide the public with fair, equitable, and sound judgments.

Although the regulatory process was clearly expedited during the reporting period, there is no doubt that it can be further improved. Between January 1 and September 1, 1978, the Commission disposed of seven docketed proceedings that were over five years old, more than the agency had decided in the past four calendar years combined.

The impact of this increased efficiency upon the ocean shipping industry should soon become evident. In deciding Docket No. 73-38, the 'landmark' minibridge case, the Commission has ended uncertainty among shippers and carriers alike and paved the way for the orderly growth of one of the most important transportation innovations in recent years.

In a companion proceeding, Docket No. 73-42, the Commission has re-examined the concept of naturally tributary cargo and rendered a decision that should further encourage the development of new transportation services that redound to the ultimate benefit of U.S. exporters and domestic consumers.

In Docket 73-22, the Matson rate case, the Commission enabled several other domestic rate proceedings to be promptly decided and established guidelines that should serve to expedite future cases in our domestic offshore commerce.

The Commission also issued self-policing rules that, in conjunction with an aggressive enforcement program, will help establish and maintain strict standards of conduct for steamship operations in our ocean commerce.

Expedited Commission decision-making has also been reflected in its recent handling of informal docket proceedings; the FMC is currently taking less than one-third as long to handle informal dockets as it did five years ago. Under new rules for Commission review of special and informal docket proceedings adopted in July, 1978, even more expeditious resolution of reparations cases can be expected in the future.

The FMC also adopted new procedural rules during FY '78 which would severely restrict the circumstances under which extensions of time would be granted to parties to Commission proceedings, long a leading cause of regulatory delay.

The Commission will continue striving to develop new methods for streamlining its decision-making process. The Statutory Review Committee is currently identifying areas in which legislative changes are needed, the Commission's Organization Task Force is examining various strategies to improve the agency's work flow, and the Committee to Expedite the Hearing Process is focusing upon specific areas of internal regulatory reform.

In an effort to become more responsive to the public interest, the FMC has assigned a higher priority to the elimination of procedural delay and backlog than it has ever received in the past. The requirements of the public interest as a whole and the commercial and legal needs of the maritime industry in particular mandate continued improvement in the timeliness with which the Commission addresses regulatory questions or issues.

The public interest requires not only prompt government action, but action that is based upon the broadest possible spectrum of input. One important step that the FMC has taken in that direction has been to open its communication lines with the public.

During calendar year 1977, the Commission considered 260 out of 360 agenda items, or 72%, in open session. During the current reporting period, well over 80% of all agenda items were considered in open session, and the FMC should soon complete its transition to the principles of the Government-in-the-Sunshine Act, considering only rare and exceptional cases behind closed doors.

The Commission has also broadened communications with segments of the maritime community whose voices had not been frequently enough heard in Commission matters. The interests of shippers and carriers have not always been evenly balanced in the agency's policy development, and additional shipper input into the Commission's decision-making process was vigorously solicited during FY 78.

Shippers have subsequently responded articulately and in large numbers. During Fact Finding Investigation No. 10 into Overland Common Point (OCP) Rates, over 400 shippers submitted comments and recommendations, reflecting an unusually high level of participation.

The opening of the Commission's Great Lakes District Office in Chicago on February 24, 1978, serves to further public awareness that the Midwestern exporter in Omaha plays as pivotal a role in our maritime commerce as the ocean carrier in Baltimore.

The Great Lakes office gives the shippers of our nation's heartland a better opportunity to make their voices heard in the development of FMC regulatory policy and underscores the agency's commitment to an even balance of shipper and carrier interests in its regulatory activities.

The functions of the new office in Chicago also typify the expanded role of the FMC's five district offices. District office personnel act as field representatives of the Commission itself in addition to their traditional investigative duties, providing the resources and expertise necessary to address the diverse needs of the maritime community in their respective regions.

It should be emphasized, however, that their liaison role supplements rather than supplants their important investigative responsibilities. The Commission's investigative arm cannot be underestimated, for the FMC's credibility as an effective regulator of our ocean commerce depends upon our ability to eliminate malpractices from our foreign trades and to restore legitimate competitive practices to ocean common carriage of goods.

Although rebating has a legacy that dates back almost to the inception of the steamship industry, the Commission's enforcement program has significantly eroded its presence in our foreign commerce in the past two years.

During Fiscal Year 1978, the Commission achieved settlements for Shipping Act violations with 39 shippers and carriers, totalling $4,683,000. Most of the settlements evolved from illegal rebating activities and were reached under the provisions of P.L. 92-416. A complete list of anti-rebating settlements in included in Appendix C.

Especially prominent among the settlements for illegal rebating were those achieved with Seatrain Lines, Inc., for $2,500,000; Zim Israel, $1,000,000; Barber Blue Sea, $250,000; CBS Import, $100,000, and United States Lines, Inc., $90,000. Shortly after the end of the reporting period, the Commission concluded lengthy negotiations with the Japanese government resulting in a $2,500,000 settlement with six Japanese lines for malpractices committed primarily in the trans-Pacific trades. In the past two years, the major settlements with Sea-Land ($4,000,000), Seatrain, Zim, and the Japanese lines alone will bring more money into the U.S. treasury than the Federal Maritime Commission's total annual budget.

The FMC is far more than a collection agency, however. The rebating settlements with Zim and the Japanese consortium were especially noteworthy, representing the Commission's first major breakthrough in enforcing our anti-rebating laws against foreign-flag carriers, thus reflecting

significant progress in the FMC's efforts to bring the ocean common carriers of all flags that trade in the U.S. foreign commerce into compliance with U.S. law.

The Commission firmly believes that carriers operating in our trades must do so according to our rules. The Commission's campaign against illegal rebating is just the spearhead of its program to achieve adherence to the laws of the United States in all aspects of our ocean commerce, and to ensure the acceptance and credibility of U.S. regulatory powers among those who seek to participate in the carriage of our foreign trade.

Shippers and carriers were not the only segments of the ocean shipping industry that were the subject of Commission scrutiny during the past year.

The agency's statutory review should produce recommendations to the Congress which would provide ocean freight forwarders, one of the newest sectors of the shipping industry, with their first realistic set of guidelines and legislative clarification of their role within the maritime industry.

The Commission has already effected one major change in its regulation of freight forwarders, issuing rules during FY '78 to increase the required freight forwarder bond from $10,000 to $30,000. Inflation and the increasing value of cargo movements had clearly rendered the original bond requirement inadequate to protect the interests of shippers who use freight forwarders to move their goods.

In addition to its regulation of ocean carrier ratemaking, the Commission has also been vested with collateral obligations to certify passenger vessels for casualty and non-performance liability and, more recently, to provide certification of vessels to ensure fiscal responsibility for pollution by oil and hazardous substances.

These new duties were the source of widespread activity during the reporting period. The increased responsibility given to the FMC for ensuring that vessel operators are financially capable of paying for a broad range of clean-up operations provided the Commission with the challenging task of recertifying 26,000 vessels in compliance with the Clean Water Act of 1977.

Throughout the reporting period, the Administration, the Congress, and the maritime industry experienced a growing awareness of the need for interagency cooperation on shipping problems of mutual interest. As a first step, the FMC and the ICC executed a staff agreement establishing guidelines for the exchange of information, timely notification of proposed actions by the respective agencies, and the exchange of legal opinions on subjects of mutual interest.

The agreement is intended to 'identify potential problem areas' and to work toward informal resolution of intermodal problems and issues in which both agencies have an interest.

In May, 1978, the President formed an Interagency Task Force to develop national maritime policies. Throughout FY '78, the FMC had become increasingly aware of the growing impact of inflation on the ocean shipping industry and the need to develop more efficient and economical transportation strategies.

The Commission therefore prepared a draft submission to the Task Force in which it advocated future regulatory policies that would enhance economic efficiency and progress in the U.S. international ocean commerce. The draft called for legalization of closed conferences and shippers' councils and full rationalization of the U.S. liner trades, in which the commercial desires of the participants in a given trade would take precedence. The FMC would retain supervisory authority to ensure the most efficient possible flow of commerce.

Through a policy of full rationalization of the U.S. ocean commerce, the FMC seeks to encourage shared resources and reduced fuel consumption, eliminate wasteful overtonnaging and vessel underutilization, and pave the way for the formation of transportation strategies that prove more efficient and therefore more economical to the shipping public and the consumer. By allowing steamship lines to determine commercial structures best adapted to the unique market requirements of each trade, the Commission also seeks to minimize the burden of regulation on both the industry and the shipping public, while retaining sufficient oversight authority to prevent exploitation of increased antitrust immunity.

The Task Force is expected to complete its recommendations to the President early in 1979.

The Commission realizes that in order to enhance the effectiveness of its regulatory policies it must get its own house in order first. A Special Organization Task Force, chaired by Vice Chairman Moakley and coordinated by the Special Assistant to the Managing Director, was established early in 1978 to evaluate the Commission's organizational structure. Its mandate includes an analysis of current Commission functions, activities, and statutory responsibilities, and an examination of the resulting work flow. Organizational layering, span of control, and current division of responsibilities are all being scrutinized by the Task Force.

The Organization Task Force will soon recommend to the Chairman and the Commission changes in organizational structure deemed necessary to achieve our statutory objectives with the greatest efficiency, effectiveness, and economy.

In reviewing achievements during the reporting period, it should be noted that the Federal Maritime Commission is not without its problems, which reflect in microcosm the difficulties encountered in our national maritime affairs as a whole.

Foremost among these is the recurrent necessity for balancing widely divergent but equally valid needs.

The Commission should maintain equity between shippers and carriers.

It must balance the important commercial requirements of an industry providing goods and services for the public with antitrust considerations that were also designed to serve the public interest.

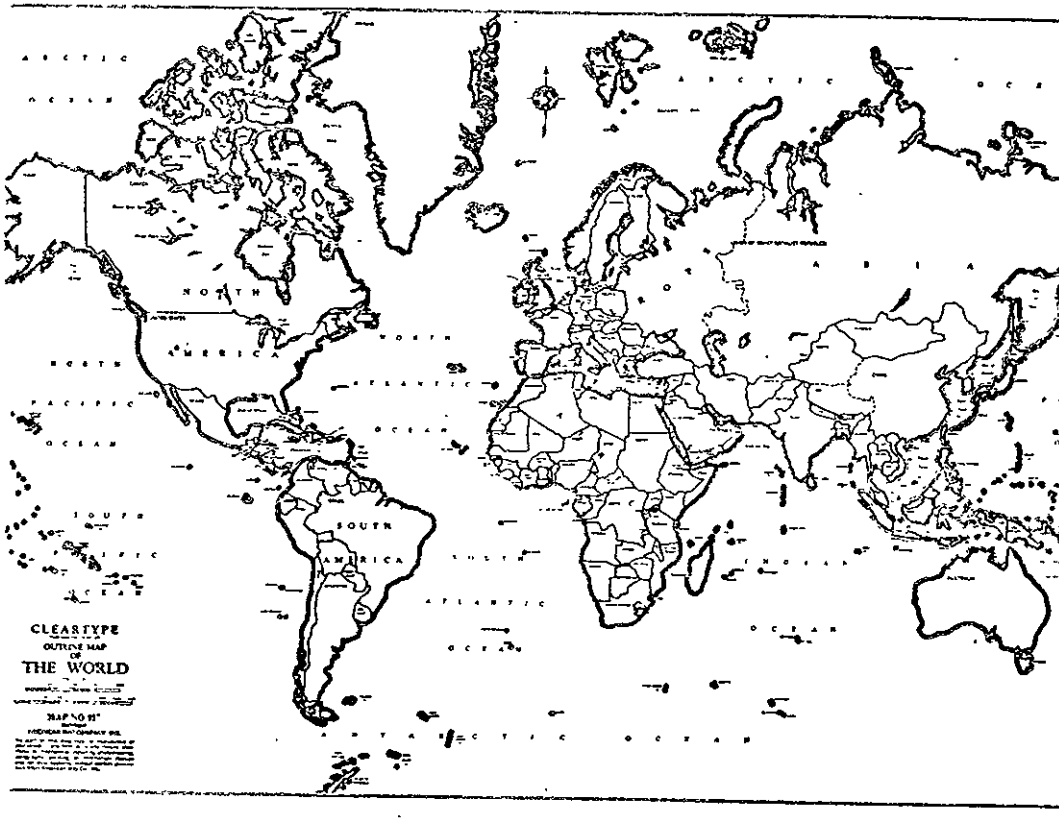
It is necessary to protect our own national interest while maintaining fair and equitable treatment for all nations involved in our foreign commerce.

It is imperative that the Commission regulate our foreign commerce according to the laws of the United States, yet it must acknowledge the international characteristics of that commerce and the diverse trade practices of its participants.

The Commission must balance its administrative functions, which the public interest requires to be swift, with its adjudicatory functions, which due process decrees must be fair.

As the Commission embarks upon new regulatory policies and regulatory reforms during the coming year, it must successfully meet the challenge of maintaining this delicate and critical balance.

FOREIGN



COMMERCE

SURVEILLANCE/COMPLIANCE/ ENFORCEMENT

Foreign Commerce

Agreements Review

Section 15 of the Shipping Act, 1916, clearly indicates criteria for initial or continued approval of ocean carrier agreements. The Commission's consideration of these agreements is perhaps its most visible activity. The anticompetitive effect of any agreement received by the Commission must be weighed against its potential public benefits.

Section 15 also provides that approval shall not be granted or continued for any conference agreement which fails to provide certain terms and conditions for admission and readmission to conference membership, or withdrawal from membership without penalty. It further provides that the Commission shall disapprove any such agreement after notice and hearing, on a finding of inadequate policing, or for failure to maintain reasonable procedures for promptly and fairly hearing shippers' requests and complaints.

During fiscal year 1978, 169 carrier agreements were processed under section 15. A statistical table of agreements received and total active agreements appears in Appendix A.

The Commission receives reports filed by parties to section 15 agreements in order to determine that no malpractices are being committed and to ensure that the parties are not engaged in activities beyond the

scope of their agreement. The impact of conference activities upon competitors, the shipping public, and consumers is also measured. The Commission also receives and reviews minutes of meetings of conference and ratemaking agreements to ensure compliance with Commission regulations.

Shipper requests and complaints concerning alleged misrating of cargo, misclassification of commodities, and unreasonable rate increases or tariff changes are also reviewed and promptly acted upon by the Commission staff. Nearly four hundred requests or complaints reports were filed during FY '78, and numerous other complaints were brought to the attention of the FMC's Assistant Managing Director for Consumer Affairs and other staff. The Commission has placed great emphasis upon enhancing its responsiveness to these concerns in recent months.

Foreign Tariff Filings

Section 18(a) and (b) of the Shipping Act require that tariffs of rates and charges must be filed with this Commission. General Order 13 was promulgated to implement this statutory mandate, setting forth technical tariff filing requirements. Such tariff filings are essential in order for the Commission to execute its statutory responsibilities. These filings are reviewed for compliance with all appropriate regulations, particularly the requirements set forth in General Order 13. As the revised General Order 13 will become fully effective January 1, 1979, the Commission's staff is actively reviewing the tariffs to ensure compliance with these new requirements.

Tariffs filed with this Commission are reviewed to: (1) identify any practices involving unjust or unfair treatment concerning parties subject to the Act; (2) review conference and agreement tariffs to ensure that they do not deviate from the operating authority approved by the Commission; (3) determine compliance of bill of lading provisions with statutory requirements; (4) observe trends in trade patterns; (5) identify discriminatory freight rates or charges which are detrimental to U.S. foreign commerce; and (6) generally ensure compliance with applicable Commission regulations.

During Fiscal Year 1978, approximately 351,000 foreign tariff filings were received, involving over one million rate changes. It is anticipated that the number of rate changes will increase substantially in 1979, but decrease in 1980 when the refiling of tariff publications pursuant to General Order 13 has been generally completed.

Self-Policing

On September 14, 1978, the Commission issued a final rule in Docket No. 73-64; Additional Provisions and Reporting Requirements Applicable to Self-Policing Systems Under General Order 7 * to become effective January 1, 1979. The purpose and effect of this rule is to provide for more effective self-policing by conference and other rate-fixing agreements.

* The rule amends the Commission's self-policing provisions contained in General Order 7 (Part 528 of Title 46 CFR).

All conference agreements and other rate-fixing agreements approved under section 15 of the Shipping Act, 1916, (two party rate-fixing agreements are exempted from the rule) must be amended as may be necessary to conform to the requirements of the new rule. Such amendments are to be filed with the Commission on or before January 1, 1979.

The new rule requires that (1) conference and rate-fixing agreements shall contain provisions establishing a policing authority; (2) the policing authority shall be comprised of persons not otherwise employed by or having any financial interest in or affiliated with the conference or rate-fixing agreement or any party thereto; (3) the policing authority shall make self-initiated investigations on a periodic basis; (4) rate-fixing agreements shall not prohibit the release of self-policing records to the Commission nor preclude member lines from disclosing the nature and extent of their own involvement with the self-policing authority; and (5) a more precise description of self-policing activities shall be included in the semiannual reports that are filed with the Commission. Such detailed reports will enable the Commission to better determine whether a particular agreement is being effectively policed. Agreements not adequately self-policed must be disapproved under section 15 of the Shipping Act.

Freight Rates and Charges in Foreign Commerce

General Rate Increases

During the past year, the Commission continued its efforts to police general rate increases to ensure that the rates and charges implemented do not become an undue burden on our foreign commerce or the shipping public. The Commission requests supporting data when conferences/carriers publish general freight rate increases. The requested data includes: (1) the method used by the carriers or conferences in establishing the level of rate increase; (2) the expenses considered in the computation; and (3) what action the carriers or conferences contemplate to ensure that the proposed rates will not impede the foreign commerce of the United States. Upon receipt the staff conducts an in-depth analysis to determine if the general rate increase is justified.

Surcharges

Carriers and conference establish surcharges to compensate for increases in costs related to conditions beyond their control, such as labor difficulties, port congestion, currency fluctuations and increases in bunker costs. While it is recognized that many of these surcharges are necessary to offset additional expenses incurred by the carriers, the Commission has the responsibility to ensure that such charges are not imposed longer than is required nor, once established, create an

impediment to U.S. importers or exporters. Our recent activity in this area has succeeded in reducing some surcharges and ensuring that others are not continued after the condition requiring their imposition has passed.

In December, 1977, conferences in the U.S. Atlantic/European trades filed emergency surcharges with the Commission to compensate for losses incurred during the earlier strike by the International Longshoremen's Association. The staff advised the conferences of its serious concern regarding the statutory propriety of the proposed surcharges. Numerous complaints were received from shippers concerning the proposed imposition of these surcharges.

Formal Commission action was considered to investigate the lawfulness of the surcharges. However, the conferences voluntarily cancelled the surcharges prior to their becoming effective, making formal action unnecessary. Since the Commission has very limited authority over ratemaking or lawfully-filed tariffs in our foreign commerce, the "jawboning" used in this instance is one of its most effective tools for ensuring that ocean freight rates remain at reasonable and justifiable levels.

O.C.P. Fact Finding

On August 23, 1977, the Commission initiated Fact Finding Investigation No. 10 concerning the "Possible Unlawful Action of Carriers and Conference of Carriers in the Treatment of Overland/Overland Common Point (OCP) Cargo."

The Overland/OCP service, which has been offered by ocean carriers to importers and exporters for over 100 years, was originally designed to give carriers operating through West Coast ports the ability to attract ocean cargo from and destined for the Central and Mid-Western United States by establishing distinctive tariff provisions under which the Pacific Coast gateway would be competitive with the Atlantic and Gulf gateways.

The investigation of the Overland/OCP system was prompted by the proposed action of the Trans-Pacific Freight Conference of Japan/Korea to eliminate its OCP rate system. The purpose of the Commission's investigation is to assess the impact of such a change on the shipping community. Interested parties were invited to comment as to possible effects on their individual operations. Public hearings were held throughout the country to give all parties an opportunity to comment, and the volume of the resulting shipper input represented a level of participation rarely seen in Commission proceedings. The investigation's final report of findings and recommendations is due early in the next fiscal year.

Time Limit For Filing Overcharge Claims (Docket No. 78-30)

On August 24, 1978, the Commission approved for publication in the Federal Register a proposed rule to prohibit tariff rules which restrict the filing of overcharge claims to periods other or less than two years. The proposed rule would: (1) prohibit publication of a tariff rule which requires overcharge claims to be submitted within any time period other than two years; (2) require publication of a tariff rule which clearly advises shippers/consignees of their right to file such a claim within two years; (3) require carriers to notify claimants of the applicable and pertinent tariff rule within 10 days of receipt of such claim.

INTERMODALISM

Intermodalism denotes the through movement of cargo from shipper to consignee over a route involving two or more transportation modes. Through the recent development of appropriate rules and the cooperation of the Interstate Commerce Commission, intermodal tariffs can now be filed with both the FMC and the ICC. Jurisdictional conflicts have occasionally arisen, however, and judicial resolution has been required, i.e., TMT v. United States and FMC, 78-1307, U.S. Court of Appeals, D.C. Circuit - pending.

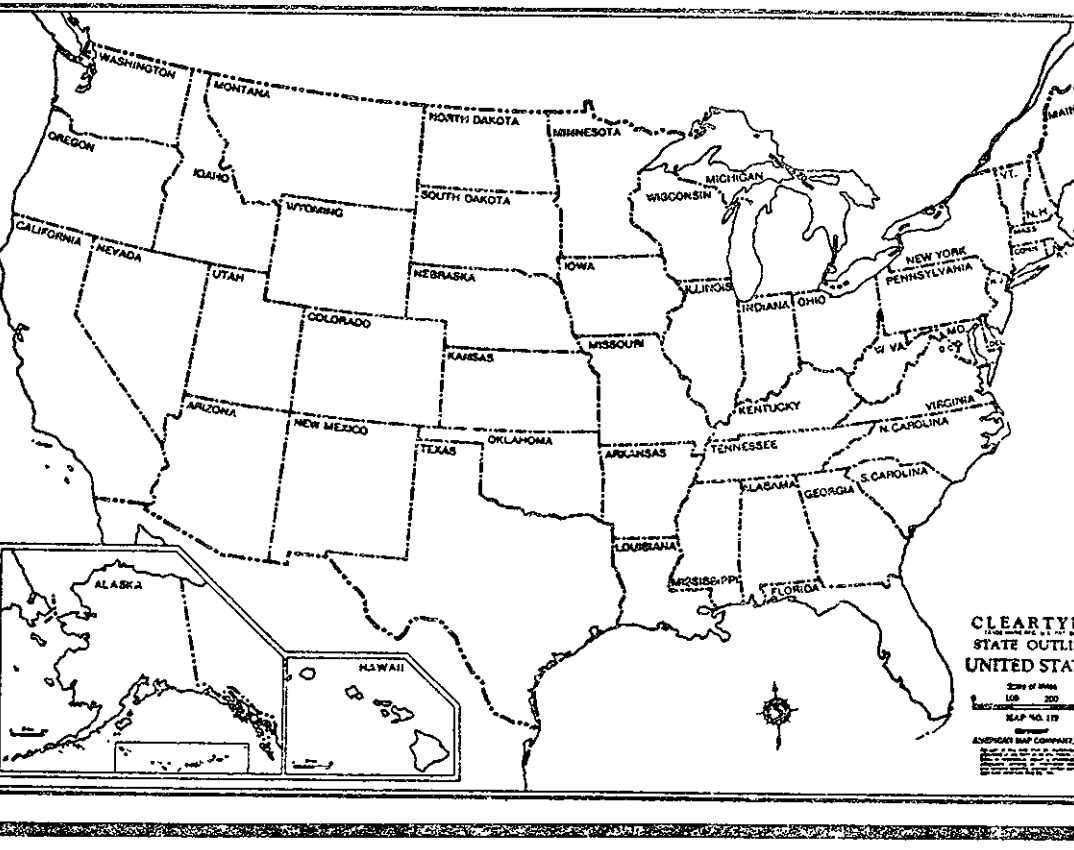
It has been recognized that both agencies share a mutual desire to identify potential problem areas and to resolve such issues informally, where possible. In August of 1978, the Managing Directors of the FMC and the ICC entered into an agreement to establish cooperative internal procedures to be followed by the staff of each agency in intermodal matters in which each agency has an interest.

In a continuing effort to facilitate the growth of intermodalism, a Policy Review Board was formed in 1978 to oversee and guide the activities of the Interagency Committee on Intermodal Cargo. The Policy Review Board is composed of the Managing Directors of the three regulatory agencies and an official of the Department of Transportation. A work

program has been established and projects of mutual concern have been undertaken, including development of a model intermodal bill of lading and determination of the feasibility of uniform interagency filing rules. The impetus for the project to develop a model intermodal bill of lading was an ICIC report on a survey of intermodal through bill of lading practices completed in December, 1977.

By the end of fiscal year 1978, 44 conference and rate agreements had intermodal authority, an increase of twelve since FY 76. Of these 44 agreements, 27 have implemented intermodal authority with the filing of tariffs.

DOMESTIC



COMMERCE

Domestic Commerce

During the past fiscal year, Congress approved legislation which became Public Law 95-495. This new statute greatly altered the provisions of the Intercoastal Shipping Act, 1933, by allowing domestic offshore carriers to file annual general rate increases of up to 5 percent without being subject to suspension. At the same time, the notice period of any general rate increase over 3 percent was changed from 30 to 60 days, and the suspension period for filing other than general increases of up to 5 percent was changed from four months to six months. Reparations were also authorized under the new law, and the Commission was given specific time limits within which it must conclude action on rate proceedings. Various amendments to the Commission's General Orders and Rules of Practice and Procedure have been drafted to accommodate these statutory changes.

Domestic Tariff Review

Revised tariff filing rules designated as Commission Order 38 were completed during Fiscal Year 1978. Early in the fiscal year the staff was involved in an intense training program preparing for implementation

of the General Order. This training was followed by a circular letter to carriers, along with a copy of General Order 38, explaining the new tariff filing requirements. As the deadline for compliance approached, the staff of the Domestic Tariff Branch produced an audio-visual presentation highlighting the major changes and requirements of the new rules. Numerous seminars were sponsored during September, 1978, utilizing the audio-visual presentation, a comprehensive topical index to the new rules, and a sample tariff prepared in the new format. More than 400 carrier's representatives, shippers and other members of the maritime community attended seminars and discussed the new rules with FMC representatives in Miami, New Orleans, New York, Chicago, San Francisco, Los Angeles, and Seattle. The success of the Commission's educational program regarding Domestic Carrier tariffs is best reflected in the decline in domestic tariffs requiring rejection, suspension, or correction.

Terminals

Marine terminals, both public and private, provide the facilities and labor for the interchange of cargo between inland and ocean carriers and for the receipt and delivery of cargo to shippers and consignees.

The lease and operation of these terminals may require the execution of agreements subject to the approval of the Commission under section 15, Shipping Act, 1916.

The scope of agreements filed with the Terminals Branch has been significantly broadened by the decision of the Supreme Court of the United States in Federal Maritime Commission v. Pacific Maritime Commission No. 76-938 - decided March 1, 1978. In that case the Court found that collective-bargaining agreements as a class are not categorically exempt from the filing requirements of section 15 of the Act, and that "....the Commission is the public arbiter of competition in the shipping industry." Consequently, as a result of this decision, many agreements governing labor matters, heretofore considered outside the Commission's jurisdiction, must be processed for appropriate Commission action.

The Commission therefore has expanded responsibilities to ensure that both standard terminal-leasing agreements and certain labor-related arrangements adequately protect the interests of all parties and meet the standards of the Shipping Act.

The Commission published an Advance Notice of Proposed Rulemaking (Docket No. 78-11), on April 19, 1978, for the purpose of soliciting comments and information from the public on the nature, scope and operation of a rule to exempt and/or grant interim approval to certain maritime collective bargaining agreements. In view of the then imminent renegotiation of various major maritime collective bargaining agreements, it was apparent that there was an immediate need for a clear expression of Commission policy and the establishment of procedures to enable industry compliance pending adoption of a final rule.

On June 12, 1978, the Commission served an Interim Policy Statement - Collective Bargaining Agreements (46 C.F.R. 530.9), which established procedures for interim approval and/or temporary exemption of agreements becoming effective after June 9, 1978. With respect to agreements which became effective prior to that date, the interim policy statement provides that such agreements would be "published in the Federal Register for comment and will be processed as expeditiously as possible."

The present program to handle these matters consists of the following three activities: (1) processing post-June 9, 1978, collective bargaining agreements under 46 C.F.R. 530.9; (2) processing pre-June 9, 1978 collective bargaining agreements under standard section 15 procedures, and (3) preparation of a proposed rule in Docket No. 78-11.

In fiscal year 1978, 100 post-June 9 agreements, amendments and supplements were filed for consideration, 34 of which have been approved, exempted or determined by the Commission not to be subject to section 15.

During fiscal year 1978, nine agreements covering nearly all the current operational intermodal marine terminal facilities at San Juan, Puerto Rico, were filed for Commission consideration. Three of the agreements between the Puerto Rico Ports Authority and Trailer Marine Transport Corporation, covering the Isla Grande roll-on/roll-off terminal have been approved by the Commission. Two agreements between the Port

and Sea-Land Service, Inc. and two agreements between the Port and Puerto Rico Maritime Shipping Authority covering berths and adjacent backup areas at Puerto Nuevo were also approved. The remaining two agreements, reached between the Port and Puerto Rico Maritime Shipping Authority, cover berths and adjacent backup areas at Isla Grande, and were conditionally approved. However, the conditions have not yet been implemented by the parties.

PROCEEDINGS

BEFORE

THE

COMMISSION

FINAL DECISIONS OF THE COMMISSION

During Fiscal Year 1978 the Commission heard oral argument in nine formal proceedings and issued decisions concluding 44 others. Nineteen proceedings were discontinued or dismissed without decision (including determinations not to review Administrative Law Judge orders terminating proceedings) and nine were referred or remanded to the Office of Administrative Law Judges.

The Commission also decided 65 special docket applications and issued 56 decisions in informal dockets involving claims against carriers for less than $5,000.

In addition to making tremendous inroads into its backlog, the Commission issued several final decisions and rules that can be expected to have a profound impact upon the ocean shipping industry. Most prominent among the decisions made during the past reporting period were the following:

Docket No. 73-38 - Council of North Atlantic Shipping Association, et al. v. American Mail Lines, et al. The Commission's decision essentially upheld the lawfulness of minibridge service, the most sweeping innovation in the ocean shipping industry in the past decade. The Commission held that the Far East minibridge service of fifteen common carriers by water did not violate sections 16 First, 17 or 18(b)(5) of the Shipping Act, 1916, or section 8 of the Merchant Marine Act, 1920. In so doing, the Commission also established general principles concerning the reasonableness of a practice which diverts cargo.

Docket Nos. 73-42, 73-61, 73-69, 74-4 - Board of Commissioners of the Port of New Orleans, et al. v. Seatrain International, S.A. In this "companion" docket to 73-38, the Commission found lawful the filing of tariffs providing for the transportation of container cargo from inland U.S. points to foreign ports via a joint rail/water service, commonly referred to as a "minibridge" service. In so holding, the Commission reinterpreted the impact of section 8 of the Merchant Marine Act, 1920, making the concept of "naturally tributary port areas" far more flexible and fluid in its determinations of the lawful methods of cargo routing through U.S. ports.

Docket No. 75-20 - Puerto Rico Maritime Shipping Authority -- Rates on Government Cargo. A domestic offshore carrier's government cargo rates were found to be in violation of section 18(a) of the Shipping Act, 1916, insofar as they permitted government shippers to choose between government cargo rates and individual commercial commodity rates and to employ shipping documents which do not reveal the contents of each shipment in terms readily convertible to commercial cargo classifications.

Docket No. 76-41 - Berthing of Seatrain Vessels in San Juan, Puerto Rico. The Commission found that the Puerto Rico Ports Authority violated section 17 of the Act by failing to establish just and reasonable regulations regarding berthing assignments. The Commission also found that the Ports Authority violated section 16 of the Act by giving the Puerto Rico Maritime Shipping Authority, a common carrier, an undue and unreasonable advantage by allowing it the exclusive use of private fixtures located on a public terminal.

Docket No. 77-5 - In Re Agreement No. 9973-3 -- Johnson ScanStar Service Voting Provisions. The Commission addressed the legality of allowing a joint service member to exercise more than one vote in conference voting to reflect the number of individual lines within the joint service. The Commission disallowed multiple votes by the Johnson ScanStar Service and held that it must be treated as a single entity.

Docket No. 77-55 - Trailer Marine Transport Corporation -- Joint Single Factor Rates, Puerto Rican Trade. In a decision with potentially profound impact on the Commission's intermodal jurisdiction, TMT, a common carrier by water in the domestic offshore trade, was found to have violated section 2 of the Intercoastal Shipping Act for failure to file a tariff fully describing its joint rail/water service to Puerto Rico.

Docket No. 73-17 - Sea-Land Service, Inc. and Gulf Puerto Rico Lines, Inc. - Rules on Containers and 74-40 Puerto Rico Maritime Shipping Authority - Proposed ILA Rules on Containers. Carriers' tariff rules which place restrictions on the movement of container cargo over waterfront facilities when such containerloads come to or from points within 50 miles of inland ports found to violate various sections of the Shipping Act and ordered removed from the tariffs.

Docket No. 73-22 et al. - In Re: Matson Navigation Company - Changes in the U.S. Pacific Coast-Hawaii Trade. Rate increases of Matson Navigation Company found not to be unreasonably high or to otherwise violate the Shipping Act. For purposes of this proceeding, rate base was calculated as of the beginning of the year and was adjusted to reflect the existence of deferred income taxes in the carriers' capital structure.

Docket No. 76-35 - Cancellation of the Consolidation Allowance Rule Published in the Freight Tariffs of Conferences and the Rate Agreement Operating From United States Atlantic Ports to Ports in the United Kingdom, Ireland, the Scandinavian Peninsula and Continental Europe. Concerted establishment and maintenance of a system of payment of consolidation allowances found authorized by carrier's approved agreements. Maintenance of such a system found to be in the public interest within the meaning of section 15 of the Shipping Act and concerted elimination of such system requires separate approval by the Commission under that section.

The Commission also adopted initial decisions in Docket Nos. 75-45 - Madeplac S.A. Industria Madeiras v. L. Figueriedo Navegacao, S.A. a/k/a Frota Amazonica; 77-31 - Chevron Chemical International, Inc. v. Barber Blue Sea Line; 77-45 - Hawaii Meat Company, Ltd. v. Matson Navigation Company - all involving claims for overcharge of ocean freight.

Decisions were rendered in numerous other proceedings, including Dockets Nos. 70-50, 73-3, 73-70, 73-72, 74-35, 74-45, 74-51, 75-21, 76-23, 76-38, 76-51, 77-1, 77-32, and 77-35. Issues resolved included the assertion of jurisdiction over the Port of Seattle's consolidation activities; the lawfulness of special rates available to shippers of used household goods belonging to U.S. government personnel; a jurisdictional dispute between carriers and terminal operators over authority to set free time and demurrage rules; the viability of a tariff discount for prepaid freight; Commission jurisdiction over berthing facilities of Isla Grande, Puerto Rico; and cancellation of over 600 inactive tariffs in the U.S. foreign and domestic commerce.

Rulemaking

The most significant rules published during the reporting period included:

Docket No. 73-64 - Self-Policing Systems. The Commission amended its rules governing the standards for self-policing by ocean carriers participating in rate fixing agreements under section 15 of the Shipping Act, 1916, necessitating neutral body self-policing requirements for conferences, tightening criteria for exemptions, prohibiting rules preventing the release of self-policing standards required by the Commission. The effective date was set at January 1, 1979.

Docket No. 76-40 - Revision of Part of the Commission's Rules: Publishing, Filing and Posting Tariffs in Domestic Offshore Commerce. - The Commission revised and updated its tariff filing rules in domestic offshore commerce. Special regulations governing through intermodal transportation were included for the first time, and tariff material filed at the Commission must now be simultaneously served upon subscribers to a carrier's tariff. These regulations were gradually phased in during calendar year 1978 and will govern all tariffs after January 1, 1979.

Docket No. 77-14 - Appearances and Practices before the Commission by Former Employees. The Rules of Practice and Procedure governing the appearance of former Commission members or employees in Commission proceedings were substantially tightened to prevent possible conflicts of interest.

Docket No. 77-53 - Independent Ocean Freight Forwarder Bond Requirements: Increase in Amount and Other Modifications. The amount of bond required for licensed independent ocean freight forwarders was increased from $10,000 to $30,000 and provision was made for return of an application for license where a bond is not submitted.

Docket No. 78-9 - Financial Responsibility for Water Pollution. This rule amended existing regulations requiring carriers to give evidence of financial ability to cover liability under the Federal Water Pollution Control Act. These amendments were necessitated by the passage of the Clean Water Act of 1977, amending the Federal Water Pollution Control Act. The amendments broaden the scope of liability for removal cost; establish minimum liability categories for different types of vessels; and require the financial assurances of an approved surety.

CURRENT TRENDS

CURRENT STATUS OF THE U.S. LINER TRADES

TRENDS IN TRADE BY GEOGRAPHIC AREA

Foreign Commerce

U.S. North Atlantic/Europe Trade

The U.S. North Atlantic ports are a major gateway for cargo moving to Northern Europe. Consequently, this trade has a far greater level of available capacity than any other trade on which cargo is moved to Europe from the United States.

In 1966 the North Atlantic trade became the first major international route on which containers were utilized. Since that time, containerization has become increasingly prevalent in the North Atlantic, and the trade is now almost totally containerized. The volume carried in this trade underscores its important to our ocean commerce.

Virtually all of the major container operators in the trade are members of conferences, both inbound and outbound. Until recently, independent carriers had been unable to successfully penetrate this market. The inability of independent carriers, such as New England Express Lines, TransOmega Line, Meyer Lines and Finnline, to offer a stable and continuous service has caused the North Atlantic trade to be characterized as a graveyard for independents. However, there are currently a modest number of independent competitors who have been able to capture a small market share.

Eastbound North Atlantic cargo is currently served by eighteen carriers; two of these operate semi-containerships, four operate break-bulk vessels, and the remainder provide fully-containerized services. Of the total long ton capacity in the trade, 90% is containerized.

Among the eighteen carriers are the so-called "big seven" -- Atlantic Container Lines, Dart Containerline, Farrell Lines, Hapag-Lloyd, Sea-Land, Seatrain, and U.S. Lines. These carriers are all conference members, both inbound and outbound. One other carrier -- Norwegian America Line -- is a conference member. Of the total capacity available in the trade, the big seven carriers account for 72% of the tonnage or 81% of the containers carried annually.

Over the past year, the capacity available in the trade has been increasing dramatically, although it is less certain that utilization rates have kept pace.

The North Atlantic trade has experienced a substantial and diverse increase in vessel capacity over the past year. A number of these changes have been undertaken by the independent carriers. Whether or not such carriers can maintain a viable operation in the trade remains to be seen. The trade is still dominated by the big seven and, regardless of the inroads which independents will make, this dominance is likely to continue.

The principal response to the increase in North Atlantic competition has been a concurrent increase in conference freight rates. At one point last year, proposed general rate increases, currency surcharges, and an abortive "strike induced" emergency surcharge would have totalled short-term increases ranging up to 23%.

During fiscal year 1978, increased competition in the North Atlantic trades has been evidenced by new intermodal services and increased cargo diversion. The heightened degree of competition is particularly demonstrated by the continuing diversion of United states containerized cargoes through East Coast Canadian ports to and from North Europe.

It is also beneficial to examine levels of capacity utilization in the trade. The level of capacity utilization plays a crucial role in the profitability of carriers. Low levels of capacity utilization may place a carrier below its break-even point. Therefore, the impact of maritime policy on the load factors of the carriers in the trade cannot be underestimated.

Because of the relatively low capacity utilization levels presently existing in the trade, and in light of steadily increasing capacity in the North Atlantic, increased rationalization would appear to be the only logical measure to avert serious overtonnaging. The Europeans have currently embarked upon such a rationalization through the formation of

consortia such as ACL and Dart Containerline. For other carriers in the trade to compete effectively not only with these consortia but with the state-controlled "independent carriers," some form of capacity rationalization is indicated.

The Commission staff is currently completing a detailed analysis of the North Atlantic trade and the various factors that will impact upon its future development.

North Pacific Trade

The liner trade between the U.S. and our major trading partners in the North Pacific - Japan, Korea, Taiwan and Hong Kong - is one of the most lucrative and important of all our trades. Japan remains the largest trading partner of the U.S. in the Far East but Hong Kong, Korea, and Taiwan are growing rapidly and, as a consequence, liner movements have grown at much higher rates during the period. On a tonnage basis, liner imports from Japan grew at an annual rate of 1.2% during the period, while imports from Korea, Hong Kong, and Taiwan grew 19.9%, 10.7%, and 14.3% respectively from 1968 to 1976.

This expansion in cargo demand has been matched by the tremendous volume of additional vessel tonnage that has been placed in the market.

In October, 1977, the available annual TEU's in the North Pacific trade amounted to roughly 1,140,000. While all this tonnage is theoretically available to shippers on the West Coast, some of this spare will be filled with cargoes from other sections of the U.S., or foreign destinations, because some of the carriers, such as U.S. Lines, have an all-water service which originates on the East Coast, and others, such as Sea-Land, offer minibridge service.

This tonnage is contributed by a diverse group of carriers, some of which are extremely large, such as the Japanese consortium, American President Lines and Sea-Land. If each member of the Japanese consortium (Japan Line, "K" Line, Mitsui O.S.K., Nippon Yusen Kaisha, Showa Line and Yamashita-Shinnihon) is considered as a separate entity, then the trade is served by at least 27 scheduled lines. In addition to these major operators, other carriers, such as Scindia Shipping Co. of India, offer a liner service with limited carryings of cargo in the North Pacific trade.

From the beginning of 1977 to June of 1978 there have been significant increases in vessel capacity in the North Pacific trades. In addition to the growth of existing fleets, several new companies have been mentioned as possible entrants into this trade. It is reported that China Merchant Steam Company will enter the Pacific trades in 1978 or 1979 with six vessels, and industry reports also estimate that Taiwan Navigation Company will place two new vessels into the trade. Both of these

companies are reportedly owned by the Taiwanese Government. Another sizeable newcomer is Hanjin Transportation Company of Korea. It is expected that Hanjin will commence its Pacific service with two container ships and that six more vessels of similar size will be delivered in 1979.

Based on the actual and forecast capacity calculations, it must be concluded that the tonnage available on the Pacific trade route has grown enormously since the beginning of 1977. This growth in tonnage will, in all likelihood, amount to a 50% increase over the two year period, 1977-78.

Whether this rapid increase in capacity will lead to overtonnaging in 1979 cannot be determined at present since the Commission does not have the authority to require conferences or independents to report utilization rates. During 1977, utilization rates in the Pacific trades appear to have been adequate. Eastbound utilization rates were higher than westbound rates because the trade is somewhat imbalanced.

Intense competition from independent carriers is partially reflected in the wide fluctuations in the conference shares of the North Pacific market, ranging from 81.2% of the market in the inbound U.S. Pacific Coast/ Korea trade to only 33.9% of the U.S. Atlantic, Gulf Coast/Korea market. Despite some conferences' tendency to overstate the threat posed by independent competition in general, survival of the open conference system on North Pacific trade routes is a legitimate question.

During the reporting period, rate increases and currency surcharges on trans-Pacific trade routes were generally consistent with those in other trades. Increases on major moving commodities appear somewhat lower than on lesser moving commodities. The U.S. dollar is the standard currency in most tariffs. In the Japanese trade particularly, carrier expenses have drastically increased while competition has not always permitted rates to be fully adjusted to meet increased expenses, eroding the profit margins of some carriers. One major U.S.-flag carrier, Pacific Far East Line, was forced into bankruptcy this past year.

Mediterranean Trade

Mediterranean trade routes are characterized by a wide variety of services offered (breakbulk, container, and LASH) and by a large number of participants, many of whom are state-owned/controlled.

The trade has traditionally been the scene of continual unrest, leading to the repeated filings of complaints regarding various malpractices. Capacity appears to have grown far beyond the requirements of the trade.

Many of the carriers offering service to the Mediterranean do so as a portion of an overall service covering Northern Europe, the Red Sea and the Persian Gulf, India/Pakistan, and West Africa. As a result of this multi-faceted service, a major problem has arisen in the carriage of cargo westbound through the Mediterranean. Many carriers returning

in ballast from Middle East calls have stopped at Italian and Yugoslavian ports to load whatever cargo is available. As a result, it is difficult to ascertain precisely what the actual capacities available in the trade are.

The major carriers in the trade are:

1) Black Sea Shipping Company (BLASCO)
2) Prudential Lines
3) Hellenic Lines
4) Costa Lines
5) Turkish Lines

These five carriers provide 51% of the total revenue tons available in the trade. At the end of 1977, other major carriers in the trade included American Export Lines, Egyptian Lines, and Jugolinija.

Both the WINAC data and a Harbridge House study dated August, 1978 point to extreme capacity imbalance in the Mediterranean. Overtonnaging, however, is not the only problem faced in the trade. The presence of state-owned enterprises, as in both the North Atlantic and Far East trades, permeates the Mediterranean. The sharply growing capacities of carriers such as BLASCO, Jugolinija, Turkish Lines, Italian Sp.A., and others is a factor of at least equal importance to the overtonnaging problem to be considered in developing appropriate regulatory approaches to the Near Eastern market.

On a more positive note, port conditions in the Arabian Peninsula and the Persian Gulf continue to improve. While a few ports are experiencing minor delays, congestion problems are no longer widespread and

lengthy. The rate agreement and major independent carriers serving this area generally are no longer imposing surcharges on cargoes destined for this region.

Latin American Trades

U.S. trade with Latin America was, for many years, characterized by the dominance of U.S. carriers. Within the last two decades this situation has changed. Most Latin American countries have developed their own national-flag lines to compete for cargo in their own trades. Government policy in most Latin American countries is intended to bolster the market aspirations of their national flag fleets and is often reflected in the form of cargo preference or cargo reservations decrees.

The general pattern of trade between the U.S. and Latin America has traditionally consisted of the U.S. exporting consumer goods and capital equipment while importing raw materials and agricultural goods. This pattern continues today, but is changing with the emergence of major chemical and industrial sectors of the economies of Brazil and Venezuela.

A significant trend in the Latin American trades today is the spread of commercial bilateral pooling and equal access agreements, many of them initiated in response to cargo preference laws. Government-to-government bilaterals have been developed in the U.S. trade with Brazil and Argentina. These agreements guarantee the signatories the right to transport a mutually agreed upon and usually equal portion of the cargo moving in their reciprocal trade on their own flag vessels. These

agreements apply principally to that portion of the total cargo moving in the trade over which the foreign government has some control. Since most U.S. exports to Latin America are made directly to foreign governments or to agents of programs under foreign government control or sponsorship, this pool of cargo is substantial.

Two such agreements have been approved in the Brazil/U.S. trades and at the end of FY '78, two were pending Commission action in the Argentina/U.S. trades.

Equal access agreements normally provide for revenue sharing among the parties involved, making them similar to conventional commercial pooling agreements. One potential benefit of pooling agreements is that they often provide for rationalization of services which improves utilization and reduces the amount of equipment required to service a trade, thereby producing cost savings which can be passed along to the shipping public. The incentive for malpractices also appears greatly reduced in equal access and pooling arrangements.

In the Latin American trades where governmental bodies have been reluctant to allow conferences to establish general rate increases, there has been a trend for the conferences to maintain unnecessary congestion surcharges as a means to gain additional revenues. The Commission's staff has maintained a surveillance over such activities during the reporting period and was instrumental in persuading two conferences to reduce their congestion surcharges as port conditions improved.

DOMESTIC COMMERCE

Alaska

Black Navigation Company, Inc. and Alaskan Marine Shipping filed 15 percent general rate increases on June 5, 1978 and July 21, 1978, respectively.

Totem Ocean Trailer Express, Inc. files tariffs with both the Interstate Commerce Commission and the Federal Maritime Commission. A 12% general increase was proposed at both agencies scheduled to become effective July 1, 1978. After substituting an 8 percent increase in lieu of the 12% increase at the ICC, the 12% increase was likewise changed to 8% for Totem's FMC regulated service, and became effective August 1, 1978.

Hawaii

Matson Navigation Company filed 2½% general increases to their tariffs in the Pacific Coast/Hawaii trade in both January and July, 1978. In each instance the proposed increases were protested but became effective on March 4, and August 26, 1978, respectively, after commission consideration. Hawaiian Marine Lines, Inc. filed similar 2½% increases which became effective in March and September without protest, and United States Lines, Inc. likewise effectuated the same increases at roughly the same time. In its Atlantic Coast/Hawaii trade, U.S. Lines filed a 2½% increase that became effective July 30, 1978, after the

Commission considered a protest and determined that there was no valid reason for suspension or investigation.

During FY '78 Matson placed its new 32,000 ton containership "S.S. MAUI" into service between Los Angeles and Honolulu.

Puerto Rico

The U.S./Puerto Rico trade continued to be characterized by growing competition within both price and service. At the beginning of the fiscal year, Sea-Land Service Inc. put into effect a general increase of 10% for those routes it was serving at the time. Concurrently reentered the U.S. Gulf/Puerto Rico trade with a rate level approximately 10.4% lower than carriers serving the same trade. After consideration of protest filed by the Puerto Rico Maritime Shipping Authority, the new rates became effective on November 12, 1977. Once established in the trade, Sea-Land decided to return these rates to their original level.

Proportional rates, which are designed to apply port to port but have application only if there is a specified prior or subsequent cargo movement, became prevalent as all carriers in the trade competed for specific cargo movements. Since unlawful diversion of cargo and/or unjust port equalization can easily result from this procedure, careful scrutiny of all proportional rates was required. The majority have been permitted to become effective, however.

Intermodal tariff filings increased in the Puerto Rico trade during the current reporting period. While the Federal Maritime Commission has generally encouraged intermodal arrangements, all such filings have met with question and much concern. In October, 1977, following rejection of previous filings, Trailer Marine Transport Corporation filed its intermodal tariff solely with the Interstate Commerce Commission. Obvious questions of agency jurisdiction resulted and the filing became the subject of a docketed proceeding. After orders to show cause and subsequent hearings, the Federal Maritime Commission issued an order finding TMT in violation of Commission tariff filing requirements. The order was subsequently stayed by the United States Court of Appeals for the District of Columbia Circuit and is pending decision in that court.

TMT has increasingly expanded the scope of this tariff, adding numerous points in the mainland states. As a result, competing carriers all decided to publish tariffs offering rates and services for applications similar to that offered by TMT. However, these latter carriers have filed their publications with both the ICC and the FMC under various permission authorities, until such time as the court issues its decision and clearly set out the necessary requirements for tariffs holding out this intermodal service.

Included in these intermodal publications were new tariffs of Sea-Land for its West Coast/Puerto Rico service. Sea-Land had been considering the discontinuance of its all water service between U.S. West Coast ports and Puerto Rico and the Virgin Islands for several months

and cancelled its all-water tariffs in favor of the filing of joint rail/water tariffs between the same points.

Sea-Land also proposed a change in its free time and demurrage provisions in the Puerto Rico trade in favor of new provisions in a separate marine terminal tariff. After the Commission voiced objection, Sea-Land filed the provisions in a separate free time and demurrage rules tariff included in its regular domestic freight tariff series.

Late in the fiscal year, Sea-Land amended its tariffs in the South Atlantic/Puerto Rico trade to include marine cargo insurance. Unlike other competitors in this trade, the change was coupled with a provision offering a percentage discount to any shipper not requiring the insurance. The provisions were the subject of protest and subsequent consideration by the Commission. Representations submitted were not sufficient to warrant either suspension or further investigation at the time; however, consideration is being given to a possible future investigation of all insurance provisions included in vessel operating carrier tariffs.

In May of 1978, TMT added a new triple-deck barge to its service between Jacksonville, Florida and San Juan, Puerto Rico. The new barge has a cargo capacity of 374 forty foot trailers and is billed as the world's largest barge, measuring 580 feet in overall length.

Virgin Islands

While the year saw very little change in operations for this trade area, it again found the Virgin Islands subjected to increases in rates. Sea-Land Service, Inc. imposed an increase of 7% and Interisland Intermodal Lines, Inc. proposed an increase of 25%. While much displeasure was expressed, no formal protests were filed and the changes, not appearing to warrant either suspension or further investigation, were permitted to become effective as scheduled.

APPENDIX

APPENDIX A

Statistical Abstract of Filings

SECTION 15 AGREEMENTS (including modifications):	
Foreign Commerce	172
Domestic Offshore Commerce	20
Terminals	191*
Labor-Management	100
SECTION 14b DUAL RATE CONTRACTS (including modifications):	6
REPORTS REVIEW:	
Shippers' Requests and Complaints	452
Minutes of Meetings	2,477
Self-policing of Conference and Rate Agreements	191
Pooling Statements	41
Operating Reports	73
APPROVED AGREEMENTS ON FILE AS OF SEPTEMBER 30, 1978:	
Conference	76
Rate	38
Joint Conference	11
Pooling	15
Joint Service	30
Sailing	20
Transshipment	130
Cooperative Working, Agency, and Container Interchange	129
Dual Rate Contract Systems	60
Non-exclusive Transshipment	594
Domestic Offshore	10
Terminals	441
TARIFFS:	
Tariff Pages Filed:	
Foreign	350,962
Domestic Offshore	14,517
Terminal	6,133
Tariffs on File as of September 30, 1978:	
Foreign	2,932
Domestic Offshore	240
Terminal	595

* Includes 43 agreements determined not to be subject to section 15 of the Shipping Act, 1916.

APPENDIX A (Cont.)

Fiscal Year - 1978
October 1, 1977 thru September 30, 1978

Total Number of Tariff Filings Received		350,962
New and Initial Filings	29,391	
Replacement Filings	20,120	
Other Filings (pages)	301,451	
Total Number of Filings Rejected		2,452
Total Number of Filings Accepted		348,510
Number of new or initial rates established (based upon an average of 2 new or initial rates per page)		58,782
Number of rate changes (based upon an average of 2.5 changes per page)		803,927
Total Number of Tariffs on Hand 10-1-77		3,417
New Tariffs Accepted during Fiscal Year 1978		601
Total		4,018
Total number of tariffs cancelled during Fiscal Year 1978		1,086
		2,932
Special Permission Applications received during Fiscal Year 1978		136
Granted	94	
Denied	14	
Withdrawn	27	
Pending	1	
Informal Complaints:		
Pending as of 10-1-77		143
Pending as of 10-1-78		181
Net increase in Informal Complaints awaiting disposition		38

APPENDIX A (Cont.)

Monthly Filings (Fiscal Year 1978)

October	(77)	25,496
November	(77)	26,018
December	(77)	29,340
January	(78)	33,751
February	(78)	26,998
March	(78)	34,586
April	(78)	29,709
May	(78)	28,178
June	(78)	26,908
July	(78)	29,662
August	(78)	30,038
September	(78)	30,279
Total		350,962

APPENDIX B

Statement of Appropriation and Obligation for the Fiscal Year Ended September 30, 1978

APPROPRIATION:	
Public Law 95-86, 95th Congress, approved August 2, 1977: For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; Provided, that not to exceed $1,500 shall be available for official reception and representation expenses....	$9,424,0
Public Law 95-355, 95th Congress, approved September 8, 1978; Supplemental Appropriation Act, 1978 to cover increased pay cost	300,0
Appropriation availability.....	9,724,0
OBLIGATIONS AND UNOBLIGATED BALANCE:	
Net obligations for salaries and expenses for the fiscal year ended September 30, 1978.....	9,435,0
Unobligated balance withdrawn by the Treasury	288,9
STATEMENT OF RECEIPTS: DEPOSITED WITH THE GENERAL FUND OF THE TREASURY FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 1978:	
Publications and reproductions.....	20,5
Water Pollution application and certificate fees.....	302,4
Fines and penalties.....	2,321,8
Miscellaneous.....	6,5
Total general fund receipts.....	2,651,4

APPENDIX C

Civil Penalty Settlements
For Violations of the Shipping Act, 1916
Fiscal Year 1978

Albis Corp.	$ 15,000.00
Banfi Products Corp.	55,000.00
Barber Blue Sea	250.000.00
Brother Int'l. Corp.	20,000.00
CBS Import	100,000.00
Carfel, Inc.	5,000.00
Cedarwood Young Co., Inc. dba Allan Paper Co.	55,000.00
Clinton Electronics Corp.	5,000.00
Continental Can	5,000.00
R. Dakin & Co.	5,000.00
E.S. Novelty	20,000.00
Gambles Import Corp.	50,000.00
Hasbro Industries	15,000.00
Ideal Toy Corp.	10,000.00
Johnson Line/NOSAC	50,000.00
Perry Koplik & Sons	60,000.00
Kraco Enterprises	60,000.00
Mamiye Bros. Inc.	10,000.00
Mega Lines (joint service)	6,000.00
Merit Int'l. Corp.	5,000.00
National Recreation Products	20,000.00
Mead Corp.	15,000.00
Pacific Coast Commercial, Inc.	7,500.00

APPENDIX C (Cont.)

Pier 1 Imports	$ 20,000.00
The Playhouse Co. Inc.	15,000.00
RSM Co.	5,000.00
P.J. Rhodes & Co., Inc.	5,000.00
Scope Imports, Inc.	20,000.00
Seatrain Lines, Inc.	2,500,000.00
Stanley Home Products	55,000.00
Tras Mex Line, et al	15,000.00
Troll Carriers (open bulk)	30,000.00
United States Lines, Inc.	90,000.00
Valley Distributing Co., Inc.	10,000.00
Van Wyck Int'l. Corp.	25,000.00
Sam Ward Co., Inc.	15,000.00
Willem Winkel	7,500.00
Zim Israel Navigation Co., Ltd. and Zim American Israeli Shipping Co., Inc.	1,000,000.00
	$4,656,000.00

APPENDIX D

BUREAU OF ENFORCEMENT
FIELD INVESTIGATIONS
FY 1978

INVESTIGATIONS	TOTAL	MALPRACTICES	TARIFF VIOLATIONS	FORWARDER AND OTHER MATTERS
Pending 9/30/77	800	383	177	240
Opened FY 1978	768	174	74	520
Completed FY 1978	901	289	156	456
Pending 9/30/78	667	268	95	304