

FEDERAL MARITIME
COMMISSION

55TH ANNUAL
REPORT

FOR

FISCAL YEAR
2016

TABLE OF CONTENTS

Letter of Transmittal.....	1
Members of the Commission.....	3
FMC Mission, Strategic Goals, and Functions.....	5
Strategic Goal 1.....	5
Strategic Goal 2.....	6
Statutory Authority.....	6
Year in Review.....	7
Efficiency and Competition.....	9
Strategic Goal 1.....	9
Agreement Filings and Review.....	9
Types of Agreements.....	10
Competitive Impact and Monitoring.....	13
Tariffs, Service Contracts, NSAs, & MTO Schedules.....	16
Supply Chain Innovation Initiative.....	17
International Cooperation.....	20
Protecting the Public.....	23
Strategic Goal 2.....	23
Licensing.....	23
Revisions to Licensing Rules.....	24
Passenger Vessel Program.....	25
Consumer Affairs and Education.....	26
Enforcement, Audits and Penalties.....	27
Inter-Agency Cooperation.....	28
Leveraging Technology.....	30
Developments in Major U.S. Foreign Trades.....	33
Worldwide.....	33
Asia.....	34
Indian Subcontinent and Middle East.....	35
North Europe.....	35
Mediterranean.....	36
Australia and Oceania.....	37

Africa.....	37
Central America and the Caribbean.....	38
South America.....	38
Top Twenty U.S. Liner Cargo Trading Partners.....	41
Top Twenty U.S. Liner Cargo Trading Partners (FY2015 Imports and Exports)	42
Foreign Shipping Practices Act.....	43
Controlled Carriers.....	44
Formal Investigations, Private Complaints and Litigation.....	45
Formal Investigations.....	46
Private Complaints.....	46
Litigation.....	51
Rulemakings.....	53
APPENDICES.....	55
A - FMC Organization Chart.....	55
B - FMC Senior Officials - Fy 2016.....	56
C - Statement of Appropriations, Obligations, and Receipts.....	57
D - Civil Penalties Collected.....	58

LETTER OF TRANSMITTAL



FEDERAL MARITIME COMMISSION
800 North Capitol Street, N.W.
Washington, DC 20573-0001

March 31, 2017

To the United States Senate and House of Representatives:

On behalf of my fellow Commissioners, I welcome this opportunity to share with you the Federal Maritime Commission 55th Annual Report, which highlights the key accomplishments, initiatives, and relevant events that occurred during FY 2016.

The past year has been a period of consequential change in the international shipping sector. The maritime transportation services industry is significantly remaking itself and the potential impacts this may have on the American shipping public are recounted in this report.

Additionally within our report, you will learn about actions the Commission took to increase seaport efficiency, particularly via our Supply Chain Innovation Teams Initiative. Further, we cite important developments concerning filed agreements and FMC regulations. In short, we have continued to focus on ways to make it easier for our constituents to interact with the Commission and to ensure compliance requirements are as minimally burdensome as possible. Finally, we provide details of enforcement actions taken by the agency, including an accounting of the \$3.3 million in fines collected.

Guaranteeing a competitive marketplace for international ocean transportation services is the key mission of the Federal Maritime Commission. All aspects of the American economy rely upon supply chain systems that are global in nature and almost always revolve around the oceanborne intermodal container. Accordingly, Shipping Act violations by ocean carriers or ocean transportation intermediaries not only break the law, but put the economic wellbeing of the nation in danger. I am proud of the Commission's work and this report helps to illustrate the contributions the 128 dedicated staff members at the FMC make toward upholding the Shipping Act.

Thank you for your attention and I welcome the opportunity to be of assistance to you in any matter within the jurisdiction of the Federal Maritime Commission

Sincerely,

Michael A. Khouri
Acting Chairman

MEMBERS OF THE COMMISSION



Michael A. Khouri
Acting Chairman
Appointed 2009
Term Expires 2021



Mario Cordero
Commissioner
Appointed 2011
Term Expires 2019



Rebecca F. Dye
Commissioner
Appointed 2002
Term Expires 2020



William P. Doyle
Commissioner
Appointed 2013
Term Expires 2018



Daniel B. Maffei
Commissioner
Appointed 2016
Term Expires 2017

FMC MISSION, STRATEGIC GOALS, AND FUNCTIONS

The Federal Maritime Commission (FMC or Commission) is an independent agency responsible for the regulation of oceanborne transportation in the foreign commerce of the United States for the benefit of U.S. exporters, importers, and the U.S. consumer.

The FMC's Mission is:

- To foster a fair, efficient and reliable international ocean transportation system and to protect the public from unfair and deceptive practices.

The FMC's Vision is:

- Fairness and Efficiency in the U.S. Maritime Commerce.

The Commission will achieve its Mission and Vision by ensuring that the fundamental dynamics of a free, open and competitive ocean transportation market drive economic outcomes. To that end, the Commission is committed to faithfully administer the Shipping Act while employing a minimum of government intervention and regulatory costs and by placing a greater reliance on the marketplace.

FMC Mission
To foster a fair, efficient and reliable international ocean transportation system and to protect the public from unfair and deceptive practices.

STRATEGIC GOAL 1

Maintain an efficient and competitive international ocean transportation system.

The FMC ensures competitive and efficient ocean transportation services for the shipping public by:

- Reviewing and monitoring agreements among ocean common carriers and marine terminal operators (MTOs) serving the U.S. foreign oceanborne trades to ensure that they do not cause substantial increases in transportation costs or decreases in transportation services;
- Maintaining and reviewing confidentially filed service contracts and Non-Vessel-Operating Common Carrier (NVOCC) Service Arrangements to guard against detrimental effects to shipping;

- Providing a forum for exporters, importers, and other members of the shipping public to obtain relief from ocean shipping practices or disputes that impede the flow of commerce;
- Ensuring common carriers' tariff rates and charges are published in private, automated tariff systems and electronically available;
- Monitoring rates, charges, and rules of government-owned or -controlled carriers to ensure they are just and reasonable; and
- Taking action to address unfavorable conditions caused by foreign government or business practices in U.S. foreign shipping trades.

STRATEGIC GOAL 2

Protect the shipping public from unlawful, unfair and deceptive ocean transportation practices and resolve shipping disputes.

The FMC protects the public from financial harm, and contributes to the integrity and security of the U.S. supply chain and transportation system by:

- Investigating and ruling on complaints regarding rates, charges, classifications, and practices of common carriers, MTOs, and Ocean Transportation Intermediaries (OTIs), that violate the Shipping Act;
- Licensing OTIs with appropriate character and adequate financial responsibility;
- Helping resolve disputes involving shipments of cargo, personal or household goods, or disputes between cruise vessel operators and passengers;
- Identifying and holding regulated entities accountable for mislabeling cargo shipped to or from the United States; and
- Ensuring that cruise lines maintain financial responsibility to pay claims for personal injury or death, and to reimburse passengers when their cruise fails to sail.

STATUTORY AUTHORITY

The principal statutes administered by the Commission, now codified in Title 46 of the U.S. Code at sections 40101 through 44106, are:

- The Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (Shipping Act)
- The Foreign Shipping Practices Act of 1988 (FSPA)
- Section 19 of the Merchant Marine Act, 1920 (1920 Act)
- Sections 2 and 3 of Pub. L. No. 89-777, 80 Stat. 1350

YEAR IN REVIEW

Last year was one of significant and historical changes to the container shipping industry, changes that fundamentally shifted many of the foundations of the business, and that will have an influence on the sector for years to come.

The first major development to the shipping industry was significant consolidation among container ship lines, also known as ocean common carriers. At the end of 2015, there were 20 major container ship lines in business. In 2017, several planned mergers and acquisitions will reduce the number to 13. In some respects, this trend was long anticipated and overdue, particularly given the poor financial performance of ocean common carriers for several consecutive years prior. The bankruptcy of a “top ten” carrier, Hanjin Shipping, in September was a manifestation of the perilous and unsound financial position container ship lines have found themselves in for the better part of a decade as a result of unsustainable rates and chronic overcapacity.

Second, as a consequence of the contraction of the number of container shipping companies operating in the international trades, we witnessed the complete re-creation of the ocean carrier alliance structure. In calendar year 2016, the Commission allowed two new alliances to be established that will come into force later in 2017. By the middle of 2017, ocean carriers calling the United States will belong to one of three alliances: the 2-M, THE Alliance, or the OCEAN Alliance.

In both calendar year and fiscal year 2016, the Commission devoted significant time and resources to reviewing the interconnected

developments of carrier consolidation and alliance restructuring. In the coming year, and for the foreseeable future, the FMC must be diligent in monitoring these new alliances given the potential impact on American shippers. Be assured, however, that rate and service competition between the various ocean carriers remained intense.

Though trade growth in 2016 was not as significant as it has been in recent years, international commerce did indeed expand and will continue to expand. Last year in May, the Commission continued its efforts to address port congestion issues by launching the Supply Chain Innovation Teams Initiative, under the direction of Commissioner Rebecca Dye. In November, just seven months from their initiation, the teams identified an actionable project that, if funded, would make a real and meaningful contribution to improving supply chain system efficiencies and contribute to increased American economic competitiveness.

Key regulatory actions taken by the Commission in FY 2016 included:

- Issued a Final Rule on OTI licensing and financial responsibility requirements
- Launched an automated Agreement Filing System
- Launched an online registration and renewal system for unlicensed foreign-based NVOCCs
- Invited public comment on a proposed rule on ocean common carrier and marine terminal operator agreements [Docket Number 16-04]

- Invited public comment on a proposal to revise rules on service contracts and NVOCC service agreements [Docket Number 16-05]

Most notably, in June of last year the expanded Panama Canal opened. The \$5.2 billion expansion of the Panama Canal began in 2007 and significantly increases the maximum size of vessels that can transit the waterway (Panamax) to those capable of carrying 14,000 Twenty Foot Equivalent Units (TEUs). By way of comparison, legacy Panamax vessels carry approximately 5,000 TEUs and the largest container ships in operation today have capacities in excess of 18,000 TEUs. Time will tell to what extent the larger Canal will impact the flow of containers, but ports along the Gulf of Mexico and up and down the Atlantic Coast are working to find ways to position their gateways as alternatives to the ports on the Pacific.

Ports up and down the West Coast of the United States also saw vessels of the 18,000 TEU class make calls for the first time. These

ship visits were not part of a new service, but it did prove that facilities in Los Angeles, Long Beach, Oakland, and Seattle were all capable of receiving and servicing the largest vessels currently deployed in the commercial trades. It is reasonable to expect that, at some point, when market conditions warrant, we may see ships of this size included in regular service strings stopping in California and the State of Washington.

Container shipping and supply chain systems services are activities that take place invisibly, but are critical to the economic success and security of the United States. The information contained in the following pages will not only help an interested reader learn about the Commission's work over the past year, but will help illustrate the irreplaceable contribution shipping makes to the quality of life enjoyed in the United States.

The following presents a detailed summary of the Commission's activities during FY 2016.

EFFICIENCY AND COMPETITION

STRATEGIC GOAL 1

Maintaining an efficient and competitive international ocean transportation system and enhancing liner trade by evaluating and monitoring the use of various types of agreement authority for anticompetitive effects is a primary function of the Commission. An efficient and competitive transportation system facilitates commerce, economic growth, and job creation. Competition among participants in U.S. liner trades fosters competitive rates and encourages a variety of service offerings for the benefit of U.S. exporters and importers, and ultimately consumers.

The Shipping Act allows competitors to meet and discuss (and in some cases cooperate on) certain business issues, but first they must file a written agreement with the Commission. The Commission reviews agreements using traditional antitrust law and economic models to evaluate the potential competitive impact of a proposed agreement before it may go into effect. The initial review and analysis of a proposed agreement and subsequent monitoring of the members' activities under the agreement, should it become effective, are designed to identify and guard against possible anticompetitive abuse of the filed authority, avoid unreasonable increases in transportation costs or decreases in transportation services, and address other activities prohibited by the Shipping Act.

The Shipping Act is a federal competition law applicable to the industry of international liner shipping. It contains provisions similar to those found in the Sherman Act of 1890, the 1914 Clayton Act, and the Robinson-Patman Act of 1936 concerning various prohibitions of discriminatory or unfair business practices and standards regarding business combinations. The Shipping Act creates a separate regulatory regime from antitrust under which collective carrier or MTO activity is both evaluated when the agreement is initially filed and closely monitored thereafter for any adverse impact on competition in the trade.

So long as the regulated entities comply with the statutory and regulatory proscriptions of the Act, then the other federal antitrust statutes generally do not apply. Conversely, if a regulated entity violates the Shipping Act, they would be subject to penalties set forth in the Act, and may under certain circumstances be subject to investigation and prosecution under the full array of federal antitrust statutes.

AGREEMENT FILINGS AND REVIEW

Under Sections 4 and 5 of the Shipping Act, all agreements by or among ocean common carriers to undertake any of the following are required to be filed with the Commission:

- fix rates or conditions of service,
- pool cargo revenue,
- allot ports or regulate sailings,

- limit or regulate the volume or character of cargo or passengers to be carried,
- control or prevent competition,
- or engage in exclusive or preferential arrangements.

Except for certain exempted categories, agreements among MTOs and among one or more MTOs and one or more ocean common carriers also must be filed with the Commission. Generally, an agreement becomes effective 45 days after filing, unless the Commission has requested additional information to evaluate the competitive impact of the agreement. All agreements are reviewed pursuant to the standard set forth in section 6(g) of the Shipping Act, 46 U.S.C. §41307(b) (1). Effective agreements are exempt from

U.S. antitrust laws, and instead, are subject to Shipping Act restrictions and Commission oversight.

In FY 2016, the Commission received 251 agreement filings. This volume of filing activity remains well above the ten-year average of 183 filings per year.

During FY 2016, the Commission undertook a sizeable effort to overhaul the intake process for ocean common carrier and marine terminal agreement filings to leverage new technologies. This effort included developing and deploying the new automated Agreement filing system and commencing efforts to replace the current online Agreement Library with a more robust system with expanded information and improved search capabilities.

TYPES OF AGREEMENTS

To support the new public-facing portion of the Agreement system, categories were added to describe the authority contained in filed agreements. The categories were developed to aid public research and agency reporting. While the following descriptions closely parallel many definitions in the Commission's agreement rules, some of the descriptions below are more precise, i.e., equipment discussion agreement rather than non-rate discussion agreement.

Some former categories have been subdivided for more targeted research results. For example, under the former system, all operational agreements were grouped together under the category of vessel sharing agreements (VSAs). Now the Commission can differentiate between types of space sharing agreements, allowing for a more accurate accounting of the industry.

Space charter agreements authorize an ocean common carrier(s) (also known as a shipping line(s)) to sell or exchange vessel space for use by another shipping line. Space charter agreements do not include the authority to discuss the provision of space in a trade, only the chartering of space already deployed.

Vessel sharing agreements authorize two or more shipping lines to discuss and agree on the supply of vessel capacity in a defined U.S. trade through the deployment of a specific service string.

Global vessel sharing agreements/alliances authorize two or more shipping lines to discuss and agree on the supply of vessel capacity across multiple trades. Alliance agreements may contain other authorities, such as, information exchange, joint procurement of goods or services necessary to operate

their services, etc. Examples of this category of agreement include the recently filed THE and OCEAN alliances.

VOCC conference agreements are distinguished from all other types of agreements because they authorize two or more shipping lines to collectively discuss, agree, and fix uniform freight rates, charges, practices, and conditions of service relating to the receipt, carriage, handling and/or delivery of passengers or cargo. Conference agreements currently only involve the transport of government impelled cargo.

Joint service agreements authorize two or more shipping lines to establish and operate a combined vessel service or joint venture that uses a distinct operating name and generally acts as a single shipping line independent of the shipping lines in the joint service agreement.

Equipment discussion agreements are agreements between shipping lines that primarily focus on the discussion, exchange, and transportation of containers, chassis, LASH/SEABEE barges, and related equipment. Examples of this type of agreement include OCEMA, and more recently, agreements that would allow for the movement of empty containers.

VOCC rate discussion agreements focus on any kind of rate matter or charges, but unlike conferences, any consensus on rates among the shipping line members is non-binding on the members.

VOCC cooperative working agreements (CWAs) authorize shipping lines to establish exclusive, preferential, or cooperative working relationships that are subject to the Shipping Act, but that do not fall precisely within the

parameters of any other specifically defined agreement category. Many current CWAs deal with unique operating considerations relating to acquisitions, sharing of administrative services, or internet portal management.

Assessment agreements, whether part of a collective bargaining agreement or negotiated separately, authorize the parties to collectively bargain for fringe benefit obligations on other than a uniform man-hour basis regardless of the cargo handled or type of vessel or equipment utilized. These agreements can be between common carriers and labor organizations or marine terminal operators and labor organizations, and are effective upon filing with the Commission.

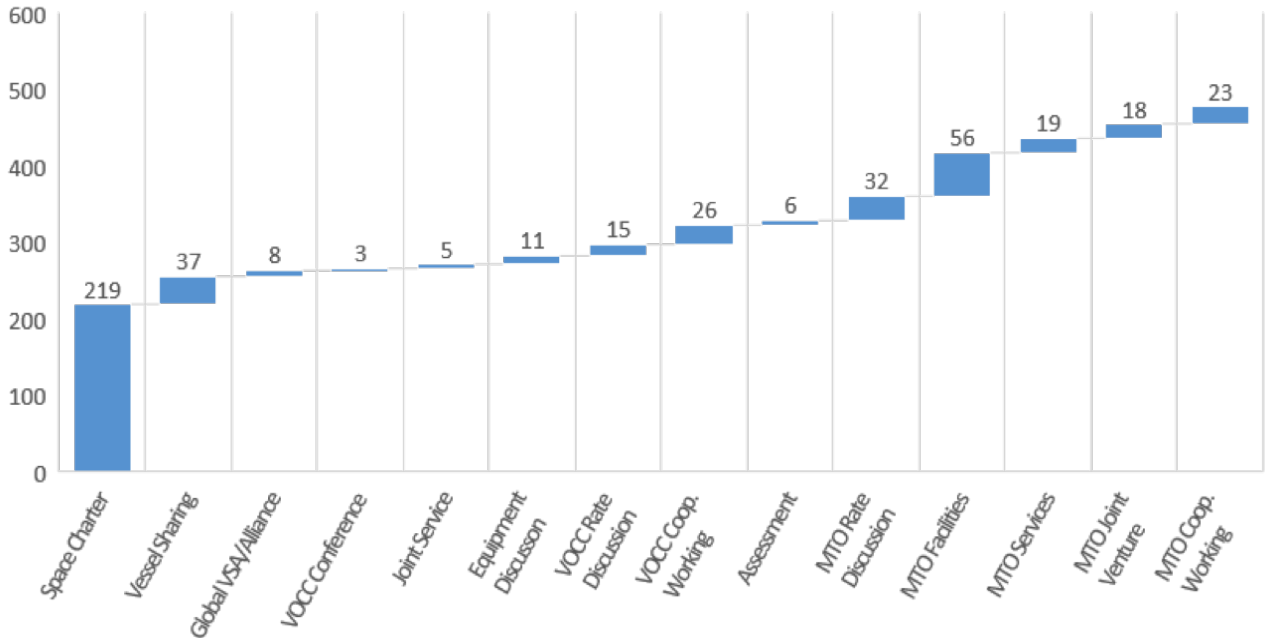
Marine terminal rate discussion agreements authorize marine terminal operators to discuss on a non-binding basis, rates and/or charges related to marine terminal operations.

Marine terminal facilities agreements generally refer to lease agreements between a marine terminal operator and the owner of the land or warehouse/facility at a port.

Marine terminal services agreements are agreements between a marine terminal operator and a shipping line that apply to marine terminal services that are provided to and paid for by a shipping line. These services include: checking, dockage, free time, handling, heavy lift, loading and unloading, terminal storage, usage, wharfage, and wharf demurrage and including any marine terminal facilities that may be provided incidentally to such marine terminal services.

Marine terminal joint venture agreements are agreements between or among two or more marine terminal operators, or between one or more marine terminal operators and

Agreements in Effect at end of FY 2016



one or more shipping lines, operating as a joint venture whereby a separate marine terminal operator is established.

MTO cooperative working agreements authorize marine terminal operators to establish exclusive, preferential, or cooperative working relationships that are subject to the Shipping Act, but that do not fall precisely within the parameters of any specifically defined agreement. Examples of MTO cooperative working agreements include the Port of New York/New Jersey Sustainable Services Agreement and the Port Fee Services Agreement at the Ports of Los Angeles and Long Beach, California.

As in previous years, the vast majority, 81 percent of all VOCC agreements in effect at the end of the fiscal year were either space charter or vessel sharing agreements. However, VOCC rate discussion agreements remain active and continue to constitute a

substantial portion of the Commission's monitoring activities. Ocean common carriers have had greater success with cost cutting efforts in search of financial stability under vessel sharing agreements, as opposed to attempts at rate enhancement under rate discussion agreements, which were largely ineffective this year.

Fiscal Year 2016 was the first year in the past five that the number of active VOCC agreements declined, this was primarily due to a Commission initiative seeking the termination of inactive agreements combined with a general consolidation of the shipping industry, through both the formation of new, larger alliances, and through mergers and acquisitions. Among the most notable of recent efforts were the formation or expansion of global alliance agreements, such as the 2M and OCEAN Alliance agreements.

In terms of acquisition and merger activities within the ocean transportation market, 2016 saw several major developments. COSCO Container Line and China Shipping Container Lines combined their container operations into a single entity, the China COSCO Shipping Corporation, and in doing so, became one of the top five container carriers in the world as measured by vessel capacity. Also of note was CMA CGM's purchase of Neptune Orient Line (NOL), including NOL subsidiaries APL/American President Lines. Hanjin Shipping's bankruptcy and subsequent sale of its vessels added to industry consolidation. Based on industry consultant reports, there is a good possibility that 2017 will continue this trend towards a more concentrated market.

In FY 2016, the Commission's new agreements system facilitated greater tracking of

agreements within the Roll On-Roll Off (RO/RO) market. Of the 324 VOCC agreements on file and in effect at the end of the fiscal year, 106 agreements, or almost 33 percent, authorized cooperation between ocean carriers in the RO/RO trade. The Commission continues to see a trend this year toward space charter agreements between two RO/RO carriers with a global geographic scope.

The flexibility required of car carriers to serve a wide range of locations is due partly to the shift of car manufacturing plant locations closer to end markets. Conversely, the closing of car manufacturing plants overseas has also contributed to an increase of vehicle imports into those countries. The worldwide scope of these agreements allows the carrier parties to respond to a vehicle market that has become increasingly diverse and mobile.

COMPETITIVE IMPACT AND MONITORING

The Commission reviews all agreements filed under the Shipping Act as well as evolving commercial conditions in the U.S. foreign trades to ensure that cooperation contemplated between or among ports, ocean common carriers, and/or MTOs will not result in an unreasonable reduction in service or increase in rates. The following are examples of specific measures the Commission took during the fiscal year on carrier or MTO agreements to ensure compliance with the Shipping Act.

Growing vessel supply/
demand imbalance drives a
continued wave of mergers,
acquisitions, joint ventures
& increased cooperation
among carriers.

The Los Angeles and Long Beach Port Infrastructure and Environmental Programs Cooperative Working Agreement:

This agreement allows the Ports to jointly form Supply Chain Optimization Working Groups that meet periodically to discuss possible measures designed to expedite the flow of containers moving through the Ports' terminals, including utilizing key performance indicators, container terminal optimization and drayage actions. Pursuant to the Agreement's monitoring requirements, the Commission receives reports on the activities of these various working groups. The

Commission monitors the Agreement's activities and the major issues being discussed by the working groups.

The West Coast MTO Agreement (WCMTOA):

The Commission continued to actively monitor and evaluate the activities conducted by the thirteen container terminals at the Ports of Los Angeles and Long Beach to assess their competitive impacts under the section 6(g) standard of the Shipping Act. Notable in the fiscal year were three programs that the Commission closely evaluated: the PierPASS program, a proposed Chassis Hosting Agreement, and a proposed assessment of a Chassis Services Fee.

As part of its evaluation, Commission staff met with various shippers, truckers, intermodal equipment providers, and trade associations who have raised concerns about existing and proposed programs under the agreement. Commission staff also met with Port and PierPASS officials and agreement parties.

Of major concern to the Commission as well as stakeholders has been the annual increase in the Traffic Mitigation Fee and lack of transparency about the cost to operate off-peak shifts, the revenue collected from the traffic mitigation fee, and quality of service. The Commission has urged WCMTOA to address stakeholders' concerns by conducting an independent audit of the PierPASS program.

Oakland MTO Agreement:

In FY 2015, the Commission issued a Request For Additional Information (RFAI) regarding a proposed amendment to establish OAKPASS, a program that would have

allowed the container terminals at the Port of Oakland to offer Saturday gate times. The cost of providing Saturday gate operations would be recovered by imposing a fee on shippers and truckers using the Monday through Friday daytime gates. Responses to the RFAI would allow staff to undertake a competitive impact analysis of the proposed program.

Staff also met with Port of Oakland officials to discuss the proposed program and the concerns raised by shippers, truckers and organized labor. Responses to Commission's RFAI remained pending at the end of the fiscal year, and therefore the proposed revised program has not been implemented.

However, the largest terminal member of the agreement announced that it would independently offer fee based weeknight gate operations and another terminal member is separately experimenting with night gates to ascertain whether it is feasible to offer them on a regular basis.

Transpacific Stabilization Agreement (TSA):

As part of the 2003 settlement agreement between the Commission and TSA members, biannual meetings are held with representatives of TSA to review major activities of the Agreement and discuss significant developments in the ocean liner trade between the U.S. and Asia. TSA is also required to provide periodic reports for review and analysis regarding each member's performance and activities.

Over the last five years, a number of factors have converged to prompt carriers both to form alliances under the Shipping Act and to consolidate. While cargo volumes have increased, the rate of increase has slowed significantly since the end of the Great Recession

of 2008-2009. During the nine years prior to 2008, U.S. container transport volumes increased at an average annual rate of 7 percent, or about 1.5 million TEUs annually. Since then, cargo volumes have grown at an annualized rate of only 2.5 percent, or about 750,000 TEUs annually.

This slower than expected growth in the global economy and reduced overall demand for liner shipping services, coupled with the ongoing deployment of mega container ships (ordered during a period of consistently healthy cargo growth) has impacted the financial stability of liner carriers. Vessel capacity growth has consistently outpaced weak cargo demand growth since 2012. The introduction of ultra-large ships without corresponding cargo demand growth has resulted in supply outstripping demand, and downward pressure on ocean freight rates.

Faced with this growing vessel supply/demand imbalance, FY 2016 witnessed a continued wave of mergers, acquisitions and joint ventures; as well as increased cooperation among vessel operators under the Shipping Act. At the close of 2015, most of the major ocean carriers were members of one of four alliances (2M, CKYHE, G6 and Ocean 3). During the fiscal year however, these four alliances and their members began to sort themselves into three new alliances: 2M, OCEAN Alliance, and THE Alliance (to be filed in FY 2017).

Maersk/MSC Vessel Sharing Agreement (2M Alliance):

The 2M Alliance consists of Maersk Line and Mediterranean Shipping Company. The Commission monitored alliance activities, capacity, and utilization levels. It is anticipated that Hyundai will join this agreement during FY 2017.

OCEAN Alliance Agreement:

The OCEAN Alliance was the first of the three newly announced global ocean carrier alliances to file its agreement with the Commission. The OCEAN Alliance members are COSCO, CMA CGM, Evergreen Line and OOCL. At the end of fiscal year, the Commission issued an RFAI to obtain a fuller and more detailed explanation of how the parties intend to use their agreement authority, and to gather necessary data to undertake a competitive impact analysis.

THE Alliance:

THE Alliance was discussed but not filed with the Commission during the fiscal year. THE Alliance consists of Hapag-Lloyd, K Line, MOL, NYK and Yang Ming. It includes Japan's three major shipping lines, K Line, NYK, and MOL. THE Alliance will allow its members to share vessels, charter and exchange space on each other's ships, and enter into cooperative working arrangements.

TARIFFS, SERVICE CONTRACTS, NSAs, & MTO SCHEDULES

Tariffs

The Shipping Act requires common carriers and conferences to publish their tariffs containing rates, charges, rules, and practices, electronically in private systems. For ease of public access, the Commission publishes the web addresses of those tariffs on its website. At the close of the fiscal year, 5,560 tariff location addresses were posted. Of that number, 5,233 tariff addresses were for NVOCCs.

The Commission provides regulatory relief, allowing licensed and foreign registered NVOCCs to “opt out” of the requirement to file rate tariffs when exclusively using NVOCC Negotiated Rate Arrangements (NRAs). NRAs are a less burdensome compliance option which NVOCCs indicate save them both time and money. At the end of the fiscal year, nearly 1,400 active NVOCCs or 27 percent, had filed prominent notices or a rule in their respective tariff indicating that they had invoked the NRA exemption as an alternative to tariff filing. Approximately 12 percent of all NVOCCs use NRAs exclusively, while 15 percent use a combination of NRAs and tariff rate filings.

Service Contracts

Service contracts are an alternative to transportation of cargo under tariff rates. Between 90 and 95 percent of the total cargo transported in the major U.S. liner trades moves under service contracts, rather than tariffs.

Service Contracts and NSAs filed in 2015

Newly filed service contracts: 51,109

Amendments to service contracts: 653,315

Newly filed NSAs: 901

Amendments to NSAs: 1,790

Service contracts enable the parties to tailor transportation services and rates to their commercial and operational needs and to keep these arrangements confidential. During the fiscal year, the Commission received 52,968 new service contracts, compared to 51,109 in fiscal year 2015, and 734,106 contract amendments, compared to 653,315 in FY 2015.

NVOCC Service Arrangements (NSAs)

Commission rules allow NVOCCs to offer transportation services pursuant to individually negotiated, confidential service arrangements with customers, rather than under a published tariff. During the fiscal year, the Commission received 984 NSAs, compared to 901 in fiscal year 2015, and 1,814 NSA amendments, compared to 1,790 in FY 2015. During the fiscal year, a total of 96 NVOCCs took advantage of the ability to use NSAs to conclude their transportation arrangements with shippers. Historically 1,856 NVOCCs have registered with the Commission to file NSAs, however, only 273 NVOCCs (approximately 15 percent) have ever actually filed an NSA.

Marine Terminal Schedules

An MTO may make available to the public a schedule of rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal. An MTO schedule made available to the public is enforceable by an appropriate court as an implied contract without proof of

actual knowledge of its provisions. During the fiscal year, 257 MTOs maintained an active Form FMC-1, which reports the electronic location of an MTO's terminal schedule, with 154 MTOs electing to voluntarily publish their actual terminal schedules. The internet address of these MTO terminal schedules are posted on the Commission's website.

SUPPLY CHAIN INNOVATION INITIATIVE

On February 1, 2016, the Commission issued an Order directing Commissioner Rebecca Dye to engage leaders from commercial sectors of the U.S. international supply chain in discussions to identify commercial solutions to U.S. supply chain operational challenges. The Supply Chain Innovation Teams (SCIT) initiative was an outgrowth of the Commission's previous work on port congestion issues in the fall of 2014, and in its initial phase focused on the U.S. import trades associated with America's three largest container seaports – the ports of Los Angeles, Long Beach, and New York/New Jersey.

Under the Commission Order, Commissioner Dye convened three teams of industry leaders to develop process innovations that would enhance supply chain reliability and resilience. Each of the teams was composed of roughly a dozen representative supply chain organizations, including public port authorities, marine terminal operators, beneficial cargo owners, ocean transportation intermediaries, liner shipping companies, drayage trucking companies, longshore labor representatives, rail officials and chassis providers.

The SCIT approach stressed two fundamental factors: *innovation* and *teamwork*. By design,

it encouraged creative interaction among committed participants operating within small teams that engaged in candid give-and-take dialogue and debate. During the planning stage Commissioner Dye sought advice from a variety of academic and business experts in supply chain management, process innovation, transportation research and the use of business teams.

By April, three teams, totaling 34 volunteer industry leaders, had been established. Their initial meeting took place on May 3 and 4 in Washington, D.C. At the project launch, the team members were encouraged to step outside their individual enterprise silos and consider the international supply chain from an overall *systemic*

perspective. They were also directed to identify one innovative supply chain process

Supply Chain Innovation Teams agree that availability of timely and accurate critical information is needed to enhance visibility and promote supply chain efficiency

improvement and develop a plan to implement that improvement.

In response, all three teams determined that *improved supply chain visibility* would be their central focus. They agreed that the availability of *timely and accurate critical information* was needed to achieve the desired enhanced visibility and promote supply chain efficiency. Consequently, identifying each supply chain actor's unmet critical information needs became the primary focus of each team's discussions.

Similarly, each team concluded that timely access by all supply chain actors to relevant critical information via a national seaport portal should be their overall goal. Viewing information technology as "the new infrastructure," the teams debated how best to provide the right information, to the right person, at the right time, in order to more fully integrate and harmonize the supply chain system.

Subsequent discussions occurred in smaller industry sub-groups to resolve particular operational challenges that interfered with effective communication. The focus of these meetings related to terminal coordination with trucking companies and chassis providers.



Commissioner Rebecca F. Dye presenting from the bench.

By the close of FY 2016, the teams had nearly completed their lists of: (a) the critical information/data needs of the various actors; (b) likely sources of that information; (c) timing requirements; and (d) the expected

operational improvements that likely would result from the parties' access to that critical information. A final meeting of phase one's import teams was scheduled for mid-October.

By the start of FY 2017 the participants had largely completed their detailed consideration of high-priority information needs – mainly dealing with port/marine terminal operations, such as container availability, chassis availability, and more efficient drayage trucking operations.

The availability of this critical information is expected to help all supply chain actors achieve greater system-wide visibility, and

link their organizations' behavior in ways that better integrate the supply chain and produce improved reliability and resilience across the entire system.

By October, initial plans were also underway for phase two of the supply chain initiative. It is expected to involve both the creation of three "export" teams that will begin meeting in early 2017; as well as a continued effort to pursue options for the development of a robust pilot project concerning a national sea-port information portal to provide the needed critical information.



Chairman Mario Cordero witnesses the signing of the minutes of the U.S.-China Bilateral Maritime Consultations.

INTERNATIONAL COOPERATION

U.S.-China Bilateral Maritime Agreement Consultations & 8th U.S.-China Transportation Forum

Chairman Mario Cordero and the FMC General Counsel participated in the 2016 U.S.-China Bilateral Maritime Agreement Consultations, which took place in Los Angeles, CA in June. The consultations were government-to-government exchanges between relevant agencies from the United States and China with jurisdiction over shipping issues. Chairman Cordero co-lead the delegation and engaged his Chinese counterparts on

matters related to the consolidation of Chinese shipping lines, changes in the alliance structures, the status of China COSCO Shipping as a "Controlled Carrier", and NVOCC bond recognition.

Taking place concurrently to the Bilateral Maritime Consultations was the 8th U.S.-China Transportation Forum, a ministerial level bilateral meeting that covered policy issues related to all modes of transportation. Chairman Cordero engaged in sessions that addressed congestion, port productivity, environmental initiatives, and technology.



Commissioner Michael A. Khouri visits the Sun Kwang Newport container terminal at the Port of Incheon as a member of the US Delegation.

U.S.-Korea Bilateral Maritime Consultation

Commissioner Michael Khouri, accompanied by the FMC General Counsel, traveled to the Republic of Korea as a member of the U.S. delegation for consultations with officials from the Ministry of Oceans & Fisheries in June 2016. Commissioner Khouri engaged in government-to-government informational dialogues and participated in a tour of a key port facility in that country.

The delegation conducted discussions with the Vice Minister and other senior officials from the Ministry of Oceans & Fisheries where a number of issues of reciprocal interest were

addressed, including matters related to carrier alliances, which are the jurisdiction of the Federal Maritime Commission. These discussions were held in Sejong City. The delegation also had a meeting with U.S. Ambassador Mark Lippert in Seoul and visited marine terminal facilities in Incheon, where they had the opportunity to inspect the Sun Kwang Newport container terminal.

U.S.-Japan Bilateral Maritime Meeting

Commissioner Daniel Maffei and FMC staff participated in a U.S.-Japan Bilateral Maritime Meeting, hosted by the U.S. Delegation in August 2016. U.S. and Japanese

officials discussed many mutual issues and shared insights on the global maritime landscape. Officials discussed such topics as the global alliances, antitrust regulatory system review, ocean carrier agreements and anti-trust exemption systems, the Panama Canal expansion, environmental issues, and an exchange program between the U.S. Maritime Administration and the Japan Maritime Bureau. Participants agreed that coordination

on these maritime issues is valuable for promoting mutual interests in international ocean transportation and commerce.

Trade In Services Agreement Negotiations

On behalf of the Commission, the Office of the General Counsel (OGC) acted as a maritime technical advisor to two ongoing trade negotiations, Trade in Services Agreement (TiSA) and Transatlantic Trade and Investment Partnership (T-TIP).



Commissioner Daniel B. Maffei at the bench

PROTECTING THE PUBLIC

STRATEGIC GOAL 2

The FMC engages in a variety of activities that protect the public from financial harm, including licensing and registering of ocean transportation intermediaries; helping resolve disputes about the shipment of goods or the carriage of passengers; investigating and prosecuting unreasonable or unjust practices, and ruling on private party complaints alleging Shipping Act violations. These activities contribute to the integrity and security of the nation's import and export supply chains and ocean transportation system. In addition, the FMC ensures that passenger vessel operators maintain proper financial coverage to reimburse cruise passengers in the event their cruise is cancelled or to cover liability in the event of death or injury at sea.

LICENSING

OTIs are transportation middlemen for cargo moving in the U.S.-foreign ocean-borne trades. There are two types: NVOCCs and ocean freight forwarders (OFFs). An NVOCC is a common carrier that holds itself out to the public to provide ocean transportation, issues its own house bill of lading or equivalent document, but does not operate the vessel by which ocean transportation is provided. An ocean freight forwarder domiciled in the U.S.

arranges for the transportation of cargo with a common carrier on behalf of shippers and processes documents related to those shipments.

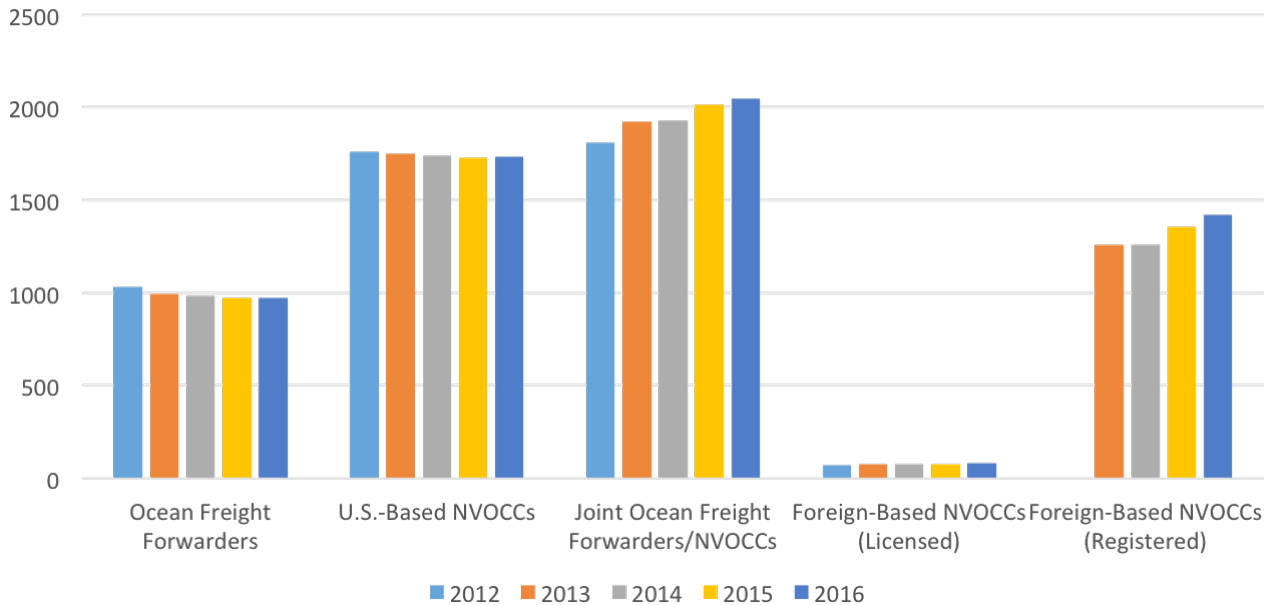
Both NVOCCs and OFFs must be licensed by the Commission if they are located in the U.S. and must establish financial responsibility. NVOCCs doing business in the U.S.-foreign trades but located outside the U.S. (foreign NVOCCs) may choose to become FMC-licensed, but are not required to do so. If not licensed under the FMC's program, foreign-based NVOCCs must register with the Commission and establish financial responsibility.

NVOCCs wishing to serve in the U.S.-China trade may file an Optional Rider for Additional NVOCC Financial Responsibility, to meet the Chinese government's financial responsibility requirements. This rider adds additional financial liability to meet the bond aggregate amount of \$125,000 and is available to pay fines and penalties for activities in the U.S.-China trades that may be imposed by the Chinese government.

Licensing Activity in FY 2016

- New OTI applications accepted: 373
- Amended applications accepted: 283
- New OTI licenses issued: 309
- Amended licenses issued: 113
- Licenses revoked or voluntarily surrendered: 293

Active OTI Licenses and Registrations by Year



This rider is accepted as a convenience to U.S. NVOCCs. During the fiscal year, 44 China Bond Riders were received and 32 were terminated.

At the close of the fiscal year, 450 U.S. NVOCCs held China Bond Riders.

REVISIONS TO LICENSING RULES

During the fiscal year, the Commission concluded its Rulemaking proceeding in Docket 13-05, adopting revisions to the Ocean Transportation Intermediary regulations at 46 C.F.R. Part 515 after considering the extensive comments submitted to its earlier Notice of Proposed Rulemaking (NPR). The Final Rule is designed to adapt to changing industry conditions, improve regulatory oversight, improve transparency, streamline FMC business processes, and reduce regulatory burdens on the industry. Among other revisions, most significantly the Final Rule provides:

- a requirement to renew licenses and registrations every three years through an on-line and user-friendly process;
- a requirement that common carriers verify OTI licenses and registrations, tariff publication and financial responsibility, provided such verifications can be made at a single location on the Commission's website; and
- a new expedited hearing procedure that would streamline the current

procedures for denial, revocation or suspension of an OTI license.

68722-68742), effective December 9, 2015, except the renewal requirements, which became effective December 9, 2016.

The Final Rule was published in the Federal Register on November 5, 2015 (80 FR

PASSENGER VESSEL PROGRAM

The Commission administers the passenger vessel operator (PVO) program as described under 46 U.S.C. §§ 44102-44103, requiring evidence of financial responsibility for vessels which have berth or stateroom accommodations for 50 or more passengers and embark passengers at U.S. ports and territories. Certificates of performance cover financial responsibility used to reimburse passengers in the event their cruise is cancelled. Certificates

of casualty are required to cover liability that may occur for death or injury to passengers or other persons on voyages to or from U.S. ports.

At the close of FY 2016, 225 vessels owned by 47 passenger vessel operators were certified under the Commission's program. The combined evidence of financial responsibility for nonperformance of transportation for all cruise vessels in the program is \$594 million. Under the Commission's program, \$705



million in aggregate financial responsibility for casualty coverage is evidenced under the Commission's program. During the fiscal year, 16 new performance certificates and 14 casualty certificates were issued. No cruise operator stopped operation with unperformed cruises during this fiscal year.

The maximum coverage requirement is currently \$30 million per cruise line. The cap is adjusted every two years based on the Consumer Price Index for All Urban Consumers (CPI-U). The next adjustment is set for 2017.

CONSUMER AFFAIRS AND EDUCATION

Dispute Resolution

The Commission, through its Office of Consumer Affairs and Dispute Resolution (CADRS) provides alternative dispute resolution (ADR), *ombuds*, and mediation services, to assist parties in resolving international ocean shipping and cruise disputes, including a Rapid Response Team especially focused on addressing problems exporters may encounter. Such services are available to the shipping public at any stage of a dispute, regardless of whether litigation has been filed at the FMC or another jurisdictional forum.

The Commission's ADR services help parties avoid the expense and delay inherent in litigation, and facilitate the flow of U.S. foreign commerce. This fiscal year, the Commission closed a total of 641 *ombuds* matters: 180 involved household goods; 331 cargo other than household goods; 126 cruise; and 4 miscellaneous matters, the total representing a 12 percent increase from the previous fiscal year. Ten mediation matters were also conducted.

PVO Participants

- 47 PVOs are certified
- 225 vessels are certified
- 16 new Casualty Certificates issued in FY 2016
- 14 new Performance Certificates issued in FY 2016

PVO Program Coverage

- \$594 million aggregate evidence of financial responsibility for nonperformance
- \$705 million aggregate evidence of financial responsibility for casualty

The Commission, through CADRS, continued to assist parties that encountered disputes relating to port congestion encountered on the east and west coasts and assisted parties affected by the sudden dissolution of Hanjin shipping line – during the fiscal year, CADRS responded to 53 such requests.

The Commission published consumer alerts on the Commission's website to assist shippers and staff gave various educational presentations to industry and consumer trade associations regarding regulatory compliance, best practices, and the use of alternative dispute resolution to resolve regulatory and commercial ocean transportation disputes.

Area Representatives

Area Representatives (ARs) are officials who represent the FMC at regional field offices located in Southern California, South Florida, New Orleans, New York, Houston and Seattle. They investigate alleged violations of the shipping statutes, resolve complaints and disputes between parties involved in international oceanborne shipping (often coordinating with CADRS staff), and participate in local maritime industry groups. ARs provide advice and guidance to the shipping public, collect and analyze trade information, and assess industry conditions.

During the fiscal year, ARs conducted outreach to the public, consumer groups, trade associations, and worked with other Federal, state and local government agencies to achieve and enhance regulatory compliance and protect the public from financial harm. They also made presentations to interested industry audiences in their regions, explaining OTI licensing requirements, bonding requirements, and OTI compliance with tariff filing requirements and provisions application to NRAs.

ENFORCEMENT, AUDITS AND PENALTIES

The Commission's Bureau of Enforcement (BOE) staff and ARs work to obtain compliance with the shipping statutes administered by the Commission to ensure equitable trading conditions in the foreign oceanborne commerce of the United States.

During the fiscal year, staff investigated and prosecuted possible illegal practices in many trade lanes, including the Transpacific, North Atlantic, Middle East, South American and Caribbean trades. These market-distorting activities included various forms of unfiled agreements, rebates and absorptions, misdescription of commodities, and unlawful use of service contracts, as well as carriage of cargo by and for untariffed and unbonded NVOCCs.

At the beginning of the fiscal year, 15 enforcement cases were pending final resolution, BOE was party to 1 formal proceeding, and there were 7 matters pending which BOE was monitoring or providing internal legal advice. The ARs referred 22 new investigative matters for

enforcement action or informal compromise; 24 matters were compromised and settled, administratively closed, or referred for formal proceedings; and 12 enforcement cases were pending resolution at fiscal year's end. Two new formal proceedings were initiated; 1 formal proceeding was completed, and 2 were pending at the end of the fiscal year.

Major investigations undertaken or completed during the fiscal year addressed VOCCs seeking to operate pursuant to agreements that were not filed with the Commission, as well as deceptive or fraudulent practices of certain OTIs operating in the China-U.S. inbound trades. Of note, significant efforts in pursuing inquiries regarding certain car carriers in the Japan/South Korea/China-U.S. trade, Europe-U.S. trade and in other U.S. trades, resulted in a joint settlement with Wallenius Wilhelmsen Logistics AS and Eukor Car Carriers, Inc., which included payment of \$1.5 million in civil penalties. The car carrier investigations

spawned an additional \$170,000 settlement with Volkswagen Konzernlogistik GmbH & Co. related to unfiled carrier agreements.

Also of note, in October 2015, the Commission ordered Washington Movers, Inc., a licensed OTI to show cause why the Commission should not revoke its license due to the felony weapons smuggling convictions of its qualifying individual and various alleged regulatory violations. The matter is pending before the Administrative Law Judge.

The *Formal Investigations* section of this report includes more information on formal proceedings concluded during the fiscal year. Cumulatively, the Commission collected \$3.3 million in penalties which were deposited directly into the U.S. Treasury General Fund.

Most of these investigations were resolved informally, some with compromise settlements and civil penalties. A list of parties and penalties can be found in Appendix D.

The Commission's compliance audit program reviews the operations of licensed OTIs in order to assist them in complying with the statutory requirements and the Commission's rules and regulations. The program also reviews entities holding themselves out as VOCCs, where there is no indication of actual vessel operations. During the fiscal year, 223 audits were commenced, 208 audits were completed (including audits carried over from FY 2015), and 15 remained pending at the close of the fiscal year.

INTER-AGENCY COOPERATION

The Commission regularly works with a number of other federal, state, and local transportation and law enforcement agencies, either through established memoranda of understanding (MOU), collaborations or partnerships to address specific transportation

related policies, issues or incidents in both the U.S. domestic shipping arena and international liner shipping.

Under the MOU between the FMC and the Federal Motor Carrier Safety Administration (FMCSA), Commission staff continued to

participate in the FMC-SA's Moving Fraud Task Force and Moving Fraud Partnership initiatives. CADRS and the Commission's ARs worked with FMCSA on two matters involving ocean transportation intermediaries that had their licenses revoked and subsequently failed to deliver shipments. In the first matter, the agencies worked together to locate

FMC works with Federal Partners to Protect the Public:

Federal Motor Carrier Safety Administration	Immigration and Customs Enforcement (DHS)
Federal Bureau of Investigation	Joint Terrorism Task Force
Alcohol, Tobacco and Firearms (DOJ)	Census Bureau (DOC) Coast Guard
Customs and Border Patrol (DHS)	Export-Import Bank



Commissioner William P. Doyle presents to FMC staff

a missing shipment that contained medical supplies for a seriously ill child. In the second matter, the agencies worked together with a foreign consulate office to attempt to locate a missing household goods shipment.

Interaction between the Commission and the U.S. Customs and Border Protection (CBP) on the exchange of investigative information continues to be beneficial to all parties. Cooperation with CBP included staff interactions and joint field operations to investigate entities suspected of violating both agencies' statutes or regulations. Such cooperation also has included local police and other government entities, including the U.S. Attorney's

Office, Federal Bureau of Investigation, and Immigration and Customs Enforcement, when necessary.

The Commission completed its fourth year under a formal MOU with the Census Bureau, U.S. Department of Commerce, which provides the FMC with access to the Census' Automated Export System (AES) database. The Commission uses the AES database to review confidential U.S. export shipment data for law enforcement purposes. The Commission also continued its membership in the Homeland Security Investigations-led National Intellectual Property Rights Coordination Center

(IPR Center), a partnership of 21 Federal and international agencies targeting intellectual property- and trade-related crimes.

The ARs continued to work closely with a number of law enforcement agencies, including local police jurisdictions in New York, New Jersey, South Florida and Houston, in matters relating to international shipping, such as the export of stolen motor vehicles. They also participated in various enforcement initiatives sponsored by Federal law enforcement agencies: the U.S. Department of Justice (DOJ), Alcohol, Tobacco and Firearms (ATF); FBI; the Department of Homeland Security (including CBP and ICE); the Joint Terrorism Task Force (JTTF); Department of Commerce; Coast Guard; Export-Import Bank; and the FMCSA. These activities included criminal and civil investigations of entities licensed or regulated by the Commission, interdiction of illicit imports and exports, consultation on carrier practices, procedures and documentation relating to shipping and international trade, and coordinated action seeking to protect the shipping public from deceptive and unfair practices.

The FMC actively participates in the U.S. Committee on the Marine Transportation

System (CMTS), a partnership of Federal departments and agencies with responsibility for the Marine Transportation System (MTS). The CMTS is authorized by Congress to assess the adequacy of the MTS and coordinate Federal maritime policy amongst the many Federal maritime interests. The Chairman sits on the Committee's Cabinet-level Committee and the Commission is represented on the sub-Cabinet Coordinating Board and in the work of the various CMTS Integrated Action Teams and Task Teams.

Through CADRS, the Commission participates and takes a leadership role in the Interagency ADR Working Group (IADRWG) and this year led a long-term project to develop a Spectrum of Collaborative Processes to meet the needs of federal agencies that are exploring and implementing new collaborative dispute prevention and resolution tools. CADRS staff also led an effort to develop an interagency panel discussion which explored new mediation convening techniques and the implementation of other ADR tools to assist disputing parties. CADRS also assisted with a report on federal ADR to be issued in FY 2017 by the DOJ and the IADRWG.

LEVERAGING TECHNOLOGY

The Commission continues to prioritize information technology (IT) investments to improve information security, efficiency, and greater public access, while reducing costs over time. New online services were developed and launched through the Commission's public website during the fiscal year that automated two paper-based filing systems, simplifying stakeholder interaction with the

Commission; eliminating paper, postage or courier costs; and providing faster publication of information on the FMC's website.

Foreign-based unlicensed NVOCCs may now renew their FMC registrations (Form FMC-65) via an online process, and vessel-operating common carriers and marine terminal operators have a new Agreements system option to electronically file agreements

for Commission review. Both systems allow faster publication of critical information used by the shipping public to make business decisions about a particular NVOCC or general awareness about a newly filed agreement for which there may be interest in filing comments with the Commission.

The FMC is implementing its Information Technology Capital Plan, focusing on completing major upgrades to internal IT systems to

improve data support and efficiency for all Commission programs and research projects, to simplify stakeholder interaction and filing processes, and to ensure that the FMC's systems meet cybersecurity best practices. Work continued on the Enterprise Content Management platform, and work was started on a major project to make extensive improvements to the information architecture of the Commission's public website.

DEVELOPMENTS IN MAJOR U.S. FOREIGN TRADES

WORLDWIDE

The world's container trade expanded by just 1 percent in fiscal year 2016 compared to growth of 3 percent in 2015. As the fiscal year ended, 371 container ships lay idle, representing nearly 7 percent of the total fleet capacity measured in TEUs. In contrast, 243 ships or 4 percent of the containership fleet capacity lay idle at the end of fiscal year 2015.

Due to a number of liner carrier mergers and acquisitions, the world's container shipping industry became more concentrated during the fiscal year. The top three container operators controlled 39 percent of the world's containership capacity; the top five controlled 52 percent; and the top ten controlled 67 percent. A.P. Moller-Maersk A/S (15 percent), Mediterranean Shipping Company SA (14 percent) and CMA CGM S.A. (11 percent) continued to hold the top three positions in terms of vessel capacity deployed.

Container volumes in U.S. liner trades during the fiscal year expanded by only 1 percent to 31.9 million TEUs, compared to 31.5 million last year. The U.S. share of the world's container trades was 16.9 percent. U.S. container imports expanded slightly by 1.6 percent to 20.4 million TEUs, compared to 20 million in 2015. This was the third consecutive year that U.S. imports surpassed the pre-Great Recession record of 18.6 million TEUs reached in FY 2007.

U.S. container exports increased by less than 1 percent to nearly 11.5 million TEUs. This

Worldwide

- For the seventh consecutive year, worldwide container trade grew – expanding by 1 percent.
- Continuing global vessel overcapacity is indicated as the number of container ships that lay idle increased by more than half by year's end.
- The world's top 3 operators controlled 39 percent of the worldwide vessel capacity.

U.S. Liner Trades

- Container volumes in the U.S. liner trades (imports and exports combined) grew for the seventh consecutive year.
- Imported cargo continued to outpace exports which worsened the U.S. container imbalance slightly.

was a significant improvement over the 5 percent contraction witnessed during the same period last year. As a result, the U.S. container imbalance worsened only slightly; for every 100 loaded containers exported from the U.S., 177 were imported, compared to 175 imported in FY 2015.

The world's container ship fleet expanded slightly with nominal capacity growing by approximately 3 percent. At the end of the fiscal year, 5,148 container ships, with a total fleet capacity of 20.3 million TEUs, were available to serve the world's container trades and there were orders worldwide for 432 new container ships with an aggregate capacity

of 3.3 million TEUs - 16 percent of the existing fleet capacity. Vessels with nominal capacities exceeding 10,000 TEUs comprised 25 percent of the existing container ship fleet capacity and 81 percent of the orderbook fleet capacity at year-end, reflecting the continued increasing size of containerships being ordered.

ASIA

In terms of container cargo volumes, Asia is our largest trading partner. The U.S. traded 19.9 million TEUs with the region in FY 2016 (exports and imports combined), representing 61 percent of total U.S. container trade. The U.S. imports substantially more container cargo from the region than it exports. In FY 2016, the U.S. imported 13.9 million TEUs of goods from Asia, a 1.7 percent increase over the previous fiscal year, while the U.S. exported almost 6 million TEUs, an increase of about 1.5 percent over the same period.

Fifty-one percent of U.S. container trade was with Northeast Asia (China, Japan, South Korea, Taiwan, and Hong Kong). Countries in Southeast Asia (Brunei, Cambodia, Indonesia, Malaysia, the Philippines, Singapore, and Vietnam) collectively accounted for 10 percent of total U.S. trade in 2016.

More than half of all imports from Asia flowed through the ports of Los Angeles and Long Beach. U.S. West Coast ports collectively handled almost two-thirds of all Asian imports and exports. U.S. East and Gulf Coasts collectively handled almost 35 percent or 7 million TEUs worth of goods arriving from

or destined to Asia. Of note, the largest containership to call in the U.S., the CMA CGM Benjamin Franklin, with a capacity of 17,859 TEUs, made three trips across the Pacific to the U.S. West Coast to demonstrate the feasibility of deploying ships of this size in the Asia-U.S. trade.

The *Transpacific Stabilization Agreement* (TSA) is the major rate discussion agreement in the transpacific trade encompassing the inbound and outbound transpacific container trades. Its geographic scope includes portions of the Indian Subcontinent (i.e., Bangladesh, Pakistan and Sri Lanka, but not India or the Middle East). During the fiscal year, the thirteen TSA members' share of the trade between the U.S. and Asia remained steady at 90 percent despite losing two members during the fiscal year.

This reduction was due to the merger of China Shipping with COSCO, and the exit of K Line from the Agreement. Two more carriers are expected to resign from TSA (NYK Line and Hanjin Shipping), leaving eleven TSA members. Hanjin Shipping declared bankruptcy during the last quarter of the fiscal year, the largest in 30 years; while Japan's three

Asia accounts for nearly 68% of containerized imports to the U.S.; and about half of containerized exports from the U.S

major ocean carriers, NYK Line, MOL, and K Line announced plans to spin off their respective container divisions and merge them in July 2017.

During FY 2016, 9 out of 10 containers between the US and Asia were moved by a TSA carrier.

INDIAN SUBCONTINENT AND MIDDLE EAST

The Indian Subcontinent and Middle East regions combined accounted for over 6 percent of total U.S. container volumes in FY 2016, with the Indian Subcontinent being the larger of the two. U.S. container trade with the Indian Subcontinent alone (exports and

U.S. trade with the Indian Subcontinent and Middle East experienced contrasting trends in FY 2016: trade with the former region expanded, while trade with the latter region contracted.

imports combined) grew by 7.2 percent, totaling about 1.35 million TEUs. Both imports and exports contributed to the rise in trade with the region. The U.S. imported 809,000 TEUs from the Indian Subcontinent, an increase of 2 percent from the prior year. American exports to the countries in this region grew to 536,000 TEUs, an increase of over 16 percent compared to 2015.

In contrast, overall trade between the U.S. and the Middle East shrank slightly over the past year, declining by almost 2 percent to about 770,000 TEUs, due to fewer exports to the region. In FY 2016, the U.S. exported 551,000 TEUs to the Middle East, a decrease of over 5 percent compared to the prior year. Although U.S. imports of Middle Eastern goods increased by almost 9 percent over the year, totaling 218,000 TEUs, that increase was not enough to make up for the decrease in exports, and thus, overall trade with the Middle East declined.

In this region, TSA is the rate discussion agreement covering part of the U.S. inbound and outbound container trades. For the fiscal year, TSA's market share for the trade between the U.S. and Bangladesh, Pakistan, and Sri Lanka was 92 percent. These three countries collectively comprise approximately 380,000 TEUs of U.S. trade; India being by far our largest trading partner in the region, with combined imports and exports total roughly 950,000 TEUs. There are no other rate discussion agreements covering the trade lanes between the U.S. and India or the Middle East.

NORTH EUROPE

In FY 2016, cargo volume between the U.S. and North Europe grew at less than 1 percent in both trade directions in comparison to the preceding period. The decision of the

U.K. to exit the European Union caused the British pound to plummet against the U.S. dollar, which hampered U.S. container export growth. A decline in U.S. imports of European

automobiles, in particular Volkswagen, also caused a slump in U.S. container imports of European auto parts.

In addition, progress in concluding the Transatlantic Trade and Investment Partnership which was anticipated to contribute to a growth in trade, is presently uncertain. The cargo volume carried by MSC, Hapag Lloyd, CMA CGM, and Maersk Line accounted for 58 percent of the total trade. The supply of vessel capacity contracted by 13 percent in both trade directions, while average vessel utilization was 83 percent inbound and 59 percent outbound. By the end of the fiscal year, freight rates in both trade directions had declined markedly in comparison to the previous year.

In contrast to the prior fiscal year when carrier services were introduced or expanded in

the trade, ocean carriers made service modifications that removed vessel capacity. In July 2016, for example, CMA CGM, Hamburg Sud,

Freight rates to and from North Europe declined markedly compared to previous year.

and United Arab Shipping reduced the pendulum (Vespucci) service operated under their vessel sharing agreement to a loop (Liberty Bridge) service.

Additionally, carrier parties to the 2M and G6 Alliances terminated their TA4 and AX4 loop services, respectively, due to slack demand.

MEDITERRANEAN

Conditions in the container cargo market between the U.S. and the Mediterranean remained mixed, as the volume of U.S. container exports to the region declined by 5 percent in fiscal year 2016 compared to the preceding period, while U.S. container imports from the region rose by 8 percent. Import containers exceeded export containers by a ratio of 2.25 to 1. Major imported commodities included wine, ceramic tiles, and furniture, while wood pulp, paper, nuts and cotton were some of the top U.S. export commodities in the trade. The volume of cargo carried by MSC, Hapag Lloyd, Maersk Line, and CMA CGM accounted for 75 percent of the total trade.

During the year, a new weekly loop service was added to the trade. In February 2016,

the *Hanjin/UASC/CMA CGM/COSCON Vessel Sharing Agreement* was formed, establishing the jointly operated Amerigo Express service between U.S. Atlantic ports and ports in Italy, France, Spain, and Malta.

The agreement supersedes a jointly operated pendulum service that was originally partnered with China Shipping but reconfigured after COSCO absorbed the carrier. Also, Hanjin Shipping discontinued operations in September 2016 after the carrier was granted court receivership in South Korea. Due primarily to the launch of this new weekly service, the supply of vessel capacity in the trade increased by 10 percent by the end of the fiscal year.

AUSTRALIA AND OCEANIA

The Oceania trade includes the nations and territories of Australia, New Zealand, Papua New Guinea, Western Samoa, and other South Pacific Islands. Compared to the preceding fiscal year, U.S. container exports to the region declined by 4 percent, and container imports to the U.S. declined by 5 percent. Container exports exceeded imports by a ratio of 1.37 to 1. Container imports of meat and wine, the top commodities from the region, accounted for 33 percent of the total import cargo volume. The cargo volume carried by Hamburg Sud, ANL Singapore Ptd. Ltd. (a subsidiary of CMA CGM), Hapag Lloyd, and Maersk Line accounted for 64 percent of the total trade.

There are two main rate discussion agreements in the trade, the *United States/Australasia*

Discussion Agreement (USADA) in the outbound direction, and the *Australia and New Zealand-United States Discussion Agreement (ANZUSDA)*. During the fiscal year, a number of carriers withdrew from the rate discussion agreements in the trade. In June 2016, Compagnie Maritime Marfret S.A. (Marfret) and Hapag Lloyd withdrew from USADA, reducing the trade share of the agreement from 75 percent to 64 percent. Also in 2016, Maersk Line and Hapag Lloyd withdrew from ANZUSDA, reducing the trade share of the agreement from 96 percent to 76 percent. In the Pacific Islands, Marfret and CMA CGM exited from the *Pacific Island Discussion Agreement* in June 2016, reducing the trade share of the agreement from 81 percent to 37 percent.

AFRICA

The volume of containerized cargo between the U.S. and the nations in Africa dropped by 0.2 percent in FY 2016, which was a significant deceleration in the drop in volumes experienced in the previous two years.

The volume of containerized cargo had dropped by 6 percent in FY 2015 and 4.3 percent in FY 2014. Compared to the previous year, U.S. exports to the nations of Africa increased by 1.8 percent while U.S. imports from Africa declined by 4.7 percent.

Nevertheless, because the total volume of exports to the nations of Africa continued to substantially exceed imports from the region, the volume of containerized cargo between the U.S. and Africa still fell slightly; for every one container moving inbound from the nations in

Africa to the U.S., a little more than 2.5 containers moved outbound from the U.S.

Major U.S. export commodities to African nations during the period included automobiles and poultry, while cocoa bean and citrus fruit were among the top import commodities. The Republic of South Africa is the largest U.S. liner trading nation on the continent, accounting this year for about 25 percent of the containerized cargo.



Major U.S. exports to African nations included automobiles and poultry.

Approximately 67 percent of the container cargo in the trade was carried by MSC and Maersk Line (including Maersk Line's subsidiary, Safmarine). Under the *Southern Africa Agreement*, MSC and Maersk continue

to share space on each other's ships in the America Express (AMEX) service between the U.S. Atlantic Coast and the Republic of South Africa with calls at Cape Town, Port Elizabeth, and Durban.

CENTRAL AMERICA AND THE CARIBBEAN

In FY 2016, U.S. export cargo volumes to Central America increased by 5 percent to 641,000 TEUs and U.S. import cargo volumes increased by almost 3 percent to 770,000 TEUs. Paper and paperboard (including waste paper) accounted for the largest share of U.S. containerized exports. Other major export commodities included fabrics, yarns, and raw cotton. Grocery products, used automobiles and apparel were also significant exports. On the import side, fresh fruit made up a majority of all imports from the region. Roughly three quarters of fresh fruit imports consisted of bananas. The second largest commodity imported from this region was clothing and apparel.

Five of the largest regional carriers in the U.S./Central America trade participated in the

Central America Discussion Agreement (CADA): Seaboard Marine, Crowley Latin America Services, King Ocean Services, Dole Ocean Cargo Express, and Great White Fleet Liner Service Ltd.

In the liner trade between the U.S. and the Caribbean, U.S. exports, mainly of food, consumer goods, and manufactured products increased just over 1 percent to 519,000 TEUs. Imports to the U.S. decreased just over 1 percent to approximately 163,000 TEUs.

Carriers in the U.S./Caribbean trade participated in two rate discussion agreements covering geographically discrete trades: (1) the *Aruba Bonaire and Curacao Discussion Agreement*, and (2) the *Caribbean Shipowners Association*.

SOUTH AMERICA

The volume of containerized cargo between the U.S. and South American nations decreased by about 1.5 percent in FY 2016. While imports to the U.S. from South America continued to grow at about 8 percent as it had done in the previous fiscal year, exports to South America declined almost 11 percent, which was a significantly larger decrease than in the previous two fiscal years.

For every ten containers moving inbound from countries in South America to the U.S., less than nine containers moved outbound from the U.S.

Major U.S. export commodities to South America included automobile parts and chemical products, while bananas, wood, and coffee were among the top import commodities. Brazil and Chile are the largest U.S. liner

trading nations on the continent, accounting this year for about 53 percent of the containerized cargo moving to and from the U.S.

Members of the *West Coast of South America Discussion Agreement* (WCSADA) carried 79 percent of container cargo exports from the U.S. to the West Coast of South America, and nearly 62 percent of imports to the U.S. from the West Coast of South America. The members of this agreement consist of three regional carriers (Seaboard Marine, Trinity Shipping, and King Ocean Services) and four global carriers (CMA-CGM, Hamburg Sud, Hapag-Lloyd, and MSC).

Independent carriers offering service outside of WCSADA included Dole Ocean Liner Express and Great White Fleet, which mainly transport proprietary cargo such as fresh fruits and vegetables. WCSADA also faces competition from other major carriers serving the trade through transshipment hubs in Mexico, Panama, and the Caribbean. There were no active rate discussion agreements in the trade between the U.S. and the East Coast of South America.



Tanga Fitzgibbon and Gary Kardian of the Bureau of Trade Analysis

TOP TWENTY U.S. LINER CARGO TRADING PARTNERS

The Foreign Shipping Practices Act requires the FMC include in its annual report to Congress “a list of the twenty foreign countries which generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States,” 46 U.S.C. § 306 (b)(1).

The Journal of Commerce’s *Port Import Export Reporting Service* (PIERS) database was used to derive the Commission’s list of top-twenty trading partners. The most recent complete calendar year for which data are available is 2015. Table 1 on the next page lists the twenty foreign countries that generated the largest volume of oceanborne liner cargo in bilateral trade with the United States in 2015. The figures in the table represent each country’s total U.S. liner imports and exports combined in thousands of loaded TEUs.

Bilateral trade with the United States’ top-twenty liner trading partners increased to near 80 percent of the nation’s total liner trade in 2015. The total volume of trade with our top-twenty liner trading partners increased by 2 percent year-to-year.

Membership of the top-twenty list has remained the same since 2009. This year, however, several changes in ranking occurred among the top-twenty countries. Reflecting the greatest year-to-year liner volume increase of 16 percent, Vietnam rose above Germany and India in the rankings to occupy 5th place. Germany and India dropped one rank each to 6th and 7th with 6 percent and 3.9 percent

increase in volume respectively. Belgium and Luxembourg also rose in the rankings to 8th place, trading places with Hong Kong which slipped to 9th with the greatest decrease in volume of -8.7 percent. Brazil dropped two rank positions from 10 to 12 and was one of 6 countries that experienced lower liner cargo volumes this year (the others being Hong Kong, Taiwan, Japan, Australia, and Netherlands).

Vietnam, Belgium and Luxembourg, Indonesia and Italy climbed up in the rankings, while Germany, India, Brazil and Hong Kong slipped down slightly in the ratings.

TOP TWENTY U.S. LINER CARGO TRADING PARTNERS (FY2015 IMPORTS AND EXPORTS)

Rank	Country	TEUs (000)
1	China (PRC)	12,156
2	Japan	1,352
3	South Korea	1,339
4	Taiwan (ROC)	1,058
5	Vietnam	1,017
6	Germany	985
7	India	919
8	Belgium & Luxembourg	655
9	Hong Kong ¹	637
10	Indonesia	579
11	Italy	577
12	Brazil	576
13	Thailand	561
14	Netherlands	498
15	United Kingdom	436

Rank	Country	TEUs (000)
16	Guatemala	419
17	Chile	371
18	Malaysia	364
19	Honduras	356
20	Australia	327

¹ Hong Kong reverted to Chinese control in July 1997. However, PIERS continues to report data separately for Hong Kong due to its status as a major transshipment center.

FOREIGN SHIPPING PRACTICES ACT

The Commission has the authority to address restrictive foreign shipping practices under section 19 of the Merchant Marine Act of 1920 and the Foreign Shipping Practices Act of 1988 (FSPA). Section 19 empowers the Commission to make rules and regulations governing shipping in the foreign trade to adjust or meet conditions unfavorable to shipping. The FSPA directs the Commission to address adverse conditions that affect U.S. carriers in foreign trade and that do not exist for foreign carriers in the United States.

The Commission, both through Commission action and through its Office of the General Counsel (OGC), informally pursued several matters involving potentially restrictive foreign practices. This included interpretations of existing legislation, foreign legislation and administrative law, and regulations of non-domestic carriers' terminal handling charges. No formal FSPA action by the Commission was necessary.



Tyler Wood, General Counsel, and William Shakely, Deputy General Counsel

CONTROLLED CARRIERS

A controlled carrier is an ocean common carrier that is, or whose operating assets are, owned or controlled directly or indirectly by a foreign government. The Shipping Act provides that no controlled carrier may maintain rates or charges in its tariffs or service contracts that are below a level that is just and reasonable, nor may any such carrier establish, maintain, or enforce unjust or unreasonable classifications, rules or regulations in those tariffs or service contracts. In addition, tariff rates, charges, classifications, rules, or regulations of a controlled carrier may not, without special permission of the Commission, become effective sooner than the 30th day after the date of publication. The Commission's staff monitors U.S. and foreign trade press and other information sources to identify controlled carriers

and any unjust or unreasonable controlled carrier activity that might require Commission action. In FY 2016, six controlled carriers operated in the U.S. trades:

1. American President Lines, Ltd. and APL Co., Pte. – Republic of Singapore
2. COSCO Container Lines Company, Ltd. - People's Republic of China
3. China Shipping Container Lines Co., Ltd. and China Shipping Container Lines (Hong Kong) Company, Ltd. - People's Republic of China
4. Hainan P.O. Shipping Co., Ltd. – People's Republic of China
5. CNAN Nord SPA – People's Democratic Republic of Algeria
6. United Arab Shipping Co. SAG – State of Qatar



FORMAL INVESTIGATIONS, PRIVATE COMPLAINTS AND LITIGATION

Adjudicative proceedings before the Commission are commenced by the filing of a complaint, or by order of the Commission upon petition, or upon its own motion. Types of docketed proceedings include:

- **Private complaints:** Any person may file a formal complaint alleging violations of specific sections of the Shipping Act found at 46 U.S.C. Chapter 411. Formal complaints are generally assigned to an Administrative Law Judge (ALJ) who issues an initial decision which is reviewed by the Commission.
- **Small claims complaints:** For claims of \$50,000 or less, an informal complaint may be filed. The complaint is handled by a settlement officer for resolution using informal procedures that do not tend to include discovery or motions practice.
- **Investigative proceedings:** The Commission may investigate the activities of ocean common carriers, OTIs, MTOs, and other persons to ensure effective compliance with the statutes and regulations administered by the Commission. Formal orders of investigation and hearing are assigned to an ALJ for an initial decision and may be reviewed by the Commission.

In FY 2016, 12 new private party complaints and 1 small claims complaint were filed and 1 new formal investigation was instituted. The Office of Administrative Law Judges (OALJ) issued 10 initial decisions, including 1 initial decision on default, 1 initial decision awarding attorney, 3 initial decisions approving full settlement, and 1 initial decision approving partial settlements. The Commission issued notices finalizing the ALJ's decisions in 4 private complaint cases and 1 investigative proceeding. Two ALJ's decisions were affirmed in whole or in part by the Commission on exceptions or its own review, and 5 proceedings remained pending before the Commission.

The Commission's final issuances in these and other matters are detailed below.

The following summarizes the results of docketed proceedings concluded during FY 2015 by the ALJs and the Commission.

FORMAL INVESTIGATIONS

John T. Barbour t/d/b/a Barbour Auto Group, Barbour Auto Sales, Barbour Shipping, and Barbour Shipping and Transportation Inc. – Possible Violations of Section 8 and 19 of the Shipping Act of 1984, [Docket No. 15-03]

On May 27, 2015, the Commission issued an Order of Investigation and Hearing to determine whether Respondents, a licensed OTI, violated the Shipping Act by operating as a non-vessel-operating common carrier (NVOCC): (1) without keeping open for public inspection a tariff containing rates, charges,

rules, and practices in violation of section 8 of the Shipping Act, 46 U.S.C. § 40501; (2) without a license issued by the Commission in violation of section 19(a), 46 U.S.C. § 40901; and (3) without filing evidence of financial responsibility in violation of section 19(b), 46 U.S.C. § 40902. Respondents did not respond to the Order and failed to respond to an order to show cause. On January 20, 2016, the ALJ issued an initial decision on default imposing a civil penalty and ordering Respondent to cease operating as an NVOCC. On February 23, 2016, the Commission issued a Notice Not to Review.

PRIVATE COMPLAINTS

Yakov Kobel and Victor Berkovich v. Hapag-Lloyd A.G., Hapag-Lloyd America, Inc., Limco Logistics, Inc., and International TLC, Inc. [Docket No. 10-06]

This proceeding was initiated by a complaint filed with the Commission on July 6, 2010, alleging that Respondents violated various sections of the Shipping Act. After discovery, an evidentiary hearing, and briefing, on February 14, 2012, an Initial Decision was issued dismissing the complaint. On July 12, 2013, the Commission issued an Order Vacating Initial Decision In Part and Remanding for Further Proceedings. On July 30, 2014, the ALJ issued an Initial Decision on remand finding that the Respondents violated 46 U.S.C. § 41102(c), and ordering that the Respondents be jointly and severally liable to the Complainants for a reparation award of \$126,072. On August

12, 2014, the Commission served a notice that it would review the decision. Exceptions to the ALJ's decision were filed on September 22, 2014. On May 26, 2015, the Commission entered an order imposing liability on several respondents, including Limco Logistics, Inc., and International TLC, Inc. Limco requested that the Commission reconsider its decision. The Commission denied reconsideration on May 5, 2016. Complainants filed a petition for attorney fees, which is pending before the Commission.

Maher Terminals, LLC v. The Port Authority of New York and New Jersey [Docket No. 12-02]

On March 30, 2012, Maher Terminals, LLC, filed a complaint against the Port Authority alleging numerous violations of 46 U.S.C. §§ 41102(c), 41106(1), 41106(2), 41106(3)

involving the Port Authority's change-of-control practices, preferential treatment of ocean-carrier-affiliated terminals, lease terms, letting of a parcel adjoining the Global terminal, and preferential treatment of another terminal operator. On January 30, 2015, the ALJ granted the Port Authority's motion to dismiss the complaint for failure to state a claim. The Commission affirmed the ALJ's dismissal of ten of the counts and reversed the ALJ as to four counts, which the Commission remanded for further proceedings on December 18, 2015. On September 30, 2016, the parties jointly moved for approval of a settlement agreement and dismissal of this case and Docket No. 08-03.

Edaf Antillas, Inc. v. Crowley Caribbean Logistics, LLC; IFS International Forwarding, S.L.; and IFS Neutral Maritime Services [Docket No. 14-04]

On April 28, 2014, Edaf Antillas filed a complaint with the Commission alleging that Respondents violated the Shipping Act by permitting non-compliant cargo to be placed in a container with compliant cargo causing delay of Edaf Antillas's shipment and by failing to correct the problem in a timely manner after the container arrived in Puerto Rico. On April 15, 2015, the ALJ issued an Initial Decision dismissing the proceeding for failure to prosecute. The Initial Decision also addressed the applicability of a new provision in the Shipping Act permitting an award of attorney fees to a prevailing party. On May 18, 2015, the Commission issued a Notice Not to Review the dismissal. Prevailing Respondents filed petitions for attorney fees to be decided by the ALJ pursuant to 46 C.F.R. § 502.254. On October 15, 2015 the ALJ issued an Order granting

Respondents' petitions for attorney fees. The Commission issued a Notice to Review the petitions for attorney fees. The Commission affirmed in part and reversed in part the ALJ's decision, granting attorney fees for work performed subsequent to the implementation of the new statutory provision.

Santa Fe Discount Cruise Parking, Inc., d/b/a EZ Cruise Parking, Lighthouse Parking, Inc., and Sylvia Robledo d/b/a 81st Dolphin Parking v. The Board of Trustees of the Galveston Wharves and the Galveston Port Facilities Corporation [Docket No. 14-06]

Respondents operate the cruise terminal at the Port of Galveston. Complainants operate parking facilities near the Port where they provide parking for passengers who embark on cruises from the cruise terminal. As part of their service, Complainants provide transportation to the Port. On June 16, 2014, Complainants filed a complaint alleging that Respondents' tariff imposing charges on Complainants' shuttles transporting passengers to and from the terminal violated three sections of the Shipping Act.

On November 21, 2014, the ALJ granted Respondents' motion to dismiss claims under two sections of the Act, but denied dismissal of claims under 46 U.S.C. § 41106(2), finding that the Complaint stated a claim that Respondents gave an undue or unreasonable preference or advantage or imposed an undue or unreasonable prejudice or disadvantage with respect to Complainants. On December 23, 2014, the Commission issued a Notice Not to Review the partial dismissals and the decision became administratively final.

On December 4, 2015, the ALJ issued an Initial Decision dismissing Complainants' remaining claim regarding section 41106(2). Complainants and Respondents filed their Exceptions and Reply to the Exceptions on January 11, 2016, and February 2, 2016, respectively. The proceeding is pending before the Commission.

Econocaribe Consolidators, Inc. v. Amoy International, LLC, [Docket No. 14-10]

On August 11, 2014, Econocaribe Consolidators, Inc. filed a complaint alleging that Respondent Amoy International, LLC violated numerous sections of the Shipping Act and Commission regulations in connection with shipment of auto parts detained by Chinese customs. On September 9, 2014, Amoy filed its Answer denying the allegations. The parties engaged in discovery, filed numerous motions, and briefed the merits of the proceeding. The parties eventually reached a settlement agreement that they submitted for approval. On September 2, 2015, the ALJ issued an Initial Decision Approving Joint Settlement and Granting Motion to Dismiss. On October 5, 2015, the Commission issued a Notice Not to Review and the decision became administratively final.

Baltic Auto Shipping, Inc. v. Michael Hitrinov a/k/a Michael Khitrinov and Empire Unite Lines Co., Inc. [Docket No. 14-16]

On November 28, 2014, Baltic filed a complaint alleging that on several thousand shipments between November 2007 and January 2012, Empire, an NVOCC, violated several sections of the Shipping Act, 46 U.S.C. §§

41102, 41104, 40501, and 46 C.F.R. Part 515, by charging rates not set forth in a tariff, charging Baltic rates greater than rates charged other shippers, and by failing to provide Baltic with shipping documents. Baltic sought a reparation award. All shipments began and almost all were delivered more than three years before Baltic filed its complaint. Empire moved for a summary decision dismissing the claim for a reparation award, arguing that the claim was barred by the statute of limitations. On September 15, 2015, the ALJ held that based on the material facts not in dispute, Baltic's claims accrued more than three years before Baltic filed the complaint and were barred. It was also determined that no other relief was warranted, and the complaint was dismissed.

Complainant filed Exceptions and a supporting brief on January 15, 2016. Subsequently, Respondents filed their reply to the Complainant's Exceptions on March 3, 2016. On August 15, 2016, Complainant filed a Motion to Withdraw Appeal and Discontinue Action and also filed a status report. Respondents submitted a separate status report in which they stated that they would not agree to the joint stipulation to withdraw the appeal. On August 30, 2016, Respondents submitted a response to the motion. At the close of FY 2016, the motion was pending before the Commission.

General Motors, LLC v. Nippon Yusen Kabushiki Kaisha [Docket No. 15-08]

On September 2, 2015, Complainant General Motors, LLC (GM) filed a Shipping Act complaint against Respondents Nippon Yusen Kabushiki Kaisha (NYK), Wallenius Wilhelmsen Logistics AS (WWL) and Eukor Car Carriers, Inc. (Eukor). GM alleged that Respondents violated numerous provisions

of the Shipping Act by secretly agreeing to rig bids, allocate customers, restrain capacity, and otherwise fix, raise, stabilize, and maintain prices for vehicle carrier services. The ALJ granted the parties' joint motion to stay the case, and on July 25, 2016, GM, WWL, and Eukor moved for approval of a settlement agreement and dismissal of the case against those respondents. The ALJ granted the motion on July 29, 2016. The Commission determined to review the Initial Decision on August 26, 2016, and ordered the settling parties to submit additional information, which they did on September 1, 2016. On September 12, 2016, GM and NYK filed a joint motion to approve a settlement agreement. As of the end of FY 2016, the GM-WWL-Eukor settlement was pending before the Commission, and the GM-NYK settlement was pending before the ALJ.

Combustion Store Ltd. v. UniGroup Worldwide, Inc. [Docket No. 15-02]

On May 1, 2015, Combustion Store Ltd. filed a Complaint alleging that UniGroup Worldwide, Inc., an ocean transportation intermediary (OTI), violated 46 U.S.C. § 41102(c), 46 U.S.C. § 41102(c), when it transported a Combustion shipment from Newnan, Georgia, to London, England. On March 7, 2016, Combustion filed Complainant's Consent Motion to Dismiss with Prejudice that the parties supplemented on March 10, 2016, with a Release of All Claims and Indemnity Agreement signed by the parties. On March 14, 2016, the ALJ issued an initial decision approving the settlement agreement. On April 14, 2016, the Commission issued a Notice Not to Review and the decision became administratively final.

Crocus Investments, LLC and Crocus, FZE v. Marine Transport Logistics, Inc. and Aleksandr Solovyev a/k/a Royal Finance Group Inc. [Docket No. 15-04]

On May 27, 2015, the Crocus parties filed a complaint alleging that Marine Transport, a licensed NVOCC, and Solovyev, the former husband of the owner of Marine Transport, violated 46 U.S.C. § 41102(c) when handling three boats. Two boats were shipped from the United States to Dubai in two separate shipments, then returned from Dubai to the United States in one shipment. One boat was never shipped internationally. On June 17, 2016, the ALJ issued an Initial Decision dismissing the Complaint because Crocus did not prove that Respondents violated the Shipping Act on the two shipments from the United States to Dubai, Crocus did not prove that Respondents operated as an OTI on the one shipment from Dubai to the United States, and the Commission does not have jurisdiction over the claims regarding the boat that was not shipped internationally. On July 6, 2016, the Commission granted Crocus' motion to extend time to file exceptions. The time to file exceptions has been extended to October 27, 2016.

Goodwin International Ltd v. Air Sea International Forwarding Inc. and Ray Tobia [Docket No. 15-07]

On August 27, 2015, Goodwin International Ltd filed a complaint against Air Sea International Forwarding Inc. and Ray Tobia alleging that in connection with delivery of Goodwin's imports, Respondents violated 46 U.S.C. § 41102(c), 46 C.F.R. § 515.11(a)(1), and 46 C.F.R. § 515.31(e) by collecting from Goodwin "for the correct duty rate at 5%, [but]

paying the U.S. Customs through the Customs broker a lower rate at 2%, 3% or zero” and by “filing of false and fraudulent documentation.” On October 7, 2015, the Commission issued a Notice of Voluntary Dismissal.

KSB Shipping & Logistics LLC v. Direct Container Line a/k/a Vanguard Logistics [Docket No. 16-03]

On February 5, 2016, KSB Shipping filed a complaint against Direct Container Line alleging that Direct Container Line violated 46 U.S.C. § 41102(c) in connection with cargo shipped from the United States to Austria allegedly released to the consignee without obtaining the original bill of lading. On March 25, 2016, Respondent filed a motion to dismiss KSB Shipping’s complaint. On April 28, 2016, Respondent’s motion to dismiss was denied. On May 9, 2016, Respondent filed its verified answer and affirmative defenses to the complaint. On August 11, 2016, the parties filed a Joint Submission in Support of Motion for Settlement and Voluntary Dismissal. On August 24, 2016, an Initial Decision Approving Confidential Settlement and Dismissing Proceeding with Prejudice was issued. On September 25, 2016, a Notice Not to Review was issued by the Commission and the decision became administratively final.

T. Parker Host, Inc. v. Kinder Morgan Liquids Terminals, LLC, et al. [Docket No. 16-14]

On June 21, 2016, T. Parker Host, Inc. (TPH) filed a complaint against Kinder Morgan, Inc., and fourteen of its subsidiaries. The complaint alleged that Respondents violated 46 U.S.C. § 41106, by imposing a “Blacklist

Notice” banning TPH from physically accessing vessels moored at Kinder Morgan marine terminals and from coordinating port calls at Kinder Morgan marine terminals. On August 19, 2016, the parties filed a confidential Agreement settling their dispute and a joint motion asking for approval of the Agreement. On August 26, 2015, an Initial Decision approving the agreement and dismissing the proceeding without prejudice was issued. On September 27, 2016, the Commission issued a Notice Not to Review and the decision became administratively final.

Walter Muzorori v. Canada States Africa Lines Inc. (CSAL) [Docket No. 1949(F)]

Claimant Walter Muzorori filed a small claim for informal adjudication under Subpart S alleging that Canada States Africa Lines, Inc. (“CSAL”) violated 46 U.S.C. §§ 41102(b)(2) and 41102(c) when it did not honor an agreement to change the port of delivery of a shipment of two vehicles from Cape Town, South Africa, to Walvis Bay, Namibia. Respondent CSAL filed an objection to proceeding under Subpart S and asserted that there was no modification of the contract; the cargo was delivered to the port indicated on the bill of lading; and the expenses claimed were not established. An Initial Decision dated December 23, 2015, found that CSAL violated section 41102(c), did not find a violation of section 41102(b)(2), and awarded reparations of \$6,405.60. On January 5, 2016, the Commission issued a determination to review and on July 14, 2016, the Commission issued an Order affirming the Initial Decision.

LITIGATION

The following docket matters were litigated during the fiscal year in United States Courts of Appeals by the Office of the General Counsel (OGC) on behalf of the Commission.

Lisa Anne Cornell and G. Ware Cornell, Jr. v. Princess Cruise Lines, Ltd. (Corp), Carnival plc, and Carnival Corporation, [Docket No. 13-02], United States Court of Appeals for the District of Columbia Circuit

On January 30, 2013, complainants filed a complaint alleging that Respondent cruise ship lines refused to permit them to sail on their cruise ships in violation of section 10(b) (10) of the Act, 46 U.S.C. § 41104(10). The controversy stemmed from a dispute over a refund of money paid to a fine arts auction company that operates on the cruise ships after Lisa Cornell cancelled a purchase of works of art. Complainants had been involved in litigation for several years in Florida courts with the auction company, an affiliate of the cruise lines. Respondents filed a motion to dismiss or alternatively for summary judgment. On July 23, 2013, the ALJ issued a summary Initial Decision dismissing most claims, but found that respondent Princess violated section 10(b) (10) and entered a cease and desist order. The ALJ found that Complainants did not meet their burden of offering evidence that they had suffered actual injury as a result of the violation. On August 14, 2013, both parties filed exceptions to the decision. On August 28, 2014, the Commission issued an Order reversing in part, affirming in part, and vacating in part the Initial Decision and dismissing the complaint

with prejudice on the ground that Princess Cruise Lines and other respondents did not violate the Shipping Act. The Complainants filed a Petition for Review in the D.C. Circuit, and the parties filed briefs. Oral argument took place on October 2, 2015. On December 2, 2015, the D.C. Circuit denied the Petition for Review and afforded *Chevron* deference to the Commission's statutory interpretation.

Maher Terminals, Inc. v. The Port Authority of New York and New Jersey [Docket No. 08-03], United States Court of Appeals for the District of Columbia Circuit

Maher leases a marine terminal from the Port Authority, and on June 3, 2008, Maher filed a Shipping Act complaint alleging that the Port Authority: (a) violated 46 U.S.C. § 41106(2) by granting another terminal operator, APM Terminals North America, Inc. (APM) unduly and unreasonably more favorable lease terms than it provided Maher; (b) violated 46 U.S.C. § 41102(c) by failing to establish, observe, and enforce just and reasonable regulations regarding Maher's lease terms; and (c) violated 46 U.S.C. § 41106(2) by unreasonably refusing to deal with Maher regarding its request for parity with APM and its attempts to settle counterclaims from another case. The Commission granted partial summary judgment to the Port Authority on statute of limitations grounds. Maher petitioned the D.C. Circuit for review of this decision and petitioned the Commission for reconsideration. The D.C. Circuit dismissed the petition for lack of appellate jurisdiction,

and the Commission rejected the petition for reconsideration. Maher then filed a petition for review of the summary judgment and reconsideration orders, which the D.C. Circuit again dismissed for lack of jurisdiction based on a Commission motion to dismiss.

As to the merits, after extensive discovery and motion practice, the ALJ denied Maher's claims and counterclaims and dismissed them with prejudice on April 25, 2014. On December 17, 2014, the Commission affirmed the ALJ's decision. Maher petitioned the D.C. Circuit for review of the Commission's orders, which the Commission opposed. On March 22, 2016, the court issued an opinion granting Maher's petition and remanding the case to the Commission for additional explanation of its decision, although it did not vacate the Commission's order or reverse its decision. On September 30, 2016, after the Commission ordered the parties to file supplemental briefs, they moved for approval of a settlement agreement and dismissal of this case and Docket No. 12-02.

Adebisi A. Adenariwo v. BDP International, Zim Integrated Shipping, Ltd. and Its Agent (Lansal) et al. [Informal Docket Nos. 1920(I) and 1921(I)], United States Court of Appeals for the District of Columbia Circuit

The Claimant filed two claims on May 2, 2011, alleging violations of Section 10(d)(1), of the Shipping Act, 46 U.S.C. § 41102(c) for

problems arising from their shipment of concrete products equipment from Michigan to Lagos, Nigeria. After reviewing the evidence, the settlement officer dismissed Informal Docket No. 1920(I) on April 18, 2012, and on March 7, 2013, issued a decision in Informal Docket No. 1921(I) awarding the Claimant reparations in the amount of \$18,308.94, limiting the award based on the principles of mitigation. The Commission affirmed on February 20, 2014. On March 21, 2014, Claimant filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit. On December 15, 2015, the Court adopted the Commission's argument that the Court lacked jurisdiction over the dispute in Informal Docket No. 1920(I) because the petition was not timely filed, but the Court vacated the Commission's decision relating to mitigation of damages in Informal Docket No. 1921(I) and remanded with instructions to the Commission to award damages as supported by the record without applying the principle of mitigation. The case is pending before the Commission.

RULEMAKINGS

The Commission updated several of its rules this year to update its regulations and reflect statutory changes.

Attorney Fees, Docket No. 15-06

On March 1, 2016, the Commission issued a final rule amending the regulations governing the award of attorney fees in Shipping Act complaint proceedings, and its regulations related to Commissioner terms and vacancies. (81 FR 10508). The changes implement amendments made by the Howard Coble Coast Guard and Maritime Transportation Act of 2014.

Service Contract and NVOCC Service Arrangements, Docket No. 16-05

On February 29, 2016, the Commission sought comments on possible amendments to its rules governing Service Contracts and NVOCC Service Arrangements to update, modernize, and reduce the regulatory burden of the regulations. (81 FR 10198). The Commission issued a proposed rule on August 22, 2016. (81 FR 56559).

Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984, Docket No. 16-04

On February 29, 2016, the Commission sought comments on possible amendments to its rules governing agreements by or among ocean common carriers and/or marine terminal operators subject to the Shipping Act of 1984, and possible modifications to its rules on the delegation of authority and redelegation

of authority by the Director, Bureau of Trade Analysis. (81 FR 10188). The Commission issued a proposed rule on August 15, 2016. (81 FR 53986).

Update of Existing and Addition of New User Fees, Docket No. 16-06

On March 21, 2016, the Commission sought comment on amending its user fees. (81 FR 15002). The Commission issued a proposed rule on May 27, 2016. (81 FR 33637). On August 29, 2016, the Commission issued a final rule amending its user fees. The Commission raised certain fees and lowered others. The Commission also added an additional fee and repealed several other fees. (81 FR 59141).

Rules of Practice and Procedure; Presentation of Evidence in Commission Proceedings, Docket No. 16-08

On May 4, 2016, the Commission sought comment on a proposal to reorganize several subparts of its Rules of Practice and Procedure and revise its rules regarding presentation of evidence in Commission proceedings. (81 FR 26517).

Optional Method of Filing Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984, Docket 16-09

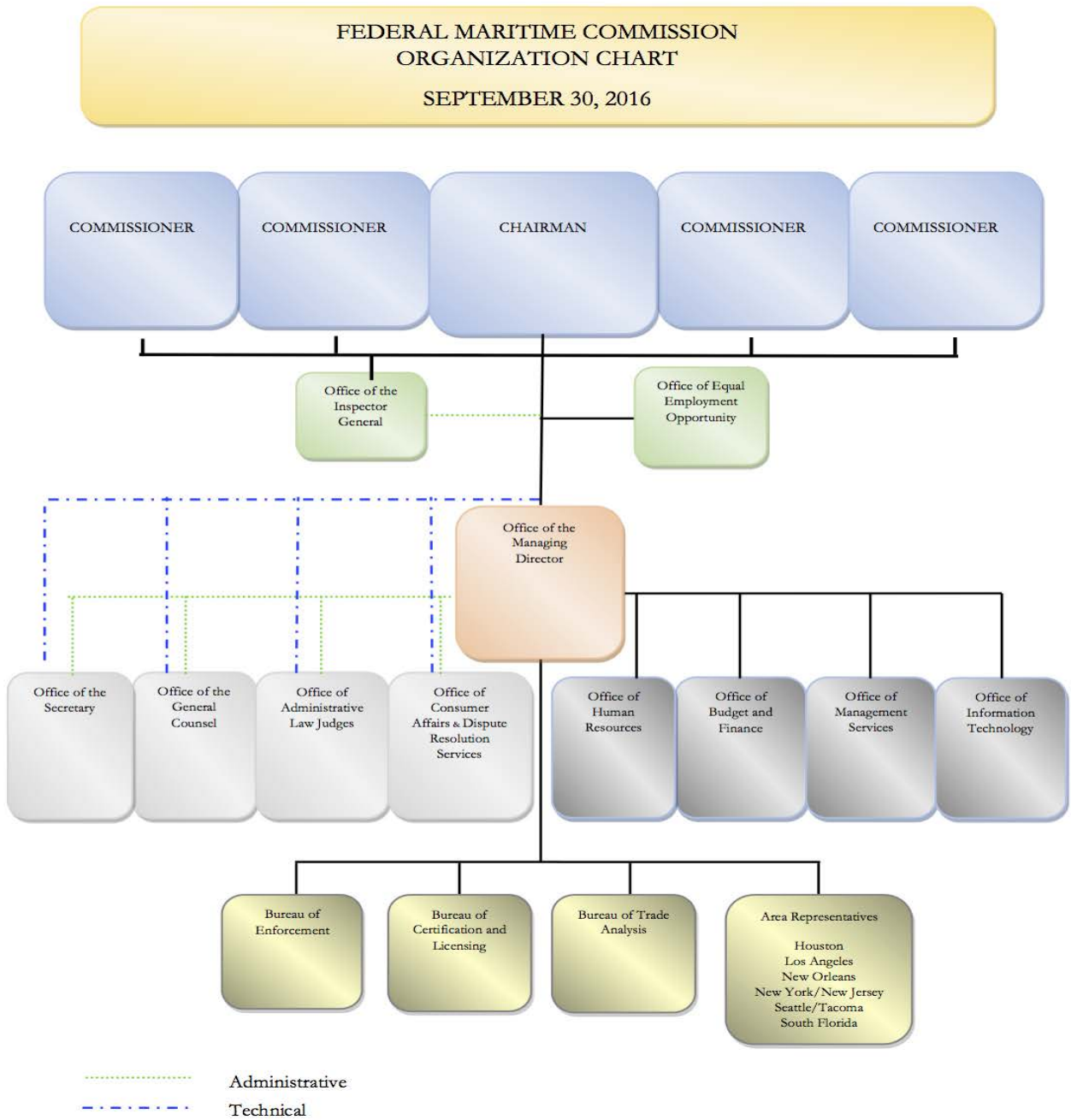
On April 27, 2016, the Commission amended its regulations relating to the method of filing Ocean Common Carrier and Marine Terminal Operator Agreements to provide for optional filing of these agreements through a new electronic filing system. (81 FR 24703).

Inflation Adjustment of Civil Monetary Penalties, Docket No. 16-13

The Commission issued an interim final rule to adjust the maximum amount of each statutory civil penalty subject to Federal Maritime Commission jurisdiction for inflation, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Public Law 11-74). (81 FR 42552). The adjustments became effective on August 1, 2016.

APPENDICES

A - FMC ORGANIZATION CHART



B - FMC SENIOR OFFICIALS - FY 2016

Chief of Staff.....	Mary T. Hoang
Counsel to Chairman Cordero.....	Rachit Choksi
Counsel to Commissioner Dye.....	Robert M. Blair
Counsel to Commissioner Lidinsky.....	Jewel Jennings-Wright***
Counsel to Commissioner Khouri.....	John A. Moran
Counsel to Commissioner Doyle.....	David J. Tubman, Jr.; Patrick Parsons*
Counsel to Commissioner Maffei.....	Zoraya B. De La Cruz
General Counsel.....	Tyler J. Wood
Secretary (Assistant).....	Rachel E. Dickon**
Chief Administrative Law Judge.....	Clay G. Guthridge
Director, Office of CADRS.....	Rebecca A. Fenneman
Director, Office of EEO.....	Howard F. Jimenez
Inspector General.....	Jon Hatfield
Managing Director.....	Vern W. Hill; Karen V. Gregory**
Deputy Managing Director.....	Peter King**
Director, Bureau of Certification and Licensing.....	Sandra L. Kusumoto
Director (Deputy), Bureau of Enforcement.....	Brian L. Troiano**
Director, Bureau of Trade Analysis.....	Florence A. Carr

*Assumed February 2016; **Assumed September 2016; ***Departed July 2016

C - STATEMENT OF APPROPRIATIONS, OBLIGATIONS, AND RECEIPTS

Appropriations

For necessary expenses of the Federal Maritime Commission, as authorized by §201(d) of the Merchant Marine Act, 1936, as amended (46 U.S.C. §307), including services as authorized by 5 U.S.C. §3109; hire of passenger motor vehicles as authorized by 31 U.S.C. §1343(b); and uniforms or allowances therefore, as authorized by 5 U.S.C. §§5901-5902, \$25,660,000: Provided, That not to exceed \$2,000 shall be available for official reception and representation expenses.

Public Law 114-113	\$25,660,000
Total Budgetary Resources	\$25,660,000

Obligations and Unobligated Balance:

Net obligations for salaries and expenses for the fiscal year ended September 30, 2016	\$25,574,275
--	--------------

Statement of Receipts:

Dositd with the General Fund of the Treasury for the Fiscal Year Ended with September 30, 2016	
Publications and reproductions, fees and vessel certification, and freight forwarder applications	\$221,552
Fines and penalties	\$3,485,000
Total general fund receipts	\$3,706,552

D - CIVIL PENALTIES COLLECTED

British Association of Removers Ltd.	\$80,000
Sparx Logistics USA Limited	\$80,000
Azap Motors Inc.	\$60,000
Wilhelmsen Ships Services, Inc.	\$35,000
Aromark Shipping LLC	\$32,500
Knopf International Inc.	\$24,000
N/J International Inc.	\$22,500
Orient Star Transport International Ltd.	\$135,000
Ba Shi Yuexin Logistics Develop. Co. Ltd.	\$100,000
Thornley & Pitt Inc.	\$65,000
Volkswagen Konzernlogistik GmbH. & Co.	\$170,000
Hecny Shipping Limited	\$300,000
Walker International Transportation LLC	\$60,000
Razor Enterprise Inc. dba Razor Cargo Services	\$50,000
American Global Logistics LLC	\$350,000
Round the World Logistics (USA) Corp	\$80,000
Baron Worldwide LLC	\$21,000
Posey International, Inc.	\$22,000

CL USA Inc.	\$22,500
Carlo Shipping International, Inc. dba CSI Logistics	\$32,500
China International Freight Co. Ltd.	\$100,000
King Ocean Services Limited, Inc.	\$50,000
Wallenius Wilhelmsen Logistics AS and Eukor Car Carriers	\$1,500,000
Total:	\$3,392,000