

FEDERAL MARITIME
COMMISSION

56TH ANNUAL
REPORT

FOR

FISCAL YEAR
2017

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LETTER OF TRANSMITTAL



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

March 31, 2018

To the United States Senate and House of Representatives:

On behalf of my fellow Commissioners, and pursuant to section 103(e) of Reorganization Plan No. 7 of 1961, and section 208 of the Merchant Marine Act, 1936, as amended, at 46 U.S.C. 306(a), I welcome the opportunity to share with you the Federal Maritime Commission 56th Annual Report for Fiscal Year 2017 (FY 2017). This report highlights the key accomplishments, initiatives, and relevant events that occurred between October 1, 2016 and September 30, 2017.

It is the mission of the Federal Maritime Commission to ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices. As we work to foster competition and integrity for America's ocean supply chain, we also focus on employing a minimum of government intervention and placing greater reliance on the marketplace. Every member of our FMC team remains dedicated to achieving this mission.

As highlighted in the Year in Review, the Commission took important steps in FY 2017 to reduce unnecessary regulatory costs and burdens on the regulated community. The Commission also facilitated the cooperation by stakeholders to develop non-regulatory commercial solutions to address bottlenecks in the international ocean supply chain. The Commission responded to ongoing structural changes in the international liner trade with aggressive agreement negotiations and enhanced monitoring programs.

I am proud of the Commission's work. Thank you for your attention and the Commission welcomes 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



Rebecca F. Dye
Commissioner
Appointed 2002
Term Expires 2020



Michael A. Khouri
Acting Chairman
Appointed 2009
Term Expires 2021



Mario Cordero
Commissioner
Appointed 2011
Term Expires 2019



Daniel B. Maffei
Commissioner
Appointed 2016
Term Expired 2017



William P. Doyle
Commissioner
Appointed 2013
Term Expires 2018

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:

- Ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices.

The Commission will achieve its Mission 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.

Competition and Integrity for America's Ocean Supply Chain

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

The Federal Maritime Commission (FMC or Commission) is the agency responsible for regulation of ocean borne transportation in the foreign commerce of the United States for the benefit of U.S. exporters, importers, and the U.S. consumer. The FMC plays a vital role in ensuring competition and integrity for America's ocean supply chain and we are proud of our work and contributions that you will find summarized in this 56th Annual Report.

During Fiscal Year 2017 (FY 2017), the Commission worked diligently to faithfully administer the Shipping Act of 1984 while employing a minimum of government intervention and placing greater reliance on the marketplace.

Throughout FY 2017, the Commission aggressively pursued ways to reduce unnecessary regulatory burdens and costs on the regulated community as mandated by the Shipping Act of 1984. Implementing Executive Order 13777, the Commission designated a Regulatory Reform Officer to lead a Regulatory Reform Task Force, charged with identifying outdated, cumbersome, ineffective, or expensive rules and regulations that can be amended or eliminated. While the work of the Task Force is ongoing, the Commission has already taken steps to amend regulations related to Service Contracts, Negotiated Rate Arrangements and NVOCC Service Arrangements to eliminate or reduce unnecessary filing obligations. Global supply chain efficiency will benefit through lower costs, which should result in savings realized by our U.S. exporters and importers.

In addition, through the work of the Supply Chain Innovation Teams led by Commissioner Rebecca F. Dye, the Commission has taken a direct role in facilitating cooperation by stakeholders to cooperatively develop non-regulatory commercial solutions to address supply chain bottlenecks that impede the flow of international ocean cargo. Beginning in May 2016, Commissioner Dye assembled two teams—one focusing on import supply chains and the second focusing on export supply chains. These teams were charged with identifying practical, achievable and private sector driven system process innovations that would lead to actual improvements in supply chain efficiency, resiliency, and competitiveness. Their conclusions that improved sharing of meaningful and actionable information demonstrates the potential of a National Seaport Information Portal.

In fulfilling its mission to ensure a competitive and reliable international ocean transportation system, the Commission continued in FY 2017 to address challenges presented by ongoing structural changes in the international liner trade. The ocean shipping industry continued a trend from the prior year with further consolidation among the lines. We are on a path to see the top 20 ocean carriers at the end of 2015 consolidated into a projected ten companies, operate in three global alliances, by mid-2018.

Responding to these changes, the Commission modified its economic analysis of agreements filed with the Commission to better understand competitive impacts of these competitor arrangements on the marketplace.

The Commission also enhanced its data collection and agreement monitoring to better understand performance and trends in the marketplace. When necessary to address competition concerns, the Commission continued its recent practice of demanding changes to agreement language. We also changed the internal procedures and processes for how an agreement is reviewed by the Commission to make the most efficient use of the statutorily mandated 45 day agreement review period.

In furthering its mission to protect the public from unlawful, unfair, and deceptive practices, the Commission crossed an important milestone this year with the successful launch of the Ocean Transportation Intermediary (OTI) triennial update process. This is an online process where the “responsible parties”

of an OTI update information related to ownership, corporate officers, business locations, changes in affiliation or branch office. Moving to a web-based update structure not only aids the Commission in meeting its mandate to safeguard the public, it significantly reduces the compliance burdens and costs upon the regulated entities.

Looking forward, as the Commission moves into FY 2018, we will finalize a new Strategic Plan for 2018-2022. This document will guide our work into the future as the Commission continues its important work to ensure competition and integrity for America’s ocean supply chain, while minimizing government intervention and placing greater reliance on the marketplace.

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, 46 U.S.C. §§ 40301–40303, 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.

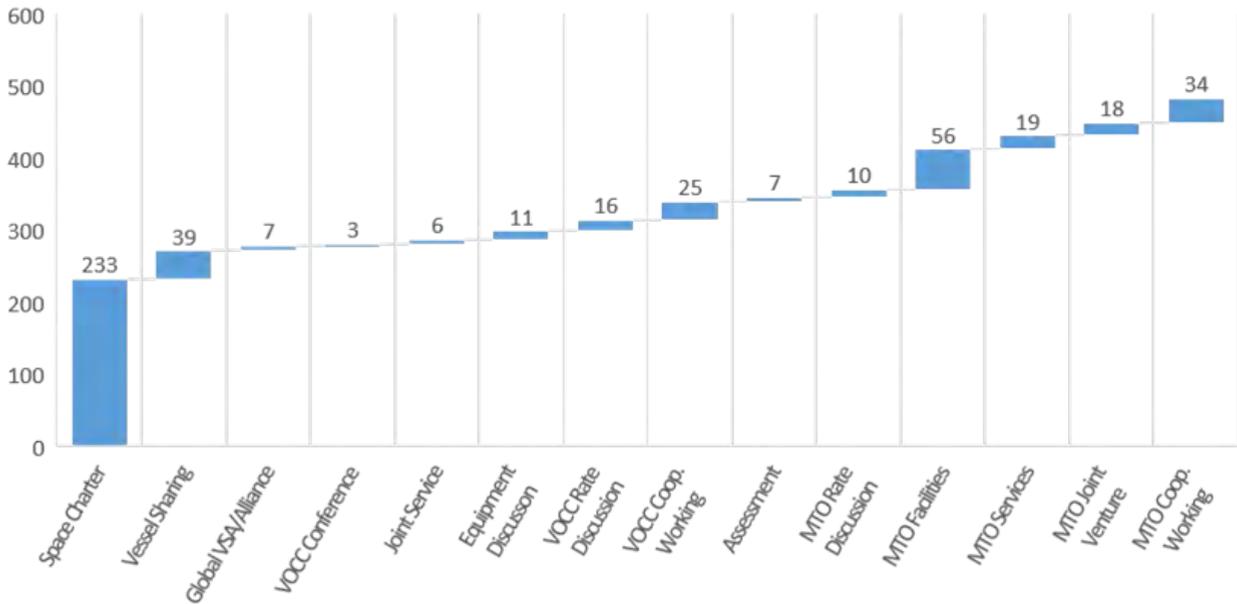
Except for certain exempted categories, agreements among marine terminal operators (MTOs) and among one or more MTOs and one or more ocean common carriers also must be filed with the Commission. Generally, an agreement becomes effective 45 days after filing, unless the Commission has requested additional 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 2017, the Commission received 144 agreement filings, including both new agreements and amendments to existing agreements. This level of activity is notable as it is the first time in several years that the number of agreement filings has decreased.

This decline may be attributed to the global redeployment of vessel capacity and service reconfigurations that occurred with the shift from four to three in the global ocean carrier alliances. As carriers made operational adjustments consistent with their respective global alliance agreements, there may have been less need to file more geographically narrow space charter and vessel sharing agreements than under the previous alliance structure.

FY 2017 was the first year that the Commission primarily utilized the new eAgreements electronic agreement filing and review system for ocean common carrier agreements. The deployment of this system has proven to be well received by the industry, with more than 90 percent of carrier agreement filings now submitted electronically. The online system has streamlined FMC business processes by reducing initial agreement intake time resulting in faster public access to pending filed agreements - significantly reducing administrative costs for both the industry and Commission staff. In FY 2018, the FMC intends to conduct a full audit of all MTO agreements currently on file, a process that began in FY 2017. Once compliance with all applicable regulations is ensured, the Commission will upload those agreements to the new eAgreements system. In doing so, the benefits described above will be extended to all agreements, not just those between and among vessel operating common carriers, and provide 24/7 public access to these filings.

Agreements in Effect at end of FY 2017



TYPES OF AGREEMENTS

When launching the eAgreements system in FY 2016, the Commission introduced a method of categorizing ocean common carrier agreements that reflected changes in the types of agreements currently utilized by the ocean transportation industry, recognized trends among types of agreement filings, and provided more refined information to users. The current categories are summarized below.

Space charter agreements authorize an ocean common carrier(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 or strings.

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. While there are currently seven global alliance agreements on file with the Commission, only three are jointly/collectively operating container services in the U.S. trades.

Vessel operating common carrier (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. There are currently no conference agreements on file that cover the movement of general commercial cargo. The only conference agreements currently on file with the Commission 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 that are parties to 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.

VOCC rate discussion agreements focus on any type 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.

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 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 concerning marine terminal services provided to and paid for by a shipping line. These services include: dockage, free time, handling, heavy lift, loading and unloading, terminal storage, usage, wharfage, wharf demurrage, and checking (the service of counting and checking cargo against the shipping documentation), 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 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 subject to the Shipping Act, but do not fall precisely within the parameters of any of the above specifically defined agreement categories.

As part of the comprehensive audit of all MTO agreements on file with the Commission and continuing updates to complete the eAgreements system during the fiscal year, Commission staff identified agreements that have been re-categorized, terminated of their own accord, or are otherwise no longer active. These efforts will lead to a more accurate representation of active agreements on file with the Commission.

As in previous years, the vast majority of VOCC agreements in effect at the end of FY 2017 were either slot charter or vessel sharing agreements, which collectively comprised approximately 82 percent of all VOCC agreements. With respect to VOCC rate discussion

agreements, recent amendments to those agreements reflect the accelerated departure of carrier members, suggesting that rate discussion agreements have become less effective in bringing about carrier cooperation to sustain freight rate levels in the face of continued excess capacity. The majority of agreements filed with the Commission historically have concentrated on the container industry, however increasingly, a significant portion of VOCC agreements are focused on other areas of ocean transportation, most notably, on the Roll on/Roll off (Ro/Ro) trade. Of the 233 active space charter agreements on file, over 40 percent are specific to the Ro/Ro trade.

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 determine whether cooperation contemplated between or among ports, ocean common carriers, and/or MTOs is likely to or has resulted in an unreasonable reduction in service or increase in rates. When the Commission is unable to determine the likely competitive impact of a proposed agreement within the 45-day statutory review period, based on an analysis of economic data and information filed with the agreement, independent trade data sources, and other commercial data, the Commission may issue a request for additional information (RFAI) to the agreement parties to obtain additional data and/or clarification on unclear or indefinite proposed agreement authority. The Commission has the authority to reject a pending agreement filing if it determines

the filing fails to meet the Shipping Act and Commission regulations requiring filed agreements to be clear and definite, or if the filing is outside the Commission's jurisdiction.

The following are examples of agreements filed with the Commission during the fiscal year, including specific Commission monitoring and actions taken to ensure compliance with the Shipping Act.

West Coast MTO Agreement (WCMTOA):

Since 2005, under the authorities of this agreement, the twelve container terminals that presently operate at the Ports of Los Angeles and Long Beach have collaborated to provide an off-peak gate program called PierPASS. This program charges a traffic mitigation fee (TMF) to users who access these terminals during the weekday daytime (peak) shift to help offset the cost of providing a second

(off-peak) night or weekend shift. The Commission examines activities conducted by WCMTOA under the section 6(g) standard of the Shipping Act. Notably, during the fiscal year, Commission staff regularly met with shippers, motor carriers, intermodal equipment providers, and trade associations who have raised concerns about existing and possible future programs under the agreement. Of major concern to the Commission, as well as stakeholders, have been annual increases in the TMF, a lack of transparency about the cost to operate the off-peak shifts, the revenue collected from the TMF, how that revenue is re-distributed among the terminals, and the quality of services made available during the second shift. At the urging of the Commission during the fiscal year, WCMTOA commissioned and made public an independent analysis of the PierPASS off-peak program cost calculation conducted by KPMG Advisory Services. Although vulnerabilities in PierPASS's cost calculation methodology were highlighted in KPMG's report, all of the Commission's concerns were not adequately addressed. The Commission subsequently issued updated monitoring requirements focusing on specific areas of concern and further refined those requirements once updated reports were received. During this period, PierPASS announced its intention to retain a transportation consulting firm to evaluate two alternative models to the current off-peak program; namely, truck appointments combined with a flat fee on both day and night moves, and port-wide peel-off, in which trucks operate like taxis in an airport queue by picking up the next container in the stack. A contract was recently awarded to evaluate these alternative business models.

Port of New York/New Jersey Equipment Optimization Discussion Agreement:

This Agreement, FMC Agreement 012445, between the port authority and the Ocean Carrier Equipment Management Association (OCEMA) carriers, was rejected by the Commission on January 9, 2017. A prior filing, FMC Agreement 012420, had been withdrawn by the parties after the Commission issued an RFAI to collect information needed for the competition analysis of the Agreement. Outstanding issues identified in the earlier agreement filing had not been addressed by the parties, resulting in the Commission's rejection of the subsequent agreement for failure to meet the clear and definite standard. The parties later filed a more narrowly tailored agreement, Agreement No. 012484, and the Commission took no action to prevent or delay its effectiveness.

Tripartite Agreement:

Filed on March 24, 2017, this Agreement sought to authorize the three largest Japanese container carriers, K Line, Nippon Yusen Kaisha and Mitsui O.S.K. Lines, to engage in limited cooperation for transition planning purposes in advance of the merger of their container operations into a single entity in early 2018, to be known as ONE. The Shipping Act does not provide the Commission with authority to review and approve mergers. Thus, after careful consideration, the Commission determined that the parties to the Tripartite Agreement were ultimately establishing a merged, new business entity and that action is among the type of agreements

excluded from FMC review. Consequently, the Commission rejected the Tripartite Agreement on jurisdictional grounds on May 2, 2017.

East Coast Gateway Terminal Agreement:

This Agreement between two major U.S. East coast port authorities, the Virginia Port Authority and Georgia Ports Authority is an example of an evolving shift away from traditional MTO agreement filings that set port charges, such as, dockage, wharfage, and demurrage, toward broader operational cooperation. The Agreement authorized the ports to engage in discussions about marketing and commercial opportunities regarding carriers, operating systems and cargo handling. The ports sought this agreement authority to allow them to work together to better serve their customers in light of changing market conditions, the deployment of larger vessels, and the introduction of new carrier alliances, with the aim of enhancing the competitiveness of both ports.

Transpacific Stabilization Agreement (TSA):

As part of a 2003 settlement agreement between the Commission and TSA members, the Commission holds biannual meetings 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 to ensure transparency and compliance with the Shipping Act. TSA is also required to provide periodic reports for review and analysis regarding each member's performance and activities. With transpacific rate levels remaining low, in April 2017, the TSA members discontinued issuing general rate increase guidelines for the upcoming shipping season. The agreement also lost three of its members: NYK and Hanjin withdrew in November 2016, and Zim resigned in December 2016, leaving 10 remaining agreement carriers.

CARRIER ALLIANCE AGREEMENTS

At the end of FY 2017, the three global carrier alliances, namely, THE Alliance, the OCEAN Alliance and the 2M Alliance, controlled 91 percent of vessel capacity in the two largest U.S. trades, the transpacific and the transatlantic. The transpacific trade encompasses cargo moving between Asia and the U.S., while the transatlantic trade includes cargo moving between Europe and the U.S. The current configuration of ocean carrier alliances have continued to grow their market shares in these trades, in many cases through acquisition of other carriers. The three alliances collectively hold market shares of 94 percent of cargo moving in the transpacific trade and 87 percent in the transatlantic at the end of the fiscal year.

A number of factors have been converging over the last several years to prompt carriers both to reconfigure their alliance arrangements under the Shipping Act and to consolidate their operations. While cargo volumes have increased in recent years, the rate of increase has not returned to the stronger levels of growth that existed prior to the 2008-2009 global recession. The slower growth in demand for liner shipping services and the ongoing deployment of mega container ships have impacted the financial stability of liner carriers. Vessel capacity continues to be more than sufficient to meet demand. The ongoing imbalance of vessel supply over demand continued to place downward pressure on ocean freight rates during the fiscal year. Globally, during FY 2017, the average utilization of vessel capacity was 82 percent in the

headhaul trades (trade lanes generating the highest revenues, and generally those with the greater cargo volume) and 47 percent in the backhaul trades (trade lanes that carry less cargo volume on the return leg).

As a result of downward pressure on ocean freight rates and the resulting financial pressures for carriers, FY 2017 witnessed a continued wave of mergers, acquisitions and joint ventures; as well as increased cooperation among ocean carriers subject to the Shipping Act. During the fiscal year, Hapag Lloyd acquired United Arab Shipping Company, Maersk Line began the process of acquiring Hamburg Süd, and COSCO announced plans to purchase OOCL. The three Japanese carriers, K Line, MOL, and NYK, plan to merge their liner shipping services effective April 2018. In addition, carriers reconfigured their global alliance arrangements and services from four agreements (2M, CKYHE, G6, and Ocean 3) to three agreements (2M, OCEAN Alliance, and THE Alliance), as discussed below.

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

The 2M Alliance consists of Maersk Line and Mediterranean Shipping Company. The Commission monitors the activities of the parties in the alliance, and their capacity and utilization levels. The parties also provide advance notice of any planned capacity reductions in the U.S. liner trade. In FY 2017, 2M entered into a slot exchange and purchasing agreement with Hyundai Merchant Marine in the liner trades between the U.S. and Asia,

and Europe. Once Maersk's acquisition of Hamburg Süd is complete, it will be folded into the alliance as well.

OCEAN Alliance Agreement:

The OCEAN Alliance between COSCO, CMA CGM, Evergreen Line, and OOCL was filed with the Commission in July 2016. After a request for additional information and extensive regulatory review, the agreement became effective under the Shipping Act on October 24, 2016. The agreement authorizes the parties to share and charter vessel space among each other, and to form and operate liner services the trade between the U.S. and Asia on the one hand and the U.S. and Europe on the other. The Commission monitors the activities of the parties and their vessel capacity and utilization levels along with any planned vessel capacity reductions in the U.S. liner trades covered under the agreement. In April 2017, the parties implemented their "Day One" product, consisting of 23 weekly U.S. liner services. In July 2017, COSCO reported its plan to buy OOCL, with the help of Shanghai International Port Group. Subject to regulatory approvals, the deal would maintain both carriers' brands.

THE Alliance Agreement:

THE Alliance between Hapag Lloyd, K Line, MOL, NYK, and Yang Ming was filed in November 2016, and after the Commission's review and competitive analysis, the agreement took effect on December 19, 2016. The agreement authorizes the parties to share and charter vessel space among each other, and to form and operate liner services in the U.S. liner trades. Similar to the OCEAN Alliance, in April 2017, THE Alliance parties launched 23 weekly vessel strings serving the U.S. liner trades with Asia and Europe. As a group, THE Alliance parties also entered into separate space charter agreements with Zim, CMA CGM, and OOCL. Most recently, in September 2017, the parties amended their alliance agreement to provide for a contingency fund to protect their operations and mitigate potential disruptions in cargo flow in the event of a parties' insolvency. As with the other major alliances, the Commission monitors THE Alliance parties' activities under the agreement, along with their capacity, utilization, and planned capacity reductions in the U.S. liner trades.

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, 5,547 tariff location addresses were posted. Of that number, 5,381 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 using NVOCC Negotiated Rate Arrangements (NRAs). As compared to the regulatory requirements associated with rate tariffs, NRAs are a less burdensome commercial pricing option which NVOCCs have indicated save them both time and money. At the end of the fiscal year, nearly 1,550 active NVOCCs or 29 percent of all 5,381 NVOCCs, 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. The majority of NVOCCs which implemented NRAs continue to 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 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 47,110 new service contracts, compared to 52,968 in fiscal year 2016, and 766,329 contract amendments, compared to 734,106 in FY 2016. During the fiscal year, the Commission implemented new regulatory flexibilities for service contracts through its Docket 16-05 rulemaking (see discussion below) to address commercial issues raised by contracting parties without compromising regulatory oversight.

Service Contracts and NSAs filed in FY 2017

Newly filed service contracts: 47,110

Amendments to service contracts: 766,329

Newly filed NSAs: 969

Amendments to NSAs: 1,778

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 969 NSAs, compared to 984 in fiscal year 2016, and 1,778 NSA amendments, compared to 1,814 in fiscal

year 2016. During the fiscal year, a total of 97 NVOCCs took advantage of the ability to use NSAs to conclude their transportation arrangements with shippers. While 1,881 NVOCCs have registered with the Commission to file NSAs, only 282 NVOCCs (approximately 15 percent) have filed an NSA. The additional regulatory flexibilities introduced in the Commission's Docket No. 16-05 rulemaking should enhance NSAs as an option for NVOCCs and their shippers.

Marine Terminal Schedules

An MTO may voluntarily 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, 255 MTOs maintained an active Form FMC-1, which reports the electronic location of an MTO's terminal schedule, with 156 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 F. 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 initiative that resulted was an outgrowth of the Commission's previous work on port congestion issues in the fall of 2014.

During 2016, the supply chain initiative's initial phase focused on U.S. import trades associated with America's three largest container seaports – the ports of Los Angeles, Long Beach, and New York/New Jersey. At the close of phase one, Commissioner Dye issued an interim report to the Commission.

In 2017, phase two of the initiative – dealing with export supply chains and the ports of Charleston, Houston and Seattle/Tacoma – was undertaken and completed.

On July 11th and 12th, the three export supply chain teams met in Washington, D.C.

During phase two, Commissioner Dye convened three teams to identify process innovations that would enhance export supply chain reliability and resilience. The export teams were composed of participants from seven to twelve different supply chain organizations, including public port authorities, marine terminals, beneficial cargo owners, ocean transportation intermediaries, liner shipping companies, drayage trucking firms, longshore labor, railway companies and chassis providers.

As with the import teams, the export team process encouraged creative interaction and candid dialogue and debate. The Teams were encouraged to suspend their individual organizational perspectives and address the international supply chain as a unified system. In addition, 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. Phase two also included interviews with the CEOs of public port authorities for the top U.S. container ports.

By early fall, the export teams completed their lists of: the critical information needs of the various actors; the likely sources of that information; optimal timing requirements; and the expected operational improvements likely to result from the parties' access to that critical information.

The export teams, like the import teams that preceded them, focused on enhanced supply chain visibility. Availability of timely and accurate critical information, they agreed, was needed to promote supply chain efficiency.

They concluded that timely access by all supply chain actors to relevant critical information via a national seaport portal would be their overall goal. Viewing information technology as "the new infrastructure," the teams addressed 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.

The work of both the import and export teams was summarized in the Final Report prepared by Commissioner Dye and presented to the Commission on December 5,



Commissioner Rebecca F. Dye

2017. "Supply Chain Innovation Teams Initiative: Final Report" presents the teams' view that greater visibility across the American freight delivery system was the one operational innovation likely to most increase U.S. international supply chain performance.

The report also highlights the concept of a common National Seaport Information Portal for critical shipment information, possibly organized by business dashboards tailored to the needs of each supply chain actor.

The Final Report is posted on the Commission's website and copies were provided to interested and relevant Congressional offices and committees, and other federal agencies.

INTERNATIONAL COOPERATION

Shipping Policy Discussion with Maritime Attachés

In March 2017, Acting Chairman Khouri and Commissioners Dye, Doyle, and Maffei met with nearly 20 officials from 13 different embassies at the Federal Maritime Commission. This group of attachés, who handle maritime affairs for their respective nations, is commonly referred to as the "Cotton Club." Participants discussed the Commission's history, jurisdiction, and mission, the Commission's Supply Chain Innovation Teams Initiative, the role and activities of the Cotton Club, business trends in the container shipping industry, international trade matters, and the global economic outlook. The attachés attending represented the nations of Belgium, Denmark, Finland, France, Germany, Greece, Italy, the Netherlands, Norway, Poland, Spain, Sweden, and the United Kingdom.

Third Global Maritime Regulatory Summit

In April 2017, Acting Chairman Khouri and Federal Maritime Commission General Counsel Tyler Wood participated in the Third Global Maritime Regulatory Summit in Beijing, China, with representatives from China's Ministry of Transport and the European Commission's Directorate General for Competition. The summit was part of ongoing consultations in which participants discussed

container shipping industry trends and developments. Other discussion topics included consolidation among the ocean liners, new carrier alliances, addressing carrier insolvencies, and other policy issues specific to the governments participating in the summit.

U.S.-U.K. and U.S.-EU Bilateral Maritime Consultations and the London International Shipping Week 2017

In September 2017, Acting Chairman Khouri and the General Counsel traveled to London, England, to attend and participate in the London International Shipping Week, as well as to represent the United States government at two separate bilateral maritime consultations with the United Kingdom and the European Union. Acting Chairman Khouri met with representatives from the United Kingdom Department for Transport for consultative discussions involving the state of the shipping industry, port and infrastructure development, trends in technology and vessel operations, and strengthening maritime cooperation between the United Kingdom and the United States. Acting Chairman Khouri also spoke at a luncheon where he discussed the role the Commission plays in maintaining a competitive ocean transportation services marketplace.

Acting Chairman Khouri met with Magda Kopczynska, the European Commission

Director for General Mobility and Transport, to exchange views and information on a variety of industry and policy matters. The Acting Chairman and General Counsel also met with Secretary General Lim Ki-Tack of the International Maritime Organization.

Global Liner Shipping Asia Forum in Singapore

In September 2017, Commissioner Dye participated in the Asia Forum on Global Liner Shipping where she spoke about the FMC's

efforts, through the Supply Chain Innovation Teams initiative, to promote enhanced supply chain reliability and resilience in the U.S. trades. She also discussed FMC regulatory reform plans to identify, revise, or eliminate ineffective or unnecessarily burdensome regulations. The Asia Forum dealt with a number of other topics including new digital technologies, shipping investment, and consolidation and competition.



Acting Chairman Michael Khouri with International Maritime Organization Secretary-General Lim Ki-Tack in London

Global Liner Shipping Conference in Hamburg

In May, 2017, Commissioner Daniel B. Maffei presented at the Global Liner Shipping Conference in Hamburg, Germany. The Commissioner's presentation provided an overview of the United States' (U.S.) legislative and regulatory framework, as well as discussing major changes in the maritime industry such as the new carrier alliances and consolidation in the industry. While in Europe the Commissioner also visited the ports of Hamburg and Rotterdam, where he met with

port officials and discussed the role of those major transshipment ports in ocean trade with the U.S. and global trading networks.

FMC-Japan Fair Trade Commission Senior Staff Consultative Meeting

After attending the Global Regulatory Summit in Beijing in April 2017 (see above), the General Counsel traveled to Tokyo, Japan to meet with representatives from the Japan Fair Trade Commission. The General Counsel and JFTC representatives had a wide-ranging dialogue about industry conditions and discussed in depth the competition concerns within the ocean liner trades.

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

There are two types of OTIs that serve as transportation middlemen for cargo moving in the U.S.-foreign oceanborne trades: NVOCCs and ocean freight forwarders (OFFs). An NVOCC is a common carrier that holds itself out to the public to provide ocean transportation and 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

Licensing Activity in FY 2017

- New OTI applications accepted: 360
- Amended applications accepted: 341
- New OTI licenses issued: 271
- Amended licenses issued: 98
- Licenses revoked: 331
- New registrations accepted: 199

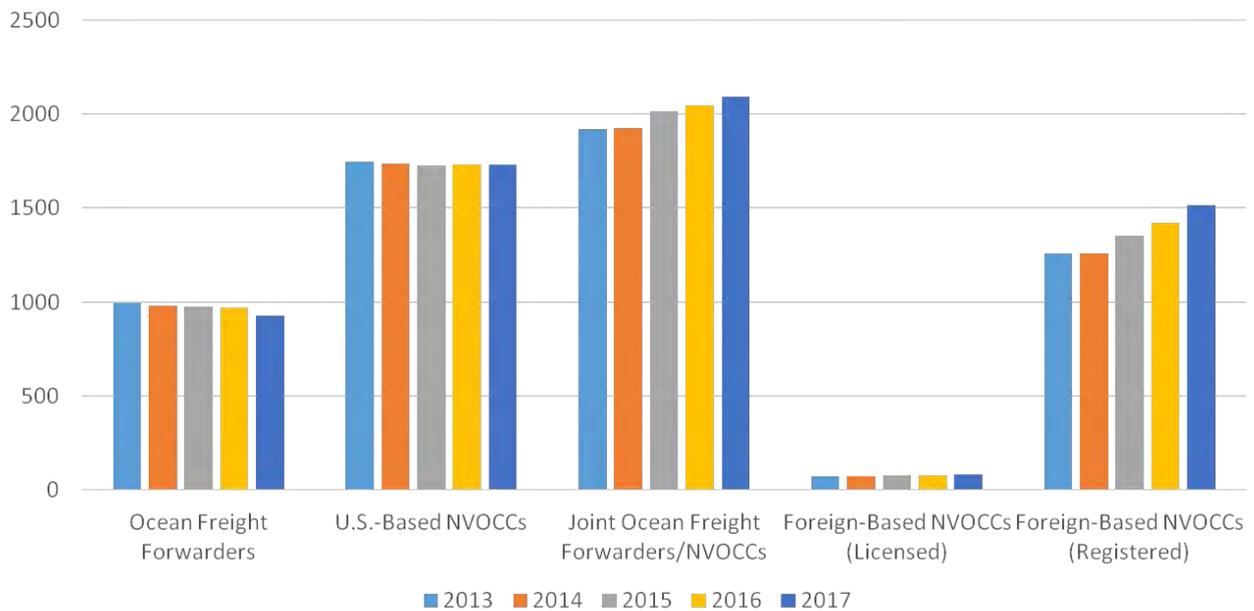
OTI Bond Coverage

- U.S.-based licensed NVOCCs and OFFs aggregate evidence of financial responsibility: \$438 million
- Foreign-based NVOCCs aggregate evidence of financial responsibility: \$234 million

cargo with a common carrier on behalf of shippers and processes documents related to U.S. export shipments.

All NVOCCs and OFFs located in the U.S. must be licensed by the Commission and must establish financial responsibility. In FY 2017, licensed NVOCCs and OFFs had financial responsibility in the form of surety bonds on file with the FMC in excess of \$438 million. NVOCCs doing business in the U.S.-foreign trades but located outside the U.S. (foreign NVOCCs) may choose to become

Active OTI Licenses and Registrations by Year



FMC-licensed, but are not required to do so. Foreign-based NVOCCs must register with the Commission and establish financial responsibility if not licensed under the FMC's program. Foreign NVOCCs (registered and licensed) had approximately \$234 million in surety bonds on file with the FMC in FY 2017.

The triennial update program for OTIs licensed with the FMC was successfully launched in March 2017. Approximately 1,600 OTI licenses will be updated annually. As planned, 17 percent or 804 of the 4,839 FMC-licensed OTIs completed their renewals in the first 6 months of this new program. The update process is online and in most cases takes only 5 minutes – a user-friendly process facilitated by pre-populating the outgoing FMC inquiry with the OTI's information currently on file for quick verification.

The update process is already improving the accuracy of OTI records, and timeliness of reporting material changes in ownership

and operations, for the benefit of OTI sureties, carriers and the shipping public. During this initial 6-month period, the following updates or changes to information on file with the Commission were reported during the license update process: 613 ownership and/or officer changes, 220 affiliation changes, 99 branch office changes, and 118 business address changes.

Foreign-registered NVOCCs must also update their registrations every three years. In FY 2017, 346 updates were processed.

NVOCCs wishing to serve in the U.S.-China trade may file an Optional Rider for

Triennial Update

- Licenses updated: 804
- Registrations updated: 346

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. This rider is

accepted as a convenience to U.S. NVOCCs. During the fiscal year, 50 China Bond Riders were received and 37 were terminated. At the close of the fiscal year, 463 U.S. NVOCCs held China Bond Riders, with aggregate evidence of financial responsibility totalling \$23.2 million.

PASSENGER VESSEL PROGRAM

The passenger vessel operator (PVO) program administered by the Commission (46 U.S.C. §§ 44102-44103), requires 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 2017, 227 vessels owned by 47 passenger vessel operators were certified under the PVO program. The combined evidence of financial responsibility for non-performance of transportation for all cruise vessels in the program is \$615.8 million. Under the Commission's program, there is \$728 million in aggregate financial responsibility for casualty coverage. During the fiscal year, 12 new performance certificates and 13 casualty certificates were issued.

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 cap adjustment based on the CPI-U was completed in 2017. Based on the adjustment formula, the adjusted cap figure of \$30.4 million was rounded to the nearest \$1 million, and the maximum coverage requirement remained \$30 million per cruise line. The next adjustment is set for 2019.

PVO Participants

- 47 PVOs certified
- 227 vessels certified
- 12 new Performance Certificates issued in FY 2017
- 13 new Casualty Certificates issued in FY 2017

PVO Financial Coverage

- Aggregate evidence of financial responsibility for nonperformance: \$615.8 million
- Aggregate evidence of financial responsibility for casualty: \$728 million



Commissioner Daniel B. Maffei and Area Representative Shadrack Scheirman with Officials of the Port of Seattle

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 411 *ombuds* matters: 138 involved household goods; 137 relating to commercial cargo; and 136 cruise matters. Nine mediation matters were concluded.

In one example, notable for its monetary value, a shipment of hundreds of containers of perishable U.S. agricultural exports was at risk of non-delivery. The agricultural exporter shipped through an NVOCC that became

insolvent, resulting in liens being placed on the containers and subsequent refusal to release by the VOCC. The estimated value of the cargo shipped through just one of the several VOCCs involved was estimated to be over \$500,000 USD. CADRS successfully mediated between the VOCC and the exporter to allow for the release of the shipments.

The Commission, through CADRS continued to assist shippers that encountered challenges involving the Hanjin bankruptcy, handling a total of 69 related matters.

CADRS staff continued leadership roles in the Interagency ADR Working Group, including leading a long-term project to develop a Spectrum of Collaborative Processes to meet the needs of federal agencies exploring and implementing new collaborative dispute prevention and resolution tools. The spectrum includes various agency objectives, sample processes, available ADR tools, and the role of the neutral. A presentation on the use of the Spectrum was provided during the fiscal year to other federal agencies.

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) represent the FMC at regional field offices located in Southern California, South Florida, New Orleans, New York/New Jersey, Houston and Seattle/Tacoma. 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 industry presentations in their regions, explaining OTI licensing, bonding requirements, and compliance with tariff filing requirements and provisions applicable to NRAs and NSAs. The ARs conducted investigations of regulated entities, both VOCC and OTIs, when required to protect the shipping public from deceptive and unfair trade practices.

ENFORCEMENT, AUDITS, AND PENALTIES

The Commission's Bureau of Enforcement (BOE) staff and ARs work to gain 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, misrepresentation of customer accounts, 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, 17 enforcement cases were pending final resolution, BOE was party to 2 formal proceedings, and there were 14 matters pending which BOE was monitoring or providing internal legal advice. Inclusive of cases opened at headquarters, the ARs referred 19 new investigative matters for enforcement action or informal compromise; 16 matters were compromised and settled, administratively closed, or referred for formal proceedings; and 20 enforcement cases were pending resolution at fiscal year's end. BOE added 3 liaison cases for monitoring, concluded its liaison activities in 5 matters, and 12 matters remained pending at the end of the fiscal year. Also, 1 formal proceeding was completed, and 1 formal proceeding was pending at the end of the fiscal year.

Major investigations undertaken or completed during the fiscal year addressed VOCC operations pursuant to agreements that were not filed with the Commission; deceptive or fraudulent practices of certain OTIs operating primarily in the China-U.S. inbound trades; and U.S.-based, licensed OTIs unlawfully facilitating the operations of unlicensed entities acting as OTIs by accepting cargo for ocean transportation from unlicensed companies.

In an Initial Decision issued June 29, 2017, an FMC Administrative Law Judge ordered the revocation of the OTI license of Washington Movers, Inc., an NVOCC, on the basis of the Federal felony conviction of its former owner President and Qualifying Individual (QI). The QI was convicted of attempting to smuggle weapons to a foreign country, which crime was facilitated through the use of the company's NVOCC status. The final decision remains pending with the Commission.

The *Formal Investigations* section of this report includes more information on formal proceedings concluded during the fiscal year. Cumulatively, the Commission collected nearly \$1.9 million in penalties which were deposited directly into the U.S. Treasury General Fund during FY 2017. 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 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, 157 audits

were commenced, 143 audits were completed (including audits carried over from FY 2016), and 14 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.

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 fifth 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 - a database used 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

FMC works with Federal Partners to Protect the Public:

- Federal Motor Carrier Safety Administration
- Federal Bureau of Investigation
- Bureau of Alcohol, Tobacco, Firearms and Explosives (DOJ)
- Customs and Border Patrol (DHS)
- Immigration and Customs Enforcement (DHS)
- Joint Terrorism Task Forces (operated regionally)
- Census Bureau (DOC)
- U.S. Coast Guard
- Bureau of Industry and Security (DOC)

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

The ARs participated in a number of federal law enforcement initiatives sponsored by other Federal agencies: the Department of Homeland Security (CBP and ICE); the U.S. Coast Guard; FMCSA; the Department of Commerce (Bureau of Industry and Security); the

Department of Justice (including the Bureau of Alcohol, Tobacco, Firearms and Explosives, and the FBI); and interagency Joint Terrorism Task Forces operating regionally in the U.S. The law enforcement activities included criminal and civil investigations of entities licensed or regulated by the FMC, as well as violations of export and import statutes and regulations. The ARs aided these investigations by providing expert knowledge on ocean carrier and OTI practices, procedures and documentation related to shipping transactions.

Several ARs participated with CBP, the Coast Guard and other federal agencies in annual Multi-Agency Strike Force Operations conducted at marine terminals at the ports of New York/New Jersey, Oakland, CA and Seattle, WA.

The ARs continued to work closely with a number of local 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.

Under the MOU between the FMC and the Federal Motor Carrier Safety Administration (FMCSA), Commission staff continued to participate in the FMCSA's Moving Fraud Task Force and Moving Fraud Partnership initiatives. Staff participated on the FMCSA's Consumer Protection Working Group, a Federal Advisory Committee, established by the Fixing America's Surface Transportation (FAST) Act, P. Law 114-94, Section 5503.

In a notable matter highlighting the cooperative efforts between the Commission and FMCSA, CADRS sought the assistance of the Los Angeles-based ARs involving an apparent "hostage shipment" of household goods

detained by a Gardena, California OTI. In coordination with FMCSA's Los Angeles investigator, the ARs conducted an on-site interview with the firm's president, and the agencies jointly secured a commitment for the release of the household goods shipment. This matter was reported favorably in the national media in a television broadcast that acknowledged the efforts of the FMC in resolving the matter. The LA ARs continue to meet with FMCSA investigators to discuss future collaborative efforts involving investigations.

CADRS also worked with FMCSA and the Brazilian Consulate to recover cargo that was being held by a former FMC licensee. Essentially, the company accepted the cargo from the consumer and demanded additional money while refusing to deliver or provide the consumer with information regarding the disposition of the cargo. CADRS's efforts resulted in the cargo ultimately being located and delivered to the consumer. FMCSA issued a civil penalty against the company for various violations of its regulations.

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 FMC's Acting 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.

LEVERAGING TECHNOLOGY

One of the Commission's investment priorities is the ongoing development and deployment of the agency's information systems infrastructure. The FMC's automated IT systems are used by the shipping public to file license applications, carrier and MTO agreements, and commercially sensitive operational data used by the Commission's economists to conduct mission critical competition analysis. Planned IT investments will further streamline and improve the Commission's internal business processes; expand research and analysis capabilities; and provide better public access to FMC information.

During FY 2017, the FMC made significant progress to upgrade its information systems infrastructure and architecture, and continued to fortify its security posture by further supplementing its use of cyber security management tools. The Commission completed a major infrastructure upgrade to support the Trusted Internet Connections (TIC) Initiative and EINSTEIN cybersecurity capabilities. Telecommunications and network infrastructure for the FMC headquarters and field offices was upgraded, enabling the agency to respond faster to business requirements and better serve the public. Moreover, all internal line-of-business applications were made available to staff over cloud computing services.

The FMC adopted a cloud-based Disaster Recovery as a Service (DRaaS) which provides failover to a cloud computing environment during emergency events, eliminating the existing operating costs for maintaining a physical disaster recovery solution, and facilitating faster restoration of data services.

These IT investments allowed the Commission to extend telework to a greater number of employees, thus furthering the Federal government's policy to promote workplace flexibilities.

The FMC continues to increase public access to information through its website. In FY 2017, the FMC expanded its e-Agreements system to introduce a redesigned, more user-friendly Agreements Library. Originally launched in FY 2016, the first phase of the eAgreements system introduced the portal for electronically filing carrier and MTO agreements with the Commission and updated the in-house review and online publication process for filed agreements. In the fiscal year, the Commission deployed the new Agreements Library module, providing an easier, 24/7 online research tool to search for, identify, and review vessel-operating common carrier agreements directly through the Commission's website. Key benefits of the new Agreements Library include: real-time notice to the public of recently filed agreements and amendments; synopses of agreements and amendments, as well as filing and effective date information; and the availability of full text of nearly all effective agreements and amendments filings, including those previously available only upon request.

The Commission also continued its efforts to develop a plan that will improve the design, usability and platform of its online docket library and historical document repository. When completed, the new design and functionality will expand the availability of public documents on the Commission's website,

including Sunshine Act meeting materials. Increasing information available to the public will enhance the public's awareness and ability to participate in important regulatory review proceedings.

In FY 2017, the Commission initiated an effort to upgrade severely outdated audio/visual equipment in its Main Hearing Room. Equipment will be replaced to allow for live streaming and closed captioning of public Commission meetings and events for higher quality remote public access.

The FMC's Information Resources Management (IRM) Strategic Plan guides the FMC's efforts to manage its IT resources: promoting

efficiency, reliability and effective delivery of customer service, ensuring cybersecurity readiness, and aligning our information and information systems with the agency's key business strategies and investment decisions. In FY 2017, the Commission began developing its 5-year IRM Strategic Plan covering FY 2018-2022, continuing the efforts of the FY 2014-2017 IRM Strategic Plan's work, and ensuring information management consistent with the objectives and goals outlined in the FMC's draft FY 2018-2022 Strategic Plan. The IRM Strategic Plan for FY 2018-2022 will be finalized in FY 2018.



Sandra L. Kusumoto, Director, Bureau of Certification and Licensing, with Commissioner Daniel B. Maffei

DEVELOPMENTS IN MAJOR U.S. FOREIGN TRADES

WORLDWIDE

The world's container trade expanded by nearly 5 percent in FY 2017 compared to growth of just 1 percent in 2016. As the fiscal year ended, 145 containerships lay idle, representing only 2 percent of the total fleet capacity measured in twenty-foot equivalent units (TEUs). In contrast, 371 ships or 7 percent of the containership fleet capacity lay idle at the end of FY 2016.

Due to a number of liner carrier mergers and acquisitions, the world's container shipping industry continued to become more concentrated during the fiscal year. The top three container operators controlled 44 percent of the world's containership capacity; the top five container operators controlled 59 percent; and the top ten controlled 75 percent. A.P. Moller-Maersk A/S (Maersk Line) (17 percent), Mediterranean Shipping Company SA (MSC) (15 percent) and CMA CGM S.A. (12 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 4.4 percent to 33.3 million TEUs, compared to 31.9 million last year. The U.S. share of the world's container trades was 16.4 percent down slightly from FY 2016. U.S. container imports expanded by nearly 7 percent to 21.8 million TEUs, compared to 20.4 million in 2016. This was the fourth consecutive year in which U.S. imports surpassed the pre-recessionary record of 18.6 million TEUs in FY 2007.

Worldwide

For the eighth consecutive year, worldwide container trade grew – expanding by nearly 5 percent.

The 60 percent reduction in the number of container ships that lay idle by year's end reflects, in part, improving economic conditions in the industry.

The world's top three operators controlled 44 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 eighth consecutive year.

Imported cargo continued to outpace exports which worsened the U.S. container imbalance.

The volume of U.S. container exports during FY 2017 remained unchanged from last fiscal year, holding at approximately 11.5 million TEUs. As a result, the U.S. container imbalance worsened; for every 100 loaded containers exported from the U.S., 190 were imported, compared to 177 imported in FY 2016.

The world's containership fleet expanded slightly with nominal capacity growing by approximately 3 percent. At the end of the fiscal year, 5,163 containerships, with a total fleet capacity of 20.9 million TEUs, were available to serve the world's container trades. There were orders worldwide for 344 new containerships with an aggregate capacity of

2.8 million TEUs, 13.5 percent of the existing fleet capacity. Vessels with nominal capacities exceeding 10,000 TEUs comprised 29 percent of the existing containership fleet capacity and 84 percent of the orderbook fleet capacity at year-end, reflecting the ongoing, increasing size of containerships on order.

ASIA

The liner trades between the U.S. and nations in Asia accounted for the largest container cargo volume. The U.S. traded 21 million TEUs with the region in FY 2017 (exports and imports combined), representing 63 percent of total U.S. container trade. The U.S. imported substantially more container cargo from the region than it exported. In FY 2017, the U.S. imported 14.9 million TEUs of goods from Asia, a 7.1 percent increase over the previous fiscal year, while the U.S. exported 6 million TEUs, an increase of less than 1 percent over the same time period. Fifty-two 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 11 percent of the total U.S. trade in 2016.

More than half of the container imports from Asia moved through the ports of Los Angeles and Long Beach. U.S. West Coast ports collectively handled nearly two-thirds of all Asian imports and exports. U.S. East and Gulf Coasts collectively handled 36 percent of goods arriving from or destined to Asia. With the expansion of the Panama Canal in 2016, the formation of new ocean carrier alliances

in 2017, and the raising of the Bayonne Bridge in New York, ocean carriers deployed larger ships in their East Coast services. Ships up to 14,000 TEUs in size now regularly call along the East Coast. Additionally, the transpacific trade saw the entrance of a new carrier in 2017. South Korean carrier, SM Line, began service in April and currently serves the U.S. West Coast.

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

The *Transpacific Stabilization Agreement* (TSA) is the major rate discussion agreement covering the inbound and outbound transpacific trade. Its geographic scope includes portions of the Indian Subcontinent (i.e., Bangladesh, Pakistan and Sri Lanka, but not India or the Middle East). In 2017, TSA announced a shift in focus from rate discussion toward issues of broad industry impact in the transpacific trade. Consequently, TSA discontinued announcing General Rate Increases in 2017. During

the fiscal year, the 10 TSA carriers moved 75 percent of the container cargo between the U.S. and Asia, down from the 90 percent that the agreement carriers moved in 2016. This

decline corresponds to the withdrawal of K Line, NYK, and Zim from membership in the agreement towards the end of 2016. Currently, 10 carriers participate in TSA.

INDIAN SUBCONTINENT AND MIDDLE EAST

The Indian Subcontinent and Middle East regions combined accounted for over 6 percent of total U.S. container trade volume in FY 2017, with the Indian Subcontinent being the larger of the two. U.S. container trade with the Indian Subcontinent alone (exports and imports combined) grew by 3.8 percent, totaling about 1.4 million TEUs. The U.S. imported 862,000 TEUs from the Indian Subcontinent, an increase of 6.5 percent from the prior year. U.S. container export cargo to this region was 543,000 TEUs, a decrease of 0.2 percent over FY 2016 export volumes.

In the trade between the U.S. and Middle East, U.S. container export volumes remained relatively unchanged from FY 2016 export volumes (551,000 TEUs), while container imports to the U.S. from the region grew by almost 6 percent. Even with this 6 percent growth in imports against flat export volumes, U.S. container exports exceeded imports by a ratio of 2.40 to 1.

U.S. export growth to the Indian Subcontinent and Middle East remained flat during FY 2017, while U.S. container imports from both regions grew in the range of 6%.

With respect to the Indian Subcontinent, TSA is the rate discussion agreement covering U.S. inbound and outbound container trade with Bangladesh, Pakistan and Sri Lanka. For the fiscal year, TSA's market share for these trades was 78 percent, down from 92 percent in FY 2016. These three countries collectively comprise approximately 399,000 TEUs of the trade. India is by far our largest trading partner in this region, with combined imports/exports totaling roughly 991,000 TEUs.

There are no rate discussion agreements covering the trade lanes between the U.S. and India or the Middle East.

NORTH EUROPE

The liner trades between the U.S. and North Europe represent the second largest U.S. trade by volume, comprising almost 11 percent of all U.S. trade, at 3.6 million TEUs (exports and imports combined). Compared to the prior period, U.S. container exports in FY 2017 grew by nearly 3 percent to 1.4 million TEUs, and container imports from North Europe rose

by 6 percent to 2.2 million TEUs. The top imported commodities included auto parts, beer, and furniture. The cargo volume carried by MSC, Hapag Lloyd, Maersk Line and CMA CGM accounted for 58 percent of the total trade. Liner services in the trade lane were reconfigured as the new alliance agreements took effect and became operational. Services



under the *former G6 Alliance Agreement* were replaced by services under the *OCEAN Alliance Agreement* and *THE Alliance Agreement* and resulted in a net increase in the supply of vessel capacity in the trade. By fiscal year end, the supply of vessel capacity had increased by 9 percent, with an average vessel utilization rate of 60 percent in the outbound direction and 88 percent in the inbound

direction. Consequently, outbound freight rates remained at low levels, while carriers attempted to boost inbound freight rates with announced rate increases for October 2017. In future projections, greater growth in U.S. container exports to North Europe is anticipated as the value of the U.S. dollar against the Euro declines and the European Central Bank raises interest rates.

MEDITERRANEAN

Container volumes between the U.S. and the Mediterranean accounted for 4.5 percent of all U.S. import and export cargo in FY 2017, at 1.5 million TEUs. The volume of U.S. container exports to the Mediterranean declined fractionally in FY 2017 to 441,572 TEUs compared

to the prior year, while container imports from the region rose by 6 percent to roughly 1.1 million TEUs. The trade imbalance grew as import containers exceeded export containers by a ratio of 2.41 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. A high concentration of the cargo was moved by the top carriers. MSC, Hapag Lloyd, Maersk Line, CMA CGM, and Zim carried 85 percent of the total trade. As in other trades, services were reconfigured under the new alliance agreements. The AZX service under the *G6 Alliance Agreement* was discontinued. In its place, carrier members of

THE Alliance Agreement initiated the weekly AL6 loop service between U.S. Atlantic ports and Mediterranean ports in France and Italy. Further, THE Alliance carriers expanded their service options in the region by exchanging space on Zim's weekly ZCA loop service between the U.S. and Spain under *THE Alliance/Zim MED-USEC Slot Exchange Agreement*. The changes in service increased the supply of vessel capacity in the trade by 7 percent.

AUSTRALIA AND OCEANIA

Oceania consists of Australia, New Zealand, and the South Pacific Islands. The liner trades between the U.S. and Oceania comprised just over 1 percent of total U.S. import and export cargo volumes in FY 2017, at 456,316 TEUs. The volume of U.S. container exports was 267,271 TEUs, and the top exported commodities included auto parts, general merchandise, and tires. U.S. container import cargo was 189,045 TEUs, and the top imported commodities included wine and chilled or frozen meat products. Compared to the preceding period, growth in U.S. container exports was flat, and container imports declined slightly. However, U.S. container exports exceeded imports by a ratio of 1.4 to 1. The major carriers serving the

trade, Hamburg Süd, Hapag Lloyd, Maersk Line, MSC, and CMA-CGM and its subsidiary ANL Singapore Pte Ltd., moved 86 percent of the total container cargo.

The two main rate discussion agreements in the trade are the *United States/Australasia Discussion Agreement (USADA)* in the outbound direction and *Australia and New Zealand-United States Discussion Agreement (ANZUSDA)* in the inbound direction. In 2017, MSC withdrew its membership from ANZUSDA but remained in USADA. The members of USADA and ANZUSDA accounted for 82 percent of the outbound cargo and 75 percent of inbound cargo, respectively.

AFRICA

In FY 2017, imports and exports combined between the U.S. and Africa were 380,136 TEUs, accounting for approximately 1 percent of all U.S. container volume. Compared to the previous period, U.S. container exports to nations in Africa declined slightly during FY 2017 to 270,189 TEUs, and U.S. container

imports from the region grew by about 2 percent to 109,947 TEUs. Consequently, U.S. container exports exceed imports by a ratio of 2.5 to 1.

The top container U.S. exports to Africa 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 for about 31 percent of the containerized cargo. MSC and Maersk Line, including its subsidiary, Safmarine, carried approximately 71 percent of the container cargo in the trade. 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

The Central America and Caribbean regions collectively accounted for 6 percent of total import and export container volumes between the U.S. and the two regions in FY 2017 at approximately 2.1 million TEUs. Of the two regions, trade between the U.S. and Central America was considerably higher in volume at roughly 1.5 million TEUs (4 percent of total trade), while trade between the Caribbean and the U.S. was 666,106 (2 percent of total U.S. trade), imports and exports combined.

In FY 2017, U.S. container exports to Central America fell by 3 percent to 622,920 TEUs, and container imports increased by 8 percent to 834,832 TEUs. Paper products accounted for the largest share of U.S. containerized exports. Other major exports included cotton, grocery products, used automobiles and fabrics. On the import side, fresh fruit made up a majority of container imports from the region. Roughly three quarters of fresh fruit imports consisted of bananas. The second largest commodity imported from this region was apparel.

SOUTH AMERICA

In FY 2017, the liner trades between the U.S. and South America represented 5.6 percent of total import and export container volume, at almost 1.9 million TEUs. The volume of containerized cargo between the U.S. and South

The major carriers serving the trade participate in the *Central America Discussion Agreement (CADA)*; these include 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. container exports of mainly food, consumer goods, and manufactured products decreased by 4 percent to 497,325 TEUs. Container imports to the U.S. increased by 3 percent to nearly 169,000 TEUs. Container exports exceeded imports by a ratio of about 3 to 1.

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

American nations grew by about 3 percent in FY 2017. While imports to the U.S. from South America grew by 5 percent to over 1 million TEUs, exports remained flat at 842,478. For every container moving outbound from the

U.S. to countries in South America, 1.2 containers moved inbound from South America to the U.S. The top 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 61 percent of the container cargo moving in the trade.

The market share of the *West Coast of South America Discussion Agreement (WCSADA)* plummeted from 76 to 39 percent outbound and from 62 to 23 percent inbound. The steep drop was due to the membership withdrawal of MSC, Hapag Lloyd and Trinity Shipping

Line from the agreement. The remaining WCSADA members are CMA CGM, Hamburg Süd, Seaboard Marine and King Ocean Services.

Independent carriers offering service outside of WCSADA included Dole Ocean Liner Express and Great White Fleet (a subsidiary of Chiquita Brands Intl. Inc.), but mainly transport proprietary cargo such as fresh fruits and vegetables. WCSADA also faced competition from other major carriers serving the trade through transshipment hubs in Mexico, Panama and the Caribbean. There are no active rate discussion agreements in the trade between the U.S. and the East Coast of South America.

TOP TWENTY U.S. LINER CARGO TRADING PARTNERS

The Foreign Shipping Practices Act requires the FMC to 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 Commission derives its list of top-twenty trading partners from the Journal of Commerce’s Port Import Export Reporting Service (PIERS) database. The most recent complete calendar year for which data are available is 2016. The table on the next page lists the twenty foreign countries that generated the largest volume of oceanborne liner cargo in the bilateral trade with the United States in calendar year 2016. The figures in the table represent each country’s U.S. liner imports and exports combined in thousands of loaded TEUs.

Bilateral trade with the United States’ top-twenty liner trading partners represented approximately 80 percent of the nation’s total liner trade in 2016. The total volume of trade with our top-twenty liner trading partners increased by 3 percent year-to-year.

The top-twenty list has been comprised of the same trading partners since 2009. Several changes in ranking occurred among the top-twenty countries during 2016. Reflecting the greatest year-to-year liner volume increase of 20 percent, Vietnam rose above Taiwan (ROC) to occupy 4th place. Following Vietnam with the second largest year-to-year volume

increase of nearly 17 percent, Thailand entered the top-ten ranks at 8th place. Hong Kong, a perennial top-ten trading partner, for the second year in a row again slipped in the rankings, falling to 12th place, having experienced a 5 percent decrease in volume this year. Australia experienced the largest percentage decrease in trade volume, but maintained its position as the 20th largest U.S. liner cargo trading partner.

South Korea, Vietnam, Thailand, and Guatemala climbed up in the rankings, while Japan, Taiwan, Belgium & Luxembourg, Hong Kong, Brazil, and the United Kingdom slipped down.

TOP TWENTY U.S. LINER CARGO TRADING PARTNERS (CY2016)

| Rank | Country | TEUs (000) |
|------|----------------------|------------|
| 1 | China (PRC) | 12,469 |
| 2 | South Korea | 1,386 |
| 3 | Japan | 1,373 |
| 4 | Vietnam | 1,223 |
| 5 | Taiwan (ROC) | 1,090 |
| 6 | Germany | 1,010 |
| 7 | India | 956 |
| 8 | Thailand | 655 |
| 9 | Belgium & Luxembourg | 648 |
| 10 | Indonesia | 633 |
| 11 | Italy | 607 |

| Rank | Country | TEUs (000) |
|------|------------------------|------------|
| 12 | Hong Kong ¹ | 603 |
| 13 | Brazil | 597 |
| 14 | Netherlands | 489 |
| 15 | Guatemala | 438 |
| 16 | United Kingdom | 427 |
| 17 | Chile | 387 |
| 18 | Malaysia | 387 |
| 19 | Honduras | 350 |
| 20 | Australia | 304 |

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, both through Commission action and through OGC, informally pursued several matters involving potentially restrictive foreign shipping practices. This included the examination of restrictive foreign port/harbor practices, foreign legislation, and regulations. No formal FSPA action by the Commission was necessary.

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. 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.

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. As of the end of fiscal year 2017, two controlled carriers operated in the U.S. trades:

1. COSCO SHIPPING Lines Co., Ltd. — People's Republic of China
2. CNAN Nord SPA — People's Democratic Republic of Algeria

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 2017, seven new private party complaints and five small claims complaint were filed. The Office of Administrative Law Judges (OALJ) issued nine initial decisions, including one initial decision partially dismissing the complaint, one initial decision approving settlement agreement and dismissing proceeding with prejudice, and one initial decision approving confidential settlement. The Commission issued notices finalizing the ALJ's decisions in four private complaint cases. Three ALJ's decisions were affirmed in whole or in part by the Commission on exceptions or its own review, and nine proceedings remained pending before the Commission. The Commission entered orders in a total of three small claims cases. The Small Claims Officer served three decisions in small claims proceedings.

The following summarizes the results of formal docketed proceedings concluded during FY 2017 by the ALJs and the Commission.

FORMAL INVESTIGATIONS

Revocation of Ocean Transportation Intermediary License No. 017843, Washington Movers, Inc. [Docket No. 15-10]

On October 8, 2015, the Commission ordered Washington Movers, Inc., to show cause why the Commission should not revoke its ocean transportation intermediary license due to the felony weapons smuggling convictions of its qualifying individual and various alleged regulatory violations. After receiving briefing, on February 12, 2016, the Commission assigned this matter to the Office of Administrative Law Judges for further proceedings. The ALJ issued an Initial Decision revoking Washington Movers' license on June 29, 2017.

The ALJ concluded that revocation was warranted on the basis of the felony conviction of

the company's owner, President, and Qualifying Individual for attempted smuggling of weapons to Lebanon using his position and the company's status as an NVOCC to commit the crimes. Although removed as the owner and President after his arrest, the company continued to hold him out to act on its behalf. The ALJ also found that Washington Movers violated various Commission regulations including failing to advise the Commission of the arrest, indictment and conviction of its President and Qualifying Individual and seek approval of a replacement. Washington Movers filed exceptions to the ALJ's decision, and the Commission's Bureau of Enforcement filed a reply in support of revocation. The matter is pending before the Commission.

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]

On July 6, 2010, Complainants filed a Shipping Act complaint alleging that Respondents violated various sections of the Shipping Act in connection with the damage, delay, and liquidation of containers transported from Portland to Poland. The ALJ dismissed the complaint. The Commission affirmed in part and vacated in part in 2013, and remanded the case to the ALJ. On remand, the ALJ found that Respondents Limco Logistics

and International TLC violated 46 U.S.C. § 41102(c) and awarded Complainants reparations. On May 26, 2015, the Commission affirmed. Respondent Limco petitioned for reconsideration, but the Commission denied the petition on May 5, 2016, leaving Complainants' request for attorney fees the only outstanding issue. On April 3, 2017, after the Commission requested supplemental briefing and the parties complied, Complainants and Respondent Limco sought Commission approval of a settlement agreement. The Commission approved the settlement agreement on August 31, 2017, and stayed the attorney fee proceedings until November 29, 2017.

Maher Terminals, LLC v. The Port Authority of New York & 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 dismissed the complaint for failure to state a claim. The Commission affirmed in part and reversed in part 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. The Commission granted the motion and approved the settlement on October 26, 2016. Per the settlement, this case and Docket No. 08-03 were dismissed with prejudice effective November 16, 2016.

Baltic Auto Shipping, Inc. v. Michael Hitrinov a/k/a Michael Khitrinov and Empire United 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. 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 on January 15, 2016. On August 15, 2016, Complainant filed a Motion to Withdraw Appeal and Discontinue Action and also filed a status report. Respondents did not agree to the joint stipulation to withdraw the appeal.

On April 21, 2017, the Commission granted the request for withdrawal and dismissal of the action in its entirety, with prejudice, in part, pursuant to 46 C.F.R. § 502.72(a)(3). The Commission, however, denied Complainant's request to extinguish the ability of either party to seek attorney fees.

Subsequently, on July 19, 2017, Respondents filed a timely petition for attorney fees. On August 22, 2017, the Complainant filed a reply to the petition for attorney fees, a request for an evidentiary hearing, a motion for confidential treatment, and a certification of Complainant's counsel. On August 31, 2017, Complainant filed a motion to correct the record (and other relief) and appendix. At the close of fiscal year 2017, these matters were pending before the Commission.

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

On May 27, 2015, Complainants filed a shipping act complaint alleging that Respondents, a licensed NVOCC, and an individual, overcharged them and transferred custody of cargo to a storage facility without their consent, all in violation of 46 U.S.C. § 41102(c). They

also alleged that the individual Respondent violated 46 U.S.C. § 40901(a) by providing ocean freight forwarder (OFF) services without a license from the Commission. The ALJ dismissed Complainants' claims for lack of jurisdiction and on substantive grounds. Complainants filed exceptions, and the matter is 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. The Commission affirmed the ALJ's approval of the GM/WWL/Eukor settlement and dismissal on October 13, 2016. On October 14, 2016, the ALJ approved the settlement between GM and NYK, which disposed of the only remaining claims in the

case. The Commission issued a notice not to review the ALJ's decision on November 16, 2016.

Igor Ovchinnikov, Irina Rzaeva, and Denis Nekipelov vs. Michael Hitrinov a/k/a Michael Khitrinov, Empire United Lines Co., Inc., and CarCont Ltd., [Docket No. 15-11] consolidated with Kairtat Nurgazinov v. Michael Khitrinov, Empire United Lines Co., Inc., and CarCont Ltd., [Docket No. 1953(I)]

Complainants Igor Ovchinnikov, Irina Rzaeva, and Denis Nekipelov filed a complaint on November 12, 2015, alleging that Respondents Michael Hitrinov a/k/a Michael Khitrinov, Empire United Lines Co., Inc., and CarCont Ltd., violated 46 U.S.C. §§ 40301, 40302, 40501, 40701, 41102, 41104, and 41106, as well as 46 C.F.R. Part 515, by not releasing or delivering three vehicles shipped from the United States to Finland. Respondents filed a Motion for Consolidation with Informal Docket No. 1953(I) on April 22, 2016, as Informal Docket 1953(I) involved the same violations of laws, was filed by the same Counsel, and involved Respondents not releasing or delivering cars shipped from the United States to Finland. Following consolidation of the cases, Respondents filed a Motion for Judgment on the Pleadings on June 10, 2016.

Respondents' Counsel filed a Motion for an Order to Show Cause Why the Commission Should Not Revoke Complainants' Counsel's Privilege of Practicing Before the Commission on September 7, 2016. Complainants' Counsel filed a Cross-Motion requesting that Respondents' counsel be similarly sanctioned on September 8, 2016. The ALJ issued an order

denying both motions without prejudice on September 16, 2016. Respondents filed exceptions to the ALJ Order on October 11, 2016.

The ALJ issued an initial decision on March 9, 2017 that granted Respondents' Motion for Judgment on the Pleadings. Complainants filed exceptions to the initial decision on May 3, 2017. Respondents filed their reply on June 23, 2017. The exceptions to the ALJ's denial of Respondents' motion for sanctions, the exceptions to the ALJ's initial decision dismissing the Complaint, and several outstanding motions are pending before the Commission.

D. F. Young, Inc. v. NYK Line (North America) Inc. [Docket No. 16-02]

On January 29, 2016, D.F. Young, Inc. (DFY), a licensed freight forwarder, filed a complaint alleging that Respondent NYK Line (North America) Inc. (NYK), an ocean common carrier violated the Shipping Act of 1984. DFY alleged violations of 46 U.S.C. § 41102(c) and 46 C.F.R. § 515.42.

On August 1, 2017, the ALJ issued an initial decision denying DFY's motion for summary judgement and granting NYK's motion for summary decision. DFY, subsequently, on September 6, 2017, submitted a motion to recognize the terms of Respondent's bills of lading and tariff; or, in the alternative, to reopen and remand the proceeding. DFY also submitted exceptions to the ALJ's August 1, 2017, initial decision. The matters are pending before the Commission.

MAVL Capital Inc. v. Marine Transport Logistics, Inc. [Docket No. 16-16]

On August 5, 2016, MAVL Capital Inc., IAM AL Group Inc., and Maxim Ostrovskiy filed a complaint alleging that Respondents Marine Transport Logistics, Inc. and Dimitry Alper violated 46 U.S.C. §§ 41102(c), 41104(3), and 41104(10) in connection with the storage and shipment of five vehicles. On January 17, 2017, the ALJ dismissed certain of the claims for lack of jurisdiction and failure to state a claim. The ALJ stayed the case as to the remaining claims. Complainants filed exceptions to the ALJ's decision, which Respondents opposed. On March 7, 2017, Complainants petitioned for leave to supplement the record. The matter is pending before the Commission.

Taylor's Resources Inc (USA) d/b/a Bridgewater Landing Inc (USA) v. Mitsui O.S.K. Lines Ltd. [Docket No. 1954(F)]

Claimant Taylor's Resources Inc (USA) d/b/a Bridgewater Landing Inc (USA) filed a small claim for informal adjudication under Subpart S alleging Mitsui O.S.K. Lines Ltd. violated the Shipping Act in its handling of a shipment of scrap plastic from the United States to China that resulted in detention and demurrage charges imposed on Complainant. A parallel proceeding by Mitsui against Complainant for the charges was also pending in a New Jersey state court. After briefing on the merits by the parties, the administrative law judge issued a decision finding that Mitsui had not violated the Act. On August 21, 2017, Complainant filed a "request to vacate decision." The request is pending before the Commission.

LITIGATION

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

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, the parties moved for approval of a settlement agreement and dismissal of this case and Docket No. 12-02. The Commission granted the motion and approved the settlement on October 26, 2016. Per the settlement, this case and Docket No. 12-02 were dismissed with prejudice effective November 16, 2016.

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. Following supplemental briefing, the Commission issued a final order on remand on February 14, 2017, awarding Claimant \$50,000 in reparations. Claimant subsequently petitioned for attorney fees, which the Commission denied on June 28, 2017.

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], United States Court of Appeals for the District of Columbia Circuit

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 § 41106(2). Complainants and Respondents filed their Exceptions and Reply to the Exceptions on January 11, 2016, and February 2, 2016, respectively. The Commission issued an order on January 13, 2017, affirming the dismissal of complaint.

The Complainants filed a Petition for Review in the D.C. Circuit on March 14, 2017, and the parties filed their briefs. The matter is pending before the court.

In re Vehicle Carrier Services Antitrust Litigation [Case Nos. 15-3353, 15-3354, and 15-3355 (3d Cir.)]

This case involved the Commission as an amicus curiae. Plaintiffs alleged that the Defendants, who are ocean common carriers

who transport vehicles, entered into secret agreements that violated the Sherman Act. The district court dismissed Plaintiffs claims, holding that (1) Plaintiffs' Clayton Act claims were barred by 46 U.S.C. § 40307(d) because operating under an anticompetitive agreement not filed with the Commission constituted a violation of the Shipping Act; and (2) Plaintiffs' state antitrust claims were preempted by the Shipping Act. Plaintiffs appealed. On

October 4, 2016, the Third Circuit invited the Commission to file an amicus brief. The Commission and the Department of Justice accepted the invitation and filed an amicus brief on November 30, 2016. The Third Circuit affirmed the district court on January 26, 2017. The Third Circuit denied Plaintiffs' petition for panel and en banc rehearing on February 22, 2017, and the Supreme Court denied a petition for writ of certiorari on October 2, 2017.

RULEMAKINGS

The Commission has initiated a number of rulemakings this year to update its regulations and reduce regulatory burdens. The Commission also received one petition for rulemaking.

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) After receiving comments, the Commission issued a Final Rule on March 29, 2017, which became effective on May 5, 2017. (82 FR 16288)

Petition of the Coalition for Fair Port Practices for Rulemaking [Petition P4-16]

On December 7, 2016, the Coalition for Fair Port Practices (Coalition), a group of 26 trade associations representing importers, exporters, drayage providers, freight forwarders, customs brokers, and third-party logistics

providers, filed a petition requesting that the Commission initiate a rulemaking proceeding to adopt a rule that would interpret 46 U.S.C. § 41102(c) to clarify what constitutes "just and reasonable rules and practices" with respect to the assessment of demurrage, detention, and per diem charges by ocean common carriers and marine terminal operators when ports are congested or otherwise inaccessible. The Coalition proposed a rule for adoption and requested specific guidance as to the reasonableness of such charges when port conditions prevent the timely pickup of cargo or return of carrier equipment because of broad circumstances beyond the control of shippers, receivers, or drayage providers.

The Commission published a notice of the filing in the Federal Register on December 28, 2016, and requested comments by February 28, 2017. (81 FR 95612) In addition to the 15 verified statements from members of the Coalition that accompanied the petition, the Commission received over 100 comments from a wide variety of stakeholders, including shippers, shippers' associations, NVOCCs, OFFs, customs brokers, drayage providers, trade associations, carriers, and MTOs (including

several port authorities). Hearings were held January 16 and 17, 2018 and further action is being considered.

Inflation Adjustment of Civil Monetary Penalties [Docket No. 17-01]

The Commission published its annual civil penalty adjustments for inflation on February 15, 2017 (applicable January 15, 2017), pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

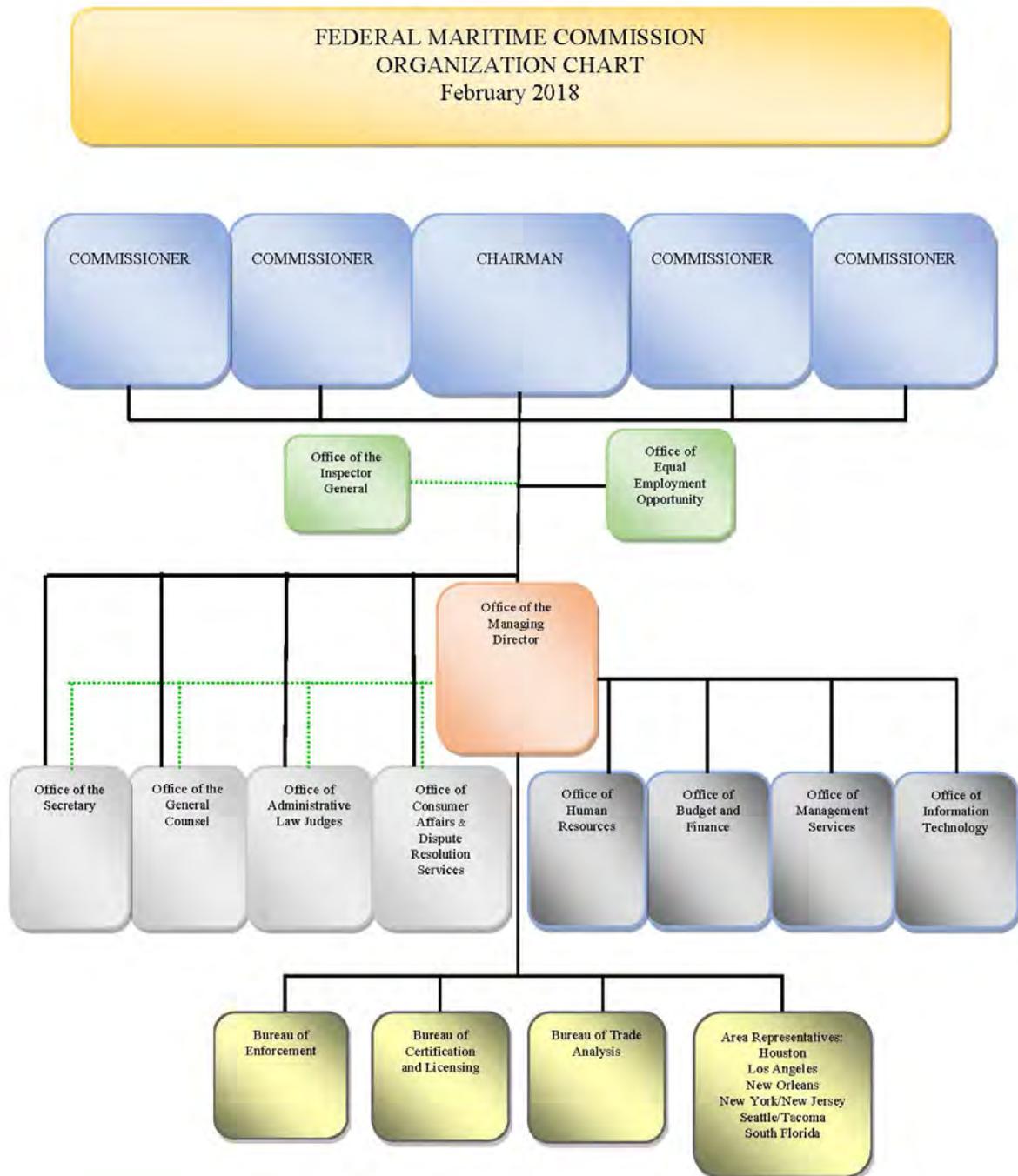
Regulatory Reform Initiative [Docket No. 17-04]

The Commission published a notice on July 5, 2017, announcing the creation of a Regulatory Reform Task Force in line with

Executive Order 13777, Enforcing the Regulatory Reform Agenda, and requesting comment on how to make Commission regulations less burdensome and more effective in achieving the objectives of the Shipping Act. (82 FR 25221) This notice solicited input from all stakeholders, including regulated entities (ocean common carriers, ocean transportation intermediaries, marine terminal operators) and the shipping public. The Commission is reviewing the comments and considering potentially responsive rulemaking actions.

APPENDICES

A - FMC ORGANIZATION CHART



..... Administrative

B - FMC SENIOR OFFICIALS - FY 2017

| | |
|--|--|
| Chief of Staff..... | Mary T. Hoang |
| Counsel to Acting Chairman Khouri..... | John A. Moran |
| Counsel to Commissioner Dye..... | Robert M. Blair |
| Counsel to Commissioner Cordero..... | Rachit J. Choksi |
| Counsel to Commissioner Doyle..... | David J. Tubman, Jr*.; Patrick Parsons |
| Counsel to Commissioner Maffei..... | Carrol Hand**; Zoraya 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..... | 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 January 2017; **Assumed October 2016; ***Departed July 2017

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, \$27,490,000. Provided, That not to exceed \$2,000 shall be available for official reception and representation expenses

| | |
|---------------------------|--------------|
| Public Law 115-31 | \$27,490,000 |
| Total Budgetary Resources | \$27,490,000 |

Obligations and Unobligated Balance:

| | |
|--|--------------|
| Net obligations for salaries and expenses for the fiscal year ended September 30, 2017 | \$27,331,928 |
|--|--------------|

Statement of Receipts:

| | |
|---|-------------|
| Deposited with the General Fund of the Treasury for the Fiscal Year Ended with September 30, 2017 | |
| Publications and reproductions, fees and vessel certification, and freight forwarder applications | \$227,724 |
| Fines and penalties | \$1,887,513 |
| Total general fund receipts | \$2,115,237 |

D - CIVIL PENALTIES COLLECTED

| | |
|--|-------------|
| Brilliant Group Logistics Corp. | \$100,000 |
| Interglobo North America, Inc. | \$150,000 |
| Fastic Transportation Co., Inc. | \$110,000 |
| Pudong Prime Int'l Logistics, Inc. | \$100,000 |
| Seamaster Logistics, Inc., and Toll Global Forwarding (Hong Kong) Limited | \$275,000 |
| Pacific International Import Export, LLC | \$30,000 |
| A-Sonic Logistics (USA), Inc. | \$70,000 |
| Honour Lane Shipping Limited; Global Ocean, Agency Lines LLC; and World Express Shipping, Transportation and Forwarding Services, Inc. | \$300,000 |
| RS Logistics Limited | \$75,000 |
| Hyundai Glovis Co., Ltd. | \$157,500 |
| Worldwide Container Transfer, Corp. and U-Ocean USA, Corp. | \$220,000 |
| United Transport Tankcontainers, Inc. | \$30,000 |
| LF Logistics (China) Ltd. and LF Logistics USA, LLC | \$180,000 |
| King Freight (USA), Inc. | \$90,000 |
| Total: | \$1,887,500 |