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90-78 TRADE SIMPLIFICATION ACT OF 1968

GOVERNMENT
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HEARINGS
BEFORE THE
COMMITTEE ON COMMERCE
UNITED STATES SENATE
NINETIETH CONGRESS

SECOND SESSION

ON

S. 3235

TO AUTHORIZE AND FOSTER JOINT RATES FOR INTER-
NATIONAL TRANSPORTATION OF PROPERTY, TO FACILI-
TATE THE TRANSPORTATION OF SUCH PROPERTY, AND
FOR OTHER PURPOSES

JUNE 17 AND 19, 1968

Serial No. 90-78

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TRADE SIMPLIFICATION ACT OF 1968

HEARINGS
BEFORE THE
COMMITTEE ON COMMERCE
UNITED STATES SENATE
NINETY-SEVENTH CONGRESS

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Welfare, Federal Reserve Office.
Robert A. Blackwell, Director, Office of Regulation and Welfare,
Federal Reserve Office.
Richard L. Blackwell, Assistant Secretary, Office of Regulation and
Welfare, Federal Reserve Office.
General Counsel, Department of Transportation, and Thomas P. Brown,
General Counsel, Department of Commerce, on behalf of the Com-
missioner, Federal Reserve Office, accompanied by Joseph Smith,
and number.
Goodell, Thomas M., President, Association of American Railroads,
accompanied by A. Paul Marshall and William Murray, General
Counsel.
Harold Jobe, Hon. Alan S. Boyd, U.S. Secretary of Transportation,
Department of Transportation, accompanied by Edward R. Spitzer, Man-
agement and General Counsel, Federal Reserve Office, and
Richard L. Blackwell, Assistant Secretary, Office of Regulation and
Welfare, Federal Reserve Office, accompanied by
and International Business Department of Commerce, accompanied by
Thomas R. Blackwell, Director, Office of Regulation and Welfare,
Federal Reserve Office, and Charles R. Blackwell, Director, Office of
Regulation and Welfare, Federal Reserve Office.

June 18, 1968

Boyd, W. B., general manager, distribution services, Burlington
Industries, Inc., Burlington, Vt.
Boyd, George I., member of the general committee and chairman
of the technical committee of the National Committee on International
Trade Transportation.
Hoyt, John H., member, Port of Seattle Commission, Seattle, Wash.,
accompanied by G. B. Stewart, traffic manager.
John B. Stewart, traffic manager, Port of Seattle, Seattle, Wash.,
accompanied by G. B. Stewart, traffic manager.

TRADE SIMPLIFICATION ACT OF 1968

MONDAY, JUNE 17, 1968

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met in room 5110, New Senate Office Building, at 9:50 a.m., the Honorable Daniel B. Brewster presiding.
Present: Senators Brewster and Moss.

OPENING STATEMENT BY THE CHAIRMAN

Senator BREWSTER. The committee will come to order.

Our purpose this morning is to begin hearings on S. 3235, the proposed Trade Simplification Act of 1968. At the request of the Secretary of Transportation, this bill was introduced by the distinguished chairman of this committee, Senator Magnuson, on March 27, 1968.

S. 3235 would declare it to be the policy of the United States to facilitate the movement of freight in international commerce through the use of joint rates agreed to by land, water, and air carriers.

The bill would permit common carriers from all modes of transportation to publish joint rates for the movement of cargo between points in the United States and points in other countries. Carriers agreeing to such rates could interchange transportation equipment—containers, for example—and could issue a single bill of lading as a contract of carriage for the entire international journey, from door to door.

Under the terms of this bill, each U.S. carrier which became a party to a joint rate agreement would file the rate with its respective regulatory agency—the Interstate Commerce Commission, the Federal Maritime Commission, or the Civil Aeronautics Board. The joint-rate agreement would be subject to the approval of each agency with which it had been filed.

There is no question about the need for decisive action to accomplish the aims of this bill. The new technology of transportation—containers and more efficient carriers of all modes—has given us the opportunity to move cargo with greatly increased speed and economy. But the development of new transportation technology in hardware has outpaced developments in software. The old impediments remain. And unless we can change the transportation environment—unless we can eliminate impediments such as excessive documentation—we cannot exploit fully the opportunities which technology offers us.

The need for joint, intermodal rates for international transportation has been recognized for many years. But we have been slow in working out the regulatory mechanisms which would allow joint rates to func-

Staff member assigned to this hearing: Stanton P. Sender.

tion. Carriers, port operators, and especially U.S. exporters and potential exporters are sympathetic with the purposes of the bill. This committee will consider it carefully.

The bill would begin an assault also on what President Johnson has called "the paperwork jungle" which surrounds transportation. The bill would allow carriers participating in an international joint rate to issue a single, intermodal and international bill of lading for the entire journey. Thus the documentation costs associated with international trade would be reduced. They must be reduced. I read recently a report that indicates that the documentation costs which a U.S. exporter must pay average \$163 a shipment. That figure does not include the cost to the Government for processing papers and forms. It also does not include the cost of documenting inland transportation overseas.

That figure—\$163 per shipment in documentation costs—is all the more ludicrous when you realize that 25 percent of the export shipments from the United States are valued at less than \$100.

The 1960's have been a decade of decision in international trade. We have committed ourselves as a nation to the goals of increased trade and increased exports. Containerization and the other new technology of transportation challenge us now to make a decision to clear away those archaic and artificial impediments which restrict international transportation and our exports. A copy of the bill introductory remarks by Senator Magnuson in the Congressional Record, and agency comments thereon will be placed in the record at this point.

(The material referred to follows:)

S. 3235—INTRODUCTION OF BILL ENTITLED TRADE SIMPLIFICATION ACT OF 1968

Mr. MAGNUSON. Mr. President, I introduce for appropriate reference, at the request of the Secretary of Transportation, a bill to remove obstacles to the creation of a modern international transportation system adequate to serve the needs of American exporters and importers by authorizing and fostering joint rates for international transportation of property, and by facilitating the transportation of such property.

This proposed legislation would declare it to be the policy of the United States to facilitate the movement of freight in international commerce and for this purpose to foster the use of joint rates by carriers by land, water, and air in the international transportation of property between places in the United States and places in foreign countries. All Federal departments and agencies concerned would be directed to cooperate to the fullest extent in carrying out this policy.

The bill proposes to permit carriers of all modes to publish joint rates to be quoted to shippers for international transportation. Under the bill, every existing type of common carrier could join with every other type of common carrier to publish joint rates on cargo moving under through bills of lading. The tariffs quoting these joint rates would be filed with the existing regulatory agencies—the Interstate Commerce Commission, Federal Maritime Commission, or Civil Aeronautic Board. Land, sea, and air carriers would remain subject to their respective agencies, and all agreements entered into by carriers would be subject to approval by each agency in the same manner as they would under existing law when entered into by competing carriers.

The purpose of the bill—the removal of unnecessary impediments to international transportation—is meritorious. The committee will welcome the comments and suggestions of the public, shippers, and carriers on the provisions of this proposed legislation to accomplish that laudatory purpose.

I ask unanimous consent to have printed in the Record at the conclusion of my remarks a copy of the bill, the Secretary of Transportation's letter submitting this proposed legislation, and a section-by-section analysis of the bill's contents.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill, letter, and section-by-section analysis of the bill will be printed in the Record.

The bill (S. 3235) to authorize and foster joint rates for international transportation of property, to facilitate the transportation of such property, and for other purposes, introduced by Mr. Magnuson, by request, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the Record, as follows:

S. 3235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Trade Simplification Act of 1968".

SEC. 2. DECLARATION OF POLICY. The Congress hereby declares that it is the policy of the United States to facilitate the movement of freight in international commerce and for this purpose to foster the use of joint rates by carriers by land, water, and air in the international transportation of property between places in the United States and places in foreign countries. All Federal departments and agencies concerned are directed to cooperate to the fullest extent in carrying out this policy.

SEC. 3. DEFINITIONS. AS used in this Act—

(1) "Agency" means the Civil Aeronautics Board, the Federal Maritime Commission, or the Interstate Commerce Commission.

(2) "Carrier" means a common carrier subject to the jurisdiction of an agency, or a transporter of property by land, water, or air for hire between points both of which are outside the United States.

(3) "Common carrier subject to the jurisdiction of an agency" means:

(a) An air carrier, foreign air carrier, or air freight forwarder holding a certificate, permit, or operating authorization from the Civil Aeronautics Board;

(b) A common carrier by water (including a non-vessel operating common carrier by water) subject to the jurisdiction of the Federal Maritime Commission; or

(c) A common carrier subject to Parts I, II, III, or IV of the Interstate Commerce Act.

(4) "International transportation" means the transportation of property by land, water, or air carrier or by any combination thereof between places in the United States, on the one hand, and places in a foreign country, on the other.

(5) "Joint rate" means a rate jointly offered for a through service, and expressed as a single, comprehensive rate, by (a) two or more carriers, at least one of which shall be a common carrier subject to the jurisdiction of an agency, or (b) one common carrier subject to the jurisdiction of more than one agency, or (c) one common carrier subject to the jurisdiction of an agency and also performing transportation wholly outside the United States; *Provided*, however, That an ocean rate and a charge for pick-up or delivery service in the port area of origin or delivery cannot be combined to form a joint rate.

(6) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 4. ESTABLISHMENT OF JOINT RATES. (a) A common carrier subject to the jurisdiction of an agency may agree to establish joint rates for international transportation which shall become effective upon compliance with section 5 of this Act. Subject to section 8 of this Act, the division of revenues, the appointment of liability, and the pooling or interchange of equipment, or other operating matters may be fixed by the carriers participating in the joint rate arrangement. No joint rate arrangement shall prohibit any party thereto from entering into similar arrangements with other carriers.

(b) Notwithstanding any other provision of law, nothing shall prevent a freight forwarder subject to the provisions of part IV of the Interstate Commerce Act from entering into joint rates for international transportation with other common carriers.

SEC. 5. TARIFFS.—Joint rates established under this Act shall be set forth in a tariff, filed, posted, and published concurrently by every participating common carrier subject to the jurisdiction of an agency with the agency having jurisdiction over that carrier. No tariffs or joint rates filed or established under this Act shall be of any lawful force and effect unless such rates or tariffs as the case may be are in effect with all agencies involved, and the use of any tariff or rate not so in effect shall be unlawful. The tariff, copies of which shall be available for public inspection, shall set forth all rates and charges under joint rates authorized by section 4, and all classifications, rules, regulations, practices, and services in connection therewith. Each agency may require a common carrier subject to its jurisdiction to set forth in a tariff or file with it for informational

purposes the division of revenue to be collected by such carrier. The names of the several carriers which are parties to any joint tariff established under this Act shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with each agency having jurisdiction over any one of such carriers, such evidence of concurrence therein or acceptance thereof as may be required or approved under such rules and regulations as may be established under section 7 of this Act, and where such evidence of concurrence is filed, it shall not be necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties. Copies of such tariffs shall be made available by the carriers to any person and a reasonable charge may be made therefor. Except as permitted under the rules and regulations promulgated under section 7 of this Act, no new joint rate shall be established nor shall any change be made in any tariff setting forth a joint rate on less than thirty days notice.

SEC. 6. ADHERENCE TO TARIFF. International transportation under joint rates shall be performed strictly in accordance with the tariff, and no common carrier subject to the jurisdiction of an agency shall demand, or collect any greater, less, or different compensation for international transportation than that specified in the tariff in which it participates. A carrier violating this section shall be subject to a civil penalty, to be imposed by the agency having jurisdiction over it, not to exceed \$5,000 for each such violation, which may, in the discretion of such agency, be remitted or mitigated by it. Every shipment violating this section shall constitute a separate offense.

SEC. 7. FORMS OF TARIFFS. The Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, shall, after consultation with the Secretary of Transportation, jointly promulgate a single set of rules and regulations as to the form and manner of filing, posting, and publishing of tariffs setting forth joint rates established under this Act, and the conditions, if any, under which new rates may be established and changes in tariffs may be made on less than thirty days notice. An agency having jurisdiction of a carrier participating in a joint rate may reject a tariff which does not comply with the rules and regulations. The rules and regulations shall encourage to the maximum extent possible the use of simplified forms of tariffs, simplified classifications, and coordinated commodity descriptions.

SEC. 8. JURISDICTION AND AUTHORITY OF AGENCIES. Each agency may exercise for the purpose of this Act the jurisdiction and authority which it possesses under existing law, including the jurisdiction and authority each agency has to suspend, investigate, approve, or disapprove rates and practices. The jurisdiction and authority each agency has to approve with or without conditions or disapprove agreements among carriers subject to its jurisdiction is hereby extended to an agreement between such a carrier or carriers and a carrier or carriers of a different mode relating to joint rates and practices, or the interchange or pooling of equipment and facilities. Divisions of joint rates and practices in connection with joint rates, are regarded for purposes of this Act as rates and practices of carriers and, as such, are subject to all applicable statutory provisions governing the lawfulness of rates and practices. An order of an agency directed to or arising out of a carrier's participation in joint rates is subject to judicial review and enforcement as provided under existing law with regard to other orders of that agency. The agencies may hold joint hearings pursuant to rule or order on any matter within this Act.

SEC. 9. THROUGH BILL OF LADING. A carrier participating in a joint rate may issue a through bill of lading assuming responsibility from place of origin to place of destination. The through bill of lading may be in the form desired by participating carriers, if otherwise lawful, and may include or be designed to be accompanied by waybills or transportation documents prescribed or recommended by international agreement, by law or regulation of foreign governments, or by international organizations.

SEC. 10. DAMAGES; OVERCHARGES AND UNDERCHARGES; VENUE. For the purpose of determining (1) the rights and obligations of the shipper and the carrier in the event of loss or damage to goods or undercharges or overcharges, and (2) jurisdiction over actions brought in connection therewith, shipments under tariffs established pursuant to this Act shall be treated as if they were shipments moving under separate tariffs established pursuant to the Interstate Commerce Act, the Shipping Act, 1916 or the Federal Aviation Act of 1958.

SEC. 11. INTERNATIONAL COOPERATION; REPORTS. The Secretary of Transportation, in consultation with each agency and the Secretary of State, shall encourage

and foster the adoption of procedures and documents facilitating prompt and efficient international transportation of goods within and without the United States. From time to time, the Secretary of Transportation shall report to the Congress on use of joint rates under this Act, on obstacles to employment of such rates, and on facilitation of international movements.

SEC. 12. EFFECT ON EXISTING LAW. This Act shall be deemed to be supplementary to the jurisdiction and authority which each agency possesses under existing law and nothing in this Act shall be construed to repeal, modify, or change any provision of the Interstate Commerce Act, the Federal Aviation Act of 1958, or the Shipping Act, 1916, or any other provision of law except to the extent that the provisions of such Acts or other laws or rules and regulations issued thereunder are clearly inconsistent with this Act; *Provided, however,* That in construing such Acts or other provisions of law each agency shall exercise its jurisdiction and authority under existing law so as to implement the policy set forth in section 2 of this Act.

SEC. 13. AMENDMENTS. (a) Section 1003 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1483), is amended by adding the following subsection at the end thereof:

"(f) This section does not apply to joint rates for international transportation of property; however, joint rates for international transportation of property established and filed under this section before the effective date of this amendment are not affected."

(b) Section 412(b) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1382(b)), is amended by inserting, immediately before the word "between", the following:

"(other than an agreement relating to joint rates for international transportation of property)".

SEC. 14. EFFECTIVE DATE. This Act shall be effective ninety days after the date of enactment. Not later than the effective date, the agencies shall publish rules for the filing of tariffs.

(The letter and section-by-section analysis of the bill presented by Mr. Magnuson are as follows:)

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., March 11, 1968.

HON. HUBERT H. HUMPHREY,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill "To authorize and foster joint rates for international transportation of property, to facilitate the transportation of such property, and for other purposes", together with a section-by-section analysis.

The proposed bill would permit the different classes of common carriers engaged in the domestic, international, and foreign segments of international transportation to enter into agreements to establish joint rates, issue single bills of lading for through movements, and interchange or pool equipment and facilities. Such agreements would be subject to the approval of each regulatory agency having jurisdiction over a carrier entering the agreement. The bill would extend each agency's jurisdiction and authority to cover joint rate agreements in international transportation, making only incidental changes in the existing authorities of the regulatory agencies.

The need for this legislation is clear. Modern container technology has now made it physically feasible to weld land, sea and air transport into one system of international transportation. The efficiency of the container as an instrument of carriage by rail, by motor, by sea, and by air is no longer in question. The public demand for improved transportation and the public acceptance of containers as satisfying that demand is proved by the explosive growth of all modes of container carriage.

Today, it is completely feasible to pack a truckload of goods into a container at a manufacturer's plant in Kansas City, Missouri, move the container by truck or rail to a seaport or airport, ship the container overseas, and then move it to a destination inland in Europe, without once breaking the seal. Unfortunately, this tremendous increase in the technical capability of the carriers has not been matched by any innovation in the structure of laws and regulations which govern movements in international transportation.

The present legal structure can be characterized as an inverted pyramid of laws, rules, and practices, whose foundation is well over a century old. This structure enmeshes international transportation in a web of different rate quotations by each type of carrier, different documents at each stage of the movement, and constantly varying liability for the condition of the goods through each stage of the journey.

Three major improvements are needed:

First, the shipper should be quoted a single through rate from origin to destination, not a confusing set of rates. One reason trade flourishes within the United States is because a manufacturer in Schenectady can sell his product in Phoenix with an exact knowledge of his transportation costs. His transportation rates abroad, on the other hand, are far more complex and less certain, and international trade suffers accordingly. The goal is simple—the quotation of a joint rate agreed on by all the carriers participating in an international haul as the total door-to-door charge.

Second, a shipper trying to move goods in international transportation should not be confronted with a flood of paperwork. One single bill of lading ought to suffice as a contract of carriage from Des Moines to Istanbul.

Third, there ought to be available to the shipper a simple and uniform system of carrier liability covering all segments of the journey. If cargo is damaged in the course of an international movement, it is often impossible to tell whether the damage occurred on land, sea, or air and, from the standpoint of the shipper, the place of damage is immaterial. Yet, because a carrier's liability differs greatly under railroad, steamship, and airline tariffs, the place of loss rather than the fact of loss governs the shipper's recovery.

The proposed bill would help to remove two of these three legal obstacles to the creation of a modern international transportation system adequate to serve the needs of American exporters and importers. It would remove the first obstacle by permitting carriers of all modes to publish joint rates to be quoted to shippers for through international transportation. Under present law, land and sea carriers are not permitted to publish a single point rate for through transportation. Instead, each modal carrier must publish a separate tariff for its portion of the haul.

The bill makes an initial assault on the paperwork problem by permitting all the carriers participating in a through movement to issue a single through bill of lading for the entire journey, door-to-door. Existing law requires each type of carrier to issue its own bill of lading, and the provisions of the documents differ widely. (While a single bill of lading will be a major forward step, it should be noted that much will remain to be done in areas beyond the scope of this bill if we are to remove the mass of documentation which engulfs the movement of people and goods between nations.)

The bill deals indirectly with the third major legal impediment, the absence of a simple and uniform system of carrier liability. There are numerous domestic and foreign laws and international conventions relating to a carrier's liability for the carriage of goods. These vary so greatly as to the substantive rights afforded a shipper that any attempt at piecemeal improvements might only create more uncertainty. The alternative of completely restructuring the domestic and international laws on liability within any reasonable timespan is simply not feasible. It is feasible, however, to avoid the imperfections in the laws through the working of private market forces. The establishment of a framework within which carriers can provide a through, joint rate service should provide impetus for a private attack on the liability problem. The initiating carrier can then, through the contract of carriage, assume full responsibility for loss or damage, reflecting the cost in the joint rate. This is already being done by some forwarders. We expect that, under the spur of competition, this practice will spread. We will certainly encourage it.

In proposing a bill which will remove these obstacles to trade, great care has been exercised to avoid creating new regulations, destroying the services of existing carriers, or abolishing the existing regulation of carriers. Under the bill every type of common carrier now existing could join with every other type of common carrier to publish joint rates. Railroads, motor carriers, bargelines, freight forwarders, steamship lines, ocean cargo consolidators, airlines, airfreight forwarders, and carriers of all modes operating abroad would be free to join together to offer joint rates on cargo moving under through bills of lading. No type of common carrier is excluded by the bill from participating. Each type of carrier is free to join in through transportation or not as he pleases.

The bill neither creates nor certifies any new type of carrier. Existing carriers, operating under their existing authorizations, would provide the through transportation.

Similarly, the bill creates no new type of regulation. The tariffs quoting through rates would be filed with the existing regulatory agencies—the Interstate Commerce Commission, Federal Maritime Commission, or Civil Aeronautics Board. If a tariff has to be filed with more than one agency, the identical paper would be filed with each, under uniform tariff-filing rules.

Existing regulatory safeguards would be maintained. Land, air, and sea carriers would remain subject to their respective agencies. All agreements entered into by carriers would be subject to approval by each agency in the same manner as they would under existing law when entered into by competing carriers. No agency would lose any of its existing authority or jurisdiction.

In summary, the bill's purpose is to create a framework which allows the abilities and facilities of existing carriers to be utilized to the fullest extent in providing modern, through transportation. The approach of the bill is permissive, not mandatory. With the known needs of shippers for through service and the known desire of carriers to join together to provide such service, only the legal barriers stand in the way. Once these are dismantled, swift, simple, and economical international through service should become a reality.

The Bureau of the Budget has advised that enactment of the proposed bill would be in accord with the President's program.

Sincerely,

ALAN S. BOYD.

SECTION-BY-SECTION ANALYSIS OF THE BILL TO AUTHORIZE AND FOSTER JOINT RATES FOR INTERNATIONAL TRANSPORTATION OF PROPERTY, TO FACILITATE THE TRANSPORTATION OF SUCH PROPERTY, AND FOR OTHER PURPOSES

SECTION 1. SHORT NAME. This section provides that the Act may be cited as the "Trade Simplification Act of 1968."

SEC. 2. DECLARATION OF POLICY. This section declares it to be the policy of the United States to facilitate the movement of freight in international commerce and to foster the use of joint rates by land, water, and air carriers in international transportation of property between the United States and foreign countries. All Federal departments and agencies are directed to cooperate in carrying out this policy.

SEC. 3. DEFINITIONS. This section defines the important terms used in the statute. The kinds of "carrier" which will participate in the transportation envisioned by this bill are (1) common carriers including freight forwarders subject to the jurisdiction of the Civil Aeronautics Board, Federal Maritime Commission, or the Interstate Commerce Commission and (2) for-hire transporters of property by land, water, or air between points both of which are outside the United States. By including both domestic and foreign carriers, it will be possible to have a joint rate for a through movement between an interior point in the United States and an interior point in a foreign country.

"Joint rate" is defined as "a rate jointly offered for a through service, and expressed as a single, comprehensive rate, by (1) two or more carriers, at least one of which shall be a common carrier subject to the jurisdiction of an agency, or (2) one common carrier subject to the jurisdiction of more than one agency, or (3) one common carrier subject to the jurisdiction of an agency and also performing transportation wholly outside the United States." It would not include the combining of an ocean rate with charges for incidental pick-up or delivery within the port area of origin or destination.

"International transportation" is defined as "transportation of property by land, water, or air carrier or by any combination thereof between places in the United States, on the one hand (including Puerto Rico, the District of Columbia and territories and possessions), and places in a foreign country, on the other."

SEC. 4. ESTABLISHMENT OF JOINT RATES. This section authorizes carriers (including freight forwarders by air, surface, or ocean) to enter into agreements to establish joint rates and to provide in such agreements for the division of revenues, the apportionment of liability, and the pooling or interchange of equipment, and other operating matters. All agreements are subject to review and approval by the regulatory agencies having jurisdiction over the carriers.

SEC. 5. TARIFFS. This section requires that joint rate tariffs be filed, posted, and published, with each agency having jurisdiction over a participating car-

rier. To be in effect as a lawful joint rate, the required tariffs must be in effect with each agency involved. Other matters relating to the tariffs are also specified. Each agency may require the common carrier subject to its jurisdiction to file for informational purposes or to set forth in the tariff the division of the rate which will accrue to it. Since a number of carriers subject to one agency may participate in a joint rate, this section provides that each may concur in the filing before that agency, rather than be required to file the same tariff individually. The section does not, however, require a participating carrier to file anything with any agency other than the one having jurisdiction over it. Unless a different period is provided pursuant to regulations, no joint rate tariff may become effective or be changed on less than thirty days notice.

SEC. 6. ADHERENCE TO TARIFF. This section requires strict adherence to the terms of a tariff and imposes a civil penalty of up to \$5,000 for every shipment which violates the duty not to charge a greater, lesser, or different compensation than set forth in the tariff.

SEC. 7. FORMS OF TARIFFS. This section directs the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, after consultation with the Department of Transportation, jointly to promulgate rules for the form and manner of filing tariffs, and other related matters. The rules shall encourage maximum use of simplified tariff forms and classifications, and coordinated commodity descriptions.

SEC. 8. JURISDICTION AND AUTHORITY OF AGENCIES. This section retains for each agency the jurisdiction and authority it has under existing law with respect to the rates and practices of carriers subject to it. While no agency is given jurisdiction over the entire joint rate, each is given jurisdiction over that part of the joint rate relating to a carrier ordinarily subject to its jurisdiction, and over that carrier's practices in connection with the joint rate. It is specifically provided that divisions of joint rates and practices related thereto are to be treated as rates and practices, for the purposes of the Act, and the relevant agency would apply to them the statutory provisions governing lawfulness of rates and practices. The agency may exercise this jurisdiction in the same manner and to the same extent as it exercises its existing jurisdiction over the rates and practices of the carrier. The several agencies would be authorized to conduct joint hearings on any matter covered by the Act.

Each agency is authorized to treat a joint rate agreement as it would agreements entered into by competing carriers, all of whom were under its jurisdiction. This provision is intended to immunize joint rate agreements through the process of each regulatory agency acting upon such agreements according to its own statutory authority (section 412 of the Federal Aviation Act (49 U.S.C. 1382), section 5a of the Interstate Commerce Act (49 U.S.C. 5b), and section 15 of the Shipping Act, 1916 (46 U.S.C. 814)) and extending such immunity from the anti-trust laws as follows from approval under those statutory provisions. While no agency would have jurisdiction over the entire agreement, each would have authority to approve or disapprove participation in the agreement by a carrier subject to its jurisdiction. Agreements would be permitted between a single carrier in one mode and a single carrier in another mode or between a group of carriers in one mode and a single carrier or group of carriers in another mode. The agencies would be expected to cooperate in issuing any necessary, uniform regulations establishing procedures or requirements to be observed in entering into agreements, consistent with the policy expressed in section 2 of the bill.

SEC. 9. THROUGH BILL OF LADING. This section authorizes any carrier participating in a joint rate to issue through bills of lading assuming responsibility from origin to destination. It is intended that the provisions of the Pomerene Bills of Lading Act (49 U.S.C. 81 et seq.), which deals with negotiability, legal sufficiency, and other matters, will apply to bills issued under the authority of this section in the same manner as it does to any other bill of lading.

SEC. 10. DAMAGES; OVERCHARGES AND UNDERCHARGES; VENUE. This section provides that the appropriate existing law will be applicable to claims for loss or damage to goods shipped or for overcharges or undercharges which arise during movements under a tariff authorized by the Act. Similarly, jurisdiction of the various courts to entertain suits arising in connection with such movements will also be determined under existing law. The intent of the section is to permit a shipper or carrier to assert with respect to a claim concerning a movement under a joint rate the same rights and remedies which would have been available if the shipment had moved under separate tariffs established by existing laws.

SEC. 11. INTERNATIONAL COOPERATION ; REPORTS. This section directs the Secretary of Transportation, in consultation with the interested agencies and the Secretary of State, to facilitate international transportation of goods, and to report to the Congress from time to time on the use of joint rates and the facilitation of international movements.

SEC. 12. EFFECT ON EXISTING LAW. This section states that this Act is intended to supplement the jurisdiction and authority each agency has. Where provisions of the Interstate Commerce Act, the Federal Aviation Act or the Shipping Act, 1916, are clearly inconsistent with this Act they will be deemed to be changed by this Act. The agencies are directed to exercise their existing authority so as to implement the policy expressed in this Act.

SEC. 13. AMENDMENTS. This section amends two sections of the Federal Aviation Act of 1958; the first concerns establishment of through service and joint rates between air carriers and carriers subject to the Interstate Commerce Commission pursuant to section 1003 to restrict its future application to interstate transportation of property. The other amends section 412(b) of the Federal Aviation Act to make it clear that air freight forwarders may enter into the joint rates encouraged by this Act. This is similar to the kind of clarification of the role of surface forwarders conveyed by section 4(b) of this Act.

SEC. 14. EFFECTIVE DATE. Makes the Act effective ninety days after enactment to permit the regulatory agencies to promulgate necessary implementing rules and regulations. The agencies are required to publish regulations for the filing of tariffs by the effective date.

CIVIL AERONAUTICS BOARD,
Washington, D.C., April 16, 1968.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of March 29, 1968, requesting the views of the Board with respect to S. 3235, a bill "To authorize and foster joint rates for international transportation of property, to facilitate the transportation of such property, and for other purposes."

S. 3235 is identical to a draft bill submitted by the Secretary of Transportation to the Congress on March 11, 1968. The purpose of the bill is to remove certain legal obstacles to international trade. This objective would be accomplished by permitting carriers subject to the jurisdiction of the Board, Federal Maritime Commission and Interstate Commerce Commission, and for-hire transporters of property between points outside of the United States, to enter into agreements to establish joint rates and issue single bills of lading for through movements in international transportation. Each agency would be left with the regulation under existing law of that portion of the movement involving its mode of transportation, including the portion of the joint rate involved.

The bill is the result of discussions between the Department of Transportation and the agencies involved. Insofar as the Board is concerned, the principal effects of the bill would be to permit air freight forwarders to enter into agreements with common carriers subject to the Interstate Commerce Act relating to joint rates for international transportation, and to permit a single bill of lading. The bill's effects would be more pronounced in the field of surface transportation where greater prohibitions exist with respect to land and sea carriers entering into a single rate for through transportation.

The Board shares the views of the Secretary of Transportation that there is a need for legislation of this nature. The development of the container as a means of carriage has made improved transportation possible. At the same time, however, the laws and regulations governing movements in international transportation continue to present a number of barriers to the creation of a modern international transportation system. The Board favors, therefore, the enactment of S. 3235.

The Board has been advised by the Bureau of the Budget that there is no objection to the submission of this report, and that enactment of S. 3235 would be in accord with the program of the President.

Sincerely,

JOHN H. CROOKER, Jr., *Chairman.*

DEPARTMENT OF STATE,
Washington, April 18, 1968.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of March 29 requesting comments on S. 3235, a bill "To authorize and foster joint rates for international transportation of property, to facilitate the transportation of such property, and for other purposes".

The Department of State concurs in the objectives of S. 3235 and recommends its enactment.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report, and that enactment of this legislation would be in accord with the program of the President.

Sincerely yours,

H. G. TORBERT, Jr.,
Acting Assistant Secretary for Congressional Relations.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., April 25, 1968.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of March 29, 1968, requested any comments the General Services Administration may care to offer on S. 3235, 90th Congress, a bill "To authorize and foster joint rates for international transportation of property, to facilitate the transportation of such property, and for other purposes."

The bill, if enacted, would permit the establishment of joint rates for international commerce between carriers under the jurisdiction of the Interstate Commerce Commission, Civil Aeronautics Board and the Federal Maritime Commission, or between carriers under the jurisdiction of these agencies and other carriers under the jurisdiction of foreign governments or international organizations. Each agency would have jurisdiction over only that part of the joint rate, or practices relating to the joint rate, which involves the carrier or carriers subject to its jurisdiction. No one agency would have jurisdiction over the whole rate.

Joint rates established under the bill would be published in a tariff to be filed concurrently with the agencies having jurisdiction over the carrier parties to the joint rate. New joint rates or changes to joint rates would have to be published thirty days in advance of the effective date unless the agencies, in establishing the rules and regulations, established a rule that would provide for less than thirty days' notice.

The legislation would also permit issuance of a thorough bill of lading in a form desired by the participating carriers, if otherwise lawful; and the carrier issuing the through bill of lading would assume responsibility for the entire movement from origin to final destination, including responsibility for overcharges and undercharges and settlement of loss and damage claims.

We consider the objectives of the bill to be of advantage to shippers engaged in commerce between the United States and foreign countries. Establishment of joint rates under the provisions of this bill would locate a single source of responsibility for making arrangements for the through transportation of freight, as well as for the payment of charges and the adjustment of claims. The issuance of a single bill of lading would further facilitate the movement of through freight. Accordingly, as a shipper and traffic manager for other civilian agencies, GSA favors enactment of the bill.

If enacted, the bill's impact on the budget in terms of savings to the Government cannot be precisely estimated at this time. Any savings realized would result from a reduction in shipping documentation prepared by the Government.

The Bureau of the Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to your Committee, and that enactment of S. 3235 would be in accord with the program of the President.

Sincerely yours,

LAWSON B. KNOTT, Jr., Administrator.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF EMERGENCY PLANNING,
Washington, D.C., May 15, 1968.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Since Governor Daniel is attending the Western Governors' Conference this week, I am taking the liberty of replying to your request for comments on S. 3235, 90th Congress, a bill which would be cited as the "Trade Simplification Act of 1968."

A sound transportation system is important to the national defense. The Office of Emergency Planning favors S. 3235 which would strengthen the common carrier systems of transportation by permitting the fullest utilization of their facilities. We recommend its early enactment.

The Bureau of the Budget advises that it has no objection to the submission of this report and that enactment of the proposed bill would be in accord with the President's program.

Sincerely,

MORDECAI M. MERKER,
Acting Deputy Director.

THE POSTMASTER GENERAL,
Washington, D.C., May 15, 1968.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for a report on S. 3235, a bill to authorize and foster joint rates for international transportation of property, to facilitate the transportation of such property, and for other purposes.

The proposed legislation would permit the different classes of carriers engaged in the domestic, international, and foreign segments of international transportation to enter into agreements to establish joint rates; issue single bills of lading for through movements; and interchange or "pool" equipment and facilities.

In the main S. 3235 would provide for joint rating of freight shipments transported by combination rail, air, or vessel. Since the mails do not move as freight, Post Office Department procedures or operations would not be affected by the legislation.

A derivative benefit of the proposed legislation would be an increase in container carriage of goods from origin to destination. We have been utilizing this concept in mail transportation for sometime, and continued expansion of such containerization could be of value to the Department in years to come.

The Department would have no objection to the enactment of S. 3235.

The Bureau of the Budget has advised that there is no objection to the submission of this report to the Committee and that enactment of S. 3235 would be in accord with the program of the President.

Sincerely yours,

MARVIN WATSON,
Postmaster General.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., June 10, 1968.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We again refer to your letter of March 29, 1968, in which you requested our comments on S. 3235, introduced at the request of the Department of Transportation.

The purpose of S. 3235 is the promotion and simplification of international transportation arrangements through the authorization of intermodal joint through rates for the carriage of goods between the United States and foreign countries. This would be declared to be the policy of the Congress and all Federal departments and agencies would be directed to cooperate fully in its implementation; the establishment of intermodal joint through rates would not be mandatory on carriers, however.

After defining terms in section 3, S. 3235 would authorize the establishment of international joint through intermodal freight rates (section 4), to be published in tariffs (section 5) issued pursuant to rules and regulations promulgated by the several regulatory agencies—the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission—acting in concert, after consultation with the Secretary of Transportation (section 7). The tariffs so published would be filed with the agency or agencies having regulatory jurisdiction over the several participating common carriers; concurrences would be filed with an agency by those participants not subject to its jurisdiction. Section 6 would provide civil penalties for imposition by the agency having jurisdiction upon a carrier which failed to adhere to the joint rate tariff in which it participated.

Section 8 would preserve to each agency its existing jurisdiction and authority; agency jurisdiction to approve or disapprove agreements between carriers subject to its regulation would be expanded to include agreements between such carriers and carriers by another mode relating to rates, practices, and the interchange or pooling of equipment and facilities. The agencies would be empowered to hold joint hearings; agency orders relating to joint rates would be subject to existing law as to judicial review and enforcement.

Section 9 would authorize a carrier participant to issue a through bill of lading and assume responsibility for a shipment from origin through to destination. In case of loss or damage to goods, or of overcharges or undercharges, section 10 would make the rights of the parties and jurisdiction of actions brought the same as if the involved shipments had moved under separate tariffs established pursuant to the Interstate Commerce Act, the Shipping Act, 1916, or the Federal Aviation Act of 1958.

Section 11 concerns agency and international cooperation and Department of Transportation reports to the Congress on the operation of the joint rate program. Section 12 would make the jurisdiction and authority afforded in S. 3235 supplementary to existing law, which would be unaffected except where clearly inconsistent. Section 13 would make the Interstate Commerce Commission-Civil Aeronautics Board Joint Board provisions contained in section 1003 of the Federal Aviation Act of 1958, 49 U.S.C. 1483, inapplicable to international joint through intermodal rates, and would authorize the Civil Aeronautics Board to approve, among other agreements, international joint rate agreements between indirect air carriers and carriers subject to the Interstate Commerce Act. Section 14 would make the provisions of S. 3235 effective 90 days after enactment.

We are in accord with the purpose of S. 3235. We think that the shipping public and the United States Government, in its capacity as a purchaser of freight transportation, would be well served by an uncomplicated and efficient joint through intermodal rate structure available for the international transportation of property. We have, however, some reservations as to the attainability of this objective by legislation such as that proposed in S. 3235, which apparently was drawn so as to preserve unchanged the existing jurisdiction and authority of regulatory agencies and the existing rights and obligations of the parties to contracts for transportation by the several modes.

We are especially concerned, because of our transportation audit and debt collection responsibilities, with the overcharge and the loss and damage provisions in section 10 of S. 3235. This section would provide that if a shipment made at a joint through intermodal rate is damaged or lost, or if it is overcharged or undercharged, the rights and obligations of the shipper and the carriers, and jurisdiction over consequent actions, would be as if that shipment moved under separate tariffs established pursuant to the Interstate Commerce Act, the Shipping Act, 1916, or the Federal Aviation Act of 1958.

The language of section 10 suggests that the shipper would assume the burden of discovering which carrier in an intermodal route was responsible for the loss or injury to his property, since that knowledge would be essential to the ascertainment of his own rights, the carriers' obligations and the time and place for bringing suit. This is so because the rights and obligations of the parties and the jurisdiction of actions brought under those three laws are quite different.

In general, common carriers subject to Parts I, II, and IV of the Interstate Commerce Act are liable, without proof of negligence, for loss or injury to goods that they transport, absent an affirmative showing that the loss or damage was caused by an act of God, the public enemy, the public authority, or the shipper, or by the apparent vice of the goods, 49 U.S.C. 20(11), 319, 1013, *Secretary of Agriculture v. United States*, 350 U.S. 162 (1956); *Missouri Pacific Railroad*

Company v. Elmore & Stahl, 377 U.S. 134 (1964). Initial carriers are required by section 20(11) of the Act to issue bills of lading and, with the delivering carriers, are liable to the lawful holders of such bills of lading for loss or damage to shipments covered thereby. Nine months are allowed for filing claims and, for the institution of suit, two years from the time the carrier gives written notice that the claim has been disallowed.

The liability for loss and damage of water carriers subject to Part III, 49 U.S.C. 901, *et seq.*, and to the Shipping Act, 1916, 46 U.S.C. 801, *et seq.*, and the times within which to file claims and to bring suit, depend upon the terms of the bill of lading contract and of the applicable tariff, and upon provisions of law such as the Carriage of Goods by Sea Act, 46 U.S.C. 1303, *et seq.* The latter Act, among other things, discharges the carrier and the shipper from liability for loss and damage if suit is not brought within one year from the date of delivery.

In the case of air transportation, tariff provisions have been viewed by the courts as governing the rights and obligations of the shipper and carrier, 49 U.S.C. 1373; *Vogelsang v. Delta Airlines, Inc.*, 302 F. 2d 709, certiorari denied, 371 U.S. 826 (1962). Also international transportation by water and by air may be subject to international treaties and agreements which affect both the rights and obligations of the parties and the liability of carriers. For example, the Warsaw Convention, 49 Stat. 3000, 49 U.S.C. 1502, limits liability for property lost or damaged in international air transportation to a specific amount per kilogram (article 22(2)) and establishes a two-year limitation on actions (article 29).

Section 10 possibly would, as to loss or damage to property moved at an intermodal joint through intermodal rate, create a situation analogous to that prevailing in domestic rail transportation prior to the 1906 Carmack Amendment to the Interstate Commerce Act, 49 U.S.C. 20(11). There was then no uniformity of liability for loss or damage to goods shipped by rail in interstate commerce; shippers had to search out and proceed against the particular carrier responsible, although the facts surrounding the loss or damage would be in the knowledge of the carriers and would be difficult for the shipper to ascertain. Because of the intermodal service and the international character of the traffic which would be subject to section 10 of S. 3235, we think it is reasonable to anticipate even more obstacles in the way of determining responsibility for loss and injury and thus determining where jurisdiction would lie: under the Interstate Commerce Act, the Shipping Act of 1916, or the Federal Aviation Act.

It seems to us that this problem could be cured, or at least mitigated, by amending section 9 of S. 3235 to make the issuance of through bills of lading mandatory, with the issuing carrier assuming the degree of liability chargeable against the carrier responsible for the loss or damage. In cases of loss or damage, the aggrieved shipper would then be entitled to look to the carrier issuing the bill of lading; that carrier, to whom the facts would be more readily accessible, would have to disclose them in order to determine the rights of the parties and proper jurisdiction and venue under section 10.

As to overcharges, section 10 would make the rights and obligations of the parties and jurisdiction over actions determinable the same as in cases of loss or damage. But matters of overcharge and undercharge sound in contract; they cannot readily be assimilated into a provision which seems to have been designed essentially in the light of loss and damage matters. Logically, we think, a shipper's claim for an overcharge, or a suit to recover an overcharge, ordinarily should be brought against the carrier which billed and collected that overcharge. And the rights of the parties and jurisdiction of the suit should depend upon that carrier's identification as one subject to regulation under the Interstate Commerce Act, the Shipping Act of 1916, or the Federal Aviation Act. This should be clearly expressed in section 10, however, since the provision as now drafted is susceptible of other interpretations, including possibly the joinder of all carriers parties to the through rate.

This point takes on added importance because of the differing statutory periods of limitations on claims and suits for transportation charges. For example, actions by carriers subject to the Interstate Commerce Act to recover their charges, and actions against them for overcharges, generally must be brought within three years from the accrual of the cause of action, subject to certain qualifications when the transportation is for the United States, 49 U.S.C. 16(3), 304a, 908, 1006a. And the claims against the United States of common carriers subject to the Interstate Commerce Act or the Civil Aeronautics Act of 1938 (now the Federal Aviation Act of 1958) are barred if not received in the General Accounting Office within three years from the happening of any one of four specified

events, 49 U.S.C.A. 66. Other carriers, however, may have their claims against the United States considered if presented here within 10 years after accrual, 31 U.S.C. 71a. Limitations on the filing of claims and suits by and against air and ocean carriers and claims or suits for loss or damage are similarly disparate.

In the interest of equal treatment of both shippers and carrier parties to an international through intermodal service, we suggest that your Committee consider amending S. 3235 to make clear in section 10 against whom a shipper suffering an overcharge should proceed, and to add uniform periods of limitations on actions to recover overcharges and undercharges. Three-year limitations seem reasonable.

The provisions for joint action and joint hearings by the three regulatory agencies, some of the tariff filing provisions, and the provisions for retention of existing agency jurisdiction and authority seem productive of confusion and probably should be more fully covered. We do appreciate that S. 3235 was carefully drawn to avoid unnecessary changes in existing regulatory law and encroachment on existing agency jurisdiction, but effective action may be difficult to achieve.

Apparently under section 8 the lawfulness, for example, of an international joint through intermodal rate could be attacked before any regulatory agency having jurisdiction of a carrier participating in that rate. It is conceivable that an order issued by one agency might, on review, be opposed by another agency having jurisdiction over a carrier participant. These problems might be relieved by adapting the joint board concept given effect in the Federal Aviation Act, 49 U.S.C. 1483, to the needs of the international joint through intermodal rate structure contemplated in S. 3235.

The legislative proposal contained in S. 3235 recognizes and acknowledges a developing trend toward international through intermodal service. That trend is generally apparent; REA Express, for example, for some time has offered international through service for ordinary merchandise and personal effects moved on a through bill of lading in single carrier service, i.e., with REA Express assuming full responsibility from origin to destination. Technological advances in facilities and equipment (for example, piggyback, fishy-back and through container service and computerization), have given impetus to this trend.

United States Government shipping agencies, notably the Department of Defense, have been especially active in initiating and expanding international through service. Because of the extent of the Government's interest as a user of commercial transportation—the United States is the largest single shipper in the world—and because of the needs of its worldwide commitments, Government shippers have a particular concern for safe, efficient, and expeditious service, as authorized under the law. The Government, in certain respects, enjoys a greater degree of freedom to contract with regulated carriers than do shippers generally. This situation permits innovation and experimentation in transportation rates and services not possible within the regulatory framework, as we have pointed out to your Committee in our comments on various proposals to amend section 22 of the Interstate Commerce Act, which permits such freedom of contract with carriers subject to Parts I, II, III, and IV of the Act, 49 U.S.C. 22, 317b, 906(c) 1005(c). See, for example, our letter of April 14, 1967, B-97532, B-108119, commenting on S. 754, 90th Congress, First Session.

The Department of Defense has for some time utilized carriers of the several modes in through Government bill of lading and through container service between inland United States points and overseas ports and interior points. The service seems to have originated with the carriage of used household goods and unaccompanied baggage.

The intermodal rate and service arrangements we have seen contemplate through service on a single bill of lading, with the issuing carrier billing the Government for the through charges, after advancing all charges accruing to the participating carriers, and with the issuing carrier assuming responsibility for the shipment from origin through to destination. In the event of loss or damage, the issuing carrier's liability is generally stated to be that imposed by section 20 (11) of the Interstate Commerce Act, unless the carrier can show, to the shipper's satisfaction, that the loss or injury occurred while the goods were in the custody and control of the ocean carrier participating in the through service.

Obviously, some problems are inherent in this type of arrangement; we have pointed out some which are foreseeable in connection with the kind of international through intermodal service proposed in S. 3235. The Department of Defense has undoubtedly accumulated valuable experience in solving these problems as it has expanded its use of international through intermodal service; that

Department should be in a position to provide your Committee with useful comments on S. 3235.

As we said, we are in sympathy and general accord with the aims of S. 3235. Subject to the foregoing comments, we have no objection to its favorable consideration by your Committee.

Sincerely yours,

FRANK H. WEITZEL,
Assistant Comptroller General of the United States.

FEDERAL MARITIME COMMISSION,
Washington, D.C., June 10, 1968.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request of March 29, 1968, for the views of the Federal Maritime Commission with respect to S. 3235, a bill to authorize and foster joint rates for international transportation of property, to facilitate the transportation of such property, and for other purposes.

The Commission's experience indicates that there is urgent need for legislation authorizing the establishment and filing of single factor through rates covering more than one mode of transportation in international commerce and setting forth filing requirements and other regulatory procedures applicable to those rates. Classical single factor rates entered into between carriers of different modes presently cannot be filed with the Federal Maritime Commission or with the Interstate Commerce Commission. There are no clear rules with respect to the establishment of such rates and through routes. The rapid pace at which the shipment of containerized cargo is replacing the traditional breakbulk shipments makes it necessary that adequate guidelines in these areas be furnished to both shippers and carriers.

S. 3235 would permit common carriers of different modes of transportation to agree to establish joint rates for the transportation of property by land, water, or air, or by any combination thereof between the United States and a foreign country. The present jurisdiction and authority of each of the several transportation regulatory agencies to approve or disapprove agreements among carriers subject to its jurisdiction, would be enlarged to include agreements between such carrier or carriers and a carrier or carriers of a different mode relating to joint rates and practices, or the interchange or pooling of equipment and facilities. Thus, as to the Federal Maritime Commission, the bill preserves the Commission's jurisdiction under the Shipping Act, 1916, and extends its authority to agreement between FMC carriers and carriers in other modes of transportation.

S. 3235 would require that tariffs reflecting joint rates established pursuant to agreement be filed, posted, and published concurrently by every participating carrier with the agency having jurisdiction over that carrier. No change in the rate can be made on less than 30 days notice, unless authorized by regulations jointly promulgated by the Interstate Commerce Commission, the Civil Aeronautics Board and the Federal Maritime Commission.

It is specifically provided that the Act shall be supplementary to the jurisdiction and authority which each agency presently possesses.

There has also been introduced in the Congress, before your Committee, S. 3134 entitled "Equipment Interchange Act of 1968" which also would permit carriers of different transportation modes to enter into arrangements for the pooling or interchange of equipment. Unlike S. 3235, however, the Equipment Interchange Bill would not be restricted to only those carriers participating in joint rate arrangements. The Commission is reviewing S. 3134 and anticipates that its views thereon will be transmitted to your Committee at an early date. Because of the overlapping you may wish to consider them together.

The Commission believes that S. 3235 would facilitate the movement of freight in international commerce and accordingly favors its enactment.

The Bureau of the Budget advises that there is no objection to the submission of this report to the Committee in that enactment of S. 3235 would be in accord with the program of the President.

Sincerely yours,

JOHN HARLLEE,
Rear Admiral, U.S. Navy (Retired), Chairman.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., June 17, 1968.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 3235, "To authorize and foster joint rates for international transportation of property, to facilitate the transportation of such property, and for other purposes."

The bill would authorize common carriers subject to the jurisdiction of the Civil Aeronautics Board, the Federal Maritime Commission, or the Interstate Commerce Commission to establish mandatory joint rates for international transportation of property.

The Department supports the purpose of the proposed bill, the facilitation of international transportation, which is of importance to our balance of payments. The Department has long done everything it could to facilitate international trade. The United States has always benefited from the growth in world trade and the surplus in our trade account has permitted this nation to undertake its major role in world affairs. To the extent that the bill would help to relax some of the restraints on international transportation, it would encourage the growth of our exports through simplification of procedures and the resulting economies of operation.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your Committee and that enactment of S. 3235 would be in accord with the program of the President.

Sincerely yours,

FRED B. SMITH, *General Counsel.*

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 19, 1968.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your request of March 29, 1968, for a report on S. 3235, a bill "To authorize and foster joint rates for international transportation of property, to facilitate the transportation of such property, and for other purposes."

This Department recommends that the bill be passed.

The bill would establish facilitation of the movement of freight in international commerce as a policy of the United States and would "* * * foster the use of joint rates by carriers by land, water, and air in the international transportation of property." Specifically, the bill would authorize establishment of joint through rates for all carriers participating in the movement of goods in international commerce, would require tariffs to be filed and would permit issuance of through bills of lading. The proposal also would retain the present jurisdiction and authority of the Interstate Commerce Commission, the Federal Maritime Commission, and the Civil Aeronautics Board and would permit the agency presently having jurisdiction of a carrier to require disclosure of the division of revenue among participating carriers. Any joint tariff would be required to specify the names of all parties participating therein.

It should be noted that the bill does not resolve problems arising from uncertain areas of jurisdiction at transfer points where carrier functions merge and sometimes overlap nor problems with respect to carrier liability for loss or damage. Under Section 10 of the bill, the rights and obligations of the shipper and carrier are the same when shipments are made under tariffs setting forth joint rates as when made under the separate tariffs for each carrier. It is noted that the Secretary of Transportation, in his letter of March 11, 1968, transmitting this bill to the President of the Senate, stated that, while it was not feasible in this bill to try to restructure the domestic and international laws on carrier liability, the bill, by authorizing carriers to establish joint rates, would make it possible for the carriers to resolve these problems themselves.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

ORVILLE L. FREEMAN.

Senator BREWSTER. Before calling our first witness this morning, I would ask Senator Moss if he has any statement he cares to make?

Senator Moss. I don't have a statement, Mr. Chairman. You have summed up very well the need for some improvement in this field. So I am going to listen and be educated. I am very happy to be here. I see we have a distinguished list of witnesses to hear from this morning. I won't take any time away from them.

Senator BREWSTER. I have a statement here from the chairman of the committee, Senator Warren G. Magnuson. If there is no objection, this statement will be placed in the record at this point.

(Statement of Senator Magnuson follows:)

STATEMENT OF HON. WARREN G. MAGNUSON, U.S. SENATOR FROM THE STATE OF WASHINGTON

I support the purpose of S. 3235, to remove obstacles to modern international transportation in order to foster the movement of goods in foreign commerce. This Committee which until a few years ago was known as the Committee on Interstate and Foreign Commerce, has been vitally concerned with the promotion and development of our foreign trade. Our current balance of payments problem makes legislation to remove unnecessary impediments to international transportation even more imperative.

The State of Washington with ports which are geographically closer than other West Coast ports to Asia has long been an active participant in the Orient sea trade. It is fitting that these hearings begin shortly before the 72nd anniversary of the first regularly scheduled ocean service between Japan and the United States. On August 31, 1896, James J. Hill of the Great Northern Railroad, linked rail transportation with Japanese regular ocean service to the United States via Seattle.

In recent years, with the development of container-carrying trucks and trains and ships, we have seen the growth of a new transportation technology which can enable the expansion of international commerce.

The various laws relating to land, sea and air transportation—the Interstate Commerce Act, Shipping Act, and Civil Aeronautics Act—however, were enacted prior to the development of this new container technology.

S. 3235 is designed to promote international transportation within the present regulatory framework by granting carriers permission to enter into joint rates, to issue through bills of lading, and to make intermodal agreements. Land, sea and air carriers are not required to use the mechanisms of this proposed legislation, but they may do so if they wish.

It is anticipated that S. 3235 will foster the use of joint rates by land, sea and air carriers; promote the use of through bills of lading; encourage carriers to assume liability for safe carriage from origin to destination; and, permit various modes of carriage to agree on rates, on the interchange of equipment, and on liability for loss.

As I indicated when I introduced S. 3235 at the request of the Secretary of Transportation, the purpose of this bill is meritorious. No doubt exploration of the provisions of this bill with the witnesses at today's hearing and at future hearings will develop constructive suggestions as to the details of this bill.

In my opinion, the Trade Simplification Act of 1968 deserves the most serious consideration as a means to assist in the expansion of our foreign trade.

Senator BREWSTER. Our first witness is the Honorable Alan S. Boyd, Secretary of the Department of Transportation.

Mr. Boyd, welcome once again to the Senate Commerce Committee.

STATEMENT OF HON. ALAN S. BOYD, SECRETARY, DEPARTMENT OF TRANSPORTATION, WASHINGTON, D.C.; ACCOMPANIED BY ROBERT J. BLACKWELL, DIRECTOR, OFFICE OF FACILITATION; AND WILLIAM DRISCOLL, GENERAL COUNSEL'S OFFICE, DEPARTMENT OF TRANSPORTATION, WASHINGTON, D.C.

Secretary Boyd. Thank you, Mr. Chairman and members of the committee. I am accompanied this morning by Mr. Robert Blackwell, Director of the Office of Facilitation, and Mr. William Driscoll of the General Counsel's Office.

I am pleased to have the opportunity today to support a legislative proposal which we believe will be an important step in a campaign to remove artificial impediments to international trade. The Trade Simplification Act of 1968 was developed as a fundamental ingredient in the larger effort by the Department of Transportation to simplify and stimulate trade—an activity which we refer to as “facilitation.”

This is simply a fancy name for a grouping of activities aimed at systematically unwinding the redtape which, over the years, has accumulated around trade and transportation.

In the simplest terms, the problem is that the institutional framework within which goods move in foreign commerce has not caught up with the technology. We have in this country several modes of transportation which, to be effective, must function as an interconnected system. Our technology recognizes this, but very often our legal requirements and procedures do not.

Cargo containers, for example, have given us the potential for packaging various kinds of cargoes at inland points in the United States for undisturbed, through shipment to many foreign points, as well as to domestic destinations. This technology has eliminated any requirement for the contents of the container to be handled at any point prior to destination.

The movement of freight in containers reduces sharply the ocean carriers' loading costs. It speeds vessel turnaround. It reduces transit time for shippers and brings additional benefits such as the elimination of handling and handling charges and reductions in pilferage, claims, insurance, and the cost of export packing. Lower freight rates can also be expected.

However, a prospective American shipper is faced with an array of requirements and circumstances seemingly designed to offset the advantages offered by container technology. At the outset, if his traffic must move by more than one domestic transportation mode, he will be unable to find a single factor through rate from original to destination. Rather, separate rates will be quoted for each mode of transportation employed.

On a movement from a point in this country to a point in Europe the shipper will find that the Interstate Commerce Commission believes it cannot accept any rate which incorporates ocean transportation, while the Federal Maritime Commission believes it cannot accept a rate which includes inland movement in the United States.

The potential shipper may also find that his surface tariffs have been constructed on the basis of weight, while the maritime tariff will be based on the measurement of the cargo. The bills of lading which will attest his shipment are complex and voluminous. In fact, the

statutes which govern our transportation regulatory agencies dictate that the bill of lading be fragmented.

In addition to these impediments, the shipment will involve perhaps as many different rules of liability as there are carriers involved, further retarding the chances for single bills of lading, and producing uncertain and variable relief for a shipper should his merchandise be lost, damaged, or delayed.

This unpredictability has a cumulative effect which too frequently has discouraged shippers from entering the export trade. And the more hardy shipper also feels these unnecessary impediments in the form of increased costs. Last year the value of our total export-import trade was estimated at \$58 billion. It is estimated that the paperwork and administrative costs associated with this traffic cost \$5 billion.

S. 3235 is designed basically for the American shipper. It would satisfy a number of fundamental needs.

First, it would remove the obstacles to publication of through, single-factor tariffs. The bill would put to rest any reservations the regulatory agencies may have about their power to accept intermodal tariffs for filing. We consider this to be of primary importance, since an exact knowledge by the shipper—in advance—of what his transportation costs will be is one of the keys to a flourishing international trade. The ability to predict transportation costs in domestic trade has been an important element in our economic success and our standard of living.

Related to the need for simple and concise tariff quotations is the need to eliminate the present chaos in commodity descriptions. Our bill will, we believe, go a long way toward promoting uniform commodity descriptions in tariffs and would complement activities to this end which are already in progress in the Department.

Next, the bill would make an initial assault on the paperwork problem by permitting all the carriers participating in a through movement to issue a single through bill of lading for the entire trip—door-to-door. Such documents, voluntarily and cooperatively developed by carriers, would satisfy the desire for paper whose negotiability is recognized by the banking community here and abroad, and would make the benefits of financing with such paper available from the beginning of a shipment's inland movement, prior to the customary and traditional issuance of the ocean carrier's bill of lading.

This legislation also would deal indirectly with the serious impediment which stems from the absence of a simple and uniform system of carrier liability. Variations in the substantive rights provided by the numerous domestic and foreign laws, and international conventions, are so wide that a quick, comprehensive legislative overhaul is unrealistic. At the same time, piecemeal improvements might only cause more uncertainty.

Therefore, we have tried to create a mechanism which will allow competitive market forces to work toward uniform liability. The bill will provide the impetus for carriers to assume full responsibility for loss or damage, and to reflect their costs in the joint rate. This is already being done by some part IV freight forwarders. The possibilities for avoiding the problems posed by the confusion in the laws of liability through the device of privately arranged insurance are most encouraging.

Finally, in view of the high cost of containers and related equipment, maximum utilization of that equipment is a prerequisite to an efficient intermodal transportation system. For that reason, the bill would permit carriers to interchange equipment.

The fundamental approach of the bill is voluntary and permissive. Carriers and shippers would be permitted to establish and to use joint rates and through routes. They would not be required to do so, nor would they be required to devise simplified, through bills of lading. In the same vein, no new type of carrier would be created or certificated by the bill, and all existing types of carriers would be free to enter into joint rates with all other types of carriers.

The inclusion of freight forwarders reflects the view that they are also, in fact, common carriers. However, it is not the intention of the bill to extend or alter the present rights of part IV freight forwarders to make special contracts with their underlying carriers. A part IV freight forwarder would merely be authorized to participate as a party to a joint through rate arrangement in providing one leg of a through movement.

We have taken great care to avoid new regulations, and to avoid diminishing or restricting any of the powers now exercised by the regulatory agencies. None of the regulatory agencies would have jurisdiction over the whole of an intermodal rate on intercarrier agreement, but the proposed arrangements would have to receive the approval of each relevant regulatory agency under the laws, regulations, and interpretations which the agency now applies to rates or practices involving single-mode shipments.

Transporters for hire—that is, carriers operating between points outside the United States—are authorized by the bill to participate in joint rates. However, it is not intended that U.S. policies or standards be directly or indirectly imposed on transporters operating wholly outside the United States.

It would be useful at this point, I think, to describe for you briefly how activities pursuant to the Trade Simplification Act would work.

After receiving the approval of their respective regulatory agencies, a group of carriers who desired to establish joint rates would meet together and come up with a proposal, including the joint rate, the division of revenues among the various carriers; the apportionment of liability; procedures for the interchange of equipment; and so on. Each carrier would then file the joint rate tariff with its respective regulatory agency.

Let us assume that a joint rate were agreed to by a trucking company, an ocean carrier, and a foreign surface carrier. Suppose further that the door-to-door joint rate were \$100 per ton and that the trucking company would receive \$30 and the steamship company, \$50. The trucker would file the joint rate with the ICC. The Commission might also require the trucking company to identify the \$30 division it will receive. The Commission could request that this division be filed for informational purposes or actually shown in the tariff.

The same requirements would apply to the steamship company before the Federal Maritime Commission. Similarly, if the joint rate involved an air carrier, the relationship between that carrier and the CAB would be the same. A joint rate would depend upon the approval of all the regulatory agencies involved, but no agency would be given jurisdiction over the entire rate.

It is not the intention of this bill to require transporters for hire to file divisions of rates with our regulatory agencies either for informational purposes or in tariffs. Each regulatory agency would retain the authority it now has over carriers which operate under its jurisdiction.

There is a need, we feel, to give carriers reasonable assurance that legitimate intercarrier discussions and agreements which are necessary to make joint rates work will not produce a risk of antitrust violation. Each agency would be authorized to treat a joint rate agreement just as it would an agreement entered into by competing carriers, all of whom are under its jurisdiction.

Antitrust immunity would be conferred on joint-rate arrangements when each regulatory agency involved approved such arrangements under the legal standards each agency administers. Without this small but important extension of the powers of the regulatory agencies, we fear that carriers would be reluctant to enter into legitimate discussions and agreements because of the uncertainty of the antitrust implications.

Each agency would have authority to approve or disapprove participation in such discussions by carriers subject to its jurisdiction. Agreements would be permitted between a single carrier or group of carriers in one mode and a single carrier or group of carriers in another mode. The agencies would be expected to cooperate among themselves in issuing any necessary uniform regulations to be observed by carriers entering into joint-rate agreements.

There are certain things which the bill would not do. It would not amend any law other than those specifically amended. For example, the existing law under section 22 of the Interstate Commerce Act, relating to reduced rate transportation for the Federal Government, is unaffected.

We are aware that a related piece of legislation, S. 3134, the proposed Equipment Interchange Act, has been introduced in the Senate. That bill deals with the interchange of transportation equipment, principally cargo containers and the like. The objectives of S. 3134 are desirable, but that bill should not be viewed as a substitute for the Trade Simplification Act, which is designed to accomplish a great deal more.

The interchange bill would permit carriers of different types and modes to enter voluntarily into agreements covering rates and rules for the interchange of equipment, subject to the approval of a joint board. The joint board would be a new body composed of one member each from the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission. Joint-board approval would exempt from the operation of the antitrust laws those actions taken by the carriers pursuant to an approved agreement.

We think this type of exemption is important. As I have indicated, the trade simplification bill would achieve the same end in international trade. But again, the Trade Simplification Act would do much more.

The Trade Simplification Act is a sound and solid first step toward the kind of transportation service which this Nation needs. The barriers and impediments which encumber international transportation have accumulated through many years. It would be unrealistic for us to think we can remove all the impediments in one dramatic move.

However, we believe the transportation community can achieve a great deal if it is freed from some of the constraints that may have been appropriate to the era of the clipper ship, but that have no place today in the era of the unit train, the container ship, and the jumbo jet.

That completes my testimony, Mr. Chairman.

Senator BREWSTER. Thank you, Mr. Secretary.

We have a few questions.

Do you have an estimate of the costs to the Government and to the carriers of this proposal?

Secretary BOYD. We don't believe the tariff filing provisions of the bill impose any additional cost burdens on the Government. Section 5 of the bill requires that each carrier subject to the jurisdiction of an agency file with that agency every joint international rate to which it is a party.

In addition, the agency involved can require carriers subject to its jurisdiction to set forth in a tariff filed with it for informational purposes the division of revenue to be collected by the carrier.

Thus, there might be some additional filings required under the bill. We believe, however, that to the extent additional filings are involved, no real cost burden will be imposed upon the regulatory agencies. In the first place, we have provided a concurrence procedure for the filing of joint rates and believe that after an initial period of experience with the bill the regulatory agencies probably will not require carriers to file divisions of rates with the agencies except where dictated by a regulatory need.

Moreover, we believe the ability to quote joint rates in the establishment of simplified procedures permitted under the bill will in fact save the carriers money.

Senator BREWSTER. Section 1003 of the Federal Aviation Act authorizes joint rates between air carriers and carriers subject to the ICC, but very few joint rates have actually been established under this existing procedure.

Would you anticipate more success if we enacted the Freight Simplification Act?

Secretary BOYD. We have met, I think, Mr. Chairman, with every segment of industry, carrier and shipper, who are concerned with international trade, and we believe as a result of these meetings that shippers in foreign commerce want and need joint rates. Many of them have so advised our Department.

A large number of experts in foreign trade have attested to the need for joint rates and single bills of lading. If the carriers were provided with the opportunity to meet these needs, we think they would do so.

If I may, I would like to give you a couple of quotations. This one is from an article by John L. Eyre, May 22, 1964, entitled "The Unhappy Marriage: Containers in the Maritime Industry:"

The pioneer who seeks to operate a fleet of containers between Pittsburgh and Paris will quickly run afoul of a whole series of ICC, FMC and other regulatory complications, entirely aside from the cost and service problem, we must face the fact that legal or regulatory obstacles will today prevent any one from quoting and filing a single factor through rate from Pittsburgh to Paris.

The remarks of Arthur C. Ovacek, senior vice president of Grace Line in New Orleans, La., October 1967:

Split regulatory responsibility between the Federal Maritime Commission and the Interstate Commerce Commission has yet to be bridged in order to permit single documents and single factor rates.

Remarks by Mr. Walter Pancel, assistant traffic manager of E. I. du Pont, November 1967:

It is the dream of many transportation people that a freight structure will be designed that will cover movement by all modes of transportation in the most economical mix and produce one through charge from a shipper in Wisconsin to a receiver in Tokyo.

I have any number of these, Mr. Chairman. I don't want to burden the record with them. I think it is clear that there is a great desire, a great hope based on a need to do this in the international field.

Senator BREWSTER. Did you consider using a joint board mechanism for joint international rates?

Secretary BOYD. Yes, we did consider that; however, we think that a joint board arrangement is inappropriate for international rates and practices. If unanimity is required a single member possesses a veto. If a two-thirds vote is required, then the ICC and CAB, essentially oriented toward domestic export, could outvote the FMC on international rate matters.

They also probably would require a common set of regulatory standards, a difficult task for drafters who would have to accommodate the different regulatory principles applicable to domestic and foreign commerce. I think this is the key to the thing.

Senator BREWSTER. Under the proposed act do you require the approval of all Federal agencies with which joint rates are filed?

Secretary BOYD. Yes. To the extent that a regulatory agency has jurisdiction over the carrier, that jurisdiction is retained completely.

Senator BREWSTER. Did you consider the proposition that the approval of the majority of the regulatory agencies involved in a single international bill of lading would be sufficient rather than all regulatory agencies?

Secretary BOYD. No. What we have tried to do is to develop a bridge which does not affect the existing authority of the regulatory agencies; so, where each one of them today could approve or deny, each one of them under this will be able to approve or deny, but we think this bridge mechanism will make it possible for them to work in a common fashion to achieve our major interest which is expanding international trade and reducing the cost of documentation and providing for a more intelligent approach to liability and tariff filings.

Senator BREWSTER. Why do you propose to exclude domestic offshore operations; that is, trade with Puerto Rico, Hawaii, and Alaska?

Secretary BOYD. The through rate situation for domestic offshore traffic is presently confused. Rail-water joint rates are permissible to Hawaii and Alaska by ICC interpretation. Motor-water joint rates are permitted to Hawaii and Alaska but not to Puerto Rico by special legislation; that is, section 216(c) of part II of the Interstate Commerce Act. Under this section the motor joint rates are filed only with the ICC and not the Federal Maritime Commission. This has led an Alaskan water carrier to file only water-motor rates attempting to avoid any Federal Maritime jurisdiction, with litigation in process. Extending the Trade Simplification Act to domestic offshore trades would change the existing joint rate situation by restoring concurrent FMC jurisdiction over the water portion.

While perhaps conceptually sound, this would lead to a change in the law and a jurisdictional squabble, which is avoided in our proposed act by excluding offshore domestic trade.

I should also note that section 3(5) of the act already contains a proviso, at FMC's request, excluding pickup and delivery plus ocean carriage from being a through rate. This stems from the same Alaska situation. What we are trying to do with our bill is to relieve some current problems which are clearcut and not add to any confusion which already exists in the domestic offshore area.

At the moment there is a considerable confusion, and we don't feel that this initial step which we are taking should get involved in an area that is now before both the Commission and the courts.

Senator BREWSTER. Might some of that confusion be eliminated at a later date so that, if and when this Trade Simplification Act is enacted, it may be extended to cover the domestic offshore operations?

Secretary BOYD. Yes, sir. I fully expect that. I think we have to anticipate that when the Trade Simplification Act is adopted there will be a period of time when all of the interested parties, the shippers and the carriers, are getting themselves organized and their procedures developed while at the same time there will be some court decisions reached and probably some final FMC decisions on the Alaska situation at which time we can then hopefully proceed forward to deal with the offshore movements in a manner consistent with international movements.

Senator BREWSTER. Section 5 of the bill appears to present a rather cumbersome procedure for filing rates because it could require both the joint rate and the division to be filed with each regulatory agency.

Do you think it is possible to improve upon this situation?

Secretary BOYD. We are quite aware of this, and the only alternative we see would be to give one agency complete jurisdiction over international rates. Then, of course, the joint rate would be filed with a single agency.

We don't think this is the proper approach at the moment. We are not trying to change the jurisdiction of any of the agencies, and I must reiterate that this is a beginning step and we expect to learn from the activities under this act. It may well be that we will be back before the Congress a few years hence recommending some other approach. But at the moment, we certainly think that this is the proper approach.

Senator BREWSTER. Before I proceed with further questions, maybe Senator Moss has some questions.

Senator MOSS. I just have one, Mr. Chairman.

Isn't the relief from possible antitrust action the key here on this joint freight? Couldn't it be worked out pretty well now if it were not for the threat of combination prosecution?

Secretary BOYD. That is a major factor, Senator Moss, there is no question about that. That is a very important part of this bill.

I think the other aspects of it, though, providing for the procedures and making clear that we are encouraging an approach to single carrier liability are extremely important. The whole question of commodity classification and tariff filings in connection therewith is one that has plagued the shipper as well as the carrier in this country for

as long as we have been involved in international trade. We are most hopeful that the enactment of this bill will lead to a future simplification of commodity classifications which, among other things, makes it practically impossible at the moment to really find out how the transportation system works. We are having a terrible time developing comparable figures.

Senator MOSS. Thank you. That is all I have.

Senator BREWSTER. Mr. Secretary, you are aware of my personal long-standing interest in the U.S. merchant marine, and I would inquire as to what effect, if any, this proposal would have on our U.S. merchant marine?

Secretary BOYD. It is our fond hope, Mr. Chairman, that the Trade Simplification Act will result in expanded foreign trade. We think this is quite important in terms of encouraging the land bridge concept which we believe is going to be a major development and should bring substantially increased business to the U.S. merchant marine. Of course, they have got to sell their services because there will be competition, but we expect this to result in a very considerable expansion of our foreign trade which should benefit our shipping companies.

Senator BREWSTER. Is it possible that you will establish here a dual standard or system where U.S. domiciled carriers will be subjected to one set of regulations under some joint rate agreement whereas foreign carriers will be free to operate outside of that and, therefore, U.S. carriers will be unduly penalized, or is there a provision here to require reciprocity?

Secretary BOYD. No; there is no requirement of reciprocity. But I point out again this is permissive legislation. So, while it may be possible to wind up with two different approaches, I don't visualize this, but if there were such a thing it would be because our carriers wanted to do it. It wouldn't be because a double standard was being imposed upon them.

Senator BREWSTER. We all recognize the tremendous increase in the use of containers and we further estimate that this increase will certainly continue to the point where a large percentage of certain types of cargo will be moved by containers. What is your opinion of the effect of this Simplification Act on the entire containerization business?

Secretary BOYD. We think one of the major benefits of the act will be to advance the potential of the container in intermodal movement. We also think that by making it possible for the carriers to utilize the technology of the container to its fullest potential, it will lead to the sort of single carrier liability approach which I believe our shippers will find most helpful.

Senator BREWSTER. I have some quite detailed questions that I would like to propound that affect the merchant marine and the container business, but because of the number of distinguished witnesses we want to hear this morning, Mr. Secretary, I would like to submit these to the Department of Transportation. At the Department's and your convenience, would you provide the answers to these questions pertaining to merchant marine and containers for the record?

Secretary BOYD. We will be happy to do so, Mr. Chairman.

(The questions and answers follow :)

QUESTIONS FOR SECRETARY BOYD (S. 3235)

1. *Question:* What is the primary goal of the Department of Transportation in proposing this legislation, and what are the actual benefits to the public; both shippers and carriers?

Answer: The primary goal of the Department in proposing this legislation was to remove barriers and impediments which today encumber international transportation services. Under S. 3235 the shipper would be given single factor joint rates, more uniform commodity descriptions in tariffs, a single through bill of lading and a predictable and uniform system of carrier liability. Obviously, to the extent that these benefits to shippers facilitate international commerce, there would be concomitant benefits to carriers. In addition, carriers would be free to interchange equipment and to meet with other carriers in working toward the establishment of joint rates. We believe that the antitrust protections conferred by this bill would also be of substantial benefit to carriers.

2. *Question:* I am told that in 1965, less than 5% of the liner cargo moving between the United States and Europe moved in intermodal containers. It has been estimated that, based on current trends, by the end of 1968 over 50% of the liner cargo will be moving in containers. Many publications have indicated that by 1970 and possibly before as high as 80-85% of the cargo will be moving in intermodal containers. This has been achieved under the existing rate and practices regulation. What improvement could be expected under the through-rate plan in this legislation?

Answer: There is no doubt that the volume of container movements has increased substantially since 1965. I have no reason to disagree with those experts who predict that by 1970, 80-85 percent of the cargo moving in the North Atlantic trades will be containerized.

The so-called "container revolution" was brought about by the development of new transportation technology and hardware, particularly the container and the equipment necessary to guarantee an efficient transfer of the container between different modes of transport. Nevertheless, the old transportation environment and indeed the old impediments to transportation still remain. This bill, S. 3235, is designed to eliminate those transportation impediments, such as excessive documentation, so that the full opportunities which container technology offers can be exploited.

3. *Question:* Does this bill solve the international regulatory problems and the international questions of unilateral regulation by bringing into the regulatory fold land carriers in foreign countries; or may certain foreign participants in United States foreign commerce still avoid regulatory responsibilities, thereby creating a dual standard wherein United States domiciled carriers might be subjected to one regulatory standard and foreign carriers under a different standard, or no standard?

Answer: As I stated earlier, it is not intended that United States policies or standards be directly or indirectly imposed on transporters operating wholly outside the United States. Land carriers operating in foreign countries and defined in the bill as "transporters for hire" would not be subject to the jurisdiction of the three regulatory agencies involved. However, each regulatory agency would retain the authority it now has over carriers which operate under its jurisdiction. While carriers operating completely outside the United States would not be subject to the regulation of our regulatory agencies, those carriers would, nevertheless, be permitted to participate in joint arrangements. At the present time no U.S. regulatory agency has jurisdiction over carriers operating outside the United States, and the bill would not attempt to create such jurisdiction.

4. *Question:* What will the result of through rates be on the actual rate structure? Does the Department feel that through rates will result in carriers' revenue increasing or decreasing? If up or down, has anyone in the Department of Transportation or any place else studied the effect on the carriers if their revenues are reduced, or the effect on the shippers if their freight rates go up? What policy position has DOD adopted with respect to the impact of this legislation upon carriers' revenues?

Answer: We hope that S. 3235 will advance the potential of the container in international trade. It certainly will make for a more efficient and modern system for moving containers in foreign trade. Assuming that rates remain at present levels and costs can be reduced as a result of the imposition of a more modern administrative environment for moving containers, it would appear that the net revenue of carriers participating in joint rates would increase. We cannot say

whether rates under the bill will go up or down. However, rates will be determined among the carriers participating in the joint rate arrangements with a view toward the total rate needed by shippers to move the cargo. I am aware that joint rate arrangements have been in effect in our off-shore trades to Hawaii and Alaska for some time without any deterioration of the rate structure. Indeed, both Matson Navigation Company, which serves Hawaii, and Sea-Land, which serves Alaska, have extensive container operations, and both seem to be in a healthy financial condition.

5. *Question:* Will the implementation of this legislation, assuming it serves a purpose and through rates are established under its permissive provisions, result in the strengthening of our merchant marine and the United States domestic common carrier system and, if so, how; and, if not, what does DOD feel to be its responsibilities in this connection?

Answer: We hope that the Trade Simplification Act will result in expanded foreign trade. This expansion of our foreign trade should benefit the United States merchant marine not only in terms of the traditional services that our merchant marine offers, but also under certain types of land-bridge service which this bill encourages.

6. *Question:* Quite a bit has been made of the point that this legislation is permissive. However, I note that Section 9 makes the participation in a joint rate a precondition to a carrier's issuing a through bill of lading. Why is this so? Will this not coerce otherwise reluctant carriers into entering into a joint rate agreement in order that, like their competitors, they will be able to offer shippers the very desirable through bills? Will failure to enter into a through rate preclude issuing a through bill?

Answer: There seems to be a great deal of uncertainty as to whether carriers participating in international commerce can issue a through bill of lading. If it is ultimately decided by the regulatory agencies involved that through bills of lading can be issued by carriers on intermodal foreign movements, this bill would interpose no barriers to the issuance of such bills. Inasmuch as the emphasis on intermodal container movement today is on door-to-door or point-to-point delivery, the emphasis of the Trade Simplification Act is to permit a rating mechanism to provide the shipper with a simple method of calculating his transportation costs from the point where his cargo is picked up in the United States to the point where it is ultimately delivered abroad. We believe the joint rates that will be available under this legislation will suit these needs of the shipper. Quite frankly, I am at a loss to understand how or why our bill would coerce shippers into joint rate arrangements, if they believed the rates were not to their advantage.

7. *Question:* Is it the opinion of the Department of Transportation that this bill will improve the investment climate of the common carrier system including the United States-flag Merchant Marine; or will it encourage persons with limited or no capital commitments and persons who might not otherwise meet ICC fitness requirements to garner quantities of cargo and shop for reduced-price service for private financial gain? What prevents the assembly of the existing three elements; namely, United States domestic rates, ocean rates, and foreign costs that are now present (two of which are regulated) from being combined in one price quotation under current law? I understand this is in effect what is being done by the carriers today and apparently it works considering the speed with which containerization is developing?

Answer: It is my belief that the investment climate of the common carrier system, including the U.S.-flag merchant marine, will be enhanced by the passage of this bill. As I mentioned several times earlier, we expect that the Trade Simplification Act will result in expanded foreign trade and that the U.S. merchant marine will share in this increased business. The Trade Simplification Act does not create any new transportation entities. It simply recognizes those currently in existence. In each case, the level of rates will be determined by the underlying common carriers whether they be truckers, railroads, airlines or ocean carriers. I fail to see how persons with no capital commitments will be able to garner large quantities of cargo and shop for reduced rates. Let me state again that the rates will be controlled by the underlying carriers in each case. If the underlying carriers perform their services to the public in an efficient, economical and aggressive manner, I fail to see how their position or investment climate could be threatened by any other transportation interest.

8. *Question:* Congress has expressed its policy with respect to domestic transportation in the national transportation policy of the Interstate Commerce Act.

Its export and import regulatory policy for waterborne commerce has been expressed in the Shipping Act of 1916 and the Merchant Marine Act of 1936, and this policy states that regulatory matters shall be determined in the light of practices that may be detrimental to the foreign commerce of the United States. These two standards are not in all ways consistent. If one or the other must bend, should we not address ourselves to a review of the entire regulatory policy rather than attempting to blend the piece-meal elements without full consideration of today's climate?

Answer: I believe that the need for this legislation is critical. Perhaps a full-scale review of this nation's regulatory policies is in order. However, this type of review, whether conducted by the Congress, the Executive Department or the regulatory agencies themselves, will take many, many years. We recognize that the Trade Simplification Act is only a small step, but we believe it is a step in the right direction. It is a step that should be taken now; it should not be delayed pending an overall policy review of our transportation policies.

9. *Question:* What is the reason for the proviso in Section 3(5) of the bill which excludes combining an ocean rate and a pick-up or delivery charge from being a "joint rate"?

Answer: This proviso was inserted in the bill at the request of the Federal Maritime Commission. It stems from a jurisdictional disagreement between the Interstate Commerce Commission and the Federal Maritime Commission on water-rail movements to Alaska.

10. *Question:* As a matter of mechanics, will efficient procedures be able to be adopted with respect to these joint rates? In this regard, I understand that the suspension of rate powers, the determination of whether rates are unreasonably high or unreasonably low, and the power to set maximum and/or minimum rates differ from agency to agency. Does this not cause a problem? If not, why not? If so, will additional legislation be necessary to solve the problem? Are there not similar problems with respect to standing to contest or defend a joint rate on the question of reasonableness of the whole or parts of it? For instance, will dissatisfied shippers have to invoke their rights in two or three agencies to contest rate reasonableness? Have these procedural problems been thought through; and if they have, could you furnish the Committee an analysis of them?

Answer: I assume that efficient interagency procedures will be adopted with respect to joint rates under this bill. The staff of the Department of Transportation has worked in close harmony with the staffs of the three regulatory agencies in developing this legislation, and we anticipate that the same harmonious relationship among the three regulatory agencies will continue to exist upon passage of the legislation. Quite frankly, the three agencies will be required to solve some extremely difficult procedural and technical problems. Each of the agencies has great responsibilities under this bill. I am convinced that this bill will be implemented by them in a fair, fast and mature manner consistent with the mandate of Congress as embodied in the legislation, and consistent with the needs of our commerce and the needs of our carriers and shippers.

11. *Question:* What would be your reaction if we rewrote this legislation so as to allow carriers subject to different regulatory agencies to make agreements with respect to practices such as through bills of lading, insurance, and export documents, but not with respect to rates; giving the Department of Transportation authority to approve and to grant anti-trust immunity to the parties upon finding that the agreement would be in the public interest? Do you think such legislation would solve some of the problems we are trying to reach here; or is the proposed legislation an all or nothing thing?

Answer: This suggestion would exclude rate considerations from the bill and prevent our shippers from obtaining the benefit of joint rates. We believe that joint rates should be available to shippers on international intermodal shipments. We would be opposed to any suggestion that eliminates joint rates from the pending legislation.

Senator BREWSTER. Thank you very much, Mr. Secretary.

Senator MOSS, any questions?

Senator MOSS. No, Mr. Chairman.

Senator BREWSTER. Thank you, Mr. Secretary.

Secretary BOYD. I want to express the appreciation of the Department for the efforts you have undertaken to hold these hearings, Mr. Chairman. I know it is a sacrifice and you are doing it for the same

reason you submitted the legislation, because it is in the public interest. We are most grateful to you.

Senator BREWSTER. The next witness will be Adm. John Harllee, U.S. Navy, retired, the Chairman of the Federal Maritime Commission.

Mr. Harllee, once again we welcome you to the Senate Commerce Committee.

**STATEMENT OF REAR ADM. JOHN HARLLEE, U.S. NAVY (RETIRED),
CHAIRMAN, FEDERAL MARITIME COMMISSION, WASHINGTON,
D.C.; ACCOMPANIED BY EDWARD SCHMELTZER, MANAGING DI-
RECTOR, FEDERAL MARITIME COMMISSION; AND SAMUEL B.
NEMIROW, ASSISTANT TO THE CHAIRMAN, FEDERAL MARITIME
COMMISSION, WASHINGTON, D.C.**

Mr. HARLLEE. It is a pleasure to be here today to offer the Federal Maritime Commission's comments on S. 3235. Since you have already been furnished with a detailed analysis of the bill in the Department of Transportation's letter of March 11, 1968, I will not discuss the various individual sections but will confine my remarks to a general observation of what the bill will accomplish. Prior to these hearings Federal Maritime Commission personnel discussed the provisions of S. 3235 with officials of the Department of Transportation, the Interstate Commerce Commission and the Civil Aeronautics Board.

The Commission is authorized to regulate ocean transportation in our foreign commerce by the Shipping Act of 1916. The ratemaking authority of the Commission over both foreign and American-flag carriers engaged in such commerce is quite limited. Generally speaking, the 1916 act requires carriers to file with the Commission tariffs showing all rates, charges, and practices; prohibits carriers from charging rates not on file with the Commission; requires 30 days' notice for rate increases, and permits decreases to become effective upon filing; prohibits unjustly discriminatory rates and practices; authorizes the Commission to disapprove rates which are so unreasonably high or low as to be detrimental to commerce; and requires that all agreements between carriers or other persons subject to the act, which in any manner regulate or restrict competition, be filed with the Commission for approval prior to effectuation. In this latter connection, the term "other persons subject to this act" includes ocean freight forwarders and terminal operators furnishing terminal facilities in connection with common carriers by water.

The purpose of S. 3235 is to facilitate the transportation of property in the foreign commerce of the United States by permitting common carriers in different transportation modes now subject to the jurisdiction of the Federal Maritime Commission, the Interstate Commerce Commission, the Civil Aeronautics Board, and transporters of property for hire between foreign points to enter into agreements among themselves to establish joint rates for the transportation of property between places in the United States and places in foreign countries. The bill also would permit carriers participating in such joint rate arrangements to agree on the division of revenues, the apportionment of liability and the pooling or interchange of equip-

ment and to issue a single through bill of lading assuming responsibility from the point of origin to point of destination.

There is a definite need for this legislation. Current indications are that the next few years will see a majority of cargo between the United States and Western Europe containerized. Because of the economies and advantages to both shipper and carrier we can expect the use of containers also to expand dramatically in our other foreign trades. The advent of containerization has already led transportation companies to offer through transportation at single factor rates for shipments in foreign commerce for transportation between U.S. inland points and foreign inland points and between U.S. ports and inland points abroad. Joint rates are not now filed with any single regulatory agency, although the applicable segments of the through rates are required to be filed with the individual regulatory agencies. For example, a motor carrier offering a through rate from an inland point in the United States to an inland point abroad files with the Interstate Commerce Commission the rate applicable to the inland U.S. movement and, as a non-vessel-owning common carrier by water, must file the port-to-port rate with the Federal Maritime Commission. Similarly, if the movement involves an air carrier and an ocean carrier, the water portion of the through rate would be filed with the Federal Maritime Commission and the air portion would be filed with the Civil Aeronautics Board. The foreign inland rate need not be filed with any of the U.S. regulatory agencies.

The present statutes under which the three transportation regulatory agencies derive their authority do not expressly provide for the filing with any of the agencies of a single factor through rate. We understand that a water carrier in the foreign commerce of the United States, subject to the jurisdiction of the Federal Maritime Commission, cannot issue a through bill of lading assuming responsibility covering the transportation of property between an interior U.S. point and a foreign port or point unless it is certificated by the Interstate Commerce Commission for the inland U.S. portion of the service. Similarly a "transporter of property" from points outside of the United States cannot issue a through bill of lading assuming responsibility for the transportation of property between such points and interior points in the United States.

S. 3235 would result in benefits to shippers, carriers, and the foreign commerce of the United States.

The first benefit would be that a joint rate authorized under the bill could be lower than the combination of the rates carriers charge for each of the local segments. The lower rate would result largely from the cost savings that could be established by arrangements between the parties to the joint rate. For example, arrangements could be made to eliminate certain terminal costs. Coordination between the carriers could eliminate unnecessary storage of containers between the time the container is deposited at the ocean terminal and the time it is received by the ship. Duplication of terminal facilities could be avoided. Movement of the container between the port terminals of various carriers could be reduced or eliminated. Other arrangements could be made for reduction of paperwork, interchange of equipment and joint use of personnel. Thus, the parties to the joint rate could offer shippers improved service at lower cost.

The second benefit would be that one simple rate could be offered shippers. Inland rates are usually charged on the basis of cents per 100 pounds and ocean rates are usually on the basis of dollars per weight or measurement ton, whichever produces the larger revenue. Moreover, terminal charges, freight forwarder fees, and insurance charges frequently must be added to the rates charged by the land and water carriers. The matter is even further complicated by the unpredictability of the transportation charges between the foreign port and foreign point of destination. Under S. 3235 one carrier could offer the shipper a simple rate covering all of the elements of through transportation. The shipper would always know this rate before negotiating a sale and would thereby be encouraged to engage in foreign commerce. This simplification in ratemaking would particularly benefit shippers but would also benefit carriers and our foreign commerce generally.

The third benefit is that the bill would afford antitrust immunity to carriers entering into joint rates. It is difficult to assess the precise impact of our antitrust laws upon an agreement between a land carrier and an ocean carrier to provide through transportation. We doubt that the full benefits of through transportation can be achieved while carriers are apprehensive concerning the antitrust laws.

A fourth benefit is that shippers would be able to tender through bills of lading to financial institutions and thereby receive payment on export shipments as soon as the cargo is delivered to the originating carrier. Often the shipper cannot receive payment until his cargo has been placed on board the ocean carrier.

The fifth benefit is that carriers would have a permissible but uniform method of providing through transportation. We expect that joint rates would so greatly benefit the carriers participating in them that they will replace other forms of through transportation. To the extent that this happens there will be uniformity of through foreign transportation in a way that has been approved by Congress, the Department of Transportation, and the regulatory agencies rather than in the chaotic manner in which through transportation now is developing.

The sixth benefit is that S. 3235 would foster joint agency consideration of intermodal problems. This would lead to more uniform regulation of the various modes of transportation with a resulting benefit to shippers, carriers, commerce and the regulatory agencies.

I wish to emphasize that no carrier or person is subjected to the provisions of S. 3235 against his will. The bill, however, encourages carriers and shippers to achieve a greater realization of the economies and advantages offered through use of publicly filed single factor rates for moving cargo from origin to destination on a single through bill of lading in the foreign commerce of the United States.

It is important to recognize that regulation of commerce outside the United States is necessarily different than regulation of commerce within the United States. Regulation of rates for transportation between points in the United States is on the basis of rates of return earned by the carriers. The ICC and CAB limit entry to domestic trades and often insist on conditions in return for the limited monopoly granted to the carriers these agencies franchise. The overwhelming factors that must be recognized in ocean commerce between

ports in the United States and ports and points abroad are that the doctrine of freedom of the seas assures free entry into our foreign ocean trades and that the dual sovereignty to which foreign transportation is exposed makes full rate regulation virtually impossible.

S. 3235 would establish a feasible way to bridge the gap between domestic and foreign regulation and enable carriers of various modes to offer shippers single factor rates for transportation of cargo from origin to destination and to encourage carriers to pass on to shippers the savings achieved by negotiation of through transportation operations.

The Commission endorses S. 3235 as being in the public interest. I will be happy to answer any questions which the members of the committee may have with respect to the operations of the Federal Maritime Commission under this bill.

Senator BREWSTER. Thank you Admiral Harllee.

Admiral, you and I share a joint interest in the welfare of the U.S. merchant marine. In your judgment, will this measure benefit our merchant marine?

Mr. HARLLEE. Yes, Mr. Chairman; I think, as Secretary Boyd does, that it will to some extent increase the amount of cargo in our foreign trades, and I believe that the American-flag steamship lines will share in this increase in cargo.

I might note that American lines such as Sea-Land in particular and Matson have been in the forefront of the exploitation of the advantages of containerization, and I think that American-flag lines are better able, on the whole, than foreign-flag lines to exploit containerization, although the foreign lines, particularly Atlantic Container Line, are coming into the field.

I don't think there is any question but what this will benefit the American merchant marine by expansion of cargo and further exploitation of containerization although, of course, I must say it is not a panacea for all the ills in the merchant marine. There is still the problem of a construction subsidy and replacement of ships, but that is something else again. This legislation will only affect an increase in cargo.

Senator BREWSTER. Are you aware of any significant element within our merchant marine industry that opposes this legislation?

Mr. HARLLEE. We have no official opposition that I know of to this legislation. As a matter of conjecture, I would say it is possible that Sea-Land might not be too enthusiastic about it because of the fact that they already have some special arrangements—interline agreements with domestic carriers—and they are so far in the forefront that it is only natural that they may want to maintain their position. But that is a matter of conjecture. To be completely honest and open about it, we have received no official objection.

Of course, the Department of Transportation is sponsoring the bill.

Senator BREWSTER. We both recognize the remarkable progress made by Sea-Land and by the entire containerization industry, and do you see any way that it can impede or injure the containerization industry or the leader in this area; namely, Sea-Land?

Mr. HARLLEE. No, Mr. Chairman.

Senator BREWSTER. Each of the three agencies involved have different regulations governing the filing and form requirements of tariffs.

Furthermore, S. 3235 provides that not later than 90 days after its enactment the agency shall publish rates for the filing of tariffs.

Is it possible for you and the other agencies to reconcile your different regulations within this 90-day period?

Mr. HARLLEE. Yes, Mr. Chairman. I would like to amplify that by saying that the chairmen of the three transportation regulatory agencies, Mr. Crocker, Mr. Tierney, and myself have considered the point that you brought up, and the staffs of the three commissions in the person of Mr. Edward Cox, of the ICC, Mr. Andrews of the CAB, and Mr. Kirse of the FMC met on June 12 to start work on agreeing on an outline of these rules. They will meet again on July 15 with an outline of the rules, and I think by the time that the Congress would be likely to pass the bill, they will already have tentative interim rules.

It is possible after the bill is passed that for the 90-day deadline they will have to have interim rules rather than final rules, but I think there is an excellent chance they will have final rules and certainly they will have some rules in effect before the bill is passed.

Senator BREWSTER. Could you give us the definition of "a non-vessel-operating common carrier by water"?

Mr. HARLLEE. A non-vessel-operating common carrier by water is, No. 1, an entity which holds itself out by publishing tariffs or otherwise to transport property for hire in the foreign and domestic off-shore commerce of the United States, No. 2, which has responsibility that is imposed upon it by law or assumes responsibility for transporting cargo, and No. 3, utilizes underlying water carriers.

Senator BREWSTER. I have a few further rather technical questions.

Under section 4(a) of the proposed bill, does the word "similar" indicate that the provisions of one agreement be identical to previously filed joint rate agreements with respect to charges, division of revenue, liability, and other matters?

Mr. HARLLEE. No, Mr. Chairman. The purpose of that particular clause in the law is to prevent exclusive or preferential tying arrangements leaving the way open for the carriers to make an arrangement with other carriers of their same mode or of a different mode; that is, to enter into agreements with still other carriers of their same mode or another mode.

In other words, to get away from too much of a monopolistic situation or too much of a violation of antitrust principles.

Would you like me to clarify that?

Senator BREWSTER. Yes, sir. I would like for you to proceed a little further on that.

Mr. HARLLEE. The law says, I believe, the part that you mentioned, that no joint rate arrangement shall prohibit any party thereto from entering into similar arrangements with other carriers. If an ocean carrier has a rate arrangement with a railroad, this law would prohibit that ocean carrier and the railroad from agreeing not to make any arrangements with any other railroad or ocean carrier. It prevents an exclusive or preferential agreement.

So, the ocean carrier would be free, if it wanted to, to enter into arrangements with other railroads or trucking lines, and at the same time the railroad would be free to enter into arrangements with other steamship lines. It prohibits exclusive arrangements, preferential arrangements.

Senator BREWSTER. If more than one carrier, subject to an agency, participates in a joint rate, would each such carrier be required to file a tariff with the agency?

Mr. HARLLEE. No, Mr. Chairman. Each carrier would simply be required to file evidence of concurrence in that tariff.

Senator BREWSTER. Is there any provision in S. 3235 to grant anti-trust immunity to the carriers that establish through rates?

Mr. HARLLEE. The provision which we believe takes care of that, Mr. Chairman, is section 8, which states in part in the second sentence, "The jurisdiction and authority each agency has to approve with or without conditions or disapprove agreements among carriers subject to its jurisdiction is hereby extended to an agreement between such a carrier or carriers and a carrier or carriers of a different mode relating to joint rates and practices, or the interchange and the pooling of equipment and facilities."

In other words, I believe the key words there are the jurisdiction and authority hereby extended to an agreement between carriers of different mode. I think that part of this authority is an exemption from antitrust legislation, with the ICC or with ourselves or with the CAB, and this authority of exempting from antitrust statutes is extended to an agreement between carriers of different modes.

I believe that this clearly does cover antitrust immunity.

I agree with Senator Moss that this is really the most important single facet of the whole act. The rest of it is to bring uniformity to filing of rates and utilization of through bills of lading and make a start toward through responsibility, but the key to the whole thing really is this antitrust immunity, and I believe that that wording takes care of it and, of course, the Department of Transportation believes that, too.

Senator BREWSTER. Would it be possible to accomplish substantially the same goals as this act hopes for by merely easing the provisions of the antitrust statutes, the Clayton Act and the Sherman Act, or do we need the other provisions of S. 3235?

Mr. HARLLEE. I think that a great deal, if not most, of the purpose would be served by the easing of the Sherman Antitrust Act and the Clayton amendment that you spoke of. However, I don't believe we should ever grant antitrust exemptions without providing for appropriate regulatory safeguards. Also there are some ancillary purposes to be served by this legislation relating to the details of how the tariffs would be handled, how the bills of lading would be made, and how the jurisdiction and authority of the through movement would be handled insofar as the Government agencies are concerned.

In other words, a simple clarification of possible confusion would be to clarify who would be responsible for this movement if antitrust immunity were granted.

Senator BREWSTER. Although this legislation purports to be permissive, do you see any way in which the acceptance of a joint rate structure by certain carriers will knock other carriers into line or injure other carriers?

Mr. HARLLEE. I believe that acceptance of this legislation by some carriers would create a competitive situation which would induce other carriers to do the same thing. If that is what you mean by knocking them into line, yes, it would I believe because of the fact

that the joint rates here permitted would be less for the through single factor rate than the combination of locals which are otherwise authorized.

So, I believe there would be a competitive force which would create a tendency to have others utilize it. I think that is healthy and good because they would be in an equal competitive situation under this act.

Senator BREWSTER. Would this competition, in your judgment, be good for the overall commerce of the United States?

Mr. HARLLEE. Yes, sir; Mr. Chairman.

Senator BREWSTER. Thank you very much, Admiral Harlee. Your remarks are always very helpful to this committee.

Mr. HARLLEE. I might amplify one point, Mr. Chairman, if I may.

Senator BREWSTER. Please proceed.

Mr. HARLLEE. As you mentioned earlier, it seemed to bother you some, this word similar in section 4, let me cite a hypothetical case.

If you have a very, very powerful ocean carrier, I will not name names in this situation for obvious reasons, I will cite the MacKinsay report for the London Dock Board with some fantastic figures about it, such as that it would take only 24 ships to handle most of the containerizable traffic between this country and Europe with the great efficiencies of containerization. This may not be absolutely true, but certainly fewer ships for these containers will be required. If you have a great big powerful ocean carrier and a great big powerful railroad and these tied up with each other exclusively and wouldn't let anybody else in on the act, so to speak, you would have then really too much of a monopolistic situation. That is what I think this particular clause is designed to stop so there would be some open competition left and so there wouldn't be too much cargo, possibly even a majority of it, tied up by one ocean carrier and one railroad or trucking line.

I hope this would clarify the intention of this part of section 4.

Thank you very much, Senator Brewster.

Senator BREWSTER. The next witness will be the Honorable John H. Crooker, Jr. the chairman of the Civil Aeronautics Board.

STATEMENT OF HON. JOHN H. CROOKER, JR., CHAIRMAN, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.; ACCOMPANIED BY RICHARD LITTELL, ASSISTANT GENERAL COUNSEL; ALFRED U. KREBS, CHIEF, LEGISLATIVE SECTION, LITIGATION AND LEGISLATION DIVISION, OFFICE OF GENERAL COUNSEL; AND THOMAS P. SHEEHAN, CHIEF COUNSEL, BUREAU OF ECONOMICS

Mr. CROOKER. I appreciate the opportunity to appear today to add the Board's voice to those of the other Federal agencies concerned with the Nation's transportation system in support of S. 3235, the "Trade Simplification Act."

I am pleased to have with me Mr. Littell, Assistant General Counsel of the Board; Mr. Krebs, an attorney in the Litigation and the Legislation Division of the Board, and Mr. Sheehan, an attorney in our Rates Division.

Six years ago, President Kennedy, in his transportation message of 1962, strongly urged adoption of measures to facilitate intermodal transportation. The Board, for its part, has consistently favored and

actively supported such measures. Indeed, as the Board pointed out in its written report to your committee of April 16 of this year, the bill you are now considering is the product of the cooperative efforts of the Department of Transportation and the other agencies involved, including, of course, the Board.

There is really little that I can add today to the Board's written report. As we pointed out there, the bill will probably have a more pronounced effect in the field of surface transportation where, as the spokesmen for the agencies responsible for such transportation have already explained to you, greater legal barriers exist to entering into joint rates for through transportation than in the case of air-surface transportation. Under section 1003 of the Federal Aviation Act, joint rates between air carriers and surface carriers are already permissible except that air freight forwarders may not enter into such rates with surface carriers subject to regulation by the Interstate Commerce Commission. Enactment of this bill would in effect repeal this prohibition, so as to permit air freight forwarders to enter into agreements with such surface carriers relating to rates for international transportation. This is the principal effect of the bill insofar as air carriers are concerned.

While the bill would have perhaps greater effect in the field of surface transportation alone than in air-surface transportation, its importance in terms of movement of freight by air carriers should not be regarded as insignificant. Transportation of cargo by air, both that generated by freight forwarders and by direct carriers, has experienced phenomenal growth, and the Board and the industry predict that this growth will continue. Furthermore, by its very nature, freight moving by air must also move partly by surface means. There can be no doubt that the provisions of the bill permitting onward movement of the cargo under a single rate and single bill of lading will be a major convenience to shippers. Finally, and wholly apart from the Board's primary area of concern, it fully recognizes the importance of creating the most efficient international transportation system possible. For all of these reasons, the Board favors enactment of S. 3235.

Senator BREWSTER. Thank you. Now, Mr. Chairman, you heard me ask Secretary Boyd about rates filed under section 1003 of the FAA, the Federal Aviation Act, and it is my understanding that very few joint-rates have been filed. Do you know why that is the case?

Mr. CROOKER. Mr. Chairman, I don't know why although experience has shown that this is true. I am quite new on the Board, as you are aware, sir. We have felt that this particular legislation in connection with permissible single bill of lading procedures might bring about more utilization of air surface joint rate authority.

If you will permit, sir, if my staff members, who have been working in this area ever since the first similar proposed legislation was introduced in 1963, would like to amplify on my reply, we may be able to furnish a more complete answer to your question, sir.

Essentially, we believe that more carriers could have utilized this permissible procedure than have done so in the past, notwithstanding the administrative difficulties inherent in this section of the act.

Senator BREWSTER. It is my understanding that only one such joint-rate has been filed in the last decade. Will you please provide for the record the number and determination of such joint filings?

Mr. CROOKER. We will provide it, Mr. Chairman.

(The information referred to follows:)

CIVIL AERONAUTICS BOARD,
Washington, D.C., July 12, 1968.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During the hearings on S. 3235, the proposed Trade Simplification Act of 1968, I stated that I would supply for the record information concerning joint-rate tariffs filed under section 1003 of the Federal Aviation Act.

As you know, section 1003 (b) permits air carriers to establish joint rates with certain other common carriers. An air carrier which participates in such joint rates must include in its CAB tariffs a statement showing those joint rates. Likewise, a carrier which is subject to the Interstate Commerce Act and which participates in such joint rates must include a similar statement in its ICC tariffs.

It is important to note that the carriers file joint-rate tariffs with the individual agencies, not with a joint board. During fiscal years 1959 through 1968, the Board received 69 tariffs pertaining to joint rates between direct air carriers and motor (or rail) carriers. Ten of those tariffs are still in effect. In addition, Railway Express Agency, Inc. and several direct air carriers filed tariffs for a combination service; but the carriers withdrew those tariffs after the Board found that the service did not constitute a *bona fide* joint service within the scope of section 1003.

Other provisions of section 1003 empower the Board and the ICC to refer matters which relate to joint rates to a joint board comprised of members of both agencies. In fact, however, the air-truck (or rail) tariffs involving *bona fide* joint service have proved to be uncontroversial. As a result, no joint board has ever been called upon to take action regarding such joint rates.

I hope that the Committee will find this information helpful.

Sincerely,

JOHN H. CROOKER, Jr., *Chairman.*

Senator BREWSTER. This proposal contains a provision authorizing interchange of equipment between the various carriers. Is there a need for airlines to interchange equipment with surface carriers?

Mr. CROOKER. We understand that in addition to this bill there is also another bill pending here at this time in connection with interchange of equipment by carriers of different modes. It is my understanding that both of these would not proceed because there are some differences. However we feel that this provision permitting the interchange of equipment may be salutary so far as the air transportation industry is concerned.

Mr. Sheehan would like to amplify if the chairman would permit.

Senator BREWSTER. Please do.

Mr. SHEEHAN. At this time the containerization program of the air carriers is quite dissimilar from that of the surface carriers, but with the larger jumbo jets coming in in the early seventies we would assume there would be much greater opportunity for the interchange of this type of equipment. What the future will bring we don't know at this time.

Senator BREWSTER. You speak now of the container type of equipment and not the actual exchange of aircraft?

Mr. SHEEHAN. Yes, sir.

Senator BREWSTER. Mr. Chairman, section 7 of the bill provides that the CAB, the FMC, and the ICC jointly promulgate a single set of rules and regulations as to the form and manner of filing, posting and publishing joint rates. Do you believe that the three agencies can work in harmony to promulgate uniform rules today, and do you further believe you will be able to put together uniform procedures within the

90-day time period required after the enactment of the statute, if it is enacted?

Mr. CROOKER. Mr. Chairman, I met with Chairman Harllee and Chairman Tierney on May 29. Following meeting Mr. Andrews, of the Board's tariff section, and other members of our staff met with representatives of the other agencies. We are very hopeful that at the next meeting in July they will make considerable progress on this problem and will make every effort to complete this work within 90 days after the effective date of this legislation. We are optimistic that this can be worked out within that period.

Senator BREWSTER. Sir, are you aware of any opposition to this proposal within the industry that your Board regulates?

Mr. CROOKER. Mr. Chairman, we have heard none. I, of course, was not on the Board when the legislation was proposed in 1963, but I understand that at that time there may have been opposition within the industry to setting up of a joint board, but we have not been aware of any such opposition to this bill.

Senator BREWSTER. Thank you very much, Mr. Chairman. Your remarks have been very helpful.

Mr. CROOKER. Thank you, Mr. Chairman.

Senator BREWSTER. The committee will now call the Honorable Lawrence C. McQuade, the Assistant Secretary of Commerce for Domestic and International Business.

STATEMENT OF HON. LAWRENCE C. McQUADE, ASSISTANT SECRETARY OF COMMERCE FOR DOMESTIC AND INTERNATIONAL BUSINESS, DEPARTMENT OF COMMERCE, WASHINGTON, D.C.; ACCOMPANIED BY JEROME SACHS, DIRECTOR, TRANSPORTATION AND INSURANCE DIVISION, BUREAU OF INTERNATIONAL COMMERCE; AND CHARLES SULLIVAN, BUREAU OF INTERNATIONAL COMMERCE

Mr. McQUADE. I am pleased to appear before your committee this morning in support of S. 3235, a bill authorizing transportation companies to offer to shippers joint rates for the movement of goods in our foreign trade.

Mr. Jerome Sachs and Mr. Charles Sullivan of the Transportation and Insurance Division of the Department of Commerce accompany me.

We believe that the bill, if enacted, would confer significant benefits on American exporters. The benefits each American exporter thus receives would work to the advantage of the national economy as a whole, for the effective use of joint rates promises to improve our export performance and to exert a healthy influence on our balance of international payments.

This bill is essentially a facilitation measure. It does not seek to alter the basic conditions that dictate the course of international trade. Its approach instead is to make easier the actual conduct of trade. It proposes to do this by simplifying the weighty procedural mechanism by which our goods are transported in foreign trade. There can be little question of the need for meaningful simplification. It is perhaps sufficient to say that a major complaint of exporters, large and small,

has long been the burden of paperwork and the procedural complexities bound up in the export process.

The bill before you attacks one of the most difficult and perplexing aspects of this process, namely multiple rate quotations and the preparation of duplicate documentation in order to move a piece of export cargo from a point in the interior of this country to an inland point in some foreign country. At present, each segment of such a cargo movement, the land movement in the United States, the ocean journey, and the land movement abroad, involves a different freight rate and different documentation. The duplication of effort in constructing, ascertaining, and quoting multiple rates and preparing multiple documents, which by and large repeat the same information, adds to the costs of exporting and increases the possibility of errors in shipment.

Under this bill, however, the carrier will be able to offer the exporter three specific benefits: It can quote the exporter a single rate to cover the costs of transportation from beginning to end; it can provide a single through bill of lading covering the goods from point of origin to destination; and it can assume full responsibility for loss or damage occurring during shipment, thus affording the exporter a single point of recourse, regardless of where the loss may have taken place during the movement.

We see in turn three major benefits to the exporter from these features of the bill. One quite obviously is the reduction of paperwork. The volume of paperwork entailed in exporting is a major burden, difficult, annoying, and expensive to the larger exporter, especially discouraging to the small exporter. In our efforts to induce new exporters to enter the field, we have seen the volume and complexity of documentary requirements cited time and again as a major deterrent to exporting. When the prospective exporter learns what these requirements are, all too often he simply decides not to become involved.

The simplification provided by this bill promises to help both new and established exporters. For the new exporter a single rate and a single bill of lading will do much to bring exporting within reach of his firm's capabilities. For the established exporter there is the attraction of simplified internal operations and lower costs.

A second major benefit to be expected from the bill is that the single rate and through bill of lading will give the exporter a firmer grip on his total distribution costs. Notwithstanding the stress given to this matter of actual distribution costs in recent years, it is astonishing how many shippers of goods do not know how much it costs them to make deliveries to the buyer in a foreign country. In large part this is attributable to uncertainty as to what the freight and handling costs will be, especially in the final segment of the overseas journey which involves foreign ports and foreign rail or highway carriers. Often the exporter does not learn what these charges are until well after the shipment is on its way.

This bill opens the way to making available to exporters a reliable transportation cost figure. This means a more exact calculation of costs in bidding on foreign contracts or in quoting delivery prices to foreign buyers generally. In highly competitive bidding where a small increase or decrease in the quotation may prove decisive, such knowledge may be crucial. Moreover, the ability to estimate these costs precisely would tend to encourage shipment on a cost-insurance-freight basis, with resultant benefits from the standpoint of our balance of payments.

A third important benefit to the exporter from the bill may be summed up rather broadly in terms of better service. Let me cite two quite different examples. The bill permits carriers to work out mutual arrangements for interchange of equipment used in international trade. This suggests to the exporter that he can draw upon a much bigger equipment pool to meet his needs than any single carrier could furnish. It means less delay in obtaining proper equipment, access to more diversified equipment to handle perishables, dangerous substances, and other cargo needing special care, and opportunity to try out different methods of shipment. It should, for example, help overcome the reluctance of many exporters, especially in the interior of the country, to try containerization, with possible savings as a result. Above all, however, it should enable the shipper to quote delivery times with greater certainty; and quick and reliable delivery is vital to successful exporting.

Another example relates to the matter of liability. The bill would permit one of the carriers participating in a through movement to assume responsibility for loss or damage along the entire route. It does not alter the existing rules governing liability in the case of each mode of transportation, nor does it seek to write a uniform rule of liability for all modes. Single carrier liability, however, gives the exporter greater certainty that he can deal with troublesome problems of claims resulting from loss or damage as they arise. It means for the exporter the ease of direct dealings with a single carrier, usually near at hand, rather than with distant carriers subject to unfamiliar rules.

We see the bill therefore as offering important potential benefits to our export trade. Stated most simply, we hope and expect that the simplified procedures it is intended to foster will result in lower operating costs to our exporters and thus in lower prices for our export goods. This means, of course, that they become more competitive in world markets and enable us to expand our foreign trade. Any such result is clearly in the national interest and should be energetically pursued.

The bill, it is true, contains a number of provisions on administrative or regulatory matters, about which it is not within my province to comment. I would, however, like to emphasize again the importance we attach to the objectives of this bill and to express our confidence that it will prove to be a suitable and effective basis for bringing to our export trade the aid and encouragement of the important simplification measures I have just mentioned.

Thank you, Mr. Chairman.

Senator BREWSTER. Mr. Secretary, to bring this problem closer to home, let me give you an example. Let us suppose we have a manufacturer, say, in Cumberland, Md., who wished to sell his product to Western Germany. Under today's procedures if he shipped by truck to a railhead and then by rail to Baltimore and then by truck to a marine terminal and then by ship to a West European port and then repeated the process of using the various modes of transportation overseas, would he be faced with a separate bill of lading with each different mode of transportation and a separate rate under existing procedures?

Mr. McQUADE. Yes, sir; he would.

Senator BREWSTER. And this clearly makes it very difficult for the unsophisticated, let alone the sophisticated shipper to engage in foreign trade, does it not?

Mr. MCQUADE. It makes it more complicated. He would probably use some expert to do this business for him, but when faced with that he, at least the smaller exporter, is somewhat deterred.

Senator BREWSTER. You have stated that you believe and hope that this will increase our export trade. Can you give us any estimate of the increase we might expect in our export trade if we enact this measure?

Mr. MCQUADE. No, Senator, I don't think it is possible to calculate that sort of thing. The premises are, first, that there would be greater interest in going into the export business, especially on the smaller company side, and, second, that we would be in a better position to bid overseas by having more certainty from the transportation cost aspect, and third, while not directly related, it seems to me if we ship more often on a c.i.f. basis certainly at least the U.S. insurance industry should get a somewhat bigger proportion of the take from the cost of the international trade.

Senator BREWSTER. Other than supporting this proposal, I would assume the Department of Commerce is doing a great many other things to increase our export trade. Would you comment on that and, if you wish, provide the committee with further information for the record?

Mr. MCQUADE. That is one of our main goals in life, to support export expansion. The President has adopted that endeavor as one of the key points in the balance-of-payments program which we are trying to put into effect.

I could supply just perhaps a brief outline of that for the record which would make crystal clear the great energies and efforts we are making in that direction.

Senator BREWSTER. For purposes of emphasis, I think it would be important to have that information here, and if you would provide it for the record, we would appreciate it.

Mr. MCQUADE. We would be delighted to do that.
(The information referred to follows:)

DEPARTMENT OF COMMERCE EXPORT EXPANSION ACTIVITIES

The Department's current export expansion program consists of a number of varied activities, including the following:

1. Conducting, through our 42 Field Offices, trade workshops and seminars to encourage American firms to export. Field Office staff also make visits to firms to stimulate their export interest.
2. Providing commercial information on foreign companies, foreign economic and market conditions, etc.;
3. Operation of Trade Centers in London, Stockholm, Milan, Frankfurt, Bangkok, and Tokyo;
4. Sponsoring U.S. participation in trade and industrial exhibitions overseas;
5. Sponsoring "America Weeks" promotions of U.S. consumer products in foreign department stores;
6. Sponsoring government organized and industry organized trade missions of U.S. businessmen to foreign countries;
7. Sponsoring Mobile Trade Fairs in conjunction with trade missions.

For the future the Department plans:

1. To increase the number of Commerce-sponsored participations in trade and industrial exhibitions;

2. To increase the number of trade center shows and to establish two or three new trade centers within the next year ;

3. To increase the scope and effectiveness of the America Weeks program ;

4. To implement a new joint Government-industry export program aimed particularly at increasing the U.S. share of developed markets and gaining a foothold for U.S. products in developing markets. This would include the Joint Export Association (JEA) program specifically mentioned by the President in his January 1 balance-of-payments message. The JEA program would involve contractual relations with private U.S. trade organizations to develop export markets ;

5. To establish an Export Strategy Planning Staff, the purpose of which would be to develop an overall strategy in the formation of new programs to assist U.S. exporters in their trade expansion efforts in opening up new markets overseas ;

6. To develop a new program designed to identify, by specific product and country, potential foreign markets for U.S. products ;

7. To increase our efforts to stimulate the interest of U.S. manufacturers in getting into the export business or, if already in that business, in increasing their exports. This would be done through increased seminars and promotional information campaigns through trade media and through improved methods of disseminating foreign market information to U.S. firms.

Senator BREWSTER. I have consistently argued that if the U.S. merchant marine carried more than the 5 to 6 percent of U.S. commerce in U.S.-flag ships that we now carry, if we carried 25 to 30 percent of our U.S. commerce under our own flag, as do many of the world's great trading nations, then we would have no balance-of-payments problem. Would you comment on this general proposition and on the balance-of-payments problem with respect to this legislation? In other words, will it help?

Mr. McQUADE. On the first point, it is the strong wish of the Commerce Department, and I think of the administration, that American shippers and foreign shippers would use more of the American merchant marine for their international trade. This would be a highly desirable thing and one which we would like to encourage.

Now, the impact of this particular bill is hard to evaluate. Admiral Harlee commented on it. It is my hope that there would be a tendency as a result of this bill for more use of the American merchant marine.

On the other hand, it seems to me, to be realistic, that it is often a question of whether there is a ship available on the day when the goods arrive in port rather than a question of the flag of that ship which may be the dominant thing in the minds of the exporters.

I am hoping, however, since this is an American bill there may be a tendency for American carriers to start out at least making deals among themselves, although they can obviously do it with foreign carriers as well.

Senator BREWSTER. Does the Department of Commerce have a program that would emphasize and encourage "Ship American"?

Mr. McQUADE. You are aware that the Maritime Administration is located in the Department of Commerce, and in the literature that we have put out, both under the Maritime Administration and under the general balance-of-payments program, we have encouraged American firms as part of their contribution to the balance of payments to use American shippers wherever this is compatible with their functioning as a business.

Senator BREWSTER. Thank you very much, Mr. McQuade.

Mr. McQUADE. Thank you, Senator.

Senator BREWSTER. The committee will now take a recess for 5 minutes, and then reconvene.

(Short recess.)

Senator BREWSTER. The committee will come back to order, and we will continue hearings on S. 3235.

Our next witness will be Mr. Thomas Goodfellow, the president of the Association of American Railroads.

I see Mr. Goodfellow is accompanied by, among others, the chairman's good friend and a brilliant lawyer, Mr. J. Paul Marshall.

STATEMENT OF THOMAS M. GOODFELLOW, PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS, TRANSPORTATION BUILDING, WASHINGTON, D.C.; ACCOMPANIED BY J. PAULL MARSHALL AND WILLIAM MALONEY, GENERAL COUNSEL

Mr. GOODFELLOW. I have also asked Mr. William Maloney, our general counsel, to sit with us.

My name is Thomas Goodfellow and I am president of the Association of American Railroads. I am here today to express the support of the railroad industry for the basic objectives of the measure you are considering, S. 3235, the Department of Transportation's proposed Trade Simplification Act of 1968.

Last year, several months before the Secretary of Transportation forwarded this bill to the Congress, the chief traffic officers of the Nation's railroads wrote to our association and recommended that we develop a legislative program that would—as they put it—permit railroads to participate in a “new concept” of overseas transportation involving use of containers shipped on through bills of lading and under single-factor through rates from origin to ultimate destination.

When I presented the traffic officers' request to our board of directors I found that the proposal met with enthusiastic approval. Our staff was directed to go to work on the preparation of appropriate legislation.

At about that time we learned that the Department of Transportation was itself drafting and readying a bill that would encompass much of what the railroads had in mind. We therefore decided to wait for the Department's bill. When it came, we found that we were right in waiting. The DOT bill, S. 3235, is directed toward the same general objectives we had already determined upon.

The bill is not limited, as was our first thinking, to international movements of containers. That it is not so limited is all to the good, even though I am sure that the greatest use of its provisions will come about in connection with containerized movements of freight.

The proposed Trade Simplification Act is designed to do just exactly what its title suggests: simplify international trade. Tremendous quantities of traffic already move between the United States and other countries, in both directions. But the problems, the complications, the obstacles and redtape, associated with international transportation are immense.

Solutions for these problems must be found so that there may be a freer flow of goods in our foreign commerce and so that those who export or import goods will have the kind of service they deserve, with fewer complications and less redtape.

This bill is an effort to solve some of the problems. In the first place, it would authorize carriers of all modes participating in international transportation—rail, highway, water, and air, foreign as well as U.S.—to get together for the purpose of negotiating, agreeing upon, and publishing joint rates for freight moving from any point in the United States to any foreign country or from any foreign country to any point in the United States. Thus, the shipper would have available a single-factor through rate from any inland city in this country to any inland city in Europe or Asia. The same would be true in the case of a shipment from any point in Europe or Asia to an inland U.S. destination. This is something for which there appears to be no authority in present law.

Similarly, S. 3235 would permit carriers of all modes—foreign as well as U.S.—to get together in order to make agreements having to do with the interchange and pooling of equipment and facilities used in international trade.

These two features of the bill, enabling carriers to agree upon and publish joint rates and authorizing them to make agreements for the interchange and pooling of equipment, would provide the basis for much better intermodal cooperation than seems to be possible today. Improved cooperation and coordination between and among the several modes, in the two respects I have mentioned and in other respects as well, is of prime importance if international transportation is to reach its full potential and if shippers and receivers in this and other countries are to be well served.

This bill also takes a step in the direction of reducing the amount of paperwork now required when goods move in international transportation. It provides for the use of a single through bill of lading, door to door, by all of the carriers participating in a through international shipment. Existing law requires each type of carrier to issue its own bill of lading, and the provisions of those documents differ in many ways.

Much more will remain to be done to decrease the “mass of documentation” and “flood of paperwork” that confronts carriers, shippers, and receivers in foreign trade today, but permission for the use of a single through bill of lading is itself a significant step forward.

We do have reservations about some features of the bill. In most instances, I believe, these involve questions of draftsmanship but there are a few matters of substance as well. We believe that the provisions of the bill as to carrier liability for loss or damage to goods in transit are unsatisfactory and might well discourage carriers from entering into joint rates of the kind the bill seeks to encourage.

Likewise, we think it is a mistake for the bill to make no provision for quoting special rates for the carriage of U.S. Government property. We would like to see it amended to provide that joint rates may be tendered the Government for international transportation on the same basis as rates tendered under section 22 of the Interstate Commerce Act. Otherwise there might be reluctance, on the part of railroads at least, to enter into joint rates for the overseas transportation of Department of Defense and other Government traffic.

We also think that the language of the bill having to do with relief from our antitrust laws in negotiating intermodal joint rates should be made clearer. There are some other amendments we want to urge,

too, but it is my understanding that such matters will be the subject of further and more complete hearings after this first round of testimony is finished. Technical discussion of the details and our suggestions for amendments to the bill will be submitted by Mr. Harry J. Breithaupt, our general solicitor, when he testifies.

With that understanding I should like to repeat that the Association of American Railroads endorses the objectives of the bill and wants very much to see appropriate legislation of this kind enacted.

Thank you.

Senator BREWSTER. Thank you, very much, Mr. Goodfellow.

You mentioned section 22, and I am sure you are aware that there is another measure pending before the Commerce Committee that would eliminate section 22 altogether. I would assume that the railroad industry would be much opposed to that?

Mr. GOODFELLOW. I think you will find that we are if it hasn't already been made known.

Senator BREWSTER. You mention in your statement that the provisions of the bill as to carrier liability for loss or damage to goods in transit are unsatisfactory. Do you have any concrete suggestions on how this might be improved?

Mr. GOODFELLOW. Mr. Breithaupt will have some. We have already discussed this with the Department of Transportation, and we will have to work something out on this. We may have to get some insurance people on this, too, because I heard a man from Lloyds of London in an international forum in Rotterdam a couple of weeks ago speak to the difficulties of sealing so much of this stuff in containers and then not opening it up for quite a few days later and the difficulty in finding out where the damage occurred. So I think this is what we are really talking about. We have got to get something in here that pins down in a little bit more detail the liability of the various carriers.

Senator BREWSTER. You stated that the bill is not limited to the international shipment of containers. Review for the committee exactly what type of domestic traffic would be covered by the provisions of the measure.

Mr. GOODFELLOW. Well, any manufacturer, any agricultural products, I would imagine, any kind of a shipment that you want to send from this country to another country, whether it would be a full carload or a less carload rate would eventually come under this bill and the single bill of lading could be written for it if a single rate could be established.

Senator BREWSTER. The point I would like to make is that the bill is not limited to the container industry but does cover all types of shipments?

Mr. GOODFELLOW. That is right. Right now the container is the newest thing, and, of course, we are all very encouraged by the progress we have made, but this does not necessarily restrict our movement to goods in containers.

Senator BREWSTER. Has the railroad industry heard a demand for international joint rates and single bills of lading for international shipments?

Mr. GOODFELLOW. I didn't understand what you said. You said, have we—

Senator BREWSTER. Is there a demand from industry to the railroads of America that joint rates and single bills of lading for international shipment be established?

Mr. GOODFELLOW. Oh, yes. We have had not only from shippers but from shippers' organizations requests that something be done about this. As I said before, we would probably have tried to initiate some legislation had the Department of Transportation not done it.

Senator BREWSTER. If the three regulatory agencies involved promulgate uniform sets of rules for international joint rates, will it assist the railroad industry?

Mr. GOODFELLOW. Oh, yes. We can make one application, and, then, as I understand it, make one application with all three commissions being furnished with a copy of it.

Senator BREWSTER. We have heard a great deal of discussion of land bridges. Will the enactment of this assist the railroads in the so-called land bridge from the west coast to the east coast in shipments from Europe to Asia?

Mr. GOODFELLOW. I think it will help us on this. They are not exactly the same, but they do have common features, and I would think that this bill would help us in the land bridge concept, and of course, as you know, we are very much concerned about the competition from Canada in the land bridge concept. So, we have to make sure that we have everything we need to make the land bridge successful so that we can compete with the Canadian roads.

Senator BREWSTER. You know of this committee's interest in the U.S. merchant marine as well as our interest in the railroad industry. Will this proposal permit these two great American industries to work closer together?

Mr. GOODFELLOW. I would think that it should.

Senator BREWSTER. Thank you very much, Mr. Goodfellow.

The last witness this morning will be Mr. Peter E. Edwards of Pan American Airways of New York.

I understand Mr. Edwards speaks on behalf of the Commerce and Industry Association of New York.

Mr. Edwards, please proceed in such a manner as you may wish.

**STATEMENT OF PETER E. EDWARDS, OF PAN AMERICAN AIRWAYS,
NEW YORK, ON BEHALF OF THE COMMERCE AND INDUSTRY
ASSOCIATION OF NEW YORK; ACCOMPANIED BY JOSEPH SIN-
CLAIR, STAFF, COMMERCE AND INDUSTRY ASSOCIATION OF NEW
YORK**

Mr. EDWARDS. Good morning, Mr. Chairman. Thank you very much for permitting us the privilege of appearing before this committee to express our feelings with respect to S. 3235.

Appearing with me is Mr. Joseph Sinclair, who is on the staff of the Commerce and Industry Association of New York.

I would like to preface my remarks before reading the very short statement which we have submitted by saying that even though the statement is very short in length it by no means limits our interest to this particular bill. We feel that the statement will cover what we are interested in, but we have a tremendous interest in seeing that this bill is approved.

My name is Peter E. Edwards. I am appearing on behalf of the Commerce and Industry Association of New York, Inc., 99 Church Street, New York, whose membership comprises a cross section of industrial and business firms in the New York area including some 2,000 firms directly engaged in international trade. I am a member of the export traffic committee of that association and chairman of the subcommittee which studied S. 3235.

Our association wholeheartedly favors this legislation which we believe would be beneficial to both carriers and shippers. Enactment of the bill will enable shippers and manufacturers more readily to determine transportation costs and delivered prices from any part of the United States to interior points of the world.

The need for through rates and a single bill of lading is particularly important at this time to increase the benefits from the rapidly developing use of containers to unitize the movement of goods in international commerce. Since transportation costs constitute such an important part of the delivered price of U.S. exports to overseas buyers, it is vital that every effort be made to reduce those costs which involve packing, insurance, and documentation as well as transportation rates. In our opinion, this bill should encourage truck, rail, vessel, and air carriers, many of whom have indicated reluctance to develop combined services, to establish international door-to-door transportation services for both containerized and noncontainerized cargo.

However, we believe the bill would be materially improved by the following amendments which we urge be adopted:

(a) Eliminate the proviso at the end of section 3, item 5, which prohibits the inclusion of pick up or delivery services charges at the port with the ocean charge in a joint rate or in view of Secretary Boyd's remarks limit this proviso to offshore domestic trades.

(b) Section 5, line 15 and lines 7 and 8, page 5—copies of freight tariffs should be made available to shippers without charge. We recommend therefore the insertion after "available for public inspection," the words, "and to shippers without charge."

(c) Section 5, lines 11, 12, page 5, and section 7, lines 8 and 9. Since the legislation applies only to international transportation, when an ocean carrier is involved in a joint rate, changes in tariffs and surcharges should conform to FMC regulations which provide that no increase in rates may be effective in less than 90 days from time of filing.

As indicated above, we agree wholeheartedly with section 7, lines 12-15, as to the need for simplification of tariff, classification and commodity descriptions.

Senator BREWSTER. Thank you very much, Mr. Edwards. The committee will carefully consider the amendments that you suggest.

Describe for us or give us an example of the type of problem that the shipper runs into when he is shipping goods from New York overseas, problems that we hope this legislation will help solve.

Mr. EDWARDS. I would prefer to give you a problem of a small exporter, because I think this is the person who will receive the greatest benefit, although the larger exporter will, of course, benefit. The larger exporter has a traffic department that is familiar with all phases of traffic and he is enabled to work up whatever he needs to get a cost insurance and freight quotation except for perhaps the overseas portion of a shipment.

However, a small exporter does not have a traffic department and is generally dependent on outside sources to get this type of information. To do this, particularly today, presents a very costly problem to him. No one works, as they use the expression, for free today. Anything that you want you pay for. So as a rule the small exporter is generally not interested when he becomes involved in this sort of a situation. He just gives it up as a bad job and decides not to follow up a quote that he may be asked to get.

So, I feel that anyone who is involved in export today, if they could by reference to one document such as a tariff look at it and be able to find a commodity for which a specific rate is shown for a shipment from interior domestic destination to an ultimate foreign destination would save a considerable amount of time and money.

Senator BREWSTER. Is it difficult today for the small exporter to determine his total transportation cost for exported commodities in advance?

Mr. EDWARDS. I would say so because some of your domestic tariffs today, while published in book form, have so many exceptions and additions that it sometimes takes someone who is very, very familiar to find out what an actual rate is.

Senator BREWSTER. In your judgment, would the enactment of this law enhance or increase U.S. exports?

Mr. EDWARDS. Oh, yes, I think so, very much so.

Senator BREWSTER. Do existing regulations and the paperwork requirements that we now have in your judgment hamper present export of U.S. products?

Mr. EDWARDS. Yes. I feel that if this bill is approved it will eventually lead to simplification of documents concerning export shipments, and if that is done it will be a tremendous help to an exporter.

Senator BREWSTER. As a spokesman for industry and for the shippers, are you aware of any private industry concern or opposition to this bill?

Mr. EDWARDS. Not to my knowledge.

Senator BREWSTER. Thank you very much, Mr. Edwards, you have been very helpful.

The committee will continue hearings on S. 3235 on Wednesday, June 19, at 10 a.m. in room 1202 and not in this room of this building.

The committee now stands adjourned.

(Whereupon, at 11:50 a.m. the committee was adjourned, to reconvene at 10 a.m., in room 1202, on Wednesday, June 19, 1968.)

TRADE SIMPLIFICATION ACT OF 1968

WEDNESDAY, JUNE 19, 1968

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met in room 1202, New Senate Office Building, at 10 a.m., the Honorable Daniel B. Brewster presiding.

Present: Senator Brewster.

Senator BREWSTER. The committee will come to order.

This morning we will continue the hearings that we began on Monday on S. 3235 to authorize and foster joint rates for international transportation of property, to facilitate the transportation of such property, and for other purposes.

Our first witness this morning will be the Honorable Robert C. Moot, Administrator, Small Business Administration. Mr. Moot, we are happy to have you before the Commerce Committee and we will be pleased to hear from you.

STATEMENT OF ROBERT C. MOOT, ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION

Mr. Moot. Thank you, Mr. Chairman. I am pleased to have an opportunity to comment on S. 3235 which in our eyes is most appropriately entitled the "Trade Simplification Act of 1968."

A bill which aims as this bill does to unify rates and consolidate bills of lading to simplify our complex shipping networks is certain to be a boon to small business. Complexity generally is a growing menace to our dynamic small business community—and the threat is exemplified in the process of moving goods to distant points through various carriers.

The system needs updating and improvement.

Mr. Chairman, the Small Business Administration heartily endorses the provisions of S. 3235 and recommends its enactment.

We do so for a number of reasons:

It can have a favorable effect on the national economy.

It can have a favorable effect on our efforts to reduce our balance-of-payments deficit.

It can have a favorable effect on the very important transportation industry.

It can have a favorable effect on small firms within the transportation industry.

But the impact of the bill can have an even broader and more significant impact in that it can have a favorable effect on the entire small business community.

The impact of small firms on the national economy, Mr. Chairman, is profound.

Every 40th American owns or operates his own business.

About one-half of all the people employed in the United States are employed in small firms.

Over 40 percent of the gross national product emanates from small businesses.

Over the past decade, the small business community has grown by some 700,000 firms. This growth has been achieved through a number of factors, Mr. Chairman, but one vital factor is the demand for the goods and services produced by small business.

Ability to expand and increase their markets has been a very important factor in the growth and preservation of small firms.

We are convinced that if the complex transportation regulations and requirements are simplified as suggested by S. 3235 small firms will be encouraged to seek new export markets.

In contrast to the 40-percent share of the domestic market it enjoys, small business accounts for a relatively insignificant share of commercial export volume.

New and broader markets can increase sales and strengthen small firms competitively. This can lead to a stronger national economy.

In proclaiming World Trade Week earlier this year, President Johnson noted that a new era of world trade is opening, and that in recent years our outflow of dollars far exceeded the inflow. He pointed out that it was essential to expand our exports of goods and services to bring in more dollars.

President Johnson said: "If we are to take advantage of these new opportunities to increase our sales abroad, we must do everything possible to make our goods better and less expensive and to make them available in foreign markets."

The phrase available in foreign markets is an important one and one which is directly affected, I believe by the provisions of S. 3235.

I firmly believe, Mr. Chairman, that a significant number of small businesses which in the aggregate, produce more than 40 percent of the goods and services produced in the United States would enter the export markets if transportation costing, shipping, and liability determinations were less complex.

The Small Business Administration is making a concerted effort to encourage the Nation's small firms that have the interest and capacity to enter the export market.

In November of last year we joined with the Department of Commerce in an effort to help small firms enter foreign markets and share in the benefits of our expanding export trade.

Our efforts include placing additional emphasis on loans to small firms for participation in U.S. export trade; encouraging small firms to participate in U.S. commercial exhibits, in U.S. trade center exhibitions in trade missions and trade conferences. In cooperation with the Department of Commerce we have arranged 12 foreign trade conferences to be held throughout the country this year to encourage small firms to go into exporting.

So you can see, Mr. Chairman, that we are devoting a considerable amount of our efforts and resources to this very important task of increasing the number of small firms participating in export trade.

It simply is not consistent with these efforts to arouse the small businessman's interest in trading abroad only to have him run head on into a system of getting his goods or services abroad that is so complex as to discourage him.

The Trade Simplification Act of 1968 will give the transportation industry the ability to offer these small firms as well as other shippers the kind of international service they need by being able to issue a single bill of lading for international, intermodal service. It would also encourage carriers to establish uniform liability coverage.

Technically we have achieved the meshing of land, sea, and air transportation into one system of international transportation. Certainly we can keep pace administratively by passing S. 3235 with the technical achievements.

By enacting S. 3235, Mr. Chairman, the redtape of paperwork, customs clearances, loss and damage, unknown or obscure costs in intermodal transport movements will be minimized.

And with it will disappear the reluctance of the small processor or manufacturer who heretofore has not been able or worse has been discouraged from reaching foreign markets to go into exporting.

It will offer a new horizon of expanding and broadening his market of increasing his sales and strengthening his competitive position.

Stronger small businesses mean a stronger national economy and hopefully a small balance-of-payments deficit.

Enactment of the bill can go a long way toward answering President Johnson's admonition to do everything possible to make our goods and services available in foreign markets.

As I mentioned earlier, Mr. Chairman, the bill also can have a salutary effect on those small firms within the transportation industry.

There are, of course, far more small transportation companies than large ones. Small businesses in the transportation field include most air taxis, airfreight forwarders, travel agencies, and trucking firms; some barges and larger ships, and about 40 small, independent railroads.

While a large shipper may still be able to cope with our present transportation system and survive, the small shipper just cannot afford the necessary personnel to cope with such things as the differing rates for different types of carriers from origin to destination. Consequently, a single through rate as provided for in S. 3235 will eliminate the confusion.

This legislation will reduce the paperwork burden of the small shipper.

A small shipper whose goods are damaged in transit will be aided by the provisions of the bill which specify that the initiating carrier will be able, through his contract of carriage, to assume full responsibility for loss or damage on the entire route.

The small exporter would especially be aided by this bill which would reduce handling costs. Studies have shown that over 50 percent of freight charges on export shipments usually occur during handling within the United States.

I want to emphasize again our endorsement of S. 3235, Mr. Chairman, and if I may add one further comment.

I believe that enactment of the Trade Simplification Act of 1968 in this session can have the most beneficial effect on our economy. The

sooner we provide incentives for more small firms to enter exporting, the sooner we enhance small firms' ability to broaden and expand their domestic markets, the sooner will the favorable effects of these actions be reflected in the economy.

I feel certain the Congress is strongly in favor of actions that will help stabilize the economy and reduce the imbalance in our international payments. I believe enactment in this session will help accomplish these vital aims.

Thank you very much for the opportunity to be here, Mr. Chairman.

Senator BREWSTER. We thank you for your clear and helpful statement.

In an effort perhaps just to emphasize some of your points, let me ask a few questions about matters that you have already touched on.

Do small businesses in the United States make a significant contribution to our export program and what percentage of our total exports would come from small businesses?

Mr. Moor. I cannot give you an accurate answer, Mr. Chairman. First of all, the small business community as prime shippers or exporters have a very insignificant impact on our total export program. As subcontractors, of course, they do provide, as they do for our domestic goods and services, a considerable impact. But in terms of involving themselves in opening markets up and shipping on their own, exporting, they are considerably under 2 percent of the total export market and, of course, with the widespread spectrum of small business in this country the opportunity is significantly great and that is the reason that we are embarked with the Department of Commerce on a program which we hope will first of all bring to the small business community of the country an understanding of the potential and the opportunity they are not currently capitalizing on; and second, if we can get this kind of simplification and cost reduction we would hope that we can make it very profitable for the small business community.

Senator BREWSTER. I would gather then, sir, that there is a tremendous room for expansion and increase of small businesses participation in the export market?

Mr. Moor. Yes. I think it is almost unlimited from where we are now, which is practically nothing.

Senator BREWSTER. And is it fair to say that in the past it has been limited or inhibited by multiple bills of lading, uncertainty as to transportation costs and general governmental redtape or business redtape that has been involved?

Mr. Moor. I think that is a fair evaluation. I consider that the basic objectives of this legislation will first of all provide simplification. Second, provide knowledge to the small businessman which currently he cannot find in terms of what it will cost him. Third, will actually reduce costs because it will encourage the intermodal shipment and containerization shipment of goods; and fourth, provide him with a vehicle to open foreign markets up.

The carriers, as you know, are quite willing and very able to provide market assistance—sales opportunity assistance—to small businesses of this country, if we can just provide the system by which they can do it.

Senator BREWSTER. Would your files disclose any illustrative examples of small business firms that had failed to compete in international markets because of the complicated paperwork that is involved?

Mr. MOOT. We have received lots of comments, Mr. Chairman, on this point in preparation for this hearing. I had our files checked fairly quickly and briefly and I did not come up with any specific evidence.

On the other hand, the Senate Select Committee on Small Businesses has held hearings this past year, in which we have been helping to participate to stimulate export trade for small business, and with your permission I will check the committee's files to see if we cannot provide for your record certain evidence along this line.

Senator BREWSTER. We would be very happy if you would submit such evidence for the record.

Mr. Moot, we thank you very much for testifying.

Mr. MOOT. Thank you, Mr. Chairman.

(The following statement was subsequently provided:)

The Senate Select Committee on Small Business has been conducting a 3-year study on ways and means of expanding exports. Field hearings have been designed to make it convenient for the business and export communities of our gateway cities to present their views to a congressional panel.

Nine days of testimony produced an impressive number of suggestions and criticisms reflecting the practical experience of those actually engaged in international trade. Much of the criticism was aimed at the problems S. 3235 is designed to correct. The staff of the Senate Select Committee on Small Business considers that the problems of multiple rates, complicated paperwork, lack of single control over shipments from origin to destination and high transportation costs all contribute significantly to prevent small business in this country from expanding into overseas markets.

Senator BREWSTER. We will next call Mr. Jack D. Robins, export traffic manager, Caterpillar Tractor Co., Peoria, Ill. Mr. Robins, I see you have a prepared statement. You just proceed as you wish.

**STATEMENT OF JACK D. ROBINS, EXPORT TRAFFIC MANAGER,
CATERPILLAR TRACTOR CO., PEORIA, ILL.**

Mr. ROBINS. Thank you, Mr. Chairman. This morning I am accompanied by Mr. Johnston of our traffic staff at Caterpillar.

My name is Jack D. Robins, export traffic manager of Caterpillar Tractor Co. For the past 20 years I have been engaged in various export activities of Caterpillar, both here and overseas.

Caterpillar is one of the largest exporters of goods from the United States. Our exports from the United States and favorable contributions to the balance of trade are presently running at approximately \$500 million annually. As such we are vitally interested in any program that promotes trade facilitation. During each of the past 10 years we have averaged more than 20,000 individual shipments from the United States to destinations abroad. Each of these shipments require that attention be given to multiplicity of freight rates, accessorial charges, and documents. The consideration given each of these facets carries with it attendant clerical burden and administrative expenses which are detrimental to export expansion aspirations of the United States.

We consider the authority for joint rates in international transportation proposed in the administration's Trade Simplification Act of 1968

(S. 3235) to be an opportunity toward simplifying and minimizing the individual steps presently required to effect export shipments.

As more and more products become available in today's world markets, the ability to provide customers with prompt and accurate delivered price information is of increasing importance to U.S. exporters. The process of providing this information is indicative of the complexities in today's system of freight pricing. Transportation innovations providing physical movement of goods, not only on intermodal methods such as containerization but through other technological advancement as is found with bulk commodities and roll-on/roll-off vessels have far outstripped the ability of present systems to provide the immediate response required to readily obtain shipping information on rates, liabilities, and the interface of documents.

Preparation of freighting quotations today may consist of obtaining individual charges assessed on such major items as: inland freight, port, and terminal charges, forwarder and documentation fees, marine insurance, ocean freight, foreign port expenses, brokerage and clearance fees at destination port and inland freight charges abroad, and each of these major costs may consist of several individual factors.

These same steps are again taken into consideration whenever the orders have been received and goods actually are shipped. Unfortunately, the time interval between date of quotation and date of shipment rarely permits the assumption that what was quoted months, or even weeks, ago remains unchanged. The point being that international joint rates hopefully, from point of origin to point of destination, would eliminate a sizable amount of time, effort, and expense in redundancy of checking so many individual items. A redundancy that contributes to delays in shipping documents and consequently the shipment itself. Delays which lessen the American exporters' ability to effect timely delivery of products to customers.

Fractionalization of freight rates is not only of academic interest in effecting export shipments but rather reflects the prices charged by individual transportation companies for providing through services which do not contemplate a through level of responsibilities and liabilities under present day systems.

During the past 12 months Caterpillar has shipped over 2,000 container loads in door-to-door sealed service from its U.S. facilities to destinations in Europe, Australia, South America, and the Far East. Transportation arrangements for each of these containers consisted of obtaining a container from the ocean carrier and the positioning of that container at our facility for loading, arranging for the inland transportation of the loaded containers to the U.S. port of exit, providing for the delivery of container to shipside, booking space for ocean transportation, and arrangements for clearance and delivery at foreign destination.

Each of these individual movements require separate bills of lading, freight bills, and payments. Compare this, if you will, to the possibilities offered by the proposed legislation of a single point of contact, responsibility, and payment under a through bill of lading.

The complexities present under today's methods must act as a deterrent to U.S. businessmen engaged in domestic markets. From time to time we receive inquiries from firms located in the Midwest who are

seeking information to help in their decision to accept and ship export orders. The point being, that uncertainties in international transportation costs and service factors can, for those not normally engaged in international trade, present barriers to the flow of U.S. goods in foreign commerce.

The bill offers the opportunity to regulated carriers to quote a single joint rate from point of origin to destination; and, in turn, this will help exporters to more readily and accurately determine delivered prices to customers. Secondly, the bill permits the issuance of a single through bill of lading which will greatly relieve the burden of paperwork processes now involved in obtaining different contracts of carriage. Third, it offers the possibility of a single level of liability being available if carriers so choose.

The transportation industry has served the shipping public well. We believe that the proposal you have under consideration provides an avenue to facilitate the movement of goods between countries. The key objective being a more efficient method of accomplishing export shipments—one that is more responsive to the demands imposed by current transportation methods and conditions in world marketplaces.

Senator BREWSTER. Let me ask you a few questions, sir. I imagine that the Caterpillar Tractor Co. competes with products manufactured outside the United States in foreign markets; is not that correct?

Mr. ROBINS. Yes, sir; we do. In most industrially developed countries today we have manufacturers indigenous to that country who produce goods directly in competition with goods produced by Caterpillar. Some examples are West Germany, France, Italy, Japan, Soviet Union, and there are others.

Senator BREWSTER. We recognize that we have reasonably high cost of manufacturing here in the United States, but do the present procedures in international trade and transportation substantially increase your costs and make it a bit more difficult for you to compete in these foreign markets?

Mr. ROBINS. Yes, sir; it does. According to a recent study conducted by the National Committee on International Trade Documentation, the average cost to effect an export shipment runs about \$160. Of course, when you add this on to products, not necessarily large products but sometimes parts for those products, it can substantially increase your costs.

Senator BREWSTER. That is \$160 per shipment regardless of size or weight?

Mr. ROBINS. Yes, sir. This is documentary expense, not freight.

Senator BREWSTER. I have heard at times that exporters have had their shipment actually at the dockside and have been forced to hold it there rather than ship it because of the fact the paperwork had not been completed. Has your company experienced that situation?

Mr. ROBINS. Yes, sir; we have, because each link of the journey is treated as a disjunctive member. You have to produce documents to cover that carriage during each leg of the journey. Failure to do so, or delays in doing so, causes the goods to stop in transit and when this happens we miss a vessel.

Senator BREWSTER. I have a very particular interest, as does the chairman of this committee, in the U.S. merchant marine. Do you

have any opinion as to what effect, if any, this measure would have on our merchant marine fleet?

Mr. ROBINS. Yes, sir; I do. In our opinion it will benefit the U.S.-flag carriers in two ways. First, it should remove some barriers to trade which will induce more people in the United States to engage in foreign commerce and from that standpoint the U.S. merchant marine should gain accordingly.

Secondly, the bill makes it simpler to sell on a delivered price basis. Under these particular terms carrier's selection generally remains with the seller and under those circumstances he can give full consideration to U.S. carrier selection.

Senator BREWSTER. You have commented on containerization and we both recognize there is a very significant trend toward using containers in America.

Do you see any provision here that would limit or decrease the use of containers in international shipments?

Mr. ROBINS. No, sir; quite the contrary. It should enhance the shipping of containers. It should provide a basis for the interchange of equipment and in so doing make the containers more readily available to the shipping public. It should also provide a basis for a through rate or level of liability.

Today when we ship containers, for example, to Europe, we are faced with the condition where we have one level of liability on the inland journey to port, another level of liability on the ocean journey, and still a third level on the delivery of the container abroad.

Normally when you ship in containers, if you have damage, it is concealed, something that you cannot see from the outside of the container, and not discovered until the container is delivered abroad. Then, when the damage is discovered, you have the problem of trying to ascertain where that damage actually occurred in order to find out what level of liability you have recourse to.

Senator BREWSTER. Can you give us an example of how transportation advances have made present documentation systems outdated?

Mr. ROBINS. Yes, sir. Container traffic moves from our Midwest plants today in 3 days to shipside and this is just simply too fast to prepare a bill of lading at the point of origin and again an ocean bill of lading at shipside, each with separate weight and classifications which must be accomplished before the actual bill can be prepared.

We have missed vessels because of this, not only delaying the delivery of the goods to customers, but equally important, negating some of the benefits that should accrue to container traffic in the form of speed.

Senator BREWSTER. So in conclusion, perhaps you would say that this measure, if enacted, would certainly help the U.S. exports?

Mr. ROBINS. Yes, sir; I certainly would.

Senator BREWSTER. We thank you very much.

Mr. ROBINS. Thank you.

Senator BREWSTER. We will next call Mr. George Begnal of International General Electric of New York. He will speak on behalf of the National Committee on International Trade Documentation.

STATEMENT OF GEORGE F. BEGNAL, MEMBER OF THE EXECUTIVE COMMITTEE, AND COCHAIRMAN OF THE TECHNICAL COMMITTEE OF THE NATIONAL COMMITTEE ON INTERNATIONAL TRADE DOCUMENTATION

Mr. BEGNAL. Thank you, Mr. Chairman.

My name is George F. Begnal. I serve the General Electric Co.'s IGE Export Division as managing information systems development, export service operation.

In appearing before your committee today, I do so as a member of the executive committee of the National Committee on International Trade Documentation, and have been authorized to appear on its behalf.

I am also cochairman of the technical committee of that organization, and in this capacity assist in supervising all of the work of the several technical subcommittees that are staffed by the membership of the organization.

NCITD is a nonprofit organization dedicated entirely to simplifying and improving international trade documentation procedures. We are supported by a membership of more than 200 companies, representing all segments of the international trade community, including manufacturers, exporters, and importers, all modes of transportation, banks, marine insurance underwriters, freight forwarders, port authorities, trade associations, and marine exchanges. Our member companies reflect a broad range of interests but, through NCITD, they are united by one common bond; that is, the desire to reduce the paperwork and redtape which is now impeding the flow of our foreign commerce, thereby reducing substantially the delivered cost of our exports and imports.

In our attempt to accomplish this objective, a large number of documents are being studied to determine whether or not they are actually necessary, whether or not they can be combined and/or simplified, and whether or not they can be reduced to a common denominator susceptible of computerization.

We work very closely with the Office of Facilitation in the Department of Transportation, who are giving us their full cooperation, and lending their support to the elimination, wherever possible, of unnecessary Government documents and procedures.

We have estimated that international trade documentation costs all the parties involved in international transactions including the U.S. Government at least \$5 billion a year. Research indicates that the estimated documentation cost of a typical export shipment today totals a staggering \$163, consisting of the following charges: Exporter, \$43 per order processed; domestic carrier, \$3 per waybill; freight forwarder, \$25 per shipment; international carrier, \$10 per bill of lading; opening bank, \$27 per letter of credit; paying bank, \$27 per letter of credit; insurance underwriter, \$3 per insurance certificate; custom-house broker, \$25 per shipment. This totals \$163 per shipment.

These costs include direct labor, office space, supplies and equipment and data processing charges. They do not include out-of-pocket documentation costs for obtaining consular visas or other taxes on documents in certain importing countries. No effort has been made to

estimate the cost to the Government for processing the shippers' export declarations and the import entries required. Neither has the cost of overseas inland documentation been included.

In view of the fact that approximately 25 percent of shipments exported from this country are valued at less than \$100, the documentation cost becomes even more ludicrous.

These costs must be cut. Passage of a Trade Simplification Act in 1968 is a vital step toward a healthier economic climate, nationally and internationally. Our job is to find ways to reduce this tremendous expense and, in so doing, reduce the delivered cost of U.S. goods, thereby developing greater export markets, and improving our balance of payments. This will also encourage small manufacturers, who today are discouraged by the cost and complexity of paperwork, to participate in world trade.

The proposed bill S. 3235, referred to as the "Trade Simplification Act of 1968" represents an important permissive step toward the elimination of some of the documentation now strangling our foreign commerce, and would further the efforts of NCITD in carrying out its basic purposes, which are: To foster, carry on, and advance the formation of procedures for the simplification and improvement of international trade documentation; to gather, receive, propose, and disseminate information concerning the simplification of documentation procedures; to provide for and encourage research, lectures, exhibitions, and studies calculated to advance the simplification and improvement of documentary procedures in international trade; to work with and assist other persons, groups, or organizations, including governmental organizations, bodies, or agencies in the formulation of, or improvement of, procedures for the simplification of international trade documentation; to suggest, originate and promote the adoption and acceptance of improved procedures for international trade documentation; to provide a central clearinghouse through which the combined inter-industry, governmental, and foreign objectives toward better documentary systems in foreign trade can be progressed.

Surely you will agree that the "Preamble and Declaration of Policy" set forth in section 2 as well as the "International Cooperation and Reports" as set forth in section 11 of this bill are in accordance with the above aims of NCITD.

Our organization operates primarily through three specific methods. First, through technical committees made up entirely from representatives of members, classified into functional groups as follows: Industrial, including manufacturers, exporters, importers, forwarders, and brokers; financial, including banks and insurance; carrier, including all modes of transportation both domestic and foreign; government; exchanges and associations.

A second level of operation functions through the employment of outside technical firms versed in international trade documentation work, performing specific studies on a broader basis than is available through membership participation. Our third method involves our day-to-day work with the Department of Transportation and all involved Government agencies in Washington.

NCITD has launched a series of work programs with the objective of cutting the present multibillion-dollar expense bill in half within the next few years.

Some of the specific projects now underway or on the drawing boards for prompt action as soon as budgets and technical staff will permit, and which are directly related to the "Trade Simplification Act of 1968" are as follows:

1. Completion of the broad international case studies, now in progress, of all paperwork involved in international container shipments; tracing from door to door every piece of paper that is involved; analyzing the reasons for them; and arranging for the elimination of a large number of them. Many of the NCITD members are participating in this current case study. With the cooperation of the Department of Transportation, many containerized shipments will soon be made without the papers heretofore thought to be necessary. Through repeating test runs, we hope to be able to rid container shipments of many, many burdensome documents.

2. Conduct a program to eliminate redundant documentation, such as the three copies of the original ocean bill of lading, multiple copies of various shipping instruction, and other papers that require frequent recopying.

3. Develop substitute controls that will permit the elimination of "on board" bills of lading. This would speed up cargo movement and, if coupled with the elimination of negotiable or "order" bills of lading, would speed delivery and simplify credit arrangements.

4. Promote facsimile transmittal of documents.

5. Work toward a single, common document, through bill of lading, statistically equipped to contain all of the information required by each party to the international transaction.

We believe that the above objectives will be greatly assisted by section 9 of this bill, authorizing a through bill of lading.

6. Work with other groups toward the creation of a common commodity identification code, in the interest of making documents more interchangeable.

It is believed that our above objective would be greatly assisted by section No. 4 dealing with the establishment of joint rates.

The National Committee on International Trade Documentation is a concerted effort on the part of industry, with the help of Government to modernize the archaic documentation procedures that today shackle foreign trade. Its committees are composed of farsighted technicians with the knowledge, energy, and enthusiasm to accomplish its goals. Its projects, current and proposed, encompass as broad a range as the industries it represents. Redundancies in documentation are under attack. There is a challenge ahead for the banking and marine underwriters to keep pace with the need of tomorrow. Substitute controls will permit the elimination of "on board" ocean bills of lading. Facsimile transmittal of documents need not be postponed until the next century. Our ultimate goal should be the design and implementation of a model system, keyed to the computer age into which our technology has thrust us.

The Trade Simplification Act of 1968 (bill S. 3235) is a laudatory effort toward the removal of many of the present-day obstacles to trade and transportation. It offers some of the solutions to the complexities and frustrations now hampering our foreign commerce. Its enactment will encourage all industries, large and small, to venture into foreign markets.

The National Committee on International Trade Documentation endorses the proposed Trade Simplification Act of 1968 (bill S. 3235) and urges the support of the entire international trade community.

Although not in my speech, I sure hope we pay attention to the 1968 aspects of the economy. Thank you, sir.

Senator BREWSTER. It is clear from your statement and others that the U.S. exporter has to wade through a paperwork jungle. Do you have any idea how we got in this sad state?

Mr. BEGNAL. Yes, sir; I do. In the early days of our history, the producer or manufacturer, if you will, was probably also the carrier and the seller and he was one person. He had the transaction entirely under his own control.

Then came the industrial revolution and its specialization. We began to rely upon others—carriers, foreign freight forwarders, banks, and so forth, and as our commerce grew there were needs for documentation. This, coupled with our Government's becoming involved, export controls, the gathering of statistics and so forth, added layers upon layers of other documentation.

The banking industry with its letters of credit imposed other requirements to protect the buyer as well as assure the seller of payments. Then along came our aid to backward nations and our Agency for International Development. This added other layers upon layers upon layers.

In contrast to this, the air industry was established under modern business procedures. They proposed to the countries to whom they were offering their service to either accept a simplified document, a simplified procedure, without negotiability, without all of the burdensome documents that are involved in the maritime trade—unless you accept this, we are unable to give you service in your area. Right from the start the air industry removed many of the documents from their transactions.

This is why you have a contrast. Our aim is to do likewise throughout our entire international industry.

Senator BREWSTER. Do companies in other exporting nations run into the same complexities that our U.S. companies run into?

Mr. BEGNAL. I can't answer that specifically from knowledge—specific knowledge, but I feel that the United States, because of her position in the world, her control of strategic materials, and so forth, has imposed far more documentation on her exporters than is the case with our competitive counterparts in the world.

Senator BREWSTER. We have heard the statement that some \$5 billion a year are involved in documentation and administrative costs for our exporters. Do you have an estimate as to what percentage of this total cost could be reduced?

Mr. BEGNAL. I think within the next few years, if we have the continued cooperation of the U.S. Government and of our membership of NCITD, we have the ability and the technical knowledge of systems oriented people to reduce this by at least 50 percent of the present \$5 billion cost, and I would say we can do this within a 4- or 5-year period. A lot of it can be done immediately.

Senator BREWSTER. This Trade Simplification Act has been described as a first good step. Can you suggest to the Committee what other steps we might take in the future?

Mr. BEGNAL. Senator, we have a specific proposal before the Office of Export Control, Bureau of Census and the Customs, as well as the Department of Transportation, to completely eliminate the need for the shippers export declaration, an extremely costly document which is estimated to cost shippers \$100 million a year to prepare.

This proposal is designed to implement this system in three progressive steps. Ultimately to do away with it completely and yet not in any way usurp the authority and the requirements of export control or the gathering of statistics by the Census Bureau.

There are other proposals that are allied to this. I will not go into detail but will likewise work for the simplification for declaring shipments for export.

Senator BREWSTER. All the Members of the Senate are not trade experts as you are, so define for us what you exactly mean by an order bill of lading and why it should be eliminated.

Mr. BEGNAL. The order bill of lading can be likened to a check that's drawn to order of, to order of the shipper or to order—blank endorsement. It is a document that retains title by the holder of the bill of lading.

To give you a step by step example, when the shipper receives back an order bill of lading, and he's drawing a draft against a U.S. bank, he endorses the document and sends it with his draft. The bank pays the shipper and then the U.S. bank has title to the goods to protect the money that they have paid out. Once they in turn has satisfied the foreign bank and debit their account, they endorse the bill of lading and send it to the foreign bank. The foreign bank gets paid by the purchaser or consignor of the goods and the foreign or opening bank in turn endorse the bill of lading over to the consignee and he then is able to take possession of the goods.

This was a fine protective system when we had buyer and seller not knowing each other. It protected each party. Ships used to take 30 days, 60 days, 90 days to arrive at port, when you had time to make these transmissions. This is not so today.

In the air industry they absolutely prohibit the use of order bills of lading. All their documents are non-negotiable because of the time factor.

I submit that the steamship industry is nearing this type of a situation. In fact, it's already passed it. They are making European ports in 5 or 6 days and yet to process in "order of" bill of lading through all the hands it must go through, may, and often does, take weeks. The goods are there and held on dock for a week or 2 weeks awaiting paperwork, the order bill of lading, and therefore, this should be eliminated.

Senator BREWSTER. We have heard some argument that freight rates, administrative and/or documentation costs have nothing to do with whether or not a product is competitive and in particular, in international markets. Could you comment on that?

Mr. BEGNAL. I cannot understand anyone knowledgeable on export making such an observation because it is truly the landed cost, the CIF-cost, insurance and freight, that is the only real figure that is considered by foreign purchasers. Since the freight aspects are part of the total CIF value, any reduction in freight rates would likewise constitute a reduction in landed costs and it certainly would. If you can reduce the CIF landed costs you are very definitely in a more competitive position.

Senator BREWSTER. Then it would be fair to say that if through passage of this proposal we are able to effect any cost reduction in documentation or administrative procedures it will enable the U.S. exporter to become more competitive on the world market?

Mr. BEGNAL. Yes, Senator, I would say that. We sellers of goods must cover our full cost and hopefully provide for a profit. Any time you can reduce any cost, not only the manufacturing cost or the transportation cost, but the administrative cost, you are reducing the total cost of that product. The difference, of course, after a reasonable profit, would be passed on to the purchaser of the goods, and this very definitely would have a tremendous impact on competitiveness of American manufactured goods abroad.

Senator BREWSTER. Thank you very much, sir, for the information you have given the committee.

Mr. BEGNAL. Thank you, Senator. In addition to my comments, I would like to submit a copy of our annual report of NCITD for our first fiscal year ending June 30, and also a copy of our first 6 months research project conducted by an outside consulting firm which has been summarized in the pamphlet entitled "The Paperwork Explosion."

Senator BREWSTER. The two documents will be made a part of the committee files. We will now take a 5-minute recess and then we will reconvene and we will complete the list of witnesses this morning in case there is any question in anybody's mind.

(Recess taken.)

Senator BREWSTER. We will now call Mr. S. Alexander Thomas, the vice president-senior assistant treasurer of American Machine & Foundry Co. of New York City.

Mr. Thomas, we welcome you to the Senate Commerce Committee. We thank you for being here and please proceed with your speech.

STATEMENT OF S. ALEXANDER THOMAS, VICE PRESIDENT-SENIOR ASSISTANT TREASURER OF AMERICAN MACHINE & FOUNDRY CO.

Mr. THOMAS. Thank you, Mr. Chairman.

I am here to testify on behalf of the export minded part of American industry to the merits of the bill called "The Trade Simplification Act of 1968" which has been submitted to you by the Department of Transportation.

Although my company, American Machine & Foundry Co., is not one of the major exporting organizations in the United States, we are, nevertheless, very proud of our export performance which has climbed from less than \$5 million in 1956 to well over \$35 million in 1967. Owing to the wide variety of the products that we do export, packaging and transportation problems have received our very close attention. To illustrate the range of products involved, I may mention that we ship bowling balls from Santa Ana, Calif., and pinspotter machines and components out of Shelby, Ohio. Then, we export bakery machinery from Richmond, Va. We move Paragon timer devices from Wisconsin and Potter and Brumfield relays from Indiana. In the liquid conditioning field, we ship filter cartridges from our Meriden, Conn. plant. We export Orbitread machines that are manufactured

in Brooklyn, N.Y., for retreading tires. Our industrial division in Shreveport, La., manufactures and sells liquid petroleum gas tanks. At New Rochelle, N.Y., the AMF Thermatool Division produces a high frequency welding machine which is exported in substantial quantities. Our Tuboscope organizations in Houston, Tex., services the petroleum industry worldwide. Stitching machinery produced at York Pa., is being shipped primarily to Western Europe. AMF exports electrical generators and alternators for jet aircraft, which are manufactured by our Leland group in Dayton, Ohio. The Western Tool Division of Des Moines, Iowa makes lawnmowers, snow blowers, and such items. The recreational group manufactures and exports tri-cycles and other children's vehicles out of Olney, Ill., Ben Hogan golf clubs from Fort Worth, Tex., and diving equipment from California. Our world tobacco group operates on a worldwide scale in tobacco machinery.

With such a wide range of merchandise to be shipped, from many points inland in the United States to destinations away from ocean harbors on the other side of the world, it is not surprising that AMF has always been in the forefront of containerization activities. Like every exporter, AMF is interested in anything that can favorably affect our pricing or reduce distribution expense. Our international purchasing and transportation department is the driving force behind AMF's desire to improve the efficiency of the transportation function. Roughly 75 percent of AMF international tonnage, excluding household goods, is containerized. We use approximately 600 containers a year and are able to utilize those containers at about 80 percent of capacity, on average.

Containerization promised to lead to a lower landed cost and a simplification of the documentation required to move merchandise from one point in the world to another. This in turn would lead to easier and faster financing of exports. Unfortunately, in the documentary aspect this condition has not yet fully developed. One of the major obstacles is that inland bills of lading issued by truck or rail carriers when the merchandise is received at inland port of origin are only acceptable to cover transportation up to port. Marine or through bills of lading can only be issued by steamship companies and their agents. The proposed Trade Simplification Act of 1968 would enable the inland carrier to prepare the entire through bill of lading covering the merchandise from point of origin up to the customer. If all tariffs covering through movements were published and assembled in one single binder it should become possible for any legitimate carrier to issue a through bill of lading just as any travel agency today can prepare an airline ticket that involves a multitude of different air carriers.

The condition that only steamship companies can validate ocean bills of lading impedes the financing of export trade. The increased load of paperwork at dockside causes delays in the issuance of valid "on-board-ocean" bills of lading, running upwards from 3 to 6 days after departure of the ship. Cargoes destined for Caribbean ports and many times Western Europe have arrived before the inland shipper in the United States receives the documentation required to permit his banker to pay him. Such a delay in getting paid not only means running an interest expense, it also increases the credit risks.

The one-world distribution concept has progressed technically a great deal toward the ideal manner in which to transport merchandise

from one place in the world to another. The next important step should be a simplification of the paperwork. In anticipation of enabling legislation, the National Committee on International Trade Documentation is working very hard to achieve worldwide acceptance of a single title document which would allow transfer of ownership and financing of the transaction to be handled easily and without the delays that are inherent in the present procedures. This certainly would give a spur and assist to the small company which wishes to engage in export operations but quite often is taken aback by the prospect of having to finance a shipment over a longer period of time than its means will allow or to assume a greater credit risk than it is prepared to take.

My question is: Why can't we have a through bill of lading similar to an airline ticket? With such a document available, the export shipper, regardless of his location, could obtain prompt payment from his bank. The bank could arrange for distribution of the various transportation charges among the participating carriers and/or international freight forwarders. All this is possible. The Trade Simplification Act of 1968 would constitute an important step forward in answering the need for simplification of export documentation which in turn would mean an increased export volume and added support to our national balance-of-payments position.

Senator BREWSTER. We thank you, Mr. Thomas. You mention financing of exports. Can you be a little more precise in this area? If we simplify the documentation, how would it be easier for U.S. companies to finance their foreign exports?

Mr. THOMAS. The principal instrument in the financing of export trade is the documentary letter of credit, which assures the foreign purchaser that the merchandise is actually being shipped on board a vessel toward him. The present regulations, where onboard ocean bills of lading can only be issued by shippers, ocean shippers or their agents but not by inland truckers or railroad carriers, make it very difficult for the exporter to receive his valid ocean bill of lading.

Sometimes, as I mentioned in the case of Caribbean destinations or Western Europe, he does not receive the document until after the merchandise has been received at the destination. That causes a great delay and in several instances the document is "stale" under the rules governing commercial credits. This, in turn, forces the banker to communicate with the foreign buyer and obtain his approval and authorization to make payment to the exporter.

Senator BREWSTER. Would the passage of this proposal assist your company, in your judgment?

Mr. THOMAS. In our case, we are organized in New York to live with present rules; but it would definitely be an advantage to us. For example at the present time we have shipments that are on their way to Venezuela, for example, we know that the merchandise is arriving tomorrow and we still have no ocean bill of lading. So upon arrival it will be delivered to a third party, we lose control over it while we haven't received payment.

Senator BREWSTER. We have heard the recommendation that order bills of lading be set aside or dispensed with. Can you comment on that?

Mr. THOMAS. I would have no comment on that, whether this would be more or less desirable.

Senator BREWSTER. We thank you very much for your comments.

Mr. THOMAS. Thank you, sir.

Senator BREWSTER. We will next call Mr. Joseph C. Scheleen, of Washington, the editor of *Traffic World* magazine.

Mr. Scheleen, we thank you for coming and I might comment that I have a copy of your publication in my hand and week to week I read it with great interest.

Mr. SCHELEEN. Thank you very much.

Senator BREWSTER. We also have a copy of your statement, so will you please proceed, sir.

STATEMENT OF JOSEPH C. SCHELEEN, EDITOR OF TRAFFIC WORLD

Mr. SCHELEEN. Mr. Chairman, my name is Joseph C. Scheleen. I am editor of *Traffic World*, an independent news magazine, published weekly, for people in the closely related fields of traffic management and transportation management. I thank the committee for giving me this chance to endorse S. 3235, a bill that, if enacted, would be helpful to the several modes of transportation in this country, to the users of their services, and to the American public generally.

S. 3235 would make it possible for American products to flow more freely and in larger quantities in foreign trade. Its enactment would add no presently discernible items of expense to the Federal budget, but would make it possible for American business enterprises to effect savings that could amount to billions of dollars a year.

If it is a valid assumption that practically all Americans favor the increasing of our share in world trade as a means of overcoming the balance-of-payments deficit that presently is one of the major problems of this country, we can conserve time here by giving attention primarily to the question whether the provisions of S. 3235 have the medicinal properties needed for improving the status of American exporters in foreign markets.

My interest in one of the major objectives of S. 3235, namely, reduction of the paperwork or documentation presently required in connection with exportation or importation of goods from or to this country, was aroused 8½ years ago when I heard a speech on the subject by Frank J. Horuff. I learned since I prepared this statement that he has a position different from the one I designated here. He is now the representative of the Department of Commerce on the Interagency Transportation Study. That group, I understand, is studying the Government cost of transportation and the methods of securing transportation.

Mr. Horuff spoke at a meeting of the American Association of Port Authorities, in his extracurricular capacity of executive secretary of the Water Transportation Facilitation Committee. That committee was created to foster coordination of Government agencies in simplifying the documentation and related procedures and practices applicable to merchant shipping, and to assist the State Department with the international aspects of such subjects. Mr. Horuff said in his speech that "Manila, for example, requires 34 documents to accomplish what may take 19 at Bangkok and perhaps only 11 at Rotterdam—yet the information sought is often identical in each port." Later he wrote an article about the documentation problem for *Traffic World*,

and I mention it here because of the aptness of its title—"Export Expansion Versus Paperwork Contraction."

In every convention of the American Association of Port Authorities in the last 9 years facilitation of export and import shipments through ports of this and other countries has been an important subject on the agenda. At the AAPA convention last year in Vancouver, British Columbia, a report on "The Need for Simplification of Marine Terminal Documentation" was presented by Edward S. Olcott, a division chief in the Planning and Development Department of the Port of New York Authority. He disclosed that the New York Port Authority in 1965 had hired the consulting firm of A. T. Kearney & Co. to study the disruptive effect of paperwork on productivity on the piers and to recommend improvements. Mr. Olcott reviewed at some length the recommendations made in the 60-page Kearney report, and he concluded, in the light of that report and its recommendations, that "the potential for streamlining the system of pier documentation is enormous."

It was my privilege, 2½ years ago, to be a member of the Committee on Transportation established by the National Citizens Commission on International Cooperation, which, in turn, was set up by President Lyndon B. Johnson to conduct programs in furtherance of observance of the year 1965 as International Cooperation Year. The Transportation Committee was a 35-man group from private business and industry. Its chairman was William B. Johnson, then president of REA Express, now president of the Illinois Central Railroad. Collaborating with this Committee were several consultants from the Federal Government.

Copies of the Transportation Committee's report were distributed at the White House Conference on International Cooperation, a 4-day meeting that ended December 1, 1965. I believe these sentences from the "Reduction of Paperwork" section of the Transportation Committee's report will be of interest to your committee:

Through the years, many factors have helped to evolve the redtape barrier with which the transportation industry and the private citizen must cope. This barrier is best illustrated by the fact that 43 separate and distinct forms must be used at one time or another for shipments from the United States, while 80 separate and distinct forms, 78 of them governmental, are required at one time or another to process a shipment imported into the United States. (The reason for the disparity is not clear.) This complex paperwork barrier not only increases our cost of doing business, but it also has discouraged many firms here and abroad from entering into international trade.

While there is justification for adequate documentation, conditions and statistics indicate that costly and undesirable duplication and inconsistencies do exist * * *. There is no overall plan to either control or overcome additional complexity or unwarranted paperwork. Unfortunately, our own customs redtape on imports has triggered some reprisal actions abroad, with similar obstacles erected to discourage the free flow of U.S. goods. It is, therefore, very much in our own interest to do everything possible to abolish the paperwork barrier to international trade.

Last fall there was established, by representatives of American companies interested in development of foreign trade, a National Committee on International Trade Documentation, and Arthur E. Baylis, who had retired from railroad service as vice president, freight sales and service, of the New York Central System, was chosen to direct the activities of the committee. This committee and the Office of Facilitation in the Department of Transportation, with its various task

forces, which include many transportation people from private business and industry, are striving for such elimination of unnecessary paperwork in connection with export and import trade as can be accomplished without legislative help. But they are hopeful, also, that the Congress will give the assistance that only it can give in removing those obstacles to trade simplification that require enactment of legislation for their removal.

The matter of simplifying documentation for export and import traffic has become a matter of special urgency since the advent of freight containerization and the upsurge of intermodal transportation of freight in large containers. Additionally, the facilitation of intermodal carriage of freight in containers from inland origin points in the United States to inland destinations overseas requires the legalizing by Congress of the arrangements for the making of joint rates and through bills of lading for which S. 3235 would provide. Congress should make it lawful for groups of carriers of one mode to make agreements with groups of carriers of other modes as to joint rates, interchange of equipment, and so forth, without fear of prosecution under the antitrust laws. Section 8 of S. 3235 would immunize such intermodal agreements from subjection to the antitrust laws by providing:

The jurisdiction and authority each agency (the ICC, the CAB or the FMC) has to approve, with or without conditions, or disapprove agreements among carriers subject to its jurisdiction is hereby extended to an agreement between such a carrier or carriers and a carrier or carriers of a different mode relating to joint rates and practices, or the interchange or pooling of equipment or facilities.

Ways in which enactment of S. 3235 would give needed assistance to American business concerns presently engaged or desiring to engage in foreign trade were stated briefly and clearly by Armour S. Armstrong, Chief of the Transportation Systems Division in the Office of Facilitation of the Department of Transportation in a talk at a recent meeting in Louisville, in which he said:

Exporters and importers in the United States wanting to exploit the advantages of the new container technology are looking for: (1) Through routes to be established from basic origin to ultimate destination, over which (2) single-factor through rates will provide an easily ascertained total cost for the entire international transportation service; (3) carrier responsibility and liability provided jointly by the participating companies just as if the service was provided by one company; (4) entire transport conditions to be covered by one through bill of lading, which (5) would be recognized by the international banking community. In short, shippers want a transportation system and a documentation system which makes full use of the container technology.

Through cooperative efforts, representatives of private business and industry and representatives of the Department of Transportation, the Maritime Administration, and other Government agencies have made some progress in their attacks on unnecessary, wasteful, and costly documentation in foreign trade. Much remains to be done, however, and conversion into law of provisions such as those in S. 3235 will be required before some of the major hurdles still obstructing the free flow of export-import business can be removed.

It seems to me that S. 3235 is the kind of legislative proposal that should be pleasing and readily acceptable to legislators. It calls for no increase of Government expenses. The best information available indicates that its enactment would injure no one, but would be helpful

to shippers, carriers, and the country as a whole. Such technical defects as may be found in the provisions of the bill should not be too difficult to repair.

Consequently, I join other backers of the bill in expressing the hope that this committee will report the bill favorably and that further action on it will be expedited so that it may, in fact, become the Trade Simplification Act of 1968.

Thank you.

Senator BREWSTER. Mr. Scheleen, you have been watching the transportation industry for a long time. Could you make a guess as to how long the shippers and exporters have talked about simplifying procedures before we have gotten to grips with it through this measure?

Mr. SCHELEEN. You say a long time. I have been in it 28 years. I suppose that is a long time to a lot of people. I would guess that most exporters have always wanted through rates so they could get lower transportation costs for their goods overseas; but not until the last 10 or 15 years has their situation changed to the point where one mode of carrier will confer with another mode and talk about coordination of the service.

Of course, the real impetus to this need for joint rates and single bill of lading on each shipment has come with containerization and the movement of containers intermodally.

Senator BREWSTER. That has been in the last 7 or 8 years, perhaps. To your knowledge, is this the first proposal similar to this that has come to your attention that you have testified on?

Mr. SCHELEEN. It is, yes.

Senator BREWSTER. Perhaps we might agree then that this measure is long overdue?

Mr. SCHELEEN. I would say so; yes, sir.

Senator BREWSTER. Thank you very much for taking time out of your busy day to come down and give us your advice.

Mr. SCHELEEN. Thank you, sir.

Senator BREWSTER. Now, we will call Mr. Bailey, the general traffic manager-distribution services, Burlington Industries, along with one or two of his associates; and to introduce them we have one of my most distinguished colleagues, Senator Everett Jordan, of North Carolina.

Senator Jordan, will you please bring your people up and proceed in any fashion that you may wish.

Before Senator Jordan begins, I might comment that Senator Jordan has a long and continuing interest in commerce and in business and his voice is respected by all Members of the Senate.

Senator Jordan, we welcome you to the Commerce Committee.

REMARKS OF HON. B. EVERETT JORDAN, U.S. SENATOR FROM NORTH CAROLINA

Senator JORDAN. Thank you very much, Senator. I appreciate those remarks and I appreciate your taking the time to hear these gentlemen from Burlington Industries.

One of them lives in my hometown and the other one lives very close by, and this young man does not have the privilege of living in North Carolina, but he does live in New York. Nevertheless, he is still important to the Burlington Industries in the export division.

As you know, Burlington Industries are the largest textile manufacturing organization in the world and as such they have a tremendous transportation problem. It is my pleasure to be with you today and introduce these people to you.

Mr. W. B. Bailey is the general traffic manager and distribution of service of Burlington. His home is in Burlington, and he is accompanied by Mr. R. C. Lewis, vice president of traffic, and Mr. Jack O'Meara, administrative manager, export-import department.

I think Mr. Bailey will start the testimony. Thank you very much.

Senator BREWSTER. Thank you, Senator, and please stay with us if you have the time. If not, I understand how busy you are.

Senator JORDAN. I will. They do not know where I am now so I am all right for a little bit.

Senator BREWSTER. Mr. Bailey, you may proceed.

**STATEMENT OF W. B. BAILEY, GENERAL TRAFFIC MANAGER,
DISTRIBUTION SERVICES, BURLINGTON INDUSTRIES, INC., BUR-
LINGTON, N.C.**

Mr. BAILEY. Thank you, Senator Jordan.

Mr. Chairman, my name is W. Bruce Bailey and I am general traffic manager, distribution services, for Burlington Industries, Inc. My office is located at Burlington, N.C. I have a degree in business administration and have completed courses in traffic and transportation, transportation economics, and interstate commerce law. I worked from 1952 until 1959 in the traffic department of McLean Trucking Co., a major common motor carrier. I joined the Burlington Industries traffic department in October 1959, and I have been close to the field of transportation rates and regulations during most of my working career. I was appointed general traffic manager April 1, 1968.

Burlington Industries, Inc., is a major producer of textile products with annual sales expected to reach \$1.5 billion this fiscal year. We have more than 125 domestic plants and 23 foreign operations in Western Europe, South America, and the Union of South Africa, Canada, and Mexico.

We are extensively engaged in international distribution with the shipment of materials from the United States to our foreign plants; the importation of many items used by our domestic plants, viz, chemical, machinery, jute, and wool; and the marketing of our products throughout the free world.

Our company has both an export/import department and a traffic department staffed with personnel trained in the intricacies of rates and tariffs, routes, documentation, insurance, government requirements, and so forth. In spite of their proficiency in this area, it is still a time-consuming and often perplexing job for these specialists to cope with the complexities of international commerce. Currently, different modes of transportation subject to different regulatory agencies may not unite to perform a legally binding through service on international traffic. This lack of legal sanction has prevented any trend toward a totally coordinated performance and means that an importer or exporter must determine for each and every shipment the cost, liability, packing, classification, and regulatory requirements for each transportation mode utilized.

Prudent decisions by our management as to when and where to buy or sell and under what terms and conditions require that we develop total transportation and distribution costs. The development of this information requires that we search many freight tariffs filed with the Interstate Commerce Commission, the Federal Maritime Commission and the Civil Aeronautics Board as well as determine the rates and charges of the foreign carriers. Information must be gathered from many rail, motor, air, and water carriers as well as brokers, consulates, forwarders, and custom officials. Charges apply by the hundredweight, by the cubic foot, the long ton, the short ton, or the metric ton and are quoted in dollars, pounds, francs, guilders, lira, and so forth. Commodity classification for the purpose of pricing the transportation must be determined for the various movements by land, air, and water as no common identification will apply for all modes. Moreover, the consulates of the various countries normally provide only general and incomplete information about transportation charges and conditions in their countries.

The separate arrangements with every carrier, broker or forwarder that will be utilized, the profusion of documents required, the question of carrier responsibility and liability, and the delays inherent in such a system are an impediment to trade. The improved speed and utility that modern technological advances in containerization, jet aircraft, faster ships, and improved communications have developed are often negated by the complex practices and procedures under which we now operate.

The Office of Facilitation in the Department of Transportation, the National Committee for International Trade Documentation and other interested organizations are working to make the movement of goods more efficient. The magnitude of the situation is illustrated by the following facts which Government and industry experts have developed: (1) The annual paperwork bill for U.S. international trade is estimated to be more than \$5 billion. Approximately \$163 per export shipment is spent on documentation and paperwork in the United States, along with another \$40 to \$50 estimated for the additional cost of documentation needed for the inland movement overseas. Obviously, the cost of paperwork and other administrative expenses often exceed the value of the goods. (2) There are a minimum of 28 forms required for export shipments and 35 forms required for import shipments, with from four to 36 copies of each form being prepared. (3) There are nine major commodity classification systems among others, currently in use on international trade. The lack of uniformity in steamship conference procedures is particularly chaotic. Shippers must face 711 CAB tariffs, 100,000 ICC tariffs, and 2,700 FMC tariffs, in addition to a multitude of foreign rates and charges that must be determined in order to develop a total transportation cost.

We endorse the precepts of S. 3235, the proposed Trade Simplification Act of 1968, as a potential means of facilitating the movement of our goods by establishing a framework within which carriers may provide a through rate and route, a single bill of lading, a uniform system of carrier liability, and equipment interchange arrangements. Establishing a climate for intermodal cooperation in these vital areas will, in our opinion, ultimately lead to the elimination or modification

of much of the paperwork and redtape that impedes our foreign trade and causes so much expense and breakdown in communications and service. These steps are essential to the continued growth of containerization, a dynamic development in freight handling and transportation which promises to play an ever-increasing role in the movement of international commerce. The concept of through movement in containers from inland point to inland point requires the development of a coordinated intermodal transportation system which will allow a smooth, uninterrupted flow. Containerization holds promise that a large volume of the traffic moving between the Orient and Europe will move across the United States with the railroads serving as "land bridges."

Too many American manufacturers have withdrawn from the export field because of the restrictions and redtape involved. Any legislation that will foster the export trade is sorely needed in view of the gold drain and balance-of-payments deficit affecting our economy.

We have reservations as to how effective the various regulatory agencies and foreign agencies will be in promulgating rules and regulations governing international commerce while continuing to retain the divergent jurisdiction and authority they have under existing laws with respect to the rates and practices of carriers subject to their regulation. However, through proper cooperation, the agencies and carriers concerned can reconcile the various factors and formulate an effective intermodal system that holds promise of some breakthrough in the maze of complexities that currently hamper the development of a modern international transportation system.

The purpose of this proposed legislation is both sound and timely and we favor the enactment of S. 3235 to help foster coordinated transportation.

Thank you for permitting me to appear before you today, and if I can answer any questions, I will be pleased to do so.

Senator BREWSTER. Mr. Bailey, you represent a large, well-known, powerful company. Isn't it far more difficult for the small business to compete with you, to deal with the complexities of international trade than you are?

Mr. BAILEY. Mr. Chairman, I would certainly think so. From the transportation standpoint, as I mentioned in my statement, we have a staff of people trained in the complexities of international trade. I realize that many small companies cannot afford this type of help.

I do know from the record that has been given here today that many small companies do not enter the foreign trade because they cannot cope with the complexities.

Senator BREWSTER. You mentioned the proliferation in tariffs at the three regulatory agencies, by my count, some 103,000 different tariffs are involved. I imagine that these include many hundreds of millions of different rates.

How will this bill alleviate the problem of tariff complexity?

Mr. BAILEY. Mr. Chairman, this bill will establish a framework in which a single tariff or set of tariffs can be consulted for the total transportation charge rather than the present method of having to search several tariffs on file with the various regulatory agencies to develop the total charge.

Senator BREWSTER. We have heard a lot about door-to-door sales, shipment delivery in international trade. Can this be practically ef-

fectured without the passage of this or some similar type Federal legislation?

Mr. BAILEY. Mr. Chairman, in my opinion, the system of door-to-door delivery can be and, to a great degree, has been implemented, but the time and utility of advances in containerization are often negated by the delays in issuing separate bills of lading for each leg of the journey.

Furthermore, carrier liability for the container that moves through several modes of transportation from door to door is very difficult to ascertain.

Senator BREWSTER. If your administrative costs were cut down, do you believe your company would be able to compete with greater success in international trade and thereby increase your exports?

Mr. BAILEY. Mr. Chairman, we are aggressively participating in exports at the present time; however, I would think that any potential reduction in cost would place us in a better competitive position, particularly competing with foreign countries in their foreign markets.

Senator BREWSTER. Mr. Bailey, we thank you very much.

Senator Jordan, thank you for introducing your illustrious constituents.

Senator JORDAN. Thank you very much for your attention in hearing the fine gentlemen and I personally know that this is a very important field, not only to the Burlington Industries but to everybody doing business in the export market. I happen to know several rather small companies, but not too small, either, who have completely discontinued hunting business in foreign countries because of the cost in working out the rates and the forwarding charges and so forth. They simply could not afford to do it and they just had to get out of the export business entirely which is not helping our country at all. I think this is very important that this legislation should be handled very soon and I am sure you will give it prompt attention.

Senator BREWSTER. Senator, let me assure you that Senator Magnuson and the Senate Commerce Committee will give this proposal our prompt and I believe our sympathetic attention, indeed, that would be my recommendation.

Senator JORDAN. Thank you, sir.

Senator BREWSTER. The next and last witness for this morning will be Mr. John M. Haydon, president of the Port of Seattle Commission, Seattle, Wash., and I believe Mr. Haydon is accompanied by Mr. C. E. Simmons, the traffic manager of the Port of Seattle.

Mr. Haydon, please have a seat. Senator Warren Magnuson personally contacted me and asked me to extend his greetings to you and to say that if his office could be of any assistance in your stay here, please give him a call.

I see you do have a statement, Mr. Haydon. Why don't you go ahead with that.

STATEMENT OF JOHN M. HAYDON, PRESIDENT OF THE PORT OF SEATTLE COMMISSION, SEATTLE, WASH., ACCOMPANIED BY C. E. SIMMONS, TRAFFIC MANAGER

Mr. HAYDON. Senator Brewster, thank you for inviting me here.

My name is John M. Haydon and I am president of the Port of Seattle Commission with offices at Pier 66, Bell Street Terminal,

Seattle, Wash. I am appearing here today on behalf of the Port of Seattle in support of Senate bill 3235.

The Port of Seattle is a municipal corporation, created under a 1911 act of the Washington State Legislature. The geographic boundaries of the Port of Seattle district are the same as King County, Wash., which embraces some 2,134 square miles and this area had a 1967 population of approximately 1,052,000 people.

The port is authorized to acquire land, develop, construct, maintain, operate, and regulate a system of airport and marine terminal facilities, and rail, water, and air transfer terminal facilities within the port district. The port owns and operates or leases docks, wharves, warehouses, storage yards, cold storage plants, bulk handling facilities, small boat marinas, and several container-handling terminals. In addition the Port of Seattle owns and operates Seattle-Tacoma International Airport which is the only large air hub in the Pacific Northwest.

The total investment in all facilities, both waterfront and airport, owned and operated by the Port of Seattle is in excess of \$135 million and these facilities have a current market value of just under \$200 million.

Seattle is the largest general cargo port in the Pacific Northwest and handles waterborne traffic moving to and from Alaska, Canada, Hawaii, the Far East and Orient, Asia, Southeast Asia, Australia, New Zealand, islands of the Pacific, Central and South America, Caribbean, Europe, and Africa. Seattle-Tacoma International Airport is served by 12 major domestic and international air carriers which provide service to and from all points in the continental United States, Alaska, Hawaii, Canada, Europe, Mexico, and the Far East and Asia. In addition to passenger transportation, these carriers also provide excellent transportation services for domestic and international air freight, mail, and express.

It is readily apparent that Port of Seattle has very substantial interest in both surface and air transportation of export-import and domestic cargo. As the major transportation hub of the Pacific Northwest, Seattle is particularly concerned with the intermodal transportation of export and import general cargo.

In Seattle we have witnessed the growth of steamship container services over a longer period of time than any other major U.S. port. About 15 years ago we saw the domestic traffic between Seattle and Alaska begin to change from conventional break bulk ocean carrier service to cargo container service, principally by Alaska Steamship Co. In 1963 Matson Navigation Co. instituted a container service between Seattle and Hawaii. Also, in 1962, Sea-Land Service, Inc., entered the Alaska trade and theirs is an all-container service. Two years ago, Sea-Land expanded their Seattle services to include large-scale military lifts to Vietnam and Okinawa.

Since 1963 the Port of Seattle has provided specialized container terminals and handling facilities for Alaska Steamship Co., Matson Navigation Co., and Sea-Land Service, Inc., and in the process of providing these facilities has invested approximately \$18 million. More recently, having surveyed the potential for transpacific container service, principally between the Pacific Northwest and ports in Japan, the port started construction of a new 55-acre, three-berth container terminal to service the transpacific steamship companies.

that will be offering container services. This facility is scheduled to be operational on October 1, 1968, and represents an additional investment of approximately \$14 million. This figure includes new high-speed container cranes and other modern equipment which will facilitate fast vessel turnaround and interchange between ocean and inland carriers. The attached photograph is an artist's conception of this container terminal in operation.*

Incidentally, we are presently installing a new third-generation computer system which will service our new container terminal as well as our existing marine terminal facilities. This system will eliminate the generation of manual documentation and make possible complete cargo control, thereby providing much better service to the customer.

The port business is extremely competitive and while modern, efficient physical interchange facilities are necessary for a successful operation, these facilities are, after all, only a link in the total transportation system; that is, between the ocean and/or air carriers on the one hand and the inland rail, truck, or barge carriers on the other.

The Port of Seattle is perhaps unique among the major U.S. ports in its efforts to encourage, influence, and foster the through intermodal transportation of export-import and domestic general cargo. On the domestic side, through bills of lading and single factor through rates are offered in the Alaska and Hawaii trades. This type of service has widespread shipper/consignee acceptance. We are hopeful of seeing the same development in the foreign commerce of the United States in the very near future.

We have long recognized that the total transportation service and the total origin to destination transportation costs are almost invariably the overriding considerations when cargo routing decisions are made by shippers and/or consignees. For this reason and also, of course, for the reason that the port business is so highly competitive, the Port of Seattle has developed over the years a very competent trade development and traffic team which complements the services offered by the carriers. In addition to a large trade development staff in Seattle we have full-time representation in New York, Washington, D.C., Chicago, Spokane, Wash., and out in Tokyo. These representatives are in constant touch with carriers, shippers and consignees endeavoring to expedite the flow of traffic and its interchange between carriers.

In addition, the Port of Seattle offers, to those engaged in international commerce, a complete transportation cost analysis service which has proven to be very valuable to shippers and consignees. At all times the emphasis is on determining the lowest available total transportation costs and the best possible carrier services and routing for the customer.

This involvement with the carriers, shippers and consignees has demonstrated to us the overriding need for simplification of carrier pricing and responsibilities, hence our interest in Senate bill 3235. We think the passage of the Trade Simplification Act of 1968 by the Congress would be a giant step in the right direction. We would like to commend the individual who named this particular piece of proposed legislation. International trade as it is practiced today is anything but simple. The transportation of cargo in international trade

*Retained in committee files.

is no doubt the largest single complicating factor. We could, of course, provide any number of examples illustrating this point, however, we think Secretary Boyd covered the whole problem very factually and succinctly in his letter of March 11, 1968, to the President of the Senate and the Speaker of the House of Representatives, wherein he transmitted the draft of the proposed bill.

This is not to say, however, that we regard the proposed act as a final remedy or cure-all for the problem. Frankly, we think the bill could be stronger; however, we have to start somewhere. The legislation as proposed is a very basic and vital first step.

Judging from our exposure to the carriers, we think that generally they are ready, willing, and eager to enter into joint through rate and route arrangements at this time. For our part, we are committed to the concept of joint through rate and route arrangements and we are working actively with carriers to lay the groundwork for such system. Further, based on our trade development experience we think many of our domestic producers not now participating in export markets would be more than willing to do so if most of the complications could be removed.

Finally, while I am not authorized to speak for any other port, in my opinion, most, if not all, of the major ports of the United States would share our views concerning this proposed legislation. I urge your favorable consideration of this bill.

Senator BREWSTER. Thank you, Mr. Haydon.

You stated that total origin to destination transportation cost is a key consideration to shippers. Would not it be easier and cheaper for shippers to make this determination if single factor rates for international movements are permitted?

Mr. HAYDON. Yes; it certainly would. It would be easier for them and easier for our staff people like Mr. Simmons, who spends many, many hours doing this type of work for them.

Senator BREWSTER. You mentioned that this proposal might be stronger. Could you be a little more precise or give us some details about what you think about that?

Mr. HAYDON. We commented on this point after our export-import people studied the bill because we feel we are dealing here with independent regulatory agencies and in their opinion, as a practical matter, they feel that possibly a standing committee or a joint board composed of representatives of the regulatory agencies might be a bit more workable once the carriers enter into joint rates on a large scale and really get into it.

Senator BREWSTER. Do you believe the enactment of this measure would promote U.S. international trade?

Mr. HAYDON. Very definitely. It has been repeated here several times today that businesses are not going into foreign trade and the export business simply because the paperwork is too costly and difficult. We have been running foreign trade affairs in Seattle since 1951 and this is our constant problem, to encourage people to overcome the complications of the paperwork and expand their sales in foreign markets.

Senator BREWSTER. I know that the port of Seattle is interested in promoting the "land-bridge" concept of international trade. Can you give us any report on what success you have had?

Mr. HAYDON. Well, if I can be excused from the details, Senator, I would be glad to say that we are very actively engaged in putting together just such business without naming names because this is a highly competitive situation. We believe that the container business from the Orient is going to go through more than one port in the United States, and the "land-bridge" concept with our geographical closeness to the ports and markets of the Orient, is going to attract the "land-bridge" concept to our area. We are actively engaged in putting together such an operation right now.

Senator BREWSTER. In this area, how active is Canada? Are they promoting their "land-bridge?" Are they ahead of us?

Mr. HAYDON. Well, I do not believe they are ahead of us. They are certainly trying to promote the concept of Halifax to Vancouver, and I know are engaged in active solicitation of this concept with some of the carriers, but I do not believe they have gotten anywhere with it yet. They have certain advantages. As we go northward of the United States and on into Canada, the distances begin to shrink from point of origin and point of destination from Europe on a through "land-bridge" concept.

Senator BREWSTER. You have wide personal experience in the use of through bills to Alaska and Hawaii. Is there any reason that they cannot be used for all international trade?

Mr. HAYDON. I would like Mr. Simmons to answer that, Senator.

Mr. SIMMONS. Very briefly, no reason whatsoever. We think it just has to come. In our estimation this is the only way to go. I think it might prove to be much more valuable in the international commerce than it has been in certain of the domestic trades and we certainly are all for it.

Senator BREWSTER. And the same conclusion applies to joint rates as well as through bills?

Mr. SIMMONS. Exactly.

Senator BREWSTER. Gentlemen, we thank you very much for your testimony. It has been extremely helpful. You have come a long way and it was rewarding for the committee. The information you have given us will be of great assistance. I will personally convey your report to Senator Magnuson.

This committee will now adjourn these hearings and if we have further hearings on S. 3235 they will be called by the chairman. The committee stands adjourned.

(Whereupon, the hearing was adjourned at 12:15 p.m.)









