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CONTROL CARRIERS

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HEARINGS

BEFORE THE

COMMITTEE ON MERCHANT MARINE

OF THE

COMMITTEE ON

MERCHANT MARINE AND FISHERIES

HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

H.R. 9998

TO PROVIDE FOR THE REGULATION OF RATES OR CHARGES
BY CERTAIN STATE-OWNED CARRIERS IN THE FOREIGN COM-
MERCE OF THE UNITED STATES, AND FOR OTHER PURPOSES

MARCH 8, 17, APRIL 19, 26, MAY 3, 1978

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CONTROL CARRIERS

WEDNESDAY, MARCH 8, 1978

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON MERCHANT MARINE
OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 1 p.m. in room 1334, Longworth House Office Building, Hon. John M. Murphy (chairman of the committee) presiding.

Present: Representatives Murphy, Jones, de la Garza, Metcalfe, AuCoin, and Emery.

Staff present: Carl L. Perian, chief of staff; Ernest J. Corrado, chief counsel; Len Sutter, counsel; Peter N. Kyros, counsel; Jack E. Sands, deputy minority counsel; Martin Howell, professional staff member; and Elizabeth Coker, subcommittee clerk.

The CHAIRMAN. The subcommittee will come to order.

This afternoon, we commence hearings on H.R. 9998, a bill to provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes.

The purpose of these hearings is to consider thoroughly the reports of predatory ratemaking practices by certain state-owned carriers in the foreign commerce of the United States.

The U.S. liner trade is essentially an open trade without restrictions to entry or exit. Groups of carriers have traditionally organized as shipping conferences, established agreed upon rate levels for member carriers, and operate on most of the major trade routes. It should be readily apparent that the U.S. liner trades are designed to give American-flag carriers and those of the nations with whom we trade a fair chance to compete for cargoes in their own trades.

Since 1972, there has been an unprecedented penetration by Soviet liner fleets of the U.S. foreign trades. This penetration by the state-controlled Soviet merchant marine is separate and distinct from the grain and bilateral cargo trade resulting from the U.S.-U.S.S.R. Maritime Agreement of 1972.

On U.S. trade routes, modern Soviet intermodal vessels are now cross-trading between the United States and Japan in the North Pacific and between the United States and Western Europe in the North Atlantic.

That this growth is startling and significant is borne out by the fact that between 1971 and 1976, there was more than an eightfold increase in the tonnage of liner cargoes carried and clearly a 45-fold increase in the value of liner cargoes carried.

These trends represent a liner growth from 160,000 tons to 1.4 million long tons and \$38 million to \$1.7 billion by value of cargo.

In order to achieve this phenomenal growth in the U.S. liner trades, the various Soviet companies have actively pursued a practice of rate cutting, generally as an independent carrier—that is, independent of the steamship conferences—to enable their capture of an initial share of the trade and then expand upon that share in successive years.

On October 27, 1977, the Merchant Marine and Fisheries Committee conducted a briefing, partly classified, on Soviet maritime activities and their effect on the U.S. liner trades. The subjects covered included the structure of the Soviet merchant marine, employment, U.S.-U.S.S.R. maritime agreements, liner trade penetration, and Soviet maritime strategy and policy. Certain conclusions are apparent as a result of this briefing.

The Soviets have a merchant fleet in excess of their own national domestic and bilateral requirements which they utilize for full-time cross-trading. Since the Soviets are hard pressed for hard currency, their maritime activity in the cross-trades in the United States is not motivated by normal commercial practices but by the compelling imperative to maximize hard currency earnings. The Soviets are not bound to uphold any criteria of profitability that is similar to that required in market-economy companies.

The Soviet operators have entered the U.S. trades through rate cutting which may be 10 to 50 percent lower than the competing conference rates. From only 0.3 percent in tonnage of the U.S. liner trade in 1971, the Soviets increased their penetration to 3.1 percent. With greater Soviet vessel capacity predicted, increased Soviet penetration of the U.S. liner trades could cause serious instability in our international trades.

The Ocean Shipping Act of 1977 has as its primary objective the regulation of rate-cutting practices of certain state-owned-controlled carriers operating in the U.S. trades. It would regulate controlled-carrier rates on the basis of justness and reasonableness, and provide for suspension of such rates for a time necessary to complete the proceeding.

Rates found to be unjust or unreasonable would be unlawful and could not be used.

During the suspension period, the FMC could prescribe minimum rates to be charged by the controlled carrier. The justness and reasonableness of the rates would be determined by the FMC on the basis of various factors, including but not limited to whether the controlled carrier's rates are fully compensatory based upon that carrier's actual costs or constructive costs; the relationship of rates of the controlled carrier to those of other carriers in the trade; and whether the rates are lower than necessary to assure movement of particular cargo in the trade.

Our objective in these hearings is to enact legislation which will preserve legitimate competition among all common carriers engaged in the foreign commerce of the United States and to stabilize the ratemaking practices of the carriers by forbidding predatory rate cutting which will certainly disrupt our international trade.

[The bill follows:]

95TH CONGRESS
1ST SESSION

H. R. 9998

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 1977

Mr. MURPHY of New York (for himself, Mr. LEGGETT, Mr. BIAGGI, Mr. TRIBLE, Mr. ANDERSON of California, Mr. DE LUGO, Mr. ZEFERETTI, and Mr. AKAKA) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Ocean Shipping Act of
4 1977".

5 SEC. 2. The first section of the Shipping Act, 1916, as
6 amended, is further amended by inserting the following
7 definition of the term "controlled carrier" immediately fol-
8 lowing the definition of the term "common carrier by
9 water":

10 "The term 'controlled carrier' means a common carrier

1 by water operating, offering, or proposing to offer regular
2 liner service in the foreign commerce of the United States
3 which carrier os or whose operating assets are directly or in-
4 directly owned or controlled by the government under whose
5 registry the vessels of the controlled carrier operate. Owner-
6 ship or control by such government shall be deemed to exist if
7 a majority portion of the interest in the carrier is owned or
8 controlled in any manner by such government, by any
9 agency of the government, or by any person, corporation,
10 or entity controlled by such government. Ownership or con-
11 trol shall also be deemed to exist if the government has the
12 right to appoint or disapprove the appointment of a majority
13 of the directors or the chief operating or executive officer
14 of the carrier.”.

15 SEC. 3. The provisions of section 18(c) of this Act
16 shall not apply to any controlled carrier of a state whose
17 vessels are entitled by a treaty of the United States to re-
18 ceive national or most-favored-nation treatment, nor shall
19 such provisions apply to any controlled carrier of a state
20 which, on the date of enactment of this Act, has subscribed
21 to the statement of shipping policy contained in note 1 to
22 annex A of the Code of Liberalization of Current Invisible
23 Operations, adopted by the Council of the Organization for
24 Economic Cooperation and Development, nor shall such
25 provisions apply in any particular trade to any controlled

1 carrier which offers service in that trade under rates, fares,
2 charges, or classifications which are covered by a rate agree-
3 ment or service agreement approved under section 15 of this
4 Act, other than a rate or service agreement in which all of
5 the members are controlled carriers not otherwise excluded
6 from the provisions of section 18 (c).

7 SEC. 4. Section 18 of the Shipping Act, 1916, as
8 amended, is further amended by adding at the end thereof,
9 the following new subsection:

10 “(c) (1) No controlled carrier subject to this Act shall
11 maintain rates, fares, charges, or classifications in its tariffs
12 filed with the Commission that are below a level which is
13 just and reasonable. The Commission may, upon petition,
14 or upon its own motion, at any time after notice and hearing,
15 disapprove any rates, fares, charges, or classifications which
16 the controlled carrier has failed to demonstrate to be just and
17 reasonable. In any proceeding under this subsection, the
18 burden of proof shall be on the controlled carrier to demon-
19 strate that its rates, fares, charges, or classifications are just
20 and reasonable. Rates, fares, charges, or classifications filed
21 by a controlled carrier which have been rejected, suspended,
22 or disapproved by the Commission are void, and their use is
23 unlawful.

24 “(2) For the purpose of this subsection, in determining
25 whether rates, fares, charges, or classifications by a con-

1 trolled carrier are below a level which is just and reason-
2 able, the Commission may take into account appropriate
3 factors, including, but not limited to, whether the rates, fares,
4 charges, or classifications are below a level which is: (i)
5 fully compensatory to the controlled carrier based upon that
6 carrier's actual costs or upon its constructive costs, which are
7 hereby defined as the costs of another carrier, other than a
8 controlled carrier, operating similar vessels and equipment
9 in the same or a similar trade; (ii) assessed by other car-
10 riers in the same trade; or (iii) required to assure movement
11 of particular cargo in the trade.

12 “(3) Notwithstanding the provisions of subsection (b)
13 (2) of this section, rates, fares, charges, or classifications of
14 controlled carriers shall not, without special permission of
15 the Commission, become effective within less than thirty days
16 following the date of filing with the Commission. Following
17 the enactment of this subsection, each controlled carrier shall,
18 upon the request of the Commission, file within twenty days
19 of request, with respect to its existing or proposed rates,
20 fares, charges, or classifications a statement of justification
21 which sufficiently details the controlled carrier's need and
22 purpose for such rates, fares, charges, or classifications, upon
23 which the Commission may reasonably base its determination
24 of the lawfulness thereof.

1 “(4) Whenever the Commission is of the opinion that
2 the rates, fares, charges, or classifications filed by a con-
3 trolled carrier may be below a level which is just and reason-
4 able, the Commission may issue an order to the controlled
5 carrier to show cause why such rates, fares, charges, or clas-
6 sifications should not be disapproved. Pending a determina-
7 tion as to their lawfulness in such a proceeding, the Com-
8 mission may suspend such rates, fares, charges, or classifi-
9 cations at any time prior to their effective date. In the case
10 of any rates, fares, charges, or classifications which have
11 already become effective, the Commission may, upon the
12 issuance of an order to show cause, suspend such rates, fares,
13 charges, or classifications on ninety days notice to the con-
14 trolled carrier. During any period of suspension hereunder,
15 the Commission shall prescribe the minimum rates, fares,
16 charges, or classifications that may be assessed by the con-
17 trolled carrier.

18 “(5) The provisions of this subsection do not apply to
19 rates, fares, charges, or classifications governing the trans-
20 portation of cargo by a controlled carrier between the country
21 by whose government it is owned or controlled, as defined
22 herein, and the United States, or any of its districts, terri-
23 tories, or possessions.”.

1 SEC. 5. There are hereby authorized such sums as may
2 be necessary for purposes of carrying out the provisions of
3 subsections (c) and (d) of section 18, which sums are to
4 remain available until expended. This authorization is in
5 addition to those contained in Public Law 95-86.

The CHAIRMAN. We had originally scheduled to appear this morning for testimony the Federal Maritime Commission, the Maritime Administration, and the Department of State. However, we received a request from the White House to postpone the Federal department and agency views until the administration had reached a policy decision on this legislation.

Accordingly, we are grateful to the witnesses who appear here today on relatively short notice.

We have a panel: Mr. Charles Hiltzheimer, chairman of the board, Sea-Land Service, Inc.; Mr. Robert Mayer, vice president, States Steamship Co.; Mr. Gordon Bart, senior vice president for marketing, American President Lines, Ltd.; Mr. William J. Keely, senior vice president, United States Lines; and Capt. J. W. Clark, president, Delta Steamship Lines, Inc.

Mr. Hiltzheimer, if you would lead off, we will place all statements in the record in their entirety and you gentlemen can proceed.

PANEL CONSISTING OF CHARLES I. HILTZHEIMER, CHAIRMAN OF THE BOARD, SEA-LAND SERVICE, INC.; ACCOMPANIED BY PETER J. FINNERTY, VICE PRESIDENT, PUBLIC AFFAIRS, SEA-LAND SERVICE, INC.; ROBERT MAYER, VICE PRESIDENT, STATES STEAMSHIP CO.; GORDON BART, SENIOR VICE PRESIDENT FOR MARKETING, AMERICAN PRESIDENT LINES, LTD.; WILLIAM J. KEELY, SENIOR VICE PRESIDENT, UNITED STATES LINES; AND CAPTAIN J. W. CLARK, PRESIDENT, DELTA STEAMSHIP LINES, INC.

Mr. HILTZHEIMER. Fine. Since the statement will be submitted in its entirety, I would like to paraphrase in the interest of time.

[The following was received for the record:]

STATEMENT OF C. I. HILTZHEIMER

Mr. Chairman, members of the Committee, it is a pleasure to appear before you today to voice Sea-Land's support of H.R. 99998. As the largest U.S. flag container carrier, we are particularly gratified that the Committee is considering action on this legislation.

For those not familiar with Sea-Land, we operate scheduled liner service in the U.S. foreign and domestic commerce with Alaska, Puerto Rico, Central America, the Caribbean, North Europe, the Mediterranean, the Middle East and the Far East. Sea-Land operates fifty-eight full container vessels in service with 137 ports in over 56 countries and territories around the world. Sea-Land is presently working on expanding service to Brazil and other countries in South America as well as to Indian Ocean ports.

Let me say at the outset that Sea-Land has consulted with the other U.S. flag carriers represented here and is in complete accord on this important issue. Regardless of the particular trade routes served by U.S. flag carriers, there is a clear and unqualified consensus on the need for action by the United States in response to the challenge of controlled carriers to our country's maritime policy.

On Thursday, October 27, 1977 the Committee conducted a hearing on the build-up of the Soviet Merchant Marine and we provided copies of a lengthy factual analysis concerning the Soviet liner fleet. Rather than repeat a tedious statistical update of the growth of these Soviet fleet activities, I'll leave a copy of the fact book for your reference.

The record to date includes very ample facts quantifying the huge growth and expansion of Soviet liner shipping as third flag carriers in our country's foreign commerce. Since the previous hearings of the Committee, that growth has continued unabated. In addition to service to Europe, the Mediterranean, the Middle East, the Far East, Australia and India, new Soviet service has been announced to Central America and the Caribbean. Coupled with extensive use of mini-bridge rail connections spanning both North America and Euro-Asia, the Soviet liner fleet now spans the globe and is actively increasing its market share in all but a few of the U.S. liner trade lanes.

On page 31 of the facts book is the following quote from Admiral of the Soviet Navy Gorshkov's book, "The Seapower of the State."

"The goal of Soviet seapower is to effectively utilize the world ocean in the interest of building communism."

As another reference material, I will leave with the Committee an English language translation of the chapter from Admiral Gorshkov's book focusing on merchant fleets. It shows clearly that the Soviet Union has a keen and thorough understanding of the merchant shipping element of seapower. In addition to citing Sea-Land's eight, thirty-three knot SL-7 class container-ships (page 10), and noting the enactment of the Merchant Marine Act of 1936 and 1970, the chapter contains the following paragraph (page 28).

"The maritime shipping of the USSR has become a dominant, technically well-equipped and highly profitable branch of the national economy, which fully meets the economic needs of the nation."

Other nations have already reacted in varying ways to the disruptions thrust upon international liner shipping by the tactics of the Soviet Merchant Marine. I submit for the information of the Committee some examples of these actions.

First, Japan in 1977 enacted a new maritime transportation law to authorize better government control over non-conference shipping operations in Japan's foreign commerce.

The Japanese approach is to enable action to be taken against foreign liner companies that exert excessive competition against Japan's liner carriers. By excessive, they intend that type of competition that may injure the sound operation of liner shipping Japan's foreign commerce.

Another example is a copy of Holland's Maritime Shipping Retortion Act which came into force June 14, 1977 in response to the Soviet problem. It has been reported that other European countries including Belgium, the United Kingdom and West Germany have protested the rate cutting activities of Soviet liner carriers in their foreign commerce and are considering legislation.

Here in the United States, as you know, there has long been a recognition of the gravity of state-controlled carrier rate cutting tactics in our foreign commerce. Sea-Land has testified before the Congress in favor of previous efforts to enact legislation to alleviate this problem. It is fair to note that heretofore one of the main impediments to a solution has been the Administration's indecisiveness. I am hopeful that such will not be the case again in 1978.

This Committee requested that Sea-Land develop a list of examples of specific cargo shipments lost to Soviet carriers as a consequence of their lower rates. We have compiled a sampling of such losses and I submit it as Appendix 2. These are all actual movements identified by our field personnel in the Atlantic and Pacific Divisions.

Some of the more obvious examples include: (a) petroleum based asphalt from Texas to Luxembourg over the ports of Houston and Antwerp with a 60% rate variance; (b) commercial household goods from the U.S. to Europe with a 50% rate variance.

Specific examples of rate cutting are also included in the facts book, on pages 25-26, submitted to the Committee last October 27, 1977. Those listings reflect variances between 8 and 39 percent. The individual rates are probably less significant than the Soviet practice of concentrating their rate cutting on the more attractive, large volume, commodities in each trade. This is often referred to "skimming off the cream" from the trade.

Sea-Land's Atlantic Division has had a report prepared which identifies total Soviet flag liftings between USA and North Europe in 1976. Statistics provided by the Department of Commerce, Bureau of the Census, Division of Foreign Trade reflects, by commodity, the total long tons and percentage of total by trade lanes handled by the Soviets. A copy is submitted herewith.

Our Pacific Division obtained a copy of a separate report entitled "Soviet Fleets And Their Activities In Liner Trades" prepared by the Japanese Ship-

owners Association in November, 1977. A copy of it, too, is submitted for reference by the Committee.

All this information leads us to the real point of the hearing today: Whether and in what form the United States should amend its shipping law to correct the disruptive and damaging influence of certain state-controlled carriers, especially those of the USSR.

Foreign and U.S. commercial liner carriers alike cannot effectively meet competition from non-market based state-controlled carriers. The very nature of our free enterprise system requires that we return an adequate profit in order to remain in business over the long term. State-controlled carriers not only do not have such requirements on their operations, but can call upon unlimited resources to subsidize shipping in order to achieve strategic, economic and political objectives.

As we have testified on previous occasions, the predatory nature of rate cutting by state-controlled carriers in the U.S. foreign commerce is at the heart of the problem. The Federal Maritime Commission urgently needs new authority to review the tariffs of the growing number of state-controlled carriers in our commerce and to intervene when rates are below a just and reasonable level.

H.R. 9998 is a good beginning, but I would like to propose several strengthening amendments.

1. Referring to page two of the bill, Section 2 needs to be amended to correct an unintentional omission that would permit state-controlled carriers to easily evade this bill. There is no need to limit the definition of a controlled carrier to governments "under whose registry the vessels operate." If this provision were not changed, any government could avoid this law simply by changing the registry of its ships engaged in the U.S. commerce to that of another cooperative nation. Indeed, two such governments could reciprocally assist each other in skirting the U.S. requirement. Line four should instead read " * * * directly owned or controlled by a government or governments, regardless of country of registry of that carrier's vessels." The balance of Section 2 should also be amended to apply to any "government or governments." In addition, the following sentence should be added to the section: "The term state-controlled carrier shall also apply to any combination or consortium which includes one or more state-controlled carriers."

2. An amendment is needed which will place an effective limitation of the exemption to the flag vessels of the signatory countries. Otherwise, a foreign state could merely register its ships in a signatory state or employ vessels of the signatory state to evade the U.S. law.

On page 2, Section 3, line 16 should be amended to read " * * * shall not apply to any controlled carrier whose vessels trading in the U.S. foreign commerce are exclusively registered in the country having ownership or control and which country is a state entitled by a treaty to receive * * * "

In connection with this section, I urge that the Committee carefully inquire of the U.S. Department of State exactly what countries presently qualify under both the M.F.N. treatment and the Code of Liberalization of Current Invisible Operations of OECD. Also, it would be of critical importance to clarify for the record exactly what a foreign state would need to do in order to become eligible for the exemption under both items and what countries would be eligible to do so. This would be an important consideration in any future extension of MFN status by the United States.

On line 25, we endorse the concept of exempting rate and service agreements under Section 15.

3. On page 5, Section 4 (5) line 18, we endorse the exemption of operations in the bilateral commerce with U.S. trading partner nations.

In addition, we have discussed this bill in prior months with various Government agencies. We understand that there is a possibility that certain other amendments might be proposed by the Administration and we wish to comment on them at this time.

1. In our opinion it would be wise to limit the initiation of FMC action against depressed rates to motions by the FMC itself and those of any carrier competing with the state-controlled carrier in question. This would insulate the state-controlled carriers from arbitrary or capricious filing of actions to investigate the rates and service.

2. We agree that a provision should be added to the bill to provide for some rate to apply during a suspension period. This might be tied to the

rate filed by a carrier such as that cited on page 4 Section 4 (2) line 7, "another carrier, other than a controlled carrier * * * in the same trade."

3. We strongly disagree with the suggestion that a time limit be placed on the period of suspension, such as 180 days. As noted above, an alternate rate to allow the state-controlled carrier to continue operating during the suspension period is a better alternative. Another option would be to require an FMC decision within 180 days.

Chairman Murphy and members of the Committee, it is important to emphasize one other point with respect to this important shipping legislation. Delay and inaction to allow further study while state-controlled carriers continue to expand and induce larger and larger shares of selected commodity categories from U.S. and Western liner operators by use of predatory rate cutting would only cause further harm.

This bill would finally arm an independent regulatory agency of our government to carefully study this situation. If, after hearing the investigated facts confirm that unjust and unreasonable rates had been filed, the carriers' tariffs would be rejected. The carrier could continue operations only at higher, just and reasonable rate levels.

If the amendments I suggested earlier are adopted, the bill would not injure any state-controlled carrier. It would not limit introduction of new or added tonnage in the trade. It in no way would mandate any reduction in competition in U.S. liner trades. It would be carefully, almost surgically, tailored to a limited scope and a specific standard that is an entirely reasonable and balanced reaction to an amply demonstrated deficiency in U.S. maritime policy.

Certainly, it should receive prompt endorsement and forward movement to aid the Federal Maritime Commission in administering its responsibilities as overseer of the liner shipping in U.S. foreign commerce.

Mr. Chairman, I would be pleased to respond to any questions you and the committee may wish to ask.

Mr. HILTZHEIMER. First, I would like to state, Mr. Chairman, members of the committee, it is a pleasure to appear before you today to voice Sea-Land's support of H.R. 9998. As the largest U.S.-flag container carrier, we are particularly gratified that the committee is considering action on this legislation; and we certainly think this action is warranted.

At the outset, I would like to comment that we are also happy that all U.S.-flag carriers representing the liner cargo segment of the U.S. merchant marine, have consulted on this issue, and we are in full accord in our position of supporting this legislation.

The CHAIRMAN. That is regardless of whether the lines received a subsidy or not?

Mr. HILTZHEIMER. Yes.

Now, it is my view, Mr. Chairman, that the American merchant marine operators would not have a right to ask this committee or Congress to protect us from reasonable competition, and that is not the purpose of our appearance here today.

But I do believe we have every right to expect the Congress to protect us from the kind of disruptive competition which the Soviets represent.

By that, I believe there is sufficient evidence to confirm, No. 1, the growth of the Soviet merchant marine. It simply is a reflection of a government policy by a powerful nation to build a very powerful merchant marine. We see evidence that their strategy for achievement is being successful. The problem, the real heart of the problem, Mr. Chairman, is that the method that this governmental action is taking, is to disrupt the foreign commerce of the United States in such a way that we could have chaos if the trend continues.

For example, most of the strategy has involved pricing techniques and, as I mentioned, there is plenty of evidence to support, and we have submitted some here today, that by the pricing—and the use of Government subsidies, for political, economic, and military purposes, a foreign power is taking advantage of the present laws of this country which guarantee foreign powers the right to enter our trade. So what we have seen, in the past 4 or 5 years after the U.S. ports were opened to the Soviets, is a great deal of tonnage and capacity added to the American trades.

Now, the argument might be made that so far their market penetration of any given trade is modest, such as 3 percent to 6 percent. But the trend has been rather dramatic in the sense that here is a nation that was considered backward in merchant marine and trade just a few years ago and in a relatively short period they have made a significant penetration into multiple free-world markets through the pricing technique; and it is my feeling—and I believe that you will hear a similar statement by other representatives who are testifying today—that if we are going to have an open trade and allow and invite foreigners to compete in the U.S. foreign trade, then we must have a reasonable degree of protection against those who would cause disruption and instability.

Now, I would also like to mention that we have made several suggestions for amendment to this legislation which we believe would strengthen it and I would like to read that now, please.

Referring to page 2 of the bill, section 2 needs to be amended to correct an unintentional commission that would permit state-controlled carriers to easily evade this bill. There is no need to limit the definition of a controlled carrier to governments “under whose registry the vessels operate.”

If this provision were not changed, any government could avoid this law simply by changing the registry of its ships engaged in the U.S. commerce to that of another cooperative nation. Indeed, two such governments could reciprocally assist each other in skirting the U.S. requirement.

Line 4 should instead read “directly owned or controlled by a government or governments, regardless of country of registry of that carrier’s vessels.” The balance of section 2 should also be amended to apply to any “government or governments.”

In addition, the following sentence should be added to the section:

“The term ‘state controlled carrier’ shall also apply to any combination or consortium which includes one or more state controlled carriers.”

An amendment is needed which will place an effective limitation of the exemption to the flag vessels of the signatory countries. Otherwise, a foreign state could merely register its ships in a signatory state or employ vessels of the signatory state to evade the U.S. law.

On page 2, section 3, line 16, it should be amended to read “shall not apply to any controlled carrier whose vessels trading in the U.S. foreign commerce are exclusively registered in the country having ownership or control and which country is a state entitled by a treaty to receive”——

In connection with this section, I urge that the Committee carefully inquire of the U.S. Department of State exactly what countries

presently qualify under both the MFN treatment and the code of liberalization of current invisible operations of OECD. Also, it would be of critical importance to clarify for the record exactly what a foreign state would need to do in order to become eligible for the exemption under both items and what countries would be eligible to do so. This would be an important consideration in any future extension of MFN status by the United States.

I will not read in the other amendments, as they will appear on the record.

Thank you.

The CHAIRMAN. Mr. Mayer?

Mr. MAYER. I appreciate the opportunity to appear before the committee in support of H.R. 9998. As suggested, we will file our statement for the record.

[The following was received for the record:]

STATEMENT BY ROBERT E. MAYER, VICE PRESIDENT, STATES STEAMSHIP CO.
ON H.R. 9998

Mr. Chairman, Members of the Committee, Ladies and Gentlemen. My name is Robert E. Mayer. I am a Vice President of States Steamship Company, whose home offices are in San Francisco.

Our company serves the entire range of the Orient, as well as Malaysia, Singapore and Indonesia, from ports on the Pacific Coast of the United States and Canada. We operate 4 new Roll-On/Roll-Off ships and 5 conventional break bulk vessels of the Colorado Class.

The detail of the performance of the state controlled steamship lines of the totalitarian Communist nations is before you by other witnesses. We compliment them for a masterful job in presenting that picture and subscribe to their testimony.

I believe it would be best for me to limit my remarks to some of the national policy questions involved.

MILITARY ASPECT OF RUSSIAN MERCHANT MARINE

Before getting into the provisions of this bill and the policy questions, it is important to settle the military issue.

The American shipping industry has long contended that Russia's record breaking development of a Merchant Marine since her humiliating back-down during the Cuban missile crisis in 1962 is basically a military move, rather than a move dictated by her commercial needs.

This view has been challenged by the Russians; by her representatives in the United States and by others.

The nation owes a debt of gratitude to work by Naval Intelligence, Central Intelligence, and by staff members of the Federal Maritime Commission and this Committee. Their painstaking research was given to this Committee in both closed and open briefings last October 27.

That briefing unequivocally closed the debate on this issue by positively identifying the Russian Merchant Marine as a military venture.

Since this briefing is a part of your record, I will not dwell at length on it here, but feel it should be mentioned and a few of its salient points cited, because it is so highly revelant to the issue that H.R. 9998 brings before this Committee today.

Here are some of the facts brought out in that briefing:

"Despite the Kremlin's claim that the main task of their merchant marine is to serve the demands of their coastal and international trade, their commercial fleet is operating as a naval auxiliary."

"The USSR has a modern maritime fleet of several thousand ships that are prepared to operate with the Soviet Navy in time of war because they have consistently and systematically operated with the Navy in peacetime."

"The Soviet Union has developed seapower to its fullest sense. By integrating the Soviet merchant marine with the Navy, a pattern of effective

coordination is well established between the military and commercial fleets."

"As with all Soviet organizations, the merchant fleet has active Communist Party branches and KGB representatives, as well as limited numbers of naval personnel."

"Most Soviet vessels are general cargo ships which can be adapted to carry any type of shipment. Many of its commercial vessels are suitable for transporting troops and military equipment."

"The Soviet merchant fleet is obtaining one of the world's large Roll-On/Roll-Off fleets * * * Soviet Roll-On/Roll-Off vessels incorporate a large stern ramp * * * The decks and ramps of these ships are built to support the weight of tanks and such vessels were used to carry tanks to Angola and the Middle East."

"More recently was the role of the Soviet merchant marine in arming both North Viet Nam and the Cuban forces in Angola. Many of the tanks and artillery equipment which conquered South Viet Nam and Angola during 1975 and 1976 were originally carried to Haiphong and Luanda by Soviet merchant vessels."

"Commercial ships provide logistic support for the Red Navy worldwide and participate in large scale naval exercises. Exercise OKEAN, in March and April 1975, involved four Soviet fleets with eight task forces deployed, and committed over 200 surface units, three fourths of which were non-combatant."

Though not a part of this briefing, one sentence by Chairman Murphy in introducing H.R. 9998, as reported in the Congressional Record for Nov. 4, 1977, capsulizes the matter nicely:

"The Soviets have a merchant fleet in excess of their national requirements which they utilize full time cross trading." In modern parlance, that "says it all".

Admittedly, their merchant fleet, employed almost wholly in cross trading, because Russia is not basically a trading nation, is a source of hard currency. But this is a by-product and not the main purpose of the establishment of a fleet of this size. That would appear to be far too high a price to pay for merely generating some hard currency. A nation's merchant marine normally grows out of her world trade. Russia's world trade is not large enough to support a merchant marine of substantial size, yet she has one of the largest in the world.

DEFINITION OF THE ISSUE

For the Congress to enact this bill will require considerable courage and statesmanship, because of the opposition we all know will be forthcoming—just as it was in 1975.

Maybe a new definition of the issue will help.

To us the issue seems to be whether a free Republic can, short of all out armed conflict, preserve one of its principal weapons of defense against the politico-economic attack of totalitarian, Communist nations.

The laws of a free Republic such as ours flow from a full knowledge of all the pertinent facts; from lengthy hearings where all views are given ear, and from a legislative process frankly and openly involving pressures on legislators from the opposing interests involved.

The actions of a totalitarian state flow from policies adopted by a hierarchy which rules by the force of arms, and which suppresses opposition at home and even beyond its borders by force. This is a brutal description, but only portrays what all in this room today have witnessed time and again in Europe since the end of World War II.

Can the free Republic of the United States defend its Merchant Marine, its 4th arm of defense, from the Communist bloc nations. In this economic warfare which they are waging against us? Or, will the United States bow to diplomatic and commercial pressures that are surely to come, and let the American Merchant Marine literally go down the drain? This is the issue. Can we meet the test?

ELEMENTS OF THE BILL

The bill resembles its predecessor H.R. 7940, though it has been changed in some respects to meet objections to the previous draft.

These are its basic elements:

1. Defines a controlled carrier as a liner operator in U.S. foreign trade, which is owned or controlled by the government under whose registry the vessels of the controlled carrier operate.

2. Prohibits controlled carrier from charging rates below a just and reasonable level, and defines just and reasonable rates as those which are fully compensatory based on the controlled carrier's actual costs, or upon its constructive costs, which are defined as those of another carrier operating similar vessels in the same or a similar trade.

3. Establishes a 30 day waiting period for controlled carriers' rates to become effective—following filing—in the absence of special FMC permission.

4. Gives controlled carrier 20 days after FMC request, to file a statement of justification of its rates.

5. Authorizes FMC to issue show cause order when it is of the opinion that a rate is not just and reasonable, and delay its effective date until proven just and reasonable. In the case of rates already in effect, FMC may suspend on 90 days notice to the controlled carrier. In the case of any rate suspended, FMC shall prescribe a substitute minimum rate.

6. Places burden of proof in all proceedings on the controlled carrier, to show reasonableness of rates.

7. Exempts:

Nations whose vessels are entitled to most favored-nation treatment.

Vessels of carriers who are members of conferences approved by Sec. 15.

Vessels of carriers engaging in trade between their own nation and the United States.

A WORD ON RATES

While I stated earlier that I would leave the fleet size and rate questions to other witnesses, I do feel it important to set forth two tables given to this Committee last October 27 in its 4-way briefing from Naval Intelligence, CIA, FMC, and one of the Committee's own staff experts.

I offer these because they give the reader a quick glance and quick comprehension of a complex picture:

A table showing the percent of the major commodities moving on which the Soviets have rates lower than the major carriers in the trades, and the percent of those commodities where the Soviets are lower than the conference:

[In percent]

Trade route	Soviets lowest	Soviets lower than conference
5.-----	68	78
6.-----	40	80
7.-----	46	86
8.-----	51	81
9.-----	52	78
29 Hong Kong/Pacific Japan/Pacific-----	38	71

A table showing—on major commodities moving—the high and low percentages by which Soviet rates undercut conference rates; the number of rate observations made, and the average percent of undercutting.

Trade route	Range (percent)		Number of observations	Average (percent) ¹
	High	Low		
5.-----	18	2	39	9.84
6.-----	43	4	40	24.47
7.-----	16	3	46	8.33
8.-----	10	1	44	8.25
9.-----	50	4	41	11.39
29 Pac/Hong Kong Pac/Japan-----	45	1	31	16.16

¹ Only considers those cases where Soviet rates were lower than conference. These are unweighted averages.

These two tables settle the question of rate cutting. In six trade routes studied, the Soviets have the lowest rates on from 14 percent to 68 percent of major commodities moving. They are below conference rates on 48 percent to 86 percent of major commodities moving. The second table shows their rates to range from 1 percent to 50 percent below conference rates with all—major—commodity average reductions to be from 8 percent to 24 percent, depending upon the trade. These tables seem to lay to rest any doubt that the Soviets are engaging in wholesale ratecutting.

IMPERFECT DRAFTING AS ARGUMENT AGAINST ACTION

One deadly form of opposition, which we witnessed in the previous effort in this direction, is to plead delay because of imperfections in the draft of proposed legislation before us.

Certainly there were defects in the legislation before us previously.

But witnesses including myself, said that it was essential that the Congress act then, on the bill before it, to show the Communist bloc nations that the United States means business when it talks Merchant Marine.

My own testimony on that point said, "We have heard reports of some—in our own government—who find fault with some of the mechanics of the bill * * * Our reply to this is that certainly this Committee and the Congress must strive to bring forth the most orderly legislation possible, and avoid enacting unworkable laws * * * However, in this case, we are faced with an emergency gravely affecting our national interest. Therefore the main objective is to get the law on the books. Many of our statutes are found to require amendment after initial enactment. We can do that in this case if the need is found at a later date. We must strive for perfection, but not miss the tide in the bargain."

There are many in the industry who frankly wonder whether we have already missed the tide, while the Communist bloc nations sit bemused with our inability to act in our own self-defense.

Does this sound implausible? Mr. Richard Burke a member of the European Community Commission was interviewed in depth by the Journal of Commerce in early February of this year, following his tour of the Northeast and his meetings with several U.S. transportation authorities. In speaking on this subject, he said in part, "Ministers from (European) community countries have returned from visits to Moscow with the clear impression that the Soviets believe the West lacks the resolve to apply sanctions in its own defense." (Journal of Commerce, Feb. 7, 1978).

FREEDOM OF THE SEAS—TREATIES OF FRIENDSHIP COMMERCE AND NAVIGATION

A most logical front on which to attack this legislation is to make the charge that it violates the traditional freedom of the seas and the treaties of friendship commerce and navigation which have been so much a part of the fabric of American foreign policy.

Neither of these concepts should dissuade the Congress from acting on this legislation. With every right there is an obligation. Without admitting any such charge—that this bill would violate these concepts—it clearly can be said that the targets of this legislation have lost their rights to the protection of these concepts. They are basically designed to promote stable trade among the nations of the world. Predatory rate-cutters have abandoned the major safeguard of stability in world trade, and thus have given up the right to the shelter of these concepts.

BILL IS NEEDED TO PROTECT OUR WORLD TRADE

The United States of America is the largest trading nation in the world today, and in all world history. Our world trade supports one job out of ten in the United States directly or indirectly.

Our world trade is vital to our survival, and indeed to the survival of many of our trading partners. We cannot have that trade destroyed. Chaos in world shipping can destroy it. Predatory rate-cutting, if allowed to go on without restraint, can bring the end of the conference system, followed by unlimited rate wars and then bankruptcy of many lines, with massive capital and job losses. There is only one sequel to that story—a lesson that

transportation and commerce have learned painfully so many times in history—dominance of the market by the few survivors, and then unconscionable, uncontrolled rate spiralling, the inevitable result of monopoly. Spiralling rates make commodities non-competitive in the world market, and markets and jobs are lost.

NATIONAL DEFENSE ASPECT

We are today watching one of the most dramatic examples of history repeating itself, in Russia's great leap forward into the company of the world's leading maritime nations.

One of the most firmly established lessons of world history is that the nation that ruled the sea was the nation that held the dominant position in world leadership.

Our Naval authorities tell us that if we have not done so already, we are fast losing naval supremacy to Russia.

We can evaluate the merchant marine side of the picture ourselves and what we see frightens us.

If we permit the Communist bloc nations to destroy our merchant marine with their predatory rate-cutting, then we will lose that power which was so instrumental in winning World War II for the allies—sea power—because our merchant marine is an indispensable part of our sea power. We cannot permit this to happen.

NO COST BILL

This bill will not result in any cost to the government and hence no cost to the taxpayer. Neither, despite claims from some quarters, will it result in higher cost to the shipper or to the consumer of goods moving in our world trade.

The bill's passage will mean the end to some existing non-compensatory rates, but this in the long run will mean a saving to the shippers. This is so because unless we bring to an end the chaos in the Pacific, as already stated, we will see the end of the conference system and wholesale rate warfare, bankruptcy of more lines and spiraling rates by monopolistic survivors, which in turn will drive us out of the world markets.

The ending of the predatory rate cutting on the other hand will bring some stability to the trade, preserve our position in world commerce, and protect jobs not only in shipping but in world trade, which provides infinitely more jobs for Americans. This is the long range view, and one difficult to adopt by some who are enjoying non-compensatory ocean freight rates on some major commodities.

NO DISCRIMINATION BILL

This bill will affect only its intended target and will have no side effects on unintended segments of industry.

The bill does not discriminate against and will not affect: Shippers; the legitimate cross trader; the tramp carrier; participants in cargo sharing agreements.

The cross-trader we believe, supports this bill. The average cross-trader supports the conference system and stability in world trade. Hence this bill, paralleling that support, is a benefit to him.

The tramp carrier need not and does not file tariffs with FMC under the shipping act. The bill applies only to liner companies and does not affect the tramp operator.

The bill applies only to non-national carriers, and hence cannot affect members of cargo sharing agreements.

The shipper of bulk cargoes similarly is not affected as he mainly employs bulk carriers not in the liner service.

Hence, in the maritime industry there should be one opponent, the exact target of this legislation—the controlled carrier with his predatory rates which in the long run, unless curbed, spell ruin to shipper and carrier alike, plus the loss of untold numbers of jobs for Americans. Even in the case of the carrier the bill is aimed at, if he can prove his rate is compensatory on a fully allocated commercial basis, then the rate is reinstated.

AMERICAN SHIPPING INDUSTRY NOT ALONE

American flag shipping is not alone in asking for measures to curb the Soviets in their drive for total supremacy of the seas.

January 31, 1978.—Peter Walters, President, General Council of British Shipping, told a press briefing in London that "unless western countries take joint action to impose some restraint, the Soviets will almost certainly continue their aggressive expansion policy."

In addition, he stated, "the USSR with its centrally planned economy is in a position to continue under cutting freight rates until other shipowners can no longer afford to operate. (Journal of Commerce, Feb. 1, 1978).

February 1, 1978.—Same report in Journal of Commerce reports, "The European Community is now examining ways of dealing with this (Soviet) menace and British shipping representatives are also relieved that the U.S. authorities seem fully aware of the threat. The General Council of British Shipping suggests that quotas could be placed on the number of Soviet ships serving European ports." The report continues, "Unless the European Community agrees on common action at a meeting of European transport ministers, expected to be held in early March, Britain could, in theory, use its powers under the 1974 Merchant Shipping Act and place quotas on Russian cargoes, restrict port entry and forcibly regulate freight rates."

February 7, 1978.—Richard Burke, a member of the European Community Commission, interviewed at some length by the Journal of Commerce in a visit to the U.S., said the EC has been reluctant to interfere with transportation aspects outside EC, but that the inroads of Soviets into EC trades has prompted a change in this policy. In the past few years, the shipping lines have stated frequently that the EC could use its position, as the biggest trading bloc in the world, to protect its shipping industry against the ravages of Soviet competition * * *

February 28, 1978.—Kristian von Sydow, Chairman, Brostrom Shipping Co., Ltd., of Sweden, in addressing an American Bar Association conference on water transportation in Washington, D.C., called for a conference of western maritime powers to reconcile the sharp differences in U.S. and European shipping ideologies, and "to form a solid front against Communist bloc competition."

U.S. support.—It will be recalled that during the deliberations of this Committee on the predecessor bill in 1975, considerable support came for the bill from the shipping public. A list of all companies who came to the hearings and supported the bill is attached. Another list of 13 who wrote in with support statements is attached.

OUR POSITION ON THE BILL

We believe the bill is an admirable approach to a solution, giving some consideration to objectors to the predecessor bill.

We believe, however, that the draft goes a bit too far in one respect. It is recommended that it be amended to reduce to 30 days (from 90) the term of notice PMC must give to a controlled carrier before it suspends a rate believed not to be just and reasonable.

We thank the Committee for this opportunity to appear and, with this proposed change, respectfully urge that the Committee approve the bill. This is our third effort at such a bill. We have nothing more to learn and everything to lose by further delay.

WRITE IN SUPPORT STATEMENTS

Curt Marx, Vice President, Bardon, Inc., Los Angeles, Calif.

Paul Baddick, Import Coordinator, Van Heusen Co., Schuylkill Haven, Pa. 17972.

Sol Kaufman, Blatt Distribution Co., Import Manager, 14450 Industry Circle, La Marada, Calif.

Joe DiCarlo, Interpace Corp., 2901 Los Feliz Blvd., Los Angeles, Calif. 90039.

William D. Riggs, General Manager, California Prime, Inc., 30 S. Los Angeles Street, Los Angeles, Calif. 90012.

John C. Howard, Vice President, Bethlehem Steel Corp. Bethlehem, Pa. 18016.

Stanley R. Scoot, Traffic Manager, Calcot, LTD, P.O. Box 259, Bakersfield, Calif. 93302.

Abe Lifton, Production Manager, Washington Forge, Inc., Englishtown, N.J.

John Dow, Manager Transportation Analysis, H.J. Heinz Co., Pittsburg, Pa.

Atlantica Export Corp., 555 California St., San Francisco, Calif.

Thorsen Tool Co., Walnut Creek, Calif.

Albert E. Bowlen, Inc., New York City, N.Y.

W.B. Jackson, Manager, Overseas Marine Development, E.I. DuPont, Wilmington, Del.

IN PERSON SUPPORT STATEMENTS

Ovie Jessen, Traffic Manager, Keepers Supply Co., Memphis, Tenn.

Bonaventure E. Von Paris, Chairman of the Board, B. Von Paris & Sons, 1920 York Road, Timonium, Md. 21093.

Sol Davis, Vice President, Scope Imports, 7200 Wynnpark Drive, Houston, Tex. 77008.

Samuel Kong, Controller, Kings Point Corp., Jersey City, N.J.

William Datre, Traffic Manager, Ronson Corp., Woodbridge, N.J.

Paul Hayman, President, Hayman & Lindenberg, 340 Washington Ave., Carlstadt, N.J.

Jayson S. Rice, Director of Distribution, Borden Pan American, Borden Inc., Int'l., 420 Lexington Ave., New York, N.Y. 10017.

Michael E. Welch, Customs & Traffic Manager, Midland International Corp., 7209 Vernon Street, No. Kansas City, Mo. 64116.

Edward R. Rossi, Distribution Manager, Y. & S. Candies, Inc., 45 Cardinal Drive, Westfield, N.J.

Patrick O'Kelly, Executive Vice President, O'Asian Design, 8821 Aviation Blvd., Inglewood, California 90301.

Bernard Klein, Import Manager, Adorence Company, Inc., Secaucus, N.J.

Mr. MAYER. First, I would like to say that our statement does not include numerous specific instances of controlled carriers, predatory ratecutting in the trade we are in, although we can submit some examples later for the record if the record is not complete from other sources.

We realize that the rate comparisons and the statistics on the growth of the Soviet fleet, and other controlled fleets constitute information which the Congress must have before they can act on the bill.

We had hoped, however, that the rate information furnished by the committee in its four-way briefing last October 27, by the Office of Naval Intelligence, the CIA, FMC, and one of our committee experts, plus that supplied by the other witnesses in this hearing, might suffice in that direction.

Having this in mind, then, and reflecting on the fact that this is our third bill, and our fourth year of the effort for correction of this item, we felt that some national policy questions involved might deserve special attention.

This is why, as you observe, when you get to our statement, that it is constructed along the lines more of review of national policy.

The first one we dealt with is the question of the military nature of the Soviet merchant marine. The statement contained several quotations from the briefing of the committee last October 27. Having concluded with those quotations, which we think settles the question of the Russian merchant marine being basically a military instrument, our statement then quotes from our own chairman's statement on November 4, 1977, when he introduced this bill. We quote this because we think it capsulizes this very nicely:

"The Soviets have a merchant fleet in excess of their national requirements which they utilize full-time cross-trading."

In modern parlance, we think that quotation says it all: This fleet is used in cross-trading. Their fleet is not something that grows normally out of the foreign trade of that nation as do most merchant fleets.

Our statement deals with other national policy questions, the obvious ones, the national defense nature of our own merchant marine and the threat that is involved here; and the ultimate damage which would be done to our world trade if the American flag is driven out of it.

We recall that during the previous major effort at such a bill, there were large industrial concerns, and a few shippers and exporters organizations that in this very same room, registered very strong opposition to the philosophy involved in this type of legislation. This leads us to what we think is the fundamental policy question involved. Our laws come only from full investigation in hearings developing all the pertinent facts, plus the inevitable pressures and counterpressures that come upon Members of the Congress from various opposing interests.

This raises the question whether we can, short of national emergency, protect our merchant marine from destruction by the economic warfare that is being waged against us. If this sounds like a wild alarm, I would like to quote from an in-depth interview which the Journal of Commerce conducted of a Mr. Richard Burke and reported in that paper on February 7 of this year. He is a member of the European Community Commission and he was interviewed in depth by that newspaper following a tour of the Northeast and his meetings with various U.S. transportation authorities.

Speaking on this subject, Mr. Burke said this:

Ministers from European community countries have returned from visits to Moscow with the clear impression that the Soviets believe the West lacks the resolve to apply sanctions in its own defense.

We believe that this supports the alarm that we hold, and I know that members of this committee hold, as well as others in the industry.

We have only one proposed amendment to the bill and that is that there be a reduction to 30 days from the proposed 90 days in the bill, for the term of notice that FMC must give to a controlled carrier before it suspends a rate believed by the Commission not to be just and reasonable.

We feel that 90-day period reduces considerably the strength of any statute that would result.

I believe that is the end of my comments.

Thank you.

The CHAIRMAN. Thank you, Mr Mayer.

Mr. Keely.

Mr. KEELY. Mr. Chairman, I offer testimony here on behalf not only of my own company but the Council of American Flag Ship Operators, an association of eight U.S.-flag companies in the liner industry.

I would also like to add that we had time to compare notes with Mr. Hiltzheimer's remarks, his remarks on behalf of Sea-Land, who is not a member of the association, and we support without qualification the testimony just as he presented it.

I think he made some very good points as it pertains to some possible appropriate amendments to the bill that would lend a great deal of strength to it.

We are here today, it would seem to me, to discuss the need to compete on an equal footing. But what none of us can deal with is competing on a price basis with state-owned carriers whose economic systems place them on a different and more advantageous footing than our own. I think to a degree this can be exemplified in one of the ads that they have recently displayed, not necessarily having to do with shipping, but nevertheless in their transportation industry where they point out the fact that they do not have to make a profit. We do.

Under our system of government, under the free-enterprise system, it is essential that we operate in such a manner that we pay our own way or we simply go out of business. Predatory ratemaking only for U.S. lines and my group per se but its potential effect on our whole merchant marine in general, which I think is still contrary to the merchant service of a major power is fraught with danger, not considered the fourth arm of defense of the Nation.

For the sake of brevity, I would like to simply review one of the several rate discrepancies which I think is probably a classic example of how a state-owned line can compete with an American-flag line to the American flag's disadvantage and, if I may, I would just like to reiterate one of these examples, unless there are questions on the others, which is in my prepared text.

Lykes, along with other U.S.-flag operators, had been actively seeking participation in the carriage of some 500 large articulated buses from Germany to Houston in October of last year. Lykes submitted a bid of approximately \$6,660 per bus to the international freight forwarder handling ocean transportation of these buses. Seeking further information on the status of the bus movement about 45 days, Lykes was advised there was no chance of their participating in the movement, even with a 15 percent to 20 percent reduction in the rate inasmuch as all 500 of the buses had been booked with the Baltic Shipping Co. at a rate of \$3,300 per bus, or approximately 50 percent of the lowest U.S.-flag rate.

The first of these buses to move via Russian flag arrived in Houston in February of this year.

It is our understanding that Russian vessels will carry 25 additional buses in March and 35 in April. The purchase and transportation of these buses was funded for by the Urban Mass Transit Authority, an agency of DOT.

I think here is a classic example that is perhaps not exactly U.S. Government impelled cargo, but certainly to a degree, under the Department of Transportation's auspices, is displaying a lack of support on behalf of a major agency to the detriment of a particular American-flag line. We could go on with other examples. As I said, we would be prepared to try to elaborate on them as the case may be

but for the sake of time, I would like to thank you for this opportunity to present my few statements.

The CHAIRMAN. Thank you, Mr. Keely.

I have communicated to Secretary Adams on that particular transaction. I think the first shipment arrived on the Magnitorgorsk. The information that I had was that it was a \$2,000 rate cut and not a 50 percent rate cut, which would be \$3,300 per bus.

Mr. KEELY. The number that we have is \$3,300. However, if it is in dispute we could go back and verify it. I believe these numbers were furnished by Lykes Lines and it could be down to \$2,200 or \$2,000 before it is over with.

The CHAIRMAN. We felt that at least 50 percent of that cargo should go in American-flag ships, because it was a purchase by the Federal Government.

Mr. KEELY. Well, in discussing the subject this morning, while we are waiting here for a few minutes, it was brought out, there is a provision in the 1936 act—I think it is section 901(b)—that refers to the Government being, or at least should be in a position in this instance to cause at least 50 percent of this type cargo to go on American flags; and I think that might be a subject to be examined a little more in this particular case.

The CHAIRMAN. We are asking the Secretary of Transportation to do just that, and respond to us directly on this particular incident.

Mr. Bart?

Mr. BART. Thank you, Mr. Chairman and members of the committee.

My name is Gordon E. Bart, and I am senior vice president of American President Lines, not vice president.

I come here from the San Francisco Bay Area where our headquarters is and has been for more than a century, not with a prepared statement, but to completely corroborate and agree with the statements you and my colleagues on the panel here have made.

We have made every effort in the Pacific to attract the PESCO group into the various conferences in the Pacific and received nothing but stalling tactics, promises. We have never in the last 3 years been able to get them close to the rate levels that we charge.

In itself, many people would say, well, they are only carrying 6 percent of the cargo in the Pacific trade. That is true at present. But as we all know, 15 years ago, the Soviet merchant marine was regarded as a tramp fleet but now two-thirds of the Russian merchant ships are less than 10 years old. The Russians are blanketing the Pacific trades with service. Every day sees a Russian sailing to one or another of the ports in the Pacific as to the rest of the free world. There have been statistics prepared on this, so I will not bore the committee with the statistics; but they are there and they are getting stronger every day.

What I am saying is this: We have a trend that is taking place. Whereas, some years ago, when PESCO came into service there were a lot of raised eyebrows in American shipping circles about the Russians moving in, now FESCO—and it has a great agency in this country—headed by Arthur Novacek, is becoming a household word, just like General Motors or Frigidaire, or Pepsodent. They are doing

business on what we consider to be a most unethical basis, a predatory basis. All of their rates are below our rates. We cannot survive at these rate levels.

This sums up my presentation, other than to reiterate the fact that we completely agree with all that has been said beforehand.

Thank you.

The CHAIRMAN. Captain Clark?

Captain CLARK. Mr. Chairman, gentlemen, I have a prepared statement which I understand will be inserted in the record.

[The following was received for the record:]

TESTIMONY OF CAPTAIN J. W. CLARK, PRESIDENT, DELTA STEAMSHIP LINES, INC.,
NEW ORLEANS, LA.

To provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes.

My name is J. W. Clark. I am president of Delta Steamship Lines, Inc. of New Orleans. I wish to express our appreciation and full support for H.R. 9998 as introduced by Chairman Murphy and other distinguished members of this committee.

The various statutes affecting our foreign commerce clearly recognize the importance to our national interests that the U.S. maintain a strong and efficient merchant fleet. Delta Steamship Lines, Inc. is an example of our ocean common carriers or "Liner Operators" as they are usually called. Based on the U.S. gulf coast, we serve the east coast of South America, Central America, the Caribbean and West Africa. Delta, founded in 1919, is presently operating its fourth fleet of vessels as a progressive component of America's modern capital intensive maritime industry. We are members of several shipping conferences and pooling agreements existing in the trades served by our operations. At the present time we are engaged in extensive planning, which includes the proposed acquisition of the Latin American Services of Prudential Lines, Inc. (formerly Grace Lines).

Although our ocean commerce is also the ocean commerce of our trading partners, the 1916 Shipping Act imposes unilateral regulation, and attempts to "export" our anti-trust philosophy.

While making conferences comparatively weak through the restrictions imposed on them, the act causes both the conferences and our trades generally to be open to all carriers which have tonnage which cannot be gainfully employed elsewhere. The resultant over-tonnaging gives rise to malpractices and cut-throat rate-cutting practices which ultimately work to the detriment of our foreign commerce.

Since unilateral U.S. regulatory efforts do not fall even-handedly on U.S. flag lines and on their foreign flag competitors, the U.S. flag lines have been and are at a substantial disadvantage.

We have created, through our regulatory system, an artificial climate in which a variety of problems have arisen, many of which are unique to the U.S. trades. At the same time, not all of our problems are inherent within our own system. I refer to the practices which have been adopted by predatory communist flag State-controlled shipping lines which have become increasingly active in the U.S. trades, engaging in "dumping" practices ostensibly to earn hard currency. These carriers, as crosstraders, i.e., operating in trades between the U.S. and countries other than their own, have created very substantial problems for the competing commercial carriers in our trade. This problem has its origin in the political motivation of the communist states and the nature of their state economies. It can only be solved by legislative and/or political means through restricting their ability to pursue their sinister goals in our trades.

The bill now under consideration by this committee, the "Ocean Shipping Act of 1977", (H.R. 9998), deals with "controlled carriers", i.e., the State-controlled cross-trading communist flag lines. (I understand that a companion bill will soon be introduced in the Senate). The bill would require such controlled carriers to justify their predatory rate-cutting practices, unrelated to normal commercial shipping. It would not apply to vessels

of nations with which the United States has a "Most Favored Nation" treaty, to carriers which are parties to a "rate agreement or service agreement", or to a "controlled" carrier engaged in district commerce between its flag state and the United States. I endorse this effort for its recognition of a problem and as a needed first step toward coping with it.

Other malpractices, more particularly the payment of rebates, are a product of over-tonnaging. The difficulty of subpoena enforcement against non-U.S. carriers places the heavier burden on U.S. flag carriers. This is a gross and obvious inequity for which there is now no full solution. The over-tonnaging problem, again, is the product of our own legislation by which we encourage the entry of all carriers into our trades. This easy access to our tempting foreign commerce is, in effect, a "come one—come all" invitation to all carriers, thus creating a veritable "dumping ground" of essential U.S. trade routes.

Our regulatory statutes are such that shelter for all comers is assured without regard for our national flag interests, contrary to the promotional objectives of our various shipping acts. Hearing processes are lengthy, costly and frustrating. In an abundance of caution, to assure anti-trust immunity under section 15, endless documents are filed with FMC.

The proliferation of cargo reservation laws abroad, and the expanding fleets of developing nations, place still greater pressure on competitive commercial shipping services, which might best be illustrated by the UNCTAD code of conduct.

There are a number of bills presently pending before congress which seek to bring a degree of order to our ocean trade. Companion bills described as anti-rebating legislation, S. 2008 and H.R. 9518, have been the subject of substantial hearings before both the senate and house committees. They institute an attempt to bring some degree of equality to the relationship between U.S. flag and foreign flag carriers. I have proposed through testimony before the house and senate committees that an effective alternative solution would be to require that the U.S.—based agents representing foreign flag carriers found to be in non-compliance cease their representation during the term of non-compliance. This could be a persuasive and effective commercial solution, providing substantial incentive for obtaining the production of records.

Another bill, H.R. 10622, introduced by Congressman Breaux, and its companion bill in the Senate, S. 2386, promotes rationalization between carriers where we are dealing with those of our Nation and of our trading partners, and represents an important step toward correcting some of the problems which we have created in our foreign commerce. I firmly believe that H.R. 10622 offers an effective device to control both over-tonnaging problems and the problem of malpractices such as rebates. It is time for the United States to get out of its role as the dumping ground for surplus tonnage. We have been the recognized relief valve for every shipowner in the world which could not better employ its vessels. This was an artificial creature of our own making which we have paid for, continuously, over the years and which we must now bring to a point of reasonable control. This can be complemented, in part, by the present bill and I commend it to your very serious and favorable consideration. Pooling, equal access and rationalization agreements have largely been developed and refined in the U.S./Latin America trades. As Delta has been an active participant in these trades both prior to and during the development of these intercarrier agreements, we are familiar with the negotiation and implementation of such agreements and their beneficial effect on U.S. foreign commerce. As a result of actual experience, there are a number of supporting statements which I can make at this time, as follows:

1. Such agreements are the most effective means developed to date for eliminating malpractices such as rebates.

2. Such agreements tend to limit overtonnaging, and strengthen freight conferences, providing rate stability for the benefit of both carriers and shippers.

3. Such agreements do not tend to increase freight rates but, on the contrary, as pointed out in a Justice Department study, it has been demonstrated by the Department of Justice itself that during the decade from 1965 to 1975, average ocean freight rates increased by only 3.4% per year in

the U.S./Brazil and Argentina trades as contrasted with an average 14.9% annual increase during the same period in the North Atlantic trades where such agreements did not exist.

These are proven facts, not theories; they were developed in actual competitive conditions, not in hypothetical models. We submit that they deserve the very close attention of the Congress and the Nation if we are to begin to remedy the problems which exist in our foreign commerce.

The utility of such agreements is not limited to our Latin American trades. On the contrary, we are seeking recognition by carriers in other major trades that, if they are to eliminate or reduce the problems in those trades, similar agreements must be adopted.

The bill further gives emphasis to the reciprocal needs and rights of both the carriers of the U.S. flag and of our trading partners—all of those trading partners—in the reciprocal trades with this country. There would be no discrimination against vessels flying the flag of any nation. Thus a pooling agreement which did not include carriers of the U.S. flag and of the reciprocal flag would not be subject to the implementation-prior-to-approval provision of the bill but would require, if the FMC deemed it necessary, a hearing before the commission prior to the implementation of the agreement. Again I say that this places the emphasis where it belongs, on the reciprocal rights of this country and its trading partners and their legitimate interests in promoting the trades of their nations, their exporters, importers and carriers.

We should now turn to a system under which a substantial part of regulation can be accomplished through commercial negotiation between carriers and shippers, and H.R. 10622 would provide great protection in this direction.

The U.S. now stands in splendid isolation from the real world of shipping. Our statutes invite destructive competition to U.S. flag liner shipping, and our "open arms" policy attempts to perpetuate the outdated *mare liberum* philosophy of grotius. It is time for reality. We are over-regulated yet under-protected. We need greater freedom to implement *commercial* solutions, but only governmental regulation can protect our shipping from predatory, politically motivated communist fleets.

There are other proposals which have been discussed on capitol hill which I believe deserve serious consideration. These include the adoption of closed conferences coupled with the legislation of shippers councils in order to provide a system of checks and balances.

Mr. Chairman, in conclusion I submit that several maritime bills introduced in the 95th Congress have considerable merit, and I respectfully suggest that the various bills proposing amendments to the 1916 Shipping Act, substantially complementary, should be considered as a whole bill—perhaps proposed as the 1978 Shipping Act.

Captain CLARK. I would like to make some further comments regarding H.R. 9998.

I fully subscribe to the preliminary statement of the chairman as well as the supporting memorandums which were attached to H.R. 9998 when it was originally submitted to the 95th Congress, 1st session.

In addition, with reference to some of the comments of my colleagues here on this panel, I would like to remind you in connection with the Panama Canal treaties, there is a very serious problem concerning possible Communist penetration, in various ways.

We have a report which appeared over a year ago by Mr. Philippe Poirier D'Orsay, noted French maritime authority, in which he stated that the U.S.S.R. had placed over 100 vessels under the Panamanian flag. While H.R. 9998 defines what is a controlled state-owned carrier, and presumably that would extend to chartered vessels and vessels owned abroad, and so on, there are various ways that a powerful nation such as the Soviet Union could exercise control over even friendly vessels. They could, through chartering maneuvers, economic

pressures, use these as, in effect, fighting ships, even though they file their rates here.

I think all of us are very much aware, through the previous testimony, the tariffs of the Soviet carriers themselves, the news media, the statements of yourself and other members of this committee, and members of the various Senate committees, of the predatory, politically-inspired operations of Communist carriers. These ships are used more than just to earn hard currency. They are politically motivated. They are espionage ships. They are even in the cruise trade.

We have two of them down in New Orleans. They certainly are not making money by commercial standards. They have driven out even the Norwegians and the Greeks and that is going some, Mr. Chairman.

Russian merchant marine personnel are interchangeable with naval and fishing-type personnel.

Now, just imagine if Panama allows for the Russians to have a commercial or say a fishing-type concession where they put some vessels in a base at either Christobel or Balboa later on? They have been very adept at this in places like Aden. They are negotiating with Spain for a base, at Algeciras in the Bay of Gilbralter. They have Cuba. They are trying to surround us. There is no doubt about their strategy.

As far as their rates are concerned, I would not go into that detail; it is not included in my testimony. It is well established and I am confident when the Chairman of the Federal Maritime Commission here testifies, that he will comment on their tariffs, filed by their own firms—Moram.

My line has already had experience with the Communists in the Caribbean. They have no hesitation in cutting rates. They just announced a new service with their operations to the Gulf from Europe, as cross traders, where they are going from the gulf ports on down to Central America, Honduras, and they are offering services there. With their giant shipbuilding program there is no doubt about it, they are going to be on every major trade route in the United States feeding on our trade, and not just for hard currency. They are politically motivated. They are attempting to take over the traffic, to decimate the ranks of American flag ships.

Mr. Chairman, just a few remarks.

We have quite a number of bills which are before this committee and before the Subcommittee on Merchant Marine in the Senate.

The bill, such as S. 2008, equivalent bill here, 9518—these are good bills, intended to stop rebating. We have the bill which is proposed by Congressman Breaux, here, H.R. 10622, and the corresponding Senate bill, S. 2386, to which I was testifying this morning.

There have been suggestions that there will be further legislation here to deal with the possibility of closed conferences and shippers' councils here.

Now, there is merit to all of these bills. I would respectfully suggest that this committee take under consideration putting all these bills together. They complement each other. They are all amendments to the 1916 Shipping Act and make one big strong package,

an "arsenal of weapons," to combat the ills that are facing this country's foreign commerce. Call it whatever you will; perhaps the Merchant Marine Act of 1978 might be appropriate.

I hope I am not being presumptive, but the fragmentation resulting from presenting one piece at a time appears to me could be made much more effective if all these bills, which are good bills—all of them have some degree of merit—could be placed together.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Captain Clark.

I know Mr. Hiltzheimer recommended amendments on runaway flag usage by the Soviets in the 100-ship incident. You pointed this out, and we will take under advisement his recommendations when we markup this legislation.

I might point out that we have reports that the Soviets are negotiating with Panama now for a major fishing port in that country, which may indicate one of their intentions in the Canal Zone. Not only in Panama, but also the Straits of Magellan, where they are very carefully trying to penetrate that area as well. So, this Hemisphere is not without questionable intrusions.

Mr. Hiltzheimer, what are the worldwide Soviet services which Sea-Land must compete with?

Mr. HILTZHEIMER. Mr. Chairman, every major service that Sea-Land is engaged in today, including the Far East to United States, North Europe to United States, North Europe to the gulf, Europe, to Persian Gulf, Far East-Persian Gulf, every trade where we are involved, we are competing with a segment of the Eastern Bloc countries or the Soviet liner fleet itself.

I know that they are also involved in the United States to Australia trade, which one of our American carriers, one or two of them are involved in, so I believe that—and only speaking for our company accurately, that it could be said that you would have a similar situation report by any U.S. carrier that just about everywhere they operate in U.S. foreign trades, perhaps with the exception of Delta Lines to South America. I am not sure that the Russians are in there yet.

Captain CLARK. We expect them, Charlie.

Mr. HILTZHEIMER. I would like to comment, if I may, about Captain Clark's recommendation that this committee consider action all encompassed within one policy and while I certainly agree that the principle has merit, I would like to use the analogy that the identified problem here is like a patient who has cancer of the brain. I am not sure that anything is going to be a better substitute than a brain surgeon who can get in and get at the problem.

I would not want a general practitioner if I were the patient. I think that if we had time or—and we do not have time—but if legislation were eminent, that would be all encompassing, to treat the many areas of the existing U.S. obsolete policy, and we can get this in, I would not disagree with that.

But to delay action against what has been identified here today as a real serious problem facing U.S. foreign commerce and the carriers would be a mistake. I would not recommend anything that would delay action that gets to the heart of this problem decisively.

Thank you.

The CHAIRMAN. We are studying an omnibus approach, Captain Clark and, after some experience the committee had last year, we found there is not overwhelming support for merchant marine legislation. A problem we had during an authorization bill last year should be a reminder to the people in this industry that there are opponents in significant numbers that we have to contend with.

We have that same problem this year on our authorization bill. We hope to complete work on this legislation as early as next month and move forward with our task force report as to what overall changes we can recommend to the Congress.

But, this committee is not taking a piecemeal approach, although it might seem that way to some observers.

Captain CLARK. Mr. Chairman, may I respond to that?

The CHAIRMAN. Surely.

Captain CLARK. As an example, the Breaux bill, H.R. 10622, this could be extremely useful in combating Communist penetration on the essential trade routes. This approach is basically a reciprocal type approach with provisions for third-flag carriers to participate.

But with the substantial carriage on the part of the national flag lines of the country of origin and destination, this in effect would place the Communist group in the small third-flag box for participation and I would like to ask respectfully that such a type of approach be considered in putting together this type of a bill. I think we need more than one approach.

I am concerned that the State Department and the Executive might see fit to weigh certain aspects of these bills for, let us call it, political expediency. We have had that trouble before, as I am sure the chairman recalls. The more that we get together where all of us can support, rather than one particular bill, there, and so on, the better off we are all going to be. I think we can muster, all of us get together and muster the forces and do all that we have to for one piece of the legislation. The fragmentation worries me.

The CHAIRMAN. As far as those services are concerned, Mr. Hiltzheimer, what about container service versus dry freight, versus roll on/roll off and a mix?

Can you comment on the Soviets' abilities?

Mr. HILTZHEIMER. Well, the Soviets first gained entrance to the U.S. ports when the Commerce Department opened the ports under the grain agreement in 1972. Their initial service was to a few major U.S. ports, not to the full port range and it was primarily what we call break bulk or general cargo vessel service.

Within a year or so, they introduced semicontainer ships, which is a combination of a general cargo ship and some containers, usually carried on deck. Very shortly thereafter, they introduced small or medium-sized pure container ships and began to move from the base ports like New York-Rotterdam to many other ports up and down the east coast until today, some 5 years after they commenced service in U.S. foreign trade on general cargo, they have substantial numbers of medium-sized container ships with service to just about every area involving U.S. foreign commerce, good frequency, reasonable transit and the price is whatever the price has to be to get the cargo.

If they can get the cargo without substantially reducing the price, obviously they would. But there are many instances where they use the pricing technique quite effectively to enlarge their share of the market.

The CHAIRMAN. Anybody on the panel can respond to this next question.

What success, if any, have Holland, Japan, and other countries had that have laws that are aimed at limiting Soviet penetration?

Have they been successful?

Mr. HILTZHEIMER. I would like to respond to that if I may and then anybody else may have something to add.

I think there is an important point here to be recognized. It is true that Japan in the last year or two has passed a statute and I believe that Holland has also and I believe it would be accurate to report that at least from my information there has been no significant utilization of those laws that have been passed against any carriers.

I think the important thing to recognize here—and this is from my own personal relationship with Europeans and Japanese ship-owners and government officials—they are looking to the United States for leadership. They are anxious to do something but they want us to take the lead.

I do not think we are going to see movements on the part of other nations to take action against the Russians until they see movement by the United States. I think the Russians are convinced that we do not have the resolve in this country to take reasonable precautionary measures to stop them from what they are doing. So it is very important, I believe, that we recognize that and be prepared to do what this bill expects to achieve. One further point is that this bill does really arm an independent regulatory agency of our Government, the FMC, to do what it is mandated to do. It would not limit the introduction of new or added tonnage in the trade. There are those who would argue that we are trying to legislate protection and stifle competition. That is not so. It does not limit the introduction of new or added tonnage. It in no way mandates a reduction of capacity in U.S. trades. It simply places a responsibility upon those who would come into our trade to act in a reasonable way so that we do not have disruption.

Thank you.

The CHAIRMAN. Mr. Bart?

Mr. BART. To that I would add that the preponderance of world trade is between the United States and various other countries of the world. It behooves us therefore to take the lead, as Mr. Hiltzheimer suggests.

The CHAIRMAN. Mr. Keely?

Mr. KEELY. Well, Mr. Bart just made the point that I was going to make.

I think it is a very important point that, while countries such as Holland, Japan, West Germany, are major trading nations, I think if you look at the areas that the Soviets have zeroed in on as far as service is concerned, they have all concentrated to a greater or lesser extent into the United States.

You asked about their vessels a while ago.

I think it is interesting to note, one of the type of ships that they put in on the North Europe run was a roll-on/roll-off ship that had capability of carrying war machinery as well as commercial-type cargo.

Go back a few months and look at their schedules—they come out of Leningrad, certainly out of that area, in any event, via Cuba, discharged and then come up to the east coast of the United States, top off and go back to Europe.

I think maybe to emphasize one of the points that Captain Clark made, these ships are not purely commercially oriented ships.

One other little story that goes along with this has to do from Europe to the Middle East.

When the Middle East trade opened up, it was a roll-on/roll-off trade to a large extent because of the lack of facilities and so on and they introduced—I forget the number; maybe 25, 30 roll-on/roll-off type ships that just so happened to be the correct size for loading, discharging tank equipment and really heavy war machinery.

I think this is one of the very important factors, in addition to the economic points that have been made, that must be taken into consideration as we watch the Soviets expand their activity on the high seas.

The CHAIRMAN. Mr. Mayer?

Mr. MAYER. Following along the lines of Mr. Keely's just concluded remarks and Captain Clark, concerning the real objectives of the Soviet fleet, I would like to insert here two quotations from something I know you already have but I think it is of interest to mention here, from the October 27 briefing of the committee.

One of the quotas says:

Despite the Kremlin's claim that the main task of their merchant marine is to serve the demands of their coastal and international trade, their commercial fleet is operating as a naval auxiliary.

The second quote, which seems to get even closer to home, is this one:

Commercial ships provide logistic support for the Red Navy worldwide and participate in large-scale naval exercises. Exercise OKEAN, in March and April, 1975, involved four Soviet fleets with eight task forces deployed, and committed over 200 surface units, three-fourths of which were non-combatant.

As to the comment about our being looked to for leadership, there is another pertinent quotation by Christian Von Sydow, Chairman of the Brostom Shipping Co. of Sweden, in addressing an American Bar Association Conference on water transportation in Washington, D.C. He called for a conference of Western maritime powers to reconcile the sharp differences in United States and European shipping ideologies.

Then he went on to conclude “—and to form a solid front against Communist bloc competition.” (N.Y. Journal of Commerce.)

The same paper reported that the European community is now examining ways of dealing with the Soviet menace and the significant part is this: “The British representatives are also relieved that U.S. authorities now seem fully aware of the threat.”

The CHAIRMAN. Captain Clark?

Captain CLARK. Mr. Chairman, gentlemen, I certainly second what my colleagues stated about the—this threat. I would like to add another concern that I have that I forgot to mention before.

Within the bill there is a statement that this would not apply to nations who have most-favored-nation treatment with the United States. Some naive people are favoring most-favored-nation treatment with the Soviet Union and the satellite states.

What would happen if you passed this legislation and then that happened? Some people are filled with such a fantastic greed that they would do business with the Soviet Union despite the national security interests of this country. It is a matter of grave concern.

You and I have shared the dais before and we have talked about this subject. I know you feel the same way. I was on the same platform with Mr. Christian Von Sydow when he addressed the Federal Bar Association last week. I was also a speaker, and I recall his statement that Mr. Mayer referred to.

They are looking to the United States for leadership. I read a lot of magazines, and one of them is International Transport Journal, which is published in Geneva, and they frequently make statements, either editorial or attributed to other maritime leaders in Europe, that they are looking to this country for leadership in this field. They are worried about the Soviet advances.

Now, Mr. Chairman, you probably have considered this and I am sure counsel has, before the committee, but in section 18(b)(5) of the 1916 act, there is a provision that comes very close to this bill already, except for two words. It says "after hearing."

Now, if those two words could be deleted, I think we would have one giant step forward. I would like to refresh your mind that this reads,

The Commission shall disapprove any rate or charge filed by a common carrier by water in the foreign commerce of the United States or conference of carriers which, after hearing, it finds to be so unreasonably high or low as to be detrimental to the commerce of the United States.

Now, perhaps that section, too, should be considered when you give this bill its final markup.

Thank you, Mr. Chairman.

The CHAIRMAN. The statement is often made that the Soviets are ratecutting primarily on high-rated cargo.

Do we have any evidence to support that?

Captain CLARK. Mr. Chairman, several of us have made some studies about the type of service that the Soviets do. They pass up the low-rated cargoes and they tackle the high-rated cargoes and there they cut the rates. They want the cream. They skim the cream off the top. These are the apparent tactics they are doing.

You do not find them taking these low-rated cargoes very much.

The CHAIRMAN. Mr. Bart?

Mr. BART. Mr. Chairman, one of the major movers from the United States westbound in the Pacific is cotton. We all—all steamship companies moving westbound from the United States depend on the enormous volume of cotton that moves from our Southern and our Western States. The Soviets have consistently been moving this cotton at about 25-percent lower rate than those that we charge

in the conference. Although cotton is not the highest valued cargo in the world, it is extremely essential as a cargo which moves our equipment, container equipment, out to the areas where the large cargo markets are eastbound. So therefore even though it is not a high-valued cargo, it is an equipment mover. It is a back-haul cargo, if you will. It is extremely important to all of us in the free world.

Mr. KEELY. Mr. Chairman, we have listed several commodities, but just to perhaps select a couple to demonstrate this skimming technique, clothing moves from Savannah to Europe—various ports in Europe. The conference has \$115.25 weight of measurement, but Baltatlantic saw fit to establish a rate of \$59 measurement, an effective cut of 49 percent.

Coin-operated machines and juke boxes, these have taken hold in Europe; it is a very heavy mover now, has been for the past year; the conference rate is \$74.75, but Baltatlantic Line has established a rate of \$30. That is not only an effective 60-percent cut off the rate, but once you set a minimum on a container, many times—and I am not—this is not necessarily an accusation, but unless it is policed, that minimum can be translated into a lump-sum-type quotation.

If it is not policed, it very often happens that it becomes just that; it comes out to be a box rate. There are many more if you would like me to elaborate: tractors, roadmaking equipment; they are 22 percent lower than ours; machinery, NOS, 20 percent lower; wood pulp, which is a cheap commodity, 19 percent lower than the conference, but it is a volume move, so it is good filler cargo.

In selecting these cargoes they're not only skimming the high-priced cargoes, but you will find in order to fill their ships, they will go after some of the major volume moves too.

The CHAIRMAN. Mr. Hiltzheimer?

Mr. HILTZHEIMER. I was in the northwest when the Soviets first started servicing the Pacific from Japan to the west coast and, as I recall, they had very infrequent service and only break bulk general cargo capability when they first began. They even reduced rates significantly on such things as pipe and the machinery, articles that normally would move in general cargo ships.

Then as they began to improve their service frequency with the addition of ships, and their service improved, and their ships filled up with this cargo, they began obviously to be more selective. They brought the rates up on some of the cargo they thought that they could continue to handle and they used the pricing technique of reducing rates on those cargoes that they had not yet secured. Then they introduced container ships and in the early years, when their service was not as frequent as American, Japanese, and third-flag competition in the Pacific, they used the pricing technique to break into the higher rate container commodities. So this is not an unusual trend for any independent carrier. The problem is that they are so powerful and so dedicated and have introduced so many ships that—to take the trend and extend it for the next decade you could make a pretty good case that only the strongest financial companies, representing various nations, have a chance of surviving against that kind of predatory tactic.

The CHAIRMAN. I am going to ask Mr. Metcalfe to chair the hearings for the next period.

[Whereupon, Mr. Metcalfe assumed the chair.]

Mr. METCALFE. You may proceed.

Mr. KEELY. Mr. Chairman, another example of how the Soviets, so-called commercial service has attempted to expand into our markets and not only with the direct-base port-type business, but they have also entered into the mini-land-bridge segment of our trade.

It would appear that they did not hesitate at all to take advantage of not only our laws, but use of a free access policy within the country to do business with most any transportation entity that it sees fit, railroads, trucks, and so forth.

A particular example would be their mini-land-bridge and we were just discussing the skimming techniques. One example of skimming in the mini-land-bridge trade, from the west coast to Europe, is canned fruit cocktail, which is a rather popular item in Western Europe. Balt-Gulf Line—which is a reasonably new line that inaugurated service from the gulf into Northern Europe, have established a mini-land-bridge rate on fruit cocktail from the west coast over the gulf coast which is less than two-thirds the applicable all-water route from the Pacific coast to Europe.

I think this is another classic example of not only their willingness to break into trades, and a rate, but introduce themselves into practically all facets of the intermodal transportation schemes that we have been working on in this country for the last 10 or 15 years.

Mr. METCALFE. Thank you, Mr. Keely.

Let me ask the panel the next question.

There is evidence that they tend to establish rates at levels which will attract cargoes to fill their ships. Once they are established in the trade, they tend to moderate their excessive rate cutting.

What is your comment on this?

Anyone wish to volunteer?

Mr. HILTZHEIMER. Well, Mr. Chairman, I would agree with that statement. I think that while we can make a case, the evidence is sufficient that they are not bound by return on investment or profit criteria, as are we; that nevertheless, once their ships become full and they have a substantial rate differential, if they feel that they can continue to carry that cargo by raising the rates, they would be foolish not to do so.

A good example is that when the conference, say the conferences in the Pacific trade enact, for example, a 10-percent rate increase, it is not unusual for FESCO, the Soviet line, to take their rates up 10 percent, still maintaining the 10- or 12-percent differential overall beneath the conference level.

So I would agree that they do this but it would be foolish for them to maintain a rate lower than what they need to maintain to hold the business.

Mr. METCALFE. Mr. Hiltzheimer, I would like to have you stay and answer a question I have—because I think it relates to a statement that you made in answer to the previous question.

It is often said that the Russians are not profit minded and can operate at any cost level. If this is so, what evidence do you have to support this view?

Mr. HILTZHEIMER. Well, sir, I think in the first place we have the judgment of European, Japanese, and American shipowners who survive on the premise that we know what costs are; we know what costs of ships are, the cost to operate them, the cost of the various segments of expense connected with our business. We know that some commodities, that are very low rated and priced very low by the Soviets, could not meet the minimum expense level to operate the service. We have reference to statements which have been submitted for the record that they do not have to make a profit; that it is a heavily subsidized politically mandated policy by a nation whose objective apparently is to have a dynamic merchant marine at some future date. Perhaps the largest and most powerful in the world.

This seems to be the path that they are following and I think it is fair to state that on the overall basis, some of their pricing tactics could not have resulted in a profit by European, Japanese, or American standards.

Now, it is true that they have probably manipulated the cost of their ships because they build them in Communist yards, sometimes satellite countries, and they may force that country to build a ship at a loss. So that they enjoy a lower ship cost.

We know that their seamen's wages are 25 percent of Western standards, only one-quarter of what we pay, so that in fact they do have some cost advantages which they have a right to do, as any nation would.

But I believe it could be stated that while they may wish to make a profit, it is not in the same order of priority with respect to the capitalistic system of West Germany, United Kingdom, Japan, and the United States.

Mr. KYROS. Mr. Hiltzheimer, on that point, however, if we look at the bill carefully, is not it going to be an enormous task for the Federal Maritime Commission to try to get comparable compensatory cost?

Is not that one of the problems with writing this kind of a bill?

Mr. HILTZHEIMER. Yes, I think it is potentially a problem any time that you place the full burden upon a regulatory agency such as FMC, to prove that a rate is compensatory or not. This is especially so in the case of the Soviets or Eastern bloc nations where you do not have access nor are you likely to get access to accurate information.

Mr. KYROS. From the Soviets?

Mr. HILTZHEIMER. From the Soviets.

Mr. KYROS. Let me give you an even worse problem.

We are talking about some North Atlantic trades in which there are national traders, someone trading with us from the European nations. However, there are foreign flags and, if we want to compare a Soviet-flag carrier costs with them, we might not be able to get data from the other foreign flag.

Do you understand?

Mr. HILTZHEIMER. Yes, I do understand; but I think the issue here is whether or not the United States, with its open trade and open access policy, is going to invite powerful governments to enter our trades, dump their tonnage in our trades with a calculated takeover philosophy, using disruptive techniques of pricing. I think that is the issue. I do not expect the Congress to necessarily close the U.S. trade to all commerce. But I do question letting the foreigner have it both ways and then letting the U.S. carriers sit here and have the worst of both situations.

Mr. KYROS. Well, the bill is perfectly clear; and it is presumably to meet the issue. Nevertheless, there has to be a fair, working machinery in order to achieve that purpose.

Again, I cited to you the problem I see as partly the difficulty of the FMC, sometimes in painting comparable cost data to which to lay aside some state controlled carrier that it wants to compare, particularly when the cost of it might well be available, should come from some foreign-flag carrier.

Now, we have had enough trouble during the malpractice hearings. That is a problem that we will have to address because you have to have a workable bill here. We are not trying to drive anybody off the oceans. The idea is to make everyone compete on a commercial basis and I see that as the problem.

Mr. METCALFE. Mr. Mayer?

Mr. MAYER. Is not the question that counsel just asked anticipated to some degree in section 4(2) of the act, where it states: "For the purpose of this subsection, in determining whether rates, fares, charges, or classifications by a controlled carrier are below a level which is just and reasonable, the Commission may take into account appropriate factors, including but not limited to, whether the rates, fares, charges, or classifications are below a level which is (1) fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs, which are hereby defined as the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade; assessed by other carriers in the same trade," and so forth.

It seems to me that the insertion of the tool of the alternative constructive costs, as defined in this draft, is at least some aid in that direction.

Mr. KYROS. But the issue is if the cost of the other carrier, that is, a foreign-flag carrier, whose records may be inaccessible, that is a problem. That is a problem that we will have to deal with.

The FMC has to be given some kind of guidelines in a workable form that otherwise they will throw their hands up in the air.

Captain Clark referred to section 18(b)(5) in the Shipping Act, 1916, which provides that the FMC shall disapprove rates found to be so unreasonably high or low as to be detrimental to commerce of the United States.

Well, the legislative history has shown that the FMC has not been successful in using that statute. The Congress must write specific guidelines for the FMC so there will be no way for any carrier to take undue rate advantage on the high seas. That is what we are addressing, Mr. Mayer, how best to tie it down. We are not arguing

here. We are looking for the best possible method for the FMC to have workable guidelines.

Mr. MAYER. Neither do I argue the point. However, might we not at least hope, that the other carriers described in this section for procuring construction costs, will also be suffering from the rate cutting and thus might be happy to cooperate with FMC in furnishing his costs?

I do not say that that is a certainty, but it seems to me a very good likelihood.

Mr. METCALFE. Mr. Bart, did you wish to make a contribution?

Mr. BART. It would seem to me that within the body of FMC there is the machinery already to examine rates. When you look at the various tariffs in the numerous trades to and from the United States, there are not that great number of rates that would preclude a greatly—number of rates that would preclude periodic reviews and, indeed, in those reviews, things like the following would become quite apparent:

The Soviets carry Tampax—or should I just use the term “sanitary napkins”—on mini-land-bridge for \$1,500 per 40-foot container. They discharge them at Yokohama and they absorb the cost, the drayage cost to either Tokyo or either Nagoya—and the litany runs something like this:

At Nagoya, the through freight, as I said, is \$1,500. The rail division going across the United States is about \$1,000. The drayage from Nagoya to Yokohama is about \$336, or roughly the cost is about \$1,336, leaving a net of \$146, a ridiculous thing, because we are not even talking about stevedoring, capital costs, or the money cost involved in running a line.

We are not talking about fuel. To Tokyo we still have the \$1,000 rail division across the state but the drayage is only \$180, so the net there is \$320. But no mention here is made of stevedoring, associated costs.

A review of rates like this, it would seem to me, would immediately expose the inadequacy and inappropriateness of the rates involved.

Mr. METCALFE. Captain Clark?

Captain CLARKE. Mr. Chairman, section 4 of the bill, I believe, is intended to take care of these considerations, the question that you have raised. The burden of proof is on the control carrier submitting or filing the lower rate, language such as when the Federal Maritime Commission has reason to believe that these rates are too low.

What the bill needs is a trigger. I think one of the problems in the past is that there has been no mechanism, no ready mechanism for the FMC to take action.

If the bill were to include a provision for a complaint by other carriers, which would activate FMC machinery to put this into effect, leading to a suspension of the offending controlled, state-controlled carriers' low rates in its predatory ways, I think that would indeed be very helpful. We need a trigger.

Mr. KYROS. Well, of course, Mr. Clark, the bill does provide that the Commission, upon petition or upon its own motion, may at any time disapprove rates which the controlled carrier has failed to prove

to be just as reasonable. But the problem about having any carrier object is whether you would limit it directly to those carriers that are in direct competition or would you permit any carrier in any trade to object?

Captain CLARK. Counsel, I would leave that open to the discretion of the committee, of course; but I believe that it would be appropriate that any concerned carrier—because with the proliferation of Communist service worldwide, they are going to be on every route in the not-too-distant future. That is their plan. They are implementing it now. They are taking one trade route at a time.

They are advancing on it in every direction.

Mr. KYROS. In the north-south trades that you are involved in now, have you had any Soviet competition?

Captain CLARK. Yes, sir.

We have Communist competition from the gulf to the Caribbean; the Communists are already very active between Europe and west Africa, between Europe and the east coast to South America.

Mr. KYROS. In competition with your shipping line?

Captain CLARK. Indirectly, yes, sir. They are in competition with the suppliers of our manufactured articles, and if they place our exporters at a disadvantage, then that reduces the volume in the trade; and we can have the finest ships in the world, but if we do not have a volume of cargo, we are out of business just like our manufacturers are.

We already have a big balance-of-payments deficit.

Mr. KYROS. Which conference are you in in which the Soviets are in direct competition?

Captain CLARK. They are not in any conference.

Mr. KYROS. No. Which conference are you in in which the Soviets are in direct competition?

Captain CLARK. We are in the Inter-American Freight Conferences.

Mr. KYROS. Do the Soviets operate parallel to that?

Captain CLARK. No, they are running from Europe to South America. They are cutting rates; they are actually making agreements with some of these countries but, in effect, by what they are doing, just like what they are doing from Europe to Africa, they are placing American manufacturers and producers at a disadvantage competing for the foreign markets. Now, that is indirect competition.

Mr. KYROS. You mean because they carry European goods equal distances for cheaper rates?

Captain CLARK. Yes, sir.

Mr. KYROS. Well, then, of course, some percentage of American shippers are also shipping on Soviet ships outbound; is that correct?

Captain CLARK. That is true.

Unfortunately, American shippers look after the dollar and some of them are not too concerned who carries their cargo as long as they get the cheapest rate.

Mr. KYROS. In fact, there are thousands of them, because I received a compilation by a company which lists the shippers who shipped in Soviet vessels. They are expanding on every route, and

unless we have some way to contain them, they will be on every essential trade route.

Captain CLARK. We anticipate that they will be in our trade route from the United States to the east coast to South America, the west coast to South America, to Africa; they are coming in every direction.

Mr. KYROS. Are they in any of your trades, the delta trade, a bilateral trade to Brazil and South America?

Captain CLARK. Not yet. But they could under the present statute and we could not keep them out.

Mr. METCALFE. Mr. Mayer, I would like to get your reaction to the question that was posed by Mr. Kyros.

Do you concur with what Captain Clark said a moment ago?

Mr. MAYER. You mean do I concur with Captain Clark's view?

Mr. METCALFE. Yes. What has been your experience with the States Steamship Co.

Mr. MAYER. Well, our experience parallels that described by Mr. Hiltzheimer earlier, where when we opened the ports of the United States to Russian vessels, commencing in the very early 1970's, 1972, the first thing that we saw was a few conventional break bulk vessels into Seattle. Nobody paid a great deal of attention to it.

Then they entered next, I believe—I mean they entered first with the conventional ship, then the partial container ship. They called the Japan-only trade. Then they put in full container ships and called at a few more ports and now they are in the full range just like we are in the Far Eastern trade from the Pacific coast ports of the United States. In other words, actually, as both Mr. Bart and Captain Clark have said, it is an orderly, forward march to ultimately being on every trade route with as much tonnage as they can possibly get.

Mr. METCALFE. Thank you very much.

Mr. MAYER. I have one other comment, if I may, Mr. Chairman

Mr. METCALFE. Proceed.

Mr. MAYER. I do not want to belabor the subject of the colloquy between Mr. Kyros and me, but it is interesting concerning the defects in this bill, that I did have a few paragraphs in my statement on that very subject.

Those of us who have been coming back here for many years dealing with legislative efforts and particularly those of you in this room who are on the committee, who are experts in it and deal with it every day, are aware that one of the most deadly forms of opposition is to plead delay because of some kind of imperfection in the draft of the proposed legislation.

We anticipated that last time, as a matter of fact, two times ago. And I will quote now from my own testimony before this committee on this subject on July 22, 1975. I said:

We have heard reports of some in our own government and elsewhere who find fault with some of the mechanics of the bill. Our reply to this is that certainly this Committee and the Congress must strive to bring forth the most orderly legislation possible, and avoid enacting unworkable laws. However, in this case, we are faced with an emergency gravely affecting our national interest. Therefore, the main objective is to get the law on the books.

Many of our statutes are found to require amendment after initial enactment. We can do that in this case if the need is found at a later date. We must strive for perfection, but not miss the tide in the bargain.

It was 3 years ago that that comment was made, and we have had a couple of drafts since. We have tried to accommodate the views of almost all the objectors and we now have a bill which I think most people think is workable and we sincerely hope the committee can find it possible to give it a do pass recommendation.

Mr. METCALFE. Thank you very much.

Mr. Bart?

Mr. BART. Thank you, Mr. Chairman.

Reiterating, the pattern that the Russian lines have followed in the Pacific is orderly and it is deadly for the free-enterprise system.

I would like to reiterate something I said previously, but because I was nervous, I may not have said it properly, and that is this:

No. 1, they have underway perhaps the world's most massive ship-building program and that even now they are only carrying something like 6 percent of the Pacific trade. Right now, they have already established in this country a very fine marketing organization headed by one of America's best steamship men, Arthur Novacek.

With the onslaught of their tonnage, with this fine marketing organization, I believe our corporation believes that 1977 and 1978 and 1979 is only the embryonic period. While they continue to build themselves up in the Pacific, to become a great seagoing power in this cross trading, they will, because of their rate cutting and their unethical practices, snuff the rest of us out gradually. And this—we see this coming and we think that now is the time that we must act.

Mr. KYROS. Do you have any specific—figures on the numbers of TEU's that the Soviets will have completed by 1978, 1980, and 1985?

Mr. BART. I do not have them with me, but I will be very glad to mail them back as soon as I return to California.

Mr. KYROS. And it is your judgment, whether they are roll-on/roll-off or full containers, or part containers, that these vessels will be more than enough to disrupt our trade in the Atlantic and Pacific pass if the current trends of Soviet growth continues?

Mr. BART. Yes, I do.

However, I would refer the committee to the report of Mrs. Susan Oetting, which is in the CIBF 10-27-77. They have excellent background material.

Mr. KYROS. Well, where did that come from?

Mr. BART. Where did—where did the report come from?

Mr. KYROS. Yes.

Mr. BART. The report was made as a brief to this committee. I will do my best to come up with figures of this nature and submit them.

Mr. METCALFE. I would like to ask of the panel, what is your feeling as to whether or not you believe the Russians should become conference members, and assuming that it is the feeling of the panel that they should be, what is the best way to induce them to do so, if you answer in the affirmative to the question?

Mr. Keely, would you like to take a try at it?

Mr. KEELY. Well, obviously from a line that is principally conference minded and, incidentally, for the record, U.S. lines serves the North Atlantic trades from Boston as far south as Jacksonville.

We also serve what we refer to as the tricontinent service which encompasses the east coast, Panama to the west coast on out to Hawaii, Guam, then the Far East. Of course, the Russians are not engaged, at least yet, in the domestic trades of this country.

We belong to approximately 28 different conferences covering those two trade routes.

From our point of view, it would obviously be to the U.S. merchant marine's advantage for them to be in the conference. As a matter of fact, it would lend tremendous stability to the trades in general in which they are engaged if they were a member.

Mr. Bart and I were talking last evening about this point. In the Pacific, he indicated they have been talking to the Russians regarding conference membership for about 3 years without very much success. I suppose there has been dialog going on in the North Atlantic, trying to induce them to join the conference or other agreements that would provide some stability in that trade since they have been in the North Atlantic trade. To date, it has been all talk with virtually no action as far as their joining. If they were in the conference and if they could conduct themselves in a—let us say what I would like to refer to as a legitimate, conference-type carrier, that employs economic cost judgment in establishing rates and services, we would not be competing with predatory-type rate skimming practices.

We could live with them outside the conference, I suppose, if they would conduct themselves along sound cost oriented lines as we understand. But you certainly cannot live alongside of them with their ability to cut 25, 30, 50 percent and perhaps even more importantly do it very rapidly.

We cited the cases of the buses this morning. The way something like that could happen is, the forwarder calls you up and he says how much is your rate on buses, and you tell him it is \$6,000 a bus. He calls Balt-Atlantic up or Balt-Gulf, gets the quote from the Russians on the buses and he can immediately quote \$2,000 or \$3,000, whatever he would like to pull out of the hat.

There is no way without stability in this ratemaking scene that you can hope to survive in it.

Mr. KYROS. Do you think the present legislation would induce the Soviets to enter the conferences?

Mr. KEELY. I think it would be a big step forward in that direction. I think it would be a major step forward to induce them to consider the conference. They may not want to join conferences for a variety of other reasons. It is pretty difficult to figure out exactly what is in the back of their minds, but I can see that if this legislation was passed, there would be less advantage for them to be out of the conference system than there is now.

Mr. KYROS. Would that then open it up for some Western independent carrier to cut rates and enter the trade?

After all, although they do it for a shorter time than the Soviets do it. They also cut rates to enter a trade.

Mr. KEELY. You mean a foreign-flag line that would enter one of these trade routes?

Mr. KYROS. Precisely, a noncontrolled independent carrier.

Mr. KEELY. Right, and they do. Frankly, if it is a well-run and well-serviced line, I mean a line that provides a good service, in my opinion there is certainly room in these various trades for a responsible and I underscore that word very heavily, there is probably room for a nonconference type carrier.

Generally speaking, you find a nonconference carrier breaking into one of the major trade routes probably has a service deficiency as compared to the conference of carriers. He has to make his way in it, but as long as he is prudent in the approach, and not destructive, then we will compete with somewhat higher rates, but from a service aspect.

The conference of carriers in most of these trade routes cover a variety of ports, a very comprehensive span of the trade and therefore as a general rule, a single outsider is not going to be able to be a full-service carrier. There are some exceptions of course.

Mr. METCALFE. Mr. Mayer, the Soviet liner fleet in the U.S. trades is still made up primarily of smaller, older type semicontainer ships, although they now operate seven container ships and four roll-off/roll-on in our trades. Many of these vessels have a lower TEU capacity than their competitors.

What evidence is there to support the contention that they operate more modern and technologically advanced ships than their competitors?

That is a factual statement.

Mr. MAYER. Do I understand your question to be what validity is there to the claim?

Mr. METCALFE. I just want to make certain, according to the facts and figures and contentions what type of vessels they operate. It is said that they operated more modern and technologically advanced ships than their competitors.

Is that true or not?

Mr. MAYER. Well, I believe that the vessels now coming off the line, and the latest of them coming into the trades, probably are as modern and as technologically advanced as are those of other full-container operators.

Our company does not operate full-container ships and this is what Russia is tending toward, so possibly your question might be more logically directed to someone else on the panel who operates full-container ships exclusively.

Mr. KYROS. What is your answer; yes or no?

On the line now, do they or do they not have modern technological ships that are comparable to their competitors?

Mr. MAYER. I'd say they are. Certainly. The technology of the container ship is available to the entire world.

Mr. KYROS. What they have on the line now?

Mr. MAYER. Yes.

Mr. KYROS. Is not that one of the issues that they would come in the North Atlantic in the A/AA conference? That their ships were inferior and they would come in at a rate level of 10 or 15 percent?

Mr. MAYER. That is what they are claiming. I think the question is better directed at someone who operates full-container ships because we do not.

Mr. METCALFE. Mr. Keely?

Mr. KEELY. I think the A/AA question goes back a couple years, and I think you heard Mr. Hiltzheimer say earlier that in the beginning—the early seventies—they operated strictly break bulk ships mainly oriented toward grain vessels. Then they moved combination break bulk container ships, then to my knowledge they moved into the roll-on and roll-off ships.

I gave as an example, they're coming out of North Europe via Cuba, to top off on the east coast, and then back. They are now operating modern container ships in the trade, although they're somewhat smaller than maybe some of the rest of the carriers.

However, to my understanding, the quality of these ships, is good, because they're all relatively new; the size will be increasing.

So, therefore, certainly in the Atlantic, they have as good tonnage as we do and probably better than most.

Mr. Chairman, may I revert back to your question a little bit earlier when you asked, I believe where their tonnage stands at present, vis-a-vis let us say a few years in the past.

I would like to quote out of a U.S. Department of Commerce publication dated August 1977, the pamphlet was from the Maritime Administration office of Policy and Plans Division, Special Studies.

I would just like to quote a couple of paragraphs out of here in page 3 of that publication under the Executive summary item.

Between 1965 and 1975, the Soviet merchant fleet increased in size from 990 vessels of 8 million deadweight tons to 1,655 vessels of 15.4 million deadweight tons.

Mr. KYROS. What page was that again?

Mr. KEELY. This is on page 3 of this publication. The third item in that paragraph, or third paragraph in that item is that the Soviet merchant marine is projected to be 1,717 vessels of 18.4 million deadweight tons in 1980 and 1,812 vessels of 23 million deadweight tons by 1985.

The intermodal fleet in 1975 consisted of 30 vessels totaling nearly 158,000 deadweight, with a 81 forecast of 54 vessels totaling 566,000 deadweight and a 1986 of 94 vessels totaling \$1.2 million.

I think by any stretch of the imagination, the points that have been made by our colleagues here and really emphasized by Captain Clark, Mr. Bart, Mr. Mayer, is the fact that with this proliferation of shipbuilding that they have going on, there is no question in, certainly, any of our minds, that for those four corners of the world that they happen not to be in now they are certainly going to be there with this proliferation of tonnage in the next few years.

This publication should be reviewed. They write about their roll-on/roll-off capacity and other technological advanced ships which I think is certainly germane to this hearing as it might pertain to curtailing if you will, such merchant might.

Mr. KYROS. That document, Mr. Keely, has already been presented to the committee.

Mr. METCALFE. Thank you very much.

Mr. Mayer, the Congress will be going into session very soon. I have one final question, but I assume you have something you would like to make?

Mr. MAYER. I have a very brief comment about advanced technology of ships.

I spent 15 years working for Todd Shipyards Corp. and I hasten to add that I am not a naval architect nor a naval engineer, but during that period of time one does become exposed to a certain amount of the state of the art. I do not think there are any secrets in shipbuilding technology in the world except possibly some of the more sophisticated and more recent weaponry.

But as far as a merchant ship is concerned, it is a wheelbarrow and you can have certain advances.

As a matter of fact, you may recall that it was in 1970 when we eliminated certain items from ODS. We did it on the basis of our having this advanced technology, of our having been early with the container ship, that is all it was, and they caught up with us in about "15 minutes." I am using a figure of speech, of course. But there just is not any such thing as advanced technology not ultimately available to all.

They have access to all of the designs that we have concerning container ships, certainly there is nothing new in propulsion, very little at least, nothing radical. A bigger ship is what everybody is after, a bigger unit within certain limits.

I do not think that the comparative technology, except to the extent that one nation might be behind in their composition of their fleet is a significant thing. I think Russia has caught up on that, except to the extent that their vessels continue to be somewhat smaller than other nations.

Mr. METCALFE. I have to gather from that, Mr. Mayer, that Russia, having increased their total tonnage as well as their vessels, that it is a matter of any country including the United States doing the same thing.

If it is at all possible, because they're certainly moving rapidly, to become the number one nation in the world in merchant marine?

Mr. MAYER. Yes, sir, I agree, Mr. Chairman.

Mr. METCALFE. I would like to summarize—I mean conclude by asking this one comment from you gentlemen.

Actually, it does not require an assent by a nodding of the head, but whether or not you would be willing to cooperate with FMC in terms of making cost data available if FMC requested it. Would you be willing to do that, all of you?

Mr. KEELY. Yes.

Captain CLARK. Yes, sir.

Mr. METCALFE. Thank you.

I would like to express the thanks—do you have any questions?

Mr. SANDS. I have one question.

I think it has been pretty well established that the Soviets charge rates that are lower than those of conference carriers.

Do any of you have any facts which would throw some light on whether the Soviets generally charge rates that are lower than other independents?

Specifically on trade route 27 in the Pacific trade; do the Soviets there generally charge rates that are lower than other independents?

Mr. BART. I do not have the Soviet tariffs with me, but it is certainly a simple matter to pick up a copy of the Fesco tariffs, east-bound and westbound and compare them to the TPFCJ & K, Trans-Pacific Freight Conference of Japan and Korean, the JAG and the PWC, the Pacific Westbound Conference tariff and also the Indonesia, west coast tariffs, they are on file with the FMC and immediately available.

And also agreements 10107 and 10108 agreements are immediately available and will immediately reveal that in multitudes of cases they are anywhere 10- to 20-percent below.

Mr. SANDS. But you have no information today as to whether they are below the rates charged by other independents?

Mr. BART. In most cases, they are.

Mr. SANDS. Thank you.

Mr. MAYER. I think that information was supplied to the committee in the October 27 briefing and specifically in the rates of tables which are contained in that.

It would take some analysis, but I believe they make a differentiation in there between the extent to which they undercut the conference and the extent to which they undercut other major carriers.

Mr. SANDS. I know the Federal Maritime Commission did an analysis on trade route 29 and concluded that the Soviets were the lowest on only 38 percent of the tariffs reviewed. So that in less than half of the cases were the Soviets the lowest on that route.

Mr. MAYER. I think that 38 percent, unless I am mistaken, refers to numbers of leading commodities. Major moving commodities, sir.

Mr. SANDS. I have no further questions, Mr. Chairman.

Thank you.

Mr. METCALFE. Thank you very much.

Let me thank all of you for your very cogent statements and your informative statements as it relates to this present bill that is before us.

I think the statements that you have given us give us a great deal of direction. I want to thank you individually and collectively as a panel for your participation.

Thank you very much.

[The following was received for the record:]

STATEMENT OF WILLIAM J. KEELY ON BEHALF OF THE COUNCIL OF AMERICAN-FLAG SHIP OPERATORS IN SUPPORT OF H.R. 9998

Mr. Chairman, members of the committee, I am William J. Keely, Senior Vice President, Marketing and Services, United States Lines, Inc., One Broadway, New York City. I offer testimony here on behalf not only of my own company but the Council of American-Flag Ship Operators, an association of eight U.S. flag companies in the liner industry. I am accompanied by several executives of other companies in our association, specifically, Gordon E. Bart, Vice President, Marketing, American President Lines, Ltd. and Robert E. Mayer, Vice President, States Steamship Company.

We apologize, Mr. Chairman, that a number of others who had intended to appear with me on the date originally scheduled for our appearance were either previously committed to today's Senate hearing on S. 2386 or were unable on short notice to reschedule. Since our efforts to gather specific

examples of predatory rate filings are still in progress, I hope we may have the opportunity to amplify today's presentation by subsequent submissions for the record.

In thanking you for the opportunity to present our views on H.R. 9998, I would like to emphasize a too rare fact of life. On the need for some kind of legislative relief, I believe we U.S. flag liner companies all stand four-square together, including even the several other companies not represented by us who I judge by their public declarations in recent years probably are completely in agreement with this statement though they have not had a hand in its preparation.

The American Merchant Marine might have diminished somewhat over the years in numbers of vessels but we in the liner industry feel we have more than made up for our decreased size by highr productivity. There is a whole train of thought and history of accomplishment here, Mr. Chairman, which I won't expand on because I know it has been so often developed before your Subcommittee.

What none of us can deal with is competing on a price basis with State-owned carriers whose economic systems place them on a different and more advantageous footing than our own. We cannot state, as does one transportation carrier from a socialist state in an advertisement I have appended to this statement that "we don't have to make profits." We have to earn our way balancing revenues and expenses and your Subcommittee knows well that the kind of supports we get from Federal policies do not and were never intended to make us competitive against carriers whose economic policies are being manipulated to achieve other political and economic objectives of their governments. There has been much rhetoric expended on this issue which I do not propose to duplicate now as I would prefer to get on to some of the specifics of what is happening.

It is the time honored approach of non-conference carriers to compete with us, who are principally conference carriers, by setting rates just under the levels of the conferences. By selective commodity rate-cutting and abjuring the true responsibility of a common carrier to cater to all traffic, such carriers have always existed in our better trade routes simply because of the volume of business our trades offer. Our economic system encourages a certain amount of this kind of independent competition because it serves the purpose of ensuring the public is served with the most economically competitive shipping rates obtainable.

What we cannot cope with is predatory rate-making, the kind of action indulged in by state-owned carriers whose owners are marching to a completely different drummer. Again, with all the testimony you have taken heretofore, I do not think I need elaborate on what are the conceivable aims of some of these nations. All I can attest to from direct experience is the hypocrisy I sense in the statements of their carriers that they are truly just like us, commercial companies meeting all their costs. We sense the unrealities of their cost structure because we know what it takes in revenues to cover costs of transportation systems such as our businesses operate. Consequently, we allege these state controlled carriers are pursuing a course not dictated by economic considerations and we feel H.R. 9998 is the appropriate way to draw the line and say enough.

The committee staff asked us several weeks ago to produce specific cases of predatory rate-cutting by state-controlled lines. The shortened time of our preparation for this hearing has somewhat impaired our efforts in this direction as has the fact that we had assumed a rate comparison exhibit being prepared by the Federal Maritime Commission at your staff's request would already be part of the record by the time of our testimony. For the past several years my company, and I presume others facing head on competition with state controlled lines, has been furnishing copies of rate circulars, conference memoranda and other documentation of suspected predatory rate-cutting by these lines to the Federal Maritime Commission and we understood these rate comparisons, the basis of which we provided the Commission, would be presented to your committee. Since this evidence is not yet available, we will concentrate here on several specific examples of recent date.

I would preface these cases with the observation that rate comparisons alone often do not illustrate what is happening—the only thing meaningful to us is the revenue yield per container space or other measure of a ship's utilization. Clever rate people, and the controlled carriers here have them since they were basically trained in our companies, can obfuscate the real impact of a rate by offering an alternative rate basis or by setting a minimum utilization, or, if that is the conference's approach by intentionally not posting a minimum. There are unfortunately a lot of ways to skin the cat in this business.

One of the least confusing examples of predatory ratemaking was experienced very recently by Lykes Bros. Steamship Company of New Orleans.

Lykes, along with other U.S. flag operators, had been actively seeking participation in the carriage of some 500 large articulated buses (actually 2 buses in tandem) from Germany to Houston in October 1977. Lykes submitted a bid of approximately \$6,660 per bus to the international freight forwarder handling ocean transportation of these buses. Seeking further information on the status of the bus movement about 45 days later, Lykes was advised there was no chance of their participating in the movement even with a 15 percent to 20 percent reduction in the rate inasmuch as all 500 of the buses had been booked with the Baltic Shipping Company at a rate of \$3,300 per bus or approximately 50 percent of the lowest U.S. flag rate. The first of these buses to move via Russian flag arrived in Houston February 27, 1978, on the SS MAGNITOGORSK. It is our understanding that Russian vessels will carry 25 additional buses in March and 35 in April.

The purchase and transportation of these buses was funded for by the Urban Mass Transit Authority, an agency of DOT.

For another example, the Philippine North America Conference reported several times within the past two months on sizable movements of burr/rattan furniture from Cebu to the United States. One FESCO vessel carried 1,244 revenue tons of the commodity in 34-40' containers, the conference chairman pointing out that FESCO had "practically taken over" the entire trade at this time. The conference rates are based on so many dollars per cubic meter depending on the U.S. destination as well as a destination delivery charge and an outport additional. The important point here is that the charges the cargo ends up paying for conference delivery on the West Coast is \$3,684 while the FESCO flat rate for the same service is \$2,100.00, a reduction of about 43 percent. The FESCO East Coast rate is a flat rate of \$3,050 versus a conference charge of \$4,050.00, a 25 percent discount to encourage the shipper away from the conference.

A comparison of a table of rates on the movement of canned fruit cocktail from the West Coast to Europe discloses that the Balt-Gulf Lines mini-bridge the commodity from the West Coast and ship over the Gulf Coast at a rate that is less than 2/3 the applicable all-water route from the Pacific Coast.

Or clothing with an annual volume of 70 containers from Savannah to Europe. The cargo had been moving at \$115.25 w/m but Baltatlantic saw fit to establish a rate of \$59.00 measurement, an effective cut of 49 percent.

Or a movement of 2,288 revenue tons in 9 months of items moving east-bound in North Atlantic service under the description of coin operated machines and juke boxes. The conference rate is \$74.75 w/m but Baltatlantic Line has established a rate of \$30.00 w/m, minimum 1800 cft., an effective cut of about 60 percent.

Or movements between the Pacific Coast and Australia. FESCO rates on woodpulp 19 percent lower than the conference; on tractors, road-making machinery 22 percent lower; on machinery, nos 20 percent lower; on diatomaceous earth non-palletized 45 percent lower; on harvesters 22 percent lower; and on synthetic resins 23 percent lower.

As I indicated, Mr. Chairman, these comparisons can be very difficult for the untrained eye, but we know when we experience it that we are getting a lot of our best traffic picked off by expert marksmen whose bulls-eye aim is motivated by non-economic considerations.

Thank you, Mr. Chairman.

[From the Houston Post, March 1, 1978]

SOVIET SHIP HAULS NEW BUSES TO CITY AS "THIRD PARTY"

(By Monica Reeves)

Twenty-five federally financed buses arrived in Houston from West Germany aboard a Soviet vessel this week—the first time a Soviet ship has been used to transport such a cargo.

The Soviets acted as "third party" shippers, moving the buses financed by the U.S. government, between two Free-World nations.

Rep. John Murphy, D-N.Y., chairman of the House Committee on Merchant Marine and Fisheries, said Tuesday he will insist the remainder of the nearly 400 buses ultimately bound for 11 public transit authorities, are shipped to the U.S. on American vessels.

Murphy said this would "prevent at least a \$2 million deficit in our balance of payments—U.S. money which would have gone to the Soviet government." He said two U.S. lines bid to transport the buses but were "grossly underbid" by the Soviet line.

Murphy's committee is scheduled to begin hearings on March 3 on the Controlled Carrier Act of 1978, which he said "will prevent the virtual theft of U.S. cargoes from American ships by Soviet carriers."

The Soviet vessels, because they are owned and operated by the government, can operate on a non-compensatory basis and ultimately achieve "political and military objectives" through control of world trade, said Herbert Brand, president of the Transportation Institute, an industry organization.

Murphy said one expert told his committee the Soviet rates would barely cover the cost of fuel for the voyage.

There is nothing illegal about use of the Soviet ships to transport the buses from West Germany, where they were built, said Walter Oates of the Maritime Administration.

James G. Tompkins, senior vice president of Lykes Bros. Steamship Co., Inc., confirmed Tuesday that the firm was one of the bidders for the shipment of the buses, which will be outfitted at an AM General plant in Marshall, Tex. They were unloaded at the Goodpasture terminal on the Houston Ship Channel Monday, said Tony Piazzo of the J.P. Harle Co., which acted as customhouse brokers for the cargo.

It could not be determined who arranged for shipment of the buses aboard the Soviet line. Officials with AM General and for Rohner Gehrig, the New York freight forwarding firm which handled the shipment, could not be reached for comment.

Oates, of the Maritime Administration's public affairs office, said the incident represents the first time the Soviet fleet has been involved as a third party in the shipment of cargoes in which there was U.S. government participation. Third party means the Soviet Union was not the point of origin or destination.

Brand said the use of the Soviet fleet for this cargo at a time when the U.S. Merchant Marine is fighting for survival against what U.S. shipping interests say is unfair competition "reflects a total lack of consideration" by the governmental agencies involved in the grant.

Deborah Noxon, a spokeswoman for the Urban Mass Transportation Administration, which is a part of DOT, said the federal agency which funded the buses had nothing to do with arrangements for their shipment.

Oates said some U.S. steamship operators "are getting killed" by Soviet competition because these countries do not belong to international rate setting conferences as do the United States and other European nations.

As a result, Soviet-flag ships can offer rates 10 to 40 percent below those offered by U.S. companies, he said.

Kirby Smith-McDowell, Houston port agent for the National Maritime Union, said foreign-flag vessels in general and the Soviets in particular "are taking jobs from the American seamen," a situation the maritime trades unions and the industry are attempting to change through tougher ocean trade legislation.

[From the Siam Travel News, May 1975]

WORRYING ABOUT TIGHT TRAVEL BUDGET, JUST REMEMBER WHO
INVENTED THE PLANNED ECONOMY

Seriously, if you're worrying about whether you can afford to travel this year or not, you should talk to us. Or to your travel agent about us.

Because even in these fiercely competitive days of deals, specials, excursions, group fares, student prices, youth packages and even *** ssshhh! rate cutting *** you'll find that we can design you a travel plan that will seat you just that much more comfortably.

Without sacrificing any of our famous Russian-style vodka-and-caviar hospitality that everyone tells their friends about long, long after ***.

How do we do this? One reason is we don't have to make profits. And the other is that there's one country that's really expert in planning economical operations.

Guess who that is.

AEROFLOT.

Mr. METCALFE. Our next witness will be Dr. John Hardt from the Library of Congress.

Dr. Hardt is a specialist in congressional Soviet service.

Dr. Hardt?

STATEMENT OF DR. JOHN HARDT, LIBRARY OF CONGRESS

Dr. HARDT. Mr. Chairman, in testifying I am enjoined to observe the congressional guidelines to Congressional Research Service to be objective, nonpartisan, and unbiased.

My views are largely based on years of experience in studying the Soviet economy and the policy of its decisionmakers.

I shall limit my observations to a series of points germane to the legislation you have under consideration.

The first point has to do with the general nature of the hard currency problem as seen by the Soviets. Hard currency is that foreign currency income in convertible currencies such as dollars, yen, deutsche mark, that are so important in financing the importation of high technology products and grain, largely from the Western industrial economies.

There is a large deficit in Soviet hard currency trade and it will be difficult to finance these Western commercial relationships in the years ahead.

Recently, Mr. Chairman, there has been an improvement in their hard currency situation as judged by the hard currency deficit. Each year, to be sure, it has been necessary for the Soviets to earn more hard currency. This year, their hard currency earnings increased from around \$20 billion to about \$23 billion. The deficit of \$6 billion in hard currency trade of 1975, may fall this year to \$4 billion or less. However, I would suggest that this recent improvement in their earning capabilities, in hard currency, and reduction in their deficit in hard currency trade is a short-term phenomenon. This is a point very relevant to their need for hard currency income from liner trade, the point in which we are discussing.

A primary reason, I would submit, for the recent improvement in the general hard currency position is that they have increased their petroleum exports; they have had a relatively good 2 years

as far as grain imports are concerned; and they have severely cut back on their imports of industrial products for large projects underway.

None of these factors are susceptible to continued projection in a beneficial way to their hard currency position in the future. It is extremely difficult for them to continue to expand their petroleum exports. As we know, the Soviet grain harvest was not good last year, therefore, this year they will be back in the world grain market. It would be ill advised for them to continue to defer imports for their large projects.

On the relationship of nontrade sources of foreign hard currency income, the areas of merchant marine income should be considered along with other non trade areas: gold sales and tourism. Gold sales fluctuate with the price of gold and are therefore not a long-term stable sources of hard currency. At this time, the price of gold has gone up. This year will be a good year in gold sales. The Soviets do not choose to go into the gold market except when the price is right. Based on past patterns, gold sales will not be as prospective a source of hard currency in future years. Tourism will increase, particularly with the 1980 Summer Olympics in Moscow. However, this source will probably level off. In any event, the other sources of hard currency incomes leave a great deal to be desired in terms of meeting the rising yearly requirements of hard currency. Therefore, merchant marine income, including liner trade, is and will continue to be among the sources that the Soviets will look to for increasing their hard currency income to finance the import of those products that they very badly need for modernizing their economy and meeting their consumer needs.

The dynamic portion of merchant trade income has been liner or cross trade in high value items as was noted in the panel discussion immediately preceding my comments. The stable bilateral trade is more in bulk commodities. The Soviet shipbuilding program and trade policy suggest that liner trade income will continue to rise, especially from trade in the North Atlantic and Pacific routes of special interest to U.S. shipping.

The projections referred to in the publication in August by MARAD, suggest these kinds of growth patterns in the structure of the Soviet fleet. The Soviets are also interested in extending their hard currency income elsewhere and it might be useful to comment on the expansion of river transport in Europe.

In recent years, in the Danube, there has been an extension of the Soviet multifaceted fleet to be the dominant carrier in the Danube Basin. With the completion of the canal joining the Rhine Basin with the Danube, the Soviet fleet will doubtlessly be very interested in further expansion. We gather they are preparing to extend the river transport capability to the Rhine River. This potential development of considerable interest to the Federal Republic of Germany as they provide a good deal of the river transport to date. It is also of very considerable interest to the Soviets as a potential earner of hard currency.

In terms of your earlier question of what are the other western countries doing, I think this Rhine river development in the next

year or two will be interesting to watch. The Germans may reach more strongly than other western industrial nations. The Japanese for their part have been expanding their involvement with the Soviets over the land bridge, that via the Siberian-European-Russia route to West European markets. The Japanese are in a bit more difficult position to exercise leverage or counter measures than the Germans. Japan and the Federal Republic of Germany are the largest trading partners in the industrial West with the U.S.S.R.

The long-term economic interests of the Soviet merchant fleet as a carrier of Soviet and global cargo doubtless serves broader economic, political, and strategic aims. Any global power, and today the Soviet Union considers themselves a global power, traditionally carries its own cargo and has a share of world shipping, showing its flag on the seven seas. In that sense, the Soviet Union acts and wishes to continue to act increasingly as a global power. Moreover, its military and politically-related marine activities would presumably be well served by a large and varied merchant fleet. So there are other political and strategic benefits perceived by the Soviets in extending its marine carriage.

The long-term economic interest of the Soviet Union may be better served by adhering to the international norms of shipping, joining shipping conferences as appropriate. Stability in ratesetting provides for an environment conducive to ship modernization and reasonable return on investment. Although in the short run, increased hard currency gains may be attractive, in the long run a more stable hard currency income from a reasonable share of the shipping market may be more profitable and in the broader Soviet national interest.

Thank you, Mr. Chairman.

Mr. METCALFE. Thank you very much, Dr. Hardt.

That concludes your statement, does it not?

Dr. HARDT. It does.

Mr. METCALFE. We have to go to the floor and cast a vote, so the meeting will stand in recess for 15 minutes and if you will be kind enough to wait, we have some questions we would like to propound to you.

The meeting stands recessed.

[Recess.]

[The following was received for the record:]

STATEMENT BY DR. JOHN P. HARDT, ASSOCIATE DIRECTOR FOR SENIOR SPECIALISTS AND SENIOR SPECIALIST IN SOVIET ECONOMICS CONGRESSIONAL RESEARCH SERVICE

Mr. Chairman in testifying I am enjoined to observe the Congressional guidelines to Congressional Research Service to be objective, non-partisan, and unbiased. My views are largely based on years of experience in studying the Soviet economy and the policy of its decision makers. I shall limit my observations to a series of points germane to the legislation you have under consideration.

1. Hard currency earnings, i.e. foreign currency income in dollars, yen, Deutsche mark and other convertible currency, is important to finance the importation of needed high technology products and grain. Large and increasing deficits in hard currency trade will be difficult to finance by increased western credits or expanded sales of petroleum products.

2. Non trade sources of foreign income become increasingly important in future Soviet trade balances, e.g. tourism, gold sales, and merchant marine

income. Increased tourist income, although helpful, leaves considerable need for additional income sources. Gold sales fluctuate with the price of gold and therefore are not always dependable sources of hard currency. The hard currency earnings from merchant trade is rising toward the gold sales share of hard currency income.

3. The dynamic portion of merchant trade income has been the liner or cross trade in high value items. The stable bilateral trade is more in bulk commodities. The Soviet ship building program and trade policy suggests that liner trade income will continue to rise, especially from the trade in the North Atlantic and Pacific Routes of special interest to U.S. shipping.

4. The expansion of river transport in the Danube may be followed by the extension of a Soviet multifaceted fleet to the Rhine in several years when the canal now under construction connects the Danube and the Rhine river systems. The Soviet fleet could expand its river operations and extend its European transport capability for earning hard currency, at that time, unless West European countries take countermeasures.

5. The longer term interests of the Soviet merchant fleet as a carrier of Soviet and global cargo doubtless serves broader economic, political and strategic aims. A global power traditionally carries its own cargo and a share of world shipping, showing its flag on the seven seas. In that sense the Soviet Union acts as a global power. Moreover its military and politically related marine activities would presumably be well served by a large and varied fleet.

6. The long term economic interests of the Soviet Union may be better served by adhering to the international norms of shipping, joining shipping conferences as appropriate. Stability in rate setting provides for an environment conducive to ship modernization and reasonable return on investment. Although in the short run increased hard currency gains may be attractive, in the long run a more stable hard currency income from a reasonable share of the shipping market may be more profitable and in the Soviet national interest.

Mr. METCALFE. The Subcommittee on Merchant Marine will come to order.

Dr. Hardt was at the witness stand.

Dr. Hardt, we have a few questions that we want to ask you at this particular juncture.

We appreciate your very fine statement and especially the fact that you have expounded on the brief statement.

Just how seriously is the oil problem in restricting exports to hard currency countries?

Dr. HARDT. Well, Mr. Chairman, there are those who suggest, and I am referring to the CIA study on petroleum in the Soviet Union, that by 1985, they will become a net importer. Now this may be an extreme prediction and many of us feel that it is, but there is no question that it is an important problem, that is, the Soviets continued ability to export oil. The seriousness of it might be illustrated by pointing out that over 50 percent of their hard currency income in the last several years has come from petroleum and petroleum products. For their largest trading partner, the Federal Republic of Germany, last year, 61 percent came from petroleum products, for Italy, about 70 percent. To take away that type of hard currency source or seriously reduce it, will be difficult for them to accommodate and also continue to increase their imports of industrial goods, high technology equipment and meet their periodic needs which we have come to realize are a continuing factor for them.

Mr. METCALFE. You have already addressed yourself to the impact of the 1980 Summer Olympics. But what I would like to know, what

are the prospects of tourism and other nontrade accounts in earning hard currency?

What are they?

Dr. HARDT. Well, they are rather substantial.

In the order of increasing the percentage of hard currency income from tourism from around 4 percent perhaps in the eighties up to 10-percent level will be an accomplishment. But to do that, Mr. Chairman, their requirements in building for hotels, expanding their airports, doing the things so that a modern tourist industry requires, are taxing economically, also very significant are the problems of expanding tourism in a controlled society, large-scale tourism poses even more a severe political control problems. So tourism is going to be an increasing source of hard currency, but it will be somewhat a mixed blessing.

Mr. METCALFE. Now, the key to the question was the word solve.

Will the 1980 Summer Olympics solve their problems?

Dr. HARDT. It will not solve their problems, Mr. Chairman. It will provide them with some net increase in hard currency income and I stress net, because they are now importing a substantial amount of hotel equipment, electronic equipment, facilities for expanding the airport at Moscow and so forth. So it is quite expensive right now and it will, however, lead to a very substantial increment in hard currency income. But in no way will it solve the problem I mentioned earlier, the problem of substituting for the oil income or meeting the expanded yearly requirements, which this year increased about \$3 billion in terms of hard currency. So it will not solve it.

Mr. METCALFE. Thank you.

Is not the liner trade income a small source of hard currency?

Why should they pay attention to it?

Dr. HARDT. It is a small source and has been even smaller but it appears from their ship construction program that they are engaged in, that the modern equipment of roll-on/roll-off, containerized equipment, that is equipment that can compete for high value trade, in the very trading routes that we are most interested in and our merchant marine survives on; this source of income is one of their positive sources, liner trade is one of the sources for which there seems to be the trend of increasing income possible and a trend for which they are planning and it is a trend that will presumably be in conflict with U.S. liner trade income.

Mr. KYROS. Dr. Hardt, why should it be increasing? It is a small source, but why should they use it? why is liner shipping as a source of hard currency so attractive to the Soviets?

Dr. HARDT. It is an area for which they have been able to increase hard currency income and judging by their plan for expanding capability, that is they presumably are programed to put more ships in this very trade, capable of competing. Therefore I think the twin factors are that they need the hard currency and they seem to be projecting the capabilities to earn it in this particular way.

Mr. KYROS. How do the Soviets react in the event that they feel that the use of this method of gaining hard currency is inviting retaliation by the Western nations?

Would that make them react to curtail this kind of hard currency activity and go to something else?

Dr. HARDT. I think the answer would in short terms be yes.

In a broader sense, I would say that they react to hard negotiations and bargaining positions in a positive fashion. That is a broader answer to that question.

Mr. METCALFE. Dr. Hardt, the Subcommittee on Merchant Marine will now stand in recess for 15 minutes, because we have to go to the floor and vote.

I will be right back.

[Recess.]

Mr. METCALFE. Dr. Hardt, if we have any further questions, we will submit them in writing for the record.

Thank you very much for your appearance here today.

Your testimony was, as usual, most helpful and enlightening.

Mr. Brand, I understand you have a statement which you may submit for the record.

[The following was received for the record:]

STATEMENT OF HERBERT BRAND, PRESIDENT, TRANSPORTATION INSTITUTE, ON
H.R. 9998

Mr. Chairman, the Transportation Institute appreciates the opportunity to appear before you today to discuss H.R. 9998. The bill is designed to control predatory rate practices by certain state owned or controlled carriers. Unquestionably, these carriers are dramatically increasing their penetration of our international liner trades with a resultant threat to the stability of those trades. We endorse H.R. 9998 as long overdue.

There are three sets of facts which I wish to bring to your attention today, facts which define the problem and underscore the need for this legislation:

1. the phenomenal increase in the size and capacity of the Soviet merchant marine;
2. the substantial penetration of U.S. liner trades by the Soviet fleet; and
3. the ability and motivations of Soviet carriers to quote predatory rates.

EXPANSION OF SOVIET FLEET

The expansion of the Soviet merchant marine has been rapid and significant. Your Committee is well aware of this development and we will not belabor it. Only two decades ago the Soviet merchant fleet had a total carrying capacity which ranked 20th in the world. Today, however, in terms of dead weight tonnage it is No. 9 and in total number of vessels only three countries surpass it.

Ship construction in the Soviet Union has been vigorous and impressive. In the last decade, the Soviet Union spent 50% more on ship construction than the United States. Between 1965 and 1975, the Soviet merchant fleet nearly doubled its tonnage (from 8 million dwt to 15.4) and increased in size from 990 to 1,655 vessels. This rapid buildup is far from over. Last year some 55 vessels totally 1 million dwt were delivered to the Soviet merchant fleet. Moreover, by 1980 it is projected that the Soviet merchant marine will increase to 1,717 vessels of 18.4 million dwt with increases to 1,812 vessels of 23 million dwt by 1985.

U.S. TRADE PENETRATION

Penetration of U.S. foreign trades since 1972 by Soviet liner fleets has been dramatic. Since that time, bilateral liner cargoes carried by the Soviet fleet have averaged only 10 to 15% of their liner carriage with the remaining 85 to 90% being "cross trades" cargoes. Between 1971 and 1976 Soviet participation in U.S. liner ocean borne foreign trade jumped from 160,000 tons valued at some \$38 million to 1,434,000 tons valued at \$1.7 billion.

This represents, by tonnage, a substantial increase in market penetration 2.9% of total U.S. liner trade. While to some this may appear—from .4% to a relatively small market penetration figure, it is deceptive since the Soviets have concentrated their tonnage on selected trade routes. For example, a staff report by the Federal Maritime Commission indicates that in 1976, the Soviets captured 13.1% of the market in the North Sea trade route (U.S. North Atlantic/West Germany). Other routes also showed percentages significantly higher than the overall penetration figure. The U.S. Pacific, Hawaii and Alaska/Far East route (trade route 29) showed a 5.6% penetration. The U.S. Atlantic, Gulf and Pacific/Indonesia, Malasia and Singapore trade route (trade route 17) showed a penetration figure of 5.4%. Data for the first half of 1977 underscores the increasing penetration by the Soviets of these routes. The most significant increase occurred in the Far East where the Soviet penetration level of 6.3% constitutes a .7% increase over 1976. When the size of the trade is considered, growth of this magnitude is significant.

There can be no doubt that the growth of the Soviet fleet in United States trades has been impressive, in the relatively short period since the October, 1972 U.S./U.S.S.R. Maritime Agreement which opened U.S. ports to Soviet ships. Moreover, Soviet penetration can be expected to increase. The Soviets have a merchant fleet that far exceeds their own national trading needs. It is utilized for full time cross trading. As I noted earlier, continued increases in Soviet shipbuilding are anticipated; for example, the tonnage of the Soviet intermodal fleet is expected to triple by 1981. The Department of Commerce predicts that Soviet carriage of U.S. liner cargoes will increase to 6.6% by 1985.

SOVIET CAPABILITY AND MOTIVATIONS

No one denies that the Soviet fleet has the right to play a role in world shipping. However, to ignore the capability of the Soviets to engage in predatory rate cutting would be foolish. We believe this Committee received testimony earlier that to establish themselves in various trades, Soviet carriers initially quoted rates 40 to 50% below conference levels. In the Pacific trade, at present, Soviet carriers offer rates 10 to 15% below other carriers. A recent FMC staff study indicated that the Soviet Far East Shipping Company (FESCO) offers rates which are between 6 and 12 percent lower than its competitors. But to debate over whether existing Soviet rates are or are not predatory is, we believe, to miss the point. There is evidence the Soviets have quoted predatory rates in the past. They could again in the future. H.R. 9998 is not punitive legislation, but would simply provide the U.S. a means for assuring that future Soviet rates are just and reasonable. No one can argue with that objective or with the reality of the Soviet capability to cut rates and undermine our liner trades.

The Soviets can afford to offer cut rates for a number of reasons. Many of these reasons are alien to western "free-economy" principles.

The heart of the problem is the basic difference between market and non-market economies. The cost structure in eastern bloc countries is different from our own. Decisive terms such as "profit" and "earning power" have completely different meanings from those in the west. The Soviets are not bound to uphold any criterion of profitability that is similar to that required of market-economy type companies. The Soviet "pricing system" (i.e. allocations based on government decree) is incompatible with the Western market system; in government controlled economies, pricing policies are only a means to an end, economic, political or otherwise. Thus, the operating costs of the Soviet fleet can be and are basically free from items which represent major expenses for a commercial operating shipowner in the west, items such as depreciation, interest and insurance.

So the Soviets obviously have the capability to undercut western fleets in any manner they choose. They also have the motivation to do so.

The first is the need to earn foreign currency. Your Committee has received expert testimony on this factor. In 1975, for example, the Soviet Union had a \$6.4 billion hard currency deficit. It has been reported that as much as 25% of the Soviet hard currency earnings are required simply to meet interest payments on outstanding debt obligations.

At the root of this need for hard currency is the same type of difference between the eastern and western economic systems that H.R. 9998 attempts to address. Instead of the adjustments by market forces that take place under the flexible, convertible-exchange-rate system typical of the western world, the Soviets have a system of exchange control and an inconvertible currency. Under such a system the government exercises complete authority over the foreign exchange market. Because trade is determined by the availability of the means of payment and not by comparative costs, certain export industries are encouraged because they have the potential to earn hard currency. The "efficiency" of these operations is judged partially in terms of the net amount of hard currency they earn. Clearly Soviet maritime activity in the cross trades of the United States is one of these industries.

Apart from the objective of earning hard currency the buildup of the Soviet merchant marine serves strategic and political ends. The Soviet Union's maritime fleet is prepared to operate with the Soviet Navy in time of war because it operates with the Navy in times of peace. The integration of the Soviet merchant marine with the Navy is well recognized. Many of its cargo ships can be adapted to carry any type of shipment. Many of its commercial vessels are suitable for transporting troops and military equipment. Many of its modern liner ships are roll on/roll off vessels especially suitable for handling military supplies. The strategic importance to the Soviet Union of the integration of its maritime fleet with its Navy is illustrated by Soviet involvement in Cuba, Viet Nam, the Middle East, and Africa.

Soviet maritime activity can also serve as an influence-building instrument of policy through the simple presence of Soviet ships and companies in distant parts of the world. It has also been suggested that Soviet involvement in the cross trades provides a source of detailed intelligence concerning trade and the movement of goods in western economies.

CONCLUSION

The immense growth of the Soviet merchant fleet, its penetration into U.S. trades and its history of rate cutting are ample reasons to enact H.R. 9998. The clear capability of the Soviet fleet to undercut western fleets, and the nonmarket motivations for doing so, make enactment imperative. The measure is no punitive and, to the extent the Soviets charge rates that are just and reasonable, should be unobjectionable. The measure provides a needed means of coping with the increasing penetration and market share of the Soviets and preserving legitimate competition among common carriers engaged in the United States liner trades.

Mr. METCALFE. We want to thank you for your patience in staying here so late today.

The subcommittee is adjourned until March 17.

[Whereupon, at 4:30 p.m., the subcommittee was adjourned.]

CONTROL CARRIERS

FRIDAY, MARCH 17, 1978

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON MERCHANT MARINE
OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:15 a.m., in room 1334 Longworth House Office Building, Hon. Glenn M. Anderson, presiding.

Present: Representative Murphy, Anderson, Hubbard, McCloskey, and Tribble.

Staff present: Carl Perian, staff director; Ernest Corrado, chief counsel, Peter Kyros, counsel, Elizabeth Coker, subcommittee clerk, Jack E. Sands, minority counsel; W. Patrick Morris, chief minority counsel; and Ronald Losch, minority counsel.

Mr. ANDERSON. The subcommittee will please come to order.

This morning, we will continue hearings on H.R. 9998, a bill to provide for the regulation of rates or charges by certain State-owned carriers in the foreign commerce of the United States, and for other purposes.

As I stated at the opening day of hearings on this bill, March 8, 1978, our objective in these hearings is to enact legislation which would preserve legitimate competition among all common carriers engaged in the foreign commerce of the United States and to stabilize the ratemaking practices of the carriers by forbidding predatory rate-cutting which will certainly disrupt our national trade.

Today, we will receive the views of the Federal Maritime Commission, the Maritime Administration, Department of Commerce, and the Department of State.

We had originally scheduled these witnesses for the first day of the hearings on this bill; however, at that time, we received a request from the White House for postponement until the administration had reached a policy decision on this legislation.

At the first day of hearings on March 8, 1978, we received testimony from several U.S. liner companies who uniformly supported this legislation as urgently needed to provide new authority to the FMC in order to review the tariffs of the growing number of State-controlled carriers in our commerce, and to intervene when rates are below a just and reasonable level.

In the last Congress, this committee considered the economic and competitive consequences of inordinately low rates charged by state-controlled carriers. The hearings on H.R. 7940 and H.R. 14564 ended on July 23, 1976, because it was believed that an agreement had been

reached between the FMC and the Soviet Ministry of the Maritime Fleet.

This agreement was intended to resolve some of the problems which gave rise to the necessity for enactment of legislation designed to combat predatory rate cutting; however, this committee was advised by the FMC on May 2, 1977, that the progress of resolving Soviet carrier rate practices in the U.S. liner trades had not met with the success that was earlier promised. Consequently, a legislative solution was necessary.

It is with this perspective in mind that we welcome the Federal agencies to the committee this morning.

Our first witness this morning will be the Honorable Richard J. Daschbach, Chairman of the Federal Maritime Commission.

Mr. Daschbach.

We do have your prepared statement. It will be made a part of the record. You can either read it or extemporize.

STATEMENT OF HON. RICHARD J. DASCHBACH, CHAIRMAN, FEDERAL MARITIME COMMISSION; ACCOMPANIED BY ARTHUR PANKOPF, ESQ., MANAGING DIRECTOR; MERRILL SIMPSON, DEPUTY CHIEF, OFFICE OF TARIFFS AND INTERMODALISM; AND ROBERT ELLSWORTH, CHIEF, OFFICE OF ECONOMIC ANALYSIS

Mr. DASCHBACH. Thank you.

I appreciate this opportunity to appear here today to offer the views of the Federal Maritime Commission on H.R. 9998, a bill which would give the Commission certain authority over the rates of state-owned or controlled carriers operating in our foreign commerce. I am accompanied today by Arthur Pankopf, Esq., the Commission's Managing Director, Mr. Merrill Simpson, Deputy Chief of our Office of Tariffs and Intermodalism, and Mr. Robert Ellsworth Chief of our Office of Economic Analysis.

The Commission fully supports the concept of regulation of the rates of state-controlled carriers in our foreign commerce and favors enactment of H.R. 9998 to accomplish that purpose.

We believe that this legislation is necessary to control the ability of state-controlled carriers in our liner trades to establish and maintain rates at levels that cannot be matched by commercially motivated carriers.

While there is ample existing evidence of such rate-cutting practices, our greatest concern is caused by the awesome future potential of state-owned carriers, particularly those of the Soviet Union, for disrupting our trades by cutting rates.

The carriers that would be affected by the provisions of this bill would be those carriers which may be owned or controlled by nations listed in enclosure 1 to this testimony, which operate in trades other than those between the United States and the country by whom they are owned or controlled. These nations include Algeria, East Germany, Poland, and of course, the U.S.S.R. Under present circumstances, the greatest potential impact of the bill would be upon carriers of the Soviet Union in most of the U.S. foreign trades in which they operate.

Soviet and other controlled carriers would not be subject to the regulatory provisions of the legislation in trades where such carriers operate under approved rate or service agreements pursuant to section 15 of the act.

For example, the Soviet-owned Baltic Shipping Company and the Polish-owned Ocean Lines would both be exempt from the provisions of the bill in the inbound Germany/U.S. North Atlantic trade by virtue of their membership in agreement No. 9427, a rate agreement among those lines and the conference in that trade.

On the subject of penetration in our liner trades, this committee has already heard much testimony on the dramatic growth of the Soviet merchant fleet in recent years.

The exact extent of Soviet penetration into United States trade routes can be seen in the attached tables, depicting the Soviet share of the U.S. ocean-borne foreign trades.

The overall share of the liner market which the Soviets captured was 2.5 percent in 1976. Since they have concentrated their tonnage on 16 specific U.S. trade routes, however, this minimal market penetration portrays an incomplete picture. On a selected basis, analyzing only those routes where penetration is the highest, the Soviet market share is 4.1 percent in 1976.

According to our data—excluding the U.S./U.S.S.R. bilateral trade—Soviet penetration in 1976 was the heaviest in tonnage terms on:

Trade Route 7, U.S. North Atlantic/West Germany, where the penetration was 13.1 percent;

Trade Route, 8, U.S. North Atlantic/Netherlands, Belgium, 3.7 percent;

Trade Route 10, U.S. North Atlantic/Mediterranean/Black Sea, Portugal, Spain, Morocco, and the Azores—U.S.S.R. ports excluded—2.9 percent;

Trade Route 17, U.S. Atlantic, gulf and Pacific/Indonesia, Malaysia, and Singapore, 5.4 percent;

Trade Route 21, U.S. gulf/United Kingdom, Ireland, Continental Europe—north of Portugal—U.S.S.R. ports excluded—2.7 percent; and

Trade Route 29, U.S. Pacific, Hawaii, and Alaska/Far East, 5.6 percent.

While on a percentage basis, other trade routes show greater levels of penetration, Trade Route 29 has, in tonnage terms, experienced the greatest overall penetration levels. In fact, 37 percent of the total tonnage carried by the Soviets in 1976 in these selected trades was on Trade Route 29.

Soviet penetration into the trade covered by U.S. North Atlantic/West Germany, North Sea, Trade Route 7, is also great. In 1976, the Soviets captured 13.1 percent of this market, carrying over 175,000 tons of cargo.

On a percentage basis, the Soviets have gained their largest market share on Trade Route 34, U.S. Great Lakes/Mediterranean/Black Sea, Portugal, Spain south of Portugal, Morocco—U.S.S.R. ports excluded.

Their phenomenal 22.7 percent share of that market is partially explained by the nature of the trade route. With the Black Sea Shipping Company serving the Black Sea area, and the 1976 low levels of U.S. carrier activity in the trade, it is not surprising why the Soviets have such high levels of penetration in this trade.

Data for the first 9 months of 1977, which has recently become available, show significant penetration by the Soviets on 7 of the 16 routes where they have the largest tonnage penetration. The 1977 data show the following penetration levels:

(1) Trade Route 7, 12.3 percent; (2) Trade Route 8, 4.1 percent; (3) Trade Route 10, 4.0 percent; (4) Trade Route 17, 10.1 percent; (5) Trade Route 21, 3.6 percent; (6) Trade Route 22, 11.6 percent; and (7) Trade Route 29, 6.4 percent.

The most important increase occurred on Trade Route 29, where the Soviets' current penetration level of 6.4 percent is higher than the 5.6 percent level achieved in 1976. This rate of growth of penetration does not appear excessive, but if the volume of total trade on trade route 29 is considered, the small increase in percentage becomes more significant.

On the other hand, the Soviet share of trade route 34 fell slightly from 22.7 percent to 19.5 percent. Because of seasonal fluctuations—the closing of the Great Lakes during the winter—these figures may not be comparable.

During the first 9 months of 1977, the Soviets increased their overall share of the total liner trades to 3.4 percent and their share of the selected routes increased to 5.2 percent.

While reasonable men may debate whether or not a 5-percent share of a market is substantial, the growth of the Soviet fleet in the U.S. trades in a relatively short period of time has been very impressive. The Soviets have gained this market share. In a mere 5 years, since the U.S.-U.S.S.R. Maritime Agreement was signed in October 1972, opening up U.S. ports to their vessels.

Currently, the Soviet carriage of cargo in bilateral U.S.-U.S.S.R. trades accounts for only 10 to 15 percent of their total cargo in the U.S. commerce. Thus, 85 to 90 percent of their cargo is carried in cross-trades.

By the end of 1976, more than 10 percent of the total liner tonnage of the Soviet Union had been placed in service in U.S. trades, including their two large roll-on/roll-off vessels of some 1,368 TEU's each.

Given the fact that Soviet shipbuilding in the current 5-year plan, 1976 to 1980, projects a threefold increase in containerships and roll-on/roll-off vessels, it is reasonable to expect a continued high level of penetration in the U.S. cross-trades.

Regarding the subject of Soviet rate practices, our experience with Soviet rates since the early 1970's indicates that their carriers penetrated our trades and remained there by charging whatever rates are necessary to attract cargo.

While this principle is substantially followed by any independent carrier who enters a trade, it is the degree to which the Soviets can cut rates and the period of time over which such low rates can be maintained that distinguishes carriers of that nation from most other independents.

Perhaps the clearest proof of this ability to penetrate and remain in our trades is the fact that the Soviets are now operating liner services in at least 17 U.S. trade routes, whereas, prior to 1971, the Soviets had only limited tramp service to and from the U.S. west coast.

The most recent examples of trade penetration tactics by Soviet carriers are in the Australian and Central American trades. Attached to my statement is a rate comparison completed by the Commission staff on February 17, 1978, which indicates that in the U.S. Atlantic and gulf/Australia trade, the Soviet Far Eastern Steamship Co.—FESCO—maintained minibridge rates which averaged some 22 to 25 percent below the conference's all-water rates and some 10 to 13 percent below the rates of ACE Lines, which also offers independent minibridge service in this trade.

In a similar comparison of all-water rates between the U.S. Pacific coast and Australia, FESCO's rates likewise averaged some 22 to 25 percent below those of the conference. A comparison with the rates published by ACE Lines in this trade was deemed impractical because of the manner in which ACE has structured its rates.

In the New Orleans/Central America trade, the Soviets have recently announced the inauguration of a service at rates below those of competing carriers and equal to those of carriers serving the much shorter route between Miami and Central America.

Since the inland distance to New Orleans for much of this cargo is significantly shorter, the carriers from Miami will be forced to reduce rates or face the loss of this cargo. The best information available to the Commission indicates that rates in this Miami/Central America trade are already depressed due to heavy competition.

While the Soviets have not yet made their first sailing in this trade, this appears to be the first significant penetration by a Soviet carrier into an inter-American trade. However, the Soviets have frequently called at gulf ports in connection with other trades.

An analysis by our staff of Soviet vessel itineraries over the past 3 years indicates that one of the primary reasons for the Soviet presence in the gulf is their active trade with Cuba. It is normal, for example, for a Soviet vessel to carry cargo from Eastern Europe to Cuba and then load cargo at U.S. gulf and east coast ports for the return trip to Europe. Likewise, in the trade between the Far East and U.S. Atlantic and gulf ports, the Soviet vessels carry inbound cargo to Cuba.

Other examples of Soviet ratecutting appear in the attached rate charts. In the Pacific coast-Far East trade, these examples involve specific commodities where the Soviet rates are as much as 48 percent below those of the competing conference and well below those of OOCL, a major independent in the trade.

In the North Atlantic-European trade, rates of the Soviet carriers have gone below the conference rate by as much as 59 percent. Such reductions are, indeed, substantial and demonstrate the capability of the state-controlled operator to publish rates at whatever level may be necessary to acquire the involved cargo.

Last week, Mr. Keely of United States Lines, in his testimony for the Council of American-Flag Ship Operators, mentioned a shipment of buses moving from Germany to Houston which were carried by the Soviet carrier Baltic Shipping Co. at rates well below those quoted by Lykes Bros. Steamship Co. for the same shipment.

I might add that cargo was purchased by UMTA, the Urban Mass Transit Administration.

The industry had not apprised us of this particular movement nor the competition between the lines. Upon inquiry, however, we were told that the German freight forwarder handling the shipment sought rate quotations.

Lykes had quoted a LASH barge load rate of \$20,000, which equals approximately \$6,500 per bus. On or about February 6, Baltic Shipping Co. received the buses for transportation at a reported rate of \$4,500 per bus. However, Baltic failed to file the rate in its tariff with the Commission until well after the shipment was made, in apparent violation of section 18(b) of the Shipping Act.

Due to this failure to file the proper rate, the applicable charges are those which were on file and in effect; that is, \$88 per cubic meter, or \$11,968 per bus applicable heavy lift charges.

We are presently pursuing this matter and will take the necessary steps to insure compliance with the statute.

Virtually all of the experts who have studied the dramatic growth of the Soviet presence in our liner trades in recent years have concluded that their operations and motivations are simply not comparable to those of a commercial steamship line.

One of the primary missions of the Soviet merchant marine, for example, is to obtain foreign currency. The Soviets' need to earn hard currency is illustrated by the fact that the Soviet Union currently has an accumulated hard currency trade deficit of approximately \$16 billion. It has also been reported that about 25 percent of the Soviet hard-currency earnings are required just to enable them to cover their interest payments on the massive hard currency debt obligations that they have contracted in the West.

As an example of the means utilized to obtain such currency, the Soviets have been requiring that insurance on cargoes moving between the United States and U.S.S.R. be placed with the Soviet Government's insurance agency, Ingosstrakh. As I am sure this committee is aware, the American Institute of Maritime Underwriters recently complained of this practice.

Within the past 2 weeks, the Commission experienced another peculiar incident involving Soviet practices.

Notice had been given to the Commission on February 3, 1978, by a Bermuda-based insurance company that the casualty insurance and insurance for nonperformance of services applicable to the Soviet passenger vessel *Mikhail Lermontov* would expire 30 days from that date.

The Commission immediately advised the appropriate Soviet officials, both by phone and in writing, that this insurance termination would render the certificates on file with this Commission null and void and that, without such certificates no passengers could be solicited or embarked from U.S. ports.

Despite this advice, the Soviets took no action to renew their insurance coverage. Notwithstanding the termination on March 5 of their insurance and the necessary certificates, the Soviets embarked passengers both in San Francisco and Los Angeles and attempted to sail the *Mikhail Lermontov* from Los Angeles on March 7.

Even after the Maritime Commission caused the vessel to be held in port as required by the statute, it took the Soviets 11½ additional days to realize that they must comply with our law and conduct business on our terms in order to operate from our ports. With the necessary insurance, the Soviet vessel sailed from Los Angeles on the morning of March 9.

Turning now to the mechanics of the bill, the Commission generally favors the manner in which controlled carriers rates would be regulated. As others have already pointed out H.R. 9998 is not self-executing. It does not automatically require that controlled carriers' rates be maintained at a particular level.

The bill affords the FMC the necessary discretion to suspend and investigate rates only when it appears to the FMC that such rates are below a level which is just and reasonable.

Obviously, this standard needs to remain sufficiently flexible so that the shipping public is not deprived of reasonable rates and at the same time carriers are not unduly prejudiced by rates which cannot produce a profit on a commercial basis.

One of the differences between this bill and earlier versions is the absence of a requirement for automatic justification of controlled carrier rates upon filing. Instead, this bill would provide for justification of rates only upon Commission request.

We believe that this approach is preferable in that it will dramatically decrease paperwork. However, as demonstrated by the instance cited above of the buses moving from Germany to Houston, the commission will need the assistance of the industry to detect some of the problems which the bill is designed to resolve. To demonstrate the magnitude of the task, we have attached a list of all of the Soviet tariffs currently on file with the Commission.

While the Commission would support the bill in its present form, we would prefer to see several relatively minor changes made to the language thereof which we believe would improve it significantly.

First, a provision should be added to section 4 of the bill to give the Commission specific authority to prescribe a minimum reasonable rate or a reasonable classification upon a finding that a particular rate, fare, charge or classification is unreasonable.

The absence of this power may require the Commission to immediately commence another proceeding when a controlled carrier attempts to put into effect a slightly higher rate or slightly different classification than that which the Commission just disapproved. In order to implement this suggestion, the following sentence should be added at the end of proposed new subsection 18 [c] [1] of the Shipping Act, as set forth in section 4 of the bill:

Whenever the Commission finds that any rate, rate, charge or classification of a controlled carrier is unjust or unreasonable, it may determine, prescribe

and order enforced a just and reasonable minimum rate, fare or charge or a just and reasonable classification.

Second, for the purpose of calculating constructive costs, as suggested by section 4 of the bill, the Commission should be given access, upon its formal request, to cost data now in the hands of the Maritime Administration, or other government agencies.

The Commission currently has little cost data relating to foreign trades and the collection of that data, if required, would be a far greater burden upon the affected carriers and the industry than would utilization of existing data from other agencies.

To implement this suggestion, the following language should be added at the end of proposed new subsection 18 [c] [2] of the Shipping Act, as set forth in section 4 of the bill:

For the purpose of determining constructive costs, the Commission shall be given access to all data relating to the cost of performing ocean transportation available in the files of the Maritime Administration, Department of Commerce, or any other agency of the United States in possession of such information. The data shall be made available upon written request of the Chairman of the Commission, which request shall state that the data is to be used for the purpose of evaluating rates under this subsection. Access to such data shall only be denied to the Commission upon certification by the possessing agency that release of such data would endanger national security. The Commission and the agency upon which it may make such data request shall not disclose to the public nor to any competing carrier the name of the carrier whose data is obtained in this manner.

Finally, we have noted the statement made in testimony last week by Sea-Land Service, Inc., that a potential loophole is created by defining "controlled carrier" as one which is owned or controlled by a "government under whose registry the vessels of the controlled carrier operate." Flags of convenience would be the easy way to avoid regulation under the bill.

We are informed by the State Department, however, that certain treaties would prevent this country from looking behind the registry of vessels calling at our ports to determine ownership.

We are in the process of researching this problem in order to suggest, if needed, some form of modification to the definition of "controlled carrier" to avoid this loophole and will advise the committee on this as soon as possible.

Parenthetically, this may not constitute a real problem requiring any modification. We will confirm this in writing after completion of our research.

Mr. Chairman, that completes my prepared testimony. We would be happy to answer any questions the committee may have, or to offer any other form of assistance on this matter.

[Whereupon, The Chairman assumed the Chair.]

The CHAIRMAN. Thank you, Mr. Daschbach.

We appreciate your testimony.

I would like to include in the record at this point the addendum you sent to this committee. It has a compendium of trade routes, rates, and tonnages, which indicate Soviet shares and percentages; and I think it would be helpful for our hearings to have this in the record at this point.

Without objection, it will be placed in the record.

[The following was received for the record:]

NATIONS WHOSE CONTROLLED VESSELS WOULD BE DEEMED "CONTROLLED CARRIERS"
UNDER H.R. 9998

Algeria	Malayasia
Bangladesh	Malta
Brazil	Mexico
Bulgaria	Nigeria
Burma	Oman
Chile	Pakistan
People's Republic of China	Peru
Czechoslovakia	Philippines
Egypt	Poland
German Democratic Republic (East Germany)	Saudi Arabia
Ghana	Sierra Leone
Guatemala	Singapore
Hungary	S. Africa
India	Sri Lanka
Indonesia	Syria
Ivory Coast	Tanzania
Kenya	Trinidad
Kuwait	Turkey
Libya	U.S.S.R.
	Venezuela
	Zaire

NOTE: Vessels of these nations would be exempt from the regulatory controls of H.R. 9998 if they operate only in bilateral trades or within approved rate or service agreements with non-controlled carriers.

SELECTED TRADE ROUTES USSR-FLAG SHARES OF COMMERCIAL LINER CARGO
CARRIED IN U.S. OCEANBORNE FOREIGN TRADE, IMPORTS AND EXPORTS -- JANUARY-SEPTEMBER 1977
(IN LONG TONS)

TRADE ROUTES 1/		Total Tons	USSR Share	USSR Percent
6	U.S. No. Atl./Scandinavia & Baltic	629,900	15,600	2.5%
7	U.S. No. Atl./W. Germany (N. Sea)	1,038,700	127,600	12.3
8	U.S. No. Atl./Netherlands, Belgium	1,705,700	70,600	4.1
10	U.S. No. Atl./Med., Black Sea, Portugal, Spain Morocco & Azores (USSR ports excl.)	1,910,300	75,600	4.0
11	U.S. So. Atl./U.K. & Ireland, Cont. Europe (No. of Portugal), (USSR ports excl.)	1,318,100	36,600	2.8
12	U.S. Atl./Far East	3,073,900	50,800	1.7
13	U.S. So. Atl. & Gulf/Med., Black Sea, Portugal, Spain (So. of Portugal), Morocco & Azores (USSR ports excl.)	1,519,500	52,800	3.5
17	U.S. Atl., Gulf & Pac./Indonesia, Malaysia, Singapore	1,457,000	147,700	10.1
21	U.S. Gulf/U.K., Ireland, Cont. Europe (No. of Portugal), (USSR ports excl.)	2,705,600	97,800	3.6
22	U.S. Gulf/Far East	828,500	96,400	11.6
23	U.S. Pacific/India, Pakistan, Ceylon, Burma, Persian Gulf, Gulf of Aden, Red Sea	323,900	1,300	0.4
29	U.S. Pacific, Hawaii & Alaska/Far East	6,844,500	436,500	6.4
32	U.S. Great Lakes/U.K., Ireland, Cont. Europe (No. of Portugal), (USSR ports excl.)	354,800	13,100	3.7
34	U.S. Great Lakes/Med., Black Sea, Portugal, Spain (So. of Portugal), Morocco, (USSR ports excl.)	137,700	26,800	19.5
56	U.S. Great Lakes/Red Sea, India, Persian Gulf, Indonesia, Malaysia, Singapore	60,800	--	--
71	U.S. Atl./West Coast Central America & Mexico	82,300	--	--
TOTAL -- SELECTED TRADE ROUTES		23,991,200	1,249,200	5.2%
GRAND TOTAL -- ALL U.S. TRADE ROUTES		38,582,400	1,309,100	3.4%

- 1/ The trade route selection was made on the basis of the significance of the USSR share in 1976.

Preliminary Data

SOURCE: Dept. of Commerce
Maritime Administration

SELECTED TRADE ROUTES USSR-FLAG SHARES OF COMMERCIAL LINER CARGO
CARRIED IN U.S. OCEANBORNE FOREIGN TRADE, IMPORTS AND EXPORTS -- 1971 AND 1974 TO 1976
(IN LONG TONS)

	TRADE ROUTES 1/	1971			1974		
		Total Tons	USSR Share	USSR Percent	Total Tons	USSR Share	USSR Percent
6	U.S. No. Atl./Scandinavia & Baltic	--	--	--	994,460	994	0.1%
7	U.S. No. Atl./W. Germany (N. Sea)	--	--	--	1,429,206	180,080	12.6
8	U.S. No. Atl./Netherlands, Belgium	--	--	--	2,655,885	98,268	3.7
10	U.S. No. Atl./Med., Black Sea, Portugal, Spain, Morocco & Azores (USSR ports excl.)	--	--	--	2,709,233	--	--
11	U.S. So. Atl./U.K. & Ireland, Cont. Europe (No. of Portugal), (USSR ports excl.)	--	--	--	1,500,818	3,002	0.2
12	U.S. Atl./Far East	--	--	--	3,952,830	--	--
13	U.S. So. Atl. & Gulf/Med., Black Sea, Portugal, Spain (So. of Portugal), Morocco & Azores (USSR ports excl.)	--	--	--	1,609,725	--	--
17	U.S. Atl., Gulf & Pacific/Indonesia, Malaysia, Singapore	--	--	--	1,750,165	80,508	4.6
21	U.S. Gulf/U.K., Ireland, Cont. Europe (No. of Portugal), (USSR ports excl.)	--	--	--	3,934,202	98,355	2.5
22	U.S. Gulf/Far East	--	--	--	1,847,839	1,848	0.1
28	U.S. Pacific/India, Pakistan, Ceylon, Burma, Persian Gulf, Gulf of Aden, Red Sea	--	--	--	--	--	--
29	U.S. Pacific, Hawaii & Alaska/Far East	5,293,708	153,518	2.9	7,203,720	461,038	6.4
32	U.S. Great Lakes/U.K., Ireland, Cont. Europe (No. of Portugal), (USSR ports excl.)	--	--	--	454,711	35,922	7.9
34	U.S. Great Lakes/Med., Black Sea, Portugal, Spain (So. of Portugal), Morocco (USSR ports excl.)	--	--	--	175,475	27,725	15.8
56	U.S. Great Lakes/Red Sea, India, Persian Gulf, Indonesia, Malaysia, Singapore	--	--	--	73,711	1,843	2.5
71	U.S. Atl./West Coast Central America & Mexico	--	--	--	--	--	--
TOTAL -- SELECTED TRADE ROUTES		5,293,708	153,518	2.9%	30,291,980	989,583	3.3%
GRAND TOTAL -- ALL U.S. TRADE ROUTES 2/		44,209,000		0.3%	51,418,000		1.9%

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TRADE ROUTES 1/		1975			1976		
		Total Tons	USSR Share	USSR %	Total Tons	USSR Share	USSR %
6	U.S. No. Atl./Scandinavia & Baltic	854,032	4,270	0.5%	1,002,649.5	12,178.7	1.2%
7	U.S. No. Atl./W. Germany (N. Sea)	1,132,318	132,481	11.7	1,336,443.9	175,225.9	13.1
8	U.S. No. Atl./Netherlands, Belgium	1,920,727	76,829	4.0	2,200,624.4	81,538.4	3.7
10	U.S. No. Atl./Med., Black Sea, Portugal, Spain, Morocco & Azores (USSR ports excl.)	2,552,929	5,106	0.2	2,680,248.1	77,891.6	2.9
11	U.S. So. Atl./U.K. & Ireland, Cont. Europe (No. of Portugal), (USSR ports excl.)	1,153,548	8,075	0.7	1,651,923.7	48,560.9	2.9
12	U.S. Atl./Far East	3,006,430	--	--	3,735,125.7	43,699.5	1.2
13	U.S. So. Atl. & Gulf/Med., Black Sea, Portugal, Spain (So. of Portugal), Morocco & Azores (USSR ports excl.)	1,597,155	7,986	0.5	1,940,884.7	54,553.5	2.8
17	U.S. Atl., Gulf & Pacific/Indonesia, Malaysia, Singapore	1,576,447	135,574	8.6	1,841,463.6	99,786.1	5.4
21	U.S. Gulf/U.K., Ireland, Cont. Europe (No. of Portugal), (USSR ports excl.)	3,305,321	52,885	1.6	3,600,393.3	97,550.4	2.7
22	U.S. Gulf/Far East	1,188,778	--	--	1,209,361.0	45,877.4	3.8
28	U.S. Pacific/ India, Pakistan, Ceylon, Burma, Persian Gulf, Gulf of Aden, Red Sea	409,469	--	--	519,499.4	1,731.4	0.3
29	U.S. Pacific, Hawaii & Alaska/Far East	6,185,317	358,748	5.8	8,145,810.0	458,822.8	5.6
32	U.S. Great Lakes/U.K., Ireland, Cont. Europe (No. of Portugal), (USSR ports excl.)	410,745	10,679	2.6	542,584.6	8,959.5	1.7
34	U.S. Great Lakes/Med., Black Sea, Portugal, Spain (So. of Portugal), Morocco (USSR ports excl.)	138,609	21,762	15.7	183,072.3	41,475.7	22.7
56	U.S. Great Lakes/Red Sea, India, Persian Gulf, Indonesia, Malaysia, Singapore	121,484	1,579	1.3	81,951.3	--	--
71	U.S. Atl./West Coast Central America & Mexico	--	--	--	140,971.1	1,785.8	1.5
TOTAL -- SELECTED TRADE ROUTES		25,553,309	815,974	3.2%	30,813,006.6	1,249,637.6	4.1%
GRAND TOTAL -- ALL U.S. TRADE ROUTES ^{2/}		44,250,000		1.8%	49,987,000.0	3/	2.5%
GRAND TOTAL -- ALL U.S. TRADE ROUTES, 1976 4/					50,448,414.5	1,276,895.8	2.5%

-3-

- 1/ The trade route selection was made on the basis of the significance of the USSR share in 1976.
- 2/ Percentage figures represent the USSR tonnage share for the selected trades as a comparison with the total tonnage on all U.S. trade routes for the calendar years. Tonnage figures were obtained from a MARAD report prepared by the Division of Trade Studies & Statistics, Office of Subsidy Administration.
- 3/ Preliminary data.
- 4/ Tonnage figures were derived from MARAD computer printout showing Soviet-flag liner movements for calendar year 1976.

SOURCE: Dept. of Commerce
Maritime Administration

2-1-78

SOVIET MAJOR MOVING COMMODITIES

RATE COMPARISON

U. S. Atlantic & Gulf/Australia

COMMODITY	2240# - 40CFT		2000# - 40CFT		2240# - 40CFT		% Below CONFERENCE
	ALL WATER Conference ITEM	vs. RATE	MINI-BRIDGE ITEM	FMC-28 RATE	Ace Lines ITEM	FMC-8 RATE	
Peanuts, shelled	1950	177.00W	4080	154.00W/M	1950	175.00W	1%
Rice, in bags	2425	132.50W or 118.30 per 2000#	4380 All Water Rate	No Rate Shown 88.00W	2425	107.00W	19%
)							
Cigarette Tow mea. not exc. 80 cu. ft. per 2000#	2416	200.25W	1930	160.00LT	2416	180.00W	10%
mea. exc. 80 cu. ft. but not exc. 100 cu. ft. per 2000#		97.50W/M		75.00W/M		88.00W/M	10%
mea. exc. 100 cu. ft. per 2000#		145.25W/M		115.00W/M		131.00W/M	10%
Agricultural Equipment	70	165.50W/M	1150	124.00W/M	70	166.00W/M	---
Acrylic Staple Fiber	2418	94.25W/M	1100	74.00W/M	2418	85.00W/M	10%
Yarn, Fiberglass	3241	137.75W/M	6345	102.00W/M		112.00W/M	19%

U. S. ATLANTIC & GULF/AUSTRALIA

COMMODITY	CONFERENCE		FESCO-FMC-28		* % Below		Ace Lines		FMC-8		% Below	
	ITEM	RATE	ITEM	RATE	CONFERENCE	CONFERENCE	ITEM	ITEM	RATE	RATE	CONFERENCE	CONFERENCE
Books	361	185.75W/M	1400	140.00W/M	25%		361		160.00W/M		14%	
Resin Synthetic (Neas. not exc. 80 cu. ft. per 2240#)	2365		5800	130.00W/M	-		2365					
Val. up to-\$650-2240#		161.50W							133.00W		17%	
Val. \$650-\$1000-2240#		175.25W							146.00W		17%	
Val. \$1000-\$1700-2240#		195.50W							164.00W		16%	
Val. over \$1700-2240#		167.50W/M							139.00W/M		17%	
Tabulating Machine Card												
Stock	336	141.25W	5900	150.00W/M	--		336		120.00W		15%	
Tobacco, Leaf	2820	126.50W/M	6070	101.00W/M	20%		2820		119.00W/M		6%	
Carpet	515	116.75W/M	1600	95.00W/M	19%				114.00W/M		2%	
Insecticides	1455	170.00W/M	3200	170.00L/T/M	--		1455		190.00W/M		--	
Chemicals, NOS												
Non-Hazardous	752	154.50W/M	1900				752					
Val. to \$225.00-2240#				109.00 W/M	29%				127.00W/M		18%	
Val. over \$225.00 up to												
\$500-2240#		169.25W/M		120.00W/M	29%				140.00W/M		17%	
Val. over \$500.00 up to												
\$750.00-2240#		192.00W/M		120.00W/M	38%				161.00W/M		16%	
Val. over \$750.00 up to												
\$1000.00-2240#		207.50W/M		154.00W/M	26%				175.00W/M		15%	
Val. over \$1000.00 up to												
\$1250.00-2240#		219.00W/M		163.00W/M	26%				185.00W/M		15%	
Val. over \$1250.00 up to												
\$1500.00-2240#		231.50W/M		170.00W/M	27%				196.00W/M		15%	
Val. over \$1500.00-2240#		237.00W/M		180.00W/M	24%				201.00W/M		11%	

U. S. ATLANTIC & GULF/AUSTRALIA

COMMODITY	CONFERENCE ITEM	RATE	FESCO-FMC-28 ITEM	RATE	* % Below CONFERENCE	Ace Lines ITEM	FMC-8 RATE	% Below CONFERENCE
Auto Parts - Boxed Unboxed	150	119.00W/M 174.00W/M	1350	89.00W/M 89.00W/M	25% 49%	150	101.00W/M 149.00W/M	15% 14%
Floor Covering Unitized	1180	159.75W/M 151.00W/M	2600	115.00W/M	28% 24%		138.00W/M 130.00W/M	14% 14%
Organs, Electric	2016	115.00W/M	4000	125.00W/M	--		145.00W/M	--
ys	2825	136.75W/M	6100	104.00W/M	24%		123.00W/M	10%
Audio Equipment	2300	168.50W/M	5700	130.00W/M	23%	2300	152.00W/M	10%
Microwave Ovens	2336	191.50W/M	4030	140.00W/M	27%	2336	172.00W/M	10%
Beans, in bags	250	122.50W	--	--	--	250	110.00W	10%
Tires	2519	90.00W/M	4400	316.00LT	--	2519	81.00W/M	10%
Freight All Kinds	--	--	2800	3000.00-PT20 5000.00-PT40	-- --	1913	3200 PC20 6000 PC40	-- --
Coin-operated Machines	1806	176.75W/M	2000	150.00W/M	15%	1806	159.00W/M	10%
Ice Chests, Plastic)	449	134.50W/M	1490	2500-PC20 4950-PC40		449	132.00W/M	2%

* NOTE--

Fesco rate basis 2000#/40 cubic feet while Conference and Ace rates based on 2240#/40 cubic feet. No adjustments made for this comparison since exact density factors unknown. Where cargo rated as W/M and weight used as revenue ton then approximately ten percent adjustment must be made in figuring the reduction from conference rates i.e., 20 percent becomes 18 percent, etc.

2-1-78

MAJOR MOVING COMMODITIES

RATE COMPARISON

U. S. ATLANTIC & GULF/AUSTRALIA

COMMODITY	2240# - 40CF CONFERENCE ITEM	2000# - 40CF FESCO - FMC-28 ITEM	RATE	RATE	2240# - 40CF Ace Lines - FMC-3 ITEM	RATE
Tobacco Leaf	2820	6070	126.50W/M	101.00W/M	2820	119.00W/M
* % Below Conference				20%		6%
Fiber Staple-Acrylic Polyester	2418	1100	94.25W/M	74.00W/M	2418	85.00W/M
) % Below Conference				21%		10%
Petroleum Lubricating oil and grease	47	1120	156.25W/M	115.00W/M	47	118.00W/M
% Below Conference				26%		18%
Synthetic Resins, NOS	2365	5800		130.00W/M	2365	
Meas. not exc. 80 cu. ft. per 2240#						121.00W
Val. up to \$300 -2240#			161.50W			133.00W
Val. up to \$650 -2240#			175.25W			146.00W
Val. \$651 - \$1000 -2240#			195.50W			154.00W
Val. \$1001 - \$1700 -2240#			167.50W/M			139.00W
Val. over \$1700 -2240#						
Paper Printing NOS includes Adding Machines & Lithographing	2115	4067	141.25W	103.00W/M	2115	115.00W/M
% Below Conference				27%		19%

U. S. ATLANTIC & GULF/AUSTRALIA

COMMODITY	2240# - 40CF CONFERENCE		2000# - 40CF FESCO - FMC - 28		2240# - 40CF Ace Lines - FMC-8	
	ITEM	RATE	ITEM	RATE	ITEM	RATE
Board, Paper or Pulp, NOS	342	191.50W/M	1395	148.00W/M	342	160.00W/M
% Below Conference				23%		16%
Carpets, Mats & Rugs, NOS	515	116.75W/M	1600	95.00W/M	515	114.00W/M
% Below Conference				19%		2%
Floor Covering, Linoleum or Linoleum Substitute NOS Unitized	1180	159.75W/M 151.00W/M	2600	115.00W/M	1180	138.00W/M
% Below Conference				24%		9%
Hand Tools Elec. Including Complete Radial Arm Wood- Working Saws	1062	135.00W/M	3180	103.00W/M	1062	122.00W/M 644.00 -PT40
% Below Conference				24%		
Engines, Internal Combustion	1811	134.50W/M	2340	113.00W/M	1811	121.00W/M
% Below Conference				16%		10%
Tractors, Agricultural	2855	169.50W/M	6200	155.00W/M	2855	147.00W/M
% Below Conference				8%		13%
Air Conditioners, wall or window	2352	133.00W/M	1205	102.00W/M	2352	120.00W/M
% Below Conference				23%		9%

U. S. ATLANTIC & GULF/AUSTRALIA

COMMODITY	2240# - 40CF CONFERENCE		2000# - 40CF FESCO - FMC-28		2240# - 40CF Ace Lines - FMC-8	
	ITEM	RATE	ITEM	RATE	ITEM	RATE
passenger Cars, Trucks Buses, Unboxed	150	174.00W/M 119.00W/M	1330	135.00W/M	150	149.00W/M 101.00W/M 14% 15%
% Below Conference				22%		
ooks, NOS	361	185.75W/M	1400	140.00W/M	361	160.00W/M
% Below Conference				25%		14%
Printed Matter, NOS	2285	237.00W/M	4365	178.50W/M	2285	201.00W/M
% Below Conference				25%		15%
ubber, Synthetic Mea. not exc. 65 Cu.Ft. Per 2240#	2476	165.75W 156.75W/M	4470	(137.76/2240 (123.00W 115.00W/M	2476	137.00W 129.00W/M
Exc. 65 Cu. Ft. Per 2240# But not Exc. 75						
% Below Conference				17% 27%		17% 18%
lassware, Mach. made	1340	122.25W/M	3100	95.00W/M	1340	110.00W/M
% Below Conference				22%		10%

RATE COMPARISON

SOVIET MAJOR MOVING COMMODITIES

U. S. PACIFIC/AUSTRALIA

ALL WATER

COMMODITY	2000/40		2000/40		% Below CONFERENCE
	CONFERENCE ITEM	RATE	FESCO -FMC-20 ITEM	RATE	
Chemicals. NOS Non-Hazardous	662	208.25W/M	662	150.00W/M	28%
Auto Parts	220	129.75W/M	220	93.00W/M	28%
Floor Covering	1030	168.25W/M	1030	119.00W/M	29%
Organs, Electric	1915	125.00W/M	1915 Per 40' cont. \$4400.00 Per 20' cont. \$2200.00	132.00W/M	--
Toys	3150	134.25W/M	3150	97.00W/M	28%
Audio Equipment	--		--		
Stereo-Hi-Fidelity Assembled units, components and parts	3008	130.00W/M	3008	123.00W/M	5%
Microwave Ovens	1927	118.00W/M	1930	130.00W/M	--
Beans in bags	340	115.00W	340	106.00W	8%

SOVIET MAJOR MOVING COMMODITIESRATE COMPARISONU. S. PACIFIC/AUSTRALIAALL WATER

<u>COMMODITY</u>	2000/40		2000/40		<u>% Below CONFERENCE</u>
	<u>CONFERENCE ITEM</u>	<u>RATE</u>	<u>FESCO-FMC-20 ITEM</u>	<u>RATE</u>	
Peanuts, Shelled nuts, shelled pgs. not less than 1 cu.ft. less than 1 cu.	-- 1840	154.00W/M 172.00W/M	-- 1840	125.00W/M 135.00W/M	19% 22%
Rice in bags	2714	126.75W	2714	88.00W	31%
Agricultural Equipment	70	152.00W/M	70	111.00W/M	27%
Yarn, Fiberglass	1170	167.75W/M	1170	118.00W/M	30%
Books	400	196.50W/M	400	143.00W/M	27%
Resin, Synthetic, Dry	2701	130.00W	2700	109.00W	16%
Tabulating Machine Card Stock	372	137.25LT	372	99.00LT	28%
Carpet	570	111.00W/M	570	102.00W/M	8%
Insecticides	1260	190.25W/M	1260	152.00W/M	20%

U. S. ATLANTIC & GULF/AUSTRALIA

COMMODITY	2240# - 40CF CONFERENCE		2000# - 40CF FESCO - FMC-28		2240# - 40CF Ace Lines - FMC-8	
	ITEM	RATE	ITEM	RATE	ITEM	RATE
Toys, NOS	2825	136.75W/M	6100	104.00W/M	2825	123.00W/M
% Below Conference				24%		10%
LinerBoard	335	180.50W	1390	134.00W/M	335	150.00W/M
(Not exc. 65 Cu.Ft. per 2240) (Conference) only				--		17%
Yarn, Acrylic	3235	202.25W/M	6341	148.00W/M	3235	170.00W/M
% Below Conference				27%		16%

* NOTE -- Fesco rate basis 2000#/40 cubic feet while Conference and Ace rates based on 2240#/40 cubic feet. No adjustments made for this comparison since exact density factors unknown. Where cargo rated as W/M and weight used as revenue ton then approximately ten percent adjustment must be made in figuring the reduction from conference rates i.e., 20 percent becomes 18 percent, etc.

SOVIET MAJOR MOVING COMMODITIESRATE COMPARISONU. S. PACIFIC/AUSTRALIAALL WATER

<u>COMMODITY</u>	<u>2000/40</u>		<u>2000/40</u>		<u>% Below</u>
	<u>ITEM</u>	<u>RATE</u>	<u>ITEM</u>	<u>RATE</u>	
Tires	2770	90.00W/M	2770	77.00W/M	14%
)			20' cont. min. 20,000#		
			\$236.00LT		
			40' cont. min. 28,000#		
			\$236.00LT		
Freight, All Kinds	1	2.00CWT	1075	\$2000-1 to 9 TFE's \$1900-10 to 14 TFE's \$1850-15 or more	
Coin operated Machines	1643	177.25W/M	1630	143.00W/M	19%
Ice Chests Plastic Camping Equipment	482	140.50W/M	482	102.00W/M	27%

MAJOR MOVING COMMODITIES

RATE COMPARISON

U. S. PACIFIC/AUSTRALIA

COMMODITY	CONFERENCE ITEM	RATE	FESCO-FYC-20 ITEM	RATE	% Below CONFERENCE
Nuts, Almond, shelled 75 cu. ft. per 2000# over 75 cu. ft. per 2000#	1838	205.00W 245.00W	1838	180.00W	12% 26%
Nuts in shell	1842	267.50W	1842	180.00W	33%
Fruit, Dried, incl. raisin paste	1090	149.50W/M	1090	114.00W/M	24%
Wine, in cartons, cases or casks	3280	194.75W/M	3280	138.00W/M	29%
Clay, common	680	114.50W/M	680	78.00W/M	32%
Chemicals, NOS, Non- Hazardous - Val. does not exceed \$750 per 2000#	662	208.25W/M	662	150.00W/M	28%
Paint and Lacquer NOS	1970	212.25W/M	1970	151.00W/M	29%
Drugs and Medicines, NOS (Harmless)	2540	285.75W/M	2540	210.00W/M	26%
Compound, Cleaning	740	150.00W/M	740	152.00W/M	--
Resins, Synthetic, Dry Val. up to and incl. \$650 per 2000#	2700	154.75W	2700	109.00W	29%
Val. over \$650 up to and incl. \$1000 per 2000#		163.25W		115.00W	29%
Val. over \$1000 up to and incl. \$1700 per 2000#		181.00W		129.00W	29%
Val. over \$1700 per 2000#		152.00W/M		101.00W/M	33%

MAJOR MOVING COMMODITIES

RATE COMPARISON

U. S. PACIFIC/AUSTRALIA

COMMODITY	CONFERENCE ITEM	RATE	FESCO-FMC-20 ITEM	RATE	% Below CONFERENCE
Insecticides, Fungicides, Herbicides, Pesticides & Rodenticides	1260	190.25W/M	1260	152.00W/M	20%
Carpets and Rugs, NOS	570	111.00W/M	570	102.00W/M	8%
Tools, Hand Power	1648	149.00W/M	3138	115.00W/M	23%
Engines, Internal Combustion	890	135.00W/M	890	130.00W/M	4%
Tractors, Agricultural	1610	159.25W/M	1610	117.00W/M	26%
Mining Equipment					
Mining Scoop Trams & Scoop Loaders	1760	159.25W/M	1760	117.00W/M	26%
Refrigerators -Freezers and Parts	2680	153.00W/M	2680	134.00W/M	12%
Automobiles, Passenger only	190	168.50W/M	190	128.00W/M	24%
Lumber, Finished, Pre-cut	1600	169.25W/M	1600	120.00W/M	29%
Boxboard, Cardboard, Chipboard, Paperboard, Woodpulp Board	360	168.25W/M	360	119.00W/M	29%
Paper Printing	2110	220.50LT	2110	159.00LT	28%

EXAMPLES OF SOVIET RATE CUTTING

3-15-78

PACIFIC COAST TO JAPAN

COMMODITY	PWC	OOCL	Percentage Below Conference	FESCO	Percentage Below Conference
Soap, N.O.S.	93.00 W/M	70.00 W/M	24.7%	48.00 W/M	48.4%
Cotton, Raw H.D.	113.00 W or Approx \$2260 Per 40' Cont.	97.00 W or Approx \$1940 Per 40' Cont.	14.2%	--- \$1,712 Per 40' Cont. 1-11 \$1605 Per 40' Cont. 12 & over	24.2%
Iron or Steel Pipe	135.00 W/M	109.00 W/M	19.3%	83.00 W/M	38.5%
Motorcycles	97.00 W/M	97.00 W/M	-	92.00 W/M	5.2%
Fork Lift Trucks	149.00 W/M	134.00 W/M	10.1%	90.00 W/M	39.6%
Yarn, N.O.S.	142.00 W/M	128.00 W/M	9.9%	81.00 W/M	42.9%
Hipes Wet Salted	54.00 W or Approx \$1080 Per 20' Cont.	--- \$878 Per 20' Cont.	-	41.00 W or Approx \$820 Per 20' Cont.	24.1%
			18.7%		24.1%

Rates include increases scheduled to become effective April 1, 1978

PACIFIC COAST TO HONG KONG

3-15-78

COMMODITY	PWC	OOCL	Percentage Below Conference		Percentage Below Conference	
			FESCO		FESCO	
Fork Lift Trucks	139.00 W/M	125.00 W/M	10.1%	88.00 W/M	36.7%	
Yarn N.O.S.	134.00 W/M	121.00 W/M	9.7%	80.00 W/M	40.3%	

PACIFIC COAST TO MANILA P.I.

Iron or Steel Pipe	126.00 W/M	101.00 W/M	19.8%	83.00 W/M	34.1%	
Soap N.O.S.	107.00 W/M	70.00 W/M	34.6%	52.00 W/M	51.4%	
Fork Lift Trucks	137.00 W/M	124.00 W/M	9.5%	88.00 W/M	35.8%	
Yarn N.O.S.	131.00 W/M	118.00 W/M	9.9%	83.00 W/M	36.6%	

Rates include increases to become effective
April 1, 1978

Effective March 4, 1978, FESCO established a new item, chemicals, N.O.S., Non-Hazardous with a rate to Japan of \$2,200.00 per 20 foot container and \$2,600.00 per 40 container from Chicago. The Pacific Westbound Conference does not publish any through rates from Chicago at present. The following chart depicts that the port to port portion of FESCO's through rate ranges from 28 to 69 percent below the all-sea conference rate.

FESCO (Chicago to Japan)	PWC	FESCO rate below PWC	
		Dollars	Percent
20' Container rate \$2200. Equates to 121.25 $\frac{1}{w}$ Less rail division - 27.94 Port to port portion of through rate <u>93.31</u>	\$130.	\$36.69	28.2%
40' container rate \$2600. $m^3 \frac{2}{3}$ Equates to 45.91 $m^3 \frac{3}{3}$ Adjusted for stowage 65.59 Less rail division - 25.55 Port to port portion of through rate. <u>40.04</u>	\$130.	\$89.96	69.2%
1 =Based on 40,000lbs/20' container 2 =Based on 100% utilization of a 40' container (2,000ft. 3) 3 =Based on 70% utilization of a 40' container, considered as a portable stowage for the commodity.			

NORTH ATLANTIC/CONTINENT

	North Atlantic Continental <u>Freight Conference</u>	Baltic <u>Shipping</u>	<u>Polish Ocean</u>
Personal Effects and Household Goods	\$ 525.75 Min 6720#	\$ 351.00 W Min 5660 # 20 ft Min 10500# 40 ft 33%	\$ 351.00 W Min 5600 # 20 ft Min 10500# 40 ft 33%
Percent below Boats, Aluminum, Fibre, Plastic, Uncrated, 20 ft long	78.25 W/M	56.00 M Min 800 cft 20 ft Min 1400 cft 40 ft 29%	56.00 M Min 800 cft 20 ft Min 1400 cft 40 ft 29%
Percent below Compound-Fertilizer, N.E.S. - Packed	86.25 W Min 42000# per cont	59.75 W	64.25
Percent below		31%	26%
Canned Corn	93.75 W Min 15 ton	65.75 W	No Rate Cargo N.O.S.
Percent below		30%	30%
Coin Operated Machines	74.75 W/M	30.00 M 1800 cft min 60%	59.75 W/M 1800 cft min 20%
Percent below			
Air Conditioning Machinery	71.00 W/M	14% 61.00 W/M	14%
Percent below			
Photo Apparatus	64.00 W/M	57.75 W/M (20 ft)	10%
Percent below		10% 49.25 W/M (40 ft) 23%	10% 23%
Paper Sulphate Release	72.00 W Min 40,320#	63.25 W Min 40,320#	
Percent below		12%	12%
Asbestos, Cement Shingles	72.00 W Min 38,080#	61.50 W Min 38,080#	
Percent below		15%	15%
Common Glassware	69.00 W/M	49.25 W/M Min 800 cft/20' cont.	
Percent below		29%	29%
Cat or Dog Food	61.50 W	56.00 W	
Percent below		9%	9%
Compound Fertilizer	86.25 W Min 42,000#	59.75 W Min 42,000#	
Percent below		31%	31%

PACIFIC COAST MINI-BRIDGE TRADE TO EUROPE

	<u>PCEC</u>	<u>Balt/Atlantic</u>
Diatomaceous Earth	\$110.00 W	\$101.60 W
Percent Below		7%
Unshelled Walnuts	159.45	143.50
Percent Below		10%
Dried Fruit	109.45	98.50
Percent Below		10%
Canned Fruit, N.O.S.	108.45	97.60
Percent Below		10%
		77.00 Emergency Rate Expires 4-30-78
Percent below		29%
Dehydrated, Onions & Garlic	154.65	139.20
Percent below		10%
Molybdenite	90.10	81.10
Percent below		10%
Loud Speakers not including Amplifiers	60.00	54.00
Percent below		10%

Note 1 Balt/Atlantic rates are generally 10 percent to 20 percent under conference.

Note 2 Mr. Santiago of the Conference states that it is competitive with other carriers, i.e., Sea-Land and Seatrain

South Atlantic North Europe Rate AgreementContainer Loads Mixed Commodities

5 or more different commodities

Service 1 - Min 800 cft per container

\$65.00 W/M

North Atlantic Baltic Freight ConferenceContainer Loads Mixed Commodities

3 or more different commodities

Service 1 - Min 900 cft per container

\$65.00 W/M

Baltic Shipping CompanyContainer Loads Mixed Commodities

3 or more different commodities

Min 900 cft per 20 ft container

Min 2000 cft per 40 ft container

\$50.00 M

BROKERAGE

	North Atlantic Continental <u>Freight Conference</u>	Baltic <u>Shipping</u>	<u>Polish Ocean</u>
	2½% Service 1	3 3/4% Service 1	3 3/4% Service 1
	5 % Service 3	6 1/4% Service 3	6 1/4% Service 3
Lump sum & frozen cargoes	2½% Service 1	6 1/4% Service 1	6 1/4% Service 1
	5% Service 3		

	<u>Continental/U.S. Gulf Freight Association</u>	<u>Baltic Shipping Co.</u>
Autobuses--Meas. 136		
cbm ----- 2-8-78	136 x 88.00 W/M*	136 x 88.00 W/M*
3-8-78	136 x 88.00 W/M*	\$4,500 Lumpsum**

CURRENCY SURCHARGE

2-8-78	4.5%	4.5%
3-8-78	7%	7%

* Automobiles, N.O.S. over 4 tons - Add H/L charges plus extra length charges

** Seven percent currency adjustment factor not applicable

RATES APPLY FROM NOVEMBER 1, 1961 TO FEBRUARY 1, 1962, R.M.A.

Commodity	Baltic Shipping FMC-44 Gulf Only	Agreement 10045 FMC-2 Florida Only	%	Naviera Multinacional Del Caribe S.A. FMC-2	%	Marina Mercante Nicarguense, S.A. FMC-17	%
Boats or Launches (pleasure) on Boat Trailers only not exceeding 18 ft in length	\$ 455.00 each	\$ 56.00 M	--	\$ -----	--	\$ -----	--
Boats or Launches (pleasure) on Cradles	50.97 M 40.82 W	48.00 M 1/ 160.00 W	-- 74	54.00 M -----	6 --	68.50 M 68.50 W	26 40
Cargo, NOS, Non-Hazardous	169.35 M 136.08 W	48.00 M 160.00 W	-- 15	205.00 M 205.00 W	17 34	111.00 M 111.00 W	-- --
Cargo, NOS, Hazardous	226.54 M 181.44 W	62.00 M 164.00 W	-- --	253.00 M 253.00 W	10 28	168.00 M 168.00 W	-- --
Cargo, NOS, Dangerous (Deck)	283.18 M 226.80 W	62.00 M 164.00 W	-- --	253.00 M 253.00 W	-- 10	168.00 M 168.00 W	-- --
Carts or Flatbed Sugar Cane	1785.00 P/T	2210.00 P/T	19	-----	--	69.00 W/M	--
Equipment, Amusement Park on Wheels, not exceeding 40 ft in length	1500.00 P/T	2300.00 P/T	35	-----	--	-----	--
Equipment, Roadbuilding	45.31 M 36.29 W	50.00 M 54.00 W	9 33	49.50 M 49.50 W 2/	8 27	58.50 M 58.50 W	23 38
Household Goods & Personal Effects, NOS	39.64 M 31.75 W	64.00 M 300.00 W	38 89 3/	90.00 M 90.00 W	56 65 3/	111.00 M 111.00 W	64 71 3/
Machinery, Agricultural, Hay Balers on own wheels not exceeding 17 ft long or 6,000 lbs	485.00 each	52.00 M 111.00 W 4/	--	50.00 M 50.00 W	-- --	69.00 M 69.00 W	-- --

NOTE: Percentages shown are the differences above the Russian rate.

- 1/ Cargo NOS rate used
 2/ Not exceeding 12,000 lbs
 3/ Weight rate not a valid comparison
 4/ Agricultural implements or Machinery NOS rate used

Rates Apply From Atlantic & Gulf to Puerto Limon, Costa Rica

Commodity	Baltic Shipping FMC-44 Gulf Only	Agreement 10045 FMC-2		Naviera Multinacional Del Caribe S.A.		Marina Mercante Nicarguense, S.A.	
		Florida Only	%	FMC-2	%	FMC-17	%
Hay Balers on own Wheels Over 17 ft long but not exceeding 23½ ft	\$ 730.00 each	\$ 52.00 M 4/ 111.00 W	--	\$ 50.00 M 50.00 W	--	\$ 69.00 M 69.00 W	--
Windrowers	365.00 each	52.00 M 4/ 111.00 W	--	50.00 M 50.00 W	--	69.00 M 69.00 W	--
Oil, Lubricating Mineral	56.70 W	82.00 W	30	57.00 W	1	111.00 W	49
Refrigerating units & Components for H/H refrigerators	36.25 M 29.03 W	38.00 M 87.00 W	5 66	55.00 M 55.00 W	34 47	79.00 M	54
Supplies, Office and Laboratory, viz:	33.98 M 27.22 W	40.00 M 65.00 W	15 58				
Tires & Tubes	158.58 M 127.01 W	42.00 M 93.00 W	--	185.00 W	14	111.00 M 111.00 W	--
Trailers, tank maximum length 40 ft	1500.00 each	1430.00 each	--	58.00 M 58.00 W	--	77.50 M 75.50 W	--
Trailers, highway, flatbeds, lowboys, maximum length 40 ft	1300.00 each	1430.00 each	9	58.00 W/M	--	77.50 W/M	--
max length 20 ft	650.00 each	800.00 each	19	58.00 W/M	--	77.50 W/M	--

4/ Agricultural implements or Machinery NOS rate used

Rates Apply From Atlantic & Gulf to Puerto Limon, Costa Rica

Commodity	Baltic Shipping FMC-44 Gulf Only	Agreement 10045 FMC-2 Florida Only	%	Naviera Multinacional Del Caribe S.A. FMC-2	%	Marina Mercante Nicarguense, S.A. FMC-17	%
Motor Vehicles Buses, over 35 ft	\$1200.00 each	\$1800.00 each	33	\$	---	\$	---
Motor Vehicles, Passenger Cars - 19 to 20 ft long	500.00 each	38.00 M	--	49.00 M	---	52.00 M	---
Trucks, N.O.S.	33.98 M 27.21 W	38.00 M -----	10	-----	---	-----	---
Motor Vehicles, specially equipped, NOS	39.64 M 31.75 W	68.00 M	41	-----	---	-----	---
Motor Vehicles, Concrete mixers, self propelled	1815.00 each	2780.00 each	35	-----	---	-----	---

Rate basis is 2000 lbs (weight) or 40 cubic meter (measure). Russian carrier converted from 1000 kilos (weight) or 1 cubic meter (measure). Rate Agreement converted from 100 lbs (weight) or 1 cubic foot (measure).

CURRENT RUSSIAN TARIFFS ON FILE WITH THE FEDERAL MARITIME COMMISSION

BALTIC SHIPPING COMPANY

CONFERENCE OR RATE AGREEMENT

OUTBOUND

PMC-13 From Ports in the Eastport, Maine/Hampton Roads, Virginia Range to Belgium, Holland, France and Germany (excluding German Baltic Ports) Original Tariff Effective 8-5-74	(9214) North Atlantic Continental Freight Conference
PMC-5 From Ports in the Hampton Roads, Virginia/Key West, Florida Range to Danish, Finnish, Norwegian, Polish, Sweden and to German Baltic Ports Original Tariff Effective 6-1-73	(7670) North Atlantic Baltic Freight Conference (9984) South Atlantic-North Europe Rate Agreement
PMC-35 U.S. Gulf of Mexico Ports from and including Brownsville, Texas, to but not including Key West, Florida, to all ports of call in French Atlantic/Hamburg Range (both inclusive) Original Tariff Effective 9-4-73	(9360) Gulf European Freight Association Rate Agreement
PMC-36 U.S. Gulf of Mexico Ports from and including Brownsville, Texas, to, but not including Key West, Florida to United Kingdom and Ireland Original Tariff was Effective 9-4-73	(161) Gulf/United Kingdom Freight Conference
PMC-37 U.S. Gulf of Mexico Ports from and including Brownsville, Texas, to, but not including Key West, Florida, to Scandinavian and Baltic Ports (excluding U.S.S.R. Ports) Original Tariff Effective 8-24-73	NONE

BALTIC SHIPPING COMPANY (cont.)

CONFERENCE OR RATE AGREEMENT

OUTBOUND

FMC-42	U.S. Gulf of Mexico Ports from and including Brownsville, Texas, to, but not including Key West, Florida, to Iberian Peninsula, Mediterranean, Africa, Australia, New Zealand and Oceania, Effective 11-3-77	(134) (6200)	Gulf/Mediterranean Ports Conference U.S. Atlantic and Gulf/Australia - New Zealand Conference
FMC-14	From Ports in the Eastport, Maine/Hampton Roads, Virginia Range to ports of call in the United Kingdom and Ireland Original Tariff Effective 5-1-75	(7100)	North Atlantic United Kingdom Conference
FMC-20	United States Ports in the Gulf of Mexico from and including Brownsville, Texas, to, but not including Key West Florida to U.S.S. R. ports served via Baltic Sea Original Tariff Effective 3-1-76	NONE	
FMC-22	Atlantic Ports of the United States (in the Eastport, Maine/Key West, Florida Range) to all Baltic Sea Ports of the U.S.S.R. Original Tariff Effective 2-29-76	(7670)	North Atlantic Baltic Conference
FMC-26	U.S. South Atlantic Ports to ports of call in the United Kingdom & Ireland Original Tariff Effective 2-14-76	(9984)	South Atlantic North Europe Rate Agreement
FMC-27	U.S. South Atlantic Ports to Belgium, Holland, France and Germany (excluding German Baltic ports) Original Tariff Effective 2-8-76	(9984)	South Atlantic North Europe Rate Agreement

BALTIC SHIPPING COMPANY (cont.)

CONFERENCE OR RATE AGREEMENT

OUTBOUND

FMC-39

Between U.S. Pacific Coast/
Scand., Continental Europe, U.K.
& U.S.S.R.
Original Effective 10-1-77
(Local & Overlands Rates)

(5200) Pacific Coast/European
Conference

FMC-44

Between Caribbean Islands, West Indies,
North Coast of South America and East
Coast of Central America and Mexico and
U.S. Gulf, South Atlantic in the range
from Brownsville, Texas to Jacksonville,
Florida
Original Tariff Effective 1-21-78

(6190) U.S. Atlantic & Gulf/
Venezuela & Netherlands
Conference

(7540) Leeward & Windward Islands
& Guianas Conference

(8120) U.S. Atlantic & Gulf/Haiti
Conference

(6080) U.S. Atlantic & Gulf/Santo
Domingo Conference

(4610) U.S. Atlantic & Gulf/Jamaica
Conference

Tariff
No. 1

European Continental Inland Tariff, Rules,
Conditions and charges covering FCL Transport
in Continental Europe

North Atlantic Continental,
French Atlantic Freight
Conferences, and Continental
North Atlantic Conferences
Tariff of European Inland
Rules, Conditions and Charges

INBOUND

FMC-7

From Finnish, Polish and German Baltic
Ports to U.S. Atlantic Coast ports
(Eastport, Maine/Key West, Florida Range)
Original Tariff Effective 7-15-73

(9982) Scandinavia-Baltic/U.S.
North Atlantic Conference
(9984) South Atlantic-North Europe
Rate Agreement

BALTIC SHIPPING COMPANY (cont.)

CONFERENCE OR RATE AGREEMENT

INBOUND

FM-C-10 From ports in the Hamburg/Bordeaux Range also from Spain to ports in the United States Eastport, Maine/Hampton Roads, Virginia Range Original Tariff Effective 12-10-73	(8210) Continental North Atlantic Westbound Freight Conference
FM-C-15 Ports of call in the United Kingdom and Ireland to ports in the Eastport, Maine/Key West, Florida Range Original Tariff Effective 5-1-75	(5880) North Atlantic Westbound Freight Association
FM-C-16 Baltic and Scandinavian Ports, excluding U.S.S.R. ports to ports of call in the U.S. Gulf of Mexico from and including Brownsville, Texas, to, but not including Key West, Florida Original Tariff Effective 6-14-75	NONE
FM-C-21 From U.S.S.R. ports via Baltic Sea to ports of call in the U.S. Gulf of Mexico from and including Brownsville, Texas, to, but not including Key West, Florida Original Tariff Effective 3-1-76	NONE
FM-C-23 From all Baltic Sea Ports of the U.S.S.R. to Atlantic ports of the U.S. (in the Eastport, Maine/Key West Florida Range) Original Tariff Effective 3-13-76	(9982) Scandinavia-Baltic/U.S. North Atlantic Conference
FM-C-24 From ports in the Hamburg/Bordeaux Range to ports in the U.S. Key West Florida/Brownsville, Texas Range Original Tariff Effective 3-1-76	(9988) Continental/U.S. Gulf Rate Agreement

BALTIC SHIPPING COMPANY (cont.)

CONFERENCE OR RATE AGREEMENT

5.

INBOUND

FMC-29	From Dannish, Swedish, Norwegian, Finnish, Polish and German Baltic ports to U.S. Atlantic Coast ports in the Eastport, Maine/Key West, Florida Range	(1984)	South Atlantic North Europe Rate Agreement
	Original Tariff Effective 4-22-76	(1982)	Scandinavia-Baltic/U.S. North Atlantic Freight Conf.
FMC-30	From Hamburg, Bremerhaven, Bremen, Amsterdam, Rotterdam, Antwerp, Le Havre and Bordeaux to U.S. South Atlantic ports in the Range of Cape Hatteras/Key West, Florida	(1984)	South Atlantic North Europe Rate Agreement
FMC-40	Original Tariff Effective 1-1-77	(8770)	U.K./U.S. Gulf Freight Association
	From Great Britain & North Ireland & Erie to Gulf of Mexico ports ranging from Key West, Florida to Brownsville, Texas		
	Original Tariff Effective 11-5-77	(19522)	Med-Gulf Conference
FMC-41	From Iberian Peninsula, Mediterranean, Africa Australia, New Zealand & Oceania to U.S. Gulf ports in Brownsville, Texas but excluding Key West, Florida	(19831)	New Zealand/U.S. Atlantic & Gulf Shipping Lines Rate Agreement
	Original Tariff Effective 11-6-77		

BLACK SEA CANADA - U.S.A. LINE

OUTBOUND

PMC-4

U.S. Great Lakes and St. Lawrence River Ports to Atlantic Coast ports on the Iberian Peninsula; European, Asian and African ports on the Mediterranean Sea (including Black Sea ports); and Atlantic Coast African ports including, but not south of Casablanca, unless otherwise excepted to ports served

NONE

BLASCO GULF-MED LINE

OUTBOUND

PMC-3

U.S. Gulf of Mexico and South Atlantic ports from and including Brownsville, Texas, to and including all ports south of Cape Hatteras, North Carolina, to all ports served on the Mediterranean Sea, including Adriatic, Sea of Marmara, Black Sea and Sea of Azov, and on the Atlantic Coasts of Morocco, Spain and Portugal, as well as the Islands in the Atlantic enroute, namely, Bermuda, the Azores, the Madeira Islands, and the Canary Islands
Original Tariff Effective 8-27-75

(134) Gulf/Mediterranean Freight Conference
(7680) American West African Freight Conference

BLASCO MED-ATLANTIC LINE

OUTBOUND

PMC-4

North Atlantic Ports of the U.S. to all ports served on the Mediterranean Sea (except Spanish and Israeli ports) on the Sea of Marmara and the Black Sea, and on the Atlantic Coast of Morocco
Original Tariff Effective 9-14-75

(9548) North Atlantic Mediterranean Freight Conference

BLACK SEA SHIPPING COMPANYCONFERENCE OR RATE AGREEMENTOUTBOUND

FMC-12

U.S. Atlantic Ports in the North Carolina/
Maine Range to Portuguese ports
Original Tariff Effective 11-7-76

(9423) North Atlantic-Portugal
Freight Conference

FMC-15

Between Caribbean Islands, West Indies,
North Coast of South America and East
Coast of Central America and Mexico and
U.S. Gulf, South Atlantic in the Range
from Brownsville, Texas to Cape Hatteras,
North Carolina
Original Tariff Effective 1-2-77

(6190) U.S. Atlantic & Gulf/
Venezuelan & Netherlands
Conference
(7540) Leeward & Windward Islands
& Guianas Conference
(8120) U.S. Atlantic & Gulf/Haiti
Conference
(6080) U.S. Atlantic & Gulf/Santo
Doming Conference
(4610) U.S. Atlantic & Gulf/Jamaica
Conference

FMC-21

Between U.S. Pacific Coast ports and
Med. Sea (Local & overland rates)
Effective 10-2-77

(5200) Pacific Coast/European Conference

INBOUND

FMC-5

From Black Sea Ports (excluding Turkey)
to U.S. Atlantic Coast ports in the Norfolk,
Virginia/Maine Range
Original Tariff Effective 10-25-75

NONE

BLACK SEA SHIPPING COMPANY

CONFERENCE OR RATE AGREEMENT

INBOUND

FMC-6

From Black Sea Ports (except Turkey) to U.S. South Atlantic and Gulf ports
Original Tariff Effective 12-14-75

NONE

FMC-7

From Portuguese & Spanish Ports to U.S. Atlantic Coast ports
Original Tariff Effective 1-4-76

(9615) Iberian/U.S. North Atlantic Conference

FMC-8

From Turkey to U.S. Atlantic Coast ports in the Norfolk, Virginia/Maine Range
Original Tariff Effective 3-13-76

(9239) Turkey/U.S. North Atlantic Rate Agreement

FMC-9

From Greece, Malta & Tunisia to U.S. Atlantic in the Norfolk, Virginia/Maine Range
Original Tariff Effective 5-2-76

(9238) Greece/U.S. North Atlantic Rate Agreement

FMC-18

From French Mediterranean Ports to U.S. Atlantic (Portland, Maine/Hampton Roads, Virginia)
Effective 1-29-77

(5660) Marseilles North Atlantic Freight Conference

POLARITIC

OUTBOUND

FMC-5

From U.S. Great Lakes ports & St. Lawrence to Northern Spanish ports as the Iberian Peninsula, Bordeaux/Hamburg Range. United Kingdom including Ireland. Scandinavian/Baltic Sea ports including Murmansk and Leningrad

NONE

Original Tariff Effective 4-13-77

<u>POLARCTIC</u>	<u>CONFERENCE OR RATE AGREEMENT</u>
<u>INBOUND</u>	
FMC-1	NONE
From all Polish, Baltic Sea, Scandinavian ports and Murmansk Leningrad to U.S. Great Lakes ports and St. Lawrence River ports Original Tariff Effective 4-15-76	
FMC-3	NONE
Bordeaux/Hamburg Range ports to U.S. Great Lakes ports Original Tariff Effective 4-15-76	
FMC-4	NONE
From United Kingdom and Erie to U.S. Great Lakes ports and St. Lawrence River ports Original Tariff Effective 9-11-76	

10.

BALTIC SHIPPING COMPANY MINI-BRIDGE TARIFFS CONFERENCE OR RATE AGREEMENT

OUTBOUND

FMC-34

From U.S. Pacific Coast ports to North
Europe ports via North Atlantic, U.S. Gulf
Original Tariff Effective 3-17-77

(10052) Pacific Coast-Europe
Rate Agreement

FMC-45

From U.S. Midwest points to U.K.
Cont. Scan. & Iberian Peninsula via Gulf

INBOUND

FMC-33

From North Europe Ports to U.S. Pacific
Coast ports via North Atlantic, U.S. Gulf
Original Tariff Effective 3-17-77

(93) North Europe/U.S. Pacific
Freight Conference -
intermodal

FMC-46

From U.K., Europe, Scand. & Iberian Peninsula
to Interior Midwest points via Gulf

BLACK SEA STEAMSHIP COMPANYOUTBOUND

FMC-10

U.S. Pacific to Mediterranean via Gulf
Original Tariff Effective 8-15-76

(10052) Pacific Coast- Europe
Rate Agreement

FMC-13

U.S. Pacific to Med. Europe via North
Atlantic
Original Tariff Effective 11-30-76

(10052) Pacific Coast- Europe
Rate Agreement

FMC-11

Mediterranean to Pacific Coast via Gulf
Original Tariff Effective 8-5-76

NONE

FMC-14

From Med. Ports to U. S. Pacific Coast
ports via North Atlantic
Original Tariff Effective 11-30-76

(93) North Europe/U.S. Pacific
Freight Conference -
intermodal

1.

BRANCH II

ARTIC LINE TARIFFSCONFERENCE OR RATE AGREEMENT

From East African ports to
U.S. Great Lakes

(9509) U.S. Great Lakes South &
East Africa Rate Agreement

BALTIC SHIPPING COMPANY

FMC-31

From U.S. Atlantic & Gulf ports
to Middle East ports in the Arabian
Sea, Gulf of Oman, Persian Gulf, Gulf
if Aden and Red Sea. (Roll on/roll off)
service

(8900) 8900 Rate Agreement
(9490) R.C.D. Shipping Services

FMC-32

Between U.S. Atlantic ports and ports in
East & West Africa

(7680) American West African Freight
Conference - OUT & IN
(8054 - IN) (9502 - OUT)
South and East Africa/USA
Conference

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BLACK SEA SHIPPING COMPANY TARIFFSD/B/A BLASCO

FMC-16

From U.S. Atlantic & Gulf ports
to Middle East ports in the Arabian Sea
Gulf of Oman, Persian Gulf, (Gulf of
Aden and Red Sea.) (A Roll on/roll off
service)

(8900) 8900 Rate Agreement
(9490) RCD Shipping Services

2.

D/B/A BLASCOCONFERENCE OR RATE AGREEMENT

FMC-17

From U. S. Atlantic & Gulf ports
to Middle East ports in the Arabian
Sea, Gulf of Oman, Persian Gulf,
Gulf of Aden and Red Sea
(a Break-Bulk Service), Singapore,
Burma, Malaysia and Thailand

(8900) 8900 Rate Agreement
(9490) RCD Shipping Services

FMC-22

Atlantic & Gulf/Pakistan, India in
the Karchi Kuticoen Range

INTERMODAL TARIFFSBALTIC SHIPPING COMPANY

FMC-38 - ICC-6

From U. S. Pacific Coast Rail Terminals
to Middle East ports

BLACK SEA SHIPPING COMPANY

FMC-20 - ICC-4

From U. S. Pacific Coast Rail Terminals
to Middle Eastern ports in Pakistan,
India, Sri Lanka, Bangladesh & Burma

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FAR EASTERN SHIPPING COMPANY TARIFFSCONFERENCE OR RATE AGREEMENT

			NONE	
FMC-3	From Nakhodka and Vladivostok, U.S.S.R. to U.S.W.C., Atlantic and Gulf ports			
FMC-5	From Hong Kong to U.S.W.C. ports	(14)	Trans Pacific Freight Conference *Agreement No. 10107	
FMC-9	From ports in Malaysia & Singapore to U.S.W.C., Atlantic & Gulf ports	(6010) (9836)	Straits/N. Y. Conference Malaysia/Pacific Rate Agreement	
FMC-11	From ports in Thailand to U.S.W.C., Atlantic & Gulf ports	(8100) (9474)	Thailand/Atlantic & Gulf Freight Conference Thailand/Pacific Freight Conference	59-
FMC-13	From ports in Sumatra between Langsa & Indragiri to U.S.W.C., Atlantic & Gulf ports	(7190) (192)	Deli/New York Rate Agreement Deli/Pacific Rate Agreement	
FMC-15	From ports in Japan to U.S.W.C. including Hawaii and General Cargo rate only to Atlantic & Gulf ports	(150) (3130)	Trans-Pacific Freight Conference of Japan/Korea Japan/Korea/Atlantic & Gulf Freight Conference	
FMC-17	From ports in India to U.S.W.C., Atlantic & Gulf ports	(9247) (8650) (8040)	Pacific India Rate Agreement Calcutta East Coast of India U.S.A. Conference West Coast of India & Pakistan U.S.A. Conference	

*/ Under Rate Agreements so indicated member carriers file individual tariffs

CONFERENCE OR RATE AGREEMENT

FXC-18	From U. S. Atlantic and Gulf ports to ports in Malaysia, Singapore, Thailand & Indonesia, East & West Coast of India, Bangladesh, Sri Lanka, Japan, Hong Kong, the Philippines, U.S.S.R., Pakistan, Eastern Mediterranean, Red Sea and Gulf of Aden	(17) (8900) (8080) (8240) (7690)	Far East Conference 8900 Rate Agreement Atlantic & Gulf/ Indonesia Conference Atlantic & Gulf/ Singapore, Malaya & Thailand Conference India, Pakistan, Bangladesh, Ceylon & Burma Outward Freight Conference
FXC-20	From U.S.W.C. ports including Hawaii to Ports in Australia, New Zealand & Tasmania	(50)	Pacific Coast Australasian Tariff Bureau
FXC-23	From ports in the Philippines to U.S.W.C. including Hawaii, Atlantic & Gulf ports	(3600)	Philippines North America Conference
FXC-24	From U.S.W.C. ports including Alaska & Hawaii to ports in Japan, Philippines, Hong Kong, U.S.S.R. (Nakhodka & Vladivostok)	(37)	Pacific Westbound Conference Conference
FXC-25	Ports in Australia to U.S.W.C. ports and Hawaii	(10012)	*Australia/Pacific Rate Agreement
FXC-26	From U.S.W.C. ports including Alaska to ports in Malaysia, Republic of Singapore, Burma, Thailand, Sumatra, East & West Coast of India & Sri Lanka	(3680) (6060) (3760)	Pacific/Straits Conference Pacific/Indonesia Conference Pacific/India Rate Agreement
FXC-27	From ports in Malaysia, Singapore & Indonesia to U.S.W.C. Atlantic & Gulf ports (Rubber Tariff)		Rubber Tariff Only

* / Under Rate Agreements so indicated member carriers file individual tariffs

FAR EAST SHIPPING COMPANYINTERMODAL TARIFFSCONFERENCE OR RATE AGREEMENT

FMC-16 - ICC-4	From U.S. Atlantic and Gulf Coast Rail Terminals to Japan, Hong Kong, Australia & Philippines	(57)	Pacific Westbound Conference
FMC-21 - ICC-3 Rail/Water (Mini-Bridge)	From Japan, Hong Kong & Australia to U.S. Atlantic & Gulf Coast Rail Terminals	(150)	Trans Pacific Freight Conference of Japan/Korea
FMC-22 - ICC-6	From U.S. Atlantic & Gulf Coast Rail Terminals to ports in Singapore, Thailand and West Malaysia	(14)	Trans Pacific Freight Conference (Hong Kong)
FMC-29 - ICC-5	From ports in the Philippines, Singapore Thailand & West Malaysia to U.S. Atlantic & Gulf Coast Rail Terminals	(5680)	Pacific Straits Conference
FMC-28 - ICC-7	From U.S. Atlantic & Gulf Coast Rail Terminals to ports in Australia		
FMC-30 - ICC-8	From points and ports in U.S. Atlantic to ports in Japan, Hong Kong, The Republic of the Philippines, Singapore and Thailand	(57)	Pacific Westbound Conference
FMC-31 - ICC-9	From Japan, Hong Kong, Philippines, Singapore and Thailand to U. S. Inland points via Los Angeles and Oakland, California		
FMC-32 - ICC-10	From Australia to U. S. Inland points via Los Angeles and Oakland, California		
FMC-33 - ICC-11	From points and ports in U. S. Atlantic to Australia	(6200)	U. S. Atlantic & Gulf/Australia- New Zealand Conference

The CHAIRMAN. The statement is often made that the Soviets are ratecutting primarily on high-rated cargoes.

What specific evidence or data do you have to support this contention?

Mr. DASCHBACH. Mr. Chairman, I would like Mr. Ellsworth to respond to that question. He has been concentrating primarily in this rate analysis.

The CHAIRMAN. Very well.

Mr. ELLSWORTH. Sir, we have just begun an initial investigation of that contention. We have taken the top Soviet-moving commodities, and we compare these in value per ton. We have been doing some statistical analysis. From a statistical point of view, the data is inconclusive. We are planning on going one step further and looking at specific tariffs and then matching these to the Soviet ratecutting.

That may give us a better indication. Right now we have not been able to prove nor disprove that the Soviets are attracting only high-rated cargoes.

The CHAIRMAN. Evidence has been submitted by American carriers, including a study of Soviet ratecutting in which they name specific commodities. Further, the Chairman of the Federal Maritime Commission who preceded our present Chairman Mr. Daschbach, had twice gone to the Soviet Union, confronted them with evidence from the Federal Maritime Commission that there had been serious ratecutting, naming the commodities, and asked the Soviets raise to the rates in those areas, and they had no reaction from the Soviets.

Now you tell us that you do not have conclusive evidence.

Mr. ELLSWORTH. We do not at this point from our conclusive analysis.

One other problem that enters into the overall picture is this:

The Soviets have an awful lot of FAK rates, freight all kinds. This will always attract high-rated cargoes. If it is, for instance \$1,200 per container, regardless of contents, a rate like that will attract high-rated cargoes.

You would want to get that rate, versus someone who is shipping lower-rated cargoes. Right at this moment we simply have not been able to prove this point statistically, but we are continuing our research.

The CHAIRMAN. What do you believe is the primary reason why the Soviets are cutting rates?

Mr. DASCHBACH. Primarily to get cargo.

The reason they want to get the cargo is to get the hard currency. I think it is that simple.

The CHAIRMAN. Obviously.

In effect, it is a rebate, a rate cut?

Mr. DASCHBACH. A legal one.

Mr. ELLSWORTH. If I might—

The CHAIRMAN. A published one?

Mr. DASCHBACH. Yes.

Mr. ELLSWORTH. One major reason would be that we know they are building a huge fleet of modern vessels, roll-on/roll-off vessels, and container vessels. These are being thrown into our trades virtu-

ally off the assembly line. They will tend to cut rates to get cargoes to fill up these new vessels.

We have a fair indication that a sizable percentage of their newer vessels are being thrown into our trades. When you have these vessels, you want to fill them up so they can begin to make some hard currency.

In addition to what the Chairman said, the fact that their fleet is increasing so rapidly will cause them to cut rates to attract cargo to utilize their new vessels.

The CHAIRMAN. What percentage?

You said they want to attract hard currency.

What percentage of the Soviet hard currency comes from their merchant fleet operations?

Mr. ELLSWORTH. I am not sure of the exact percentage. The merchant fleet ranks number four behind oil, gold, and timber sales in terms of attracting the hard currency. I am not sure of the exact percentage that comes in from the merchant marine.

The CHAIRMAN. We have figures that show that 8 percent comes from the merchant marine.

Mr. ELLSWORTH. That sounds about right.

The CHAIRMAN. There is evidence that they will tend to do what other countries or carriers have done. They will come in with low rates, establish the service and, after they have captured the cargo, bring the rate back up.

Would you comment on that?

Mr. ELLSWORTH. That is the behavior we recognize. They come into a trade and they get a market share. Once they have gotten it, they will bring the rates up as much as need be to still maintain a market share, but they will increase the revenues. Total revenue is a function of quantity being carried and the price being charged. They will tend to raise the rates so they can increase their total revenue being received, but not to the point where they will diminish the cargo carried.

They will first come in, get a cargo, and then increase the rates to maximize the earnings from that market share.

Mr. DASCHBACH. I think, Mr. Chairman, that is one of our principal concerns.

What is the ultimate objective of the Soviet carriers which are capable of driving competitors out of the market?

Will they still be offering these bargain basement rates? The speculation, of course, is that they will not.

There is another example reported in American Shipper magazine in October of last year that occurred in the Dutch trades. The Soviets, through ratecutting, were able to penetrate and gain about 20 percent of that trade. Negotiations commenced for the Soviets to join the conference and the terms under which they were willing to enter the conference were if they could maintain a 20-percent share of the trade.

So they will get into the trade by whatever device they can and then attempt to legally maintain that share by whatever device they can.

I might also go back to a point you made with respect to the word "rebate." I am not sure if you were present when my testi-

mony referred to the bus transportation between West Germany and Houston, wherein the Soviets were able to quote a low rate to the shipper, far lower than the Lykes Brothers quotation.

We have since discovered that the rate which the Soviets quoted is not on file with the Maritime Commission so, at this point, it would appear that that is an illegal rebate and, ultimately someone, some U.S. taxpayers are going to pay the higher rate.

The CHAIRMAN. It is often said that the Russians are not profit minded and can operate at any cost level. That, of course, would give the Federal Maritime Commission a difficult job in determining where their cost levels were and what should constitute a reasonable rate.

Will you respond to that?

Mr. DASCHBACH. Under the provisions of the bill, the burden of proof shifts to the carrier, so it is up to the carrier to prove whether or not its rates were compensatory.

In addition, the bill also provides for other standards, in addition to costs, so I think that the provisions of the bill take care of that problem, which the Commission would indeed have done in any other circumstances.

The CHAIRMAN. Do you believe that the Russians should become conference members?

Mr. DASCHBACH. Mr. Murphy, I think that I should probably refrain from responding to that question because, as you know, there have been some highly controversial issues before the Commission with respect to the Soviet attempt or the appearance of their attempt to enter conferences which ultimately have to be decided by the Commission, and I would not want to have to disqualify myself from acting upon such an issue.

We have had some experiences at the Commission with the Soviets in rate agreements and with conferences that perhaps Mr. Simpson might be able to respond to.

Mr. SIMPSON. In the European trades, the Russians have been members of agreement 9427 and agreement 9552.

Those rate agreements are agreements between the existing conferences and the major independents—Baltic Shipping and Polish Ocean Lines.

Under those agreements, the Russian rate cutting has been moderated. Also, when the Soviet lines entered the trade between the Mediterranean/Black Sea area and the Great Lakes, it joined that conference upon entering the trade. The first vessel that sailed was under the conference tariff.

In that trade there was no U.S.-flag competition and little other service. So we have had Soviet activity in rate agreements, but it has always been in stabilized trades.

The CHAIRMAN. The Soviet liner fleet in the U.S. trades is still made up primarily of smaller, older type semicontainerships, although they now operate seven containerships and four ro/ro's in our trades; and you have just testified that you have a major construction program going forward in both of these areas.

Many of these vessels have a lower TEU capacity than their competitors.

What evidence is there to support the contention that they operate more modern and technologically advanced ships than their competitors?

Mr. DASCHBACH. Mr. Chairman I am not sure that they are more modern or more advanced. Our concern again in this entire area is not the fact that the Soviets are carrying 2.5 percent of our trade. The concern is: What will they be carrying 5 years from now?

With respect to your question with respect to the technology and the capability of their vessels, they do have a massive shipbuilding program to build the most advanced ships.

The question is: What will be the impact when those ships are in the trades and, in addition, in the container trades? A container carrier is a container carrier. There is a certain level of sophistication beyond which one cannot go, and you are there.

The point of our concern is the future capability. For that reason, I would commend the committee for taking this step in this legislation rather than to wait until the Soviets are carrying 20 or 30 percent of our trade and then get along and decide what we are going to do. Now is the time to act and respond to what we anticipate will be a more serious situation in the future.

The CHAIRMAN. Is there any quality-of-service difference between a cutrate carrier and let us say a regular carrier, one of the American-flag carriers for example?

Mr. DASCHBACH. As I said at one point, container service is kind of a homogeneous entity. But in addition, different commodities require a different quality of service; and that word takes in, to me, a lot of factors.

I would raise a question going back to the bus transportation issue.

What sort of quality service was rendered to that shipper who may now find himself in the middle of an inquiry from the Federal Maritime Commission? He thought he was able to move those buses at a lot lower rate than the rate at which he will find he was ultimately able to move them.

To deal with these carriers, one does so at his peril as to whether they have in fact followed all the applicable rules and regulations.

The CHAIRMAN. Mr. McCloskey?

Mr. McCLOSKEY. Thank you, Mr. Chairman.

Mr. Daschbach, why do we make a distinction in this bill between nations that are State-controlled carriers that have most-favored-nation treatment or have subscribed to the OECD Statement of Shipping Policy, and those who have not?

If we are trying to go after State-controlled carriers, why do we make this distinction?

Mr. DASCHBACH. I think in some respects to include most-favored-nation registered carriers would violate the treaties.

Mr. McCLOSKEY. We have a trade surplus with the Soviet union. We exported \$1.6 billion to them last year and imported \$2.34 million.

If that is the case, what is our justification for rejecting the one part of that trade which may contribute to their balance of payments?

Mr. DASCHBACH. I would like to ask Mr. Ellsworth to respond to that question.

Before I do, I would like to go the point, the overall point you make with respect to "trade."

As I read it, the word "trade" connotes to me a this or a that, or if I can recall from my youth, I will give you two bowlies for your aggie, or vice versa.

With respect to what we are talking about in the Soviet cross trading, we are not getting anything from them. It is like there is a hole in our sock in which we carry our marbles and the marbles keep falling out. They are not playing in our trade game, so to speak.

Some who advocate against this bill believe that it violates "free trade." But we are not talking about the Soviet Union as a trading partner. As a matter of fact, the bill exempts carriage when the Soviets are trading with us.

The other argument raised against the bill is that we need the Soviet Union to preserve competition. Well, I desperately hope that the competition in this country has not gone to the stage where we must rely upon the Communists to protect our free enterprise system.

Mr. McCLOSKEY. I was going to ask about that.

Are they not playing the free enterprise game the same as we do? We treasure the free enterprise system.

Do you have any evidence that, in order to cut rates in our trades, the Soviets are providing any greater subsidy to their ships than we do through operating subsidies?

Mr. DASCHBACH. I do not think the Commission is the repository for that data. I think the Maritime Administration, which does annual analyses of comparative subsidy programs might be able to respond to that better than I.

Mr. McCLOSKEY. I was interested in that part of your testimony where you ask for the right to compel the Maritime Administration to give you the information.

Do you not now have the right by merely writing a letter to the Maritime Administration to simply get those facts?

Mr. DASCHBACH. I believe the data to which we are referring is submitted to the Maritime Administration on a confidential basis.

Mr. McCLOSKEY. You suggest that the Commission be given access, upon formal request, to the cost data in the hands of MARAD or other government agencies?

I had no idea that the Federal Maritime Commission was not entitled to the information that MARAD has.

Mr. DASCHBACH. I am not sure we are entitled to it.

Mr. McCLOSKEY. Then why do you request the formal right?

Have they ever refused you any information upon formal request?

Mr. DASCHBACH. I am not aware.

Mr. McCLOSKEY. Then what is the need for a statute to compel MARAD to do this?

Mr. DASCHBACH. It is my understanding that the data submitted to the MARAD is done on a confidential basis for the narrow purpose for which the MARAD seeks the information.

Mr. McCLOSKEY. Have they advised you that it is not available?

Mr. DASCHBACH. I do not believe we requested it.

Mr. McCLOSKEY. The idea of compounding the laws of the United States with statutory provisions that are not necessary is repugnant to me.

Is this section necessary or is it not?

Mr. DASCHBACH. I have been informed by a party who has been at the Commission longer than I that we have had difficulty, or some—I guess I can be safe in using that word—“some” difficulty in obtaining that data. I would prefer if we can make an analysis of that problem.

Mr. McCLOSKEY. I would like to ask unanimous consent that this point in the record be held open for the Commission to furnish us specifics regarding; those occasions, and what information was involved, where they have requested information from the Maritime Administration but could not get it.

I would also like to ask the same question of the Maritime Administration.

The CHAIRMAN. Without objection, the record will remain open.

[The following was received for the record:]

MAY 3, 1978.

Hon. PAUL N. McCLOSKEY,
Committee on Merchant Marine & Fisheries, House of Representatives,
Washington, D.C.

Dear Mr. McCLOSKEY: This is in response to your request during the hearings before the Merchant Marine Subcommittee on H.R. 9998 (Transcript page 30) that we provide you with specific instances in which the Maritime Administration has declined to provide this Commission with requested information, such as cost data. The direct answer to your question is that we know of no specific instances in which such a request has been formally denied by the Maritime Administration.

The Commission has, however, experienced instances in which data has been furnished by other agencies with limitations on its usage and instances where another agency would not release data until the carrier whose data was involved agreed to its release. One specific instance of this nature occurred in 1974 when the Military Sealift Command refused to release audit data on PPEL to the Commission until PFEL had agreed to its release. There was some discussion of that incident in the Hearings on S. 3173, To Amend the Intercoastal Shipping Act, 1933, before the Subcommittee on Merchant Marine, Senate Commerce Committee on August 9, 1974 (93rd Cong. 2d Sess., Serial No. 93-101). Moreover, in most cases, requests for data from other agencies have met with delay.

The major hurdle in obtaining data in an expeditious fashion from other agencies apparently has been varying interpretation by those agencies concerning their legal ability to disclose information obtained by them on a confidential basis. In most instances in which we have received such data, the request was cleared by legal counsel for the other agency. A variety of statutes must be interpreted by the other agency in making a determination whether it has the legal right to turn over the data. Included among these are the Federal Reports Act (44 U.S.C. 3508), the Freedom of Information Act (5 U.S.C. 552 et seq.) and section 1905 of Title 18 of the U.S. Code. In addition, section 603(d) of the Merchant Marine Act, 1936 provides a specific hurdle to be overcome with respect to data relating to foreign entities in the hands of the Maritime Administration.

Understandably, in the face of so many statutes, agencies are cautious in releasing data. Our suggested amendment to H.R. 9998 is designed to provide clear authority to the FMC to request, and to other agencies to provide such data. This provision should not only avoid possible refusals, but should also curtail delays or limitations on the use of the data which have been the primary historical problems.

The Commission is not wedded to the particular language we have suggested to accomplish the stated purpose and would be pleased to work with your staff in improving upon that language.

We hope that this satisfies your inquiry.

Sincerely,

RICHARD J. DASCHBACH,
Chairman.

Mr. McCLOSKEY. Thank you. As you describe the Soviet's activities, and as we have heard from other witnesses, what the Soviets appear to be doing seems to me to be no different from what any U.S. or independent shipping company might do if it sought to enter a new trade as an independent. The new competitor would quote low rates to attract business and, thereafter, would raise those rates.

Do you have any evidence whatsoever, or has Mr. Ellsworth been able to put together any evidence that, on any one of these trade routes involved, the Soviets have cut rates below those of other independents in those trades?

Mr. DASCHBACH. Yes, sir.

Mr. McCLOSKEY. Which trade routes are involved?

Mr. DASCHBACH. In the U.S. Pacific trade to Australia, there are a number of commodities.

Mr. McCLOSKEY. My understanding is that the Australian trade routes are the only trade routes where there are no independents involved other than the Soviets?

Mr. DASCHBACH. No. There is ACE Lines.

ACE Lines is a nonconference operator.

Mr. McCLOSKEY. Who is the owner of ACE Lines?

Mr. SIMPSON. Austasia Container Express is the company, and the president's name is Glenn Scherkenback.

Mr. McCLOSKEY. Who owns them?

Mr. SIMPSON. I understand he is a majority stockholder, and it is American Can Corp.

Mr. McCLOSKEY. So there is an independent in the Australian trades whom the Soviets are undercutting.

Mr. SIMPSON. Yes, sir.

Mr. McCLOSKEY. Is there any other trade route where the Soviets have undercut the independent operators?

Mr. SIMPSON. Yes, sir. In the attachments to the chairman's statement today, we have current rate comparisons where the Soviets have cut Orient Overseas Lines in the Japan/Hong Kong/Philippine trade on specific commodities.

Some of those cuts are rather substantial. The Russians are in a position to cut any independent that they choose.

Mr. DASCHBACH. I think another example is in the U.S. gulf to Central American rates which the Soviets have filed with the Commission.

The rate is equal to the rate which they have filed, which are on file from Miami to Central America. It is a rate which the conference and nonconference carriers operating out of New Orleans were not ever able to match to compete with the Miami carriers, and yet the Soviets are filing a rate out of New Orleans equal to the rate out of Miami which the New Orleans independents were never able to match.

I am not sure that the Soviets have ever carried any cargo from that route. They have announced recently they are going to. We understand they are having some difficulty because the Government of Mexico will not permit the Soviets to carry any cargo exported from Mexico unless it is in the Mexican/U.S.S.R. bilateral trade. So the Soviets cannot get sufficient tonnage homebound from that trade to make it attractive to them.

It is interesting that several months ago, individuals and officials from Mexico came to the Federal Maritime Commission; they went, I believe, to several other nations, too, to examine and study methods of regulating minor operations and have already advanced to the position where they will not permit the Soviets to act as cross traders in their trade.

Mr. McCLOSKEY. Mr. Daschbach, what relationship lies between the fact that the greatest penetration by the Soviets has existed in Pacific Route 29 in particular and the fact that, of our 10 subsidized liner companies, 2 of the 3 that are in financial difficulty, PFEL and States Lines, also are in that trade route?

Mr. DASCHBACH. Mr. McCloskey, I am not sure that we have any real evidence to put those two factors together. It would be a nice, persuasive thing for us to be able to say. I cannot honestly say. I do not know if Mr. Ellsworth or Mr. Simpson have any data that they can give.

Mr. McCLOSKEY. On Monday, we are examining the PFEL bankruptcy which is operating in Trade Route 29. We are going to be examining the rate structure and the amount of subsidy that we pay them. It would be ideal if we had precise data on the Soviet rates.

I am distressed that you are just beginning the financial analysis of what Soviet penetration may mean with respect to U.S. subsidized carriers. If I understood your testimony, I understand it is still inconclusive?

The CHAIRMAN. Would you yield?

Mr. McCLOSKEY. I would be glad to.

The CHAIRMAN. Do you not have that in the addendum we just put in the record?

Mr. DASCHBACH. I am not sure as to the specific problems of the Pacific Far East Lines.

The CHAIRMAN. You have it as to Trade Route 29?

Mr. ELLSWORTH. Yes.

Mr. McCLOSKEY. Can you give us any conclusions as to what this data reflects with respect to Route 29?

Mr. ELLSWORTH. It indicates that is where the Soviets had their heaviest penetration tonnagewise. This is by far the biggest trade. This is the first one that they have entered.

Mr. McCLOSKEY. My concern is this: Is PFEL's bankruptcy a result of mismanagement, or is Soviet competition causing PFEL's difficulties?

Do you have any conclusions on that point?

Mr. ELLSWORTH. Certainly the factor of independent carriers is one factor giving PFEL difficulty.

Mr. McCLOSKEY. My question is simply this: Did the Soviets penetrate this trade route because PFEL was a mismanaged line?

If I were a competitor in the free-enterprise system and I saw a lousy competitor, that is where I would make my first move.

Is there any evidence that the Soviets did that because of the quality of the U.S. line operating in that area?

Mr. ELLSWORTH. There are approximately 24 or more different operators operating in that trade route. It is a big trade route. PFEL is only one, and not one of the bigger ones.

PFEL tried in earlier years to put LASH vessels into that trade, which most people recognize is now a container trade, so there is a combination of that, and the fact that it is probably the most competitive trade route in existence.

Mr. McCLOSKEY. Was that not with the full approval, if not the direction of the Maritime Administration, Mr. Ellsworth?

Mr. ELLSWORTH. I cannot answer that question, sir.

Mr. DASCHBACH. Mr. McCloskey, we do not have actual rate-making authority, so we have no access to the profit-and-loss analysis of Pacific Far East Lines, or any other carrier in the foreign trade.

Mr. McCLOSKEY. I appreciate that, Mr. Chairman.

I understand that is the difficulty with the authority split so widely in our Government; that is what keeps us from accomplishing a result that protects the U.S. subsidized carriers.

I have heard the argument made, for example, that the difficulties with the LASH ships in the Far East were compounded because our State Department did not go to bat for PFEL with respect to discrimination against LASH barges in the Japanese ports. We have the same difficulty with witnesses from four different agencies testifying on a problem.

I appreciate your point. I do not want to press this point against the Commission, but—I have run out of time. Thank you.

The CHAIRMAN. Mr. Tribble.

Mr. TRIBLE. No questions.

The CHAIRMAN. How does the FMC determine the costs of a national-flag carrier in our foreign trade?

Mr. DASCHBACH. I am sorry?

The CHAIRMAN. Any national-flag carrier, as opposed to State-controlled carriers.

How would you determine their costs, Mr. Daschbach?

Mr. DASCHBACH. One of the provisions in the bill as to obtaining data from the Maritime Administration would give us information data on U.S. line carriers. Again, the burden with respect to the controlled carrier data being compared with that is on that carrier to submit the information to us in order to have his rate in effect.

The CHAIRMAN. Will you call on the Maritime Administration for that evaluation, or would you do it?

Mr. DASCHBACH. We would do it.

The CHAIRMAN. The same thing with Hapag-Lloyd. They operate on the Pacific trade routes. We presume you will be asking Hapag-Lloyd for their cost data as well?

Mr. ELLSWORTH. Sir, if I might, we presently do regulate the carriers in domestic offshore trades, as I am sure you are aware.

In this exercise, we do, of course, get data from the carriers, cost data, to try to justify their rates or the rate levels.

What we would be doing is extending the analysis. We have a Bureau of Industry Economics that does that currently. We probably would be doing the same kind of cost function in the foreign trades as we currently do in the domestic trades. It would not be a total break from what we are doing presently.

The CHAIRMAN. If the Federal Maritime Commission suspends a rate of a controlled carrier under section 4, in order to determine if the suspended rate is compensatory on a commercial basis. Then, the proceeding takes 1 to 3 years; isn't this discriminatory to the controlled carrier?

Mr. DASCHBACH. I would like to answer about two or three portions of that.

I would hope that the era of 1 to 3 years' duration of proceedings before the Maritime Commission is behind us.

Second, if it is not behind us, that same burden, if you will—if we are still that slow or if our processes are still that cumbersome, it is going to—and I don't mean to be cute—it is going to bug everybody.

Mr. McCLOSKEY. Will the Chairman yield?

The CHAIRMAN. Yes.

Mr. McCLOSKEY. We in California have imposed a penalty on California judges, if they don't decide a case within 6 months after submission, their salaries are cut off.

What would be a reasonable period of time that we should wait before we cut off your salary after a case is taken under submission?

Mr. DASCHBACH. 180 days.

Mr. McCLOSKEY. Thank you.

Mr. DASCHBACH. Let me go forward with responding to that question.

In addition, the bill provides for a different procedure where we can issue a show-cause order on the controlled carrier which is a much more rapid process and, finally, shifts the burden of going forward and achieving a favorable result on that carrier.

In many, many cases, the 1-to-3-year exercises that have taken place at the Federal Maritime Commission are not solely the fault of the Federal Maritime Commission. The parties very frequently take a very nice, slow, easy pace to get their material, their justification to the Commission.

Just last month, the Commission denied or disapproved, without condition, an agreement filed with the Commission because there was no justification submitted and the proponents stated that they would submit the justification at the hearing.

My attitude was: Not on my time, you won't. If you have submitted an agreement to us which you think is justified, then submit the justification with the agreement.

Don't submit it to us when we have got nothing to work with, then you give it to us in bits and pieces, and then at some point later on in time complain about our slow procedures.

The CHAIRMAN. Could some of the problems created by the Soviets be alleviated if conference members supplied FAK to replace individual commodity rates?

Mr. DASCHBACH. First of all, I think a freight all kinds system so to speak would work to the disadvantage of low-rated cargoes.

Second, we have absolutely no basis to believe that the Soviets would not cut the FAK rate in order to get the cargo; they would cut it below the FAK rate.

If it were reasonable to assume that the Soviets or any controlled carrier would not go below the FAK floor, then it might be a solution, although it still doesn't solve it. It still leaves the problem with respect to the lower-rated cargoes. But there is data before the Commission today that in FAK rate situations, the Soviets still went below the FAK rate.

The CHAIRMAN. Why is Soviet competition significantly different from the competition of other independents?

Mr. DASCHBACH. Well, it is our position that, A, they can cut the rate to whatever level they want. They have been cutting the rate to whatever level they wish in order to obtain the cargo. They have cut the rate below the independents.

In addition, they have a much larger worldwide operation than most world independents. Most independents are independent.

I should not speculate as to why they are not in conference. I think their whole motivation is different.

In addition, they can not only go below the independents, but they can stay there a lot longer.

The CHAIRMAN. In your prepared remarks, you brought up the movement of buses issue. Of course, that is a homebound cargo.

Is there any evidence the Soviets cut rates or use other practices in order to attract inbound cargo to the United States?

Mr. DASCHBACH. Inbound to the United States? Yes.

Mr. ELLSWORTH. Sir, our analysis would show that very often they are trading with their friendly nations such as Cuba, whereas previously they would be coming say from Cuba into our country's ports in ballast. They have recently been moving cargo as part of that movement into the United States.

As is well known, in American industry, you move in where you have a fairly empty vessel. Once the movement has been decided, and you have made the sailing, you will cut rates, irrespective of any costs, as long as the rate, of course, meets more than variable costs, which in this industry are very small—10 percent.

There is always great incentive when they are sailing in a trading route where they have a lot of empty space to cut rates as low as possible to get some cargo which pays less than fully allocated costs. They have this incentive. They are carrying commodities to Cuba or wherever. They will try to pick up whatever else they can to make some additional revenue on a committed voyage.

The CHAIRMAN. Mr. McCloskey.

Mr. McCLOSKEY. I have just one question.

I have reviewed a MARAD study showing the various growth rates around the world between 1965 and 1975.

Why is the growth of the Soviet fleets so ominous? The study demonstrates that the Soviet fleet in the years 1965-75 did not grow

as much as the fleets of most maritime nations. The Soviet growth rate of 92 percent compares unfavorably with Japan's 284 percent; Liberia's, 329 percent; Britain's 108 percent; Greece's 262 percent and France's 176 percent.

It would seem that all of the major trading partners of the United States have a growth rate in excess of that of the Soviets.

Why then is the Soviets' growth rate so ominous, Mr. Chairman?

Mr. DASCHBACH. You have to couple the rate of their growth with the rate practice.

Mr. McCLOSKEY. I think this is an important point for us to consider. Whatever the maritime policy of the United States should be, with respect to the level of penetration of our trade routes by the Soviets, that policy should be formulated now.

Mr. DASCHBACH. That is right.

Mr. McCLOSKEY. If we move to a closed conference system, the most difficult issue which we will have to resolve is the allocation amongst countries of the participation in a closed conference. Or, if we go to the UNCTAD system, we would not have to consider what the apportionment amongst countries would be for our trade routes. However, if these statistics of the Maritime Administration are correct, we have a far greater threat to the U.S. trades from other countries than from the Soviets.

Mr. DASCHBACH. I wonder if those statistics are limited to liner vessels?

Mr. McCLOSKEY. No.

Mr. DASCHBACH. I think a substantial portion of that growth is in tankers.

Mr. McCLOSKEY. I assume that it is.

But what about the liner trades?

How would those figures compare?

Mr. DASCHBACH. That I could not tell you.

Mr. McCLOSKEY. I think we are short of some data in considering this kind of bill, particularly as we move toward the closed-conference system as a remedy to the current chaos in the liner trades.

I just pose this question because I think it is going to come up in the next several months.

If you accept, as I do, that in the U.S. trades from a matter of national security as a trading nation that we should have U.S.-flag ships capable of carrying 30 percent of our trade and perhaps as much as 40 percent then do we not have to attack this problem?

Not just from a third-flag standpoint, only a portion of the problem relates to third flag vessels, but from a comprehensive standpoint. How are we going to structure the U.S. foreign trade with respect to foreign vessels as well as our own?

I do not see the answer to that question.

The goal is clear. While we may have defeated cargo preference in the form in which it was raised, it is the goal of this committee to increase U.S. participation in the U.S. foreign trades to at least 30 or 40 percent.

I do not see how to do it. It bothers me that we do not have the data to compare the Soviets participation in our trades with that of our trading partners. We do not have the history of which country's ships participated in our trade routes and to what extent.

If we are going to have legislation, we have to know these facts.
 Mr. DASCHBACH. I hesitate to put my friends from the Maritime Administration in—

Mr. McCLOSKEY. They may not be so charitable toward you.

Mr. DASCHBACH. I hate to put them in any less comfortable a position that they may already find themselves, but I would hope they could respond to the specific question with respect to the growth of fleets as to whether there are different types of vessels included in those overall tonnage figures.

With respect to the growth of the fleets of our trading partners, I think a significant distinction needs to be made between Soviet participation in our liner trade and trading partners. They are not clearly a trading partner.

Mr. McCLOSKEY. But as we move toward detente, would not we like them to be?

Mr. DASCHBACH. I am a simple regulator, and I can't respond.

Mr. McCLOSKEY. An excellent term.

Thank you.

The CHAIRMAN. Mr. Corrado.

Mr. CORRADO. Could the Soviet bloc fleets evade this bill by going under another flag?

Mr. DASCHBACH. That issue is referred to in my testimony.

As you know, it was raised last week by a witness on the carrier panel from Sea-Land Service. I think perhaps the best persons to respond to that, inasmuch as it involves treaty rights, would be the State Department.

Mr. CORRADO. Do you have even an opinion as to whether they could or could not?

Mr. DASCHBACH. Whether they could evade?

Mr. CORRADO. Yes, evade the bill by going under another flag.

Mr. DASCHBACH. I am informed the way the bill is drafted, they can.

Mr. CORRADO. They can?

Mr. DASCHBACH. Yes.

Mr. CORRADO. One more question.

The burden of proof under this bill is on the controlled carrier.

Where is the burden of proof in regular Federal Maritime Commission proceedings right now, exclusive of this bill? Is the burden of proof on the Commission or on the carrier?

Mr. DASCHBACH. It is on the Commission.

Mr. CORRADO. Why is it different here?

Mr. DASCHBACH. Well, I would say this is the only bill we have got before us. The record may well demonstrate that if the burden were shifted across the spectrum, we might be able to proceed in a more expeditious fashion.

Unfortunately, in too many instances, it behooves the parties to slow down the process.

Mr. CORRADO. Thank you.

The CHAIRMAN. Thank you, Chairman Daschbach. We appreciate your testimony.

Our next witness will be Mr. James Atwood, Deputy Assistant Secretary for Transportation Affairs, Department of State: accompanied by Mr. Richard Bank, Director, Office of Maritime Affairs, Department of State.

**STATEMENT OF JAMES ATWOOD, DEPUTY ASSISTANT SECRETARY
FOR TRANSPORTATION AFFAIRS, DEPARTMENT OF STATE; AC-
COMPANIED BY RICHARD BANK, DIRECTOR, OFFICE OF MARI-
TIME AFFAIRS, DEPARTMENT OF STATE; AND JUDITH H. BELLO,
OFFICE OF THE LEGAL ADVISER, DEPARTMENT OF STATE**

Mr. Atwood. Mr. Chairman, my name is James R. Atwood. I am Deputy Assistant Secretary of State for Transportation Affairs. Accompanying me is Richard K. Bank, Director of the Office of Maritime Affairs, and Judith H. Bello, Office of the Legal Adviser.

We appreciate this opportunity to testify on H.R. 9998, a bill to provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes. The views we express here today are those of the Department of State, and not necessarily those of the administration.

Specifically, I am pleased to be invited to testify because the Department shares the concern of the sponsors of this legislation over the rate practices of certain state-controlled operators.

Those practices have the potential to pose a serious threat to shipping in the U.S. foreign trades. The support of national treasuries which certain of these lines enjoy, plus the mix of commercial and noncommercial motives which may govern their business decisions make the possibility of predatory conduct by state-controlled carriers a different phenomenon from that experienced where more traditional carriers are involved.

State-owned carriers may sustain their very low rates for far longer periods than normal commercial carriers could, and those rates could prove to be predatory to the commercial carriers.

As you are aware, Mr. Chairman, far better than I, the Department has in the past expressed its concern about legislative proposals similar to this bill. We have been cautious with respect to administrative or legislative action which might be thought by some to be discriminatory in nature or to restrain competition unduly. We have also been concerned that any such actions not conflict with our international obligations.

Nonetheless, we have concluded that the special problem of state-controlled carriers should be addressed by special solutions, and we are pleased to state that H.R. 9998 is superior to previous legislation. We therefore are in favor of the bill, provided that certain changes are made in it.

First, we believe that H.R. 9998 should direct the Federal Maritime Commission to refrain from taking any action under subsection 18(c) if informed by the President that foreign policy considerations so demand. This could be accomplished by adding the following language at an appropriate point in subsection 18(c):

The Commission shall postpone or discontinue any action taken under this subsection if the President informs the Commission that such postponement or discontinuance is appropriate to facilitate negotiations to resolve the matter in controversy.

We do not anticipate such a section would be invoked frequently, but there would undoubtedly be situations where negotiations would resolve the matter and to proceed in that manner would be very beneficial, for policy reasons.

Second, we believe that the provision in 18(c)(1) for petitions to the Commission should be changed to make it clear that the Commission would be required to review rates only on the petition of interested parties and by the Commission on its own motion.

As this subsection is now drafted, it could be interpreted as requiring the Commission to review rates on anyone's petition. We therefore urge that a phrase such as "of a competing carrier" be inserted in line 4 of subsection 18(c)(1) following the word "petition", page 3, line 13.

Third, we believe that any rate suspension imposed by the Commission pursuant to section 18(c)(4) should be of a limited duration. We therefore believe that the phrase "but not for a longer time period than 180 days beyond the time when they would otherwise go into effect" should be added to subsection 18(c)(4) after "effective date" in line 9 of page 5 and the words "but not for a longer time period than 180 days" inserted after "controlled carrier" in line 14 on page 5.

We believe that this limitation on the duration of suspensions would reduce the possibility of unnecessary friction in our foreign relations, as well as encouraging prompt action by the Commission; 180 days appears to be a reasonable period of time.

I understand that Chairman Daschbach, in response to the Chairman's question, said that he believed that it was a reasonable time period. However, we believe that any other reasonable time limits would serve the purpose.

Fourth, we are concerned by the final sentence of subsection 18(c)(4), which empowers the Federal Maritime Commission to prescribe minimum rates for the period of suspension. We believe the purpose of this legislation can be met without extending ratemaking authority to the Commission. In our view, that could be done by replacing the final sentence of subsection 18(c)(4) with language along the following lines:

During any period of suspension hereunder, the controlled carrier, if it wishes to continue operations, shall file with the Commission new rates, fares, charges, or classifications. Such new rates, fares, charges, or classifications shall remain in effect until the conclusion of the period of suspension, unless also disapproved under this subsection. In the case of such new rates, fares, charges, or classifications applicable to a period of suspension, the requirement in subsection [c] [3] of this section that all rates, fares, charges, or classifications be filed 30 days before coming into effect may be waived if necessary to maintain continuity of service by the controlled carrier.

I should point out specifically that the recommended language by Chairman Daschbach which would make somewhat clearer the ratemaking effect of this legislation is a suggestion that we do not agree with. We are going in the opposite direction.

Finally, we have every confidence that the Federal Maritime Commission would, in the execution of this legislation, suspend filings only in cases of predatory behavior and would not do so to defeat ordinary competition. We believe that the bill should explicitly state this intent. We therefore urge that the following section be added at the end of subsection 4(c)(2):

The Commission shall suspend rates, fares, charges, or classifications only in cases where it has determined that predatory ratecutting has taken place and shall not do so to defeat ordinary competition.

This may not be the best language. We considered it carefully. We are not at the moment prepared to offer anything better.

Some intention of that nature should be written into the legislation. That is what we think.

Along the same lines, we would urge that on page 4 of the bill, lines 7 and 8 should be amended to indicate that the carrier cost being used as a reference point to determine the reasonableness of State-controlled carrier rates be redefined as referring to the costs of efficient carriers.

With the changes I have outlined, the Department of State is prepared to support H.R. 9998. It would, we believe, provide a reasonable, credible, and long-term deterrent to predatory rate practices and would thereby contribute to shipping in the foreign commerce of the United States. At the same time, it would conform to our international obligations and to our commitment to competition in shipping.

Thank you, Mr. Chairman.

I will be happy to respond to any questions.

The CHAIRMAN. Thank you, Mr. Atwood. We certainly appreciate your very clear testimony.

Is it true that treaties with our trading partners prevent us from looking behind the flag so to speak of the vessels into their real ownership?

Mr. Atwood. Yes, sir. This is frequently a problem.

I would add at the same time, as we understand the situation, the likelihood that this bill could be evaded by use of flags of convenience is small. Historically, State-controlled carriers have taken very hostile attitudes, as I am informed, toward the flag-of-convenience concept.

It would be a major change of policy therefore for them to adopt flags of convenience. This may be due in part to the fact that one of the suspected objectives of the penetration that we have been seeing of State-controlled carriers is a desire to show the flag; and a flag of convenience obviously does not accomplish that goal.

The CHAIRMAN. The committee has evidence that the Russians have registered many of the vessels under the Panamanian flag.

Mr. Atwood. Could I ask Mr. Bank to respond?

The CHAIRMAN. Surely.

Mr. Bank. I have no information on that. There have been instances where the Peoples Republic of China has registered vessels over the last number of years under various flags of convenience. For a while they had a number of Hong Kong-flag vessels, Somali-flag vessels, and they went from Somali-flag vessels to Panamanian.

The Peoples Republic of China did it for a number of reasons; first, in regard to its international political stance vis-a-vis the Peoples Republic of China, and the Republic of China. Secondly, the Chinese require full Chinese crews aboard vessels. As their fleet expanded—and it expanded significantly, there were not sufficient Chinese nationals to crew these vessels, so therefore they had these vessels registered in a third country or another country.

Finally, Mr. Chairman, we have no evidence of significant Chinese operations as cross traders. They are significant bilateral operators in their own trades.

The CHAIRMAN. And intercoastal?

Mr. BANK. Yes.

The CHAIRMAN. Can the United States legislate effective control over carriers which are owned by United States citizens and registered under a flag of convenience?

Mr. ATWOOD. Could you state that once more?

The CHAIRMAN. Yes.

What is the viability of the concept of effective control of ships owned by U.S. citizens that are registered under foreign flags? What control does the United States have over those carriers?

Mr. ATWOOD. Could I refer that to Mr. Bank? He has considerably more expertise on that than I have.

The CHAIRMAN. Surely.

Mr. BANK. I gather that went to the previous question.

Those U.S. owners who registered abroad would, of course, not be subject to this legislation when those vessels are not registered in States which have controlled fleets.

The effective-control question, whether the U.S. Government has effective control of the vessels owned by United States citizens abroad—I do not think has too much to do with this piece of legislation. I am trying to see where your question is.

The CHAIRMAN. Our information is that you never look behind the flag. Is that a fair statement?

Mr. BANK. OK. I understand.

The looking-behind-the-flag aspect comes not only from treaty obligations, but from general practice within the maritime community worldwide. For good or evil, the world's view of the nationality of a vessel is based on its flag of registry, the country of registry, and not the ownership.

Many corporate layers exist. Many nationalities may combine in the ownership—I mean citizens of various nationalities. So to simplify the administration of international shipping both in the United States and elsewhere, I think everywhere else in the world, one looks at the flag of registry. One cannot very easily look behind the flag of registry.

Mr. ATWOOD. I think our point is that perceived loophole of the flags of convenience does appear to us unlikely in practice to prove to be a problem. If it should become a problem, it could be addressed at that time. But it would be premature and might create an unhealthy precedent on a number of points if we were to address that at this time when the threat is not perhaps a real one.

The CHAIRMAN. Let me ask you this about setting minimum rates during suspension. What is the real difference between this provision of the bill, and your suggestion that the controlled carrier file other rates during the suspension period subject to disapproval by the Federal Maritime Commission?

Mr. ATWOOD. Well, it might in some instances prove not too different in practice. One can imagine if there is a rate suspension that a controlled carrier would come back and just file just a little bit above, suspend it again, just a little bit above until ultimately the Commission has said you have hit the right price—stop. The more likely result is if the carrier wished to continue in the trade, it

would file a rate that would not create new problems for the short term, and it would proceed to argue with the Commission whether or not its initial filing was a correct one.

I would expect in practice the process would not work as a rate matter process.

The CHAIRMAN. The controlled carriers are good at escalating and descalating. They would probably use that device in this question as well.

Mr. ATWOOD. If I understand you correctly, I think you are saying that the Soviet carriers are very familiar with prevailing prices and prevailing practices of the Commission. I think they would also perceive that the merits of their case before the Commission as to their initial filing could well be prejudiced if they tried to nickel and dime the Commission.

One would think that a refiling would, for a number of reasons, tactical and economic, not be one which is going to create a great deal of question.

We think there is an important precedent to preserve, and that is that the Commission is not a rate-setting body.

The CHAIRMAN. Is a limit on duration necessary if another more reasonable rate is in effect during the suspension period, Mr. Atwood?

Mr. ATWOOD. Your questioning of Mr. Daschbach did focus on the problem. I can very easily see the situation where a suspension period would go on for a long period of time, and the controlled carrier would feel perhaps increasingly discriminated against.

We have seen the same problem on the aviation side where at times, proceedings before the Civil Aeronautics Board for foreign carrier applications take a great deal of time. Carriers may not realize, those foreign carriers, that United States carriers are often subjected to the same kind of delay. It is a matter of assuring the foreign governments, if they end up in a controversy with the Commission, that they have been given prompt consideration, and that assurance is important.

The CHAIRMAN. On pages 4 and 5 you address the question of predatory rate cutting. I think most of your suggestions are well taken, but I would like to know what your definition of "predatory rate cutting" is, Mr. Atwood.

Mr. ATWOOD. Fair question.

There is no easy answer. By training, I am an antitrust lawyer and I am familiar with a large body of law that deals with predatory rate cutting. What we have in mind is in general a reference to the body of law that has developed in the antitrust field. It essentially endeavors to distinguish between prices that are above cost. You can always dispute what costs and what types of costs.

Prices at which the carrier expects to be able to operate for a reasonably long period of time at a profitable level are not predatory, as distinguished from the situation where the rates are intended to impose a change in the competitive structure of the trade, thereby allowing the carrier to raise rates after the competitive structure of the trade has been adversely affected.

That is a very general response to an important question. One can only refer to the body of law that has developed in other areas and

suggest that the Commission look at that law carefully in its application.

The CHAIRMAN. Mr. McCloskey.

Mr. McCLOSKEY. Mr. Atwood, I would like to lay the basis for this question by discussing the relationship between the State Department and the Federal Maritime Commission. I would like you to respond from your background as an antitrust lawyer in the Department of Justice where you undoubtedly have had other discussions of the matter of closed conferences.

This bill, like the antirebate bill, which is now set for floor consideration in the House next Monday, substantially expands the power of the FMC, an independent regulatory agency of the U.S. Government, into a field which involves our foreign relations with other countries. However, under the Constitution, the conduct of foreign relations are the responsibility of the President of the United States.

While it may be helpful to give these, additional powers to the Federal Maritime Commission, it might also add one more layer of difficulty on the President in his conduct of foreign affairs.

In the rebating bill, we gave the President the power to set aside the action of the Federal Maritime Commission. We now take the next step where, the President would be given the right to intrude on the Federal Maritime Commission decisionmaking policy. You state the expectation that this policy will only be exercised by the Federal Maritime Commission with a view to the foreign relationships of the United States.

So with this legislation we are intruding in what has previously been the power of the State Department.

I wonder if our system of government benefits by the division of foreign policy responsibilities between the State Department and the Federal Maritime Commission. Perhaps we should consider the possibility of abolishing the Federal Maritime Commission entirely and replacing it with some sort of administrative vehicle within the administration to grant due process to shippers and shipping companies. We have done this with the Trade Act of 1974, where the Tariff Commission provides an appellate remedy to those who may feel unduly abused by State Department policy.

I am disturbed for two reasons:

One, we may infringe upon the integrity and independence of the regulatory body. The whole philosophy of regulatory bodies, as I understand, is that they be free from political influence, from the Congress and from the Executive. If we intrude on it, and we will if the antirebate bill is enacted into law, we will create another new kind of Federal Maritime Commission which, apparently, acts under the President of the United States and the State Department. What bothers me in that relationship is that it is conducted at such a low level in the State Department.

If I were to compare the responsibilities that Mr. Bank has had in the past several years in negotiating on behalf of American shipping companies for fair treatment by foreign countries, closed conferences and the Soviet threat, he ought to have the title of not less than an ambassador.

We have a Deputy Assistant Secretary of State testifying on a matter which requires the highest level of coordination between the State Department and the Federal Maritime Commission. The difficult question is Which agency should be charged with this immense responsibility?

This committee wants to upgrade the level at which maritime affairs are considered by the administration.

Now, I raised a lot of questions here, but I am particularly concerned about continuing to make our Government more and more complex. Creating more and more confusion regarding power and which responsibility between agencies of Government. I have some doubts that an agency with the record of the Federal Maritime Commission should be given this immense responsibility in the conduct of our foreign affairs, particularly with the Soviet Union, our major foreign affairs problem.

Would you comment on that?

Mr. ARWOOD. Well, you did raise a number of points.

First, you point out that there are conflicting views in the administration on maritime matters, and that reminds me of a point I should make orally.

Mr. McCLOSKEY. Before you do, let me remind you of the promise that Mr. Carter made in his letter to Mr. Calhoun. He promised that he would give maritime affairs continuing attention, including the appointment of a maritime coordinator on the White House level who would sit on the National Security Council. You might want to speak to that point.

Mr. ARWOOD. Yes. There are conflicting views in the administration. That reminded me that what I have stated today is solely the view of the State Department and not the point of view of the administration.

I am sure you will be hearing different testimony from some other agencies. I am one of the first to admit that that is not necessarily the best way to proceed on an issue of this importance. I am sure it would be useful to the committee if we could have come in with an administration position. Efforts were made, but they were not successful.

Yes, there is an increasing interrelationship of foreign affairs in maritime matters. This does raise the question of procedures and of organizations and of personnel. I think in the recent history, the relations between the Department of State and the Federal Maritime Commission have been quite good.

Chairman Daschbach has been very sympathetic to foreign relations concerns and has cooperated with the Department on a number of matters; and the cooperation with the Maritime Administration has also been good.

Mr. McCLOSKEY. In that connection, I would like to know about this:

While Chairman Daschbach said that he would not negotiate with the Soviets if he were made Chairman, Chairman Bakke did.

I would be interested in knowing whether as a condition of the administration's appointment of Chairman Daschbach as Chairman of the Federal Maritime Commission that he agreed he would not negotiate with the Soviets.

Can you answer that question, Mr. Atwood?

Mr. ATWOOD. I have no knowledge on that question at all.

Mr. McCLOSKEY. Is that what Mr. Bank's shake of the head means? No knowledge?

Mr. BANK. That is right; no knowledge.

Mr. McCLOSKEY. Ms. Bello.

Ms. BELLO. Yes.

Mr. McCLOSKEY. We have simple regulators.

The CHAIRMAN. We are going to recess for about 5 or 6 minutes. [Brief recess.]

The CHAIRMAN. The subcommittee will come to order.

Mr. McCloskey.

Mr. McCLOSKEY. I think I had a question pending.

Was there any further thoughts about making Mr. Bank an Ambassador during the recess?

Mr. ATWOOD. There was vote, maybe two.

Mr. McCLOSKEY. Ms. Bello, would you comment on that?

Ms. BELLO. I would concur with that.

Mr. McCLOSKEY. If an individual is going to be traveling around the world dealing with foreign governments on shipping matters and given the importance that foreign governments assign to shipping matters, particularly the Soviet threat to closed and open conferences, whoever is dealing on behalf of the United States ought to be at an ambassadorial level.

Mr. ATWOOD. At least there is an improvement in the situation by the fact that it is someone from the State Department. That has not always been the case.

The point that I was making is that there had been a lot more cooperation between the other affected agencies and the Department on foreign policy matters. I share the view you stated for the need to give maritime matters a very high level of consideration, as high as possible. Foreign governments do. We are sensitive to those concerns and they are worth responding to.

On the general question of does this bill move us further in the direction of administrative agencies becoming involved in foreign affairs, I do not think the movement is very great. Obviously, the Commission already is very deeply involved in foreign affairs by the nature of its mandate. It regulates a bilateral and multilateral trade.

We have frequent comments, protests, and praise right across the spectrum from foreign governments as to what the agency does. That is as to what the Commission does and other agencies as well.

Mr. McCLOSKEY. Would you care to comment on the involvement of our Antitrust Department in our foreign relations?

Mr. ATWOOD. Well, I had a lot of experience in that field in private practice and—

Mr. McCLOSKEY. I am sorry; you were an antitrust lawyer in private practice? Not the Justice Department?

Mr. ATWOOD. That is correct, but I was involved in foreign commerce issues as an antitrust practitioner. I was not then and still remain not that worried that what the Justice Department does is detrimental to our foreign relations. It is very constructive in many

instances. It does create frictions and they have to be worked out.

Mr. McCLOSKEY. If we make Mr. Bank an Ambassador how in God's name can he deal with foreign governments when those individuals may be under threat of antitrust prosecution if they come into this country?

Mr. Atwood. I don't believe that any foreign government officials are under such threat. There is a concern by shipping companies, people in the private sector. They are concerned about the grand jury investigation. I do not think it extends to any government officials.

Mr. McCLOSKEY. I have a difficult time understanding when the Japanese Government is involved in shipping matters and when they are not. I don't know precisely what the relationship is between Japanese shipping companies and their Government, but they seem to coordinate a great deal more than we do.

Mr. Atwood. Probably so.

Mr. McCLOSKEY. What I am asking is essentially a question of government organization.

Is the best way for us to protect our private shipping companies, through this sort of mixture of the State Department protecting them, the Antitrust Division in some ways threatening their competitors, and the Federal Maritime Commission trying to regulate the economic conditions in the trade. I am wondering whether our system of government which evolved over decades is properly organized to cope with the problems of the 1978-2000 time range.

We tend to accept the evolution of our institutions. That is the institutional way to handle something.

But I have a real problem with the inability of our administration to resolve the basic conflict between the promotion of our merchant marine, the maintenance of our foreign relations, and the export of our antitrust policy into world trade.

It seems to me somebody in the White House has got to resolve the conflicts that inevitably arise as a result of those three goals.

When you give us the State Department point of view on a bill which enhances the authority of the Federal Maritime Commission, subject to State Department intervention, what about the third part of the equation, the antitrust division?

As an antitrust lawyer, I wonder what you would say about that?

Mr. Atwood. On whether our existing institutional structure is the optimal one, I don't think it is.

In the short time I have been in Government, it has become very obvious to me that there is a growing concern that the maritime policy has to be coordinated better. There probably have to come such changes from the White House.

Mr. McCLOSKEY. That is a very interesting statement.

What would you recommend to stimulate that continuing Presidential attention to maritime policy that Mr. Carter promised in May of 1976?

Mr. Atwood. I think this committee has stimulated it very much. All you have to do is call down agencies.

Mr. McCLOSKEY. We are always recommending things to you.

What would you recommend to us in the next 10 days in this regard?

Mr. ATWOOD. Give us more time.

The CHAIRMAN. Your recommendation would be that the President concentrate less on the coal strike and Panama Canal treaties and start thinking about a coherent policy on maritime issues?

Mr. ATWOOD. The President has a lot of things on his plate; that is true.

Mr. McCloskey was referring more specifically, I think, to White House initiatives that are going to require the support of the President. I don't think he is suggesting that the President should allocate major portions of his time to this matter, to the detriment of other very important matters.

Mr. McCLOSKEY. I would be very happy with the appointment of a coordinator who could address these issues that have to be addressed.

Mr. ATWOOD. I think that is being given very serious consideration.

Mr. McCLOSKEY. Thank you very much.

The CHAIRMAN. Thank you, Mr. Atwood. I certainly appreciate your testimony, particularly what appears to be a significant change of mind on the part of the State Department; namely, an understanding of the critical position the American-flag merchant marine is in, and an understanding of the type of international practices the American flag must contend with. Your testimony certainly reflects those concerns.

I think the committee will carefully consider many of your amendments. We look forward to further action on this legislation right after the Easter break.

I want to thank you, Mr. Bank, and also Ms. Bello, for being here.

Mr. ATWOOD. Thank you very much.

The CHAIRMAN. Our next witness will be Mr. Reginald A. Bourdon, Director of the Office of International Activities, Maritime Administration, and Leonard H. Dickstein, Deputy General Counsel, and Chris Tankersley, attorney-adviser.

STATEMENT OF REGINALD A. BOURDON, DIRECTOR, OFFICE OF INTERNATIONAL AFFAIRS, MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE; AND LEONARD H. DICKSTEIN, DEPUTY GENERAL COUNSEL, MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE; ACCOMPANIED BY CHRISTOPHER K. TANKERSLEY, ATTORNEY-ADVISED, MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

Mr. BOURDON. Mr. Chairman and members of the subcommittee, my name is Reginald A. Bourdon. I am Director of the Office of International Activities, Maritime Administration, Department of Commerce.

I am happy to appear before you today to discuss the Soviet merchant fleet in order to provide the subcommittee with factual background information for its consideration of H.R. 9998, the subject of this hearing.

The Soviet merchant fleet has experienced substantial growth during the last two decades. Since 1960, the Soviets have increased their

merchant fleet markedly both in numbers of vessels and in carrying capacity.

In 1960, the U.S.S.R. had 650 vessels at 3.9 million dead weight tons. At the end of 1976, this fleet registered 1,700 vessels of 16.5 million dead weight tons.

If Soviet fleet statistics are broken down into 5-year periods to coincide with Soviet 5-year plans, they show a pattern of steady growth since 1960 of between 3 and 4 million dead weight tons per 5-year plan. The increase in dead weight tonnage for the Soviet fleet under the 5-year plan scheme shows an increase of 4.1 million dead weight tons during the period 1961 to 1965; 3.9 million dead weight tons during 1966-70; 3.3 million dead weight tons during 1971-75; and 4 million dead weight tons during 1976-80. It should be noted, however, that the first period, 1961-65, does not coincide with an actual 5-year plan period for the Soviets, since the sixth 5-year plan, 1956-60, was aborted in 1957 and reconstituted into a 7-year plan in 1958.

During the period 1976-80, it is anticipated that the Soviet merchant fleet will increase by 4 million dead weight tons. This increase in tonnage is predicated upon the belief that new deliveries over the next 5 years will total 4.6 million dead weight tons.

The largest amount of new construction is expected to be 2.3 million dead weight tons of tanker tonnage. This will raise its tanker fleet size to almost 7 million dead weight tons, or approximately 37 percent of the total capacity of the Soviet merchant marine.

The dry cargo liner component of the Soviet fleet is to receive 800,000 dead weight tons, and will primarily offset a scrapping of old general purpose dry cargo vessels. Because of this there will likely be a slight drop in liner tonnage from the 1975 level of 6.7 million dead weight tons.

As the general purpose dry cargo fleet diminishes, however, more advanced vessels will increase in the Soviet inventory. Total tonnage in the more specialized categories, such as roll on-roll off ships, container vessels and barge carriers, will grow 280 percent by 1980, increasing this amount of the Soviet liner fleet from 2 to 9 percent.

Mr. Chairman, at this point, I would like to indicate that I would like to come back to that statement because we have learned of some changes since this testimony was prepared. However, for the sake of continuity, I will continue as written.

Under the current 5-year plan the Soviets plan to acquire 650,000 dead weight tons of bulk dry cargo ships. This will increase the size of the small Soviet fleet of dry bulk carriers by nearly 50 percent from 1.3 million dead weight tons in 1975 to 1.9 million dead weight tons in 1980.

The existing 5-year plan calls for tonnage in combination oil/dry bulk carriers to more than double from 365,000 dead weight tons at the end of 1975, to 913,000 dead weight tons by the end of 1980.

With respect to ship deliveries in 1976, the Soviets recorded deliveries of 1.4 million dead weight tons. These deliveries stressed tankers and dry bulk carriers, which together made up 80 percent of the total new tonnage. The average size of Soviet tankers and dry bulk carriers, however, rose only slightly as a result of the new

construction and remains well below the averages for such vessels in the world fleet. Fifteen percent of the tonnage added in 1976 went to the Soviet liner fleet, with roll on-roll off vessels receiving emphasis.

The organization of the Soviet merchant marine embodies varying degrees of centralization and independence. The Ministry of Merchant Marine, Morflot, located in Moscow, is responsible for the promotion of national maritime transport under the provisions of the Merchant Marine Code of the U.S.S.R. of 1968, and other laws.

Within its responsibilities the Ministry provides for the implementation of the 5-year plans for all branches of the Soviet shipping industry. The Ministry approves investments in ports and other facilities, works out promotional long-term programs, coordinates technological developments, and controls the implementation of international conventions and agreements. Below the Ministry level in the organizational structure—

The CHAIRMAN. Would you yield for a moment?

Mr. BOURDON. Yes.

The CHAIRMAN. You say the Ministry controls the implementation of international conventions and agreements?

Mr. BOURDON. With respect to Soviet participation in maritime affairs.

The CHAIRMAN. Thank you.

Mr. BOURDON. Below the Ministry level in the organizational structure come the three state holding corporations, each based at the Ministry in Moscow.

These corporations are charged with the responsibility of coordinating the activities of all the shipping companies in a given geographical area.

The three holding corporations are Yuzhflot, the South Shipping State Corporation; Sevzapflot, the North-West State Shipping Corporation; and Dalflot, the Far East State Shipping Corporation.

The state corporations are structured into divisions, such as the shipping and container lines office, the tramp office, tanker office, passenger office, and port operations office.

Because of the geographical division characterizing these state corporations, their spheres of responsibility are diverse. For example, Yuzhflot, which has seven shipping companies under its jurisdiction, deals with the interests of the substantial Black Sea Shipping Company, with its large, dry cargo fleet, and those of the smaller Middle Asia Shipping Company, which principally carries out river trade operations into Afghanistan. It also has under its umbrella the Novorossiisk Shipping Co., a tanker operation. Yuzhflot tonnage accounts for more than 50 percent of the entire Soviet fleet.

According to Soviet sources, one of the most critical areas of involvement for the three state holding corporations concerns acquisition of new tonnage by the individual companies. How the total amount of money to be spent on new construction and how it is to be distributed between the holding corporations and ultimately the companies, evolves from a series of meetings involving the Ministry of the Merchant Marine and the corporations, and the presidents of the individual companies.

Allocations of the tonnage are calculated according to the needs of the area, and not to its historical profitability. New building schemes originate with the companies and are passed to the holding corporations. These are then passed to Morflot's technical board and finally to the main board of the Ministry.

Where a particular type of tonnage primarily benefits other ministries, for example, Soviet Arctic shipping and the corresponding beneficiary Soviet oil and gas ministries, contribution toward construction and operation may come from another ministry's budget. Coordination of this budgetary process is handled by Gosplan, the state planning agency.

Other reported means of acquiring tonnage include use of certain development funds that are accrued under limitations specified in the 5-year plan, and the "bareboat charter" technique employed by Sovfracht.

While the former method is rarely used, the latter has been employed frequently. Under this bareboat charter technique, one that differs from the traditional bareboat charter, Sovfracht starts off with an agreement to take the vessel on bareboat charter for an agreed period with transfer of ownership at the end.

The vessels, therefore, may be paid for out of its earnings without the involvement of Government funds. According to the Soviets, the first ships secured under this type of arrangement were bareboat in February 1973, and now some 30 vessels have been secured in this manner.

Each of the 18 Soviet shipping companies under the network of the three state holding corporations basically serves the needs of the geographical area in which it is located and has some degree of autonomy.

Some companies are responsible as well for operation of ports. Thus, in addition to running its own divers and substantial fleet, the Baltic Shipping Co., for example, operates the ports of Leningrad, Kaliningrad, and others, and also runs ship repair yards, including floating docks. In addition, the company operates a rest home for seamen and a maritime school for able seamen and deck hands.

Other major organizations under the jurisdiction of the Ministry of the Merchant Marine include V/O Sovfracht, V/O Sovinflat, Morpasflat, V/O Sovsudopodyom, and the Arctic Ocean Route Administration. All are located in Moscow.

Sovfracht, established in 1929, has exclusive rights in the U.S.S.R. for the chartering of tramp tonnage. It has departments for both the chartering of bulk and tanker tonnage that are divided along geographical lines.

Sovfracht operations are carried out in Moscow and through representatives in Hamburg, Genoa, London, New York, Oslo, Paris, Tokyo, Helsinki, Belgrade, Alexandria, and Bombay. Chartering offices of the corporation include the Atlantic, Baltic, Southern, Far East, Northern, and Tanker offices.

The general shipping agent for Soviet shipowners is Sovinflat, which was set up as a separate organization about 8½ years ago. It provides services such as agency, stevedoring, and bunkering to Soviet shipowners. In liner shipping, it coordinates the activities of

Soviet shipping companies and may act on their own behalf within liner conferences and pools.

Sovinfлот also takes care of long-term booking arrangements, rents and leases containers, arranges services in container trades, and supervises and coordinates the maritime segment of the trans-Siberian Container Line. Sovinfлот acts at the request of Soviet shipowners in the handling of arbitration and court cases.

In Soviet ports this organization coordinates the activities of Infлот maritime agencies which provide services for foreign flag vessels. Since 1972, Sovinfлот has performed the duties of the Secretariat of the National Association of Soviet Shipowners.

Morpasфлот is the general agency for passenger vessels and lines of Soviet shipping companies. It handles activities associated with the chartering of Soviet passenger vessels to Soviet and foreign charterers; reserves and sells tickets for passenger vessels; and assists in working out tariffs and schedules for passenger lines.

V/O Sovsudopodyom performs offshore and deep sea salvage operations, underwater engineering works, and deep sea towing and dredging. In all Soviet regions there are nine salvage departments and five departments for seaways, dredges, and diving gear. All of these departments are under the direct control of V/O Sovsudopodyom.

The main functions of the Arctic Ocean Route Administration include supervision and control over the uses of the Arctic Ocean route; the organization of traffic within the Arctic waters; the maintenance of safe navigation in the Arctic; the carrying out of pilot and icebreaking operations in the Arctic and certain pollution-control functions in those waters, which are a graphic description of the organization of the merchant marine as is contained on table 7 of the statement.

Mr. Chairman, this concludes my prepared statement. I will be glad to respond to any questions that you are the other members of the subcommittee might have regarding my statement.

The CHAIRMAN. All right.

Mr. Dickstein, please proceed with your statement we are anxious to ask you some questions.

Mr. DICKSTEIN. The Assistant Secretary, Bob Blackwell, expresses his regrets at not being able to be here. We did not learn until 5 o'clock yesterday afternoon from the Office of Management and Budget that we would be able to testify. Mr. Blackwell was out of town and could not be reached until after 10 o'clock. Consequently, he could not arrange to be here today and he asked me to appear.

I am appearing before you today to present the position of the Department of Commerce on H.R. 9998, the subject of this hearing. I must stress at the outset that the views I will express are the views of this Department and not necessarily those of the administration. The administration's position is still in the process of development.

H.R. 9998 would amend the Shipping Act, 1916, to define ocean carriers which are owned or controlled by foreign governments—"controlled carriers." In conjunction with this new definition, which describes the criteria for determining Government control or ownership, H.R. 9998 would establish new requirements governing the

rates, fares, charges, or classifications—which I shall generally refer to as rates—in the tariffs of such controlled carriers.

The bill would prohibit the use of rates which are below a level that is just and reasonable. To enforce this prohibition, H.R. 9998 would give the Federal Maritime Commission the authority to disapprove the rates after notice and hearing, either on its own motion or upon petition.

Whenever the FMC believes that a controlled carrier's rates are not just and reasonable according to the criteria in H.R. 9998, the Commission could issue an order to show cause why the rates should not be disapproved.

Pending a determination of the issue, the bill would permit the FMC to suspend such rates whether they were then in effect or merely proposed. During the suspension, the FMC would be required to prescribe the minimum rates that the subject controlled carrier could assess.

H.R. 9998 assigns to the subject controlled carrier the burden of proof for justifying the rates on file. The use of any disapproved, rejected, or suspended rates would be illegal.

The bill would also require every controlled carrier to submit, within 20 days after an FMC request, a detailed statement in support of its proposed or existing rates. In addition, no rates could become effective in less than 30 days after FMC filing without special FMC permission.

Significantly, the provisions of H.R. 9998 would not apply to all controlled carriers or to all the rates filed by those controlled carriers which are subject to the bill. For example, controlled carriers of a state whose vessels receive national or most-favored-nation treatment by treaty and those carriers which are members of certain specific conferences or other section 15 agreements, are excluded from the bill's application.

In addition, the rates of a controlled carrier which govern the transportation of cargo between the United States and the nation under whose flag the controlled carrier operates—that is, bilateral trade—are exempted from the provisions of H.R. 9998.

The Department of Commerce supports the enactment of H.R. 9998. In our opinion, this or similar legislation is necessary to provide a viable procedure for meeting the present problem of predatory rate practices engaged in by controlled carriers operating in the foreign waterborne commerce of the United States.

During this decade, a significant increase has occurred in the carriage of cargo by government-controlled carriers in the U.S. foreign commerce, especially the liner trades.

This penetration is even more significant given the fact that the controlled carriers are rarely engaged in their country's bilateral trade with the United States. These carriers are participating in the main as cross traders, or "third-flag carriers."

Much, if not all, of this penetration of U.S. trades by controlled carrier cross traders has resulted from the reduction of rates by as much as 10 to 40 percent from the rate levels prevailing in the trade for the various cargoes.

In addition, selective rate cutting is utilized to secure the high rated, more lucrative cargoes while simultaneously maintaining higher than normal rates on low-rated cargoes.

Generally, the prevailing rate levels are established by the conferences in the trade. With such reduced rates, these carriers have had little difficulty capturing a share of the trades as well as usually the most lucrative cargoes.

It should be stressed that we do not oppose legitimate competition by any independent carriers, whether they are cross traders or not. For years, privately operated, independent carriers have been a source of rate competition on most U.S. foreign trade routes. Such competition can, in most instances, contribute beneficially to the ocean shipping industry by serving as a counterbalance to the conferences. However, to be truly beneficial, the actions and rates of independents must be grounded in normal profit-and-loss market considerations.

The privately owned, independent carriers will eventually be constrained in their competitive efforts by the economic reality that rate levels which cover costs are required. Controlled carriers have no similar constraints and may be motivated by other than market considerations, such as the accumulation of hard currencies.

Given such nonprofit motivations on the part of the controlled carriers, it is obvious that the U.S.-flag and foreign-flag carriers cannot compete against the government controlled carriers. The U.S.-flag fleet today is certainly on the whole an efficient and productive fleet. However, it cannot compete against a competitor for whom efficiency and productivity are at best secondary.

From an economic standpoint, these predatory rate practices of the controlled carriers have clearly affected the U.S.-flag shipping industry and the fleets of other traditional maritime countries.

Moreover, it is certain that no solution to this problem can be achieved without Government involvement. Since the controlled carriers are not motivated by profit considerations, the privately owned carriers obviously cannot resort to the normal competitive mechanisms of the marketplace in an effort to resolve their difficulties.

This situation is further complicated by the fact that the ultimate owner of the controlled carriers is a sovereign nation, not a private entity. In this respect, it is noteworthy that the privately owned carriers of other maritime nations have been forced to seek action from their own governments.

It is appropriate to add at this point that the damage caused by the controlled carriers to our liner trades strikes at the heart of the promotional programs embodied in the Merchant Marine Act, 1936. In the absence of the enactment of H.R. 9998 or similar legislation, it may become questionable for the Government and it would be foolish for private industry to invest substantial sums in enterprises that at best can produce marginal returns.

Moreover, despite the availability of subsidy, the adverse effects of predatory rate practices also jeopardizes the U.S.-flag liner fleet and casts serious doubt upon the capability of the fleet to meet its national security purposes which, I need not remind you, is one of the primary goals of the Merchant Marine Act of 1936, as recon-

firmed by Congress in the Merchant Marine Act of 1970. We cannot afford to allow the predatory practices of the controlled carriers to thwart this vital purpose of the U.S.-flag fleet.

This unfortunate situation is not the result of an ineffective maritime promotional program. As it concerns liners, the Merchant Marine Act, 1936, as amended in 1970, is sound and sensible. The main problem is our regulatory laws.

To meet this very real threat to the waterborne foreign commerce of the United States, the 1916 act must be amended to provide more effective enforcement procedures against predatory rate practices. The last substantive procedural amendment to the act's present enforcement procedures was enacted in 1961. At that time, the significant growth of the controlled carrier fleets and their increased penetration of the U.S. foreign trades had not taken place. Consequently, the Congress did not have such a problem in mind and did not design the existing procedures to meet the problem of predatory rate-cutting by government-controlled carriers.

Under the present enforcement procedure, the FMC must prove that a carrier's rates are "so unreasonably high or low as to be detrimental to the commerce of the United States," paragraph 18(b) (5). Practically speaking, especially where a controlled carrier is involved, the FMC's burden cannot be met because the documents, data, and other evidence not only are overseas but are in the possession or under the control of another sovereign. Furthermore, while the FMC investigation proceeds, the potentially harmful rates remain in effect until disapproved. There is no suspension authority.

H.R. 9998 would rectify these procedural problems. The bill also would establish standards for determining whether a controlled carrier's rate is just and reasonable.

This determination has proved to be difficult in the past. Moreover, H.R. 9998 has been carefully drafted to avoid many of the objections lodged against similar bills in prior Congresses.

For example, it appears that H.R. 9998 would not impinge upon treaties and other international agreements because it provides appropriate exemptions to avoid such eventualities. Accordingly, we do not feel that the bill would impinge upon the U.S./U.S.S.R. bilateral maritime agreement.

We have noticed one technical drafting error in the bill.

Section 3 of the bill purports to establish exceptions to the controlled carrier provisions. Yet, from a technical standpoint, it fails to do so. Line 15, page 2, states that the "provisions of section 18[c] of the act" do not apply to the delineated controlled carriers.

But there is no paragraph 18[c] in H.R. 9998. That section will, properly speaking, be part of the 1916 act rather than H.R. 9998.

Consequently, unless amended, the provisions of paragraph 18[c] of the 1916 act, as amended by H.R. 9998, will apply to all controlled carriers described in paragraph 3 of H.R. 9998.

To rectify this oversight, we suggest that paragraph 3 be added to the new paragraph 18[c][5] in paragraph 4 of H.R. 9998, after deleting the words "of this act" in line 15, page 2.

In summary, Mr. Chairman, the Department of Commerce supports the enactment of H.R. 9998 or similar legislation that repre-

sents a viable, balanced approach to the very real threat posed by the actions of certain controlled carriers operating in our waterborne foreign commerce.

However, I would stress, Mr. Chairman, that we do not suggest that this legislation should be enacted merely to protect U.S. liner interests. Rather, to the extent that the new procedures enable the FMC to provide a more stable business environment in the U.S. trades generally, such stability will benefit all carriers in those trades, regardless of flag, as well as their patrons. As participants in the more stable environment, U.S. liner interests will also benefit.

This concludes my prepared statement.

I will be happy to respond to any questions which I am qualified to address.

The CHAIRMAN. Thank you, Mr. Dickstein. I appreciate your comments.

Mr. Bourdon, what do you regard as the major advantage the Soviet vessels have in competing against U.S. flag ships?

Mr. BOURDON. Before I reply to that, I mentioned that there were changes that should be reflected. They relate to the construction of roll-on/roll-off and container vessels. I think they are rather significant.

We have recently received new information concerning the amount of planned Soviet tonnage that would be in service as of December 31, 1980. Instead of the projected increase to 289,000 deadweight tons of roll-on/roll-off tonnage, that number should read 447,310.

With respect to full container tonnage, which was previously projected to 198,000 deadweight, that number should now read 188,000 deadweight.

That means, Mr. Chairman, there will be additional increase in roll-on/roll-off tonnage of something like 30 percent. I think this is significant in that the number previously cited by the Soviets, which was given to us on an official basis, is now off by 30 percent.

We will just have to see what the results are.

Getting back to your question, I think that one can very easily get lost in the numbers game with respect to looking at Soviet tonnage. One can argue that free-world fleets in some instances have increased their capacities more than the Soviets. I do not think that exercise however will lead us very far.

I think when we look at the Soviet advantages, we have to look at what the system really does, the flexibility that it has that we do not have.

They have significantly lower capital costs as far as construction is concerned.

It has been reported in the past, and I have seen it in the press on a number of occasions, that in calculating depreciation, Soviet vessels were depreciated on a physical basis, being patched together and repaired over and over again. In some instances, those vessels were around 80 years old.

Now, what kind of an amortization do we assign, presuming that they even have that, to that kind of a vessel?

That and the basic construction cost itself represents one big advantage over the western system and the way the maritime powers in the West conduct their business.

Second, the Soviets make extensive use of self-insurance. This is particularly true in hull indemnity. It has also been reported that many vessels did not even have hull insurance. They had liability insurance. The difference would mean a substantial premium saving to the Soviet operator—hull insurance premiums are costs that apparently the Soviets don't incur, at least not in every instance.

Third, they have preferential bunkers. Fourth, they have lower wage costs. The government provides and pays for social services. It is not a built-in wage cost factor.

How can we then calculate the operation costs of a vessel with that kind of built-in economic advantage? How can we compare it to a western vessel? It is very difficult to do. That is why I think looking merely at the increase in tonnage—one country versus another—does not really reflect the problem.

The problem here is a basic economic philosophical problem going to the heart of how you run your maritime business, and it is fundamentally different than ours.

With respect to a question that was asked this morning, and Mr. Daschbach has asked us to fill in some information for him, we could look at the ranking of the freighter fleets of the world and compare 1971 to 1976, for example.

If we just want to look at percentages, in container vessels, we built additional tonnage that represented an increase of 35 percent from 1971 to 1976.

The U.S.S.R. had nothing in 1971. All of a sudden, they have 270,000 deadweight tons in 1976. That is an increase of 100 percent, as compared to 35 percent for us.

With respect to partial containers, the U.S.S.R. had zero.

In 1971, they had zero. They had 706,000 deadweight tons in 1976.

The United States also had a similar increase.

For roll-on/roll-off vessels, excluding the new statistics we gave this morning, which have not been cranked into the percentages that we have, in 1971 the Soviets, once again, had no tonnage. Now they have 171,000 deadweight tons in 1976; and if we project that 447,000 deadweight tons by 1980 they will either be the largest owner of roll-on/roll-off vessels in the world, or they will be second only to the Japanese.

But those numbers would have to be looked at again later on. I think we can get confused with statistics if we just look at the Soviet fleet from that standpoint.

The CHAIRMAN. OK.

Now we go to the question of what do you regard as the major advantages that the Soviet fleet enjoys, vis-a-vis the American-flag fleet?

Mr. BOURDON. I think those things I just mentioned, Mr. Chairman, are really the heart of it. To argue, such as I have heard argued this morning, that the hard currency question is a compelling one, I hardly think that the U.S. service industry should be asked to compensate for Soviet trade imbalances. I know of no requirement to do so. Our trade imbalance is \$26 billion, which is about \$12 billion more than the Soviets, and I don't hear anybody suggesting that the rest of the world should use American-flag tonnage to compensate for our trade imbalance.

The CHAIRMAN. What trades are the Soviet's merchant fleet concentrating on?

Mr. BOURDON. No doubt Trade Route 29 has had a substantial participation by the Soviets, the United States/Gulf/Far East Trade Route 22 where the Soviets now carry 11.6 percent; Trade Route 17, where they now carry 10.1 percent—that is an increase of more than 100 percent over 1974 on that trade route. That is the trade, Mr. Chairman, between the United States/Indonesia/Malaysia/Singapore.

Also, great inroads have been made in the U.S. North Atlantic and in the Great Lakes area—Great Lakes trades.

The CHAIRMAN. In relation to Trade Route 29, what role does the Trans-Siberian landbridge appear to be playing in the maritime activities and developments?

Mr. BOURDON. I think that is very hard to determine, Mr. Chairman.

The CHAIRMAN. The ILA continually brings this up in their discussions with us.

Mr. BOURDON. The Trans-Siberian landbridge now carries approximately 20 percent of all the container traffic between Europe and the Far East. They transport approximately 57,000 TEU's westbound and about 22,000 TEU's eastbound.

Most of the traffic that is westbound, out of those 57,000 TEU's is going to Iran, West Germany, and the United Kingdom.

On the other hand, of those transported eastbound, much of that traffic is transferred to Soviet partial container vessels and taken down to Southeast Asia. European sources have reported that the cost of shipping westbound on the Trans-Siberian, versus the complete oceanborne route, is approximately 15-percent lower; so it is a substantial amount of traffic, certainly with respect to the Europe/Japan trade.

I would be inclined to think—but I have no statistics to support it—I would be inclined to think it has less of an impact on the United States than on Europe.

The CHAIRMAN. Do you have any evidence on the Soviets registering under foreign flags, particularly the Panamanian flag?

Mr. BOURDON. I don't know. I don't know whether Mr. Dickstein does or not.

Mr. DICKSTEIN. No.

The CHAIRMAN. I will try to pin it down.

We discussed Soviet discrimination against marine insurers. Can you give us an update on that question?

Mr. BOURDON. Yes.

On the 7th of March, the special trade representative held hearings concerning the complaint filed by the U.S. marine underwriters. At that time, the industry appeared and made its charges and the testimony is now being printed and will be reviewed.

One of the interesting things that has come to our attention in that connection is that we have learned that Soviet foreign-trade organizations have seemingly increased their pressure on the American industry by now demanding, in certain bargaining situations with American exporters, that not only the marine insurance cover-

ing the oceanborne portion of a trip be insured with INGOS-STRAKH, but that the insurance from the plant in the United States to the port also be insured by INGROSSTRAKH. In other words,—the Soviets are now attempting to obtain the domestic portion of that insurance as well.

One American company that was involved in such negotiations resisted this attempt in negotiations, and those negotiations have been curtailed as a result.

So the situation has not improved.

As a matter of fact, it appears that the Soviets are trying harder than ever to grab all of the insurance in the trade, even that domestic portion.

The CHAIRMAN. You and Mr. Dickstein were here during the questioning of Mr. Daschbach. The Federal Maritime Commission has testified that they have certain legal restrictions which prevent them from receiving information from MARAD, information which they might need.

Can you cite specific instances where this has happened? Can you provide for the record the provisions of law which prevent such a sharing of information?

Mr. DICKSTEIN. I do not know of any such instances in which the Maritime Administration did not comply with the request from the Federal Maritime Commission.

We will be happy to check our records. I understand Mr. Daschbach said he would check their records to see if there was any instance of our failure to comply with a reasonable request.

The only possible reason for failing to comply with a request is the fear that the confidentiality of the information might be endangered and, therefore, our sources for foreign cost data would dry up. Most of it is given to us with the understanding that we will keep it confidential.

Assuming that the Federal Maritime Commission would be willing to keep the information confidential, I do not see why we would not comply with a request from the Federal Maritime Commission.

[The following was submitted:]

FMC REQUEST FOR INFORMATION

To the best of our knowledge, the Maritime Administration has never refused an FMC request for information. We were unable to find a single instance of a refusal after checking with the Marad offices that would have been most likely concerned with such an FMC request.

Furthermore, we know of no laws which prevent us from sharing information with other federal agencies. There are, however, statutory restrictions on the form in which we may share the information and the use to which it can be put by the requesting agency. The relevant statute is the Federal Reports Act of 1942 (44 USC 3501 *et seq.*) and 44 USC 3508 in particular.

This section permits an agency which has collected information to release that information to another agency only in four specific instances. Where the suppliers of the information consent to such release, the information was not declared confidential at the time of collection, or the requesting agency has the proper type of authority to collect the information itself, as specified in § 3508, then the collecting agency can release the information to another agency. When one of the above three circumstances exist, an agency can only release the information to another agency in the form of statistical totals or summaries.

Section 3508 also requires that the released information, if obtained in confidence, must be provided the same protection against unlawful disclosure by the agency to which it is released as was provided by the laws applicable to the agency which originally collected the information.

To the extent that these provisions apply to any given situation, Marad and the FMC must, of course, comply.

The CHAIRMAN. I notice on page 5 of your statement, Mr. Dickstein, you say it is noteworthy that the privately-owned carriers of other maritime nations have been forced to seek action from their own governments.

So what type of actions have been taken by these other governments, and what governments?

Mr. DICKSTEIN. I would defer to Mr. Bourdon.

Mr. BOURDON. The Japanese have enacted legislation. What the specific terms of that legislation are, I don't know.

The CHAIRMAN. You need a translator?

Mr. BOURDON. The Dutch also adopted in 1974 what is called the Retortion Act of 1974. That is aimed at the Soviets.

The CHAIRMAN. Antirestitution?

Mr. BOURDON. Antiretortion Act.

The CHAIRMAN. What does it do?

Mr. BOURDON. I don't know. I have not read the legislation.

I assume it gives them the opportunity to keep out of their trade Soviet carriers that would impinge upon the ability of Netherlands vessels to compete.

Mr. DICKSTEIN. Of course, to the extent that in Latin America there is now a 40-40-20 pooling agreement, that would exclude Russians as cross traders from getting into more than 20 percent of the trade.

The CHAIRMAN. Would you submit for the record a list of those countries that have taken action, governmental action, in order to protect their carriers?

Mr. BOURDON. Yes.

The CHAIRMAN. And a brief resume of that action?

Mr. BOURDON. We will certainly do that, Mr. Chairman.

[The following was received for the record:]

RECENT ACTIONS BY FOREIGN GOVERNMENTS CONCERNING SOVIET CROSSTRADING ACTIVITIES

In April 1977, those member countries of the Consultative Shipping Group (CSG), an association of the governments of Belgium, Denmark, Finland, France, Federal Republic of Germany, Greece, Italy, Netherlands, Norway, Spain, Sweden, and the United Kingdom, which were involved in the conflict between the Soviet BESTA Line and the East Africa Conference, sent individual letters to Igor Averin, Director of the Foreign Relations Department, Ministry of the Merchant Marine, urging him to promote a real solution to the problem. Averin responded that the terms for the admission of BESTA Line to the conference were unacceptable.

UNITED KINGDOM

On June 13-15, 1977, Soviet Minister of the Merchant Marine Timofei Guzenko met with British Secretary of State for Trade, Edmond Dell, and his Undersecretary, Clinton Davis. The British officials emphasized the seriousness with which the British government views Soviet rate-cutting practices and provisions of excessive capacity, not only on certain liner trades but also on the Trans-Siberian Land-bridge.

As a result of the June meeting, the two sides agreed to try to work out guidelines for orderly development in the international trades. The work was carried out by a joint government/shipowners working group which met in August 1977. The delegation was working under the aegis of the Joint British Soviet Maritime Commission.

At meetings held in Moscow in October 1977, Davis and Guzhenko welcomed the progress made by the working group. Guzhenko invited Davis to endorse the draft guidelines. Davis stated, however, that the guidelines in themselves were insufficient and that he felt that further movement on the guidelines should be postponed until proof of their practical relevance was shown by progress in the resolution of individual cases, e.g., the BESTA-East Africa Conference discussions.

NETHERLANDS

In June 1977, the Dutch government adopted the Maritime Shipping Retortion Act which establishes procedures pursuant to which the Dutch government can take the necessary action to defend Dutch merchant shipping against unfair shipping practices. (See Attachment A)

Later that year, the Dutch ambassador in Moscow presented an official note of protest to Soviet Foreign Minister Andrei Gromyko against Soviet competition in the Europe-East Africa liner trades. According to press reports, Britain, West Germany and Belgium were to take similar action.

FEDERAL REPUBLIC OF GERMANY

At meetings held October 10-14, 1977, FRG Minister for Transport Kurt Gscheidle told Soviet Minister of the Merchant Marine Timofei Guzhenko that one principal aim of the German government was to find a satisfactory solution for all parties affected by the cross trading activity of Soviet shipping lines. The two sides agreed to establish an expert group consisting of officials from the responsible ministries as well as shipowners to seek resolution of the problem.

The expert group met January 23-27, 1978. In regard to Soviet crosstrading activities in FRG's liner trades, FRG officials expressed concern that these activities might endanger the competitiveness of FRG-flag lines in these trades. They proposed reaching an understanding about the share of shipping enterprises of the U.S.S.R. in the liner traffic of the FRG.

JAPAN

The Ministry of Transport (MOT) has placed on the Prime Minister's Office list of bills under consideration, legislation aimed at restricting excessive nonconference activities of the East European bloc carriers. The exact details of the bill are not presently available; but the bill reportedly will amend the Maritime Transport Law by requiring all foreign ship operators to file their tariff rates with the MOT and make the rates public. The legislation is viewed as the principal means of dealing with the problems presented by Soviet shipping practices.

In 1977 the Japanese government adopted the "Law Concerning Special Measures against Unfavorable Treatment of Japanese Oceangoing Ship Operators by Foreign Governments and Others." (See Attachment B). This legislation was presented as an effort to solve international shipping issues including the shipping policy gap between the East and West.

MARITIME SHIPPING RETORTION ACT

Act to regulate the taking of retortion measures with respect to maritime shipping (Maritime Shipping Retortion Act).

We, Juliana, by the Grace of God, Queen of the Netherlands, Princess of Orange Nassau, etc., etc., etc.

To all and singular to whom these presents shall come, Greeting!

Whereas: We have considered it necessary to draw up regulations for the purpose of defending the economic interests of Dutch merchant shipping and with a view to implementing an international agreement or a decision of an international organisation relating to transport at sea;

Now therefore, We, having heard the Council of State and in consultation with the States General, have approved and decreed and approve and decree hereby:

Article 1. For the purposes of the present Act: "Our Minister" means Our Minister of Transport and Public Works; "Tribunal" means the Appeals Tribunal for Industry and Commerce (College van Beroep voor het Bedrijfsleven); "sea-going vessel", or "Dutch sea-going vessel", means a vessel within the meaning of Articles 310 and 311 of the Commercial Code.

Article 2. 1. If in Our opinion the defence of the economic interests of Dutch merchant shipping, or an international agreement or a decision of an international organisation relating to transport at sea, so require, We may, by a General Administrative Order, hereinafter referred to as a Retortion Decree:

(a) prohibit:

- (1) The captain of a sea-going vessel sailing under a flag designated by that Decree from transporting goods in that vessel over Dutch waters;
- (2) The owner of an enterprise from wilfully causing goods to be transported in a sea-going vessel sailing under a flag designated by that Decree;
- (3) The letting or chartering of a Dutch sea-going vessel to a natural or legal person established in a country designated by that Decree;

unless a licence has been issued by Our Minister;

(b) fix a charge, to be imposed by or on behalf of Our Minister according to a rate to be determined by that Decree on sea-going vessels which sail in Dutch waters under a flag designated by that Decree.

2. A Retortion Decree may provide that the Decree shall also apply to sea-going vessels sailing under a flag, other than that designated by the Decree, which have been let or chartered to a natural or legal person established in the country whose flag is designated by the Decree, if that country grants the same privileges to those vessels as it does to ships sailing under her own flag.

3. A prohibition as referred to in paragraph 1 (a) (1) or a charge as referred to in paragraph 1 (b) hereof shall not apply to a vessel that is in Dutch waters for no other reason than either that:

(a) It is in transit, or

(b) That the safety of the vessel and its crew and/or passengers is at risk, or

(c) That the lives or health of the crew and/or passengers are at risk, or

(d) For maintenance or repair work, to bunker or to take on provisions.

4. A proposal to introduce, amend or rescind a Retortion Decree shall be made to Us by Our Minister with the approval of Our Minister for Foreign Affairs, Our Minister for Economic Affairs, Our Minister of Agriculture and Fisheries and Our Minister for Development Cooperation.

5. Before making a proposal to introduce, amend or rescind a Retortion Decree Our Minister shall hear the Socio-Economic Council or a committee as referred to in Article 43 of the Industrial Organisation Act (Bulletin of Acts, Orders and Decrees 1950, K 22).

6. As soon as he has received the recommendations required by virtue of paragraph 5 hereof Our Minister shall make known the receipt in the Government Gazette, stating the date of receipt.

Article 3.1. A Retortion Decree, or a decree amending or rescinding it, shall not enter into force until at least two months have elapsed since the date of the issue of the Bulletin of Acts, Orders and Decrees in which it appears.

2. Barring earlier withdrawal, a Retortion Decree shall cease to apply three years after it has entered into force, unless further legislation provides otherwise.

Article 4.1. Our Minister may grant exemption or, if requested, dispensation from a prohibition imposed or a charge fixed by a Retortion Decree.

2. An exemption order, or an order amending or rescinding such an order, shall be established by Our Minister with the approval of Our Minister for Economic Affairs and Our Minister of Agriculture and Fisheries.

3. An exemption order, or an order amending or rescinding it, shall be published in the Government Gazette.

Article 5. The licences, exemptions and dispensations may be made subject to restrictions. Licences, exemptions and dispensations may have conditions attached to them.

Article 6.1. A Retortion Decree may lay down what particulars should be supplied when applying for a licence or a dispensation. Documentary evidence may be included among the particulars required.

2. The applicant shall be notified in writing of a refusal to grant a licence or dispensation, and the reasons for such refusal shall accompany the notification.

Article 7.1. Our Minister may revoke a licence or a dispensation if the particulars that have been supplied to obtain it are found to be incorrect or incomplete in such a fashion that a different decision on the application would have been made if all the facts had been known at the time of assessment.

2. An order made by virtue of paragraph 1 hereof shall be communicated to the applicant in writing, and it shall be accompanied by a statement of reasons.

Article 8.1. Our Minister may collectively revoke the licences or dispensations belonging to a group designated by him if he considers such action necessary.

2. An order made by virtue of paragraph 1 hereof shall be published in the Government Gazette.

3. Article 4, paragraph 2, shall apply in like manner to an order under paragraph 1 hereof.

Article 9.1. The captain of a sea-going vessel shall be given written notification by or on behalf of Our Minister of a charge imposed under Article 2, paragraph 2 (b). The notification shall set out the way in which the amount of the charge has been calculated.

2. The provisions of Chapters IX and X of the Customs and Excise Act (Bulletin of Acts, Orders and Decrees 1961, 31f) shall apply to this charge in like manner. For the purposes of these provisions the charge shall be regarded as a tax.

3. The captain of a sea-going vessel may not leave the Netherlands before the charge has been paid or before an adequate security has been deposited to ensure that the charge is paid.

Article 10.1. When Our Minister is considering making a proposal to introduce, amend or rescind a Retortion Decree, he may, with the approval of Our Minister for Foreign Affairs, Our Minister for Economic Affairs, Our Minister of Agriculture and Fisheries and Our Minister for Development Cooperation, if in this opinion there are very good grounds for immediate action, make rules that are in line with the measure contemplated or rescind the rules embodied in the existing decree, doing so by an order hereinafter referred to as a Retortion Order.

2. A Retortion Order shall not be issued before recommendations have been sought in accordance with Article 2, paragraph 5.

3. Article 2, paragraph 3, and Articles 4 to 9 inclusive shall apply in like manner.

Article 11.1. Unless already rescinded, a Retortion Order shall remain effective either until a Retortion Decree relating to the same matter enters into force, or for not longer than eight months after the day on which the recommendations referred to in Article 2, paragraph 5 have been received.

2. A Retortion Order, or an order to amend or rescind it, shall be published in the Government Gazette.

Article 12.1. Any person whose interests have been directly affected by an order of Our Minister to:

- (a) Grant or refuse a licence or a dispensation, or
- (b) Revoke a licence or a dispensation under Article 7, paragraph 1, or
- (c) Impose a charge,

may lodge an appeal against the order with the Tribunal.

2. Except in the cases in which the present Act provides otherwise, Articles 3 and 5 of Title IV of the Trade and Industrial Bodies (Administrative Jurisdiction) Act (Bulletin of Acts, Orders and Decrees 1954, 416) shall apply in like manner.

Article 13. If the nominations referred to in Article 13 of the Trade and Industrial Bodies (Administrative Jurisdiction) Act are inadequate for appointing special members of the Tribunal for the purpose of effecting Article 12 of the present Act, We may appoint such members on the recommendation of Our Minister of Justice and Our Minister, and not on the basis of the aforementioned nominations, for a period of four years. Article 14, paragraph 3 of the Trade and Industrial Bodies (Administrative Jurisdiction) Act shall apply to such persons in like manner.

Article 14.1. Article 41 of the Trade and Industrial Bodies (Administrative Jurisdiction) Act shall not be applicable.

2. Our Minister, when forwarding documents to the Tribunal, may, in the public interest, announce that the other party must not take cognizance of these documents. The Tribunal shall not take cognizance of these documents unless the other party has stated that it does not object thereto.

3. The Tribunal may request Our Minister to furnish in writing information specified by it and to forward documents specified by it within a period set by it.

Article 15.1. Articles 58 to 60 inclusive of the Trade and Industrial Bodies (Administrative Jurisdiction) Act shall not be applicable.

2. The Tribunal may annul an order. An annulment shall be effective from the time it is pronounced.

3. If an appeal against an order as referred to in Article 12, paragraph 1 (a) or against failure to issue such an order is sustained, the Tribunal may set a time within which Our Minister shall issue another order, or a first order, as the case may be.

Article 16. If matters dealt with in the present Act require further regulation to facilitate implementation of the Act, this can be done by General Administrative Order.

Article 17. It shall be prohibited to supply incorrect or incomplete information concerning an application for a licence or a dispensation.

Article 18. The Economic Offences Act shall be amended as follows: "the Maritime Shipping Retortion Act, Article 2, paragraph 1, Article 5, Article 9, paragraph 3, Article 10, paragraph 1, and Article 17;" shall be added to Article 1 (4).

Article 19. The present Act may be cited as: Maritime Shipping Retortion Act.

We direct and ordain that these presents be published in the Bulletin of Acts, Orders and Decrees and that all Ministerial Departments, Authorities, Bodies and Officials whom they may concern diligently implement them.

Given under our hand, May 4th, 1977.

State Secretary for Transport and Public Works

Minister for Foreign Affairs

Minister for Economic Affairs

Minister of Agriculture and Fisheries

Minister for Development Cooperation

Issued June 14th, 1977.

[ATTACHMENT B]

LAW (BILL) CONCERNING SPECIAL MEASURES AGAINST UNFAVORABLE TREATMENT OF JAPANESE OCEANGOING SHIP OPERATORS BY FOREIGN GOVERNMENTS AND OTHERS

The following is the full text of the bill drafted by the Ministry of Transport to counter flag discrimination against Japanese ship operators. Deliberation on the bill, submitted to the current Diet session on March 25, was started on April 8 by the Transportation Committee of the House of Representatives. The bill will make it possible to take countermeasures, including restriction or prohibition of calls at Japanese ports by ships of countries giving unfavorable treatment to Japanese shipping. This full text was translated by the Shipping and Trade News and checked by the Shipping Bureau of the MOT.

PURPOSE

Article 1—The purpose of this law is, when and where the interests of Japanese oceangoing ship operators are significantly harmed by unfavorable treatment by any foreign government et alia, to enable such Japanese oceangoing ship operators to engage in their business activities under equal conditions of competition with foreign oceangoing ship operators by taking special measures to cope with such situations and thereby to contribute to the sound development of the oceangoing ship operating business in this country.

DEFINITIONS

Article 2—The terms listed below shall herein be construed as defined and shall, as such, apply to the items following.

I. Ship operating business: Shall refer to "ship operating business" as defined in paragraph 2, Article 2, the Maritime Transportation Law (Law No. 187 of 1949).

II. Oceangoing ship operating business: Shall refer to any ship operating business performed between any Japanese port and any port outside Japan or between non-Japanese ports.

III. Japanese oceangoing ship operator: Shall refer to any juridical person or organization established under Japanese law or any individual of Japanese nationality engaged in oceangoing ship operating business.

IV. Foreign oceangoing ship operator: Shall refer to any foreign government, any foreign public body et alia, any juridical person or other organization established under foreign law or any individual of foreign nationality engaged in oceangoing ship operating business.

V. Shipping agency business: Shall refer to shipping agency business as defined in Clause 10, Article 2, the Maritime Transportation Law.

Notification of Countermeasures, Etc.

Article 3—In the event that Japanese oceangoing ship operators are treated less favorably, as the result of any of the following actions taken by any foreign government, foreign public body et alia, than oceangoing ship operators of its own country (hereinafter called the oceangoing ship operators of the foreign nation concerned) or, if such action is taken by a foreign public body et alia, the country to which it belongs, to such an extent that the interests of Japanese oceangoing ship operators are significantly harmed, the Minister for Transport may, if he finds it necessary to cope with such a situation, notify the oceangoing ship operators of the foreign nation concerned that he may order any countermeasure under Clause 1 of Article IV unless the said situation ceases to exist within a prescribed period not shorter than six months:

I. If, with respect to cargo transported between the foreign country and Japan, the foreign government, foreign public body et alia require shippers thereof to use the transportation service of the oceangoing ship operators of that foreign nation;

II. If, with respect to transport of cargo referred to in the foregoing para, the foreign government, foreign public body et alia require Japanese oceangoing ship operators to conclude an agreement providing for favorable treatment of the oceangoing ship operators of that foreign nation, or

III. If the foreign government et alia take, otherwise than referred to in the foregoing para I & II, any action, the scope of which shall be defined by a Cabinet order, that eventually adversely affects the competitiveness of oceangoing ship operating business conducted by Japanese oceangoing ship operators.

2—The Minister for Transport, after having made any notification under the foregoing clause, should make a public announcement of an outline of the situation provided for in the said clause, the name(s) of the oceangoing ship operator(s) of the foreign nation(s) concerned to whom such notification was given and the contents of said notification. In such an instance, the Minister for Transport should, as required by an ordinance of the Ministry of Transport, take the necessary measures to make the contents of the said notification known to the parties engaged in shipping agency business, shippers utilizing the service of the oceangoing ship operating business and other parties concerned specified in an ordinance of the Ministry of Transport.

3—The Minister for Transport, if and when he considers that any situation defined in Clause 1 has ceased to exist, should make a public announcement to that effect, and notify the oceangoing ship operators of the foreign nation concerned, to whom a notification under Clause 1 was given, that he no longer will order any action under Clause 1 of the article 4.

4—The provision of the latter part of Clause 2 shall apply mutatis mutandis to any public announcement under the clause 3.

COUNTERACTION

Article 4—The Minister for Transport, in the event that any situation referred to in Clause 1 of the article 3 has not ceased to exist even after the lapse of the period of time specified in the notification thereunder, may take

any of the following measures against the oceangoing ship operators of the foreign nation concerned who were given such notification:

I. Restrict or prohibit, for a specified period, entry to Japanese ports of ships used in oceangoing ship operating business activities conducted by the oceangoing ship operators of the foreign nation concerned, and

II. Restrict or prohibit, for a specified period, loading or unloading of cargo in Japan by the ships referred to in the foregoing item.

2—An order to take any measure under Clause 1 of this article shall not exceed the extent necessary for coping with any particular situation provided for in Clause 1 of article 3, and due care should be taken to minimize the effect of such measures upon the national economy.

3—The Minister for Transport, if and when he considers it necessary to issue an order under Clause 1, can hear the parties concerned, who are specified by the ordinance of the Ministry of Transport provided for in the latter part of Clause 2 of the foregoing article 3, regarding the relevant circumstances.

4—The provisions of Clause 2 of article 3, shall apply *mutatis mutandis* to any order under Clause 1.

5—The Minister for Transport, if and when he considers that any situation defined in Clause 1 of article 3 has ceased to exist, should make a public announcement to that effect, and withdraw his order under Clause 1.

6—The provision of the latter part of Clause 2 of article 3 shall apply *mutatis mutandis* to any public announcement under Clause 5.

CONSULTATIONS

Article 5—The Minister for Transport, when he intends to issue a notification under Clause 1 of Article 3 or an order under Clause 1 of article 4, should consult in advance with the heads of other administrative authorities concerned.

REQUIREMENT TO SUBMIT REPORTS AND DIRECT INSPECTION

Article 6—The Minister for Transport may, within the bounds of the requirements for the implementation of this law, require parties engaged in oceangoing ship operating business or parties engaged in shipping agency business in connection with oceangoing ship operating business to submit reports of their business activities, or have officials of the Ministry of Transport enter the offices, other premises or ships of oceangoing ship operators of the foreign nation concerned, to whom a notification under Clause 1 of Article 3 was given, or of parties engaged in shipping agency business in connection with the oceangoing ship operating business conducted by such oceangoing ship operators of the foreign nation concerned and inspect their books, documents and other objects.

2—Any official who makes direct inspection under Clause 1 should carry, and show to the parties concerned, a certificate of identification.

3—The authority to make direct inspection under Clause 1 should not be construed as approved for the purpose of investigation of criminal offence.

RELEGATION TO MINISTRY OF TRANSPORT ORDINANCE

Article 7—Necessary procedures and other matters for implementation of this law, except those prescribed herein, shall be prescribed by an ordinance of the Ministry of Transport.

PENALTIES

Article 8—Any party who acts against any order in Clause 1 of Article 4 shall be subject to penal servitude for a period not exceeding one year or a fine not exceeding Y5 million.

Article 9—Any party who fails to submit a report, or submits a false report, as required by Clause 1 of Article 6 or who refuses, obstructs or evades inspection required thereby, shall be subject to a fine not exceeding Y100,000.

Article 10—In the event that the representative of any juridical person (which hereinafter includes any unincorporated organization having a legitimately appointed representative or manager) or any agent, servant or employee of any juridical or natural person commits, in performance of the business of such juridical or natural person, any action in violation of either of the foregoing two articles, the juridical or natural person shall be subject to a fine

under the applicable article in addition to any penalty imposed on the person who has directly committed such action.

2—In the event that an unincorporated organization is subject to any penalty under Clause 1, the representative or manager thereof shall represent such organization in the legal action, and the provisions of the law(s) concerning criminal actions against juridical persons shall apply *mutatis mutandis*.

SUPPLEMENTARY PROVISIONS—DATE OF COMING INTO EFFECT

1—This law shall come into effect on a day prescribed by a Cabinet order not later than three months from the date of its promulgation.

PARTIAL AMENDMENT TO LAW CONCERNING ESTABLISHMENT OF MINISTRY OF TRANSPORT

2—Part of the Law concerning Establishment of the Ministry of Transport (Law No. 157 of 1949) shall be amended as follows:

The following sub-item shall be added to Clause 1 of Article 4 after Item XV-7 thereof:

In Clause 1 of Article 4, Item XV-2-3 shall be altered to Item XV-2-4, Item XV-2-2 to Item XV-2-3, and Item XV-2 to Item XV-2-2, and the following sub-item shall be added after Item XV:

XV-2. To issue orders for coping with unfavorable treatment of Japanese oceangoing ship operators by any foreign government *et alia*.

The CHAIRMAN. On page 7 you make it quite clear that H.R. 9998 would not impinge upon treaties and other international agreements, because it provides appropriate exemptions to avoid such eventualities.

I think it is well to point that out.

On page 8, as you conclude, you state:

Rather to the extent that the new procedures enable the Federal Maritime Commission to provide a more stable business environment in the United States trades generally, such stability will benefit all carriers in those trades.

Were you referring to the closed conference legislation?

Mr. DICKSTEIN. I was not referring to any in particular. Rather, I was referring to legitimate independents, not controlled carriers, and those trading partners of the United States who do share in our shipping business.

The CHAIRMAN. When you talk about a more stable climate for business, the problem of overtonnaging on our trade routes certainly has caused instability in our business environment?

Mr. DICKSTEIN. I would agree with that.

The CHAIRMAN. The legislation to control rebating and the proposals we are hearing right now on closing conferences to prevent that overtonnaging would certainly create a more stable business environment?

Mr. DICKSTEIN. That is certainly true.

The CHAIRMAN. Mr. Kyros.

Mr. KYROS. Mr. Dickstein, I only have one or two questions.

The first one, on page 7 of your testimony, I think your solicitude for the committee draft is misplaced. You stated that there is no 18(c) in H.R. 9998.

Well, there is an 18(c) in there and it is in section 4. I do not think there is any concern about 18(c).

Mr. DICKSTEIN. Mr. Kyros.

The problem is a narrow one involving section 3, where you say the provisions of 18(c) of this Act. There is no 18(c) in this act,

technically. In section 4, H.R. 9998 adds section 18(c) to the 1916 act but the bill itself does not contain 18(c) because that new subsection will be a part of the 1916 act.

Mr. KYROS. You notice in section 4, we put in an 18(c) section?

Mr. DICKSTEIN. Yes.

Mr. KYROS. Are you concerned about the way it is drafted?

Mr. DICKSTEIN. Yes.

If it were in quotations, it would be fine. It is a minor drafting problem.

Mr. KYROS. Mr. Bourdon, you talked about the projected growth in the Soviet fleet showing also the new figures you had about the 30-percent increase from the figures you provided for the record on roll-on/roll-off's.

You also talked about the structure and flexibility available to the Soviet Ministry of Merchant Marine.

Does that mean, in your opinion, that they are able—I will not say “dump”—but they are able to put their liners in operation at almost any trade at will?

Mr. BOURDON. I think that is true.

Our records show, for any 3-month period, a shift in Soviet tonnage from one trade to another trade. That is a very common practice. If you are going to do that under our system, you would have to go through a section 605(c) hearing. That is the type of flexibility they have that gives them a tremendous advantage.

Mr. KYROS. How about unsubsidized liners? Do they have some flexibility?

Mr. BOURDON. Some.

Perhaps more than a subsidized operator. But, still he cannot pool his resources with those of another company. American Export Lines, for example, cannot commandeer United States lines vessels and move them into trade x because he can get a quick high-paying cargo. The Soviets can.

Mr. KYROS. Is not the flexibility somewhat illusory? Do you not have to set up a liner operation including agents, brokers and containers facilities?

Mr. BOURDON. They have a lot of that infrastructure laid in. The record shows the moving of ro/ro vessels from one trade to another, practically at will.

Mr. KYROS. Let me ask this final question.

Once you start a container operation, you make a substantial investment, get your agents in the ports, gain shipper loyalty to your trade and maintain their shipping with you, it seems to me that once you get liner trades established all over the world, your next step forward for a 5-year plan might be even more accelerated in growth? Isn't that possible?

Mr. BOURDON. That is quite possible. I do not know what the Soviet intentions are on every trade. It would be a fair assumption that once they have made inroads on any trade and driven away an operator who may be on a border line profitability basis, certainly they have an advantage at that point to come in and practically make

a monopoly of the trade. I don't say it exists in many trades. Certainly, the potential is there.

Mr. KYROS. In the U.S.S.R.-United States Maritime Agreement, in which you were involved in the negotiation and its carrying out, will our bilateral liner trade with the Soviets grow?

Has it been increasing?

It is decreasing?

Mr. BOURDON. No; this year it would have been lower because the trade has dropped about 25 percent. Last year I think we were in the neighborhood of \$1.6 billion in trade with the Soviets. Probably two-thirds of that was made up of agricultural commodities, which left about 500 million dollars' worth of manufactured goods being exchanged between the two countries.

Mr. KYROS. I am only talking about the liner trade?

Mr. BOURDON. Yes. That would be the portion that would be liner service.

Mr. KYROS. What amount was that in dollars?

Mr. BOURDON. I don't recall, but in the bilateral trades the amounts carried by U.S.-flag and Soviet-flag vessels are roughly at parity level.

Mr. KYROS. One final question.

In one form of competition, if the Soviets use their ships from Eastern Europe to carry goods to Cuba and then sail in a triangular trade and pick up goods on backhaul from east coast ports, then they are serving two or three objectives at one time, which are not all before this committee, but economically could we ever compete with those kinds of objectives?

Mr. BOURDON. Yes. They would be able to accomplish those objectives.

It is my opinion that you begin to discuss the Soviet fleet in terms of foreign policy objectives and military objectives, however, the arguments against its economic penetration become less clear, because certainly every merchant fleet worth its salt would have those objectives. Those, by themselves, do not make the case. What makes the case is the fact that they have a built-in flexibility and cost structure that you cannot touch.

Mr. KYROS. And no matter how the Maritime Administration tries to structure its relationship to the U.S. Navy for national defense and national security, our merchant fleet is privately owned, and we cannot achieve the cooperation and integration that the Soviets exhibit with their state-controlled fleets?

Mr. BOURDON. Perhaps not to the same extent.

We have defense features and military use of vessels in an emergency. We sold the merchant marine, for many years, as an arm of national defense. It is not a valid argument to say because theirs has a military objective, that is a reason to support certain legislation.

Mr. KYROS. I have no further questions.

The CHAIRMAN. Mr. Hubbard?

Mr. HUBBARD. No questions.

The CHAIRMAN. Minority counsel?

Mr. LOSCH. No questions.

The CHAIRMAN. Gentlemen, thank you very much. We appreciate your testimony.

Mr. Bourdon, your complete statement will be made a part of the record.

[The following was received for the record:]

STATEMENT OF REGINALD A. BOURDON, DIRECTOR, OFFICE OF
INTERNATIONAL ACTIVITIES

Mr. Chairman and members of the subcommittee, my name is Reginald A. Bourdon. I am Director of the Office of International Activities, Maritime Administration, Department of Commerce. I am happy to appear before you today to discuss the Soviet merchant fleet in order to provide the subcommittee with factual, background information for its consideration of H.R. 9998, the subject of this hearing.

The Soviet merchant fleet has experienced substantial growth during the last two decades. Since 1960 the Soviets have increased their merchant fleet markedly both in numbers of vessels and in carrying capacity. In 1960 the U.S.S.R. had 650 vessels of 3.9 million dwt. At the end of 1976 this fleet registered 1,700 vessels of 16.5 million dwt. (See Table I)

If Soviet fleet statistics are broken down into 5 year periods to coincide with Soviet Five-Year Plans they show a pattern of steady growth since 1960 of between 3 and 4 million dwt. per five-year plan. The increase in deadweight tonnage for the Soviet fleet under the five-year plan scheme shows an increase of 4.1 million dwt. during the period 1961-65; 3.9 million dwt. during 1966-70; 3.3 million dwt. during 1971-75; and, 4.0 million dwt. during 1976-80. It should be noted, however, that the first period, 1961-65, does not coincide with an actual five-year plan period for the Soviets, since the Sixth Five-Year Plan, 1956-1960, was aborted in 1957 and reconstituted into a seven year plan in 1958.

TABLE I.—SOVIET MERCHANT FLEET SIZE AND GROWTH

Year	Inventory as of December 31		Net increase in tonnage		Deliveries During year
	Number	Million deadweight tons	Million deadweight tons	Percent	Million deadweight tons
1959	590	3.3	0.3	6	0.4
1960	650	3.9	.6	18	.6
1961	680	4.2	.3	8	.4
1962	740	4.8	.6	14	.7
1963	820	5.7	.9	19	.9
1964	900	6.9	1.2	21	1.3
1965	990	8.0	1.1	16	1.2
1966	1,070	8.9	.9	12	1.0
1967	1,150	9.7	.8	9	.8
1968	1,230	10.4	.7	8	.8
1969	1,310	11.2	.8	7	.8
1970	1,400	11.9	.7	7	.8
1971	1,440	12.3	.4	3	.5
1972	1,460	12.6	.3	2	.5
1973	1,520	13.4	.8	6	1.0
1974	1,590	14.3	.9	6	.9
1975	1,650	15.2	.9	8	1.1
1976	1,700	16.5	1.3	9	1.4

During the period 1976-1980 it is anticipated that the Soviet merchant fleet will increase by 4 million dwt. This increase in tonnage is predicated upon the belief that new deliveries over the next five years will total 4.6 million dwt. (See Tables II-V)

The largest amount of new construction is expected to be 2.3 million dwt. of tanker tonnage. This will raise its tanker fleet size to almost 7 million dwt., or approximately 37% of the total capacity of the Soviet merchant marine.

The dry cargo liner component of the Soviet fleet is to receive 800,000 dwt. tons, and will primarily offset a scrapping of old general purpose dry cargo vessels. Because of this there will likely be a slight drop in liner tonnage from the 1975 level of 6.7 million dwt. As the general purpose dry cargo fleet diminishes, however, more advanced vessels will increase in the Soviet inventory. Total tonnage in the more specialized categories, such as ro/ro ships, container vessels and barge carriers, will grow 280% by 1980, increasing this segment of the Soviet liner fleet from 2% to 9%.

Under the current five-year plan the Soviets plan to acquire 650,000 dwt. tons of bulk dry cargo ships. This will increase the size of the small Soviet fleet of dry bulk carriers by nearly 50%; from 1.3 million dwt. in 1975 to 1.9 million dwt. in 1980.

TABLE II.—SOVIET MERCHANT FLEET COMPOSITION, DEC. 31, 1975

	Number	Thousand dead weight tons	Percent of dead weight tons	Average dead weight tons
Total.....	1, 652	15, 313	100	9, 269
Dry cargo.....	1, 363	9, 975	65	7, 318
Liner types.....	838	6, 654	43	7, 904
General purpose.....	(809)	(6, 505)	(42)	(8, 041)
Full container.....	(12)	(82)	(1)	(6, 833)
Roll-on/roll-off.....	(17)	(67)	(1)	(3, 941)
Refrigerator.....	28	134	1	4, 786
Timber carrier.....	387	1, 910	13	4, 935
Bulk carrier.....	110	1, 277	8	11, 609
Combination oil/dry bulk carrier.....	4	365	2	91, 250
Tanker.....	285	4, 793	33	17, 449

¹ Negligible.

TABLE III.—SHIP TYPES PLANNED FOR DELIVERY TO THE SOVIET MERCHANT FLEET, 1976-80

	Thousand deadweight tons	Percent of deadweight tons
Total.....	4, 600	100
Dry cargo.....	1, 739	38
Liner types.....	799	18
General purpose.....	(383)	(8)
Full container.....	(116)	(3)
Roll-on/roll-off.....	(222)	(5)
Barge carrier.....	(78)	(2)
Refrigerator.....	15	(1)
Timber carrier.....	262	6
Bulk carrier.....	663	14
Combination oil/dry bulk carrier.....	548	12
Tanker.....	2, 313	50
50,000 dwt and up ²	1, 261	27
40,000 to 49,999 dwt.....	360	8
20,000 to 39,999 dwt.....	421	9
10,000 to 19,999 dwt.....	223	5
Less than 10,000 dwt.....	48	1

¹ Negligible.

² May include a small number of combination carriers.

TABLE IV.—PLANNED SOVIET MERCHANT FLEET COMPOSITION, DEC. 31, 1980¹

	Thousand deadweight tons	Percent of deadweight tons
Total.....	18,391	100
Dry cargo.....	10,662	58
Liner types.....	6,568	36
General purpose.....	(6,003)	(33)
Full container.....	(198)	(1)
Roll-on/roll-off.....	(289)	(2)
Barge carrier.....	(78)	(?)
Refrigerator.....	142	1
Bulk carrier.....	1,877	10
Timber carrier.....	2,075	11
Combination oil/dry bulk carrier.....	913	5
Tanker.....	6,816	37
50,000 dwt and up.....	1,406	8
40,000 to 49,999 dwt.....	1,777	9
20,000 to 39,999 dwt.....	2,031	11
10,000 to 19,999 dwt.....	1,120	6
Less than 10,000 dwt.....	482	3

¹ The following adjustments were made in the original Soviet Ministry table in order to make comparison with data from other sources easier:

Ferry boats were deleted.

Combination oil/dry bulk carriers (a minimum figure) were separated out from the large tanker category.

Certain classes of small bulk carriers were shifted from general purpose to dry bulk carriers.

² Negligible.

TABLE V.—SOVIET CARGO LINER TONNAGE AS OF 31 DECEMBER

	1975		1980 plan	
	Thousand deadweight tons	Percent	Thousand deadweight tons	Percent
Total liner tonnage.....	6,654	100	6,568	100
General purpose freighters.....	6,505	98	6,003	91
Fast turnaround types.....	149	2	565	9
Full container.....	82	1	198	3
Roll-on/roll-off.....	67	1	289	5
Barge carrier.....	(1)	(1)	78	1

¹ Nil.

The existing Five-Year Plan calls for tonnage in combination oil/dry bulk carriers to more than double from 365,000 dwt. at the end of 1975 to 913,000 dwt. by the end of 1980.

With respect to ship deliveries in 1976 the Soviets recorded deliveries of 1.4 million dwt. (See table VI) These deliveries stressed tankers and dry bulk carriers, which together made up 80% of the total new tonnage. The average size of Soviet tankers and dry bulk carriers, however, rose only slightly as a result of the new construction and remains well below the averages for such vessels in the world fleet. Fifteen percent of the tonnage added in 1976 went to the Soviet liner fleet, with ro/ro vessels receiving emphasis.

TABLE VI.—SOVIET MERCHANT FLEET ACQUISITIONS, 1976¹

Type	From all sources			New ships		Used ships	
	Number	Thousand deadweight tons	Percent of deadweight tons	Number	Thousand deadweight tons	Number	Thousand deadweight tons
Total	69	1,424	100	61	1,148	8	276
Dry cargo	46	580	41	40	485	6	95
Liner types	23	202	15	23	202		
General purpose	14	79	6	14	79		
Full container	2	29	2	2	29		
Roll-on/roll-off	7	94	7	7	94		
Refrigerator	3	18	1	3	18		
Timber carrier	8	87	6	8	87		
Bulk carrier	12	273	19	6	178	6	95
Combination	0	0	0	0	0	0	0
Tanker	23	844	59	21	663	2	181

The organization of the Soviet merchant marine embodies varying degrees of centralization and independence. The Ministry of Merchant Marine, Morflot, located in Moscow, is responsible for the promotion of national maritime transport under the provisions of the Merchant Marine Code of the U.S.S.R. of 1968 and other laws. Within its responsibilities the Ministry provides for the implementation of the five-year plans for all branches of the Soviet shipping industry. The Ministry approves investments in ports and other facilities, works out promotional long-term programs, coordinates technological developments, and controls the implementation of international conventions and agreements. Below the Ministry level in the organizational structure come the three state holding corporations, each based at the Ministry in Moscow. These corporations are charged with the responsibility of coordinating the activities of all the shipping companies in a given geographical area. The three holding corporations are Yuzhflot, the South Shipping State Corporation; Sevzapflot, the North-West State Shipping Corporation; and Dalflot, the Far East State Shipping Corporation. (See Table VII) The state corporations are structured into divisions, such as the Shipping and Container Lines Office, the Tramp Office, Tanker Office, Passenger Office and Port Operations Office.

Because of the geographical division characterizing these state corporations, their spheres of responsibility are diverse. For example, Yuzhflot, which has seven shipping companies under its jurisdiction, deals with the interests of the substantial Black Sea Shipping Company, with its large, dry cargo fleet, and those of the smaller Middle Asia Shipping Company, which principally carries out river trade operations into Afghanistan. It also has under its umbrella the Novorossiisk Shipping Company, a tanker operation. Yuzhflot tonnage accounts for more than 50% of the entire Soviet fleet.

According to Soviet sources one of the most crucial areas of involvement for the three state holding corporations concerns acquisition of new tonnage by the individual companies. How the total amount of money to be spent on new construction and how it is to be distributed between the holding corporations and ultimately the companies, evolves from a series of meetings involving the Ministry of the Merchant Marine and the corporations, and the presidents of the individual companies. Allocations of the tonnage are calculated according to the needs of the area, and not to its historical profitability. New building schemes originate with the companies and are passed to the holding corporations. These are then passed to Morflot's technical board and finally to the main board of the Ministry.

Where a particular type of tonnage primarily benefits other ministries, e.g. Soviet Arctic shipping and the corresponding beneficiary Soviet oil and gas ministries, contribution toward construction and operation may come from another ministry's budget. Coordination of this budgetary process is handled by Gosplan, the state planning agency.

Other reported means of acquiring tonnage include use of certain development funds that are accrued under limitations specified in the five-year plan, and the "bareboat charter" technique employed by Sovfracht. While the former method is rarely used, the latter has been employed frequently. Under this "bareboat charter" technique, one that differs from the traditional bareboat charter, Sovfracht starts off with an agreement to take the vessel on bareboat charter for an agreed period with transfer of ownership at the end. The vessel, therefore, may be paid for out of its earnings without the involvement of Government funds. According to the Soviets the first ships secured under this type of arrangement were bareboated in February, 1973 and now some 30 vessels have been secured in this manner.

Each of the 18 Soviet shipping companies under the network of the three state holding corporations basically serves the needs of the geographical area in which it is located and has some degree of autonomy. Some companies are responsible as well for operation of ports. Thus, in addition to running its own diverse and substantial fleet, the Baltic Shipping Company, for example, operates the ports of Leningrad, Kaliningrad and others, and also runs ship repair yards including floating docks. In addition, the company operates a rest home for seamen and a maritime school for able seamen and deck hands.

Other major organizations under the jurisdiction of the Ministry of the Merchant Marine include V/O Sovfracht, V/O Sovinplot, Morpasflot, V/O Sovsudopodyom and the Arctic Ocean Route Administration. All are located in Moscow.

Sovfracht, established in 1929, has exclusive rights in the U.S.S.R. for the chartering of tramp tonnage. It has departments for both the chartering of bulk and tanker tonnage that are divided along geographical lines. Sovfracht operations are carried out in Moscow and through representatives in Hamburg, Genoa, London, New York, Oslo, Paris, Tokyo, Helsinki, Belgrade, Alexandria and Bombay. Chartering offices of the corporation include the Atlantic, Baltic, Southern, Far East, Northern and Tanker offices.

The general shipping agent for Soviet shipowners is Sovinplot, which was set up as a separate organization about eight and a half years ago. It provides services such as agency, stevedoring and bunkering to Soviet shipowners. In liner shipping it coordinates the activities of Soviet shipping companies and may act on their own behalf within liner conferences and pools. Sovinplot also takes care of long-term booking arrangements, rents and leases containers; arranges services in container trades; and supervises and coordinates the maritime segment of the Trans-Siberian Container Line. Sovinplot acts at the request of Soviet shipowners in the handling of arbitration and court cases.

In Soviet ports this organization coordinates the activities of Inplot maritime agencies which provide services for foreign flag vessels. Since 1972 Sovinplot has performed the duties of the Secretariat of the National Association of Soviet Shipowners.

Morpasflot is the general agency for passenger vessels and lines of Soviet shipping companies. It handles activities associated with the chartering of Soviet passenger vessels to Soviet and foreign charterers; reserves and sells tickets for passenger vessels; and assists in working out tariffs and schedules for passenger lines.

V/O Sovsudopodyom performs off-shore and deep-sea salvage operations, underwater engineering works, and deep-sea towing and dredging. In all Soviet regions there are nine salvage departments and five departments for seaways, maintaining special salvage ships, ice-breakers, salvage pontoons, dredges and diving gear. All of these departments are under the direct control of V/O Sovsudopodyom.

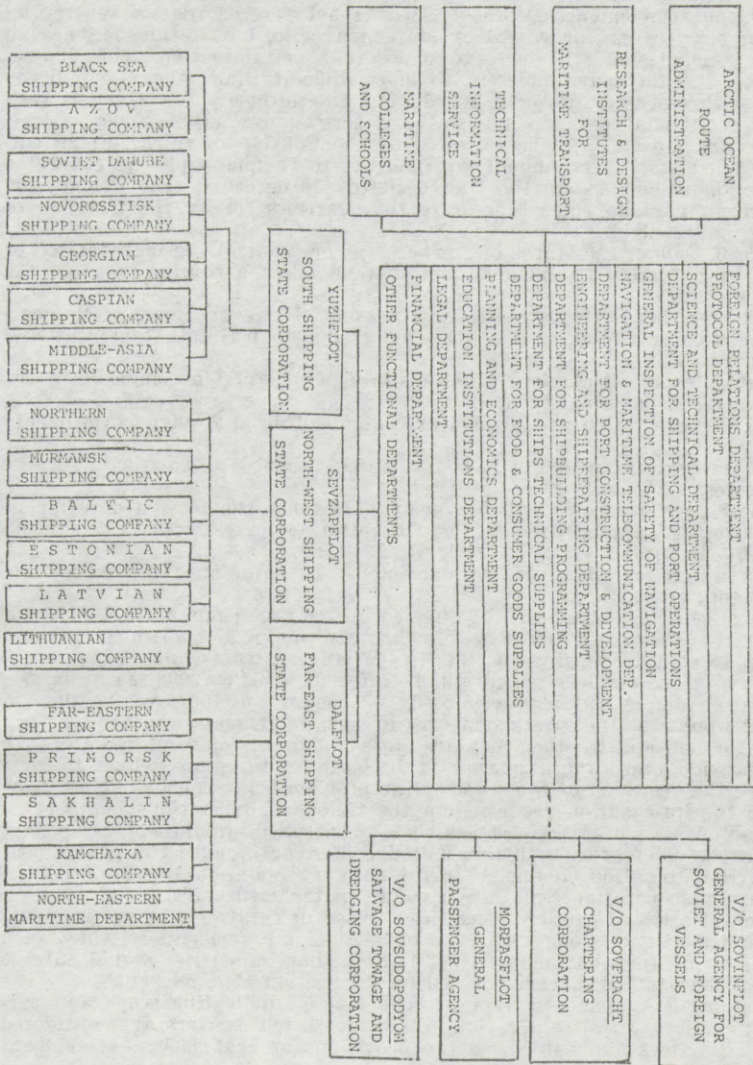
The main functions of the Arctic Ocean Route Administration include supervision and control over the uses of the Arctic Ocean Route; the organization of traffic within the Arctic waters; the maintenance of safe navigation in the Arctic; the carrying out of pilot and ice-breaking operations in the Arctic; and certain pollution control functions in those waters.

Mr. Chairman, this concludes my prepared statement. I will be glad to respond to any questions that you or the other members of the subcommittee might have regarding my statement.

Table VII

ORGANIZATIONAL STRUCTURE OF MANAGEMENT
OF THE USSR MERCHANT MARINE

MINISTRY OF MERCHANT MARINE



The CHAIRMAN. The committee will stand adjourned, subject to the call of the Chair.

[The following was received for the record:]

SUGGESTED ANSWERS BY THE FEDERAL MARITIME COMMISSION TO MR. RUPPE'S
QUESTIONS

Question 1. How are the features of ownership and control determined?

Answer. Of course, we admit that the determination of ownership and control is not always easy, even for American corporations. However, the Federal Mar-

itime Commission, and other government agencies, possess much information that will be helpful in making this threshold determination. For example, FMC Form 9, filed by carriers calling at U.S. ports, is designed to obtain data relevant to ownership and control. A copy of this form is attached (Attachment "A") for your convenience. Moreover, we cannot foresee that a substantial number of carriers can or will deny state-ownership, but if this becomes an issue, the Commission will have to make that determination. The finding, based upon the facts available, is no more difficult than other Commission decisions with respect to its own jurisdiction, the authority for which is vested in every judicial tribunal under the American system of jurisprudence. The determination can also be reviewed by the Courts, to which foreign corporations must also, often submit with respect to various problems connected with their doing business in the United States. If necessary, the Commission is authorized to make rules to require that carriers certify the question of ownership and control.

Question 2. Cannot the status of "ownership" or "control" be manipulated or disguised by a foreign government and thereby allow a carrier to avoid the intent of the law?

Answer. Yes, this is theoretically very possible. However, Eastern Bloc carriers in particular find it of practical importance to maintain their national identities.

Question 3. As to all carriers which operate in the foreign commerce of the United States, please identify by name:

(a) All carriers which are "owned or controlled" by a foreign government; and

(b) Those carriers which will be exempted because of treaties with the United States; and

(c) Those carriers which will be exempted because the foreign government subscribes to the shipping policy of the Organization for Economic Cooperation and Development; and

(d) Those carriers which will be exempted because of an approved Section 15 agreement; and

(e) Those carriers which will be affected by the provisions of H.R. 9998 for the reason that they are included within the definition of a "controlled carrier."

Answer. In considering this question in its entirety, we assume that you are interested in those carriers which will be affected by H.R. 9998, as in subsection e. For example, carriers exempted because of an approved Section 15 agreement would be all carriers signatory to such agreements whether they are controlled or not, and whether they are cross-traders or bilateral operators. In order to provide a meaningful answer to the question, therefore, which, in turn, would give the best idea of the scope of the problem being considered, we have developed the information requested in the following expeditious manner:

(1) List of all nations whose vessels, if controlled, would *not* be exempt either because of treaties with the United States, or because the government of the particular nation subscribes to the shipping policy of the Organization for Economic Cooperation and Development. (Attachment "B").

(2) Identification of carriers considered owned or controlled by governments of nations listed in #1 along with a list of Section 15 agreements to which such carriers are signatory (Attachment "C"). Note that the carrier would only be exempt for the particular trade covered by the Section 15 agreement.

(3) Section 15 Agreements from Attachment "C" indicating scope and participating carriers. In all other U.S. cross-trades, such carriers are considered Controlled Carriers and subject to the provisions of H.R. 9998. (Attachment "D").

Question 4. Is there any way that the Federal Maritime Commission could prevent a "controlled" carrier from dominating a trade, despite H.R. 9998, if the carrier charged the conference rate for service but then shifted its "subsidy" of government capital into other ancillary and supporting transportation services (warehousing, land transportation, freight forwarding, etc.) which would induce shipper business?

Answer. To the extent the Federal Maritime Commission has jurisdiction over the possible practices hypothesized in this question, something could be done. For example, present Section 18(b)(1) of the Shipping Act, 1916, requires the carrier's tariff to " * * * state separately such terminal or other charge, privilege, or facility under the control of the carrier * * * which is granted or allowed, and any rules or regulations which in anywise change,

affect, or determine any part or the aggregate of [the transportation rates] *** Under H.R. 9998, Section 4, the total transportation rate resulting from such "ancillary" charges would be subject to the Commission's determination of justness and reasonableness and may result in the carrier's *not* charging the conference rate. To the extent, not under the control of the Federal Maritime Commission, or not known to it, there is no more we can do about it than about a secret rebate paid abroad of which we never become aware.

Question 5. How can the Federal Maritime Commission determine the lawfulness of a controlled carrier's rates—by comparison to "constructive costs of another carrier *** operating similar vessels"—if the Federal Maritime Commission does not require the competing carrier to have a registered agent and maintain cost records in the United States?

Answer. This test is only one criterion under Section 4 [proposed Section 18(c)(2) of the bill], and was suggested to accommodate the situation where another carrier in the trade complains to the Federal Maritime Commission of predatory rates. Incidentally, the question, as phrased, incorrectly quotes the bill. It is not the "constructive costs of another carrier" which is the standard. In this type of case, we anticipate that the other carrier will voluntarily furnish us sufficient information by which the Federal Maritime Commission can determine its *actual* costs pursuant to accepted accounting principles. The section provides that such actual costs of the other carrier become the constructive costs of the controlled carrier. Where there is no complaining carrier, the Commission could obtain and utilize cost data based upon American flag services where they exist. The amendment to the bill suggested in our testimony that would clearly give the Commission access to carrier cost data in the hands of other agencies would also be helpful in implementing this provision. Such access would not only avoid repetitive demands upon the sources of the information, but should expedite proceedings in moot cases.

Question 6. How can the Federal Maritime Commission determine the lawfulness of a controlled carrier's rates—by applying the standard of what is "required to assure movement of particular cargo in the trade?" Is this an objective and quantitative standard?

Answer. As in our answer to the previous question, whether or not a rate is required to assure movement of particular cargo in the trade is another of several criteria for determining reasonableness. Indeed, if the level of a particular commodity rate is such that a United States Exporter simply could not compete in a foreign market if the rate were any higher, such a rate would neither be suspended nor disapproved. It therefore becomes obvious that this standard would usually come into play only if the particular commodity was not moving via another carrier in the trade. The Commission, through its computer data system, can develop such trade statistics in a short period of time. Additionally, it can exercise its authority pursuant to Section 21 of the Act to obtain such additional information as it might need. Of course, if another carrier in the trade is carrying such a commodity at a higher rate, the standard is not determinative. If, on the other hand, the commodity is not transported at all in the same or similar trades, then the criterion becomes most relevant. In this situation, the shipper or consignee would be requested to present evidence and be cross-examined on whether or not the commodity could move at a higher rate. Such evidence, oral or written, conforms to a standard as objective and as quantitative as that applied by most regulatory tribunals and courts of law.

ATTACHMENT A

GAO No. B-180233 (RO 189); Approval Expires May 31, 1978

FORM FMC-9
(110-75)

FEDERAL MARITIME COMMISSION

INFORMATION CIRCULAR

To aid the Federal Maritime Commission in the Administration of the Shipping Act, 1916 (U.S.C. Title 46, 801), as amended, and related Acts, you are requested to execute this circular and return it to the:

Bureau of Compliance
FEDERAL MARITIME COMMISSION
1100 L Street, N. W.
Washington, D.C. 20573

1. (a) Your legal business name

(b) English equivalent if legal name is customarily written in language other than English

2. Trade name or names used

3. (a) State your legal form of organization, i.e., whether you operate as an individual, corporation, partnership, association, joint stock company, business trust, or other organized group of persons (whether incorporated or not), or as a receiver, trustee, or other liquidating agent

(b) If a corporation, association, joint stock company, business trust, or other organization, give:

Name of State or country in which incorporated or organized

Date of the incorporation or organization

(c) If a partnership, give name and address of each partner:

Name	Address (Street, city, state or country)

4. (a) Give following information regarding any person or company controlling, controlled by or under common control with you:

Name	Address	Business and relationship to you

(b) Describe all management, service, or agency contracts with the companies named in 4(a):

5. Give name and address of all persons, whether individuals or concerns, authorized to accept service in the United States of complaints, notices, subpoenas, or other documents which may be issued in connection with regulatory proceedings. If the authority to accept service of any individual or concern associated with the operator is limited in any way, describe fully such limitation.

Name	Address	Authority

6. (a) Do you transport passengers? ☐ Yes ☐ No

(b) If "Yes," from and to, between, or at what ports or places, and how frequent are your sailings?

7. (a) Do you transport freight? ☐ Yes ☐ No

(b) If "Yes," from and to, between, or at what ports or places, and how frequent are your sailings? _____

(c) Do you carry cargo owned or controlled by yourself or any of the persons or companies listed under 4(a) above? ☐ Yes ☐ No

(d) Do you carry cargo in full shiploads, or otherwise in bulk by charter or other freighting agreement? ☐ Yes ☐ No

(e) Do you place the vessels used by you on berth ready to take all or any specified character of cargoes? ☐ Yes ☐ No

8. In relation to transportation engaged in by you:

- (a) Do you own all the vessels used?
- ☐
- Yes
- ☐
- No

If not, indicate the nature of the arrangements under which those not owned by you are available to you (e.g., bareboat, time, voyage, or other charter, or arrangement).

- (b) Under what flag or flags are vessels operated in your services registered, enrolled, or licensed?

- (c) Describe any forwarding,* or any wharf, warehouse, or other terminal services or facilities furnished by you to the shippers or owners of freight transported by you; your answer to include any such services immediately furnished by any forwarder, or terminal operator or other party for and on your behalf, and the name of each such forwarder, terminal operator, or other party:

- (d) Describe any forwarding,* or dock, wharf, warehouse, or other terminal service or facility furnished by you for a common carrier by water, and name such carrier or carriers:

9. If you are NOT a common carrier by water:

- (a) Do you furnish wharfage, dock, warehouse, or other terminal services or facilities to common carriers by water, shippers, or consignees?
- ☐
- Yes
- ☐
- No

If "Yes," describe each of such services or facilities:

Question 9 continued on following page.

*For illustrative forwarding services, see footnote to question 9 on next page.

9. (b) Do you perform any forwarding services* for common carriers by water, shippers,

or consignees?

☐ Yes

☐ No

If "Yes," itemize and describe each of such services:

(c) Do you consolidate water-borne shipments of others and ship or receive shipments so consolidated in your name?

☐ Yes

☐ No

(d) Do you ship by water in your name any goods of others?

☐ Yes

☐ No

If "Yes," give in brief detail a typical instance:

This circular is submitted by or on behalf of:

Name (Print legibly)

By (Signature of official)

Title

Home office - Street and number

City

ZIP

State or country

Principal office in the United States - Street and number

City

State

Date

Comments

*Illustrative forwarding services include: Taking custody of shipments before delivery to ship; arranging for ship space; tracing of shipments and instructing carriers, truckmen or others respecting deliveries to piers, warehouses, etc.; arranging storage; preparing ocean bills of lading, drafts, consular and other documents; checking of weights and measurements of shipments; reoperating; arranging for cargo insurance, and notification to underwriters of damaged shipments; advancing freight charges and other expenses; prosecution of claims against carriers, insurance companies, or others.

[ATTACHMENT B]

NATIONS WHOSE CONTROLLED VESSELS WOULD BE DEEMED "CONTROLLED CARRIERS" UNDER H.R. 9998¹

Algeria, Bangladesh, Brazil, Bulgaria, Burma, Chile, People's Republic of China, Czechoslovakia, Egypt, German Democratic Republic (East Germany), Ghana, Guatemala, Hungary, India, Indonesia, Ivory Coast, Kenya, Kuwait, Libya, Malaysia, Malta, Mexico, Nigeria, Oman, Pakistan, Peru, Philippines, Poland, Saudi Arabia, Sierra Leone, Singapore, South Africa, Sri Lanka, Syria, Tanzania, Trinidad, Turkey, U.S.S.R., Venezuela, and Zaire.

ATTACHMENT C

CONTROLLED CARRIERS WITH LIST OF SEC. 15 AGREEMENTS EXEMPTING SUCH CARRIER IN THOSE TRADES FROM THE PROVISIONS OF H.R. 9998. ALL OTHER U.S. TRADES, EXCEPT BILATERAL, SUBJECT TO H.R. 9998.

Country	Name of carrier	Sec. 15 agreement(s)
Algeria	Compagnie Nationale Algerienne de Navigation (C.N.A.N.).	134, 10261
Bangladesh	Bangladesh Shipping Corp.	6010, 8650
Brazil	Lloyd Brasileiro Line	6400, 8660, 9648, 9968, 10122
Bulgaria	(1)	
Burma	(1)	
Chile	Compagnia Sud-Americana de Vapores (Chilean Line).	2744, 3302, 2868, 7890
China, Republic of	(1)	
Czechoslovakia	(1)	
Egypt	Egyptian National Line	2846, 9238, 9239, 9522, 9548, 9615
German Democratic Republic	(1)	
Ghana	Black Star Line	7680, 9420
Guatemala	Flota Mercante Gran Centro-Americana (Flomerca Line); Armagua Line.	2744, 3302, 3868, 4189, 7550, 7590, 7890, 8660, 9522 (2)
Hungary	(1)	
India	Shipping Corp. of India	57, 6010, 7190, 7690, 8050, 8558, 8650, 8760, 9247, 9836, 10209
Indonesia	Djakarta Lloyd	90, 5500, 6010, 7190, 8080
Ivory Coast	(1)	
Kenya	(1)	
Kuwait	Kuwait Shipping Co.	(2)
Libya	(1)	
Malaysia	(1)	
Malta	(1)	
Mexico	Transportation Maritima Mexicana (Mexican Line).	134, 9648, 9968, 10131
Nigeria	Nigerian National Line	(2)
Oman	(1)	
Pakistan	National Shipping Corp. of Pakistan	(2)
Peru	Compania Perunade Vapores (Peruvian State Line).	2744, 7890, 8660
Philippines	(1)	
Poland	Polish Ocean Lines	9427, 9552, 9856, 10160
Saudi Arabia	Saudi National Lines	8558
Sierra Leone	(1)	
Singapore	Neptune Orient Lines	(2)
South Africa	South African Marine Corp.	8054, 9502
Sri Lanka	(1)	
Syria	(1)	
Tanzania	(1)	
Trinidad	(1)	
Turkey	Turkish Cargo Lines	2846, 5660, 9490, 9522, 9615
U.S.S.R.	Artic Steamship Co.	10160
Do	Baltic Shipping Co.	9427, 9552, 9856, 9984
Do	Black Sea Shipping Co. (Blasco Line)	2846, 8260, 10261
Do	Far Eastern Shipping Co. (Fesco Line)	10107, 10108
Venezuela	Compania Anonima Venezolana Je Navigacion.	6190, 6870, 9522
Zaire	Compagnie Maritime Zairoise	7680, 9420

¹ No positive indication at this time of a State owned carrier serving in U.S. Crosstrades.

² None.

³ This Agreement is between two controlled carriers and therefore does not exempt either Polish Ocean Lines or Artic Steamship Co. from H.R. 9998.

NOTE.—This list compiled from information believed to be accurate. Upon passage of any legislation, further verification would be required.

¹ Information supplied by State Department.

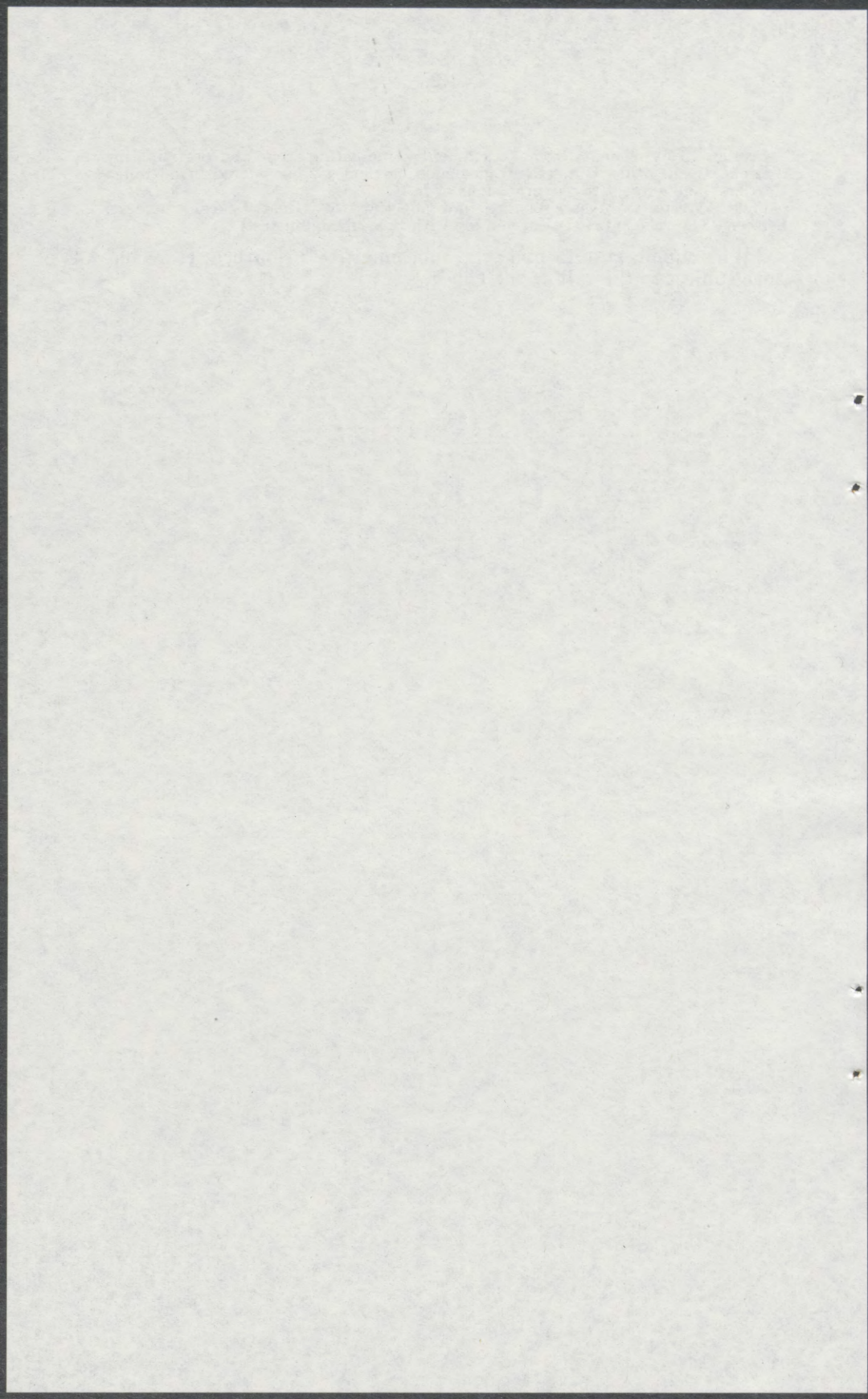
Note.—Vessels of these nations would be exempt from the regulatory controls of H.R. 9998 if they operate only in bilateral trades or within approved rate or service agreements with noncontrolled carriers.

[ATTACHMENT D]

Section 15 Agreements from Attachment C indicating scope and participating carriers. In all other U.S. cross trades such carriers are considered "Controlled Carriers" and subject to the provisions of H.R. 9998.

[The Agreement Master Listing (not affecting the Great Lakes, where no Section 15 Agreements exist) are on file with the Subcommittee.]

[Whereupon, at 1:15 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]



CONTROL CARRIERS

WEDNESDAY, APRIL 19, 1978

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON MERCHANT MARINE,
Washington, D.C.

The subcommittee met at 10:20 a.m., in room 2226, Rayburn House Office Building, Hon. John M. Murphy (chairman of the committee) presiding.

Present: Representatives Murphy and McCloskey.

Staff present: Carl Perian, chief of staff; Ernest J. Corrado, chief counsel; Len Sutter, counsel; Peter N. Kyros, counsel; Jack E. Sands, deputy minority counsel; Ronald K. Losch, minority counsel; and Elizabeth Coker, subcommittee clerk.

The CHAIRMAN. The subcommittee will come to order.

This morning we will continue hearings on H.R. 9998, a bill to provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes.

As I stated at the opening day of hearings on this bill, March 8, 1978, our objective in these hearings is to enact legislation which would preserve legitimate competition among all common carriers engaged in the foreign commerce of the United States and to stabilize the ratemaking practices of the carriers by forbidding predatory ratecutting which will certainly disrupt our national trade.

I am also aware that a number of parties have expressed some reservations about this bill and fear that it may be detrimental to their interests and to American shipping generally. This committee intends to conduct full and comprehensive hearings in order that all views are heard so that we may fashion the best possible legislation which will guarantee to the United States a system of oceanborne transportation which is both competitive and reliable.

Today we will receive the views of the Department of Justice, Department of Transportation, and Department of Treasury.

The first witness this morning will be Mr. Ky P. Ewing, Deputy Assistant Attorney General, Department of Justice.

STATEMENT OF KY P. EWING, JR., DEPUTY ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION, DEPARTMENT OF JUSTICE

Mr. EWING. Thank you, Mr. Chairman.

I am pleased to appear before you today and give the views of the administration and the Department of Justice on H.R. 9998.

In essence, this bill would require certain foreign government controlled ocean carriers to prove to the satisfaction of the Federal Maritime Commission that their rates are just and reasonable. Excluded from the bill's provisions are carriers accorded most-favored-nation treatment, carriers controlled by governments which have subscribed to annex A of the Code of Liberalization of Current Invisible Operations, and controlled carriers which are parties to certain conference agreements approved under section 15 of the Shipping Act, 46 U.S.C. subsection 814. Also excepted from the scope of the proposed law are the rates charged by a controlled carrier for service between the United States and the country whose government is in control of the carrier.

As I understand it, the purpose of this bill is to empower the Federal Maritime Commission to prevent ocean steamship companies owned and operated by foreign governments from charging rates which are, in effect, "predatory." This is a matter of special concern because state-controlled carriers, unlike their privately-owned competitors, are uniquely able to sustain operating losses for as long as is necessary in order to drive their competitors from the marketplace. Moreover, it is entirely possible that foreign governments may be motivated to engage in such practices as part of an overall military or economic strategy.

The administration recognizes the theoretical dangers posed by the involvement of foreign governments in the ocean shipping industry, and supports, as a matter of general principle, legislation such as H.R. 9998. However, we hasten to add that this support is subject to two qualifications.

First, we wish to have it understood that, to the best of our knowledge, it has not yet been demonstrated that any state-controlled carrier presently serving U.S. trade routes is now or ever has engaged in predatory rate practices on a systematic basis.

Second, the administration's support for H.R. 9998 is also contingent upon the bill being revised so as to avoid the possibility of curtailing legitimate cost-justified competition.

In light of the qualifications stated above, the administration proposes the following substantive changes in H.R. 9998:

1. The bill should specifically define a zone of reasonableness in which rates will be presumptively just and reasonable.

As H.R. 9998 is presently drafted, there is considerable doubt as to what exactly constitutes a rate which is not "just and reasonable." Although the bill does state that the FMC may take into account a variety of factors specified in the bill, there is no specific formula which indicates precisely how a just and reasonable rate should be calculated. Factors mentioned in the bill which are to be taken into account in determining whether a controlled carrier's rates are just and reasonable include a controlled carrier's actual or constructive costs—constructive costs are defined as the costs of noncontrolled carriers operating similar vessels and equipment in the same or similar trades—the rates charged by other carriers operating in the same trade, and the rate levels necessary to assure movement of a particular cargo. While the Administration acknowledges that these factors, among others, are appropriate considerations in determining

whether a rate is just and reasonable, we believe that language should be added to the bill to insure that this legislation is not misinterpreted to mean that any controlled carrier rate below a competing conference rate is not "just and reasonable."

As the members of this subcommittee realize, conference rates are not established through the competitive process. Rather, a conference tariff is the product of an agreement among the various carriers which participate in the conference. Economic theory and practical experience have shown that when prices for any product or service are established in this manner, the charge to the consumer is almost always higher than it otherwise would be in a competitive environment. For this reason, the administration submits that rates below a conference rate level may well be just and reasonable. In fact, as a general rule privately-owned nonconference ocean carriers have traditionally been able to operate profitably by charging rates significantly below those charged by the conferences.

Because of this fact, the administration proposes that language be added to H.R. 9998 to expressly provide that rates which do not fall below those charged by a non-controlled independent carrier offering similar service in the same or a similar trade shall be considered presumptively just and reasonable. Of course, we recognize that in some trades there may not be any independents offering similar services under similar trade conditions and tariff descriptions. In this situation we propose that controlled carriers be permitted to offer rates which are as much as 15 percent below those offered by the competing conference. We believe this is a standard which fairly approximates what a reasonable independent rate level would frequently be, based on historical experience. Specifically, we propose that the following language be added to the proposed section 18(c) (2):

Provided, however, that the Commission may not disapprove, reject or suspend a controlled carrier's rates, fares, charges, or classifications under section 18(c), or find them to be either unjust or unreasonable if either of the following conditions is met: (1) the controlled carrier's rates are not below those charged by any independent, non-controlled carrier offering similar transportation services, under similar transportation conditions of carriage, and under similar tariff description between the same points or ports over the same route or, (2) the controlled carrier's rates are not below 85 percent of the rates charged by any conference operating in the same trade.

In some circumstances a controlled carrier may offer special rates not offered by other carriers in the same trade; for example, a freight-all-kinds rate. In such a case, it would be difficult to compare the rates of the controlled carrier with those offered by other independents or the conference carriers. To deal with this contingency, we propose that the following proviso also be incorporated into section 18(c) (2):

Provided further that if a controlled carrier offers special rates, fares, charges, or classifications which are not comparable in form to the rates, fares, charges and classifications offered by other carriers in the same trade, the Commission may not disapprove, reject, or suspend such rates, fares, charges or classifications under section 18(c) unless following a full evidentiary hearing, it has been determined that such practices are unjust or unreasonable.

As a practical matter, this additional proviso is intended to simplify the Commission's task by encouraging conference carriers to

adopt additional rates and practices comparable to those offered by controlled carriers. Moreover, this provision will avoid any disincentives to innovation which might otherwise result from the statutory scheme.

Second. The bill should grant the President authority to override the actions of the FMC when such action is necessary for reasons of foreign policy.

The administration is also concerned about the absence from the bill of a foreign policy override provision. Accordingly, we suggest that draft section 18(c) (1) be amended to include the following qualification:

Provided, however, that the President may, for reasons of foreign policy, cancel or stay any tariff rejection, suspension or disapproval authorized under the provisions of this Act.

We believe that such a provision is necessary if the President is to maintain control over our foreign relations. It is noted, of course, that the President already has a similar power with respect to tariff suspension and rejection decisions of the Civil Aeronautics Board. (49 U.S.C. subsection 1461(b).)

Third. The bill should not give the FMC authority to prescribe minimum rates during a period of suspension.

The administration is also opposed to enactment of the final sentence of the proposed new subsection 18(c) (4). This sentence would confer upon the FMC authority to prescribe minimum rates for a controlled carrier during a period when that carrier's rates were under suspension. The administration is reluctant to grant administrative agencies any greater authority over the level of ocean freight rates than is absolutely necessary. Accordingly, we recommend that the last sentence in proposed section 18(c) (4) be deleted. It is anticipated that, in the absence of this particular provision, controlled carriers whose rates had been suspended would have to establish rates which would be lawful under the first proposed proviso to section 18(c) (2).

Fourth. The bill should more precisely define the standards set forth in proposed section 18(c) (2) (i).

Proposed section 18(c) (2) specifies certain factors which the FMC may take into consideration in determining whether a controlled carrier's rates are just and reasonable. Subpart (i) of this subsection sets forth a definition of one of these factors—a controlled carrier's "constructive costs." While the definition now contained in H.R. 9998 may possibly be adequate, we suggest that the legislative guidance given to the FMC be more precise. Accordingly, it is proposed that the subpart (i) be redrafted as follows:

(i) fully compensatory to the controlled carrier based upon that carrier's costs or upon its constructive costs, which are hereby defined as the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment and offering similar transportation services under similar transportation conditions of carriage and under similar tariff description between the same points or ports over the same route;

We believe this language will avoid any possibility that the term "constructive costs" will be given an interpretation which does not take into account all of the many variables involved in ocean freight rates.

Fifth. Controlled carriers should not be required to file rate reductions 30 days prior to their effective date.

The first sentence of proposed section 18(c) (3) would require controlled carriers to file all rate changes with the FMC 30 days prior to their effective date. Although the bill's language is addressed to all rate changes by controlled carriers, under section 18(b) (2) of the act all carriers are already required to file rate increases at least 30 days in advance of their effective date. Thus, the only change to be accomplished by this provision would be the requirement that controlled carriers file rate decreases 30 days in advance.

The administration believes this new requirement would place an unnecessary restriction on competition between controlled and non-controlled carriers. Under proposed section 18(c) (3), controlled carriers would be unable to promptly react to changing market conditions and would even be unable to make timely responses to rate decreases implemented by competing noncontrolled carriers.

Sixth. The bill should require the FMC to rule on suspended rates within 180 days.

As presently drafted, H.R. 9998 would permit the FMC to suspend a controlled carrier's rates for an indefinite time period. The administration, however, believes that the Commission should be required to act within a certain time period. Specifically, we suggest that the FMC be required to act within 180 days. As the members of this subcommittee probably realize, such time limitations are routinely included in the various laws governing transportation regulation.

See, for example, sections 15(7), 216(g), 218(c), 307(g), 307(i), and 406 (e) of the Interstate Commerce Act, and a number of others, Mr. Chairman, that are listed in my prepared statement, if I may submit it as such for the record.

The CHAIRMAN. It will be included in the record.

Mr. EWING. Finally, we propose one minor and technical change in H.R. 9998. Specifically, we suggest that section 3 of the bill be added to the language of proposed section 18(c) (5). Both section 3 and proposed section 18(c) (5) specify the exemptions from the scope of the law's provisions. We believe that it is preferable to consolidate all of the exemptions in a single subsection which will be incorporated into the Shipping Act of 1916.

As H.R. 9998 is presently drafted, only the exemption contained in proposed section 18(c) (5) would be so incorporated; the several exemptions contained in section 3 of the bill would not be. This arrangement, if enacted, could prove confusing. As well, we note that in section 3, the term "this act" is used to describe both the Shipping Act of 1916 and H.R. 9998. We suggest that this inconsistency be eliminated.

Attached to my written testimony is a version of H.R. 9998, which has been redrafted to reflect the views of the administration.

[The following was received for the record:]

THE ADMINISTRATION'S PROPOSED VERSION OF H.R. 9998

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 "Ocean Shipping Act of 1977."

Sec. 2. The first section of the Shipping Act, 1916, as amended, is further amended by inserting the following definition of the term "controlled carrier" immediately following the definition of the term "common carrier by water":

"The term 'controlled carrier' means a common carrier by water operating, offering, or proposing to offer regular line service in the foreign commerce of the United States which carrier is or whose operating assets are directly or indirectly owned or controlled by the government under whose registry the vessels of the controlled carrier operate. Ownership or control by such government shall be deemed to exist if a majority portion of the interest in the carrier is owned or controlled in any manner by such government, by any agency of the government, or by any person, corporation, or entity controlled by such government. Ownership or control shall also be deemed to exist if the government has the right to appoint or disapprove the appointment of a majority of the directors or the chief operating or executive officer of the carrier."

Sec. 3. Section 18 of the Shipping Act, 1916, as amended, is further amended by adding at the end thereof, the following new subsection:

"(c) (1) No controlled carrier subject to this Act shall maintain rates, fares, charges, or classifications in its tariffs filed with the Commission that are below a level which is just and reasonable. The Commission, may upon petition, or upon its own motion, at any time after notice and hearing, disapprove any rates, fares, charges or classifications which the controlled carrier has failed to demonstrate to be just and reasonable. In any proceeding under this subsection, the burden of proof shall be on the controlled carrier to demonstrate that its rates, fares, charges, or classifications are just and reasonable. Rates, fares, charges, or classifications filed by a controlled carrier which have been rejected, suspended, or disapproved by the Commission are void, and their use is unlawful.

Provided, however, that the President may, for reasons of foreign policy, cancel or stay any tariff rejection, suspension or disapproval authorized under the provisions of this Act.

"(2) For the purpose of this subsection, in determining whether rates, fares, charges, or classifications by a controlled carrier are below a level which is just and reasonable, the Commission may take into account appropriate factors, including, but not limited to, whether the rates, fares, charges, or classifications are below a level which is: (i) fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs, which are hereby defined as the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment and offering similar transportation services, under similar transportation conditions of carriage, and under similar tariff description between the same points or ports over the same route; (ii) assessed by other carriers in the same trade; or (iii) required to assure movement of particular cargo in the trade.

Provided, however, that the Commission may not disapprove, reject or suspend a controlled carrier's rates, fares, charges, or classifications under section 18(c), or find them to be either unjust or unreasonable, if either of the following conditions is met: (1) the controlled carrier's rates are not below those charged by any independent noncontrolled carrier offering similar transportation services, under similar transportation conditions of carriage, and under similar tariff description between the same points or ports over the same route, or (2) the controlled carrier's rates are not below 85 percent of the rates charged by any conference operating in the same trade.

Provided further that if a controlled carrier offers special rates, fares, charges, or classifications which are not comparable in form to the rates, fares, charges and classifications offered by other carriers in the same trade, the Commission may not disapprove, reject or suspend such rates, fares, charges or classifications under section 18(c) unless following a full evidentiary hearing, it has been determined that such practices are unjust or unreasonable.

(3) Following the enactment of this subsection, each controlled carrier shall, upon the request of the Commission, file within twenty days of request, with respect to its existing or proposed rates, fares, charges, or classifications a statement of justification which sufficiently details the controlled carrier's need and purpose for such rates, fares, charges, or classifications, upon which the Commission may reasonably base its determination of the lawfulness thereof.

"(4) Whenever the Commission is of the opinion that the rates, fares, charges, or classifications filed by a controlled carrier may be below a level which is just and reasonable, the Commission may issue an order to the controlled carrier to show cause why such rates, fares, charges, or classifications should not be disapproved. Pending a determination as to their lawfulness in such a proceeding, the Commission may suspend such rates, fares, charges, or classifications at any time prior to their effective date but not for a longer period than 180 days beyond the time when they would otherwise go into effect. In the case of any rates, fares, charges, or classifications which have already become effective, the Commission may, upon the issuance of an order to show cause, suspend such rates, fares, charges, or classifications on ninety days notice to the controlled carrier, but not for a longer period than 180 days beyond the time when they would otherwise go into effect. Whenever the Commission has suspended any rate, fare, charge or classification under this provision, the affected carrier may during the period of suspension file a new rate, fare, charge or classification in lieu of the suspended rate, fare, charge or classification without publishing or filing such rate, fare, charge or classification in advance of its effective date: provided, that the Commission may reject such new rate, fare, charge or classification if it is of the opinion that it is below a level which is just and reasonable."

"(5) The provisions of this subsection do not apply to rates, fares, charges, or classifications governing the transportation of cargo by a controlled carrier between the country by whose government it is owned or controlled, as defined herein, and the United States, or any of its districts, territories, or possessions, nor shall such provisions apply to any controlled carrier of a state whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment, nor shall such provisions apply to any controlled carrier of a state which, on the date of enactment of this subsection, has subscribed to the statement of shipping policy contained in note 1 to annex A of the Code of Liberalization of Current Invisible Operations, adopted by the Council of the Organization for Economic Cooperation and Development, nor shall such provisions apply in any particular trade to any controlled carrier which offers service in that trade under rates, fares, charges, or classifications which are covered by a rate agreement or service agreement approved under Section 15 of this Act, other than a rate or service agreement in which all of the members are controlled carriers not otherwise excluded from the provisions of Section 18(c).

Sec. 4. There are hereby authorized such sums as may be necessary for purposes of carrying out the provisions of subsections (c) and (d) of Section 18, which sums are to remain available until expended. This authorization is in addition to those contained in Public Law 95-86.

Mr. EWING. Mr. Chairman, this concludes my prepared statement. I would be happy to address any questions the subcommittee may have.

The CHAIRMAN. Thank you, Mr. Ewing.

I notice on page 2 of your statement that "First, we wish to have it understood that to the best of our knowledge it has not yet been demonstrated that any State-controlled carrier presently serving United States trade routes is now or ever has engaged in predatory rate practices on a systematic basis."

Well, we have had testimony from the Federal Maritime Commission, the shippers and our major carriers that is contrary to your belief. It is the fundamental premise of this bill.

Mr. EWING. Mr. Chairman, we have examined the testimony before this committee and we have also noted the testimony in particular of the Maritime Administration in the person of Mr. Reginald A. Bourdon on March the 17 of this year, and would note, in particular on page 7 of his testimony and his table, V, he points out that the Soviet liner tonnage, for example, will be less in 1980 than it was in 1975.

My point in citing this to you is only to say that in the massive data this committee has very sensibly garnered for Congress, there are possibilities of conflicting views as to the final conclusion to be derived from it.

In terms of either our role as public prosecutors in the Justice Department or a determination by the Federal Maritime Commission, we believe that a case has yet to be made of the type that either the FMC or anyone else should act upon.

The CHAIRMAN. Counsel?

Mr. KYROS. Mr. Ewing, I am looking at table V of Soviet Cargo Liner Tonnage from the Mar Ad testimony that you believe affirms your statement to the chairman, whether or not there had been predatory rate practices on a systematic basis. In support of your negative reply you cite that the projection of Soviet dry cargo liner tonnage is decreasing from 6,654 thousand DWT in 1975 to 6,548 in 1980. And that is what you read, did you not, on page 7 of Mr. Bourdon's testimony?

Mr. EWING. Yes, sir.

Mr. KYROS. Did you also study the chart and analyze it to realize that they are increasing their total tonnage in specialized categories, such as ro/rd ships and container vessels by 280 percent? In other words, they are rapidly going into a capital intensive industry. They are mechanizing and going into advanced technological ships. And you are aware that a ro/ro will outcarry a break bulk ship, it will carry many times what the older ship can carry, is that not a fact?

Mr. EWING. I would agree with you, sir, that it is certainly true from that same table that the Soviet Union seems to be modernizing its fleet.

My point in raising it with you was simply to say that that same table is subject to conflicting conclusions. It does not necessarily follow from anything in that table or, for that matter, in anything in Mr. Bourdon's testimony, that a case has been made, that they have specifically engaged in predatory practices.

Mr. KYROS. Mr. Ewing the table itself is not conflicting. It reveals a decrease in total deadweight tons but a sharp increase in TEU capacity or carrying capacity, and speed and advanced technology of the vessels.

Mr. EWING. I do not dispute you on your detailed facts of that table.

Mr. KYROS. Mr. Bourdon was asked only to report on the capacity and structure of the Soviet merchant fleet. He did not address the rate disparities or any rate cutting activities. To find that you would have to read the testimony of the gentleman whose Commission is charged with all the expertise on international shipping in our country, and that is Mr. Daschbach of the Federal Maritime Commission.

He stated and I recall his testimony that there were rate-cutting practices by Soviet carriers which threatened to disrupt our trades. Is that not accurate?

Mr. EWING. Let me hasten to add that I am here stating for the administration our support for this bill with certain changes, and our belief that the legislation with the suggested changes can be effective in preventing predatory practices by controlled carriers, without discouraging desirable competition in shipping.

The CHAIRMAN. Are you speaking for the administration or for the Department of Justice?

Mr. EWING. I am speaking for the administration, Mr. Chairman.

The CHAIRMAN. The statement is often made that the Soviets are rate cutting primarily on high rated cargo. Do you have any data or evidence to support that contention?

Mr. EWING. No, sir, I do not. In fact, speaking now for the Justice Department, we believe that the case has not been made yet in adequate form for a person to act upon it. We believe that this legislation with the suggested amendments will give the FMC appropriate power to determine and prevent it.

The CHAIRMAN. We have seen the Maritime Administrator travel to Russia, to try and work out bilateral maritime agreements with them. The former chairman of the FMC has gone several times himself to point out this question of rate cutting, and to bring their tariffs somewhere into line with conference tariffs. Ultimately, all of those suggestions and negotiations have not been successful to date.

We have specific evidence that establishes the Soviets have cut rates on the high valued cargoes. I think that one concession they made was they raised the rate on hairpins and obviously that is not a particularly large revenue item in the Pacific trades.

We have had very comprehensive studies done, and made part of this record by Sea-Land, as to just the type of competition and practices that the controlled carriers are performing on our trade routes.

Mr. EWING. Mr. Chairman, I think the committee has performed a very useful function in getting this data collected and made public, and I am here to support this bill with the modifications we have suggested as a means of providing the FMC with the tools to deal with the problems this committee has uncovered.

The CHAIRMAN. As Chairman Daschbach testified, "it is the awesome potential of the State-owned carriers, in the future, and particularly those of the Soviet Union, for disrupting our trades by cutting rates which causes our greatest concern."

Mr. EWING. We share that concern, Mr. Chairman, and may I say that in my own testimony before you today, I pointed out that it is a matter of special concern, because State-controlled carriers, unlike their privately owned competitors, are able to sustain operating losses as long as necessary in order to drive their competitors from the marketplace.

The CHAIRMAN. That is historical, and not just limited to the ocean freight.

Mr. EWING. That is quite true.

The CHAIRMAN. It is often said the Russians are not profit minded, and that a great percentage of their hard currency comes from their maritime resources, and that is one of the reasons they can operate at any cost level.

Would you express yourself on that point?

Mr. EWING. It is certainly true, Mr. Chairman, that governments in general, and I do not wish to address simply the Soviet Union here, that governments in general may choose to engage in certain practices as part of an overall economic or military strategy.

It is conceivable that the Soviets are doing that, as well as other governments.

The CHAIRMAN. That is a public statement of policy. Do you believe the Russians should become conference members?

Mr. EWING. I believe, under the present setup, it would be possible for the Russian fleet to choose to become members of conferences which register with our FMC. It might be a good thing for that to happen. I have no views of the administration on that issue this morning.

The CHAIRMAN. Would you have any views on methods to induce them to become conference members?

Mr. EWING. It is conceivable to me, Mr. Chairman, that enactment of this legislation with our suggested amendments might cause such inducement.

The CHAIRMAN. Mr. McCloskey.

Mr. McCLOSKEY. Mr. Ewing, I am intrigued by the fact that the Justice Department is testifying on behalf of the administration.

We have one other bill in front of us, the closed conference bill, which we will hold hearings on tomorrow. Will the Justice Department be giving the administration's position on that bill?

Mr. EWING. Mr. McCloskey, I have appeared before this committee, with the permission of the Office of Management and Budget, to express the Justice Department's views on the closed conference bill. At that time I did not have the permission to express an administration position.

Mr. McCLOSKEY. That is why I asked the question.

Mr. EWING. Specifically, I am not planning to be before you again.

Mr. McCLOSKEY. Well, with respect to the antirebating bill, it was also true that the Justice Department discussed its own position, but not the position of the administration.

As background I would like to ask you this general question.

The present law mandates that the Government of the United States, under the oversight of this committee, insure that a substantial portion of our foreign commerce be carried in U.S. ships.

At the request of the Justice Department in 1971, we thought we transferred the criminal enforcement jurisdiction over rebating from the Justice Department to the Federal Maritime Commission. However, because of the total inability, or unwillingness, or both, of the Federal Maritime Commission to enforce the antirebating actions of the law, the Justice Department, beginning in 1975, got back into the enforcement of rebating.

The Justice Department did this through the use of the conspiracy section of the Criminal Code, title 18, section 371, United States Code, and during the pendency of our various hearings there have been two guilty pleas, one by representatives of Seatrain, and one by representatives of Sea-Land, to a charge of conspiracy to defraud the Federal Maritime Commission of its function of enforcing the antirebating laws.

Now, if we are to protect and promote the U.S. merchant marine and give it the ability to carry a substantial portion of American trade in U.S. ships, and if there should be a foreign policy override in our Government as to our decisions as to what to do with respect

to controlled carriers as you cited the Civil Aeronautics Board situation, it seems to me that we are in an area where the impasse between the Justice Department views on free competition and the views of the Commerce Department on stability in the maritime trade, needed to attract investments, have to be decided by the administration. We cannot very well proceed with the administration taking a position on an individual bill, but without the administration taking the position on this overall question of who should be responsible for rebating, who should be responsible for protecting a substantial portion of carriage, and who should be responsible for either exporting our antitrust laws or not transporting our antitrust laws to foreign competitors, including the Soviets.

I start with a tremendous respect for the Antitrust Division. I hope that the U.S. antitrust policy can be broadened and strengthened in its enforcement, but thus far I have not seen any evidence that the enforcement of the Antitrust Division's views on ocean transportation is consistent with the testimony you just gave with respect to the necessity for a foreign policy override.

If foreign policy is what determines our relationship to the Soviets, or if it is what determines our relationship in shipping allocations, or agreements with our allies, then how can the Justice Department testify that it feels that a policy override is necessary on the one hand, and on the other, insists that it have sole authority over its enforcement of the antirebating and the antitrust laws against both our allies, and perhaps against the Soviets?

That is the philosophic problem I have. I wonder if you would comment on it?

Mr. EWING. Yes, I would like to, in this fashion. I am here this morning, speaking on behalf of the administration, but I am also going to be followed by representatives of the Treasury Department, and other portions of the Government, including the State Department. So that quite literally, you are hearing from several of us on the administration bill before you.

Mr. McCLOSKEY. On this bill?

Mr. EWING. On this bill.

Mr. McCLOSKEY. Would you not concede that this bill and the resolution of this question between stability in the trades and free competition, which has been Justice's position, is only a piece of our overall maritime policy?

Mr. EWING. Yes, sir; to go forward on the closed conference bill, I testified before the committee on behalf of the Justice Department, and emphasized that Justice was willing to work with the other agencies of the Government, and indeed, with the Federal Maritime Commission, to develop a consensus position on the matters that were broadly involved with what I said, on behalf of Justice, was a troubled industry.

I believe that I can stand by that commitment today, and I am sure that the other gentlemen in the room, from other portions of the administration, will also testify to you that we are prepared to work together on a broad range of issues affecting the shipping industry.

Mr. McCLOSKEY. Well, I appreciate your willingness to work together, and, that, at least on this bill, the administration has been

able to reach agreement. But now that all of the agencies are willing to work together, can you tell me when this committee might expect to receive an administration position on the free competition versus stability question?

Mr. EWING. Mr. McCloskey, I wish I were in a position to give you a date. I simply am not.

Mr. McCLOSKEY. Mr. Blackwell last fall said, "perhaps never." Should we change that date now?

Mr. EWING. I would assume it is something short of "never."

Mr. McCLOSKEY. In our lifetime? In the administration's lifetime? In this Congress' lifetime?

Mr. EWING. To give you a serious answer, sir, I believe that there will grow a consensus position on a number of issues affecting this industry.

Mr. McCLOSKEY. Have you considered the impact of increasing Soviet penetration of trade routes, on the ability of the U.S. Government to meet its mandate under the 1936 act, the carriage of a substantial portion of our foreign commerce?

Mr. EWING. Yes, sir, we considered it in this fashion. That the 1936 act mandates that the Government should attempt to have our own ships carry a significant portion of our own commerce. But it does not say that we are to do that by arbitrarily excluding any particular country, or foreign-owned company, or any particular ship simply because it was owned by a foreign government.

If either the foreign governments' ships, or the foreign companies' ships, can reasonably compete in our trades, then the 1936 act, as well as the Shipping Act of 1916, would allow them to do so.

I do not think it is necessarily a complete conflict there.

Mr. McCLOSKEY. I agree that there is not, because if their unfair competition causes American shipping companies to be threatened with the inability to compete, the law provides a mechanism to increase the subsidies to the American companies for that competition.

But, it seems to me, that is a choice, that this committee now faces, whether we want to increase the subsidies to continue fair competition as viewed by the Justice Department, and thus try to have prosperous companies carrying a third, or 40 percent of our foreign trade. That is a problem which I do not find addressed in the Justice Department's testimony on any of the bills before us.

You seem to assume in your testimony that we can create, and continue the fair competition which you feel beneficial. Yet the only way to do that is by increasing the subsidy which subjects us to the same question that we are addressing in this bill, that is, the Russians have an unfair advantage because of Government support to their merchant marine. What I am concerned with is whether or not this situation is what this Government should address.

I do not find anything wrong with the Russian Government supporting its merchant marine. After all we support our merchant marine with operating subsidies and with construction subsidies. But it strikes me that neither case is the fair and open competition which the Justice Department traditionally espouses, through the antitrust law. Can you comment on that?

Mr. EWING. Yes, sir, in a perfect world the Justice Department would like to see pure competition. We realize the world is imper-

fect, and in a letter, Mr. McCloskey, that I submitted supplemental to my testimony on the closed conference bill, I elaborated to some extent the Justice Department's views as to how an apparent conflict was not really a conflict in terms of adding competition or, to put it another way, how we could avoid mechanisms which would destroy competition, while at the same time supporting our merchant marine under the 1936 act.

I think that, in essence, the bill before you today is an attempt to continue to allow controlled carriers to compete in our trades by forcing such controlled carriers to do so in ways that we find fair, and consequently, Justice, along with the administration, supports this bill with the modifications.

Mr. McCLOSKEY. One simple part of your recommendation troubles me, you got back into the rebating issue because of a certain disappointment in the abilities of the Federal Maritime Commission enforcement apparatus.

I can only take Attorney Kleindienst's actions in 1971, and your actions in 1975, 1977 and 1978, to conclude the Bureaus of Enforcement in the FMC was absolutely incompetent to enforce the rebating laws fairly against U.S. companies, let alone against foreign companies, given the blocking statutes of foreign governments, and the fact that rebating is not illegal in their countries.

Am I correct in the Justice Department's appraisal of the Bureau of Enforcement in the Federal Maritime Commission?

Mr. EWING. No, sir, I could not sit here and agree with that.

Mr. McCLOSKEY. My God then, why would your U.S. attorneys want to be prosecuting all over the country in an area, where in 1971, you asked us, to get the Justice Department out of the picture, and to get the FMC in?

Is not the very use of title 18 section 371 an indication that the Federal Maritime Commission has failed? What you said in a 371 charge was that these companies were conspiring to defraud the Federal Maritime Commission of its ability to enforce the law?

Is that not an implicit recognition that they are incompetent?

Mr. EWING. No, sir, I cannot agree with that. I think that both the Federal Maritime Commission and the Justice Department attempt to enforce the laws given and entrusted to us.

Mr. McCLOSKEY. But we all have seen the correspondence between the Federal Maritime Commission and the U.S. attorney where they absolutely refused to cooperate. In fact, both jurisdictions refused to cooperate with the other, is that not correct?

Mr. EWING. Sir, I personally do not know the correspondence you are referring to. I would hate to comment on it.

Mr. McCLOSKEY. I have seen the correspondence referring to the conflict between the Federal Maritime Commission attorneys and the U.S. attorneys office in New Jersey, which was the father, as I understand it, of these prosecutions, and there was bad blood, and disagreement between the two offices.

But setting that aside, what I am disturbed about in the administration's position is that you give the Federal Maritime Commission this responsibility to determine a whole new set of criteria as to what is a fair and reasonable rate.

Now, how are they going to determine what constitutes a fair and reasonable rate from Bremerhaven to say Houston, Tex., if they run into the same kind of withholding of information by foreign companies and foreign competitors that they ran into in the rebating situation.

Mr. EWING. I believe that the mechanism developed in this bill will permit them to construct costs from noncontrolled carriers, and compare them with the rates being charged by the controlled carriers in a way that will enable the FMC to carry out its function under this bill.

I do not think they are necessarily restricted to getting actual costs from any particular controlled carrier.

Mr. McCLOSKEY. Then you would subject them to a State Department, foreign policy override of any decision they might make?

Mr. EWING. Well, the Presidential override.

The CHAIRMAN. Will the gentleman yield?

Mr. McCLOSKEY. Yes.

The CHAIRMAN. It is a purely commercial matter, and yet you would make it a foreign policy matter?

Mr. EWING. Mr. Chairman and Mr. McCloskey, I can only respond to you on that, that it is already built in by Congress in the aviation industry, which is a purely commercial matter. It is an outlet for those particular cases which present unusual foreign policy problems.

It is literally an override, given some unique and difficult foreign policy situation.

The CHAIRMAN. I think the only analogy that you could make, and it is not a proper analogy with the airlines is that the route award approved by the President, overrides the CAB recommendation in that area. But the President does not go into any rate matters or pricing mechanism.

Mr. EWING. Excuse me, sir, but Congress amended the Aviation Act specifically to give to the President an override on tariffs as well. For many years he did not have such an override.

Congress, I forget the year, but fairly recently, in terms of the last 30, Congress gave the President such an override provision.

The CHAIRMAN. If that is the case, we have had Pan Am down here last week begging for relief from the Congress because of the kind of treatment they have gotten when foreign policy items happen to impact what are really commercial areas. We have TWA coming in next week.

Mr. McCLOSKEY. Mr. Ewing, I do not question any of the testimony that you have given, but I wonder if any of this testimony should be given without addressing this broader issue.

With respect to the CAB, for example, that is not a happy situation for the Antitrust Department, because the airlines are given, in effect, immunity from monopoly, isn't that true?

Mr. EWING. There is immunity for certain aspects there. We could go after airline executives that get together with each other, and set a price outside the appropriate CAB structure.

Mr. McCLOSKEY. Suppose we adopt the CAB model, the same regulatory scheme that we have with the airlines, for the framework of protecting the U.S. maritime industry. Is it not correct that the airlines, private airlines, do negotiate with one another, country by

country? Don't they try to allocate passengers, as we would allocate cargo in the shipping industry?

Doesn't our Government essentially stand behind them to insure, in a very harsh manner, that their landing rights, and percentages of passengers to and from countries are protected? If you use the CAB as an example of a backup authority subject to a foreign policy override, should we not perhaps consider that there is additional freedom of the seas, free competition, which Justice has alluded to in all of its testimony before us, and what that concept must not now be replaced by something like the CAB regulatory structure where the companies negotiate, but are backed up strongly by their government?

Mr. EWING. Mr. McCloskey, you have dealt with two different airline matters. One, the bilateral route agreement—

Mr. McCLOSKEY. I do not mean to get into the route agreement. I think the chairman referred to that.

What I am considering is the passenger allocation.

Mr. EWING. We have never approved a pooling agreement for an American carrier. There is no pooling agreement authorized by the CAB at the moment.

Furthermore, Mr. McCloskey, we have, in essence, an open rate situation in IATA at the moment, across the North Atlantic, so that it is not quite accurate to say that the carriers get together and negotiate the rates, and are strongly backed by their governments.

Mr. McCLOSKEY. Then just perhaps for the committee's information, this question, it was my understanding that between Great Britain and the United States, the number of flights for each national airline, or each airline, the United States versus Britain, is essentially based on the passenger traffic that is generated by each country.

Mr. EWING. In the negotiation of a bilateral, such as Bermuda between the United States and Great Britain, both sides sit there with statistics as to how many passengers their respective sides carry, and certainly, it is my understanding that the negotiators do take into account the kind of equities that both countries have in regard to this.

But that is a far cry, Mr. McCloskey, in the real world, from saying that we are going to allow you such a percentage of carriage in the future. That, to my knowledge, does not exist.

Mr. McCLOSKEY. Let me see if I can state correctly from the newspaper accounts if the passenger traffic between Great Britain and the United States was 70 percent American traveling to Great Britain, spending their tourist dollars there, and 30 percent British, traveling to the United States, spending their tourist dollars here, the airlines of the United States might contend that 70 percent of the flights be United States, and 30 percent be British, and that in the State Department there is a hardheaded group of 21 people under Richard Bank, who back up our companies in those negotiations to make sure that we are not discriminated against for, say landing rights, or fuel costs, or service benefits.

Do I describe the situation accurately?

Mr. EWING. I think you described it accurately. I would also add that there are hardheaded people at the CAB, and in the Depart-

ment of Transportation that join with the State Department negotiators on most of these bilateral negotiations.

The industry members, the American companies, generally send their representatives who get briefed by the American negotiators, and in turn, the American negotiators have at their disposal the expertise that the American companies might supply.

Mr. McCLOSKEY. Do you have any objection to a regulatory scheme where American ship operators negotiate with foreign ship operators for the allocation of trade routes, and numbers of ships on their route, in the same way the airlines do?

Mr. EWING. Mr. McCloskey, the description I just gave is not of the airline company representatives sitting in a room negotiating, but rather employees of the Government of the United States sitting in a room negotiating. Only outside that room are the private companies available, supplying information to the Government negotiators.

It is quite a different thing to say that the representatives of PanAm, BOAC, Air France, and TWA sit in a room and carve up the world. That just does not happen.

Mr. McCLOSKEY. Looking at our problem of protecting the American merchant marine, while enabling it to carry, say, 40 percent, of our foreign commerce, if that were a goal, would you not think that the CAB airline/Government-type relationship might be preferable to the regulatory scheme that we seem to be moving toward? That is, the all powerful FMC that you mention in your testimony, understanding you have not agreed with their past record of competence, which I would deem a signal of ineffectiveness?

Should we really expand the powers of an agency that has demonstrated so little ability to protect our merchant marine?

Mr. EWING. I cannot agree with the adjectives that you used to describe the Federal Maritime Commission, and I must, in all candor, say I cannot say whether the administration would prefer a CAB-type regulatory scheme to some other scheme. I do not have the authority to say that.

Mr. McCLOSKEY. I appreciate that, but your comments, your personal opinion, would seem to favor the CAB model. I wonder why we do not favor the ocean—

Mr. EWING. I twice referred to the CAB, once in testifying on the closed conference bill, and one time today. I think in both cases the point of mentioning the CAB was to point out that there could be regulation, which nevertheless left as much competition as possible free to operate, and that it was that competition that we should strive for, rather than the other end of the spectrum, which is one of completely closed conferences, in which competition has almost no play at all.

Mr. McCLOSKEY. I agree with you. But if that is your preference, then this legislation is not consistent with that scheme, is it?

Mr. EWING. We believe that H.R. 9998, as modified by the suggestions I made this morning, is fair.

Mr. McCLOSKEY. I would use the word "gutted." Gutted by the administration.

Mr. EWING. I cannot agree with your adjectives, Mr. McCloskey.

The CHAIRMAN. I think I could readily agree with his adjectives.

Mr. McCLOSKEY. Since you are in agreement that we should impose on this agency a 6-month deadline for a decision and I think it has been consistently the Justice Department's position that a court could make its decision in 6 months, would it not be fair to ask the administration to make a decision on whether it is going to push the antitrust philosophy or the stability of its rate philosophy within 180 days? And 180 days should be adequate, wouldn't you think, Mr. Ewing?

Mr. EWING. I will convey back to my colleagues in the Government your desire to have such resolution within 180 days.

Mr. McCLOSKEY. I am impressed by your testimony that 180 days is a reasonable time for a decision.

The CHAIRMAN. Thank you. Mr Kyros?

Mr. KYROS. Mr. Ewing, let us look closely at what you propose this morning.

First, as I understand it, the modifications you propose are that, in effect, there would be no suspension by the FMC—one, if the controlled carrier's rate were not below any non-controlled nonconference carrier and, two, were not more than 15 percent below the prevailing rate.

You propose that if a controlled carrier rate is not directly comparable, that is, for example, an FAK rate and the conference rate is specific commodity rate, the FMC must make a determination before it suspends.

Is that what you are proposing this morning.

Mr. EWING. I believe you stated it—

Mr. KYROS. Good.

This position, I understand, and am I correct in this, the Department of Justice opposed the controlled carrier bill initially.

Mr. EWING. I am not sure what you mean by initially.

Mr. KYROS. At the very beginning when you first considered the bill.

Mr. EWING. When we first saw the bill, we had some obvious concerns about it. We worked with other departments and agencies of the Government and reached a position which the Justice Department wholeheartedly supports.

Mr. KYROS. Your first views to the OMB were in opposition to the bill?

Mr. EWING. The first views expressed by the Justice Department, to my knowledge, to OMB were expressed in terms of grave concerns about certain aspects of it.

Mr. KYROS. The modifications you and I just discussed that preclude suspension by the FMC, and which were characterized a few moments ago by Mr. McCloskey as "gutting the bill," were these modifications proposed by the Department of Justice?

Mr. EWING. It may well have been, sir. I cannot say whether we were the only ones who proposed it or not.

Mr. KYROS. Proposed by the Department of Justice?

Mr. EWING. Yes, sir, I said it was proposed by the Department of Justice.

Mr. KYROS. Did the Department of Justice ever consult with the FMC before proposing these modifications to OMB?

Mr. EWING. Not to my knowledge.

Mr. KYROS. With MarAd?

Mr. EWING. I suspect we did talk with MarAd?

Mr. KYROS. Consult with them and get their opinions and views on this proposal before you gave it to OMB?

Mr. EWING. Before we—

Mr. KYROS. Before you gave this proposal concernng suspension power under the bill.

Mr. EWING. I do not know whether it was before or after.

Mr. KYROS. Just to begin with—

Mr. EWING. There have been several consultations.

Mr. KYROS. At the outset, it seems remarkable that neither of the so-called maritime lead agencies were consulted, advised, or considered about the question of whether you would require these modifications concerning the suspension power in this bill.

Is that not remarkable to you?

Mr. EWING. Well, it would be remarkable if, in fact, there had not been considerable amount of discussion. I know for a fact that there has been a considerable amount of discussion.

Mr. KYROS. Does the FMC—

Mr. EWING. There has been real deliberation among agencies of the administration on this.

Mr. KYROS. Does the FMC agree with the provisions that you have advanced this morning?

Mr. EWING. I do not know, sir.

Mr. KYROS. Does the Maritime Administration agree with the propositions that you have advanced this morning?

Mr. EWING. It is my understanding that the Maritime Administration does agree. As part of the administration, I have authority from OMB to speak on this.

Mr. KYROS. You are aware however that when the FMC and MarAd testified on March 17, 1978, that they had agreed in substance, on their own at that time, without administration approval, on the bill without the modifications you have proposed today?

Mr. EWING. I have no way of keeping track of the day-to-day positions.

Mr. KYROS. Let us consider your proposal for a zone of reasonableness, where no suspension could occur if the controlled carrier's rates were not more than 15 percent below prevailing conference rates. Let us review at that for a moment.

If the Soviets were charging 30 percent below a conference rate, and it was lower rate than any other noncontrolled independent rate in the trade, does that mean by your modification here, it is per se on its face unreasonable?

Mr. EWING. No, sir, it does not. It means that it would be subject to the FMC consideration.

Mr. KYROS. And you could suspend that rate if it were comparable?

Mr. EWING. If the FMC—I am sorry—if it were comparable?

Mr. KYROS. If it were comparable, that is the same kind of commodities.

Mr. EWING. If all the other provisions are there?

Mr. KYROS. Yes.

Mr. EWING. The FMC would have the power under this bill to take action; yes, sir.

Mr. KYROS. So, 30 percent below is two items 15 percent or twice as much as you have recommended as a standard for the line where you would suspend, is that not right?

Mr. EWING. Mathematically, you are right.

Mr. KYROS. Well, I hope I am right all the way in concept, too. But it is twice as much.

Suppose the Soviets were carrying buses from Bremerhaven, Germany, to Houston, Tex., and they were carrying them for \$4,600, and the next published rate—and their rate was questionable, Mr. Ewing, because the FMC has questioned them under a section 21 hearing now underway about their filed rate—and the next filed U.S.-flag rate was \$6,600. If you take that ratio, you are going to find out that the Soviets are carrying at 70 percent of the U.S.-flag rate or 30 percent below the conference rate.

Assume further, that they are indeed carrying lower than any other independent in that trade and, No. 3, it is a comparable rate, that is, it is possible to compare buses to buses.

Now, does that make the Soviet rate per se unreasonable?

Mr. EWING. I am not prepared to try to sit here, Mr. Kyros, and give you opinions that, under this legislation, should be rendered by the Federal Maritime Commission. I realize that you posed to me a whole series of such questions, but I am just not prepared to give you answers to them because I believe what we are talking about is better done before the Maritime Commission where all the evidence is there, and no one is faced with, in lawyer's terms anyway, hypothetical questions.

The CHAIRMAN. Just to sweeten the hypothetical question, it was U.S. Government cargo.

Mr. KYROS. First, the question is not hypothetical. It is an actual case. That is No. 1.

No. 2, you have come here as the representative of the Justice Department and the administration to propose changes to this bill.

And, No. 3, you are the one, sir, that has come here and stated that these changes are for the benefit of the American merchant marine and the treatment of state-controlled carriers, and this will provide a mechanism for treating the problem of State-controlled carriers. That is what you said.

Mr. EWING. That is right, and I am saying to you, in answer to your question, that it would be a question properly before the Federal Maritime Commission, as amended.

Mr. KYROS. But you have advanced the provision here and let us look at it carefully. You state here there would be no suspension if the controlled carriers' rate were not more than 15 percent below the rate of any conference or the rate of any independent carrier; is that correct?

Mr. EWING. Yes, sir.

Mr. KYROS. Now, I do not know—you know, the more I review shipping regulatory schemes, the more I find how complex they are. I want to define some complexities that the term "nonconference carrier" embraces.

Do you mean by that the infrequent or irregular carrier?

Mr. EWING. It could be.

Mr. KYROS. Someone who comes in once a month or even less frequently and it is near to tramping but not quite because he has filed tariffs. Do you mean him?

Mr. EWING. I could mean them. I think there again you have to rely on the expert agency to whom you are giving this power.

Mr. KYROS. Mr. Ewing, you cannot rely on the FMC when you have already tied that agency down by saying that if the controlled carrier's rates are not below the rate of any nonconference carrier, and that can mean an operator who comes in once a month, skims off the trade, has filed a tariff, and then goes out. As a matter of fact, he is sometimes called a predatory independent. There are such operators, are there not?

Mr. EWING. I suppose independents could engage in predatory actions. I agree with you up to that point.

Mr. KYROS. Pursuing further the definition of "nonconference carrier," what about the proprietary carrier? He may move his own products in one direction and reduces costs when coming back in the other direction by offering general cargo services. Again his purposes are served, if his common carryings return something over the cost of handling and thereby reduce the expenses of the total service; and yet he has filed a tariff and he would be a nonconference independent.

Would you compare the controlled carrier to his rate?

Mr. EWING. I think it would be relevant to the decision of the Federal Maritime Commission to consider it; yes.

Mr. KYROS. Mr. Ewing, they would not have any discretion to deal with a controlled carrier because you are saying here there would be no suspension unless below the rate of any nonconference carrier. It says that in here specifically in your proposed amendment to this bill; is that not a fact? Not below those rates charged by any independent noncontrolled carrier offering similar transportation services under similar conditions, et cetera? Does it not say that?

Mr. EWING. Yes, sir; it does say that.

Mr. KYROS. Now, what about almost inactive carriers? Some carriers file tariffs with the FMC and do not offer service, and then do serve for a while. Would you use them for comparison?

Mr. EWING. Again my answer is that would be a relevant consideration for the FMC.

Mr. KYROS. Now, suppose you had—let us assume this hypothetical, and after all, the high seas are subject to machination sometimes in tariffs, that is why we have an FMC.

Suppose a controlled carrier is operating regular and frequent scheduled service in our major trade routes, and assume that there is an inactive tariff on file with the FMC containing a depressed rate or rates on particular commodities. Would the controlled carrier be authorized by your suggested amendment to quote that inactive depressed rate?

Mr. EWING. Let me point out that at the beginning of this series of questions, I think you and I tacitly agreed that we are talking about all the other provisions of that section being met. I think I should reemphasize, however, that it says in our proposal the first

condition is that the controlled carrier's rates are not below those charged by any independent noncontrolled carrier offering similar transportation services under similar transportation conditions of carriage and under similar tariff description between the same points or ports over the same routes.

So the whole series of questions in your line have been based on the idea that the FMC would have those provisions to interpret in light of the factual situations that come before it. I believe that answers your last question in addition.

Mr. KYROS. It does answer my last question. It also would find the FMC embroiled probably in protracted litigation to make this kind of determination about whether indeed they were similar, et cetera; is that not possible, Mr. Ewing?

Mr. EWING. It is certainly possible in this world to have protracted litigation. We are all painfully aware of it.

But may I say that the alternative sometimes to having people take a careful look at the facts is to make some arbitrary judgment on the other end of the spectrum. And we do not agree with an arbitrary judgment which forecloses in our trades any foreign government-controlled carrier.

Mr. KYROS. It seems to me that you are coming in here with a fixed trigger level—namely, 15 percent is a fixed trigger level. It has to be a comparable rate that must be identified. You have triggering devices in here which limit the discretion of the FMC as to how it can act seasonably. You have indicated more distrust for the FMC by binding it to make such determinations in this controlled carrier bill.

Mr. EWING. We would not agree with that, Mr. Kyros, for the fact is that the 15-percent trigger was based on our historic understanding of the facts, namely that historically the independent carriers, not conference carriers, were pricing about 15 percent below the conference rate as a means of competing.

Mr. McCLOSKEY. Will the gentleman yield at that point?

Mr. KYROS. Yes, sir.

Mr. McCLOSKEY. I noted in the indictment handed down in Cleveland that the man who has now been hired by the Russians, Arthur Novacek, while employed by Seatrain, had offered a 28-percent rebate to, I believe it was the Tenna Corp. In that case you indicated both Seatrain and the president of Tenna, is that correct?

Mr. EWING. Mr. McCloskey, I would like to avoid any particularized responses.

Mr. McCLOSKEY. This is a case that has been completed. It has been published in the paper. The defendant pled guilty.

But a 28-percent rebate was offered by Seatrain for which they were indicted by the United States.

Mr. EWING. Mr. McCloskey, let me explain that I am certain that you could find instances in which a noncontrolled carrier, a nonconference independent, in order to get business, had priced his services at a figure different from 15 percent below the conference tariff.

My point is that, on an average and in general, we understood and understand that about a 15 percent price differential is the way the independents, in fact, price their services below the tariffs filed by

conferences in order to compete. And that was the basis upon which the 15-percent trigger was picked.

Mr. McCLOSKEY. But my concern is how do we protect the U.S. merchant marine if any controlled carrier can come in and quote rates 14 percent below what the U.S. carrier is offering. Is not the U.S. operator absolutely unprotected under your bill.

How do we protect the American merchant marine?

I would think that any controlled carrier would set his rates at 14 percent below.

Mr. EWING. Theoretically, and I think in practice, the conference rates are about that much higher than the independent rates, and the conferences do carry a good portion of our goods.

Mr. McCLOSKEY. Sure.

Mr. EWING. Because there are some advantages to the shippers using the conferences.

Mr. McCLOSKEY. I come back to your letter and your understandable distress about the conferences. You would have us meet the Soviet rate cutting through a system of direct subsidies.

Quoting your letter that you testified to earlier, you maintain that it is fine from the Justice Department's standpoint that if the conference rates are too high, in order to cut down the difference in rates to 14 percent, we should pay a direct subsidy so that the taxpayer, in effect, is paying the cost of keeping U.S. rates low so that the Soviet competition of 14 percent does not take it away.

Mr. EWING. If you will look at the legislative history, you will find an awareness of a necessity, in having conferences, to have some protective mechanism to insure a little competition in order to make sure that the shippers are not gouged in price. We have that now.

We are only saying here, in regard to this controlled carrier bill, that if you are going to have a trigger mechanism, an appropriate one would be one what seems historically to have been produced by the independent pricing versus the conference pricing. It allows the independent, which happens to be a controlled carrier, the same kind of flexibility as the ordinary independent before you get into this kind of a regulatory scheme.

Mr. McCLOSKEY. But if there were no independent carriers, there would be no way to have the protection of the conference carriers?

Mr. EWING. I am sorry, sir. I lost the question.

Mr. McCLOSKEY. Your proposal depends on there being an independent carrier on that trade route under the same terms and conditions as set forth in your language.

Mr. EWING. Yes, sir, it would.

Mr. McCLOSKEY. You key your proposal to the cost of a carrier offering similar transportation services, under similar conditions, between the same points, that is almost an unholy burden to ask a regulatory agency, let alone an agency like the FMC, which is not the best one to get these facts from the carriers.

Mr. EWING. Mr. McCloskey, I would suggest that what it is in essence, is a meeting competition defense, and that is known to most American businesses and most of the regulatory agencies in Washington. I do not think it is an impossible burden for either the company officials involved in the game or the Government officials involved in the game to make it.

Mr. McCLOSKEY. Would you say that their inability to enforce rebating was incompetent?

Why did they not enforce the rebating laws if it is so easy to do this, after all you are talking about essentially the same factual information?

Mr. EWING. I am not, as I have said before, prepared to agree with your characterization as to the actions of the Federal Maritime Commission. I think both the Commission and Justice Department are simply trying to do the job Congress has entrusted us with.

Mr. McCLOSKEY. All right.

I have gone too far.

Mr. KYROS. Thank you, Mr. McCloskey.

Mr. Ewing, at one point you replied in effect to a question, that in regard to that Soviet carriage between Bremerhaven and Houston, in order to compare the Soviet rates and see if it is a rate that is not unreasonable, you would use similar vessels operating similar transportation service under similar conditions. That is what it says in your proposal.

Mr. EWING. Yes, sir.

Mr. KYROS. The Soviets are operating two roll-on/roll-off's, the Goblubkina and the Magnitogorsk between Bremerhaven, Germany and Houston, Tex. to carry these buses.

What other carriers offer similar service, that is similar roll-on/roll-off service between Bremerhaven and Houston?

Mr. EWING. I do not know the answer to that.

Mr. KYROS. I do. It is none.

To what are you going to compare the Soviets?

Mr. EWING. Can you tell me if there is a conference operating in the same trade?

Mr. KYROS. Oh, yes.

Mr. EWING. Well, under the bill, under the amendment to your bill as proposed by the administration, that is clause 2.

Mr. KYROS. I am talking about the actual determination of the rate, as to whether it is fully compensatory, that section that appears in your testimony on page 8. I am suggesting to you that you have locked the FMC into a standard so that it has no discretion on which it can possibly make a determination.

I am suggesting to you, Mr. Ewing, that it would be impossible for the FMC to make any determination of fully compensatory or non-compensatory rates under the proposed structure. But let us move on.

Assuming for the purposes of discussion that a controlled carrier establishes a rate 15 percent below the conference rate and, you know, those conferences are wily, too, they meet the rate. The conference drop their rate 15 percent and meet the lower rate.

Now, is a controlled carrier allowed a second reduction of 15 percent below the now reduced conference rate under your proposal?

Mr. EWING. At that point I think you would have the shipping executives asking the FMC to inquire into the matter, and I think they would have the authority to do so.

Mr. KYROS. They have been begging and screaming long before you ever said that from the witness table.

Mr. McCLOSKEY. Even so, even if they came in screaming, the FMC could not suspend the rate. Could it under your bill? Would they require a hearing and a full determination of the facts?

Mr. EWING. That is right.

Mr. McCLOSKEY. And you hope they would make the decision in 6 months. But for those 6 months, no matter how the American shipping executives scream, isn't it true that they would have no remedy in your bill?

Mr. EWING. Under your facts, the FMC would previously have to find that the rates charged by the conference were, in essence, just and reasonable. If, in fact, that is the case, then it is likely that an independent carrier could operate with a rate of 15 percent below that rate, in which case, under this provision, the controlled carrier could meet that second round, if you will, of lower rates and do so without it being a predatory device that truly harmed American commerce.

What would have happened, in essence, from an economic point of view, is that the rates would have fallen to a point benefiting the shippers—and I might add, in fact, fighting inflation—while, at the same time, under the FMC's regular rules providing the just return to the American-flag lines.

Mr. KYROS. You just lifted yourself up by your own bootstraps. Here is what you said and I believe it betrays again the repeated attitude concerning conference rates held so strongly by the Justice Department.

First, you said if, indeed, the conference rates were reasonable, this is a basic premise that rings throughout your thinking; that is, that conference rates per se are not reasonable.

Second, you were asked a simple question. You were asked if the Soviets had dropped 15 percent below the conference rate and the conference reduces its rates to meet the Soviets; then, the Soviets drop again another 15 percent. This is not a hypothetical question, but one that happens on the high seas.

Are you not then precluded from suspending the controlled carrier's rates? The FMC is precluded from suspending that situation, is that not a fact?

Mr. EWING. Under the way this is drafted, that is correct. I have given the reason why that is correct.

Mr. KYROS. You mean it is justifiable?

Mr. EWING. Indeed, Mr. Kyros, in our view it is appropriate because it is based on the fact that the conference rate as it came down would be a reasonable rate.

Mr. KYROS. Suppose they drop another 15 percent and went down 45 percent from their original rate, and now the conference dropped another 15 percent.

Mr. EWING. Mr. Kyros, you could take me down to the last dollar here and, obviously, at some point in the series of hypotheticals we have gotten away from the real world.

Mr. KYROS. No, we have not.

On page 1 of your testimony, you state that "This is a matter of special concern because state-controlled carriers, unlike their privately owned competitors, are uniquely able to sustain operating

losses for as long as it is necessary in order to drive their competitors from the marketplace."

They can cut and cut and as you try to reduce your rates just to keep your ships sailing, and generate some cargo for your ships, you cannot last as a commercial operator. Have you not said that yourself here?

Mr. EWING. Mr. Kyros, you are assuming that the response from the American shipping lines would be that they must have a particular cargo so badly that they would be going at rates that do not meet their costs in any form or fashion, in order to get one particular set of cargo. I do not think we have reached that point in the real world.

Certainly the amount of tonnage available with controlled carriers is not such at the moment to have our companies pressed to the wall in the fashion that your question involves.

Mr. McCLOSKEY. Will the gentleman yield?

Mr. KYROS. Yes, sir.

Mr. McCLOSKEY. It may be that only one U.S. company has been pressed to the wall thus far. But my understanding is that the European countries, our allies, are under increasing concern that their companies are being pressed to the wall. The concern that I have is that in the overall economic confrontation, where we withhold most-favored-nation status as an economic effort, they might want to reduce the size of our merchant marine as an economic weapon, just as we wage economic war against them. When you say that the U.S. companies are not yet driven to the wall, that is precisely why this Congress sits and acts in advance to prevent such situations.

The CHAIRMAN. It says we are not driven to the wall. PFEL is in bankruptcy, Prudential-Grace is down the drain, being picked up by another operator. There is two of the seven lines. The questionable area of operation, and just yesterday this committee had to put out a half billion dollar subsidy bill to try to keep something between the wall and where the American merchant marine is today.

So we are against the wall, and have been there, and where do we stand today, 560 ships and going down, and not a single ship on order past 1980.

Mr. EWING. Mr. Chairman, I would like to go back to your opening statement this morning, because I can agree with your words when you said our objective in these hearings is to enact legislation which would preserve legitimate competition among all common carriers engaged in the foreign commerce of the United States, and to stabilize the ratemaking practices of the carriers by forbidding predatory rate cutting which will certainly disrupt our national trade.

The administration can agree with those objectives. I believe that we are simply engaged in this particular hearing in a dialog as to some of the techniques and methods by which we can reach those objectives.

We are supporting H.R. 9998, but with some suggested modifications that we do not believe will gut it at all, but believe will make it a workable tool to enable the FMC both to stabilize the rate-making processes, and at the same time to preserve legitimate competition.

I believe that there is a great area of agreement between those of you who have spoken on the committee today and the Justice Department, and this administration, recognizing that this is a troubled industry, and we all have to work together to adopt the best means possible of correcting the difficulties.

We disagree on some of the technical language here.

Mr. McCLOSKEY. We all agree with them. We would like to preserve free competition, and we would like to achieve stability. However, we are going to have to give on one of these issues.

The problem that I have with your remedy, that the subsidy is the thing to protect the U.S. merchant marine, when we enter into these 20-per-year operating subsidy contracts for paying the operating differential, that does not protect any of our companies from this rate-cutting competition by a state-controlled carrier that may be able to sustain these losses.

I do not think we can achieve all of these things.

We are going to have to give up one or the other.

How do you have free competition and controlled carriers at the same time? Free competition means that those carriers are free to come in and compete with us. I do not see how to encourage such a system with this mechanism.

When you talk about setting rates with companies that do not need to disclose their information to you, I think that that is an almost impossible burden.

Mr. EWING. Mr. McCloskey, as I understand what we are proposing here this morning, if you find a situation in which you have a conference rate and an independent's rate 15 percent below it, and you further have a controlled carrier meeting one or the other, then you let the controlled carrier's rate exist. If it goes below that, the FMC is given some authority in this legislation to do something about it.

Mr. McCLOSKEY. But is not the 15-percent-rate cut enough to cause anybody to ship their goods on a competing carrier?

Mr. EWING. I again come back to the proposition that formed the basis of the 15-percent, which was an understanding by us of the historical differential between the conference rates and those of the independents which was about 15 percent.

I emphasize that is the basis on which the figure 15 was picked. There could be a judgment that a different figure is more appropriate. The figure 15 was based on what we understood the historical record to show.

Mr. McCLOSKEY. If we could be sure what history was in the next 20 years, then maybe we could rely on it too. But this is a wholly new situation.

Certainly, in the last 15 years, and even before that, we have had a history of the conferences and the independents giving rates below conference rates.

Mr. KYROS. Well, you keep saying, repeatedly in a general way, Mr. Ewing, that you want to be helpful, and we have the same purposes in the bill, and repeatedly. I suggest to you, when you say controlled carriers rates not be below the rate of any nonconference carrier, that is a complex problem, and, by the way, we never discussed this issue—

How many tariffs are on file with the FMC?

Mr. EWING. I do not know that, sir.

Mr. KYROS. I think it is quite important to know. Are there 70, 700, or 7,000, or 70,000, do you know?

Mr. EWING. I do not know the answer.

Mr. KYROS. Do you realize what a task that agency would have to figure out and compare who has a nonconference rate in a particular trade? Do you think that is a problem?

Mr. EWING. Realistically, Mr. Kyros, I really do not, because I think that the FMC will be given great assistance by the eminent counsel for the U.S. companies that feel that those rates are giving trouble.

Mr. KYROS. You think we should rely on eminent counsel of U.S. companies to give the U.S. assistance in this bill?

Mr. EWING. I am sure that you will find the attention of the FMC being called to the appropriate rates.

Mr. KYROS. If there is still an FMC there, before some people finish with it, I suggest that you are putting an incredible task on their backs. But we have come to this level of 15 percent, and you and I agree, if the Soviets lower their rates by 15, they go another 15 below, the Soviets still are not predatory, and cannot be suspended. We agree with that.

You also seem to be enamored with the FAK rates. Will you define FAK rates please?

Mr. EWING. You slipped by me on that agreement.

Mr. KYROS. Well, time is fleeting. Can you define FAK rates?

You discuss them in your testimony.

Mr. EWING. At the end of a long morning, no, sir, I cannot technically. I think that is the best answer I can give.

Mr. KYROS. You cannot define FAK rates?

Mr. EWING. Well, it is freight, all kinds rates, and it is on page 5.

Mr. KYROS. What does that mean, freight, all kinds?

Mr. EWING. The best non-technical definition is a kind of a general grab bag.

Mr. KYROS. All right.

In your DOJ study of January, 1977, it states on page 225,

A recent innovation in the area of marketing containerized FAK container rates were introduced by Star Shipping, also a small conference firm * * *

In both cases the initial innovation came from a firm outside the regulated conference system which had the incentive to change.

That happened to be an erroneous statement, because the FAK rate was introduced by the South Atlantic and Caribbean Line.

But that is not the point. If the Soviets were using FAK rates, and let us assume for discussion they were, would that apply to a container carrying a mixture of commodities, or does it apply to a container which carries whatever the contents—

Mr. EWING. It is what I have always defined in my brain as the grab bag rates within the container. I have been handed a more technical definition, which is a single rate per container, regardless of the type of cargo.

Mr. KYROS. Would the FAK rates, as you use the term, apply to a container loaded only with a given label of Scotch whiskey in bottles, from Scotland to the United States—

Mr. EWING. You are going to a level that I really cannot give you accurate answers.

Mr. KYROS. It is tough on that level?

Mr. EWING. It certainly is. That is why we have the FMC.

Mr. KYROS. So then do you know whether or not if your recommendation were adopted, a controlled carrier could capture the entire Scotch market—what a wonderful thought—simply by the device of calling his rate from Scotch ports to the United States an FAK rate?

Mr. EWING. I would hope not. I would hope that he could not.

Mr. KYROS. But you are not sure, are you? You are not sure?

Mr. EWING. I would assume not. I am not sure of anything in this game, to the degree that you would like me to be, Mr. Kyros.

Mr. KYROS. Let me ask you another question.

Recently, we had a briefing on Soviet maritime activities and their effect on our liner trades before this committee. This briefing indicated that the Soviets operate their shipping lines with all the external appearances of commercial enterprises: the carriers have registered offices, are given English names, and employ citizens of other countries as agents and representatives. Further, the individual companies have substantial autonomy. In sum, there is no reason to suppose that the Soviet Government desires to intervene directly in the determination of rates, charges, classifications, rules, or regulations of its carriers.

In short, this bill attempts to secure commercial solutions to commercial problems which arise from the participation in U.S. trades by carriers who are inherently more fully protected against the effects of financial loss. Consequently, the power of intervention by the President is not presently required.

Mr. EWING. Well, Mr. Kyros, I would say that the bill, even with the modifications that we have suggested, very much attempts to deal with controlled carriers as legitimate commercial enterprises should be dealt with.

Second, as in the airline area, the out, if you will, for the President, is one limited to foreign policy considerations.

Certainly the drafting here would so limit it to an override for foreign policy reasons. That is not an unusual circumstance in our trade in general.

Mr. KYROS. But is it analogous Mr. Ewing? In this area we are talking about a statute that is not self-executing, and does not try to structure a service with a Freddy Laker, or the British, or Germany?

This statute does provide that when operating on the high seas, you cannot have rates that are so low as to be unreasonable, which means noncompensatory, and you are not meeting your fully distributed costs.

In that case, the FMC may require that the controlled carriers prove its rates. That is a vastly different circumstance than fixing routes and rates between nations.

First, the statute is not self-executing. Second, you are called in for a hearing. Why upgrade this particular commercial practice to a diplomatic exchange? That is what I am asking about.

Mr. EWING. Well, we are not trying to upgrade it to a diplomatic exchange in every case. The action is similar to what happens in the CAB, in that the parties would be first before a regulatory agency to render its decision, and that decision would not be reversed unless the President felt, for reasons of foreign policy that he had to take an action inconsistent therewith.

Mr. KYROS. Thank you very much.

Mr. McCLOSKEY. Mr. Chairman, if I could just go for one question?

The problem, Mr. Ewing, and I now have the indictment of the U.S. District Court, Northern District, United States of America versus Seatrain, for conspiracy under section 371, to defraud the Federal Maritime Commission.

Let me read you a couple of paragraphs of that indictment.

On or about June 29, 1972, Max Kay met with Kohlke, Arthur Novacek, Roger Skove, Vice President of Marketing of Seatrain Lines Containerization, and John J. Haggerty, Novacek's Administrative Assistant, at the offices of Seatrain Lines Container Division in Weehawken, New Jersey. It was agreed at this meeting that Tenna Corporation would ship all its freight from Japan, except for emergency situations, in return for receiving a 28 percent rebate from Seatrain Lines, Inc., on the published conference rates on goods shipped from Japan.

It would look as if they are capable of beating us at our own game, including rebates, which are not unlawful in Russia. My question, and I would ask that you submit in writing the answer to this, why is the company indicted, but Mr. Novacek is not?

Mr. EWING. You are asking me to submit—

Mr. McCLOSKEY. In writing, an explanation of why the Justice Department indicted the company but not Mr. Novacek. I would like to know that answer, because it seems to me that it bears on the whole question of FMC versus the Justice Department regarding enforcement of our shipping laws.

I honestly cannot understand how a criminal indictment is brought for conspiracy, and yet a number of the conspirators are not indicted.

Now, we have had explanations from the Justice Department recently as to why the CIA, in the mail opening case, was not indicted and the cases dismissed.

Frankly, following the Justice Department's decisions as to who to indict, and who not to indict, I think you should furnish this committee with a full set of the criteria as to why in some cases the companies are indicted, and in some cases the officers are not.

Mr. EWING. May I have a moment?

Mr. McCLOSKEY. I do not need an answer to it now. I think this is a serious question, who to indict and who not to indict, and we ought to have a serious answer supplied in writing, in the same manner that you have furnished other committees.

Mr. Chairman, I would ask unanimous consent to insert in the record at this point this indictment.

Mr. EWING. Mr. McCloskey, I am prepared to submit to the committee in general an answer in writing that will give you in general the criteria under which we attempt to distinguish between companies and individuals.

I do not want, necessarily, to focus in on a particular—

Mr. McCLOSKEY. If there is any particular case in which you want to keep this information confidential, I think all you need to do is so indicate. I sit on another subcommittee in which the Attorney General of the United States has quite clearly laid out the criteria as to why certain people were indicted and others were not. This whole problem of the Justice Department enforcement of rebating, all pertains to the same thing.

Understandably, until a case is finished, it is reasonable that we should not know the criteria.

Mr. EWING. I am prepared to be as responsive as possible, Mr. McCloskey, in writing, in as short a time as I can do it.

[The material was not received at time of printing.]

Mr. McCLOSKEY. Your response would help us in considering your testimony, because, in my judgment, this is precisely the same point. The decision of what we allocate to the Federal Maritime Commission, and what we reserve to the Justice Department.

One of the problems, it seems to me, in protecting the U.S. merchant marine is the current state of uncertainty on what antitrust enforcement will be pushed, and what will not. Any help you can give us to guide us as to your mercies, and how they are exercised, and your vigorous prosecution, whether it is exercised, would be of guidance to us in determining what legislation will be needed.

Thank you.

The CHAIRMAN. The Chair will hold under consideration this document, and will make a decision at a later time on whether to insert it in this record.

Mr. KYROS. No further questions, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Ewing. We certainly appreciate your testimony.

Mr. EWING. Thank you.

The CHAIRMAN. Our next witness is Stephen Shefler, Deputy Assistant Secretary for Policy and International Affairs, Department of Transportation, and we will ask Mr. Gary Hufbauer, Deputy Assistant Secretary for International Trade and Investment Policy, Department of Treasury, to accompany him to the witness table.

Both statements will be printed in the record at this point, and Mr. Shefler, if you would proceed to present your testimony.

[The following was received for the record:]

STATEMENT OF GARY C. HUFBAUER, DEPUTY ASSISTANT SECRETARY OF THE
TREASURY FOR INTERNATIONAL TRADE AND INVESTMENT POLICY

Mr. Chairman, I am pleased to be here today to discuss with you the Treasury Department's views on H.R. 9998, a bill to provide for the regulation of rates and charges by certain state-owned carriers in the foreign commerce of the United States.

We share the concern reflected in this bill that certain carriers may be competing unfairly in our ocean trades by engaging in "predatory" pricing. By selling shipping services below cost, those carriers may be driving out U.S. vessels and capturing a larger share of the trade. Laws to prevent such unfair practices in our foreign merchandise trade are already on the books. We should deal with unfair competition in international shipping in a similar fashion.

Overtonnaging is the dominant feature of our ocean trades today. In its report on H.R. 9518, this Committee identified overtonnaging as the major cause of illegal rebating in ocean shipping. Oversupply of any good or service,

including ocean shipping, can lead to pricing below cost. Carriers will cut prices during periods of oversupply in an effort to maintain capacity utilization. Below cost pricing by carriers—whether controlled or not—is a reasonable possibility under current market conditions. Goods or services provided by state-controlled economy countries can pose an additional problem since their prices are not necessarily established even in the long run by market considerations.

We wish to avoid prejudging whether controlled carriers are actually engaging in pervasive unfair pricing practices. Such practices may not be as widespread as is frequently asserted. Nevertheless, we believe the government should have the tools available to prevent unfair competition.

The Administration is prepared to support this legislation, but would recommend certain amendments. In general, we are concerned that the bill's grant of authority to the FMC to determine whether rates are "just and reasonable" is far too broad and vague. In addition, we oppose FMC authority to set minimum rates during any period a rate suspension is in effect.

We think the level of rates subject to FMC suspension should be more carefully delineated. While the FMC should have authority to suspend predatory rates, we wish to assure that rate suspensions take place only when unfair practices are occurring, and not to defeat fair competition. We think the benchmark of rates charged by independent noncontrolled carriers, or 85 percent of the rate charged by the lowest-price conference operating in the same trade, represents a fair standard. Controlled carriers should be allowed to be as competitive as any other carrier in a trade. The 85 percent test is reasonable because independent carriers generally underprice conference carriers by approximately that amount. Independent carriers are able to offer shipping services at rates below those charged by conferences and still earn a profit. My colleagues from the Justice Department are prepared to work with you on the details of the Administration's proposals.

These proposals will assure that U.S. carriers are not being victimized by predatory controlled carrier pricing. At the same time, they will allow controlled carriers to continue in the trade as long as they compete fairly. We believe that competition in shipping should be allowed, in fact strengthened. Competition will benefit the shipping public by encouraging the most efficient and cost-effective service possible. It will also help hold down the cost of ocean shipping. This is an important consideration, especially in view of the President's emphasis on curbing inflation.

We believe that this legislation, with the suggested amendments, can be effective in preventing predatory pricing by controlled carriers without discouraging desirable competition in shipping.

STATEMENT OF STEPHEN A. SHEFLER, DEPUTY ASSISTANT SECRETARY FOR POLICY
AND INTERNATIONAL AFFAIRS, U.S. DEPARTMENT OF TRANSPORTATION

Mr. Chairman and Members of the Subcommittee: I appreciate the invitation to express the views of the Department of Transportation with respect to H.R. 9998, a bill to provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States.

We in DOT have been following the testimony of the Departments of State, Justice, Commerce and the Treasury which have dealt with various aspects of the problem. We have also paid close attention to the views of the Federal Maritime Commission.

In addressing the problem of low rates quoted by state-controlled carriers, the present H.R. 9998 is a vast improvement over prior bills on this subject in that it narrows the application of the new legislation to the carriers suspected of unfair competition. With the following amendments, which are discussed below, we support the enactment of H.R. 9998.

PRESIDENTIAL PRE-EMPTION

Regarding the Presidential pre-emption in the case of foreign policy considerations, we suggest that Section 18(c)(1) of the Shipping Act be amended by including the following additional proviso:

"Provided, however, that the President may, for reasons of foreign policy, cancel or stay any tariff rejection, suspension or disapproval authorized under the provisions of this Act."

The State Department may wish to comment further on this point.

"JUST AND REASONABLE" RATE CRITERIA

The Department of Transportation would suggest clarifying one of the criteria for just and reasonable rates at page 4, line 9 of the bill by deleting the words "in the same trade" and substituting the following phrase:

"Offering similar transportation services under similar conditions of carriage and under similar tariff description between the same points or ports over the same route."

This change clarifies the criteria in respect to the constructive costs of another carrier.

We also recommend the addition of a new Section 18(c)(2) to the Shipping Act as follows:

"Provided, however, that the Commission may not disapprove, reject, or suspend a controlled carrier's rates, fares, charges, or classifications under Section 18(c), or find them to be either unjust or unreasonable if either of the following conditions is met: (1) the controlled carrier's rates are not below those charged by an independent non-controlled carrier operating similar vessels and equipment, offering similar transportation services, under similar transportation conditions of carriage, and under similar tariff description between the same points or ports over the same route, or (2) the controlled carrier's rates are not below 85 percent of the rates charged by any conference operating in the same trade."

This change provides an additional test and one which would be valuable where there might be no other independent operator outside the conference. A responsible independent operator usually initially quotes rates approximately 15 percent below the conference tariff until he determines specific market requirements.

RATE COMPARISONS

One further proviso should be incorporated into Section 18(c)(2) of the Shipping Act to deal with the practical difficulty of comparing rates and charges as they appear in ocean carrier tariffs. The new language is:

"Provided further that, if a controlled carrier offers special rates, fares, charges, or classifications under Section 18(c) which are not comparable in form to the rates, fares, charges, and classifications offered by other carriers in the same trade, the Commission may not find such practices unlawful unless, following a full evidentiary hearing, it has been determined that such practices are predatory."

This language would make it clear that the proposed legislation will not stifle innovative transportation pricing and services. Such pricing and services are open for experimentation, particularly when established conferences are reluctant to adopt them.

ADVANCE NOTICE

We feel the present statutory language concerning notice of proposed rate changes is adequate. Thus, we do not believe that advance notice of rate actions is required. We, therefore, recommend deletion of the first sentence of the proposed Section 18(c)(3) of the Shipping Act which appears at page 4, lines 12-16 of the bill.

SUSPENSION OF RATES

Finally, regarding rate suspension authority for the FMC, we feel that this authority should be limited to no longer than 180 days. We would amend the proposed bill on page 5, at line 9, by adding, after the words "effective date," the words "but not for a longer time period than 180 days beyond the time when they would otherwise go into effect," and also add at line 14, page 5, after "controlled carrier," the words "but not for a longer time period than 180 days beyond the time when they would otherwise go into effect." These changes would tend to reduce friction in foreign relations. The Justice Department may also have further clarifying language in this area.

We would also delete the sentence contained in lines 14 to 17 at page 5 of the bill which empowers the FMC to set rates during any period of suspen-

sion. We do not feel this is required because there is ample legislative history showing that it is not necessary for the Commission to set rates in U.S. foreign commerce. If H.R. 9998 were amended as suggested above, we feel that the rates during any period of suspension would have to meet any one of the criteria proposed in the changes to Section 18(c)(2) of the Shipping Act discussed above.

This concludes my prepared statement, Mr. Chairman. I will be happy to answer any question you or other Members of the Subcommittee may have.

STATEMENT OF STEPHEN A. SHEFLER, DEPUTY ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY GARY C. HUFBAUER, DEPUTY ASSISTANT SECRETARY OF THE TREASURY FOR INTERNATIONAL TRADE AND INVESTMENT POLICY, DEPARTMENT OF THE TREASURY; ACCOMPANIED BY HENRY BERGHOEF, DEPARTMENT OF THE TREASURY

Mr. SHEFLER. Mr. Chairman—

The CHAIRMAN. I believe your statement is similar to the one given by the Justice Department, therefore we would save some time if we could get to the questions.

Mr. SHEFLER. I totally agree, and I thank you and Congressman McCloskey for the opportunity to testify.

As you indicated, our testimony was basically stated by Justice. I will stand on the written submission.

The CHAIRMAN. Mr. Hufbauer?

Mr. HUFBAUER. Thank you, Mr. Chairman.

I would like to introduce my colleague, Mr. Henry Berghoef of the Treasury Department on my left.

Mr. Chairman, apart from my written submission, which you say is similar to the Justice Department, I would like to point out the relevance of the President's recent statements on inflation to our deliberating this morning.

The President noted—I do not have a direct quotation in front of me, but the President did note that inflation results from many individual actions, including actions by the regulatory agencies of the Government, including actions by Congress, with everyone trying to leapfrog everyone else, and I think there is some of that element in the deliberations that we are concerned with this morning.

There is a very legitimate concern, as I have noted in my testimony, from predatory pricing, and the lines of fair and unfair competition.

On the other hand, there is a real danger that fair competition might be eliminated, and that in a small way, but typical of what is happening all over Washington today, we would have yet one more contribution to an inflationary problem which I think surmounts and surpasses many of the individual problems which we face in the nation today.

Thank you.

The CHAIRMAN. Mr. Kyros.

Mr. KYROS. Mr. Hufbauer, that was a nice lecture on inflation.

Are you suggesting that this bill, as it stands, is inflationary, and for that reason should not be enacted.

Do you think it is inflationary?

Mr. HUFBAUER. I think it has a danger, yes.

Mr. KYROS. Where does the danger lie, specifically?

Mr. HUFBAUER. The danger specifically lies, as I see it, in essentially saying that controlled carriers, if they price below the conference rates, are in a terrain where their tariffs may be suspended, and they may be put out of business. As a result of that procedure, it seems to me that outside competition to control to the conference system is potentially limited in an important practice.

Mr. KYROS. But very briefly the bill does not so provide, Mr. Hufbauer. It provides that if the rates are filed at a level so low as to be not just and reasonable, and after comparison in a certain way by the FMC to other carriers in the trade, then they can be disapproved, but there are all kinds of procedural mechanisms.

But the point is this, you are aware, of course that section 101 of the Merchant Marine Act, 1936 the policy of the United States is that it is necessary for the national defense of the United States to maintain a merchant marine capable of carrying a substantial portion of our foreign commerce. You are fully aware of that, I am sure.

Mr. HUFBAUER. I am not aware of the section by section, Mr. Kyros.

Mr. KYROS. I am sure you are aware of the general declaration of policy for the merchant marine, that it is for the national defense of the United States that we maintain a merchant marine capable of carrying a substantial portion of our oceanborne commerce, and that is frequently interpreted by Mr. McCloskey as 40 percent, and by the chairman as 50 percent, but they both agree it is in that realm.

Do you agree with that?

Mr. HUFBAUER. I understand the general thrust.

Mr. KYROS. You agree with that, of course?

Mr. HUFBAUER. I understand the general thrust.

Mr. KYROS. If we have Soviet carriers penetrating our trades and cutting their rates by 30, 50 percent, why do we not deliver all our traffic to them and then we can call that anti-inflationary?

Mr. HUFBAUER. Can I return and read my statement?

The CHAIRMAN. Mr. Hufbauer, just be responsive to the questions.

Mr. HUFBAUER. I tried to make a distinction between fair and unfair compensation.

Mr. KYROS. How do you make it, sir?

Mr. HUFBAUER. I will try to elaborate.

It seems to me that with a controlled carrier, there is a very substantial danger, as has been noted in your questions, Mr. McCloskey's questions and the chairman's questions, that there will be unlimited subsidies on limited coverage of losses by the Government in question.

Mr. KYROS. What does that mean specifically, unlimited subsidies on limited coverage of losses by the Government in question?

Mr. HUFBAUER. That is right. Unlimited losses by the carrier is a real possibility.

If I may take an illustration from another case, nothing to do with carriers, the British Steel Corporation is operating with very substantial losses now, financed by the British Trade Route, and that is a matter of concern. It seems to me that the resources of any

foreign government far exceed the resources available to the normal run of private companies. If these resources are used in a way to sustain losses over a period of time, and with great financial strength to drive out private companies, that is clearly in the realm of unfair competition.

Mr. KYROS. Or predatory?

Mr. HUFBAUER. Or predatory, yes.

Now, on the other hand, it is not self-evident to me that any rate set by the conference, which is essentially a cartel, is a competitive, a fair or, in other ways, justifiable rate. I think in considering the problem of controlled carriers, one has to draw a line between these two dangers.

It seems to me that the administration's approach of having a reference point, the rate of independent carriers, some of which have been very successful, or a rate which is 15 percent below the controlled carrier rate and, as far as I know, that 15 percent figure comes from—

Mr. McCLOSKEY. Below the conference rate?

Mr. HUFBAUER. Below the conference rate, thank you, comes from the remarks in the study published by the Department of Commerce. It is an attempt at drawing the line in this very difficult area.

Mr. KYROS. But the fact is that H.R. 9998 attempts itself to resolve the conflict which you just premised, namely, on the one hand, you do not arbitrarily want to cut out any foreign carrier, State-controlled, or otherwise, if it is operating in fair competition. So it is a very difficult problem.

This bill tries to meet that problem.

Let us get down to cases though. You heard earlier today the questions concerning the difficulty of defining a "nonconference carrier." I cited several kinds depending on their characteristics, frequency, and regularity of service and Mr. Ewing was aware of some of them and some not. Then we discussed the possibility that a Soviet carrier or a controlled carrier could drop its rates 15 percent below conference, the conference meeting that lower rate and the controlled carrier reducing 15 percent below the now-reduced conference rate.

A situation that is not hypothetical, Mr. Hufbauer. Under that situation Mr. Ewing agreed there would be no opportunity to suspend. I think that reveals a fatal flaw in adding that particular provision to the bill.

Then we reviewed the comparability of rates, in particular FAK rates which were hard to distinguish.

Do you realize that the FMC would have great difficulty in taking FAK rates and comparing them to other rates?

What I am suggesting to you is, in your commendable zeal to have a fair—well, in your concern that the conferences are not overcharging the American shipping public, I think you are going to really so tie up the FMC in this bill that its implementation would be ineffective.

Can you not have some trust in the FMC, some faith that they might think the same way you do? The same kind of economic background and upbringing in order to make a reasonable attempt to regulate predatory rate cutting?

Mr. HUFBAUER. My personal answer, Mr. Kyros, is that I am very skeptical of regulatory agencies.

Mr. McCLOSKEY. Will the gentleman yield?

Mr. KYROS. Yes.

Mr. McCLOSKEY. That is the other problem I have with your testimony.

You have cited the administration's desire to end inflation. I thought one aspect of that was to reduce regulation and now you are coming in here and advocating a tremendous expansion of authority and responsibility to an agency which Mr. Ewing would not admit that he has some reservations about, but I think your recent answer indicated some reservations about any regulatory agency, particularly when you get into determining vague concepts such as fair and reasonable rates.

My God, this is a never, never, land with respect to the finality of a decision. An administrative agency trying to determine what is a fair and reasonable rate could take forever.

Mr. HUFBAUER. I could note agree more with you. I think it is a treacherous area which can string on for years. I have the ICC in mind. I have some of the recent CAB cases in mind.

Mr. McCLOSKEY. I read Mr. Ewing's predecessor's comments in a speech the other day to abolish the ICC, and Mr. Ewing comes in and wants to strengthen the FMC. I have real trouble with the Justice Department's attitude that existence of the FMC was inflationary.

What was your predecessor's name?

Mr. EWING. Mr. Schoenfeld.

Mr. McCLOSKEY. I was thinking of that great man that suffered under the Nixon administration and then was elevated to the bench. But this is a question I would like to address to Mr. Shefler and Mr. Hufbauer: Why is this administration, with its praiseworthy efforts to deregulate, in this particular bill, pushed to the extremity of regulation?

It runs counter to anything that I have heard you say, Mr. Hufbauer and Mr. Shefler. Do you have any reservations about expanding the FMC's authority and regulatory power?

Mr. HUFBAUER. Yes, there is reservation on my part about expanding regulatory authority, and that is precisely the reason that I find the reference to the objective price of the independent carrier and the 15-percent feature is a desirable addition to changes in the bill as drafted, that it creates an area where the regulatory review will not come into place. And I would hope that the vast majority of cases would come in that area.

Mr. McCLOSKEY. If the Russians, as we fear, are as good as they seem to be in their learning of the American free enterprise system and their hiring of one of our foremost rebaters as their agent, is it not just going to be child's play for them to just undercut our rates by 14 percent at every opportunity and take away all the trade from U.S. ships? Especially, if that is their desire?

Suppose they want to carry 30 percent of the American foreign trade, because they felt it was an economic weapon, is there any doubt in your mind that they could do that if they sought to, just by undercutting us by 14 percent right down the line?

Mr. HUFBAUER. In fact, there is some doubt now, and I will try to explain briefly why.

It turns out that in many businesses, including the shipping trade, that a price differential is—of 15 percent is not enough. You can take into account reliability of service calls, et cetera, to shift business as massively and as quickly as simple-minded economic models might suggest. There is a great deal of direction. That is one reason.

The other reason is that there are a number of independent carriers who presumably are prepared and do meet Soviet competition and do meet Soviet competition today apart from the conferences. I have been hogging the mike a bit—

Mr. SHEFLER. Congressman, in answer to your earlier question about giving the FMC more powers, I see this as, in some ways, a clarification of their powers. It has not worked.

The controlled carrier bill, I think, improves the mechanism by allowing the FMC to act without subpoena powers that we referred to. It really gives it effective powers as opposed to ineffective powers.

A second point I would make in regard to that is obviously there is a need for compromise. There is concern about Soviet carriers. As an administration, we agree there must be protective measures. In order to institute such protective measures, you have to agree on regulations and the regulations do mean more control.

On the other hand, as a general matter, we would like less regulation in this administration, but there must be a balance there.

Mr. KYROS. Mr. Shefler, would you care to address the three points which the administration proposes specifically in the bill this morning?

First, that the controlled carrier's rates not below the rate of any nonconference carrier would be considered presumptively just and reasonable. Also do you see any problem in the definition of that so-called independent carrier?

You are aware of the colloquy earlier that it might be a part-time tramp? Do you not see a problem there for the FMC?

Mr. SHEFLER. I do see the problem, but I think it is one that, as regulators, they have to work out.

Mr. KYROS. Second, in regard to the proposal concerning conference rates and let us assume for the purpose of discussion that the conference rate is not an inflated rate. If the controlled carrier dropped 15 percent below, and the conference rates dropped to meet them, and the controlled carrier dropped another 15 percent, does that not pose another problem?

Do you know how to avoid this problem?

Mr. SHEFLER. I see your problem, but nonetheless, I support the provision. I believe that if the U.S.-flag carriers, or any other carrier who thought that the rates were predatory, would anticipate that double effort.

Mr. KYROS. You are the Deputy Assistant Secretary for Policy and International Affairs in one of the lead transportation agencies in our country, and you know something about cutting rates by 30 percent.

At this very date, the *M. V. Magnito Gorsk*, a modern Soviet roll-on/roll-off vessel engaged in the U.S. cross-trades is transporting

its second cargo of buses from Germany to Houston, Tex. These buses are subsidized by the U.S. Government through a grant from the Urban Mass Transportation Administration and are moving at a rate that is 30 percent below the published rate offered by available U.S.-flag carriers. The Soviet rate was not properly filed with the FMC and is currently under investigation.

In response to the chairman concerning the fact that 50 percent of the bus shipment was not made on U.S.-flags in accordance with the Cargo Preference Act of 1954, the Secretary of Transportation advised that he would urge the use of American-flag vessels as much as possible for the remainder of the bus procurement.

However, AM General Corp., the prime contractor providing the buses, has stated in a letter to UMTA dated March 29, 1978, that nowhere in the contracts was there a requirement for shipping the buses on U.S.-flag ships; consequently, the contractor was under no obligation to honor any such request.

Now, Mr. Shefler, as I understand it then, the Secretary of Transportation has already indicated to the chairman of this committee that he is highly concerned and unhappy about the transport of those German-built, Government-financed buses that he wanted some of them to move on American flags, and yet, since the contract is a fixed-price contract the contractor affords no relief.

What is the status? What are you going to do about it, Mr. Shefler? Is this of some concern to you?

Mr. SHEFLER. It is of some concern. I am going to have to find out. I am not certain what has transpired.

Mr. KYROS. Mr. Hufbauer, does it bother you if we purchased 400 buses with Government funds and do not carry any of them? Is it not inflationary that we maintain a merchant marine fleet for defense but do not carry any—

Mr. HUFBAUER. Yes.

Mr. KYROS. No further questions.

The CHAIRMAN. Mr. McCloskey.

Mr. McCLOSKEY. I do not think I have any questions at this time, Mr. Chairman.

I appreciated the witnesses' testimony.

The policy of deregulation, I will study it carefully. I am particularly intrigued that you would pick the Federal Maritime Commission to receive increased regulatory authority because of the difficulties that regulatory agency has faced with respect to foreign policy.

The old concept of an independent regulatory agency implied that it was independent of both the administration and of Congress. That is why it was independent. Political preference was neglected.

However, when we make it an instrument of foreign policy, it seems to me that we create a whole new policy of regulation.

Thank you.

The CHAIRMAN. Mr. Hufbauer, is there an inflation problem in the Soviet Union?

Mr. HUFBAUER. Yes.

The CHAIRMAN. What do you believe is the primary reason why the Soviets are rate cutting?

Mr. HUFBAUER. The question presupposes that they are rate cutting.

Today, I think, or over 5 years, I am not quite sure, I have read the report of the Commerce Department on this issue, and there are inferences of rate cutting from the expansion of the fleet, but I am not sure that your question refers to rate cutting this year, or over a period of 10 years.

The CHAIRMAN. Since 1971 we have had strong and convincing evidence presented to us by American carriers, nonsubsidized, incidentally, that have categorically described, and laid out for us the Soviet rates, the rates of their satellites, in comparison with the rates of American carriers and other foreign carriers, and it clearly indicates a rate-cutting practice to penetrate our trades and other trades, and as a consequence, perhaps you would like to let us know what in effect subsidizing their fleet has on the Soviet inflation.

Mr. HUFBAUER. I would guess that the effect of the Soviet subsidies on Soviet inflation is to contribute to existing very substantial inefficiencies in the Soviet economy and can do nothing but worsen the situation.

Now, on rate cutting in recent times, and by that I mean in the last couple of years, it seems to me that the general overtonnage with the slowing down of world trades since the oil events, crisis of the late 1973, is the principal cause in all countries. Regardless of the extent, magnitude, et cetera, of domestic inflation. The United Kingdom has had very substantial inflation since 1973 yet, from what I know, United Kingdom-flag ships have come down with their rates as everyone else has been forced to.

Mr. SHEFLER. I would like to respond to the comment that you made to Mr. Hufbauer about the shipment of the German vessels.

At the time those grants were made, it was the legal opinion of our Department that there was no legal mandate to impose a cargo preference requirement because the cargo preference law does not apply to grants.

I am convinced and absolutely confident that the majority of Federal judges faced with that question would agree with our Department.

But, more important, is the fact that the Maritime Administration itself had taken no clear position on that issue until the UMTA grantee procurement leading to the AM General purchase precipitated a formal legal opinion from the General Counsel of the Commerce Department.

Mr. KYROS. Well, that is a well-reasoned statement. I shudder to think of those Federal judges that you believe are as certain about the cargo preference laws as you are. There was a basic organic act that covered all Government impelled cargoes.

MarAd did put out regulations in 1971 after the 1970 amendment, which constituted MarAd as the lead agency for cargo preference. Those regulations talked about—and finally here is our point—our point is that there is a basic organic law, the Cargo Preference Act of 1954 that never changed.

The Congress passed only one law, and that has never been changed.

Now, I think when the Secretary of Transportation says he is going to see to it that these buses move on American-flags he realizes

that. We can argue over the niceties of the law and try to discover scapegoats which I think is unnecessary, or we can simply conclude that the act caused DOT to adopt and concur in the regulations of November 1977, which means that in this type of contract hereafter they will always put in a "ship American" clause. DOT did this because intelligent lawyers and able people realized what was there all along, in my estimation. That is where you and I might differ.

Is that not a correct statement?

Mr. SHEFLER. I am not the only one who would differ with you. I would read you from the opinion of the General Counsel of the Commerce Department dated April 28, 1977. He said that, "MarAd has never previously responded with any finality to the issue of whether or not the movement of import cargo, not directly for the account of Federal Government, might also be subject to [this cargo preference provision]." He was referring to grants. He was rendering a legal opinion on the subject brought about as a result of grantee procurements.

I am glad to note that you agree that there is ambiguity in this legal issue. My opinion rests on having litigated a good many cases on the grant procurement in the highway area, in the HUD area, and in the "buy America" area. I think I have a good sense of how Federal judges react to it. I feel confident that what our Department did and how they acted was appropriate.

As you indicated, MarAd acknowledged there was a need for regulation. We abided by that regulation, and we will abide by it in the future.

Mr. KYROS. I could agree with everything that you said, but first I would question any ambiguities. The 1954 act, organically and in purpose, provided that if a procurement was made with Federal funds it was going to be shipped 50 percent American. But we have urged repeatedly, and this committee has stated for 10 years now, that there must be a national cargo policy; DOT knows about it, and so does MarAd.

MarAd, since 1970, was going to be the lead administrator of it. You promptly fell in line when they said these grants are covered. There was no quibbling about it. No one said there are any legal niceties left. So there was some substance to the contention that the organic law carried that all along, but that is neither here nor there.

What is significant is that DOT is committed to moving at least 50 percent of these buses in the instant contract on U.S.-flag ships. That is really the issue, Mr. Shefler. I think, also that it is unseemly for the Magnitogorsk, after stopping at Cuba to bring Government-financed buses to Texas—if an American vessel were available; we should do more than pay lip service to section 101 of the Merchant Marine Act of 1936.

The CHAIRMAN. I would ask Mr. Corrado to send Mr. Hufbauer the relevant Maritime laws so that at our next hearings, as long as we are going to have the views of Treasury, and Mr. Blumenthal sends Mr. Hufbauer to represent him, he will be thoroughly familiar with them.

The committee will stand adjourned.

[Whereupon, at 12:30 p.m., the subcommittee adjourned.]

CONTROL CARRIERS

WEDNESDAY, APRIL 26, 1978

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON MERCHANT MARINE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 1334 Longworth House Office Building, Hon. John M. Murphy, chairman of the committee, presiding.

Present: Representatives Murphy, Ruppe and McCloskey.

Staff present: Ernest J. Corrado, chief counsel; Peter N. Kyros, counsel; W. Patrick Morris, chief minority counsel; Ronald K. Losch, minority counsel; Jack E. Sands, deputy minority counsel; and Elizabeth Coker, subcommittee clerk.

The CHAIRMAN. The subcommittee will come to order.

This morning we will continue hearings on H.R. 9998, a bill "To provide for the regulation of rates or charges by certain State-owned carriers in the foreign commerce of the United States, and for other purposes."

As I stated at the opening day of hearings on this bill, March 8, 1978, our objective in these hearings is to enact legislation which would preserve legitimate competition among all common carriers engaged in the foreign commerce of the United States and to stabilize the ratemaking practices of the carriers by forbidding predatory rate-cutting which will certainly disrupt our national trade.

At the first day of hearings, on March 8, 1978, we received testimony from several U.S. liner companies who uniformly supported this legislation as urgently needed to provide new authority to the FMC in order to review the tariffs of the growing number of State-controlled carriers in our commerce, and to intervene when rates are below a just and reasonable level.

On the second day of hearings, March 10, 1978, we received testimony in support of this legislation from the Federal Maritime Commission, the Department of Commerce, and Department of State.

On April 19, 1978, the third day of hearings, we received testimony from the Department of Justice, the Department of Transportation, and the Department of Treasury which represented the views of the administration.

In essence, the administration supported H.R. 9998 with the following qualifications: (1) The bill must contain a "zone of reasonableness" in which rates will be presumptively just and reasonable. Also, a State-controlled carriers' rates would be considered just and

reasonable if they were no more than 15 percent below conference rates. (2) Second, in the event a rate of a State-controlled carrier is not in any way comparable to another in the trade, it could not be suspended except after a full hearing before the Federal Maritime Commission.

Third, the President must be given authority to override the Federal Maritime Commission in regard to rates for "reasons of foreign policy."

Fourth, the Federal Maritime Commission should have no authority to prescribe minimum rates during a suspension period.

Fifth, the bill should include language to define much clearer the factors being taken into account by the Federal Maritime Commission when judging the rate in question of a State-controlled carrier with particular attention on "constructive costs."

Sixth, controlled carriers should not be required to file rate reductions 30 days prior to their effective date.

Seventh, the bill should require the Federal Maritime Commission to rule on suspended rates within 180 days.

Today we will receive testimony from the National Industrial Traffic League and the Great Lakes Commission.

Our first witness this morning will be Mr. George Avery, chairman, National Industrial Traffic League, Export-Import Maritime Committee.

STATEMENT OF GEORGE F. AVERY, JR., CHAIRMAN, NATIONAL INDUSTRIAL TRAFFIC LEAGUE, EXPORT-IMPORT MARITIME COMMITTEE

Mr. AVERY. Thank you, Mr. Chairman.

The CHAIRMAN. It is nice to have you again, Mr. Avery.

Mr. AVERY. It is good to be here.

On behalf of the league, we welcome the opportunity to present our views on the legislation this morning.

To briefly recap our written testimony, this is the third year that the league has participated in hearings on this subject, and the third year in a row in which we do appear to present opposition to the enactment of the legislation.

We understand that the objectives of H.R. 9998 are to provide a solution to the growing Soviet-flag participation as a cross trader in the U.S. liner trades. Our opposition to this proposed solution is in four parts.

First, H.R. 9998 would establish Government regulatory rate suspension authority in the U.S. liner trades. We would urge your committee to recognize that the international trading capability of U.S. industry will be severely handicapped if, uniquely in the world, commercially-negotiated ocean rate levels become subject to regulatory suspension.

Second, we oppose the concept that additional regulatory authority is required to administer the commercial validity of liner business practices of State-controlled carriers in the U.S. trades. We believe that the Federal Maritime Commission has sufficient existent author-

ity to ascertain whether rates are too high or too low, as to adversely affect American commerce. The league considers the U.S. flag liner fleet an integral part of American commerce, and believes this interpretation is fully shared by the Federal Maritime Commission.

The Federal Maritime Commission's recent initiation of investigations into Soviet liner fleet activity would appear to support our position.

Third, we oppose the concept that the rates freely negotiated between U.S. shippers and so-called State-controlled carriers are any more or less commercial than the rates freely negotiated with any other carrier.

We urge the Merchant Marine Subcommittee to recognize that freely negotiated rates reflect the rate level necessary to assure movement of cargo. Without affordable freight rates, there would be no commercial international transactions.

Fourth, we find a lot of difficulty with the tests for rate justness and reasonableness which are enumerated in this legislation. Ocean liner rates are basically commodity rates, rates established for specifically named commodities. It may very well be that other carriers in the trade might not have published a rate for the product listed. The rates, therefore, in comparison with the rates of another carrier under the trade might not be identifiable under the same name.

Or, the rates of other carriers in the trade for similar commodities, as the name commodity may be significantly lower than the named commodity rate; therefore, the use of other carrier rates could be considered only in the context of comparing the lowest rate offered of an entire commodity group.

Gentlemen, I would like to reiterate the statement I do not believe previously made before you in our earlier efforts in prior years, that we do not discredit the concern of the proper role of the Soviet merchant fleet as a cross trader in the U.S. trades. But we do oppose legislation such as H.R. 9998, that will add to the commercial regulatory scheme concepts that will inhibit the competitive capability of American industry in foreign markets.

Thank you.

[The following was received for the record:]

PREPARED STATEMENT OF GEORGE F. AVERY, JR.

My name is George F. Avery, Jr. and I am Director—International Services for Stauffer Chemical Company in Westport, Connecticut. I am appearing today on behalf of The National Industrial Traffic League to present the League's views on H.R. 9998, the "Ocean Shipping Act of 1977."

The National Industrial Traffic League is a voluntary organization of 1800 shippers, shippers' associations, boards of trade, chambers of commerce, and other entities concerned with rates, traffic, and transportation services of all carrier modes. It is the only shipper organization which represents all types of shippers nationwide. Its members include large, medium, and small shippers who use all modes of transportation and who ship all types of commodities. The League is not a panel or committee of a trade group, nor a spokesman for a particular commodity or transportation point of view, and it does not permit carrier membership.

The League's primary concern is to provide for the nation and all its shippers a sound, efficient, well-managed transportation system privately owned and managed.

To arrive at positions reflective of the broad range of shipper interests within the League, the League membership, at its annual and special meetings, considers, debates, and votes on actions to be taken. During its more than 70 years of existence, the League has frequently been spokesman for the nation's shippers before Congress on proposed transportation and regulatory reform legislation.

The League, as policy, feels that an absolute minimum of regulation in connection with ocean transportation in foreign commerce is desirable, because the complexity of international trade does not permit any one nation properly to exercise jurisdiction. Reliable, frequent, common carrier service, providing adequate space for shippers and consignees at fair and reasonable, stable rates, is essential. To achieve this, the League recognizes the need to support the principle of the ocean freight conference, but not to the extent of the elimination from world trade of reliable non-conference carriers who also provide a valuable service to shippers. Ocean freight conferences should not be permitted to require contracts to be binding upon any party other than the actual signatory. Contracts should exempt cargo on which the signatory shipper does not have the right to select the carrier, and on specific commodities when it can be established that circumstances justify commodity exemption, as well as all cargo in owned and chartered vessels to permit fair and legitimate use of them. No contract should place any undue administrative burden upon the shipper in connection with the shipper's relationship with a conference, nor should it place any legal burdens upon the contract signatory other than those which would ordinarily face the shipper under an ordinary commercial contract.

The League has participated for many years in maritime matters before Congress and particularly this subcommittee. During the 94th Congress, the League presented testimony before this subcommittee at the July 23, 1976 hearings regarding H.R. 14564, the so-called "Third Flag" bill.

We understand that the objectives of H.R. 9998 are to provide a solution to the growing Soviet Flag participation as a cross trader in the U.S. liner trades. The League opposes the provisions of H.R. 9998 for the following reasons.

First, it is the policy of the League to support an absolute minimum of regulation in connection with ocean transportation in foreign commerce. H.R. 9998 would establish government regulatory rate suspension authority in the U.S. liner trades. We urge the Merchant Marine Subcommittee to recognize that the international trading capability of U.S. industry will be severely handicapped if, uniquely in the world, commercially-negotiated ocean rate levels become subject to regulatory suspension.

Second, the League opposes the concept that additional regulatory authority is required to administer the commercial validity of liner business practices of state-controlled carriers in the US trades. We believe that the Federal Maritime Commission has sufficient existent authority to ascertain whether rates are too high or too low as to adversely affect American commerce. The League considers the U.S. Flag liner fleet an integral part of American commerce and believes this interpretation is fully shared by the Federal Maritime Commission. Recent initiation of investigations by the FMC into Soviet liner fleet activity would appear to support our position.

Third, the League opposes the concept that the rates freely negotiated between US shippers and so-called state-controlled carriers are any more or less commercial than rates freely negotiated with any other carrier. We urge the Merchant Marine Subcommittee to recognize that freely-negotiated rates reflect the rate level necessary to assure movement of cargo. Without affordable freight rates, there would be no commercial international transactions.

Fourth, the League does not approve of the tests for rate justness and reasonableness that are enumerated in Section 4(C)(2) of this legislation. More practically, ocean liner rates are basically commodity rates, i.e. rates established for specifically-named commodities. Other carriers in the same trade may not have published a rate for the product listed. Therefore, the comparative rate of another carrier in the trade may not be identifiable under the same name. Or, the rates of other carriers in the trade for similar commodities as the named commodity may be significantly lower than the named commodity rate; therefore, the use of other carrier rates could be considered only in the context of comparing the lowest rate offered of an entire commodity group.

The League does not discredit the concern regarding the proper role of the Soviet merchant fleet as a cross trader in the U.S. trades. However, the League opposes the provisions of H.R. 9998 as a solution.

As stated earlier, the League believes that the Federal Maritime Commission has sufficient existent authority to ascertain whether rates are too high or too low as to adversely affect American commerce. Additionally, the League strongly favors legislation to expedite the Federal Maritime Commission's regulatory agency decisions. At the League's 1976 Annual Meeting, League members adopted a new policy B-25, Reducing Time Lag-Regulatory Agency Decisions. It reads:

The League favors reducing time lag by transportation regulatory agencies on all matters under consideration and establishment of reasonable time limits for final decisions depending upon the complexity and type of proceeding.

At this most critical period in international trade, where the rapid proliferation of industrialization throughout the world is dynamically creating vibrant competition in every foreign market, every competitive shipping alternative must remain available to U.S. shippers if we are to successfully compete in foreign markets.

We appreciate this opportunity to present our views on this legislation and welcome the opportunity to answer any questions that you may wish to bring forward.

The CHAIRMAN. Thank you, Mr. Avery.

Mr. Avery, you just stated that the league does not discredit the concern regarding the proper role of the Soviet merchant fleet as a cross trader in the U.S. trades.

What is the proper role of the Soviet merchant fleet in our cross trades?

Mr. AVERY. I do not know, Chairman Murphy. This morning, coming down—excuse me?

The CHAIRMAN. That is your testimony.

Mr. AVERY. I said I do not discredit the concern. There should be a concern, speaking personally, I believe that answer needs to be addressed.

Coming down this morning on the airplane I read in the prior testimony before this committee, I believe it was a comment Mr. McCloskey made to the Department of Justice, I am not sure, in which he asked, or stated something to the effect that are we not dealing with a commercial matter.

Speaking personally, as a shipper, and knowing a lot of shippers in the United States, and representing the league before you, representing 1,800 shippers, I think that what we have been trying to say, perhaps ineptly, for the last 3 years, is that we do not judge the question at issue to be a commercial question. We think it is a serious—I happen to believe it is a serious question, involving foreign relations, national defense, security matters, and not commercial matters.

I believe that that strikes to the heart consistently to our objections to this and past legislation, because you are trying to change our commercial way, our commercial regulations, commercial matter of negotiating services and rates between carriers and shippers in our trades to resolve the problem of the role of the Soviet fleet.

The CHAIRMAN. Well, if you do not think H.R. 9998 is an answer, what is the answer?

Mr. AVERY. Some of us applauded previous Federal Maritime Commission Chairman Bakke's efforts to personally negotiate with the Russian Government.

The CHAIRMAN. Mr. Bakke conferred with me, and said, you have got to move. He said the FMC, could not solve the problem. So what do you do?

Mr. AVERY. How about Government negotiations with them?

The CHAIRMAN. Mr. Bakke tried that.

Mr. AVERY. How about a little heavier?

The CHAIRMAN. Mr. Blackwell also tried. We are trying to solve a serious commercial problem.

Mr. AVERY. I disagree that it is a serious commercial problem.

The CHAIRMAN. We have the ICC, to take care of our trade domestically. The FMC is supposed to keep American ocean carriers somewhere in the ballgame, in American trade.

Mr. AVERY. That is right.

The CHAIRMAN. Obviously they have not succeeded, and some members of this committee are greatly concerned about it, and feel if they cannot do their job, they should not be around.

Mr. AVERY. Perhaps as a member of the shipping community we could enter into some dialog, into the legitimacy of my idea that this is not a commercial idea.

The CHAIRMAN. We are past the semantics game. We are here to do something about it, and your experts in the league have been around a long time. They are not reluctant to express their opinion, but let us get a recommended solution. Expressions of concern are good to a point, but we have to find a solution to these problems, and we are asking you for a recommended solution.

Mr. AVERY. What I am first asking you, let us redefine the problem. I do not believe it is a commercial problem. I believe we have a problem in other areas involving the Soviet fleet.

The CHAIRMAN. Well, we have pretty good information, and intelligence that there is not only a commercial, but a strategic role that the Soviet merchant fleet does play.

Mr. AVERY. I would accept that, Mr. Chairman.

The CHAIRMAN. We can obviously meet the strategic problems, but we also have to meet the commercial problems.

Mr. AVERY. What commercial problems are there?

The CHAIRMAN. Ratecutting, lowering rates in a trade, noncompensatory rates.

Mr. AVERY. You mean the publication of a rate lower than a conference rate is called ratecutting, and de facto predatory?

The CHAIRMAN. No, but look what they did in the famous bus case. They had an \$11,000 per bus rates on file and they came in with an unpublished \$4,600 rate per bus.

Mr. AVERY. Versus a what rate, sir?

The CHAIRMAN. Versus a \$6,600 rate offered by a U.S. carrier.

Mr. AVERY. I understand the Commission is studying that question.

The CHAIRMAN. Oh, yes.

Mr. AVERY. And I am sure they will develop the facts.

As an aside, I noticed in reading Chairman Daschbach's comments before this committee, on this subject, he addressed the fact that Lykes had quoted a rate on that material of \$20,000 per barge, and that he indicated to \$6,500 a bus, which must mean three buses per barge. They run a large barge vessel operation, 800-ton size barges.

Currently, the cubic utilization of those buses meant that they could only put three buses in a barge. I do not really think that is the point. I think the point that we have to address is that we called a special meeting of our committee, because we respect our responsibility to appear before you and give you the best judgment that we have.

We have reviewed the views from members of our committee throughout the country to verify, have we ever experienced a situation where the Soviets have dealt with us as shippers in any other than a commercial, and pretty prudent like, businesslike matter, has anybody laid rates on the table and said how can you afford to back away from them.

The answer was a resounding no. We have not found them dealing in a predatory manner. I do not believe that we know that is to be the case. That is why I am saying is it legitimately a commercial question.

That is why we are trying to resolve this by the act of 1916, which in my judgment is a commercial act.

Mr. McCLOSKEY. Will the chairman yield?

The CHAIRMAN. I will be happy to yield.

Mr. McCLOSKEY. Mr. Avery, my problem with your testimony is where you say, and I quote, "as a policy the league feels that an absolute minimum of regulation in connection with ocean transportation in foreign commerce is desirable."

Mr. AVERY. Right, sir.

Mr. McCLOSKEY. Now, I assume you say that in part, because of the near unanimous view of the shippers that I have talked to, and whom you represent, the Federal Maritime Commission is almost incompetent in protecting shippers' interests, and in fact, has never shown a willingness to protect shippers' interest.

Mr. AVERY. That is not the reason we say so, no.

Mr. McCLOSKEY. It is the belief of most shippers that the Federal Maritime Commission exists and is compelled to protect the interests of shipping companies and not the interest of shippers. Is that not a fact?

Mr. AVERY. I will give you two answers—

Mr. McCLOSKEY. I asked a precise question. Is it not the attitude of most shippers that you represent, that the FMC's mandate and philosophy is to protect shipping companies, not shippers?

Mr. AVERY. Given that the mandate is the act of 1916, you could not answer that question in the affirmative.

Mr. McCLOSKEY. Pardon me?

Mr. AVERY. You cannot say yes to your question if their mandate is the act of 1916.

Mr. McCLOSKEY. The FMC came into existence in 1961 by Executive order to take over the regulatory portion of the 1916 act.

Mr. AVERY. That is correct, sir.

Mr. McCLOSKEY. Your testimony, in part, relies upon what the FMC is going to do.

Mr. AVERY. No, that is an incorrect assumption.

Mr. McCLOSKEY. The reason I intervened is I thought you said to Chairman Murphy that the FMC has undertaken a study of the

matter and you were satisfied that they were going to come out with a result that would be helpful.

Mr. AVERY. On the bus situation, yes. I do take that view.

Mr. McCLOSKEY. On the bus situation?

Mr. AVERY. Yes, sir.

Mr. McCLOSKEY. Do you have the same sanguine expectations that the FMC is going to protect the interest of shippers in the future if we do not change their statutory mandate?

Mr. AVERY. I do not believe their statutory mandate needs to be changed to implement the act of 1916.

Mr. McCLOSKEY. Well, then let me ask just the basic question.

Is the Federal Maritime Commission today responsive to the needs and interest of shippers?

Mr. AVERY. The needs of shippers is dramatically increasing and——

Mr. McCLOSKEY. Mr. Avery——

Mr. AVERY. And we have more need than ever to secure a dramatic helpmate through the FMC, but in the 14 years I have been in this business, every person in the Federal Maritime Commission has consistently laid before the shipping public that they are never there.

How in the hell can I help you if you never show up? Our needs are dramatically changing. We are in a vitally competitive world. We are beginning, on the shippers' side, to come to the Commission.

I am not ready to say that they have not acted. If you would, sir, speaking spontaneously, I personally was heavily involved in concern for emergency rate increase that was applied in the North Atlantic trades, and we asked the Commission for help, and they took it.

Mr. McCLOSKEY. Mr. Avery, you are one of the ablest witnesses that has appeared before this committee. You are a successful representative of a successful business, and a successful industry, and you know how to answer questions yes or no.

Mr. AVERY. All right.

Try me one last time, sir.

Mr. McCLOSKEY. Mr. Avery, when a witness does not answer a specific question, and gives an answer relating to a different topic, with examples going to different problems, the inference ordinarily, by accord, is that the witness does not wish to answer the question for some reason.

Mr. AVERY. Um-hum.

Mr. McCLOSKEY. Pardon me?

Mr. AVERY. Yes, go ahead.

Mr. McCLOSKEY. Do you remember my question?

Mr. AVERY. Would you repeat it for me?

Mr. McCLOSKEY. Would the Court Reporter read it back?

[The pending question, as recorded, was read by the reporter.]

Mr. AVERY. Yes, to the extent the shippers have come before the Commission to solicit their assistance.

Mr. McCLOSKEY. And how many shippers, to your knowledge, have gone before the Commission to solicit the Commission's assistance?

Mr. AVERY. Not too many.

Mr. McCLOSKEY. Under 100?

Mr. AVERY. I would have no way of knowing.

Mr. McCLOSKEY. A handful?

Mr. AVERY. I have no way of knowing, sir. Shippers participate before activities that go on before the Federal Maritime Commission, but I assume you are addressing questions on our initiation as individuals. Initiation on the part of the shippers soliciting their assistance, how many times has that happened, I have no way of knowing. I would not put that down myself as proof positive, that they are not worth talking to. I have not found that to be that way, no, sir.

Mr. McCLOSKEY. You do not feel that the underlying statutes that define the responsibilities of the Federal Maritime Commission need revision at the present time?

Mr. AVERY. I would like to see them revised, yes, sir, and in testimony in 11422, we hope to address that with you.

Mr. McCLOSKEY. 11422 is the closed conference bill. When are you scheduled to testify on that?

Mr. AVERY. May 18, I believe, sir.

Mr. McCLOSKEY. By May 18th, do you feel that the Council for the 1,800 shippers that you represent might possibly be able to present to the committee a new regulatory framework to the ocean shipping industry, which would present an absolute minimum of regulation in connection with ocean transportation in foreign commerce?

Mr. AVERY. I think our testimony will identify the specifics of that, yes, sir.

Mr. McCLOSKEY. I want to make the suggestion that if in the process of preparing that testimony you would consider the four bills, one of which we passed, and three of which we are considering, which play a part in that puzzle. The controlled carrier bill, the closed conference shippers' council bill, and the bill to abolish the Federal Maritime Commission, which at least would reduce the amount of Government regulation of the industry, which you feel is desirable.

Mr. AVERY. All right, sir.

Mr. McCLOSKEY. I would particularly appreciate it if you would address the question of what we do if we abolish the Federal Maritime Commission. What would we replace it with. What means should there be of providing due process to shippers who feel aggrieved by the practices of the shipping industry, either by lack of service, the quality of service, or the setting of rates. It seems to me that this is a magnificent opportunity for private business to do what business has always suggested was in the highest public interest, and which is reflected in your testimony. If we could have self-regulation by business, there would not be a need for Government regulation of those businesses.

You have addressed the problem of Russian practices.

Mr. AVERY. Yes, sir.

Mr. McCLOSKEY. It does not reflect very credibly on shippers in cases such as the United States vs Seatrain Lines and Ocean Equipment cases in the U.S. District Court for the Northern District of Ohio where a prominent U.S. shipper, knowing it was illegal to do so, happily accepted a rebate of 28 percent from a U.S. corporation engaged in the shipping business through a Netherlands intermediary

and a Hong Kong bank. Are you familiar with the several hundreds of U.S. shippers that are now under investigation by the Federal Maritime Commission?

Mr. AVERY. No, I am not, sir.

Mr. McCLOSKEY. For alleged illegal rebating.

Mr. AVERY. I find it very disquieting, and I did 2 months ago, to be painted into a posture of irrevocably being a representative of industry which is dishonest. I try to respond to you at that time that uniquely in the world, American industry, America has transport regulatory law, uniquely in the world, and all of us in this business practice that law, and we practice it in its observance, as I am sure you do, and the fact that people may have, anybody, acted in opposition to those laws, I refuse to accept being in the posture which you are again repeating to me, Mr. McCloskey, that I represent an industry, a group of people, whom you find unreliable in law.

You are saying you have got to remember who I represent. Did you not just say that to me?

Mr. McCLOSKEY. Mr. Avery, let us put it this way, if I may.

Three of the 13 major U.S. shipping companies have admitted wholesale payments of rebates.

Mr. AVERY. I have not seen the name of one company I know yet, one American industry that I ever heard of. I have seen the name, myself, of four or five importers in the United States, and if you would, sir, I would presume, myself as an individual reading it, that that is because they cannot get any cores from anybody overseas.

But I have not seen the name of any major corporation, or any major entity, who deliberately sat there and said, I will take a rebate for my company.

We also attempted to testify that we do not see anything wrong with the structure that we operate under, as requiring people to rebate, or accept rebates in order to trade. We do not know that. We do not feel that way.

Our industry is not perfect. It does require adjustments in its regulatory process, and we will address it before you on May 18, but there is nothing structurally wrong with it that forces them to cheat.

If you have got a cheater, nail them, Mr. McCloskey.

Mr. McCLOSKEY. The problem I have is who is to nail them? Is it the FMC in your judgment?

Mr. AVERY. Is it the Federal Maritime Commission that is an adjudicatory body, and they would have access to that? We said yes, we would support them to regulate that part of the law, precisely.

Mr. McCLOSKEY. But would you not concede that if rebating is widespread in the U.S. conferences, because we are the only conferences in the world that are open, but it is open conferences that have led to widespread rebating?

Mr. AVERY. No, sir.

Mr. McCLOSKEY. Is it the overtonnaging that has led to the widespread rebating?

Mr. AVERY. No, sir. I do not see anything structural causing any of it, and I do not think we know how much rebating there is.

Mr. McCLOSKEY. What disturbs me is that representing 1,800 shippers you would not know how widespread rebating is. Either it exists, or it does not.

Mr. AVERY. That is right. You found it very difficult 2 months ago to listen to me tell you that we do not experience offers for rebates. No, sir, we do not know that it exists in the business.

I personally, Mr. McCloskey, I do not know how the hell we got off on 9518 again, but I would assume that the basic fact of life is that throughout the world businessmen legitimately market their shipping contracts legitimately.

I would imagine American flag carriers have the answer to this question, and can tell you that when they are in the other end of the trade trying to get business to come back this way, do they have to negotiate each particular transaction, when back home, in the Federal Maritime Commission, uniquely in the world, they have a document called a tariff, with an effective rate, and they do not do that anywhere else in the world.

I have personally felt that is probably most of the cause for "rebating." And you do not have a country full of American companies staffed with crooks, negotiating under the table. Absolutely not.

Mr. McCLOSKEY. You oppose this bill because you feel the Russians have thus far dealt fairly with American shippers. At what point, in your judgment, would the national security of the United States be in danger by Russian penetration of the U.S. trade routes?

Mr. AVERY. I would have no way of knowing. We may have already passed it. Personal comment.

Mr. McCLOSKEY. Well, let us say that they are taking shipping 2.5 percent—what percent was it, counsel?

Mr. KYROS. The 2.5 percent overall share of the liner market in 1976 has increased to 3.1 percent for the first half of 1977.

Mr. AVERY. I would not disagree with the records that Mr. Daschbach presented here. He indicated as much as 13 to 15 percent on certain trade routes that they are enjoying. I find that personally damn disquieting.

Mr. McCLOSKEY. It is as disquieting to you as it is to us. Let us assume that we are in a confrontation with the Soviets around the world and their ability to exert commercial pressures on us and our ability to exert commercial pressures on them is part of the trade route war. If we know they want to earn hard currency in the long range, then the Soviet expansion depends on our limiting the means by which they can exert commercial pressure on us. If we say that no more than 5 percent of the foreign commerce of the United States should be carried on Soviet ships, not because we are unwilling to compete with the Soviets, but because we do not want to be caught in a position where the withdrawal of that shipping could interfere with our expansion of foreign trade * * * if that were the case suppose the chairman asked you what the remedy was to counter the continued expansion of the Russians. Let us assume too that they have learned the free enterprise system better than we have learned it and that they are not bothered with trade unions, and therefore the need to pay more than \$190 a month for their seamen or the cost of insurance.

Mr. AVERY. I personally, I would like to see some legislation, and I have been looking for it for 3 years, that would say that the Soviet merchant fleet can participate in the American trades to a specific percent, not to exceed a certain percent in any particular trade route whatever, but not, sir, in—and our total 3 year effort has been to say please to not solve that problem.

Add to our regulatory process, authority in this case to the Federal Maritime Commission to suspend rates, because paralleling that you also wish to add directly or indirectly, the concept that somehow there is a legitimate rate.

We are only dealing in simplistic terms, a commercial world. If somewhere in the world a representative of my company wires and says I can bid on x if you can move it for \$45, I do not want to be encumbered from worrying about where I might be able to find someone openly willing to move my freight for that \$45.

I believe our committee has had a lot of trouble with this aspect of this, and previous legislation, that would add regulatory process, and establish the fact that a controlled carrier's rates are somehow illegitimate commercially.

If indeed I was dealing with a controlled carrier who said I will haul it for \$45, no one wanted it, why could I not move it?

I would not like to see myself stopped from that.

Mr. McCLOSKEY. Have you made any study to ascertain whether your shippers would be hurt more by the inflated rates they might have to pay, if there were not Soviet competition, than they are presumably hurt by the fact that we are paying \$500 million roughly this year to subsidize our merchant marine to make it competitive?

Have you made any study of that?

Mr. AVERY. Yes, sir. I do not know whether you would call it a study. We sure as heck have discussed it intensely.

I am afraid we would respond, and tell you that we think the money that we are spending to support the American merchant marine is apparently effective, because they are doing better. They are getting more of our business.

We are working more closely together. We do not see short term, a perilous situation with the American merchant marine, long-term unintended, I think we all get into the theory, and we would all intellectually, but what has been said here?

Mr. McCLOSKEY. Let us take the American merchant marine on the west coast.

Mr. AVERY. Yes.

Mr. McCLOSKEY. Of the 1,800 shippers you represent, how many of them go through the west coast?

Mr. AVERY. I imagine most of them do, sir.

Mr. McCLOSKEY. Why is the PFEL in bankruptcy, sir.

Mr. AVERY. I do not believe because of the Russians, sir.

Mr. McCLOSKEY. If the chairman will permit me, what do you think is the reason for PFEL's bankruptcy?

Mr. AVERY. I do not know, but they have been in trouble long before the Russians ever came to the west coast.

Mr. McCLOSKEY. So it is your testimony that unequivocally the Russians did not have anything to do with PFEL's problems?

Mr. AVERY. I cannot say that it is the Russians.

Mr. McCLOSKEY. What about the other lines, States Lines, Prudential?

Mr. AVERY. Prudential is profitable. I do not know about States Lines.

We support both of them as a shipper.

Mr. McCLOSKEY. But you do not feel that any of the problems relating to the west coast shipping lines can be traced to the Russians?

Mr. AVERY. If they have competition, and the competition is flying a Russian flag, they have competition. That is all they have got. We see American-flag industry getting up off its duff and doing a job in the last couple of years. We see the percentages of our cargoes growing, because they are doing a better job, and we are reaching out.

Therefore, I do not see how it is really helpful for this discussion to save the American merchant marine for this. What we are here to say is what we have to have, an effective underlying transport system, reliability for the real objective, which is our international trade.

Mr. McCLOSKEY. I agree with you that the real objective is expanding our international trade, and that a reduction of regulation by our own regulatory bodies might allow that trade to expand even faster. It is difficult for our companies, under the severe regulation we expect them to cope with as well as for companies that for some reason are not under the careful scrutiny or within the power of the FMC.

Mr. AVERY. It is apparently a much greater problem to the carriers than to the shipper.

Mr. McCLOSKEY. But the conflict that I find in your testimony is that on the one hand you feel that the Federal Maritime Commission's intrusion hurts, and on the other hand, you feel it ought to be expanded.

Mr. AVERY. How expanded, sir?

Mr. McCLOSKEY. Well, you credit Chairman Bakke's trip to Russia as being a proper exercise of discretion on his part.

Mr. AVERY. Indicative of the kinds of solution to this problem; yes, sir.

Mr. McCLOSKEY. Would you not concede that to have the chairman of an independent regulatory agency, in effect, engaging in foreign policy negotiations, as a little bizarre?

You said yourself, in your testimony, you thought it was a foreign policy problem.

Since when have we designated the Chairman of an independent agency as our striking arm in foreign policy? Is there not a basic inconsistency with your testimony?

Mr. AVERY. [Shaking head.]

Mr. McCLOSKEY. No?

Mr. AVERY. I do not think so.

Mr. McCLOSKEY. What about the Department of State? We charged the President with conducting foreign policy under the Constitution. That is an executive branch function.

Mr. AVERY. Yes.

Mr. McCLOSKEY. It is not inconsistent to set up an independent regulatory body, which supposedly is free of executive branch influence, and congressional branch influence, and charge that body with

foreign policy, which may or may not run counter to what the executive branch's policy is at any given moment?

Mr. AVERY. Are you saying that you see the Shipping Act of 1916, as written, as having involvement in foreign policy?

Mr. McCLOSKEY. Bear in mind that the Shipping Act of 1916 did not contemplate an independent body conducting foreign policy. Our independent regulatory bodies are set up deliberately to be free of the influence of the Congress and the executive branch.

They are quasi-judicial bodies, are they not?

Mr. AVERY. Yes.

Mr. McCLOSKEY. And if so, is it proper to charge them with the conduct of foreign policy, which you have said is indeed this problem is a foreign policy problem?

Mr. AVERY. Yes; I am saying that I believe that what you are dealing with is a foreign policy problem, not a commercial problem.

I object to your dealing with this in the commercial area, which is the Shipping Act of 1916, in my terms.

Mr. McCLOSKEY. You and I are in agreement on that point.

Mr. AVERY. Fine.

Mr. McCLOSKEY. But in 1961, when we set up the Federal Maritime Commission as an independent body, it has tried to protect the American shipping industry from foreign competition that, in the Chairman's words, might be predatory rate cutting. Let us leave aside whether it is or not. How can an independent regulatory body protect American shipping in a foreign policy arena?

Mr. AVERY. I would assume, I am interested in a Federal Maritime Commission as protecting American trade, American commerce. I have no problem with the current regulation as written. Too high or too low, as to adversely affecting the American commerce.

I would think that they would conduct whatever studies, and take whatever action to energize whatever act the group in the Government is required to resolve the problem. It does not singularly give them the authority to solve the problem.

The CHAIRMAN. Mr. Kyros.

Mr. KYROS. Thank you, Mr. Chairman.

Mr. Avery, it is a pleasure always to see you before the committee, and to discuss the problem that the committee has before it.

On page 1 of your testimony, where you state the League is composed of 1,800 shippers, and shippers' associations, you state that the objective of this bill is to provide a solution to the growing Soviet-flag participation as a cross-trader in the U.S. liner trades.

That is not the case, George. You are saying here, in effect, that the purpose of this bill really is to stamp out the Soviets. That is not the case at all. It really is not.

The purpose of this bill is to prevent predatory pricing by controlled carriers.

Mr. AVERY. Yes, all right.

Mr. KYROS. Now, second, you repeat throughout your testimony that shippers in America—and I think it is a good concept—want the absolute minimum of regulation.

Mr. AVERY. Yes.

Mr. KYROS. In shipping.

Now, does that mean, on the one hand, no regulation at all, or does it mean regulation which does not affect freight rates? What does it mean when you say want a minimum of regulation?

Mr. AVERY. The National Industrial Traffic League, being an American organization, and when they wrote those precise words, I do not know, probably in relationship to what we have domestically, which is extensive regulation and authority in the Federal Government to suspend set rates.

We historically have not had that in the international trades, and we do not wish to see that initiated. We do not think that is a practical, effective way to go.

Mr. KYROS. Specifically, Mr. Avery, going back to the bill in front of us, what does absolute minimum of regulation mean? The most this bill would do, in the case, and only in the case where there were indeed unjust, unreasonable, and illegal—

Mr. AVERY. By whose definition?

Mr. KYROS. Follow me arguendo. Assuming a rate were really that low, that there was a predator on the high seas, and it has happened. Mr. Avery, then would you not want some kind of regulatory control over that practice?

Mr. AVERY. Yes, and I believe they already have it.

Mr. KYROS. Section 18(b) (5) of the Shipping Act, 1916?

Mr. AVERY. I believe they have it under rates, too high or too low to adversely affect our foreign commerce.

Mr. KYROS. As to be detrimental to the commerce of the United States?

Mr. AVERY. Thank you.

Mr. KYROS. A statute rider has been called entirely inappropriate—

Mr. AVERY. I missed that.

Mr. KYROS. A statute that has been proven inappropriate, in applicable, and has not been used successfully by the FMC for many reasons according to the former Chairman, Mr. Bakke, and according to the present Commission. The provisions have never been used on state-controlled carriers whose nonmarket economies create further difficulty in the area of data comparability.

You represent a group of shippers, shippers who are largely responsible for the export-import trade of the United States. You know there is a group in a wonderful country, Switzerland, known as the Swiss Shippers' Council. I do not know if you are aware of this, Mr. Avery.

The Swiss see this instant problem, too, as a great export nation. The Swiss shippers have organized as a Swiss Shippers' Council, and instead of looking at the short-term advantages of lower rates; they are considering the long-term problem, if indeed controlled carriers can undermine existing liner services with low rates and siphon off a great percentage of the trade.

Mr. AVERY. Yes.

Mr. KYROS. Who would the Swiss shippers have to look to in the future? What about this existing, well-developed network of liner services for the smooth handling of Swiss exports and imports? What about the problem in the future if Western lines are eliminated and the controlled carriers establish a monopoly.

We see a larger problem than just immediate one, but nevertheless, a problem that requires a commercial solution.

Mr. AVERY. Yes.

Mr. KYROS. Do you agree with that?

Mr. AVERY. Yes.

Mr. KYROS. Now, do you think then, from your testimony this morning, your testimony then I think is based on the fact that you believe that FMC now, using section 18(b) (5), has sufficient power to enforce its judgment about, let us say, "predatory freight rates"?

Mr. AVERY. You said to enforce its judgment?

Mr. KYROS. To enforce action against them.

Mr. AVERY. To investigate, yes, sir.

Mr. KYROS. Is it part of your premise that there is sufficient authority now vested in the FMC to meet the problem of controlled carriers?

Mr. AVERY. A strong part of our position, yes, sir.

Mr. KYROS. Now, George, did you notice the bill here itself, that H.R. 9998 is not self-executing?

If this committee and the Congress give the power to the FMC to exercise, in the case of unjust and unreasonable rates, a suspension, and then to institute an examination of the particular rates, the statute is not operative until and unless the FMC exercises the power that is granted.

The statute requires action by the FMC, so it is not self-executing, is that correct?

Mr. AVERY. The suspension portions have some actual action facets to it, do they not?

Mr. KYROS. It has some chilling effect to it?

Mr. AVERY. Absolutely.

Mr. KYROS. How?

Mr. AVERY. An offended carrier may bring to the Commission, and say, I suspend that rate, and to which that rate is suspended, which presumes a validity to all other rates. A validity beyond anything that we feel is a judgment, except what a shipper can pay, and what a carrier will accept.

Mr. KYROS. In your discussion, at that moment, you revealed a sharp difference between you and the committee, and let us look at it closely.

That is, that nowhere does the bill eliminate all low rates; what it does is that under section 4 of the bill it provides that the test for just and reasonable rates is not based exclusively on the other carriers' rates. One of the proposed tests is the carriers' costs, a vast difference.

Mr. AVERY. Yes.

Mr. KYROS. The carrier's freight rates are costs to the shipper.

Mr. AVERY. Yes.

Mr. KYROS. They are revenue to the carrier.

Mr. AVERY. Yes.

Mr. KYROS. But this criterion is based on cost. The difference in rates calls attention to the particular case.

Mr. AVERY. There are three test levels, and followed with an or, which says and/or not lower than required to move the cargo. I presume that is regardless of cost.

Mr. KYROS. No, always—

Mr. AVERY. If the Kyros factory had a \$20 freight bill they could pay, and found someone with an empty ship that could take it, then that would not be in conflict with this law. This proposed legislation.

Mr. KYROS. The issue is this. The tests that are given to the FMC—and you are right, they should be made discretionary, because the Commission might otherwise stamp out some carrier on the high seas—the main tests in Section 4 are based either partly or completely on costs. The Commission would have to compare costs of other carriers under similar conditions.

Mr. AVERY. But at that moment, sir, you are suspending the rates.

Mr. KYROS. At that moment you have to make a judgment, and you better be able to live up to it.

Is it a rumor or a fact that the FMC has been seeking out foreign carriers, and treating them in a discriminating manner? Does that situation obtain in our ocean trades?

Then why would the FMC, if they had this statute, not follow the law, and use it in those egregious cases where they thought they had the facts? In this bus lift which was discussed earlier, the issue is not that the Soviets are lifting the buses. The issue is that there is a cargo preference law which was not utilized.

Mr. AVERY. I understand that, sir.

Mr. KYROS. No one has determined over here that the bus rates were predatory. No one has yet made that finding. Even though now they are 30-percent lower than the American rates for the lift, no one has suspended the lift on that basis.

All I am suggesting to you is, in your testimony, have you really adverted to the idea that the judgments should be based on cost, instead of only rate comparisons?

Mr. AVERY. I thoroughly understand about the cost comparison, and I wonder if the committee understands the impression of steamship costs?

Mr. KYROS. That is another question.

Mr. AVERY. And did not the chairman, before you, say, after giving you pages of detailed rate comparisons, say he had no costs?

Mr. KYROS. You mean Chairman Daschbach of the FMC?

Mr. AVERY. Yes.

Mr. KYROS. If I recall his testimony, it was that it would be a difficult but not an insurmountable problem. You and I know must at times draw lines, and try to make up standards. If the world crumbled tomorrow morning, we should not let this problem go by because it is too difficult. It is a problem of fairness and mechanics to establish a cost system, a comparable cost system.

Now, let me ask you a few more questions.

One of the problems I see in your testimony is the proportion of your membership who are exporters in the foreign commerce of the United States. How many are exporters?

Mr. AVERY. I am sorry, Mr. Kyros, I do not think I can answer that precisely.

Mr. KYROS. Roughly. Thousands?

Mr. AVERY. We have, if we say correctly 1,800 members, including trade associations, and so on, I am going to guess that we have 300 exports or imports. That is a guess.

Mr. KYROS. Importers?

Mr. AVERY. Exporters-importers. People actively participating in international trade shipping or buying.

Mr. KYROS. Of these 1,800 shippers, exporters and importers, and other groups that are in your association, what percentage does it comprise of all U.S. associations, export and importers?

Mr. AVERY. Do we know that—no.

Mr. KYROS. Do we have any ballpark figure? Ten percent, one-third?

Mr. AVERY. I do not know. As a percentage of GNP. It is pretty high, sir.

Mr. KYROS. Do you know what the usual terms of sale of your exporter members are? Are they delivered at foreign ports or destinations?

Mr. AVERY. I have not conducted a study on that, other than our recent meeting, it was overwhelmingly confirmed that regardless of the business involved, the growing world trade competitiveness over the last 7, 8, 9, or 10 years, increasingly so in the future, shippers all over the world are required to provide delivered prices to shippers. They want it delivered to their door. So they would buy it from anybody else who would do the same thing.

Mr. KYROS. The U.S. exporter usually pays the freight?

Mr. AVERY. I would say that is an increasing reality.

Mr. KYROS. What about importers?

Mr. AVERY. I do not know. I think I could have one helpful comment to that.

In my personal exposure to executives operating in the steamship industry, I have heard that they basically work very hard to distribute their marketing expense in their company, in the countries who control the freights. I have heard some interesting figures, that in some outward trades, from the United States, as little as 10 percent is controlled in this country, all the way to 99 percent controlled. I think there is a provision as to who controls the freight.

I would assume the majority in growing so, by economic enforcement, is controlled in the United States.

Mr. KYROS. Do you have any figure of—

Mr. AVERY. On exports?

Mr. KYROS. Take a U.S. importer. What portion of the value of his imports is represented by the cost of ocean freight?

Mr. AVERY. I do not know, and I know it is not the least bit unusual in exporting framework, to be talking 10, 20, or 30 percent of the landed costs of freight.

It is a significant percentage of the international trader's landed costs.

Mr. KYROS. Testimony in the Senate recently at a hearing about a U.S. importer from the Far East, was that the ocean freight represented only 6 percent of the delivered, that is in the U.S., value of its imports. Does that sound fair?

Mr. AVERY. I would imagine if you were importing Swiss watches, the import rate is very small.

Mr. KYROS. Assuming 6 percent, however, for discussion of the cost, and assuming a difference in rates between Soviet or State-

controlled carriers, and U.S.-flag carriers of 15 percent, now that would be less than 1 percent, or 0.9 percent delivered cost of imports, is that right?

Mr. AVERY. I will follow that.

Mr. KYROS. What impact would that have on the selling price in this country on an import member of your association?

Mr. AVERY. What impact?

Mr. KYROS. Yes; that difference of less than 1 percent?

Mr. AVERY. It would probably have a comparable impact.

Mr. KYROS. It would have a comparable impact?

Mr. AVERY. Yes; comparable. Less than 1 percent, I would imagine, it would have less than 1 percent of the selling price.

Mr. KYROS. The same with the exporter?

If indeed I spread a 15-percent between the rates, assuming a 6-percent—

Mr. AVERY. Every single one of us lose business every day for the want of a penny a pound, a tenth of a cent a pound, and the unit cost is extremely competitive worldwide, and freight is a significant factor. We often lose business, sir, for the want of \$2 or \$3 a ton.

It seems extremely inept on our part, as marketers, but it is true in the commercial world today.

The CHAIRMAN. Mr. Ruppe.

Mr. RUPPE. Thank you very much, Mr. Chairman.

In outlining your opposition to the bill that has been introduced by the Chairman, have you had occasion to review the administration's suggestions or testimony regarding the legislation? As I understand it, the administration would support the bill, with certain qualifications, and I will outline a couple of them.

First, the bill must contain a zone of reasonableness in which rates would be presumptively just and reasonable. Also, the President must be given authority to override the FMC in regard to rates for, and I quote, "reasons of foreign policy". Finally, the FMC, under the administration list of suggestions, should have no authority to prescribe minimum rates during a suspension period.

There are several other suggestions offered by the administration, but in any event, would you support the bill if these suggested amendments were incorporated into the legislation? And do you have any comments and specific reference to any one of them?

Mr. AVERY. Mr. Ruppe, we would not support the bill with these amendments.

Mr. RUPPE. You do not like the bill?

Mr. AVERY. We do not like the bill, no, sir. We do not like the approach to changing our Shipping Act of 1916, to change the role of the shipping fleet as a cross trader in the U.S. trades.

Mr. RUPPE. Do you believe that Soviet bloc carriers charge rates that are lower than those charged by other independent carriers? How does the Soviet rate structure compare to the independent rate structure?

Mr. AVERY. My most precise comments can be a personal comment, that they act typically as an independent.

Mr. RUPPE. Over an expanded period of time, would you say their rates are about the same, higher, lower?

Mr. AVERY. A typical independent.

Mr. RUPPE. How would the Soviet rates compare with the independent carrier's rates?

Mr. AVERY. About comparable.

Mr. RUPPE. Did you say a few moments ago that you did not think that the Soviets were substantially increasing their percentage of carriage?

Mr. AVERY. No; I said the opposite. There was personal concern about that.

Mr. RUPPE. If they are increasing it, do you have any suggestions to offer this committee, through legislation, or practice, as to how this trend can be reversed?

Mr. AVERY. In some country to country negotiations, to limit their merchant fleet participation in our trades, not through the Shipping Act of 1916.

The CHAIRMAN. Would the gentleman yield?

Mr. RUPPE. Yes.

The CHAIRMAN. The gentleman brings up a point about comparing the controlled carrier with an independent.

Mr. Avery, would you express yourself on the staying power of the Soviet carriers versus the independent carriers, where they are, let us say, engaging in a subcost operation?

Mr. AVERY. The staying power?

The CHAIRMAN. Yes.

Mr. AVERY. You mean an intellectual exercise of how long they will do something for less than cost?

The CHAIRMAN. Yes.

Mr. AVERY. I do not find them doing anything for less than cost.

The CHAIRMAN. That is not the testimony that we have had from administration witnesses.

Mr. AVERY. What administration witnesses, Mr. Murphy?

The CHAIRMAN. The FMC.

Mr. AVERY. I read Mr. Daschbach's testimony very, very carefully. Very carefully, and he precisely stated he had no cost data. All he could quote before you were facts I would not question as to the fact that they quote rates, other than those rates quoted by American flag, and conference carriers, and some nonconference carriers.

The CHAIRMAN. Would you comment on the question that I asked about the relative staying power of the controlled carriers versus independents?

Mr. AVERY. The relative staying power of independents is a mixed situation. You find an awful lot of independents in a lot of trades who come and go. Some independents have been in our trades for years.

I would have no way of judging what the staying power is of the Soviet independents' posture in our trades.

I would assume as long as it meets their objectives they would continue to participate. But, Mr. Murphy, I am very sincere when I say I have not encountered, and none of our people have encountered rates that they look at and say I cannot believe them. Not at all, sir.

We have all encountered situations where, like other carriers, they have had to say no, sir, I cannot carry that for that price.

Mr. RUPPE. You mentioned government-to-government negotiations would be an avenue. Negotiations carried out between ourselves, and I presume our trading partners, in view of the fact that the Russians are essentially cross traders.

Mr. AVERY. Ourselves and the Russians. Government-to-government negotiation with the Russian Government, to limit their role, their activity in our cross trades.

Mr. RUPPE. You are talking about negotiations with the Soviets in terms of limiting their activities as cross traders.

Mr. AVERY. Yes, sir.

Mr. RUPPE. Can we negotiate with the Russians very readily without negotiating with our own trading partners?

Mr. AVERY. I would think so, yes.

After all, I would think we would be negotiating with them on a very small percentage of our trade.

Mr. RUPPE. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Avery, at what point, if any, should the United States become concerned at Soviet penetration into common carrier markets, into U.S. foreign commerce? Ten percent, 25, or 100 percent?

Mr. AVERY. I do not know, sir. I told you that my personal view is that I am concerned now.

The CHAIRMAN. Do you think that there is a position that the United States should permit themselves to get into, where we depend or rely on Soviet carriage?

Mr. AVERY. One of the thoughts I have had, in answer to that question, has been let us presume they are not serving any segment of the American market below cost. They might be underwriting business no one else wants. That might be even to our benefit. I do not know.

The CHAIRMAN. Let us go back to the *Magnitogorsk*, which carried articulated buses. You know that ship stops in Cuba, coming on its inbound voyage to the Gulf.

Mr. AVERY. No, I do not.

The CHAIRMAN. Would it make any difference to you, or your members, if it were shown that freight dollars that the U.S. shippers paid to a subsidizing carriage to and from Cuba—

Mr. AVERY. I think that supports our argument, Mr. Murphy, that this is not a commercial problem. This is a foreign policy problem, and a national defense posture problem, and a national security problem, not a commercial problem.

The CHAIRMAN. I think it is very clearly a commercial problem with, of course, obvious security undertones, not unlike some aspects of the fishing fleets.

Other questions?

Mr. McCLOSKEY. Mr. Chairman.

The CHAIRMAN. Mr. McCloskey.

Mr. McCLOSKEY. Mr. Avery, one suggestion that has been received by the committee as we have tried to grope with this problem echoes something you said earlier.

This suggestion has been made. We should authorize our carriers to enter into contracts in foreign countries, under local laws, and

customs, notwithstanding existing prohibitions with regard to our foreign commerce and our own Shipping Act.

Mr. AVERY. Yes.

Mr. McCloskey. In other words, we might consider amending the 1916 act, to say that on shipments out of this country, we do not want any rebates below filed tariffs?

Mr. AVERY. Yes.

Mr. McCloskey. But that on shipments into this country, where our carriers are competing with foreign companies and foreign customs that permit rebates, we might permit rebating.

What would be your opinion on that?

Mr. AVERY. A snap response sounds like a practical idea worth pursuing.

Mr. McCloskey. When I questioned you earlier on whether shippers were being properly served by the Federal Maritime Commission, I made reference to a letter from a paper company in the United States, and I want to read to you this quote:

As a small exporter of wastepaper, I find the greatest obstacles in exporting more of our company's commodities are the barriers placed before us, particularly with the high tariff rates.

We are as competitive, in many cases more preferable than other countries as a source of raw material, until ocean freight charges are added on. At that point cargo and ocean freight place American exporters in a noncompetitive position.

The only way our company can get into the ballgame is by the breaking up of conference rates and letting the free enterprise system find its own level.

The best example I could give is when a steamship company's representative stated to me recently, that they could ship two containers that would bring them revenue of some \$4,800 to \$6,800. Although we had possible bookings on 25 containers that would only bring them revenue of approximately \$37,000 to \$38,000, if they are to lower their rates.

What it really means is that the highly sophisticated goods manufactured in America will continue to be exported because they can absorb the high ocean freight rates, but the run of the mill cargo produced in America that is competitive worldwide, no longer can be exported due to the excessively high ocean freight rate tariffs currently assessed.

You mentioned that in some cases you felt that the availability of Russian shipping might actually benefit American foreign trades.

Mr. AVERY. The Russians, and they are plural in their organizational structure, have exhibited intense free enterprise and marketing efforts in the United States. They have worked hard with shippers, and they, I believe, have found a niche at both the high and the low, and throughout the spectrums, Mr. McCloskey, people who are in need of freight relief.

I assume that letter was one of freight relief. I assume that letter, if I understand it correctly, was one exhibiting freight relief. He is moving cargo. He is moving, and he can move at less expense, or more profit by another freight relief. Maybe profit to the business for him, I do not know.

In my own company, Mr. McCloskey, we have products that are as expensive as \$200 a ton, the product, or \$2,000 a ton. I have not—I obviously, the \$2,000 a ton product price can afford to pay a lot more freight. It is not as price sensitive in other cases as the lower priced products.

You would find most rate negotiation that goes on there in the lower realms, and judging that these people have been successful, they have not got whatever percent of each trade route that they participate in, they must have responded positively to many such situations.

Mr. AVERY. You know, when you look at something there, does that man give you a cost per container anywhere? Does it tell you where it goes?

You know, when people tell you they will handle things, that people will exchange costs, I would respect a carrier who, in a particular trade route needs a minimum of 20 foot box or x dollars to move something, and yet you will find many carriers in that trade route who will not quote you that price when you need it to make a sale.

Hence, independents, independent carriers, and people like us continually coming before you and saying we need them. We need them. They are a pressure point. They keep the other guy honest. They keep them going. They are an independent. We see these people as an independent, not as a predator.

Mr. McCloskey. I wish we could say they keep the people honest. They may keep them honest in the rates that they quote, but it has not been too good with respect to rebates.

Mr. AVERY. With whom, sir?

Mr. McCloskey. I am not sure yet. But we will be when we get the results of the investigation on that. You are right when you say they are cloaked with the presumption of innocence until proven guilty. But it does not hearten me too much that the Russians have hired as an agent in the United States, Mr. Arthur Novacek.

Mr. AVERY. I have worked with Mr. Novacek myself for 9 years, with three or four different companies, and never found him to be anything but honest.

Mr. McCloskey. Let me quote to you from the indictment.

Mr. AVERY. I understand it, sir. It takes two to tango.

Mr. McCloskey. I appreciate that, and in this case it took a U.S. shipper.

On or about June 29, 1972, Max Kay met with Gohlke, Arthur Novacek, Roger Skove, vice president of marketing of Seatrain Lines Container Division; and John J. Haggerty, Novacek's administrative assistant, at the offices of Seatrain Lines Container Division in Weehawken, N.J. It was agreed at this meeting that Tenna Corp. would ship all its freight from Japan (except for emergency situations) in return for receiving a 28-percent rebate.

There are further paragraphs in this indictment.

Mr. AVERY. I think I read that.

Mr. McCloskey. The president of Tenna Corp. knew that it was illegal, and instructed his company that it was illegal. But it was arranged. That is the individual that the Russians have hired.

Mr. Arthur Novacek, who you found to be honest.

Mr. AVERY. I have.

Mr. McCloskey. When this kind of document is published in the public record, then the questions of speculation that you and I have about the honesty of the industry are realized by a guilty plea of a company apparently acquired by the cooperation of Mr. Novacek in

some way, because he was not indicted, and did not go to jail, and did not pay a fine in this connection.

It is this kind of instance which compared to your testimony, would hope to lead you to believe that we are going to continue the inquiries. Not with reference to any one of your 1,800 clients, but there is some rebating going on by U.S. shipping companies, and the Russians have chosen to hire this particular individual as their agent in the United States.

If you will recall, when Chairman Bakke went to the Soviets and said, wait a minute, you are charging predatory rates, they said, we are not charging predatory rates because your rebates in some cases make rates lower.

Mr. AVERY. They made a strong case for that.

Mr. McCLOSKEY. Yes; they did. They made a strong case for that.

Mr. AVERY. We have a small, small steamship company, dominated by a very successful American flag carrier named Sea-Land, and perhaps they might have 15 percent of all the potential managerial talent of any new company coming into the United States might have, and thus we could find the same extension of guilt extended to anybody else they hire. Sea-Land has come forward and said they have done it.

What we are all anxious to know, so that we can participate in trying to resolve the problem, is to know the facts of the problem.

Mr. McCLOSKEY. We will try to help you as much as we can. You asked for the specific figures. This will be my last question, Mr. Avery.

The same writer from the paper company continued that letter as follows:

"To give you a better example of how American shipping to the European and Mediterranean areas are paying the penalty on ocean freight rates enforced by the steamship conference, I pass along this information:

"The Far East is approximately twice the distance as the Mediterranean, but shipping to the Far East costs approximately one-third less than shipping to the Mediterranean for our product.

"The ocean freight rate from New York or Boston to Italy on wastepaper is currently \$60 per ton, and now to go to the additional distance to Greece costs \$30 more, a total of \$90; this is approximately 50 percent more than the rate to the Far East, which is \$60 or less * * *

So they go twice the distance to the Far East, but charge 50 percent of the rate. I have talked with shippers in the San Francisco area, who time and time again have gone to the conference and been unable to get a response from that conference to reduce the rates to make their goods competitive.

So if we are considering this as you do, as a commercial problem, how do we solve that problem and give shippers some means before the Federal Maritime Commission, if necessary, or some other governmental body to solve this kind of a problem?

Mr. AVERY. How do we solve it? I think we energize and go to the Federal Maritime Commission.

Mr. McCLOSKEY. And as you say, you are starting to do that. Those shippers that have gone to the FMC for relief are being satisfactorily dealt with?

Mr. AVERY. It is beginning to happen.

Mr. McCLOSKEY. It is beginning to happen?

Mr. AVERY. Yes, sir.

Mr. McCLOSKEY. And may I count on, then, your testimony, that your league is encouraging shippers to go to the FMC, when they have this kind of problem?

Mr. AVERY. That is right.

Mr. McCLOSKEY. And on May 18, when you present your testimony, there will be solutions recommended, as well as descriptions to the problem?

Mr. AVERY. We will do our best, Mr. McCloskey. We will do our best.

The CHAIRMAN. Thank you, Mr. Avery, and before you go, if by the 5th of May you would communicate in writing to us any recommendations that you would have to solve what we obviously have outlined as a problem, a serious problem in American commerce, we would certainly appreciate that.

I notice that you state in your opening statement you oppose H.R. 9998. Will the league actively oppose this legislation?

Mr. AVERY. Yes, sir.

The CHAIRMAN. Thank you.

[The following was received for the record:]

THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE,

May 5, 1978.

HON. JOHN M. MURPHY,
Chairman, House Merchant Marine and Fisheries Committee,
Washington, D.C.

DEAR CHAIRMAN MURPHY: Pursuant to your request for suggested language regarding H.R. 9998, the "Ocean Shipping Act of 1977," I am showing below the language which the League's Export, Import & Maritime Committee prefers to that contained in H.R. 9998:

"Since commercial malpractice by state-controlled carriers in the US liner trades is unproven and, as we have testified, we believe to be unfounded, the League opposes H.R. 9998 which would amend the commercial liner trade regulatory legislation by adding government regulatory rate suspension authority in the US liner trades and by attempting to legislate what is a legitimate freight level. If the role of the Soviet liner fleet in the US cross trades is considered to be a threat to national security, we recommend that direct government negotiations be conducted with the Soviet Union to limit their participation to a scope not in conflict with the US national security."

Again, we are proposing that negotiations be carried out by a high level negotiator and the comparable official(s) of the Soviet Union. This would bring negotiations between the two countries on rates which may be in question to the top level of government.

Chairman Murphy, I was pleased to present testimony on H.R. 9998 and take part in the subsequent question and answer period. We are hopeful the aforementioned language has clarified the League's position.

Sincerely,

GEORGE F. AVERY, JR.,
Chairman, Export, Import & Maritime Committee.

The CHAIRMAN. Our next witness is Mr. James Fish. He was to be accompanied by Mr. William Cooley, Illinois Department of Business and Economic Development. I understand Mr. Cooley had a traffic accident on the way to the airport this morning, so he will not be with us. So his statement will be included in the record right after your statement, Mr. Fish, and if you will proceed.

**STATEMENT OF JAMES FISH, EXECUTIVE DIRECTOR, GREAT LAKES
COMMISSION, INSTITUTE OF SCIENCE AND TECHNOLOGY**

Mr. FISH. If I may, I would like to enter at least portions of Mr. Cooley's statements along with mine, if the time permits.

I am James Fish, executive director of the Great Lakes Commission. The Commission is an interstate compact agency of the eight Great Lakes States, established in 1955, and recognized by Congress in 1968 under the terms of the Great Lakes Basin Compact, Public Law 90-419. The member States are Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

The Commission provides an interstate form for identifying common problems, agreeing on courses of action, and then working to implement the common solutions. Our general activities are to assist in meeting water management and economic responsibilities in the Great Lakes Basin by cooperative interstate actions.

A major focus of the Commission has been and is to assure that adequate water transportation services are available to meet the needs of the area's industrial and commercial shippers.

It is our understanding that during recent years, U.S. carriers have been faced with serious economic problems. Formidable new competition has been presented by the growing presence of State-controlled merchant fleets.

Congressman Murphy has introduced H.R. 9998, on which we wish to comment today. As we understand the purpose of H.R. 9998, it is to eliminate predatory practices of the Soviet fleet and Eastern bloc countries whereby they undercut the established rates of conferences and U.S. carriers in trades where they are competitive.

The Great Lakes area recognizes the potential impact that noncompensatory rates of controlled carriers could have on U.S.-flag shipping. This problem, however, has not been experienced in our region.

A major difficulty has been getting an adequate number of ships into the area—no matter what the flag may be. Due to our unique physical limitations—the limited size of the St. Lawrence Seaway navigation system—and the seasonal character of service—carriers have been reluctant to commit to the Great Lakes link of trade routes—and some shippers have often seen fit to divert their cargoes to other port regions year around, regardless of relative cost of transportation.

We have seen in our area no evidence of the rate cutting and other discriminatory practices this bill is attempting to correct in our area. Therefore, we see no direct need for this special protection for our seacoast. However, we do recognize the problem, and would like to offer our suggestions relative to the pending legislation.

At this time I would like to move to some of the remarks of Mr. Cooley's testimony, if I may.

As you know, various labor groups, stevedoring companies, terminal operators, maritime associations, and seaports in the Great Lakes region have had continuing interest in this legislation and its predecessor proposals because the controlled carriers, which will potentially become regulated by this bill, represent a substantial percentage of our maritime trade. We are therefore grateful that you

have recognized our concerns for this important legislation. We also trust that this subcommittee will give serious consideration to the following proposed amendments to H.R. 9998.

We support and adopt the views and proposed amendment of the administration, as articulated by the Department of Justice and the Departments of Transportation and Treasury on April 19, 1978. Those proposed amendments thoughtfully strike at the major defects of the bill as originally drafted. More specifically, we endorse those amendments which would:

1. Define a zone of reasonableness in which rates will be presumptively just and reasonable.

Lacking a provision of this type, it is clear that a noncontrolled carrier, through powers granted to the FMC, could conceivably challenge and rechallenge any rate structure proposed by a controlled carrier. Either by petition or on the Commission's own motion, a controlled carrier could be subjected to multiple suspensions, and show-cause hearings for each successive proposed rate.

Faced with such potential threat to their tariff authority, it is foreseeable that the initiative and resolve of controlled carriers to call at Great Lakes ports would be substantially reduced.

Unless some rate level exists at which a controlled carrier can be assured of tariff authority, it might sensibly choose not to labor through administrative quagmire and unnecessary delay in the United States, particularly if it can operate without such impediments in other international trade routes.

The CHAIRMAN. Mr. Fish, why do we not turn to page 3. That is generally administration language. Turn to page 3, and get to the additional amendments that the Great Lakes Commission might deal in.

Mr. FISH. All right. Thank you, Mr. Chairman.

In addition to those amendments proposed by the administration, the Great Lakes Commission proposes to add two additional amendments.

1. The bill should not apply to controlled carriers unless they are in direct competition with U.S.-flag vessels.

The primary purpose of this legislation is to curtail present and prospective predatory practices of controlled carriers which serve to undercut the rates of U.S.-flag vessels in trades where they are competitive. Though the problems and practices which inspired the bill exist in the Atlantic, gulf, and Pacific trade routes, though they affect the other three coastal regions of our country, there is no demonstrable need or purpose to impose the bill upon users of the Great Lakes.

Unlike the other three tidewater coastal areas in the United States, the Great Lakes is not overtonnaged with American-flag vessels which are suffering economic hardship at the bow of other nations.

To the contrary, during 1977 less than 2 percent of the total service to and from the Great Lakes was carried by American bottoms. This insignificant representation has nothing to do with predatory undercutting by competitors, and it is not caused by the same maritime principles which affect other regions. It is explained, rather, by the

unique limitation of the American merchant marine and Great Lakes system.

As I mentioned before, we have unique limitations of physical size and seasonal use, and because the size of the St. Lawrence Seaway will not economically or physically accommodate the containerized vessels of the American fleet, the smaller available vessels of other countries choose to serve the Great Lakes. No legislation can change those facts.

It is the primary threat of this legislation that the controlled carriers of the Great Lakes will become unnecessarily regulated, and harassed until they pack up their gear and go elsewhere. They have limited company resources to afford the legal representation and political muscle needed to defend themselves against the power bloc of conference carriers.

This legislation should be written to restrict its application to the specific needs and problems of the other coastal trade routes. When the bill is so limited, a major fear of the Great Lakes is substantially reduced. We therefore suggest that the subsection 4(c)(5) be amended to read as follows:

The provisions of this subsection do not apply to rates, fares, charges or classifications governing the transportation of cargo by a controlled carrier which offers or proposes to offer transportation services which are either: (i) in a trade where no carrier under registry of the United States provides similar transportation services, under similar transportation conditions of carriage, and under similar tariff descriptions between the same points or ports over the same route; or (ii) between the country by whose government it is owned or controlled, as defined herein, and the United States, or any of its districts, territories or possessions.

2. The bill should provide the FMC power to obtain all information which may be necessary to determine just and reasonable rates.

There is little doubt that the FMC, in addition to controlled carriers, will be subjected to a new and difficult administrative burden by enactment of this proposed legislation. H.R. 9998 proposed to measure "just and reasonable" rates by using criteria, among others, which returns a fully compensatory cost to the controlled carrier and/or compares the rate of the controlled carrier with the rate assessed by other carriers in the same trade. Neither criterion, however, may be possible to quantify. Both may be unworkable to apply.

Your comment earlier reflecting the chairman's remarks indicated it would be possible to do these things.

In order to learn if the actual rates of a controlled carrier are fully compensatory, the FMC will have to create some hypothetical formula or fixed and variable costs which can be compared to free world economic principles. No such formula now exists.

The actual costs of Russian capital expenditures for construction and operation are very complex to determine, and may not be translatable into understandable U.S. currency. Moreover, there are certain economies of scale inherent in centralized planning and management which justify the lower costs of providing a service, but defy exact economic valuations.

It is therefore likely that the FMC will have to place a greater reliance upon the criterion of rate discrepancy between the controlled carrier and competing carrier in order to determine "just and

reasonable." But rates of the controlled carrier cannot be compared to its U.S.-flag competitor alone, because Congress already knows that many of the U.S.-flag rates are being subsidized by large annual operation differentials.

Also, in order to know if the different rates of the controlled carrier are just and reasonable in comparison with other rates in the trade, there should have to be some cost evidence develop about all carriers offering higher or lower rates than the controlled carrier.

But no provision of the bill empowers the FMC to acquire such comparable constructive cost or ratemaking data from competing vessels. Not all foreign carriers maintain cost records in the United States, and some have traditionally resisted allowing FMC to have access to such confidential information.

We therefore suggest that a new section be added to read as follows:

Within 60 days following the enactment of this section, all carriers engaging in the foreign commerce of the United States shall maintain a registered agent in the United States, and upon request of the FMC, provide the Commission with any business data, record, documents or other information which the Commission deems necessary in order to determine whether the rates, fares, charges or classification of a controlled carrier are just and reasonable.

This concludes my prepared remarks. Again, I thank you for the opportunity to make them, and I invite any questions you may have at this time.

The CHAIRMAN. Thank you, Mr. Fish.

Mr. Ruppe?

Mr. RUPPE. I have no questions.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. McCloskey?

Mr. McCLOSKEY. Mr. Fish, is your first amendment necessary to our bill as presently written?

Mr. FISH. I believe the basic issue in the amendment is an issue related to standing. Who may directly challenge a rate. This is a concern that has been brought to my attention, that carriers who could propose a service to the Great Lakes, but not necessarily enter actively into that service, could challenge the rates of those carriers, controlled carriers or otherwise, now serving, and so it is a concern that our people wish to have expressed rather directly.

Mr. McCLOSKEY. But you are saying that if a carrier were to object to a controlled carrier's rates, it would have to be one already in the business, in the Great Lakes, and not on that was thinking of entering into it?

Mr. FISH. That is right.

Mr. McCLOSKEY. Could I ask counsel if that is the case under our bill as presently written?

Mr. KYROS. H.R. 9998 as presently written, provides that the Federal Maritime Commission on its own motion or petition can bring an action.

Presumably, any other carrier could complain to the FMC of rate differences, Mr. McCloskey, that were unreasonable and the FMC could act.

Mr. RUPPE. There is a concern, as he has well stated, that someone could object to the rates of the Soviet operator on the Great Lakes

without having to offer substitute service himself, and simply drive the Soviet vessel off the lakes.

So I think the amendment is needed to prevent harassment, and to insure that we will actually have some type of service on the lakes, because at the present time, if the Soviets were driven out of the Great Lakes, we would not have comparable service that we have today.

So I think the amendment is needed to protect the shipper community in the Great Lakes.

Mr. McCLOSKEY. But the administration's proposed amendment No. 4 does say that. It says:

Fully compensatory to the carrier, based upon that cost, or constructive costs, which are hereby designed as the cost of another carrier, other than a controlled carrier operating similar vessels and equipment, and offering similar transportation services under similar transportation conditions over the same ports and routes.

How do you determine if this is the point that you make? That no other carrier is engaged in the trade, you have no basis to test the Soviet costs?

Mr. FISH. If no other carrier is there, there is no basis to test the cost, that is correct.

Mr. McCLOSKEY. In that circumstance, you do not think any other carrier ought to have the right to challenge? What about the FMC?

Would you give the FMC the right to challenge?

Mr. FISH. Can we deny them that right, in terms or normal and—

Mr. McCLOSKEY. If there is no competition, what does it matter?

Mr. FISH. Yes. We are interested in having service in the Great Lakes. We have not received service from U.S. carriers. We are concerned that, and it has happened in the past, with regard to certain shipments that have been paper rates filed, which in fact create what we would consider an unnatural diversion of cargo to other port ranges, and we see the issue of standing, whether or not a given carrier may challenge an existing rate of a controlled carrier as a serious concern, if that other carrier is not either actively in the service at that point in time, or fully committed to being in that service.

Mr. McCLOSKEY. I understand your position. It is very clear, and it seems appropriate to me. You do not want a Soviet carrier to pack up and go home, if he is faced with serious challenges. You would like to remove that.

Mr. FISH. That is correct.

Mr. McCLOSKEY. Mr. Fish, could you bring the committee up to date on what the present situation is in Great Lakes' shipping? What kind of cargoes are being transported to and from Great Lakes ports? Whose ships are carrying them? What is the precise situation?

Mr. FISH. The cargo distribution, Representative McCloskey, I am not particularly sure of. We anticipate going into some differences this coming year, due to the trigger pricing of steel, that mechanism. That is a concern to many of our port people.

In terms of the total number of ocean vessel trips into the Great Lakes, over the past season, 1977, was 944 vessel trips into the lakes. Of that total, and we did a short breakout for the Soviets, Yugoslav, and Polish registry ships, that was 114 units.

Mr. McCLOSKEY. Of the 944?

Mr. FISH. Of the 944.

Mr. McCLOSKEY. How does that break down by tonnage and value?

Mr. FISH. I cannot give you that. I will attempt to provide that information for the committee.

Mr. McCLOSKEY. What are the products generally that they are offering carriage for competitively that you do not have U.S. ships wanting to carry?

Mr. FISH. They have been carrying grain, for instance, on three Lake Michigan ports, they have carried, in terms of vessel trips, they have gone as high as 38 percent of the vessel trips, at a given Lake Michigan port.

Mr. McCLOSKEY. Is that under the Russian grain agreement?

Mr. FISH. The specifics of those trips I do not have. What the specific cargo was on any given ship.

Mr. McCLOSKEY. Is that something that you can furnish us?

Mr. FISH. I will try to. I will inform you as soon as I can, one, whether or not we can, and two, when we could.

Mr. McCLOSKEY. If you could, I think it would be helpful to have for the committee's record, the 1977 season and of the grain shipments, which if any, were under the Russian agreement. What the nature of the cargoes carried, and their respective values, such that you can give them to us.

Thank you.

Mr. CORRADO. Would you yield, Mr. McCloskey?

Mr. McCLOSKEY. Yes.

Mr. CORRADO. Mr. Fish, I think, if possible, what the committee really needs is percentage of exports/imports out of the Great Lakes, with respect to liner cargo, and bulk commodities.

This bill that we have before us relates only to the liner trades, and I think the significant thing we are looking for is how much of the Great Lakes cargo is liner exports and imports, and how much is bulk.

That way, then, we will have a better idea of the impact, if any, of this bill on the Great Lakes carriage.

Thank you, Mr. Fish.

The CHAIRMAN. Mr. Kyros?

Mr. KYROS. Mr. Fish, your concern is indeed well stated for the Great Lakes. However, the bill, as written is not precisely similar to those third flag bills that were before the committee 2 years ago.

H.R. 9998 provides that the Commission, upon whatever facts are given to it, or whatever facts it finds, may move in regard to the reasonableness of rates. So it is not a case of someone having on file tariffs that are inactive, and then being able to complain about the rates in the Great Lakes.

But apparently you see some problem there that gives you great concern.

Mr. FISH. It is a continuum, sir.

Mr. KYROS. It was not the intent in the bill, and perhaps that should be clarified, namely that the rates could be compared against anything, other than the immediate rates in a particular trade.

Mr. FISH. OK.

Mr. KYROS. And if there were not an immediate carrier, it would be doubtful, as a matter of practicality, whether there could be any complaint, because it is impossible, it seems to me, to have rate cutting against a noncarrier. If there is no carrier to cut rates against, unless you are cutting against railroads—you cannot be cutting rates in the usual sense of the word.

Then finally, it is my understanding that with the administration's amendment, you would favor the bill otherwise?

Mr. FISH. We would find that that, those amendments would appear to protect the interests of the lakes, while maintaining some of the basic principles of the bill, which the chairman has presented, yes.

Mr. KYROS. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Further questions?

Thank you, Mr. Fish. We certainly hope that Mr. Cooley is in a satisfactory condition.

Mr. FISH. I do, too.

The CHAIRMAN. The committee will stand adjourned.

[Whereupon, at 11:58 a.m., the subcommittee adjourned, subject to the call of the Chair.]

CONTROL CARRIERS

WEDNESDAY, MAY 3, 1978

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON MERCHANT MARINE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:02 a.m., in room 1334 Longworth House Office Building, Hon. John M. Murphy, Chairman of the committee, presiding

Present: Representatives Murphy, Dingell, de la Garza, Akaka, Pritchard, and Emery.

Staff present: Ernest J. Corrado, chief counsel; Len Sutter, counsel; Peter N. Kyros, counsel; W. Patrick Morris, chief minority counsel; Ronald K. Losch, minority counsel; Jack E. Sands, deputy minority counsel; and W. Bernard Winfield, clerk.

The CHAIRMAN. The subcommittee will please come to order.

This morning we will continue hearings on H.R. 9998, a bill, "To provide for the regulation of rates or charges by certain State-owned carriers in the foreign commerce of the United States, and for other purposes."

As I stated at the opening day of hearings on this bill, March 8, 1978, our objective in these hearings is to enact legislation which would preserve legitimate competition among all commoncarriers engaged in the foreign commerce of the United States and to stabilize the ratemaking practices of the carriers by forbidding the establishment of rates or charges at a level below which commercially motivated carriers could not compete for any sustained period of time.

This is our fifth day of hearings. Previous testimony reflected strong support of the bill, while other witnesses expressed serious reservations about the possibility of detrimental effects to American shippers.

Representatives of U.S.-flag carriers were uniformly in favor of an unqualified consensus on the need for legislative action. They expressed the belief that our regulatory statutes conflict with the promotional objectives of our Shipping Acts, and look to this bill as a means for bringing some degree of equality between U.S.-flag carriers and certain State-owned carriers.

The testimony by representatives of shippers' associations recognized the concern for the increasingly expanded role of the Soviet merchant fleet as a cross-trader in the U.S. liner trades, but expressed the fear that the additional regulatory authority required to

administer the proposed legislation will adversely affect the ability to achieve freely negotiated rates between shipper and carrier.

The view of the administration was expressed by the Departments of Justice, Transportation, and Treasury, who supported H.R. 9998, subject to the adoption of seven amendments which I listed in the opening statement of the hearings on April 26.

Today we will receive testimony from Dr. Robert Kilmarx, and receive additional material from the Federal Maritime Commission.

The first witness this morning will be Dr. Kilmarx, who is director of business and defense studies at Georgetown University's Center for Strategic and International Studies.

STATEMENT OF ROBERT A. KILMARX, DIRECTOR OF BUSINESS AND DEFENSE STUDIES, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, GEORGETOWN UNIVERSITY

Mr. KILMARX. Thank you, Mr. Chairman, gentlemen.

I have had the privilege of working for many years in the Defense Department and the Intelligence community. During that period I worked intensively on such problems as costing Soviet goods and services, and in monitoring the behavior of the Soviet Union as an international competitor, and learning as best I could from this about the nature of the Soviet system, and how it compares to ours, in economic affairs.

Subsequently, I had opportunity to discuss Soviet strategy and tactics on a number of occasions in Moscow with the members of the Soviet Academy of Science and with advisers to the Soviet Government.

Also, I had the benefit of an opportunity to do some research in the field of the third-flag bill, the predecessor bill that was once under consideration to provide some measure of relief in view of the problems of rate-cutting.

So it is on the basis of this experience that I appear before you today, and hopefully will make some contribution to your deliberation.

First of all, I would like to say a few words about the Soviet Union as an international economic competitor, and the relevance of applying definitions taken from our own kind of trade and commercial practices in reference to Soviet behavior.

I recognize, of course, that we, of necessity, must find manageable definitions. I nevertheless, would like to expound a bit on the Soviet view of the world, their view of competition with the West, and their view of the merchant marine.

As you know the word "predatory" has come before us as a guide-post perhaps to be used in determining whether or not Soviet behavior is reprehensible and acceptable, in an effort to establish legal guidelines. I find this word most inadequate as an operable standard, in reference to Soviet behavior. But I will leave it to your judgment as to whether we are using a broad enough definition of the word, if we apply it in this context.

In my judgment, the definition that we are using, that is, pricing below cost to drive out competition, does not take into account the

nature, the objectives and the practices of the Soviet political and economic system. This system has the capabilities to exploit the liberalities, the vulnerabilities, the contradictions of selected sectors of the international economic system of the free world in order to further its goal, which is, to contribute to a more favorable correlation of forces, to use their term, in the interest of the Soviet Union.

This the Soviet Union has done, and is doing in the ocean trades of the United States. The quality and the extent of its carriage, and the concomitant disadvantages that must be borne by competitor U.S. shipping companies and the U.S. national defense interests are determined by political as well as economic decisions with the political factors dominant.

The state-owned and managed shipping companies of the Soviet Union can and have set rates in particular trades that influence the viability of particular competitors in those trades. They influence the dependency of foreign shippers on its services and foreign interests on their practices. They influence the competitiveness of particular exports, and the trends and patterns of exports and imports in selected trades.

Also affected is the incidents and the degree of Soviet dominance in the transportation of military, electronic and other high value cargoes, thus the influence the capabilities of the United States to have an adequate merchant marine to defend itself and its allies in times of emergency.

Gentlemen, in my judgment, Soviet penetration into U.S. trades is, by definition, characterized by the exploiting of others, preying upon others. It is therefore predacious, it is therefore predatory. There intent goes far beyond driving out commercial competition.

High value cargo skimming is a demonstrable Soviet practice that is particularly damaging to the economic health of U.S. shipping companies that have been heretofore without legitimate counter weapons to defend themselves.

I would like to point out that my research on the latter point reveals that the dominance of foreign flag ships, including state-controlled, in the carriage of strategically important raw material imports into the United States by liners should be a matter of concern. I do not believe there has been testimony on this point.

We have an extensive research program at my center which continues to reveal Soviet objectives in the resource area which are pertinent to this bill.

The CHAIRMAN. Dr. Kilmarx, we have had testimony, but in closed session, to that effect, but not in relation to the markup of this bill. It was in an overall intelligence briefing on the intrusion of the Soviet strategic movement involving their merchant fleet elements.

Mr. KILMARX. Thank you, Mr. Chairman.

I have brought for the record here, the open record, some percentages of the carriage in our foreign trade by foreign liner ships of significant strategic raw materials.

I might point out that if we select particular levels of carriage by Soviet-bloc ships as acceptable to us, whether the level of Soviet or East European carriage is 10, 15 or 40 percent below conference rates,

we must recognize the artificiality of the yardstick we are using. We must be very mindful if we use artificial yardsticks and presume that they are real, that the use of such yardsticks, serves our objectives. We must estimate its economic and political impact. We should study the matter well in advance of acceptance.

It would be, indeed, unfortunate in the interest of simplicity or convenience to use the yardsticks that result in detrimental effects on maintaining a strong U.S. merchant marine, and fulfilling the law in regard to the requirements of our Nation set forth by our Congress for a strong merchant marine.

I would like now to turn to the alleged inflationary impact of H.R. 9998. As I pointed out, we made an intensive study earlier of this subject in connection with the third-flag bill, first noting the low sensitivity of consumer price changes to changes in shipping rates. Then we examined various ocean freight shipping rates, and the effect of changes in these rates on the Consumer Price Index.

I will not attempt to go into detail about our methodology. It is straightforward but it is a little complex to summarize in a few paragraphs. You will find it set forth in the record with an example.

The bottom line, however, is that the impact of using conference, or lower nonconference national shipping rates versus third-flag rates accounted for a reduction of only 0.21 points in the CPI weight. We looked at a large percentage of the weights in the CPI that were affected by imports.

The overall percentage at the time we made our study was 0.37 percent impact. Now, that would be based on certain unreal assumptions which we had to make in order to ban a manageable product.

One is we had to assume totally complete passthrough of any savings to the ultimate consumer. We will address that point subsequently. Of course, we are now dealing with a bill that is much more rapier-like in its focus in regard to its impact, more limited in scope, one that of course would not have the effects that the third-flag bill would have had.

In working with this, we find that the impact would be indeed miniscule, insignificant in the short run in regard to our inflation. Of course, this is taking a very shortrun view of inflationary impacts, which is what we should not do. We need to look to the long-term effects on our economy of this bill, or the lack of such, prepared legislation.

Of course, it is to be recognized that total passthrough is not likely to occur for many, many factors, as we recall that the percentage of shipping rates to total cost of consumer goods is maybe 2 percent, 3 percent, or less. There are many other considerations to take into account. Prospective changes in many rates would not have a perceptible impact.

Use of the FAK, for example, would avoid a sustained impact on inflation from rates affecting a particular commodity or good. Certain practices of companies involved would prevent passthrough. They have to take into account competitiveness, elasticity of demand and supply; many other considerations must go into the calculus of what the prices should be, what prices should be set.

So in effect, if relief is denied U.S. shipping fleets on the factious grounds of alleged inflationary impact, it will not be to the benefit of the consumer, it will not be to the benefit of the United States, or to the goals of the United States in the long run.

In absence of the relief, partially provided by this bill, U.S. shipping companies will face further declines in profits. They will be forced to seek relief by increased rates on trades in which they do not face cut-rate competition. They will have to revise downward their capital investment plans. They have, in fact, done so already because of the burden they have borne. For example, they will have to revise downward ship and equipment replacement plans, resulting in a decline in future productivity. This in the future will result in a decline in U.S. employment. The companies will need higher prices to stay viable, or bankruptcies will be faced. There will be a further ripple effect in the economy because of this.

Clearly, the effects of the present trend are inflationary. With U.S. firms at a competitive disadvantage, the Soviets can reappraise trade route penetrations from time to time. They can do it in a selective way, and they can change their rates further to drive out more competition, or to realize other objectives of larger Soviet policy.

Believe me, gentlemen, my experiences in Moscow convinced me that in such matters the Soviets are sophisticated, and they do judge the level of political tolerance in the West when they undertake such a campaign.

The end of the line for the Soviets is dominance. This, in principle, could lead to the point of oligopolistic dominance of segments of shipping by consortia of foreign State carriers, leading to much higher future rates because of comparative elasticities of demand for services versus supply. Indications of the validity of this ultimate result are available, I have provided some information on this point in my written testimony.

Occasionally the Soviets do signal their intended capability. Those signals are sometimes hard to find because of their sophistication, but they do make mistakes, and they have done so.

With relief, the U.S. industry is more likely to face a period of relative rate stability. It could offer more reliability in the services offered. These beneficial effects would tend to reduce shipper uncertainty and risk with regard to plans, schedules, and availability of shipping. Such reduction of risks and uncertainties concerning planning over a period of time would lead to improved service, lower inventories, and lower insurance, of course.

Over the long haul these effects should more than outweigh any slight immediate rise, and I indeed said it was miniscule, in any shipping costs that could occur. A healthier U.S. shipping industry would place more orders with U.S. shipbuilders if other legislation support were provided.

The importance of this should repeatedly be made a matter of record. The U.S. domestic shipbuilding industry, presently faces a serious decline in order books, minimal market opportunities, and excess capacity.

Without stimulus to new orders, the U.S. shipbuilding industry anticipates an overall decline in employment after 1978 of approxi-

mately 45,000 persons, about 30,000 of which will be production workers. I believe that is a modest figure.

If restraints are placed on the type of unfair, state-directed competition that has been presented by the Soviet bloc shipping companies in our trades, I would like to give you an example of the kind of favorable impact that we could look forward to in this vitally important sector that we need for the security of the United States.

If the Soviets were denied one general cargo ship, and the United States built that ship and operated it in our trades, that could mean, in the building of that ship alone, 965 additional man-years of direct employment.

If you look at a containership of 28,000 deadweight tons, and make a comparison, you find that there will be 1,250 man-years of additional work for our shipbuilding yards. This is an important social as well as an economic point because of the high percentage of minority employees in the workforce in this industry. If three Soviet ships of each type are replaced by U.S.-built ships in our trades, the number of additional man-years of work in the building of those ships alone would be 6,645 man-years, and I am not looking at any multiplier effect whatsoever.

If I did look at regional impact, I think you would conclude from this point of view that the assistance sought by this bill is extremely important to this one vital industry. One could give further examples.

Next, I would like to comment on an important question, that repeatedly occurs in research and the testimony of witnesses on bills of this sort, can the U.S. Government estimate with sufficient accuracy what would be compensatory costs on a fully distributed basis for Soviet and other state-controlled carriers?

I recognize that we have capabilities in our Government, in the Federal Maritime Commission, Commerce Department, and elsewhere, but my experience leads me to focus on the contribution that could be made to this type of analysis by our intelligence community, especially the Central Intelligence Agency.

I worked in that area for many years, and served on the Economic Intelligence Committee of the former U.S. Intelligence Board. The intelligence community has been estimating Soviet costs, all types of services and goods, for many, many years. They had over 8 to 10 years of experience when I first joined the Government, and I left it 10 years ago.

Millions of dollars each year are spent on maintaining and developing and applying this capability further. It is now quite advanced. The state of the art has matured considerably, though it is complex and far from 100 percent perfect. There still are problems to overcome, like the ruble-dollar conversion problem. But refined indexes are repeatedly made to cope with such problems. My experience leads me to conclude that if this kind of capability were brought to bear, using sophisticated modeling and computer techniques, the problems would be much less serious than we had anticipated in dealing with the problem of Soviet costs.

We know a great deal about the Soviet accounting methods for operational and capital costs. We know a great deal of how they price goods and services—the way they price, how they treat amorti-

zation, and their wage scales and bonuses. We understand unique features of their accounting system with regard to capital costs, how they treat taxes or do not treat them, how they deal with foreign exchange versus profits. Their methods are not secret.

It is just a question of a certain amount of simulation and appropriate application of the features of the Western economic system in making a comparative cost that should take into account the way our companies take their costs into account to make a profit to survive.

In an earlier study that we did, we drew on the costing experience that I am discussing. We drew upon a great deal of public information. There are many scholars in the Western World who devoted their lives to understanding how the Soviet economic system works.

We asked the question of them, are the rates charged for carriage on Soviet ships fully compensatory? We were not able to look at all the trades. We were only able to take a look at a small number of them, just by way of illustration. But we indeed arrived at the conclusion that you could find in many cases that the Soviet rates were not fully compensatory, I have an example in my testimony that appeared in my earlier study, showing that FESCO rates for high value items like TV sets, toys, and bicycles, on certain routes were below compensatory costs.

But I am not here making the point in a definitive way that Soviet liner rates are not fully compensatory by our economic standards, although I am quite clear in my own mind where the outcome would be if we studied all the routes, all the rates.

The point is that the capabilities do exist in our Government to do this sort of research, and it could be made available, I am sure. I think that the margin of error that would result would be quite small, 5 percent or less, and quite adequate to work with in the ratesetting area.

Next, I would like to turn to a national security aspect of this that should be made more a matter of consideration in any bill that has an impact on the viability of the U.S.-flag merchant marine; the kind of merchant ships under the U.S. flag that will be available in the years ahead to support the United States in times of national emergency and conflict.

As you know, the U.S.-flag merchant marine fleet, with 579 ships, average age 17 years, today is grossly inadequate to sustain the U.S. economy in a possible future war effort with a major power.

As you probably are all aware, we have had for a long time what I consider to be an undue dependency upon and confidence in U.S. effective-controlled ships; that is, U.S.-owned ships under a foreign flag, Panamanian and Liberian, for example. We assume that they would be made available to us in times of national emergency, to carry not only wartime goods for our military, but the essential transportation needs, for ocean transport, of the United States and our allied economies in time of war.

We have seen, however, a significant erosion in the number and quality of ships in this relatively modern fleet that are of interest to us from a national security point of view that could be important to us in times of a national emergency or conflict.

The so-called EUSC fleet, effective U.S.-controlled fleet, only has about 25 ships at the present time that have the general cargo characteristics that are so important. Most of the ships in the fleet are tankers and drybulk carriers and the like. There is serious doubt in my mind whether or not such vessels that would be of use could be effectively requisitioned by the U.S. Government if the need arose, and if the Soviet Union, with its powerful and ubiquitous navy, were the adversary. Because they would not usually be found in the port of the flag country or the United States, many would not be in the area of effective operations of the U.S. Navy, which indeed would be well tied up in defending the sealanes.

There is a serious question in my mind as to how effective we would be in withdrawing ships that are essential to the viability of our allies. There may be a conflict in which our allies may not join us.

I was shocked to find, in reading testimony last year, that because of changing rules, the contracts under which the so-called U.S. control fleet would be called upon have expired, and in many cases they have not been renewed.

The continuing high-risk policy of depending on this effective, controlled system, is a little bit excessive now. The problem needs to be revisited. We need, therefore, to do much more for the security sector.

I would next like to comment on a few of the amendments that have been proposed by the administration, at least I understand it is by the administration. They came from the Department of Justice in some instances. Others were shared by other departments. I can only comment on a few that I am competent to comment on.

One amendment proposed by the Department of Justice seems to be unintentionally designed to ratify the espoused Soviet criterion of penetration, based on the level of price cutting selected by the Soviets. The 15-percent spread between Soviet rates and established rates that would be accepted by the Department of Justice as being, in their judgment, just and reasonable, happens to be to the level below conference rates that is admitted to by Soviet shipping officials.

Indeed, this is a coincidence that I find bothersome. One may surmise that the administration is unwitting in this instance but may be inclined to avoid another area of so-called tension with the Soviets at this point in SALT or other negotiations invoking subconsciously the principle which they otherwise deny accepting, that of linkage.

This unfortunate coincidence, however, adds to my pre-established concern about another amendment, the one that advocates, that the President of the United States be granted the authority to override the FMC in connection with the implementation of the proposed bill "for reasons of foreign policy."

The further enhancement of the power of the executive in the field of international transportation, without a qualifying countervailing voice by Congress, seems to run counter to President Carter's approach to deregulation in other fields.

I would feel more comfortable about the exercise of an outside power by the White House if the President had a counselor, or an assistant for Maritime Affairs, to advise him on such matters. But presently this is not the case.

I need not invoke memories of the fact that there are potential distortions when the executive is given the power to exercise authority in such areas, notably in the interest of national security, which is somewhat comparable.

In view of the so-called competition posed by the Soviet Union in U.S. trades, their practices, and U.S. needs, it would not be too difficult to design ideal policies that would result in what might indeed be tolerable levels of Soviet carriage.

One possible standard would be allowing the Soviets only to carry a percentage of the total U.S. ocean trade that does not prevent U.S. shipping firms from obtaining an adequate return on investment commensurate with their needs for modernization and expansion.

Or we could say a certain percentage of the trades should be ours, because it keeps our industry viable, and permits building of U.S.-flag ships to meet the defense needs of the United States. But, of course, I am a pragmatist, and I know that partial solutions are only what we could hope for, and therefore I ask endorsement by our Congress of H.R. 9998.

Thank you.

The CHAIRMAN. Thank you, Doctor Kilmarx, for a very fine statement.

One thing we have been trying to do in this committee is pin down the noncompensatory nature of U.S.S.R.'s rates in the different trades. What studies do you have available that would assist us in doing this?

Mr. KILMARX. I could make available a copy of the study that we did in my role as a director of a management consultant firm—I will avoid mentioning the firm—in connection with the Third-Flag bill. That study did look into this subject in some depth.

The CHAIRMAN. Would you furnish that for the committee, please?

Mr. KILMARX. Yes, sir.

[The study was placed in the record files of the subcommittee.]

The CHAIRMAN. This committee established clearly that the effective U.S.-flag contracts, complete contracts had expired, and you bring it up again a year later that these contracts still have not been renewed, and therefore that would almost indicate that there would be no effective U.S. fleet in case of an emergency or need.

Mr. KILMARX. I think that is the case. It is a distressing area of concern. I had doubts about the viability of the concept, even before these contracts expired. Maybe my information is not totally current, but it is the best that I could obtain.

The CHAIRMAN. You also make it pretty clear that in a confrontation with the Soviet Union, the fact that they have substantial fleet units, would indicate that the owners of those ships would be most reluctant to committing them to support of U.S.-defense fleet elements?

Mr. KILMARX. I am sure they are all very patriotic, the U.S. owners, but if the option is to lose your ship, or expose it to uncovered risk—

The CHAIRMAN. Or patriotic on the way to the bank is what you are saying.

Mr. KILMARX. I would hate to make that conclusion. But the uncertainty is enough to warrant more hedging.

I might point out that I am especially concerned that the Soviets bring roll-on/roll-off, LASH, other ships in our trades. They are providing a way of using those ships in peacetime which are then available to them for military operations, and denying us the availability of such ships that we can use in military operations.

The CHAIRMAN. I think you stressed in your opinion that the American shipper will definitely benefit from this legislation.

Mr. KILMARX. I definitely believe he will. He may not see this as clearly as I would wish. He may be pressed by shorter term considerations. He may make assumptions that may be unwarranted. He does not see down the end of the line where it is going to lead. He may not understand the Soviet Union as a competitor.

But I am strongly of the view that it is in the interest of the shippers, and all the parties that have a stake in the secured economic health of this country, to impede the Soviet practices in our trades.

The CHAIRMAN. Mr. Kyros?

Mr. KYROS. Thank you, Mr. Chairman.

Doctor Kilmarx, you suggested that during the previous hearing on bills analogous to the one instantly before us, we have implicitly followed the Department of Justice view of what is a predatory rate practice, which I quote in part from the Department of Justice study, "Regulated Ocean Shipping Industry."

Part IV, section 83(d), "predatory pricing: the practice of selling below cost to destroy competition."

Now, is that what you had in mind at the top of page 2 of your testimony?

Mr. KILMARX. May I try to phrase it in my own way?

The Soviets are selling a service, in some instances, below their own costs, which because they account differently, may be 50 percent of ours. In other cases, they may not below their own costs, but surely much lower than we can cost the services that our companies provide because of the private nature of our economic system. To that extent the Soviets can have the capability, do have the capability, exercise the capability of selling a service below cost. To destroy competition, that is not the ultimate target. It may be an incidental effect, but the ultimate target is to realize a posture, a condition of threatened or actual dominance in our trades that will be adverse to the long-term well-being of this country. They, in the meantime, will walk over U.S. commercial interests, and other cases, they will pamper them.

They will selectively pick their targets with an understanding of our system.

Mr. KYROS. To rephrase that somewhat then, you would say that the definition that I quoted, from the Justice Department, not only selling below cost, but with the purpose of destroying competition, is restrictive because it fails to include market behavior by the Soviets, which motivated by their desires to create an economic dependency on their shippers, is that true?

Mr. KILMARX. That is true.

Mr. KYROS. In the case of liner shipping, would you agree that the dependency is generally created by destroying competition? The effect is the same, but you would prefer to separate the motives?

Mr. KILMARX. The effect is destroying competition. The effect is crippling the potentials of that competition to modernize and replace their ships. The incidence of destruction may be longer term than the immediate effects; the dominance of the Soviet shipping lines in the trades is the outcome.

Mr. KYROS. Do you think that the solution to these practices, whether they are motivated by the desire to eliminate competition, or by their desire to ultimately achieve a state of dependency on the part of shippers, is the same?

Mr. KILMARX. Yes.

Mr. KYROS. Should both motives be addressed by commercial remedies as presently included in the bill before us or should this problem be treated on a diplomatic basis, in your judgment?

Mr. KILMARX. I think it would be useless to attempt, one more time, to get commitments from the Soviet Union, to principles that they will distort to their own advantage. We have attempted that route before. It is meaningless. Its only impact is to frustrate us in satisfying our own needs, meeting our own requirements, serving our own well-being.

Mr. KYROS. We have heard allegations of skimming, and you describe some of that by Soviet carriers. Could you give us a little more hard evidence on that issue, or be more specific with your discussion of important strategic raw materials?

How much of these items are carried, for example, by the Soviets?

Mr. KILMARX. I do not have the detailed statistics with me, but observing their behavior, they will select high value targets that are important to our economy. Some of them may be militarily important, and they pick a rate structure that will insure them that they will carry an important cargo on an important route. It is not hard to do, when you use a FAK rate that may be designed to attain the targeted traffic.

I look forward, with great anguish, to a time when the Soviets are carrying on the high seas a large percentage of strategic cargoes—maybe 100 percent some day.

Mr. KYROS. Let us turn to your discussion of any possible inflationary aspects of this legislation.

In your testimony, about 2 years ago, in the so-called third-flag bill, you estimated the effect on the consumer price index of raising all rates in a conference of third-flag carriers to the rates of the conference carriers to be less than one half of 1 percent on the consumer at that time, I think.

Mr. KILMARX. Yes. Again, assuming full pass through of these alleged savings to the ultimate consumer.

Mr. KYROS. Could you explain why this small effect is an overestimate for the effect of state-controlled carriers only, as opposed to all third-flag independent carriers?

Mr. KILMARX. State-controlled carriers carry maybe up to 35 percent of the value in liner trades of these important items, and of

course, passthrough is not liable to occur at time of inflation, even less than the extent that it might have occurred several years ago.

Many of these companies have low profit margins, and consequently, there is greater intention on the part of management these days to absorb any of these savings, and keep their prices up, maybe even increasing prices at the same time.

The conditions of the time, as well as the consideration of the small percentage of the total that we are looking at here, lead me to believe that we are dealing with an infinitesimal impact.

Mr. KYROS. Dr. Kilmarx, if the small reductions in rates are not passed on to the consumer, they must increase the profits of the shipper. Is this increase likely to be substantial?

Mr. KILMARX. I do not think it will be substantial, because the percentage of shipping costs to total value is small. But we must recognize that some of the benefits will accrue to foreign shippers.

Mr. KYROS. You estimated that in the long run the effect of the proposed bill would be noninflationary. Would you describe more precisely the economic mechanism through which this may occur?

Do you consider this result to be highly likely, or merely a probability?

Mr. KILMARX. I think it is highly unlikely that it will be non-inflationary. You have to make comparisons between a condition that might exist without a bill of this sort and the condition that might exist with a bill of this sort.

If indeed the Soviet Union, and the bloc countries, had a dominant positions in the trades, they would become monopolistic. This occurred, for example, in the carrying of jute from Thailand. Once they had a monopolistic position, they simply raised their low rates to levels approaching the prior conference rates, and they could push them even higher.

So we are dealing with a situation where there would be much higher rates in time for the carriage of liner traffic than in a situation where there is sufficient relief.

The burden is on the merchant liner industry, not just of the United States but also of our European allies, too. So with more competition, clearly rates would be much, much lower than in the case of the Soviet Union dominating the trades. The Soviet Union is not governed by profits to the same extent. But they are going to charge whatever they can charge to realize their objectives.

One of their goals is to obtain as much foreign exchange as possible. Clearly, when the opportunity presents itself, because of their dominant position in the trade, they up the ratings, and we no longer see those artful and generous new kinds of rates that are designed for skimming and gaining entry.

Mr. KYROS. Let us just talk a moment about rate comparisons. In your own rate comparison today, you found the rates today to be equal to the fixed cost. Do you think that was coincidental, or do you have knowledge to suggest that the Soviets may set rates in order at least to meet their fixed cost?

Mr. KILMARX. The Soviets try to set rates that will cover variable costs, plus a small percentage of fixed costs. They do not have to do so, but they have been enjoined by Moscow, not to burden the overall

Soviet budget as much as they have in the past, through ship subsidies, and to generate more exchange for their own programs to fulfill the established plans of growth.

Mr. KYROS. Dr. Kilmarx, finally, could you be more specific about the components your fixed cost concept would include for the Soviets?

Mr. KILMARX. I think, in dealing with the Soviets, we have to use, fixed cost concepts that are comparable to our own, and comparable to private industry. A standard Western economic text itemizes what these are. We should not limit ourselves to allowing for costs which their accountants treat, because of the different ground rules under which they operate, and ignore a number of costs that we have to bear and they don't.

Take interest, for example. They do not have to pay interest on capital comparable to what our industries pay. It is provided by the state budget. But they are moving to some extent to accepting, at least in part, the sort of principles that are in our own economic system because it is more efficient.

Mr. KYROS. No further questions, Mr. Chairman.

Mr. DINGELL [presiding.] The Chair recognizes Mr. de la Garza.

Mr. DE LA GARZA. No questions.

Mr. DINGELL. Minority counsel?

Mr. SANDS. No questions.

Mr. DINGELL. The Chair does have one question.

I would like to hear from you, and that is just to have you essentially recapitulate and summarize what in the view of the Chair might be the feelings that I at least hold on this matter; that is, the very simple things that we are seeing again, a state-owned facility which seeks to compete on terms best suited to the whole broad compendium of national policy goals of the state.

Is that not a fact?

Mr. KILMARX. Yes, sir.

Mr. DINGELL. And that is the Soviet shipping enterprises?

Mr. KILMARX. That is the Soviet shipping practice; that is correct, sir.

Mr. DINGELL. They compete under the terms which are fixed as a matter of state goals, and state capabilities, in a whole broad spectrum of areas, is that not right?

Mr. KILMARX. That is correct, sir.

Mr. DINGELL. And as in any other monopoly situation, would you care to infer that that compendium of State monopolies with which the American shipping industry has to contend, will achieve all the advantages of that system, plus the patience of that system to achieve its long-range goals, which are probably economic dominance, at least in part, in the area of the maritime; is that not a correct statement?

Mr. KILMARX. That is correct, sir.

Mr. DINGELL. And toward this end, as you pointed out, they really pay no taxes. They have their wage rates fixed by the Government, at a level which I gather is lower than that which is paid to American seamen.

Mr. KILMARX. We did a study of Soviet wage rates in our earlier investigation. They are far below our own rates. They are difficult

to calculate, but we managed to get sufficient data to do so, because for certain kinds of work they have market rates for the lower skill levels. Then there are bonus systems that are in effect for ships that are successful in obtaining a lot of traffic, and earning a lot of foreign exchange. Their seamen probably earn maybe one-fifth or one-eighth as much as our own in terms of real purchasing power.

Mr. DINGELL. The Soviet construction costs are subsidized by the Government, are they not?

Mr. KILMARX. That is correct. In the case of some ships, where they build them abroad, in a European yard, they have to pay the higher rates.

Mr. DINGELL. But it is also a fact that a large part of this shipbuilding capability, the largest percentage, is built in Soviet carriage?

Mr. KILMARX. That is correct, and in Eastern Europe—extensive shipbuilding industries have been established there.

Mr. DINGELL. Under the treaty system that they happen to have for the satellites. But it also affects that where the Soviets buy from satellites, they buy then cheaper here?

Mr. KILMARX. That is correct.

Mr. DINGELL. We have a statement in Poland that says the Poles and Soviets have an admirable trading relationship. The Poles send the Russians coal, and the Soviets send them snow. So I think here we have a matter of major concern, not only from the standpoint of the United States, but from the standpoint of friendly shipping on which we might rely in terms of the events that might cause some kind of military complication between this country and the Soviets, is that not so?

Mr. KILMARX. Yes, sir.

Mr. DINGELL. The penetration has been growing strikingly over the years?

Mr. KILMARX. Very impressive, causing us all kinds of problems.

Mr. DINGELL. They are not participants in conferences, or conference rates?

Mr. KILMARX. Only in one or two at this time. They would participate if they could do so on their own grounds. If they could cut into the rates, and get a 25-percent share, then they hope to dominate the conferences.

Mr. DINGELL. It would also be your view, I would suspect, just as soon as they had achieved enormous penetration, the next event we would see would be massive price increases by the Soviets, while they were engaged in?

Mr. KILMARX. It might be, indeed, be the next event, or three removed. State policy will dominate.

Mr. DINGELL. But the history of this kind of event in the field of monopoly action which essentially we have with Soviet shipping, is that after they have driven the competition to the wall, and finally removed them from the marketplace, that they then recoup, that the monopoly then recoups its losses, maximizes its profits by rate structure, which best suits it, which maximizes the profits, and so that they are able, at the necessary time, to reenter the market on a low rate base so as to again drive out any incipient competition that might arise, that at least is not well subsidized, is that not a fact?

Mr. KILMARX. That is a concise and correct statement, yes, sir.

Mr. DINGELL. We thank you for your statement.

Mr. KILMARX. Thank you.

Mr. DINGELL. The next witness is Mr. Robert Ellsworth, Chief, Office of Economic Analysis, Federal Maritime Commission. The Chair understands that also appearing will be Mr. Merrill Simpson, Assistant Chief of the Commission's Office of Tariffs and Intermodalism.

Gentlemen, we thank you for your appearance. If you will identify yourselves for the purpose of the record, we will recognize you in any order that you deem appropriate.

STATEMENT OF ROBERT ELLSWORTH, CHIEF, OFFICE OF ECONOMIC ANALYSIS, FEDERAL MARITIME COMMISSION; ACCOMPANIED BY MERRILL SIMPSON, ASSISTANT CHIEF, OFFICE OF TARIFFS AND INTERMODALISM, FEDERAL MARITIME COMMISSION

Mr. ELLSWORTH. Thank you.

My name is Robert Ellsworth, and I am the Chief of the Office of Economic Analysis. With me is Mr. Merrill Simpson, he is the Assistant Chief of the Commission's Office of Tariffs and Intermodalism.

I appreciate this opportunity to appear here today to clarify and expand upon some of the rate and economic information presented to this committee in earlier testimony on H.R. 9998, the controlled carrier bill.

In Chairman Daschbach's testimony before the committee on March 17, 1978, the Commission took the position that Soviet carriers charge whatever rates are necessary to attract cargo. This continues to be our position. This is somewhat different than claiming that Soviet rates are "predatory" as that term is generally used.

Unfortunately, however, the term "predatory" appears to have been adopted by some in discussing the test of reasonableness of Soviet rates under H.R. 9998, although the bill itself has noticeably avoided the use of that term. The word "predatory" connotes two things with respect to rates:

First, the rates must be so low as not to cover the full cost of providing the service over a long-run period of time.

Second, the carrier must have the intent of destroying competition. Should the term be adopted in the legislative history as the test of reasonableness of controlled carrier rates, it would be extremely difficult to administer the bill.

At the present time, we do not have any evidence that Soviet rates are below Soviet costs. In fact, we have little or no cost data from Soviet carriers. While the bill does provide for the use of constructive costs in analyzing a controlled carrier's rates, it also suggests the cost standard as merely one of three factors to be considered by the Commission. To be required to focus on costs in each and every case involving a controlled carrier's rates would render the other tests meaningless, and would make individual commodity rate examination virtually impossible.

Whether Soviet carriers establish low rates to eliminate competitors is arguable. All indications are that they establish rates at levels which will fill their own ships with cargo. Obviously, no carrier is going to charge less than it must in order to attract sufficient amounts of cargo.

Even if the Soviets are motivated solely by the desire to earn hard currency, they would dilute their earnings by dropping rates below that which is necessary to fill their ships. Whatever the intent may be of the Soviets in establishing low rates, however, the effect is to take cargo away from other carriers. The intent itself would be extremely difficult to prove.

Rates of Soviet carriers have always been difficult to compare with those of other carriers because of the existence of special types of rates or allowances in one or both of the tariffs being compared.

For example, the Soviets may offer a per container rate for a mixture of commodities, whereas another carrier or conference may offer a rate per cubic foot, or 100 pounds, on each of the same commodities. The Soviets may also pay higher freight forwarder brokerage commission.

The rate comparisons which were offered in the Chairman's earlier testimony are examples of those which can be made from information readily available and do not necessarily reflect the most severe instances of Soviet rate cutting.

Our experience has been that a Soviet carrier will generally enter a trade by copying the tariff of the existing conference in that trade, except for the rate levels. As the Soviet carrier gains experience in the trade, it will adjust the rates in a manner to better attract certain types of cargo. These adjustments often take form of FAK rates, per container rates, or even the special commissions suggested above.

The Soviets are recent entrants into the Australian trade, and have yet to make their first sailing in the Gulf-Central American trade. This is why the Soviet tariffs in those trades could be compared in our earlier testimony with those of some of the other carriers.

We have conducted some further analyses of the Soviet rates in our foreign trades since our appearance on March 17 which indicate the following:

In the U.S. Atlantic and Gulf to Australia trade, we have focused on the minibridge rates on 34 of FESCO's major moving commodities, and attempted to compare those to the all-water conference rates in the trade. Of the 34 rates, we were unable to compare three because of the manner in which the rates were structured. FESCO rates on 7 of the 34 commodities were higher than those of the conference. On 24 of those commodities, FESCO's rates were lower than those of the conference by an average of more than 19 percent. The reductions range from 44.7 percent on "unboxed auto parts" to 8.5 percent on "cigarette tow."

In the same trade, an analysis of rates on the 23 major moving commodities of all carriers indicates that one FESCO rate is not comparable. 4 FESCO rates are higher than those of the conference, and 18 FESCO rates are lower than those of the conference by an

average of 14.5 percent. These reductions range from 21.8 percent on "yarn" to 1 percent on "agricultural tractors."

In the U.S. Pacific Coast to Australia trade, we have analyzed the rates of FESCO and the conference on 24 of FESCO's major moving commodities. Of these 24, 2 rates were not comparable, 4 FESCO rates were higher, and 18 FESCO rates were lower than those of the conference by an average of 14.8 percent. The reductions range from 22.7 percent on "yarn" to 1 percent on "microwave ovens."

In the same trade, a comparison of rates on the 26 major moving commodities of all carriers indicates that 7 FESCO rates were higher, and 19 FESCO rates were lower than those of the conference by an average of 14.9 percent. These reductions ranged from 26.3 percent on synthetic resin to 1 percent on nuts in shell.

The above comparisons include certain adjustments necessitated by rate changes and other developments since the presentation of the related rate exhibits on March 17, 1978.

In the North Atlantic/Continental trade, we compared 13 rates on 12 different commodities. Of these 13, Baltic Shipping Co.'s rates ranged from 9 percent to 60 percent below those of the conference. The average reduction was 25.7 percent with over one-half of the reductions exceeding 29 percent.

Another State-owned carrier in this trade, the Polish Ocean Line, maintains rates on the same commodities that average some 19.38 percent below those of the conference. Over one-half of these reductions exceed 20 percent.

The Soviet share of this trade has steadily increased at the expense of commercially motivated carriers in the trade. It appears from trade history that the Soviet line increased its share by maintenance of rates generally 15 percent below the conference and selectively as much as 60 percent below these commercial operators.

During this period of Soviet growth, two other independent lines, attempting to follow similar pricing policies terminated their operations in bankruptcy, and Finnliness, another outsider, withdrew from the trade.

In the U.S. Pacific Coast/Europe trade, we compared Soviet mini-bridge rates with those of the all-water conference. Of the seven commodities compared, the Soviet rates averaged some 13.7 percent below those of the conference. Additionally, in this trade, the Soviet carrier has entered into an arrangement with a nonvessel operating common carrier (NVO) through which the NVO may charter space on the Soviet vessels if 20 or more containers are booked weeks in advance. The rates charged the NVO are minimum container rates. This practice is currently being investigated by the Commission through its recent section 21 order.

Conference carriers in the U.S. Atlantic/Scandinavian trade have published a mixed commodity rate of \$65 under which a wide variety of cargo moves. Baltic Shipping has published a mixed commodity rate in this trade of \$50, or 23 percent below that of the conference.

In the U.S. Pacific Coast/Japan trade, we compared nine rates on seven commodities. FESCO's rates on these ranged from 5 percent to 48 percent below those of the conference, with an average reduc-

tion of some 30.6 percent. The rates of Orient Overseas Container Line in this trade on the same commodities average some 15.9 percent below those of the conference. One of these OOCL rates was the same as the conference, while the others ranged from 9.9 percent to 24.7 percent below the conference level.

Most of the witnesses before this committee have agreed that there is a tremendous potential of State-owned carriers for rate cutting, and that this potential is far more serious than the actual instances of rate cutting which have been documented to date.

This rate cutting, which matched with the impressive buildup of the Soviet fleet in our trades, could cause tremendous problems for profit oriented operators. A recent European study estimates that 54 percent of the total Soviet liner tonnage devoted to international cross-trading is utilized in U.S. cross trades. The majority of these vessels sail as independents, not as members of conferences or rate agreements.

The size of the Soviet fleet, coupled with the ability to shift large numbers of vessels among trades gives them the added capability of creating serious instability in any given trade.

Although the Soviets pose the biggest threat to the stability of U.S. commerce, it should be remembered that H.R. 9998 applies to many other countries which could also present problems. The difficulties a privately owned carrier would have competing against these State-controlled operators would be similar to the problems presented by the Soviet carriers. It has been estimated that 20 to 25 percent of the world's freight tonnage is represented by the countries whose vessels may be affected by this bill.

Since many of these carriers are not required by the investment community to earn profits to ensure their survival, they have a distinct ratemaking advantage. This advantage is magnified if the carrier's major motivation is the maximization of hard currency, rather than the maximization of profits. A carrier motivated by the quest of earning foreign exchange need only be concerned with covering those costs which it incurs in hard currency units, and may not be as worried about covering those costs which are incurred in soft currencies. This type of behavior could not be followed by a company which relies on the private sector for financing.

An indication that U.S. liner operators are achieving an earnings level insufficient to attract capital was revealed recently when a senior economist for Chase Manhattan Bank said that the outlook for the industry was gloomy, and that changes will be necessary if the industry is to attract debt and equity financing in the future.

That completes my prepared testimony, Mr. Chairman. We would be happy to attempt to answer any questions you may have.

Thank you.

Mr. DINGELL. Thank you very much. It is a very helpful statement.

Mr. Simpson, do you have any comments you would like to make?

Mr. SIMPSON. No, Mr. Chairman. I am prepared to answer questions on the rate aspects of the statement.

Mr. DINGELL. I do not want you to feel that the committee is uninterested in your comments, that you did not have a message to bring

us today. We would be delighted to hear anything that you have to say.

Mr. SIMPSON. Mr. Chairman, Mr. Ellsworth and I collaborated in preparation of the statement.

Mr. DINGELL. Mr. Ellsworth made a very fine statement.

The Chair will recognize Mr. Kyros for questions.

Mr. KYROS. Thank you, Mr. Chairman.

Mr. Ellsworth, when Chairman Daschbach of the Federal Maritime Commission was present, and testified before the committee, he stated on page six of his testimony that more than 10 percent of the total liner tonnage of the Soviet Union had been placed in service in U.S. foreign commerce. That is the total liner carriage.

According to our information, this would be slightly more than 1 million deadweight tons, and that means slightly more than one-half of the Soviets' cross-trading vessels are put into our trades.

Do you have any opinion as to why this occurred? Is there any, for example, any evidence to indicate that U.S. foreign trades are more profitable, that the shipping lines have a higher rate of return on our trades than any other routes?

Mr. ELLSWORTH. I think there are probably two explanations as to why the Soviets have continued their penetrating in our trades. The first one being the critical reason, and that is that our trades are open.

As you are well aware, almost every other trade in the world is closed, in terms of the conference, at least. So the fact that they can come into our trades much more easily, the conferences are less able to cope with the Soviet intrusion, certainly that is one major factor.

Second, we are the leading commercial nation of the world. We have the largest export and import trade of any nation in the world, and being an industrialized nation, we do have a fairly lucrative trade. So once they come into a trade, as easily as into our trade, they will be able to attract cargo which will earn hard currency.

We know that our trades, several carriers have experienced profits in our trades. It is that our trades are open, and second, our trades do provide a rich source of hard currency earnings.

Mr. KYROS. Now in regard to that one million deadweight tons that we talked about, that the Soviets could put in service in our U.S. foreign commerce, that is used as cross trading; their vessels would be in approximately how many trade routes?

Mr. ELLSWORTH. Roughly around 30. It is pretty safe to say that the Soviets are in most of the major European trade routes. But approximately 30 trade routes.

Mr. KYROS. Probably involving a dozen other countries?

Mr. ELLSWORTH. Yes, at least. Certainly major countries.

Mr. KYROS. If we have one half of their cross-trading traffic, you said 54 percent, and the other half is spread among another dozen countries, it is clear that our trades are even more affected by the Soviet nations than any other single nation, is that correct?

Mr. ELLSWORTH. Certainly, 50 percent is just in our rates, the other 50 percent is diluted among other nations.

Mr. KYROS. You understand, Mr. Ellsworth, and I know your Commission does, that every day some nations are moving to institute policies that are highly protectionist. They are considering bilateral-

ism, theories of reserving cargo for their own developing fleets, and if Soviet vessels were excluded from other trades because of bilateral agreements, or government controls, is there anything to prevent them from putting the additional 1 million deadweight tons into our U.S. trades?

Mr. ELLSWORTH. At this moment there is absolutely nothing to deter them, no.

Mr. KYROS. You heard earlier, I believe, from Dr. Kilmarx that the Federal Maritime Commission also has stated on several occasions that Soviet carriers penetrate our trades, and remain there by charging whatever rates are necessary to attract cargo away from other lines. Some of the shippers who have appeared before us, have argued that we should not be concerned about this practice, that in fact it has an important competitive influence on conference rates.

Would you emphasize for us the potential harmful effects this practice can result in, if any?

Mr. ELLSWORTH. First, if I could just comment on the statement that this Soviet intrusion has introduced competition in effect. It is very ironic to say that the Soviets are bringing some competition to us, or we are being constrained from competition by the Soviets, when in fact they are not constrained by any market competition syndrome as we know it.

This, to me, is the irony. They are not faced with any competitive needs for profits whatever. But as to the effect of this so-called competition, and I am sure the people, the shippers think that this may mean moderating their rates, I think if you look at the broader spectrum, it means that they are doing just the opposite. If you look at the conference system, there is an attempt to lower the overall cost.

The key is to earn that money to renew your equipment, to put in better, modern equipment, and also achieve high utilization rates. That is the only way you can bring down your cost to the shipper.

If the Soviets are simply destabilizing these carriers, not allowing them to modernize their equipment, and forcing them to have low utilization rates, which means they have to raise their costs, because they are not making a profit, what you are probably getting is a ratchet effect.

If the Soviets force up the conference level rates, the conference has a rate increase, the Soviets will match the rate increase, but keep that discrepancy, so that the fears of the shipper are more elusive than real.

Mr. KYROS. In choosing the rate comparisons for your testimony today, did you attempt to set forth the most extreme examples of Soviet ratecutting?

Mr. ELLSWORTH. Mr. Simpson's office prepared those rates. I think he should answer that question.

Mr. SIMPSON. Not at all. If that type of approach were used, almost any carrier could be pictured as a rate cutter, by simply looking into the tariff and picking out those low rates.

We used the exhibits that accompanied the chairman's testimony, and made recapitulations for the purpose of this presentation today. The comparison on the Australian trade were taken from commodity

movement data, which included major moving commodities in the trade.

The other exhibits were less comprehensive, but were also based on major moving commodities that trade intelligence advised us were moving by the Russian fleet.

Mr. KYROS. In the testimony, Mr. Simpson, I notice that at one time in the U.S. Pacific Coast-Japan trade, you showed FESCO rates as being below those of conference, with an average reduction of some 30.6 percent. Page 6 of your testimony, is that correct?

Mr. SIMPSON. Yes, sir.

Mr. KYROS. And you said the rates of Orient Overseas Container Line, OOCL, for the same commodities, were 15.9 percent below conference. Is that the leading independent in that trade? Is that why you chose OOCL?

Mr. SIMPSON. Yes, that is a stable leading independent carrier.

Mr. KYROS. And the Soviet rate was 15 percent below that independent, if I can understand your statement?

Mr. SIMPSON. Yes, sir.

Mr. KYROS. What is the—why is it that most of your comparisons are with conferences, instead of with other carriers?

Mr. SIMPSON. As we indicated in the prepared statement, it is difficult to compare Soviet rates with conference rates, particularly after the Soviet line has been operating for a while.

It is even more difficult to compare them with other independents, since the other independents make their own adjustments to their tariffs as they gain experience in various trades. Moreover, there are some trades where other independent competition is either nonexistent, or relatively insignificant.

Mr. KYROS. Mr. Simpson, do you have any indication that the special FAK or per container rates by the Soviet carriers have attracted any particularly high rated cargo from other carriers?

Mr. SIMPSON. Yes, sir, just this week we learned in the Australian trade that an FAK rate was being employed by FESCO's minibridge service to obtain the cargo of the Tandy Corp., audio equipment, moving from Texas to Australia. The conference rate for the commodity shipped equates to roughly \$9,000 a container, depending on load factors. The Russian competitive rate published for minibridge movement equates to something slightly over \$5,000. These FAK rates can be applied on any high rated cargo.

Mr. KYROS. Is it difficult to compare rates at times because of the classification, or form of the particular rate?

Mr. SIMPSON. Yes, sir, extremely difficult, and that is compounded by FAK-type ratemaking, without knowing specifically what commodities the carrier is moving.

Mr. KYROS. You have now testified on this bill, the Chairman of the FMC has testified, and you gentlemen also appeared at the Soviet briefing held on October 27, 1977, before this committee. I would like to ask you, Mr. Ellsworth, since you have worked on this subject closely, do the facts that you have brought out today, and in your testimony thus far on this matter, justify the need for this bill.

Mr. ELLSWORTH. I think they definitely justify the need for this bill, and in my opinion, it was probably needed a year ago. Every

day that goes by, the Soviets have more modern container vessels, roll-on/roll-off vessels, and perhaps LASH vessels in our trades. Every day that goes by they have this advantage. They are established into our trades.

Mr. KYROS. Is it in Mr. Simpson's office and your office that you attempt to make comparisons of rates and commodities, Soviet versus U.S., or otherwise?

Mr. ELLSWORTH. We tend to work very closely, because we get the data on the commodities, usually from our computer system.

Mr. KYROS. And have you had any recent discussions, or inquiries from the Department of Justice, or any of their representatives, about the method of making these comparisons, the difficulty of making them, or the manner in which they should be made?

Mr. ELLSWORTH. I have never had any contact, myself, with the Department of Justice.

Mr. KYROS. Mr. Simpson?

Mr. SIMPSON. Our office has not, either, sir.

Mr. KYROS. Not in the last 3 months?

Mr. SIMPSON. No, sir.

Mr. KYROS. No further questions, Mr. Chairman.

The CHAIRMAN [presiding]. Minority counsel?

Mr. SANDS. Thank you, Mr. Chairman.

Mr. Simpson, I have a question about your rate comparisons. On page 5, for example, you say that seven FESCO rates were higher, and 19 FESCO rates were lower than those of the conference by an average of 14.9 percent.

Is that 14.9 percent an average of just lower rates, or is that a net average?

Mr. SIMPSON. That is a net average of the rates shown on that particular exhibit that was with Chairman Daschbach's March 17th statement.

Mr. SANDS. So, of all 26 rates, the Soviets averaged 14.9 percent lower, is that right?

Mr. SIMPSON. Yes.

Mr. SANDS. Thank you.

On page 3, you describe Soviet pricing practices. Are those pricing practices significantly different than those used by other independents, and if so, how are they different?

Mr. SIMPSON. You are speaking of entering a trade by copying a tariff, and then adjusting it?

Mr. SANDS. Yes.

Mr. SIMPSON. Many carriers enter trades in that manner. The significant difference between the Soviets and other independents is that the Soviets enter a trade with regular reliable service, and affect large numbers of rates. Other independents generally have a lower frequency, or quality of service, and affect fewer commodities.

Mr. SANDS. They affect fewer commodities, and they quote rates on fewer commodities, is that the basic difference?

Mr. SIMPSON. Yes; fewer commodities from an overall trade standpoint.

Mr. SANDS. Is that the only significant difference then?

Mr. SIMPSON. Yes, sir, but that is a significant difference.

Mr. SANDS. Do you have any general observations as to how rates of Soviet independents compare with the rates of private independents, other than the OOCL case that you cited?

Mr. SIMPSON. We have made comparisons of the Soviet rates with other independents since their penetration into our trades.

Mr. SANDS. What did that analysis reveal?

Mr. SIMPSON. Well, the Soviets reduce rates on a broad spectrum of commodities, and offer a regular service, and while independent carriers may compete with the Russians on a dollar-for-dollar basis on a given commodity. They do not compete on this whole wide range of commodities in the trade.

Mr. SANDS. For example, in the Pacific trades, are the Soviet rates there generally lower than the rates of other independents?

Mr. SIMPSON. Across the entire tariff, on our last completed study of that trade, they were. I cannot answer at the moment. There have been some adjustments of rates in that trade.

Mr. SANDS. One final question.

On page 7, you indicate that the greatest danger from the Soviet carriers is their potential for penetration.

Are you aware of the MarAd study that concludes that the Soviets are expected to increase their penetration into U.S. liner trades to only 6.6 percent by 1986?

Mr. ELLSWORTH. I have seen that study, yes, sir.

Mr. SANDS. Is it your view that this 6.6 percent is too high, or are you talking about potential rate cutting, which you expect to result in penetrations of greater than 6.6 percent by 1986?

Mr. ELLSWORTH. I would think that they would probably have a greater, assuming no legislation is passed to take care of that problem, I think that my understanding would be that they would probably have more than that. But certainly they would have more in selective trade routes. What their pattern has been is to go at certain major trade routes more heavily than others. So it gets diluted when you spread it over the entire spectrum.

When you look at certain trade routes where they have concentrated—the North Atlantic trades to the Continent and the Far East trades where they are putting in their new roll-on/roll-off vessels, their new larger container vessels—I think that is where you are going to see the biggest problem and it will be a stabilizing impact on those carriers. The other is that a lot of independents, and this is changing also, but a lot of the independents are still privately owned corporations. So they are constrained to some extent to take a return.

For the Soviets, of course, as we already pointed out, that is not a constraint, that is a very important distinction that must be drawn between Soviet competition and other so-called nonconference competition.

Mr. SANDS. Do you expect the Soviet penetration to increase above 6.6 percent in the liner trade by 1986? If so, what percent do you expect them to go to?

Mr. ELLSWORTH. I might give sheer speculation. But the 6 percent struck me as awfully low. Looking at what we had seen the growth, 1976, part of 1977, that data, to me the 6 percent seemed low.

Mr. SANDS. Finally, have you had any success in getting documents from the Soviets in regard to the recent carriage of U.S. buses on Soviet ships?

Mr. SIMPSON. The date specified in the order has not yet arrived.

Mr. SANDS. Have the documents been provided so far?

Mr. SIMPSON. No, sir.

Mr. SANDS. Thank you.

The CHAIRMAN. Mr. Kyros.

Mr. KYROS. A few questions, Mr. Chairman.

Mr. Ellsworth and Mr. Simpson, you were asked a question a moment ago about any significant differences in pricing practices between independents entering the U.S. trades and the Soviets doing so.

Now is not one of the basic distinguishing characteristics, as you referred to lines operating against the Soviets or similar operators, the fact that the Soviets can stay on the line indefinitely; indeed they are as immortal as the Justice Department lawyers, is that not the case?

Mr. ELLSWORTH. The Soviets can continue in any trade as their government decrees that. There is no other restriction other than political.

If the government wants that trade to be penetrated and the penetration to continue, they can do so. There is no financial market that would restrain their ability to take losses over a long period of time.

Mr. KYROS. Do we know of any other liner operator in the world that has the capacity, the power, and the flexibility to put its liner shipping throughout the U.S. trades comparable to the Soviets?

Mr. ELLSWORTH. I know of none at the very moment. But the Chinese National—the Peoples Republic of China, to my knowledge, is building an impressive liner fleet. They do not trade with us at the moment. But I think they are going to be the problem in the future if we do decide to open our ports. They are currently, as you are probably well aware, acquiring a significant amount of tonnage, dead-weight tonnage.

Mr. KYROS. We do not know whether they are going to use that fleet in cross trading, however.

Mr. ELLSWORTH. At the moment, no.

Mr. KYROS. You were asked a question a few moments ago concerning Soviet capacity for fleet growth and projected penetration in our trades. Mr. Reginald Bourdon, from the Maritime Administration provided in table V of his testimony data which indicated that from 1975 to 1980 the Soviet cargo liner tonnage would increase substantially and grow 280 percent by 1980.

Are these significant capacities in the U.S. trades, especially since they involve more advanced vessels?

Mr. ELLSWORTH. Certainly, because not only are these the newer modern vessels, they are much larger. But as I think the chairman testified on the 17th, most of the new vessels coming off the shipbuilding line are being put in our trade. The Soviets' export trade is bulky, low value raw material trade. So they have little use for these modern container vessels in their own trading system. So they are

being thrown into the cross trades and, as we know, mainly into our cross trades.

Mr. KYROS. I want you to lean back a minute from your duties at the FMC. From the northern range of European ports, the Soviets have instituted and inaugurated with our help a roll-on/roll-off service to the gulf, is that correct?

Mr. ELLSWORTH. They have used the *Magnitogorsk*.

Mr. KYROS. And they unload cargo in Cuba on the way to the gulf?

Mr. ELLSWORTH. That is my understanding.

Mr. KYROS. Now, that is a brandnew service by the Soviets?

Mr. ELLSWORTH. Historically, the gulf was not served by the roll-on/roll-offs on agreement basis. This was a new service in the sense that they used roll-on/roll-offs more frequently into the trade.

Mr. KYROS. Is there any identical U.S.-flag carrying cargoes, identical roll-on/roll-offs to the Soviet vessels?

Mr. ELLSWORTH. In that trade?

Mr. KYROS. In that trade.

Mr. ELLSWORTH. Not to my knowledge, no.

Mr. KYROS. So the Soviets, by example, are perfectly able to institute new modern attractive vessels on the line in the U.S. trades, is that not the case?

Mr. ELLSWORTH. That is exactly right.

Mr. KYROS. No further questions, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Ellsworth and Mr. Simpson. We appreciate your very frank testimony.

The committee will stand adjourned.

[The following material was submitted for inclusion in the printed record:]

THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE,
Washington, D.C., May 17, 1978.

HON. PAUL N. McCLOSKEY, Jr.,
Cannon House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE McCLOSKEY: This is in response to your recent letter concerning my testimony on H.R. 9998, the controlled carrier bill. Your specific questions were referred to the members of the League's Export, Import and Maritime Committee. The responses outlined below represent the basic, current views of this Committee.

Your first question was:

"The Administration has suggested an amendment to H.R. 9998 that would provide that no rate of a controlled carrier should be subject to challenge unless it is more than 15 percent below conference rates or lower than any rate charged by an independent. What are your comments on this amendment? In your experience, are there many Soviet rates now charged which could be challenged under this criteria?"

The members of my Committee do not believe that many Soviet rates could be challenged under this criteria. The main thrust of my presentation was that the legitimate rate level is one that is freely negotiated between a shipper and a carrier/conference. There has been no indication to me from the members of my Committee that a carrier will offer to haul freight at an unjustifiably low rate.

Your second question was:

"Would you please respond to the basic question that this bill presents from a commercial standpoint: Do Soviet-bloc carriers generally charge rates that are lower than those charged by other *independent* carriers?"

A similar question was asked of me by Counsel Peter Kyros at the hearing. Basically, my response was that, in my opinion, the Soviets establish their rates essentially in the same way as independent carriers establish their. This response is based upon my own observation and experience, but I am, of course, not privy to the internal discussions and decisions of the Soviets. There has been no indication to me from the members of the League's Export, Import and Maritime Committee that would suggest or warrant altering that response.

Finally, you have asked that concrete examples to verify Soviet rate making practices be furnished in my response. In my opinion, the Federal Maritime Commission is the Agency capable of undertaking this type of study.

Hopefully the above comments will be helpful to you and the other members of the Committee in taking final action on H.R. 9998.

Sincerely,

GEORGE F. AVERY, Jr.,
Chairman, Export, Import and Maritime Committee.

THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE,

May 22, 1978.

Hon. JOHN M. MURPHY,

Chairman, House Merchant Marine and Fisheries Committee's Subcommittee on Merchant Marine, Longworth House Office Building, Washington, D.C.

DEAR CHAIRMAN MURPHY: The National Industrial Traffic League is strongly opposed to H.R. 9998 the so-called "controlled carrier" bill. The League specifically objects to the provisions of the bill regulating rates and charges of certain state-owned carriers in the U.S. foreign commerce. It is our understanding the Merchant Marine Subcommittee has scheduled a mark-up session on H.R. 9998 for Wednesday, May 24.

On April 26, the League's representative, Mr. George F. Avery, Jr., testified before your subcommittee on H.R. 9998. Mr. Avery told the subcommittee, "At this most critical period in international trade, where the rapid proliferation of industrialization throughout the world is dynamically creating vibrant competition in every foreign market, every competitive shipping alternative must remain available to U.S. shippers if we are to successfully compete in foreign markets." Additionally, the League supplied language regarding rate regulation which it prefers to that contained in H.R. 9998. This was sent to the subcommittee, at your request, on May 5. The language reads:

Since commercial malpractice by state-controlled carriers in the U.S. liner trades is unproven and, as we have testified, we believe to be unfounded, the League opposes H.R. 9998 which would amend the commercial liner trade regulatory legislation by adding government regulatory rate suspension authority in the U.S. liner trades and by attempting to legislate what is a legitimate freight level. If the role of the Soviet liner fleet in the U.S. cross trades is considered to be a threat to national security, we recommend that direct government negotiations be conducted with the Soviet Union to limit their participation to a scope not in conflict with the U.S. national security.

The League believes this would bring negotiations between the two countries on rates which may be in question to the top level of government. For the last several years the League has appeared before Congress to express its views on "controlled-carrier" and formerly "third-flag" bills. At its recent annual meetings, the League members voted overwhelmingly to oppose legislation similar to H.R. 9998 and continue to strongly oppose it.

To again reiterate, the League opposes H.R. 9998 and urges the bill not be favorably reported from the Merchant Marine Subcommittee. If, however, the committee proceeds with H.R. 9998, the League, as the largest group of transportation users in the United States, strongly urges that language similar to the aforementioned in regard to country to country negotiations be included to cover rates which may be in question. This is far and above preferable to the restrictive rate regulation language now contained in H.R. 9998.

Sincerely,

J. ROBERT MORTON,
President.

MARYLAND DEPARTMENT OF TRANSPORTATION,

March 28, 1978.

HON. JOHN M. MURPHY,
Chairman, Merchant and Fisheries Committee, Longworth—HOB,
Washington, D.C.

DEAR CHAIRMAN MURPHY: I am writing to express the views of the Maryland Port Administration (MPA) on H.R. 9998, the "Ocean Shipping Act of 1977," which provides for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes.

The MPA, a division of the Maryland Department of Transportation, is an agency charged with the responsibility for developing facilities for the movement of export and import traffic through the Port of Baltimore and elsewhere within the waters of our State. In carrying out these responsibilities, the Administration owns or leases five of the ten major international cargo terminals located in the Baltimore Harbor including Dundalk Marine Terminal, Locust Point Marine Terminal, Hawkins Point Terminal, Clinton Street Marine Terminal and the Maryland Port Administration's Produce Terminal. Cargo enters and leaves the Administration's terminals and facilities via four railroads, approximately one hundred fifty truck lines, and eighty-three steamship lines. The MPA has seven national and international field offices to solicit cargo and facilitate the flow of commerce through our Port.

The MPA has made a substantial investment in port development, maintenance and modernization representing in excess of \$150,000,000 in public tax and bond monies for the years 1956-1975 and \$54,000,000 in projected expenditures for the years 1976-1981.

We have followed very closely the developments surrounding the various legislative proposals such as H.R. 9998 over the last few years. These measures, commonly known as "Third Flag Bills," have had various approaches to the serious ratecutting problems which exist in our waterborne commerce, yet all represent an effort to achieve ocean rate stability. H.R. 9998 would require state-owned carriers to defend certain rates before the Federal Maritime Commission (FMC) if they are of the opinion that the rates "may be below a level which is just and reasonable." Pending a determination as to the rate's lawfulness, the Commission could suspend the rate at any time prior to its effective date, but during the period of rate suspension the Commission would have to prescribe a minimum rate to be charged by that carrier. H.R. 9998 differs from previous bills in that state-owned carriers or independents would not have to artificially inflate their rates to meet a conference rate standard, or if such carriers were members of a conference or flying the flag of a "most-favored nation" the law would not apply to them.

While we share the concern of the Committee and the FMC that rate stability prevail in our ocean commerce and have examined very carefully the revised comments of the State Department, as a major port we must respectfully request great care that H.R. 9998 or any other similar bill does not decrease vessel calls at U.S. Ports by any of the carriers which might be affected by them. For example, within the last five years the Port of Baltimore has had dramatically increased vessel calls from such carriers as FESCO, Blasco Middle East, Blasco India, Blasco Med-Atlantic Lines, Baltic Lines and independents such as OOCL and Evergreen Container Lines. While it is beyond the expertise of the MPA to advise the Committee on ocean rate stability, we can tell you that these and other new services have provided a healthy competitive spirit among all carriers serving our Port and has offered shippers many cargo routing alternatives.

Accordingly, we would ask that the Committee consider our views in their deliberations on this serious matter and request that this letter be made part of the legislative record and history of the hearings.

Sincerely,

W. GREGORY HALPIN,
Acting Port Administrator.

THE STRATEGY BEHIND THE GROWTH OF THE SOVIET MERCHANT MARINE FLEET,
 BY EUGENE P. SPECTOR, NATIONAL MARITIME UNION OF AMERICA

During the past 30 years the Soviet merchant fleet has jumped from obscurity to become a major factor in world shipping. This growth should be cause for

alarm when one realizes that the Soviet merchant fleet is considered by them to be an arm—and eyes, and ears—of the Russian navy and its officers are trained members of the Soviet navy. As of 31 December 1975, the Soviet fleet of 2,404 ships represented 10.5% of the total world fleet, second only to Liberia and ranked seventh by tonnage. Meanwhile the United States fell from first place with 4,446 ships of 46.7 million deadweight tons in 1946 to 10th place—580 ships of 15 million deadweight.

Enormous significance should attach to merchant marine policies of the two greatest superpowers who apparently have reached overall naval equality. The United States has subscribed to a merchant marine policy of reliance on other flags, so that it carries less than 5% of its foreign waterborne commerce. Soviet policy translates into a steadily growing fleet capable of moving about 60% of the Soviet's foreign waterborne commerce and emerges as an important third flag carrier. This development seems to fly in the face of logic since the United States is largely dependent upon imports to sustain its economy and defense base, while the Soviet Union is relatively self-sufficient with respect to strategic ores and is a net exporter of oil.

It has been noted that "unlike Japan, Great Britain, or Norway, the Soviet Union has not allowed its merchant marine to be influenced by purely commercial forces."¹ Prof. Richard Ackley sets forth the following three non-commercial goals for the Soviet merchant marine.

1. To insure that large quantities of arms and equipment can be supplied to client nations, at short notice if required.

2. To provide the lift for follow-up forces in the event of overseas interventions.

3. To serve, through the presence of its ships and their companies in distant parts of the world, as an influence-building instrument of policy.²

To these ends, we can also add the need for the Soviets to meet a rising balance-of-payment deficit to hard currency nations. Today, the Soviet fleet earns hard currency thereby alleviating the pressure on the Soviet economy.

Unquestionably, the Soviet Union now possesses a merchant marine that can effectively and efficiently meet both its commercial and military objectives. This was well documented in Vietnam and is even now impacting worldwide upon economic and political conditions. The military implications are clearly revealed through Vietnam, the Middle East, Cuba, and penetration into the Caribbean and Indian Ocean.

WESTERN FREIGHT RATES UNDERCUT

However, the world wide economic repercussions are not as yet clearly revealed. Unlike the Free World fleet, the Soviets are not bothered by strict economic considerations. Government policy can easily override profit considerations. This can and has led to rate cutting which cannot be matched by profit-oriented operators. Up to now, the Soviets have remained out of conferences and are selectively setting rates from 15 to 40% less than the published conference rates.

The Soviet Union has the world's largest general cargo fleet, 1,602 ships as compared to 138 under US flag. This fleet consists in the main of relatively small general purpose ships of limited draft. They are perfectly suited for trade with developing nations with limited port facilities. At the same time, they lend enormous support to the military by reason of the flexibility of the general cargo ship and its ability to discharge cargo with its own cargo gear system any place in the world.

The Soviets are now concentrating on new technology, namely the container ship, the roll-on-roll-off ship and the LASH ship. For example, in 1970 the Soviet-owned Far East Steamship Company (FESCO) provided no service to or from US ports. Currently, FESCO operates the equivalent of 60,000 20-foot containers annually between California and Japan or about 40% of the con-

¹ Herman T. Franssen. A comparison of the strengths and weaknesses of the United States and the Soviet Union in ocean capabilities. Soviet Oceans Development pursuant to S. Res 222, October 1976.

² 'The Soviet Merchant Marine'. By Richard T. Ackley. U.S. Naval Institute proceedings, vol. 102, No. 2/876, February 1976, page 26.

tainer capacity for six Japanese lines in the same service. Since the Japanese have been moving about 60% of this trade in Japanese-owned ships, the Russians now have the capacity to move the remaining 40% of cargo. They attract business by selective rate cutting. For example, last year they quoted rates on housewares between 47.7 and 52.5% below the conference rates and about 40% under independent carriers in the US/Japan trade. The Soviets have negotiated bilateral agreements with 22 countries, many of which restrict or exclude third-flag participation.

The USSR has expanded its merchant marine activities in Eurasia. The opening of the Northern Sea Route—the formerly unnavigable Soviet Arctic routes—provides new opportunities to expand activities between Western Europe and the Far East. Likewise, the railroad “container bridge” stretching from the new Japanese-built Port Wrangel, near Vladivostok in the Far East, to Leningrad in the West adds an overland alternative to the very long sea routes around the Cape of Good Hope to Europe for Japanese and Western Europe trade.

462 SOVIET TANKERS

There is a tendency to dismiss the enormous achievement of the Soviet Union in its rapid build up of a merchant fleet since it represents only slightly more than 3% of the merchant fleets of the world by tonnage. However, tanker tonnage approaches 60% of the world's total and the Russians have little need for a tanker fleet. Most of its oil exports are destined to the Iron Curtain countries and move by land. Draft limitations in all Soviet ports result in small tankers. Nevertheless, the USSR operates 462 tankers of about 6 million dwt as compared with the US tanker fleet of 250 ships and 9.5 million dwt. This, despite the fact that the US is importing 8 million barrels per day, and imports are expected to rise to 12 million barrels per day by 1985. Further, the US tanker fleet in the main operates almost entirely in the coastwise trade. More than 50% of US oil imports are moved by flags of convenience ships owned by US corporations. This is prohibited by Soviet law. The Soviets are building VLCCs for use in third flag trade and in the years to come will exercise a strong influence in rates.

The greatest potential for freight revenues is from liner cargoes and passengers. Thus the Soviet Union is emphasizing these areas of operations. Its combination/passenger fleet of 87 ships as of 31 December, 1975 is the largest in the world. While the major fleets of the world are cutting back on passenger operations, the Soviets are building modern tonnage. Over the last ten years, they have built eight combination ships of 10,000 gross tons and over. The military implications in a limited war are obvious. Interestingly enough, the United States currently operates six combination ships in the 10,000 to 15,000 GT range of which the two largest will probably be laid up by next year.

FINANCED THROUGH US CREDITS

Significantly, the basis for detente between the US and the USSR was the 1972 maritime agreement which opened 40 US ports to the Soviet fleets. In the latest listing from Fairplay International of ship orders around the world, the Soviets have placed firm orders for 131 new dry cargo carriers and 27 modern containerships. This in addition to 49 tankers, 28 bulk carriers and 38 passenger ships and ferries. Negotiations are currently underway to purchase US technology for the construction of Seabee type vessels to be largely financed through US credits. Last month, the Russians purchased three 26,000 dwt bulkers from a Danish operator to supplement its bulk carrier fleet.

Unquestionably, the Soviet fleet has expanded far beyond the capacity needed to service its own foreign trade. In the years to come, the Russians will be fierce competitors for available cargoes. Its initial impact has been in US trade routes. The older vessels utilizing predatory rate practices are constantly opening up new services, while the newer liners are being placed in cross trades with the major world trading nations.

Mr. Karl Bakke, chairman of the US Federal Maritime Commission, recently stated that “clearly, the aggregate of Soviet merchant tonnage is already in significant excess of what is needed for its bilateral and interior trade—and that excess will continue to grow, at least in the near and medium term. I think

we can safely assume that the Soviets will not keep these vessels tied to a dock or in mothballs. They are going to seek out cargo in cross trades with ever-increasing frequency and capacity, and it doesn't take a crystal ball to see a considerable amount of that tonnage finding its way into cross trades that have the US on one end or the other." Clearly, this is a real problem for all maritime nations since the major financial consideration for Soviet lines is whether the foreign exchange balances out on the plus side for a given transaction.

GOAL: "BUILDING COMMUNISM"

There are none so blind that will not see the obvious. The Admiral of the Soviet Navy, Sergei Gorshkov, in a series of articles between 1971 and 1975 has laid down a virtual blueprint of the goals of Soviet seapower. He wrote that "the goal of the Soviet seapower is to effectively utilize the world ocean in the interests of building Communism." He also claims that the Soviet Union "will have superiority of position over the enemy by building up a (maritime) base system." The Russians have clearly shown their appreciation of the role that the merchant marine plays in support of naval operations.

In conclusion, it is well to repeat the finding of a study, *The Soviet Drive for Maritime Power*, prepared by the legislative Reference Service of the Library of Congress almost a decade ago.

"The manner in which the Soviet Government has used its monopoly power to date has already given rise to considerable alarm in the world of trade and shipping. These eminently self-serving practices of the past have tended to arouse serious apprehension for the future of the world shipping market. It has been quite clear to most regular observers that the Soviet fleet has been expanded without reference to the current supply situation in shipping. Rather, the present campaign of tonnage expansion has been oriented, from the beginning, toward expanding the freedom of the politicians of the Soviet Union to use their growing fleet to maneuver in the turbulent waters of international politics *** The Soviet leaders have simply concluded that a greatly expanded fleet of ships sailing under their flag, regardless of the internal cost or the consequences to other suppliers of such services, would provide them with an opportunity to dictate terms to trading partners, as well as to competitors in the shipping field—in accordance with the changing political interests or economic needs of the political authorities of the USSR. It is thus hard to escape the conclusion that by following a policy of administrative fiat and economic opportunism, without regard to the consequence abroad, the Soviet leaders are prepared to sacrifice the vital economic interests, as well as the fleets, not only of the trading nations of the West, but also of the newly developing nations in the various parts of the world.

"The outlook for the future is not likely to improve as long as the shipping nations of the world continue to pursue their present policies and remain narrowly oriented towards the short-term need of the trade. In this field, there is an immediate and urgent need for co-operative action. What is assuredly not needed is the kind of action that will end in an empty gesture of writing a new set of rules aimed at any type of exclusions. What is needed instead is a common approach designed to affirm the tested historic rules of world shipping and to persuade the USSR and its allies in Eastern Europe that opportunism, however promising in the short run, only breeds counter-opportunism, and that honorable co-operation is the best long-term policy for nations with a serious concern for the economically vital and essentially peaceful pursuit of international commerce and navigation."

This warning has gone unheeded by all. Industry and governments have lent support to the Soviet policy of self-opportunism as shown by the continued growth of Soviet naval and merchant marine power. The only areas of international co-operation appear to be against the United States and its merchant fleet. The world's largest trading nation carries less than 5% of its foreign water-borne commerce under its own flag and international shipping bands together to oppose additional carriage while it gives the Soviets license to become the world's greatest seapower. Free institutions and Free World shipping cannot be protected with such a policy aimed at keeping the US merchant fleet a second rate power.

The time is long past for a co-operative effort by the Free World to limit Soviet aggression in the oceans of the world. Lacking such an international effort, the United States has only one logical avenue open to it—the strong promotion of its merchant fleet through greatly increased government support regardless of the cost. The future of the Free World and its institutions have always rested in the final analysis on US naval power and an adequate merchant marine auxiliary.

STATEMENT OF THE COUNCIL OF EUROPEAN & JAPANESE NATIONAL
SHIPOWNER'S ASSOCIATIONS (CENSA)

1. CENSA would like to take this opportunity to express its full and complete support for the objectives of HR 9998, which seeks to counteract the disruptive and dangerous effects of cross trading by State-controlled shipping lines such as Soviet and other eastern bloc lines. Although there are some provisions of HR 9998 which, in our opinion, merit revision we consider enactment of this kind of legislation essential to the preservation of a healthy and independent maritime industry, and hence to the economic viability of the free world.

2. CENSA, as may be known, comprises the National Shipowners' Associations of Belgium, Denmark, Finland, France, the Federal Republic of Germany, Greece, Italy, Japan, The Netherlands, Norway, Sweden, and the United Kingdom, together with individual lines and international groups operating in the foreign commerce of the United States. CENSA shipowners own some 50 per cent of the world's gross registered tonnage, although naturally not all are engaged in the U.S. trades.

3. For some time the membership of CENSA has watched with growing apprehension the inroads being made by the state-controlled merchant fleets of the Soviet Union and Eastern Europe into the already crowded market for merchant tonnage. These inroads have been accomplished through the continuing expansion of state-controlled shipping lines combined with rate-cutting practices that sometimes verge on the predatory. In twenty years the Soviet merchant marine alone has grown from twenty-third in the rank of world shipping to fourth in number of vessels and ninth in deadweight tonnage. COMECON liner tonnage now represents about 13 per cent of world liner tonnage—an increase of 24 per cent within six years—compared to a growth rate of only 8 per cent by the world liner fleet in the same period. The USSR generates only 1.6 per cent of international sea-borne traffic, but the carrying capacity of its merchant marine amounts to 9 per cent. COMECON shipping enterprises are state monopolies whose costs, prices, and profits are only partly determined by market forces and whose objectives are determined by the larger political and economic strategy of the state.

4. For reasons only marginally related to the necessities of water-borne foreign commerce, this excess capacity is now employed in third-flag carriage in a way that threatens the already fragile structure of the conference system. At a minimum these state-controlled enterprises maintain a tariff differential from the rate level of established conferences sufficient to divert enough cargo to fill their ships; in key categories and trades, rate-cutting can range as high as 50 per cent. The free community of autonomous western shipping, largely dependent on market forces for its costs and profitability, has no means of competing with such market penetration tactics.

5. CENSA's general position is that governments should be involved in the commercial aspects of shipping only to the minimum extent necessary. Nevertheless, the problem of unfair competition by state-controlled shipping enterprises involves such fundamental differences in economic philosophies that solutions are only possible at the national governmental level, preferably accompanied by collaboration between governments.

6. CENSA reserves judgment about the feasibility and wisdom of attempting to determine 'just and reasonable' rates in accordance with the criteria proposed. We would also prefer some other alternative to the provision in proposed Sub-paragraph 18(c) (4), allowing the Federal Maritime Commission to pre-

scribe rates during the period of suspension. In our view this would constitute an unwise and unnecessary extension of the regulatory authority of the Federal Maritime Commission. Nevertheless, CENSA believes that these considerations are of less importance than the paramount need to enact legislation to counteract the non-commercial activities of the State-controlled shipping lines, and therefore fully endorses the objectives of HR 9998.

COUNCIL OF EUROPEAN & JAPANESE NATIONAL SHIPOWNERS' ASSOCIATIONS,
London England, April 25, 1978.

HON. PAUL N. McCLOSKEY, Jr.,
*Cannon House Office Building,
 Washington, D.C.*

DEAR CONGRESSMAN McCLOSKEY: In response to your request for additional material illustrating the activities of the U.S.S.R. merchant marine in world commerce, I enclose copies of two CENSA circulars dated December 6 and December 13, 1977, respectively. I trust that you will find the information contained in these circulars helpful in connection with your deliberations over H.R. 9998.

Sincerely,

Enclosure.

6TH DECEMBER 1977.

To: National Associations (copy to Legislative & General Policy Committee).

TRILATERAL COMMISSION—SOVIET SHIPPING THREAT

This Secretariat's circular CEN/13/87 dated 23rd June 1977 gave details of the influential Trilateral Commission, together with a list of the membership.

At its meeting on 6th October, the Legislative and General Policy Committee considered a proposal that, since the campaign to counter Eastern Bloc penetration should be conducted on as many fronts as possible, there might be advantage in drawing the attention of the Commission to the serious problems posed by Soviet non-commercial competition in shipping. The Committee agreed that this project should be pursued, and that National Associations should be invited to take up the matter with members of the Commission as seemed most appropriate to them.

The Committee instructed the Secretariat to prepare a short paper outlining the problems, which National Associations could use as a basis for their approaches to members of the Commission. Accordingly, a note on "The Threat posed by Soviet Merchant Shipping" has been prepared by the Secretariat and is circulated herewith, with the approval of the Chairman of the Legislative and General Policy Committee. The note has been compiled in the belief that so far as is known, members of the Commission have not previously been connected with shipping.

This Secretariat would be grateful for reports in due course of any action taken in this matter, with an assessment of the results.

I. ROSS-BELL,
Secretary-General.

THE THREAT POSED BY SOVIET MERCHANT SHIPPING

While healthy competition on the basis of commercial disciplines (as these apply in the West) is desirable, the present activity and planned expansion of Soviet merchant shipping poses a major threat to Western commerce. This affects shipowners immediately, but in the longer term will affect shippers also.

From 1965 to 1974, the foreign trade of the USSR increased, on an index basis, from 100 to 163, while the Soviet fleet increased from 100 to 212. In the same period, OECD countries' grades increased from 100 to 187, but their fleet grew from 100 to 157 only. Soviet fleet growth has particularly accelerated over the last few years, and plans for expansion and modernisation show that carrying capacity will continue to increase.

Speculations about over-ambitious planners having made mistakes can be discounted—expansion appears as a manifestation of deliberate policy. Some essential objectives are:

- (a) To earn hard currency to meet balance of payments problems;
- (b) To meet strategic goals, by creating the capacity to provide an effective sea-lift for any overseas intervention;
- (c) To exercise political influence, e.g. by establishing a dominant position in the carriage of cargoes of national importance for other countries;
- (d) To acquire prestige as a major maritime nation consistent with the USSR's position as a world power.

The expansion, and its serious actual and potential damaging effects for Western commerce, are seen most dramatically in liner shipping. The USSR now has the largest general cargo fleet in the world, amounting to 7.8 million grt. At present, the Soviet Union generates some 10 million weight tons of liner cargo a year, but it is estimated that their liner cargo fleet is capable of carrying between four and six times the country's national general cargo trade. Moreover, at the beginning of 1977, the Soviet Union had under construction or on order more than 200 conventional liners, totalling more than 1 million grt; in addition, it is estimated that by 1980 the Soviet Union will have 40 container and Roll-on/Roll-off (RO RO) vessels and two barge-carrying (LASH) vessels, all suitable for deep-sea trading; no conceivable rise in Soviet national trade both ways in containerisable liner cargo could possibly sustain 40 such vessels in 1980.

The Soviet liner fleet is used both in the direct trades between the USSR and other countries, and in cross-trades (i.e. trades between two foreign countries).

In the direct trades, the Russians assure the maximum possible amount of cargo, in both directions, for their own flag, by controlling the terms of shipment through their state trading offices. Thus, for example, 70% of Russia's bilateral trade with EEC countries moves by Russian flag. There is no reciprocity. But, objectionable as this situation is in principle and in practice, it is of relatively minor importance. As already explained, the capacity of the Soviet fleet far exceeds the needs of the national trade, and the bulk of the fleet is consequently employed in the cross-trades.

All the principal general cargo trades of the world are served by liner conferences, which provide scheduled services at published rates. Some companies also operate independently, as "outsiders" in competition with the conferences, and this is a recognized pattern of commercial shipping operations. The Russians also operate, in most cases, as outsiders, but on a totally (in Western terms) non-commercial basis, substantially undercutting the conference rates to a degree which cannot be matched by Western commercial operators.

They are able to do this because the Soviet economy relieves their enterprises of the cost pressures to which operators in market economy countries are subject. This incompatibility makes it virtually impossible for Western shipping companies to compete on a commercial basis. Western shipping companies are independent business firms having to accept the market factors, and can only survive if their incomes exceed their costs, whereas Soviet costs, prices and profits are controlled by their State Planning Authorities and are largely determined by political objectives. Thus, cost comparisons cannot realistically be made. For instance, Soviet shipping enterprises do not have to purchase their ships, and thus do not have to make the necessary arrangements for capital nor to make allowances for depreciation on the investment (which for a Western operator on a liner vessel can amount to 35% of the daily cost, and on a container vessel up to 50%); bear no insurance costs—ships lost are covered by the State; pay much lower wages to their crews (as little as one-fifth of those of a comparable Western operator), on the grounds that their social needs are

covered by the State; and pay reduced prices for bunkers and port dues in home ports, whereas Western shipowners do not enjoy such discriminatory benefits.

The effect of Soviet intrusion in liner trades has been to depress rates, very often to uneconomic levels; to take away important cargo from the established carriers; and to create over-tonnaging (in this connection the intrusion of even a single monthly sailing can effectively disrupt an efficiently organized conference service). The USSR generates only 1.6% of international seaborne liner traffic, but its carrying capacity is estimated at about 9%. Currently the Soviet fleet is actively cross-trading on 49 international liner routes. In a number of trades, serious problems have already developed. In others, new or planned Russian services pose immediate threats. For instance, in the North Atlantic trade, with its inherently weak conference system, the USSR alone already carries nearly 13% of the total liner cargo between North America and West Germany. In the Europe/East Africa trade, a Soviet line is carrying 12% of the total liner traffic, including 16% of the Southbound cargo (this is in addition to the trade share in the conference of two other Eastern Bloc lines). It has been estimated that COMECON lines have captured 35% of the cargo carried between North Europe and the Mediterranean, 25% between North Europe and the West Coast of South America; and over 20% between the Gulf of Mexico and the Mediterranean. In the trade between Europe and the Far East, the conference lines not only have to face effective and increasing competition by sea, from the Russian Odessa Line, but also to cope with substantial undercutting on the alternative overland route by the Trans-Siberian Railway, where ambitious plans are reported for raising the present throughput capacity of 150,000 twenty-foot containers per year to 300,000 by 1980 (about 3 million tons of cargo), and even more in later years. New services have been introduced, and more are planned, in the Pacific trades between Japan, North America and Australasia; and so on.

Moreover, Soviet acquisition of cargo is not only quantitative but qualitative also, since their methods enable them to work on a selective basis and to pick the higher-rated items.

The openness of the Western economy is exploited in other areas also. Not only do Soviet operators benefit from free access to European cargo; they also take full advantage of Western liberal laws, and establish local Agencies to promote their shipping lines. Western shipowners do not enjoy such facilities in the Soviet Union. Again, there is no reciprocity.

If these developments continue unchecked, established shipowners will gradually have first to give up expansion and innovation, and in the ultimate, run down and finally cease operation for lack of reasonable income to offset their costs. The damaging nature of these consequences may in the short term appear less evident to shippers, who may be tempted by an immediate reduction in their transportation costs; but in the long run shippers also will be left open and vulnerable to what may end as a monopoly, devoid of the existing consultation machinery, in world-wide seaborne general cargo transport, and what may further develop into a system of political steering and erosion of the Western economy. Once such a monopoly is within reach, freight rates will not remain at the attractively low levels to which Soviet state-aided disruption has reduced them; but shippers will be left at the mercy of the then "masters of the seas," as to the cost, and also the availability, of their transportation requirements. This was clearly recognized by the General Assembly of the European Shippers' Councils,¹ meeting recently in Montreux, which issued a statement declaring its concern at the progressive penetration of the direct liner trade by some State-controlled carriers, operating, by free market standards, on an uncommercial basis, and considering that in the long term this penetration might have adverse consequences for the present network of liner services to and from Europe, which would ultimately undermine existing liner services and create a harmful monopoly in the trade concerned.

Many efforts have been made on the commercial level to try to accommodate Russian shipping into the conference system, but with very little real result so far. While Western shipowners would prefer accommodation on reasonable terms to confrontation, they believe that the time has come for Western Gov-

¹ Including the National Shippers' Councils of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Israel, Italy, Netherlands, Norway, Spain, Sweden, Switzerland and the United Kingdom.

ernments to take concerted action to protect their shipping interests. Retaliation by Western Governments has so far been a somewhat empty threat. Although a substantial number of States have, or are acquiring, the necessary legislative powers, Governments are very reluctant to act alone, and concerted action has so far been hindered by the various broad political and economic considerations which govern the relations between each country and the Soviet Union, a situation which the Soviet Government fully appreciates. However, the awakening of shipper interests to the dangers is a major step, since it indicates recognition that the threat posed by Soviet merchant shipping is not to shipping industries alone, but to commerce in general in the Western countries, and so to world trade. The prospect of Soviet retaliation by diverting trade to countries not prepared to resist their destructive maritime expansion should not be exaggerated. It would be a totally empty threat, in any event, if the major developed market economy countries acted together in a co-ordinated manner. The focal point for such co-ordination may be the "Third Flag Bill" (HR 1998) introduced into the US Congress on 3rd November 1977, with the backing of the Department of State.

U.S. TRANSATLANTIC

Commodity	Volume	Port of loading	Port of destination	Shipper loader rate	Soviet rate	Percent variance
Eastbound:						
Asphalt (petroleum based)	260 trailers per year	Houston	Antwerp	\$78 per weight	\$48.50 per weight	60
Fertilizer	822 trailers per year	U.S. North Atlantic	Continental	\$96.25 per weight	\$69.75 per weight	44
Commercial HHG	250 trailers per year	U.S. South Atlantic	France	\$25.75 per weight	\$31.50 per weight	50
Synthetic fibre	48 trailers per year	U.S. Gulf	Germany	\$97 per weight	\$85 per weight	24
Cotton seed flour	60 trailers per year	do	Continental	\$39.25 per metric	\$27.15 per trailer	14
Camping equipments	100 trailers per year	do	do	\$35 per metric	\$32.50 per metric	28
Home furnishings	70 trailers per year	U.S. west coast	do	\$35 per metric	\$31.50 per metric	22
Outdoor furniture	1,000 trailers per year	do	do	\$132 per weight	\$127.55 per weight	11
Almonds	275 trailers per year	do	do	\$91 per weight	\$70 per weight	19
Peas/beans/lentils	240 trailers per year	France	U.S. east coast	\$79.50 per weight	\$1,240 per trailer	28
Westbound:						
Synthetic resin	20 trailers per year	do	do	\$77.50 weight per metric	\$33.75 weight per metric	11
Bicycles	40 trailers per year	do	do	\$90 weight per metric	\$37.50 weight per metric	12
Mopeds	45 trailers per year	do	do	\$88.50 weight per metric	\$39.50 weight per metric	11
Beech veneer	240 trailers per year	United Kingdom	U.S. Gulf	\$50 per weight	\$1,535 per trailer	21
Bric-a-brac	120 trailers per year	Continental	do	\$26.75 per weight	\$1,500 per trailer	32
Do	750 trailers per year	Portugal	U.S. east coast	\$82 per weight	\$75 per weight	9
Wine						

U.S. TRANSPACIFIC

Eastbound:						
Toys	5 to 6 trailers per week	Hong Kong	Seattle	\$40.25	\$89 weight per metric	
Electric motor kits	6 to 7 trailers per month	Japan/Korea	Philadelphia	\$51	\$51.50 weight per metric	
Electronics	3 trailers per month	Hong Kong	West coast	\$61.50 weight per metric	\$122.50 per weight—88.50 per metric	
China and porcelainware	2 trailers per month	Japan	New York			
Sodium sulfate	1 trailer per month	do	do			
Westbound:						
Tape players and stereo	8 trailers per month	do	do	\$75.50 weight per metric	\$65.50 weight per metric	
Braded rugs	3 trailers per month	do	do	\$111.50 weight per metric	\$7.88 PC/20-Loc	
Auto tools	4 trailers per month	do	do		\$700 PC/20-OC	
		In 20 ft container yard/container yard container loads—(72+)			\$1,115 PC/40-Loc	
		In 20 ft container yard/container yard container loads—(72+)			\$900 PC/40-OC	
		In 40 ft container yard/container yard container loads—			\$67.25 per cubic meter local	
Thai foodstuff (canned)	3 to 5 20 ft trailers per month			\$70 per cubic meter	\$97.75 per cubic meter	
				987,000 kg.		
Polyethylene sheets	10 trailers per year	Japan	United States	9480.04—\$61 weight per pound	\$61 weight per metric	

Nuts and bolts	600 trailers per year	do	4490—\$77 weight per metric.
K.D. furniture	36 trailers per year	Japan/Korea	4360—\$70 weight per metric.
		Taiwan	0950.30 \$35 container per metric.
Earthenware	150 trailers per year	Korea/Japan	1320—\$52 weight per metric.
		Hong Kong	0580—\$56 container per metric.
Electronic games	60 trailers per year	Japan/Korea	6020—\$12 weight per metric.
		Hong Kong	2790—\$56 container per metric.
Nuts and bolts	250 trailers per year	Hong Kong	\$94 per kilogram
Jute, twine and handicrafts	4 40 ft trailers per month	Korea/Japan	4490—\$77 weight per metric.
			\$1,700 per 40 ft. trailers and inland charges.
R. Ware		Baltimore	\$62
Toys	5 Trailers per year	Longview OCP	\$51
Do	40 Trailers per year	Seattle OCP	\$46.50
Radio	500 Trailers per year	Various	\$61 W/C
		Hong Kong/Japan	\$56 OCP
			\$71 E/C
Rubber beach sandal	40 Trailers per year	Seattle	\$58
Wall decoration		Vancouver	\$94 local
			\$90 OCP
Toys/piece goods		Los Angeles	\$56 local
		San Francisco	\$51 OCP
Toys	300 trailers per year	Seattle	\$52
R. furniture	50 trailers per year	Various	\$53 W/C
			\$48.50 W/C
			\$50 OCP
			\$62 E/C
			\$71.50 E/C
			\$44 OCP
			\$49.50 local
Christmas decoration	80 trailers per year	Longview	\$57 local
Jute twine	60 trailers per month	San Diego	50 cubic meter
Rattan furniture	48 trailers per year	Charleston	65 per cubic meter
Jute yarn	30 trailers per year	Long Beach	50 per cubic meter
Fish sauce	do	do	1,700 per box 40 ft.
Jute yarn	do	do	do
	do	do	50 per cubic meter

U.S. TRANSPACIFIC—Continued

Commodity	Volume	Port of loading	Port of destination	Shipper loader rate	Soviet rate	Percent variance
Westbound:						
Aluminum ingots	250 trailers per year	Portland	Yokohama		\$42.50	
Tampons	120 trailers per year	Elizabeth	Japan		\$1,375.40 ft.—Osaka	
					\$1,300.40 ft.—Tokyo Nagoya	
Resins	100 trailers per year	West Coast	do		\$66 per weight	
Do	N/A	All origins	do		\$67 per weight, \$76 per weight (effective Jan. 1, 1978)	
Chemicals	NA	do	do		\$120.75 per weight metric	
Canned beer	90 trailers per year	Long Beach	do		\$850 per 20 ft.	
Canned soup	84 trailers per year	Oakland	Hong Kong		do	
Feeds	120 trailers per year	Long Beach	do		\$730 per 20 ft.	
Canned beer	36 trailers per year	do	do		\$850 per 20 ft.	
Animal feeds	60 trailers per year	Seattle	do		\$43.50 per weight	
Kraft linerboard and kraft sacking		Vancouver	do		\$50.00-55 per weight (depends on volume)	
Canned beer and canned soft drinks		Long Beach and Oakland	do		\$61 per weight, \$66.25 per weight metric	
Galvanized steel coiled wire (re-jected)		Oakland	do		\$66.50 per long ton	
Chrome shoulder split (hide)		Boston	do		\$60 per 2,000 lb (green salted) \$89.75 per 2,000 lb (blue chrome)	
Waste paper	10 to 15 trailers per month				\$53 per weight	
Hay cube	600 short tons per month				\$580 per 20 ft. per trailer load \$30 per weight	
Diatomaceous earth	40 trailers per month				\$69 per weight	
Hides	350 short tons per month				Local—\$45 per weight OCP—\$40 per weight	
Do	200 short tons per month				Local—\$45 per weight OCP—\$40 per weight	
Waste paper	150 short tons per month				Local/OCP—\$39 per weight	
Aluminum scrap	300 short tons				Local/OCP—\$56 per weight	
Do	120 short tons per month				do	
Waste paper	do				Local/OCP—\$39.50 per	

Cotton	100 short tons per month				weight.
Hides	400 short tons per month				\$90
					Local—\$45 per weight.
					DCP—\$40 per weight.
					\$53.00 per weight.
Waste paper	15 to 25 trailers per month				do
Do	10 to 20 trailers per month				Unknown
Kraft linerboard	120 trailers per year	Tacoma	Singapore		
Drilling mud	12 trailers per year	Houston	do		
					U.S.D. \$64.50 per 2,000 lb.
Pulp	120 trailers per year	Vancouver	Manila		
Do	60 trailers per year	Seattle	do		
Waste paper	300 trailers per year	Oakland	do		
Do	200 trailers per year	Long Beach	do		
Clay	1,200 per metric ton	Charleston	Bangkok		
HDPE	700 per metric ton	Houston	do		
Wood pulp	3,000 per metric ton	Crofton, B.C.	do		
Do	1,500 per metric ton	Vancouver	do		
Do	1,000 per metric ton	Crofton, B.C.	do		
Do	1,000 per metric ton	Vancouver	do		
Synthetic resin	1,800 per metric ton	Nol	do		
Do	4,000 per metric ton	Freeport, Tex.	do		
Asbestos		Vancouver	do		
Do		St. John's	do		
Do		do	do		
Wood pulp	3,600 per metric ton	Duncan, B.C.	do		
Do	1,000 tons	Tacoma	do		
Sodium sulfide	300 tons	Philadelphia	do		
Raw cotton	24,000 bales	Long Beach	do		
Brass/copper scrap	960 per metric ton	Oakland	do		
Wood pulp	12,000 per metric ton	Ketchikan	do		
Waste paper	1,000 per metric ton	Vancouver	Long Beach		
Wood pulp	6,000 metric tons	Vancouver	do		
Waste paper	5,000 metric tons	New York City	do		

SOVIET LINER SERVICES

13TH DECEMBER 1977.

A. J. PRYOR, Esq.,

Chairman, Joint CSG/CENSA Working Group on General Policy, Department of Trade, Shipping Policy Division, The Adelphi, London, WC2M 6BQ

DEAR MR. PRYOR: On the 4th July we sent you a set of tables prepared in Mr. K. von Sydow's offices in Sweden, demonstrating the spread of Soviet liner services, at that time into some 33 trades world-wide.

Enclosed herewith are up-to-date tables from the same source which show that Soviet ships are now engaged in a total of 49 direct international liner services.

Apart from the general increase in effort, a notable development in the Russian operations has been the creation of Malta as an important transshipment centre. Containers from the US Gulf and US Atlantic destined for Jeddah, India and South East Asia are now transhipped at Malta to smaller container vessels operating regularly between Malta and this area.

The tables clearly underline that the disruption of Western liner shipping, and particularly conference services, caused by Soviet shipping which I emphasized in my letter of 4th July, is steadily increasing.

I am copying this letter to your CSG colleagues on the Joint Working Group on General Policy, and to the CENSA members.

Yours sincerely,

I. ROSS-BELL,
Secretary-General.

GOTHENBURG, NOVEMBER 9, 1977.

SOVIET LINER SERVICES JULY-SEPTEMBER, 1977

The enclosed statements present an up-to-date picture of purely international, Soviet liner services.

Presently the Russians have the following modern Ro/Ro- and container tonnage in operation:

2 *Magnitogorsk* vessels, 2 *skulptor* vessels, 4 *khudozhnik* vessels.

This means that one *Khudozhnik* vessel has been added since my May 1977 report. It is presently operated on the Atlantic. My guess is that she will remain there during the guarantee period and then be transferred to the Pacific, though the Russians at the Leningrad meeting with the CENSA delegation in July 1976 indicated their plans to run 2 Ro/Ro- and 2 container vessels in addition to the *Magnitogorsk* and the *Komsomolsk* on the Atlantic.

A third *Skulptor* vessel was launched on June 20 but is not yet in operation. A fourth *Skulptor* vessel has been given a name but shall probably not appear on the high seas until second half 1978.

Both the *Skulptor* vessels and the *Magnitogorsk* have had serious technical troubles. The *Magnitogorsk* was undergoing repairs in Helsinki for more than three months during the period under review. Also the two *Skulptor* vessels were out of service for considerable periods.

The only remarkable change in the Russian operations has been the creation of Malta as an important transshipment centre. Their services from the US Gulf and US Atlantic tranship containers destined to Jeddah, India and South East Asia to smaller container vessels operating regularly between Malta and this area. The establishment of this Maltese base did not prevent Prime Minister Mintoff from publicly criticizing Soviet during his visit to Peking early November.

A certain concentration of Russian interest on the US Gulf has been noticeable. Their Atlantic Ro/Ro tonnage now proceeds westwards to the US Gulf with only sketchy calls at Havana. Eastwards they call at Baltimore, I believe mainly to pick up Leningrad cargoes.

Soviet discussions with liner conferences have been rare and, when taking place, unproductive. Meetings have been held in the Europe/East African trade but an agreement there is still far off. In the Hong Kong rate agreement, where the Soviets, when joining, were allowed to underquote on the understanding that the difference in rates should be gradually narrowed, they are now refusing to take the necessary action.

KRISTIAN VON SYDOW.

DIRECT SERVICES

This study is meant to show the trend of the Soviet Liner Cross Trades during July/September 1977. It is in principle arranged in the same way as the study of June 1977 with which it can therefore easily be compared.

INDIRECT SERVICES

Although there have been some changes in the set-up the general idea is the same as in the previous study.

GENERAL REMARKS

The container capacities of the various vessels may not always agree with the official Russian versions but it is hoped that they are reasonably realistic.

It will be noted that a number of new services have been added to our list of May 1977, i.e.

Direct Services: 1:13-1:17, 3:4-3:8, 5:4 and 6:4.

Indirect Services: 1:h, 1:i, 5:a, 6:a-6:c, 7:f and 7:g.

These may be new services or previously existing ones which have recently been brought to our attention.

In some instances the number of sailings in the Westbound/Eastbound and Southbound/Northbound trades do not tally (eg 1:1, 1:3, 1:4, 1:8, 3:3) which may be due to the fact that some vessels may proceed say direct to/from Russian ports in the Baltic or the Black Sea. In addition there is sometimes a bunching of vessels in certain months which causes imbalance.

1:2 The *Magnitogorsk* and the *Skulptor Vuchetich* have since been advertised to join the *Komsomolsk* from the Gulf and Baltimore. There are no recent figures available of the Russian penetration of the various trades but, according to a survey made by the US Merchant Marine Committee, the Russian vessels on Trade Route 7 (US North Atlantic/W. Germany) lifted 13.1% of the total tonnage in 1976 and 12.8% during the first half of 1977.

1:3 See remarks in 1:2 above re *Skulptor Vuchetich*.

1:6 This is understood to be a Break Bulk trade although the *Maldis Skreya* is described as a container vessel.

1:9 The discussions about possible membership of the Conference have so far been unfruitful.

1:11 As this service is meant to oncarry cargo ex the US Gulf/Baltimore (see 7:e) it is remarkable that only one sailing has been traced during the period July/September. Could it be that some cargo has moved from Rotterdam by the Caspian Volgo Balt Line (1:12)?

3:2 The Russians were members of the WINAC until recently, when the pooling discussions broke down.

5:1b There are rumours of a direct container service from Japan to Australia.

6:2 and 7:1 On Trade Route 17 (US Atlantic/Gulf and Pacific—Indonesia/Malaysia/Singapore) the Russians carried 5.4% in 1976 and 8.9% during the first half of 1977 according to the US Merchant Marine Committee. (Also on other major trade routes considerable increases have been reported.)

Direct services

1:1 North Europe.....	Canada/Great Lakes.
1:2 North Europe.....	U.S. Atlantic.
1:3 North Europe.....	U.S. Gulf.
1:4 North Europe.....	Caribbean/Central and South America W.C.
1:5 North Europe.....	South America E.C.
1:6 North Europe.....	Portugal.
1:7 North Europe.....	North Africa.
1:8 North Europe.....	Mediterranean.
1:9 North Europe.....	East Africa
1:10 North Europe.....	West Africa.
1:11 North Europe.....	Red Sea/Middle East.
1:12 North Europe.....	Iran.

Direct Services—Continued

1:13 North Europe-----	Casablanca/Beirut.
1:14 Hamburg-----	Hull.
1:15 Hamburg-----	Tilbury.
1:16 Hamburg-----	Hamina/Kotka.
1:17 Antwerp Rotterdam-----	Helsinki.
2:1 North Europe and Mediterranean-----	Bangladesh/India.
2:2 North Europe and Mediterranean-----	SE Asia/Far East.
2:3 North Europe and Mediterranean-----	Australia.
2:4 North Europe and Mediterranean-----	New Zealand.
3:1a Mediterranean-----	Canada Great Lakes.
3:1b Mediterranean-----	Canada (St. John, NB).
3:2 Mediterranean-----	U.S. North Atlantic.
3:3 Mediterranean-----	U.S. Gulf and Savannah.
3:4 Mediterranean-----	Red Sea/India/SE Asia.
3:5 Genoa/Leghorn-----	North Africa.
3:6 Venice/Ravenna-----	Eastern Mediterranean.
3:7 Savona-----	Do.
3:8 La Spezia-----	Iran.
4:1 Japan-----	Hong Kong.
4:2 Japan-----	Philippines.
4:3 Japan-----	Southeast Asia/India.
4:4 Japan-----	Arabian Gulf/Persian Gulf.
5:1a Australia-----	Japan (all container service).
5:1b Australia-----	Japan (break bulk/container service).
5:2 Australia-----	Hong Kong.
5:3 Australia-----	Philippines.
5:4 Australia-----	Southeast Asia.
6:1a U.S. Pacific-----	Japan.
6:1b Pacific Northwest-----	Do.
6:1c U.S. Pacific-----	Do.
6:2 United States and Canada Pacific-----	Southeast Asia.
6:3 United States and Canada Pacific-----	Australia.
6:4 U.S. Pacific-----	Hong Kong.
7:1 U.S. Atlantic and Gulf-----	Southeast Asia.
7:2 U.S. Atlantic and Gulf-----	Jeddah and Middle East.
8:1 Hong Kong-----	Southeast Asia.
9: India-----	Do.

ADDITIONAL MATERIAL FROM :
SEA-LAND SERVICE, INC.
"FACTS ABOUT THE SOVIET LINER FLEET AND ITS EFFECT ON
U.S. OCEANBORNE TRADE"
[UNDATED]

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SUMMARY STATEMENTS REGARDING THE SOVIET LINER FLEET AND ITS EFFECT ON U.S. OCEANBORNE TRADE

1. At the end of 1975, the U.S.S.R.'s merchant marine ranked 7th among maritime nations of the world on the basis of deadweight tonnage. (See page 3)
2. It is estimated that Soviet construction plans call for an increase in tonnage of ro/ro, container and barge carriers from the 1976 figure of 157,500 DWT to 566,100 DWT by 1980. (See page 4)
3. The current Soviet five-year plan for their merchant fleet is designed to procure one of the largest ro/ro and LASH/Seabee fleets in the world. In ro/ro vessels alone, the Soviets will have increased their number by almost 600% in 1980. (See page 4)
4. Soviet liner vessels are competitive in size, speed and flexibility with many modern Western vessels; and the largest, most modern of their vessels are being assigned to cross trade on U.S. routes. (See pages 5-6)
5. As of November 1976, the Soviets have ordered 182 liner vessels to be built. This includes container, LASH, semi-container, and dry cargo type vessels. (See page 7)
6. In less than five years, Soviet liner vessels have increased their cross trading on U.S. trade routes from 8 ports in 1972 to 94 ports in 1977. Of these 94 ports, 30 are in the U.S. and 64 are foreign. Only 3 of the 64 foreign ports are in the Soviet Union. (See pages 8-9)
7. As of January 1977, 61 Soviet liner vessels are offering an average of one sailing a day between the United States and her free world trading partners. This compares with only four sailings per month less than five years ago. (See page 8)
8. Since 1972, the number of Soviet liner vessels plying U.S. trade lanes has increased by nearly 600%. (See page 10)
9. In 1974, the Soviets share of liner tonnages on three specific U.S. North Atlantic/European trade routes totaled 13%, 22%, and 17%. (See page 11)
10. In 1974, in a particular Far East to U.S. West Coast trade route, Soviet liner ships accounted for 7 percent or 170,395 long tons of total inbound liner traffic. (See page 11)
11. In U.S. North Atlantic trades, Soviet liners currently provide three separate direct services with 19 vessels offering 12-13 sailings per month between 12 U.S. ports and 6 foreign ports (including only one Russian port). (See page 12)
12. In U.S. Pacific trades, the Soviets currently provide five separate direct services with 26 liner vessels offering 11 sailings per month between 16 U.S. ports and 13 foreign ports (only one of which is in the Soviet Union). (See page 15)
13. The newest service offered by the Soviets is between Australia and the U.S. where the U.S.S.R. operates two separate services with 7 vessels providing 6 sailings per month between 3 U.S. ports and 4 foreign ports (none of which are in Russia). (See page 18)
14. In U.S. Mediterranean trades, the U.S.S.R. currently offers three separate direct services with 14 vessels providing 7 sailings per month between 15 U.S. ports and 16 foreign ports (including only one port in the Soviet Union). (See page 19)
15. One of the Soviets latest entries into U.S. cross-trade is in the Mid-East, where two separate direct services are now offered by the U.S.S.R. merchant marine between 4 U.S. ports and 7 foreign ports (none of which are Russian ports). (See page 22) 25)
16. An overall review of sailing schedule patterns of Soviet liner vessels reveals a dedicated commitment to cross-trading between the U.S. and her free world trading partners. Calls at Russian ports are infrequent. In fact, recent Soviet sailing schedules show only 4 home port calls on major trades over a 6-month period. (See page 17)
17. Soviet freedom from the normal disciplines of a market economy has enabled them to undercut rates of Western steamship operators by an admitted 10 to 20 percent. (See page 25)
18. Although Fesco has increased their rates on many insignificant commodities in the Pacific trade, some rate cutting is still apparent on the heavy moving commodities. In the Pacific West-bound trade, for example, Far Eastern Shipping Co. of Vladivostok (Fesco) charges 33% less than the Conference rate for wastepaper, one of the top five commodities in this trade. (See page 25)

19. The Russians also lure customers for their ships by ordering their commercial negotiators to toss business to the shipping agencies. The negotiators do this by refusing to sign contracts with Western manufacturers or exporters unless the terms give the Russians control over the choice of shipping line and marine insurance agency. (See page 27)
20. The state-owned Soviet shipping companies hold many economic advantages over their Western counterparts. For example, the monthly wage for a Soviet seaman is 145 rubles or \$190 . . . compared to the American corresponding wage of \$720. (See page 30)
21. The Russian daily operation cost for a modern container vessel is calculated to be 40 to 50% lower than most American or European ones. (See page 30)
22. As a state trading country, the Soviet Union exercises a 100% control of its own export and import trade. (See page 30)
23. According to the Admiral of the Soviet Navy, the U.S.S.R. is expanding its port network to build up a base system in order "to have superiority over the enemy." (See page 31)
24. The Soviets buildup of ro/ro vessels demonstrates their increasing ability to transport arms and materials to support onshore military operations. (See page 31)
25. The expansion of the Soviet liner fleet into U.S. cross trades has generated hard currency for the U.S.S.R., which are now at a premium there. (See page 32)
26. While the Soviet Union carries 60 percent of its overseas trade on U.S.S.R. bottoms, the United States carries only 5 percent of its overseas trade on American ships. Carrying such a low percentage of trade in U.S. flag vessels could subject the U.S. to foreign boycotts and freight discrimination. (See page 32)
27. The U.S.S.R. ranks second among the top ten countries involved in the carriage of oceanborne freight, with 2,404 ships in operation as of December 1975. The Soviet Union ranks first in number of refrigerated vessels in operation. (See page 32)

UPGRADING OF SOVIET LINER FLEET

There has been a notable growth of the Soviet merchant fleet since 1960. In recent years, the U.S.S.R. has emerged as a major maritime power. Its ships incorporate many of the latest engineering innovations, and advanced research and development is being undertaken on a continuing basis in all aspects of ship design and propulsion.¹ Soviet ships are being built both within and outside the U.S.S.R. (See page 7) The building plans of the new ships include the latest maritime technologies. In fact, some of the most recent plans for Soviet Seabee vessels have been bought from American carriers.

An intensive program of Soviet ship acquisitions caused fleet capacity to more than double from 4.2

million DWT at the end of 1961 to 8.9 million DWT at the end of 1966. (See table below) In an even shorter period — 1962 to 1964 — the addition of nearly .3 million DWT of newly constructed vessels raised the world standing of the Soviet merchant fleet from 12th to 7th largest.²

Ships deliveries of 900,000 tons (DWT) in 1974 brought the size of the U.S.S.R. merchant fleet to 1,590 vessels totaling 14.2 million DWT at the end of the year.³

At the end of 1975, the merchant marine of the U.S.S.R. operated 2,404 ships and ranked seventh among the maritime nations of the world on the basis of deadweight tonnage.⁴

The current Soviet five-year plan for the merchant

fleet is designed to procure one of the largest ro/ro and LASH/Seabee fleets in the world. These vessels are uniquely suited for transporting cargo to regions lacking adequate port facilities and specialized cargo handling equipment. It has also been observed that ro/ro and LASH ships are highly adaptable for the transport of arms and materials to support onshore military operations.⁵

The U.S.S.R., currently with 11 ro/ro ships in their fleet, have 21 of these ships on order. The projected fleet growth factor of this type of vessel is greater in the Soviet Union than in any other maritime nation

of the world. By 1980, the Soviets will have increased their number of ro/ro vessels by almost 600%.⁶

The Soviets have progressed to such a point that it is expected that at the end of the five-year plan ending in 1980, the following increases in construction of competitive-type specialized vessels are expected over levels prevailing in 1976:⁷

	1976	1980
Ro/Ro	89,200 DWT to	289,000 DWT
Container carriers	68,300 DWT to	198,300 DWT
Barge carriers	0	to 78,400 DWT
TOTAL	157,500	566,100

NEWEST SOVIET RO/RO VESSEL

The M.V. KOMSOMOLSK, the Soviets newest and largest ro/ro vessel, (1,368 TEU) is pictured below loading cargo in New Orleans in December 1976. This photograph appeared in the December 9, 1976 Times-Picayune (New Orleans), which described the ship "on its maiden voyage, fresh from a Finnish shipyard. The Baltic Shipping Co.'s ship is scheduled to call

in the Gulf at least once a month, including New Orleans ..."⁸

Along with its sistership, the M.V. MAGNITOGORSK, this vessel is currently being advertised as being available for movement of U.S. origin cargoes to Northern Europe, the U.K., as well as to the Mid-East. (See pages 23-24)



COMPARISON OF MODERN SOVIET AND AMERICAN LINER VESSELS

A. Below is a comparison of the newest Soviet ro/ro vessels in U.S. trade, the KOMSOMOLSK and the MAGNITOGORSK (Baltatlantic Line) with the most recent type American Flag ro/ro, the S.S. MAINE

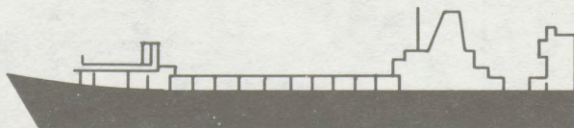
operated by States Marine Line. It is clear that new Soviet tonnage is competitive in size, speed and flexibility with modern Western vessels.

VESSEL	TYPE	YEAR BUILT	LENGTH	CONTAINER CAPACITY	SPEED
SOVIET					
M.V. MAGNITOGORSK	Roll on/Roll off	1975	675 ft.	1,368 TEU	22 knots
M.V. KOMSOMOLSK	Roll on/Roll off	1976	675 ft.	1,368 TEU	22 knots



AMERICAN

S.S. MAINE	Roll on/Roll off	1976	684 ft.	1,202 TEU	23 knots
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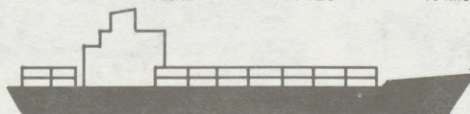


B. A further comparison of Soviet and American tonnage in the Pacific trade again shows the competitive capabilities of new Russian vessels on U.S. trade lanes. The KHUDOZHNIK SARYAN of Fesco was the first of five sister containerships to enter the Pacific trade. The second such ship, the KHUDOZHNIK IOGANSON (see next page), came on stream in the

same route in August 1976, and the third ship, the KHUDOZHNIK ZHUKOV, entered the California/Japan trade in late 1976.⁹ Two additional ships of this class will also be phased into service in 1977. For purposes of comparison, these vessels are competitive with containerships such as the PRESIDENT MONROE operated on Pacific routes by American President Line.

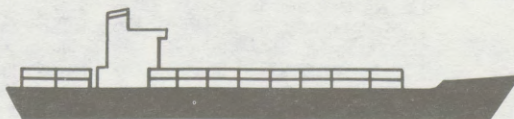
SOVIET

KHUDOZHNIK SARYAN	Containership	1975	558 ft.	774 TEU	19 knots
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AMERICAN

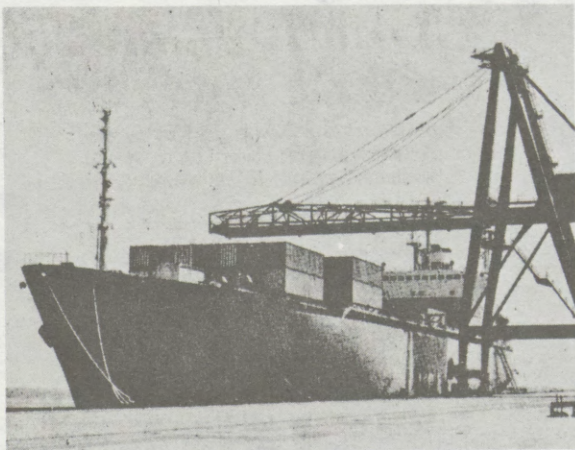
PRESIDENT MONROE	Containership	1972	669 ft.	792 TEU	20 knots
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SHIPPING & TRADE NEWS

Japan

September 1, 1976

FESCO's Second...

The "Khudozhnik Ioganson" at berth at Kobe port.

★ ★ ★

The *Khudozhnik Ioganson*, a newly-completed 17,834-g/t full-containership of the Soviet Union's Far Eastern Shipping Co. (FESCO), sailed from Kobe on her maiden voyage Aug. 24 as the second liner of the FESCO Pacific container service between Japan and the West Coast of North America.

According to United Orient Shipping & Agency Co. (UNIORIENT), FESCO's general agent in Japan, VEB Warnowwerft Warnemunde of East Germany, which built the first ship *Khudozhnik Saryan*, also completed the second ship in June.

The same East German shipyard is now constructing four more full-containerships of the *Khudozhnik* series and the third ship *Khudozhnik Zhukov* is scheduled to be completed in October and inaugurated in November, the agent says.

UNIORIENT says although one of the three remaining ships

will be taken over by Baltic Shipping Co. upon completion, the two others will also be assigned to the FESCO Pacific container service.

During her stay at the Maya Container Terminal at Kobe port, the *Khudozhnik Ioganson* received the Kobe Municipal Port and Harbor Bureau's "welcome-to-Kobe delegation" led by vice-harbor master Kazuji Utsura.

Later Capt. N. Evgeniy Akinfiev of the FESCO liner and Nobuichi Oishi, Kobe manager of UNIORIENT, gave a beer party for some 60 guests invited from among local customer shippers.

SOVIET LINER VESSELS ON ORDER

The dramatic buildup of Soviet liner vessels during the past few years is far from over. A recent listing from Fairplay International (February 1977) of vessels on order in shipyards around the world reveals that the U.S.S.R. has firm orders for 182 dry cargo vessels. Of this total, 22 will be designed as container and roll-on/roll-off ships (280,114 DWT). Fourteen of these specialized vessels will have more than 700 TEU capacity per vessel.¹⁰

In addition, 160 other new dry cargo carriers (783,958 DWT) have been ordered. Of this group of 160 vessels, 41 of the ships (276,534 DWT) will have dedicated container space. Of the total 1.1 million DWT of dry cargo construction for the U.S.S.R., 59% or 629,848 DWT are devoted to vessels equipped to carry containers.¹¹

Two Seabee class vessels (36,600 DWT each) are on order for the U.S.S.R. from Finnish shipyards¹² which are building the ships on the basis of designs furnished by an American company.

The same February 1977 construction listing also shows that the U.S. has orders on the books for two conventional dry cargo vessels, and only eleven container ships are on order in the American yards for the U.S. merchant fleet.¹³

If recent trends of deployment are any indication, it can be expected that the majority of these Russian container and ro/ro vessels will be immediately deployed in the U.S. trade routes.

Following is a listing of Soviet dry cargo type, container, and partial container class vessels on order as of February 1977.

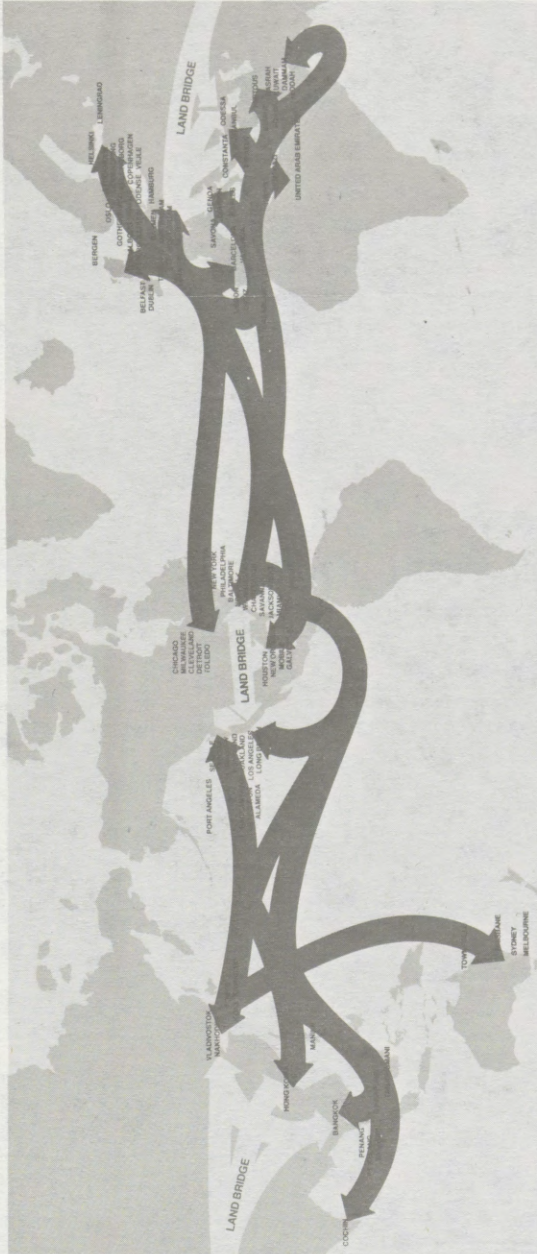
VESSELS ON ORDER FOR THE U.S.S.R. AS OF FEBRUARY 1977

YARD LOCATION	CONTAINER VESSELS		SEMI-CONTAINER VESSELS		DRY CARGO TYPE		TOTAL	
	NO. VESSELS	DWT	NO. VESSELS	DWT	NO. VESSELS	DWT	NO. VESSELS	DWT
East Germany	7	101,430	14	64,932			21	165,822
Poland	6	113,300	6	84,000	12	93,050	24	290,350
Finland	3	18,384	14	43,226	15*	108,200	32	169,810
USSR	6	47,000	5	58,916	78	231,050	89	336,966
Romania					4	8,584	4	8,584
Japan					6**	54,000	6	54,000
Denmark			2	26,000			2	26,000
Portugal					4	12,540	4	12,540
Totals	22	280,114	41	276,534	119	507,424	182	1,064,072

* Included in the Dry Cargo type category of U.S.S.R. ships under construction in Finland are two 36,600 DWT each seabee class vessels.

** Included in the Dry Cargo Type category of U.S.S.R. ships under construction in Japan are six non-propelled barge carriers.

Source: Fairplay International



1977 SOVIET SERVICES ON U.S. TRADE ROUTES

Soviet liner services on U.S. trade routes in 1977 provide a striking comparison to the limited service offered in 1922. As of January 1977, 61 Soviet liner companies serve 30 U.S. ports and 64 foreign ports — are trading between 30 U.S. ports and 64 foreign ports, and of the 54 ports only 3

are in the Soviet Union. The Soviet merchant marine offers an average of one sailing a day between the United States and her free world trading partners. This compares with only one or two sailings per month less than five years ago.

Source: 1) Soviet agency printed ship schedules
2) U.S. Maritime Administration, "Soviet Shipping in January 1977," New York Journal of Commerce.



1972 SOVIET SERVICES ON U.S. TRADE ROUTES

In 1972, eight Russian conventional bulk freighters served four U.S. West Coast ports and four ports in Japan. Two separate liner services (Californian/Far East and Pacific Northwest/Far East) each offered one sailing per month. This was the extent of Soviet liner cross-trading on U.S. trade routes.

BUILDUP OF PORT COVERAGE BY SOVIET LINER VESSELS IN U.S. TRADES

Following is a listing of U.S. and foreign ports served by Soviet liner vessels on U.S. trade routes. It should be noted that of the 64 foreign ports served by Russian ships in 1977, only 3 are Soviet ports. The other 61 represent cross trade between the United States and her trading partners.

U.S. Ports	1972	Foreign Ports
Seattle		Kobe, Japan
Portland		Nagoya, Japan
Los Angeles		Yokohama, Japan
San Francisco		Moji, Japan
Total 4		Total 4
	1974	
Long Beach		Kobe, Japan
Alameda		Nagoya, Japan
Seattle		Yokohama, Japan
Portland		Tokyo, Japan
Oakland		Hong Kong
New York		Rotterdam, Netherlands
Philadelphia		Bremen, Germany
Baltimore		Hamburg, Germany
		Antwerp, Belgium
		Leningrad, Russia
Total 8		Total 10

Total Soviet ports served in 1977:
30 U.S., 64 Foreign

U.S. Ports
Los Angeles
Oakland
Long Beach
Tacoma
Longview
Seattle
Portland
New York
Philadelphia
Baltimore
Houston
New Orleans
Norfolk
Savannah
Port Angeles
Alameda
Sacramento
Stockton
Boston
Charleston
Jacksonville
Wilmington
Miami
Chicago
Milwaukee
Cleveland
Detroit
Toledo
Mobile
Galveston

Mediterranean Ports
Odessa, Russia
Istanbul, Turkey
Genoa, Italy
Piraeus, Greece
Leghorn, Italy
Naples, Italy
Casablanca, Morocco
Savona, Italy
Lisbon, Portugal
Tripoli, Libya
Tartous, Syria
Constantza, Romania
Beirut, Lebanon
Benghazi, Libya
Valencia, Spain
Barcelona, Spain
Cadiz, Spain

1977

Middle East Ports
Jeddah, Saudi Arabia
Dammam, Saudi Arabia
Aquaba, Jordan
Kuwait, Kuwait
Basrah, Iraq
United Arab Emirates

Far East Ports
Kawasaki, Japan
Tokyo, Japan
Kobe, Japan
Bangkok, Thailand
Penang, Malaysia
Belawan, Sumatra
Manila, Philippines
Pt. Kelang, Malaysia
Hong Kong
Cochin, India
Vladivostok, Russia
Nakhodka, Russia
Tanjongmani, Singapore

North Atlantic Ports
Rotterdam, Netherlands
Antwerp, Belgium
Hamburg, Germany
Leningrad, Russia
Tilbury, U.K.
Bremen, Germany
LeHavre, France
Helsinki, Finland
Amsterdam, Netherlands
Esbjerg, Denmark
Odense, Denmark
Vejle, Denmark
Aalborg, Denmark
Aarhus, Denmark
Copenhagen, Denmark
Gothenburg, Sweden
Stockholm, Sweden
Helsingborg, Sweden
Malmo, Sweden
Norrkoping, Sweden
Oslo, Norway
Bergen, Norway
Belfast, Ireland
Dublin, Ireland

Australian Ports
Brisbane
Melbourne
Sydney
Townsville

Source: 1) Soviet Agency printed ship schedules.
2) Soviet shipcards and advertisements in January 1977,
New York Journal of Commerce.

SOVIET ENTRY IN U.S. CROSS TRADE

In 1972, the Soviets involvement in the shipping of U.S. imports and exports was minimal with only one line, the Soviet-owned Far Eastern Shipping Company of Vladivostok (Fesco), operating eight conventional breakbulk vessels on U.S./Pacific trade routes. The vessels were small and uncompetitive, and the service was irregular. Since that time, the number of Soviet liner vessels plying U.S. trade lanes has increased by nearly 600%.¹⁴ During this same period, a significant technological upgrading of Soviet vessels has also taken place with regard to the vessels entering U.S. cross trade.

In 1973, Russia's Baltatlantic Line introduced part containerships on the U.S. North Atlantic/Europe run. This same class of vessel was soon added to Fesco's fleet for operation in the U.S. Pacific/Far East trade. In 1975, the first Soviet full containership suitable for trans-Pacific or trans-Atlantic service was delivered. This was the East German built KHUZOZHNIK SARYAN (13,000 DWT - 774 TEU's).¹⁵

As new competitive ships such as the SARYAN come off the buildingways, they are immediately placed in cross trade between the United States and her free world trading partners. (See pages 5-6)

The intensification of existing Soviet inroads in cross trade is likely since the U.S.S.R.'s current over-tonnage problem will become even greater once their new construction orders are filled.

It has been estimated that the Soviet Union accounts for 9 million tons of the total 600 million tons of world exports and imports. However, the U.S.S.R.'s present ship capacity allows for their carriage of 54 million tons. Since their own trade accounts for only 6% of this total, it would seem that the surplus capacity would have to be devoted to cross trade.¹⁶

The other evidence of this trend in cross trade lies in the fact that although the Soviet Union's export and import trade are dominated by bulk cargo, almost 60% of their construction orders are for container, semi-container, ro/ro, and Seabee vessels.¹⁷

The U.S.S.R.'s acceleration in U.S. cross trades has been observed by the American business community as well as the shipping industry. Fortune Magazine recently acknowledged that "the Soviet Union's most spectacular success has been in shipping. Its fast and modern cargo-liner fleet is now the largest in the world, plying just about every major trade route on the globe. The ships are deployed mainly in the business of cross-trading — that is, they carry cargo between nations other than their own. During the first half of 1976, for example, more than 10 percent of all cargo shipped between the U.S. West Coast and Hong Kong went in Soviet vessels; virtually none of this cargo originated in, or was destined for, the U.S.S.R."¹⁸

SOVIET SHARE OF U.S. TRADE

The following tables show the Soviet-flag share of total liner cargo carried by the U.S.S.R. merchant marine on several trade routes in U.S. sea lanes, where the Soviets appear to be capturing a steadily

increasing share of the traffic. The data used for the period January-September 1974 is the most current cargo information available on Soviet movements in these trades.

U.S.S.R.-FLAG SHARE OF COMMERCIAL CARGO TONNAGE CARRIED IN THE U.S. OCEANBORNE FOREIGN TRADE JANUARY - SEPTEMBER 1974 (Excludes Cargo Between U.S. and U.S.S.R. Ports)

	Trade Routes	Total Liner Long Tons	U.S.S.R. Liner Long Tons	U.S.S.R. Percent
EXPORTS	7 — U.S. No. Atlantic to W. Germany (North Sea)	424,537	55,101	13
	8 — U.S. No. Atlantic to Netherlands, Belgium	1,157,213	50,650	4
	21 — U.S. Gulf to U.K., Ireland Cont. Europe (No. of Portugal) (U.S.S.R. ports excl.)	1,716,253	77,811	5
	29 — U.S. Pacific, Hawaii, Alaska to Far East	3,306,585	209,937	6
	32 — U.S. Great Lakes to U.K., Ireland, Cont. Europe (No. of Portugal) (U.S.S.R. ports excl.)	106,565	23,232	22
	34 — U.S. Great Lakes to Med., Black Sea, Portugal, Spain, (So. of Portugal) Morocco (U.S.S.R. ports excl.)	74,007	12,828	17
IMPORTS	7 — W. Germany (North Sea) to U.S. No. Atlantic	738,071	88,101	12
	8 — Netherlands, Belgium to U.S. No. Atlantic	970,821	33,635	3
	17 — Indonesia, Malaysia, Singapore to U.S. Atl./Gulf/Pacific	806,745	46,225	6
	29 — Far East to U.S. Pacific, Hawaii, Alaska	2,161,959	170,395	7
	32 — U.K., Ireland, Cont. Europe (No. of Portugal) U.S.S.R. ports excl.) to U.S. Great Lakes	122,536	8,650	7
	34 — Med., Black Sea, Portugal, Spain (So. of Portugal) Morocco (U.S.S.R. ports excl.) to U.S. Great Lakes	23,256	5,076	22

Source: Dept. of Commerce, Maritime Administration.

To sum up the Soviets penetration in U.S. trade, the following points are noteworthy:

1. Although the preceding tables indicating the total Soviet percentage of U.S. liner trade in 1974 totaled 4%, Federal Maritime Commission studies indicate that in 1976 this figure was closer to 7%.
2. In the preceding 1974 study, it is noted that the Soviets share of liner tonnages on U.S. North Atlantic/European trade routes #7, #32, and #34 was an impressive 13%, 22%, and 17%, respectively.

3. The preceding tables also point out that on trade route #29 — Far East to U.S. West Coast — Fesco ships accounted for 7 percent or 170,395 long tons of total inbound liner traffic. Independent studies for the year 1976 show that Fesco carried in excess of 10% of the total cargo in the Hong Kong to U.S. West Coast trade alone.
4. Figures for April/May 1976 show that Baltatlantic Line and Baltic Steamship Company carried 33,191 tons of cargo from Europe to the United States. 84% of that cargo came from countries other than the Soviet Union.¹⁹

SOVIET LINER SERVICES IN THE U.S. NORTH ATLANTIC TRADE JANUARY 1977

Following is a summary of current Soviet liner services on United States North Atlantic trade routes.

SERVICE	NO. VESSELS	TYPE	SAILING FREQUENCY	U.S. PORTS	FOREIGN PORTS***
*U.S. Atlantic-North Europe (Baltatlantic Line)	7	Part Container Roll on/ Roll off	8/month	New York Philadelphia Baltimore Savannah Norfolk	Rotterdam Antwerp Hamburg Leningrad Tilbury Bremen LeHavre
**U.S. Gulf-North Europe (Baltic Shipping Co.)	6	Part Container Roll on/ Roll off	2-3/month	New Orleans Houston	Rotterdam Antwerp Bremen Hamburg Leningrad
U.S. Great Lakes-No. Europe (Artic Steamship Line)	6	Breakbulk	2/month	Milwaukee Cleveland Detroit Chicago Toledo	Hamburg Bremen Antwerp Rotterdam

Total: Three separate services with 19 vessels offering 12-13 sailings per month between 12 U.S. ports and 7 foreign ports (including only one Russian port).

*Mini Land Bridge service via Savannah links the following West Coast ports to this service: Seattle, Portland, Stockton, Sacramento, Oakland and Los Angeles.

**Mini Land Bridge Service via New Orleans links this service to the West Coast ports: Oakland, Sacramento, Stockton, Long Beach and Pacific Northwest.

In addition to the Mini-Bridge tariff which the Soviet Union

offers, the U.S.S.R. also has an arrangement with NVO's (Non-Vessel Operators). In this arrangement NVO-origin cargo from the West Coast moves by rail to Gulf ports where the NVO then charters space on Russian ships en route to Northern Europe. As a result of this arrangement with the Russians, the NVO is able to provide a discount in their tariff which averages 10% below that given in the trade.

***In addition to the 6 direct ports-of-call, connecting service is also offered to the following foreign ports: Helsinki, Amsterdam, Esbjerg, Odense, Vejle, Aalborg, Aarhus, Copenhagen, Gothenburg, Stockholm, Helsinki, Malmö, Norrköping, Oslo, Bergen, Belfast and Dublin.

Source: 1) Soviet agency printed ship schedules.

2) Soviet shipcards and advertisements in January 1977, New York Journal of Commerce.

SOVIET VESSELS IN THE U.S. NORTH ATLANTIC TRADE

Pictured below are two Baltatlantic Line ro/ro vessels unloading at Elizabeth, N.J. on July 5, 1976. The Soviets currently utilize 19 vessels in their cross trade between the U.S. East, Gulf and Great Lakes area and Northern European ports.



SOVIET VESSEL SCHEDULING IN U.S. NORTH ATLANTIC TRADE ROUTES

Following is an example of a recent Soviet liner sailing schedule which serves to clarify the Soviets heavy cross trading patterns and infrequency of calls at their home ports. This schedule shows 16 departures from the U.S. to our European trading partners in a

17-day period. There is no evidence that the Soviets are actively seeking cargo for movement to or from Russia. Arrival dates are shown for 5 European ports, none of which are in Russia.



The Baltatlantic Line

A Service of the Baltic Shipping Co. of Leningrad

WEEKLY INDEPENDENT CONTAINER & RO/RO SERVICE

**ANTWERP • ROTTERDAM • BREMEN • BREMERHAVEN • HAMBURG • † TILBURY
† LE HAVRE • LENINGRAD**

(Full Containers Only For The Following Ports)

**AMSTERDAM • DUBLIN • BELFAST • HELSINKI • AARHUS • AALBORG • COPENHAGEN • ESBJERG • ODENSE
VEJLE • GOTHENBURG • MALMO • HELSINGBORG • STOCKHOLM • NORRKÖPING • OSLO • BERGEN**

VESSEL/VOY.	Sails New York	Sails Phila.	Sails Hortals	Sails Baltimore	Sails Savannah	Arr. Hartford	Arr. Antwerp	Arr. Hamburg	Arr. Bremen	Arr. Tilbury
Pavlograd V-64	12/28		12/29	12/28	12/31	1/13	1/11	1/13	1/15	1/13
Palekh V-65	12/28	12/29	12/31	12/30		1/10	1/12	1/13	1/11	1/14
Dekabrist V-67	1/11		1/12	1/11	1/14	1/26	1/24	1/26	1/28	1/28
Polessk V-68	1/11	1/12	1/13	1/12		1/23	1/25	1/26	1/24	1/27

ITO TERMINAL
SHED 2500 FT. ELIZABETH — 527-8800

Deep Tanks
1 Full containers only

*Ro/Ro vessel
ELC, Antwerp also

Break bulk reefer space.
All Vessels, Arrival and Departure Date, Subject to change without notice.

NORTH EUROPEAN & BALTIC PORTS

SOVIET LINER SERVICES IN THE U.S. PACIFIC TRADE JANUARY 1977

Following is a summary of current Soviet liner services on United States Pacific trade routes (Far Eastern Shipping Company — Fesco).

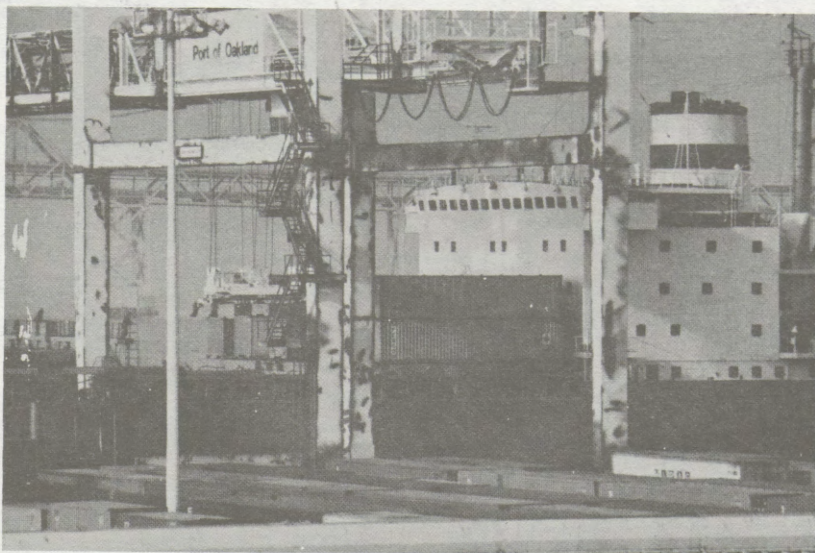
SERVICE	NO. VESSELS	TYPE	SAILING FREQUENCY	U.S. PORTS	FOREIGN PORTS
California-Far East Container Service	3	Container and Part Container	10 days	Long Beach	Tokyo
	1			Oakland (mini land bridge to 12 U.S. ports on Atlantic & Gulf Coasts)	Kobe Hong Kong Manila* Bangkok* Singapore*
Pacific Northwest-Far East Container Service	4	Container and Part Container	3/month	Seattle Portland	Tokyo Kobe Hong Kong* Vladivostok Manila* Bangkok* Singapore*
Pacific Northwest-Japan	3	Breakbulk	1/month	Seattle Tahsis Port Angeles Nanaimo	Tokyo Yokohama Kobe Kawasaki
Pacific Northwest/California-Southeast Asia	7	Breakbulk	2/month	Tacoma Longview Long Beach Alameda	Philippines Bangkok Singapore Malaysia Indonesia
U.S. Atlantic/Gulf Coast-Southeast Asia	8	Breakbulk	2/month	Houston New Orleans Savannah Baltimore New York Philadelphia	Bangkok Singapore Malaysia Penang Belawan Manila Nakhodka

Total: Five separate services with 26 vessels offering 11 sailings per month between 16 U.S. ports and 13 foreign ports (including only two Russian ports).

*Feeder

Source: 1) Soviet agency printed ship schedules.
2) Soviet shipcards and advertisements in January 1977, New York Journal of Commerce.

SOVIET VESSELS IN THE U.S. PACIFIC TRADE



The KHUDOZHNIK IOGANSON, one of 25 vessels operated by Fesco, (Far Eastern Shipping Company of Vladivostok) in U.S. foreign trade is shown here loading at the 7th Street Public Terminal at the Port of Oakland on December 21, 1976. Ports of call for this 774-container capacity vessel are Oakland-Tokyo-Kobe-Seattle-Long Beach. Current schedules for these cellular ships show no home port calls in the Soviet Union.

SOVIET VESSEL SCHEDULING IN U.S. PACIFIC TRADE ROUTES

The following published sailing schedule of the Far Eastern Shipping Company again indicates the Soviet dedication to cross trade between the U.S. and her trading partners. During the 6-month period Decem-

ber 6, 1976 to June 10, 1977, only 4 vessel calls are scheduled for Nakhodka, the only Soviet port included in these services.

PACIFIC COAST BREAKBULK EXPRESS TO SOUTHEAST ASIA/JAPAN/PHILIPPINES

	Ivan Syrykh V-1	K. Paust- ovskiy V-4	I. Kotlyar- evskiy V-4	Alisher Navoi V-4	V. Mayak- ovskiy V-9	M. Gordie- enko V-1	Ivan Syrykh V-2
BANGKOK	—	DEC. 06	DEC. 22	JAN. 12	FEB. 09	—	—
PORT KELANG	—	DEC. 14	DEC. 29	JAN. 20	FEB. 14	—	—
PENANG	—	—	DEC. 31	JAN. 22	FEB. 16	—	—
SINGAPORE	—	JAN. 04	JAN. 06	JAN. 25	FEB. 19	—	—
SARAWAK	—	DEC. 26	—	JAN. 28	FEB. 23	—	—
TOKYO	—	—	—	—	—	—	MAR. 05
JAPAN OUTPORT	—	—	—	—	—	—	+
PHILIPPINES	—	—	JAN. 18	FEB. 05	—	MAR. 02	APR. 02
(C) LONG BEACH (L.A.)	—	JAN. 24-27	FEB. 05-08	FEB. 22-23	MAR. 13-17	MAR. 19-21	APR. 19-21
(C) ALAMEDA (S.F.)	—	JAN. 29-30	FEB. 09-13	FEB. 24-25	MAR. 18-19	MAR. 22-25	APR. 22-25
LONGVIEW	—	FEB. 03-03	FEB. 15-17	FEB. 27-28	MAR. 21-22	MAR. 27	APR. 27
TACOMA	—	FEB. 05-06	FEB. 19-21	MAR. 01-02	MAR. 23-24	+	+
VANCOUVER (WASH.)	—	FEB. 01-02	FEB. 22-23	MAR. 03-05	MAR. 25-26	+	+
CANADIAN PORTS	J 24/F 11	FEB. 11-18	FEB. 24-28	MAR. 06-21	M 27/A 21	APR. 12	MAY 12
NAKHODKA	—	MAR. 03	MAR. 19	APR. 03	MAY 03	—	—
BANGKOK	—	MAR. 15	APR. 01	APR. 15	MAY 14	—	—
SINGAPORE	—	MAR. 22	APR. 08	APR. 22	MAY 19	—	—
PORT KELANG	—	MAR. 25	APR. 11	APR. 25	MAY 21	—	—
PENANG	—	MAR. 29	APR. 15	APR. 29	MAY 23	—	—
JAPAN	FEB. 22	—	—	—	—	APR. 23	MAY 23
PHILIPPINES	MAR. 10	APR. 13	APR. 29	MAY 13	JUN. 02	MAY 10	JUN. 10

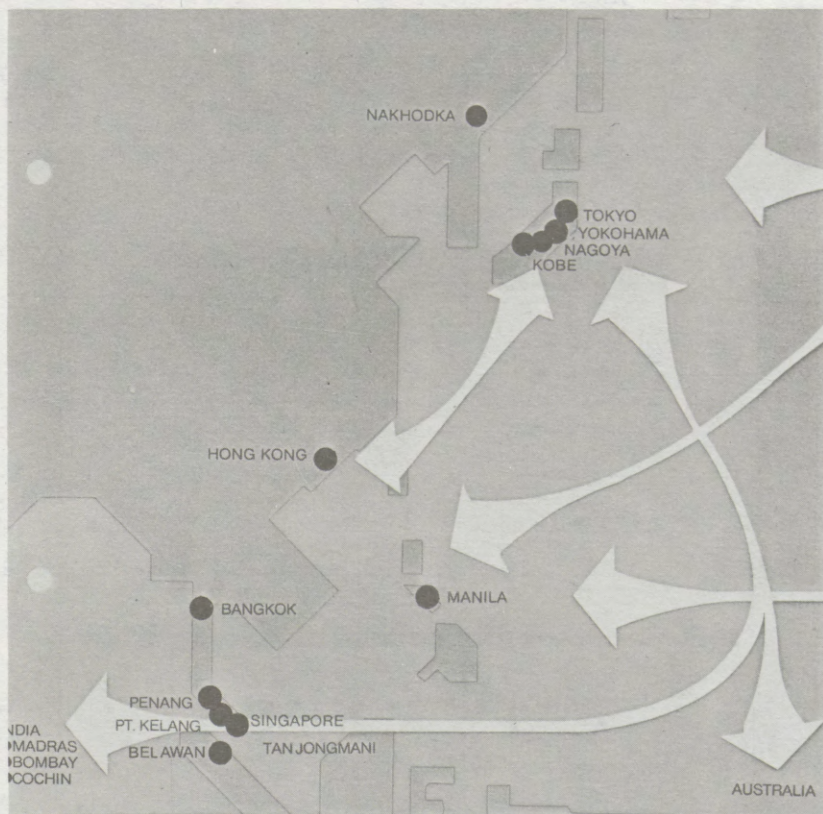


General Agents

MORAM

67 Walnut Ave. Clark, New Jersey 07066
(201) 574-1144 (212) 374-1200
Call Toll-Free (800) 631-7359

Following is an actual brochure distributed by MORAM, U.S. agency for Fesco. The inside pages reflect the intensive cross trade network the Soviets have developed in their U.S. Pacific operations.



WHO WE ARE

The Far Eastern Shipping Company, familiar to all as FESCO has been providing regular transportation services between the U.S. West Coast and the Far East since 1969 and since 1987 between British Columbia, Canada and the Far East. These services are provided both with full containerships and combination break-bulk vessels with a full line of container equipment. Break-bulk vessels are operated to provide service for non-containerizable cargoes. On the cover are pictures of the types of vessels currently in operation.

1. The KHUJAN SARYAN of the Morot class... a container ship with a capacity of 767 TEU's and a service speed of 23.5 knots.

2. The GAMZAT TSADASA of the Pula class... a combination break-bulk vessel with a lifting capacity of 15,145 DWT including 173 TEU's and a service speed of 18.0 knots.

3. The ALEXANDR FADIEV of the Alkator class... a container ship with a capacity of 388 TEU's and a service speed of 18.0 knots.

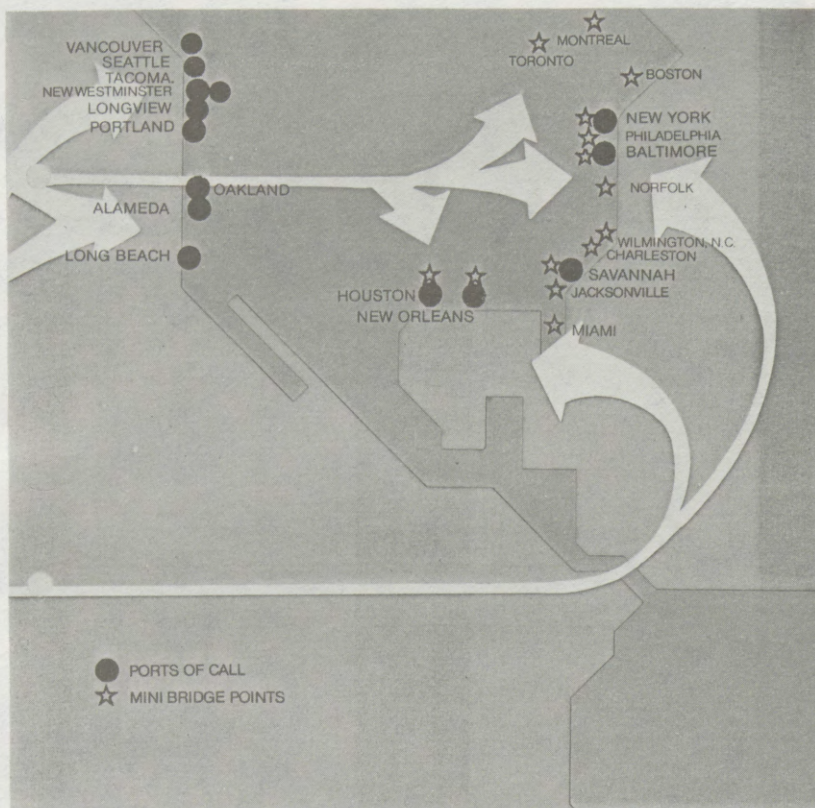
MORAM (Morot America Shipping, Inc.) headquartered in Clark, New Jersey are General Agents for FESCO and are responsible for recruiting all of FESCO's seafarers in the United States, including a complete network of offices and agents as listed on the back cover.

WHAT WE DO

FESCO currently provides the following services between North America and the Far East. All of these services are operated on an independent (non-conference) basis*.

1. California/Japan-Hong Kong-Nakhodka: All Container
Ports of Call:
U.S.A.: Long Beach, Oakland
Far East: Tokyo, Kobe,
Hong Kong, Nakhodka
Service Interval:
Three times a month
Average Speed: 18 knots
2. Pacific Northwest/Japan-Hong Kong-Nakhodka: All Container
Ports of Call:
Canada: Vancouver, B.C.
U.S.A.: Seattle, Portland

*Except U.S. Atlantic & Gulf to Manila & Nakhodka



Far East: Tokyo, Kobe,
 Hong Kong, Nakhodka
 Service Interval:
 Twice a month
 Average Speed: 18 knots

3 U.S. Atlantic and Gulf/Japan-
 Hong Kong-Nakhodka;
 All Container Minitbridge
 Ports of Call:

Atlantic Coast: Boston, New
 York, Philadelphia, Baltimore,
 Norfolk, Wilmington, Charles-
 ton, Savannah, Jacksonville,
 Miami

Gulf Coast: New Orleans,
 Houston
 Eastern Canada: Toronto,
 Montreal

Far East: Tokyo, Kobe,
 Hong Kong, Nakhodka

Service Interval: Three times a
 month via Oakland
 Average Speed: 18 knots

4 U.S. West Coast/Canada to
 Southeast Asia: Express Service
 Ports of Call:

West Coast: Long Beach, Ala-
 meda, Longview, Tacoma,
 Vancouver

Southeast Asia: Bangkok, Sing-
 apore, Port Kelang, Penang,
 Belawan, Tanjungman, Phi-
 lippines

Service Interval: Twice a month
 Average Speed: 18 knots

5 Pacific Northwest to Japan:
 Express Service
 Ports of Call:

Pacific Northwest: Seattle, Van-
 couver, Portland, New West-

minster

Japan: Tokyo, Kawasaki and
 other outports

Service Interval: Twice a month
 Average Speed: 18 knots

6 U.S. Atlantic and Gulf/Southeast
 Asia: Express Service
 Ports of Call:

U.S.A.: Houston, New Orleans,
 Savannah, Baltimore, New
 York

Southeast Asia/USSR: Nakhod-
 ka, Bangkok, Singapore, Port
 Kelang, Penang, Belawan,
 Manila

Service Interval: Twice a month
 Average Speed: 18 knots

North America

MORAM World Headquarters:
Morflot America Shipping, Inc.
67 Walnut Avenue, Clark, N.J. 07066
(201) 574-1144;
(212) 374-1220 (N.Y. Tietline);
TWX: 710-996-5889 MORFLOT CLAK
Cable: MORAM

OFFICES:**Atlanta**

Morflot America Shipping, Inc.
29/1 Flowers Rd., South
Suite 106, Atlanta, Ga. 30341
(404) 451-6251

Chicago

Morflot America Shipping, Inc.
1200 Jorie Boulevard
Oak Brook, Illinois 60521
(312) 986-9520; (800) 631-7325
TWX: 910-651-5927 MORFLOT OAKR

Dallas

Morflot America Shipping, Inc.
Twin Towers South
8585 N. Stemmons Freeway
Suite 304
Dallas, Texas 75247
(214) 638-4630

New York

Morflot America Shipping, Inc.
17 Battery Place, Room 1924
New York, N.Y. 10004
(212) 422-4111
TWX: 710-996-5889 MORFLOT CLAK

San Francisco

Morflot America Shipping, Inc.
351 California St., San Francisco,
Calif. 94104 (415) 788-8320
TWX 910-372-7255 MORAM SFO

WEST COAST AGENTS:**Los Angeles**

Salen Shipping Agencies, Inc.
P.O. Box 670, Pier A, Berth 2
Long Beach, Calif. 90802
(213) 436-9961
TWX: 910-341-6936 SALAGENT LGB

Portland

Morflot Freightliners, Inc.
Board of Trade Building
310 S.W. 4th Avenue, Portland
Oregon 97204; (503) 222-9911
TLX: 328903 MORLINES SEA

San Francisco

Moram Agencies, Inc.
351 California St., San Francisco,
Calif. 94104 (415) 398-5743
Intl: ITT 470-120 RCA 278-638

Seattle

Morflot Freightliners, Inc.
1505 Norton Building
801 2nd Avenue, Seattle, Wash.
98104; (206) 623-5394
TLX: 328903 MORLINES SEA

Vancouver

Morflot Freightliners, Ltd.
250-200 Granville Street
Vancouver, B.C., Canada
(604) 689-1431
TLX: 04-54602 MORLINES VCR

EASTERN CANADA AGENTS:**Montreal**

Universal Container Services Ltd.
300 St. Sacrement Street, Suite 511
Montreal, Quebec H2Y 1X4
(514) 845-7181 TLX: 01-20772

Toronto

Universal Container Services, Ltd.
67 Yonge Street, Suite 906,
Toronto, Ontario M5E 1J8
(416) 863-0706 TLX: 06-23371

EAST COAST PORT AGENTS:**Baltimore**

Robert C. Herd and Company, Inc.
131 East Redwood Street
Baltimore, Md. 21202
(301) 727-7660. TWX: 710-234-1629

Charleston

Eller and Company, Inc.
1 Cordes Street, P.O. Box 449
Charleston, S.C. 29401
(803) 577-0010
Cable: ELLERCO CHARLESTON

Jacksonville

Eller and Company, Inc.
1820 Westcott St., P.O. Box 4304
Jacksonville, Fla. 32206
(904) 359-0251; TWX: 810 827-0256
Cable: ELLERCO JACKSONVILLE

Miami

Eller and Company, Inc.
The 3000 Executive Bldg.
Suite 200, 3000 Biscayne Blvd.
Miami, Fla. 33137; (305) 573-6880
TLX: 51-5907; Cable: ELLERCO
MIAMI

Morehead City (Wilmington)

Eller and Company, Inc.
201 N. Front St., Suite 611
Wilmington, N.C. 28401
(919) 783-0321
Cable: ELLERCO WILMINGTON

Norfolk

Eller and Company, Inc.

Philadelphia

F.M. Clifford Agency, Inc.
325 Chestnut Street—Room 716
Philadelphia, Pa. 19106
(215) 925-0410 TWX: 710-670-3378
Cable: CLIFSHIP PHA

Port Everglades

Eller and Company, Inc.
701 S.E. 24th Street
Fort Lauderdale, Fla. 33316
(305) 525-3381; TWX: 510 955-9860

Savannah

Eller and Company, Inc.
24 Drayton Street, Suite 313
P.O. Box 1265, Savannah, Ga.
31402; (912) 236-8291
TWX: 810 784-5698

GULF PORT AGENTS:**Houston**

Smith & Johnson (Shipping) Inc.
Suite 319, 1314 Texas Avenue
Houston, Texas 77002
(713) 223-5738; TWX: 910 881-5479
Cable: SMJJO HOUSTON

New Orleans

Smith & Johnson (Shipping) Inc.
904 First National Bank of Com-
merce Bldg., New Orleans, La.
70112; (504) 522-7121
TWX: 810 951-6081; TLX: 58-217
Cable: SMJJO NEW ORLEANS

Fesco Agents Abroad**Tokyo (General Agents)**

United Orient Shipping & Agency
Co., Ltd., 14th Floor Hazama Bldg
5-8 2 Chome, Kita-Aoyama Minato, Ki
Tokyo 107, Japan Tel: 408-4211

Kobe

United Orient Shipping & Agency
Co., Ltd., ShinFuyo Bldg 8F
4-2-26, IsoBaDori, Fukai-Ku,
Kobe Japan Tel: 078-251-3235
TLX: 5622-645 ORIENT J

Singapore (General Agents)

Singapore Soviet Shipping Com-
pany Private Ltd
5th Floor, Far Eastern Bank Bldg.
156 Cecil Street, Singapore 1
Tel: 92521

Port Kelang

Syarikat Wah Soon SDN., BHN
76 Watson Road, 1st Floor
Port Kelang, Tel: M6993-7114

Penang

M/S Hai Thong Shipping Co.
127 Penang Street
Penang, Malaysia Tel: 62944, 62987

Indonesia

Mr. M. Ghazali
Fesco Straits Pacific Line
11 Tembakau Deli 111/2
P.O. Box 223, Medan, Indonesia
Tel: 21384, 21737

Hong Kong (General Agents)

Wallem & Co., Ltd.
Gammon House, 34-36th Floors
Harcourt Road, Hong Kong
Tel: 5-266051

Manila (General Agents)

Filsox Shipping Co., Inc.
8th Floor, Philbanking Bldg.
Anda Circle, Port Area, Manila,
Philippines; Tel: 49-89-81

Thailand (General Agents)

Thasos Shipping Co., Ltd.
Udom Vidhya Building, 6th Floor
Rama IV Rd., Bangkok, Thailand
Tel: 866816-9

Australia (General Agents)

Opal Martin Agencies PTY, Ltd.
11th Floor, 220 George St., Sydney
Australia Tel: 278-051, Teletype:
268-40, Cable: OMATA SYDNEY



FAR-EASTERN SHIPPING, INC.

MORFLOT AMERICA
SHIPPING, INC.

SOVIET LINER SERVICES IN THE U.S. AUSTRALIA TRADE JANUARY 1977

Following is a summary of current Soviet liner services in the U.S. Australia trade:

(Fesco) Far East Shipping Company of Vladivostok					
SERVICE	NO. VESSELS	TYPE	SAILING FREQUENCY	U.S. PORTS	FOREIGN PORTS
U.S. Gulf U.S. Atlantic U.S. Pacific to Australia	4	Container	10 days	Oakland Long Beach Miami (Landbridge links all key U.S. ports in Atlantic-Gulf Coasts)	Sydney Melbourne Townsville Brisbane
U.S. Northwest Pacific ports to Australia	3	Container	10 days	Seattle Portland	Sydney Melbourne Townsville Brisbane

Total: Two separate services with 7 vessels offering 6 sailings per month between 5 U.S. ports and 4 foreign ports (none of which are in the U.S.S.R.).

NOTE: This cross trading link between the U.S.A. and Australia is based on Fesco vessels (after departing U.S.A. ports) re-laying at Kobe, Japan, to Fesco's Japan-Australia service.

Source: 1) Soviet agency printed ship schedules.
2) Soviet shipcards and advertisements in January 1977, New York Journal of Commerce.

The Soviets entry into the Australian U.S. trade is their latest attempt at gaining a stronger share of the carriage of U.S. imports and exports.

The containership, KHUDOZHNIK IOGANSON, illustrated on page 16, has been included in this new service. As one of the newest ships in the Soviet fleet, this placement again shows the Soviets intention to place their newest vessels in the most recent U.S.

cross-trade routes. The KHUDOZHNIK IOGANSON is the second of five cellular containerships built in East Germany to come on stream.

The following sailing schedule shows the KHUDOZHNIK IOGANSON and her sisterships deployed in the U.S. Australia trade. In a three-month period (January 12, 1977 - April 18, 1977), there is no evidence of calls at any Russian ports.

ALL CONTAINER CALIFORNIA TO JAPAN/MANILA/AUSTRALIA						
		KHUD. IOGANSON V-6	KHUD. SARYAN V-10	KHUD. ZHUKOV V-2	KHUD. IOGANSON V-6	KHUD. SARYAN V-11
TOKYO	ETD	JAN. 12	JAN. 17	JAN. 26	FEB. 17	FEB. 23
NAGOYA	ETD	-	JAN. 16	-	-	FEB. 27
KOBE	ETD	JAN. 15	JAN. 15	JAN. 31	FEB. 19	FEB. 26
LONG BEACH (L.A.)		JAN. 29-29	JAN. 31-01	FEB. 13-15	MAR. 01-02	MAR. 12-13
OAKLAND (SF.) (Mini Land Bridge Rail Cutoff)		JAN. 30-31 (JAN. 20)	FEB. 03-04 (JAN. 25)	FEB. 16-17 (FEB. 07)	MAR. 03-04 (FEB. 22)	MAR. 14-15 (MAR. 04)
SEATTLE		FEB. 02-02	-	-	MAR. 06-07	-
TOKYO	ETA	FEB. 15	FEB. 16	MAR. 02	MAR. 17	MAR. 27
NAGOYA	ETA	-	FEB. 27	-	MAR. 22	-
KOBE	ETA	FEB. 18	FEB. 20	MAR. 04	MAR. 19	MAR. 29
MANILA (FEEDER)	ETA	FEB. 26	FEB. 26	MAR. 13	MAR. 26	+
BRISBANE (FEEDER)	ETA	FEB. 27	FEB. 27	MAR. 18	APR. 07	APR. 07
MELBOURNE (FEEDER)	ETA	MAR. 03	MAR. 03	MAR. 22	APR. 11	APR. 11
SYDNEY (FEEDER)	ETA	MAR. 05	MAR. 05	MAR. 25	APR. 14	APR. 14
TOWNSVILLE (FEEDER)	ETA	MAR. 09	MAR. 09	MAR. 29	APR. 18	APR. 18

SOVIET LINER SERVICES IN THE U.S. MEDITERRANEAN TRADE JANUARY 1977

Following is a summary of current Soviet liner services on United States-Mediterranean trade routes (Blasco Line - Black Sea Shipping Co. of Odessa).

SERVICE	NO. VESSELS	TYPE	SAILING FREQUENCY	U.S. PORTS	FOREIGN PORTS
***U.S. Atlantic Coast-Mediterranean (Blasco Med Atlantic Line)	3	Part Container	3/month	Boston New York Philadelphia Baltimore Norfolk	Piraeus Genoa Leghorn Naples Odessa Lisbon/Leixoes
*U.S. Gulf Coast-Mediterranean (Blasco- Gulf)	5	Part Container	2/month	New Orleans Houston Galveston Mobile Savannah	Casablanca Genoa Savona Leghorn Piraeus Cadiz Istanbul Odessa Tripoli Naples Tartous Constanta Beirut Benghazi
**U.S. Great Lakes-Mediterranean (Blasco- Great Lakes Line)	6	Breakbulk (container space)	2/month	Chicago Milwaukee Cleveland Detroit Toledo	Valencia Barcelona Cadiz Lisbon Genoa Naples Leghorn Piraeus Istanbul Odessa

Total: Three separate services with 14 vessels offering 7 sailings per month between 15 U.S. ports and 16 foreign ports (including only one Russian port).

*Blasco-Gulf Service now offers mini-bridge connecting at New Orleans from Long Beach, Stockton, Oakland, Portland, Oregon and Seattle.

**Blasco-Great Lake Line is a seasonal service.

***Landbridge service called "Medtrain" from U.S. West Coast to Mediterranean ports. (See page 21.)

Source: 1) Soviet agency printed ship schedules.

2) Soviet shipcards and advertisements in January 1977, New York Journal of Commerce.

The following is a recent Soviet sailing schedule for the U.S. Atlantic Coast to Mediterranean trade. As is evident, there are no arrival/departure dates shown

for Soviet ports in the schedule, which clearly indicates the Soviets penetration in U.S. cross trade.



BLASCO *Med-Atlantic* LINE

A Service of the Black Sea Shipping Co. of Odessa, U.S.S.R.

INDEPENDENT CONTAINER SERVICE
EVERY 10 DAYS

**NAPLES • LEGHORN • GENOA • PIRAEUS • LISBON • LEIXOES • BENGHAZI
TRIPOLI • ISTANBUL • ODESSA**

FROM NEW YORK • PHILADELPHIA • BALTIMORE

Vessels	N. Y.	Phila.	Balt.	Naples	Leghorn	Genoa	Piraeus	Portugal
Ivan Shepetkov	1/5	1/6	1/7	1/17	1/19	1/20	1/22	1/24
Mikhail Svetlov	1/4	—	1/8	1/18	1/20	1/21	1/23	1/25
Nikolay Ananjev	1/12	1/13	1/14	1/24	1/26	1/27	1/29	1/31
Vasily Klochkov	1/22	1/23	1/24	2/3	2/5	2/6	2/8	2/10
Ivan Shepetkov	2/2	2/3	2/4	2/14	2/16	2/17	2/19	2/21
BLASCO announces Medittrain Service from U.S. West Coast to Mediterranean								
Destinations. Call (212) 791-2357 or (212) 791-6409 for details.								
*Also Calls Portugal				(*No Congestion Surcharge)				

MEDITERRANEAN

The Soviets pride themselves on the "fastest, independent service from and to the Mediterranean," as

can be seen in this advertisement.



MEDITRAIN

Fast, Independent Container Service to the Mediterranean from U.S. West Coast ports

GENOA · LEGHORN · NAPLES · PIRAEUS · BENGHAZI
TRIPOLI · ISTANBUL · ODESSA

20ft and 40ft containers on chasis are available with computerized control in transit and with complete documentation. Check our sailing schedule for the fastest, independent service from and to the Mediterranean.

WEST COAST/MEDITERRANEAN												
VESSEL	VOY.	Seattle Portland Oakland	Los Angeles	Baltimore	Naples	Leghorn	Genoa	Piraeus	Tripoli	Benghazi	Lisbon	Odessa
Nikolay Ananjev	10K	DEC 1	DEC 10	DEC 21	DEC 22	DEC 23	DEC 31	DEC 31	DEC 31	DEC 30	JAN 1	JAN 7
Vasily Klochkov	2E	DEC 30	DEC 21	JAN 1	JAN 2	JAN 3	JAN 11	JAN 11	JAN 11	JAN 10	JAN 15	JAN 13
Ivan Shepetkov	2E	DEC 21	DEC 31	JAN 11	JAN 12	JAN 13	JAN 21	JAN 21	JAN 21	JAN 20	JAN 25	JAN 23
Nikolay Ananjev	11E	DEC 31	JAN 10	JAN 22	JAN 23	JAN 24	JAN 31	JAN 31	JAN 31	FEB 1	FEB 5	FEB 3

MEDITERRANEAN/WEST COAST												
VESSEL	VOY.	Odessa	Istanbul	Piraeus	Benghazi	Tripoli	Naples	Leghorn	Genoa	Lisbon	New York	West Coast
Nikolay Ananjev	10W	NOV 15	NOV 15	NOV 17	NOV 20	NOV 20	NOV 22	NOV 22	NOV 26	NOV 27	DEC 1	DEC 1A
Vasily Klochkov	2W	NOV 20	NOV 25	NOV 27	NOV 30	NOV 30	DEC 2	DEC 3	DEC 4	DEC 7	DEC 12	DEC 22
Ivan Shepetkov	2W	DEC 4	DEC 5	DEC 7	DEC 10	DEC 10	DEC 12	DEC 13	DEC 14	DEC 17	DEC 22	JAN 6
Nikolay Ananjev	11W	DEC 24	DEC 15	DEC 17	DEC 20	DEC 20	DEC 22	DEC 23	DEC 24	DEC 27	JAN 1	JAN 1A

A SERVICE OF THE BLACK SEA SHIPPING COMPANY

As reported in the Pacific Shipper magazine on December 6, 1976, Blasco has inaugurated a "Meditrain" service between the U.S. West Coast and Mediterranean ports. According to the publication, "Containers are moved aboard Santa Fe Railway trains from the San Francisco Bay Area and Los Angeles, aboard Union Pacific Railroad from Portland and aboard Burlington Northern, Inc., from Seattle for Baltimore

delivery.

From there, vessels 'of the Geroi Panfilovtsy class' (Nikolay Ananjev, Vasily Klochkov and Ivan Shepetkov) move the containers to the Mediterranean ports of Genoa, Leghorn, Naples, Lisbon and Leixoes; served by transshipments are ports of Piraeus, Istanbul, Odessa, Tripoli and Benghazi."

SOVIET LINER SERVICES IN THE U.S. MID EAST TRADE JANUARY 1977

Following is a summary of current Soviet liner services on U.S. Mid East trade routes.

BALTIC SHIPPING					
SERVICE	NO. VESSELS	TYPE	SAILING FREQUENCY	U.S. PORTS	FOREIGN PORTS
U.S. Gulf Coast-Mid East Roll on/Roll off Service	2*	Roll on/ Roll off	2/month	Houston New Orleans Baltimore	Jeddah Dammam

BLACK SEA SHIPPING CO. (BLASCO)					
SERVICE	NO. VESSELS	TYPE	SAILING FREQUENCY	U.S. PORTS	FOREIGN PORTS
U.S. East and Gulf Coast- Mid East	2	Breakbulk or Conventional	Monthly	Baltimore Houston	Aquaba Aden Kuwait Basrah United Arab Emirates

Total: Two separate services with 4 vessels offering 3 sailings per month between 4 U.S. ports and 7 foreign ports (none of which are Russian ports).

The Soviet entry into the U.S. Mid East trades indicates one of their latest expansions in U.S. cross trade. Both services were initiated in January 1977

with regular sailings and fast, competitive vessels, as their ads indicate. (See next page)

*The two ro/ro vessels are the latest major additions to the Soviet fleet. The two ships built by Finnish yards were delivered in 1975 and 1976.



**BALTIC SHIPPING CO.
ANNOUNCES**

DIRECT RO/RO LINER SERVICE

**FROM HOUSTON, NEW ORLEANS,
& BALTIMORE TO
JEDDAH, DAMMAM, KUWAIT,
BASRAH AND OTHER
MIDEAST PORTS**

**INDEPENDENT
RATES**

BOOK NOW

M/V MAGNITOGORSK
HOUSTON MAR. 23
NEW ORLEANS MAR. 25
BALTIMORE MAR. 30

M/V KOMSOMOLSK
HOUSTON APR. 13
NEW ORLEANS APR. 15
BALTIMORE APR. 20

**DIRECT LINER SERVICE
WITH NEW RO/RO VESSELS
BOOK NOW: U.S.A. AGENTS**

MORAM



67 Walnut Ave., Clark, N.J. 07066
(201) 574-1144 (212) 374-1220
Call Toll-Free (800) 631-7359
Chicago (312) 986-9520
Dallas (214) 638-4630
Atlanta (404) 451-8251
Houston (713) 675-9286
Baltimore (800) 631-7359
New Orleans ... (504) 566-0581

SOVIET VESSELS IN THE U.S./MID EAST TRADE

Pictured above is the M.V. MAGNITOGORSK, one of the newest ro/ro vessels in the Soviet fleet. Built in 1975, the MAGNITOGORSK was placed immediately into U.S. cross trade in the North Atlantic. Since January 1977, this 1,368 TEU vessel has operated in Baltic Shipping's most recent service to the Mid East. (See previous page advertisement for Baltic Shipping.)

SOVIET OCEAN FREIGHT RATES AND THEIR IMPACT

Soviet freedom from the normal commercial disciplines of a market economy, and their desire to obtain cargo which generates foreign currency, have thus enabled them to undercut the rates of Western steamship operators by an admitted 10 to 20 percent, even when operating conventional vessel service on key trade routes such as the North Atlantic.²⁰

The U.S.S.R. subsidization of its merchant marine also enables it to offer cut rates to Third World countries in order to reduce the developing countries' dependence on the Western industrialized nations for maritime transportation.²¹

As a result of the excessive rate cutting demonstrated by the Soviet liner fleets, the Chairman of the Federal Maritime Commission met with the Soviet Minister of the Merchant Marine in July 1976. At this meeting the two representatives signed an agreement (now referred to as the Leningrad Agreement) which would, among other things, bring the Soviet liner rates up to the level of the lowest independent operator involved in U.S. commerce.

In response to this agreement, some Soviet rates have

indeed been adjusted. In the U.S./Japan trade, for example, the Far Eastern Shipping Co. of Vladivostok (Fesco) raised their rates on approximately 25 commodities effective December 23, 1976. However, these particular commodities have such a minimal effect on this trade route that tonnage statistics are not even recorded by the Conferences and are not available from Fesco. Some of these low-moving commodities included in this tariff change are: Picolin in drum, monosodium glutamate, matches, generators for power stations, hydraulic cranes, hair pins and metal pins, asbestos, and grease lubricating candles.

In reviewing the Soviets actions concerning the heavy-moving commodities in this same trade route (U.S. West Coast to Japan), it is interesting to note that no rate increase was made on the part of Fesco for two of the heaviest moving commodities in this trade . . . namely, waste paper and hides. (Hides is the second heaviest commodity and waste paper is the fifth best mover.) As can be seen below, Fesco's rates shortly after the Leningrad Agreement and in the months following it remained the same.

U.S. WEST COAST TO JAPAN RATES PER TON

COMMODITY	TONS PER ANNUM	FESCO (8/18/76)	FESCO (10/27/76)
Waste Paper	264,320	\$45.00	\$45.00
Hides	233,347	\$8.00	\$8.00

In comparing current Fesco rates with Conference rates in this trade, it is again apparent that Fesco

is keeping its rates exceptionally appealing on the best moving commodities.

U.S. WEST COAST TO JAPAN RATES PER TON

COMMODITY	TONS PER ANNUM	PACIFIC WESTBOUND CONFERENCE	FESCO (Dec. 76)	PERCENTAGE BELOW CONFERENCE
Waste Paper	264,320	\$67.00	\$45.00	33%
Hides	233,347	65.00	58.00	11%
Cotton	205,638	95.00	85.00	11%
Food Board	48,419	53.00	49.00	8%
Sodium Borates Refin.	39,947	55.00	40.00	27%

While some rate hikes on the part of Fesco have been made as a result of pressure by the FMC, a

total picture of their rate changes seems to indicate only a minimum of increases in the commodities that

can seriously affect the trade. In reviewing all the commodities in the Pacific Westbound trade to Japan which exceed 5,000 revenue tons per year, only 12 commodities have experienced rate hikes by Fesco in excess of \$1.00 a ton. In addition, a total of 26 commodities in Fesco tariffs show either no change since August or only a minimal increase of 25 to 75 cents a ton. What's more, since August 1976, Fesco

has in fact lowered rates as much as \$11 a ton for eight commodities in this trade.

The Pacific Eastbound trade (from the Orient to the U.S.) is also marked with rate disparity. The following tables illustrate current rate cuts (in effect January 1977) by Fesco on some of the heaviest moving commodities in each trade.

PHILIPPINES TO U.S. TRADE (local rates)

COMMODITY	TONS PER ANNUM	FESCO (Jan. 77)	AGREEMENT 10107 (NON-CONFERENCE & CONFERENCE)	PERCENTAGE OF DIFFERENCE
Woven Articles	35,389	\$46.75	\$55.00	15%
Desiccated coconut	6,079	81.75	96.25	15%
Handicrafts	17,158	52.00	61.00	14%

HONG KONG TO U.S. TRADE (local rates)

COMMODITY	TONS PER ANNUM	FESCO (Jan. 77)	AGREEMENT 10107 (NON-CONFERENCE & CONFERENCE)	PERCENTAGE OF DIFFERENCE
Wooden Furniture	4,786	\$54.00	\$79.00	39%
Bicycle Parts & Accessories	803	49.00	65.00	25%
Plastic Flowers	92,188	42.50	47.00	9%

Although, at first glance, Fesco's rate differential on plastic flowers seems minimal compared to the other two commodities in the above table, its significance lies in the fact that in Hong Kong alone artificial flowers are imported in excess of approximately \$60 million annually.

Another rate advantage recently introduced by Fesco became effective December 28, 1976 when Fesco filed a freight-all-kinds tariff which applies to Japan, Hong Kong and Manila/U.S. trade.

The importance of this filing stems from the fact that for the first time Fesco is basing its rates in these trades on a weight basis rather than a measure basis.

The advantage they accrue in doing so is that in shipping a low-density item such as artificial flowers, Fesco can charge considerably less on a per container basis than if the item were rated on a measure (or per carton) movement. In a movement of 30,000 lbs, for example, in a 20 foot container, the revenue cut can be as much as \$1,597.

Carriers which operate on a market-based system of netting a profit on each container find it extremely difficult to compete with these maneuvers by the government-owned Soviet liner fleet.

"Whatever the current differentials — even were there none — their relative importance pales when compared to the potential threat of the Eastern Bloc countries which results from organization, historical operation in these and other trades, ability to compete, and announced plans and policies. No commercially profit-motivated independent carrier can wield the power available to the Soviets. By a twin policy of severe rate cutting and control over the transport of their own national cargoes, the Soviets could present profound problems for Western lines historically operating in the major liner trades, especially if aided by opportunistic ship-
pers."³³

Source for rate information: Federal Maritime Commission published tariffs in effect August 1976-January 1977.

SOVIET SHIPPING AGENCIES

(The following information has been extracted from Fortune Magazine, February 1977; article entitled "This Communist Internationale Has a Capitalist Accent," pages 134-148.)

The Soviet Union has formed about a dozen maritime agencies around the world, including two in the U.S., to hunt customers for globe-circling Soviet-owned shipping lines. Although the sixteen state-owned Soviet shipping lines are themselves headquartered inside the U.S.S.R., their shipping agencies span the globe.

One of these agencies, Morflot America Shipping, Inc. — based in Clark, New Jersey, is headed by Arthur C. Novacek. A graduate of the U.S. Merchant Marine Academy, Novacek is an American who once served as President and Executive Vice President of U.S.-flag shipping companies, Grace Lines and Seatrain Lines, respectively. Morflot's six directors, thirty-three salesmen, and one saleswoman are all U.S. citizens.

Morflot American Shipping, Inc. (MORAM) is owned by Sovinplot, the U.S.S.R.'s maritime-shipping ministry. Formed less than a year ago to sign up customers for the Soviet Union's cargo-liner fleet, "MORAM" is already doing business at an annual rate of \$70 million.

Morflot recruits customers for the Far Eastern Shipping Co. of Vladivostok (Fesco), the Baltic Shipping Co. of Leningrad, the Black Sea Shipping Co. of

Odessa, and the ArcticLine, which is based in Murmansk.

Morflot's efforts have contributed to the fact that Fesco and its sister lines now offer U.S. shippers more than sixty sailings a month to and from ports on the East and West coasts, the Gulf of Mexico, and the Great Lakes.

The Russians also lure customers for their ships by ordering their commercial negotiators, most of whom work for the Ministry of Foreign Trade, to toss business to the shipping agencies. The negotiators do this by refusing to sign contracts with Western manufacturers or exporters unless the terms give the Russians control over the choice of shipping line and marine insurance agency. Naturally, they always choose a Soviet line and a Soviet insurance company, such as Black Sea and Baltic General Insurance Co., based in London, or SOVAG in West Germany.

Soviet shipping agencies in Europe actively seek American shipping customers and have even gone to the extreme of featuring "Uncle Sam" in the advertisements of MORLINE (United Kingdom agent for the Soviets) to attract business in the U.S.



What's keeping **YOU**

What's keeping you from sending your cargo Balt-Atlantic to the U.S.A.?

Our container service is direct with New York as first port. Direct to Baltimore. Direct to Philadelphia. And we can offer you a through quotation service to any inland point.

We have a regular weekly service. Every Friday, we depart from Tilbury, the only weekly container line to sail from London for New York and Baltimore, with a fortnightly call at Philadelphia.

We cover the West Coast. Our container service via the mini-landbridge is first-class, our offices on the West Coast make sure of that.

We'll give you dry containers, open top containers or flats all in 20's or 40's.

If you don't want a whole container we offer an L.C.L. Service from Liverpool, Bradford, Birmingham, Avonmouth, and of course London.

And coupled with our service is our highly competitive independent tariff.

So what's keeping you from using Balt-Atlantic? Why not call us and arrange a trial?

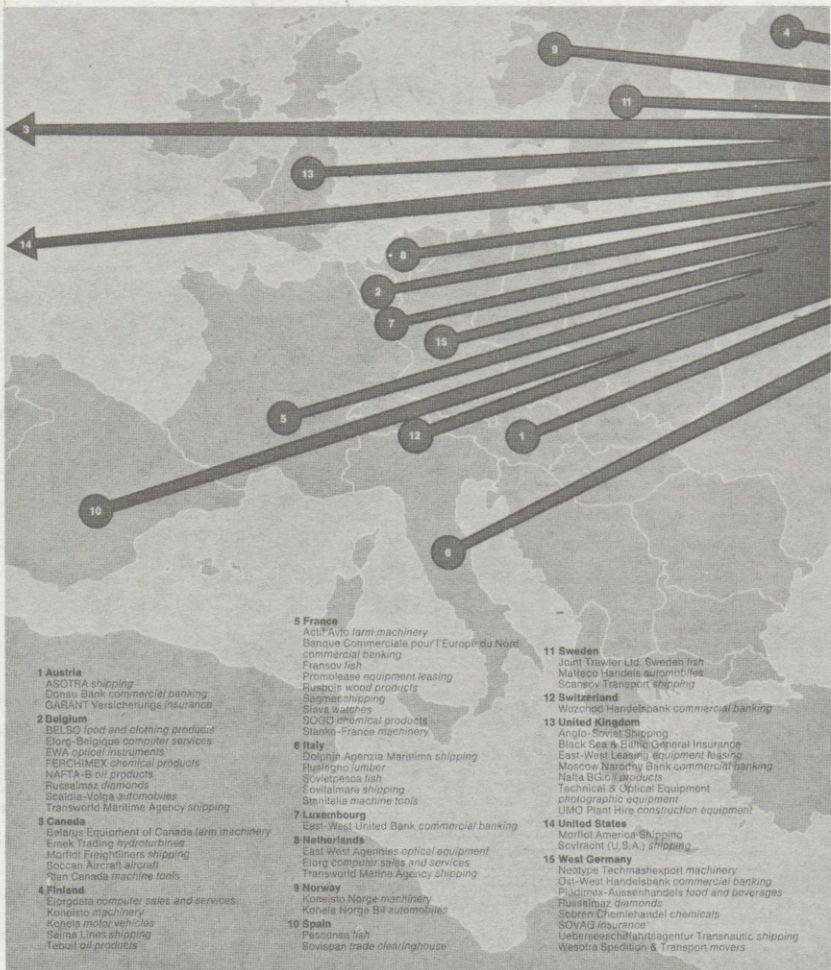
BALT-ATLANTIC LINE

MORLINE

Contact MORLINE, (UK General Agent) on 01-248 0321, or call Stewart & Expley in London (01-481 8521) and Bahr Behrend in Liverpool (051-236 4871) our UK sales agents.

As illustrated in the February edition of Fortune Magazine, below is a depiction of the Soviet Union's net-

work of worldwide shipping agencies.



SOVIET ECONOMIC ADVANTAGES

As branches of the government, the 16 state-owned Soviet shipping companies have little need to make profits or cover their costs. This factor naturally becomes a significant one in the establishment of their freight rates.

The series of operating advantages available to the Soviet merchant marine were spelled out in London in 1976 by the head of the Foreign Division of the Soviet Ministry of Merchant Marine, Igor Averin:

1. The Soviet wage level is relatively low. The average monthly salary for an able-bodied seaman is 145 rubles equal to approximately \$190. (The Swedish corresponding wage is roughly \$650, and the American seaman's salary is close to \$720.)
2. All social advantages provided the Soviet seaman — insurance, workmen's compensation, etc. — are covered by the State. (In Sweden the cost of social benefits is largely paid for by the shipowner. They exceed 130% of the Swede's basic salary. In the U.S., similar benefits would exceed 104% of the seaman's monthly wage.)
3. Hull insurance premiums are not paid for Soviet vessels. They are covered by the State. (The corresponding annual premium for a Swedish container vessel lifting approximately 1,000 20-foot containers would be about \$185,000. The American cost under similar circumstances would total a little more than \$118,000.)
4. Bunker prices, at least those quoted for Soviet vessels, are substantially lower in Soviet ports than in Western ports.

On the basis of these figures, the Russian daily operation cost for a modern container vessel is calculated to be 40 to 50% lower than most American or European ones.

In addition to the operating costs of their vessels and the salaries of their crews, the Soviets enjoy a competitive edge by the application of other economic criteria:

1. By signing bilateral agreements with developing countries, reserving the cargoes exclusively for the vessels of the contracting parties, they build a cargo basis which enables them to intrude into way-port trades with much greater ease.
2. As a state trading country, the Soviet Union exercises a 100% control of its own export and import trade. They buy FOB and sell CIF, retaining in this way control of the choice of vessel. All Soviet cargo is centralized through one booking center. An understanding between the Ministry of Merchant Marine and the Ministry of Foreign Trade ensures the maximum use of Soviet flag vessels.
3. Foreign shipowners are only allowed to use one specially designated organization as their agent in Soviet ports. Marketing in the Western sense cannot be performed in the Soviet Union. Conversely, the Soviet shipping lines have full freedom to appoint any agent to serve their interests in Western countries. They also make use of the opportunities available to buy up existing agency organizations and in this way acquire complete control over their activities in the United States as well as in a number of European and Far Eastern countries.

Source for "Soviet Economic Advantages" — Kristian Von Sydow, Brostrom Group, before the Swedish Shipowners' Association, Gothenburg, on September 1, 1976.

SOVIET STRATEGY

A. DEFENSE

Although the Soviet Union is geographically a land-power, its government has allocated in its current five-year plan for an impressive increase in merchant

tonnage. What are the plans of the Soviet Union, which currently has 182 vessels on order?

According to the Admiral of the Soviet Navy, Sergei Gorshkov, in his recently published book called "THE SEAPOWERS OF THE STATE,"

"the goal of Soviet seapower is to effectively utilize the world ocean in the interest of building communism."

Gorshkov also claims that the Soviet Union —

"will have superiority of position over the enemy by building up a (maritime) base system."

This base system is increasing at a rapid rate — with the Soviet merchant fleet now calling at 30 U.S. ports and 64 foreign ports — with an average of one sailing a day at American shores.

The Soviet merchant fleet to a large degree consists of general cargo vessels that can handle virtually any type of cargo. By building its merchant fleet to handle general cargo, the Soviet Union has the capability of converting its merchant marine to military auxiliaries when necessary.²²

The current Soviet five-year plan for the merchant fleet is designed to procure one of the largest roll-on/roll-off and Seabee fleets in the world. These vessels are uniquely suited for transporting cargo to regions lacking port facilities and specialized cargo handling equipment. In addition, roll-on/roll-off and Seabee cargo ships are highly adaptable for the transport of arms and materials to support onshore military operations.²³

A recent example of such action by the Soviet merchant marine involved the supply of tanks and arms to the Mid East and Angola in 1976.

The relationship between the navy and the merchant



marine is further demonstrated by the Soviet merchant captains, who remain close to their country's military efforts by continuing their active participation as naval reserve officers.

Admiral Gorshkov thinks enough of their merchant marine efforts to highlight them in an article he wrote during 1972-1973 in *Morskoi Sbornik*, the official journal of the Soviet Navy:

"An important integral part of sea power is the equipment and personnel which make possible the practical utilization of the oceans and seas as transport routes connecting continents, countries, and peoples. For this it is essential to have a merchant marine, a network of ports and services supporting its operation, and a developed shipbuilding and ship repair industry."

"In 1972, the Soviet merchant marine which is growing at a rapid rate, was sixth among the merchant fleets of the world. A majority of its ships have been built in recent years and are among the more technically advanced ships."

B. ECONOMY

More cargo for the Soviets in the cross trades, however obtained, generates foreign currencies, which are now at a premium in the Soviet Union.²⁴ Foreign exchange earnings became a major criterion of maritime success and a yardstick for bonus payments commencing in 1960. An elaborate system of bonuses and above-plan performance for ships involved in foreign trading shows the strict control over foreign exchange expenditure. Under that system, a certain percentage of foreign currency saved by each vessel is distributed among the crew, and foreign exchange earnings are marked up before assessing the overall profitability of a shipping operation. The importance of this gathering of foreign currency is enhanced by rigorous adherence to other currency-savings strate-

gies such as bunkering to the greatest extent possible in Soviet ports, restricting crews' foreign spending allowances, delaying most repairs for the home port, and dispensing with foreign pilots wherever possible.²⁵ This likelihood is even more dramatic when it is noted that the U.S.S.R.'s Hard Currency Trade Deficit went from \$911 million in 1974,²⁶ to \$5 billion in 1976.²⁷

While the Soviet Union carries 60 percent of its overseas trade on U.S.S.R. bottoms, the United States carries only 5 percent of its overseas trade on American ships. Carrying such a low percentage of trade in U.S. flag vessels could subject the United States to foreign boycotts and freight discrimination.²⁸

WORLD RANKINGS

According to a September 1976 publication by the U.S. Department of Commerce entitled "Merchant Fleets of the World," the U.S.S.R. has built her freighter fleet up to the extent that in 1974 she surpassed Greece as the leading flag in the sector, and continued to expand her fleet in 1975.

The U.S. freighter fleet, on the other hand, has been declining since 1965. As reported by the U.S. Department of Commerce, the Russian fleet grew 119 percent over the decade, while the U.S. fleet decreased 25 percent as measured in deadweight tons.

Following is a list of the number of ships, as of December 1975, in operation by those countries ranked among the top ten in terms of merchant fleet size:

COUNTRY	NUMBER OF SHIPS
Liberia	2,546
U.S.S.R.	2,404
Japan	2,051
Greece	1,804
United Kingdom	1,576
Panama	1,556
Norway	991
Italy	633
United States (private)	580
France	444

Source: "Merchant Fleets of the World," Dept. of Commerce, Sept. 1976.

In August 1976, the American Shipper magazine reported the following statistical information on a specialized freighter — the refrigerated ship. One-fourth of the 1,044 refrigerated ships in the international merchant fleets now fly the Soviet flag, according to the Bremen Institute of Maritime Economics.

Reefer ships currently total 5,525,000 gross registered tons, with 264 of the ships at 1,462,000 GRT belonging to the Soviet Union.

Refrigerated Vessels Under Various Flags Are:

USSR	264
Great Britain	128
Japan	91
Liberia	42
West Germany	41
Panama	41
Greece	40
France	38
Spain	29
Holland	28
Sweden	25
Norway	20
50 other flags	257

WORLDWIDE OPINIONS

The Soviet maritime policy of assigning its expanding, modern fleet to cross trading is not only aimed at the foreign commerce of the United States. The Soviets penetration of trades in other key maritime

nations has aroused concern around the world. Below is a sampling of documented statements and reports relating to the effect of the Russian cross trading practices on other countries:

1. AUSTRALIA

"The Australian National Line has warned their Federal Government that unless the Government curbs the rapidly growing presence of Russian commercial shipping in the general cargo overseas liner trades from Australia, the end is foreseeable of the ANL as a commercial enterprise . . .

If the Soviet presence in the Australian liner trades is permitted to grow, it would affect commercial viability of existing carriers, eventually driving the weaker ones out of the trade.

Lack of stability would follow, where security of shipping connections and the relative stability of freight rates would be endangered.

The political and economical repercussions of such developments are particularly serious for Australia, where foreign trade depends entirely on shipping services."

The Australian Financial Review, April 30, 1976.

2. NETHERLANDS

"As a result of Eastern bloc penetration, part of the West European transport market and some Western imports and exports will become dependent on the policies being pursued in Eastern Europe. Over the long term this may also affect prices. The fact that political motives are part and parcel of the East European transport policy can be seen in East European transport literature, in which the formation of an East European network of shipping lines is described as an important factor in strengthening the antiimperialist influence within scheduled shipping."

Memorandum from the Liaison Council for Dutch Transport Consultation on "Transport Policy with regard to Eastern Europe," April 8, 1976.

3. WEST GERMANY

"The economic damages inflicted by the Soviet dumping are particularly felt by ship lines of the North European countries. But all maritime nations and many less developed countries "share fully our point of view that no privately operated ship line can withstand for any length of time a purposefully destructive contest with a stateowned competition."

Journal Of Commerce, June 25, 1976.

(Quoting Mr. H. J. Kruse, Chairman of the Hapag-Lloyd Board)

4. UNITED KINGDOM

Speaking for the British shipowners, Mr. Frederic Bolton, the President of the General Council of British Shipping, expressed his concern with East Bloc rate cutting as reported from London in a Journal Of Commerce article dated August 1, 1975.

"Their aggressive rate dumping policy is a clear indication that their concept of profitability is utterly different from ours. Their primary motive is the earning or saving of foreign exchange irrespective of real profitability."

Mr. Bolton said that "for some British shipping companies the challenge is here and now. For others the threat is potential, but very real, nonetheless."

Journal Of Commerce, August 1, 1975.

FOOTNOTES

- ¹ Seatrade, London, England, March 1975
- ² William Carr, "Soviet Shipping Strength and its Employment," Soviet Oceans Development, October 1976, p. 331
- ³ *Ibid.*, p. 332
- ⁴ Maritime Administration, Merchant Fleets of the World, August 1976, p. 28
- ⁵ National Ocean Policy Study Staff, "Summary: Soviet Ocean Development," Soviet Oceans Development, October 1976, p. 4
- ⁶ Westinform Service, Westinform Shipping Directory of Ro-Ro Vessels 1975/76, London, England, p. 9
- ⁷ Federal Maritime Commission, "In Re Agreements Nos. 8210-29 and 9214-19; A/AA Modifications," p. 13
- ⁸ Times-Picayune Newspaper, New Orleans, La., December 9, 1976
- ⁹ Shipping and Trade News, Japan, September 1, 1976
- ¹⁰ Fairplay International, "World Ships on Order," London, England, February, 1977
- ¹¹ *Ibid.*, pp. 27-28
- ¹² *Ibid.*, p. 27
- ¹³ *Ibid.*, p. 33
- ¹⁴ Maritime Administration, U.S. Department of Commerce
- ¹⁵ William Carr, *supra*, note 2, p. 342
- ¹⁶ Shipping and Trade News, "CENSA: Soviets to Stay Fat," Japan, February 15, 1977
- ¹⁷ Fairplay International, *supra*, note 10
- ¹⁸ Fortune Magazine, "This Communist Internationale Has a Capitalist Accent," February 1977
- ¹⁹ Maritime Administration, *supra*, note 14
- ²⁰ Lambert Brothers Shipping Ltd., "Russian Shipping: Background Data and Analyses," May 1976, p. 14
- ²¹ National Ocean Policy Study Staff, *supra*, p. 7
- ²² *Ibid.*, p. 4
- ²³ *Ibid.*, p. 4
- ²⁴ Lambert Brothers Shipping Ltd., *supra*, p. 15
- ²⁵ Seatrade, "Soviet Shipping," February 1976, p. 15 (indicating source to be "Morflot, Moscow.")
- ²⁶ "Vneshnaia Torgovlia USSR, 1975" ("Foreign Trade USSR, 1975"), pp. 9-13 and *passim*.
- ²⁷ U.S. Government estimate based on U.S.S.R. Trade Statistics. Morgan Guaranty Trust Company of New York's "World Financial Markets," December, 1976, p. 6, estimates the external debt of the U.S.S.R. at end of 1975, at \$12,500,000,000.
- ²⁸ National Ocean Policy Study Staff, *supra*, p. 4

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GLOSSARY OF TERMS

Liner Ships — Cargo vessels other than tankers and LNG carriers which are regularly scheduled for the common carriage of freight. Included in this category are dry cargo carriers such as container ships, roll-on/roll-off vessels, LASH/Seabee, and breakbulk ships.

Container ships — Most technologically advanced cargo carrier which hold 20 ft., 35 ft., and/or 40 ft. containers (trailers) above and below deck.

Roll-on/Roll-off Ships — "Ro/Ro's" are capable of taking containers with or without wheels as well as heavy tanks and trucks which are driven onto the ship from a ramp connecting to the dock.

LASH/Seabee Vessels — Specialized ships designed to carry barges or a combination of barges and containers.

Breakbulk Ships — Traditional general purpose ships which handle any type of cargo except bulk oil. Cargo is loaded into the vessel in cases or pallets, or is poured in as in the case of bulk grain. The cargo is discharged in a like manner. Some breakbulk ships have a capacity to carry a limited number of containers on deck.

Cross Trade — The regularly scheduled carriage of cargo in trade routes connecting two or more ports, none of which belong to the country identified by the vessel's flag. (An example of cross-trade is apparent in the sailings of Soviet Union vessels which carry imports and exports between the U.S. and Australia, never once docking at a port in the U.S.S.R.)

Rate Cutting — Predatory pricing which may not include the carrier's fully distributed costs. The continual reduction of rates on commodities for the purpose of procuring tonnage, with emphasis on lower prices — not necessarily better service.

Tariff — The publication (including memo rate sheets) containing rates, rules, and/or regulations covering the movement of cargo and/or the providing of ancillary services.

Minibridge (or Landbridge) — "Minibridge" is a joint through arrangement employing water, rail and/or motor carriers to provide a through rate and service between a foreign point or port and a U.S. point located adjacent to a port of destination (or origin) which would be used if the same cargo were moved

in all-water service. The revenue is divided by allowing the inland carriers a "division" of the revenue plus such additional costs as are required for them to operate freight gathering or distribution facilities for LTL cargo. Minibridge is a joint venture of water and surface carriers. Minibridge is not a substituted service.

Shipper's Agent — The term "Shipper's Agent" means an entity who is an agent of a shipper or consignee and who either assembles goods for transportation or distributes them after transportation but who does not perform both functions and does not perform transportation or forwarding. Payment to a Shipper's Agent is made by the shipper (consignee) in accordance with his contractual arrangements. A Shipper's Agent is exempted from regulation by Section 402 (8) (C) (2) of the Interstate Commerce Act. The term has been generally utilized in the U.S. domestic transportation but is also used in the import or export trade where operations take place within the United States.

NVO (Non-Vessel Operator) — His mode of operation is to issue a through bill of lading from a port or a point in one country to a port or point in another country. He utilizes the services of underlying ocean and inland carriers to perform the service.

F.O.B. (Free on Board) — Shipper pays transportation charges to a specified destination point. Everything beyond that point is paid by consignee.

C.I.F. (Cost, Insurance and Freight) — Cost of goods, marine insurance, and all transportation charges are paid to the foreign port of delivery.

Tonnage Terms

DWT — Deadweight tonnage

Weight Tons

Long Tons = 2,240 lbs.

Short Tons = 2,000 lbs.

Metric Tons = 1,000 kilo. (2,204.6 lbs.)

Measurement Tons

Cubic Meter (Metric System) = 35.31 cu. ft.

Imperial Tons = 40 cu. ft.

Revenue Ton = The basis upon which charges are calculated. It may be either weight or measure.

[Whereupon, at 11:35 a.m., the subcommittee adjourned, subject to the call of the Chair.]



