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**DISCRIMINATORY OCEAN FREIGHT RATES
AND
THE BALANCE OF PAYMENTS**

HEARINGS
BEFORE THE
**SUBCOMMITTEE ON FEDERAL PROCUREMENT
AND REGULATION**
OF THE
JOINT ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES
EIGHTY-NINTH CONGRESS
FIRST SESSION

PART 2

MAY 27, 1965

Printed for the use of the Joint Economic Committee



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1965

48-063 O

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DISCRIMINATORY OCEAN FREIGHT RATES AND THE BALANCE OF PAYMENTS

THURSDAY, MAY 27, 1965

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON FEDERAL PROCUREMENT AND REGULATION
OF THE JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room AE-1, the Capitol Building, Hon. H. Paul Douglas (chairman of the subcommittee) presiding.

Present: Senator Douglas.

Also present: Thomas H. Boggs, Jr., consultant; James W. Knowles, executive director; John R. Stark, deputy director; and Hamilton D. Gewehr, administrative clerk.

Chairman DOUGLAS. The subcommittee will come to order.

Today we resume our hearings on the subject of discriminatory ocean freight rates and the balance of payments. Last year, the Joint Economic Committee set forth in a report¹ eight specific findings on the subject of discrimination in ocean shipping and recommended steps to be taken by the executive branch to counteract the discriminatory practices.

In essence, we found that U.S. exporters are forced to pay considerably more for shipping to Europe and Japan than do Europeans or Japanese in shipping to the United States. Moreover, it is a disparity that according to our findings is warranted neither by volume, value, nor any other economic factor. Similarly, it costs more per ton-mile for U.S. exporters to ship to the new and growing markets of the world, such as South Africa and India, than it costs our leading competitors in Europe and Japan to ship comparable competitive products from their ports to these markets, even where distances are greater.

Earlier this year, we focused attention on one element in this general pattern of discrimination; namely, the rates paid by the U.S. Government under the cargo preference laws. Government and industry witnesses were examined on this subject and, from information adduced, it appears that in some cases the United States is paying very high freight charges for the shipment of Government-sponsored cargoes. It is equally apparent, moreover, that the rates on Government cargoes exert inflationary pressures on the general outbound rate structure to the detriment of our exports and, inasmuch as U.S.-flag ship-

¹ Printed as S. Rept. 1; 89th Cong., 1st sess.

ping space is taken up for the most part with Government cargoes, our commercial cargo largely is in the hands of foreign-flag steamship lines.

We also heard last month² from a new steamship operator who testified that, through the adoption of the most modern and economical methods of freight handling, he was able to offer the Defense Department a reduction of 50 percent in the shipping rate on household effects, and substantial reductions in the rates on general cargo, with the result that members of the steamship conference reduced their rates, at least temporarily. Because he underbid established rates, the witness testified that he has been subjected to threats, pressure, and harassment. In the course of your testimony, Admiral, this subcommittee will be very much interested in your views on this information and the responses made by Mr. Lyle Bull of the American Steamship Traffic Executive Committee.

A tentative conclusion pointed up by our inquiry to date is that there is a considerable need for coordination and modernization of our cargo preference laws requiring, among other things, reorganization of the present administrative structure.

Today we shall hear from Rear Adm. John Harlee, Chairman of the Federal Maritime Commission, and a key public official in this subject area of ocean freight rates.

You will recall, Admiral, that the Joint Economic Committee report of December 1964³ set forth eight findings and recommendations which particularized this general problem and specified, within the limitations of our knowledge, courses of action that impressed us as desirable. Inasmuch as you are familiar with those findings and recommendations, I shall not repeat them, unless you wish me to have them read. What I do wish to ask you, now that your Commission has had time to make the investigations we recommended, is that you address yourself to these points and tell us what you have done to help eliminate unjust discrimination against U.S. commerce.

Admiral, we are very happy to have you here. We appreciate the fine work you are doing.

**STATEMENT OF REAR ADM. JOHN HARLEE, U.S. NAVY (RETIRED),
CHAIRMAN, FEDERAL MARITIME COMMISSION; ACCOMPANIED
BY JAMES E. MAZURE, SPECIAL ASSISTANT TO THE CHAIRMAN;
TIMOTHY J. MAY, MANAGING DIRECTOR; AND JAMES L. PIMPER,
GENERAL COUNSEL**

Admiral HARLEE. Good morning, Mr. Chairman, thank you.

On behalf of all the other Commissioners and myself, I would like to thank this committee for once again providing us with an opportunity to review the record of activity and accomplishment of the Federal Maritime Commission. Specifically, we want to report to this committee today on the degree of progress the Commission has made in implementing the six recommendations contained in the Joint Economic Committee report issued in December 1964, which pertained to our regulatory functions.

² "Ocean Transportation Rates," pt. 1, hearings, Apr. 7, 8, 1965.

³ S. Rept. 1, 89th Cong., 1st sess.

With regard to the other two recommendations, we do have a connection with them, but we have a primary connection with the first six recommendations.

May I say generally that all the Commissioners and myself appreciate what this committee has done in bringing to our attention the areas of concern over which this committee and the Commission share a common interest and jurisdiction. Just as the concern of this committee is the economic health of the country, so it is the concern of the Federal Maritime Commission, since the state of our ocean transportation system very directly affects the economic health of this country.

We are a Commission composed of independent members who must exercise judicial judgments; as such we disagree among ourselves from time to time, as is proper and to be expected; but all of the Commissioners join me in stating that the Commission believes that the work of this committee, the facts that it has unearthed, the problems it has described, and the recommendations it has made are positive assets to the Commission's efforts to fulfill its responsibilities under the shipping statutes.

The work of this committee, the oversight exercised by our parent committees in the House and in the Senate, the work of the House Judiciary Subcommittee on Antitrust, and the work of the Senate Small Business Committee, compose a reference and a sense of direction for Commission activity.

Our recurrent appearances before this committee and other committees give the Commission a sense of confidence that it is not straying far from the intent and purpose of the Congress which created it and which gave it its legislative mandate. When we have been doing our job, these appearances are a pleasure; when we have not been doing our job, they are a chore. We do not regard our appearance here today as a chore.

I would now like to review with this committee what the Commission has been doing and what it plans to do about the first six recommendations contained in the Joint Economic Committee report.

Recommendation No. 1. The Federal Maritime Commission should continue its investigations of ocean freight rate disparities, and should utilize its full statutory powers to remove discriminations against American exporters.

The Commission is firmly committed to pursuing its investigations of rate disparities and other rate impediments to the free flow of this country's commerce. We have a multifaceted program which is outlined in appendix A attached to this statement. Rather than discussing these various programs now, I would like to take the time to discuss the nature of the disparity problem; its real evils; and the methods best suited for its treatment. Fundamental to such a discussion is the delineation of the Commission's purposes and powers.

In this recommendation this committee urged the Commission to require every conference whose outbound rates appear higher than its inbound rates to justify those rates or, failing that, to disapprove the rates or to withdraw approval of the conference agreement. Disapproval of the rates would be done under the Commission's new powers contained in section 18(b) (5) of the Shipping Act.

It is the Commission's view, from a reading of the statute and the legislative history, that section 18(b)(5) does not make unlawful an outbound rate which is higher than the corresponding inbound rate in the same trade.

Although section 212(e) of the Merchant Marine Act of 1936 requires investigations of these disparities, which we are doing; there would appear to be no statutory provision outlawing a rate disparity as such. Consequently, the Commission believes that it is without power to compel conferences or carriers to justify or to explain why an outbound rate is higher than a corresponding inbound rate, although the Commission has asked them to do this in the past. To elaborate, it is the Commission's view, after studying the matter intensively, that, as a general proposition, a rate disparity on a given commodity between inbound and outbound rates, does not of itself create a problem for exporters or importers. This conclusion has been confirmed in public testimony of shippers and in informal conversations and discussions with shippers.

An additional problem occurs in this respect in that often there is no comparability between similarly described commodities inbound and outbound. For example, handtools moving outbound may carry an entirely different commodity description inbound; similarly handtools outbound may be quite different in fact from items transported inbound under the same description of handtools. This lack of comparability creates an additional difficulty in trying to assess the lawfulness or the meaningfulness of a single rate disparity.

After examining in close detail the inbound and outbound tariffs in numerous trades, one would have to conclude that in fact most rates inbound and outbound are disparate, and we have some 3 million on file. The argument is commonly advanced in this connection also that these disparities exist principally on commodities which do not in fact move, that is, that the rates as listed in the tariff are paper rates. While this may be true to some degree, we do not think that it is a relevant comment on the situation because even though a particular high outbound rate may at this moment be a paper rate, it is nevertheless the rate which a potential exporter has to contend within determining whether or not he wants to enter a particular market. Consequently, that high outbound rate may in fact constitute an impediment to export even though nothing is presently moving at that given rate; in fact, it may be the very highness of the rate which precludes export of that given commodity.

It is not the disparity between an inbound and an outbound rate which may cause difficulty to an exporter. If anything, it is the fact that the outbound rate is too high. One cannot conclude that the outbound rate on a specific commodity is as high as it is because the inbound rate is correspondingly too low on that same commodity. There is no provable legally provable, relationship between the two specific rates. However, it is conceivable that the high outbound rate may be detected as being too high by comparing the rate with the low inbound rates, and the disparity itself may constitute evidence that the outbound rate is too high.

Even proceeding on that basis, as we are presently doing in connection with several formal rate investigations under section 18(b)(5),

one must conclude that it would be an impossible task to eliminate rate disparities through individual formal proceedings on each given disparity when those disparities number, perhaps, in the hundreds of thousands.

The question might well be raised why it should not be unlawful for the inbound rate to be lower than the outbound rate. It would be safe to say that the ordinary reaction of any layman would be that this is unfair; that unless something peculiar can be advanced to explain it, that the rates from point A to point B should be the same as the rates from point B to point A. And, furthermore, those who are peculiarly in the possession of the circumstances which might explain why the rates are different should bear the burden of advancing that justification or explanation. It may then be asked why, if the Commission does not have the power to do this, or why, if the statute does not presently make rate disparities unlawful, the Commission does not request legislation which would accomplish this.

Such legislation may ultimately be the only effective way that unwarranted disparities can be eliminated from this country's ocean commerce. However, there are several defects in this approach which indicate that every other feasible approach should be tried first. In the first instance, there are transportation circumstances which account for many disparities; in fact, it would be impossible to arrive at a situation where all inbound and outbound rates were at parity simply through the play of economic forces. Thus, it is not the individual disparity that may exist on a particular commodity which should cause concern; but rather the concern for our export commerce is the existence of an entire rate structure which has the effect of discriminating against American exports taken as a whole in any given trade. To the extent that such a rate structure is not the natural product of a free competitive market; that is, to the extent that that rate structure is not determined by the normal economic forces, including price or rate competition by carriers, there is every reason to be concerned that such a rate structure is artificial and detrimental to the commerce of the United States, and discriminatory against exporters from the United States in favor of exporters from a foreign country.

The main thrust of the Commission's program on rate disparities is therefore concentrated on an effort to determine where entire rate structures are disparate to the disadvantage of American export commerce; and then further to explore all of the transportation circumstances in that given trade to determine whether there is any justification for such a disparity. Essentially, the Commission has proceeded on this task in two ways. First, the Commission's staff is making analyses of the published outbound and inbound tariffs of each major trade. On the basis of these studies the Commission is in a position to know whether or not the published tariff creates a potentially discriminatory situation. More importantly, however, the second part of the Commission's program is to obtain the actual operational data pertaining to each trade; the data which itself discloses whether or not the ocean freight structure outbound is yielding a significantly higher freight rate earning than the inbound. The second step is essential, because from a mere analysis of the tariff itself, one cannot conclude that in actual fact the cargoes that are

moving, are moving under disparate rates. The tariff analysis, however, is important and can be corroborative of the analysis of the actual operating data.

I think I can best illustrate the utility of this approach as against the rate by rate approach with the following example. The committee report suggested that in establishing justification for a rate disparity there should be the requirement of a showing that the lower inbound rate included fully distributed costs of the carrier. The costs of carriage of any particular commodity will vary from voyage to voyage depending upon what other cargoes are on the ship, how full the ship is, and what the particular cost experience is for that voyage. Obviously, a ship half full could have unit costs twice that of a full ship when allocated over individual cargoes. This difficulty would not occur when allocating costs on the basis of the entire cargo movement inbound and outbound in a trade. One simply has to compare the fully distributed costs for a given period in the inbound trade with the gross revenue earnings in the inbound trade to determine whether or not the inbound movement was compensatory, without encountering the difficulty of variances on different voyages.

In the final analysis, the approach the Commission is adopting appears to us best because it so closely coincides with the purposes for having a regulatory body. Congress did not establish the Federal Maritime Commission primarily to insure that carriers only make a reasonable profit from operating in our foreign commerce; nor for that matter did it establish the Commission primarily for the purpose of fixing a proper level of rates either inbound or outbound. The Commission's essential function is to insure that the anticompetitive power vested in the conference system is not abused so as to discriminate between shippers, between ports, or for that matter, to discriminate between the outbound trade and the inbound trade. It is not the existence of rate disparities either selectively or an entire disparate rate structure alone that gives one concern. In all probability if there were no conference system and each carrier, without consultation with other carriers, arrived at his price list, there would still be selective inbound/outbound disparities and probably some disparity in the entire rate structures inbound and outbound. This would, perhaps, be tolerable. What is of concern is that two rate-setting bodies with a substantial identity of membership may by agreement be fixing a rate structure in one direction which is higher than that it fixes in another direction. This type of discrimination is one of the inherent dangers of any combination in restraint of trade. It is one of the practices which Congress has established the Commission to audit and to regulate. It is quite a different thing to restrain an anticompetitive body from effecting a rate structure which is discriminatory and on the other hand to engage in rate fixing. The former function the Commission was established to perform. The latter function has been left entirely to the carriers and the conferences with the sole admonition that they do not discriminate in their own rate-fixing practices. And it really matters very little whether the rate-fixing body is consciously discriminating against a class of shippers or is doing it through accident. The evil effect is the same and in either instance it is made possible by the fact

that the rate-fixing body is permitted to exist. The steamship lines cannot have it both ways. If they choose to operate under the privileges of price-fixing agreements, they must then accept the limited degree of Government restraint and regulation called for by the statute. It is the clear philosophy of this Government for 70 years; that no monopoly or near monopoly should be permitted to exist without some element of Government scrutiny and control.

A great amount of fear and concern has been expressed recently by foreign governments, by foreign steamship lines, and to a limited extent, by our own American merchant marine, that the Commission will begin to interfere regularly in the setting of rates of steamship lines and conferences. Perhaps it would clarify matters if I were to detail briefly the Commission's powers in the area of rates. If one looks at the various sections of the shipping statute one can see that there may be several kinds of proscribed rates: discriminatory rates; unreasonably high and unreasonably low rates; and rates prejudicial to an American exporter vis-a-vis his foreign competitors. None of these standards relate directly to excess profits derived from rates. This is an important distinction to grasp since it means that the type of rate regulation engaged in by the Commission is different than the customary type of rate regulation which all of us are familiar with; that is, a public utility type of rate regulation such as that engaged in by the Federal Power Commission or by the local public utilities commission, where there is an attempt to fix a fair level of profit. It is important to note that at the same time such rate fixing usually is designed to guarantee a minimum level of return. None of this is applicable to rate regulation under the 1916 Shipping Act. Our responsibility lies in ferreting out and correcting discrimination between shippers, between ports, between American exporters and their competitors, between classes or types of cargo. In other words, a rate is not prejudicial nor discriminatory, nor in the ordinary case, too high or too low, except in relation to another rate. One might say that the Commission's job in the rate area is to insure that similarly situated shippers are treated equally. While I am on the subject, I should mention that the Commission is not, at the moment, alarmed over profiteering. From the rather adequate information we have about the American steamship lines and the very spotty knowledge one can obtain about foreign steamship lines' operations, it would be our conclusion that profiteering does not exist in our trades. This is not to suggest, of course, that steamship lines may not charge, in terms of profit, too high a rate on a particular commodity, nor for that matter that the steamship lines may not charge overall too high rates on one leg of the movement. It is quite possible that the steamship lines, although charging too high a rate on the outbound leg may undercharge on the inbound leg and, consequently, have for their overall operation a modest return in terms of profit.

The Commission is not without experience in the area of regulating the level of profits. This is precisely the Commission's function in the domestic offshore trades. Based on that experience I can report to you that it would not be possible to perform a similar ratemaking function in the foreign commerce of the United States without access to the most detailed kind of cost and operating figures on the part

of the carriers. It is well known that carriers in the foreign commerce regard this type of information as the most highly protected commercial secret which, in almost every instance, they refuse even to disclose to their own government. One would likewise have the additional difficulty of unilaterally fixing the profit level of an international transaction. To my mind, it is a substantially different thing than unilaterally taking action to protect one's own commerce from discrimination. That has always been a prerogative of any sovereign government.

A matter of special interest to this committee will be the results of the Commission's long-continuing efforts to obtain the vital trade data needed in order to adjudge the fairness of this country's ocean-freight-rate structure. This committee has been most patient in waiting for the solution of the Commission's negotiations with the 13 European maritime powers and Japan to obtain this vital data.

Chairman DOUGLAS. Admiral, to paraphrase Warren Hastings, I am continually astonished at our moderation in this matter. I hope you can produce some results.

Admiral HARLLEE. Mr. Chairman, I believe that when I finish this, you will see that we already have some results, certainly in terms of information on which action could be based.

Chairman DOUGLAS. Very good.

Admiral HARLLEE. After almost 1 year's negotiations, this Government finally concluded an agreement with these 14 maritime countries calling for the production of the statistical data and conference documents which the Commission felt were necessary in order to make a proper analysis.

Chairman DOUGLAS. This was after the chairman of this committee was denounced on the floor of the House of Commons in England as interfering in a matter which would be exclusively a British concern.

Admiral HARLLEE. Yes; it was.

It took several months' time to implement the agreement, that is, to more specifically define the data stipulated under the agreement and to produce and transmit this data, and the Commission is now in the process of making its analysis. However, based on the analysis completed to date, I can report to this committee that the information obtained is so valuable, in fact essential, that it was well worth the painstaking and sometimes patience-trying negotiations. I believe that the Commission has obtained data that was never before available to any government. If I may say so, I believe the negotiations were a success. And I would like to take this opportunity to thank the Department of State for the vital role that it performed in assisting the Commission in these negotiations. I, personally, do not believe that, except through this process, could we have obtained this data. The Commission could have sought fines; it could have revoked conference agreements; and perhaps have taken even more drastic sanctions. Ultimately those types of measures may have had an especially destructive effect upon our commerce, without ever yielding the information. The approach utilized I think has proven successful and the best approach; the information obtained is essential, and the kind of information without which the Commission simply cannot do an effective job.

The committee will recall that the agreement provides for the furnishing of statistical information and documents by 16 conferences, covering 8 different trade routes, the reciprocal outbound and inbound conference for each trade. The Commission's staff has completed its analysis of the first trade studied, which, at this time, we will refer to as trade route A, covering one of our most important trades. It is the Commission's intention to perform the same type of analysis on the remaining seven trades, as soon as possible.

The agreement on exchange of information provides that the U.S. Government, before making public the data which was furnished in confidence, or before initiating its own investigations or procedures, will provide the other governments with the opportunity to consult.

If the chairman feels it is necessary, the specific information about which I will speak in general terms in these next few pages can be made available in executive session, without breaching the agreement.

Chairman DOUGLAS. The committee will ask for an executive session to receive the specific information.

Admiral HARLLEE. All right, Mr. Chairman. And, of course, the information will be made public after the consultation in accordance with the agreement.

Chairman DOUGLAS. In other words, this agreement does not forbid you to make this information public ultimately? It merely requires you to delay while you consult with the governments?

Admiral HARLLEE. That is correct.

Chairman DOUGLAS. Who will do the consulting, you or the State Department?

Admiral HARLLEE. The State Department, in conjunction with the Federal Maritime Commission, will do the consulting.

Chairman DOUGLAS. Well, let me say here and now that if this material is not made public within a month, I will attempt to subpoena the documents. We can get the power of subpoena. I know that this is not necessary so far as you are concerned. But it may strengthen your hand in negotiations with other Government agencies, and with foreign governments. This committee can obtain the power of subpoena, and it will be exercised if there is any attempt to turn the agreement to consult into an agreement to prevent publication.

Admiral HARLLEE. Yes, Mr. Chairman. I believe that—

Chairman DOUGLAS. It is not said for the purpose of threatening you, Admiral. It is done for the purpose of strengthening your hand.

Admiral HARLLEE. I believe that the proper consultation should be able to be undertaken within a month, Mr. Chairman.

Chairman DOUGLAS. I think when you consult, it is well to have certain weapons.

Admiral HARLLEE. I would like at this time, however, to report to the committee generally what the staff findings and conclusions are with respect to this trade. Trade route A is operated by two conferences, with a substantial identity of membership in both conferences. The pertinent data obtained through the exchange of information agreement pertaining to this trade relates to the gross freight revenue earned in both directions and the number of revenue-tons carried in each direction. However, in addition to this data the Commission has substantial information which it has obtained from sources within

other Government branches, notably the Bureau of Census and the Maritime Administration.

According to the Bureau of Census data, there is a roughly equivalent number of weight tons of liner cargo transported in this trade inbound and outbound.

Chairman DOUGLAS. Let's get this straight. In terms of weight, the actual volume outbound and inbound were approximately the same?

Admiral HARLEE. Yes, Mr. Chairman.

Chairman DOUGLAS. All right.

Admiral HARLEE. There are, however, almost twice as many revenue-tons of cargo shipped inbound to the United States as outbound.

Chairman DOUGLAS. How do you define a revenue-ton as distinguished from a weight-ton?

Admiral HARLEE. A revenue-ton can either be a measurement or a weight-ton. In some cases the charge is based on a measurement and in some cases it is based on weight.

Chairman DOUGLAS. And on which does the steamship line charge the rate?

Admiral HARLEE. General speaking, whichever is the higher rate.

Chairman DOUGLAS. Weight or measurement? Heads I win, tails you lose?

Admiral HARLEE. Well, I think that they would have reasons for that.

Additionally, the average revenue-ton yield outbound exceeds by 33 percent the average revenue-ton yield inbound.

Chairman DOUGLAS. This is very significant.

Admiral HARLEE. As I say, we will not publicly disclose the precise figures at this time in keeping with our agreement of prior consultation with the governments concerned.

Thus, it will be seen that on cargoes actually moved in the year 1963 in trade route A, the American exporter had to pay 33 percent more to move 1 revenue-ton of cargo than the foreign exporter moving cargo to U.S. ports. The staff analysis attempted to isolate factors which might explain this disparity. In other words, they tried to ascertain whether or not there were transportation circumstances or conditions which would explain this imbalance. The factors most often mentioned in justification by the conferences and the steamship line when discussing the disparities matter are—

1. The volume of cargo available;
2. The value of the cargo available;
3. The amount of independent liner competition and tramp competition for the available cargo; and
4. The cost of carriage.

As to the first item, volume of cargo, on a weight basis there was a slightly greater amount of weight tonnage moved inbound than outbound.

Chairman DOUGLAS. How much?

Admiral HARLEE. In the neighborhood of 6 percent.

Chairman DOUGLAS. In other words, the common excuse which is advanced that the volume of cargo outbound is more than the cargo inbound is not true?

Admiral HARLLEE. In this particular trade, that is right, Mr. Chairman. That is why I think we have to analyze this freight rate disparity problem in terms of individual trades and specifics.

Now, generally speaking, of course, there is more outbound cargo than inbound. But this is a generality which cannot cover everything.

Chairman DOUGLAS. But on this trade route, 6 percent more in terms of weight comes in than goes out?

Admiral HARLLEE. That is correct, Mr. Chairman.

Chairman DOUGLAS. So that if this were taken alone, if this fact were taken alone, there ought to be lower rates outbound than inbound?

Admiral HARLLEE. On a theory that has been advanced by the steamship industry, yes, Mr. Chairman.

Chairman DOUGLAS. Now, do you have any figures which would show the profit from a ton outbound and from a ton inbound, or will you develop those later?

Admiral HARLLEE. We will develop that subject later.

Chairman DOUGLAS. You will do it later?

Admiral HARLLEE. Yes, we do.

Chairman DOUGLAS. Very good.

Admiral HARLLEE. On a revenue-ton basis there was almost twice the volume of cargo moved inbound as outbound.

This is partially explainable on the basis that there is more cargo moving inbound on a measurement basis than a weight basis.

Now, as to the value of the cargo—

Chairman DOUGLAS. Just a minute. The revenue-ton is the unit which the shipping line uses as the basis for its charges.

Admiral HARLLEE. Yes, Mr. Chairman.

Chairman DOUGLAS. That is their own standard?

Admiral HARLLEE. Yes, sir.

Chairman DOUGLAS. Then on the basis of their own standard, there was twice as much cargo moving inbound as outbound?

Admiral HARLLEE. Yes, sir.

Chairman DOUGLAS. So that if volume was the basis, then the rates outbound ought to be appreciably less than the rates inbound.

Admiral HARLLEE. Yes, sir. Of course, that is one of four factors.

Chairman DOUGLAS. I understand.

Admiral HARLLEE. As to the value of the cargo, according to Maritime Administration and the Bureau of Census, the value of inbound cargo was almost \$100 million greater than the value of outbound cargo.

Chairman DOUGLAS. So if the charges were to be made on the basis of what the traffic could bear, because of the value of the cargo, the rates inbound should be higher than the rates outbound.

Admiral HARLLEE. Yes, Mr. Chairman.

Chairman DOUGLAS. Because the cargo not only weighs more but it is worth more.

Admiral HARLLEE. Yes, Mr. Chairman.

Thus it can be seen that both the value and the volume of cargo inbound was greater than that outbound. On the third item, tramp and independent competition, the data obtainable from the Maritime Administration discloses that there were twice as many tramp sailings

outbound in trade route A as there were inbound in trade route A, thus indicating that there was twice as much tramp competition available for liner cargoes outbound as there was inbound. In fact, however, it develops that in either direction tramp competition was not a significant factor.

Chairman DOUGLAS. In other words, there were not many tramps?

Admiral HARLLEE. They did not carry much general cargo in connection with the liners. But this is mentioned because we explored all the factors advanced with regard to rate disparities and rate structures, in an attempt to explore as fairly as possible all the possible reasons for these disparate structures.

As to independent competition, the statistics show that something like 2 percent of the cargo was carried by independents outbound and 6 percent of the cargo was carried by independents inbound. Again, this would suggest that independents are not a substantial factor in the trade in either direction.

Chairman DOUGLAS. Two percent of the cargo outbound was carried by independents. Does that mean in practice 98 percent of the cargo was carried by conference ships?

Admiral HARLLEE. Yes, it does.

Chairman DOUGLAS. Ninety-eight percent. Well, I would call that a monopoly.

Admiral HARLLEE. Ninety-eight percent of the liner cargo that is not carried by tramps.

Chairman DOUGLAS. And 94 percent of the inbound cargo was carried by conference ships?

Admiral HARLLEE. Yes.

Chairman DOUGLAS. Well, you know, you don't have to have a hundred percent in order to have monopoly. Oligopoly is a term which approaches monopoly—concentration in the hands of a few. I would say this is where oligopoly shades into complete monopoly.

Admiral HARLLEE. Yes, Mr. Chairman.

When we speak of monopoly in here, we say monopoly or near monopoly, because of the fact—

Chairman DOUGLAS. In other words, it is monopoly that is setting the rates, not competition, at present.

Admiral HARLLEE. In this particular trade, even though the monopoly is not complete, it would appear to us—

Chairman DOUGLAS. Let us call it oligopoly-monopoly.

Admiral HARLLEE. All right.

The importance of these factors derives from the theory advanced by steamship lines and conferences, and there is some basis to this theory, that a severe imbalance in trade will have the result of depressing rates in the trade where there is less cargo available. This comes because the shipping tonnage required to carry cargo outbound, if the outbound volume is greater, will be excess to the tonnage required inbound, which will result in the customary depression of rates associated with overtonnaging. Those factors, however, are not present in this particular trade, except, perhaps, in the opposite direction.

Chairman DOUGLAS. But this is not the case.

Admiral HARLLEE. It is not the case, except in the opposite way; but we are exploring all the possibilities, except in the opposite way.

Chairman DOUGLAS. Exactly so.

Admiral HARLEE. The staff also made a pro forma cost study of transportation in trade route A in 1963, utilizing the data supplied and Maritime Administration data on operational costs as reported by subsidized carriers. The revenues as reported were allocated to the outbound leg and the inbound leg, and the revenue ton carriage was costed on a unit basis. Needless to say, the largest element of cost, and the only element upon which there would be any appreciable difference on one leg of the trip than the other, are cargo handling costs. As this committee knows, a ship will have higher American cargo handling costs in the United States for loading and lower foreign cargo handling costs abroad for unloading. On the return trip the carrier will have low loading costs abroad and higher unloading costs in the United States. Utilizing cargo handling costs, as reported to this committee by the American lines, for the U.S. ports involved and for the foreign ports involved, one finds that loading is a less expensive operation than unloading in the U.S. ports, but the opposite obtains in the foreign ports concerned. At any rate, based on the figures submitted, cargo handling would seem to be a more expensive operation in the inbound trade than in the outbound trade.

Chairman DOUGLAS. This is an extraordinary fact.

Admiral HARLEE. Yes, it is; and we are going on the best information we can get, the basics of which were furnished to this committee.

In general, the steamship industry believes that loading costs are higher than unloading costs, of course. But we are going on the information in the record.

I might say frankly that the Commission's staff was surprised at this data and does not accept it without qualification. However, it is the only data available to the Commission's staff on cargo handling costs. Although this was an item that the Commission had requested from the conferences in the exchange of information agreement, the Commission was assured by the foreign governments during the course of negotiations that their respective carriers had assured them that no usable data were kept on cargo handling costs. Consequently, in the absence of any better evidence or better information about such costs, the Commission has no choice but to use the data submitted to this committee by the carriers themselves.

Chairman DOUGLAS. I don't see how you could have done anything else.

Admiral HARLEE. We made an effort to get more. But, of course, these cargo handling costs do vary quite a bit. It is understandable that they might not have them.

However, as I say, we do not accept it without qualification and recognize that there may be some considerable inaccuracy in these figures.

The complete financial analysis shows that on the outbound movement the carriers would earn an average of \$10 per revenue ton carried; whereas on the inbound leg of the trip the carriers would lose approximately \$1 for every revenue ton carried.

Chairman DOUGLAS. Let these words be written in letter of flaming fire—that these figures indicate carriers earn an average of \$10 per revenue ton carried outbound and lose a dollar for every revenue ton carried inbound—even though they bring into this country more tonnage, revenue tons, than they take out.

Admiral HARLLEE. This is based on the information given us—
Chairman DOUGLAS. The information given you by the companies?

Admiral HARLLEE. Yes, it is.

Chairman DOUGLAS. This is not information that you cooked up?

Admiral HARLLEE. No; that is right. It is given to us by the companies, either directly through the agreed minute, or through this committee.

Chairman DOUGLAS. Well, I must say, I don't know who these companies are. But I want to congratulate them on their honesty. The Bible says he who sweareth to his hurt and changeth not should be honored.

Admiral HARLLEE. That is the way it stands now.

We do not, of course, purport to suggest that these are in fact the operational experiences of any particular carrier; we do think, however, that they are fair approximations of the average voyage experience for the year based on the data submitted in this exchange and upon Maritime Administration data.

The staff was consequently unable to find any transportation conditions or circumstances which would account for the disparity that exists in the rate structures in this trade. The staff analysis concluded that in this particular trade American exporters were not only paying more than their fair share of the round trip costs of transportation, but, in fact, were subsidizing foreign exporters to this country.

Chairman DOUGLAS. This is what we have always believed, but have never been able to fully substantiate before.

Admiral HARLLEE. I must say, Mr. Chairman, at this point, that this is a particular trade. We have information on eight trades.

Chairman DOUGLAS. It is an important trade.

Admiral HARLLEE. It is an important trade. There are indications that this same type of situation exists in certain other trades. But, I must say, Mr. Chairman, that I do not, of course, make the statement, nor could I, that this type of situation exists throughout all of our trades. But it is our job to analyze each trade.

Chairman DOUGLAS. We are going to call you back here in a few months to bring out the figures on the other trades.

Admiral HARLLEE. We are expecting that.

In addition, the Commission has made a study, rate by rate, of the tariffs in the outbound and inbound trade and has made an additional study of an actual voyage based on the ships manifest outbound and inbound in this trade. The results of these studies are corroborative of the actual facts as determined from the data submitted.

I might amplify that a little bit.

By analysis of the tariffs, I mean we have taken not a sample, as was done before, under the pressure of time, of 1 in 10 rates or anything like that, but of all of the rates in this trade, and analyzed how all of the rates—

Chairman DOUGLAS. Are you able to use computers on this?

Admiral HARLLEE. We didn't need to in this one trade, but if our budget is approved, and we get automatic data processing machines, we would hope to be able to do it in the future.

But instead of a sampling of 1 in 10, we analyzed all of the rates in this trade, which were quite numerous, and checked the pattern of

outbound rates as against inbound rates to see if it corroborated this information which indicates the structure outbound is so much higher than inbound.

And it did corroborate that.

The obvious question, of course, is what will the Commission do about the situation disclosed by this analysis. Under the agreed minute, for exchange of information, this Government has agreed to undertake government-to-government consultations about any adverse condition discovered as a result of the analysis of data submitted. We have forwarded our analysis to the Department of State and have requested the Department of State to present this matter on behalf of the U.S. Government to the foreign governments concerned, with a request to those governments that this discriminatory situation be explained or remedied. The Department of State, acting upon our request, has formally presented this matter to the foreign governments and consultations have begun. For the time being, this matter is not being handled as a regulatory matter. If the consultative process fails, either to explain this apparently discriminatory situation or to effect its relief, then the Commission will have no choice but to take the matter under its consideration and proceed with it according to its responsibilities and powers.

Chairman DOUGLAS. You have considerable powers, don't you?

Admiral HARLEE. There are many factors which have to be considered. But they have to be used, and they will be used, though moderately and properly. And if it turns out they are not enough, we will seek more.

Chairman DOUGLAS. And the State Department cannot veto your use—they have no power over your actions?

Admiral HARLEE. They cannot veto our use. But we have in the national interest made an effort to work in cooperation with the State Department.

Chairman DOUGLAS. I understand.

Admiral HARLEE. I must say the State Department has worked with us extremely well.

Chairman DOUGLAS. I want to thank the Department. But if it should balk in the future and try to prevent you from issuing a ruling which in your judgment is proper, you would not allow that, would you?

Admiral HARLEE. If in our judgment it was necessary, it is our statutory duty to do it, Mr. Chairman.

Chairman DOUGLAS. Certainly.

We will stand over you to see that you do.

Admiral HARLEE. I don't doubt that.

Recommendation 2. The Federal Maritime Commission should continue to investigate third market discrimination, despite difficulties in obtaining accurate comparative rate information.

It might well be that the disparity between a foreign-to-foreign rate and the U.S. foreign commerce rate prevents an American exporter from marketing his merchandise abroad, especially where costs—other than ocean freight rates—of both the American exporter and his foreign competitor are approximately equal.

The Commission has recently invoked section 17 in six proceedings which are now pending before it, where there would appear to be third market rate discriminations. There are, of course, factors which might explain some portion of the disparity between foreign-to-foreign rates and United States-to-foreign rates, and these proceedings will develop those factors if they exist.

One of the most difficult problems in the investigation of third country discrimination is the collection of rate data and carrier information in the foreign-to-foreign trades. The Commission's program for collecting such information is attached as appendix B.

In making this recommendation this committee took cognizance of the extreme difficulty besetting the Commission in its efforts simply to find out what the foreign-to-foreign rates are. To our knowledge only in U.S. foreign commerce are ocean freight rates a matter of public record. In the foreign-to-foreign trades, we are told, freight rates are regarded by the conferences as closely guarded secrets. Naturally enough, a shipper in a foreign-to-foreign trade knows what his own rate is on his particular commodity. He has no assurance, of course, that this is the rate that other shippers must pay.

Chairman DOUGLAS. Have you made an investigation to find out whether any of these countries have passed laws making it an offense for the lines to disclose their rates or for any shipper to disclose to other shippers or to the general public what rates are? In other words, do any countries have the provision of Switzerland, which I believe makes a disclosure of the possessor of a number account a criminal offense?

Admiral HARLEE. None that we know of, Mr. Chairman.

However, the law passed by the British Parliament possibly could have an effect on that. I will have to take a check on that law. I don't believe it does, offhand—this particular instance of disclosing rates. It would only be if we ordered them to disclose the rate, and then their Minister of Transport ordered them not to—he is empowered by law to order them not to disclose anything at all to us.

Chairman DOUGLAS. When was the law passed?

Admiral HARLEE. They passed that in July of 1964.

Chairman DOUGLAS. After this committee started its investigations and requested Britain to furnish information?

Admiral HARLEE. Yes, sir. This committee did have something to do with it.

Chairman DOUGLAS. Well, Mr. Marples, the former Minister of Transport, visited a number of people in this country and made his intentions quite clear.

Admiral HARLEE. More particularly the foreign shipper has no means of effecting comparisons of his rates with other rates.

Actually, Mr. Chairman, even in our own case, it wasn't until 1961 that these tariffs had to be published in advance and really were filed and published. They were in some cases, but not in all cases, before that.

I think it can be safely said that the requirement in the shipping statute that all tariffs be publicly filed with the Commission has in no way harmed the steamship lines or disadvantaged them.

Chairman DOUGLAS. In other words, this is just publication of truth, and truth has a therapeutic value.

Admiral HARLLEE. That is the position of our Commission.

Chairman DOUGLAS. It can at times be very unpleasant, but it has ultimate healing qualities.

Admiral HARLLEE. Yes. I think we have something in our statement to this effect, later, as a matter of fact.

In fact, to the extent that it has inspired some shipper confidence and some shipper understanding of the rate situation, and certainly to the extent that it has expedited the flow of commerce, it could be said that this publicity to rates has in fact helped the ocean carriers. It is this type of extreme secretiveness surrounding the conference operation which to our mind creates so much of the difficulty not only in our trades, but particularly for the conferences operating in foreign-to-foreign trades with the developing countries.

Chairman DOUGLAS. Even the London Economist, a very fine journal which I have read for many years, and which on the whole has taken a hostile attitude to this investigation, agrees with the point which you are now making.

Admiral HARLLEE. It is safe to say that the Commission, although it doesn't have anything like the amount of information it desires about the conferences, has considerably more information about their method of operation than any foreign government or shippers in any foreign country. It is our view that the conference system could only benefit by opening to public scrutiny everywhere in the world its operations and its ratemaking practices.

Chairman DOUGLAS. I hope that sentence is duly noted, not only in our country, but abroad.

Admiral HARLLEE. We believe that this would allay much of the concern being expressed presently by the developing countries who are totally dependent upon the conferences to import and export their essential commerce. Naturally, such publicity would be of benefit to shippers in this country and certainly to the Commission in its efforts to compare our rates with the rates in foreign-to-foreign trades.

Chairman DOUGLAS. If it should be found that the rates on cargoes going to the developing countries of Africa and Latin America were lower than the rates outbound on their export commodities, this would be a hurdle for the developing countries to get over, and would constitute a just grievance which they might have against the developed countries.

Admiral HARLLEE. As such, at any international meeting on the subject of regulation, this Government would urge that other governments endorse the view of more publicity for conference operations everywhere in the world. But beyond helping to satisfy the limited needs of the Commission for information, we believe that this would help resolve some of the problems the conferences are currently experiencing with the developing countries, and would be a very positive step on their part to head off what the maritime nations regard as discriminatory practices and threats by the governments of some of the developing countries.

Chairman DOUGLAS. In other words, the shoe may be on the other foot. It may be the developing countries taking advantage of the developed countries.

Admiral HARLLEE. Yes.

I would like to digress for a moment and say actually, as I said earlier in the statement, we don't believe from the information that we have, that there is profiteering in the sense of monstrous profits on the whole. Some of the developing countries probably do believe this strongly, and this is one reason why they give trouble to the European maritime nations. We think, as you say, the truth could possibly be therapeutic. Of course this type of thing is easier said than done, I realize. But the basic principle of truth and publicity we think in the end would be beneficial.

Recommendation 3. The Federal Maritime Commission should not approve an anticompetitive agreement, conference, or pool, without determining voting procedures and the extent of bloc voting by members of such agreements.

The conference minutes now filed with the Commission generally follow a format which includes the time and place of the meeting, those present, the matters considered, and the results of such consideration. Very few give a detailed report of such matters; none shows how individual members voted on the matters considered.

Last year we instituted a rulemaking proceeding (docket 1194) and published a proposed rule to regulate the filing of minutes. The rule states who must file, when the filing must be made and—most important—what such minutes should contain. It would require that minutes be filed not only for regular meetings, but also for owners' meetings, for action taken informally by phone or otherwise, and for actions taken by committees.

In this connection, in docket 873, Investigation of Passenger Steamship Conferences Regarding Travel Agents, 1964, the Commission said, "Because of the public interest in the operations of the conferences, they should be required to take and record the votes of the members, keep detailed minutes of all matters coming before meetings, retain records of meetings for a reasonable time and provide copies to the Commission."

And this is being done.

Chairman DOUGLAS. Admiral, did this ruling apply only to the case in question, or did it lay down a universal procedure for the conferences?

Admiral HARLEE. This laid down a universal procedure for the passenger conferences.

Chairman DOUGLAS. Inbound and outbound?

Admiral HARLEE. In the Atlantic, which is the great majority of our passenger trade.

And it covers practically all passenger travel in the Atlantic.

Chairman DOUGLAS. Does it cover both outbound and inbound?

Admiral HARLEE. We require reporting of the fares of the individual steamship lines in both directions.

Chairman DOUGLAS. You haven't applied it, however, to freight?

Admiral HARLEE. I deal with that later. We have certain problems that we are getting at.

Chairman DOUGLAS. You established the principle for passenger traffic?

Admiral HARLLEE. Yes, we have.

In order to be fully aware of the voting procedures in all agreements, the Commission, as a prerequisite to approval, requires that each agreement disclose the method of voting to be utilized, since these methods vary from agreement to agreement.

Because minutes, and I am now speaking from here on of freight conferences—because minutes, as presently filed, do not reveal bloc-voting practices, if they exist, and in order to give us information which would establish whether parties to anticompetitive agreements bloc vote against American interests, the proposed rule requires a showing of the vote of each member on each question voted upon. This information would over a period of time, permit us to determine whether a voting pattern exists; whether such a pattern shows bloc voting; and whether such bloc voting is adverse to our commerce.

Chairman DOUGLAS. Pardon me, Admiral.

This committee has taken evidence on this question of bloc voting. Do conference members vote by lines or by ships?

Admiral HARLLEE. They vote by lines.

Chairman DOUGLAS. So that a line with 2 ships would have the same vote as a line with 10 ships?

Admiral HARLLEE. A line has one vote, regardless of the number of ships.

Chairman DOUGLAS. No reapportionment decree has been entered?

Admiral HARLLEE. No.

Chairman DOUGLAS. In other words, they stick to the principle of one line one vote, rather than one ship one vote? If I may be facetious.

Admiral HARLLEE. I guess you could argue this benefits the small steamship line.

Chairman DOUGLAS. Well, now, we took some evidence on this, and indeed in the initial hearing, on June 21, 1963, I asked, "Is it not true that in many of these conferences the foreign lines of a given country will vote as a bloc?"

Mr. Stakem, who was then Chairman of the Federal Maritime Commission, replied, "I think that is true, Senator."

I then asked, "Is this not particularly true of the Pacific coast, that the Japanese lines nearly always vote as a bloc?"

Mr. Stakem's reply: "I would say that is definitely true."

I then asked, "What about the German lines? Do they vote as a bloc?"

Mr. Stakem said, "Yes, I would say so."

In its recent report⁴ the committee pointed out that "foreign lines, regardless of flag, tend to vote as a bloc against U.S. lines and U.S. shippers. The Gulf, French, Atlantic, Hamburg, Range Freight Conference, voted 10 foreign lines against 3 U.S. lines, for a rate decrease sought by the latter."

That is the U.S. lines wanted to have a rate decrease; the 10 foreign lines voted "no."

⁴ S. Rept. 1, 89th Cong., 1st sess.

Our report goes on—

As a consequence, the Lykes Bros. and the Bloomfield Steamship Lines resigned.

I want to congratulate those companies for their action.

Quoting further—

Another recent example of the effects of foreign domination can be seen in the actions of the three conferences that cover foreign trades. Two United States Manila conferences imposed a \$10 per ton surcharge on all U.S. shipments to Manila. The Japanese Philippines Freight Conference imposed on Japanese exporters to Manila only a \$2 surcharge. Of the 34 member lines of the Japanese Philippines Freight Conference, 19 are Japanese lines and 3 are American. Ten of these same Japanese lines are in the United States Manila Conference. In other words, we conclude that the same foreign lines that voted a \$2 surcharge on Japanese exports voted a \$10 surcharge on U.S. exports.

The committee heard shipper evidence that similar conditions prevail in the South American trade. The same European lines that may raise or decline to moderate U.S. rates may simultaneously lower European rates.

Now, we are generally outvoted in all those conferences. We have gathered a considerable amount of information on this. I am sure your attorneys have been going over the records of our hearings.

Thank you very much, Admiral. You may proceed.

Admiral HARLLEE. Under the Administrative Procedure Act the Commission must first publish such rules in a proposed form and invite comments from interested parties before it can issue final rules. All of the comments have been filed with respect to the proposed rule of filing of minutes and there would appear to be an overwhelming opposition on the part of the conferences to the imposition of these rules.

Chairman DOUGLAS. Is this true of American lines? Do they object to this?

Admiral HARLLEE. The conferences object.

Chairman DOUGLAS. But the conferences are controlled by the foreign lines, are they not—almost without exception?

Admiral HARLLEE. Most of them are. But there are exceptions, of course.

There is particularly strong sentiment expressed, especially by the foreign-flag lines and their governments, against the imposition of the rule requiring the recordation and reporting of voting.

Chairman DOUGLAS. Now, this seems to me utterly inexcusable.

Admiral HARLLEE. Well, we have a little more on this, Mr. Chairman.

Chairman DOUGLAS. Are you violating any confidence when I ask what governments object to this?

Admiral HARLLEE. We have an aide memoire from the 11 European maritime nations.

Chairman DOUGLAS. That would be Great Britain?

Admiral HARLLEE. Oh, yes.

Chairman DOUGLAS. France?

Admiral HARLLEE. France, I think, was the spokesman.

Chairman DOUGLAS. France was the spokesman?

Admiral HARLLEE. Yes. We have an aide memoire. France in this case was the spokesman. The Government of France forwarded the aide memoire on behalf of the 11 European maritime nations and Japan objecting to this proceeding.

Chairman DOUGLAS. They didn't want Americans to know how the votes were arrived at which determined these discriminatory rates?

Admiral HARLLEE. They do not feel that each member's vote should be disclosed.

Chairman DOUGLAS. Now, I ask if there are any European papers here how they can defend that procedure?

Admiral HARLLEE. Well, I have a little bit of material on that that I am just about to get to.

Chairman DOUGLAS. Well, I don't want to shut you off, Admiral—take your best lines from you.

Admiral HARLLEE. From the point of view of the public interest, it simply is not wise public policy in our view to authorize the operation of an anticompetitive body through approval of its agreement and then insulate the operations of such a body from public scrutiny.

Chairman DOUGLAS. Will the European papers take notice of that? And the Japanese papers.

Go ahead, Admiral.

Admiral HARLLEE. Aside from that, however, it is hard to understand why the conferences insist upon being so supersecret; it is hard, for example, to understand in this instance why the conferences are so reluctant to report to the Commission exactly what is transacted at the meetings of the conference.

Chairman DOUGLAS. It is not hard for me to understand that. You are using polite language. You are a most charitable man, an extraordinarily diplomatic man. I think the Foreign Service ought to make you a class No. 1 career officer.

Admiral HARLLEE. Well, I am a little bit prouder of the earlier remark you made, Mr. Chairman, about me being a sailor. However, I now have a judicial capacity, and must eschew to the best extent I can partisanship, and try to be judicial in these matters, which, of course, is a little difficult.

Chairman DOUGLAS. I am thankful that a Senator's robe is not a judicial one.

Admiral HARLLEE. Many persons might sympathize to some extent with their objections to that part of the rule relating to the reporting of how members vote on rate actions. Quite naturally, a carrier would be loath to have a shipper discover that the carrier had not supported a rate reduction request at the conference meeting. At present it is possible for a carrier to tell his shipper-client that he will do everything he can to persuade the conference to reduce that shipper's rate and then proceed to vote against any such reduction at the conference meeting. If such votes were to be made a matter of public record or reported to the Commission with the possibility of ultimately winding up as a public matter in a formal proceeding, it would no doubt cause extreme embarrassment to the carrier. It is, of course, not our purpose to cause embarrassment to the carriers in their relationships with their shippers.

Chairman DOUGLAS. May I interject a minute there?

You know the decisions of the Finance Committee are very important. They involve matters of taxation and tariffs and social security. We make these decisions in executive session. I quite commonly call for rollcalls; they are very common. And a record of

every Senator is made and is available for inspection, so that if there is any doubletalk by Senators, constituents will know about it. You cannot hide your acts. I think this has a very beneficial effect. If Europeans are dubious about this, I recommend a little American straightforwardness. And I assure you that everybody ultimately feels better.

Admiral HARLLEE. Well, of course, Mr. Chairman, I think that there are many businessmen, however, in contradistinction to public officials, who do feel that their operations should be secret. However, we do have here a problem—as we have emphasized throughout the statement—that they are authorized to act in a monopoly or near monopoly, contrary to the usual business philosophy of this Nation, and therefore, we do have the feeling that, while their operations can justifiably be considered secret in many respects, when they are in an antitrust situation, there is a difference. But this is the conflict.

Chairman DOUGLAS. You ordinarily think of the competitive system as largely self-regulating. But this is not a competitive situation—it is a monopolistic situation.

Admiral HARLLEE. That is the distinction, but I do say that many people recognize that if it were not for the anticompetitive part of it, that it is understandable how they would want the operations not public.

It is, of course, not our purpose to cause embarrassment to the carriers in their relationships with their shippers, but rather to verify or to rebut the assertion that bloc voting contrary to American interests exists as a practice within the conference system. The Commission in its proposed rule felt that the most effective way of determining the existence of such a practice was to require the reporting of votes to the Commission. However, if the carriers or conferences can devise an equally effective system of making this determination, then it is incumbent upon them to propose such an alternative scheme to the Commission so that their relations with their shippers may be preserved by the protective cloak of secrecy on voting.

What we want to get at is the bloc voting thing. The shippers as well as the carriers would like, as far as their commercial competitors are concerned, to preserve a degree of confidentiality.

Should the Commission discover the existence of such bloc voting and find that such were contrary to the public interest, it is my personal view that such a practice would be inconsistent with section 15 of the Shipping Act and would compel the withdrawal of approval of the conference agreement.

Chairman DOUGLAS. Good for you.

Admiral HARLLEE. I would like to say with regard to the Manila surcharge you mentioned, the Commission did have a proceeding and did disapprove a part of that surcharge, the part which discriminated in favor of Canadian shippers.

Chairman DOUGLAS. Were the facts as I stated them substantially accurate?

Admiral HARLLEE. Yes.

I simply wanted to emphasize we did not disapprove the entire surcharge. It was reduced, I believe, in part as a result of the investigation, from \$10 to \$5. But we did disapprove the part of it which

discriminated against the U.S. ports vis-a-vis Canadian ports. But I mention that because—

Chairman DOUGLAS. They were discriminating against the United States in comparison with Canada?

Admiral HARLLEE. That part of the Manila surcharge was disapproved.

Chairman DOUGLAS. And you also cut the rates down—

Admiral HARLLEE. We didn't cut them. The conference cut them.

Chairman DOUGLAS. Under some pressure from you.

Admiral HARLLEE. We think that had something to do with it, Mr. Chairman.

Chairman DOUGLAS. In your youth, Admiral Harlee, did you read Stephen Leacock? One of the consciously humorous economists. He taught at McGill University, I think, and used to write funny sayings. In his version on the Trojan Wars, he said, "Thus Ajax leapt—or rather was propelled from behind—into the fray."

Admiral HARLLEE. Well, since he was from McGill University—

Chairman DOUGLAS. You may have propelled them from behind.

Admiral HARLLEE. The point I make is that in certain isolated cases, such as that, where we think that actions of the conferences have been unlawful—although we don't have a rule in effect as yet with regard to disclosure of these votes—we have made other decisions which have resulted in certain final actions being taken which have counteracted adverse effects of possible bloc voting.

The Commission is aware that common membership in several agreements may result in interrelationships which operate to the detriment of our commerce. For that reason, the Commission closely scrutinizes agreements to assure that interrelationships, if they exist, are not harmful.

Since the matter of pooling agreements was called to the attention of the Commission by this committee some 2 years ago, the Commission has, in effect, adopted a policy of not approving a pooling agreement without a public hearing on the record which inquires in detail into the effects of the pool and its relationship with other anticompetitive agreements. For example, the Commission has granted approval to only one pooling agreement in that period of time, and that pool has subsequently been made the subject of investigation. It has disapproved the Brazilian Coffee Pool Agreement and had under investigation a proposed pool between the independent Meyer Line and the North Atlantic Continental Conferences. During the midcourse of that investigation the lines withdrew the request for approval of that pool. Additionally, the Commission has under investigation the whole series of Mediterranean pools, six in total. This investigation not only questions the approvability of new pooling agreements submitted but raises the question of whether or not pooling agreements already authorized should have their approval continued.

Chairman DOUGLAS. Let's see if I understand this.

A pooling agreement is one where the earnings of the lines are distributed amongst the members in some ratio?

Admiral HARLLEE. Basically and essentially that is it, Mr. Chairman.

Chairman DOUGLAS. There is also a pooling of traffic?

Admiral HARLEE. There are usually minimum and maximum sailing requirements in a pooling agreement. They are required to make a certain minimum—

Chairman DOUGLAS. Of volume?

Admiral HARLEE. No; of sailings.

Chairman DOUGLAS. Of voyages?

Admiral HARLEE. Of voyages. In some pooling agreements there are requirements about volume of traffic—I mean volume of cargo. But usually it is a question of number of sailings—maximum and minimum number of sailings.

Chairman DOUGLAS. Now, are the earnings pooled?

Admiral HARLEE. Yes.

Chairman DOUGLAS. And redistributed?

Admiral HARLEE. That is the basic principle of the pool.

Chairman DOUGLAS. So the American lines will benefit from high rates and high receipts of foreign lines in these cases, where a pool exists.

Admiral HARLEE. Yes. But there is a great deal more to be said about pools besides that.

Chairman DOUGLAS. Oh, yes; certainly. In other words, no matter how much or how little traffic you carry within these limits of maximum and minimum, you will get approximately the same amount, is that right?

Admiral HARLEE. Generally speaking, yes; that is the basic principle of the pool.

Chairman DOUGLAS. In other words, there is no incentive to compete. You get your receipts from the joint earnings of the group as a whole. This is highly collectivistic.

Admiral HARLEE. Well, it represents the ultimate in an anticompetitive device. However, the Commission has to adjudge each pool on the basis of the evidence before it, on the basis of whether or not it is detrimental to the commerce of the United States, or contrary to the public interest.

Chairman DOUGLAS. Well, now, you have been doing that in the last 2 years.

Admiral HARLEE. Yes.

Chairman DOUGLAS. The Commission did not do that before, did it? It didn't hold hearings?

Admiral HARLEE. In some instances they didn't; in some they did.

Chairman DOUGLAS. I see.

Well, which was the usual practice—that they didn't or that they did?

Admiral HARLEE. It was, I think, more frequent that they didn't. However, this was caused in part by a lack of protests. But we have adopted the philosophy that whether there are protests or not—

Chairman DOUGLAS. How many pools were approved before you became Chairman?

Admiral HARLEE. We have a list of them here. Of the 30 active pools, 28 were approved before I became Chairman.

Chairman DOUGLAS. Would you identify your associates?

Admiral HARLEE. I should have done so in the beginning, Mr. Chairman—I am sorry. Accompanying me are Mr. Timothy J. May, the Managing Director; Mr. James L. Pimper, our General Counsel; and Mr. James E. Mazure, my special assistant.

Chairman DOUGLAS. How many pooling agreements were approved by the Maritime Commission prior to the time Admiral Harllee became Chairman?

Admiral HARLEE. Since 1961—eight.

Chairman DOUGLAS. How many were disapproved in the time before you became Chairman?

Admiral HARLEE. None.

Chairman DOUGLAS. Now, since you became Chairman, in how many cases have you had public hearings?

Admiral HARLEE. We have investigated 12 pools.

Chairman DOUGLAS. In how many cases have you not held public hearings?

Admiral HARLEE. There are no cases in which we have not had public hearings.

Chairman DOUGLAS. In how many cases have you had public hearings?

Admiral HARLEE. We have had public hearings in 7 separate proceedings involving 12 pooling agreements.

We have several separate proceedings on Mediterranean pools which are combined in docket 1212. There are five pools consolidated in one investigation to try to determine the interrelationship between them.

Chairman DOUGLAS. That would make a total of nine?

Admiral HARLEE. Twelve, including the Brazilian coffee pool which was disapproved. The Meyer Line pool was an unusual case. Approval of the pool was requested, but then before the proceeding was requested, the request for approval was dropped.

Chairman DOUGLAS. Rather than face public hearing?

Admiral HARLEE. Public hearings were started on it; yes, sir.

Chairman DOUGLAS. But rather than have them completed, the lines withdrew?

Admiral HARLEE. Yes, sir.

Now, the Brazilian coffee pool was disapproved, and this week a decision on dockets 921, 928, was issued, which disapproved another pool down in Brazil, but not a coffee pool, insofar as commercial cargo was concerned.

Chairman DOUGLAS. Well, Admiral, I want to congratulate you. I hope very much that all this testimony will be made available to proper agencies in the executive department.

Admiral HARLEE. Of course I must say in all honesty, Mr. Chairman, that while we should look carefully into pools, I do not—I must say that I do not and cannot take the position that all pools should be disapproved. I am sure you recognize that. After looking into them carefully enough, it well can be, and I think it has been in one case, indicated that it is in the public interest to approve it.

Chairman DOUGLAS. I would like to ask you something about this Brazilian coffee pool because we have just passed a Coffee Act creating an international cartel composed of producing countries, and with consuming countries occupying a somewhat minor position, in my judgment, in that cartel, and now the possibility of a sugar cartel is coming up. Also, the African countries are pushing for a cocoa cartel.

I wonder if you or one of your staff would tell us something about this Brazilian coffee cartel on shipping.

Admiral HARLLEE. The Brazilian coffee cartel on shipping—attempts have been made by the Brazilian Government to enforce by Government decree how much, what percentage of the cargo, the coffee, should be carried by Lloyd Brasilero, the Brazilian line, and other lines.

Chairman DOUGLAS. That is not Government-owned cargo.

Admiral HARLLEE. No; it is not. As a matter of fact, most of it is owned—the great majority of it is owned by U.S. importers, bought while it is in the warehouses in Brazil. But the Brazilian Government—

Chairman DOUGLAS. We have a Government preference on Government shipping—a preference for American lines on Government shipping. But we don't have any preference on American lines for private shipping do we?

Admiral HARLLEE. That is correct, Mr. Chairman.

Chairman DOUGLAS. So this is the Brazilian Government attempting to compel American shippers to ship on Brazilian lines.

Admiral HARLLEE. Yes.

Chairman DOUGLAS. Did you find the rates higher on this Brazilian line than on other lines?

Admiral HARLLEE. No, the rates are the same. But it is generally believed by the coffee importers that the service is quite inferior.

Chairman DOUGLAS. In other words, if the coffee importers had the freedom of choice, they would not ship to the same degree on the Brazilian lines?

Admiral HARLLEE. That is correct.

However, I would like to emphasize this, Mr. Chairman. Although the Brazilian Government has made attempts to do this, at the same time Lloyd Brasilero has not been able to provide the services that the Brazilian Government would like. And the actual results to date are that the American steamship lines involved, which are Moore-McCormack and Delta, have gotten just about as much cargo and in some instances more cargo than they did under the pool.

However, in their minds there hangs over them like a cloud the apprehension that in the future the Brazilian Government may be effective in getting Lloyd Brasilero to carry a bigger percentage.

Chairman DOUGLAS. What percentage of Brazilian coffee, according to the rules of the Brazilian Government, is the Brazilian line to carry?

Admiral HARLLEE. They would like them to carry 50 percent. Under the pool it was 20 percent. A point that might be of interest to you is that since the disapproval of the pool the rates have actually been reduced.

Chairman DOUGLAS. Rates have been reduced?

Admiral HARLLEE. Yes, sir. Now, I cannot—

Chairman DOUGLAS. In other words, the American lines are carrying more now? And this is forcing down rates?

Admiral HARLLEE. I don't know whether this is forcing down rates. But there are indications that the American lines are carrying a bit more on the whole.

Now, I must in honesty, Mr. Chairman, say that I cannot predict with certainty—

Chairman DOUGLAS. Your disapproval of the coffee pool has been beneficial to American importers?

Admiral HARLLEE. We think overall it is beneficial. But there have been troubles about the service part of it which the Brazilian Government has directed toward Lloyd Brasileiro in their attempts to increase the percentages of Lloyd Brasileiro carriage. As a matter of fact, the Green Coffee Association complained about the service that is being rendered.

But this is in certain instances.

On the whole, we believe that with the reduction of rates, and with the amount of coffee that is being carried by Moore-McCormack and Delta, that importers are better off. But I must emphasize—

Chairman DOUGLAS. The lines are better off?

Admiral HARLLEE. At this time they are.

Now, I must again, Mr. Chairman, say I cannot predict what will happen in the future.

Chairman DOUGLAS. I see.

Admiral HARLLEE. And the apprehension of the American steamship lines, for which I think there is some basis, is that in the future Brazil may be effective in carriage of coffee—they will have to get a lot better service. But the State Department and ourselves will be alert to see there is not discrimination against American lines.

I have already covered the rest of this recommendation. But to keep the record absolutely clear, Mr. Chairman, I would like to emphasize that I do think—I do not want to be in a position of saying that no pool should be approved, but rather that they should be carefully scrutinized. I think there are cases where they are in the public interest.

Chairman DOUGLAS. Well, do you think that the Government should bear the burden of proof that pools are not in the public interest, or that the proponents should bear the burden of proof? It makes a great deal of difference.

Admiral HARLLEE. This is highly controversial issue, Mr. Chairman, and one upon which there is some honest disagreement among the members of the Commission. And I am not on this particular point authorized to speak for the entire Commission.

There is a sharply different point of view—I don't like to equivocate—but in what I say I must be careful that I am speaking for the Commission, except when I say otherwise.

Furthermore, even to state by own view about this constitutes to some extent a prejudgment in certain cases.

I would like to emphasize that regardless of the burden of proof, that the policy of all the Commissioners has been that a full record

should be developed on which a judgment can be based, not on the lack of protest, but rather on a full record to indicate that it is not contrary to the public interest. The Commission has to represent consumers, who are sometimes inarticulate—

Chairman DOUGLAS. An individual consumer, an individual shipper, unless he is a giant company, is relatively helpless.

Admiral HARLEE. That is exactly why we think a full record should be developed, for which the Commission has a hearing counsel, erst-while named public counsel, to be sure that a full record is developed so that the interest of the consumer and shipper, whom we recognize are often inarticulate, is represented.

In that connection, I think you may be interested in a little quote from a recent publication of Albert Z. Carr's, entitled "A Secret Weapon," that deals with the Rockefeller interests, and one of your fellow Illinoisans has called this to my attention. He speaks of Rockefeller amassing his oil empire and his use of freight rates and tariffs. And one of your constituents, Harvey Schneiber, has written a short quote from this. In speaking of Rockefeller amassing his fortune partly through his utilization of freight rates and tariffs—"The complexity and tedium of the subject held off probers and newspapers like an invisible shield." And I think that applies to a lot of freight rates, as far as small shippers and consumers are concerned. And I am glad that you and this committee don't look upon it as such tedium. It is complex, though, there is no question about that.

Chairman DOUGLAS. What individual shipper would have the patience, the resources, the money to pursue one of these subjects year after year?

Admiral HARLEE. Well, that is one of the main reasons for the existence of the Federal Maritime Commission, and in particular of its Office of Hearing Counsel. We realize that not only do individual shippers not have the patience and money, but there is also the question of power and strength of an individual shipper in comparison to a combine like a steamship conference.

Recommendation 4. *The Federal Maritime Commission should maintain strict surveillance over the conference system in order to protect American commerce from discrimination. If the conference system cannot withstand public scrutiny, it is not entitled to antitrust immunity and should be discontinued.*

The Commission is in full accord with the proposition that the anti-trust immunity granted under section 15 of the act cannot be continued unless the conferences are subjected to the most searching scrutiny. The Commission's program for maintaining effective surveillance over conferences is conditioned upon the ability of the Commission to get information about conference practices. Outlined below are the measures employed by the Commission for this purpose.

Chairman DOUGLAS. We will print all of this in the record. I wonder if you would simply take the paragraph headings and the particular methods that you propose to follow.

The first is "Automatic Data Processing."

Admiral HARLEE. 1. Automatic data processing: The Commission has recognized that it must be in a position to retrieve rate data with dispatch if it is to undertake timely studies, analyses, and rate com-

parisons. To achieve this goal the Commission's Foreign Tariff Circular No. 1 provides for the coding of commodities published in tariffs. The codifying of tariffs, assuming the requisite budget increases, will permit the Commission to institute a system of automatic data processing of freight rates.

That will hinge on a granting of the budget request which actually we are supposed to get the markup from the House committee today. We haven't had the Senate budget hearings yet. But I would hope for your committee's support and approval of this part of the budget.

Chairman DOUGLAS. We certainly will give you such help as we may be able to give on this.

Admiral HARLLEE. Then the next subject, "Shippers' Requests and Complaints." And I think we have a particularly good record there.

2. *Shippers' requests and complaints*: Rules are about to be published to govern conference procedures for handling shippers' requests and complaints. Section 15 of the Shipping Act specifically requires that the Commission disapprove an agreement if it finds that the parties failed or refused to adopt and maintain reasonable procedures for promptly and fairly hearing and considering shippers' requests and complaints. The rules are geared to implement this congressional requirement.

In this connection, this committee should be aware that information provided by the conferences to the Commission (both voluntarily and as a result of sec. 21 orders), indicates that conferences, on the whole, have a good record for handling shippers' complaints and requests. It is the Commission's responsibility to insure that that record is maintained for each and every conference and, wherever possible, improved.

I would like to emphasize there, Mr. Chairman—and I think this is important—although we are in many formal proceedings, although we are trying to exercise authorities that haven't been exercised before, although we are trying to set precedent law, and exercise that authority—at the same time I think that where we can, with informal—official but informal—contacts with the conferences and the carriers, help out the shippers, we think this is a big service, and we think the conferences and the carriers on the whole have been pretty good about this.

3. Self-policing reports: Conferences file, pursuant to our General Order No. 7, reports of all actions taken with respect to members found to be in violation of the conference agreement by rebating or other malpractices.

4. Minutes review: As you know, the Commission requires the conferences to submit minutes of their meetings. As previously detailed, the Commission has under consideration a proposed rule which would greatly increase the effectiveness of this most important regulatory tool.

5. Pooling reports: Semiannual reports on the results of pooling operations must now be submitted to the Commission as a condition of approval.

6. Section 21 orders: If used sparingly, and in the right situations, this can be a most effective means of securing information.

7. Subpenas: This power is restricted to use in connection with formal proceedings, but used there has proved to be a most useful method of obtaining information.

These are the tools and powers the Commission must use in its efforts to obtain the needed information about conference activity and practice contemplated by the Shipping Act, 1916. It is view that this collection of information-gathering devices can provide the Commission with adequate knowledge of conference operations and practices, while at the same time keeping to a minimum the burden that such reporting requirements impose upon carriers and conferences. Naturally, there is a lot more one could know and one would like to know about how the conferences operate; but, seen in perspective, it must be acknowledged that the information we are able to obtain is much fuller and more complete than that obtained by any other government or any other group of shippers anywhere else in the world. As I have suggested before, we think that it would be in the conferences' own interest for them voluntarily to make fuller disclosure to the public and to the Government about their practices and operations.

Recommendation 5. The Commission's new regulatory actions, including its investigations of freight rates, conference ratemaking, neutral bodies, pooling agreements, surcharges, and its more positive attitude toward regulation, should be continued.

The Commission would like to reassure this committee that its "new regulatory actions" will continue. I must say frankly that I do not regard our current activity as being at any extreme or exceptional level. It is only when viewed in the light of the dearth of regulatory action which preceded our present pace, that that impression is perceived. The fact of the matter is the Commission is proceeding with restraint and deliberation; perhaps excessive caution guides our conduct in regulatory functions which have an effect reaching beyond our shores. Many could argue that we have not done enough; that we have moved too slowly; but surely we could not have done less.

The shipping statutes and more than one congressional committee have directed the Commission; the courts have sustained the Commission; and the results, I believe will vindicate the Commission.

Some of the more recent Commission actions which may be of interest to this committee are summarized in appendix C to this statement. Included is a report on our informal complaint procedures; export rates on beef; surcharges; and surveillance over government rates, including an investigation of the controversy between AGAFBO and Sapphire Lines.

Recommendation 6. More adequate information should be developed regarding pools and other anticompetitive agreements, the cost and profitability of shipping companies, and the principles the steamship companies have used in setting freight rates. Consideration should be given to an international conference to explore methods of developing such basic information.

I have already outlined to the committee the Commission's program for obtaining the information about pooling and other anticompetitive agreements. There is no doubt but that there is an interrelationship between various anticompetitive agreements that exist in our foreign commerce. How pervasive this is; how much of it is part of an overall plan to divide and allocate markets; and what effect, good or bad,

it has upon our commerce, are most difficult questions into which the Commission should and does inquire. In determining the approvability of a specific agreement this kind of inquiry is made by the Commission staff; and as already pointed out this is the type of inquiry being conducted in the Commission's current investigation of the Mediterranean pooling agreements. In addition, the Commission is attempting to supplement the normal tools of information gathering through its fact finding investigation No. 6, a nonadjudicatory proceeding, which is a comprehensive factual study of every phase of conference activity, designed to give guidance to the Commission in establishing basic policies regarding the conference system.

Its status is summarized in appendix D.

That part of the committee's recommendation on cost and profitability of shipping companies presents a variety of problems to the Commission. We do have access to fairly reliable figures on the cost and profitability of the subsidized American-flag lines. We have a program which also attempts to obtain what financial information it can about the operation of foreign-flag lines and report on this regularly to the Commission for information purposes. (See appendix E). This is, as one might expect, very sketchy information. And because of the makeup and corporate consolidation of many foreign steamship lines with other corporate divisions not engaged in shipping, it is nearly impossible to assess the financial data that is available from various periodicals and trade journals. It is common knowledge that nothing is guarded more jealously by any businessman than his cost and profit figures. It is my candid opinion that it would be impossible to obtain, on any regular basis, from foreign-flag lines this kind of financial information. And in a sense I cannot agree that the Commission should compel the disclosure of this type of data, since it is only distantly related to the powers and functions of the Commission. As I have already indicated earlier, only in an instance of extreme profiteering on a particular rate, assuming evidence could be adduced to establish that fact, would the Commission have a function with respect to the profit level of the steamship operations. More importantly, however, it is our judgment, based upon an analysis of the relatively reliable data available on the American subsidized liners (and we believe that, including subsidy, the American-flag lines fare as well as any other flag lines operating in our commerce), that there is not an exorbitant profit being derived from steamshipping in our foreign commerce. This, of course, is always a danger to be alert for in the presence of monopolistic powers. It is our judgment that it has not been realized; should a situation eventuate where prices are set at such a level that they yield exorbitant profits, the Commission would have to make legislative proposals to the Congress in order to deal with that situation as it occurred.

The Commission is in full accord with the recommendation that an international conference on shipping problems be convened and that effective regulation should not be delayed pending such a conference. The series of negotiations between the Federal Maritime Commission and the State Department on the one hand and the 14 foreign governments on the other have been a first step toward some international accord on shipping. In addition to the important and very useful

information obtained as a result of those negotiations, the frank exchanges of views during those negotiations served a useful purpose. While the official attitudes of the foreign governments may not always reflect it, it is my sincere belief that a number of maritime nations share the concern of this committee and of the Commission that the conference system of ratemaking is in need of overhauling. Our real differences lie in the area of how such overhauling should take place and by whom it should be supervised. The conferences themselves recognize the need for clarification and simplification of their tariffs. In addition, they have established machinery with which to better police themselves and to facilitate consultation between shippers and carriers. While such shipper associations can be no substitute for governmental regulation, they can supplement it; and the fact they have been formed in foreign countries is itself a recognition that the conference system has to be more open with shippers and responsive to their needs. I would like to submit for the record a copy of a document published by the Committee of European Shipowners which sets forth in more detail that machinery. While the Commission cannot take full credit for the increased interest of conferences and foreign governments in improving shipper relations and in eliminating malpractices, there is no doubt that the spotlight which has been focused on these problems by the Commission and this committee have influenced greatly these activities. It is our hope that this new climate may someday result in a form of regulation compatible with the international nature of ocean shipping and at least as effective as that intended by the framers of the Shipping Act. The Commission, with the full support of the Department of State, is working toward that goal.

Chairman DOUGLAS. Can you tell us more about section 21?

Admiral HARLEE. Those are the famous orders which sought information about disparities and disparate rate structures.

Chairman DOUGLAS. I notice you mentioned subpenas.

Admiral HARLEE. That is one of the powers that we have.

Chairman DOUGLAS. That is one of the powers we have, Mr. Chairman, too.

Admiral HARLEE. Yes, I realize that.

Perhaps you would like me to start with recommendation 5.

Chairman DOUGLAS. Yes.

Admiral HARLEE. Well—

Chairman DOUGLAS. You know, we threw this in to encourage you in well-doing. For some 30 years I have watched regulatory bodies, and tried to take part in some way as a citizen or as an official. And I know how time tends to play against the people who take the side of the public interest, either as members of the Commission or as staff—the general public seems unappreciative. The groups which are being regulated are powerfully organized. Faults are attributed to the man who has the public interest at heart, which are not assigned to those who do not have the public interest at heart.

Attempts at seduction are made—some open, some concealed. Recently, I note some of the minor sources of seduction have been removed. You are not going out to lunch now with any of the industry representatives; are you, Admiral?

Admiral HARLEE. Well—

Chairman DOUGLAS. Or if you do, you are paying your share of the check.

Admiral HARLLEE. Well, generally speaking, yes. I must say there was an order just put out by President Johnson about that, which did except the lunch business. But, otherwise, it did call for—

Chairman DOUGLAS. You don't take weekend trips to New York at the industry's expense, do you?

Admiral HARLLEE. No.

Chairman DOUGLAS. Or fishing trips down to Florida?

Admiral HARLLEE. No.

Chairman DOUGLAS. Or you don't occupy a passenger suite on a freighter, do you?

Admiral HARLLEE. No. I took a fishing trip off Honolulu. But that was with the deputy attorney general of Hawaii.

Chairman DOUGLAS. You don't go to the races and let somebody put a bet on the favorite, do you?

Admiral HARLLEE. No.

Would you like me to start with recommendation No. 5?

Chairman DOUGLAS. Go ahead.

Admiral HARLLEE. The Commission would like to reassure this committee that its "new regulatory actions" will continue.

I would like to make one comment, Mr. Chairman.

I would like to remark, and I am sure you do recognize this—the President of the United States has mentioned, in his balance-of-payments message, and in his budget message, that the Federal Maritime Commission should prosecute its efforts to eliminate discriminatory ocean freight rates.

Chairman DOUGLAS. The President has stood behind you very thoroughly. He deserves a great deal of credit for that.

Admiral HARLLEE. We feel very happy that our small efforts are appreciated.

The Commission would like to reassure this committee that its "new regulatory actions" will continue. I must say frankly that I do not regard our current activity as being at any extreme or exceptional level. It is only when viewed in the light of the dearth of regulatory action which preceded our present pace, that that impression is perceived. The fact of the matter is the Commission is proceeding with restraint and deliberation; perhaps excessive caution guides our conduct in regulatory functions which have an effect reaching beyond our shores. Many could argue that we have not done enough; that we have moved too slowly; but surely we could not have done less.

Chairman DOUGLAS. In other words, you have not proceeded by any star chamber methods.

Admiral HARLLEE. No; we have not.

Chairman DOUGLAS. You have followed deliberate speed, or in the words of Lionel Johnson, majestic instancy.

Admiral HARLLEE. I don't know about majestic.

The shipping statutes and more than one congressional committee have directed the Commission; the courts have sustained the Commission; and the results, I believe, will vindicate the Commission.

Some of the more recent Commission actions which may be of interest to this committee are summarized in appendix C to this statement. Included is a report on our informal complaint procedures; export rates on beef; surcharges; and surveillance over Government rates, including an investigation of the controversy between AGAFBO and Sapphire Lines.

Chairman DOUGLAS. That is very important.

Have you reached any tentative conclusions on that?

Admiral HARLLEE. No, we have not, Mr. Chairman, because we have actually just relatively recently started the formal investigation.

But I will say that the subject of rates charged the Government has been the subject of an informal investigation by the staff for quite a few months. They were brought up by our west coast district manager, Mr. Harvey Schneiber, some time ago, and we have been aware of the fact that the rates charged to MSTs for household effects, are lower than the rates charged civilian government agencies. And this poses a problem, because we did not want our operations to simply result in the rates charged MSTs being raised to the rates of civilian government agencies.

And we had uncovered quite a bit of material, and worked on it at the time of your hearings on April 7 and 8, and were requested by Mr. Lyle Bull, of American Export Isbrandtsen, to institute a formal investigation of the matter. We have enough material, and enough was uncovered in your hearing that we have ordered a formal investigation of all facets of this. It would be improper for me to state any early conclusions, because I have to later make a judgment of this case.

Chairman DOUGLAS. This poor fellow may be driven out of business while you are investigating. That is, he cut the rates, as I remember it, in half. Almost immediately there was a compensatory price reduction by the conference, which had not previously done so. I don't know what the Government did—whether they gave him any shipping or not. I don't know what kind of shipping they gave him. But you could have the Government—you could have the Government used as an instrument to protect the conference, and to penalize this independent.

Have you formed any opinion on that that you want to express? Or would you prefer not to?

Admiral HARLLEE. Mr. Chairman, I recognize that there is a problem there. But it would be highly improper for me—

Chairman DOUGLAS. I suppose in a judicial sense that is so. But you know, I have always believed that corrective action was better than an inquest. If the patient dies while the investigation is in process, I don't know that much good is done, except possibly a little for the future—if a verdict is reached that he came to his end from foul play at hands unknown.

Admiral HARLLEE. Well, actually, this is the one piece of legislative authority that we are asking. We don't have power, as a matter of fact, to take—

Chairman DOUGLAS. You don't have power to suspend.

Admiral HARLLEE. To suspend. We don't have this power. We don't have power to take any action until after notice and hearing.

Now, this came up with regard to the Latin American surcharge, where there was a Latin American surcharge which was imposed—and, again, this case is before us for adjudication.

We sought an injunction in the case, for the reasons that—the general type of reason that you have outlined with regard to Sapphire.

The court, after rather lengthy deliberations, and some compliments to our Solicitor's Office on it—Mr. Moskowski's office—denied our injunction primarily on the basis that it was a matter of equity, and we would have to carry forward the burden of proof in the case which there wasn't really time to do.

We, therefore, are seeking the type of injunctive power, or the type of power to go to a court and not have to carry the burden, but rather be credited with the expertise of forming an initial opinion, which would do the type of thing you have in mind.

Chairman DOUGLAS. Get a cease-and-desist order.

Admiral HARLEE. Yes. And we are seeking this type of legislative power. It is clear to us, after the loss of this case—we have only lost two, actually, out of a great many—that we should seek this power.

So we actually—regardless of what you may say about this case, we don't have the power to do anything different at this time. We are seeking that power.

However, I will say that Sapphire is still carrying cargo.

Chairman DOUGLAS. What kind of freight is he carrying?

Admiral HARLEE. Government cargo—household effects.

Chairman DOUGLAS. Is it true some of the poorer Government cargo has been sent to him?

Admiral HARLEE. That I don't know, Mr. Chairman.

If you wish, Mr. Chairman, I can jump to the conclusion now.

Chairman DOUGLAS. I think perhaps you should—since we have to have an executive session.

But this will be printed.

Admiral HARLEE. All right.

I think the purpose of this hearing could be well served by jumping to the conclusion at this point.

I would like to take notice of our Vice Chairman, Mr. James V. Day.

Chairman DOUGLAS. We are glad to have you.

Admiral HARLEE. It has now been almost 2 years since the Commission increased its regulatory activity to a level which I regard as the proper level required by the statutes. This 2 years' experience should have disposed of some of the shibboleths that seem to abound in the world of ocean transportation. Some of these myths, however, persist despite all contrary experience.

Regulation has not yet crippled commerce; in fact, commerce is expanding.

The steamship lines have not gone into receivership due to a pre-occupation with regulatory matters; in fact, their profit picture is improving.

The Commission does not regard steamshipping as an eleemosynary enterprise; in fact, we recognize that it is a business which is entitled to a fair return.

The Commission is not betraying U.S. adherence to free enterprise principles in regulating shipping conferences; a shipping conference itself is a contradiction of free enterprise, and because of that fact requires governmental oversight.

Chairman DOUGLAS. May I point out also that the theory of competition was first developed by English economists—Adam Smith, David Ricardo, John Stuart Mill—and that the first editor of the London Economist, Walter Badger, was a great advocate of competition and free enterprise. And that the economists supported the competitive efforts of John Bright and Richard Compton, and if this is true nationally, should it not be true internationally?

Admiral HARLEE. We think so.

Foreign shippers have not abandoned the American-flag lines in droves to give their business to foreign-flag lines out of resentment to regulatory actions; the fact is that the American-flag lines are increasing their share of the cargo. Where they can provide better service, the American-flag line gets the cargo.

Regulation does not mean running the steamship lines business for them; nor does it mean putting people in jail or assessing fines. Regulation can be, and in fact often is, a very positive thing; a governmental function which, rather than controlling business, helps business.

For example, the rates on bourbon whisky were twice the rates on Scotch whisky. Despite a substantial preferment by some drinkers of one over the other, and I know you don't prefer either one—

Chairman DOUGLAS. Oh, I do. I do not want to assume virtues which I do not possess.

Admiral HARLEE (continuing). Their transportation characteristics seemed to be the same.

Chairman DOUGLAS. In other words, a quart is a quart when it is not a fifth.

Admiral HARLEE. At the instance of the Commission, these rates were equalized. We are now informed that subsequent to the equalizing of rates, that is, a reduction of the bourbon rate, to the level of the Scotch rate, bourbon exports increased 45.8 percent.

I have a letter to that effect from the President of the Bourbon Institute.

A similar story can be told about beef rates to Europe. Through the joint efforts of industry, Senator Sparkman's Small Business Committee, and the Federal Maritime Commission—and I must say the American lines, and particularly U.S. Lines and the American Merchant Marine Institute, deserve credit on this—lower export freight rates were established on beef. Senator Sparkman has now reported to Congress that compared to 1964's first quarter, shipping of American beef and veal to Europe rose 101 percent in the first quarter of 1965, following the reduction in freight rates.

Poultry dealers in the southern part of the United States complained to the Commission about the high freight rates on Georgia frozen food products such as shrimp and poultry. When the steamship lines provided an equitable reefer space shipping rate, the Commission was told by Georgia businessmen in a letter that it was now possible to ship Georgia frozen food products regularly to such areas as Dubai, Kuwait, and Red Sea areas where the market and demand for those items were growing.

Chairman DOUGLAS. But not to the Common Market, as I understand, because of the high tariffs imposed by the Common Market against American poultry products.

Admiral HARLLEE. Yes. That is unfortunately the case.

When the Commission intervened to help Concordia College straighten out a matter of a rate overcharge for shipment of an organ it had purchased, Concordia was so delighted they purchased another organ. This is the aspect of regulation that many don't want to see; and that is natural enough.

Chairman DOUGLAS. That helped Europe. And we are not opposed to that.

Admiral HARLLEE. It helped the organ manufacturer, too.

Everyone would prefer to be left alone to do things the way he wants to do it. But regulation is here to stay and if the steamship lines, the conferences, and the foreign governments would take the time to look around and see what the Commission has really done, they would discover that they have not been hurt; that, in fact, a lot of people have been helped including some of those same complaining steamship lines and conferences.

Again, let me say that the Commission is appreciative of the recognition by your committee of our efforts to accomplish the objectives of the Shipping Act, 1916, and to initiate and get in progress a workable, regulatory program which will service this country's commerce. But I want to assure this committee that the Commission is not smugly satisfied with the job it has done; it is not complacent, but takes quite seriously the admonition of your committee that our job is a continuing one. We do think, however, that the Commission is finally in a position where it has issued or is about to issue the necessary rules and regulations to do its job; has trained, although insufficient, personnel properly motivated and directed to the agency's purposes; and has now had sufficient experience to have a degree of wisdom and understanding about the difficulties necessarily implicit in any governmental oversight of an international transaction. If the Commission can now successfully obtain the proper measure of compliance with its rules and directives; if the industry and foreign governments will make an equal effort to understand the necessary job the Commission must do and to give credit to the good faith of this Government and this Commission; then we think that the Commission can perform, at long last, the job it was ordered to do almost 50 years ago, when the conference system was legitimized by the Congress of this country; and to do that job with a minimum of irritants to our allies who have an equally great interest in our commerce and with a minimum of interference with and burden to the commercial operation of steamship lines and associations.

(The material referred to follows:)

EXHIBIT A

RATE STUDIES AND INVESTIGATIONS

The Commission has made rate studies in certain major trades in order to determine the extent of disparate rate structures which are weighed against our exports. It has issued orders under section 21 of the Shipping Act to obtain information and data essential to a determination of whether higher export rates on certain commodities are contrary to statutory requirements. It has formu-

lated a select list of key commodities where disparate rates exist and has extensively studied those commodities in the light of all available information to determine whether rates are a significant factor in impeding exports. It has ordered adjudicatory and monadjudicatory hearings to investigate the legality of high export rates. It has thoroughly investigated complaints involving export rates which are higher than those afforded importers. It has entered into informal negotiations with conferences and carriers in order to encourage voluntary rate adjustments. It has consulted with shippers, associations, port authorities, trade organizations, other U.S. Government agencies and foreign governments, seeking cooperation in rate matters.

Whenever a carrier or conference establishes a general rate increase or, on a selective basis, has significantly increased rates, and thereby effects a disparity against our commerce, the Commission promptly endeavors to determine the circumstances which caused the increased rates and whether those circumstances appear to warrant the increase. In any instance where the Commission is not satisfied that the increased rates are proper, it will formally investigate the matter.

The Commission has proposed to the Departments of Commerce, Agriculture, Defense, State, the Agency for International Development, and the General Services Administration, that interagency meetings be held at least on a quarterly basis to discuss ocean freight rates and any steps which can be taken to combat rates which appear to impede the movement of goods. Where appropriate, shippers, trade associations, carriers, conferences, or any interested parties will be contacted. On this basis we will be able to better deal with rate problems before they become acute.

The Commission will place on its "watch list" of key and select commodities any commodity brought to its attention through the aforesaid efforts whenever the ocean rates appear to impede our commerce. Once a commodity is placed on this list it will be extensively investigated until an appropriate remedy is obtained or the Commission is satisfied that no further action on its part is warranted.

The Commission's district managers and field investigators have been directed to make increased efforts through their contacts with conferences, carriers, shippers, freight forwarders, and manufacturing firms, to report on rate problems.

The Commission is increasing its analysis of trade statistics published by the Bureau of the Census. This will aid us in recognizing significant changes in the pattern of export movements and in taking steps to determine the reasons. If ocean rates are an impeding factor every effort will be made to find a remedy.

EXHIBIT B

CARRIER AND RATE DATA IN FOREIGN-TO-FOREIGN TRADES

To date we have endeavored to obtain the names of carriers operating in both foreign-to-foreign commerce and U.S. commerce. Through the Department of Agriculture, the Department of State, shippers, and others, we have compiled an index containing the names of almost 300 carriers operating in approximately 20 foreign-to-foreign trades. We are in the process of collating information in our files to identify those carriers who offer service to the same country or countries of destination from both U.S. ports and foreign ports. We are also examining our files to determine the extent to which certain carriers might be members of conferences in both foreign-to-foreign trades and U.S.-to-foreign trades. Such participation in both trades would, of course, serve to identify carriers whose rates should be tested against the statute. In some circumstances we believe that it will not be too difficult to obtain needed information. In other circumstances we no doubt will encounter considerable difficulty in obtaining precise and reliable rate data.

We also have underway a program wherein the Department of Commerce will procure specific foreign-to-foreign rate information from its commercial attachés located in various embassies throughout the world. As part of the same program, Commerce has been requested to furnish to the Commission any information its attachés might have at hand, or be in a position of obtaining, concerning potential world markets for American produced goods; information (as the need arises) with respect to specific commodity movements in foreign-to-foreign trades; and minutes of all meetings which that agency might hold with manu-

facturers and/or their representatives in those instances in which freight rates are considered an impediment to oversea sales.

AID, the Department of Agriculture, and any other Government agencies which have a direct and vested interest in moving goods overseas have been requested to provide a list fully describing the commodities moving and further identifying the specific geographic areas between which such commodities move.

We are intensifying our program of corresponding with shipper groups or associations to determine the extent to which freight rates are considered an impediment to oversea sales.

EXHIBIT C

I. INFORMAL COMPLAINTS BY SHIPPERS

The shipping public, here and abroad, has generally not been aware of the role of the Commission in the regulation of the rates and practices of the lines engaged in our foreign commerce. Only recently have aggrieved users of ocean transportation services begun to realize that the Commission may be able to afford relief in instances of malpractices or rate inequities. Accordingly, the number of informal complaints filed by shippers continues to increase.

In fiscal 1962 we handled only 81 informal complaints. In fiscal 1963 we received 107 for an increase of 32 percent. In fiscal year 1964, we received 202 such complaints, an increase of 89 percent over 1963 and 150 percent over 1962. In fiscal 1965, it is estimated that we will receive 250 shipper complaints, representing an increase of 24 percent over 1964, 134 percent over 1963, and 209 percent over 1962.

In addition to informal complaints submitted by shippers, we opened 349 informal cases in fiscal 1964, on the basis of inquiries or complaints from other segments of the shipping industry, the FMC staff, and other Government agencies. Each of these additional cases involved a question of carrier rates or practices. Although the filing of a formal complaint is a relatively expensive and lengthy procedure, we received 50 such complaints in the last 2½ years. Also, we know from examination of conference minutes and reports that a great many complaints or protests are taken up by shippers directly with the conferences or carriers involved. In response to an inquiry we made regarding such matters, 35 different conferences reported to us that a total of 1,607 complaints or protests had been filed with such conferences during the last 6 months of 1963.

The following table shows, by source, how informal complaints filed with the Commission have increased.

Informal complaints filed, fiscal years 1962-65

	1962	1963	1964	Actual, 10 months, 1965	Projected total, 1965
Shipper complaints	81	107	202	188	225
Carrier and conferences	18	142	43	22	26
Other			22	31	37
Total	99	249	267	241	288

Set forth below are some of the more recent instances in which shippers were benefited through informal settlement of their grievances with carriers or conferences.

(1) A Massachusetts shipper stated that he was unable to obtain outward booking of scrap-steel axles from New York to Japan. After an official of FMC contacted the carrier on March 9, 1965, regarding the matter the carrier agreed to take the cargo. Ten days later the company confirmed that its shipment had been accepted for a March sailing.

(2) The president of a college in Wisconsin, in his words felt "constrained to write" the President of the United States on April 2, 1965, to express appreciation for the part played by the Commission in obtaining refund of overcharges of freight on an organ which the college had purchased in Germany. After the Commission inquired into the matter the carrier made a review and informed us

that their oversea agents had overcharged the shipper through error. The shipper had passed the overcharge along to the college. The carrier made appropriate restitution of \$626.27.

(3) After our intervention on behalf of an automobile accessories exporter the steamship conference serving the U.S. Atlantic and gulf/west coast of South America trade reduced its rates from \$79 W/M to \$63 W/M and agreed to consider further reduction of the rate.

(4) In March of this year a Tennessee shipper expressed his appreciation for the services of the Commission in effecting a refund of \$1,037 overcharges assessed on scrap-cotton yarn which his company had shipped to Jamaica in late 1963.

(5) A refund of \$3,127.43 was made by a carrier in another case after the Commission's staff informally determined that a lower rate was applicable on a shipment described as special injection molding machine.

(6) A rate reduction on frozen poultry parts from \$125 per ton, weight, to \$110 per ton, weight, was placed in effect April 2, 1965, by a carrier in the trade from U.S. Atlantic & Gulf to Kuwait, Persian Gulf, after we made a direct appeal to this carrier (and others) on behalf of a Georgia shipper.

(7) The U.S. Atlantic & Gulf-Jamaica Conference reduced its rates on pickled meats to Jamaica, from \$4.50 per barrel to \$3.75 per barrel, effective February 19, 1965, following the Commission's inquiry to the conference in January on behalf of an Illinois shipper.

(8) A lumber company located in Virginia complained that the freight rate increase on pine lumber to Europe as proposed by the North Atlantic Continental Freight Conference would have a disastrous effect on its business in this area. The proposed increase from \$25.75 to \$30.75 per ton of 2,240 pounds, had been announced to become effective August 17, 1964. After much inquiry and investigation by the Commission, the conference agreed to reduce its rate effective October 26, 1964, to the former level of \$25.75 per ton of 2,240 pounds.

(9) Through the intercession of the Commission a Georgia shipper of pecans received the benefit of a rate reduction in the south and east African trade.

(10) The Governors and other officials of the States of North Carolina, South Carolina, and Georgia called our attention in early 1964 to generally higher rates applying from U.S. South Atlantic ports to Europe than those from U.S. North Atlantic ports to the same destination. The Commission made inquiries into the problem and promoted meetings and conferences between officials of the affected States and representatives of the various steamship companies and steamship conferences. This resulted in the South Atlantic Steamship Conference lowering the rates from southern ports to a position of parity with northern ports, and the complainants withdrew their protests in the matter.

(11) A refund of \$545.17 to a Connecticut shipper was made in July of 1964 by a carrier after the Commission's staff informally determined that a lower rate than that charged was applicable on a shipment of air-conditioning equipment from Los Angeles to Balboa.

(12) A refund of \$2,604 was made to a shipper by a carrier in February of 1964, after the Commission's staff determined that a lower rate than that charged was applicable on a shipment of "marsh buggies" from New Orleans to Mexico.

II. BEEF RATES

The issue of beef rates first came to the Commission's attention during the middle of last year when a national news magazine carried an article which highlighted the rate problems of the meatpacking industry. Although we had received no complaints from prospective exporters of beef, nevertheless the Commission immediately instituted informal inquiries concerning the matter. Shortly thereafter the Department of Agriculture expressed concern and indicated that a vigorous program was being undertaken to stimulate the sale of American beef in European markets.

Thereafter close coordination was achieved between the Department of Agriculture and the Federal Maritime Commission with the support of Senator Sparkman and the staff of the Small Business Committee. It became obvious that freight rates were not the only inhibiting factor with respect to the export

of beef; the question of European tastes and preference has entered into the picture as did health inspection requirements and refrigerated cargo capacity of vessels in the Atlantic trades.

I am pleased to be able to say that the steamship industry cooperated with the interested Government agencies in making substantial rate reductions on various categories of beef and beef products to European destinations. In one of the most important categories, that of hung, chilled beef, carriers in the North Atlantic made particularly significant reductions for a period of 6 months with the prospect that, should this reduced rate stimulate a substantial and continued movement of beef, the rate might be made permanent. It is an example of how cooperation between Government, shippers, and carriers can be mutually beneficial.

III. SURCHARGES

During the past 2 years the Commission has expressed concern regarding the tendency on the part of some conferences and carriers to apply surcharges to existing rates as a result of alleged congestion at certain ports. Chittagong and Manila are examples of ports where surcharges were placed into effect and formal investigations instituted by the Commission. As a result, the surcharge at Manila was reduced by 50 percent and that at Chittagong eliminated entirely.

Recently another surcharge situation caused considerable concern to the Commission. On March 4, 1965, the conferences serving various United States Latin America trades filed with the Commission surcharges of 10 percent to become effective on April 5, 1965. Numerous independent lines also filed revisions to their tariffs to reflect similar surcharges. However, it was not until April 2, 1965, that the conference serving the Venezuelan trade filed a surcharge with the Commission and then only in the amount of 5 percent to become effective May 3, 1965. Numerous complaints from shippers, including Government agencies, were received by the Commission concerning the impact of the surcharges on our foreign commerce. Insofar as the conferences employing dual rates are concerned questions arose as to their legal right to impose the surcharges on less than 90 days' notice. The Commission reviewed the matter and decided that it should use its full statutory authority to forestall implementation of the surcharges. We sought and obtained temporary restraining order in the U.S. District Court for the Southern District of New York. Simultaneously the Commission announced that it would conduct an investigation into the lawfulness of the surcharges. While the injunction sought was denied, this case illustrates that the Commission is doing everything within its power to protect the public interest. Even though the right of the Commission to seek injunctive relief was upheld, the Commission is requesting Congress to amend the Shipping Act to strengthen and clarify our authority to have a court issue an injunction under appropriate circumstances.

IV. SURVEILLANCE OVER GOVERNMENT RATES

(1) We have previously stated that the Commission is currently analyzing rate-fixing agreements presently in effect covering Government-impelled cargoes, in an effort to determine whether such agreements in the light of all pertinent and current conditions are consistent with the requirements of our foreign commerce. Should the Commission obtain any information to indicate that such an agreement is not serving the general welfare of our commerce, it will use its full statutory powers to either modify or disapprove that agreement. An example of this is the recent issuance of an order of investigation in docket 65-13 to determine whether the agreements of such groups as the Atlantic & Gulf American Flag Berth Operators (AGAFBO) and, in particular, their rates on household goods, are inconsistent with the statutory requirements and accordingly should be disapproved by the Commission. The Commission has also named the Sapphire Steamship Lines, Inc., as a party to its investigation to determine whether the household goods rate of that carrier recently filed with the Commission at a level substantially below that previously assessed by AGAFBO might be so unreasonably low as to be detrimental to our commerce in violation of section 18(b)(5).

In addition, the Commission is considering the matter of Government rates in its factfinding investigation No. 6 and has agreed to assist AID in a rate study on the cargo shipped by that Agency.

(2) Tariffs are reviewed on a preliminary basis to insure that rates charged the U.S. Government are not higher than those charged commercial shippers. Many tariffs do not show separate rates for the U.S. Government as compared to commercial shippers, in which cases, the Commission has no rate information to compare. Also, much of the Government cargo moves in bulk, and section 18(b) of the act does not require that rates on bulk cargo be filed with the Commission.

(3) It is recognized that there may be, and doubtless are, some tariffs on file with the Commission containing rates applicable to both U.S. Government and commercial cargoes which are, in fact, "paper rates" to the extent that the commodities concerned are shipped only by the U.S. Government. Certain commodities, because of their nature, would obviously be shipped either exclusively or primarily by the U.S. Government in the export trades. Examples of this are military equipment and certain types of agricultural and food products. In those instances where U.S. Government agencies register complaints with the Commission concerning the level of freight rates being paid to carriers every effort is made to cooperate with the agency looking toward resolutions by whatever means are available.

(4) The Commission has for some time been investigating the question of whether freight rates being charged the U.S. Government for the movement of household goods differs as between the various agencies involved. Generally, rates lower than those available to the public have been charged the van lines carrying household goods on through Government bills of lading between inland U.S. points and points in foreign countries. These lower rates were generally available only for military shipments; however, such availability has recently been broadened in some trades to include shipments moving under the jurisdiction of U.S. civil agencies. While the State Department, which is the principal civilian agency moving household goods, has been successful in obtaining inland-to-inland household goods rates approximately equal to those available to the military, that agency is generally paying the same port-to-port rates as applicable to the general public. The Commission recently participated in meetings with the State Department, General Services Administration, and the military to determine the course of action best suited to meet this problem. The Commission's investigation into AGAFBO will deal with this issue.

EXHIBIT D

STATUS REPORT OF FACTFINDING INVESTIGATION No. 6, MAY 22, 1965

This proceeding was instituted by Commission order of October 22, 1963, as a nonadjudicatory factfinding investigation, a comprehensive factual study for the Commission's guidance in establishing basic policies, including legislative recommendations.

The Celler committee report, House Report No. 1419, 87th Congress, 2d session, recommended such an investigation as did Secretary of Commerce Hodges, as reported to the Joint Economic Committee, in his letter dated July 12, 1963. It is the first overall comprehensive study of the conference system and its effect on U.S. commerce by the Commission or its predecessor agencies. It embraces numerous questions raised before the Joint Economic Committee, the Celler committee, and the Bonner committee.

The staff in charge of the investigation, using as a basis various questions raised in testimony before the Joint Economic Committee, the Celler committee, and the Bonner committee, has prepared a comprehensive outline of the subsidiary areas of investigation. Since shortly after the institution of the investigation the Commission staff has been engaged in screening and assembling material already available to the Commission on these various questions. In addition, lists of several hundred shippers were obtained from the Department of Commerce and those shippers who expressed an interest on the basis of correspondence were interviewed for the purpose of developing a slate of witnesses. Basic aspects

of all conferences will be studied and, in addition, a selected cross section of conferences will be studied in depth.

A series of shippers hearings were scheduled, the first in New York on October 8, 1964, with subsequent hearings in New Orleans beginning November 17, 1964, in Chicago beginning December 9, 1964, and San Francisco beginning January 19, 1965, and in Seattle beginning February 22, 1965. The shipper phase of the hearings were completed by hearings in Washington, D.C., beginning April 5, 1965.

Following the shippers hearings, hearings to hear Government agency witnesses were held in Washington in May. These will be concluded in a series of hearings beginning June 14, 1965. Following the Government agency hearings a series of hearings for the examination of conference and carrier witnesses will be held probably beginning in New York City in July.

After hearings have been held concerning the first of the conferences to be studied in depth a final decision will be made as to the number of conferences which can be feasibly studied to this extent and a projected date for final completion of the investigation will be fixed. It is presently estimated that on the basis of studying six conferences a final report can be submitted in June of 1966; however, the investigating officer and the Bureau of Hearing Counsel have submitted an interim report based upon the shipper hearings. Although recommendations on most problems must await later stages, the interim report does contain recommendations relating to a Commission program in cooperation with other Government agencies of shipper education in dealing with freight rate problems. It also proposes that the Commission concentrate attention toward studying the effects of certain overall rate structure patterns which may evidence discriminatory treatment as between the various coastal areas.

The interim report also recommends that conferences adopt on a voluntary basis fair appeal procedures in connection with shipper requests and, failing this, consideration be given to legislation to establish governmental mediation in connection with shipper requests.

Based upon indications of a lack of knowledge on the part of many shippers regarding conference operations, the report also recommends that the Commission undertake an extensive educational program to familiarize all shippers with their rights under our shipping statutes; to make them aware of how conferences operate to fix rates; and to aid them in presenting their requests and complaints to the conference.

Continuation of the Commission's efforts in connection with tariff standardization and simplification is also recommended. If possible, this should be done by cooperative efforts rather than formal rulemaking.

EXHIBIT E

EARNINGS OF PRINCIPAL WATER CARRIERS (1959-64)

We have summarized the operating results of the principal American ocean water carriers for whom data is available for the years 1959 through 1964. These data were obtained primarily from Moody's Transportation Manual for the years 1959-63. Other sources were examined but no additional information was discovered. For 1964 the information was obtained from reports to stockholders. Neither Grace Line nor States Steamship issue publicly such reports so that it has been impracticable to obtain these data for these carriers for 1964. The information is filed with the Maritime Administration but on a confidential basis. Attached schedule A shows: (1) "Operating Revenue," (2) "Operating Expense," (3) "Operating Differential Subsidy," if the carrier is subsidized, (4) "Vessel Operating Profit (Loss)" before and after subsidy, and (5) "Net Income (Loss)" after taxes. The first four items show the volume of operations and the operating result before overhead, depreciation, and nonshipping operations. The last item shows the net profit or loss, after Federal income taxes, but before any reported extraordinary and nonrecurring gains or losses.

Because these data have been obtained from published reports it is necessary to make several qualifications which must be borne in mind in analyzing these results. The results shown on schedule A are those of the entire company and

and in some cases are the consolidated overall results of several companies. Eleven of the companies whose results are included are subsidized carriers primarily engaged in foreign commerce and two are engaged in domestic coastwise, intercoastal, and domestic offshore commerce. However, Matson Navigation Co., is a consolidation including a third domestic offshore carrier as well as Oceanic, one of the 11 subsidized carriers. McLean Industries, a consolidation, includes sea-land, one of the domestic carriers as well as Waterman of Puerto Rico, a fourth domestic offshore carrier, and also Waterman Steamship, an unsubsidized carrier primarily engaged in foreign trade. It has been impossible to segregate the results derived by these carriers by various trade routes or services. Such information is on file with the Maritime Administration on a confidential basis. There are also several significant carriers who, because they are closely owned, do not publish financial reports and for whom there is no public information. As stated above, data for 1964 is not currently available for Grace Line and States Steamship.

It may be noted that for the 11 companies for whom data is available for the 6 years: (1) operating revenue was the greatest in 1964 for 10 companies, and (2) net income was the greatest in 1964 for 7 companies, in 1963 for 2, and 1961 and 1959, 1 each. In total for the 13 companies through 1963 operating revenue has increased each year since 1961 and net income has increased each year since 1960. In general 1960 and 1961 were the poor years during this period while 1964 appears to have been the best year both from revenue and profit point of view.

Of the 13 companies, 8 reported a net income for each year covered by the review; 4 reported net losses in only 1 year, while Seatrain reported losses for every year under consideration. Seatrain is the smallest carrier included in their review; was largely limited to coastwise service during the period; and incurred considerable cost in entering the Puerto Rican service during the latter part of the period and, hence, cannot be considered as typical.

The operating results of seven foreign carriers in U.S. commerce is also available in Moody's Transportation Manual and is summarized in schedule B. Moody's and Fairplay, referred to herein, are the only sources used in connection with foreign-flag carriers. A search was made for other sources of information related to other foreign-flag carriers but none was discovered. The operations of foreign-flag carriers reported herein also cover the overall operations of the carriers and in some cases may be consolidations of more than one carrier company. It is not possible, from available data, to segregate carryings in U.S. commerce from the other operations of these carriers. Results for 1964 will not be available for several months. Vessel operating profit has been selected for the reason that this figure presumably represents the most truly comparable amounts. While the results are reported in terms of the currencies of the country of the carrier for the purpose of this review conversion to dollars or a common currency is not necessary. There is not the consistency in operating results of these foreign carriers as was found in the American carriers. Of the seven carriers for whom data are available vessel operating profit was greatest for two each in 1963, 1962, and 1960 and for one in 1959. The poorest years were: 1962 for three carriers, 1963 for two, and 1959 for one. The French Line results for 1959 were reported in old francs prior to conversion and, hence, are not comparable. Results for 1963 were better than those for 1962 for five of the seven carriers and results for 1962 were better than those for 1961 for three of the seven carriers.

To complete the review, the voyage profits reported in Fairplay Shipping Journal, an English publication, of lines and cargo lines companies (schedule C) and cargo companies (schedule D) are also summarized. These summaries cover only the 4 years, 1961-64.

For the 23 liner companies: 1964 was the best year for 10, 1961 was the best for 7, 1963 for 4, and 1962 for 2. The second best years are: 1964 seven, 1961 seven, 1962 five, and 1963 four. Obviously, 1964 was one of the better years; in total it was the best of the four.

For the 19 strictly cargo carriers, 1964 showed the greatest total of voyage profits with 1961 as second best. Individually, 9 of the 19 had their best results in 1964; 7 in 1961; 2 in 1962; and 1 in 1963.

SCHEDULE A

Operating results and earnings of American water carriers in U.S. commerce,
1964-59

[In thousands]

American-flag carriers	1964	1963	1962	1961	1960	1959
American Export Isbrandtsen Lines, Inc.:						
Operating revenue.....	\$112,156	\$104,395	\$87,654	\$68,232	\$67,094	\$64,590
Operating expense.....	116,072	104,908	92,178	76,893	73,117	66,024
Vessel operating profit (loss) before subsidy.....	(3,916)	(513)	(4,524)	(8,661)	(6,023)	(1,434)
Operating differential subsidy.....	33,910	30,413	27,344	24,085	22,078	19,442
Vessel operating profit after sub- sidy.....	29,994	29,900	22,820	15,424	16,055	18,008
Net income after taxes ¹	8,596	8,075	4,612	979	1,910	5,290
American Mail Line, Ltd.:						
Operating revenue.....	19,974	18,686	15,449	13,051	15,438	13,050
Operating expense.....	19,087	19,049	15,773	14,564	16,614	14,309
Vessel operating profit (loss) before subsidy.....	887	(363)	(324)	(1,513)	(1,176)	(1,259)
Operating differential subsidy.....	5,524	5,690	4,784	4,457	4,866	4,264
Vessel operating profit after subsidy.....	6,411	5,327	4,460	2,944	3,690	3,005
Net income after taxes ¹	2,183	1,932	1,073	770	1,494	2,855
American President Lines, Ltd.:						
Operating revenue.....	92,762	89,748	80,576	75,293	83,714	82,380
Operating expense.....	92,945	93,200	83,699	78,249	82,288	78,411
Vessel operating profit (loss) before subsidy.....	(183)	(3,452)	(3,123)	(2,956)	1,426	3,969
Operating differential subsidy.....	30,199	30,449	26,459	23,459	22,936	21,984
Vessel operating profit after subsidy.....	30,016	26,997	23,336	20,593	24,362	25,953
Net income after taxes ¹	6,490	4,444	3,397	4,321	4,323	6,484
Delta Steamship Lines, Inc.:						
Operating revenue.....	23,970	24,026	23,369	21,188	18,903	19,365
Operating expense.....	25,735	25,418	24,642	23,433	20,556	21,115
Vessel operating profit (loss) before subsidy.....	(1,765)	(1,392)	(1,273)	(2,245)	(1,653)	(1,810)
Operating differential subsidy.....	6,665	6,338	6,355	6,452	5,896	6,250
Vessel operating profit after sub- sidy.....	4,891	4,946	5,082	4,207	4,243	4,440
Net income after taxes ¹	1,698	1,305	1,176	599	1,333	1,010
Grace Line, Inc.:						
Operating revenue.....	(²)	72,502	68,493	64,335	67,208	70,981
Operating expense.....	(²)	73,866	66,936	63,688	68,644	66,174
Vessel operating profit (loss) before subsidy.....	(²)	(1,364)	1,557	647	(1,436)	4,807
Operating differential subsidy.....	(²)	15,810	13,966	12,717	12,544	12,117
Vessel operating profit after sub- sidy.....	(²)	14,455	15,523	13,364	11,108	16,924
Net income (loss) after taxes ¹	(²)	2,956	3,096	1,657	(2,158)	2,028

See footnotes at end of table.

*Operating results and earnings of American water carriers in U.S. commerce,
1964-59—Continued*

[In thousands]

American-flag carriers	1964	1963	1962	1961	1960	1959
Lykes Bros. Steamship Co., Inc.:						
Operating revenue.....	\$76,169	\$65,938	\$62,027	\$59,393	\$62,524	\$61,083
Operating expense.....	7,577	65,531	61,597	60,508	67,860	63,213
Vessel operating profit (loss) before subsidy.....	402	407	431	(1,115)	(5,336)	(2,130)
Operating differential subsidy.....	20,500	18,500	17,800	17,200	18,200	16,509
Vessel operating profit after subsidy.....	20,902	18,907	18,231	16,085	12,864	14,379
Net income after taxes ¹	8,283	8,355	8,307	7,879	6,455	7,037
Matson Navigation Co.:						
Operating revenue.....	111,953	105,043	99,689	100,194	113,446	101,475
Operating expense.....	95,281	93,662	93,479	99,588	108,201	103,943
Vessel operating profit (loss) before subsidy.....	16,672	11,381	6,210	606	5,245	(2,468)
Operating differential subsidy.....	6,200	6,300	6,100	5,700	5,850	5,670
Vessel operating profit after subsidy.....	22,872	17,681	12,310	6,306	11,095	3,202
Net income (loss) after taxes ¹	6,499	4,950	2,249	(1,067)	2,599	3,052
McLean Industries, Inc.:						
Operating revenue.....	134,617	112,992	99,693	80,054	72,118	68,116
Operating expense.....	91,703	79,510	71,673	59,703	54,901	47,080
Vessel operating profit.....	42,914	33,482	28,020	20,351	17,217	21,036
Net income (loss) after taxes ¹	4,545	645	2,701	3,142	(1,476)	574
Moore-McCormack Lines, Inc.:						
Operating revenue.....	88,496	79,237	79,930	72,081	73,761	69,823
Operating expense.....	89,617	82,579	81,898	77,499	76,321	72,248
Vessel operating profit (loss) before subsidy.....	(1,121)	(3,342)	(1,968)	(5,418)	(2,560)	(2,425)
Operating differential subsidy.....	23,669	22,379	21,120	19,279	20,031	19,809
Vessel operating profit after subsidy.....	22,548	19,037	19,152	13,861	17,471	17,384
Net income (loss) after taxes ¹	4,039	2,020	1,652	(1,301)	1,513	1,414
Pacific Far East Line, Inc.:						
Operating revenue.....	38,547	36,433	32,692	32,650	35,437	34,891
Operating expense.....	31,395	30,282	27,444	27,876	31,738	30,662
Vessel operating profit before sub- sidy.....	7,152	6,151	5,248	4,774	3,699	4,229
Operating differential subsidy.....	5,696	6,179	4,981	5,049	4,222	4,660
Vessel operating profit after subsidy.....	12,848	12,330	10,229	9,823	7,921	8,889
Net income after taxes ¹	3,083	2,911	1,994	1,728	529	535
Seatrain Lines, Inc.:						
Operating revenue.....	15,531	11,553	10,714	11,317	10,458	9,627
Operating expense.....	14,766	11,726	10,306	10,446	9,826	9,279
Vessel operating profit (loss).....	765	(173)	408	871	632	348
Net income (loss) after taxes ¹	(912)	(1,735)	(894)	(46)	(55)	(364)

See footnotes at end of table.

*Operating results and earnings of American water carriers in U.S. commerce,
1964-59—Continued*

[In thousands]

American-flag carriers	1964	1963	1962	1961	1960	1959
States Steamship Co.:						
Operating revenue.....	(?)	\$30,381	\$24,676	\$22,078	\$23,722	\$22,600
Operating expense.....	(?)	28,130	24,582	21,738	22,900	21,178
Vessel operating profit before sub- sidy.....	(?)	2,251	94	340	822	1,422
Operating differential subsidy.....	(?)	7,784	7,198	5,901	5,784	4,809
Vessel operating profit after subsidy.....	(?)	10,035	7,292	6,241	6,606	6,231
Net income after taxes ¹	(?)	2,207	1,614	1,938	1,786	1,858
United States Lines Co. (New Jersey):						
Operating revenue.....	\$150,964	138,022	145,664	129,659	140,859	136,531
Operating expense.....	153,597	143,920	146,003	133,374	140,604	132,901
Vessel operating profit (loss) before subsidy.....	(2,633)	(5,898)	(339)	(3,715)	255	3,630
Operating differential subsidy.....	40,106	38,893	37,330	36,426	34,330	33,029
Vessel operating profit after subsidy.....	37,473	32,995	36,991	32,711	34,585	36,659
Net income after taxes ¹	8,760	9,008	8,439	7,215	7,373	8,156
Totals for American-flag carriers:						
Operating revenue.....	(?)	888,956	830,628	749,525	784,682	754,452
Operating expense.....	(?)	851,781	800,209	747,559	773,570	726,537
Vessel operating profit before sub- sidy.....	(?)	37,175	30,417	1,966	11,112	27,915
Operating differential subsidy.....	(?)	188,744	173,437	160,815	156,737	148,543
Vessel operating profit after subsidy.....	(?)	225,919	203,854	162,781	167,849	176,458
Net income after taxes ¹	(?)	47,073	39,416	27,814	25,626	39,929
Net income after taxes (11 companies) ¹	53,264	41,910	34,708	24,219	25,998	36,043

¹ Before any reported nonrecurring extraordinary gains or losses.

² Not available.

Source: Moody's Transportation Manual, Annual Report to Stockholders.

SCHEDULE B

Vessel operating profit of foreign-flag carriers in U.S. commerce, 1963-59

[In thousands]

	1963	1962	1961	1960	1959
Cunard Steam Ship Co., Ltd.....	£724	£304	£1,122	£4,542	£5,040
The French Line.....	Fr65,227	Fr79,156	Fr71,484	Fr70,635	¹ FrN.A.
Furness, Withy & Co., Ltd.....	£4,148	£3,430	£4,380	£4,727	£4,289
Holland-America Line.....	Fr2,282	Fr17,622	Fr25,579	Fr3,1979	Fr20,541
North German Lloyd.....	DM113,618	DM114,585	DM110,754	DM98,671	DM98,639
Norwegian America Line.....	NKr35,664	NKr17,221	NKr22,285	NKr23,973	NKr26,099
Peninsular & Oriental Steam Naviga- tion Co.....	£24,460	£17,485	£16,262	£19,236	£17,924

¹ Not available.

SCHEDULE C

FEDERAL MARITIME COMMISSION,

Voyage profits of some liner and cargo liner companies, years 1960-63

[Amounts in British pounds]

	1963	1962	1961	1960
Anchor Line, Ltd.....	336, 158	216, 004	159, 204	250, 683
British & Commonwealth Shipping Co., Ltd.....	7, 590, 562	6, 727, 423	5, 952, 183	7, 663, 312
British India.....	4, 076, 236	1, 091, 286	612, 040	1, 251, 322
Brocklebank Ltd., Thos. & Jno.....	539, 914	287, 518	129, 465	254, 151
China Mutual Steam Navigation Co., Ltd.....	532, 104	1, 255, 047	1, 404, 377	1, 504, 665
Cunard Steam Ship Co., Ltd.....	1 723, 763	303, 876	1, 122, 199	4, 542, 122
Currie Line, Ltd.....	81, 280	103, 415	21, 923	92, 946
Donaldson Line, Ltd.....	264, 256	-88, 729	-276, 014	-182, 960
Ellerman Lines, Ltd.....	3, 140, 982	3, 171, 837	2, 336, 921	2, 414, 792
Empire Transport Co., Ltd.....	66, 636	124, 132	140, 113	190, 909
Furness-Houlder Argentine Lines, Ltd.....	351, 326	370, 224	111, 167	176, 475
General Ship Navigation Co., Ltd.....	559, 926	48, 264	56, 891	39, 680
Houlder Line.....	799, 592	449, 180	324, 758	458, 144
Indo-China Steam Navigation Co., Ltd.....	313, 859	226, 298	224, 141	321, 786
Liner Holdings Co., Ltd.....	2, 992, 562	3, 542, 203	4, 602, 749	4, 664, 086
Manchester Liners, Ltd.....	219, 443	157, 035	29, 679	40, 403
Ocean Steam Ship Co., Ltd.....	3, 176, 759	1, 877, 219	2, 291, 290	3, 597, 341
Orient Steam Navigation Co., Ltd.....	1, 051, 188	227, 132	87, 852	215, 707
Port Line, Ltd.....	2, 006, 062	1, 985, 510	2, 047, 281	1, 860, 028
Prince Line, Ltd.....	211, 965	50, 055	55, 206	151, 736
Royal Mail Lines, Ltd.....	1 1, 376, 403	1, 279, 171	1, 553, 319	1, 495, 768
Shaw, Savill, & Albion Co., Ltd.....	837, 274	721, 402	172, 916	780, 189
Totals.....	31, 248, 250	24, 125, 552	23, 159, 660	31, 783, 285

¹ Consolidated.

Source: Fairplay Shipping Journal (annual Returns Issues).

SCHEDULE D

FEDERAL MARITIME COMMISSION

Voyage profits of some cargo companies, years 1960-63

[Amounts in British pounds]

Cargo companies	1963	1962	1961	1960
Alexander Shipping Co., Ltd.....	234, 661	180, 474	214, 086	227, 473
Atlantic Shipping & Trading Co., Ltd.....	31, 587	1, 033	54, 831	12, 491
The Aviation & Shipping Co., Ltd.....	90, 118	32, 626	14, 376	26, 689
Britain Steamship Co., Ltd.....	-730, 880	-927, 858	-386, 071	-337, 006
Burnett Steamship Co., Ltd.....	77, 169	65, 988	33, 538	35, 483
Cairns, Noble & Co.....	50, 554	18, 539	47, 752	91, 692
Court Line, Ltd.....	37, 400	212, 402	-76, 833	-114, 280
Esk Shipping Co., Ltd.....	16, 082	1, 833	1, 640	10, 908
Hall Bros. Steamship Co., Ltd.....	123, 084	109, 457	157, 493	163, 465
Lyle Shipping Co., Ltd.....	118, 672	88, 458	86, 655	74, 048
Moor Line, Ltd.....	131, 228	80, 353	198, 482	194, 492
Ore Carriers, Ltd.....	1, 004, 318	977, 495	957, 113	747, 657
Reardon Smith Line, Ltd.....	368, 830	118, 373	51, 651	220, 363
Ropner Holdings.....	511, 467	162, 174	231, 188	494, 864
The Sheaf Steam Shipping Co., Ltd.....	411, 203	427, 003	383, 384	448, 323
Stag Line, Ltd.....	182, 723	42, 772	149, 980	110, 037
Stanhope Steamship Co., Ltd.....	34, 902	-37, 145	1, 121	76, 249
Thomasson Shipping Co., Ltd.....	16, 138	16, 128	85, 546	109, 483
Turnbull Scott Shipping Co., Ltd.....	379, 086	335, 274	458, 095	436, 575
Total.....	3, 088, 342	1, 905, 379	2, 662, 007	3, 034, 006

Source: Fairplay Shipping Journal (annual Returns Issues).

Chairman DOUGLAS. That is a splendid report of progress, Admiral. I want to commend you, members of the Commission who have stood behind you, and your staff. It is a most promising development.

I don't want to minimize the difficulties that lie ahead. There are a great many "ifs" attached to that last paragraph. But it is good to know that the resolution to go ahead is strong. Such help as we can properly give you, we will give you.

Thank you very much.

The committee will now go into executive session—unless you have other matters.

Admiral HARLLEE. I would simply like on behalf of the Commission and staff to thank you very much, Mr. Chairman.

Chairman DOUGLAS. Let the record show that the Secretary of Commerce has been invited to testify and has responded by mail under date of May 18, requesting that the Under Secretary for Transportation or the Assistant Secretary for Economic Affairs be heard in lieu of him. Accordingly, staff has arranged for the Assistant Secretary for Economic Affairs to appear in June at a time to be announced later.

THE SECRETARY OF COMMERCE,
Washington, D.C., May 18, 1965.

Hon. PAUL H. DOUGLAS,
Chairman, Subcommittee on Federal Procurement and Regulation, Joint Economic Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you very much for your recent letter inviting my personal participation in your forthcoming hearings on ocean freight rates.

As you know, this Department is cooperating with the Federal Maritime Commission in its current review of this subject, and staff representatives of the Department have in appropriate instances presented information in formal hearing proceedings held by the Federal Maritime Commission.

I don't believe I would personally be in a position to assist the committee to any appreciable extent in your scheduled hearings. Since you asked for a progress report on three ocean freight rate studies we have underway, I would like to suggest that appropriate witnesses be from the Office of the Under Secretary for Transportation and from the Office of the Assistant Secretary for Economic Affairs. I hope this suggestion will meet with your approval.

Concerning your reference to the administration of the cargo preference laws, I am aware that the Department of Agriculture has suggested that its responsibilities in this area be transferred to the Department of Commerce. This is currently under consideration within the executive branch and I would not want to testify on the merit or lack of merit of that suggestion at this time.

With cordial regards,

Sincerely yours,

JOHN T. CONNOR,
Secretary of Commerce.

(Whereupon, at 11:50 a.m., the subcommittee recessed, to reconvene in executive session.)

[Proceedings of the executive session begin on page 404, after a prefatory statement by Chairman Douglas and a statement submitted by Senator Sparkman, which follow immediately:]

STATEMENT OF SENATOR PAUL DOUGLAS, CHAIRMAN OF THE SUBCOMMITTEE ON FEDERAL PROCUREMENT AND REGULATION, RELATIVE TO PUBLICATION OF SHIPPING INFORMATION PROVIDED BY EUROPEAN NATIONS

After the lapse of 61 days, I have directed, with the concurrence of the Subcommittee on Federal Procurement and Regulation, publication of the testimony submitted on May 27 to the subcommittee in executive session by the Chairman of the Federal Maritime Commission.

At that time, Chairman Harlee explained that 14 maritime nations had agreed to furnish statistical information and other data covering 16 shipping conferences operating in 8 ocean trade routes. When the information was furnished, it was agreed that the U.S. Government, before publicizing the data, would provide the other nations with the opportunity to consult on the matter. Originally, 1 month was allowed for such purpose and then, at the request of the Maritime Commission and the State Department, an additional 3 weeks were granted. In that period of time, extensive consultation has taken place and there is no basis for further delaying the publication.

The testimony deals primarily with the North Atlantic-United Kingdom traffic and reveals a striking differential in favor of inbound traffic—a matter of vital concern to U.S. exporters. In anticipation of publication, the British Government has asked the U.S. State Department to request publication of their comments on the Maritime Commission study. Accordingly these comments, in the nature of criticism of the Maritime Commission's interpretations, are reprinted at the end of the testimony, along with the additional comments by the Federal Maritime Commission.

By way of background, it needs to be emphasized that the Joint Economic Committee and its Subcommittee on Federal Procurement and Regulation have been conducting an inquiry into the question of discriminatory ocean freight rates for more than 2 years. In the course of this inquiry we have found that generally it costs American exporters substantially more to ship their products to Europe and Japan than it costs European and Japanese shippers to send comparable products to the United States, even in cases where the same ships are used in both directions. It also has become evident to the committee during the inquiry that most ocean freight rates are not established by the competitive forces of supply and demand, but by agreements. Steamship lines form associations which establish freight rates with legality, provided the Federal Maritime Commission approves such association or conference of carriers. Most of these conferences, the committee found, were dominated by foreign-flag steamship lines.

In its report on "Discriminatory Ocean Freight Rates and the Balance of Payments," published in December 1964, the committee enu-

merated eight specific recommendations needed to achieve a more effective maritime policy. Two of these recommendations directly concerned correction of rate disparities unfavorable to the United States. Inasmuch as the steamship conferences, which are dominated by foreign-flag steamship lines, are setting rates which are detrimental to American commerce, the committee recommended elimination of the discriminatory rates and it further recommended that the Federal Maritime Commission maintain a strict surveillance of the conference system. The committee stated that "if the conference system cannot withstand the public scrutiny, it is not entitled to antitrust immunity and should be discontinued."

The Commission found that it needed additional economic data before taking action to eliminate unwarranted disparities in ocean freight rates, and it issued formal orders under section 21 of the Shipping Act to obtain this information relating to revenue, tonnage, rates, and other economic data involving steamship operations and the conferences.

Foreign steamship operators and conferences refused to obey the Federal Maritime Commission's orders and made unsuccessful attempts to have the U.S. Federal courts nullify the section 21 orders. Three separate Federal courts upheld the legality and the relevance of the section 21 orders. Then, under stimulus from the inbound conferences, 14 foreign nations filed formal protests against the Maritime Commission orders. At this point, the Commission chose not to press its legal advantage, but undertook to obtain the necessary information through consultation and negotiation with the governments of the affected countries: the United Kingdom, Italy, Japan, the Netherlands, Luxembourg, Belgium, Germany, France, Norway, Denmark, and Sweden. The Commission comprised many of its original requests in order to reach agreeable arrangements with the other governments.

On December 15, 1964, after a year of consultation, the foreign governments agreed to provide the following information to the Commission: (1) The total revenue tons of cargo carried during 1963 on specific trade routes; (2) the total gross freight revenue earned on such cargo carried; (3) the number of revenue tons of certain commodities to be agreed upon; (4) the gross freight revenue earned from the carriage of such commodities as are agreed upon in (3) above. It is this data that provides the basis for the analysis that was submitted to this subcommittee in executive session and which will permit the further studies that the Commission has been asked to pursue.

Clearly, these statistics show that there is widespread ocean freight rate discrimination. The detailed analysis of British-American trade, set forth in the material that is hereinafter included in this record, shows that American exporters pay one-third more to ship their commodities to England than English shippers pay to ship similar commodities to the United States. There are no justifiable economic reasons for this discrimination. Publication of the true facts, I am convinced, will strengthen the hand and will of the U.S. Government in its attempt to eliminate prejudice to our commerce.

STATEMENT OF SENATOR SPARKMAN

The information now being released by the subcommittee was originally made available to the U.S. Government pursuant to an agreement of December 15, 1964, entitled "Agreed Minutes of Exchange of Shipping Information" to which the United States and 14 other nations were signatories.¹

The text of the agreement, released on January 18, 1965, by the State Department² contains the following language:

"2. The 14 governments are willing to use their good offices to facilitate the production of the following statistical information by their shipowners who are members of the conferences listed in Appendix A.

"(1) The total revenue tons of cargo carried during 1963 on the trade routes specified in Appendix B,

"(2) The total gross freight revenue earned on such cargo carried,

"(3) The number of revenue tons of certain commodities to be agreed upon with an indication of the basis of revenue tons used, and

"(4) The gross freight revenue earned from the carriage of such commodities as are agreed upon under subparagraph (3) above.

"These statistics will be presented as aggregated total for each conference of shipowners concerned, the method of aggregation will be decided by each conference for itself. When all the information has been assembled and aggregated by each conference it will be made available to the government of the country in which the conference has its headquarters. That government will in turn forward it to the O.E.C.D. which will then circulate copies to all 15 governments. The information will be treated as confidential.

* * * * *

"6. The statistical information referred to in Paragraph 2 above shall not be published or communicated to private persons in a form that would prejudice individual carriers or reveal commercial secrets. Before any government publishes the information in any form, that government will consult with the government or governments which received the information from the conferences.

* * * * *

"8. The information and documents to be exchanged under this agreement shall not be used for the purpose of criminal prosecutions or assessing fines or penalties against shipowners or conferences."

Data of the type described by paragraph 2 was presented to the subcommittee by Adm. John Harlee, Chairman of the Federal Maritime Commission in executive session on May 27, 1965.

¹ See article in the Washington Post of Dec. 16, 1964, entitled "Foreign Shippers Yield, Maritime Data Feud Resolved," p. B-7:7.

² See article in the Journal of Commerce of Jan. 19, 1965, entitled "State Department Issues Text of Data Filing Pact," p. 21:3.

At that time, it was sealed for 4 weeks. Subsequently, at the request of the Maritime Commission and the State Department, an additional period of 3 weeks was allowed for the consultation provided in paragraph 6 of the agreement.

During this time, the U.S. Government did, in fact, consult with the 14 maritime nations involved and offered them the opportunity of commenting upon the publication of this information. This was done at meetings in Paris on July 14, 1965, as indicated by a letter of the Department of State appearing in this record.³

Upon examination, it appears that the data contained in the record is in the form contemplated by paragraphs 2 and 6 of the agreement, in that it does not prejudice individual carriers nor reveal their commercial secrets.

Further, the requirement of consultation has been met, and the Government of the United Kingdom has taken the opportunity to respond with a rather comprehensive statement of its views in these matters.⁴

In my opinion, the comments and data submitted by the Government of the United Kingdom are most welcome. They provide a balanced record, which will be of material assistance to this subcommittee in addressing and seeking to resolve the commercial issues with which our nations are mutually concerned.

It is recognized that shipping and trade questions are complex not only because they are international, but because of the extremely technical subject matter involved.

The multiplicity of factors which must be considered in arriving at ocean freight rates were fully apparent in recent hearings of the Senate Select Committee on Small Business.⁵ These hearings, under my chairmanship, concerned freight rate and other barriers to expanding exports of U.S. beef and beef products. Evidence in that record indicated that disparities in freight rates on various kinds of beef shipments ranged between 107 and 294 percent, and these disparities served to deter the export of American beef.⁶ The Small Business Committee is presently in the process of evaluating this data. In addition, it will be seeking further explanations of these disparities, so that each component of cost can be ferreted out, analyzed, and fairly and objectively appraised.

In these endeavors, the American shipping lines and their institutions have tendered their utmost cooperation. Since January, five meetings have taken place between representatives of the U.S. shipping industry and various segments of the meat industry, during which rate and other barriers to this trade have been discussed in a constructive atmosphere. Indeed, several of the conferences with which these lines are affiliated have joined in experimental reductions of rates on American beef. The continuing advances in exports of this commodity during 1965 are an indication of the benefits that can result, not only for the American beef industry, but for the carriers, and the economies of our trading partners abroad.

³ Letter from Douglas MacArthur II, Assistant Secretary for Congressional Relations, to Hon. Paul H. Douglas dated July 22, 1965, p. 432.

⁴ Response of Her Majesty's Government, together with annex A, p. 432.

⁵ Hearings, 89th Cong., 1st sess., Feb. 24 and 25, 1965.

⁶ Hearings, pp. 13, 25-26.

EXECUTIVE SESSION

THURSDAY, MAY 27, 1965

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON FEDERAL PROCUREMENT
AND REGULATION
OF THE JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 11:55 a.m., in room AE-1, U.S. Capitol Building, Hon. Paul H. Douglas (chairman of the subcommittee) presiding.

Present: Senator Douglas.

Also present: Thomas H. Boggs, Jr., consultant; James W. Knowles, executive director; John R. Stark, deputy director; Marian T. Tracy, financial clerk; and Hamilton D. Gewehr, administrative clerk.

Chairman DOUGLAS. Admiral, I would suggest that you summarize your presentation; that we then put into the record your full statement. This will be sealed for 4 weeks. At the end of 4 weeks, I reserve the right to call you back and have you testify in open session. Is that fair?

Admiral HARLEE. Yes, it is, Mr. Chairman.

STATEMENT OF ADM. JOHN HARLEE, CHAIRMAN, FEDERAL MARITIME COMMISSION; ACCOMPANIED BY TIMOTHY J. MAY, MANAGING DIRECTOR; JAMES E. MAZURE, ASSISTANT TO CHAIRMAN; AND JAMES L. PIMPER, GENERAL COUNSEL

Admiral HARLEE. I think the best way to summarize this is to amplify somewhat more specifically the statement that I made earlier.

Chairman DOUGLAS. First would you identify the route?

Admiral HARLEE. The trade route is the route between the North Atlantic coast of the United States and the United Kingdom, and return. The name—

Chairman DOUGLAS. United Kingdom?

Admiral HARLEE. Yes.

Chairman DOUGLAS. Not the Continent of Europe?

Admiral HARLEE. Not the Continent of Europe. The North Atlantic to the United Kingdom and return. The names of the conferences concerned are the North Atlantic United Kingdom Freight Conference, which is eastbound, and the North Atlantic Westbound Freight Association.

Now, I will just point out the salient features.

There are 12—

Chairman DOUGLAS. Will you put into the record the membership of those two conferences?

Admiral HARLEE. Yes, we will.

(The information referred to follows:)

LIST OF MEMBERS OF THE TWO CONFERENCES SERVING THE TRADE BETWEEN THE
U.S. NORTH ATLANTIC AND THE UNITED KINGDOM

NO. 5850—NORTH ATLANTIC WESTBOUND FREIGHT ASSOCIATION

Atlantic Freight Secretaries, Ltd.,
Cunard Building,
Liverpool, England.

Trade area:

From: Great Britain, North Ireland, and Eire.
To: U.S. North and South Atlantic ports.

<i>Members</i>	<i>Country of domicile</i>
Anchor Line, Ltd.-----	United Kingdom.
Armement Deppe S.A.-----	Belgium.
Bristol City Line of Steamships, Ltd. (The)-----	United Kingdom.
Cunard Steam-Ship Co., Ltd.-----	Do.
Furness, Withy & Co., Ltd.-----	Do.
Hamburg-Amerika Linie-----	Holland.
Irish Shipping Ltd.-----	Ireland.
Manchester Liners Limited-----	United Kingdom.
Norddeutscher Lloyd-----	Germany.
Ulster Steamship Co., Ltd. (Head Line and Lord Line)-----	United Kingdom.
United States Lines Co. (United States Lines)-----	United States.

NO. 7100—NORTH ATLANTIC UNITED KINGDOM FREIGHT CONFERENCE

R. J. Gage, Chairman,
17 Battery Place,
New York, N.Y.

Trade area:

From: U.S. North Atlantic ports (Hampton Roads-Eastport, Maine).
To: England, Scotland, Wales, Northern Ireland, and Irish Free State.

<i>Members</i>	<i>Country of domicile</i>
American Export Isbrandtsen Line, Inc.-----	United States.
Anchor Line, Ltd. (Anchor Line)-----	United Kingdom.
Bristol City Line of Steamships, Ltd.-----	Do.
Compagnie Generale Transatlantique (French Line)-----	France.
Cunard Steam-Ship Co. Ltd. (The) (Cunard White Star)-----	United Kingdom.
Irish Shipping Ltd.-----	Ireland.
Johnston Warren Lines, Ltd. (Furness Warren Lines)-----	United Kingdom.
Lampport & Holt Line, Ltd.-----	Do.
Manchester Liners, Ltd.-----	Do.
N.V. Nederlandsch-Amerikaansche Stoomvaart-Maatschappij "Holland-Amerika Lijn"-----	Holland.
Ulster Steamship Co., Ltd. (The)-----	United Kingdom.
United States Lines Co.-----	United States.

Admiral HARLLEE. There are 12 members in the outbound conference and 11 members in the inbound conference. There are seven carriers with common membership, of which five are British, one Irish, and one United States.

Chairman DOUGLAS. Do the British have a majority in both conferences?

Admiral HARLLEE. A working majority; yes, Mr. Chairman. And of course herein lies the problem—but it would be a problem regardless of who it was.

I quoted the figure of $33\frac{1}{3}$ percent—the average revenue per revenue-ton outbound is \$35.93. The average revenue per revenue-ton inbound is \$27.30.

Chairman DOUGLAS. And you will put the number of tons in the record.

Admiral HARLLEE. Oh, yes. This statement has considerable detail, which I am summarizing, and I can answer any specific questions you have. But we already have in the statement, of course, the profit part of it. I thought you might be interested in the total revenue per ton.

There is another facet to this which I did not mention in the main statement, which is interesting, and that is that, as part of this exchange of information, we got information as to which were the 10 major moving commodities.

Now, on the 10 major moving commodities in the trade, the average revenue per revenue ton outbound—mind you, these are the commodities on which the steamship industry generally says there would be lower rates because there is a lot of movement—but the average revenue per revenue ton there outbound is \$38.36. Inbound it is \$28.89. In other words, on these major moving commodities, you also have a disparate situation.

Chairman DOUGLAS. Does this include automobiles?

Admiral HARLLEE. No, it does not.

Chairman DOUGLAS. Well, isn't that a major moving British commodity—the small cars?

Admiral HARLLEE. It was not supplied to us by the conference as one of the major moving commodities. However, the figures that they did supply us on these major moving commodities presents a picture where the outbound rate is even higher with regard to the inbound rate than is the case with the average rates.

Chairman DOUGLAS. Let's see. That would be a comparison of \$38.36 as compared to \$28.89. That would be slightly less than \$10.

Admiral HARLLEE. Slightly less than \$10—instead of a disparity of \$8.50, roughly.

So I think that is interesting because of the argument that there isn't any disparity on the things that move.

Chairman DOUGLAS. Over 33 percent disparity here.

Admiral HARLLEE. Yes. Now, there is another analysis that might interest you and that is—

Chairman DOUGLAS. Would you identify for the record the 10 major moving commodities?

Admiral HARLLEE. Yes, I will. I will have to supply that for the record.

(The information referred to follows:)

North Atlantic United Kingdom Freight Conference

Major moving commodities	Revenue tons	Revenue	Average revenue per revenue ton
Copper, bars, billets, cakes, cathodes, ingots, matte, pigs, slabs.....	19,462	\$330,935	\$17.00
Tobacco, unmanufactured, in bales, hogsheads, or tierces.....	23,476	1,024,833	43.65
Tobacco, unmanufactured, in cases.....	21,323	692,485	32.48
Resin, synthetic.....	18,236	541,653	29.70
Cooperage stock.....	12,587	340,703	27.07
Apples and pears, ordinary stowage.....	(1)	(382,680)	-----
Machinery, industrial, heavy and parts.....	36,377	2,200,516	60.49
Road building, grading, or maintenance equipment and parts.....	15,912	552,959	34.75
Rubber, synthetic, not otherwise specified, and compounded synthetic rubber.....	3,029	94,991	31.36
Paperboards, woodpulp, sulfate bleached, on skids or in rolls or cartons.....	3,236	114,845	35.49
Average.....	153,638	5,893,920	38.36

1 450,212 boxes.

North Atlantic United Kingdom Freight Conference

Selected commodities	Revenue tons	Revenue	Average revenue per revenue ton
Bicycles, tricycles, and velocipedes.....	2	\$118	\$59.00
Motorcycles, scooters, and parts.....	4	208	52.00
Copper, sheets or strip.....	78	3,373	41.96
Light bulbs, electric.....	39	2,334	59.85
Newsprint, in rolls.....	52	2,055	39.52
Sulfur, crude, including rubbermaker's commercial, in bags.....	3	126	42.00
Potash or potassium, sulfate of (fertilizer), in bags or fiber drums.....	1	56	56.00
Jewelry, imitation, not otherwise specified.....	34	4,082	120.06
Sodium or soda ash.....	0	0	-----
Acids, sulfuric (oil of vitriol).....	0	0	-----
Average.....	213	12,252	57.52

North Atlantic Westbound Freight Association

Major moving commodities	Revenue tons	Revenue	Average revenue per revenue ton
Wool, not otherwise specified.....	21,794	\$919,506	\$42.19
Confectionery.....	26,685	707,092	26.50
Crockery.....	9,066	472,360	52.10
Cases, casks, hogsheads, returned*.....	5,264	132,608	25.19
Wire, imperial standard, not otherwise specified.....	11,991	257,902	21.51
Dry goods, not otherwise specified.....	14,347	389,998	27.18
Record changers.....	26,750	926,999	34.65
Furniture, not otherwise specified.....	12,854	449,058	34.94
Acid, cresylic*.....	2,607	66,811	25.63
Effects, household.....	22,276	693,134	31.12
Average.....	153,634	5,015,468	32.65

NOTE.—Since 2 commodities contained in the selected commodity list, bicycles and parts, and motorcycles and parts, moved in higher volume than some of the commodities included in the conference's list of 10 major moving commodities, we have recalculated the average revenue per revenue ton on 10 major moving commodities after substitution of bicycles and parts, and motorcycles and parts for the 2 lowest volume commodities in the conference major moving commodity list (acid, cresylic; and cases, casks, hogsheads, returned). As thus calculated, the average revenue per revenue ton for 10 major moving commodities in the inbound trade from the United Kingdom to U.S. North Atlantic ports, becomes \$28.89.

North Atlantic Westbound Freight Association

Selected commodities	Revenue tons	Revenue	Average revenue per revenue ton
Bicycles and parts.....	46, 721	\$752, 231. 20	\$16. 10
Motorcycles and parts.....	5, 694	157, 070. 80	27. 69
Sheets, copper.....	533	17, 155. 60	32. 19
Light bulbs, electric.....	133	3, 729. 60	28. 04
Newsprint in rolls.....	88	1, 985. 20	22. 56
Costume jewelry.....	1	36. 40	36. 40
Soda ash.....	0	0	-----
Acid, sulfuric.....	0	0	-----
Sulfur, crude.....	0	0	-----
Fertilizer, potash.....	0	0	-----
Average.....	53, 170	932, 808. 80	17. 54

Admiral HARLLEE. Another analysis that is interesting in this trade which was not mentioned—I did not think it was right to mention enough material so that the trade was readily identifiable—it would have been a breach of faith. But if the actual rate outbound was the same as the rate inbound—the savings to U.S. exporters would be over \$5 million in this particular trade. If the rate inbound were the same as the rate outbound, it would cost the United Kingdom exporters \$8.5 million more.

If you equalize the rate, so that the revenue was \$31.60 each way, there would be a savings to U.S. exporters of about \$2.5 million, and added costs to the United Kingdom exporters of \$4.2 million. But the carriers would have earned \$1.6 million more.

So that this paper includes in detail—

Chairman DOUGLAS. I am going to let Mr. Boggs, our acting counsel, ask a question on that.

Mr. Boggs. Admiral, I would just like to ask this. Could the Conferences achieve this equalization without much problem since they control in one direction 98 percent of the commerce and in the other direction 94 percent of the commerce?

Admiral HARLLEE. Yes, they could.

Mr. Boggs. Just by administrative action.

Admiral HARLLEE. I would not say just by administrative action, but they would do it. However, I could not say it would be easy to do that, but they could do it by administrative action. I don't think you could characterize it as being easy. However, I will say this: The British may say that they cannot make the steamship lines change their freight rates; but on the other hand they were able to influence their lines to give us this information. After negotiations proceeded, up to a certain point, they found that they were able to persuade the steamship lines to give us this information. I believe, therefore, that they can do something about changing the freight rates.

Chairman DOUGLAS. When did they tell the steamship lines to give this information?

Admiral HARLLEE. These negotiations went on for some time. They agreed—the minute was agreed to—on December 15, 1964.

Chairman DOUGLAS. That is when the new government came in.

Admiral HARLLEE. Afterwards—

Chairman DOUGLAS. Let the record show this indicates a greater degree of cooperation with the United States on the part of the labor government than on the part of the conservative government.

Admiral HARLEE. That is true. Although we did make some progress with the conservative government. But the culmination was with the labor government.

Chairman DOUGLAS. When Marples was here during the summer, he was breathing fire.

Admiral HARLEE. Yes, I think he breathed it to the chairman of all the committees concerned with these matters.

As far as when they actually persuaded the steamship companies to do it, I would judge that it was around March of 1965. They did not make an exact report to us on the date they persuaded them to do it. But a factor in these negotiations, I would like to emphasize, is the contention of the European governments, which are led by the United Kingdom in these matters, that they just cannot make these steamship lines do things, take actions along the lines that they want. But I point out again that they did in fact persuade them to give us this information.

Now, this paper has a tariff and rate analysis and eight charts, corroborating the existence of disparities. It is an analysis of rates without reference to the volume of cargo moving. I mentioned this in open session—without reference to the volume of cargo or the revenues accrued therefrom. It analyzes it from every possible angle.

Also, the actual manifests used on a sample voyage were analyzed. And all of these analyses, as is the case with 10 major commodities, tend to very definitely corroborate or confirm the major finding which comes from the solid information as to revenues and revenue ton figures which they furnished us.

Now, the other thing, Mr. Chairman, that I could not mention in open session, but that I think you will find of extreme interest, is the information we received with regard to the other trades, which I can briefly summarize and I think it will be of considerable interest.

In the U.S. Atlantic-and-gulf-to-Japan trade, which involves the Far East Conference Westbound, and the Japan, Atlantic and Gulf Freight Conference Eastbound, we have a situation—this is quite interesting—which simply stated is this. The nonbulk revenue tons outbound, the exports, are roughly 850,000. We have these exact figures which we will furnish you. But it is roughly 850,000 export, or outbound tons. Inbound, import, there are over 2 million tons. So that you have there a situation where you would think that—

Chairman DOUGLAS. In other words, almost two and half times as much inbound as outbound.

Admiral HARLEE. Yes. And yet in spite of that, the average revenue per revenue ton that they exact from the American exporter is \$42.25, against \$27.49 that is exacted from the Japanese exporter.

Chairman DOUGLAS. In other words, around 55 percent higher revenue per ton on outbound than on inbound.

Admiral HARLEE. Yes. This means that this particular trade, which is an important trade, is one which is going to have to be, again, subjected to the closest possible analysis of all of the transportation

circumstances—tramps, independents, value of cargo, everything else. But it would certainly appear that this situation has to have an awfully good explanation, or be changed.

Chairman DOUGLAS. We have had some incidental testimony that the Japanese lines always vote as a unit.

Admiral HARLEE. It is one of the factors that would tie into this case.

We were able to get from the Maritime Administration more information about the British trade before we got the agreed minute information, and had started on that and that is the reason we finished that first. But we will proceed to analyze this one very carefully.

Chairman DOUGLAS. Now, Japan has signed the agreement as well—

Admiral HARLEE. Yes.

Chairman DOUGLAS. So that you have to have another period of consultation with them.

Admiral HARLEE. Yes, we would.

Chairman DOUGLAS. When do you think you will be able to—

Admiral HARLEE. I am sorry about this, Senator. But before we proceed in these consultations, I am sure you will agree that we want to have a really good, solid case.

Chairman DOUGLAS. Certainly.

Admiral HARLEE. We will do this one next, and do it as soon as possible. This would take, Mr. May, our Managing Director, suggests, about a month, to analyze this one.

I must say that is better to approach this with one government after another, than all at once.

Chairman DOUGLAS. Well, I hope the State Department, when we get our case together, will move with speed to start consultations with the Japanese Government. Who is the ranking official from the State Department?

Admiral HARLEE. Mr. FORD.

Mr. FORD. I am, sir.

Chairman DOUGLAS. Now, in these matters, do you take them up with the home governments or with the embassies here?

Mr. FORD. To speed up the process, we take it up with the embassies here. In the case of the North Atlantic trade, it is the British Embassy. They put it on the wire to their home Government.

Chairman DOUGLAS. You have heard me say I was going to give a month's period for consultation.

Mr. FORD. Yes, I did, sir.

Admiral HARLEE. Then we have two other cases that we will have to proceed to after that, that are not quite as marked, but that are interesting. On page 2 of this paper that you have—the North Atlantic French Atlantic trade, inbound and outbound.

We have a situation here where the outbound cargo is larger in terms of revenue tons than the inbound cargo—something like 25 percent more—but we would not accept that as a reason for this disparity in the average revenue per revenue ton—the disparity being between \$31 outbound and \$25.65 inbound—because when you have a situation of 374,000 tons against 308,000 tons, you have a situation

which as far as economic reasons for disparities are concerned requires much further investigation. You have to see what the competition is, the tramps, independents, cargo handling, value of the cargo, and all of the other factors. And we certainly will look into this one.

We have a third situation in the North Atlantic Swedish trade—on page 3—the North Atlantic Baltic Freight Conference, and the Scandinavian Baltic North Atlantic Westbound Freight Conference, where the revenue tons inbound here again are greater.

Chairman DOUGLAS. The rates are \$3 a ton lower.

Admiral HARLLEE. That's right. This is not as marked as the British or Japanese situation. But nevertheless, it is one that will call for careful analysis and, after that analysis, possible action.

Now, these—

Chairman DOUGLAS. Admiral, I notice on page 3 at the bottom you have the Pacific coast and Japan—you have figures on the inbound from the foreign conference, but not from the outbound. Now, these are our own people.

Mr. MAY. If I may explain, Mr. Chairman; the data that was originally received did not include the revenue figures. They were not able to identify revenue figures for bulk cargo. And so we told them that we wanted, nevertheless, nonbulk revenue figures anyway.

Chairman DOUGLAS. Would it be possible for you to make a comparison?

Mr. MAY. I think it will be, because we can estimate.

Mr. FULLER (Special Assistant to Managing Director). They are going to give us the liner figures.

Mr. MAY. Yes. We will be getting this figure.

Chairman DOUGLAS. When you do, then you will start your comparison.

Admiral HARLLEE. Yes. It may turn out to be an extreme case, too. We don't know at this time. We will have to analyze all of these trades. But I wanted to point out those which appear already to be cases which would be of interest, and which apparently on the face of it—

Chairman DOUGLAS. Go ahead.

Admiral HARLLEE. Then of course there is another one here—page 2, the top—North Atlantic Ports, West Coast of Italy, Sicilian and Adriatic Ports, where you do have a larger average revenue inbound than outbound, but you have a pool situation there. As I mentioned in open session, there is a whole skein of Mediterranean pools we are looking into. They may be perfectly all right; they may be in the public interest. But we will have to analyze this case in the light of the pools.

Chairman DOUGLAS. This is an earnings pool?

Admiral HARLLEE. Yes, it is—in the inbound trades, which might account for, possibly, in this case a high revenue in the inbound trade. I mention this because of your interest in pools.

As I say, we are investigating the possible interrelationships of five pools in the Mediterranean, in what we call docket 1212.

Chairman DOUGLAS. There is another one which is interesting on page 1. United States North Atlantic to Belgium, Holland and Germany, Western Europe. There the rates are almost identical—\$26.74—tonnage is almost identical. Revenue, identical. The average revenue is \$26.74 outbound per ton as compared to \$25.18.

Isn't this a route in which there is a good deal of competition?

Admiral HARLLEE. Yes, this is the trade route on which the Meyer Line operates, and the Meyer Line affords good service. It is a non-conference line, but it affords a good service. And we think it is the play of competition that has resulted in this—

Chairman DOUGLAS. On the outbound—

Admiral HARLLEE. Well, the difference, Mr. Chairman, in this trade is pretty slight.

Chairman DOUGLAS. I know. But it has brought the outbound rate down to a closer approximation of the inbound rate.

Admiral HARLLEE. Yes. We think it is the play of natural competition.

Chairman DOUGLAS. I think this is very corroboratory.

Mr. BOGGS. Admiral, in any of these trade areas where no remedy could be effectuated by consultation or regulatory activity, if our Government forced American subsidized lines out of conferences, would this competition have the same effect in these trade areas as the Meyer Line has in the North Atlantic?

Admiral HARLLEE. I personally believe that it might. I believe that it might increase competition. I have to speak now personally. I am not authorized to speak for the Commission in this instance. But I must point out that although I personally think it might increase competition, as I think is evidenced in part here, at the same time, promotion of the American merchant marine is carried out by the Maritime Administration and they may have another point of view.

Chairman DOUGLAS. All right. Let us proceed.

Admiral HARLLEE. I don't know that the rest of these are of particular interest, Mr. Chairman. I think that summarizes the high spots in here. There is a good deal more detail in these papers. But I have covered what I personally believe to be the high spots. Mr. May may think of some other high spots.

Chairman DOUGLAS. We will see that all copies of these papers go with the transcript.

(The documents referred to follow:)

Trade: U.S. North Atlantic to Belgium, Holland, and Germany

[63-1 North Atlantic/Continental Freight Conference; 63-2 Continental North-Atlantic Westbound Freight Conference]

	Outbound	Inbound
Revenue tons.....	1,053,743	1,118,126
Gross revenues.....	\$28,174,433	\$28,157,608
Average revenue per revenue-ton.....	\$26.74	\$25.18

Trade: U.S. North Atlantic to United Kingdom and Eire

[63-3 North Atlantic United Kingdom Freight Conference; 63-4 North Atlantic Westbound Freight Association]

	Outbound	Inbound
Revenue tons.....	601,308	1,066,188
Gross revenues.....	\$21,603,446	\$29,111,676
Average revenue per revenue-ton.....	\$35.93	\$27.30

Trade: U.S. North Atlantic to ports on the west coast of Italy, Sicilian, and Adriatic ports

[63-5 North Atlantic/Mediterranean Freight Conference; 63-6 The West Coast of Italy, Sicilian and Adriatic Ports North Atlantic Range Conference]

	Outbound	Inbound
Revenue tons.....	244,960	482,873
Gross revenues.....	\$8,551,555	\$20,466,410
Average revenue per revenue-ton.....	\$34.91	\$42.38

Trade: U.S. North Atlantic to French Atlantic ports

[63-7 North Atlantic French Atlantic Freight Conference; 63-8 French North Atlantic Westbound Freight Conference]

	Outbound	Inbound
Revenue tons.....	374,424	308,292
Gross revenues.....	\$11,607,642	\$7,907,693
Average revenue per revenue-ton.....	\$31	\$25.65

Trade: U.S. North Atlantic to Swedish ports

[63-9 North Atlantic Baltic Freight Conference; 63-10 Scandinavian Baltic/U.S. North Atlantic Westbound Freight Conference]

	Outbound	Inbound
Revenue tons.....	265,909	326,490
Gross revenues.....	\$6,396,059	\$7,150,221
Average revenue per revenue-ton.....	\$24.05	\$21.90

Trade: U.S. Pacific coast to Japan

[63-11 Pacific Westbound Conference; 63-12 Trans-Pacific Freight Conference of Japan]

	Outbound	Inbound
Revenue tons.....	875,535	1,653,959
Gross revenues.....	(¹)	\$36,089,385
Average revenue per revenue-ton.....	(¹)	\$21.82

¹ Not received.*Trade: U.S. Atlantic and Gulf to Japan*

[63-13 Far East Conference; 63-14 Japan-Atlantic and Gulf Freight Conference]

	Outbound	Inbound
Revenue tons.....	837,797	2,037,768
Gross revenues.....	\$35,398,492	\$56,025,189
Average revenue per revenue-ton.....	\$42.25	\$27.49

Trade: U.S. west coast to continental Europe

[63-15 Pacific Coast European Conference; 63-16 Outward Continental North Pacific Conference]

	Outbound	Inbound
Revenue tons.....	922,552	541,933
Gross revenues.....	\$32,038,990	\$17,636,866
Average revenue per revenue-ton.....	\$34.73	\$32.54

STUDY OF INBOUND-OUTBOUND TRAFFIC STATISTICS AND FREIGHT RATE STRUCTURE IN THE TRADE BETWEEN U.S. NORTH ATLANTIC PORTS AND UNITED KINGDOM PORTS

Various studies of ocean freight rates in the foreign commerce of the United States have indicated that in many trades, both on a specific commodity basis and upon a total tariff basis, freight rates are higher on exports from the United States than freight rates on imports coming from foreign countries to the United States. In order to determine the extent to which the rate structure in a particular trade may be weighted against U.S. exporters and the extent to which export cargoes may be bearing an unreasonably high proportion of the costs of ocean transportation as compared with the import cargoes in the same trade, we have made a comprehensive examination of cargo carryings, revenues, and tariff rate structures in the trade between U.S. North Atlantic ports and ports in the United Kingdom.

This trade is included within the scope of 2 steamship conferences; the United Kingdom Freight Conference (agreement 7100), covering the outbound movement, and the North Atlantic Westbound Freight Association (agreement 5850), covering the inbound movement. The outbound conference now includes 12 members: 2 U.S. carriers, 7 United Kingdom carriers, 1 Dutch carrier, 1 Irish carrier, and 1 French carrier. The inbound conference now consists of 11 members: 1 U.S. carrier, 6 United Kingdom carriers, 2 German carriers, 1 Belgium carrier, and 1 Irish carrier. Seven carriers have common membership in both the outbound and inbound conferences, whereas five outbound and four inbound carriers serve this trade as a conference line in one direction only. The present conference agreements were approved in the early 1940's, but there had been earlier conference agreements approved both inbound and outbound since the 1920's.¹

The existence of effective dual-rate contract systems in both directions have minimized the effect of nonconference competition, and conference vessels have had a near monopoly of liner carryings in recent years. For example, in 1963, the outbound conference carried 98 percent of all liner cargo; and the inbound conference carried 94 percent of all inbound liner cargo. Therefore, statistical data on conference cargo carryings should closely approximate statistical data on all liner carryings.

In order to evaluate and to understand the impact of any rate differentials which may exist between the inbound and outbound portions of this trade, it is necessary to understand the nature of the cargo movements, revenues earned, and applicable rates in the separate outbound and inbound legs of the trade between the U.S. North Atlantic and United Kingdom ports. We must, therefore, compare various outbound and inbound statistics.

¹ The first inbound conference, Agreement No. 6, was approved on July 28, 1925; and the first outbound conference, Agreement No. 16, was approved on Mar. 19, 1929.

Following is a comparison of the weight tons carried, value of cargo carried, revenue tons carried, and gross revenues earned outbound and inbound for the calendar year 1963, together with an indication of the extent to which the inbound trade exceeds the outbound trade in each of these categories:

U.S. North Atlantic-United Kingdom trade¹—Liner carryings, 1963

	Outbound	Inbound	Extent inbound exceeds outbound	Percent inbound exceeds outbound
Weight tons.....	518,098	550,942	32,844	6
Cargo value.....	\$464,450,419	\$559,183,267	\$94,732,848	20
Revenue tons.....	601,308	985,139	383,831	64
Revenue.....	\$21,603,446	\$26,899,183	\$5,295,737	25
Average revenue per revenue ton.....	\$35.93	\$27.30		

¹ Statistics on weight tons and value of cargoes were obtained from U.S. Census Bureau statistics. Revenue tons and gross revenues were obtained from the conferences pursuant to the OECD agreed minute of Dec. 15, 1964. Outbound statistics on revenues and revenue tons furnished by the North Atlantic United Kingdom Conference include bulk cargoes, but exclude U.S. military cargoes. Inbound statistics exclude bulk cargoes but include U.S. military cargoes. Bulk commodities and military cargoes carried by inbound liners in this trade are relatively minor in relation to the total cargo movement.

² Outbound revenue tons and gross revenue figures furnished by the outbound conference cover United States North Atlantic to United Kingdom ports only. Inbound revenue tons and gross revenue figures furnished by the inbound conference include cargoes to South Atlantic ports as well as North Atlantic. Census Bureau figures for 1963 show that of the total weight tons of cargo carried inbound from the United Kingdom to all U.S. Atlantic ports, 7.6 percent went to South Atlantic ports, and 92.4 percent went to North Atlantic ports. Inbound revenue and revenue ton figures in this table have therefore been reduced by 7.6 percent to be comparable to the outbound statistics.

It is clearly apparent from the foregoing statistics that the dominant direction of this trade is inbound from the United Kingdom to the United States, rather than from the United States to the United Kingdom. Weight tons inbound exceeded weight tons outbound by 6 percent. Total cargo value was 20 percent higher on inbound cargo than on outbound cargo. Most significantly, the revenue tons, which really represent the unit of cargo available to and carried by conference vessels, were 64 percent higher inbound than outbound; and cargo carried on the inbound leg of the voyage in this trade earned 35 percent higher gross revenue than the cargo carried outbound. If anything, the statistics indicate that the cargo movement from the United States to the United Kingdom is the "backhaul" portion of the round voyage, and the primary heavy cargo movement of more valuable cargo is inbound from the United Kingdom to the United States.

Based upon theories of transportation economics advanced by various carriers and conferences, higher rates should prevail in the portion of a reciprocal trade which has the higher volume of movement and higher valued cargoes; whereas, the lower volume of lower value "backhaul" cargo movement should result in lower rates.

Surprisingly enough, statistics in this trade show exactly the opposite to be true. Average revenue per revenue ton is approximately one-third higher in the outbound trade than the inbound, \$35.93 and \$27.30 respectively, and it is apparent that each revenue ton of cargo going outbound is being charged an average of \$8.63 more than the average rate charged for each revenue ton of cargo being carried inbound. This is true despite the fact that the heavy cargo movement of the more valuable cargo is inbound in this trade.

We have received information from both conferences showing the revenue tons and revenue earned by 10 major commodities moving in this trade. Outbound, the average revenue per revenue ton is \$38.36; inbound, it is \$28.89. Each of these average rates is higher than the average overall revenue per revenue ton, which would tend to refute the argument that low rates are given to outbound commodities that actually move in volume. This comparison also shows an apparent discrimination against U.S. exporters. In major moving commodities, the average revenue per revenue ton outbound is 33 percent higher than the average revenue per revenue ton inbound.

The magnitude of this disparity between the rate charged American exporters to the United Kingdom as compared to the rate charged the exporters from the United Kingdom to the United States can be dramatically illustrated in a number of ways.

First, how much money would have been saved by U.S. exporters in the year 1963 had they paid the inbound rate of \$27.30 instead of the actual rate of \$35.93 which they did pay? The following tabulation illustrates the saving which would have been involved under such conditions:

	Actual	Change
Revenue tons.....	601,308	601,308
Rate.....	\$35.93	\$27.30
Revenue.....	\$21,603,446	\$16,415,708
Saving to U.S. exporters.....		\$5,187,739

Second, how much additional would United Kingdom exporters have paid during 1963 had they been charged the outbound rate of \$35.93 instead of the actual rate of \$27.30 which they did pay? The following tabulation illustrates the added costs which would have been involved under such conditions:

	Actual	Change
Revenue tons.....	985,139	985,139
Rate.....	\$27.30	\$35.93
Revenue.....	\$26,899,183	\$35,396,044
Added cost to United Kingdom exporters.....		\$8,496,861

The foregoing analysis is limited to statistics available for the calendar year 1963, since the only revenue and revenue ton statistics available were those furnished by the conferences for 1963. Also, Census Bureau figures for the year 1964 have not yet been fully compiled. If there have been any significant changes in cargo carryings or effective rates in either direction in this trade which would substantially change the rate disparity picture which existed in 1963, the affected conferences may wish to explain and furnish the details of any such changes.

In order to determine whether there may be additional factors affecting cargo movement or competition in this trade, which might explain or justify the existence of the inbound/outbound rate disparity, we have also analyzed statistics available with respect to nonliner or tramp sailings in this trade, as well as the impact of nonconference liner competition.

Following is a tabulation for 1963 of the nonliner or tramp carryings showing weight tons and the total value of such cargo for the year 1963:

United States North Atlantic-United Kingdom trade, tramp carryings, 1963

	Outbound	Inbound
Total weight tons (2,240 pounds).....	1,411,108	152,282
Value.....	\$89,690,997	\$19,462,412
Number of sailings.....	132	63
General cargo tons.....	25,664	87,449

The foregoing statistics indicate that there is a heavy volume of bulk-type commodities moving outbound in the North Atlantic to the United Kingdom trade, and a relatively insignificant amount of bulk commodities returning inbound from the United Kingdom. In order to accommodate the large outbound volume of bulk commodities there were 132 tramp sailings outbound or twice as many as the 63 tramp sailings inbound. The difference in these number of sailings is accounted for by the fact that many tramp vessels shifted to other trading areas or carried cargoes from the United Kingdom to other areas of the world instead of bringing cargo back from the United Kingdom to the United States North Atlantic ports.

Outbound, with twice the tramp sailings, these irregular vessels attracted only one third as much general cargo, liner-type cargoes as did the 63 tramp sailings inbound from the United Kingdom to the United States. This is true even though the rate structure outbound is substantially higher than the rate

structure inbound. This would indicate that higher rates outbound have not induced tramp vessels to compete to any substantial degree for liner-type cargoes, and it would appear to be a reasonable conclusion that higher inbound rates would similarly not tend to attract tramp solicitation of general cargo away from liner sailings.

The evidence would indicate that in both directions in this trade, tramp vessels represent little if any competition to liner ships, and would tend to have little impact upon the rate structure applicable to liner cargoes.

As previously indicated, nonconference competition for liner cargoes in this trade has been very limited; in 1963 only 2 percent outbound and 6 percent inbound.

Following is a tabulation comparing the number of sailings and cargo carryings of conference and nonconference vessels inbound and outbound in this trade for the year 1963:

United States North Atlantic-United Kingdom trade—Nonconference liner competition, 1963

	Outbound	Inbound
Number of conference sailings.....	395	394
Number of non-conference sailings.....	78	94
Percent nonconference sailings (percent).....	17	19
Percent conference carryings (percent).....	98	94
Percent nonconference carryings (percent).....	2	6

From the foregoing it is clear that nonconference competition in both directions is inconsequential, and the conferences maintain a very tight control over the movement of liner cargo through the use of effective dual-rate contract systems. It is significant to note that in the outbound trade, with a lower volume of cargo moving and with a higher rate structure, nonconference competition is even lower than inbound. From this it would appear reasonable to conclude that an increase in inbound rates would not induce excessive nonconference competition with liner vessels.

All of the foregoing factors indicate the existence of an extreme imbalance between the applicable freight rates outbound and inbound in the North Atlantic/United Kingdom trade, the outbound rate being approximately one-third higher than the inbound rate. Examination of the volume and value of cargo carried, and the competitive factors involved in the trade, fail to explain or justify the existence of the higher export rate charged the U.S. exporters and the lower rate charged United Kingdom shippers to the United States. In fact, based upon economic theories advanced by steamship carriers and conferences, factors affecting this trade would tend toward higher inbound rates than outbound. The statistics argue convincingly for either lower export rates or higher import rates or some degree of adjustment in the level of both rates, leading to the elimination of the apparently unjustified discrimination created by these freight rates against American exporters.

We have previously indicated the amount of savings which would have accrued to U.S. exporters if they had been charged the lower inbound rate on the cargo they shipped in 1963, and the added costs to United Kingdom shippers if they had paid the higher outbound rate on the cargo they shipped in 1963. A reasonable solution to this problem could well involve changes in both the outbound and inbound rates.

Based upon 1963 statistics, following is an analysis of the results which would have accrued if both United States and United Kingdom exporters had each paid the same average rate per revenue ton, \$31.63, or halfway between the average outbound and inbound rates on cargo carried in 1963:

	Outbound	Inbound
Revenue tons.....	601,308	985,139
Rate.....	\$31.60	\$31.60
Revenue.....	\$19,001,333.00	\$31,130,392.00
Savings to U.S. exporters.....		\$2,602,113.00
Added cost to United Kingdom exporters.....		\$4,231,209.00

Under these conditions the carriers would have earned \$1,629,096 more gross revenue during the year 1963 than they did under the actual rates charged. Assuming this additional revenue had been passed on to shippers in the form of rate reductions made equally to exporters and importers, the average revenue per revenue ton would have been reduced by \$1.20; and the applicable outbound and inbound average revenue per revenue ton would have been \$30.50. This would have resulted in a total saving of \$3,219,540 to American exporters and an added cost to United Kingdom exporters of \$3,219,540.

In addition to the foregoing analysis of cargo movements and average rates charged on cargoes which actually moved inbound and outbound in this trade during calendar year 1963, we have prepared a number of charts which illustrate the degree to which present outbound rates exceed present inbound rates. These charts are based upon an analysis of all traffic rates, inbound and outbound, as published in the current conference tariffs filed with the Federal Maritime Commission, and, for comparative purposes, a similar analysis of rates charged on commodities actually carried on an inbound/outbound round voyage of a liner vessel in this trade in late 1964.

Following is a summary presentation of these charts and graphs.

ANALYSIS OF CHART I

Chart I is an analysis of all the freight rates contained in the outbound and inbound tariffs.² The outbound tariff contained a total of 1,659 rates, of which 944 were on a weight basis, 501 on a weight-measurement basis, and 214 on a measurement basis. The inbound tariff contained a total of 2,731 rates, of which 1,683 were on a weight basis, 1,047 were on a weight-measurement basis, and 1 was on a measurement basis.

The three panels in chart I show the cumulative percentage of rates in both the inbound and outbound tariffs, the first panel showing all tariff rates, the second panel showing weight-measurement rates, and the third panel showing weight only rates. The lines on these charts graphically show that in the inbound tariff, represented by the dotted lines, a much higher number of rates are concentrated in the low range than is true in the outbound tariff. For example, in the first panel, covering all rates, point A shows that 50 percent of all rates in the outbound tariff are under \$48, whereas point B shows that 85 percent of all rates in the inbound tariff are under \$48. Point C shows that 50 percent of rates in the inbound tariff are under \$30. Approximately the same relationship is shown in the second panel for weight-measurement rates, and in the third panel for weight only rates.

It is significant to note that the pattern of heavy concentration of low rates in the inbound tariff is strikingly similar, whether the comparison is made on the basis of all rates, on weight-measurement rates, or weight only rates.

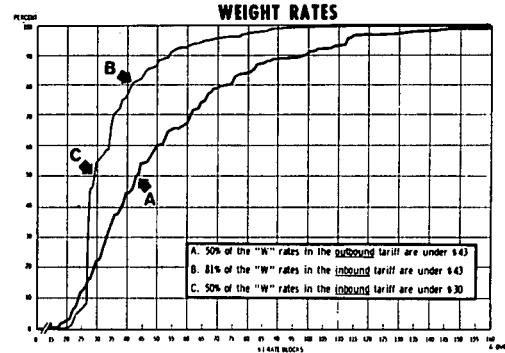
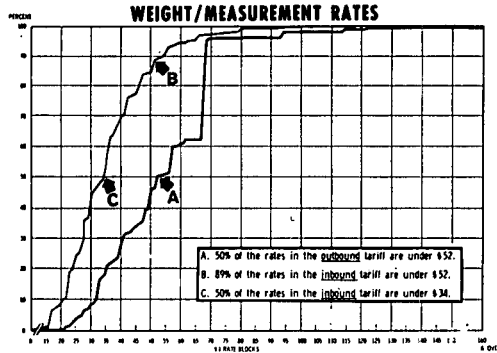
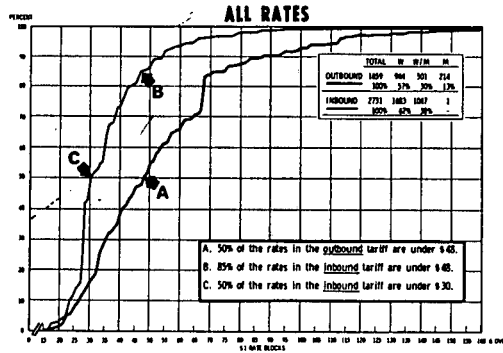
The discrimination against U.S. exporters is represented in each panel of chart I by the area between the dotted line showing the pattern of inbound rates, and the solid line showing the pattern of outbound rates.

² A very limited number of rates quoted on a per unit basis or on an ad valorem basis were excluded. Exclusion of these rates will have no appreciable effect on our analysis, since they represent less than 1 percent of all the tariff rates.

CHART I—TARIFFS

**CUMULATIVE PERCENTAGE OF RATES BY \$1 RATE BLOCKS
BETWEEN U.S. NORTH ATLANTIC PORTS AND PORTS IN GREAT BRITAIN AND IRELAND**

(RATES IN EFFECT ON FEBRUARY 15, 1965)



ANALYSIS OF CHART II

Chart II is also made up of three panels, the first panel showing data with respect to all rates in the outbound and the inbound tariffs, the second panel showing data on weight-measurement rates, and the third panel showing data on weight only rates.

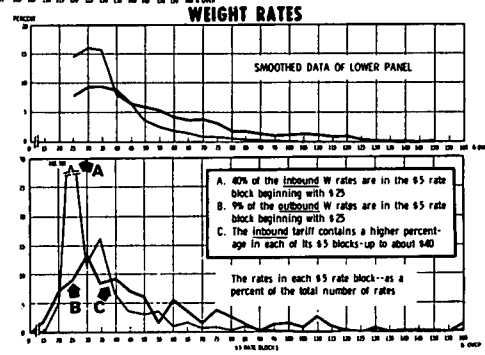
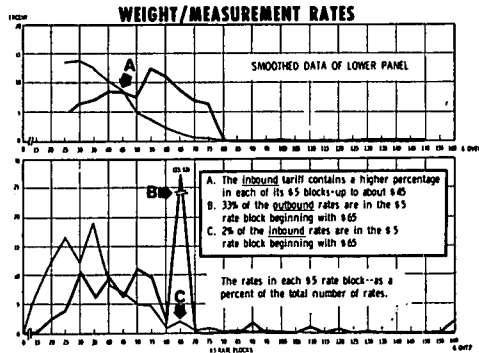
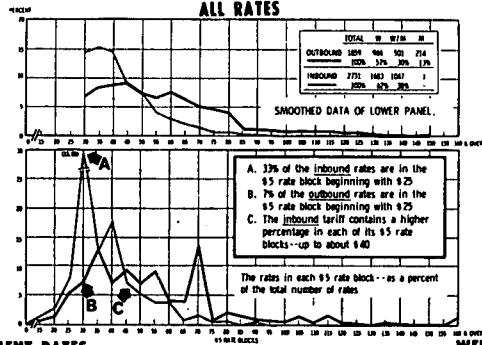
Whereas chart I showed cumulative percentage lines for each of the tariffs, chart II shows by \$5 rate blocks the percentage of tariff rates which fall into each such rate block. Each panel shows a detailed graphing in the lower portion and a somewhat simpler, smoothed, version in the upper half.

For example, in the lower portion of the first panel which shows the percentages of all tariff rates falling in each \$5 rate block, 33 percent of the inbound rates are in the rate block from \$25 to \$30. Up to a rate level of about \$40, the inbound tariff has a higher percentage of its rates in each \$5 rate block, than is the case in the outbound tariff. The reverse is true above \$40 where the outbound tariff has a higher percentage of its rates in each \$5 rate block. Approximately the same pattern is shown in the second panel on weight-measurement rates, and the third panel showing weight only rates.

The discrimination against U.S. exporters is graphically shown in each panel of chart II by the gap between the dotted line showing inbound rates, and the solid line showing outbound rates; the concentration of low rates appearing substantially higher in the inbound tariff, and the concentration of high rates appearing substantially higher in the outbound tariff.

CHART II—TARIFFS

PERCENTAGE OF RATES IN EACH \$5 RATE BLOCK
BETWEEN U.S. NORTH ATLANTIC PORTS AND PORTS IN GREAT BRITAIN AND IRELAND
(RATES IN EFFECT ON FEBRUARY 15, 1965)



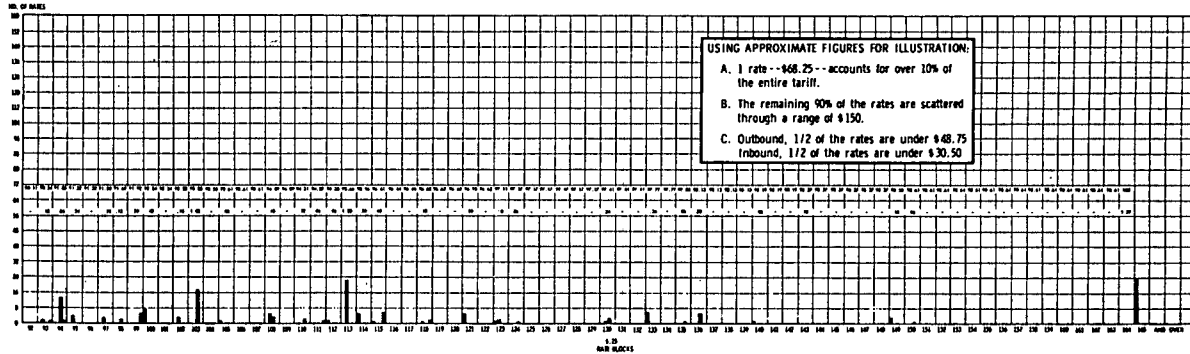
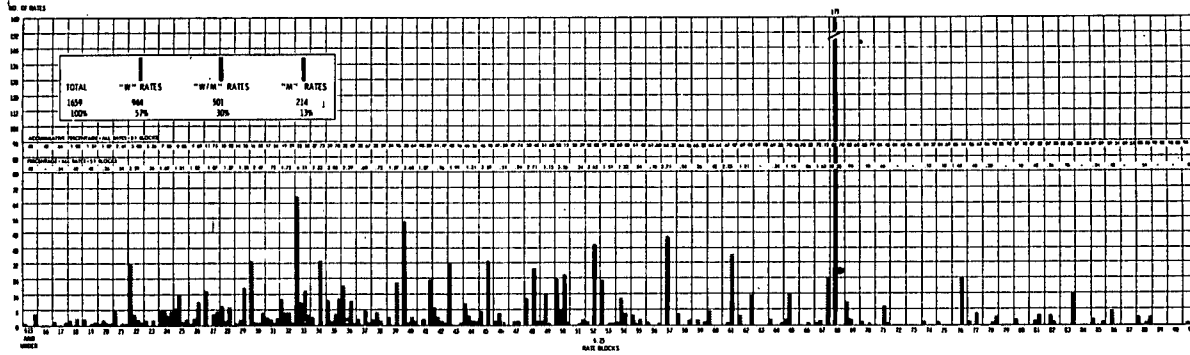
ANALYSIS OF CHART III

Chart III is a graphic profile of all rates in the outbound tariff, showing the number of rates contained in each 25-cent increment of \$1 rate blocks. The top row of figures indicates the accumulative percentage of all rates through each \$1 rate block. The second row of figures shows the percentage of all rates contained in each separate rate block.

Excluding the concentration of 175 rates at the \$68.25 level, which merely appears to be repetitive quotation of the cargo n.o.s. rate, the highest concentration of outbound rates appears in the \$33 to \$34 range. It is also significant to note that one-half of the rates in the outbound tariff are under \$48.75.

CHART III—OUTBOUND TARIFF

NUMBER AND PERCENTAGE OF RATES IN EACH 25-CENT RATE BLOCK
 BETWEEN U.S. NORTH ATLANTIC PORTS AND PORTS IN GREAT BRITAIN AND IRELAND
 (RATES IN EFFECT ON FEBRUARY 15, 1965)



ANALYSIS OF CHART IV

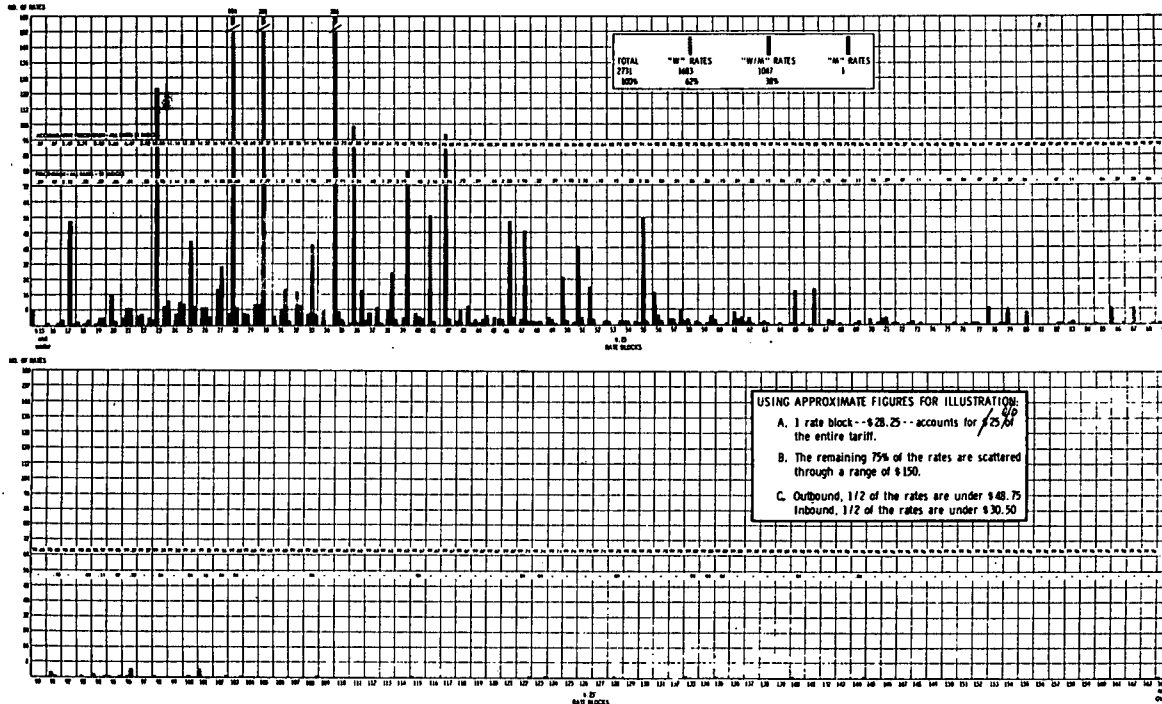
Chart IV is a profile of all the inbound freight rates, similar to the profile of all outbound freight rates shown on chart III. The rates, again, are contained in 25-cent rate intervals; and the resulting \$1 rate blocks are described in terms of the percentage which each such block constitutes of the whole, both cumulatively and individually.

The highest concentration of inbound rates is in the \$28 rate block, as compared with the \$33 and \$34 rate blocks in the outbound tariff. It is highly significant to note that the inbound concentration of rates in the \$28 rate block compares with the 1963 average inbound revenue per revenue ton of \$27.30, and the outbound concentration of rates in the \$33 to \$34 rate blocks compares with the 1963 average outbound revenue per revenue ton of \$35.93. One-half of the rates in this inbound tariff are under \$30, as compared with one-half of the rates in the outbound tariff being under \$48.75.

Again, a comparison of the rate profiles of the outbound and inbound tariffs, as shown in charts III and IV, indicates the higher concentration of inbound tariff rates in the lower rate levels, compared with outbound tariff rates, showing an apparent discrimination against U.S. exporters.

CHART IV—INBOUND TARIFFS

NUMBER AND PERCENTAGE OF RATES IN EACH 25-CENT RATE BLOCK
 BETWEEN U.S. NORTH ATLANTIC PORTS AND PORTS IN GREAT BRITAIN AND IRELAND
 (RATES IN EFFECT ON FEBRUARY 15, 1965)



ANALYSIS OF CHARTS V, VI, VII, AND VIII

In order to determine whether or not cargo actually carried on a roundtrip liner voyage from U.S. North Atlantic ports to United Kingdom ports would show the same pattern of rate structure as the total tariff rates, an analysis was made of outbound and inbound cargo carried on a single round voyage by a cargo liner vessel late in 1964.³

Charts V, VI, VII, and VIII present the same graphic analysis of the inbound and outbound rates charged on cargo carried on this voyage, as the analysis previously shown in charts I, II, III, and IV with respect to all rates shown in the inbound and outbound tariffs. The similarity in rate profile between the actual cargo carried and the total tariff structure is remarkable.

Analysis of the rates covered by these charts shows that outbound there were a total of 194 rates charged, of which 47 were weight rates, 131 were weight-measurement rates, and 16 were measurement rates. Inbound there were a total of 343 rates made up of 72 weight rates, 266 weight-measurement rates and 4 measurement rates.

Chart V shows in three panels the percentage comparison by \$1 rate blocks of outbound and inbound manifested rates, in precisely the same manner as the three panels in chart I showed all the inbound and outbound tariff rates.

The first panel of chart V, representing all types of manifest rates, clearly indicates the higher concentration of lower rates applicable to the inbound movement. Point A shows that 50 percent of the outbound rates were under \$52. Point B shows that 76 percent of the inbound rates were under \$52. Point C shows that 50 percent of the inbound rates were under \$35. An identical pattern appears in the second and third panels of this chart for weight-measurement rates and weight only rates.

The similarity between these graphs in chart V, showing cargo which actually moved, and the graphs in chart I, applicable to all tariff rates, is striking. The gap between the dotted lines and the solid lines again illustrates the degree by which inbound rates are lower than outbound rates and clearly shows the apparent discrimination against U.S. exporters.

Chart VI shows in three panels, by \$5 rate blocks, the percentage of manifest rates, inbound and outbound, which fall into each such rate block, in precisely the same manner as the three panels in chart II showed with respect to all the inbound and outbound tariff rates. Again, each panel shows a detailed graphing in the lower portion, and a somewhat simpler, smoothed version in the upper half.

The first panel of chart VI, showing all types of manifest rates, indicates that, up to a rate level of approximately \$50, the inbound voyage had a higher percentage of its rates in each \$5 rate block than is the case in the outbound tariff. The reverse is true above \$50, where the outbound voyage had a higher percentage of its rates in each \$5 rate block. A similar pattern appears in the second and third panels of chart VI for weight-measurement rates and weight only rates.

The similarity between these graphs in chart VI, showing rates on cargo which actually moved, and the graphs on chart II applicable to all tariff rates, is striking.

The apparent discrimination against U.S. exporters is graphically shown in each panel of chart VI by the gap between the dotted line showing inbound rates and the solid line showing outbound rates. The concentration of lower rates is substantially higher in the inbound voyage, and the concentration of high rates is substantially higher in the outbound voyage.

³ The analysis has been based upon every other manifest item shown in the inbound and outbound manifest, and therefore represents a 50-percent sampling of all rates charged on the inbound and outbound legs.

CHART V—MANIFESTS

**CUMULATIVE PERCENTAGE OF RATES BY \$1 RATE BLOCKS
BETWEEN U.S. NORTH ATLANTIC PORTS AND PORTS IN GREAT BRITAIN AND IRELAND**
(THE M/V MEDIA SAILED FROM LIVERPOOL ON OCT. 23 AND FROM NEW YORK ON NOV. 6, 1964)

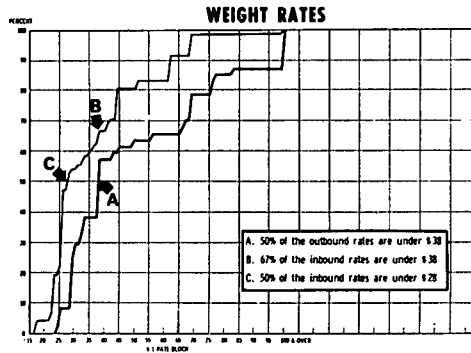
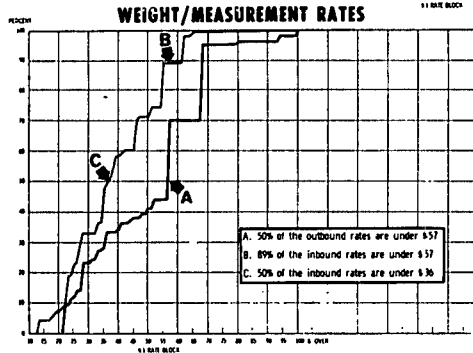
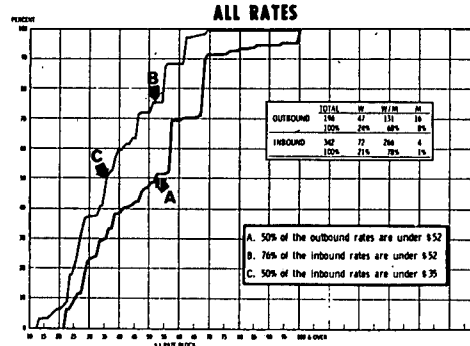


CHART VI—MANIFESTS

**PERCENTAGE OF RATES IN EACH \$5 RATE BLOCK
BETWEEN U.S. NORTH ATLANTIC PORTS AND PORTS IN GREAT BRITAIN AND IRELAND**
(THE M/V MEDIA SAILED FROM LIVERPOOL ON OCT. 23 AND FROM NEW YORK ON NOV. 6, 1964)

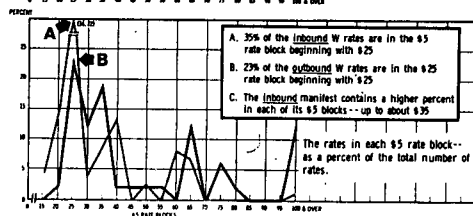
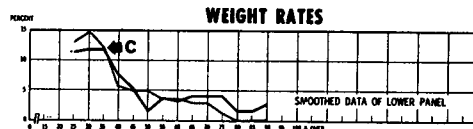
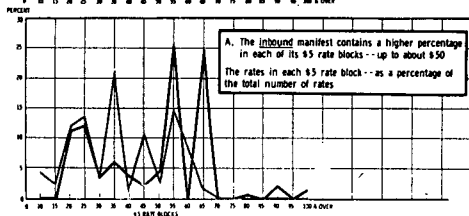
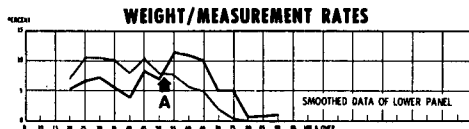
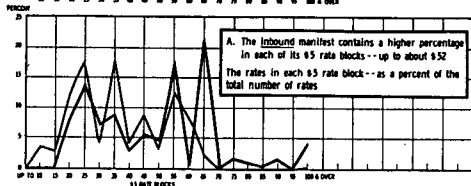
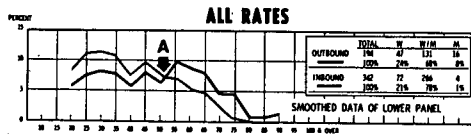


CHART VII—OUTBOUND (EASTBOUND) MANIFESTS

NUMBER AND PERCENTAGE OF RATES IN EACH 25-CENT BLOCK
 BETWEEN U.S. NORTH ATLANTIC PORTS AND PORTS IN GREAT BRITAIN AND IRELAND
 (THE M/V MEDIA SAILED FROM NEW YORK ON NOV. 6, 1964)

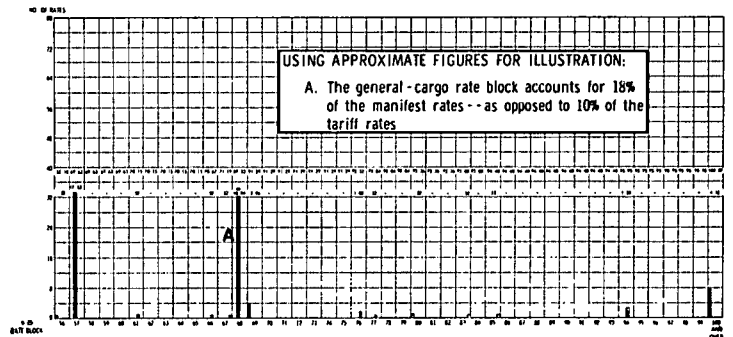
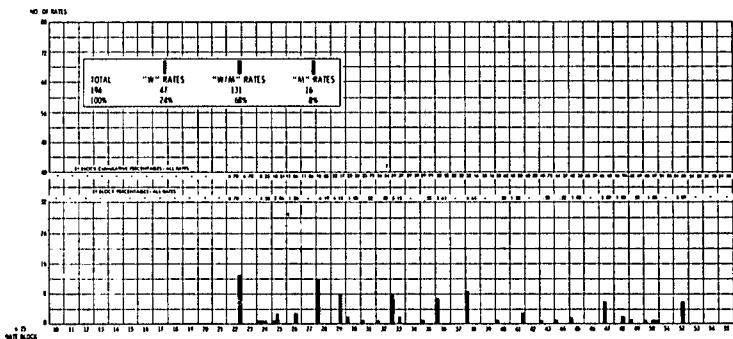
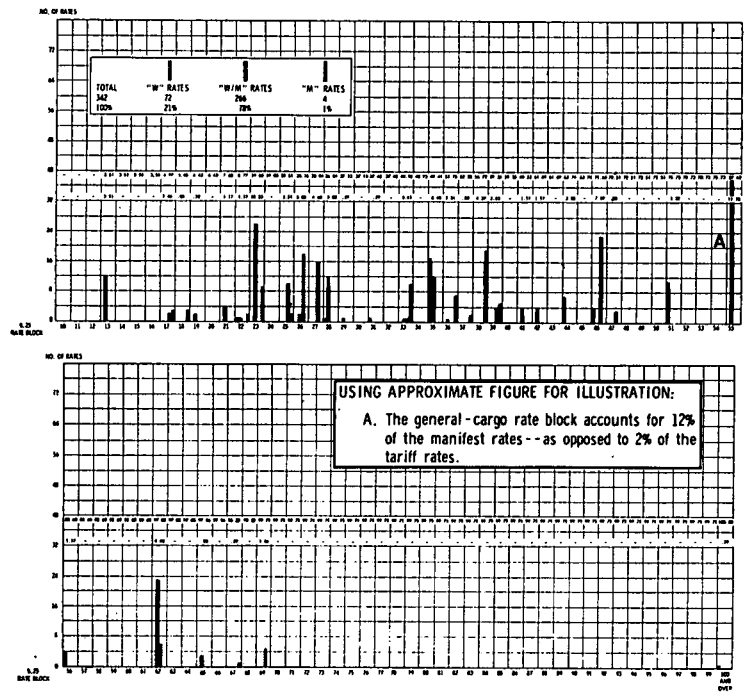


CHART VIII—INBOUND (WESTBOUND) MANIFESTS
NUMBER AND PERCENTAGE OF RATES IN EACH 25-CENT RATE BLOCK
BETWEEN U.S. NORTH ATLANTIC PORTS AND PORTS IN GREAT BRITAIN AND IRELAND
 (THE M/V MEDIA SAILED FROM LIVERPOOL ON OCT. 23, 1964)



Charts VII and VIII represent all the rates applicable to shipment which moved on the outbound and inbound leg of the round voyage.

The pattern of lower inbound and higher outbound rates is apparent by a comparison of these two charts. The inbound rates begin lower than the outbound rates, the inbound rates do not generally go as high as the outbound rates, and 89 percent of the outbound shipments were covered by rates of \$68.25 and below, whereas, 97 percent of the inbound shipments were covered by rates which were \$62.50 or below. The overall rate profiles of the cargo actually carried inbound and outbound on this sample voyage follow closely the patterns previously shown in charts III and IV, covering all inbound and outbound tariff rates.

Chairman DOUGLAS. Does the State Department want to make any comments on this?

Mr. FORD. No, sir. We have been in the closest touch with Admiral Harlee and the Commission on this.

Chairman DOUGLAS. We appreciate your cooperation very much, Mr. Ford. This is a vital matter. I believe that it is as important to have truth and justice—to use large words, which nevertheless have meaning—in basic international relations as indeed in domestic relations, and that this rather than appeasement or the attempt to maintain quiet by yielding to foreign demands is the way matters should go.

I know that your dealings are primarily with foreign governments, and you are in a sense the Department of Peace in the Government, and it is important to have the Department of Peace, because there are enough influences operating in other directions. But you can buy peace too dearly by sacrificing American interests. In the long run this is going to be, I think, for the benefit of the whole world.

Now, I must say this idea of an international convention sort of frightens me—though we proposed it. What I am afraid would happen would be the shipping companies would dominate the international conference, and the foreign governments would dominate it, and it would smother our efforts. So my own advice would be to hold off a bit on this until we can produce some material ourselves.

The world is moving toward an attempt at cartelization. There is no doubt about that. Once in cartels, it is hard to get out.

Admiral, I think you and your staff and the members of the Commission deserve the thanks of everybody for what you have done. I want to express my personal gratitude. It has been extremely good work.

Admiral HARLEE. Thank you very much, sir.

Chairman DOUGLAS. Thank you very much.

(Whereupon, at 12:25 p.m., the subcommittee was in recess, to reconvene subject to call of the Chair.)

[British Government comments and Federal Maritime Commission response to same appear on the following pages.]

COMMENTS OF BRITISH GOVERNMENT

The British Government, which was supplied with a copy of the Federal Maritime Commission study, submitted to the U.S. State Department a statement setting forth its comments and its disagreements with the Federal Maritime Commission study. They requested that this statement be made public at the same time that the U.S. study is published. Accordingly, the comments of the British Government are printed below :

DEPARTMENT OF STATE, *Washington, July 22, 1965.*

HON. PAUL H. DOUGLAS,
Vice Chairman, Joint Economic Committee, U.S. Senate.

DEAR SENATOR DOUGLAS : Following conversations with you, U.S. representatives at shipping talks with the 14 maritime countries in Paris on July 13, 1965, offered the opportunity of publication of their views on the Federal Maritime Commission's analysis of data concerning the North Atlantic United States-United Kingdom trade route. The analysis included statistical data exchanged under the agreed OECD minute of December 15, 1964, to which the United States and the 14 were parties.

The British Embassy in Washington has subsequently notified the Department that it accepts this arrangement with respect to the Embassy's notes of June 17 and 21. The Department requests that these notes be published in the committee's records.

Sincerely yours,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations.

Her Majesty's Government have studied the memorandum by the Federal Maritime Commission attached to the State Department's aide memoire of May 26. Responding to the U.S. Government's request, Her Majesty's Government offer the following general comment on it. The statistics assembled by the Federal Maritime Commission show that, in the trade covered by the memorandum and in the period under study, for every \$100 worth of U.S. exports landed in the United Kingdom, an average of \$4.65 was paid to the conference in freight charges. For every \$100 worth of United Kingdom exports landed in the United States, an average of \$4.81 was paid to the conference in freight charges. In the view of Her Majesty's Government, this situation does not reveal any discrimination against U.S. exporters.

Answers to the other questions raised in the Department's aide memoire of May 26 will be given shortly.

BRITISH EMBASSY,
Washington, D.C., June 17, 1965.

In their aide memoire of May 26 the Department of State proposed that there should be consultations with Her Majesty's Government in accordance with paragraph 6 of the agreed minute of December 15, 1964. The Department also proposed that there should be consultations under paragraph 9 of the agreed minute which might be bilateral or with the 14 governments parties to the agreed minute. Her Majesty's Government accept the Department's proposal for consultations under paragraph 6 of the agreed minute. They trust that the Department will see no objection if other governments which were party to the agreed minute wish to participate in these discussions. As the Department will be aware from the Embassy's aide memoire of June 17, Her Majesty's Government do not

consider that the analysis submitted by the Federal Maritime Commission shows the existence of a genuine disparities problem. Nevertheless, in the spirit of the agreed minute, Her Majesty's Government are willing to participate in consultations in accordance with paragraph 9. They consider that such consultations should be within the framework of OECD discussions with the 14 governments who were parties to the agreed minute. Subject to the views of other governments they suggest that mid-July, when many officials will be in Paris for the meeting of the Maritime Transport Committee, might be a convenient date.

A general comment on the FMC's analysis is contained in the Embassy's aide memoire of June 17.

In the view of Her Majesty's Government it must be a prerequisite to fruitful consideration of a study that relates to matters of concern between governments that the analysis of the problem should rest upon data that are mutually acceptable as statistically accurate and objective. Her Majesty's Government are unable to determine at this stage how far many of the statistics in the memorandum meet this test. But even if all the statistics were accepted without question Her Majesty's Government would reject the major conclusions drawn by the FMC.

A commentary on this and other points in the FMC's study is attached (annex A).

Her Majesty's Government would further observe that in certain respects data derived other than from the two shipping conferences mentioned in the FMC's study would appear to need clarification before an evaluation of the study can be completed. A list of preliminary enquiries is attached (annex B).

Finally, it is observed that the FMC's analysis is entitled "A study of traffic statistics between the United States North Atlantic ports and United Kingdom ports". The statistics provided by the NAUK Freight Conference and the NAWFA included traffic to and from ports in the Irish Republic, and these figures appear unchanged in the FMC memorandum. Her Majesty's Government consider that the Government of the Irish Republic should therefore have an opportunity to comment, and would be glad to learn if the Department agrees.

ANNEX A

PRELIMINARY COMMENT ON SOME POINTS IN THE FEDERAL MARITIME COMMISSION'S STUDY ON TRAFFIC BETWEEN CERTAIN PORTS IN THE UNITED STATES AND PORTS IN THE UNITED KINGDOM

1. The United Kingdom may not be able to accept the geographical limits set to the area of the Federal Maritime Commission's study. The study assumes that the NAWFA/NAUK operate as "reciprocal conferences" in a trade area that is self-contained and also isolated from competition. Of the 16 companies who belong to one or other of the 2 conferences, however, only 8 are members of both and most operate as members of other conferences or as independent operators in contiguous trade areas picking up cargoes in the same vessels. Ports in these areas offer competition to the route between United States North Atlantic ports and the United Kingdom and Irish Republic (e.g., Gulf/Great Lakes to United Kingdom and North European ports to United States.) The freight rate structure of conferences and independent and tramp operators in those contiguous areas must influence the levels of rates charged by the two conferences in question and it is also known that part of the traffic carried from United Kingdom ports to the United States North Atlantic is "reciprocated" from other trade areas of the United States. (Table 1 attached refers.)

2. Even if we are able to accept the geographical areas elected for study, we cannot agree that there is no element of internal competition for conferences within that area. It is evident, for example, from the tables on pages 3 and 6 of the FMC's study that the movement of cargo in liner and tramp vessels is together predominantly eastbound, in the proportion of nearly 3 to 1, and that the reason for this is that the tramps carry eastbound over 9 times as much as they carry westbound. Although only about half the number of tramps moving eastbound return directly to the United States nevertheless the figures shown in these tables indicate that such vessels will only be about one-quarter as full as those sailing eastbound. The impact of this unused available capacity shows itself in the inroads made by tramps in the carriage of general cargo (table on page 6). It is

evident that freight rates from the United Kingdom must be conditioned by the presence of this competition. Nevertheless, as is shown in paragraph 3 below, the cost of transporting cargo from the United Kingdom is higher in relation to its value (per cargo-ton or per revenue-ton) than the cost of transporting cargo from the United States.

3. The statistics set out in the table presented on page 3 do not justify the conclusions drawn from them on page 4. The conclusions depend upon a comparison between the value of eastbound and westbound cargo expressed in terms of ton weight and the costs of transporting the same cargoes expressed in different terms (revenue tons). The value per ton weight is higher westbound than eastbound, so is the average freight paid per ton weight. The value per revenue ton is higher eastbound than westbound, so is the average freight paid per revenue ton. The memorandum appears to argue that it constitutes a discrimination against U.S. exporters if the value of cargo per ton is higher westbound and the freight paid per revenue ton is higher eastbound. But if this is the contention, it rests on a confusion, since different units of measurement have been used in calculating the value of the cargo on the one hand and the freight charges on the other. Valid conclusions could only be drawn from the data presented on page 3 if the same unit of measurement were used in the comparison.

4. A full analysis of the table on page 3 shows:

(i) That although the average value per ton weight of cargo exported from the United Kingdom is higher than the average value per ton weight of cargo exported from the United States, it costs more to transport that unit of cargo (because its bulk is greater in relation to its weight than is the case with United States exports).

(ii) Thus it costs \$41.7 to export one ton weight of cargo from the United States and \$48.8 to export one ton weight of cargo from the United Kingdom.

(iii) According to the figures given by the Federal Maritime Commission, 1 ton weight exported from the United States would on average be equivalent to 1.16 revenue-tons whereas 1 ton weight exported from the United Kingdom would be on average equivalent to 1.79 revenue-tons. Therefore the cost to move 1 ton weight expressed in the (statistically correct) equivalent of revenue-tons would be the same as in (ii) above.

(iv) Further, the value of each revenue-ton of cargo exported from the United States is on the basis of the FMC's figures \$772.4 as compared with \$567.6 from the United Kingdom. Since the value of the average revenue-ton exported from the United States is higher than the value of the average revenue-ton exported from the United Kingdom, it is reasonable that a higher freight rate per revenue-ton should be paid.

(v) Whatever unit of measurement is adopted, however, (ton weight or revenue-ton) the conclusion is the same: that the freight cost on every \$100 of cargo exported from the United States will be \$4.65 and the freight cost on every \$100 of cargo exported from the United Kingdom will be \$4.81. (The full calculation is given in table 2).

5. The comparisons drawn on pages 4 and 5 between the average freight rates charged per revenue-ton on the major commodities moving in United States-United Kingdom trade are again not supported by the statistics as like is not being compared with like. The commodities compared are not the same. They do not have the same characteristics of weight in relation to measurement. They do not necessarily have the same value per unit and they are not moved in equal quantities. On certain of the 10 major moving commodities from the United Kingdom, the freight rates appear to be higher than the rate on the same commodity item as given in the tariff of the NAUK (e.g. crockery, record changers).

6. On page 10, it is not clear what the Federal Maritime Commission means by the suggestion that there should be an average freight rate of \$30.5 per revenue-ton applicable both to eastbound and westbound conferences.

7. If the Commission's proposal means that the result they want could be achieved by a reduction of X percent on all items in the freight tariff of the NAUK and an increase of Y percent on all items from the United Kingdom this would increase the burden which United Kingdom exports bear. The

resulting change, if the average eastbound and westbound freight rates could both be stabilized at \$30.5, would be to reduce the freight costs on every \$100 of exports from the United States to \$4 and to increase freight costs on every \$100 of United Kingdom exports to \$5.6, thereby creating an artificial disparity against the United Kingdom exporter.

8. We doubt, however, the practical possibility of stabilizing an average freight rate. The FMC's proposals appear to assume that changes in commodity freight rates would have no result on the existing structure of trade, and that trade would not be influenced by any other factors. If as a result of the proposed adjustments, or any other change in trade, some commodities moved in different volume, the commodity mix would be changed and the average freight rate per revenue-ton would correspondingly alter also.

CHARTS

9. It is assumed that charts 1-4 are merely intended to serve as illustrations of the argument set out earlier in the FMC's memorandum that (if one particular basis of calculation is adopted and others ignored) the average freight rate can be shown to be higher eastbound than westbound. This point has been covered in paragraphs 3 and 4 above.

10. Charts 5 to 8 are concerned with two sailings of *M.V. Media* in 1964. We should be grateful for confirmation that all the remaining material in the study relates to 1963. If the total number of sailings in 1964 was similar to that in 1963 (769 according to p. 8 of the memorandum) 2 sailings represent a very small sample. What steps, if any, were taken to determine whether the sample was typical?

TABLE 1.—Conference membership of certain shipping companies

	NAUK	NAWFA	South Atlantic Steamship Conference	Gulf-United Kingdom Conference	North Atlantic- Continental Freight Conference	North Atlantic- French Atlantic Freight Conference	French North Atlantic West- bound Freight Conference	Swiss-North Atlantic Freight Conference	Continental North Atlantic Westbound Freight Conference	United Kingdom- United States Gulf Ports Rate Agreement	Bordeaux-Hamburg Range/U.S. South Atlantic Rate Agreement
AEIL.....	•					•		•			
Anchor.....	•	•							•		
Bristol City.....	•										
C.G.T.....	•				•						
Cunard.....	•			•							
Irish Shipping.....	•	•									
Furness Withy.....	1										
Lampport and Holt.....	•										
Manchester Liners.....	•		•								
Holland-America.....	•			•					•		
Uster S.S. Co.....	•	•			•						
U.S. Line Co.....	•	•			•				•		•
American Star Line.....		•									
Armement Deppe.....		•								•	
Hamburg-Amerika.....		•								•	
Norddeutscher Lloyd.....		•			•			•	•		

¹ Johnston-Warren Line.

NOTES.—1. In the left-hand column are listed only the lines which are members of NAWFA and/or NAUK.
2. Along the top are listed conferences in trades between the U.S. Atlantic and gulf coasts on one hand and northwest Europe (including the British Isles) between the French/Spanish and the German/Danish borders on the other.

3. In all columns after the first and second, the asterisks indicate only those lines which are members of the appropriate conference and are also members of NAWFA and/or NAUK.

Source: "Approved Steamship Conference and Related Agreements" published by F.M.C.

TABLE 2.—U.S. North Atlantic/U.K. Trade: Liner carryings

	Eastbound	Westbound
Weight tons.....	518,098	550,942
Cargo value.....	\$464,450,419	\$559,183,267
Revenue from freight rates.....	\$21,603,446	\$26,899,183
Cost to move 1 ton weight.....	\$41.70	\$48.80
Cargo value per ton weight.....	\$896	\$1,014
Cost to move 1 cargo ton as percentage of value per ton.....	4.65	4.81
Revenue tons.....	601,308	985,139
1 ton weight expressed in equivalent revenue tons.....	1.16	1.79
Cost to move 1 revenue ton.....	\$35.93	\$27.30
Cost to move 1 ton weight expressed in equivalent revenue tons.....	\$41.70	\$48.80
Cargo value per revenue ton.....	\$772.40	\$567.60
Cost to move 1 revenue ton expressed as percentage of cargo value per revenue ton.....	4.65	4.81

ANNEX B

POINTS ON WHICH CLARIFICATION IS SOUGHT ABOUT DATA USED IN THE FMC'S STUDY OF TRAFFIC BETWEEN CERTAIN PORTS IN THE UNITED STATES AND UNITED KINGDOM.

1. Were the statistics provided by the Bureau of the Census specifically for this study and, if so, could they be made available to Her Majesty's Government, or were they taken from published sources?
2. If the later, could the publication be identified and page references provided, in accordance with established statistical practice, for the statistics on pages 2, 3, 6, and throughout the study where the source is not given or given only in general terms?
3. If the statistics are taken from unpublished sources were details of trade to and from the Irish Republic excluded? If the figures were taken from published sources and Irish traffic excluded could that be indicated when the source is identified and the references are given?
4. On what basis does the Bureau of the Census analyze commodity movement? Is it by true origin or destination of the commodities carried or by origin and/or destination (true origin or last port of call/final destination or first port of call) of the vessels carrying cargo?
5. Sources for the tables on pages 6 and 8 are requested, together with definitions of the phrases "general cargo" and "irregular vessel" (p. 7).

RESPONSE OF FEDERAL MARITIME COMMISSION TO THE FOREGOING BRITISH
GOVERNMENT COMMENT

Representatives of the Federal Maritime Commission appearing at the Paris shipping conference on July 13, having been furnished and given the opportunity to review the British comments, prepared and submitted a further response. This Federal Maritime Commission rejoinder to the British comments appears below :

1. Point 1 of the British comment questions the geographical limits of the inquiry because in their view the U.S. North Atlantic-United Kingdom trade is not self-contained nor isolated from competition. Trade route 5 is as self-contained as any trade route could be. It is true that trade route 5 is not isolated from competition, but the trade from U.S. North Atlantic points to the United Kingdom also is not isolated from competition and perhaps the latter has more competition from more competitive areas than does the United Kingdom from the Continent. For instance, North Atlantic carryings are subject, or at least theoretically so, to the competitive rate pressures in the Montreal to United Kingdom range which rates we know are lower by substantial amounts than the rates from the U.S. North Atlantic range to the United Kingdom.

In addition, freight rates from Canadian Great Lakes ports as well as U.S. Great Lakes ports also influence the rate structure from U.S. Atlantic ports to the United Kingdom. Further, rates to the United Kingdom from U.S. South Atlantic ports and particularly from U.S. gulf ports have always been recognized as competitive influences on rates from the U.S. North Atlantic. The principal point, however, is that while the rates from the United Kingdom are not isolated from competitive pressures from the Continent, the rates from the North Atlantic ports are under considerably more competitive strain, but nevertheless are higher.

For that matter one could easily argue that exports from the Far East to the United States are competitive with exports from the United Kingdom. The mere possibility that an increase in the freight rates may render a United Kingdom export less competitive with an export from some other part of the world in no way alters the fact that there is just as much competition for U.S. exports as for United Kingdom exports in this particular trade. If it can be established, however, by the proponents of a differential rate structure, that such rate differentials are necessary because of competitive pressures from other sources of supply, then that should be verified and substantiated by the proponents of that thesis.

2. The second point of the British comment states that they cannot agree with the Commission's contention that there is insignificant internal competition for the conferences in this trade. The British presumably have this disagreement because they find that the movement of cargo in liner and tramp vessels is together predominantly eastbound in the proportion of nearly 3 to 1; that tramps carry nine times as much eastbound as they carry westbound; that this results in half of the tramps moving eastbound returning directly to the United States with only about one-quarter as much cargo as eastbound tramps; and that the impact of this unused available capacity shows itself in the inroads made by tramps in the carriage of general cargo.

It is incorrect to state that the movement in this trade is predominantly eastbound; measured by liner cargoes on either a revenue ton basis, a weight ton basis, or a dollar value basis, the predominant movement is westbound and not eastbound. The comment has lumped together nonlinear cargoes, that is, a very large amount of bulk items which are in no way competitive with liner cargoes, to arrive at their conclusion that the eastbound movement is the predominant movement. It would have been as accurate to add in cargoes that are moved by air transportation.

The point that the British wish to make in part 2 of their comment would seem to be that there is unused available capacity inbound because of the number of tramp ships that return without full cargoes on the backhaul of the round trip, and that this unused capacity must condition conference freight rates. The comment states that about one-half the number of tramps moving eastbound returned to the United States only one-quarter full. This statistic is not correct. The statistics cited in the Federal Maritime Commission study show that outbound there were 132 tramp sailings; inbound there were 63 tramp sailings. The fact of the matter is, however, that of the 63 inbound tramp sailings, only 8 of those sailings were return trips to the United States out of the 132 outbound sailings. Consequently, it is erroneous to contend that these 132 tramp ships offered unused capacity to compete with conference liners for cargo on the inbound leg when all but 8 of the 132 ships did not return to the United States, but rather went to other parts of the world. Likewise, on the 63 inbound sailings from the United Kingdom, the tonnage figures reported on those tramp ships are tonnages picked up in the United Kingdom only. In fact, some 55 of these ships originated from some other port than the U.S. ports, and presumably had cargo aboard when they made calls at the United Kingdom. It is, therefore, not possible to know how much available capacity there was remaining on these 63 ships. It is possible that these 63 ships were quite as full by the time they loaded at the United Kingdom ports as the 132 outbound tramps were when they completed loading in the U.S. ports.

The fact, nevertheless, remains that the conferences inbound carried over 94 percent of all inbound liner cargo. We would again point out that this virtual monopoly is maintained by the conference because of a most effective dual rate contract system. In addition to that, tramps ordinarily represent little, if any, impact on the rate structure applicable to liner cargoes. It seems conclusive to us to support this contention to point out the fact that with higher rates prevailing outbound the 132 tramp sailings outbound, twice the number of sailings or opportunities to carry cargo as the inbound movement, captured only one-third as much general cargo as did the 63 inbound sailings from the United Kingdom where there is a less attractive rate structure. In other words, there was twice as much tramp competition to the conferences outbound, and the cargo was more lucrative outbound because of the higher rates; yet despite these factors the tramps captured an insignificant portion of general cargo outbound. It is not our contention that the outbound movement has a greater competitive pressure from tramp sailings despite the fact that there are twice the number of sailings at a higher and more attractive rate structure; our contention is simply that in both directions tramp sailings represent an insubstantial competition to liner conferences and that certainly the amount of outbound competition matches the tramp competition inbound.

3. Point 3 of the British comment asserts that the conclusions drawn in the Commission's analysis are faulty because these conclusions depend "upon a comparison between the value of eastbound and westbound cargo expressed in terms of ton weight and the costs of transporting the same cargoes expressed in different terms (revenue tons)." Our conclusions in no way depend upon a comparison between the value of eastbound and westbound cargo expressed in terms of ton weight. Nowhere in the Commission study does it attach a value per revenue ton or a value per weight ton. The Commission merely cites the gross value of all outbound cargoes and the gross value of the inbound cargoes, for the purpose of demonstrating that the magnitude of trade in both directions both by weight tons and by value is at least equal, if not greater, in the westbound direction. The comment accuses the Federal Maritime Commission analysis of arguing that it constitutes a discrimination against U.S. exporters "if the value of cargo per ton is higher westbound and the freight paid per revenue ton is higher eastbound." The Commission's analysis in no place makes any reference to value of cargo per ton; in no place does it compare value of cargo per ton with the freight rate per revenue ton. That particular piece of confusion is committed by the comment in the discussion of the freight rate paid per \$100 value of cargo.

The comment suggests that somehow the same unit of measurement can be used to make such a comparison. This, of course, is simply impossible. The Commission's value figures are, in fact, based upon weight concept which is the only possible method of obtaining a valuation figure. In that sense it is constant and not subject to any variables. It also seems perfectly proper to compare value with the revenue tons carried which represents the unit of cargo as

freighted by the conferences. It is true, as the British comment suggests, that different units of measurement have been used by the Commission; but it is not accurate to state that the type of comparison made by the Commission is statistically faulty.

4. The principal point made by the British comment is contained in Roman numeral V of point 4; that is, that the freight costs on every \$100 exported from the United States is \$4.65 and the freight cost on every \$100 of cargo exported from the United Kingdom is \$4.81. The comment expresses this relationship in a variety of ways but as the comment itself points out, this is the main conclusion. The comment simply concludes that since, on a value basis, the British bear even a greater freight charge than U.S. exports, there can be no discrimination. Of all the points raised in the British comment, point No. 4 would seem to be the only one that has substance. There is a good deal of merit in the comments on value. Value most certainly is a well recognized factor to be considered in evaluating the reasonableness of a freight rate level.

In discussing this part of the British comment, it will be first necessary to make some adjustments in the statistical data used in the Commission analysis. In responding to the questions put by the British comment, the Commission has learned that the value figures and the tonnage figures obtained from the Bureau of the Census included not only conference liner cargoes but nonconference liner cargoes as well. Consequently, it will be necessary to make an adjustment in these figures to accommodate the value and tonnage data to the revenue data supplied by the conferences, so that both sets of data relate only to conference carryings. According to the Maritime Administration's estimate, outbound 98 percent of the carryings are by conference and inbound 94 percent are by conference. Consequently, it is necessary to reduce the outbound statistics by 2 percent and the inbound statistics by 6 percent.

The adjusted figures then will be: outbound, 507,736 weight tons, with a value of \$455,161,411; inbound, 517,885 weight tons, with a value of \$525,632,271. These adjustments will also result in adjustments in other figures, notably the freight costs per \$100 of cargo and the stowage or measurement factors per weight ton. The freight charges per \$100 of value outbound will become \$4.75 and the freight charges per \$100 of value inbound will become \$5.12. Thus, under the previous computation made in the British comment, the British exporter had to pay 16 cents more freight charges on every \$100 worth of cargo than the U.S. exporter. Under the adjusted computation, the British exporter has to pay 37 cents more freight charges per \$100 value of cargo. The measurement factors will, likewise, change so that eastbound, or outbound, the measurement per weight ton is 1.18 and the measurement factor westbound, or inbound, is 1.9 per weight ton.

To return to the substance of the point raised by the British comment, the Commission finds this approach most useful and helpful in clarifying this matter. To put it succinctly, on every \$100 of cargo exported from the United Kingdom, the British exporter must pay 37 cents more freight charges, or in terms of percent, 7.8 percent more than the U.S. exporter must pay on \$100 worth of cargo. However, the conclusion reached by the British; i.e., that this demonstrates there is no discrimination is exactly opposite to the conclusion the Commission derives from the facts. To the Commission, this proves the existence of discrimination. The \$100 of cargo exported by the British exporter, because of its shape and characteristics, occupies 61 percent more space on ship than the \$100 worth of cargo exported by the U.S. exporter, and yet only pays 7.8 percent more freight charges. A steamship line is in the business of selling space aboard its vessel. A British exporter by paying only 7.8 percent more gets 61 percent more space. We believe this conclusively establishes the existence of a discriminatory rate structure. The error committed in the British conclusion is that the comment isolates a single factor—value—which appears to support the British position. Value is, of course, only one of the many factors that go into rate-making and what the British comment has done is to select the most favorable factor to their side of the case and ignore all others.

To be sure, the value of cargo is a factor to be considered in affixing a freight rate. But even more important are the transportation characteristics of the \$100 worth of cargo. How much does it weigh? What is its size and shape? Are there handling or stowage problems? If value were all that mattered, rate-making would be a very simple task. The conference in this case would simply charge every shipper, say \$5, for each \$100 of cargo. But no one would seriously

propose making rates in this fashion—least of all the conferences or the shippers. Under this theory, \$100 worth of watches would have to bear the same freight charges as \$100 worth of coal. This is patently absurd.

A more controlling factor in ratemaking is the stowage property of the cargo—how much space does it take up? In the trade we know that outbound, 507,736 weight tons of cargo took up the space occupied by 601,308 tons of cargo that measured 40 cubic feet or less. Inbound 517,885 weight tons of cargo took up the space occupied by 985,139 tons of cargo that measured 40 cubic feet or less. The measurement factor outbound was 1.18 and inbound was 1.9. The factor inbound is 61 percent higher than outbound. This means that, on the average, \$100 of cargo inbound took up 61 percent more space than \$100 of cargo outbound. So why is it fair that the \$100 of inbound cargo should have approximately the same rate as the \$100 of outbound cargo, when it takes up 61 percent more space. It isn't fair, and that's precisely why the conferences charge on a measurement basis. If your cargo takes more space, you pay more freight. Rather than demonstrating the absence of discrimination, this parity in freight charge per \$100 of value proves there is discrimination.

If one looked solely at the stowage characteristics, one would conclude that, since \$100 of inbound cargo took up 61 percent more space, it should pay 61 percent more freight charge per \$100 of value than the outbound rate. This conclusion, however, would be as erroneous as saying that each \$100 of cargo should bear the same rate. For example, raising the inbound freight charges to 61 percent higher than the outbound charges would bring them to \$7.65 per \$100 of cargo. This equates to a freight rate of \$40.82 per revenue ton, which would make it 13.6 percent higher than the outbound rate, or 49½ percent higher than the present inbound rate. The value of the cargo and the space occupied are counterbalancing factors. This suggests that the proper rate structure is one which takes account of both factors. Solely on a value basis the outbound freight rate should be 42 percent higher per revenue ton than the inbound rate (it is only 33 percent higher); on a space basis the inbound rate should be 61 percent higher per \$100 of cargo than the outbound rate, that is a 49½-percent increase in the present rate. If equal force is given to these two factors, one would conclude that, at least, they cancel each other and the outbound rate should be no higher than the inbound rate. Put another way, the only way in which the present rate structure can be justified is if the sole criteria used were value of the cargo. If any other criteria is added, such as space used, the rate structure becomes manifestly discriminatory.

No matter how much effort is made to obfuscate the essential point of the Commission's analysis, the simple fact remains that the average rate per revenue ton outbound, according to the conference carriers in this trade, is \$35.93 and the average revenue ton yield inbound is only \$27.30. It must be reiterated that both on a cargo value basis and a revenue-ton basis, the dominant direction of this trade is from the United Kingdom and not from the United States, and that the cargo moving from the United States is, indeed, the backhaul of the round-trip voyage. Based upon these facts, no transportation expert would argue against the position that, if one set of rates is to be higher, those higher rates should prevail on that portion of the trade which has the higher volume of movement as freighted as well as the higher total value of the commodities.

5. With reference to point 5 of the comment which criticizes the Federal Maritime Commission analysis on major moving commodities, it should be pointed out that the Commission was not attempting to compare like commodities; rather it was simply an effort to illustrate the different rate structure applicable to the major moving commodities in both directions. For one thing, it is most interesting to note that the items that move in most volume have a considerably higher freight rate than the general average freight rate. This is particularly true in the outbound direction. This is at odds with the contention of the steamship conferences that on major moving commodities freight rates are lower and will generally be more favorable than the rate for the same commodity in the opposite direction, which as a general rule would be moving in small quantities if moving at all; and their oft-repeated contention that rates are lower on the commodities which actually move.

6. The comment states that it is not clear what the Commission means by its "suggestion that there should be an average freight rate of \$30.50 per revenue ton." The Commission in its analysis does not suggest that there should be such an average freight rate. The Commission study merely shows what would happen to the revenue earnings of the carriers and the costs of exporters if rates were, in fact, equalized.

7. The comment states that, if the rates were equalized in both directions, this would increase the burden which the United Kingdom exports bear, and that the increase in United Kingdom freight rates and reduction in U.S. freight rates would have the effect of increasing United Kingdom freight costs on \$100 of exports to \$5.60, and reduce U.S. freight costs to \$4 on every \$100 of exports, "thereby creating an artificial disparity against the United Kingdom exporter." Unquestionably, such an equalization of rates would have the effect of increasing the burden which United Kingdom exports bear. But it is the principal contention of the Commission analysis that the United Kingdom has not been bearing its fair share of the costs of transportation and should have its burden increased. And if the rates were equalized, the \$5.60 the United Kingdom exports would pay per \$100 would be only 40 percent greater than the freight charges borne by \$100 of U.S. exports, whereas the United Kingdom exports would be taking up 61 percent more space on the ships. How that, then, would constitute an "artificial" disparity against United Kingdom exporters is not clear from the British comment.

8. Point 8 of the comment states that the Commission in its proposals assumes that changes in freight rates would have no result on the existing structure of trade, and that the trade would not be influenced by any other factors. This simply is not true; no such assumption was made. Quite the contrary; the Commission did assume that the balance of trade would be changed, but it further assumed that the possible reduction in United Kingdom exports because of the increased freight rates would be offset by the potential increase in U.S. exports by reason of the rate reduction. In light of the impossibility of precisely measuring the impact upon the balance of trade that would occur by reason of such slight changes in price, this seems as reasonable an assumption as any other that may be made concerning the changes in the balance of trade.

9. The comment is correct in point 9 when it suggests that charts 1 to 4 are merely intended to illustrate the point that the average freight rate in terms of the way freight rates are quoted by the conferences themselves are shown to be higher eastbound than westbound.

10. Point 10 of the comment raises the question what steps, if any, were taken by the Commission to determine whether the sample of the two sailings of the *M. V. Media* were typical, noting that two sailings seem to represent a very small sample. To make a more complete study, it would be necessary for the Commission to obtain copies of rated manifests. Carriers, particularly foreign carriers, refuse to supply rated manifests to the Commission. Consequently, short of ordering the carriers to produce such manifests, it was not possible to take a larger sample of the *Media* sailing. If the governments present here could secure additional rated manifests for the Commission to analyze, the Commission would welcome this assistance, and will certainly agree that such additional study would be most useful to verification of the analysis made on the basis of the two manifests.

