

**Remarks of Federal Maritime Commission
Chairman Richard A. Lidinsky, Jr.
To the Fall Meeting of the Danish Maritime Network
In the United States
Embassy of the Kingdom of Denmark
Washington, DC - November 18, 2010**

I. INTRO

I would like to thank Ambassador Taksoe-Jensen for this opportunity to participate in this important session. The Kingdom of Denmark has been a vital ally and partner for the United States. Our cooperation and friendship takes place on many levels.

- In diplomacy and international affairs:
 - Denmark recognized the United States as an independent nation and established consular relations in 1792.
 - Our nations established diplomatic relations shortly afterwards, and they have continued without disruption ever since.
- In security and defense:
 - Denmark has been a NATO member since its founding in 1949.
 - Since we were attacked on September 11, 2001, Denmark has stood by the United States. Today in Afghanistan, there are more than 700 Danish troops fighting bravely in the critical Helmand Province.
- In trade and the economy:
 - The United States is Denmark's largest trading partner outside of Europe — representing 4.5% of Danish exports and 4.5% of Danish imports.
 - Through September of this year, the U.S. had more than \$1.5 billion in exports to Denmark, and imported nearly \$4.4 billion from Denmark.
 - But those figures alone understate Denmark's importance to the United States' trade and economy — because 12.7% of the United States' oceanborne commerce travels on ships run by lines based in Denmark.

My primary focus, of course, is on this last area, and I look forward to continued cooperation and friendship that so benefits all of us.

II. 2010 HOUDINI YEAR

In liner shipping, it may still be too early to assess the real meaning of 2009 and the incredible bounce back of 2010 — for as Janet Porter wrote in *Lloyd's List* a few months ago, we need Houdini to figure out how the container shipping industry escaped the great recession with no bankruptcies, mergers, or acquisitions. At the same time, we are well aware of some continuing economic trouble in certain maritime sectors.

III. OVERVIEW OF 2010 AT THE FMC

In looking at this year on the U.S. policy front, the hallmark will be Chairman Oberstar's and Chairman Cummings' development and introduction of H.R. 6167, the shipping reform bill, and the debates it engendered.

At the Federal Maritime Commission, the year began with the Commission allowing slow steaming plans to proceed, and we continue to watch how that plays out.

The Commission also voted to move forward to relieve licensed NVOCCs from publishing rates in tariffs, and we hope to have a final rule issued in the coming weeks.

We also began a Fact Finding into issues with household goods shipments — to strengthen the Commission's protections for consumers who may be unsophisticated and likely are interacting with the international shipping industry for the first time in their lives.

On the personnel front, we began the year with the addition of a fourth commissioner, Michael Khouri, who has been more than ably leading that household goods investigation. And we end the year with President Obama announcing his nomination for our fifth commissioner, Mario Cordero from the Port of Long Beach Harbor Commission, and the renomination of Commissioner Rebecca Dye to a new term. We look forward to their swift confirmation after their hearing November 30th, and I look forward to gaining a West Coast port perspective on the Commission.

But perhaps most importantly, 2010 saw the announcement of President Obama's National Export Initiative to double U.S. exports over the next 5 years. The Commission is committed to ensuring the ocean shipping industry serves and supports this increase in exports, which carriers sometimes view as an afterthought because of historical imbalances in trade and rates.

IV. FACT FINDING 26

The year will end with the Commission's Fact Finding into vessel capacity and equipment availability. Both the Commission's Fact Finding and the Oberstar bill arose from problems in the first half of 2010 when shipping demand turned around more quickly than expected, bookings were cancelled or rolled, and many shippers were surprised that their "minimum quantity commitments" were being interpreted as maximum quantity commitments.

When we launched the fact finding, Commissioner Dye, the Fact Finding Officer, stated that "if a U.S. exporter has goods to sell overseas, that exporter must be able to get them delivered." I concur in this goal, and share it on the import side as well.

Following Commissioner Dye's interim report this summer, the Commission took a number of steps, including:

- Establish rapid response teams in the Commission's Office of Consumer Affairs and Dispute Resolution Services (CADRS) to quickly help resolve disputes between shippers and carriers.
- Requiring the major Transpacific discussion agreements, the Transpacific Stabilization Agreement (TSA) and Westbound Transpacific Stabilization Agreement (WTSA), to file transcripts of their meetings.
- Develop proposals for increasing oversight of global alliances. The Commission received a staff proposal at our last meeting, and I look forward to a Commission decision or order shortly.

Commissioner Dye also announced that she would spend the remainder of her Fact Finding focused on the following activities:

- Having the carriers assign representatives as liaisons to the CADRS rapid response teams.
- Bringing shippers and carriers together into best practices discussion pairs.
- Development of model service contract terms.
- Establishment of industry and FMC staff working groups to address export capacity and container availability.

We look forward to hearing Commissioner Dye's final report at our next Commission meeting on December 8th, and announcing findings and additional recommendations or actions shortly afterwards.

V. REMAINDER OF 2010

Even after Commissioner Dye's fact finding ends this month, the Commission will continue to watch the "three C's" closely: containers, contracting practices, and capacity.

On the issue of containers, the FMC has been assisting the carriers, U.S. Department of Agriculture, and agricultural shippers on a pilot project to give more transparency and visibility to the chronic problem of locating empty containers. We hope to see that pilot project move to a full-fledged container availability report that involves all WTSA carriers and any other carriers who would like to participate.

Primarily on the issue of contracts, I responded to a request from the House Coast Guard and Maritime Transportation Subcommittee Chairman Cummings for a short "a la carte menu" of potential legislative fine tunings to the U.S. Shipping Act. The heart of my response was to give the FMC's CADRS office a larger role in helping resolve service contract disputes quickly and cheaply.

On capacity and service the remainder of the year, the worst problems seem to have abated on the import side. But in the coming months we are closely watching the harvest season for cotton, soy, grains, and other agricultural products on the export side. With record prices, foreign demand, and a solid crop, we could see a few strains in parts of the export supply chain.

VI. A PREVIEW OF 2011

What will 2011 hold? Whether it's in the shipping industry or in the U.S. Congress, I heed advice attributed to both the Danish physicist Niels Bohr and the American baseball player Yogi Berra: "Prediction is very difficult, especially about the future."

I do know that at the FMC, we will be celebrating our 50th year, and we will have a series of events looking at the FMC's history, role in the development of intermodalism, and lessons learned for the next 50 years.

At this point in the Congress, we are still watching as they sort out some important committee and subcommittee personnel issues for 2011. Committee staff in the House and Senate have begun preparing and consulting with us for the upcoming Congress. But we haven't heard exactly what their bosses' priorities will be yet — or whether they have a continuing interest in the antitrust issue or other reforms.

In the absence of legislation in a divided Congress, I may take a look at options for the Commission and CADRS to better facilitate voluntary service contract assistance should both shippers and carriers agree to CADRS' three-step problem solving processes of (1) informal dispute resolution with rapid response teams; (2) mediation; and (3) arbitration.

I also would like the Commission to continue to work with shippers and carriers in the next round of contracting to ensure their service contracts provide clear rules of the road and reflect the parties' mutual expectations.

I expect that global container shortages will begin to subside by the second half of 2011. But container location and availability issues for rural exporters in the U.S. will likely continue to be a problem, and I'm interested in continuing to work with the ocean carriers, intermediaries, 3PLs, shippers, and rail lines on creative solutions.

The Commission will also be busy on its study of the effects in the U.S. trades of the European Union's repeal of its block exemption for liner conferences. We recently requested input from all interested parties, and the deadline for submitting information or comments is January 18, 2011.

The environment and green jobs have been a priority for the Obama Administration. In the maritime sector, we will be closely following climate change developments at the upcoming Cancun round of negotiations this December and at the IMO's Marine Environment Protection Committee sessions in March and July 2011. Two weeks ago, an advisory group to the United Nations Secretary General recommended

raising between \$2 billion and \$19 billion per year from international shipping through a bunker levy or auctioned greenhouse gas emissions permits, so this could be an increasingly important issue economically as well.

VII. CONCLUSION

To sum up, I want to note and applaud the liner industry's rapid return to economic health this year and look for more good news to come shortly for all members of the maritime family. However, I must remind you that the Commission's legal mission is not to ensure carriers' profits, but to foster a "fair, efficient, reliable" international transportation system — in effect, to protect the nation's supply chain. Yet a healthy industry assists in that mission.

At the same time, I will remind carriers who choose to serve the U.S. trades that what you now call the "backhaul," we call crucial U.S. exports. Carriers should ensure U.S. exports have a place on their vessels and are considered in equipment planning and positioning so that we can meet President Obama's goals in his National Export Initiative. That may include re-examining some inland intermodal destinations that were abandoned years ago, but may make sense as exports strengthen.

Carriers who:

- (1) keep in mind these export needs as well as imports;
- (2) fully comply with FMC rules and regulations; and
- (3) provide fair and reliable service,

will be rewarded with good business opportunities, reliable customers, and a regulatory regime that seeks for all parties to grow and flourish — whether they are from Denmark or Des Moines, Switzerland or Sweetwater, Singapore or Sioux Falls.

Thank you

For more coverage of the Fall Meeting of the Danish Maritime Network in the United States, please see the [Embassy of Denmark's in Washington, D.C. news item](#).