STATEMENT OF
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PRESENTED BY

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BEFORE THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON COAST GUARD AND
MARITIME TRANSPORTATION
UNITED STATES HOUSE OF REPRESENTATIVES

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Mr. Chairman, and members of the Subcommittee, thank you for this opportunity to present the President's fiscal year 2010 budget for the Federal Maritime Commission.

The President's budget for the Commission provides $24,558,000 for fiscal year 2010. This represents an increase of 7.7%, or $1,758,000, over our fiscal year 2009 appropriation. This budget includes 130.5 workyears of employment.

Our fiscal year 2010 budget request contains $17,770,000 for salaries and benefits to support the Commission's programs. This is an increase of $1,951,000 over our fiscal year 2009 appropriation. This includes all salaries, including those for employees hired in fiscal year 2009, promotions, and within-grade increases. The funding includes annualization of the fiscal year 2009 cost of living adjustment increase, and an anticipated 2.5 percent fiscal year 2010 cost of living adjustment.

Official travel has been straight-lined at the fiscal year 2009 level of $283,000. Travel remains an essential aspect of our effort to provide better service to the ocean transportation industry and to accomplish our oversight duties more effectively.

Administrative expenses have decreased $193,000 below the fiscal year 2009 level. Commercial and government contracts are increased by $88,000, GPO printing costs are increased by $13,000, and costs associated with sending correspondence via Federal Express are increased by $3,000. These increases are offset by reductions for furniture and equipment, telephone usage costs, and library materials. Administrative expenses to be funded in fiscal year 2010 support our customary business expenses, such as for telephones, postage, commercial and government contracts, and supplies.

Like many small agencies, the Commission is dependent on information technology to accomplish its mission and has set out to streamline the agency's work processes to enhance the productivity of workforce through comprehensive automation. Funding levels in recent years have allowed the FMC to commence modest and overdue improvements to its information technology infrastructure and information systems. A significant number of our performance goals for fiscal year 2010 focus on further improving efficiency, security, and service to the public. The importance of these undertakings is also reflected in the Commission's 2010-2015 Strategic Plan, in which the Commission set an objective to effectively allocate technological, financial and human resources to support the agency's vital programs.

The Commission's Technology Plan envisions overdue modernization of the public access points to Commission services and records through the electronic forms utilized by the public, as well as the databases which support those public forms, subject to available funding. Such efforts require an overall information technology strategy with consistent funding to build on the successful efforts of past years. In support of that objective, the Commission established a performance target to improve information technology infrastructure sufficient to support, by 2015, an increase to 80 percent usage of digital commerce, i.e. the forms, applications, and payments received electronically by regulated entities. Meeting this and other performance goals will allow the agency to effectively and efficiently meet the needs of the shipping industry. This increase in productivity will require extensive work to create and modernize the Commission's automated systems, while ensuring compliance with Federal Information Security Management Act requirements for secure computer networks and robust security protections for personal data.

In summary, the Commission's budget represents the basic spending necessary to conduct day-to-day operations and to meet the responsibilities Congress has entrusted to this agency.

State of the U.S. Trades

Since 1916, the Commission and its predecessor agencies have effectively administered Congress's directives for oversight of the ocean transportation industry. Working with the industry, we have developed a regulatory system that allows for necessary oversight with minimal disruption to the efficient flow of U.S. imports and exports. I would like to highlight the state of some of the major U.S. trades, as well as identify significant current events, programs and initiatives at the Commission.

In fiscal year 2008, the total volume of U.S. liner exports shipped worldwide grew by 15 percent, while imports declined by 6 percent. These growth rates mask the dramatic recent declines in cargo volumes. Generally, the weakness of the U.S. dollar relative to foreign currencies for much of the fiscal year made U.S. goods more affordable overseas. However, at the end of the fiscal year, indications of the serious economic downturn were present as the credit and financial crises unfolded and recessionary conditions began to affect worldwide economies. As consumer spending in the U.S. and abroad contracted, the demand for liner cargo declined dramatically. In the first quarter of fiscal year 2009, U.S. liner exports dropped by 13% and imports dropped by 10%. Freight rates have also declined precipitously since the fourth quarter of 2008.

In the largest of the U.S. liner trades, the U.S.-Asia trade, U.S. exports to Asia grew at an overall rate of 18 percent for fiscal year 2008. Declining conditions in the economy reduced the U.S. demand for imports from Asia, causing cargo volume to fall by 6 percent for the fiscal year. During the first quarter of fiscal year 2009, the economic downturn significantly affected this trade. U.S. liner imports from Asia declined by 11%, while exports declined by 19% over the same period the previous year.

In the liner trade between the U.S. and Europe, U.S. export growth for the fiscal year was significant at 13 percent, while import cargo was down by 5.5%. For the first time in over a decade, the cargo volume in each trade direction was approximately balanced during fiscal year 2008. Again, these fiscal year numbers mask a dramatic drop in recent cargo volumes due to the recessionary conditions in the economies of Europe and the U.S. In the first quarter of fiscal year 2009, U.S. liner exports and imports both dropped by 11% compared to the same period the previous year. In February 2009, the total volume of U.S. liner exports dropped 33% over February 2008, while imports fell 25%. Carriers have increased the coordination of their operations in order to manage the excess capacity. What began initially as relatively modest cuts in vessel capacity of 5 percent in each trade direction for the fiscal year have escalated significantly since the first quarter of fiscal year 2009.

As an even more dramatic comparison, in January 2009, the total volume of U.S. liner exports shipped worldwide fell 24% over January 2008, while imports fell 15% as compared to January 2008. U.S. ports also report a similar picture for February 2009. Of the five major U.S. ports which have made data available to date, it appears that throughput levels are down between 17 and 40%.

As the worldwide economic conditions set in, carriers are working to cut costs in response to the declining cargo volumes. Current cost-cutting measures being taken by most carriers include: laying up vessels; delaying the delivery of new-builds; reducing or eliminating ocean freight forwarder compensation; renegotiating and reducing charter terms; consolidating offices, sales forces and all non-essential spending; slow-steaming; and the creation of new partnering arrangements. Further, vessel sharing agreements continue to be the dominant type of agreement filed with the Commission. This trend is likely to continue as carriers collaborate to bring vessel capacity in line with the sharp decline in demand.

Containership capacity deployed on the world market continued to exceed demand, and it is forecasted that more capacity will be added to the market despite rapid declines in cargo volume. To date, roughly 11% of the global containership capacity lays idle. Concentration in the liner shipping industry remained unchanged for the fiscal year, with the top ten ocean carriers in control of about 60 percent of the world's containership capacity. However, additional concentration is expected to occur as a result of the global economic conditions.

Commission Activities

In fiscal year 2008, the Commission formulated a Strategic Plan for FY 2010-2015, and restated its mission: to foster a fair, efficient and reliable international ocean transportation system and to protect the public from unfair and deceptive practices. The Commission set forth three strategic goals: (1) to maintain an efficient and competitive international ocean transportation system; (2) to protect the public from unlawful, unfair and deceptive ocean transportation practices and resolve shipping disputes; and (3) to advance agency objectives through high-performance leadership and efficient stewardship of resources.

Over the past year, the Commission has continued to monitor the international liner trades, focusing in large part on agreement activities relating to ocean common carriers and marine terminal operators. The Commission continued to monitor agreements that had potential for the greatest competitive impacts due to the parties' ratemaking authority or high market share. The Commission, through several of its offices and bureaus, reviewed the Clean Trucks Program that was devised as part of the Clean Air Action Plan under the *Los Angeles and Long Beach Port Infrastructure and Environmental Programs Cooperative Working Agreement.* Pursuant to the agreement review process, the Commission conducted a competitive impact assessment of the Ports' Clean Trucks Program, and determined that certain elements of the program would likely, by a reduction in competition, produce an unreasonable reduction in transportation service or an unreasonable increase in transportation costs. On October 31, 2008, the Commission challenged the underlying MTO agreement in U.S. District Court on the basis that it violated the anti-competitive standards of the Shipping Act. This is the first time the Commission has challenged an agreement in court under the section 6(g) standard. In a ruling issued on April 15, 2009, Judge Richard Leon denied the Commission's request for preliminary injunction. Nevertheless, the core elements of our case under section 6(g) have been preserved for a determination on the merits. The Commission is currently examining its options as to appeal and in pursuing a permanent injunction.

The Commission has also monitored other agreement matters, particularly agreements where carriers or marine terminal operators wield ratemaking authority under agreements filed with the FMC. For example, in August of 2008, the Commission, due to competitive concerns, issued an order under section 15 of the Shipping Act which required specific pricing and operational data from carriers serving the trade between the U.S. and Australia/New Zealand. The Commission's order explained that the combined impacts of carrier agreements in U.S – Australia/New Zealand trades may potentially reduce competition, which could affect prices and services in the trade to an unreasonable extent under the Shipping Act. We continue to actively monitor developments in these and other important agreement areas. As one example, the *Transpacific Stabilization Agreement* withdrew a proposed amendment which would have allowed agreement parties to discuss the development of a plan to jointly rationalize capacity in the nation's largest inbound trades. TSA took this action in reaction to formal Commission inquiries and the expressed concerns of U.S. shippers' groups.

In the fall of 2008, the European Union repealed most antitrust immunity for ocean liner operations in the European trades. The long-term effects of the EU's policy shift are difficult to predict, as oceanborne transportation has been immune from the antitrust laws since the turn of the 20th century. The Commission intends to closely track developments in the U.S.-Europe trades, and, to this end, the Commission is currently defining the parameters of a study which will examine the impact of eliminating antitrust immunity in this important trade. The Commission has committed to an open process that allows input from the shipping industry and other stakeholders. Once that study is complete, the Commission will be in a better position to report to Congress on the impact of eliminating antitrust immunity from one of our major trade lanes. The recent economic downturn has significantly complicated the Commission's study, given that it is difficult to know whether conditions in the trade result from changing competition laws or from the global economic climate.

The Commission continues to address restrictive or unfair foreign shipping practices under section 19 of the Merchant Marine Act, 1920; the Foreign Shipping Practices Act of 1988 (FSPA); and the Controlled Carrier Act of 1978. Section 19 empowers the Commission to make rules and regulations to address conditions unfavorable to shipping in our foreign trades; FSPA allows the Commission to address adverse conditions affecting U.S. carriers in our foreign trades that do not exist for foreign carriers in the United States. Under the Controlled Carrier Act, the Commission can review the rates of government-controlled carriers to ensure that they are not below a level that is just and reasonable. The Commission is carefully monitoring state-owned carriers to ensure that U.S. trades remain substantially free of unfair trading practices of foreign governments.

The Commission has continued its efforts to better meet the needs of all sectors of the shipping industry. To this end, the Commission has recently implemented electronic filing of an automated Form FMC-18, *Application for an Ocean Transportation Intermediary License*; continued to modernize and expand the Regulated Person Index ("RPI"), a Commission database containing up-to-date records of licensed ocean transportation intermediaries (ocean freight forwarders and non-vessel-operating common carriers), ocean common carriers and other entities; and developed a plan to automate the passenger vessel operator (PVO) Application Form FMC-131, *Application for Certificate of Financial Responsibility* to facilitate the filing of PVO applications. While the increasing demands of Federal information security mandates remain a constant challenge to these efforts, our information technology initiatives seek to assist the Commission in effectively carrying out our responsibilities while efficiently meeting the demands of our stakeholders. These modernization efforts include improvement such as digital signatures, electronic payments, and other measures.

The Commission continues to exchange enforcement information with U.S. Customs and Border Patrol (CBP) in accordance with our existing Memorandum of Understanding. Cooperation with CBP has expanded into joint field operations to investigate entities suspected of violating both agencies' statutes or regulations. Such cooperation often involves local police and U.S. Citizenship and Immigration Services (formerly INS) officers. FMC Area Representatives also confer with CBP regarding ongoing matters of mutual interest, such as misdescriptions of shipments inbound from China and other industry malpractices.

Finally, the Commission's oversight of ocean common carriers, ocean transportation intermediaries and marine terminal operators, is an important element in the effort to protect our nation's seaports. The FMC has a wealth of information available to assist our nation's efforts to secure not only our seaports but the entire supply chain. Unique among federal agencies, the FMC regulates virtually all entities involved in liner shipping, receiving, handling, and transporting cargo and passengers in foreign commerce. Our unique mission affords us the opportunity to assist front-line security efforts by providing information regarding the backgrounds of all parties utilizing our nation's supply chain - including those with direct access to our seaports. We continue to collaborate with CBP and with the Department of Justice in these areas.

The Commission is currently assisting national security efforts by working to share its informational resources with other federal agencies, including the CBP and the Department of Homeland Security, through the International Trade Data System (ITDS) and the Automated Commercial Environment (ACE) portal. An updated Memorandum of Understanding with Customs is in process of negotiation and will solidify the cooperative relationship between the two agencies, particularly with respect to the sharing of information. For its part, the Commission expects to provide access to its extensive informational resources and databases containing background information on entities regulated by the Commission. These are some of the most complete databases identifying OTIs and other persons engaged in U.S. foreign commerce. Once completed, the ACE/ITDS system will provide greater transparency of the nation's supply chain.

Finally, we are pleased to report the results of the 2008 Federal Human Capitol Survey. The rate of positive responses by FMC employees exceeded the government wide average in all but three of the seventy-four questions included in the survey. Overall, results from the 2008 Survey indicate that FMC employees like the work they do and believe the Commission does a good job in the areas of recruitment, employee development, and retention. The Commission substantially improved its scores in questions relating to overall job satisfaction. Notable was a 20% increase in satisfaction with the practices and policies of the FMC's senior leaders, a 17% increase in satisfaction with employee training, and an 11% increase in job satisfaction. Overall, employee satisfaction increased by 20% above the 2006 Survey results. With these results, the Commission is confident that it is on the right path to effectively and efficiently meet the needs of the shipping industry with a workforce that is not only devoted to the Commission's mission but also proud of their contributions and confident in their professional development.

Mr. Chairman, I hope that these comments give you a clear indication of the state of the U.S. shipping industry and the important work to be accomplished by the Federal Maritime Commission. I thank the Subcommittee for its support of the Commission through the years and respectfully request favorable funding consideration for 2010 and beyond so that the agency may continue to perform its vital statutory functions and so that the public and shipping industry may continue to be served efficiently and effectively.