Title: Westbound Transpacific Stabilization Agreement
Parties:
American President Lines, Ltd.
Evergreen Marine Corporation
Hanjin Shipping Co., Ltd.
Hapag-Lloyd Container Linie GmbH
Hyundai Merchant Marine Co., Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha Line
Orient Overseas Container Line, Inc.
P&O Nedlloyd B.V.
P&O Nedlloyd Limited
Sea-Land Service, Inc.
Synopsis: The proposed modification provides for the parties to exchange their rates on wastepaper and metal scrap, to charge only the rates and changes so declared, and to be subject to neutral body policing.

Agreement No.: 203–011506–001
Title: Matson/APL Space Sharing Agreement
Parties:
Matson Navigation Company, Inc.
American President Lines, Ltd.
Synopsis: The proposed modification expands the geographic scope of the parties' space sharing agreement include ports and points in Mexico. The modification also revises the vessels to be used under the agreement and provides for other conforming arrangements in connection with equipment interchange and stevedoring/terminal services.

Agreement No.: 202–011528–006
Title: Japan/U.S. Eastbound Freight Conference
Parties:
American President Lines, Ltd.
Hapag-Lloyd Container Line GMBH
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller-Maersk Line
Neptune Orient Lines Limited
Orient Overseas Container Line (U.S.A.)
P&O Nedlloyd B.V.
P&O Nedlloyd Limited
Sea-Land Service, Inc.
Wilhelmsen Lines AS
Synopsis: The proposed amendment provides that P&O Nedlloyd, B.V. and P&O Nedlloyd Limited shall be considered a single member for voting and quorum purposes in conducting the Agreement's business.

Agreement No.: 224–200147–005
Title: Jacksonville Port Authority/Sea-Land Service, Inc., Marine Terminal Agreement
Parties:
Jacksonville Port Authority
Sea-Land Service, Inc.
Synopsis: The proposed modification permits Sea-Land to exercise its renewal option by extending the terms until October 31, 2001. In addition, the modification amends Section 4, Rental, in its entirety; revises Exhibit D—Throughput Rates; and increases the fees and charges for the rental and throughput rates.

Dated: December 18, 1997.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 97–33506 Filed 12–23–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 97–24]

Trade Net, Inc. v. Cho Yang Shipping Co., LTD.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Trade Net, Inc. (''Complainant'') against Cho Yang Shipping Co., Ltd. (''Respondent'') was served December 19, 1997. Complainant alleges that Respondent has violated section 8(c) of the Shipping Act of 1984 (''the Act''), 46 U.S.C. app. § 1707, by failing and refusing to make available the essential terms of a service contract to Complainant, a similarly situated shipper, on the same basis as they have been made applicable to the original contract shipper.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue in such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by December 21, 1998, and the final decision of the Commission shall be issued by April 20, 1999.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 97–33614 Filed 12–23–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Small Business Regulatory Enforcement Fairness Act: Implementation

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: On March 29, 1996, Public Law 104–121 was enacted. Title II of the bill, called the ''Small Business Regulatory Enforcement Fairness Act of 1996'' (''SBREFA''), affects the Federal Maritime Commission's (''Commission'') rulemaking procedures and will attach additional requirements to other Commission regulatory activity that may impact upon small businesses.

This Notice defines ''small business'' for Commission regulatory purposes; announces new procedures for rulemakings affecting small businesses; and establishes two programs required by SBREFA: (1) A program for responding to certain informal inquiries from small businesses; and (2) a policy regarding reduction or waiver of civil penalties in certain cases involving small businesses.

EFFECTIVE DATE: December 24, 1997.

FOR FURTHER INFORMATION CONTACT: Vern W. Hill, Director, Bureau of Enforcement, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (202) 523–5783.

SUPPLEMENTARY INFORMATION: Sections 202–245, Title II of Public Law 104–121, effective June 27, 1996, place a number of obligations on the Commission whenever it regulates ''small business concerns'' as defined by 15 U.S.C. 632 and regulations issued thereunder by the Small Business Administration (''SBA'').

''Small Business '' Defined

Initially, the Commission must decide whether to adopt the SBA's definitions of ''small business'' as being appropriate for the Commission's regulatory purposes. Alternatively, the Commission may, after consultation with the Office of Advocacy of the SBA, and after providing opportunity for public comment, establish its own standards for determining which of its regulated entities should appropriately be considered small businesses within the context of Commission regulation,

and publish such standards in the **Federal Register**.

To make that initial determination, the Commission reviewed SBA classifications and standards, and consulted with the SBA's Office of Advocacy. From these sources, we learned that SBA definitions, classifications and standards are intended to be as inclusive of small businesses as possible; a purpose which does necessarily coincide with the Commission's regulatory mandate.

The SBA catalogues businesses along industry lines using the Standard Industrial Classification Manual (''SIC'') published by the Executive Office of the President, Office of Management and Budget. SBA then, in accordance with its regulations at 13 CFR 121.201, determines which entities in each classification are small business establishments based upon the number of their employees or the establishment's annual receipts in millions of dollars.

The Commission identified the following SIC categories and codes as falling within our regulatory jurisdiction:

4412 Deep Sea Foreign Transportation of Freight (Vessel Operating Common Carriers—''VOCCs'')
4481 Deep Sea Transportation of Passengers (Passenger Vessel Operators—''PVOs'')
4491 Marine Cargo Handing (Marine Terminal Operators—''MTOs'')
4731 Arrangement of Transportation of Freight and Cargo (Ocean Freight Forwarders—''OFFs''; and Non-Vessel Operating Common Carriers—''NVOCCs'')

Business entities in Categories 4412 and 4481, VOCCs and PVOs, are evaluated by SBA according to their number of employees. The SBA has determined that if such business establishments have less than 500 employees, they qualify as a small businesses for SBA purposes. Business establishments in Categories 4491 and 4731, NVOCCs, OFFs and MTOs, are evaluated by their annual receipts in millions of dollars. For these categories, SBA determined that business establishments with annual receipts (gross annual revenues) or less than $18.5 million are small businesses.

As stated, the Commission could accept these SBA standards and treat VOCCs and PVOs having fewer than 500 employees, and MTOs, OFFs and NVOCCS having less than $18.5 million in gross annual revenues, as small businesses; or, following established procedures, we could develop our own standards more closely oriented to the Commission's regulatory framework.

The dilemma is that, unlike other agencies which may choose to develop their own standards, the Commission neither collects nor maintains any data regarding the number of employees or gross annual revenues of the entities it regulates. Indeed, we have no preexisting regulatory purpose for doing so. Thus, for the Commission to create standards by which to define ''small businesses'', and to determine which regulated entities fall within those standards, a major collection of data from all industry segments would have to be undertaken. Moreover, many of the Commission's regulated entities are foreign domiciles from whom such data is not readily accessible. Even assuming sufficient data could be obtained by the Commission, the collection and requisite economic analysis of that data would entail an unfeasible expenditure of time and resources. For these reasons, the Commission has determined to adopt the SBA's inclusive standards. Thus, in the future, the Commission will be considering the small business impact of many of its regulatory undertakings.

However, it is apparent that many Commission regulated entities are VOCCs, PVOs and MTOs which generally are very large companies with far in excess of 500 employees, in the case of VOCCs and PVOs, and $18.5 million in gross revenues in the case of MTOs. These companies, as well as conferences or associations of such companies, generally represented by retained counsel, frequently raise, informally, complex issues responding to which involves considerable Commission time and effort. Such entities are not the intended small business beneficiaries of SBREFA.

Accordingly, the Commission is making a rebuttable presumption that VOCCs and PVOs, as well as conferences and associations comprised of VOCC and PVO members, have more than 500 employees, and that MTOs at United States ports, as well as conferences and associations of such MTOs, earn gross revenues in excess of $18.5 million per year. Thus, VOCCs, PVOs and MTOs are presumed not to be small businesses encompassed within the programs and policies mandated by SBREFA.

Nevertheless, any VOCC or PVO with fewer than 500 employees, or any MTO with less than $18.5 million in gross annual revenues, that seeks to be treated as a small business for Commission regulatory purposes, may submit a request to such treatment to the Secretary of the Commission, along with payroll or gross annual revenues evidence, as applicable, sufficient to substantiate its claim and rebut the presumption.

Rulemaking Affecting Small Businesses

Section 241 of Title II amends the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 603, and sets forth additional requirements applicable to rulemaking proceedings that will have a significant economic impact on a substantial number of small businesses. Under section 242, small businesses now can seek judicial review of Commission compliance with RFA requirements.

Compliance Guides

As required by section 212, each rule promulgated by the Commission in the future that significantly affects a substantial number of small businesses will include a ''compliance guide'' to assist small businesses in complying with that rule. The content of the compliance guide may be taken into account by a reviewing court ''as evidence of the reasonableness or appropriateness'' of any proposed penalties for noncompliance with the rule.

Negative Certifications and Regulatory Flexibility Analyses

The RFA requires federal agencies either to certify that a '' * * * rule will not have a significant economic impact on a substantial number of small entities'', or to prepare a regulatory flexibility analysis. Because there are no developed standards or decisional guidelines available for measuring ''significant economic impact'' or ''substantial number of small entities'', the meaning of those terms will be developed on a case by case basis.

If a proposed rule will not have a significant economic impact on a substantial number of small entities, either adverse or beneficial, an initial regulatory flexibility analysis is not required. In these instances, the RFA authorizes the Commission's Chairman to make a negative certification with respect to that rulemaking. To make this threshold determination, the Commission will undertake a preliminary analysis to evaluate the economic impact of a proposed rule on small business entities. Once this preliminary analysis is completed, the Commission either will make a negative certification or undertake an initial regulatory flexibility analysis. A certification of a finding of no significant impact on a substantial number of entities will be published with the proposed rule in the **Federal Register** and will be accompanied by an explanation of the factual and economic bases for the certification. The negative

certification is subject to judicial review.

When a proposed rule is expected to have a significant economic impact, beneficial or adverse, on a substantial number of small entities, an initial regulatory flexibility analysis will be prepared. The initial regulatory flexibility analysis or a summary of it will be published in the **Federal Register** with the proposed rule.

Under section 603(b) of the RFA, each initial regulatory flexibility analysis is required to address: (1) reasons why the agency is considering the action, (2) the objectives and legal basis for the proposed rule, (3) the kind and number of small entities to which the proposed rule will apply, (4) the projected reporting, record keeping and other compliance requirements of the proposed rule, and (5) federal rules that may duplicate, overlap or conflict with the proposed rule. In addition, each initial regulatory flexibility analysis must describe any significant alternatives to the proposal that accomplish the statutory objectives and minimize the significant negative economic impact of the proposal on small entities.

When the Commission issues a final rule, it will prepare a final regulatory flexibility analysis or certify that the rule will not have a significant economic impact on a substantial number of small entities. A final regulatory flexibility analysis will discuss the comments received, the alternatives considered and the rationale for the final rule. The analysis itself or a summary thereof will be published in the **Federal Register** with the final rule. The final regulatory flexibility analysis is subject to judicial review.

Programs and Policies To Address Small Business Concerns

SBREFA requires:

(1) That the Commission establish a program for responding to informal compliance inquiries from small businesses (section 213); and (2) That the Commission establish a policy or program for reduction or waiver of civil penalties for violations by small businesses of statutory or regulatory requirements (section 223).

Program to Respond To Informal Inquiries From Small Businesses

The staff of the Commission has always responded informally to telephonic inquiries from the regulated public. Such inquiries are received daily, and often are handled routinely. Many inquiries involve simple questions regarding matters such as tariff filings, licensing and bonding, as well as procedural matters. Others are far more complex and time consuming, involving contingencies and variables that must be clarified or resolved even before the precise issue can be identified. Most often, the latter type inquiries, and those requiring lengthy discussions and follow-up discussions, are from VOCCs, PVOs and MTOs through their retained counsel. For the same reasons discussed above, the Commission does not consider inquiries from these sources to be within the contemplation of the informal inquiry program required by SBREFA.

While the Commission will continue to provide informal assistance to all persons subject to its jurisdiction, with respect to inquiries from small businesses, current practices are being augmented because of SBREFA's new requirements that:

(1) After 2 years, the Commission must report on the scope of the Commission's program and the achievements of the program in assisting small businesses to comply with agency statutes and regulations; and

(2) The agency may be held accountable for the content of its advice regarding an inquirer's compliance with statutory or regulatory requirements. The substance of such advice can be raised in any subsequent appeal of a civil penalty imposed against a participating small business entity.

In accordance with SBREFA, and because of its reporting and accountability provisions, the Commission is establishing the following procedures:

Small businesses subject to Commission jurisdiction are invited to make informal inquiries regarding the lawfulness of their own activities. This program will apply to those small busineses that, at the time fo the inquiry, identify themselves and the type of their business operations, for example, NVOCC or OFF.

Inquiries may be submitted by telephone, letter or e-mail depending upon the nature and complexity of the inquiry as determined, ultimately, by the person receiving the inquiry. Additional information may be required and requested. Responses will be prvovided by telephone, letter or e-mail, as appropriate in the opinion of the person responding.

The program goal is to provide prompt telephonic advice when possible, or a written response within 20 days of the date that all necessary information has been received. The Commission will make and retain records of each informal inquiry made under this program in order to document the name and description of the inquirer, relevant dates, and the substance of the inquiry and the response thereto.

Depending on subject matter, inquiries by entities that are small businesses shall be submitted to the following individuals at the Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573–0001; or at the telephone number or e-mail address listed below:

PASSENGER VESSEL CERTIFICATION

Theodore A. Zook .....202–523–5856; Theoz@fmc.gov
Curt L. Ohlsson .....202–523–5856; Curto@fmc.gov

OCEAN FREIGHT FORWARDERS

Betty J. Bennett .....202–523–5843; Bettyb@fmc.gov
Elnora V. Howard .....202–523–5843; Elnora@fmc.gov

VOCC, NVOCC and MTO TARIFF MATTERS

James G. Cannon .....202–523–5818; Jamesg@fmc.gov
Roland E. Ramlow .....202–523–5818; Rolandr@fmc.gov
Martin W. Wilson.....202–523–5818; Martinw@fmc.gov
Ernest L. Estes .....202–523–5818; Erneste@fmc.gov
James H. McEachin .....202–523–5818; Jamesmc@fmc.gov

SERVICE CONTRACT MATTERS

Theodore A. Zook .....202–523–5856; Theoz@fmc.gov
Mamie H. Black.....202–523–5856; Mamieb@fmc.gov
Roland E. Ramlow .....202–523–5856; Rolandr@fmc.gov

AUTOMATED TARIFF FILING AND INFORMATION (''ATFI'') REGISTRATIONS

Anne E. Trotter .....202–523–5818; Anne@fmc.gov
Hattie R. Broadnax.....202–523–5818; Hattieb@fmc.gov

ATFI ACCESS, USE AND FEES

Pat N. Gorski .....202–523–5834; Pat@fmc.gov

AGREEMENT MATTERS

Jeremiah D. Hospital.....202–523–5793; Jeremiah@fmc.gov

TRADE MONITORING MATTERS

Frank J. Schwarz .....202–523–5845; Franks@fmc.gov

The Office of Informal Inquiries, Complaints and Informal Dockets (''OIIC'') (Telephone: 202–523–5807, E-mail: Josephf@fmc.gov) will continue to receive informal complaints and will attempt informally to resolve related disputes. OIIC also will be the

designated recipient of inquiries from small businesses under SBREFA with respect to subjects not specified above.

Questions regarding the Commission's Rules of Practice and Procedure, 46 CFR Part 502, do not fall within the scope of this program and should be directed to the Office of the Secretary (202–523–5725). Other requests for assistance from persons not covered by SBREFA, as in the past, may be directed, as applicable, to the Office of the General Counsel (202–523–5740), Bureau of Enforcement (202–523–5783), Bureau of Economics and Agreement Analysis (202–523–5787) or the Bureau of Tariffs, Certification and Licensing (202–523–5796; FMCBTCL@fmc.gov).

Reduction or Waiver Of Civil Penalties for Violations by Small Business

As stated above, SBREFA (§ 223) requires that the Commission establish a policy for reduction or waiver of civil penalties for statutory or regulatory violations by small businesses. Within two years, the Commission must report to four Congressional Committees on: (1) The scope of the policy or program; (2) the number of enforcement actions that qualified or failed to quality for the program or policy; and (3) the total amount of penalty reductions and waivers granted. SBREFA and its legislative history suggest certain approaches, i.e., consider ability to pay; consider good faith shown by the small business; require that the violation be discovered through an agency supported compliance assistance program; and allow for violations to be corrected within a reasonable time. Repeat offenses or violations involving willful or criminal conduct are not intended to be included within the policy.

Reduction of Civil Penalties

The Commission already is subject to statutory requirements with regard to civil penalties, including consideration of a respondent's ability to pay, as well as its size and financial condition and the circumstances of the violation. The Commission has followed those requirements in the past and will continue to do so in the future. In addition, appropriate records will be maintained so that the Commission can fulfill its responsibility to file requisite reports to Congress.

Voluntary Compliance and Waiver of Civil Penalties

The Commission has established an internal policy, to be used in appropriate cases, to obtain ''voluntary'' compliance by, and waiver of civil penalties against, small businesses found to be violating Commission statutes or regulations.

Under this program, each subject of an investigation will be evaluated to determine whether, in the circumstances of that particular case, a demand for civil penalties, or compliance and waiver of civil penalties, would be the more effective regulatory tool. In making this determination, the following factors will be considered:

1. Whether the violation was knowing and willful, involved fraud or financial gain or caused injury to the public;
2. The subject's history of prior offenses;
3. Extent to which the subject demonstrates a good faith desire to comply with Commission requirements in the future; and
4. The subject's ability to pay a civil penalty.

Appropriate records will be maintained in order for the Commission to fulfill its responsibility for filing required reports to Congress.

By the Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 97–33560 Filed 12–23–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

[File No. 962–3154]

Honeywell Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before February 23, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Linda K. Badger, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103. (415) 356–5270.

Kerry O'Brien, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103. (415) 356–5270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for December 17, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Honeywell Inc. (''Honeywell'') a Delaware corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

Honeywell manufacturers and markets various types of air cleaning products, including a line of portable, room air cleaners. These ''Honeywell Air Purifiers'' include an ''enviracaire® True HEPA filter.'' The Commission's complaint charges that respondent's advertising for the Honeywell Air Purifier included unsubstantiated claims of efficacy and allergy relief. Specifically, the complaint alleges that the respondent did not possess adequate