McLEAN – A RETROSPECTIVE page 8

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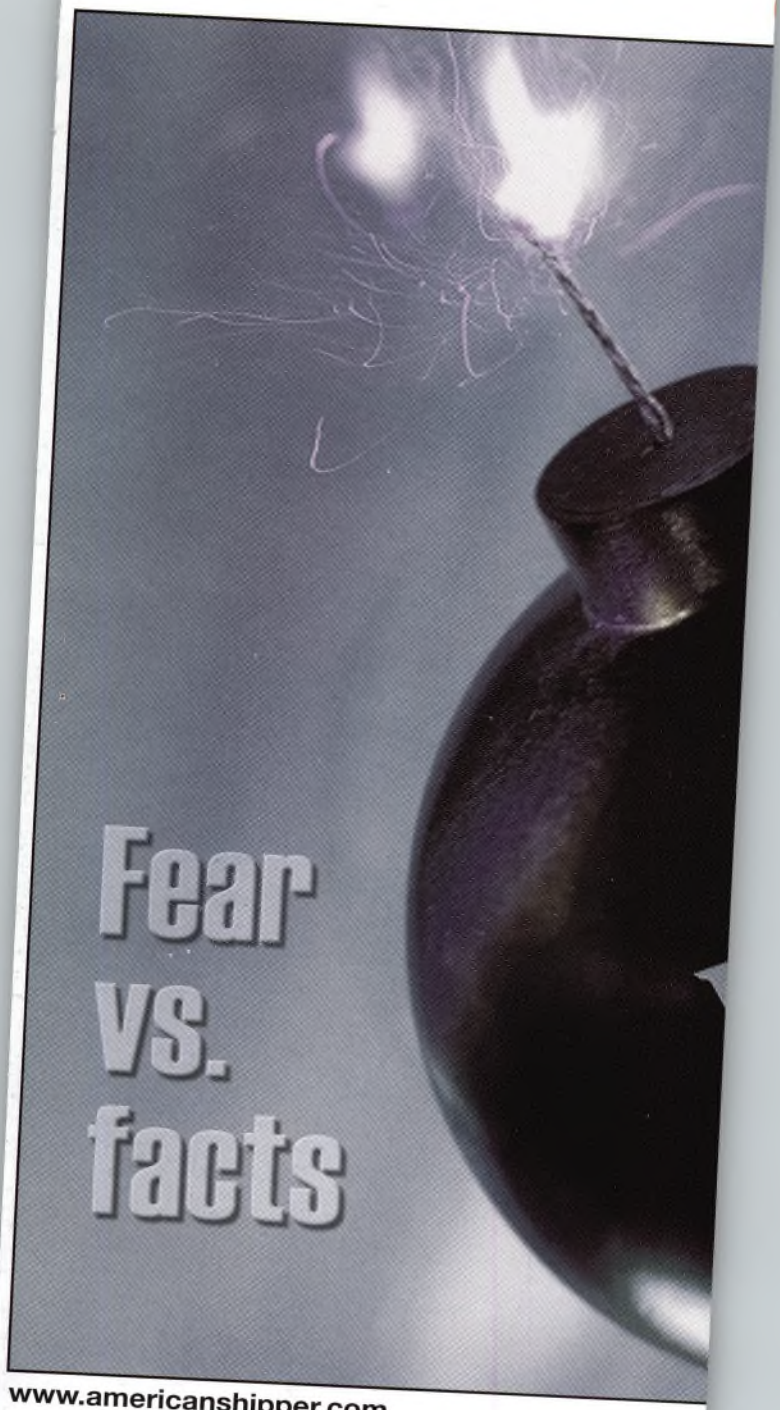

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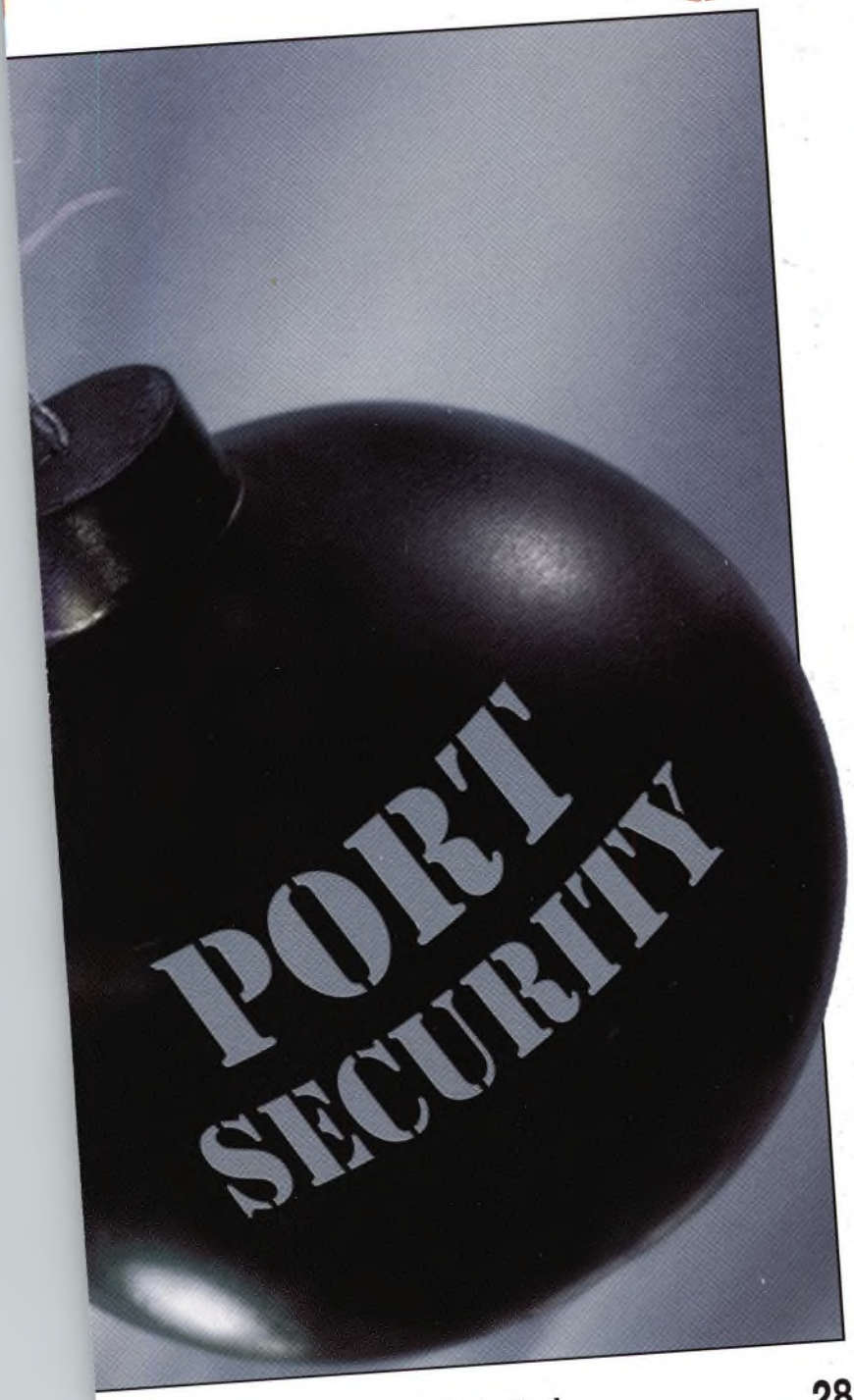

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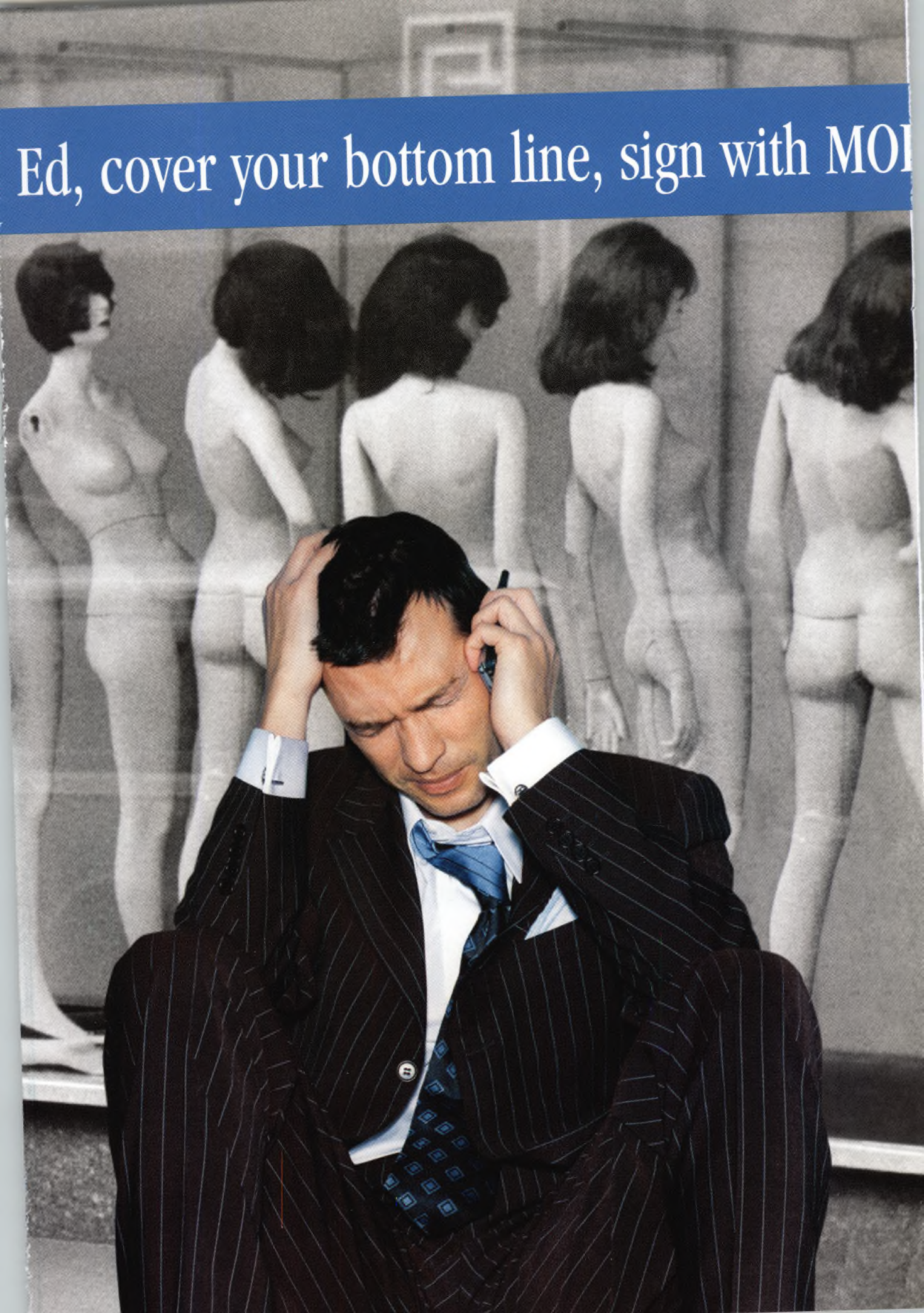
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American Shipper

Vol. 48, No. 4 April 2006

On the Cover

comments & letters

Burying the dog's bone elsewhere

Your editorial in the March issue, "Give the dog a bone" (page 96) was outstanding and spot-on.

While "globalization" may be the driving force in commerce today, the government should be reminded that its sponsorship of global free trade should be, first and foremost, to the benefit of the people of the United States. Government reliance on multinational corporations and a free market economy to repair the infrastructure issues of the United States is a poor strategy. American multinational corporations recognize that shareholder value means performance of returns *in any market,* not just the market of the United States. They are going to go where their costs are lowest and their returns are highest.

The people of the United States need to consider that to corporations "market adjustment" might mean moving the middle class purchasing power to another region of the planet where the economic variance produces better overall returns. Corporations will do so by not only outsourcing jobs, but indeed, outsourcing the economy to another region with higher return on investment. Next, the tax base erodes and everyone takes a ride on the downward spiral express.

The infrastructure is not strategically advantaged. Corporations might grouse a little about this but ultimately will be just as apathetic about the issue as our government is. However, their ambivalence will have a different raison d'être. Corporations can simply pack up and move their economic basket somewhere else. Somewhere easier to do business. Governments, and the citizens they ostensibly serve, can not.

If our government does not implement effective infrastructure solutions here, we should only expect the free market to invent effective solutions of its own — somewhere else.

David Fisher
Akron, Ohio

'Storm in a glass of water'

I appreciate your solid coverage on Dubai Ports World's acquisition of Peninsular and Oriental Steam Navigation Co (pages 78-87 and at www.americanshipper.com/dpworld/).

Regretfully this was "a storm in a glass of water" but the damage has yet to be fully measured.

The Arab world has reason to be upset with the United States. Some 85 percent of terminal facilities in the United States are foreign owned/controlled.

OOCL with significant financing from the People's Republic of China, owns facilities; APL/NOL owns many of their own facilities; and Maersk

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certainly owns and controls its own terminals.

Unfortunately, the developments are more a reflection of a Congress running wild and authoring bills that make no sense.

One should rather start to ask why it is that U.S.-based terminals are not owned and managed by genuine U.S. companies? Just like, why is it that there are no more U.S.-owned shipping companies in the vital international container shipping industry? What is wrong with U.S. management?

Bengt Henriksen
president,
Quality Logistics Inc.
San Carlos, Calif.

Wrong from the beginning

The astounding spiral of misinformation over Dubai Ports World that rose like a writhing snake to bite the Bush administration where it was most vulnerable could and should have been beaten back at the beginning of the story. That did not happen because the major media, both print and television, found that it served their editorial purposes to run with misrepresented facts.

For example: *The New York Times* on Feb. 16 said flatly in an editorial that Dubai Ports World had acquired "the British company that operates the Port of New York," a total falsehood also perpetuated in news stories until, a few days after a national feeding frenzy had begun in earnest, some corrective mitigation began to appear toward the end of the paper's articles on the subject.

An *American Shipper* reporter subsequently e-mailed *The Times,* noting that Dubai Ports World was slated to acquire only a one-half share in the operation of the New York-New Jersey port's third-largest terminal: "Dubai Ports World is in no position to dictate matters of policy or security, and certainly cannot be said to operate the port of New York."

Andrew Rosenthal, deputy editorial page editor of *The Times,* replied in part: "You could argue that it would have been better to say 'operates a significant part.' At most, that's a minor slip worthy of a minor correction." He added: "You don't need to dictate policy if you have a major role in carrying it out."

We beg to differ. That was no "minor slip." Quite aside from *The Times'* initial semantic distortion — which other media seized upon — renting space in a terminal doesn't give one tenant the right to determine what vessels call in the port. It is especially surprising that no one in the Port Authority of New York and New Jersey challenged *The Times* early in the game, before the multiheaded snake had risen from the pit.

"We didn't want to get into the politics of it," one Port Authority spokesman said — all the more ironic because soon it was all politics. *(Robert Mottley)*

A terrible thing to waste

A congressional watchdog agency found that the U.S. military fails to reuse costly active radio frequency identification (RFID) tags.

According to the Government Accountability Office, the Defense Department has been using active RFID tags to track shipments since the early 1990s. In January 2005, the military officially started using so-called passive RFID tags.

Army and Defense Logistics Agency officials estimated that rates of tag returns had been 10 percent before combat operations started in Iraq, and 3 percent after. Only 16 percent of the military's active RFID tags were reused on more than two occasions.

Between 1997 and 2005, the Defense Department bought about 1.3 million active RFID tags, valued at more than $130 million. The average price per tag is about $100, the GAO said.

In a response to the GAO's findings, Jack Bell, deputy undersecretary of defense for logistics and material readiness, said the military will develop new operating procedures for reuse of active RFID tags by July 2006. *(Chris Gillis)*

Shock and anger

On Oct. 17, 2005, the U.S. Court of Appeals for the Second Circuit ruled that Korean law applied in a case in which cargo interests had sued Hyundai Mipo Dockyard, a Korean shipyard, for performing allegedly substandard welding that caused the containership *MSC Carla* to break up in a North Atlantic storm in 1997.

Plaintiffs were very surprised that the court of appeals held that Korean law barred recovery against the shipyard due to expired statutes of limitation — all the more so since the appellate panel had not held any hearing on the subject of Korean law, and because a lower court determined that the shipyard had waived its right to invoke Korean law.

The appellate panel's decision did not sit well with the cargo interests and the North of England P&I Association Ltd., the latter being a protection and indemnity insurance club. More than $100 million was at stake in third-party claims filed by hundreds of American shippers and their cargo underwriters as a consequence of the cargoes that sank or were damaged aboard the *Carla.* In addition, many of the admiralty law firms in the New York area, which had invested nine years of time on the case, lost millions of dollars in fees.

After the October ruling, the losing side filed a thick brief of fresh petitions, essentially asking the appeals court for a panel rehearing on aspects of its decision. In a rebuke that left

the plaintiffs' multiple lawyers stunned and angry, the Second Circuit responded on Feb. 27 with a single word: "Denied."

That means all is lost, unless the cargo interests and the P&I club pursue one or more of the following options:

- They can litigate in South Korea and hope for the best.
- They can ask the U.S. Supreme Court to review the Second Circuit's decision.
- They can sue Lloyd's Register, a classification society that drew up specifications for the alleged defective welding. The *Carla* cargo interest attorneys had, in fact, put planned litigation against Lloyd's on hold until the appeals court had ruled.

Cargo interests and the P&I club have 90 days to file for *certiorari* with the Supreme Court. One attorney said in mid-March that "the needle was hovering 50-50" whether to appeal or not. Litigation against Lloyd's may be a likelier alternative. *(Robert Mottley)*

Visions of a Miami port tunnel

The idea of a tunnel between the Port of Miami and the Interstate Highway system has been labeled everything from visionary to a the greatest potential boondoggle in the city's history. Perhaps that is why it has been under serious consideration for a quarter-century, yet just beyond the grasp of the real world.

Although Florida Department of Transportation officials have been taking a hard look at both the engineering and fiscal feasibility of the project for the last several years, the concept took a step toward reality in March when FDOT officials met with prospective firms who would actually submit designs and bids. The state wants to have a list of genuinely qualified candidates in place in April, with bids submitted this fall and a firm selected by December.

That could mean an end to a situation where trucks have to negotiate several blocks of downtown streets, which require very tight, 90-degree turns, between the port entrance and State Highway 836, the heavily traveled highway that carries much of the traffic to warehouses located predominantly west of Miami International Airport.

State officials laid out broad guidelines. The tunnel would be 3,900 feet long and would go under Biscayne Bay from the port to Interstate 395. It would have two lanes in each direction and would be 40 feet in diameter. Although no cost guidelines were included, rough estimates put the project at around $1.5 billion.

Port director Charles Towsley told the *Miami Herald* after the session, "Picture the existing bridge (leading into the port) and invert it."

While the prelude to bidding is realistic, the project still seems visionary. State officials said work would begin in seven years. *(Jim Dow)*

Stepping down as Hueneme's top banana

It doesn't get quite the same press coverage as its giant neighbors to the south, but the Port of Hueneme in Southern California has steadily developed over the past decade to the point that it is the West Coast's leading importer of bananas and the country's leading port for citrus fruit, as well as a key gateway for cars.

Most of this has happened on the watch of Bill Buenger, the Ventura County, Calif. port's executive director since 1994. But at the end of February, Buenger announced his retirement. Some are speculating that it was fatigue from dealing with a local community that was pushing hard against port expansion.

Yet the port's expansion has — according to an economic study cited by the *Ventura County Star* — helped generate 3,800 jobs and $535 million for the Ventura County economy.

The port board credits Buenger with much of that success — one board member told the newspaper that port tonnage and revenue have climbed 50 percent since he took over, all while competing with the nation's two biggest ports just two hours south by car.

It's perhaps a sign of the times that the pushback from environmental groups against port expansion is driving quality people out of the business. Most in the industry would probably say that environmental and community groups that seek to block port development just don't understand the nuances of foreign trade, nor how far the industry has come in its thinking about environmental issues.

But it might also be fair to say that ports, for so long completely overlooked as a source of air pollution and traffic in urban areas, are generating more attention than they deserve to make up for lost time.

Buenger's departure comes as the first half of 2006 is shaping up as an interesting time for port pollution issues in Southern California. In March, Evergreen Marine Group Chairman Kuo-Cheng Chang committed to a huge audience in Long Beach that his company would only build environmentally-friendly ships (see related story, pages 72-73).

In April, the Port of Los Angeles is holding a two-day conference on cold-ironing, where ships are powered using electricity rather than auxiliary diesel engines while docked.

And days later, state air regulators will hold a conference on reducing emissions from diesel engines involved in port activities. At the same time, more and more terminal operators are pilot testing alternative fuel vehicles on their facilities, all without a single governmental requirement to do so.

A few more developments like this and perhaps people like Buenger may just stick around for a bit longer. *(Eric Johnson)*

Corrections

A story in the March issue about roll-on/roll-off cargo services to the Middle East (pages 68-70) incorrectly identified Wallenius Wilhelmsen's relationship with American Roll-on Roll Off Carrier (ARC). ARC is a U.S. registered company operated and managed from its Montvale, N.J. headquarters. ARC has a fleet of eight U.S-flag Pure Car and Truck Carriers. Wallenius Wilhelmsen does not operate vessels to the Middle East, but does charter space on ARC vessels in order to transport commercial cargo to and from the region.

A story on Mid-Ship Group in the December issue (page 62-63) should have said Robert Diamond is president and chief operating officer. Matthew I. DeLuca Jr. is chief executive officer and chairman of the Mid-Ship Group and founding partner. DeLuca founded Mid-Ship Marine in 1974.

In February's Shippers' Case Law (page 92) Stewart Wade's name was misspelled. He is vice president of marketing and communication for the American Bureau of Shipping.

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McLEAN

A retrospective

By Robert Mottley

(Photo courtesy of Capt. James McNamara collection, originally published in *American Shipper* May 1996)

A recent telecast from Dubai Ports World showed panoramic views of the sprawling terminal at Dubai's Jebel Ali Port, thrust suddenly into unwonted limelight because of a furor in the United States over Dubai Ports' purchase of a terminal management company with facilities in six American seaports.

Dubai's impressive skyline of apartment buildings and office structures reared up behind the port. But more eye-grabbing were thousands upon thousands of stacked containers in the foreground that, when seen end-on, looked like myriad tiny boxes holding Chinese fans.

The news anchorpersons on camera, using the port as background, talked only about the slim but nonetheless hysteria-provoking chance that one of those containers might hold a weapon of mass destruction bound for the United States.

In doing so, they missed the real story: the massed containers themselves, which have in only 50 years revolutionized world trade as nothing before them since the time that steam engines were put on ships.

> ***"Malcom McLean is one of the few men who changed the world."***
>
> Walter B. Wriston

An American entrepreneur named Malcom McLean, who died at the age of 87 in the spring of 2001, was the prime catalyst in triggering the trade tsunami that containerization became. But he was not the first by any generous measure to think of putting cargo-carrying vehicles on ships.

That does not diminish McLean's iconic status in the transportation industry, to the point that one determinant of shipping literacy is to spell his first name correctly with a single "l."

American Shipper asked several of McLean's associates what they remember most vividly about him, and what he would think of today's post-9/11 trading world.

Alexander and P.T. Barnum's logistics edge

First, a little context.

Alexander the Great resupplied his armies with ox carts that were put on ships. His troops, through all of Alexander's campaigns, were rarely more than a day's march from a port or navigable river.

Much closer to the modern era, P.T. Barnum became one of the first U.S. entrepreneurs to use what is known today as intermodalism for competitive advantage. In 1872, Barnum's circus started moving its wagons on rail flatcars.

By 1900, barges were transporting railcars across the Great Lakes, and across rivers — such as the Hudson in New York — that sundered transportation routes in metropolitan areas.

Henry Flagler, a co-founder of Standard Oil and a business magnate in Florida, established his "Overseas Railroad" from Miami to Key West in 1912. The "overseas" title was justified because Flagler used barges to carry freight cars on from Key West to Havana, Cuba.

A later rail ferry venture, started by Dan Taylor, a native of Ocracoke, N.C., operated between West Palm Beach, Fla., and Havana, Cuba.

In 1929 Graham M. Brush, a World War I aviator, founded Seatrain Lines in Hoboken, N.J. His company's title exactly described the services offered. Brush used ocean vessels to carry 100 railcars on three cargo decks and a ship's main deck.

The freight cars were brought on board with their wheels attached, since each ship had four sets of parallel rail tracks affixed to the deck. Seatrain vessels could be unloaded and reloaded within 10 hours.

Several events have been planned to commemorate the 50th anniversary of the April 25, 1956 sailing of the Ideal X, Malcom McLean's first ship to carry containers.
(Photo courtesy of Capt. James McNamara collection, originally published in *American Shipper* May 1996)

Epiphany in Jersey City

Malcom McLean was born in Maxton, N.C., in 1914, the fourth of seven children. His father had been a farmer and mail carrier.

In 1931, McLean decided not to follow several high school classmates who went to sea because jobs were scarce ashore. Instead, he worked in a grocery store and then operated a service station in nearby Red Springs, N.C.

To make ends meet, McLean used an old car and a borrowed trailer to carry freight locally. Upon learning that the Works Progress Administration (WPA) was building a road and needed dirt hauled, McLean bought a used truck for $120 — $35 up front, the rest paid in installments. After six months, he could afford another truck.

Despite an early flush of success, McLean's business suffered as the Depression bit harder and there was less cargo to carry. At his lowest point, McLean was back to one truck, which he drove himself. His sister, Clara, who had been a secretary, quit her job to manage McLean's office. A younger brother, Jim, ran the service station McLean had leased.

Just before Thanksgiving 1937, McLean — then 24 — drove a load of cotton bales to New Jersey. He spent all night on the roads to reach a pier in Jersey City, since the bales were going that morning aboard the *Examelia,* an American Export vessel bound for Istanbul.

In Jersey City, McLean had to wait all day for dockworkers to unload his truck — time he could ill afford to waste, since he needed to drive back to North Carolina for another load.

Years later, McLean recalled: "I watched all those people muscling each bale and crate off the trucks and into slings that would lift them into the hold of the ship.

"On board, every sling would have to be unloaded by stevedores and its contents put into the proper place in the hold. What a waste of time and money! Suddenly, the thought occurred to me: wouldn't it be great if my trailer could simply be lifted up and placed on the ship without its contents being touched? If you want to know, that's when the seed was planted."

With their home pier less than mile away, in Hoboken, N.J., Seatrain's vessels were readily visible on the Hudson River.

Taylor said, "anyone could look at a Seatrain ship and see that the scale for carrying boxcar was feasible.

"In Malcom's mind, I think he probably saw truck trailers put on board instead of rail cars. That would have been a sensible image, nothing crazy about it."

'The McLean Lane'

McLean's troubles eased as the Depression ebbed. When southern textile mills resumed operations, he acquired more vehicles. When he incorporated McLean Trucking in 1940, his company had 30 rigs and reported gross revenue of more than $230,000. In 10 years, it would have 162 trucks and gross more than $12 million a year.

As his trucking operations expanded, McLean never aban-

doned the idea that had taken root in Jersey City. Yet he certainly knew that others were using ships to carry boxed cargo.

For example, by the end of World War II, the U.S. Army Transportation Corps had developed "the Conex" (for "container express"), a reusable steel container in several sizes — the median being seven feet high and six feet wide. A commercial version was called the Dravo Transportainer.

Conex boxes were used extensively in the Korean War. Upon arriving at their destination, most of them served as command posts or field housing for troops. The U.S. military switched to standard containers for larger loads in the 1970s.

In 1945 Andrew Jackson Higgins, another shipping entrepreneur, proposed using 10- and 20-foot long containers carried on truck chassis, railcars, ships and barges.

Workers at Bethlehem Shipyard hoist a McLean Trucking trailer on June 22, 1955, experimenting with how to load and unload trailers aboard vessels.
(Photo courtesy of Capt. James McNamara collection, originally published in *American Shipper* May 1996)

Higgins Industries, a New Orleans-based company that had made landing craft for Allied forces during World War II, would provide such containers. After a run of bad business luck, Higgins died in 1952.

In 1953, the Alaska Steamship Co. started carrying containers between Seattle and Anchorage on Liberty ships and C-1 freighters fitted with squared-off holds. The containers were collapsible boxes stowed below deck and on deck.

In 1955, the White Pass & Yukon Railway shipped 25-foot containers between the Yukon Territory and Vancouver, British Columbia, on a vessel called the *Clifford J. Rogers*.

By then, McLean's own plans were well afoot. "In 1954, McLean held a seminar for his company's employees to explain the "sea-land" concept to them, and that was two years before the *Ideal X* sailed," Paul F. Richardson told *American Shipper*.

Richardson, who started working for McLean Trucking in 1952 after graduating from college, became the company's top-ranked salesman, and later president of Sea-Land Service Inc., from 1969 to 1976. He is now a principal with Paul F. Richardson Associates Inc., based in Holmdel, N.J.

"We tend to forget today that McLean Trucking was an astonishingly successful operation," he explained. In less than a decade, McLean's company had become the largest motor freight carrier operating in the South."

In 1950, McLean ordered 600 General Motors diesel tractors with sleeper cabins to be delivered in two years — the largest order GM had received at that time.

McLean's drivers were single-minded on keeping their schedules. In those years, long before the Interstate highway system, drivers working for McLean's competitors referred to the middle or passing lane on three-lane highways as "the McLean Lane." His company's trucks used it whenever possible as a driving lane, instead of one meant for passing other vehicles.

McLean generously rewarded drivers with exemplary safety records. He once offered a furnished house worth $25,000 as a prize for a trucker on his payroll with the best driving record for the next year.

Upon learning that the eventual winner had gone 80,000 miles without a scratch or dent on his rig, McLean canceled his freight insurance, saving more money on premiums that he had paid for prizes for his drivers.

A useful man in the street

By 1952, McLean knew that the easy days of long-haul trucking were over. States were imposing "highway use" taxes based on weight and mileage. In particular Virginia, through which McLean's trucks had to cross on some of their busiest

routes carrying textiles and tobacco products north, stringently enforced weight limitations.

Some of those who knew McLean well said Virginia's restrictions may have been the irritant that convinced him to look seaward.

Meantime, McLean had asked the Southern Railroad, which ran between Washington, D.C., and New Orleans, to carry his trailers on rail flatcars — known as piggybacking.

The railroad declined. McLean's business would have been welcome, but the Southern's executives weren't about to risk the wrath of other railroads, which viewed truckers as an enemy in the burgeoning fight for dominance in long-haul surface transportation.

The railroads' fear was that truckers would take most of the higher-valued cargo, leaving railroads to haul coal and bulk commodities of lower value.

McLean didn't share that view. "He only wanted to move his trailers at the least cost," Richardson said.

McLean's solution was to start a trailer ship service, first by acquiring Pan-Atlantic Steamship Corp., then a subsidiary of Waterman Steamship Corp., and eventually Waterman itself.

Because the Interstate Commerce Commission would not allow McLean to own two competing companies, McLean Trucking and Pan-Atlantic, that were in different industries, McLean divested himself of control of his trucking unit. Malcom, Jim and Clara McLean held 75 percent of its stock.

On Jan. 21, 1954, McLean resigned as president of McLean Trucking. That company's tightly held shares of stock were registered to a new company, McLean Industries Corp.

On the same day, McLean sold his shares for $6 million and bought Pan-Atlantic from Waterman. Three months later, he bought Waterman.

Seven major railroads immediately and jointly protested the deal, but the ICC eventually dismissed their complaint.

In bringing off this coup, McLean had put together a financial strategy with Walter B. Wriston, a New York banker who had previously arranged loans for a Greek businessman named Aristotle Onassis.

Wriston went on to lead Citibank, which became the world's largest bank. In the foreword of his own biography, Wriston would later write: "Malcom McLean is one of the few men who changed the world."

In Mobile, Ala., not all members of Waterman's board of directors liked the idea of McLean's takeover.

Lacking a quorum of enough directors to approve the sale, one of McLean's lawyers ran out into the street and seized the first passerby wearing a coat and tie. Hauled into the boardroom, the stranger was instantly elected a Waterman director. He was told how to vote, and then hustled back to the street with $50 in his hand.

Coastal focus

McLean first intended to use roll-on/roll-off vessels, instead of ships for which containers would be lifted on and off, but he soon realized that the wheels and undercarriage of truck trailers took up valuable cargo space.

The deck of the converted T-2 tanker Ideal X is loaded with a mix of 32-foot McLean Trucking trailers and newly constructed 35-foot containers for a trial run on Aug. 15, 1955. Eight months later, on April 26, 1956, the Ideal X would make its historic inaugural voyage from Port Newark, N.J., to Houston.
(Photo courtesy of Capt. James McNamara collection, originally published in *American Shipper* May 1996)

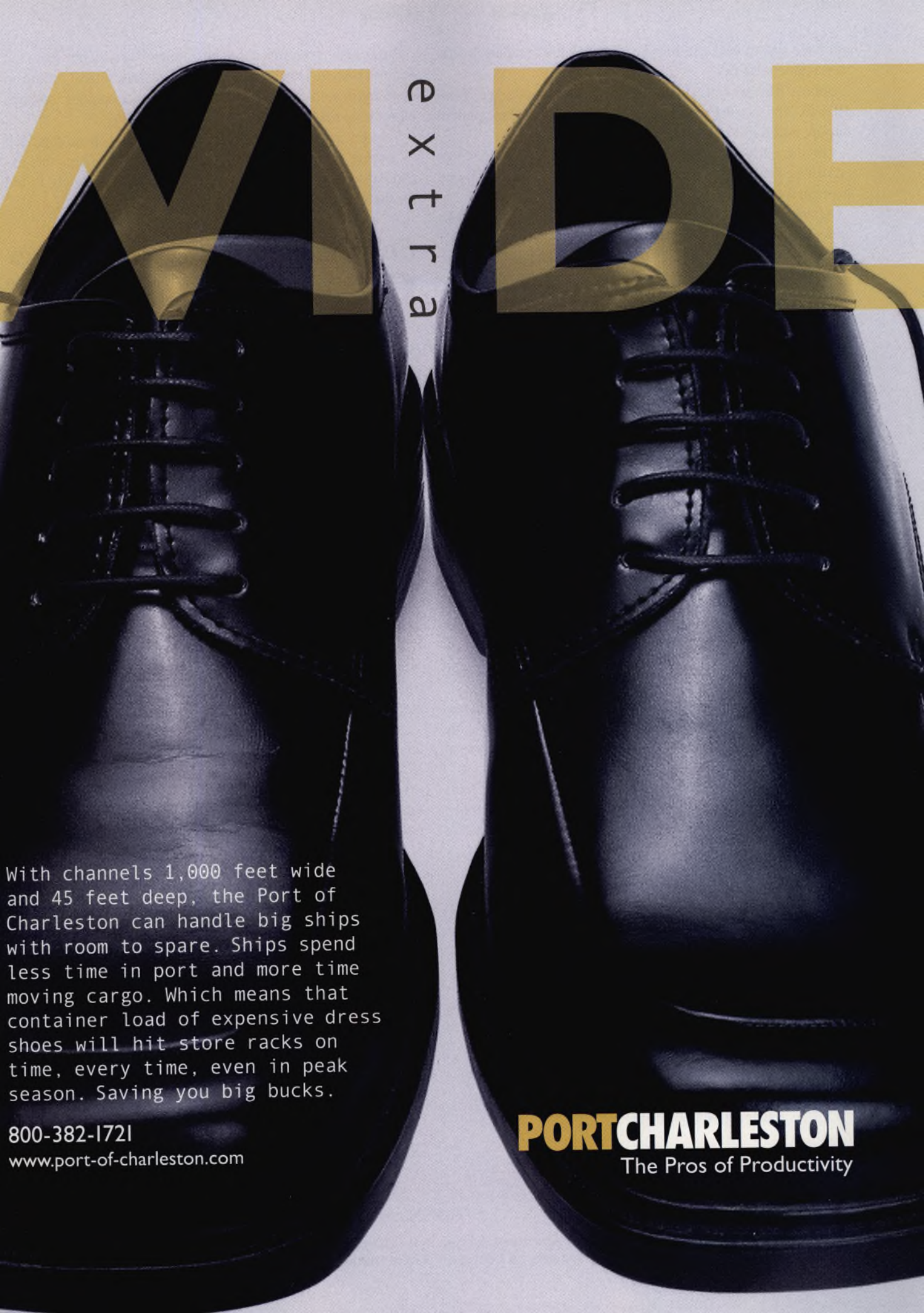
After acquiring Pan-Atlantic, McLean signed a contract with Brown Trailer Co., based in Toledo, Ohio, for 22 reinforced aluminum containers, 33-by-eight-by-eight feet, which were a standard catalogue item for Brown Trailer. McLean paid about $2,800 for each container.

Keith Tantlinger, vice president of engineering at Brown Trailer, then designed and patented an automatic spreader to move McLean's 25-ton containers between a ship and a pier.

Tantlinger's spreader comprised a steel grid having the same dimensions as a container. A crane operator could lock the spreader to the container at its top corners. Once the container had been lowered on a vessel, the spreader could be unlocked by the operator.

McLean's plans at this time were focused on Pan-Atlantic, despite the company's name, providing coastwise service between U.S. ports, and between the U.S. mainland and Puerto Rico.

Although McLean intended containerization originally to function in the context of Jones Act-coastwise trade, "he never thought there was any boundary that prevented it from going other places," said R. Kenneth Johns, an Auburn University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graduate whom McLean hired in 1957 as his company's first management trainee.

Johns, who was president of Sea-Land Service Inc. from 1979 to 1986, is currently chairman of Hampshire Management Group, based in Roselle Park, N.J.

"In the early days, he certainly didn't say, 'let's get this coastwise deal up and running so I can go to Europe.' All that happened eventually occurred step by step," Johns said.

At that time, McLean learned a lesson from Eric Rath, a Miami-based naval architect and engineer, who had put together a fleet of several LST landing craft that he had converted into trailerships.

In 1954, Rath's company, Trailer Marine Transport, began operating its vessels between Jacksonville, Fla.; Miami; and San Juan, Puerto Rico.

Instead of building up a trading route between those venues, Rath sought to develop transatlantic operations, and went bankrupt.

Crowley Maritime Corp. later bought Rath's company, replacing its LSTs with multi-deck barges and making the business profitable. That routing continues in 2006 as part of Crowley Liner Services.

McLean knew that it wasn't enough to provide a container service to Puerto Rico. It was also necessary to have sufficient goods coming back to the United States so the ships would not return empty.

To that end, McLean hired William Neuhauser away from Wall Street to lure major U.S. firms, such as Johnson & Johnson, to set up offshore manufacturing plants in Puerto Rico that would generate valuable return cargo.

Prior to the 1950s, about all Puerto Rico could send north was sugar and cement. Neuhauser was a prime catalyst in changing that situation, as more American companies saw the sense of establishing Puerto Rican operations.

"Bill Neuhauser made the Puerto Rican service more profitable for McLean," said David Howard, founder of *American Shipper.* "He never received the credit he should have for doing that."

Neuhauser's recruiting of U.S. companies was similar to the historic British, Dutch and Scandinavian traditions of setting up huge trading companies that would generate cargoes for ships en route to national colonies.

Yet McLean departed from this venerable European approach by having no financial involvement in the U.S. firms that expanded to Puerto Rico — just a favorable opportunity to bid for their plant-to-plant freight.

East Coast, West Coast beginnings

On April 26, 1956 — a grim, rainy day — about 100 Pan-Atlantic employees and McLean's invited guests assembled at Shed 154 in Port Newark to watch Tantlinger's bizarre-appearing retracting spreader lift 58 reinforced half-truck-sized containers onto the 524-foot-long *Ideal X,* a tanker with a cargo deck.

> ***"A ship which would normally require four or five days to load is packed with trailers and out to sea in eight hours or less."***
>
> **Marvin Barloon**
> *transportation economist*

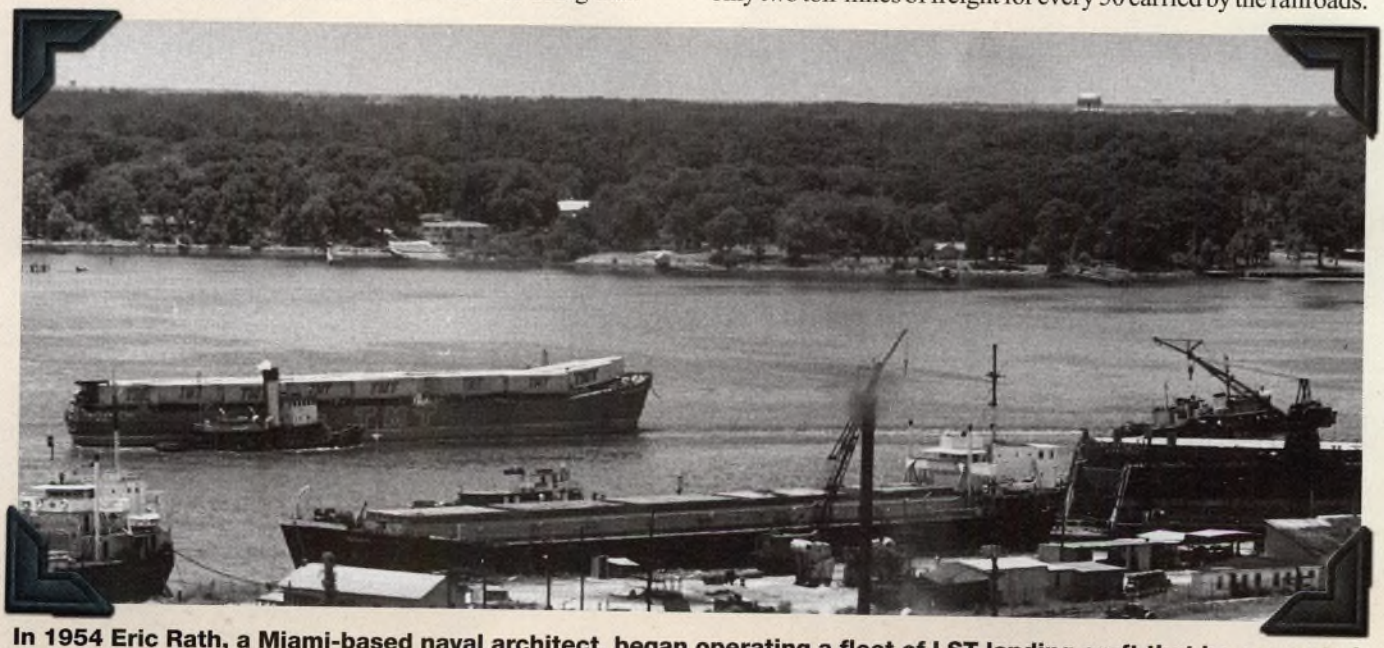
The truck trailers, which had been separated from their wheels and undercarriages, were more generally called "trailers" instead of "containers" at that time. Later that day, the *Ideal X* sailed for Houston and, indisputably, into history.

Pan-Atlantic's first ship filled with cell guides to hold containers, the *Gateway City,* went into regular service in the fall of 1957.

Even as the *Gateway City* departed, there was lingering nervousness about how well container cells would work at sea.

One naval architect predicted that the flexing of the vessel's hull would crush the containers in their confined cell guides. Yet after a voyage from Port Newark to Miami, the containers were found to have moved no more than five-eights of an inch.

In 1957, Marvin Barloon, a transportation economist, wrote an article for *Harper's* magazine called "The Second Transport Revolution" that had wide influence through the transportation industry. Barloon clearly spelled out economic variances between railroads and truck lines. "In 1929, the intercity truck lines moved only two ton-miles of freight for every 50 carried by the railroads.



In 1954 Eric Rath, a Miami-based naval architect, began operating a fleet of LST landing craft that he converted to trailerships. Trailer Marine Transport served between Jacksonville, Fla.; Miami; and San Juan, Puerto Rico.

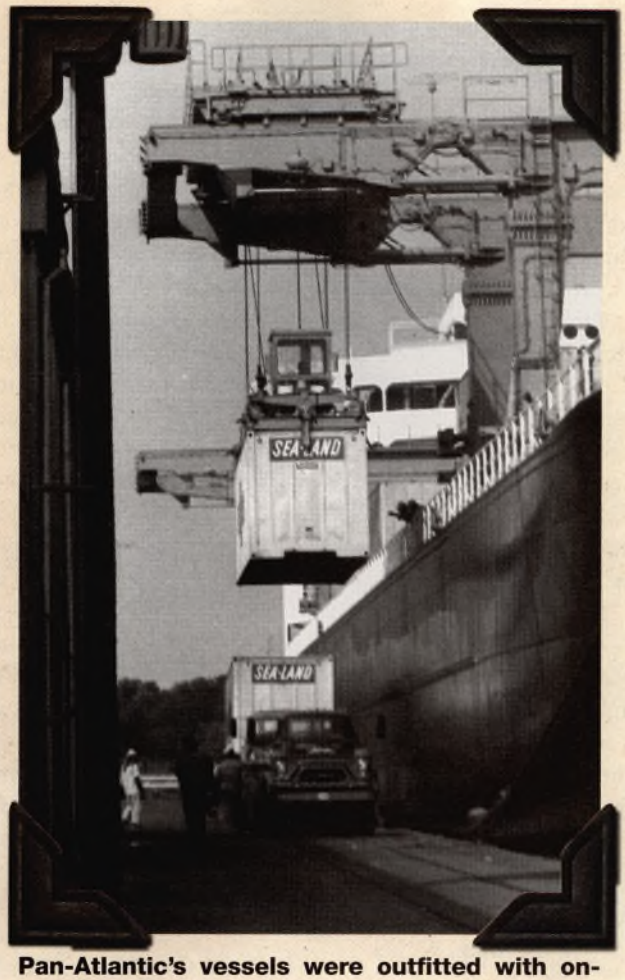
In 1955, they carried over 19 to the railroads 50 … year by year, the trucks gain," Barloon wrote.

"Business once lost to the highways is hard to get back," he said.

"As a standard rule of thumb, goods can be moved eight miles on the deep waters at the same cost as one mile by rail. But, because of high costs in the seaports, five major intercoastal carriers were spending half of their total income in 1953 in merely loading and unloading cargo," Barloon wrote.

By using the method of carrying highway trailers on vessels, "a ship which would normally require four or five days to load is packed with trailers and out to sea in eight hours or less. On the Atlantic Coast, the cost of holding and loading a ship in port may run as high as $270 an hour, and the trailer-carrying vessel brings down the loading cost from half of the total revenue to some 2 or 3 percent," he wrote.

Meantime, on the U.S. West Coast, Matson Navigation Co. was vexed by high cargo-handling costs. As a consequence, Foster L. Weldon, an operations research expert, established an integrated research division within Matson. One of its first projects was to analyze how containerization might lower such costs.



Pan-Atlantic's vessels were outfitted with on-board cranes to load and unload containers.

In 1958, Matson's board of directors authorized $4 million to be spent on the first phase of easing the company into containerization. Unlike Pan-Atlantic, whose vessels carried their own cranes, Matson decided to build shoreside gantry cranes. Matson also opted for 24-foot containers, instead of McLean 33-foot and later 35-foot boxes.

By 1961, 40 percent of Matson's cargo between the West Coast and Hawaii moved in containers. That would rise quickly to 65 percent.

Stanley Powell, who became president of Matson in 1962 after heading its freight division, recalled how doubters persisted on the company's board of directors. "They said containers wasted a ship's capacity 'by fillng it with boxes instead of paying cargo.' They said 'all those boxes will create traffic jams in Hawaii.' When one director told me that I was 10 years ahead of my time, I told him we had a board of directors that was a 100 years behind the times and wanted to stay there," Powell said.

What saved containerization — and it was as true for Pan-Atlantic on the East Coast as well as for Matson on the West Coast — was that "shippers really saw the advantages of the new system quicker than anybody else," Powell said.

"In two more years, we didn't have enough containers for the whole trade and we were overwhelmed by cargo," which ended once and for all any dissent on Matson's board of directors.

Grace Line was the first shipping line to try to extend containerization to international markets. Unfortunately, a Venezuelan venture misfired badly due to labor problems in South America. After United States Lines, the ranking American carrier on the East Coast, spurned Grace Line's offer of a joint transatlantic container service, Grace Line sold its first two containerships to McLean.

In 1960, Pan-Atlantic Steamship Corp. changed its name to Sea-Land Service Inc., a better description of its operations.

Recovering from their initial caution, the board of directors of U.S. Lines decided to timidly begin its venture into containerization. Ironically, both Sea-Land and U.S. Lines would subsequently engage in a 20-year rivalry to dominate U.S.-flag container shipping internationally. McLean would shape the success of one company and the ruin of the other.

On March 18, 1966, a U.S. Lines freighter called *American Racer* sailed for Europe from New York. One of four ships designed with oversized main hatches to allow the easy installation of below-deck container cells, the vessel carried 206 TEUs, 102 of them in the two main hatches and the remainder on deck.

U.S. Lines was the first carrier to enter the U.S./North Europe market using ships with cells designed for containers. The company was also the first carrier to adopt 40-foot containers, which soon became the international standard, along with 20-foot boxes.

Vision and discipline

Sea-Land, from 1960 until 1969, was a company that reflected McLean's vision and his sister Clara's practicality.

"McLean was very much part of the company on a working level," said Charles R. Cushing, whom McLean hired in 1961 as Sea-Land's mechanical engineer. After six months, Cushing became the company's naval architect.

> ***"Good people lift you up, bad people lift you out."***
>
> **Malcom McLean**

Today, Cushing is president of C.R. Cushing & Co. of New York, a firm of naval architects, marine engineers and transportation consultants.

"Shortly after I started working at Sea-Land, McLean came by and introduced himself — which he always did with new employees," Cushing recalled.

"Anyone could talk with him about problems and ideas. He wanted to hear from people at the floor-plate level," he said.

"Malcom used to come to Boston — my territory was the South Shore of Boston — and he asked me to drive him to Providence

for a series of business meetings," recalled Richardson.

"Sitting next to you in the car, he was the easiest guy in the world to talk to. If you worked for him, Malcom would talk your ear off about anything and everything business-related," Richardson said.

"He took an exactly opposite tack — very reclusive — when it came to the media. Malcom would say, 'when you talk to reporters, you get misquoted and nothing good comes from it.' He had a lifetime aversion to the press," Richardson explained.

"Good people lift you up, bad people lift you out," Johns remembers McLean saying on a number of occasions.

"He had a vision of doing something that hadn't been done before. His vision of, and commitment to, containerization was as clear as a bell to him," Johns said.

"He was personally compelling in a quiet way. He wasn't one of those guys who work you over until you say, 'O.K., I surrender — you've got it right.'

"That wasn't Malcom's way. He just went through his ideas — and was open to discussing them — until you were confident he knew which fork in the road to take. That's a very different, and more abiding, kind of persuasion," Johns said.

"He was a mentor for many people, including me," Johns added.

"Malcom used certain people in the company as sounding boards," Cushing said. "He was a fountain of new ideas. He would call you at any hour of the day or night to bounce new thoughts off of you.

"He wanted people who would challenge him. And if you did — maybe really knocked down one of his ideas — he'd listen politely and then argue civilly with you. He wouldn't accept what you said then, but if it turned out you were right, he'd come back in a week and say as much," Cushing explained. "If you were wrong, he never held that against you. He had no pride of authorship, or ego as you sometimes find it in business."

"He had a vision of doing something that hadn't been done before. His vision of, and commitment to, containerization was as clear as a bell to him."

R Kenneth Johns
chairman, Hampshire Management Group

"Miss Clara," as Sea-Land's people called her, was the company enforcer.

"She was an enormously influential person," Johns said. "When Miss Clara said something, you moved right smartly. You didn't ask why, or whether she was correct or not, you did it — pronto."

"Malcom wasn't a big one for running company routines, and she was the complete opposite," Cushing said. "Clara was an orderly, effective administrator. He relied on her to fill that role for him. She was his 'right hand man' in many respects, as well as being his touch with reality."

"Clara was the conscience of the company," Richardson said. "She was responsible for setting personnel policy."

For example, she insisted "on good grooming — haircuts and such — no coffee at your desk, clearing your workspace at the end of each day. Employees had 15 minutes a day for personal matters," he noted.

"She would abhor today's notion of dress-down 'casual days' in a business context, believing that anything 'casual' would lead to a lack of concentration and efficiency," Richardson chuckled.

When, on occasion, McLean wanted to move at a faster pace than Clara thought wise, she reined even him in. Now 94, she lives in retirement near North Carolina's noted Pinehurst golf course, about 100 miles from Winston Salem. "Miss Clara" became very wealthy in her own right after a lifetime of prudent investments.

McLean also relied on two brothers. Jim, who took over Waterman when McLean divested himself, "was a very efficient executive in his own right," Johns said.

Another brother, Bill McLean, "ran a business Malcom owned in Tampa called Gulf Florida Terminals. I worked for Billy for a while — he was a very solid guy," Johns said.

One unsung member of McLean's family support group was his first wife, Margaret. "She was a wonderful lady with more class than you can imagine. She never raised her voice or expressed opinions about Malcom's business in public, but she was a rock-solid person," Johns said. "Margaret McLean doesn't get enough credit today. I was around them enough to know what she meant to him."

Malcom and Margaret had three children, Nancy, Trisha and Malcom Jr. After Margaret's death, McLean remarried. His widow, Irena, survives him.

There was never any question of who was Sea-Land's chief catalyst. "Malcom was clearly the guy who prepared the Kool-Aid and also was the straw that stirred the drink everyone willingly took," Johns said.

"We were all young, and we worked round-the clock until we got done what had to be done," Cushing said.

"We had to believe that containerization would work," Johns recalled. "Otherwise, we'd been skinned when we made sales pitches."

"And did it ever," Johns said succinctly.

Wages of hubris

The near-idyllic morale at Sea-Land ended abruptly in 1969, when McLean sold the company to R.J. Reynolds.

In the $530-million deal, McLean received $160 million personally and remained as president of Sea-Land under a five-year contract that paid him $100,000 a year. His own explanation for the sale was to allow Sea-Land to grow more quickly at less risk. Not everyone found that rationale to be plausible.

"I really strongly disagreed with his selling Sea-Land to R.J. Reynolds. I told him so, because we had that kind of relationship. He wasn't offended by my saying it," Johns explained.

"That sale still turns my liver over when I think about it. To this day, I'm not sure of why he did it. I still don't understand

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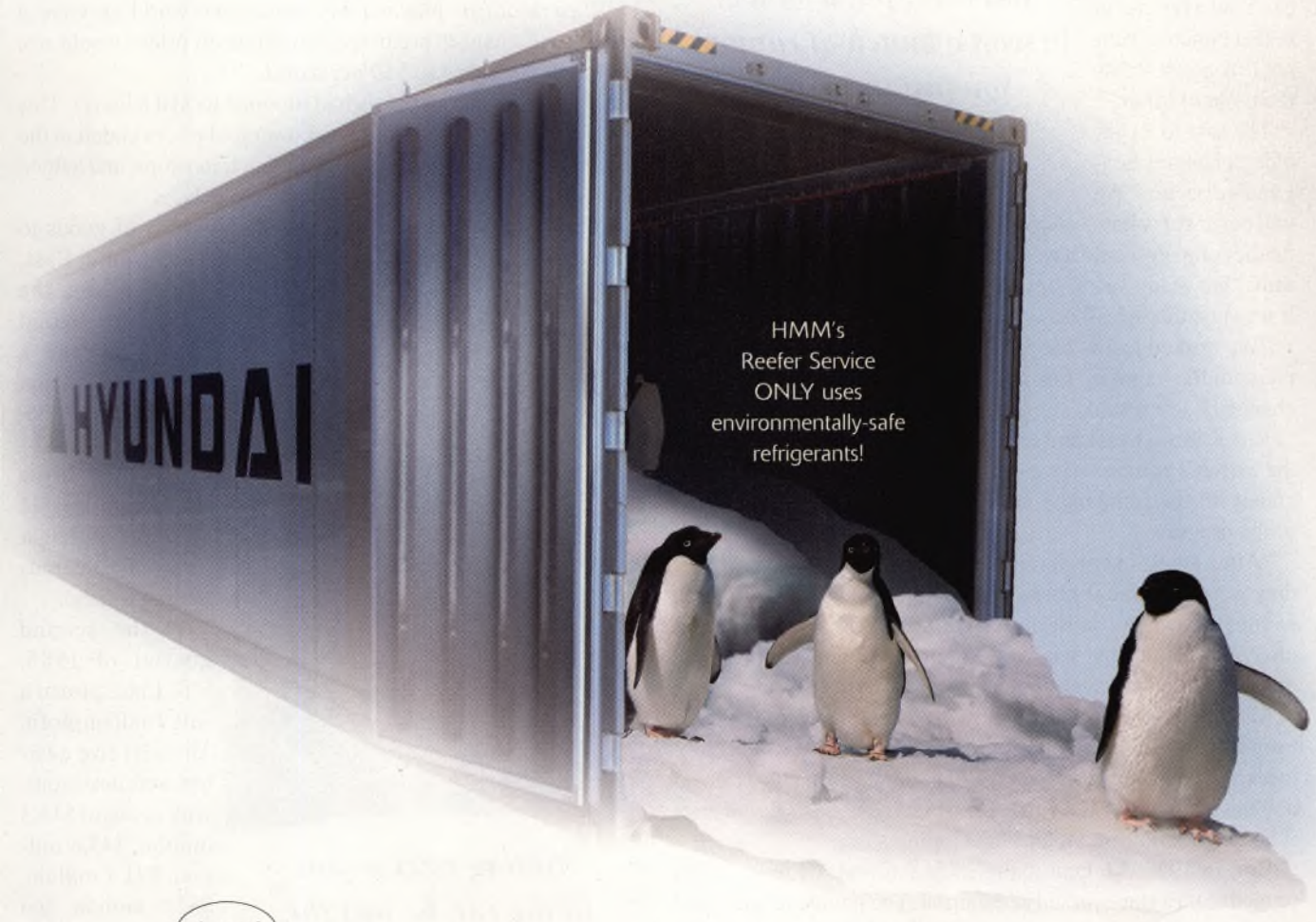

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it," Johns said.

"Malcom actually thought he could shape Reynolds into the company he wanted it to be. But the 11 percent of Reynolds stock that he had acquired by the sale wasn't enough to do that," Richardson said.

After a time, McLean lost interest in R.J. Reynolds and pursued other interests. "I am a builder, and they are runners (meaning they managed or ran operations)," McLean once referred to his fellow RJR directors. "You can't put a builder in with a bunch of runners. You just throw them out of kilter."

"I am a builder, and they (R.J. Reynolds) are runners. You can't put a builder in with a bunch of runners. You just throw them out of kilter."

Malcom McLean

The sale to Reynolds "changed Sea-Land's direction. We will never know how far the company could have gone as it was under McLean," Johns said. "For many years, Reynolds was a great parent company. It was just that we all missed Malcom.

"We worked just as hard for Reynolds, but we were competing with the 'smokes' business. The taste of the Kool-Aid had changed," Johns said.

Ron Katims, Sea-Land chief engineer with responsibility for the carrier's equipment ashore, recalled: "I used to buy all the cranes for the company. I always kept about two cranes ahead of the program.

"After 1969, I kept doing that, until Reynolds told me that they would fire me if I didn't stop. I knew then it was going to be tough for me to work in that culture, because, to me, planning ahead was what you were supposed to do." Katims went on to become president of Navieras de Puerto Rico.

McLean invested subsequently in projects as varied as electronic microscopes, helium isotopes, lasers, and especially close to his heart, First Colony Farm, a 400,000-acre, research-oriented hog haven in North Carolina. He would have been far happier if he had not returned to ocean shipping.

But, in 1978, McLean bought United States Lines, which proved to be a star-crossed acquisition. The people he inherited in that company and those he brought into U.S. Lines were different from those at Sea-Land. More significantly, Clara and Jim were not there to provide their daily counsel.

In December 1982, McLean made a rare speech at the U.S. Merchant Marine Academy at Kings Point, N.Y., asserting that the low rates brought on by containerization had benefited the industry. "You haven't hurt the shipper. You've helped him in every way under the sun," he told other carrier executives in his audience.

Asked how the growth of intermodalism would affect ocean carriers, McLean replied, "if you can't count, it will get worse. If you count, it will get better."

Those words didn't bring much subsequent comfort at U.S. Lines, which was about to start a bold program of vessel expansion.

McLean had ordered a dozen 4,482-TEU vessels known as Econships from the Daewoo Shipyard in South Korea. They were almost 50 percent larger than the next-largest vessels of that era, the 3,000-TEU ships that Hapag-Lloyd and Overseas Container Line operated in a consortium. Daewood delivered the Econships between 1984 and 1986.

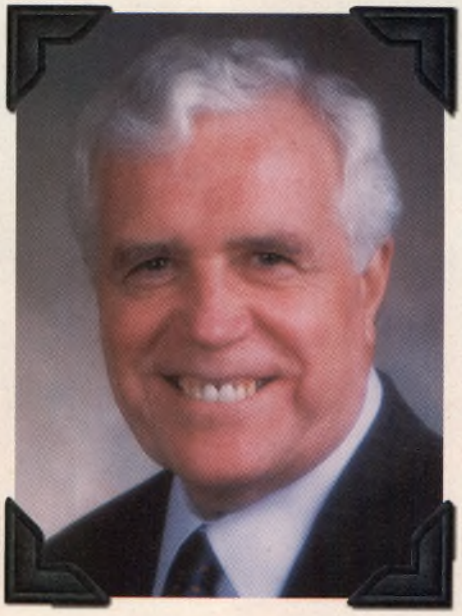
The mammoth vessels were meant to circle the globe every 84 days on a west-to-east circuit, with service speeds of 18 knots — slower than the 22 knots of other container vessels.

The same year of McLean's Kings Point speech, Sir Ronald Swayne, chairman of Britain's Overseas Container Line (OCL), tried to talk McLean out of his bold plan. "A number of us have done our sums on this and looked at it very closely. We think it is absolutely crazy. I very much hope the whole project does not come off," Swayne told him.

When McLean planned his around-the-world service, a majority of analysts predicted that crude oil prices would rise from $30 per barrel to $50 per barrel.

By 1985, crude oil prices had dropped to $10 a barrel. This crippled U.S. Lines in two ways. Lower fuel prices undercut the advantages of the slower but fuel-saving Econships, and helped competitors who owned less efficient vessels.

The fall in oil prices also reduced shipments of goods to the Middle East, which meant the Econships sailed empty through a significant portion of their around-the-world routing.



"Sitting next to you in the car, he was the easiest guy in the world to talk to. If you worked for him, Malcom would talk your ear off about anything and everything business-related."

Paul F. Richardson
principal,
Paul F. Richardson Associates Inc.

Another blow came from a rapid softening of freight rates on numerous trading routes.

In the second quarter of 1985, U.S. Lines posted a $10.9 million profit. The next five quarters were disastrous, with losses of $15.3 million, $43.6 million, $71.1 million, $62.5 million, and $77.4 million.

U.S. Lines filed for bankruptcy protection Nov. 24, 1986. The dozen Econships were laid up, and eventually sold to Sea-Land for an average of $13.4 million each. They proved to be the backbone of Sea-Land's fleet for the next 10 years.

Although he put the best public face on it, McLean was personally and financially devastated by the debacle with U.S. Lines. He had been a very wealthy man, and remained one despite the hundreds of millions he lost. But worse still was

the knowledge that he had failed because he had overstretched himself.

In later life, McLean would say — referring to U.S. Lines — "I counted myself too many" — meaning 'I had the big head — I was egotistical.' That was an ironical admission in light of his Kings Point speech.

"McLean was a genius," said one source who knew him well. "Having said that, my description of a genius is this: you and I might come with one good idea in the course of a discussion. In the time you and I had been talking, Malcom would have had 10 ideas.

"Now, only one of those 10 ideas might entail genius, but he'd still be ahead of you and me, who had come up with only one merely good idea.

"Someone had to tell him that some of his ideas wouldn't work. That's why he bounced concepts off of people. When he didn't do that, he'd get himself in trouble."

"He was very much aware of the impact containerization had on the world's economy. That pleased him — but he was so modest about it that* he *never mentioned it."

Charles R. Cushing
president,
C.R. Cushing & Co.

The last years

In 1991, McLean founded Trailer Bridge, based in Jacksonville, a company that today continues to operate tug-barge combinations that carry 53-foot trailers between the U.S. mainland and Puerto Rico.

Trailer Bridge's name — as was true of "Sea-Land" — bears McLean's practical stamp: a plain-English semantic description of an explicit type of service.

In those years, McLean relied heavily on John D. McCown, a younger manager who became his confidant. Today, McCown is chairman and chief executive officer of Trailer Bridge.

"I had a wonderfully close business relationship with Malcom over the last 15 years of his life," McCown told *American Shipper.* "He was an exemplary mentor."

When larger equipment sizes became the rule in the domestic truckload sector in the late 1980s, McLean believed that Puerto Rico could also benefit from a freight system built around larger sizes.

McCown

"A common thread that ran through all of Malcom's innovations was the use of different and better hard assets," McCown said.

"He had no interest in competing with the same underlying assets. He always focused on developing and using assets that would give a consistent and tangible cost edge," McCown explained.

That's why Trailer Bridge's freight system has been built around tug-barge combinations and 53-foot equipment. "It's the most cost-efficient system out there," McCown said.

"Today, there's a mismatch between how freight moves domestically and how it moves overseas. That mismatch, which translates into extraordinary lost economic potential, has to do with equipment size," he explained. "I think that Malcom saw Trailer Bridge's use of 53-foot trailers as the true promise of containerization in the Puerto Rican trade.

"Several companies around today have Malcom's stamp on their heritage, but there's none that comes close to Trailer Bridge as being the legacy of which he would be proudest," McCown said.

McLean's later insights weren't confined to the Puerto Rican trade. When double-hulled tankers were mandated after the Oil Pollution Act of 1990, McLean observed that it might be possible to buy, for a lower price, very large crude carriers that had single hulls. Those vessels could then be converted to mega-containerships.

"He anticipated by 15 years the trend we see today," McCown said.

During the mid to late 1990s, McLean knew that John Snow — current U.S. Treasury Secretary, and then chairman, president and CEO of CSX Corp. which had bought Sea-Land from R.J. Reynolds — had repeatedly told Wall Street analysts that Sea-Land was available to anyone making CSX Corp. a suitable offer.

McLean expected Snow to sell Sea-Land. "He was not really surprised when Maersk bought it," McCown said. "Malcom said that consolidation in the industry made sense, and Maersk was making a far-sighted move."

When Maersk bought Sea-Land, for a few years it painted its blue-hulled ships with the name "Maersk Sealand," although losing the hyphen diluted McLean's original meaning.

Maersk recently changed its name to Maersk Line, ending any continued use of "Sealand."

Through the 1990s until his death in 2001, McLean lived in a residential apartment that he owned in the Pierre Hotel on Fifth Avenue in New York.

As the years passed, old friends called with regularity at the Pierre apartment. "Malcom was very mellow in some ways when I visited him," Cushing said. "He was very much aware of the impact containerization had on the world's economy.

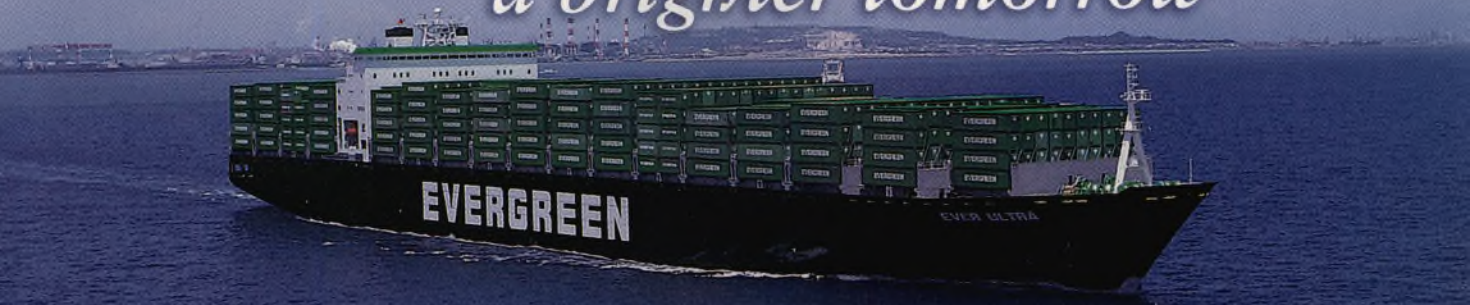
"That pleased him — but he was so modest about it that *he* never mentioned it. He would acknowledge it if *you* forced it on him, but he wouldn't bring it up.

"I made sure he knew what he meant to me. He was as much a hero as a mentor. Without him, I don't know what I would have become," Cushing said.

"There was a stage in McLean's later life when he regretted extremely what happened with U.S. Lines, but that regret wasn't a constant theme in his conversation," Johns recalled. "I didn't hear him talk a whole lot about it."

In one conversation that McLean had with Richardson, he said, "Paul, people always ask me if it was a big decision for me to drop McLean Trucking and go with Pan-Atlantic. When I say, 'no,' they look at me in kind of a funny way.

Creating a brighter tomorrow



Evergreen Group Chairman Dr Y. F. Chang says that shipowners should use the latest technology as soon as it is available to minimize the impact of container shipping operations on marine life and port communities. In this spirit, Evergreen will soon take delivery of a fleet of Evergreen S-Type "Greenships".

Surpassing world environmental standards

The Evergreen S-Type Greenships design from Mitsubishi Heavy Industries' Kobe Shipyard incorporates features that meet or surpass the strictest global environmental standards. It has received Lloyd's Register environmental protection (LR EP) notation and equivalent ES notation with the American Bureau of Shipping (ABS), making Evergreen a global leader in natural resource and environmental management.

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Double-skin hull design leads the industry

Evergreen took the lead to prevent maritime accidents and oil spills with the Greenships design as early as 2003, seven years prior to the enforcement of SOLAS and MARPOL conventions on maritime pollution and safety requiring ships worldwide to have double-skinned hull design by 2010. Container ships are not bound by these rules, thus demonstrating Evergreen's commitment to sustainable development, protection of the maritime environment and corporate social responsibility.

S-Type Greenships employs the latest double-skin hull design

Next-generation design protects the oceans

The oil tanks on the S-Type Greenships are situated in the spaces between cargo holds and above the tanktop to minimize the likelihood of fuel spills in the event of an accident. Oil spills can severely damage ocean and coastal environments and this preventative approach by Evergreen is both pro-active and responsible.

Internal fuel tank design meets strict environmental standards

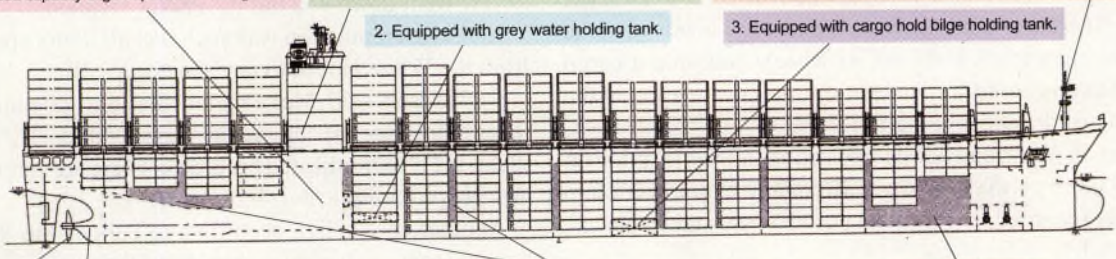
Tin-free anti-corrosive paint helps keep the ocean clean

To protect and sustain the oceans, Evergreen is committed to a new tin-free anti-corrosive coating on the new S-Type ships as well as all of its other vessels. Research has shown that this coating has high anti-corrosive properties and is better for the environment. Excessive tin in ocean environments can cause serious harm to marine life.

Advanced ship design saves energy, while tin-free anti-corrosive coatings are safer for the environment

Green technology and policies fulfill environmental compliance

To honor environmental commitments, Evergreen S-Type Greenships use the latest low-sulphur fuel systems, advanced oil-water separators, environmentally friendly Freon, large high-temperature incinerators and dock power systems to protect the purity of the oceans and the air quality around ports and the people who live there.



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"What worries me," McLean told Richardson, "is *that I never really thought about it.*"

McLean's funeral, on May 30, 2001, was attended by mourners from all segments of the shipping industry who filled every seat in the Fifth Avenue Presbyterian Church in New York.

Cushing, giving one of the eulogies, described McLean as a "dignified, very correctly dressed, polite and proper person. But who can forget Malcom at the card table? Aside from owning Pinehurst (in North Carolina) and a number of other fine golf courses, Malcom himself loved to golf. He also loved to hunt and fish and ride and run the dogs. He never lost touch with the land. Malcom also had a good sense of humor, somewhat wry, but always there."

Geoff Parker, who married McLean's daughter, Nancy, told *American Shipper* recently that McLean "wasn't just my father-in-law, for whom I also worked. He was a great friend. He always had time for family, and then went on to make that time memorable."

If he were around today, McLean, as a matter of personal preference would reluctantly attend events held in his honor (see box).

"Freight is a cost added to the price of goods. If the price is too high, the freight doesn't move."

Malcom McLean

"It wasn't his style to be feted like that. The very few times he went to such dinners, you'd likely find him sketching a new idea on the back of a program," Parker said.

Johns concurred. "Wherever Malcom was, he could whip an envelope and a yellow pencil out of his pocket, usually to do a set of numbers that would turn your head around."

McLean and the world today

Referring to containerization, economist Peter F. Drucker said: "there was not much new technology involved in the idea of moving a truck body off its wheels and onto a cargo vessel … but this humdrum innovation roughly quadruped the productivity of the oceangoing freighter.

"Without it, the tremendous expansion of world trade in the last 40 years — the fastest growth in any major economic activity ever recorded — could not possibly have taken place," he concluded.

"McLean sped up the entire transportation chain and reduced its cost, so that people throughout the entire world are now able to bring their handiwork to the global marketplace," Cushing explained. "The result has been a steady and identifiable increase in the standard of living in the developing countries and elsewhere."

Critics of containerization say that because a pair of Nike shoes, for example, can be brought into the United States for 7 cents, the jobs of American shoemakers have been irretrievably outsourced abroad.

"That is the most stupid argument I've ever heard. Why blame containerization for that? Only a small-brained person would say such a thing," Johns said. "If you're going to live in the world — in China, the U.S., Germany, wherever — you have to accept that it's a competitive world. Usually, containerization is just 10 percent of the total cost of being competitive in manufacturing. Why jump on the small end of the deal? You need to go beat up on the 90 percent that's really responsible for any outsourcing.

"Jobs leave the U.S. because of how we choose to live as a nation, and how we have chosen not to compete in many industries," Johns said.

"Some people say that containerization is a commodity. That's not so. It's an essential industry, not a commodity," he said.

"I grow weary of hearing guys who've been in the industry for a week and a half say 'it's a commodity business — like cans, you know.' That's bull. Containerization is a very dynamic business — and unless you know what you're doing, you can goof it up pretty badly," Johns said.

Asked how McLean would have reacted to the post Sept. 11, 2001 world, "he would say that 'you cannot strangle or constrict containerization — it has to flow,' " Johns explained.

Parker said in an interview that if McLean were alive today, "he would see upgraded security as being a good thing as long as it didn't shut down traffic. He would see that augmented security means safer containers, which he always wanted. But he wouldn't want trade cut off to a particular country or port.

"McLean always said 'we're nothing but a wheelbarrow. You have to take care of customers.' He would be pleased with today's information technology if it benefited service," Parker said.

"McLean was a very patriotic person, and 9/11 would have affected him deeply. If he were with us in 2006, he'd be spending a good part of his time coming up with methods and concepts that would address the problem of security with containers," Cushing said.

"There are so few innovators around, especially in the field of homeland security. We need his thinking today," he added.

When McLean felt the need, he went to Washington, D.C. — not to lobby as the term is conventionally understood — but to meet officials and politicians directly, face to face.

"He went down and did it," Parker recalled.

McLean's reputation was such that all doors opened to him, from the White House to any senatorial office.

Richardson said McLean felt that any dilemma, whether federal or in the private sector, was solvable. "He always said, 'there are no complicated problems. There are simple problems that people complicate.' "

Another core belief, according to Parker, was that McLean "saw no sense to building capital and then sitting on it," Parker said. "Capital was meant to invest, to create jobs, to be used for something."

"We seem to be slipping backwards with vessel operators

who think this is only a shipping industry," said one ocean carrier executive. "McLean would get those people's feet back on the ground by saying, as he often did, 'that we're talking about transportation systems, not just ships.'

"He would be giving as much attention to terminals and inland distribution systems as to vessel innovations," the carrier executive said.

McLean also was prescient in seeing that public port authorities would become so politicized they could not run efficient terminal operations.

For that reason today, terminals in U.S. ports must be leased out to operators that are mostly foreign companies with influence on, or direct links to, their own national governments.

On balance, "containerization is one piece of the shipping equation, which must continue to evolve for optimum supply chain utilization," said Ray Venturino, a former marketing executive for P&O Nedlloyd and currently a marketing communications consultant.

"Containerization was revolutionary, but its upkeep is now in our hands," Venturino told *American Shipper*. "As consumers, we can thank containerization for our favorite imported beer at the local watering hole, trendy garments on racks, fruit in season from a foreign country at our local grocery store and new cars in the showrooms.

"The fact is that the safe transportation of containers works, and works quite well. There's also no doubt that we must have tighter reigns on the system," Venturino said.

Celebrating 50 years of containerization

Several events have been planned in March and April to commemorate the 50th anniversary of the sailing, on April 25, 1956, of the *Ideal X,* Malcom McLean's first ship to carry containers.

- The History of Containerization Foundation, a non-profit charitable organization, will hold a gala celebration beginning at 7:30 p.m., April 27 at the Smithsonian Institution National Museum of Natural History, Constitution Avenue at Tenth Street, NW, in Washington, D.C.

The Containerization & Intermodal Institute, has been assisting the History of Containerization Foundation with this event. For more information, e-mail info@hocfoundation.net.

- *Containerisation International,* the British logistics and supply chain magazine, will hold an awards dinner in New York, 7 p.m. March 23, specifically celebrating the 50th anniversary of containerization.

The event will be held in the Celeste Bartos forum of the New York Public Library, Fifth Avenue and 42nd Street. For more information, e-mail www.ci-awards.com.

- Three new books on containerization will be published this spring: *The Box That Changed the World,* by Arthur Donovan and Joseph Bonney (Commonwealth Business Media), *The Box,* by Marc Levinson (Princeton University Press), and *Box Boats,* by Brian J. Cudahy (Fordham University Press).
- Looking ahead, many of McLean's friends in the industry are working with the U.S. Merchant Marine Academy at Kings Point to have part of a building be set aside as both a museum for containerization and a repository for McLean memorabilia.

Summary

Finally, what of McLean himself?

"I remember most his courage. He would make his plans, and then he'd go out and do what he wanted. He took risks, but they weren't foolish ones," Johns said.

Once in Central Park, McLean walked his dog past a man ranting about the 400 richest Americans — Forbes' most recent annual reckoning had just come out. "I bet they've never enjoyed a day in their business life, and that their money brings them no happiness," the man told any passerby who would listen.

McLean, who was one of the Forbes 400, confided later to a friend that he had walked out of the park knowing with certainty that he, at least, was content with his career and its rewards.

Perhaps the wisest of McLean's maxims is the one that will ring true 100 years from now: "Freight is a cost added to the price of goods," McLean said. "If the price is too high, the freight doesn't move." He often said that shipper loyalty was worth only 2 cents per 100 pounds of cargo — meaning that a loyal customer would still shift to a competing carrier to save 2 cents in rates

If he were around in 2006, McLean would ruefully acknowledge that the huge investment made in containerization has enabled corporate bean-counters — a generally robotic breed — to take over most shipping lines that were formerly closely held and family owned.

In McLean's day, it was customary for steamship owners and executives to spend personal time and effort actually helping to generate trade along their routes.

Today, their counterparts spend less time creating trade and more time waiting for trade to happen.

Of all the stories told about McLean, there are two that show just how human this icon was.

One day, when McLean was about to file his company's financial statements with the old ICC — this was just after McLean Trucking became the first large company to use diesel trucks that saved fuel costs — he said, "I sure hope people aren't paying attention to how much better I'm doing."

Another time, Tantlinger — who patented the container spreader — arrived at a shipyard in Baltimore to find McLean, his brother, Jim, and two other men jumping up and down on the roof of a prototype 33-foot container to test its strength.

One suspects Malcom McLean enjoyed that.

Pandora's World

The World is Flat, according to Thomas L. Friedman. Some would differ. In fact, the concluding chapters of his best-selling book deals with what he terms "the unflat world." His final chapter bears the ominous chapter number 13 and a warning:

> *"The flattening of the world, as I have tried to demonstrate in this book, has presented us with new opportunities, new challenges, new partners but also, alas, new dangers, particularly as Americans."*

Throughout his book, Friedman uses the term "supply chain," omitting any detail except for one illustration. Dell Computer provided him a minute-by-minute account of what happened between the time he dialed Dell's 800 number April 2, 2004 and placed an order for the customized Inspiron 600m notebook on which he wrote most of his book, and the time it was delivered to him by UPS and signed for at his home in Bethesda, Md., at 6:41 p.m. April 19, 2004.

It's one of the best "supply chain" stories I've ever read, and reveals what a magnificent system Michael Dell's organization uses to assemble parts from all over the world (but mostly Asia) and deliver a customized laptop computer to an American residence in 17 days at a near rock-bottom, competitive price.

It's the only place in the book Friedman describes in detail a supply chain for goods. Most of his book is about chains of information, creativity, knowledge and collaboration through the Internet. The reason, I believe, is that global supply chains for trade in physical goods are accepted as a given in today's economy, and very few people really understand the details or want to be bothered. Like ripe blackberries on a thorny vine in the forest, eat, and enjoy. The berries are for real; so are the thorns.

The thorns were described in a rare public speech which Malcom McLean gave at the U. S. Maritime Resource Center at Kings Point on Nov. 9, 1982.

At the time, McLean was looked upon as the infallible genius behind the capital-intensive, $54-billion worldwide container shipping industry which had sprung up since sailing of the tanker *Ideal X* from Newark to Houston on April 26, 1956 with 58 trailers carried on racks built above deck. "Certainly, I'm proud to be the father of anything that generates $54 billion capital investment in 20 years. That's a pretty big apple," he said.

And the apple was continuing to grow. McLean had staked part of the fortune he accommulated from McLean Trucking and Sea-Land Service on United States Lines, and in November 1982 was looking forward to delivery of 12 4,482-TEU Econships to be deployed in a Round-the-World service 12 to 18 months later. But he had no illusions about the risks he faced, titling his address:

The Story of Pandora's Box

As innovative in speechmaking as he was in shipping, McLean got right to the point, asking the steamship managers present, "What happened to our money?"

He provided answers, using a cartoon book prepared just for the occasion. The images were projected on a large screen set up for the Kings Point meeting.

The opening cartoon in McLean's booklet showed a very happy ship with a very large container resting on deck, reaching from bow to stern.

The ship was thinking, "Gee whiz! Am I gonna make lots of money! Yep! It's gonna be smooth sailin' from now on! I've got a full payload and a box full of revenue! Nothin' can stop me now."

The story progressed through a series of cartoons where outside interests over which the shipowner had no control took large bites out of Pandora's box until the last panel when the ship, sad and shedding teardrops like rain on the calm sea, laments, "There's not much money left for me! I'd better be careful before I pick up another Pandora's box!"

McLean's cartoon story was not a complaint, but a comment on the fact, as he saw it, that many carriers had so little knowledge or control over total costs. Unless they are completely aware and count their costs accurately, many are inclined to give service away too cheaply and, eventually, go bankrupt, he said:

> *"If you can't count, it will get worse;*
> *if you can count, it will get better."*

As the industry watched in dismay, United States Line did not count the numbers correctly and went bankrupt a few years later.

McLean lost a pile of money, but never lost hope. In the years before his death, he launched another shipping venture, Trailer Bridge, linking mid-America to Puerto Rico via Jacksonville, Fla., by truck and barge in a domestic business where he did not have to compete with all of Friedman's world — just Americans like himself.

Pandora's World

Where McLean failed, the Japanese discovered a way to manage Pandora's box, enabling the creation of global supply chains that are so efficient Friedman never bothered to explain in detail except in assembly and delivery of his Dell laptop.

At the time McLean launched the container shipping industry, more than 20 American-flag steamship lines were operating

over a very round world. From any U. S. port to either Europe of Asia, shippers usually had a choice between five carriers: two conference (cartel) steamship lines, of which one would be American and one foreign flag; two independent or non-conference lines, usually foreign flag, charging about 15 percent less than the cartels; and one upstart working special niches and struggling to get a piece of the trade.

Japan's post-World War II industries immediately recognized the potential of container shipping as the best way to deliver goods throughout the U.S. market, and six Japanese steamship lines began building fleets of containerships in Japanese shipyards to serve ports on the U.S. West and East coasts. The Japanese carriers had to compete among themselves for cargo.

It did not take long for "Japan Inc." to discover a better way. With support of their government, the Japanese devised a system of space charters by which the various Japanese lines actually transported each other's boxes. Mitsui containers could be carried on "K" Line, N.Y.K. Line, Y-S Line, O.S.K. Line or Japan Line ships, and vice versa..

Once a year on March 31, the lines settled accounts on the space they had chartered from each other. Those that overperformed chartered more space the next year while those that underperformed chartered less space. Service was differentiated on the basis of quality of service ashore on either end of the voyage. The ships became pure carriers like railroads, highways, pipelines.

Meanwhile, here in the United States, an entirely new set of businesses known as non-vessel operating common carriers evolved around freight consolidators who consolidated less-than-containerload cargo for shipment to/from Puerto Rico, Hawaii and Alaska as well as within the continguous 48 states.

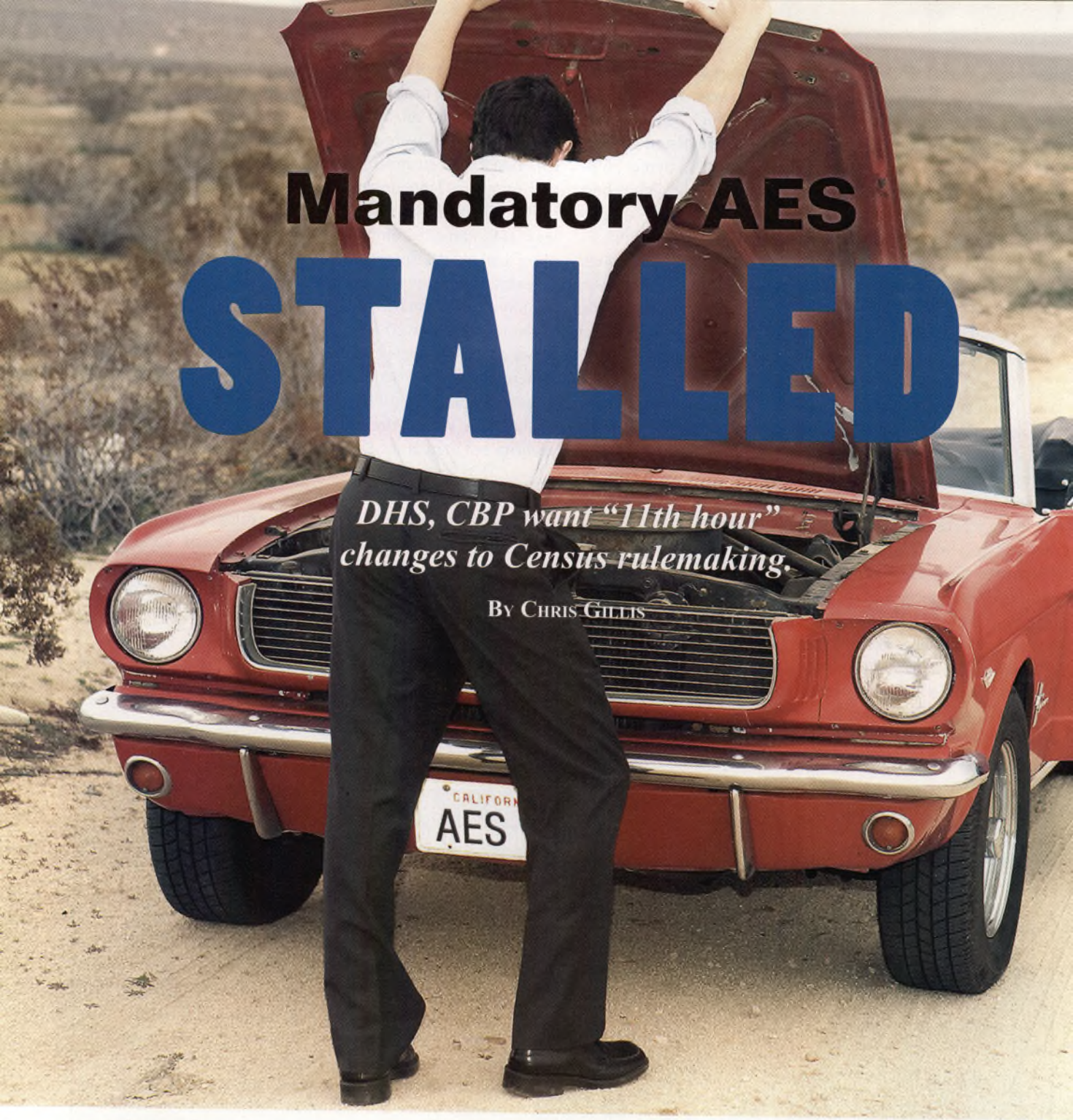
Customhouse brokers and forwarders picked up on the idea and incorporated subsidiary or affiliated firms for the international trade. They were able to consolidate LCL freight at much lower cost than steamship lines paying high wages negotiated with longshore labor unions. Over time, brokers, forwarders and NVOs, officially known as ocean transportation intermediaries (OTI), came to control most of the world's cargo business other than plant-to-plant shipments by very large multinational industries. Even they have downsized their logistics staffs, leaving most detail work to OTIs.

During the past 20 years, the Japanese space charter and American NVO ideas evolved into the highly efficient global system that made Friedman's flat world possible even though he seemed never to give it a second thought until — perhaps — the Dubai World Ports episode, which had nothing to do with security but a great deal to do with protectionism and fear.

Epilogue

Friedman may someday write an epilogue to his book in which, as he puts it, the "triple convergence" of an uncertain economy, global supply chains, and Islamic radicalism opened Pandora's World and set back our civilization 100 years.

Let's hope not.



Mandatory AES STALLED

DHS, CBP want "11th hour" changes to Census rulemaking.

By Chris Gillis

When the U.S. Census Bureau's Foreign Trade Division stated its reasons for an "indefinite" delay in issuing its long-awaited regulations for mandatory electronic filing of export information, American shippers and freight forwarders lost their cool.

In late February, a few weeks before the rules were due to be published, the Department of Homeland Security and Customs and Border Protection told Census officials that it would not approve the regulations unless two significant changes were made in the Automated Export System (AES).

First, DHS and CBP want Census to either eliminate post-departure filing in AES, so-called Option 4, or substantially increase the requirements for accepting new companies in the program. DHS and CBP also do not want existing post-departure filers simply grandfathered into the mandatory program.

Second, DHS asked Census to make a "National Interest Determination" (NID) to allow sharing of confidential export information with foreign governments. CBP wants Census to give it a "blanket" NID to

permit sharing of confidential export information with other federal agencies.

Census officials briefed industry representatives of the Trade Support Network at Manhattan Beach, Calif., Feb. 27-28, about the turn of events.

Jon Kent, Washington representative for the National Customs Brokers and Forwarders Association of America, who was present at the meeting, couldn't believe what he was hearing and spoke out.

"The entire association is up in arms over this," Kent said in a telephone interview after the TSN meeting. He explained how the NCBFAA and other trade groups fought hard to preserve post-departure filing in the mandatory AES filing rules, and how the industry is generally uneasy about turning over sensitive commercial information to foreign governments.

Many forwarders have already spent time and money preparing for the mandatory AES filing rules. "We're very concerned about Customs holding this hostage," Kent said.

Many shippers are concerned that once export information is passed to foreign governments what safeguards are in place to prevent it from getting into the hands of national companies.

"We understand the need to share information in the supply chain for security and trade facilitation," said Peter Gatti, executive vice president of the National Industrial Transportation League in Arlington, Va. "But what if it falls into the hands of competitors? That could result in an unfair advantage to U.S. companies."

"The question is why would the U.S. government, which is already trying to fight a horrendous imbalance of trade, impose new barriers to exports?" said Peter Friedmann, Washington counsel to numerous trade groups, including the Pacific Coast Council of Customs Brokers and Freight Forwarders Association, and the Agriculture Ocean Transportation Coalition. "If DHS has its way, it will decimate much of what is already a very fragile low-margin export business."

Friedmann added: "Draconian new barriers to exports, such as restrictive AES regulations, aggressive penalties, elimination of Option 4, and sharing of proprietary customer and pricing information with foreign countries is misguided in the extreme. That they should be imposed by our own government is absolutely unacceptable."

Peter Friedmann
Washington counsel, Pacific Coast Council of Customs Brokers & Freight Forwarders Association, Agriculture Ocean Transportation Coalition

"The question is why would the U.S. government, which is already trying to fight a horrendous imbalance of trade, impose new barriers to export? If DHS has its way, it will decimate much of what already is a very fragile low-margin export business."

Post Departure. Census began developing AES 10 years ago as a way to eliminate filings of paper shipper's export declarations. The agency found that 50 percent of the paper declarations contained errors. In addition, Census needed a more efficient way to compile the country's trade statistics.

Since the mid-1990s, AES has continued to evolve, adjusting to regulatory nuisances and meeting the data processing efficiencies required by today's commercial sector. In 1999, Census, CBP and the Advisory Committee on Commercial Operations (COAC) came up with four filing options. Before that, the only options were: Option 1, all paper export declarations prior to departure; or Option 2, all export data in AES prior to departure.

The new Option 3 required certain exporters or their forwarders to file 14 data elements prior to departure, with full information to be filed five days later. Option 4 allowed government-approved exporters to file all their export data 10 calendar days after export. Forwarders could file export data under Option 4 for approved shippers if they have a power of attorney. Another big step by the agency in 1999 was the unveiling of its free Internet link to the system, AESDirect.

Also that year, Congress passed the Consolidated Appropriations Act, requiring Census to develop regulations for the mandatory AES reporting of all shipments regulated under the U.S. Munitions List and Commerce Control List. Census published the final rule in July 2003. This rule eliminated Option 3 filing, causing little stir in the export industry because very few shippers and forwarders used it.

After the Sept. 11, 2001 terrorist attacks

in the United States, the Bush administration and Congress called for all export information to be filed electronically in AES. In 2002, Congress passed the Foreign Relations Authorization Act, which mandated this activity. The 2002 Trade Act also reauthorized CBP to request electronic submission of export declarations pre-departure.

However, during the proposed rulemaking for mandatory AES, exporters and forwarders vehemently opposed the elimination of Option 4 filing. After careful consideration, Census decided to maintain Option 4 in its proposed rule.

About 2,300 exporters were allowed to maintain their Option 4 filing status on AES before Census placed a moratorium on program applications in August 2003. Census had planned to reopen enrollment in Option 4 after the mandatory AES rules become effective. This time, however, forwarders would not be allowed to apply for post-departure filing privileges on behalf of their export clients. Exporters must apply to Census.

In response to CBP's demand to eliminate Option 4, Census officials emphasized that post-departure filing requirements in the final rule are in line with the response to comments CBP provided in its 2002 Trade Act regulations issued in December 2005. Census officials also said any significant changes in the AES post-departure filing program would likely require the release of a *Federal Register* notice seeking comments from the industry.

CBP did not respond to a request for an interview, but the agency has repeated its insistence on pre-departure AES filing. "No one can file late (post departure) on imports so we can't allow late (post departure) filing for exports," said CBP official Tom Fitzpatrick at the Commerce Department's Regulations and Procedures Technical Advisory Committee meeting on March 7.

Invasion Of Privacy. The American shipping industry is no stranger to assaults on business confidentiality by federal regulators.

In 2003, CBP dropped a proposed rulemaking that would have allowed non-vessel-operating common carriers to request confidentiality of certain import manifest details on behalf of their customers. Confidentiality concerns were raised by the NVOs and some shipper groups when CBP developed its regulations for vessel and NVOs to file their manifests 24 hours prior to loading on ships overseas.

Jon Kent
Washington representative, National Customs Brokers and Forwarders Association of America

"The entire association is up in arms over this ... We're very concerned about Customs holding this hostage."

Reporting services gained access to manifest information in 1984 when Customs lost in court to PIERS, a *Journal of Commerce*/Commonwealth Business Media-owned reporting service, and had to amend its regulations under the 1930 Tariff Act. Today, reporting services sell this information to industry customers.

The current manifest reporting regulations allow an importer or its attorney to request confidentiality relative to the importer's name and address, and the name and address of its shipper, to remain confidential by filing a request with CBP every two years. However, many importers are either unaware of this option, or don't want to be bothered with the administrative burden of maintaining the confidential status.

During the U.S.-China bilateral maritime agreement negotiations several years ago, China's Ministry of Communications insisted on receiving details of service contracts. U.S. shippers and carriers didn't trust that the Chinese government would keep the information from getting into the hands of state-owned enterprises. They also pointed out that while service contract details are filed to the U.S. government, the Federal Maritime Commission shields this information from public exposure. The Chinese government promised similar confidentiality.

Over the years, industry groups have lobbied the Office of the U.S. Trade Representative to resist efforts by other countries to include routine sharing of proprietary information as part of global trade agreements negotiated through the World Trade Organization.

More recently, the Bush administration has voiced support for sharing U.S. trade details with foreign governments and within the federal government as a tool in the global war on terrorism. "We are committed to an information sharing environment," said Homeland Security Secretary Michael Chertoff to the Data Privacy and Integrity Advisory Committee in early March.

Under a barrage of industry criticism, the customs-to-customs cooperation concept was tested by DHS and CBP in early 2004. Then Commerce Secretary Donald Evans signed a request from DHS and CBP to pass export data controlled by Census to help Mexican authorities identify cargo that has been improperly declared to avoid higher duties.

CBP became one of the lead architects of the World Customs Organization's Framework of Standards to Secure and Facilitate Global Trade, which was approved by the Brussels-based organization in June 2005.

The WCO rules are largely modeled on the U.S. strategy of trying to detect a terrorist weapon in a container before it arrives at a U.S. port, and on the Container Security Initiative, the pre-notification of shipments, and the Customs-Trade Partnership Against Terrorism. The framework of standards comprises two "pillars," one covers customs-to-customs cooperation and another customs-to-business cooperation.

Peter Gatti
executive vice president, National Industrial Transportation League

"We understand the need to share information in the supply chain for security and trade facilitation. But what if it falls into the hands of competitors?"

Census is deeply disturbed by DHS and CBP's current endeavor to release confidential export data to foreign governments and other federal agencies. The confidentiality of export data is protected under Title 13 of the United States Code.

Census officials believe this change to the regulations would "undermine public confidence" in its pledge to safeguard information provided to it by businesses and individuals.

Shipper and forwarder groups hope the Commerce Department does not buckle under pressure from DHS. "The commerce secretary should stand up to this," Kent said. ■

EC security under scrutiny

Freight stakeholders welcome proposals, but are cautious about application.

By Simon Heaney

The European Commission's plans for a harmonized legislation to protect the continent's land supply chain from terrorist attacks recently came under scrutiny from a number of interest groups.

Measures in the EC's Proposal for a Regulation on Supply Chain Security, published Feb. 27 include:

- Establish a mandatory system requiring member states to create a security ("secure operator") quality label which can be awarded to operators in the supply chain meeting European minimum security levels, thus allowing mutual recognition of the label on the internal market.
- Introduce within the mandatory provisions for the member states a voluntary scheme under which operators in the supply chain increase their security performance in exchange for incentives.
- Make operators in the supply chain responsible for their security performance in European freight transport.
- Allow "secure operators" to benefit where security controls are carried out, and to distinguish themselves positively from other competitors in the area of security, giving them a commercial and competitive advantage.
- Allow regular updating and upgrading of security requirements, including recognized international requirements and standards, through the committee procedure.

"Highly prescriptive new security measures for all operators would lead to a breakdown of the supply chain. Yet an increasing number of companies are establishing their own security management standards, not only to protect their own operations and brand, but also as a tool for selecting their partners in the supply chain," the EC said.

"It is therefore impossible in practice to establish, in a single all-embracing operation, security rules and measures for the land transport supply chain comparable to those in air and maritime transport. Instead it is more realistic to establish a framework of minimum security requirements which can gradually evolve in line with technological progress and risk developments to ensure satisfactory security levels in an operational environment."

Shipper, logistics and port groups generally welcomed the proposal, but voiced concerns about its application.

The European Shippers' Council said: "ESC has during the consultation process called for a voluntary 'known cargo' security approach, emphasizing that not only the shipper, but also the transport operator has responsibility for making and maintaining the cargo's 'known' status. The commission proposal for a 'security quality label' is in line with these suggestions."

"The EC's proposals for such a regime under the security quality label 'secure operator' appears to be in line with FTA's suggestions," said the United Kingdom's Freight Transport Association, which represents British shippers and logistics companies.

"ESPO welcomes the long awaited proposal," said Brussels-based port lobby group European Sea Port Organization.

However, all three interest groups voiced some concerns.

"There is no escaping to enhanced security for all the parties in the supply chain and for the fact that security will add a further line in the accounts of companies involved in international trade," said Nicolette van der Jagt, secretary general of the ESC. "The trick will be to ensure that the costs are minimized and do not impede trade or the overall economic viability of conducting international business.


van Der Jagt

"We are also concerned that a large numbers of companies and their contracted hauliers, freight forwarders and agents would apply for a special security status without very obvious and immediate cost benefits.

"A further major obstacle will be the liability of the different parties in the chain and their individual limits of liability: if this is not addressed and clarified it will be a substantial deterrent to companies volunteering to participate in such a regime," van der Jagt said.

"There is a general acceptance, rightly or wrongly, that security measures must inevitably increase in the area of transport and freight; measures which could lead to a more restrictive operating environment. The EC proposal allows industry to decide whether to adapt to the new security environment or risk the potential consequences, such as delay and greater probability of unannounced checks," said Andrew Traill, the FTA's head of rail freight, maritime and air cargo policy.

"The key benefit cited by the proposals for becoming a 'secure operator' is that the transport and the cargo would receive a 'fast-track.' But FTA believes further, more immediate and quantifiable benefits should be given to those within the security scheme, because nobody yet knows how much of a burden will be placed on non 'secure operators' and, for many, compliance will not come cheaply," Traill said.

"The benefits must outweigh the costs. Yet the proposals are somewhat light on this point and benefits, it seems, will be up to the individual member states to determine, which could have the potential to create unfair commercial advantages for those whose governments are more industry-friendly and supportive," he said.

"The worse-case scenario, and something FTA has been trying to prevent for many years, is that security measures become mandatory, and have no relationship with risk assessment or a company's ability to bear the costs of enhanced supply chain security. The commission makes it quite clear that failure of the market to accept the voluntary scheme could result in more stringent measures. But the commission and member states must accept a responsibility to help businesses comply, and to ensure security does not disadvantage EU companies compared to their overseas competitors," Traill said.

"Ports could benefit from the regulation as they become confident that cargo entering their perimeter from a chain of secure operators has been adequately secured all along the chain. However, for successful implementation of the secure operator scheme, such awarded operators need to be given tangible practical advantages," ESPO said.

"Ports should provide preferential treatment, e.g. by authorizing to use fast-track treatment. ESPO members are, however, not yet convinced about how to implement such a fast-track treatment in port operations. ESPO will closely examine the proposal and the impacts on ports and discuss the need to make possible amendments to the proposed commission text," ESPO said.

The full version of the EC's proposal is available at: http://europa.eu.int/comm/dgs/energy_transport/security/intermodal/index_en.htm.

The need for land supply chain reforms was

first identified in 2003 when the EC set out to tighten security in the maritime industry by amending Regulation 2454/93, also known as the Community Customs Code.

Changes to Regulation 2454/93 include a proposal to collect and prescreen advance shipping data and an Authorized Economic Operator (AEO) program, by which carriers would receive "secure" traders status by achieving security and safety standards compliance to benefit from simplified customs procedures.

The Washington-based World Shipping Council, which represents about 30 international ocean carriers, is not convinced that ocean carriers will see any benefits from the AEO program.

"Considering both that ocean carriers in international commerce are already required under mandatory international conventions to have ISPS Code certificates, as well as International Safety Management certificates, and that 'the granting of any facilitation' will be benefits conferred on the shipper/importer, not the carrier, it is not clear why ocean carriers would need to obtain AEO status, except when their shipper customers request that they do so as a condition of doing business," said the WSC in comments sent to the EC in March.

"It is not clear to us why the current community legal situation for the release of goods — which is a matter involving the obligations of an importer — should necessarily limit the application options for other 'economic operators,' including ocean carriers, regarding the granting of AEO — Security and Safety status.

"Ocean carriers are not the owners of the goods and are not the parties responsible for seeking the release of the goods. Procedures for the release of goods may have relevance for the filing of applications for AEO — simplified customs procedures status, but would intuitively seem to be of no relevance for a carrier's application for the AEO — security and safety status.

"Thus, we encourage the commission to reconsider this issue, including whether a distinction can and should be made between importers seeking AEO status and other types of 'economic operators,'" the WSC said.

The WSC had fewer issues with the "24-hour rule" amendment, although it did ask for a long implementation period. "The council supports a 24-hour rule strategy for containerized ocean commerce ... We believe the interest of European commerce can be served by such a regime," the WSC said.

"At the outset, the council believes strongly that it is not realistic to introduce a community-wide advance cargo risk assessment system until such time as all of the customs administrations of administering port member states have become automated and have electronic data filing and sharing capabilities. It will also be necessary for member states to seek to have comparable and consistent risk screening and assessment capabilities.

"Our member carriers have found from experience that the kinds of changes envisioned in this draft regulation can require significant administrative, operational, and education efforts to be implemented successfully. In order to comply with a European 24-hour rule regime, it is likely that the carriers' administrative office functions would have to be transferred from European offices to offices at the foreign load port.

"That can require information system changes, business process changes, personnel changes and training, and marketing/education efforts. In short, these regulations will have a significant impact on carriers and their customers and how they conduct their business, and will require adequate time after the regulations are finalized for the industry to make the operational changes necessary to comply.

"Consequently, we would respectfully encourage that the final regulation provides for a sufficiently long implementation period after the regulation takes effect and before enforcement is commenced," the WSC said. ■

California Gov. Arnold Schwarzenegger's Strategic Growth Plan would include $18.9 billion for projects specifically designed to enhance freight movement in the state, and $2 billion for port projects.

Goods movement center stage in Golden State

Massive bond measures, container fees the scuttlebutt in California as legislative season approaches.

By Eric Johnson

You take a state with a charismatic Republican governor, a fiercely Democratic legislature, a decaying infrastructure network, an explosion of international trade growth, and then make it an election year, and you've got an interesting situation, to say the least.

That's what awaits California this legislative cycle, which should concern shippers around the nation since close to 50 percent of all containerized cargo arrives at the state's major ports. Not only that, California is typically a bellwether for freight movement issues that ultimately end up affecting other parts of the country.

This year should be especially noteworthy because California's celebrity governor, Arnold Schwarzenegger, is pushing as ambitious a plan as could be imagined for the state.

In December, he announced his Strategic Growth Plan, a gargantuan $222-billion package of bond money, public funds and private investment that he said would allow the state's roads, schools and jails to catch up on years of neglect in a decade.

Included in that $222-billion package is $107 billion for transportation projects, $18.9 billion for projects specifically designed to enhance freight movement in the state, and $2 billion for port projects.

What makes the situation potentially volatile is not just that California's legislature and governor rarely see eye to eye (or that the state is the nation's primary freight gateway), it's the fact that California's inland infrastructure is particularly ill-equipped to handle all the trade coming its way.

"I look at it from the point of view that the state hasn't invested in transportation infrastructure, so we're playing catch-up," said Jack Kyser, chief economist at the Los Angeles Economic Development Corp.

The first three months of any calendar year are the time when state legislators position themselves as proponents of this and that, before debate begins on the scores of bills introduced for the year's session.

In 2006, the key words are goods movement, and much of that has to do with Schwarzenegger's plan to overhaul the state's creaking highway network. In late 2004 he set up a goods movement task force to tackle the major problems and identify key projects to help expedite freight flow.

His goal is to reduce congestion in the state's transportation system by 20 percent in the next decade, a considerable task considering the population is expected to swell by 11 percent during that time.

"We will invest in our ports and make them more efficient. Right now trade is a major job creator in California," he said in a February speech to business leaders in Los Angeles. "But if we don't improve our ports, those jobs will disappear as we lose business to other states and nations. Our investment will mean more trains loading and unloading goods right at the ports, and trucks on separate toll lanes in the port areas, which will help our businesses get their goods to and from our ports more quickly and handle more trade."

He also said the infrastructure investment will provide a good return on investment for California's trade-dependent economy.

"Every dollar spent on construction in this state generates an additional $1.40 in economic activity," he said. "For every $1 billion in transportation investment, California generates $750 million in labor income and takes in an additional $64 million in tax revenues. For every $1 billion invested in road building, we add nearly 19,000 jobs for working families."

The governor's goal was to put the bond measure on the June ballot, letting state voters decide if they wanted to authorize sale of the first set of what could become $68 billion worth of bonds over the next decade. But the bond measure has already run into a roadblock, with state Democrats providing friction.

Bond Holdup. A major source of friction for the industry is state Sen. Alan Lowenthal, whose district includes the Port of Long Beach, the nation's second-busiest port. Lowenthal has tracked goods movement issues and the environmental problems attached to them, for longer than most politicians in California.

In fact, it was his threatened state bill that eventually led the industry to adopt night truck gates and a daytime user fee, commonly called PierPass, at the ports of Long Beach and Los Angeles.

Lowenthal said the bond measure, while well-intentioned, is far from perfect right now.

"We're not getting these bonds on the June ballot," he said. "There are just too many unanswered questions. For the bond money, the governor wants a highly centralized

mechanism for determining how the funds are split up amongst the various projects. The goods movement task force, when they finally make recommendations, will take them to the secretary of the (state Business, Transportation and Housing Agency), meaning all goods movement projects would be decided in a centralized manner.

"We're not going to let that happen. Not the Republicans and not the Democrats. I think the list of projects is good, don't get me wrong. But I'm more into letting the local region decide how that money is spent."

In March, the California Assembly approved only a $4.1-billion borrowing plan to shore up the state's levees and $19 billion more for school construction. On March 15, the state Senate declined to act on either measure, leaving the bond measure to wait until November.

Lowenthal, who chairs the state Senate transportation committee, said goods movement is just as much of a priority for the legislature as it is for Schwarzenegger.

"The legislature is focused on shifting as much as possible to rail, like grade separations in the Inland Empire," Lowenthal said. "But that doesn't seem to be the highest priority of the goods movement task force. They're more interested in toll roads."

Other politicians have also proposed massive bond measures to pay for infrastructure.

State Sen. Don Perata has proposed a $10.8-billion bond measure for the 2006 ballot purely for infrastructure expenditure. Schwarzenegger's more aggressive plan includes money for schools and jails, among other things.

In many ways, shippers will most be affected by whatever happens to the private investment piece of the Schwarzenegger plan puzzle. And that will likely center on the debate over container fees versus user fees.

Shipper and carrier advocates, realizing that it will take some private investment to overhaul the state's road and rail networks, are pushing for toll roads. They argue that concepts like commercial truck-only toll roads assess fees commensurate with private usage of roads.

Legislated containers fees, on the other hand, are typically decided at random — in California's case, Lowenthal will likely push a $30-per-TEU fee bill, charging every box that passes through California ports.

"I personally want an ongoing container fee," Lowenthal said. "You have all this matching money for your bonds."

But any container fee bill Lowenthal pushes through the legislature will undoubtedly face intense opposition from industry advocates, who say container fees are onerous, unconstitutional and unreliable.

"Container fees are a non-starter for us," said John McLaurin, president of the Pacific Merchant Shipping Association. "We don't think it's lawful or doable."

PMSA isn't the only group that comprehensively opposes container fees. The Waterfront Coalition, a Washington, D.C. lobbying group that represents major importers like Nike and Target, has long denounced them as unconstitutional for violating the commerce clause of the U.S. Constitution.

In any case, it's likely any successful container fee legislation would be tied up in court challenges for years. But that may not stop Lowenthal from pressing ahead with his bill, SB 760.

"In my experience with the trade industry, they're not homogenous," Lowenthal said. "Some will be O.K. with it if the money's put in a lock box. Some are willing to pay their fair share. They're just concerned that it's done nationwide and they don't want to pay for everyone else's ills."

And he said the concept of the container fee may have to change in order for trade advocates, and the governor, to get behind it.

"No one is embracing the container fee, but it's in the air," he said. "We may have to

California bills du jour

Goods movement is squarely in the sights of California politicians this year, with a container fee bill, diesel pollution reduction bills and a port trucker collective bargaining bill set against the backdrop of Gov. Arnold Schwarzenegger's call for mammoth spending to overhaul the state's transportation infrastructure. *American Shipper* takes a peek at five of the more interesting bills that await the industry this legislative cycle in California, the nation's primary gateway for containerized trade.

Assembly Bill 2492. This legislation, introduced by Assemblyman John Benoit, would give California's governor power to override some environmental review of transportation projects deemed critical to the state's needs. Republicans in the state, including Schwarzenegger, are keen on streamlining the project review process to get infrastructure built more quickly, but this bill could be defeated because Benoit, a Republican, might not get the backing of the Democratic legislature.

AB 1101. Introduced by Assemblywoman Jenny Oropeza, whose district includes Long Beach, this so-called "diesel magnet" bill would require defined areas that produce abnormal amounts of diesel air pollution to be more heavily regulated by local air quality agencies. It shifts control of the sources of diesel pollution, in some cases, from state to local control, something the California Chamber of Commerce decried when the bill was debated in 2005. In particular, the ports of Long Beach, Los Angeles and Oakland could be heavily impacted by such a bill, which was defeated in the 2005 session on the Assembly floor. Oropeza has since amended the bill to take out distribution centers and oil tanker facilities, appeasing truck and petroleum lobbies that fought to derail the bill.

Senate Bill 760. The infamous container fee bill, introduced by Long Beach state Sen. Alan Lowenthal, would tack on a $30 fee on each TEU of cargo moving through the state's ports. The fee would be used to pay for transportation infrastructure, security enhancements and port environmental mitigation. But trade advocates say the bill violates the U.S. Constitution because it is essentially a cargo tax, while shippers say extra costs in California might drive them to use other ports. Lowenthal's SB 1601, which would require ports to negotiate best available control technologies for air emissions into any new or amended lease with terminal operators, is also worth watching.

SB 1213. State Sen. Joe Dunn introduced this bill on behalf of the Teamsters, as it would allow independent truck owner-operators in the port to collectively bargain on rates, something federal trucking deregulation has prohibited for more than two decades. A similar bill, SB 848, was passed by the legislature but vetoed by Schwarzenegger last year, with the California Trucking Association coming out in opposition to the bill. While some are calling for ocean carriers to pay port drayage truckers higher load rates, the bill would essentially change the way truckers interact with the trucking companies from whom they lease their vehicles.

SB 1494. Similar to Benoit's bill, this bill by state Sen. Tom McClintock would allow the state's transportation commission to designate key infrastructure projects as exempt from California Environmental Quality Act review.

To view the bills in their entirety, go to www.leginfo.ca.gov/bilinfo.html.

change the name to 'user fee' to make it more amenable to everyone," Lowenthal said.

Cautious Support. As for the governor's plan, McLaurin said PMSA is supportive so far.

"Any additional funding for infrastructure is good," he said.

In a Feb. 6 letter to Schwarzenegger, PMSA said it would be in favor of toll road user fees in key freight corridors to help finance projects.

"As an industry, we know that the lack of state and federal investments in our transportation infrastructure will ultimately limit international trade, reduce job opportunities in the logistics industry, and hurt California's global economic competitiveness," wrote PMSA Vice President Mike Jacob.

The letter also said PMSA opposed any container fees, as well as environmental mitigation plans developed solely by the state's Air Resources Board, which regulates California air quality.

Yet not all business advocates denounce container fees.

"You have a lot of people out there saying container fees aren't fair, but if you're importing, you're putting a burden on infrastructure," LAEDC's Kyser said. "All parties have to participate and if everyone is paying a container fee, everyone is on a level playing field."

Kyser said he doesn't buy the argument that container fees would push cargo to ports in other states, because other West Coast ports are already running into capacity constraints of their own, and new ports in Mexico and Canada are years from coming to fruition.

And he's not convinced toll roads — even toll roads dedicated for commercial truck traffic — would be successful.

"Southern California's history with toll roads isn't great," he said. "They seem logical, but they just don't work out."

However, if the private sector, namely shippers, end up paying in to the infrastructure overhaul, Kyser said it won't come soon.

"The private sector might eventually be willing to pay (user fees), especially in industries where speed to market is a real advantage," Kyser said. "But there's not enough support to get private truck toll lanes off the ground right now."

In all, LAEDC supports Schwarzenegger's plan — particularly the amount set aside for goods movement.

"That seems like it would be a good number," Kyser said. "Unfortunately, people in the legislature are nitpicking. (Delaying a vote on the bond measure) gives people more time to nitpick. This is a political year, with the governor running for re-election."

Kyser said Southern California roads are still too congested for freight to move efficiently, costing shippers and carriers valuable time and resources.

"PierPass has had a small positive effect on the 710, but rail is strained for capacity," he said. "The state's economy has performed well given the restrictions the legislature has put on it. Funding infrastructure would, in essence, pay for itself."

More Container Fee Backlash. Back to the "No on container fees" side, the Foreign Trade Association of Southern California said container fees are short-sighted and don't show a deep understanding of the issues facing the long supply chain.

Jack Kyser
chief economist, Los Angeles Economic Development Corp.

"I look at it from the point of view that the state hasn't invested in transportation infrastructure, so we're playing catch-up."

"In an attempt to provide a quick and seemingly simple solution to such problems, politicians have proposed initiating fees on every container that is processed through these ports," Southern California FTA Chair Nancy Hiromoto wrote in an editorial. "It is often tempting to look at taxes as a means to solve a problem, but in this case, between the existing daytime pickup surcharge at our ports (PierPass) and this proposed tax, the impact will be the greatest on small companies, which are least able to pass such costs on to their customers."

Hiromoto, director of import/export and facilities management for Citizen Watch Co., added that any container fee bill could have serious unintended consequences.

"While we commend the intent of bills such as California Senate Bill 760, which aim to tackle the traffic and air quality problems that challenge the ports, we feel they do not address the true heart of the problem, and merely serve as bandages which will ultimately create unintended and unwanted side-effects," Hiromoto wrote.

The Southern California FTA said the container fee is problematic for three reasons:

- By assessing a fee on a per-TEU basis, the state would essentially be taxing cargo, which is prohibited by the Commerce Clause of the U.S. Constitution.
- A fee would force shippers to divert cargo to ports that didn't charge a container fee, driving away vital trade business.
- California has a history of using tax revenue for purposes other than what it was originally intended.

But on the governor's plan, the FTA said infrastructure is long overdue and any plan to rectify that is a positive step.

"The Foreign Trade Association of Southern California is supportive of the concept of Gov. Schwarzenegger's Strategic Growth Plan," Hiromoto said in an interview with *American Shipper*. "The activity at our local ports has outgrown our aging infrastructure, and there is a dire need to rebuild. In particular, we welcome any improvements possible to the current congestion on the I-710 freeway system."

Hiromoto was less clear on how FTA members envision private investment toward the infrastructure improvements.

"Exactly how this project will be financed remains to be seen, but we look forward to a bond measure being presented for a statewide vote sometime this year," she said. "With transportation being a key issue in trade today, the international business community would be open to discussion with government officials as to how the trade community may help foster such legislation."

Meanwhile, Lowenthal said California should be developing transportation technologies that it can market elsewhere.

"We're not the only congested corridor in the world," Lowenthal said. "We can sell this to other parts of the world."

"The future, for me personally, is goods transportation with zero emissions," he continued. "My vision is 120 miles around the port all cleaned up, moving efficiently and with zero emissions."

And no matter what form the governor's growth plan takes eventually, Lowenthal takes solace in the fact that the issues he has long tracked are now getting statewide and national attention.

"The governor is starting to get it," Lowenthal said. "All of sudden, goods movement is such a high priority in the state. When I said I wanted 2001 emissions levels from the ports by 2008, I was a Communist. Now California EPA wants it by 2010.

"I just want accountability, given our technology and our growth. We have to be able to be accountable." ■

Building a NAFTA house

U.S. eases Mexican concrete trade, but tensions remain on Canadian lumber imports.

By Chris Gillis

Housing construction in the United States remains a robust industry, but severe shortages in building materials, especially in the hurricane-ravaged Gulf Coast states, threatens the momentum.

To ease supply shortfalls, U.S. builders want more access to construction materials manufactured in Mexico and Canada. They're demanding Washington lawmakers and Bush administration officials take action to end trade squabbles over Mexican cement and Canadian softwood lumber.

The Bush administration responded on March 6 by entering into an agreement with Mexico to increase imports of gray portland cement, effectively ending a 16-year trade dispute between the two countries.

"The agreement contains provisions that will help increase access to the Mexican market for U.S. cement producers, and it also ensures that our Gulf Coast communities will have the resources necessary to rebuild," said U.S. Commerce Secretary Carlos M. Gutierrez in a statement.

The agreement settles all litigation regarding outstanding claims for duties before U.S. and international courts, and divides between the parties the deposits of estimated antidumping duties.

The agreement also sets a limit of 3 million metric tons on imports of Mexican cement to enter the United States at an antidumping duty rate of $3 per metric ton, compared to a previous $26 per ton duty. If a disaster occurs, it allows the president to seek an additional 200,000 metric tons at the same duty rate. If the terms of the agreement are adhered to over the next three years, the agreement will end and the antidumping order revoked.

In 1989, the Southern Tier Cement Committee filed a petition with the Commerce Department, which resulted in an antidumping duty investigation. The department found that Mexican producers sold cement at less than fair value in the U.S. market. On Aug. 30, 1990, an antidumping duty order on imports of gray portland cement from Mexico took effect.

In 2004, members of Congress, trade groups and cement consumers called on the Commerce Department to reduce or eliminate the antidumping duties so that cement could be imported from Mexico at a more reasonable cost. These efforts were renewed after Hurricanes Katrina and Rita struck the Gulf Coast late last year.

General cement shortages also continue to hinder the country's builders at large.

"The mild, dry weather this January meant that more cement was used than usual, making shortages even more likely than last year, when 32 states reported shortages by August," said Stephen E. Sandherr, chief executive office of the Associated General Contractors of America, in a statement. "Increased ready access to more Mexican cement in some of those states will help contractors to keep working instead of having to lay off employees."

Even with the increased flow of Mexican cement, U.S. builders may still come up short. According to a recent market analysis by the Portland Cement Association, it's expected that builders will increase their consumption of cement by at least 10 million tons over 2005 levels.

"The potential increase in Mexican imports of one million metric tons will improve supply conditions, but itself will not be enough to result in an elimination of concerns regarding future tight market conditions," the association said.

The association noted that U.S. cement makers plan to invest almost $3 billion in their operations through 2009, which should increase kiln capacity by 14.66 million metric tons, a 15.5 percent increase over the existing capacity.

Despite improved prospects for cement supplies, the trade spate between the United States and Canada over softwood lumber imports continues to cause headaches for U.S. builders.

"The news regarding the Canadian softwood lumber debacle is like walking up an endless sand dune," said Michael Jones, president of Jones & Jones, a customs broker that specializes in handling Canadian lumber import clearances. "You take three steps up while sliding back two — with the top never quite in sight."

The Bush administration hopes that talks with Canada's newly elected government will help resolve the decades-old trade dispute over Canadian softwood lumber.

Deputy U.S. Trade Representative Susan Schwab informed members of the Senate Commerce Committee's Trade, Tourism and Economic Development Subcommittee in testimony Feb. 14 that the administration has approached David Emerson, Canada's new trade minister, about starting negotiations as soon as possible to settle the dispute.

"The administration remains committed to a negotiated solution that will end this dispute, and we look forward to working with our Canadian counterparts in order to do so," she said.

The current dispute was sparked after the 1996 Softwood Lumber Agreement expired in 2001, and the U.S. government responded by imposing antidumping and countervailing duties on softwood lumber imports from Canada. Subsequently, the Canadian government and lumber industry have filed

Michael Jones
president, Jones & Jones

about two-dozen cases challenging the duties under the North American Free Trade Agreement, World Trade Organization, and U.S. Court of International Trade.

"Throughout the dispute, we repeatedly have stressed to our Canadian counterparts that, given the long history of this disagreement, there is little reason to believe that the current round of cases will resolve the matter once and for all, regardless of how the process plays out," Schwab said. "Without a negotiated solution, chances are high that the dispute will continue."

U.S. lumber industry representatives on both sides of the debate voiced desire to resolve the Canadian softwood lumber dispute through successful negotiations between the two countries.

"It is a tragedy that this long festering trade dispute has not been resolved," testified Steve Swanson, chairman of Oregon-based sawmill operator The Swanson Group and a representative of the Coalition for Fair Lumber Imports, before the Senate subcommittee. "This issue would disappear the day that Canada made reasonable, transparent and enforceable commitments to end their unfair trade practices and allow open and competitive markets for timber and logs. Canada simply refuses to do so because it is addicted to subsidies and has been unable to break the habit."

> ***"Given the long history of this disagreement, there is little reason to believe that the current round of cases will resolve the matter once and for all, regardless of how the process plays out."***
>
> **Susan Schwab**
> *Deputy U.S. Trade Representative*

The coalition noted that Douglas fir lumber costs $439 per thousand board feet in the United States compared to $113 per thousand board feet in Canada. "There is only one explanation — because the Canadian provincial government is setting prices at an artificially low level to subsidize lumber production and employment," Swanson said.

Last year, however, a NAFTA settlement panel directed the U.S. International Trade Commission to reverse a finding that unfair imports of Canadian lumber threaten U.S. industry. The coalition responded by questioning the constitutionality of the NAFTA settlement system, also known as Chapter 19, by filing a complaint with the U.S. Court of Appeals for the District of Columbia Circuit on Sept. 13.

Builder groups called the court filing a big mistake which, if allowed to proceed, could further erode U.S. trade relations with Canada at a time when lumber prices are already inching higher.

The National Association of Home Builders said U.S. import duties on Canadian softwood lumber already add about $1,000 to the cost of a home built in the United States.

"This duty acts as a tax on American home buyers and home owners seeking to make improvements to their homes, hurts housing affordability, and prevents many families from qualifying for a mortgage," Barry Rutenberg, president of Gainesville, Fla.-based Rutenberg Homes, told Senate lawmakers on Feb. 14.

"The simple and critical fact is that the U.S. home building industry cannot meet the need for new homes and improvements to existing homes without lumber imports from Canada," Rutenberg said. ■

Jim Doe

BROKERS, FORWARDERS & NVOs

Toughest sale?

Customs brokers are perennially challenged to push for the understanding that, while Customs and Border Protection is an enforcement agency, it is also charged with keeping the flow of international commerce moving.

The brokers' cause is not helped when members of Congress start calling for inspections of 100 percent of all imports. That nightmare scenario is unlikely to occur, but just the thought must make the trade nervous.

CBP, meanwhile, gets stung regularly by the tired charge that only about 5 percent of incoming containers are inspected. The statistic is often quoted on television news programs, and the clear misperception is that 95 percent of the containers whiz through ports of entry — with federal officials just hoping against the logical odds there are no security problems.

CBP has mounted several efforts since Sept. 11, 2001 to explain how that is not the reality. The most recent and most thorough was released shortly after the furor over Dubai Ports World's efforts to acquire P&O Ports erupted. With federal, state, and local elected officials often leading the protests, the stakes are high and the prospect of damaging legislation real.

What CBP is trying to do is explain how existing port security actually works, and to debunk some of the myths swirling around reports of the DP World deal. The points are worth noting for brokers who might have to make a case before their own elected officials.

Who is who

Explaining its own role first, CBP noted it starts the process by taking on the task of working to prevent terrorists or weapons from coming into the country before they would arrive at borders or ports.

The agency noted that it uses a risk-based analysis to assess and screen 100 percent of all cargo before it arrives. Using the information provided on all inbound shipments, along with intelligence information, it passes up "safe" cargo, such as the highly repetitive imports that make up the vast majority of all cargo. A container full of beer from Germany, originating at the usual location and being handled by the normal exporters and sent to the usual importers at the same locations, does not need to be stripped down for a full physical inspection.

Customs does, however, inspect 100 percent of the cargo that meets high-risk criteria.

CBP also noted that the U.S. Coast Guard is responsible for assessing security at all ports, regularly inspecting facilities using the standards established by the Maritime Transportation Security Act and the Ports and Waterways Security Act. All ports are required to implement security plans, which are monitored by the Coast Guard with assistance from local law enforcement agencies.

Terminal operator limitations

Terminal operators are responsible for their own immediate area. But state or local port authorities are responsible for security oversight of all physical infrastructure, including wharfs, docks, piers, transit sheds, loading equipment and warehouses. Ports also typically provide additional security services beyond the federal and local authorities.

The explanation further notes that no terminal operator controls any U.S. ports. The reality is that they manage specific terminals. Using the existing P&O Ports agreements as an example, CBP explained that at some ports P&O is a terminal operator and at others it is a stevedore.

"Stevedores provide labor services, such as loading and unloading cargo," the CBP explained. "Unlike a terminal operator, a stevedore does not have the ability to control the gates for entry and exit of cargo."

P&O Ports, CBP programs

Getting into the specifics of what P&O Ports has done to enhance security — and noting that DP World has agreed to remain active in the same programs — CBP specified that P&O participates in the Customs-Trade Partnership Against Terrorism (C-TPAT), the Container Security Initiative (CSI), and the Business Alliance for Secure Commerce, as well as the Megaport Initiative Memorandum of Understanding with the U.S. Energy Department.

CBP is further making the case that many port security critics do not understand the layered, multipoint nature of security strategies. It is clearly not a case where any one part of the supply chain, such as a port terminal, could choose to bypass the larger security process.

Citing its specialized programs, CBP said its policy of screening 100 percent of all imports starts overseas. The 24-hour rule imposed after 9/11 requires anyone sending cargo to the United States to provide required manifest information at least 24 hours before a shipment is loaded onto a vessel in a foreign port. CBP has the authority to prevent a high-risk shipment from being loaded in the foreign port.

CSI allows CBP to work with customs authorities in other countries to examine high-risk cargo at foreign seaports, CBP noted. There are 42 ports participating now, and that number is expected to increase to 50 by the end of this year.

CSI has four core elements:

- Establishing criteria for identifying high-risk containers.
- Pre-screening those containers before they arrive at U.S. ports.
- Using technology to quickly pre-screen high-risk containers.
- Developing "smart" and secure containers.

C-TPAT, meanwhile, involves the direct participation of shippers, with some 5,800 companies participating and more than 4,000 still awaiting approval. The companies that already participate in C-TPAT account for the bulk of all trade, and the government is working to further expand C-TPAT to provide greater visibility into the supply chain.

Finally, once cargo has arrived in the United States, there are many ways to check cargo here. CBP is using technology that includes large-scale X-ray, gamma ray and radiation detectors. CBP operates more than 680 radiation portal monitors at ports of entry, including 181 radiation monitors at seaports. There are more than 170 large-scale, non-intrusive inspection devices in place to examine cargo. CBP has issued 12,400 hand-held radiation devices.

The president's proposed fiscal year 2007 budget requests $157 million for next-generation detection equipment at ports of entry. Beyond the high tech, there are over 600 canine detection teams capable of locating anything from stowaways to weapons to narcotics.

So CBP continues to make the case that there are not huge volumes of cargo essentially moving unchecked into the country. For their own good, customs brokers will need to help make that case, as well.

NSAs expected to take off in 2007

NVOs getting used to concept of confidential contracting.

HOUSTON

Non-vessel-operating common carriers have been slow to enter confidential service arrangements with their shipper customers, but a federal regulator and industry analysts anticipate these arrangements will gain momentum by 2007.

Out of 3,398 NVOs operating in U.S. international trades, only 351 have registered with the U.S. Federal Maritime Commission to become NVO service arrangement (NSA) filers. Of that group, only 53 NVOs have actually filed NSAs with the commission. As of Feb. 14, the FMC received 222 original NSAs and 144 amendments to those contracts.

"Three NVOCCs are responsible for almost half of those contracts," said FMC Commissioner Harold J. Creel Jr. at the recent International Transportation Management Conference in Houston.

Ocean carriers have been filing confidential service contracts with the FMC since the implementation of the 1998 Ocean Shipping Reform Act. Last year, ocean carriers filed 46,809 original service contracts and 236,921 service contract amendments.

From July 2003 to March 2004, a handful of large NVOs, the National Industrial Transportation League and Transportation Intermediary Association filed petitions asking the FMC to use its section 16 exemption authority in OSRA to allow NVOs to enter confidential service contracts similar to ocean carriers. The commission adopted the NSA rule, effective Jan. 19, 2005.

Creel attributed the slow take off of NSAs within the NVO industry to the "newness of the concept" and pending litigation in the court of appeals that questioned the FMC's authority to grant NVOs the privilege to enter NSAs.

"Another possibility is that NVOCCs are waiting until they complete their negotiations with ocean carriers for service contracts for the 2006 season," Creel added. "These arrangements will generally become effective on May 1.

"Until those contracts are locked in, some NVOCCs may not know what terms they can negotiate with their shipper customers," he said. "I expect that next year at this time the number of NSAs will have increased significantly."

Creel believes "large integrators will go head-to-head with vessel operators for high-value commodities in certain trades." He cited the recent report by IBM Consulting Services that affirms this.

"I don't believe (integrators) came to the FMC seeking to offer NSAs if they weren't going to use them," Creel said.

Industry experts generally agreed with Creel that NSAs will begin to take off by 2007 as a means for large NVOs in particular to conduct business with shippers.

"We see NVOs behaving in a whole different way," said Garry Mansell, managing director of U.K.-based Freight Traders, and former chairman of the European Shippers' Council. "The market place is shifting to a system that is much more free."

The big question is "can the NVO uncommoditize itself" to be able to enter NSAs, said Tom Craig, president of consulting firm LTD Management. Shippers aren't going to want just the rate. They're going to want the service that goes along with it." ■

Kuehne + Nagel's earnings up 32% in 2005

SCHINDELLEGI, Switzerland

Swiss forwarding and logistics group Kuehne + Nagel International AG reported net earnings of CHF315 million ($239 million) in 2005, up 32.3 percent from CHF238 million in 2004.

Kuehne + Nagel's turnover was CHF14.05 billion ($10.7 billion), up 21.5 percent over 11.56 billion CHF in 2004. The company's operational result for 2005 increased 19.1 percent to CHF454 million ($345 million) from CHF381 million in 2004.

Kuehne & Nagel's main division, sea freight forwarding, saw revenue increase 23 percent to CHF7.5 billion ($5.7 billion) from CHF6.1 billion thanks to a 19.4 percent volume increase. Air freight volumes improved 9.4 percent boosting revenue 16 percent to CHF3.01 billion ($2.3 billion). Rail and road logistics revenue grew 32 percent to CHF2.1 billion ($1.6 billion). Contract logistics revenue rose 14 percent to CHF1.3 billion ($988 million). K + N's insurance broker unit subsidiary Nacora, posted revenue of CHF106 million ($81 million), up 16 percent compared to CHF106 million in 2004.

"In 2005, Kuehne + Nagel maintained the first half's pace of expansion through the end of the year. We improved performance and profitability while strengthening our global market position," said Klaus Herms, Kuehne + Nagel's chief executive officer. "In addition, through strategic investments we continued to lay foundations for further sustainable growth."

In October, Kuehne + Nagel agreed to buy ACR Logistics (formerly Hays Logistics) for 440 million euros ($525 million). Other recent takeovers include Scituate, Mass.-based forwarder Aces Ltd. and Danish forwarder Ziegler & Co.

"Given our strong presence in all key markets worldwide, we are well positioned to continue benefiting from globalization and growing trade flows," said Klaus-Michael Kuehne, executive chairman of the board of directors at Kuehne + Nagel. "The Kuehne + Nagel Group's considerable business potential and proven logistics capabilities will receive additional momentum from the merger with European contract logistics company ACR. We are confident that we can significantly strengthen and expand our market position again in 2006." ■

AIR / INTEGRATORS

Express firms make government connections

Big integrators UPS and FedEx are taking international customs issues head-on.

The government of El Salvador has signed a cooperation agreement with UPS aimed at simplifying the Central America country's customs procedures.

Meanwhile, FedEx Express and the Australian Trade Commission have signed a two-year agreement to expand trade between Australia and the United States.

Last October, PROESA, the El Salvador government's department dedicated to promoting investment in the country, visited UPS's offices in Miami, proposing to establish a customs clearance system in El Salvador based on UPS's global operations.

Under the new system, courier companies will now be able to withdraw their merchandise from Customs at the El Salvador International Airport within 48 hours of the goods arriving. The agreement also considers that shipments whose value Free On Board (FOB) are lower than $200 can be removed from Customs with the presentation of the corresponding air bill and invoice; however, a spot check of the merchandise can be requested for verification purposes. If the value FOB is more than $200 but less than $3,000, the removal of the goods will be authorized with the presentation of the Merchandise Declaration. This document can be created by the operator of the express delivery or courier.

The prices that are charged for customs procedures will be representative. The authorization timetable is valid for one year and renewable with prior authorization from the Customs Department.

"The signing of this agreement is of great importance for El Salvador. It's a valuable element that will contribute to expedite customs procedures and will generate new sources of investment in the country," said Ana Vilma de Escobar, president of PROESA.

"At UPS, we are very proud to be part of this agreement that will streamline and facilitate commerce to improve El Salvador's competitiveness," said Stephen Flowers, president of UPS Americas. "We are committed to our presence in the country and we hope to maintain a close cooperation with the business community and the government institutions that have made this agreement possible."

In Australia, FedEx's agreement calls for it to promote to its customers the benefits of the Australia Trade Commission's export assistance network, which is spread across 50 countries, including 18 U.S. cities. The agreement also supports joint activities between FedEx and the commission, including Web site links, joint export promotion, sales force training, and direct marketing campaigns.

"Our alliance fits within the FedEx international growth strategy, which includes strengthening Australia-U.S. export volume," said Michael Ducker, executive vice president of international for FedEx Express, in a statement.

FedEx and the Australian Trade Commission want to build on the U.S.-Australia Free Trade Agreement, which became effective in January 2005.

FedEx developed a similar alliance in 2004 with the U.S. Commerce Department's Commercial Services to promote U.S. small business exports through marketing and educational programs.

Colography: 2005 record year for U.S. air exports

Atlanta-based cargo market consultancy company The Colography Group Inc. forecast that 2005 U.S. air export shipments and revenue figures will reach record levels.

Colography reported that after the first three quarters of 2005, nearly 68 million shipments moved in U.S. air export service. The consultancy anticipates full year export shipments to exceed 90 million, surpassing the 88.7 million shipment record set in 2000.

Air export revenue for the first nine months of 2005 was about $6.9 billion, Colography said. The company predicts that the full year export revenue will go past the $9 billion barrier for the first time, breaking the $8.5 billion record set in 2004.

Colography said that during the first nine months of 2005, there were 1.85 billion U.S. domestic air shipments with a value of about $30 billion. Domestic shipments and revenue for the full year 2005 are projected to beat 2004 results, but fall short of the records set in 2000.

"The effects of a weak U.S. dollar, a resilient U.S. economy and a rebounding global marketplace will make 2005 a strong and, in the case of U.S. air exports, a record-setting year for air cargo," said Ted Scherck, Colography's president. "Though we do not yet have final results for the fourth quarter of 2005, there is no reason to believe it should be any weaker than the quarters that preceded it."

"The fourth quarter is historically the strongest period of the year because of the accelerated activity surrounding the peak holiday season," Colography said.

Some key findings in the third quarter 2005 edition of Colography's "U.S. Domestic and Export Air Traffic and Yield Analysis By Competitor and Market Segment" report include:

- On the U.S. air export side, the six main competitors — FedEx, UPS, U.S. Postal Service, DHL, EGL Inc. and BAX Global — controlled 77.3 percent of the shipment market during the third quarter of 2005.
- The "all other competitors" category — comprised mostly of airlines and freight forwarders — saw their shipment share decline to 22.7 percent as of the end of 2005's third quarter from 24.8 percent in the first quarter of 2004.
- On the domestic front in 2005, quarterly revenue and tonnage gained on a sequential basis. However, shipment volumes declined by more than 10 million from the second to the third quarter, driven by continued diversion of lightweight, short-haul air traffic to the ground.
- DHL Express reported sequential gains in domestic air shipment share from 10.2 percent in the first quarter to 11.4 percent in the third quarter.
- USPS held the largest domestic shipment share through the first nine months. However, its share of the market declined with each quarter, from 37.9 percent in the first quarter to 36.1 percent in the third quarter. FedEx Express' share declined 0.5 percent over that period, while DHL's and UPS's shares increased.

Colography will publish the fourth quarter and full-year 2005 results in early April.

Boeing predicts $770 billion Asia-Pacific investment

Boeing forecast that Asia-Pacific airlines would provide the largest market outside North America for new airplanes over the next 20 years.

Worldwide, Boeing anticipates airline's investing $2.1 trillion for about 25,700 aircraft in two decades, with Asia-Pacific operators purchasing about 7,200 new airplanes worth $770 billion, nearly tripling the region's fleet to about 8,600 airplanes by 2026.

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Eric Johnson

TRANSPORT / OCEAN

Stock market casts wary eye over carriers

Carriers, time to reach for the antacids. But shippers, hold off on the streamers and balloons.

Sure, it's almost unanimous that freight rates are going to take a nosedive this year — particularly in the Asia/Europe trade lanes, where a glut of post-Panamax ships are oversupplying the market in terms of container slots.

But transportation costs are high, too, and shippers can fall back on that (if it's any comfort) when it comes time to negotiate rates.

One analyst, however, said the year will be especially lean for carriers, some of whom have enjoyed record profits the last few years.

Raymond Maguire, managing director of transport research for UBS Investment Bank, told the Trans-Pacific Maritime conference in Long Beach earlier this month that the stock market is taking a cautious approach to the viability of ocean carriers.

"We saw a sharp falloff of rates in quarter four of 2005 despite volume growth of 20 percent," he said. "We're forecasting transpacific rates to fall 15 percent. We're expecting 15 percent supply growth in '06 and '07, with 9.6 percent demand growth in '06 and 9.4 growth in '07. So you're looking at (5 percent) oversupply. For every 1 percent of oversupply, figure a 3 percent drop in rates."

That, of course, doesn't reflect what's happening on the unit cost side of the carrier's operating equation.

"Paradoxically (demand) growth could be bad because unit costs go up" as rates go down, he said.

Rate drops could reach 75 percent on some lanes, he said.

"That may seem overly aggressive, but the stock market will risk excess scenarios," he said. "If the industry gets a return above 10 percent, (the market) gives it a premium rating. If it's below 10 percent, it gets a discount rating."

Most carriers operate on a much thinner margin than 10 percent, with heavy investment on expensive assets required to stay competitive in the current market.

"It may seem like sacrilege for a liner carrier to go out and buy a $100 million ship and it's valued at $80 million by the stock market, but remember, an investor can invest in anything," Maguire said. "They don't have to invest in transportation. They can invest in Chilean telecom. And that's why we see a 30 percent decrease in valuation compared to actual fleet assets."

And carriers should take little comfort in sectors that most are bounding into — the logistics and terminal operations arenas.

"Integrated supply chain solutions are good for customers, because it provides better service," Maguire said.

But it's not necessarily a guaranteed profit center for carriers.

"Logistics industry operates on a 3 percent to 5 percent margin, so a 1 percent to 2 percent downturn in carrier profits wipes out the profits gained from logistics," Maguire said. "That's how the stock market looks at it. Liner profitability is all-encompassing."

Maguire said that a company like Tesco, the U.K. retailing giant, has been able to grow its market share from 20 percent in 1995 to 30 percent in 2005 by squeezing suppliers and passing the savings on to customers.

"In the shipping context, where are you going to squeeze?" he said. "Shipyards? Fuel? Major retailers like Wal-Mart and Nike?"

And even major players like Maersk Line, with more than 20 percent of the market, aren't eyed by investors as sure things.

Maguire gave the example of automaker consolidation in the last decade. He said the top 10 automakers had 20 percent of the market in 1995, compared to 95 percent in 2005, yet they've had no major gains in profitability on the whole.

"Does consolidation mean more pricing power?" Maguire said. "The stock market has yet to be convinced. The industry has to get away from an obsession with market share."

A liner carrier representative at the conference, however, said that carriers aren't entirely consumed with market share but that it can't be ignored.

"Certainly the CEOs of the TSA would rather concentrate on margin, but market share is still a driver of this industry," said Albert A. Pierce, executive director of the Transpacific Stabilization Agreement. "Part of the problem with consolidation is that everyone thinks one plus one equals two. In my experience, that's never happened and unfortunately, that does put pressure on rates."

In any case, carriers who had perhaps hoped to be darlings of the stock exchanges with billion-dollar profits and sizable tangible assets might be disappointed to discover that they appear to be no more prized in investors' eyes than a fast moving consumer goods company.

No Maersk, no problem

Back in 2004, when Maersk Line was called Maersk Sealand, when it had yet to acquire rival carrier P&O Nedlloyd, and when its market share was decidedly smaller than it is today, the Danish ocean carrier decided to drop out of the TSA.

The company said it couldn't respond quickly enough to customer needs as a member of an association that took months to reach consensus on rates and changed its recommendations only once a year.

Now that Maersk, the world's biggest carrier by some margin, has a roughly 20 percent market share and was named best carrier in the transpacific in a survey by ICG Commerce, you might think that the TSA would be crawling on its knees to bring Maersk back in the fold.

Not so, according to Albert A. Pierce, executive director.

He said his voluntary coalition of ocean carriers, now 11 members strong, are doing just fine despite the absence of Maersk Line.

"I don't comment when a member leaves the TSA, or joins the TSA, but with their increased capacity, we'd love to have them back," Pierce told attendees at the Trans-Pacific Maritime conference.

"TSA still controls 60 percent of the tonnage in the market, and in any other industry, that would be a controlling interest. They still need us, whether they're members or not and we'd like to have them in."

Whether that's bravado or not, there's no doubt that bringing the clout of Maersk into the TSA would give the association more leverage, especially with all the pressures facing the industry today.

Yet it seems like Maersk isn't likely to join the TSA anytime soon.


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Transpacific transformation

The tide in the transpacific is shifting, with shippers seemingly holding all the marbles when it comes to negotiating freight rates in the transpacific trade lanes this spring. Yet crumbling and congested infrastructure, volatile oil prices and continued growth of Chinese exports is putting a damper on the industry.

So it's in this climate that more than 1,100 in the shipping industry gathered in Long Beach in early March to get the skinny on transpacific trade — and they found out that freight rates are likely to drop, while congestion and infrastructure problems shouldn't surface in 2006.

So pretty good news for everyone, right? Well, good news unless you're a carrier, or unless you plan on continuing to ship past this year. That's because most analysts at the conference predicted a congestion crisis will be upon the West Coast before the decade is over, and not even nifty freight rates this year and next can be too soothing in light of that.

The conference, held by the *Journal of Commerce,* highlighted the key issues that face Asia/U.S. West Coast trade in upcoming years:

- Growing disparity between Chinese and U.S. port and inland infrastructure development.
- Carrier overcapacity and its rate implications for carriers.
- The dwindling supply of affordable land near ports to build distribution facilities.

Congestion

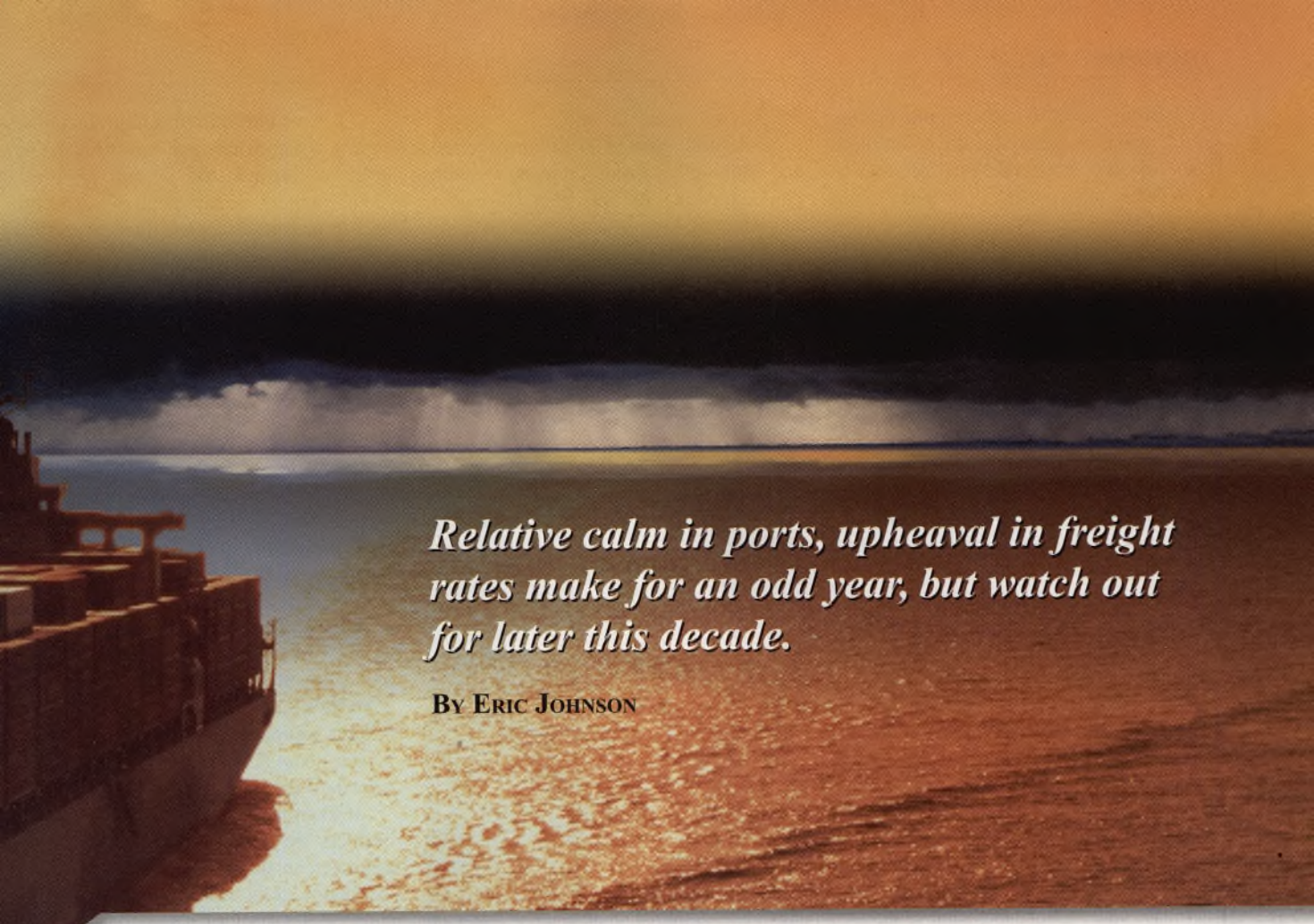
"The thing that strikes you first about China is the size of their port expansion," said Doug Tilden, president and chief executive officer of Marine Terminals Corp. "We view Asian/West Coast trade as a pipeline, and we view our terminals as being at the other end of the pipeline with China. When I see a doubling or tripling of Chinese port capacity, while we're not expanding port capacity at all, that leads me to believe there will be problems. The issue of port congestion is not if, but when it's going to happen. How close are we to the edge?"

Tilden said that in order to handle container throughput growth in U.S. ports, which reached 38 million TEUs in 2005, a port the size of New York-New Jersey would have to be added each year in terms of capacity.

"Previous port congestion has been event-driven," Tilden said, mentioning rail merger issues in the late 1990s, labor negotiations that shut down the West Coast ports in 2002, and growth forecast problems that crippled Southern California in 2004.

"In my opinion, the day of the event-driven port congestion is over. Port congestion is much more likely to be systemic and sustained in the future," he said.

Tilden said diverting out of Southern California has long passed as a way for even



Relative calm in ports, upheaval in freight rates make for an odd year, but watch out for later this decade.

By Eric Johnson

short-term relief.

"PierPass has brought in extra capacity, but there's limited potential for more diversions from L.A. and Long Beach, except for Oakland, which has capacity," he said. "And frankly, other options like alternative gateways won't be online for '06. All the greenfield sites in the U.S. and Mexico, if they were all available in the next three years, would barely be able to handle the growth the next three years."

For Tilden, the unknowns of 2006 are:

- The volume curve of trade with Asia.
- The impact of U.S. Customs regulations on shippers, carriers and terminals.
- Rail capacity.
- The effect of more 8,000-TEU ships.
- The impact of all-water services to the East Coast.

That's a lot of mystery.

As a terminal operator, he said one answer on the waterfront lies in better efficiency. He said the world standard for non-transshipment ports is 10,000 to 15,000 TEUs per acre per year. In West Coast ports, that average is 5,000, while in East Coast ports, its 2,000.

"I am a strong advocate of appointment systems," Tilden said. "It does amazing things to your facility when you know when every truck is going to be processed."

Tilden also said it's important for carriers and terminals to work to space ship calls throughout the week, because most vessels arriving from Asia tend to arrive in Southern California Thursday through Sunday.

"Then that bubble of ships moves up the coast to Oakland," he said.

Spacing out arrivals would allow rail to better utilize its capacity, instead of shoving cargo down the pipeline in fits and starts.

"At the end of the day, this is a public policy issue, and one that has most traction with beneficial cargo owners," he said.

One of the leading figures in the push for a national transportation policy, APL CEO Ron Widdows, said congestion is being felt if not seen.

> ***"All the greenfield sites in the U.S. and Mexico, if they were all available in the next three years, would barely be able to handle the growth the next three years."***
>
> **Doug Tilden**
> *president and chief executive officer, Marine Terminals Corp.*

"Somehow, the downstream effects of everything we're talking about haven't made their way to the consumer," Widdows said. "That's coming. Just because there aren't ships backed up in L.A. and Long Beach, people get the sense that there isn't congestion, but the truth is there are delays."

Like Tilden, he said productivity is a concern. "Hong Kong, Singapore and Taiwan are all at about 610,000 to 700,000 TEUs per berth, per year," Widdows said. "L.A. and Long Beach are at 350,000, and that's not just the ILWU."

Jon DeCesare, CEO of WCL Consulting, said he's expecting no major problems in 2006 and the first half of 2007, allowing infrastructure to somewhat catch up with demand. But in 2008, as the economy rebounds, port problems will come, followed by what DeCesare dubbed a congestion tidal wave arriving in 2009 or 2010.

One of the components of that tidal wave could surely be a lack of port truckers. The industry has long known that drivers and trucking companies bear the burden of being on the bottom rung of the ladder.

Clark Brown, president of Bridge Terminal Transport, a Charlotte, N.C.-based drayage firm, said the industry now knows that increased pay is the only way to ensure a suitable supply of truckers.

"The two things to solve the trucker shortage are better pay and better quality of

life," Brown said. "There's been no change in the income structure for drivers in more than a decade. It will take rate increases to keep pay suitable enough to keep drivers in the business."

The trucking industry, like most transportation businesses, operates on a thin margin. But Brown said rate increases impact the overall supply chain much less than stagnant rates hurt truckers in an environment of elevated costs.

"A 10 percent increase on truck rates is huge for truckers making $100 a load, but insignificant for the supply chain. Compensation is the thing that first gets them in the door. The industry needs to do this because these guys aren't going to increase in numbers unless we take care of them."

Things putting pressure on the trucking industry are:

- More volume, but no extended truck gates hours outside of Southern California.
- An aging driver population.
- Reduction on free time in terminals and rail ramps.
- Fuel volatility.

Fuel, in particular, cost the trucking industry an extra $21.8 billion in 2005, out of a total of $85 billion spent.

"If fuel could just get to a level and stay there, we could figure out what to do and move beyond it as a business," Brown said. "It's costing truckers $15,000 more a year for diesel costs."

Infrastructure

When there are problems on the roads, rail inevitably comes up.

In a speech at the conference, BNSF Railway President and CEO Matthew Rose said that a moderate amount of tax breaks from the federal government would enable railroads to better keep infrastructure development even with trade growth.

Rose said railroads are investing heavily in capital, but need a public sector incentive to build important intermodal facilities.

"Ensuring capacity in the rail network would take $2 billion to $4 billion, compared to the $80 billion to $90 billion for highways," he said. "Two billion in a $16-trillion economy is a rounding error."

Rose said railroads need to work better with ports to provide more on-dock rail and more staging areas to build long-haul trains, as well as better forecasting of cargo volumes.

In the meantime, Rose said the nation's railroads have invested about 50 percent more in physical infrastructure the past two years than they did the previous four years — about $9 to $10 billion in 2005 with a similar amount planned for this year.

"BNSF spends about $1.5 billion just to keep physical assets in the same shape as the previous year," he said.

BNSF will spend $800 million over 2005 and 2006 on expansion projects, including double-tracking its line from Chicago to Los Angeles.

"After 2006, we'll be down to about 60 miles of single track between L.A. and Chicago, and after that, we'll start triple-tracking," Rose said.

"Somehow, the downstream effects of everything we're talking about haven't made their way to the consumer. That's coming."

Ron Widdows
chief executive officer, APL

Roughly half of the units BNSF moves are intermodal, a sector of the company that will surely gain even more attention in future years.

"We are setting up our railroad to handle more and more of this business," he said. "Volume has outpaced what we thought was going to happen, but it's a great problem to have."

Rose said BNSF projected 5 percent growth in 2004, but grew 10 percent (leading to issues that contributed to congestion in Long Beach and Los Angeles), and had 5 percent growth in 2005 after projecting 3 percent.

While Rose called for government inducements to build infrastructure, he explicitly urged the government to allow trade to be conducted.

"There would be nothing more disruptive right now than to have a change in regulatory policy of this industry," he said.

On mergers, he said he didn't expect to see any major rail mergers this year, but that everyone should be aware of the advantages of them in any case.

"We're a business based on density, and when you can flow traffic through one system instead of two, you have more capacity," he said.

But Tom O'Connor, vice president of Washington, D.C. economic consultant firm Snavely King Majoros O'Connor & Lee, said the industry should always be on the lookout for rail mergers. He said mergers have been dormant since 2000, replaced largely by strategic alliances.

O'Connor also said the rail industry as a whole is not too enamored with intermodal business, primarily because it's not the profit driver that the hauling of coal and chemicals is.

Thus, railroads aren't investing as heavily in intermodal as one might imagine given the growth of that segment of the industry.

"If intermodal doesn't look like a good business investment, then the capital investment on intermodal won't be made," O'Connor said. "It's only been profitable since double-stacking came about, and it's still not as profitable as other business segments. Intermodal revenue exceeds coal revenue, but it's nowhere near as profitable, and chemical carloads are the most profitable."

Shipper Contribution. But the private sector is willing to invest in road and rail projects that reap tangible supply chain results, said Christopher Koch, president and CEO of the World Shipping Council.

"There is ample private investment available, if it's allowed to be spent on projects that can earn a return," he said. "A lot of people say government should just have a tax, collect a lot of money and then decide what to do with it," Koch said. "That's where you get large shippers and carriers pushing back."

Koch said user fees (such as commercial vehicle toll roads, or use of freight paths like the Alameda Corridor in Southern California) are potentially viable, and that radio frequency identification (RFID) technology will make such fees easier to collect, but that the fee has to be protected so as not to be spent on other uses, and has to be collected equally from all users.

"There's very little redundant capacity in our system," Koch said. "We're all operating as lean as we possibly can, and that's because the government and the industry don't reward redundancy."

Koch also called for change in the thinking

of relying solely on the federal government for transportation funding.

"Not only are the states the principal decision makers and the true 'owners' of the public transportation infrastructure, the states are increasing their spending above and beyond what the federal government is allocating to them," Koch said.

"This is due in large part to recognition by the states that federal funding falls far short of the money needed to adequately improve the transportation system in their state. The Alameda Corridor took 19 years from the drawing board to the first train. This isn't going to happen overnight. We've got to get CEOs to explain to Congress how big a problem it is to have two weeks of extra inventory in the supply chain."

For shipper John Isbell, another key voice in the national freight policy movement, the West Coast-Asia trade lane that he relies on as director of corporate logistics for Nike concerns him.

"The strategies adopted may buy another moderate year of congestion," Isbell said. "There are a lot of plans, but no strategy at the national or state level, and that's scary. Congress clearly doesn't understand the nuances of how the supply chain operates."

"Supply chains have been honed to be more just-in-time oriented, but that will change as congestion mounts," he continued.

Isbell said that shippers need to communicate their plans better with transportation and logistics partners, which will help ensure better forecasting and better infrastructure planning.

Speaking about the margin between forecast growth and real growth, which many blamed for the port congestion crisis in Southern California in 2004, Isbell said: "We have failed to communicate. We can't listen to Drewry or others. They have to listen to us because we know our own industry better than anyone else."

China Issues. Meanwhile, the United States' key trading partner across the Pacific has other problems with which to contend. China's port and infrastructure growth continues with abandon even though the other side of the equation isn't keeping pace.

"If we're not careful, we could run into the problem of surplus supply" of terminal capacity, said Kenneth Tse, general manager of Yantian International Container Terminals.

Tse said projections show that China's terminals could be only 51 percent utilized by 2009, with 27 million TEUs of capacity being added in terminals in Yantian and Yangshang.

However, logistics costs in China are just as big a concern for Tse. He said logistics costs account for about 20 percent of total product costs in China, compared to about 6 percent in North America and Europe.

"Inland transportation costs in China can be prohibitive," he said.

But, the Chinese government is spending $273 billion on a highway network to connect major cities and towns of 200,000 people or more. The network will have seven spokes out of Beijing, plus nine north/south routes and 18 east/west routes.

"Ensuring capacity in the rail network would take $2 billion to $4 billion, compared to $80 billion to $90 billion for highways. Two billion in a $16 trillion economy is a rounding error."

Matthew Rose
president and chief executive officer, BNSF Railway

"By the time it's finished in 2026, it will rival the U.S. in terms of total expressway mileage," Tse said.

China is also building 10,563 miles of rail and 18 intermodal terminals between this year and 2010.

"Intermodalism is going to come (despite the fact that major ports in Shanghai have limited rail access)," Tse said. "Hubs will be built in the next five years and the ministry of rail is talking seriously about opening up to foreign investment and management."

Tse said trade activity has been confined primarily to coastal regions in China because navigating through the country requires knowledge of different cultures, languages and customs as one moves through the interior. Despite the country's trade revolution, not all areas operate consistently well.

"From factory to the port still takes four days," Tse said. "That's still a lot of inventory cost. The importer cannot predict transit time out of China. And warehousing and storage tends to be antiquated. We're very good at building (infrastructure), but in terms of softer issues, we have to work on these things. Our challenge is overcoming a costly and fragmented logistics industry."

'White Hot Market.' Logistics costs are creeping up in North America too, as the cost of transportation increases. Another factor is the booming port property market, with land near major ports on Asian trade routes selling and renting at premium rates.

"The real estate market has a keen interest (in the ports and transpacific trade)," said Blaine Kelley, vice president of CB Richard Ellis' industrial tenant representation group. "The industry is an indicator, and there is great pressure on rental rates, which is great if you own real estate. The capital markets, which are made up of insurance companies and pension funds, have a huge appetite for industrial space around ports."

Kelley called the market for property in or near ports "white hot," saying $8 billion was spent on port real estate in 2005 — nearly equivalent to BNSF's spend on rail infrastructure.

"Just think what injecting $8 billion into the industry means," he said.

And to say port property is in demand would be to vastly underestimate the situation, according to Kelley's figures.

He said the national vacancy rate for industrial space nationwide is about 10 percent, a number that's about an equilibrium for the market. Yet the vacancy rate for industrial space in Long Beach is 2 percent, and not much better in Savannah, Norfolk, Seattle, Houston and New Jersey, which range between 4 percent and 7 percent vacant.

"These are the tightest markets in North America," Kelley said.

The cost for space also bears out how tight the market is. In Southern California, industrial space near ports goes for about $6 a square foot, and it's even higher in New York at $7.50. But in Atlanta, where distribution centers are being built in droves, it's only $2.50 a square foot.

"Ports lack real (distribution) infrastructure," said George Powers, president of third party logistics provider American Port Services, which was acquired last year

by trucking company Schneider National. "Most new development has been in high-growth population centers."

Powers said companies like his find old port facilities ill-equipped to handle current port activities, with short truck aprons and low ceilings.

"So we have to create cross-dock and big box facilities," Powers said.

APS sometimes builds greenfield distribution centers on speculation, safe in the knowledge that they'll find a customer to fill the DC.

"Lots of cities don't want high-volume distribution centers," Powers said. "They

Building DCs — Wal-Mart style

Big box retailer finds available land more difficult to come by.

By Chris Gillis

Wal-Mart Stores may be known among consumers for its large retail outlets, but the company has built a similar reputation within the real estate industry for building super-sized distribution centers.

The company recently opened a 4-million-square foot facility in Baytown, Texas, just outside of Houston, and later this year plans to open a two-building distribution center operation near Chicago at Joliet, Ill., with a combined space of 3.4 million square feet.

Ford

"Developments of this size are pretty much still unheard of," said James C. Ford, vice president of land and rail development for Oak Brook, Ill.-based real estate developer CenterPoint Properties. "However, all of the major retailers are starting to look at this as an important option."

CenterPoint helped Wal-Mart with development of its Joliet distribution center. The company works with other large retailers that have similar aspirations. "We are seeing more build-to-suits in the 1-million-square-foot or larger range," Ford said.

Big box retailers are building large distribution centers close to population centers such as Chicago, Dallas, New York-New Jersey, and Los Angeles-Long Beach. Ford said there has also been more of this activity in so-called "alternative" port cities, such as Houston; Mobile, Ala.; and Savannah, Ga.

Colby R. Tanner, a real estate manager for Wal-Mart, spends many days out of the year driving the countryside surrounding population centers, which the retailer refers to internally as "centroids," in search of potential properties. "We'll look at 100 to 200 sites for one DC," Tanner said in a presentation at the International Transportation Management Conference in Houston late February.

Tanner said the company tries to locate distribution centers as close to the centroids as possible. Four to five perspective sites are generally picked to present to the company board for a final decision.

Wal-Mart ensures that all its distribution center properties have sufficient access to truck and rail infrastructure. For example, Wal-Mart was attracted to the Joliet site not only for its proximity to the Chicago market but for the close contact that its distribution center would have to the Midwest region's intermodal rail hub. Containers loaded with imports can be rapidly railed to Chicago after discharge from vessels in U.S. West Coast ports.

More often, Ford said companies interested in building warehouses want to first know the transportation and supply chain connections of the property before the cost of it. "They're focused on the true benefit of the real estate," Ford said.

Wal-Mart also conducts extensive interviews with other companies in the area to learn about the available labor force. "It would be easy to build a warehouse (like Baytown) in the Mojave Desert, but if you don't have the labor force it's no good," Tanner said.

The new Baytown facility is located 12 miles outside of Houston. The facility, which offers the equivalent of 90 football fields under two roofs, has the capacity to handle 100,000 ocean freight containers a year. Tanner said about 1,000 trucks will travel daily from the Baytown facility to Wal-Mart's regional distribution centers.

Wal-Mart has about 80 distribution centers scattered throughout the United States, ranging from the mega-hubs at Baytown and Joliet to smaller regional and food handling facilities. The company plans to open more warehouses to support its store expansion. This year alone Wal-Mart will open another 300 stores throughout the country.

However, space to build distribution centers has become more difficult to find. "We're running out of spots," Tanner said.

Companies like Wal-Mart are running into environmental restrictions and rising real estate costs. To build a warehouse of 1 million square feet or more runs about $25 per square foot today.

"I believe that in five to seven years things may slow down," Ford said. "But eventually the suppliers to the large retailers will be looking to build these massive facilities."

Wal-Mart has already started programs to improve the handling of merchandise through existing distribution channels. One of these programs, which the company started last year, requires segmenting its distribution between slow and fast moving goods to better manage freight flows to store shelves. (For more details, read the December *American Shipper*, pages 12-16).

Wal-Mart is also developing an international model for overseas warehouse placement.

Wal-Mart's new 4-million-square-foot distribution center in Baytown, Texas.

don't want trucks, containers and what they consider low-cost jobs. We need to change that mindset if we're going to have these facilities because they ought to be near port areas."

Powers said it's for the retailer to decide how to balance the cost of cheap land and high transportation costs to ports, or vice versa.

"It depends on the customer," he said. "For 8,000 to 10,000 containers, it might make sense to go far away. If you're draying 35,000 containers a year, then the drayage costs are probably too prohibitive."

Rates

Meanwhile, several analysts at the conference said the freight rate declines expected by the industry for some time are finally coming to fruition.

Paul Svindland, director of transportation and logistics for ICG Commerce, said that in a survey of shippers (many of whom have already locked in contracts with carriers), rates have fallen 6 to 12 percent.

It's what many analysts predict will be the norm when rate negotiations begin in May.

Mark Page, a research director with Drewry Shipping Consultants, said he's forecasting an 8.75 percent reduction in transpacific rates, primarily stoked by overcapacity due to an influx of new vessels coming online this year and next.

"The management of capacity is very big this year," he said. "We're predicting a 12 percent increase in transpacific capacity — even though the order book has more capacity coming online — because of the large number of vessels moving in and out of the trade. But if that cascading doesn't happen, that 12 percent can become considerably higher, and we're talking about moving around more than 200 ships, even though the net gain is only 34."

And shippers shouldn't expect scrapping to be a factor, either. Most carriers say their new ships were needed due to a lack of capacity in the first place.

"You can almost write scrapping off," Page said. "The old ships likely to go are small, not likely to affect even 1 percent of capacity.

To justify keeping rates up, Page said carriers have shifted the argument a bit.

"The argument used to be that capacity was tight, and now the argument is that costs are going up," he said. "It's always the market that decides."

Carriers have likely been preparing for 2006 for awhile — knowing that excess capacity would soften rates — and are now trying to limit the damage, he said. And that's perhaps why service and transit times are being emphasized over rates.

"Most shippers will take an advert saying 'fastest transit time' at face value. But it's natural that carriers are promoting themselves because it's so difficult to differentiate," Page said.

"There's very little redundant capacity in our system. We're all operating as lean as we possibly can, and that's because the government and the industry don't reward redundancy."

Christopher Koch
president and chief executive officer, World Shipping Council

In his presentation, Page said the average vessel size of ships in transpacific services would grow to 4,625 TEUs by the end of 2006, up from 4,301 at the end of 2005 and 4,018 in mid-2004. Eight carriers in the trade will have expanded their fleets by more than 15 percent by the end of 2006, with only Hanjin, APL and NYK expanding less than 5 percent.

After growth in eastbound transpacific trade of 15.6 percent in 2004 and 11.6 percent in 2005, Drewry is forecasting growth of 8 percent in 2006 and 6.6 percent in 2007. Westbound trade, after growing a healthy 10.4 percent in 2005, will dip to a forecast 5.3 percent growth in 2006 and 5.7 percent in 2007.

He said peak season utilization in 2005, despite healthy growth in trade volume, was the weakest since 2001, topping out at about 85 percent.

That extra capacity is hitting rates already — from December to February, rates between China and the West Coast have dropped 4.1 percent, and 4.8 percent for all China routes.

Aside from a potential oversupply in vessel slots, a new entrant in the market (Matson's backhaul service from Shanghai to Long Beach) and major mergers seem to also be driving rates down.

And more gloom for carriers comes in the form of round trip unit income, which Drewry projects will drop 9.1 percent in 2006, to about $3,700. And so the halcyon days of 2002-2005, when carrier profit growth averaged 18.5 percent, appear to be over, with profits expected to level off in 2006.

As an example, he said a carrier with 34 new ships and five new strings, carrying an additional 1 million TEUs eastbound could see something like a $2.4 billion rise in operating costs.

As one of Page's presentation slides read: "If carriers earned a 15 percent margin in 2005, then this could reduce to just 5-6 percent in 2006 as aggregate operating profit from the route might decline from $3.8 billion to $1.4 billion."

Albert A. Pierce, executive director of the Transpacific Stabilization Agreement, said carriers in the transpacific trade will try to recoup massive operating cost increases through a series of surcharges in rate negotiations.

Specifically, TSA will seek a $150-per-FEU surcharge on West Coast shipments, $350 per FEU for intermodal and mini-land-bridge moves, $400 per FEU for all-water shipments to the East Coast via the Suez or Panama canals, and $400 per FEU for peak season, from June 15 through Nov. 30.

But Svindland said he doesn't expect to see shippers paying a peak season surcharge that steep.

"I think a $125 peak-season surcharge on a weighted average basis, is likely, but you're not going to see hundreds of dollars," he said.

Meanwhile, Tilden of Marine Terminals Corp. said larger vessels, not just the number of new builds, is affecting rates.

"I'm concerned about the macroeconomics of 8,000-TEU ships," Tilden said. "We're already seeing European rates depressed. And you hear talk about shifting even more 8,000-TEU vessels to the transpacific to compensate for rate losses in the Atlantic. I'm afraid that will just put more pressure on rates."

More Trade Forecasts. As for trade growth, Mike Andrews, chief economist at

"The two things to solve the trucker shortage are better pay and better quality of life ... It will take rate increases to keep pay suitable enough to keep drivers in the business"

Clark Brown
president,
Bridge Terminal Transport

PIERS, said the U.S. economy will strengthen in the first half of this year before a gradual deceleration in the second half and into 2007.

"We expect the dollar to resume its decline and lose value against the Chinese yuan," Andrews said. "U.S. trade will grow moderately but remain robust, with exports expanding faster than the past year."

But domestically, the consumer spending that's fueled huge import growth from Asia will slow down, leading to a downward slide in the growth of transpacific trade.

Remember, however, that it's still growth.

Andrews is forecasting 8.6 percent growth in containerized imports in 2006 and 9.5 percent growth in exports.

Still, the U.S. purchasing power of households shows signs of leveling off, led by a slowing housing market.

"In mortgage applications, which are a good indicator of how the housing market is doing, we're seeing a signal of a slowdown in housing demand," Andrews said. "With housing sales down, equity extraction will also slow, leading to less household spending. But wage growth and joblessness rates show positive signs in terms of consumer spending. Household income growth will remain quite steady, especially as energy costs have come under control."

Andrews said China's economy will once again grow sizably — 9 percent forecast for 2006 and 2007 — while India will also grow a significant 7 percent in 2006.

Raymond Maguire, managing director of transport research for UBS Investment Bank, said that China as a manufacturing outsource hub may be nearing maturity for certain segments, like footwear, toys and furniture. And he cautioned that an over-reliance on China could ultimately be detrimental to the U.S. and European economies because it's harming other producing nations.

He said 85 percent of footwear, 90 percent of toys and 75 percent of furniture imported into the United States is from China, primarily because those products were already being manufactured in China before it became a member of the World Trade Organization in 2001.

The lifting of textile quotas from China led to a more than 100 percent growth in such exports from China to the United States, which ultimately hurt other developing nations that produce textiles — even low-cost markets like Bangladesh, Maguire said.

"How much more outsourcing can major retailers do?" he said.

World growth, excluding China, is "anemic," he continued.

"China-centricity is not a win-win situation because it hurts other exporters," he said.

Freight rate trends reverse

U.S. importers will get carriers to lower rates in this year's service contracts.

By Philip Damas

Increased competition among carriers due to the arrival of substantial new containership capacity and a slowing of cargo growth will result in a cyclical reduction of import freight rates.

This looks like a foregone conclusion when looking at market dynamics and the previous history of freight developments.

When the market was strong in 2003-2005, ocean carriers were able to raise freight rates and enjoy record profits. In particular, between the low market point of 2002 and the high point of the peak season of 2005, transpacific eastbound freight rates had increased nearly 30 percent on average. Over the same period, westbound transatlantic rates had soared 40 percent. But the proverbial pendulum is now swinging in the other direction, leading to the return of lower rates, at least for U.S. imports.

Factors. Most market analysts, including Drewry Shipping Consultants, believe that ship capacity in the main east/west trades will grow several percentage points faster than forecast demand during 2006. Therefore, supply and demand changes will drive freight rates lower — no surprise here.

Drewry forecasts that eastbound transpacific shipload factors will fall to 85 percent in the third quarter and 79 percent in the fourth quarter this year, instead of 92 percent and 82 percent for the same quarters last year, respectively.

But more complex, partly subjective factors also influence rates, notably early signals of market weakness (before contract negotiations start), shippers' perceptions of the direction of the market, and some changes in underlying carrier costs.

Transpacific shippers know that contract decisions must be made by considering several forward-looking factors, including supply and demand, several months before the start of the peak season.

Consider the following factors, and their likely impact on freight rates:

• **Spot market.** For low-cost transpacific carriers, the Hong Kong-to-Long Beach spot NVO freight rate has already tumbled 13 percent to $1,600 per 40-foot container in the year to late February, according to the latest pricing data from the Drewry Container Shipper Insight, a new quarterly business intelligence report.

Admittedly, this rate slide occurred in the slack season and only in the NVO segment of the market. But the fact that such a key pricing benchmark in the transpacific trade has seen double-digit rate decreases will influence the negotiations for transpacific service contracts starting from May 1 between carriers and direct shippers.

In the China-to-U.S. West Coast trade, import freight rates were down about 11 percent to 12 percent year-on-year in Feb-

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All-in freight rates, U.S. container import trades

(January cost per box, including terminal handling charges at origin and destination ports)

From	To U.S. East Coast 20-foot	To U.S. East Coast 40-foot	To U.S. West Coast 20-foot	To U.S. West Coast 40-foot
United Kingdom	$2,030	$2,820	$3,150	$4,100
North Continental Europe (Atlantic France/ Germany range)	$2,320	$3,170	$3,220	$4,330
Western Mediterranean (Med Spain/Italy range)	$2,200	$2,850	$3,090	$4,090
South China (Yantian)	$3,710	$4,850	$2,350	$3,090
Hong Kong	$3,400	$4,470	$2,100	$2,790
Brazil	$2,770	$3,380	$3,770	$4,700

Source: Drewry Container Shipper Insight (www.drewry.co.uk/csi).

ruary, averaging contract and spot prices, according to Drewry's information. More surprisingly, eastbound China rates have also started to fall in the more capacity-constrained Asia/U.S. East Coast all-water trade.

- **Perception of the supply outlook.** There is now a common perception in the industry that carriers will have too many slots to fill. The aggregate industry capacity numbers also back this up, as several major carriers are adding more than 20 percent of ship capacity to their fleet this year. The average capacity increase across the carrier industry this year will be about 15 percent. The distribution of additional capacity by trade route is hard to predict, but the overall trend is clear.
- **Carrier competition.** Matson's re-entry in the transpacific trade in February and enhanced competition among other carriers bidding to secure the cargo volumes previously controlled by P&O Nedlloyd also come into play.

There is little doubt, therefore, that port-to-port import freight rates will fall in the transpacific and other U.S. import trade routes.

Complicating Factors. This year, carrier/shipper rate negotiations will have to address complicating factors beyond base ocean rates.

First, there is the issue of high fuel costs, both on the maritime side and for inland rail or trucking transportation.

Drewry believes that shippers will put pressure on carriers to negotiate bunker surcharges applied by ocean carriers to port-to-port base ocean rates. When the market was strong, carriers refused to even negotiate such fuel surcharges, but the market has shifted. Despite the higher bunker surcharges, Drewry forecasts that all-in freight rates in service contracts for Asia-to-North America shipments will decline 10 percent overall this year.

For intermodal or door rates, inland fuel surcharges, such as those imposed by railroads, have become a divisive issue between shippers and carriers. This boils down to the question: Who should bear the risk of the volatility of inland fuel costs? The ocean carrier is the contractual customer of the railroad, but it seeks to pass on the inland fuel surcharge to the shipper, as the end-user. The shipper wants stable transportation costs per unit and resists any new volatile surcharge. The situation is similar for port drayage and other trucking operations. Paradoxically, it looks as if inland transportation costs will continue to rise while ocean import rates fall.

But shippers are expected to continue to route a higher proportion of their eastern U.S.-bound cargoes via East Coast ports. This means that many will avoid much of the rise in intermodal costs (West Coast mini-landbridge costs) and still benefit from lower port-to-port rates, at least for cargoes bound for the eastern United States.

Another complicating factor is that carriers have argued that capacity restrictions on the inland side will moderate effective system-wide capacity growth in international shipping. While the rail capacity issues do raise serious medium-term questions, as reported already in *American Shipper,* it remains to be seen whether this argument will alter the perception that there are too many slots on containerships chasing too little traffic.

Shippers are continuing to experience increases in their overall logistics costs for their domestic operations, for local distribution and for the North American transportation part of international freight movements. It would appear that international ocean transportation is the only mode where shippers' freight costs are now decreasing.

Rate Levels. The table provides some typical freight rates in import trade routes to the United States as of January. Additional freight rate tables from the Drewry Container Shipper Insight quarter 1 report can be downloaded at www.drewry.co.uk//csi.

It is interesting to note that all-in freight rates in January for the inbound trade from Asia to the U.S. East Coast were more than $1,200 higher per 40-foot container than to the U.S. West Coast, according to Drewry's original data. This wide differential reflects the popularity of all-water transpacific East Coast services. Drewry understands that some shippers are getting Asia-to-U.S. East Coast rates as low as $3,400 per 40-foot box, which compares with Drewry's representative Hong Kong-to-U.S. East Coast rate of $4,470 per box. (The Drewry freight rates come from forwarders, who include some remuneration for their services, and can be higher than the rates secured by major direct shippers from carriers.)

Freight rates from Europe to the U.S. East Coast were, as expected, very high in January, at about $2,800-3,200 per 40-foot container. The transatlantic import market has experienced tight capacity that allowed carriers to raise westbound rates.

Where does this leave U.S. export container freight rates?

Exports are a very different story from imports when it comes to freight rates. In the transatlantic trade, export container freight rates in January were low — the opposite of import rates. In the transpacific, freight rates from the U.S. West Coast to South China and Hong Kong hovered at about $1,000-1,100 per 40-foot box in January, also a fraction of import rates.

Because westbound transpacific freight rates are already priced by carriers using marginal pricing rather than full-cost pricing, it looks unlikely that they will see any decreases. Major westbound-moving commodities, like wastepaper, are also unable to bear higher freight rates. In effect, the established pattern now is that freight rates in the U.S. import trades are subsidizing the comparatively lower export rates, because of the huge imbalance between imports and exports.

This rate advantage, together with the weak dollar policy of the Bush administration, must have helped the recent revival of U.S. containerized exports. Now, lower import freight rates could also help reduce the freight expense and the landed cost of imported goods.

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- **Michael McClellan**, vice president, automotive and intermodal marketing, Norfolk Southern Corporation
- **Steve Rubin**, vice president, liner operations, "K" Line America, Inc.
- **Clark Brown**, president, Bridge Terminal Transport, Inc.
- **Chris Easter**, vice president of global operations, American Port Services

Trans-Atlantic Realignment and its Impact on Shippers

- **James Newsome III**, senior vice president, Hapag Lloyd (America) Inc. (Panel Moderator)
- **Andrew Abbott**, president and CEO, Atlantic Container Line
- **Thomas Capozzi**, senior managing director of marketing services, Virginia Port Authority
- **Stefan Weber**, director ocean freight, route management Europe, Kuehne + Nagel, Inc.

Emerging India-South Asian Market

- **Bill Ralph,** senior advisor, R.K. Johns & Associates (Panel Head)
- **Mike Hoyt,** vice president of transportation, Target
- **Peter Keller**, executive vice president/COO, N.Y.K. Line, N.A.
- **Tommy Stramer**, president, Zim North America

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Location key for Suez Canal

Offers success for all-water routes connecting South China, South East Asia to U.S. markets.

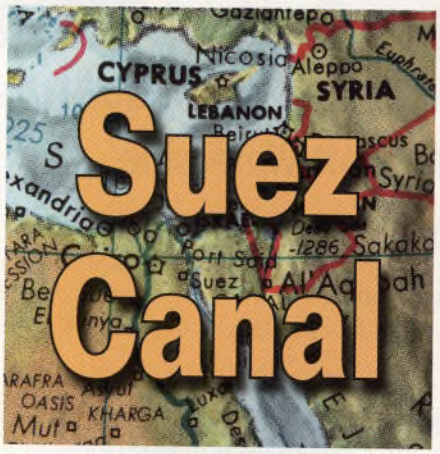
By Simon Heaney and Robert Mottley

Who can forget the scene in *Lawrence of Arabia* when Peter O'Toole, as T.E. Lawrence, and the Bedouin youth he has brought out of the desert, suddenly hear a ship's whistle? Climbing to the top of a sand dune, they are amazed at the closeness of a freighter going past them in the Suez Canal.

About 8 percent of the world's sea trade passes through this vital link between the Mediterranean and the Red Sea. In 2003, 17,224 ships transited the canal.

For ocean carriers, the Suez Canal's proximity to South China and South East Asia make it a competitive conduit for cargo moving to the United States, while the Panama Canal has an edge for cargoes from more northerly ports in Asia.

For example, an all-water service by China Shipping Container Lines from Asia via the



Suez Canal to Canada and the U.S. East Coast offers a transit time of about 28 days from Hong Kong to Halifax, Nova Scotia.

As more shippers ask carriers for all-water routes from Asia through the canal, adjacent terminals have increased in value. Last December, COSCO Pacific Ltd. agreed to purchase a 20 percent equity interest in the Suez Canal Container Terminal (SCCT) from the Egyptian International Container Terminal, a subsidiary of A.P. Moller-Maersk, for an undisclosed amount.

The Suez Canal Container Terminal operates the Port Said East Port in Egypt, which has been operational since the fall of 2004.

The 600,000-square-meter Port Said East Port has four deepwater berths with a quay length of 3,937 feet, and can accommodate vessels with a draft of 54.1 feet. From October 2004 to October 2005, SCCT handled 550,000 TEUs.

In March 2005, Hong Kong-based mega-port operator Hutchison Port Holdings entered into agreements with a consortium led by the Alexandria Port Authority for the construction, operation and management of two terminals at the ports of Alexandria and El Dekheila, Egypt. On those sites, two general cargo terminals are being converted to container handling operations. They will compete with the neighboring Suez Canal Container Terminal.

Smooth Sailing. A straight ribbon of blue extending through the mottled desert,

Table 1

Far East/U.S. East Coast transits via Suez and Panama Feb. 2006

(Services weekly unless noted*)

Service name and carriers	Avg. TEUS	Northern Asia/USEC	Days	Eastern Asia/USEC	Days	South East Asia/USEC	Days
Via Suez Canal							
Grand Alliance — AEX	5,200	—	—	—	—	Singapore/New York	24
China Shipping — AMAX	4,200	—	—	Chiwan/New York	34	Port Kelang/New York	30
Indotrans — Main Service*	1,800	—	—	—	—	Jakarta/Camden, N.J.	43
Norasia/China Shipping/Zim/Gold Star — RTW	2,900	—	—	Chiwan/New York	53	Port Kelang/New York	48
Via Panama Canal							
New World Alliance — APX	4,300	Tokyo/Miami	19	Hong Kong/Miami	26	—	—
Maersk Line/Safmarine — TP7	4,600	Kwangyang/Miami	19	Yantian/Miami	22	—	—
Maersk Line/Safmarine — TP12	n/a	Kaohsiung/Savannah	19	—	—	—	—
COSCO/"K" Line/YML/Hanjin/UASC — AWE-1	4,200	Busan/New York	20	Hong Kong/New York	23	—	—
Maersk Line/Safmarine — TP3	4,400	Yokohama/New York	20	Kaohsiung/New York	23	—	—
Evergreen/ITS/Hatsu Marine — NUE	4,050	Shimizu/Charleston	21	Shanghai/Charleston	28	—	—
Zim/China Shipping/U.S. Lines — ZCS	4,600	Yokohama/Savannah	21	Keelung/Savannah	27	—	—
MSC — Transpac Pendulum Service	4,700	Busan/Pt. Everglades	22	Ningbo/Pt. Everglades	24	—	—
Grand Alliance — PAX	4,700	Tokyo/Savannah	23	Hong Kong/Savannah	28	—	—
Grand Alliance — East Coast North	4,000	Busan/New York	28	Hong Kong/New York	22	—	—
CMA CGM/CSCL/ANL — PEX 1/AAE 1	4,100	Busan/Miami	30	Hong Kong/Miami	24	—	—
COSCO/"K" Line/YML/Hanjin — AWE-2	3,800	—	—	Hong Kong/Charleston	21	—	—
New World Alliance/Evergreen — N.Y. Express	4,650	—	—	Kaohsiung/New York	22	—	—
COSCO/"K" Line/YML/Hanjin — AWE-4	3,900	—	—	Hong Kong/New York	22	—	—
Evergreen/ITS/Hatsu Marine — AUE	4,200	—	—	Kaohsiung/New York	23	—	—
ITS/Zim/Hatsu Marine — AUX	2,800	—	—	Qingdao/Port Everglades	25	—	—
Evergreen/COSCO/ITS/Hatsu Marine — CUE	2,800	—	—	Hong Kong/Savannah	29	—	—
CMA CGM — Pacific Express 3	3,150	—	—	Hong Kong/Savannah	30	—	—

* Monthly service.
RWT = Round the World

Source: ComPairData (www.compairdata.com).

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the Suez Canal is 118 miles long and 984 feet wide at its narrowest point. Ships with a draft of up to 53 feet are allowed passage. The Suez Canal Authority has planned to increase the permissible draft to 72 feet by 2010, which will allow the transit of supertankers.

At present, supertankers can offload part of their cargo onto a canal authority-owned vessel, and reload at the other end of the canal.

Today, there is one shipping lane through the canal that has several passing areas. Vessels transit northbound or southbound in tug-escorted convoys of 15 or 20 ships. A complete passage takes 11 to 16 hours.

Usually, transits go smoothly. There are no locks to negotiate, nor periodic tidal surges. However, sandstorms can disrupt vessel convoys.

Early in February, high winds whipped around the *Okal King Dor,* a 93,000-ton Hong Kong-flagged cargo vessel, causing the ship to veer at right angles to the sides of the canal. The ship wedged itself in place, blocking all transit until four tugs were sent to realign the vessel. Pushed back into the shipping lane, the *Okal King Dor* continued its northbound passage.

"They cleared that ship in less than a day," said Anil J. Vitarana, president of United Arab Shipping Co. (S.A.G.), which has its U.S. office in East Cranford, N.J.

Vitarana

Vitarana's company, a long-time customer of the Suez Canal, has had no recent complaints.

"The canal operates quite smoothly," Vitarana told *American Shipper.* "As a carrier, you always feel that the tolls are too high. However, since we've been paying at that scale, there haven't been any huge spikes. What increases there have been are moderate."

A pilot takes each ship through the canal. There's also a husbanding agent who usually takes care of a vessel from a shoreside venue.

Operationally, the canal requires advance notice of hazardous cargoes, "but not to same extent that you now find with the Panama Canal," Vitarana said. "You know 24 hours in advance where your ship will be placed in a convoy. The length of the convoy depends on when your vessel reaches the forming point."

Table 2

Suez Canal traffic 1995-2005

(In million tons, revenue in $billions)

Year	No. of ships	Million tons	SCA revenue
2005	18,193	671.8	$3.46
2004	16,850	621.1	$3.08
2003	15,667	549.3	$2.60
2002	13,447	444.8	$1.96
2001	13,986	456.0	$1.91
2000	14,141	439.0	$1.94
1999	13,490	385.0	$1.82
1998	13,471	386.0	$1.78
1997	14,430	368.7	$1.78
1996	14,731	354.9	$1.85
1995	15,015	360.2	$1.94

Source: Suez Canal Authority.

United Arab Shipping maintains an office in Alexandria, Egypt, to deal with the company's vessels transiting the canal.

In contrast to the Panama Canal Authority's public openness via a Web site and frequent press releases, the Suez Canal Authority — which is part of the Egyptian government — prefers a profile as low as the desert along the canal.

The authority doesn't have a public Web site, nor even a restricted one for ocean carriers to use.

"When the canal authorities do respond to us, to answer questions or discuss issues we may have, they do that through our Egyptian agent," Vitarana said. "Most carriers work in that way, through local agents. There's not much direct communication with the authority itself."

Ancient Routing. There has always been a canal in the Suez region. Pharaoh Senusret III (1878 B.C.-1839 B.C.), in the Egyptian 12th Dynasty, is believed to have ordered a west/east canal dug through the Wadi Tumilat to connect the Nile River with the Red Sea. Such a canal definitely existed during the reign of Ramesses II in the 13th century B.C.

The Nile-Red Sea routing received a more permanent canal in 500 B.C., completed by King Darius I, the Persian conqueror of Egypt. Darius liked the work that was done enough to erect granite stelae commemorating it.

One such marker near Kabret, Egypt, reads as follows: "Saith King Darius: When the canal had been dug as I ordered, ships went from Egypt through this canal to Persia, as I intended."

In the centuries that followed, Darius's canal was modified, destroyed, and rebuilt several times before the Abbasid Caliph al-Mansur wrecked it for good in the Eighth century A.D.

Almost 1,000 years later, in 1856, Ferdinand de Lesseps, a former French consul in Cairo, obtained concessions from Said Pasha, the viceroy of Egypt, to build a canal between the Mediterranean and Red Sea that would be open to ships of all nations.

Alois Negrelli, an Austrian engineer, drew up plans for the canal, and work started in 1859. The project was completed in 1867.

The canal had an immediate and dramatic effect on global trade. It also became a pawn in precarious Egyptian politics. In 1888, the Convention of Constantinople declared the canal to be a neutral zone under British protection.

Under the Anglo-Egyptian Treaty of 1936, the United Kingdom retained control over the canal. That state of affairs lasted until 1951, when Egypt repudiated the treaty. By 1954, the United Kingdom had agreed to leave Egypt.

In 1956, after the United Kingdom and the United States had withdrawn their support for construction of the Aswan Dam because Egypt sought weapons from the Soviet Union, Egypt's President Gamal Abdel Nasser promptly nationalized the Suez Canal.

In the week-long Suez War that followed, Britain, France and Israel invaded Egypt. Enough ships were sunk to block passage through the canal until April 1957. Once the canal was cleared, a United Nations force was created to maintain the neutrality of both the canal and the entire Sinai Peninsula.

After the Six-Day War in 1967, Egypt blockaded the canal and kept it closed until 1975. Today, a multinational force comprised mostly of U.S. troops monitors the Sinai. This armed presence is not part of the United Nations, but remains in place under agreements between the United States, Egypt and Israel.

In 2006, vessels of all nations — including Israel — transit the Canal without politics being a factor.

Virginia counting on Suez

Port believes it's better placed than most to take advantage of Suez services from Asia.

By Eric Johnson

The Port of Virginia landed a key all-water service from East Asia via the Suez Canal in the summer of 2005 when China Shipping's AMAX service began calling at Norfolk.

But that may just be the beginning for the growing mid-eastern port when it comes to business through the Suez.

With deep water, ship-to-shore cranes capable of handling 18,000-TEU ships and enhanced inland connections, Virginia may be ideally suited to handle an expected flood of post-Panamax vessels transiting through the Suez from Southeast Asia, as well as India and the Middle East.

"The Suez development is something we're hopeful will enable us to grow," said Tom Capozzi, senior managing director of marketing at the Port of Virginia. "We feel we're better placed than any other port on the East Coast to handle the services coming via the Suez."

And an analyst agreed.

"From everything we can look at, Norfolk is sitting pretty well," said Paul Bingham, an economist with consulting firm Global Insight. "But it's by no means guaranteed, because it's a continual battle to try to capture business from competitors."

No other port on the U.S. East Coast has the geographic, physical and cultural advantages of Virginia, Bingham said.

"Baltimore says they're the closest to Chicago, but as a shipper you might consider Norfolk closer because of the time it takes to steam up the Chesapeake," Bingham said. "In Savannah, there are limitations on channel depth (because of aquifers that sit just below the port channel). And Charleston has run into local opposition to its expansion, so Norfolk is well-placed. But if I would have looked back eight years ago, I would have predicted Charleston would have been bigger than Savannah, so things can change."

> ***"It may be luck more than brains, but Norfolk's done a good job of positioning itself."***
>
> **Paul Bingham**
> *economist, Global Insight*

Virginia's varied cargo sources (only about 20 percent of its business came from China, versus roughly 50 percent for, say the Port of Long Beach) means the port can take advantage of those physical and geographical characteristics to expand its acreage and land services that other East Coast ports might not be quite prepared for.

"The Suez opens up our ability to bring in larger vessels, because you don't have the restrictions of the Panama Canal," he said. "You need deep water for these larger vessels, and we're the only port on the U.S. East Coast with 50 feet of depth. You also need the ability to handle and discharge large volumes of cargo, which we have because we have phenomenal intermodal connections and we're right next to major highways. Those are two things that bode well for us."

For instance, Bingham said, shippers and carriers may prefer to make a first call in New York or New Jersey, but pushback from a vociferous environmental movement and high land development costs there make Virginia look more attractive.

And while Savannah has done possibly

Fastest

more than any other East Coast port to enhance its position by facilitating construction of massive distribution centers near the port, it still lies far away from any major population clusters.

Virginia is close enough to the coveted Northeast market and has room to grow, and a business community that understands the impacts of maritime activity, possibly because of the U.S. Navy's history in Norfolk, Bingham said.

"It may be about luck more than brains, but Norfolk's done a good job of positioning itself," he said. "If I'm a retailer looking to put a distribution center, there's room at Tidewater (near the Port of Virginia) just like there's room in Savannah."

And if a shipper is looking to move goods via the Suez, and using a service that employs post-Panamax vessels, then Virginia is the only logical choice right now.

Premium On Rail. Capozzi said an increase in Suez services places a higher premium on good rail connections, because products shipped from India and Southeast Asia can suddenly arrive via the U.S. East Coast and be sent by rail west to the Midwest or even farther.

In contrast, he said, all-water services through the Panama Canal are typically geared only for East Coast distribution.

"You have the reverse landbridge to the West Coast, which is great for our region because you put the eastern railroad on the initial leg rather than the receiving end," he said.

But Bingham said he doesn't yet see the financial sense of that arrangement, even if railroads offered reduced rates for westbound services.

"You're still paying for a lot of extra time and transit," he said. "I don't see it working past Chicago."

And whether Virginia can land heavy business on the Suez depends, in part, on the rail efficiency.

"If you're looking to feed New York out of Southeast Asia, if the rail network out of the West Coast falls apart, then the Suez looks attractive, especially for high-end value goods," Bingham said. "But if rail is good, then you'd probably look to put low-value items on the Suez route because it does take longer, and you're losing money every day the goods are on the water."

Still, the Suez presents major opportunity for U.S. East Coast ports to tap into the Southeast Asian market.

"You've seen services go into Savannah as carriers are induced to call there by the distribution centers popping up," Bingham said. "The same can be said of Norfolk, too, with Wal-Mart opening up a big (distribution center) there. There's a strong desire on the part of importers to diversity so you're not beholden to Panama or the West Coast. It's going to depend on your mix of customers."

> ***"As India develops into a manufacturing center, that does open up the attractiveness of the Suez. We've been building our facilities to handle the growth of those markets."***
>
> Tom Capozzi
> *senior managing director of marketing, Port of Virginia*

Southeast Asian cargo represents about 6.4 percent of Virginia's business, compared with 5.8 percent from India (its fastest growing market, at more than 20 percent growth the last three years), 3.9 percent from the Middle East and 30 percent from Northeast Asia.

The development of India as a trading partner with the United States could open up opportunities in Southeast Asian countries, Capozzi said.

"As India develops into a manufacturing center, that does open up the attractiveness of the Suez," Capozzi said. "We've been building our facilities to handle the growth of those markets."

Those developments include a planned on-dock expansion at the port's Norfolk terminal, container cranes that can stretch across ships 26 containers wide, and improved intermodal connections on the Norfolk Southern Railway.

The port, which handled 1.98 million TEUs in 2005, is also planning to more than quadruple its throughput capacity over the next decade — first with an APM terminal in Portsmouth designed to handle 2.1 million TEUs that's due to come online in 2007, and then with development of a 5-million-TEU terminal on Craney Island planned for opening in 2017.

"Nobody else has this ability to grow," Capozzi said.

Much depends, of course, on what transpires in Panama.

"If we assume that the Panamanians continue to have problems with expansion, then there will be a growth in fees, and overall trade growth is large enough to push a lot of trade through the Suez," Bingham said. With an expansion in global vessel capacity, "you have a lot more container vessel capacity to deploy somewhere and it becomes more attractive as a carrier to put capacity on that route."

That's because the Suez route is a much less competitive environment than, say, the transpacific, so rates will reflect that. But the viability of the Suez is also dependent on Egypt.

"They can change things overnight," Bingham said. "They've been more flexible in their marketing and pricing as far as tolls than the Panamanians have been."

Capozzi agreed, especially since a significant slice of Virginia's business moves through Panama.

"It's not as if the Suez will come online and Panama will disappear," Capozzi said. "Panama will remain viable and will add capacity, but it will serve a different market."

And Capozzi said there's plenty of cargo to go around on the East Coast anyway.

"If you look at the projections for future growth, they're staggering," he said. "I remember the days when everyone was happy to have 3 to 4 percent growth. Now you're not happy unless it's double digits. There's enough to go around to keep everybody happy."

Aside from the China Shipping AMAX service, six other services call on Virginia via the Suez, and Capozzi said he expects Virginia to land another one this year.

"And in '07, that's when I hear all the Suez services will begin coming online," he said.

Advance on the new Silk Road

Turkish company retreading Marco Polo's path with multimodal Europe-to-Asia Suez alternative.

By Simon Heaney

Easiest

Centuries ago convoys of donkeys and camels trudged goods along the dusty Silk Road joining the two worlds of Europe and Asia. Now, Istanbul-based freight forwarder Advance International has made use of international agency plans to re-establish reliable landbridge routes between the two continents.

In March, the company's subsidiary Advantage International Transport & Logistic Ltd., specialists in project cargo shipments — particularly power generating machinery and petrochemical, smelting and mining equipment — became the exclusive container operator for energy-rich Kazakhstan, predicted to be one of the world's top five oil producers by 2015.

The weekly combined rail and ocean Advantage Express Service operates along the Transport Corridor Europe-Caucus-Asia (TRACECA), established by the European Union in 1993.

Cargo moves via rail from the Georgian port of Poti at the Eastern edge of the Black Sea across to Baku, where it is loaded onto a ferry across the Caspian Sea to Aktau, Western Kazakhstan, for a final rail journey via Tashkent to former capital Almaty.

The eight-day Poti-Almaty transit includes 36 hours for the ferry journey and 10 to 12 hours of loading and unloading on to the ferry. The first test run in December on the 4,111-kilometer route actually took only 132 hours or about six days.

Advance estimates that the service will transport 50,000 TEUs each year with 56 Russian-type single-stack wagons on each block train. It is marketing the service to non-vessel-operating common carriers as a cheap alternative to the existing road and river routes, which can get ice-choked in winter.

"The freight rate will be between euros 2,500 ($4,000) to euros 3,000 ($3,600) per TEU compared to euros 5,500 ($6,500) for the all-road service, offering the same quantity and transit time," said Jawad Kamel, Advance's president and chief executive officer.

New Silk Road. In September 2000, two United Nations commissions identified four major Euro-Asian transport corridor routes, the Trans-Siberian, the TRACEA, the Southern and the North-South Corridor, to revive the historic Silk Road, launching its Joint Project on Developing EURO-ASIAN Transport Linkages 2002-2006 (see map, next page).

By improving transport infrastructure and removing border barriers with a harmonized transport policy, the joint project aims to provide scheduled multimodal services from Western Europe as far across as China's Eastern seaboard and as far down as South Asia to compete against shipping lines travelling through the Suez Canal.

Another of the project's aims is to open up the vast, often hostile and largely landlocked Central Asian market. Kazakhstan is a large importer of equipment for the oil and gas industries, but is out of reach via Suez.

The International North-South Transport Corridor estimates that Baltic to India cargoes will benefit from an improved transit time of 25 to 30 days, compared to 45 to 60 days via the Suez Canal.

In May, Advantage International will expand its Advantage Express Service by connecting it to the Trans-Siberian corridor to supply empty containers to Urumqi, a hub city in North-West China.

China's container availability is desperately low due to the trade imbalance. Kamel admitted that the volumes of containers the company could provide to China would be "just a drop in the ocean" compared to the country's burgeoning needs. COSCO

is Advance's agent in China.

The expansion to Urumqi will offer a potential connection from the extreme western Chinese inland region to Poti and then by feeder ships to Europe and the East Coast of North America.

Advantage International already operates rail services originating in Turkey, CIS and Russia and combined rail, roll-on/roll-off and ferry services, as well as container feeder services, between Black Sea and Mediterranean ports to Poti for onward transport by rail and road to all destinations within the CIS, Iran and Iraq.

Anticipating good volumes on the Advantage Express Service, the company plans to charter some 12,000- to 15,000-ton multipurpose ships to operate between Western Europe and Poti on a 14-day or twice-monthly sailing frequency. The transit time between Antwerp and Poti is expected to be about 12 days.

For North American cargoes, Advantage International charters ships from Germany's BBC Chartering and Logistics on two routes: from Houston, Galveston, Baltimore and Charleston to Poti; and from Toronto, Montreal and St. John's in Canada to the Georgian port. Houston-based World Projects International acts as Advance's agent in North America.

There are also plans to increase the Advance Express Service's frequency to five departures a week by the end of this year.

"With a question mark over supplies from other parts of the world, energy from Kazakhstan is becoming more vital every day," Kamel said.

"Furthermore, with the Chinese government keen to open up inland parts of the country to international trade, more shippers will need to consider the overland option. Central China is a long way from the ports of the country's Eastern seaboard, and the new express link will be vital in opening up these areas to the outside world," he said.

Iran At The Hub. While the Islamic Republic of Iran may be considered part of the "axis of evil," it is also located at the crossroads of the TRACECA and North-South Corridor, and has big plans to make the most of its strategic location.

From Europe, Iran imports vehicles from manufacturers like Daimler, Renault, Peugeot and Fiat. Cargo from the United States includes frozen food stuffs.

In September 2000, Russia, Iran and India signed the North-South Transport Corridor Agreement to restore Soviet Union-era connections by extending the Helsinki/St. Petersburg/Moscow route across the Caspian Sea through to the southern Iranian port of Bandar Abbas, India and eventually beyond to South East Asia.

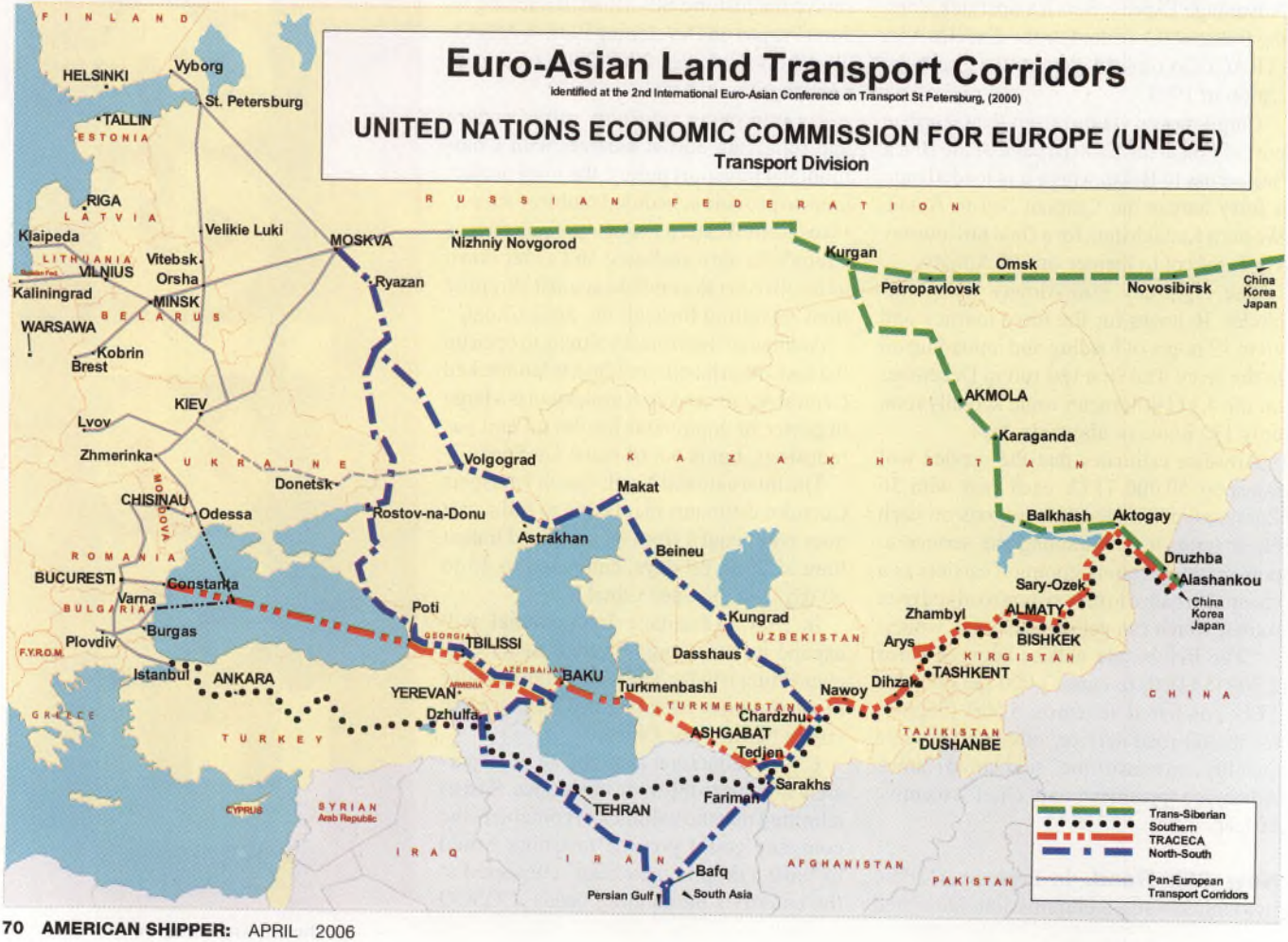
To facilitate the burgeoning corridor, Iran has embarked on one of the world's largest railway construction programs. Last year, it committed to a five-year economic development plan to plug holes in its rail network and increase its cargo capacity to 53 million tons by 2010.

To do this, Iran aims to upgrade 5,600 kilometers of its existing 8,300 kilometers worth of track and lay down an extra 3,500 kilometers of electrified railway lines.

The development of the Qazvin-Rasht-Astara railway has been identified as a priority, which will connect the northern province of Gilan to the state railway network and complete the western branch of the North-South Corridor.

Other major transport infrastructure projects include extending the Sangan-Heart railway by 201 kilometers to link Afghanistan to the Persian Gulf, and a Baku-Astara highway.

Astara Transit Terminal. Advance has identified Astara on the Azerbaijan and Iranian border as a major rail/road hub for the future. Over two years, the company has invested about $17 million to develop



Jawad Kamel
president and chief executive officer, Advance International

"Central China is a long way from the ports of the country's Eastern seaboard, and the new express link will be vital in opening up these areas to the outside world."

and become a 50-50 joint shareholder with the Azerbaijan State Railway in the Astara Transit Terminal.

Advance said cargo moved by rail from Western Europe can reach Astara in about 15 days, or five to 10 days from Russia and the CIS countries. From Astara, cargo will be dispatched to final destinations throughout Iran by road.

The terminal has new offices able to offer through documentation, and is equipped to handle breakbulk cargoes, 20-foot and 40-foot containers, including heavy lift, and outsized cargoes up to 120 tons, within the rail loading gauge. It has 6,000 square meters of warehousing, 120,000 square meters of open storage and four sidings, connected directly to the warehousing area.

The terminal is also prepared to transfer cargo from the Russian broad gauge to the Iranian standard gauge in readiness for when Astara is connected to Iran's rail network.

"Before its break, the former Soviet Union was a main supply corridor by rail from Western Europe to Iran via the Soviet-Iranian border at Djulfa; at its peak moving over 800 rail wagons a day," Kamel said.

"However, the war between Azerbaijan and Armenia (1988-1994) disrupted this route and the railway through Azerbaijan to Djulfa was eventually destroyed," he said. "Cargo had to be rerouted, either by sea to the Iranian ports of Bandar Abbas and Bandar Immam Khomeini, or by road via Turkey.

"Other alternatives were rail via Russia to the Caspian Sea port of Astrakhan and then by conventional shipping to the Iranian port of Bandar Anzali or, during May to October only, the Volga River.

"There is also a very long rail route from Russia via Kazakhstan, Uzbekistan and Turkmenistan to the Iranian border.

"All of these alternatives are either more costly, or not as efficient. Shippers in Iran are seeking more freight capacity on routes to and from Europe. Business is booming and the Astara Terminal heralds the return of a Central Asian transport artery," Kamel said.

Notwithstanding its position in the "axis," Iran has recently troubled a number of governments by threatening to develop its nuclear capacity. Kamel dismissed Iran's faltering diplomatic relations as a potential threat to the success of the North-South Corridor and the Astara Transit Terminal:

"No matter how many sanctions have been imposed on Iran in the past, none have worked. It is a big market with a population of 70 million. There are so many willing trading countries that sanctions would just make the middleman rich," he said.

Although Advance has earmarked Iran and the Central Asian region with its latent connections to China and South Asia as a growth market, Kamel refused to be drawn into the company's profit expectations for the Astara terminal.

"It is difficult to anticipate when we will make money back on the investment. As with any investment, any money is written off on day one," he said.

Moving cargo through Iran and Central Asian has been problematic in the past.

"There were a lot of mishaps on delivery of cargo. In one case a container roof was cut away and stripped of its contents with the consignee receiving an empty container," he said.

"Those days are fortunately gone. Unfortunately, there are still a lot of difficulties. Custom invoices go missing and containers can wait more than a year to be delivered awaiting documentation."

To counter this hazard, all documentation will be handled at the Astara Transit Terminal site office while sales will be controlled from any of Advance's offices in Bulgaria, Romania, Turkey, Azerbaijan, Uzbekistan, Iran, Kazakhstan or Russia. Advance has also established a network of 30 different sub-agents, headed by Seabreak Antwerp in Belgium, to handle sales of Astara Transit Terminal services in Europe.

How long before a seamless new Silk Road is completed will depend on the willingness of numerous states, some with long-held grudges towards one another, to work together and make serious transport infrastructure investments. For a quicker and cheaper alternative to the transport through the Suez Canal, shippers will hope past differences can be easily resolved and other companies will decide to join Advance on the Silk Road. ■

Environmentally friendly heir

A year after pollution violations, Evergreen Marine Corp. chairman lays out environmental challenge to the industry.

BY ERIC JOHNSON

Kuo-Cheng Chang, heir to the Evergreen throne, took the opportunity in early March to lay down the gauntlet to the rest of the shipping industry.

Speaking to a massive crowd of industry officials that included port, carrier and shipper luminaries, Chang said Evergreen would build only environmentally friendly vessels, and they'd turn a profit doing it.

But he challenged the rest of the industry to follow suit, or risk jeopardizing the very platform that allows ocean trade to be such a lucrative global business.

"These issues may be dismissed as commercially insignificant, something to be dealt with by the P.R. department," Chang said. "This is no longer the case."

Chang then showed a quote from his father, Evergreen Group Chairman Yung-Fa Chang: "We shouldn't wait for the introduction of regulation to tell us where to improve."

Later, in an interview with *American Shipper* in a hotel suite overlooking the Port of Long Beach, Kuo-Cheng Chang said he doesn't exactly expect to be a pied piper for the industry. "My intention is not to influence other people. People have to decide themselves," the affable Chang said. "We have to at least face this. We cannot continue to keep blind and not face these issues."

Educated in the United States at the University of Boston and University of California, Los Angeles, Chang is due to be the new face of Evergreen, which is celebrating its 30th year in the liner business.

Started in 1975 as a low-cost carrier, Evergreen has emerged as one of the world's biggest shipping lines three decades later.

But it was almost exactly one year ago that Evergreen was in the news for decidedly unfriendly behavior toward the environment.

On April 4, 2005, the U.S. Justice Department meted out it largest penalty ever for concealing vessel pollution — 24 felony counts and five misdemeanor counts in all — and the Taiwanese company found itself on the business end of a $25 million fine.

The investigation of Evergreen ships and companies began on March 4, 2001, after the discovery of about 500 gallons of oil in the Columbia River near Kalama, Wash., according to a Justice Department news release. In all, seven Evergreen ships were found to have used bypass equipment to dump oily waste and sludge, and the company was found to have systematically concealed the actions.

Kuo-Cheng Chang
chairman, maritime division, Evergreen

"My intention is not to influence other people ... We have to at least face this. We cannot continue to keep blind and not face these issues."

Yet by December, Evergreen's first in a line of what it calls "green ships," made its first call on American soil, when the *Hatsu Sigma* docked in Los Angeles.

The company has ordered 10 ships in the string of S-type vessels, each capable of carrying 7,024 TEUs, and has already taken delivery of four.

"All our new ships will be green ships," said Chang, who indicated that it's too early to have concrete assurances from shippers that they'll be more apt to have their cargo moved on environmentally friendly ships.

The S-type ships have:

- Auxiliary fuel tanks that enable the ship to run on low-sulfur fuel while docked and near ports.
- The capability to run on electrical power while docked for terminals with cold-ironing facilities.
- Higher volume oil water and bilge water storage tanks.
- Double-skinned hulls.
- Fuel tanks that are positioned inside of container stacks so they are less likely to rupture in an accident.

During his presentation at the conference, Chang said Evergreen is not ignoring the financial realities of equipping ships with environmental safeguards that have not yet been required of carriers.

He said it would cost $5 million per vessel to upgrade environmentally, plus $400,000 maintenance annually over the 20-year life cycle of a ship.

"We estimate the cost to the industry to be $70 billion, which is a huge cost for the carrier industry, one with low profit margins," Chang said. "We are not blind to the costs."

When asked in the interview if Evergreen could maintain its stance if other carriers didn't follow through, thus placing it at a cost disadvantage, Chang said the company can indeed absorb the costs.

"That is an easy question," he said. "No matter what, we have to survive. Every company has its costs situation."

Perhaps it's because Evergreen has been able to maintain low operating costs compared to other carriers, at least so far as Chang is able to tell.

"By total cost, I am quite confident we are the lowest cost operating company," he said. "But honestly speaking, I don't know other companies' costs. The shipping industry is not an open industry.

"The other companies may have their own secrets," he said with a chuckle.

This year promises to strain the carrier industry, as dipping freight rates are juxtaposed uneasily with rising operating costs.

And Chang said security is a competing cost with environmental upgrades for an industry with a low profit margin. Oil prices have tripled in the last decade while the trade imbalance on the transpacific has swelled to about 2.75 eastbound containers to one westbound container as of October.

"This creates huge repositioning costs for carriers," Chang said. "We have reached the tipping point of trade imbalance."

Most carriers at this point have diversified their business to handle logistics functions or terminal operations, or both.

"Some companies use terminals just for investment purposes. They use the terminals as profit centers," Chang said. "Some want to invest in terminals other than for commercial purposes. We just want to make our terminals smooth — not to make a profit, but to provide a better service."

When queried about carriers buying terminal leases as assets, (as evidenced by the huge amount Dubai Ports World is paying for its controversial purchase of P&O Ports) Chang said he couldn't quite figure why terminals were so valuable.

"Why is DP World spending so much money to buy (P&O Ports)?" he said. "PSA

Evergreen's *Hatsu Sigma*, its first in a line of "green ships," made its first U.S. call at Los Angeles in December.

decided it was not commercially viable (at that price). Maybe they see in the future growing returns, but I really don't know."

Evergreen's businesses now include an airline, a hotel chain and a logistics division.

"Every shipping line has their logistics arms," he said. "I think that's a trend, because the shippers demand more and more."

He said the expected service level of shippers has gone from point-to-point, to door-to-door, to floor-to-floor, with some even requiring smart labels and radio frequency identification (RFID) tagging.

"It's a requirement of the shippers, and the industry is just following on," he said.

As for vessel overcapacity worldwide, with analysts predicting as much as a 5 percent gap in container slots and actual demand, Chang appeared unruffled.

"As a company, we are short of capacity," he said. "The past three years, we have had a load factor higher than other companies, so I don't think we're concerned with overcapacity."

And on rates, Chang doesn't see the rate decline that some analysts predict.

"Transpacific rates will be quite stable, but European rates have come down," he said.

Chang also commented on the burgeoning possibilities of expanding Asia/U.S. East Coast lanes through the Suez Canal. And again, he said the market will dictate where Evergreen goes, not the other way around.

"It depends on the American and European people," he said. "Where are they going to buy products from? Are they going to shift from China to India? We cannot decide which lane we are going to open. Within five years, it's possible (that shippers will diversify their sources of supplies). Vietnam is the only place that can compete with China on cost, but the population can't compete. Gradually, China labor costs are increasing, so low-value products may go to India or Indonesia."

But intermodal costs in the Unites States may make the Suez even more attractive as a way to get around rail and terminal congestion on the U.S. West Coast or lack of capacity through the Panama Canal.

"Singapore is the mid-point for going through the Panama or Suez," he said. "For the more time-sensitive products, (the Suez) can be quite practical."

But Chang's main goal was to stress Evergreen's emergence as an environmentally sound player. And he urged the industry as a whole, not just his carrier competitors, to pitch in.

"We have to look at the cost of the global economy against future generations," Chang told the conference. "It is our responsibility to address these issues proactively. How can we invest together to protect the environment?

"If we all want to protect the environment, we all must share the cost to protect it. The success of the supply chain depends on sustainability, so you cannot expect one party to protect the environment and carry on the success of the carrier industry." ■

Yung-Fa Chang
chairman, Evergreen Group

"We shouldn't wait for the introduction of regulations to tell us where to improve."

Congestion release valve

Small, shallow-draft ports offer opportunity to barge containers from big terminals.

By Chris Gillis

Small, shallow-draft ports may not get much attention from container shippers, but they could very well become an essential release valve for increasing box volumes in major U.S. East and Gulf Coast ports and on the nation's highway system.

Several small port operators recognize this potential, and want to offer container barge services between busy neighboring port giants and their docks.

"We want to shatter the myth that shallow-draft ports can't help ease congestion in the United States," said Howard W. Hawthorne, executive director of the Port of Victoria in Texas.

Victoria, located about 125 miles south of Houston, handled more than 5,700 barges or 6 million tons of cargo last year. These barges transport liquid and dry bulk commodities for large shippers located within proximity to the port.

The 35-mile-long Victoria Barge Canal empties into the Gulf Intracoastal Waterway, which provides links to major shipping lines servicing ports along the Texas coast. "We can put a container on a barge here at the Port of Victoria and it can go to Japan, Germany, India or wherever" via Houston, Hawthorne said.

Virginia's Port of Richmond has similar plans. The port wants to provide handling services to a barge operator willing to shuttle containers between the large marine terminals in Norfolk and its facilities located 78 miles up the James River.

Richmond is no stranger to container handling. Independent Container Line calls the port once a week to discharge and receive containerized cargoes. However, with a 25-foot draft in the river, Richmond is unlikely to attract other container vessel operators.

Martin J. Moynihan, executive director for the Port of Richmond, said the increasing size of container ships makes it even more difficult to attract vessel operators to the port. However, he believes conditions are ripe in Richmond for barge operators.

Richmond offers immediate access to Interstates 95, 64 and 85. The city and its environs are also home to large shippers, such as Phillip Morris, BASF, Honeywell, E.I. du Pont de Nemours & Co., and Reynolds Metal.

Howard W. Hawthorne
executive director, Port of Victoria, Texas

"We want to shatter the myth that shallow-draft ports can't help ease congestion in the United States."

Victoria and Richmond have yet to start handling container barge services, and both port directors know it will take some effort to convince shippers to switch from trucks.

It requires a "leap of faith" by shippers to have the "willingness to adapt to new transportation solutions," Hawthorne said. He believes that once shippers in the Victoria area try the container barge service they will continue to use it. The port has been discussing the concept with several area shippers.

Jeffrey Sweeney, director of market research for Martin Associates in Lancaster, Pa., said the cost savings from a container barge service must outweigh the delivery costs to make it work. "There has to be a unique need and unique customers," he said.

Container-on-barge services have "a position in the supply chain because not every shipment is urgent," said Thomas W. Craig, president of LTD Management, a consulting firm in Glenmoore, Pa. But he emphasized shippers don't make transport changes lightly.

Not all container barge operations have been successful. Pan Atlantic attempted this service between Norfolk and Richmond about 10 years ago, but it quickly folded.

Three years ago, the Port Authority of New York and New Jersey and its counterpart at Albany, N.Y., launched a container barge service. The goal of the service was to alleviate port and highway congestion, improve container handling and develop environmental benefits by shifting cargo to inland ports using an all-water service. The service was started with the help of more than $4 million in state and federal subsidies, with the goal to make it self-sustaining. Columbia Coastal Transport was picked to operate the container barges.

The so-called "Albany Expressbarge" began as a once-a-week service. The plan was to shortly ratchet up the sailing frequency to twice a week. The barges called at six New York-New Jersey container terminals before heading to Albany.

The goal for the ports was to transport about 10,000 loaded containers a year. However, at best, the service mustered only 8,000 containers from inception in March 2003 to when it terminated in mid-February.

"It was a difficult sell to shippers when they're already comfortable with using truck and rail services," said Steve Coleman,

The Port of Victoria, Texas, about 125 miles south of Houston, handled 6 million tons of cargo last year.

spokesman for the Port Authority of New York and New Jersey.

Proponents of container barge services say the timing for starting these operations on the U.S. East and Gulf coasts has never been better. There is mounting community pressure on large port operators to find ways to reduce truck traffic in crowded urban areas.

There are also increased calls to reduce transportation-related pollution. According to the U.S. Army Corps of Engineers, the cost of one gallon of fuel would move one ton of cargo 60 miles by truck and 200 miles by locomotive, compared to 500 miles by barge. The agency notes that 16 percent of total domestic freight is moved by barge at only 2 percent of the freight bill, which is a cost savings of more than $10 per ton of cargo shipped when compared to other transport modes.

The U.S. Environmental Protection Agency found that inland barge transportation emits 86 percent less hydrocarbons than trucks and 80 percent less than rail; 89 percent less carbon monoxide than trucks and 69 percent less than rail; and 95 percent less nitrous oxides than trucks and 71 percent less than rail. Barge proponents say accidents are less likely to happen due to the remoteness of inland barge transport with urban areas.

More broadly, the U.S. Maritime Administration established the Short Sea Shipping Cooperative Program several years ago to encourage more efficient use of all-water domestic freight transportation, such as container barge services.

Drawing Board. Within the Victoria and Richmond ports, there is an enthusiasm that container barge services will start soon.

Victoria and Houston signed a memorandum of understanding in February 2005 that backs the development of a container barge service between the ports.

Houston-based Osprey Line, a large Gulf Coast container barge operator, is leaning toward providing the service. "Based on the business in the Victoria Barge Canal, we believe there's a sufficient market to support a barge service," said Mike McQuillan, Osprey's executive vice president.

But McQuillan noted that Victoria must still make some minor infrastructural changes to its docks to support a container barge service.

David F. Host, president and chief executive officer of Norfolk, Va.-based T. Parker Host, began exploring the possibility of a container barge service between Norfolk and Richmond about five years ago. At the time, it wasn't feasible to start the service. "We weren't having quite the congestion and fuel cost we do now," Host said.

Today, it's a different story. During the last three years, Norfolk-Richmond truck rates increased from about $250 to $350 due to driver shortages, traffic congestion and rising fuel costs.

Host

Host said the service must operate without state and federal subsidies. "It's got to stand on its own two feet," he said.

"In theory, I'd like to see a barge with 200-TEU capacity loaded with cargo up and back — not just a bunch of empties," Host said. "The barge would call at Richmond every three days, twice weekly."

Host insists that the container barge service between Norfolk and Richmond will happen. "It's just a matter of when," he said.

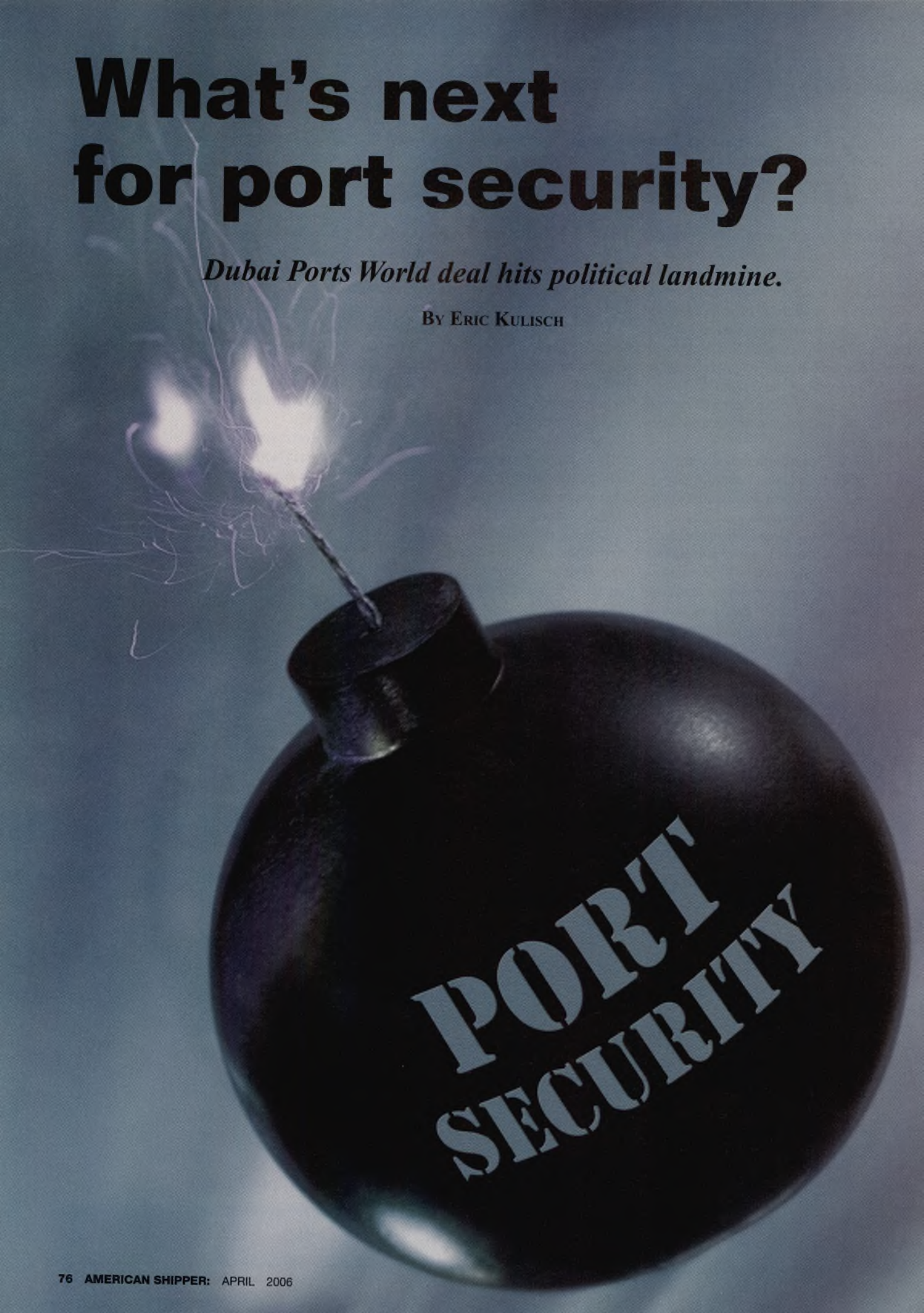
Despite the setbacks of the defunct Albany Expressbarge, the Port Authority of New York and New Jersey believes the container barge is still a viable concept for the region. The port is discussing the service option with Quonset, R.I.; Bridgeport, Conn.; and Camden, N.J.

"We're not giving up on the idea," Coleman said. ■

What's next for port security?

Dubai Ports World deal hits political landmine.

By Eric Kulisch



How did a well-publicized international merger between two port operators go unnoticed for almost three months until the 11th hour, only to be torched by a wildfire of opposition in the United States over concerns that an Arab company owned by the government of Dubai posed a threat to national security?

The tinder for a conflagration existed in the form of American post-Sept. 11, 2001 anxiety about Middle Eastern terrorists striking again, economic patriotism and the government's incremental approach to improving security for ports widely considered vulnerable to smuggling of weapons or a direct attack via a container or vessel.

But it would take someone to light the fuse and set off the political fireworks, as Americans reacted to the perception that their ports and security were being handed to a foreign government with ties or sympathy to Al Qaeda terrorists.

The demise of Dubai Ports World's effort to gain control of several U.S. port terminals can be traced back to a little Florida company that felt left out when two big boys in the port management business decided to merge without giving it a chance to buy out its joint venture partner in Miami.

Fort Lauderdale-based Eller & Co. is a terminal operator that specializes in contract stevedoring and agency activities in Florida's Port Everglades, Tampa, Miami and Port Canaveral. Terminal owners hire companies like Eller to load and unload vessels and provide special logistics services for ship crews and cargo. Eller subsidiary Continental Stevedoring & Terminals is a minority partner with P&O Ports North America in the Port of Miami Terminal Operating Co. (POMTOC), one of three main terminals at the port.

P&O owns 50 percent of the company, with the other half split between Eller and Florida Stevedoring. Eller ITO, a 50-50 joint venture between Eller and P&O, contracts with the longshoreman's union to provide cargo handling for POMTOC and other terminals in the port.

Eller officials were furious when venerable British ports operator Peninsular and Oriental (P&O) Steam Navigation Co. announced last November that it would be acquired by the government of Dubai, even though Eller lacked the resources to buy the company. Eller had ambitions of increasing its stake in the public terminal it co-owned with P&O Ports.

P&O officials contend that Eller doesn't have a right of first refusal in POMTOC because the POMTOC partner, P&O Ports Florida, is not selling its stake. Joint venture agreements often have provisions that allow members to match the price if one of the partners receives an offer for its share. P&O insists that any changes in the parent company do not affect the subsidiary's stake in POMTOC, because P&O Ports Florida would just carry over to the new owner and retain its 50 percent share. The corporate documents do not grant the partners buyout rights when the parent company several subsidiaries up the chain changes hands, said Robert Scavone, executive vice president, P&O Ports North America, in an interview.


Scavone

Furthermore, P&O was not interested in selling its properties in piecemeal fashion, and few companies in the world had the resources to finance a multibillion-dollar takeover of the company in one bite. The addition of P&O's 29 terminals in 18 countries vaulted DP World to the number three spot among global terminal operators, with a total throughput of 33.3 million TEUs.

The debate over the port sale centered on P&O's container terminals located in six major ports: New York (cruise terminal) and New Jersey (a half-share), Philadelphia, Baltimore, Miami and New Orleans. P&O Ports North America actually operates 22 facilities in U.S. ports handling bulk, breakbulk and roll-on/roll-off cargo in places such as Port Arthur and Freeport, Texas; Baton Rouge, La.; and Gulfport, Miss. P&O also handles containers at the Port of Houston and has a container joint venture in Norfolk, Va.

In January, P&O signed a long-term lease to operate terminals at the Port of Tampa, including the recently completed Hooker Container Terminal. The deal was made possible after a U.S. company, Seattle-based SSA Marine, agreed to terminate its concession agreement for terminal space and stevedoring services, according to the Tampa Port Authority.

P&O also renewed a contract with the Defense Department to load and unload military equipment at the ports of Beaumont and Corpus Christi, Texas.

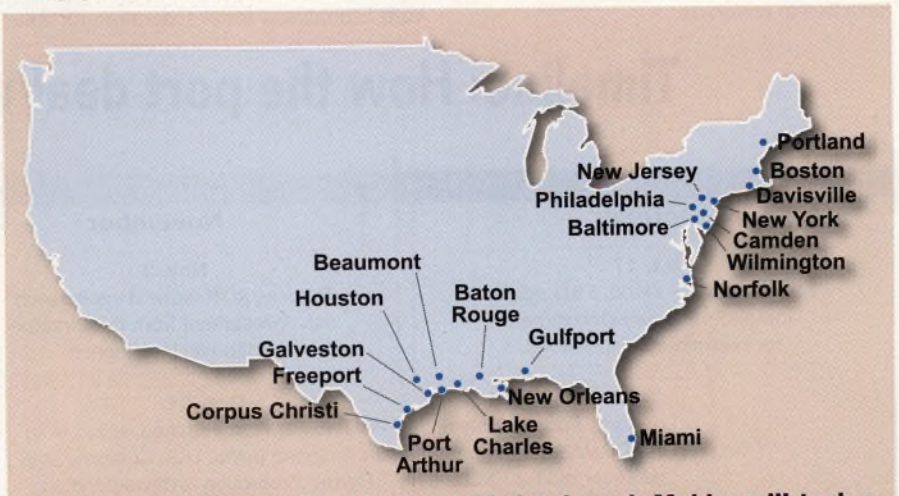
A bidding war briefly erupted when the Singapore government's terminal operating company PSA International placed a rival bid for P&O, forcing DP World to up its offer from $5.7 billion to $6.8 billion.

Representatives for Eller claim the DP World takeover was negotiated in the dark without a formal bid solicitation process, but the company had the same opportunity as PSA to counter DP World's offer after the fact.

Eller had little recourse to stop the deal, although it tried to do so without success in a British court.

So it lit the political match, sparking the inferno that engulfed Dubai Ports World.

Eller's Strategy. A lot of activity took place behind the scenes before the sale of port facilities to the Dubai government



Roadmap to support: Washington lobbyist Joseph Muldoon III took a map of P&O Ports North America's U.S. port facilities and targeted lawmakers who represent those ports.

became front-page news.

In mid-October, more than a month before the takeover of P&O was officially announced, DP World lawyers informally approached the U.S. Treasury Department about their potential investment. Treasury heads an interagency group known as the Committee on Foreign Investment in the United States (CFIUS) that reviews foreign acquisitions to make sure they do not threaten U.S. security. Other agencies represented on CFIUS include the National Security Agency and the departments of Defense, Homeland Security, State, Justice, and Commerce.

The CFIUS process is officially launched when the Treasury Department receives a written notice of the transaction, but in most cases companies consult with executive agencies ahead of time to head off potential problems and make sure they have a good chance of getting approved.

Treasury officials immediately referred DP World to the Department of Homeland Security to resolve any security issues.

By the time DP World formally applied for a security clearance on Dec. 16, it had already been vetted by the intelligence community and several agencies.

On Jan. 17, CFIUS met and approved the P&O sale to DP World.

Eller was unable to afford a high-priced lobbying firm, so it hired a Washington lobbyist named Joseph Muldoon III who was friends with someone at the company.

Eller was rebuffed by CFIUS, so on the last day of January Muldoon took Eller's complaints to Capitol Hill. Eller argued that DP World threatened security because it would be more difficult to get a foreign government to comply with U.S. security rules, and the company would have access to security plans for protecting ports that could be shared with the government of Dubai, elements of which it claimed may have ties to terrorists.

Muldoon started with the Senate Banking Committee, because it had held a hearing last year about problems with the CFIUS process after a Chinese company tried to buy a U.S. oil company. He also met with staff on the Homeland Security, Armed Services and Commerce committees.

Then, Muldoon said, he took a map of P&O Ports North America's 22 port facilities and targeted lawmakers who represent those ports. High on his list was Democratic Sen. Charles Schumer of New York, home of the Port of New York-New Jersey.

Schumer

Schumer spokesman Israel Klein confirmed that the senator was first tipped off to the sale and the administration's approval by an Eller representative and subsequently talked to a wire service reporter.

The Arabs Are Coming. On Feb. 11, the *Associated Press* reported that the P&O sale to DP World had been quietly approved by a Cabinet-level committee that meets to make sure foreign investments do not pose a threat to national security. A handful of newspapers followed up that week with editorials denouncing the sale. But the story didn't take off until Feb. 16, when Schumer held a press conference along with a half-dozen lawmakers questioning the linkup between the two port operators and asking for a more thorough review.

The members of Congress said they planned to launch hearings if the administration did not take a second look at the deal, and some threatened to take legislative action to block the sale of U.S. port assets if President Bush didn't withdraw DP World's permission to do business. They argued that the United Arab Emirates, a loose federation of states that includes Dubai, could not be trusted with infrastructure vital to national security because two of the Sept. 11 hijackers originated from there, and received money transfers through the loose UAE banking system. DP World should also be disqualified, they said, because of the UAE's previous support for the Taliban regime in Afghanistan, and its role as a transfer point to hide the origin of nuclear and chemical components smuggled to Iran, North Korea, Libya and Pakistan.

"Outsourcing the operations of our largest ports to a country with a dubious record on terrorism is a homeland security accident waiting to happen," Schumer said, raising the specter that terrorists could easily infiltrate the company to gain access to secure areas of the port and assist an attack or smuggling of a weapon of mass destruction in a container destined for a major city.

Rep. Vito Fossella, R-N.Y., said handing control of strategic ports to the UAE is equivalent "to an official announcement that Dubai was taking over security at our airports."

On Feb. 17, Eller filed suit in Florida asking a judge to block the sale because it was being involuntarily dragged into the deal to work alongside DP World, in violation of its partnership arrangement with P&O.

Schumer held a press conference that weekend with 9/11 victims' families on the waterfront near the site of the former World Trade Center to attack the president for jeopardizing homeland security by giving Dubai access to U.S. ports.

Michael Chertoff, secretary of homeland security, appeared on Sunday morning talk shows to defend the "very disciplined" review of the proposed sale and the extra safeguard commitments negotiated with DP World. But television commentators criticized him for arguing that the country needs a balanced approach to trade and security.

Meanwhile, DP World sent a team of top

Timeline: How the port deal went down

October

Oct. 17
Lawyers for DP World, P&O quietly approach Treasury Department for preliminary discussions.

Oct. 30
London's *Sunday Times* reports DP World is preparing takeover bid for P&O.

November

Nov. 2
Treasury staff request intelligence risk assessment from the Director of National Intelligence.

Oct. 31
P&O acknowledges takeover bid from undisclosed buyer. U.S. Customs and Border Protection reviews pending transaction for the first time.

Dec. 2
Temasek Holdings, the Singapore government-controlled parent company of global port operator PSA International, begins raising stake in P&O from 2 percent to 4.1 percent

Nov. 29
DP World makes $5.7 billion offer for P&O.

December

Dec. 16
After two months of inform interaction, DP World, P&O file merger notice with Treasury, starting 30-day security review peri

American executives to Washington to try and salvage the deal.

By Feb. 20 the story was in full burn, flamed by Democrats who saw an opportunity to cast President Bush as weak in an area — national security — that was viewed as his political strength. Many Republicans, with their eye on the mid-term election in November, did not want the opposition party to outflank them as tough on defense, and joined with Democrats to fight the transaction, rather than side with an increasingly unpopular president who might be a liability at the polls.

The administration dug in its heels and refused to extend its investigation of the DP World transaction.

As each day went by more members of Congress jumped on the bandwagon, calling on the president to cancel approval for the contract or launch a complete investigation into the matter. Republican leaders in the House and Senate were forced to ask Bush for a moratorium until the administration could take a closer look at the transaction and assure Congress that a company owned by the Dubai government did not raise the risk that terrorists would use its marine terminals as gateways for launching an attack.

Soon Congress was joined by politicians at the state and local level expressing concern that the transfer could affect security at ports within their jurisdiction.

The Port Authority of New York and New Jersey, at the behest of the New York City Council and Gov. George Pitaki, filed suit to terminate its lease with P&O because it said the company did not provide adequate notice of the change in ownership.

Maryland Gov. Robert Ehrlich and the Maryland Transportation Department similarly explored breaking the P&O lease at the Port of Baltimore, while Baltimore Mayor Martin O'Malley slammed the Bush administration for an "outrageous" decision to approve the DP World investment. Ehrlich's stance came after his hand-picked head of the Maryland Port Administration, Brooks Royster, had defended the deal.

Gov. Jon Corzine of New Jersey unsuccessfully sued the federal government to stop the sale on the grounds that CFIUS should have shared the documents it used to reach its decision so that the state could make its own risk assessment of DP World.

Several politicians questioned whether DP World received favorable treatment because Treasury Secretary John Snow's former company had business ties to the port operator.

Snow

Snow was chairman and chief executive officer of Jacksonville, Fla.-based CSX Corp. — which owns the largest railroad in the eastern United States — until early 2003. CSX sold its international port terminal business, CSX World Terminals, to DP World for $1.1 billion in January 2005.

Treasury Department lawyers concluded there was no need for Snow to recuse himself from the decision because the CSX sale to DP World occurred nearly two years after Snow had left the company.

President Bush's Feb. 21 threat to veto any legislation to halt or delay the DP World sale only served to harden opinions. Congressional leaders made it clear that they had the votes to override a veto.

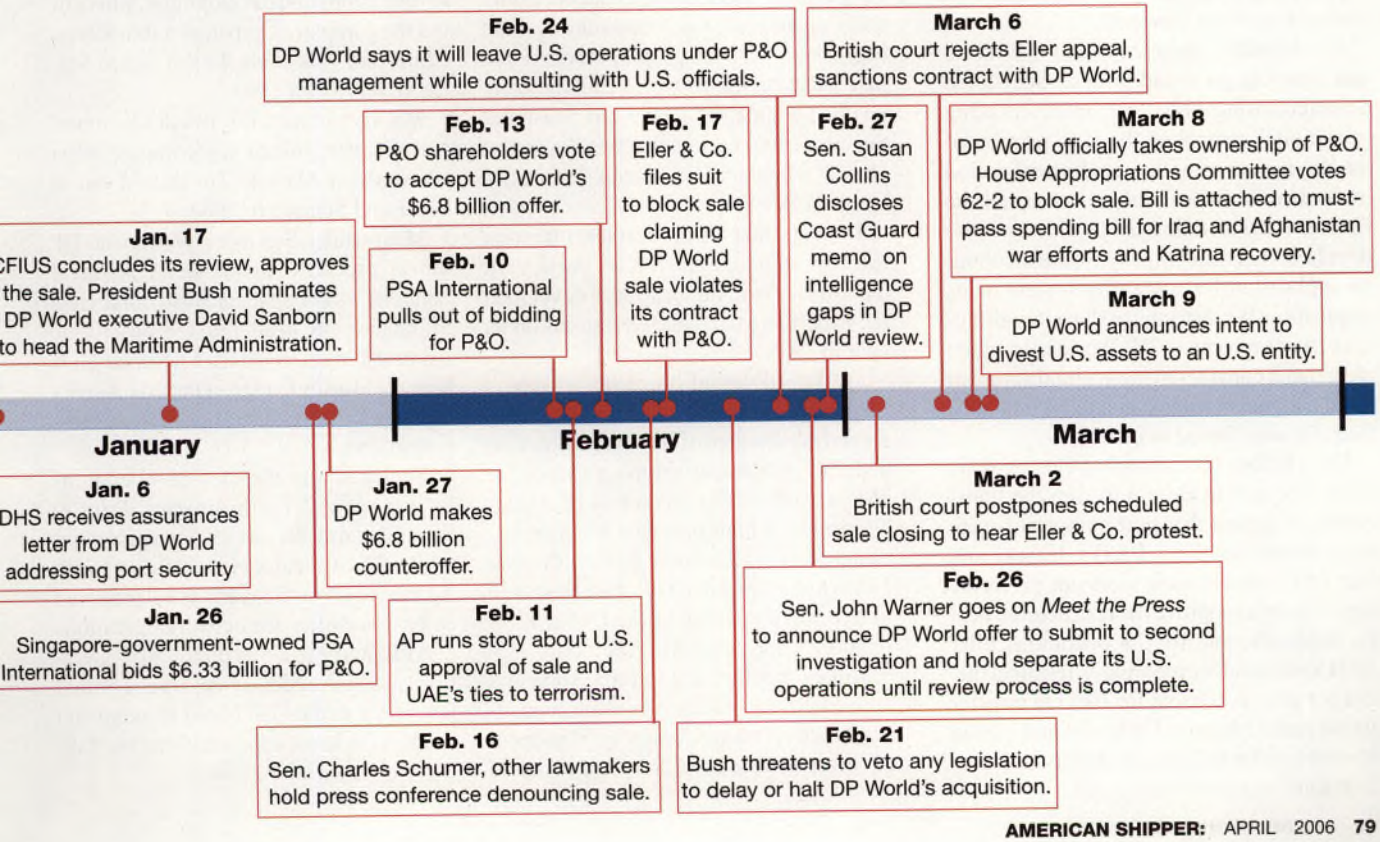
By the middle of the week, Bush faced a complete mutiny from leaders within his own party on Capitol Hill. The White House finally admitted that it should have briefed Congress sooner about the deal, but the administration was still slow to explain the reasoning for its approval.

The main argument given was that the UAE was a strong ally in the Middle East and that the president should be trusted to ensure the nation's security.

"If there was any chance that this transaction would jeopardize the security of the United States, it would not go forward," Bush said.

The military defended the UAE as a strong ally against terrorism since 9/11, and pointed out that the country provides the U.S. Navy access to a vital harbor, logistics support and air warfare training facilities. Defense officials were reluctant to speculate on the repercussions of blocking the sale, but were clearly worried Dubai might retaliate by shutting down some military-to-military cooperation.

Administration officials on Feb. 21 identified some of the extra security as-



surances that they had received from DP World, including mandatory participation in a container inspection program in Dubai and a supply chain security best practices program, both managed by U.S. Customs and Border Protection.

It took a few more days for officials to reveal that DP World also committed to allow U.S. law enforcement agencies to collect company records without a subpoena and use the information to screen or investigate DP World employees working in the United States. DP World also promised to maintain P&O's existing security policies and procedures and operate the domestic facilities with the current U.S. management structure.

The assurances did not assuage an increasingly hostile Congress about the sale. DP World Chief Operating Officer Edward Bilkey tried to explain at several hearings that his company was a good corporate citizen that met all U.S. and international maritime security regulations.

"You may feel, Mr. Bilkey, that there is no risk. But I don't care what you say, I'm going to protect my family, my constituents, my country and my state as much as I can. And your assurances are nice to hear, but that's not enough for me," said Sen. Frank Lautenberg, D-N.J.

The fallout from the port controversy also claimed the nomination of David Sanborn, a DP World executive who Bush had nominated to be maritime administrator. Senators put his nomination on hold, questioning whether he would favor DP World in his regulatory role and perhaps overlook security concerns.

DP World's announcement March 2 that it would go ahead with its scheduled contract closing with P&O, but defer taking operational control of the U.S. portion of the business to provide a cooling off period in the United States, did little to quell the firestorm against the sale, as did news two days later that the company would resubmit its application for a security review of its acquisition. While trying to show its willingness to compromise, DP World also made clear that it considered the original approval valid and that it would seek to be indemnified if it was forced to divest.

Days before the scheduled closing date, Eller filed suit in Britain to stop the transaction. It argued that port authorities were considering revoking P&O's leases, and that P&O shareholders were not given the opportunity to approve the restructured deal for hands-off control of U.S. operations. Eller said Continental Stevedoring & Terminal Inc. did not give its consent for P&O to transfer its interest in Miami to DP World, and argued it would suffer millions of dollars in losses it its joint lease was terminated.

Bush's comments that he still felt the approval decision was correct and statements by administration officials that the extra time would be used to educate the Congress about the merits of the sale further inflamed lawmakers, who concluded that the second review was nothing more than a rubber stamp and that officials did not intend to open up new lines of inquiry about DP World and the United Arab Emirates.

Senators wanted to know if the original security clearance panel had considered questions such as whether Al Qaeda has any financial links to the company, whether the company had connections to nuclear smuggling, and if contingency plans were in place if a coup toppled the pro-American governments in the UAE.

On March 2, Rep. Duncan Hunter, R-Calif., issued a list of incidents in which nuclear and chemical components were smuggled through the UAE, including a case in 2003 in which Dubai Customs allegedly ignored CBP pleas to stop an illegal shipment of nuclear switches from the United States to Pakistan.

A British court on March 3 dismissed

Americans hold key DP World posts

WASHINGTON

Partially lost in all the commotion about a foreign government-owned company acquiring the right to operate portions of several U.S. ports is the fact that Americans account for a sizable portion of the management team at Dubai Ports World.

The international port operator agreed to pay $6.8 billion to acquire its British rival, Peninsular & Oriental Steam Navigation Co., but U.S. politicians rushed to block the takeover on the grounds that foreign managers from DP World might be more inclined to aid or ignore terrorists who want to use the port as a base for attacking the United States.

But the Dubai Port Authority and its international port division have a history of hiring top talent from around the world, enabling the company to become one of the biggest and best-run global port operators in a short period of time. The company has had a pipeline to the old Sea-Land Services carrier group that was bought by Danish container line Maersk from CSX Corp. in 1999.

In fact, Sea-Land Service operated the Port of Jebel Ali for 10 years until the Dubai Port Authority had developed the expertise to manage operations on its own in 1988.

DP World's chief operating officer is Edward "Ted" Bilkey, who previously served as president of Norton Lilly & Co., a Mobile, Ala.-based shipping agency. He also served as vice president of Maher Terminals, which operates a major terminal at Port Elizabeth, N.J. In the late 1980s until the mid-1990s, Bilkey served as executive director of the Dubai Ports Authority and Jebel Ali Free Zone.

Bilkey is scheduled to retire soon and taking his place will be Anil Wats, managing director Asia and Australia. Wats spent 21 years at Sea-Land Service, rising to chief executive of Middle East business. After Sea-Land was bought by Maersk, Wats was chief executive of parent company A.P. Moller Maersk in Indonesia.

General Counsel George Dalton previously worked at CSX World Terminals, the international port arm of Jacksonville, Fla.-based railroad CSX. Dubai Ports International bought CSX World Terminals and its nine facilities in January 2005 to form DP World. Before that he worked as counsel for Sea-Land and was a partner in the New York City maritime law firm of Kirlin, Campbell & Keating.

The head of business development for DP World is Matt Leach, who also joined the company when it absorbed CSX World Terminals. At CSX he was vice president of operations and development, where he led the company's expansion into Korea, China and Venezuela. Leach joined Sea-Land Service in 1995.

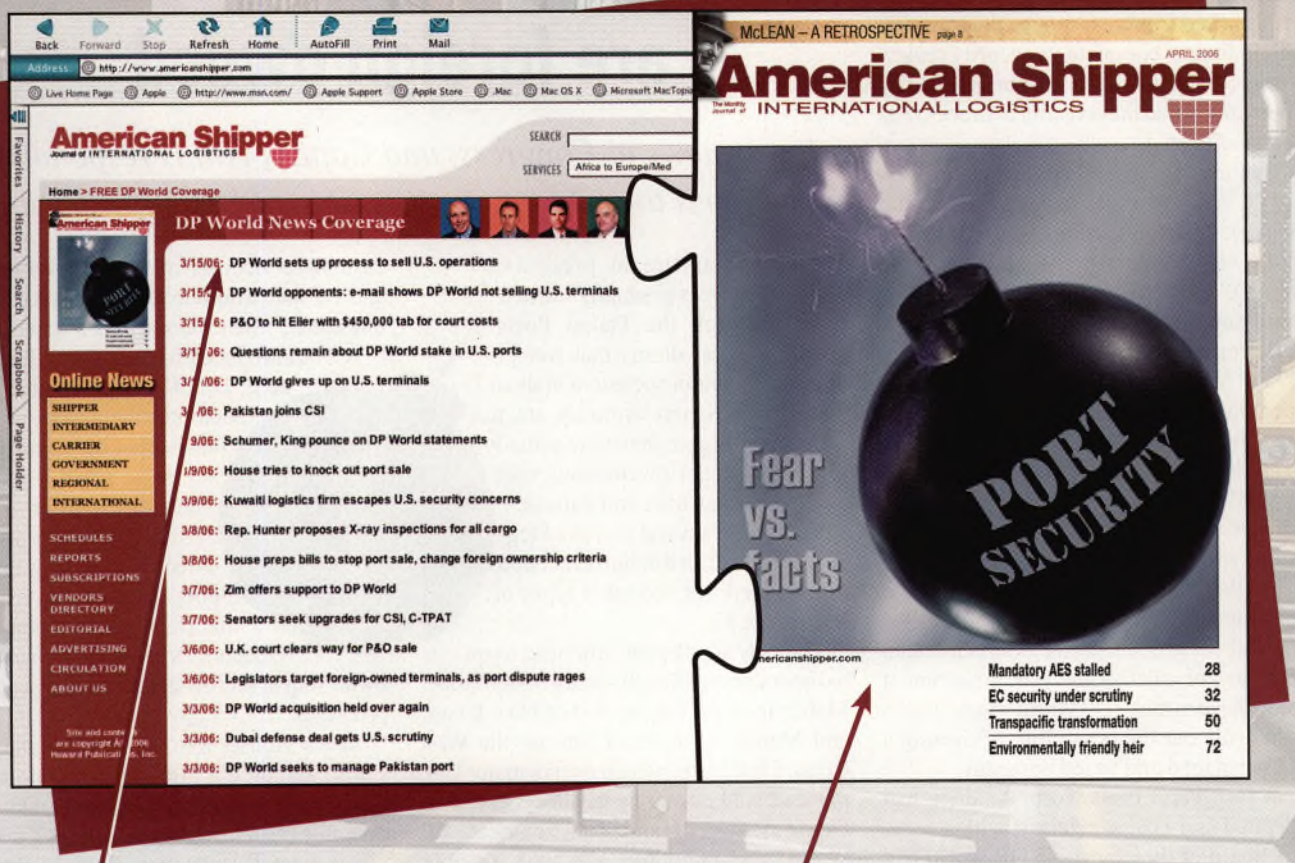
Michael Moore, DP World's commercial director, joined the company after six years at Maersk. He started out at Sea-Land Service in 1984.

Meanwhile, the most prominent DP World executive in the news is David Sanborn, who President Bush nominated in January to head the U.S. Maritime Administration. Sanborn's nomination is being held up by Congress until the dispute with the White House about the port sale is resolved.

Sanborn was director of operations for Europe and Latin America. Prior to this, Sanborn served as French carrier CMA-CGM's senior vice president North America service delivery. He also served as vice president for network operations at APL, and earlier as director of operations at Sea-Land Service. He is a retired lieutenant in the U.S. Naval Reserve and holds a bachelor's degree from the U.S. Merchant Marine Academy.

If

you are only reading the magazine, you are only getting half the picture.



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Eller's suit and tentatively approved the contract between P&O and DP World. On March 6, the court declined to hear an appeal by Eller, clearing the way for the deal to be finalized two days later.

On March 8, the House Appropriations Committee sent a resounding message to President Bush, voting 62-2 to block the deal. The bill was attached to an emergency spending bill for Iraq military efforts and Katrina recovery to make it politically difficult for Bush to veto.

Business groups were slow to rise to the defense of the Dubai Ports World deal. On March 9, the U.S. Council for International Business and the U.S. Chamber of Commerce asked Congress to give the administration time to complete its security review so that foreign investors are not spooked by a perception that the investment process has been politicized.

By then, it was too late. Sen. John Warner, R-Va., one of the few legislators who supported the transaction, went to the floor of the Senate March 9 to read a statement from DP World that it was throwing in the towel and divesting its interest in the U.S. port properties.

"DP World will transfer fully the U.S. operations of P&O Ports North America Inc. to a United States entity," the statement said. "This decision is based on an understanding that DP World will have time to effect the transfer in an orderly fashion and that DP World will not suffer economic loss."

But the story did not end there. DP World was vague about whether it would actually sell the U.S. business to an American company, or whether the U.S. government would have to make DP World whole. It also didn't rule out the possibility of owning a U.S.-managed and based company.

In fact, P&O Ports North America had operated as a U.S. subsidiary, with a separate board of directors, and DP World had always stated it intended to maintain the same structure.

"I assumed they would manage us like the old owners," P&O's Scavone said. The North American subsidiary, based in New Jersey, handled day-to-day operations and sent its reports and requests for capital to the London headquarters. In turn it benefited from centralized resources in areas such as information technology, payroll and accounting and security expertise.

"That's the way an international terminal company works. It was always my understanding that was never going to change," Scavone said.

Many observers interpreted DP World's action as an effort to remove itself as a political lightning rod while still trying to retain its rights as a passive investor.

On March 15, DP World cleared up some of the suspense and said it plans to sell the U.S. facilities within four to six months to an "unrelated U.S. buyer." The company's financial advisor, Deutsche Bank, is running a formal process to solicit and evaluate bids.

Still unclear, however, is whether the U.S. government will be the buyer of last resort or help finance a deal. DP World has said any sale must ensure that it doesn't lose money from its recent transaction. Company officials and analysts have placed the value of P&O Ports North America at about $700 million, based on the sale price of the parent company and the fact that U.S. operations only accounted for about 6 to 10 percent of its profits. It is unclear if other bidders will readily accept the 20 percent premium analysts say DP World paid to win the bid.

As for Eller, a British High Court said it will have to pay P&O's court costs for bringing a nuisance suit without foundation. P&O officials said their legal bill totaled $400,000 to $500,000.

Surprise! U.S. ports are foreign-owned

It was news to Congress, and Capitol Hill is responding with efforts to end foreign ownership of U.S. infrastructure.

The mainstream press and Congress gradually learned through the Dubai Ports World political drama that foreign companies control operations in about 75 percent of U.S. port terminals, and that some of those companies are actually owned by foreign governments, such as Singapore, China and Taiwan.

That led to several pieces of legislation to restrict foreign ownership of port facilities and other types of infrastructure.

The only significant American terminal operators are Seattle-based SSA Marine, Maher Terminals at the Port of New Jersey, and Marine Terminals Corp. on the West Coast. CSX Corp., which owns a major U.S. railroad, sold its marine terminals in China, Germany, Australia and South America to DP World for $1.1 billion in early 2005. It did not own terminals in the United States.

Democratic Sens. Hillary Clinton of New York and Robert Menendez of New Jersey, who represent the Port of New York-New Jersey, introduced a bill to prohibit companies owned or controlled by foreign governments from purchasing port operations. The bill includes a provision requiring the executive branch to conduct a study on existing foreign government-owned companies operating in U.S. ports, and makes recommendations to Congress on how to handle any resulting national security risks within 30 days.


Clinton

"We wouldn't turn the border patrol or the customs service over to a foreign government, and we can't afford to turn our ports over to one either," Menendez said in a statement.

A bill introduced by Sen. Frank Lautenberg, D-N.J., sought to give port authorities the power to protect themselves by terminating any lease when they can show that transfer of terminal ownership would affect the security of the port. It would also require the Department Homeland Security to review any change in ownership of a terminal operator for security problems.

In the House, Rep. Duncan Hunter, R-Calif., authored a bill that would go even further and require foreign companies that own infrastructure such as airports, power plants, tunnels, and terminals to sell it to an American company if the Defense Department determines it is critical to national security. The company would have to be 51 percent U.S.-owned and have its chairman, chief executive and other top executives be American citizens.

Such a law, if passed, could bring additional scrutiny to companies such as Suez, a French company that owns plants in 17 states that provides drinking water to 7 million Americans, and CITGO, which is controlled by the government of Venezuela and its anti-American dictator, Hugo Chavez. CITGO has terminals and refineries in several states.

Many of these bills moved forward in Congress even after Dubai Ports World announced its intention to divest its U.S. assets.

But several authorities on national security believe the United States already has

sufficient controls in place to make sure foreign companies comply with U.S. national interests, or could have corrected the law to require stricter standards without blocking the sale of the U.S. terminal operations of Peninsular and Oriental (P&O) Steam Navigation Co. to United Arab Emirates-owned Dubai Ports World.

DP World early on said it intended to create a legal U.S. subsidiary to do business in the United States, and the government could have insisted that the board be comprised of Americans who have security clearances, said Harlan Ullman, a senior advisor on national security affairs at the Center for Strategic and International Studies in Washington.

"They may own the company, but they don't exercise complete leadership" under a scenario that makes them passive investors, Ullman said. And if serious problems arose, "we could nationalize it."

Similar concerns were raised several years ago when Hong Kong-based Hutchison Whampoa, a giant conglomerate with holdings in telecommunications, real estate, hotels and port operations, sought to open terminals along the Panama Canal. Hutchison Port Holdings is the largest port operator in the world, and operates terminals on both sides of the Panama Canal.

"People were saying (the canal) will be dominated by mainland China. That was nonsensical because this was the capitalist of all capitalists," Ullman said of Hutchison Chairman Li Ka-shing. "There was no way he was going to be the cat's paw" and disrupt trade.

"Plus, the Chinese are as dependent on trade as we are. The problem was more of an invention than a reality," Ullman said.

There are also other precedents for foreign companies operating in areas in which the United States has national security interests.

Maersk Line, a Danish vessel operator, acquired Sea-Land Services in the late 1990s and formed a North American subsidiary so it could comply with U.S.-flag requirements for chartering cargo ships to the U.S. military. Maersk is now the largest provider of commercial vessel transport and related services to the military under the Maritime Security Program.

The U.S.-flag requirements were instituted when the U.S. maritime fleet began to disappear in the 1970s and 1980s because U.S. regulations and wages made it too hard to compete with foreign operators. The flag requirements were more of an effort to protect American industry than national security, industry experts agree.

Reform. The Dubai ports controversy also created momentum to reform two areas of public policy, port security and foreign investment, that many claim have not received adequate attention in the post-Sept. 11, 2001 era.

Congressional critics said the security questions surrounding the deal should have automatically triggered a longer investigation than the 30-day staff review conducted by the Treasury-led interagency group known as the Committee on Foreign Investment in the United States (CFIUS).

The president has the authority to prohibit any acquisition that could harm the nation's security. In 1988 Congress passed the Exon-Florio amendment delegating to CFIUS the task of investigating foreign acquisitions of U.S. companies to make sure they don't endanger national security.

Sens. Clinton and Carl Levin, D-Mich., insisted during a hearing that the law mandates a 45-day investigation when the acquiring company is a foreign government and the sale could impact national security. That extra requirement was added in 1992 in reaction to the proposed sale of a missile manufacturer to Thomson-CSF, the American subsidiary of a French firm that was then 58-percent owned by the French government.


Levin

Deputy Treasury Secretary Robert Kimmitt said successive Clinton and Bush administrations have interpreted the law to mean that an agency has to register a national security concern before it goes to a 45-day investigation, and that any initial concerns were quickly addressed to the satisfaction of all agencies. DP World received a clean bill of health from the intelligence community and unanimous approval by the assistant secretaries on the panel.

Coast Guard Memo. The administration's position appeared to be undermined when Sen. Susan Collins, chairman of the Homeland Security and Governmental Affairs Committee, produced an internal Coast Guard memo stating that intelligence gaps prevented an analysis unit from fully assessing whether the sale of terminal operating rights to DP World posed a security threat.

Homeland Security officials said the unclassified excerpt from a classified document was taken out of context, because it was part of normal internal deliberations to address questions that ultimately led the agency to sign off on the deal.

Top DHS officials admitted they had never seen the memo before.

Opponents of DP World's investment pounced on the new revelation as evidence that the administration did not thoroughly examine its national security implications.

In fact, few foreign acquisitions have led to full investigations. Since 1988, CFIUS has only opened investigations into 25 of the 1,604 transactions it reviewed. Twelve of those cases were sent to the president for a decision and only one deal was ever blocked. In many cases, companies have modified their purchase agreements to meet U.S. requirements, or dropped out of the deal when they were unable to meet U.S. requirements.

CFIUS reviewed 65 cases in 2005.

Administration officials insisted that their review of DP World was not hasty. Although DP World filed its formal application on Dec.16 and CFIUS approved it one month later, officials said the sale was actually under review for 90 days as a result of informal consultations. DP World was given extra scrutiny because it is a state-owned company, they said, but also was a known quantity because the Department of Homeland Security has established relations with Dubai Customs, the port authority and the company to implement U.S. cargo security programs. In fact, CFIUS had previously reviewed DP World before it acquired CSX World Terminals from Jacksonville, Fla.-based railroad company CSX Corp. in January 2005.

Members of Congress accused the administration of approving a sale that should have raised red flags without consulting with Congress. After the president's claims about Al Qaeda connections and weapons of mass destruction in Iraq were discredited, and promises that the government was prepared for Hurricane Katrina last summer turned out not to be true, lawmakers were no longer willing to trust the administration's assurances about the sale at face value and demanded more openness in the CFIUS process so they could evaluate whether DP World was in fact a trustworthy company. Members of Congress were upset that the administration did not reveal any of the reasoning behind its decision in favor of DP World.

Administration officials insisted that they were just following confidentiality provisions established to protect sensitive financial, security and proprietary corporate information, and that under normal practice Congress is notified of approvals after the fact. To prevent public disclosure of information, CFIUS does not share information with Congress unless requested to do so, and then in limited fashion. Many of the firewalls were put in place by legislation and regulatory practice to remove politics from the approval process. The Exon-Florio amendment specifically gave the president maximum control and discretion in determining whether to slow or block foreign investment.

The lack of advance consultations led

many members to conclude that the administration was simply showing disdain again for congressional oversight.

In the aftermath of the DP World controversy, administration officials admitted that they need to do a better job of informing Congress about cases under review. Legal and security experts said the administration probably could have defused the whole situation by briefing leaders of congressional intelligence committees ahead of time about DP World's limited role within the ports and Dubai's track record supporting U.S. interests since 9/11.

Instead, opponents quickly characterized the sale as a takeover of six major U.S. ports by an Arab company with ties to terrorists. Administration efforts to explain that DP World was only leasing specific terminals within the ports and that the Coast Guard and U.S. Customs were still responsible for overseeing security measures related to cargo and ports proved too little too late.

Although officials stood behind the technicalities of the confidentiality process, it became clear during hearings on the subject that there isn't an absolute prohibition on discussing foreign security clearances with members of Congress.

Critics contend that the dearth of investigations proves that the CFIUS process is broken because the Treasury Department is more interested in promoting its open investment policies than blocking deals for security reasons. The Government Accountability Office in Congress issued a report last September stating that CFIUS narrowly defines what constitutes a threat to national security.

Congress should share the blame for not changing the CFIUS process to meet the post 9/11 security environment, said Charlie Papavizas, a partner at Winston & Strawn, whose clients include ocean carriers seeking to meet U.S. citizenship requirements for their North American businesses.

Last year, the Chinese National Overseas Oil Co. (CNOOC) pulled out of a bid for U.S. multinational oil company Unocal after Congress raised alarms about the potential threat to national security. Congress seemed intent on reforming the CFIUS process at that time, but never made any corrections after the CNOOC deal evaporated.

The hearings resulted in some informal promises by the administration, which Treasury officials said they followed by giving the port sale more than 30 days of scrutiny, getting other agencies and the intelligence community involved early on, and agreeing to brief Congress on a quarterly basis about CFIUS reviews in the pipeline.

The administration had actually planned to begin briefing lawmakers about DP World and other cases the week that news of the sale broke, but by then members of Congress had already begun a campaign to sink the deal.

"The real problem is that CFIUS is a Cold War relic," Papavizas said in an interview. "It was set up to prevent the Soviet Union and satellite countries from getting our technology so the Army doesn't wake up one day and find out that the Chinese government owns the subcontractor that provides the rangefinder for the M1A1 tank."

When it comes to security concerns, CFIUS primarily focuses on telecommunications, laser technology, micro-technology and other military useful and leading-edge technologies, rather than on terrorism or the vulnerability of the supply chain, he said.

> ***"The real problem is that CFIUS is a Cold War relic."***
>
> **Charlie Papavizas**
> *partner,*
> *Winston & Strawn*

Lawmakers criticized the mid-level officials on CFIUS for not bumping up the DP World decision to their superiors, who might have had the political sense to consult Congress. Stewart Baker, assistant secretary for policy and international affairs, took responsibility for signing off on the CFIUS approval on behalf of DHS, and said he did not refer the case to Deputy Secretary Michael Jackson because the agencies within the department supported the deal.

"You can't really blame the committee because it was not set up to do something that deals with 9/11," Papavizas said.

Foreign investment regulators are accustomed to approving mergers except in clear cases of security threats because U.S. policy is geared to promote foreign investment and aren't used to drawing a line between an open economy, and protecting the nation from amorphous terrorist threats.

"It's unfair to expect bureaucrats to strike that balance. That's a national policy question," Papavizas said.

"If you were on the committee and no adjustments had been made by Congress since 9/11, and you had been given no new reporting requirements, had not been told to put terrorist threats in a new category, what would you take from this? You'd take from this that it's business as usual" and the DP World sale is no different than prior investments that have been approved.

Besides the lack of emphasis on terrorism, CFIUS process also does not factor in supply chain and transportation systems into the security equation, Papavizas said.

Unlike ocean carriers and airlines, and shipyards in times of war, there are not citizenship requirements for terminals, although that could change if Hunter gets his way.

CFIUS has broadened the scope of national security reviews and included the protection of critical infrastructure as a factor since 9/11, countered David Marchick, a partner at Covington & Burling who specializes in guiding companies through the CFIUS process.

Several proposals are in the pipeline that would replace Treasury as the department in charge of coordinating foreign investment exams, make the CFIUS process more transparent and include a role for Congress to review deals and possibly void them.

Rep. Don Manzullo, R-Ill., introduced a bill that would require automatic, extended investigations by CFIUS when foreign governments are purchasers, and open up the process to greater participation by Congress and the public. CFIUS would be required to provide a notice and comment period in the *Federal Register,* hold a public hearing and inform the relevant congressional committees when an application is filed. Manzullo also proposed that the CFIUS process be chaired by the Commerce Department's Bureau of Industry and Security, which examines the impact of foreign imports on the defense industrial base and monitors licensing of exports with dual military/commercial uses.

Collins proposed establishing a new task force — the Committee for Secure Commerce — to replace CFIUS, and substituting the Department of Homeland Security for Treasury as the lead agency in charge of the process. The secretaries of Defense and Treasury would serve as vice chairs and the Director of National Intelligence would be a standing member. The bill specifically includes homeland security among the factors the committee should consider in deciding whether to review or investigate a transaction and a requirement to brief Congress.

But Congress should be careful not to overreact by enacting changes that could discourage foreign investment and encourage other governments to erect new obstacles to U.S. investment abroad, several industry officials testified before the House Financial Services subcommittee on domestic and international monetary policy, trade and technology.

The United States spends more than it produces and saves, and with a projected current account deficit of $900 billion this year, is more dependent than ever on importing dollars. Foreign investment is how the U.S. economy recycles money it loses due to a burgeoning trade deficit, which rose to

a record $68.5 billion in January.

The UAE is one of the few countries with which the United States actually has a trade surplus.

Increased consultations and public disclosure are a problem because of the potential for leaks that could make investors wary about going through the CFIUS process, according to Treasury and industry officials.

Giving Congress a direct role in the decision-making process would be an even bigger mistake, said William Reinsch, president of the National Foreign Trade Council and former undersecretary of the Export Administration in the Clinton administration responsible for the dual-use export control program.

The Exon-Florio provision was written during a period of paranoia about Japanese acquisitions, "but its drafters nevertheless understood very well that it made no sense for Congress to review and opine on specific investments.

"That would be micro-management in the extreme that would guarantee the injection of political criteria into a process that should be based strictly on national security," he said.

Port security becomes priority

Onslaught of bills attempt to address vulnerabilities.

More than four years after the Sept. 11, 2001 attacks, the U.S. government is still trying to implement a comprehensive maritime security strategy for port facilities, vessels, crews and cargo to prevent a large-scale attack on a port or major city that could shut down commerce for an extended period.

Cargo entering the United States is subject to 24-hour notification prior to lading at a foreign port, overseas inspection at any of the 43 ports participating in the Container Security Initiative, and extra private sector controls when being shipped by companies participating in the Customs-Trade Partnership Against Terrorism, as well as port and vessel security clearances from the Coast Guard.

Lawmakers used the vulnerability of the ports against the president, claiming that security was too poor to introduce another element of uncertainty in the form of a state-owned company from Dubai.

"If port security is not a top priority for our own government, how can we ever expect it to be a priority for a foreign government," said Sen. Edward Kennedy, D-Mass., during a Feb. 23 Armed Services Committee hearing.

The Dubai Ports World controversy gave life to many new or existing pieces of legislation addressing various aspects of port and cargo security, and sent shivers through some industry groups that recent efforts to streamline cargo clearance at the nation's borders would be trampled under a flood of heavy-handed regulations.

Department of Homeland Security officials said they negotiated commitments from DP World that Dubai would continue to participate in the Container Security Initiative and the Megaports Initiative, and that P&O's membership in the voluntary Customs-Trade Partnership Against Terrorism program that encourages the use of security best practices, would transfer to DP World.

Under CSI, U.S. Customs and Border Protection officers are stationed in overseas ports to target suspicious containers for inspection by the host country. Dubai Customs is also in the process of installing four container-size radiation detection machines loaned by the Department of Energy under the Megaports program. C-TPAT is a program that provides reduced inspection levels for shippers who tighten internal shipping controls and demand similar security measures by their manufacturing and transportation providers.

But those assurances did not provide much comfort to lawmakers who insisted the programs are largely ineffective because few containers are actually inspected overseas, and the supply chain security program functions as an honor system that largely based on paper-based reviews.

Critics of the Bush administration's progress on port security say that while the Coast Guard and CBP are well intentioned, they have not been given the resources to effectively carry out security programs put in place after the 9/11 attacks.

The Coast Guard, for example, has only 20 inspectors, 13 for all of Europe, Africa, Latin America and Central America and seven for Asia. This means foreign ports do not get frequent checks to make sure they meet international maritime security requirements, according to Stephen Flynn, an authority on border security and a senior fellow at the Council on Foreign Relations.

"There are more TSA security agents at one security checkpoint (at LaGuardia Airport) than the Coast Guard has received for the entire inspection system. This is not a credible system," he said at a recent House hearing.

Several pieces of port security legislation that languished in Congress now have considerable momentum, and many committees are expected to start passing bills in this area by April. Many measures focused on expanding port security grants and requiring significantly higher levels of cargo inspections.

Republican Reps. Duncan Hunter, the powerful chairman of the House Armed Services Committee, and Jim Saxton, R-N.J., co-authored an anti-DP World bill that includes a provision to scan all cargo containers and trucks entering the United States for terrorist weapons.

Hunter said on C-SPAN's Washington Journal program that the United States has the technology to do an X-ray exam of every ocean container or truckload exiting a U.S. sea or land port.

"We need to have a directive to port directors that they need to figure out a configuration for their port to be able to do a screening of these cargo containers as they come off the ships or come off the trucks. Either do that at the port — if they haven't done that earlier at the country of origin — or let's find somebody who can," he said in a direct shot at CBP, which is responsible for inspecting cargo imports.

CBP currently uses automated X-ray or gamma ray imaging systems to inspect about 5 percent of all containers entering the country. Some of the inspections are done by foreign customs as part of CSI. The DHS uses a risk-based management approach that relies on advance shipping documents and intelligence to target shipments that score high on a computer analysis for non-intrusive imaging or, if necessary, physical inspections.

"We could easily have one of these high-tech wand systems that will allow trucks to come through at a couple of miles an hour. So while they are doing their paperwork, we could have them X-rayed. We could do that. That's something that a port director who is aggressive and creative could do," Hunter said.

"He could figure out how to get those machines in there, how to configure them so you could pull those trucks through. You wouldn't stop commerce in the least, and that's the one time when everybody is lined up on the same road and they are all in a row and you can bring them through like cattle coming through a chute and inspect them," he said.

At a hearing March 2, Hunter said importers should pay a fee to cover the cost of

inspections.

Sen. Hillary Clinton, D-N.Y., said CBP should be inspecting at least 15 percent to 20 percent of all inbound containers, compared to the 5 to 6 percent that are physically inspected now. And Sen. Robert Menendez, D-N.J., proposed "dramatically" increasing inspections of cargo containers entering the country as a start towards a 100 percent inspection regime.

The lawmakers' approach appears to clash with CBP's efforts to improve efficiency and speed up the inspection process, especially at land borders. In particular, a large effort is underway to eliminate paperwork processing by requiring truckers to electronically file their manifest prior to arrival at the border checkpoint to eliminate backups.

Many of the backups spillover into the Mexican or Canadian side of the border, where the United States doesn't have jurisdiction.

A major constraint on CBP activity is the limited dock space in congested port facilities to conduct exams. Non-intrusive exams require enough space for containers to be laid in a row, plus an additional buffer for the equipment to safely operate.

As of last summer, CBP had deployed about 165 mobile, truck-mounted gamma ray systems since the Sept. 11, 2001 attacks, as well as some semi-fixed systems.

And the fixed and mobile Vehicle and Cargo Inspection Systems in use at ports can only process about 20 containers an hour because it takes time for specialists to analyze the image.

A new Eagle system can process about one container per minute. But it takes up a lot of space, and must have containers laid out for the car-wash style machine to pass over them. Another constraint on speeding up the inspection process is that longshoremen refuse to drive trucks through stationary VACIS machines, citing health concerns about radiation exposure.

A private sector initiative in Hong Kong that automatically inspects every container received a great deal of attention during several hearings on the DP World takeover. Two terminals in Hong Kong are experimenting with a combination X-ray, radiation detection and optical scan system that can record trucks as they enter the terminal at about 15 kilometers per hour.

The idea, heavily promoted by Flynn for the past 18 months, is to capture a physical record of each container that can be viewed as needed by customs authorities on site or in the country of destination.

DP World executives offered to install the non-intrusive detection systems at every foreign terminal at a cost of $2.6 million apiece. Chief Operating Officer Edward Bilkey said the company was evaluating the equipment, but liked the fact that the new system could process 400 trucks per hour.

Flynn and the Hong Kong terminal operators until recently have had trouble convincing DHS to consider the system. Flynn said Congress should have taken advantage of DP World's offer to provide additional guarantees and make the installation of the equipment at all 51 terminals a condition for approval.

Grants. The port security grant program is likely to receive a substantial boost. The Bush administration has proposed for the second year in a row lumping port security into a $600 million catchall grant program for critical infrastructure.

Protectionist undercurrents

WASHINGTON

Criticism of the proposed port investment by a sheikdom in the United Arab Emirates centered on concerns that a foreign government could manage U.S. marine facilities as an instrument of foreign policy to aid a terrorist attack on the United States.

But in the eyes of some, the real problem is foreign companies of any type controlling terminals they believe should be reserved for American businesses.

Several anti-foreign investment bills cropped up in both houses of Congress as lawmakers and the public discovered that foreign companies already dominate management of U.S. waterfront operations.

Rep. Clay Shaw, R-Fla., introduced legislation in February aimed at preventing foreign entities from operating U.S. seaports. His legislation falls between a proposal by Democratic Sens. Hillary Clinton of New York and Robert Menendez of New Jersey to restrict foreign governments from operating ports, and one by Rep. Duncan Hunter, R-Calif., that would limit ownership of critical infrastructure to American firms.

Shaw said his legislation would require any marine facility at a U.S. seaport to be bought or sold by companies with at least 51 percent majority ownership by American citizens. A press release didn't explain how a U.S. company could sell terminal rights if they are in the hands of a foreign company, and a spokesperson did not return calls for comment.

Industry experts estimate that up to 75 percent of U.S. marine terminals are operated by companies from South Korea, Japan, Taiwan, Denmark, Singapore, China and other countries.

"To ensure the continued safety of our citizens, U.S. ports should be controlled by American companies, not foreign entities," Shaw said.


Hunter

"Commercial ports are used to send defense equipment" around the world, Menendez said on PBS' *The Newshour with Jim Lehrer.* "Imagine if a port operator decides to shut down operations if he doesn't agree with U.S. policy."

Menendez plans to co-sponsor a bill that would bar companies owned or controlled by foreign governments from operating U.S. port facilities.

Shaw's approach is favored by the International Brotherhood of Teamsters and Eller & Co. Inc., a Fort Lauderdale, Fla.-based cargo handling company that shares operations with P&O at the Port of Miami's main public terminal.

The Teamsters, which has tried without much success to organize independent port drivers who shuttle boxes on and off the docks to warehouses for distribution throughout the country, called on Congress to block the P&O sale to DP World because of the "increased security threat of opening our nation's ports to the UAE."

Opponents of the sale said the UAE served as operational and financial base for some of the Sept. 11, 2001 attackers, even though the Defense and State departments emphasized that the Persian Gulf nation is a major ally in combating terrorism and supporting U.S. military forces in the region.

"There are three major, reputable U.S.-owned terminal operating companies that could bid on P&O's U.S.-based assets if given the chance. They should be given that chance," the Teamsters said in a statement.

In an interview, Teamsters spokesman Bret Caldwell identified those terminal operators as SSA Marine, Maher Terminals and Oakland-based Marine Terminals Corp.

Officials at each company declined to comment about any potential interest in the DP World properties.

Several senators pushed for budget amendments to support a separate port security grant program and increased funding.

Menendez offered an amendment to triple port security grants. The bill would add $965 million for port security efforts in fiscal year 2007, increase funding for research and development of cargo scanning and port security technologies, and provides assistance for developing countries to improve their ability to scan and inspect containers.

Congress appropriated $175 million for port security grants last year after the Bush administration only requested $46 million for the fiscal year 2006 budget. DHS has distributed about $708 million during the past four years.

Sen. Kay Bailey Hutchison, R-Texas, called for quick passage of her bill directing the expansion of the CSI.

Rep. Frank Lobiondo, R-N.J., chairman of the House Transportation and Infrastructure subcommittee on Coast Guard and maritime transportation, introduced a bill to require security officials at U.S. ports be U.S. citizens.

Several proposals attempt to correct weaknesses in C-TPAT and CSI.

Last November, Sens. Susan Collins, R-Maine, and Patty Murray, D-Wash., co-authored the Green Lane Maritime Cargo Security Act, which would provide $835 million in each of the next five years to expand CSI and C-TPAT, provide extra funds for port security grants, create a cargo security policy office in DHS and implement other measures to protect ports and cargo from terrorists.

Collins said CSI and C-TPAT were good programs in concept that do not work well because they have been underfunded by Congress and the Bush administration.

"We want more aggressive implementation of those programs and we are willing to back it with the funding," she said at a press briefing on Capitol Hill. "I feel like the current uproar will build support for more congressional funding."

The Government Accountability Office last year reported that 17.5 percent of high-risk containers are X-ray inspected overseas by governments participating in CSI. There are 43 ports that allow CBP inspectors to help target outbound shipments for inspection.

"Our bill, by providing steady funding for that program, would allow more inspectors to be stationed overseas" to help increase the number of inspections, Collins said.

The bill would also give additional resources to CBP for C-TPAT, which has been criticized for being slow to check whether companies are implementing promised security measures before they receive reductions in inspections.

The bill requires CBP to end its practice of granting benefits to members before they undergo a validation process.

Flynn told the House Armed Services Committee that he believes the C-TPAT office needs to have at least 500 specialists to validate companies and their suppliers around the world, five times CBP's current capability. CBP has 88 supply chain security evaluators and hopes to reach its target of 156 officers this summer.

Collins and Murray also criticized DHS for trying to lump port security grants into a generic infrastructure security grant program. Their bill would provide $400 million in dedicated port security grants, as recommended by the American Association of Port Authorities.

Caldwell added that if private firms are not willing to do so then public entities such as port authorities should run them.

The International Longshoremen's Association took a more tempered approach, urging Congress to force the Bush administration to halt final approval until it conducted a more extensive investigation of the port sale's national security implications.

The ILA represents workers who move cargo in ports along the East and Gulf coasts. Longshoremen's unions have complained since 9/11 that security is lax at ports, and that government attempts to require background checks on transportation workers could unfairly cause some workers with criminal records to lose jobs. Longshoremen argue that they have a vested interest in high security because they would be in danger if a terrorist attack were to occur in a port. Some in the industry see union calls for the government to require cargo handlers to inspect empty containers to make sure no weapons are being smuggled through a port as an effort to gain additional work for their members.

One company that was willing to discuss the possibility of splitting off P&O's U.S. assets from the rest of the deal was Eller & Co.

Eller subsidiary Continental Stevedoring & Terminals, which is a joint venture partner with P&O at the Port of Miami Terminal Operating Co., filed suit in Florida asking a judge to block the sale because it is being involuntarily dragged into the deal to work for DP World. The Eller subsidiary handles cargo for P&O in Miami, and said it may seek more than $10 million in damages.

"Eller sees this as a national security issue" because the U.S. government would have a hard time ensuring a foreign government complies with port security rules, Joseph Muldoon III, an attorney representing Eller, told *American Shipper*. "It raises all sorts of questions such as sovereign immunity."

Terminals are required to develop vulnerability assessments and security plans in coordination with the Coast Guard that outline procedures for controlling access to the facility, verifying credentials of port workers, inspecting cargo for tampering, designating security responsibilities, training and reporting of all breaches of security or suspicious activity, among other measures.

"These documents are sensitive and shouldn't be shared with a foreign government that could possibly be infiltrated," Muldoon said.

Eller believes the solution is to put the Miami terminal and others in U.S. hands.

Muldoon said in early March that Eller was interested in buying some or all of the port facilities if the deal died. Eller would consider many options, including being part of a group of investors, to buy the P&O terminals, which analysts have valued at about $600 million to $700 million.

Eller's financial capabilities could not be independently verified and representatives for the privately held company were unable to provide revenue figures. However, the *Associated Press* reported that in the company's court filings in Britain, Eller placed the potential loss of business in Miami at $150 million if authorities shut down the joint venture.

DP World would not be harmed by giving up the North America facilities because they only represented less than 10 percent of P&O's business, he added.

Meanwhile, Hunter, the powerful chairman of the House Armed Services Committee, and Rep. Jim Saxton, R-N.J., filed a bill to halt the DP World acquisition and require foreign companies that already own critical infrastructure such as port terminals, airports, power plants to sell off their investments to U.S. companies.

In a letter to House colleagues, Hunter said Americans would have to own and control 51 percent of a company that operates critical infrastructure. The Defense Department, assisted by the Department of Homeland Security, would be responsible for creating a list of facilities that are vital to national or economic security or public health and safety. Foreign companies on the list would have to divest their properties.

Companies in control of critical infrastructure would need a chief executive officer, chairman and majority of the board of directors who are U.S. citizens, some independent directors, as well as a board and security oversight committee approved by the Defense secretary, according to the bill. ■

BIG and LITTLE collaboration

Ports discuss arrangement to expand Oakland's reach, revive Sacramento's flagging finances.

By Eric Johnson

Sacramento, Calif. is known more for its action hero-turned-governor than for being a major shipping destination for global cargo, but a linkup between the fast-growing Port of Oakland and the smaller, struggling Sacramento port may change all that.

In December, officials at the two ports inked a memorandum of understanding to develop a plan to revive the fortunes of the Port of Sacramento, which sits upriver from Oakland, and which has posted losses each of the last five years.

Oakland's interest is clear. Officials at the Bay Area port, which handled 2.27 million TEUs in 2005, want to develop Sacramento into an inland port and distribution complex, simultaneously easing container congestion in Oakland's terminals and allowing Oakland to more effectively tap into California's central region.

That's how it's all supposed to work out, at least.

"Everybody right now is excited about the opportunity," said Ray King, general manager of marketing in the Port of Oakland's maritime division. "We've got stars in our eyes."

For the past five years, the Port of Sacramento has been in what executive director John Sulpizio calls a market trough, tussling with its nearby competitor, the Port of Stockton. He said the port, which handles bulk cargoes, was in a period of transition as it moved away from reliance on exported timber and toward growth in dimensional lumber from New Zealand and imported cement and aggregate.

But the numbers spoke loudly. From afar, Sacramento appeared a losing proposition — $5 million in losses over those five years.

So, in the summer of 2005, with rumors of bankruptcy swirling around the 42-year-old port, Sacramento officials decided on a new direction. The port would privatize its terminal operations and act as a landlord port. Immediately, one of the first names to pop up as an interested party was the Port of Oakland.

> ***"The combined legislative clout of Sacramento and the Bay Area legislators on port issues could be powerful. And that could ripple back to Washington."***
>
> **John Sulpizio**
> *executive director, Port of Sacramento*

For Sulpizio, an industry vet of more than three decades, the chance to link up with Oakland provided credibility and clout to his corner of the trade world.

"The Port of Sacramento is a small port," Sulpizio said in a February interview. "Our chairman likes to say it would be difficult for us to get hit by a bus if we were standing in the middle of an intersection. This gives us a linkup to a large port and the exposure that comes with that."

But for now, he's guarded in his optimism about the arrangement.

"The (local) press has made more out of it than it really is," he said. "We basically have signed a memorandum of understanding that we're going to work together to see if we can define a relationship and what it might cost."

The two ports have jointly put out a request for qualification for terminal operators to take over operational duty at the inland port, which sits near the confluence of the Sacramento and American rivers, about 80 miles northeast of San Francisco.

By the end of March, Sulpizio said, the ports expect to have responses from interested operators. If the bidders are qualified, the MOU calls for an 18-month operations phase, eventually leading to an eight-year contract with the Port of Oakland that could be renewed for a further 10 years.

"They may be able to augment our marketing effort and they can definitely enhance our legislative advocacy," Sulpizio added. "The combined legislative clout of Sacramento and the Bay Area legislators on port issues could be powerful. And that could ripple back to Washington."

For instance, Oakland was recently stifled in its attempt to secure $100 million from federal sources to expedite completion of a channel deepening project that would allow post-Panamax ships to call at the Bay Area's major port. Oakland received $43 million, meaning the channel deepening won't be complete until 2008.

Sulpizio suggested that the weight of Sacramento coupled with the Bay Area may have induced Washington to be more free-spending on the dredging project.

Then there are the purely financial benefits of attaching the Port of Sacramento to the Oakland brand. Oakland's TEU volume grew faster than any other U.S. West Coast port in 2005.

"From a financial standpoint, we're obviously looking for increased tonnage and revenues from this," Sulpizio said. "We also would envision more funding for infrastructure from in-state sources.

"We're an underutilized facility. We've got acreage to develop. But our revenues are depressed and we're posting losses so we're looking for increased revenue and increased volume."

Benefiting The Region. King said the arrangement is complementary to the interests of both ports, and could act as an economic stimulus for Northern California.

"They're breakbulk and we're containers," King said. "Our relationships with beneficial cargo owners and ocean carriers and terminal operators can be spaced out to them without a lot of extra cost. This is an example of how we can leverage our expertise to benefit the entire Northern California region."

King said the land surrounding the Port of Sacramento should be attractive to companies crossing the Pacific and calling at Oakland.

"That land could be a very valuable component to the supply chain, because you need warehousing space and cross-dock facilities," he said. "Orders need support. Sacramento could serve as an inland port."

And by inland port, King means a destination to which terminals could quickly barge cargo after arriving at the Port of Oakland. The concept of inland ports is gaining traction in Southern California, where TEU volume is more than six times that of Oakland,

but Bay Area leaders see the same concept as crucial to expansion of the Oakland port.

In this case, Sacramento could literally and euphemistically be an inland port.

"You have the potential to get trucks off the road," King said. "As the port here grows, we have to take on issues that address environmental stewardship, and this could potentially accomplish that as well as put Northern California on a higher growth path in terms of global trade."

End Of The Road. Of course, if all goes according to plan, Sulpizio might not be around to see it. If the two ports are successful in attracting a terminal operator to manage the port's five berths and bulk handling equipment, it will mean a significant downsizing of port staff.

Sacramento has been run as an operational port since its inception in 1963, so the move to privatizing operations represents a paradigm shift, Sulpizio said.

"Port staff would be downsized to a nominal group and folded into the city," he said.

It will likely be run by Mike Luken, the City of West Sacramento's port manager.

"We're hoping the relationship will provide a steady stream of revenue," Luken said. "From a city standpoint, it would be great to see the port have success. It doesn't do anybody any good to have a vacant industrial facility in the middle of the city."

Aside from management, the governance of the inland port is also due for a radical change. For years, it has been a political football, tossed around between four government entities — the cities of Sacramento and West Sacramento and the counties of Yolo and Sacramento.

The port lies entirely within the city of West Sacramento and Yolo County, but those four agencies shared seven seats on the port board — and, ironically, Sacramento city and county had the board majority.

That changed in September, when the Sacramento-Yolo Port District Commission voted to dissolve the four-party board.

Currently, West Sacramento has four seats on the board, and Sacramento and Yolo and Sacramento counties each have one. Soon, Sacramento city and county will withdraw.

Sulpizio said the more streamlined board will only make the port more attractive to private terminal operators.

"The wild card is whether terminal operators see this as a revenue opportunity to privatize," he said. "We hope that the political stability (on the board) and the Oakland name will give us some clout."

King said Oakland will determine over the next few months whether Sacramento's financial problems are, indeed, a hindrance to consummating a port partnership.

"Our view is that's more behind the Port of Sacramento now," King said. "The arrangement between the two ports should contribute to the health of Sacramento. Of course when you start the relationship, you have to work out the details. But we're focused on the future of the two ports rather than the administrative and economic troubles."

Longtime Target. And that's because Oakland officials have long eyed the City of Sacramento and its surrounding suburbs as a potential growth market.

"I don't think you can consider the Port of Sacramento as a competitor to us," King said. "We've always thought of Sacramento, because of its proximity to the Central Valley, as more or less within our sphere. But we never really thought, let's have an arrangement with the Port of Sacramento."

That changed when the governance and financial problems in Sacramento forced

Port partnership

The ports of Oakland and Sacramento are looking to link up to promote common interests — Oakland to expand its reach into California's central valley, and Sacramento to survive financially. Over the next few months, the ports will work to:

- Improve operating efficiencies.
- Create a synergistic marketing strategy.
- Extend Oakland's maritime industry relationships and alliances to Sacramento.
- Consolidate and leverage governmental, business and professional alliances.
- Development new sustainable business and new revenues between the two ports.
- Reduce pollution through a possible waterborne cargo barging operation.
- Eliminate operating losses at the port of Sacramento.
- Develop and fund needed infrastructure at the Port of Sacramento.
- Develop environmental enhancement and mitigation programs at the Port of Sacramento using successful programs developed by Oakland.

officials there to examine the port's business model.

"Sacramento had a reason to want to associate with us," King said. "And we've always thought that was in our sphere. We've thought about using the Central Valley to promote logistical support."

While the port has yet to decide what to do with its acres of undeveloped land, Luken said that since it's currently zoned for industrial use, he expects that West Sacramento would keep it zoned that way.

Which means the area would be primed to become a mini-distribution hub for inland-bound cargo and outbound cargo from California's Central Valley.

And so the linkup should particularly appeal to shippers and transportation companies in that sense. Barging containers gives logistics specialists and shippers an option that hasn't existed for cargo arriving in, or headed to, Oakland. While truck traffic between Oakland and Sacramento isn't the nightmare that it is out of the ports of Long Beach and Los Angeles, it's getting worse and is a significant worry for officials there.

The prospect of barging containers between the two ports — in essence using Sacramento as an inland port — makes sense particularly if it cuts down on empty container loads traveling Interstate 80 between the two cities, King said.

"If there's an opportunity to provide exchange of containers so that they don't return empty to the Port of Oakland, then I think that improves our competitiveness, cuts costs and helps environmentally," he said.

Sulpizio agreed.

"We'd obviously be looking to the container barge service to relieve pressure on the 80," he said. "It allows them to shuttle containers immediately off the vessel to a barge, which clears up terminal space. It definitely has the benefit of reducing traffic on I-80 and the barges, I believe, will have less overall emissions per ton (of cargo) than trucks."

The products that could be barged to and from Oakland via Sacramento include anything that could fit in a container — from electronics to exports of agriculture from California's farm-laden interior.

Meanwhile, Sulpizio said Sacramento can handle an influx of distribution centers and containers from the coast.

"Sacramento is a fairly significant transportation region," Sulpizio said. "We've actually been building on a goods movement network infrastructure over time. Sacramento sits on the intersection of interstates 5 and 80 and the port is a quarter-mile from that intersection. You can take the 5 all the way to Mexico and the 80 as a land bridge to Chicago, if you were so inclined. And the rail connections aren't that bad. We're well-placed and we've got available land that would attract major warehouse operators."

> ***"Everybody right now is excited about the opportunity. We've got stars in our eyes."***
>
> **Ray King**
> *general manager of marketing, maritime division, Port of Oakland*

But he cautioned: "It would likely take some modest capital investment to build the barge-container handling facilities so there are some hurdles that need to be overcome."

Private firms will, no doubt, look long and hard at the port's financial troubles the last five years.

In August, when *American Shipper* spoke with Sulpizio about press reports that the port was near bankruptcy, he said the rumors were unfounded.

"When people talk about running out of cash, that assumes the do-nothing scenario," he said.

The port is also looking to sell a 33-acre piece of property to raise $7 million. There are currently 150 acres in the terminal and 500 acres of undeveloped land owned by the port.

"It's a bridging strategy," Sulpizio said. "No business can continue to sell off assets as a long-term strategy."

But in February, the *Sacramento Bee* reported that Sacramento had sold a 30-acre parcel of its land for $6.6 million to stave off bankruptcy, a move that gave the port some breathing room while seeing where its future with Oakland lies.

The newspaper also said Sacramento has debts of $13 million, reserves of $8 million and lost $800,000 in fiscal year 2005.

So the Port of Sacramento seems to have found its safe harbor in the storm, while Oakland seems to have found a way to address growth and environmental issues as terminal space shrinks.

"You've got to find better ways to use existing infrastructure," Sulpizio said. "And this is a good way." ■

'Give up the MRGO'

Closing of Mississippi River Gulf Outlet would force relocation of critical New Orleans infrastructure.

By Jim Dow

Gary LaGrange, president and chief executive officer of the Port of New Orleans, laid it out in this year's annual State of the Port address: "We are ready to give up the MRGO."

LaGrange was referring to the Mississippi River Gulf Outlet, the man-made shipping channel that provides ocean carriers with a direct connection between New Orleans and the Gulf of Mexico, and serves as the home for major terminals, warehouses and waterfront businesses.

The MRGO, often referred to as the Mr. Go, has long been seen as a blessing and a curse. The benefits — faster access to the Gulf and a location away from city streets that offered more room for modern shipping operations — led to its construction in the 1960s.

But navigation benefits turned to navigation impediments when hurricane hit in years past, causing the waterway to silt up and become inaccessible for large ships. With key facilities like the France Road and Jourdan Road terminals normally access by the MRGO, that created ongoing problems.

But those problems paled when Hurricane Katrina hit late last summer. The MRGO essentially turned into a funnel for the incoming storm surge, leading to the breaches along the adjoining Inner Harbor Navigational Channel (IHNC) that flooded the city's Lower Ninth Ward area.

The flooding led to calls for the permanent closure of the MRGO. The state legislature took an important step toward that option in February, when it passed a resolution calling for Congress to close the waterway. The federal government, which controls access to ports, will have the final say on the matter.

For local shipping interests, already faced with the challenge of bouncing back from the damage Katrina wreaked on both infrastructure and the economy, the prospects of closing the MRGO present incredible

The trolley that moved the container cranes at the France Road Terminal was knocked off track by Hurricane Katrina. the terminal remains inoperable.

financial and logistical challenges.

LaGrange acknowledged the MRGO might be near the end, yet he is reminding everyone the change would come at a cost.

He estimates that 30 percent of pre-Katrina operations are located on "inner harbor" locations, mostly on the IHNC.

Although much of New Orleans maritime operations are back up and running, most notably the facilities located on the crescent of the Mississippi River, important questions must be answered concerning the operations historically dependent on MRGO access.

A cyclical upturn in steel imports in February put port statistics back up to Pre-Katrina levels — at least on paper. But LaGrange noted in his port address that there is no way to sustain those numbers until officials determine how to replace the facilities and capacity lost in the hurricane.

There are nine major companies that located their operations along the inner harbor site, with an estimated 1,000 direct employees. Thousands of other jobs are linked to those operations.

LaGrange said it would cost $360 million to relocate those companies, along with the existing terminals. The container terminals and cold storage facilities alone would account for $180 million of those costs.

LaGrange said officials have explained the situation to both state and federal authorities, but he is now challenging them to help provide a solution.

"The losses that this industry is sustaining are a direct result of the failure of the federal government to provide a shipping channel that had adequate flood protection measures," he says. "The federal government has a fiduciary responsibility to provide deepwater access to the people who depend on the MRGO. We don't care how they do it. But if they aren't going to dredge the channel, they have to make these companies whole by helping to move their operations."

Even if the MRGO is shut down for good, LaGrange said, that does not mean the end for everything along the IHNC.

He pointed out that before Katrina hit the port had 77 agreements with 50 tenants on the IHNC. Short term, the port has taken steps like deferring rent for some of them to help them survive the immediate aftermath of the hurricane.

A handful of companies have left, but there are still 45 companies with agreements to lease property in the industrial area.

"From these figures, it's clear to see that the IHNC will remain a great place for industrial development in the city of New Orleans," LaGrange said.

Even if deep draft vessels never use the MRGO again, one alternative is to restore the lock system that was in place for decades before the construction of the MRGO.

The locks are old and outdated, but already some companies are using them.

New Orleans Cold Storage, a key port customer that moves high volumes of frozen poultry for international customers, is using an existing 80-year-old lock to access company docks at the Jourdan Road Terminal, restarting operations earlier this year. The company has also been trucking some cargo to an upriver wharf.

Should old locks be modernized, access to IHNC companies could be greatly improved, LaGrange said.

Other vessels that are too long or with drafts that are too deep are coming into the IHNC from the Mississippi River.

Still, the solutions created out of necessity after Katrina are not always a match for what was in place beforehand.

For example, LaGrange noted cold storage companies have lost the competitive advantage of having dockside facilities, where companies like NOCS could blast freeze poultry and put it directly onto a ship.

In addition to seeking state and federal funding to relocate some facilities, officials will have to find suitable new locations for those operations.

"We are now faced with the challenge of shoehorning some of the capacity and facilities that we lost on the IHNC into our current footprint along the Mississippi River," LaGrange said.

There is some room for growth on the Mississippi River Terminal Complex on the East Bank of the river. But there are no obvious locations on the West Bank.

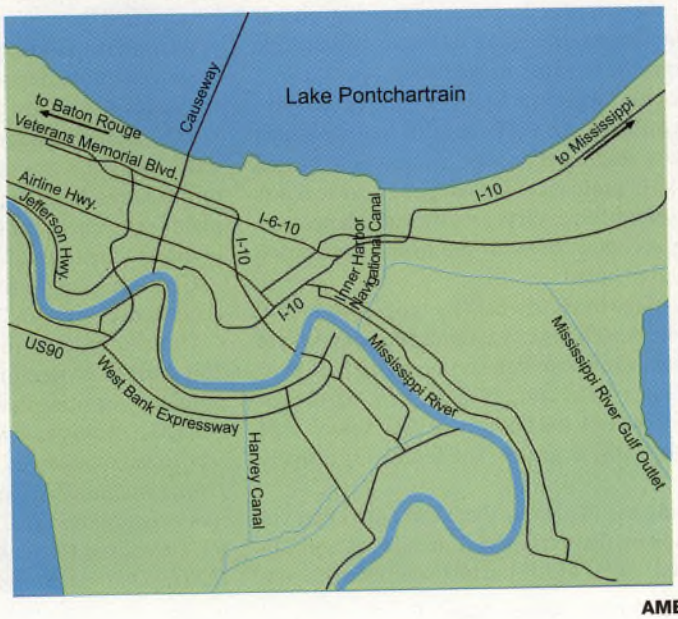
"In some cases, we probably won't find the footprint we need on either the East of West banks," LaGrange conceded.

The goal is to keep companies that cannot resume operations in New Orleans in state.

LaGrange said he would be working with the Ports Association of Louisiana. Companies could also be enticed to use other Louisiana ports capable of providing similar services.

For the other 70 percent of the operations not located on the IHNC, operations are getting close to pre-Katrina levels.

The recovery efforts have prompted the port chief to adopt a new motto: "It's not how far you fall, but how high you bounce."■



Robert Mottley

SHIPPERS' CASE LAW

Cargo liability after English Channel collision

Early on Dec. 14, 2002, three vessels — the *Kariba, Tricolor* and *Clary* — were navigating in a traffic separation pattern in the English Channel north of Dunkerque, France. The ships were operating in restricted visibility due to fog. The *Kariba* and *Tricolor* were on roughly parallel courses in the westbound lane of the traffic pattern. At 2:05 a.m., both vessels had just made a turn at the Fairy South buoy and were navigating from way-point to way-point in their planned courses. At this same time, the *Clary,* a bulk carrier registered in Singapore, was also proceeding on a steady course in the northbound lane of an intersecting branch of the traffic separation pattern. *Tricolor,* a roll-on/roll-off car carrier loaded with 3,000 luxury vehicles, was in the process of overtaking *Kariba* — a Bahamas-flagged containership.

When the *Kariba* and *Clary* were about three miles apart on intersecting courses, the *Kariba* made an abrupt turn to starboard (right) and hit the port (left) side of the *Tricolor,* causing the *Tricolor* to capsize and sink along with her entire cargo — valued at about $180 million. There were no human casualties, the crew of the *Tricolor* having made it safely on board the *Kariba.*

During subsequent litigation in a New York federal court, legal representatives for the *Kariba* argued that it had been boxed in by the *Clary* and *Tricolor,* and that those vessels were at least partly to blame for the collision.

"There is no dispute that it was the duty of the *Clary,* as the vessel intersecting the westbound traffic separation scheme, to turn to starboard and go safely astern of the *Kariba* and the *Tricolor,* and that is what the *Clary* did, but allegedly later than it should have and not before the *Kariba* turned to starboard and put itself on a collision course with the *Tricolor,*" U.S. District Judge Harold Baer Jr. said in his ruling.

The court noted further that the master of the *Kariba* had misread his Automatic Radar Plotting Aid (ARPA) and believed that the *Clary* was closer than it was.

Attorneys for the *Kariba,* according to Baer's ruling, "made much of the fact that the *Clary* did not stay behind to help with the wreck and rescue the crew of the *Tricolor,* but instead went on its intended course to the Netherlands." The second officer of the *Clary* claimed he did not understand the severity of the collision, and thought that the ships had merely "kissed." "While his actions after the collision may be indefensible and even reprehensible, they appear to have no bearing on our inquiry — which is to determine who was responsible for the collision," Baer wrote in his ruling.

"At first, the court was surprised that none of the ships contacted one another via VHF radio to inquire which one was to take evasive action, but testimony indicated that use of the VHF radio was discouraged because it was too difficult to identify which vessel was which because of there being so many ships in the traffic separation scheme," the judge noted.

The liability of the three vessels "for the claims before this court is to be determined in accordance with Article 4 of the Brussels Collision Convention of 1910," Baer determined. That article says, in part, that "if two or more vessels are in fault, the liability of each vessel shall be in proportion to the degree of the faults respectively committed."

After assessing the evidence, the court noted that "in order to be boxed in, there must be four sides closed." In the event at hand, "one side of the box was always open, because at any time the *Kariba* could have simply cut her motor and slowed down."

Baer ruled, "the cause of the collision was the sole and exclusive fault of the *Kariba.* The *Tricolor* and *Clary* share no portion of liability for the collision."

[Otal Investments, as owner of the Kariba, v. Wilh. Wilhelmsen ASA, et al., v. Zurich Insurance Co. v. Tricolor, et al.; U.S. District Court for the Southern District of New York; Docket numbers 03 Civ. 4304, 03 Civ. 9962, 04 Civ. 1107; Date of ruling: Jan. 4]

Jones Act proviso means what it says

Horizon Lines LLC, a U.S.-flag carrier active in the Jones Act trades, sued in federal court to thwart approval by U.S. Customs and Border Protection of a plan by Sunmar Shipping Inc., a competitor of Horizon's, to transport frozen fish from Dutch Harbor, Alaska, to Boston.

Sunmar had received CBP approval to charter non-Jones Act vessels to bring fish from Alaska to Bayside, New Brunswick, a port about six miles south of St. Stephen, New Brunswick, which is across the St. Croix River from the Calais, Maine, point of entry to the United States.

Rather than proceed directly to Calais, Sunmar proposed to move the fish in a triangular pattern, first by truck and then by rail, to several towns in New Brunswick, adding 145 miles to the route prior to entry into the United States. Sunmar did not intend to file rate tariffs for any portion of the route.

Although the Jones Act generally prohibits transport of goods in the coastwise trade from one U.S. port to another except on U.S.-flag vessels, an exception in the act's third proviso allows shipments on routes using Canadian ports and railroads when such routes are recognized by the Surface Transportation Board and rate tariffs have been filed with the STB.

CBP, in approving Sunmar's plans, had noted that subsequent to the enactment of the Jones Act's third proviso, Congress had largely deregulated the rail industry and virtually eliminated required filings of tariffs. CBP thus reasoned that the rate tariff-filing requirement of the third proviso should be ignored, on grounds that "mechanistic adherence" to statutes requiring the filing of rate tariffs with the STB "in the present climate of deregulation would lead to an absurd result that cannot be justified."

At trial, Horizon Lines argued that Sunmar's proposed route was "commercially pointless" and in violation of the Jones Act's third proviso.

U.S. District Judge Ellen Segal Huvelle ruled that CBP had gone too far in expanding the third proviso of the Jones Act. "This interpretation ignores both the plain language of the (Jones Act) and the congressional intent in enacting it," Huvelle determined.

CBP's rulings were "arbitrary, capricious and not in accordance with law," the judge said.

Huvelle ordered that the case be sent back to CBP "for further proceedings not inconsistent with this … opinion," meaning that the third proviso of the Jones Act *[The Merchant Marine Act of 1920, 46 U.S.C. app. 883 (codified as amended, 2004)]* must be read literally.

[Horizon Lines LLC, v. the United States of America and American Seafoods Co. LLC.; U.S. District Court for the District of Columbia, Docket number Civ. 05-0952 (ESH). Date of ruling: Feb. 10.]

Corporate Appointments

(800) 876-6422, FAX (904) 791-8836, e-mail gburrows@shippers.com

Logistics

Audacious Inc.

The Nevada-based transportation management services provider has appointed Bill Jones as senior vice president of sales and marketing.

Jones was vice president and general manager of transportation services at Ryder Integrated Logistics, after Ryder acquired his own company, BFJones Logistics, in 1998.

In his new position, he will be responsible for strategic direction, planning and execution of marketing and sales programs for Audacious and its sister company, NTE LLC.

Ozburn-Hessey Logistics

The Tennessee-based third-party logistics provider has appointed Frank Eichler to the newly created position of executive vice president and general counsel.

Eichler was senior vice president and general counsel for Dex Media Inc. in Colorado, overseeing the company's public listing in 2004 and its sale to R.H. Donnelley earlier this year.

At OH Logistics, Eichler will be responsible for contract administration, Sarbanes-Oxley compliance, analysis and counsel on legal and policy issues as well as being involved in acquisition activities.

Ryder System Inc.

The Miami-based logistics and transportation provider named Mark T. Jamieson executive vice president and chief financial officer. He replaces Tracy Leinbach, who retired.

Jamieson comes to Ryder from Sammons Enterprises Inc., where he spent nearly 30 years and eventually reached the position of executive vice president and CFO.

Ryder System has also appointed Robert Brunn vice president of investor relations and public affairs.

Brunn was Ryder's group director of investor relations. He will report to Jamieson.

Forwarding

GeoLogistics Corp.

The Santa Ana, Calif.-based global freight forwarder and logistics services provider has appointed John Kincheloe senior vice president, sales and marketing, Americas.

Kincheloe was vice president, South Asia at Eagle Global Logistics in the Houston-based company's Singapore office.

Air

Lufthansa Cargo

Stefan H. Lauer has been named interim chairman, following the decision of Jean-Peter Jansen to step down from the German airline's board March 31 for health reasons.

Lauer is Deutsche Lufthansa AG's chief officer, aviation services and human resources.

At the same time, Karl-Heinz Kopfle will take charge of operations at Lufthansa Cargo.

SAS Cargo

Soren Busk has been named chief financial officer, replacing Hans Ove Dahl who left the Scandinavian airline in January.

Busk has worked within the SAS Group since 1981, most recently as CFO for SAS Scandinavian Airlines Danmark A/S.

Maritime

MOL (America) Inc.

After clocking up about 50 years in the shipping industry, Ray Keene has retired as executive vice president and chief operating officer at MOL (America).

Prior to joining MOL in 1995, Keene was executive vice president of MOL's liner services agency, Williams, Dimond & Co. He has also held executive positions at companies including Inchcape Shipping, Seatrain Lines, and Seapac Container Service/OOCL.

Keene will be succeeded by Tom Kelly, presently responsible for corporate operations at MOL (America). Kelly joined the company in 1999 after stints at APL and Lykes Bros. Steamship Co., Inc.

Inland

Canadian Pacific Railway

Chief Executive Officer Robert J. Ritchie and Chairman J.E. Newall will leave the company after its annual general meeting May 5.

Fred Green, appointed president of CPR in November, will take over from Ritchie. Director John Cleghorn will replace Newall.

Ports

Copenhagen Malmo Port

Danish-Swedish port complex CMP has appointed Peter Maskell as chairman of the board of directors.

Maskell has been a member of CMP's board since 2001 and is a professor in business economics at Copenhagen Business School.

Port of Hueneme

Executive Director Bill Buenger said he will step down in April.

Buenger, the longest serving port director in California, has served as port chief since 1994 and presided over a port whose cargo volume increased 50 percent over the last decade. The port is the West Coast's biggest importer of bananas and citrus fruits and receives nearly a quarter-million automobiles manufactured in Asia and Europe.

Service Announcements

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APL joins transatlantic leg of pendulum

APL has joined the westbound transatlantic leg of the weekly Europe/U.S. East Coast/Autralasia Oceania Pendulum service, jointly operated by Maersk Line and CP Ships.

APL will take slots on the service between Zeebrugge, Tilbury, Bremerhaven, Rotterdam in Europe, to Charleston, Savannah and Miami. The Singapore carrier, which markets the service as ASX, said it is the first time it has served Savannah.

The Oceania Pendulum service uses 11 ships averaging 4,111 TEUS and has a full port rotation of: Zeebrugge, Tilbury, Bremerhaven, Rotterdam, Charleston, Savannah, Miami, Kingston, Balboa, Auckland, Melbourne, Sydney, Brisbane, Tauranga, Port Chalmers, Balboa, Kingston, Philadelphia and back to Zeebrugge.

APL currently offers seven weekly services, including the ASX, in the transatlantic trade.

FEFC lines raise rates, bunker surcharge

The Far Eastern Freight Conference, which includes most of the Asia/Europe container shipping lines, are raising freights rates this month.

Effective April 1, the following rate increases will be implemented:

- Six-month contracts for cargoes from Asia (excluding Japan) to North Europe, Scandinavia and Mediterranean subject to a $200 increase.
- Twelve-month contracts to jump $200 for cargoes from Japan to North Europe, Scandinavia and Mediterranean.
- Six-month contracts for cargoes from Japan to North Europe, Scandinavia and Mediterranean to be raised in two tiers; $150 from April 1 to Oct. 1 and then another $150 for the next six month period.
- Cargo moving from Scandinavia, North Europe and Mediterranean to Asia (including Japan) will be subject to a $50 rate increase.

The FEFC also said its bunker adjustment factor will rise 5 percent to $270 for the month of April, from $257 in March.

According to the January World Liner Supply reports of ComPair Data, fourth quarter 2005 capacity in the Asia/Europe and Mediterranean trade increased 4 percent compared to the previous quarter and 15.8 percent compared to the same quarter 2004.

FEFC carriers are: ANL Container Lines, CMA CGM, Egyptian International Shipping Co., Hapag-Lloyd, Hyundai Merchant Marine, "K" Line, Maersk Line, MISC, MOL, NYK, OOCL, Safmarine and Yang Ming.

Zim details AMP service rotation change

Zim Integrated Shipping Services provided details on a previously reported change to its AMP service in April, when ships on the service will begin calling directly to East Mediterranean ports instead of Adriatic ports.

The new rotation will be: Piraeus, Kumport, Constanza, Haifa, Colombo, Singapore, Shekou, Hong Kong, Shanghai, Pusan, Vancouver, Portland, Pusan, Shanghai, Xiamen, Hong Kong, Shekou,

Singapore, Haifa Piraeus. The first vessel in the rearranged service will be the Zim Canada, scheduled to launch April 27.

Meanwhile, the Adriatic service will be maintained by a dedicated weekly service connecting Haifa and Ashdod.

COSCO, Evergreen start China/U.S. loop

COSCO and Evergreen in March commenced a joint weekly Asia/U.S. East Coast service.

The China-U.S. East Coast Service (CUE) initially deploys three vessels of about 2,700 TEUs calling Shanghai; Yantian; Hong Kong; Cristobal, Panama; Savannah, Ga.; Miami; Cristobal; and back to Shanghai.

Zim adds Oakland to RTW service

Zim Integrated Shipping Services said it has added another stop on the U.S. West Coast for its round-the-world service.

Vessels on the service will begin calling at Oakland (the service previously called only at Los Angeles) in response to market demand, the carrier said in a statement.

The service's new route is: Shanghai, Ningbo, Xiamen and Chiwan in China; Singapore; Port Kelang, Malaysia; Mundra, Nhava Sheva and Tuticorin in India; Colombo, Sri Lanka; Suez; Port Said, Egypt; Felixstowe; Rotterdam; Hamburg; New York, Newport News, Va., and Charleston; Kingston, Jamaica; Panama Canal; Los Angeles; and Oakland.

Hanjin to join new Asia/Med loop

Korean ocean carrier Hanjin Shipping has started taking space from CKYH alliance partner Yang Ming on its recently started weekly Asia/Mediterranean AMS2 service.

The AMS2 service started late-February and deploys seven 3,500-TEU ships, with "K" Line providing five of the vessels and Yang Ming the other two. The port rotation is: Shanghai, Ningbo, Xiamen, Kaohsiung, Yantian, Singapore, Jeddah, Port Said, Genoa, Fos, Valencia, Port Said, Singapore, Hong Kong and back to Shanghai.

Hanjin joins the AMS2 marketing the services as New Asia Med Express (NMX).

'K' Line, MOL introduce New Andes link

Japanese ocean carriers "K" Line and Mitsui O.S.K. Lines released details of their joint weekly Asia/Mexico/West Coast South America service due to start April.

The first sailing of the New Andes Service, which replaces the two carriers' former vessel sharing agreement with A.P. Moller-acquired P&O Nedlloyd, will be made by the vessel *Cielo D' Europe* when it departs Chiwan April 8.

The New Andes Service will use nine 2,000-TEU ships — five from "K" Line and four from MOL — and have a port rotation of: Keelung; Chiwan; Hong Kong; Xiamen; Shanghai; Qingdao (fortnightly); Busan; Manzanillo, Mexico; Buenaventura; Guayaquil; Callao; Iquique; Valparaiso; Lirquen; Yokohama and back to Keelung.

"New Andes will be the first service that offers direct link from Xiamen and Qingdao to West Coast South America ports," the carriers said in a joint statement.

Econocaribe starts Newark/Ecuador service

Non-vessel-operating common carrier Econocaribe has started offering a new service from the U.S. Northeast to Ecuador.

Econocaribe said the new weekly less-than-containerload service departs from the Port of New York-New Jersey to Guyaquil, Ecuador. Voyage time is nine days.

Miami-based Econocaribe has an office in New Jersey, where it has been consolidating shipments to several destinations in the Caribbean, as well as Argentina and Brazil. A company spokesman said growing volumes from the U.S. Northeast to Ecuador prompted the company to start a regular weekly service.

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Fools on the Hill

Someone should write a book titled *Ports for Dummies,* and make it mandatory reading for our nation's lawmakers, because they certainly displayed their lack of knowledge during the recent Dubai Ports World debacle.

First they upset an American population still healing from the Sept. 11, 2001 terrorist attacks by insinuating that the United Arab Emirates company was taking over a half-dozen U.S. East and Gulf Coast ports, when in reality they were only acquiring individual terminals within those ports.

And they left the impression that the federal government was handing over security in those ports to DP World, when in fact the Coast Guard and Customs and Border Protection would retain jurisdiction for overseeing security in those ports. These agencies still have a lot of work to do to bring security up to post-9/11 standards. But all terminals in the United States, whether they are operated by DP World or American companies, are equally vulnerable to terrorist activity.

Second, many lawmakers insisted that America's ports and maritime industry should not be "outsourced" to foreign governments or companies, although this has been happening to the country's marine terminals for years. For example, Neptune Orient Lines, controlled by Singapore government entity Temasek, bought U.S. container line APL in 1997 and operates terminals in Long Beach, Calif.; Oakland; and Seattle. China Ocean Shipping Co., a state-owned firm, has a joint operating agreement with APL subsidiary Eagle Marine Services in Long Beach, and Yang Ming Marine Transport Co., which is partially owned by the Taiwanese government, operates terminals at the ports of Los Angeles and Tacoma, Wash.

Third, they maligned perhaps one of the U.S. government's most valuable supporters in the global war on terrorism. The leaders of the U.A.E. during the past five years have worked hard to win back America's confidence after 9/11, despite the possibility of exposing their homeland to terrorist attacks. The U.A.E. provides numerous support services to American military operations in the region, and participates in CBP's Container Security Initiative.

Fourth, lawmakers barked that DP World would threaten security of U.S. ports when it was more likely that it would use its deep pockets to improve security far beyond what existing port operators are able to afford. It stretches reality to believe that Dubai would invest $7 billion to have it all go up in smoke by watching an attack on its facilities. There's cheaper ways for terrorists to carry out an attack. Besides, DP World officials probably would have taken extra precautions because they knew that if an attack were linked to one of their facilities, the 7th Fleet would turn its tomahawk missiles on Dubai faster than you can drop anchor in the harbor.

All of these blatant missteps by Capitol Hill sent a clear message to DP World and any other future foreign port investors that "you're not welcome here."

That's a terrible shame, since many of these large overseas marine terminal companies are world-class operators with solid financial backing and a sincere interest to invest in American ports and lift them out of the ever-deepening hole of inefficiency. These same terminal operators have even demonstrated a willingness to comply with U.S. container security regulations oftentimes at their own expense.

Unfortunately, Congress has done its damage and will move on to other business as if nothing happened, leaving American ports, carriers and shippers to pick up the pieces.

Christopher Gillis

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