Transpacific negotiations

Who’ll blink first?

Rocky marriage of NVOs, carriers 14
Euro ports juggle growth, legislation 26
What exactly is a U.S.–flag bulk ship? 30
Fine-tuning advance manifest filing 42
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Who’ll blink first? 8
Ocean carriers and shippers in the eastbound transpacific trade appear intent on defending their ground as service contract negotiations loom. Carriers are asking for eastbound rate increases of $700 per FEU for port-to-port moves and $900 per FEU for intermodal moves. Both sides appear to agree that rates will go up this year ... but how much?

Rocky marriage 14
While ocean freight consolidators and liner carriers may scorn each other periodically, deep down they know they’re inseparable. Introduced through the inevitability of containerization, their 30-year relationship endures. In air freight, airlines and consolidators have also set aside conflicts in a business plagued by tight margins and security concerns. Meanwhile, integrators UPS and FedEx say their consolidation offerings differ from the norm.

Euro ports 26
Major ports in continental Europe experienced brisk container volume growth last year, as the top five ports combined throughput exceeded 20 million TEUs. As these ports face the issue of accommodating higher container traffic, European nations and ports will have to implement a new body of European port liberalization legislation, called the “directive on market access to port services.”

What exactly is a U.S.-flag bulk ship? 30
A major sticking point in the U.S. Maritime Administration’s goal to clarify and strengthen its authority over the nation’s cargo preference business has been the continued allowance of former tankers to transport U.S. dry bulk food aid. As MarAd moves towards closing the door on such shipments, owners of U.S.-flag tankers put out of the petroleum transport by the 1990 Oil Pollution Act’s double-hull requirements, find themselves being shut out of another market.
FMC’s independence good for industry

It’s a good thing for the U.S. shipping industry that the Federal Maritime Commission was not absorbed into the Homeland Security Department.

The unsettled Homeland Security Department will surely frustrate the industry that deals with the agencies absorbed by the department.

The FMC can provide a supply chain security role without direct involvement in the new department. Through its licensing and bonding requirements, the FMC has vital background information about the country’s ocean transportation intermediaries, which can be shared with law enforcement agencies.

But the FMC’s first-and-foremost role is still to ensure that the industry — OTIs and vessel operator in particular — play fair in accordance with the Ocean Shipping Reform Act.

The agency’s chairman, Steven R. Blust, has numerous years of industry experience, and has expressed a willingness to better engage the FMC with the industry. He has initiated a series of seminars to be carried out by the agency’s area representatives and other staff at various locations around the country.

“At these seminars, we provide information to the industry and the shipping public with respect to the commission functions and services, as well as instruction regarding the regulatory obligations of providers and users of ocean liner shipping services in the U.S. foreign trades in accordance with the statutes administered by the commission,” said Blust at a March 13 House 2003 budget hearing.

The industry should take advantage of FMC’s stable environment to find ways to build a better relationship with the agency and to push its agenda. (Chris Gillis)

Deepwater System’s shallow budget

Is the U.S. Coast Guard’s fleet modernization plan at risk of sinking? If you asked the leadership of the House Coast Guard and Maritime Transportation Subcommittee, the answer is definitely yes.

The chairman of the House subcommittee recently expressed serious concerns about President Bush’s proposed budget for the Coast Guard’s so-called Integrated Deepwater System.

“The successful and timely implementation of Deepwater is necessary to ensure the Coast Guard is able to respond to terrorist threats and maintain a high level of readiness to fulfill its other vital missions,” said Rep. Frank A. LoBiondo, R-N.J., subcommittee chairman during a Coast Guard fiscal year 2004 budget hearing on March 13.

“Unfortunately, the $500 million requested by the president for Deepwater is well below what is needed to keep this critical procurement on track,” LoBiondo said.

The Coast Guard needs to replace an aging fleet of cutters (some dating back to World War II), planes and support systems. The current equipment and systems are unable to keep up with the agency’s increased antiterrorism mission, as well as its traditional operations, such as search and rescue, fisheries control, and anti-drug smuggling.
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Last June, the Coast Guard awarded a $11.04-billion contract to Lockheed Martin and Northrop Grumman. Deepwater, which may extend up to 30 years, will involve the acquisition of up to 91 ships, 35 planes, 34 helicopters, 76 unmanned surveillance planes, and an upgrade for 49 existing cutters and 93 helicopters.

A congressional study recently concluded that a “modest increase” in the annual level of funding for Deepwater will achieve a $4-billion savings for the nation’s taxpayers and could deliver the Coast Guard’s full capability in about 10 years.

“I fully endorse a minimum level of $875 million in capital acquisitions funding to accommodate a minimum level of $578 million for the Integrated Deepwater System in order to sustain on-time delivery of these important assets,” LoBiondo said. (Chris Gillis)

Flynn: Manifest data for security flimsy

Stephen Flynn, senior fellow for national security studies for the Council of Foreign Relations and an outspoken critic of U.S. container security, is critical of the Bureau of Customs and Border Protection’s reliance on cargo manifest information to seek out “high-risk” containers.

Flynn said manifest information has traditionally been “the weakest link” of all shipping documentation compliance. He cited the industry’s long-time use of freight-all-kinds (FAK) and said-to-contain (STC) for manifest cargo descriptions.

While the agency has made improvements to its collection of manifest data through its advance filing rule and the discontinuing use of FAK and STC cargo descriptions by the shipping industry, Flynn said it’s still “the tail wagging the dog.”

Flynn believes Customs and Border Protection must develop a cargo tracking system in the Automated Commercial Environment that drills down to the purchase order information, the beginning of the transaction. “Moving beyond the manifest I think will be absolutely essential,” he said. (Chris Gillis)

Hawaii’s security dilemma

Hawaii’s pleasant weather and beautiful beaches make it an attractive place to live. But if the container transportation system should shut down due to a terrorist attack, this island would be the last place anyone in the United States may want to be.

That’s because more than 95 percent of food and finished goods are imported to Hawaii by ocean containers. This is an unsettling fact for Sen. Daniel Akaka, D-Hawaii, because his state has no access to alternative transportation, except for expensive and inefficient air transport, if container traffic ceases.

Asa Hutchison, Homeland Security Department’s undersecretary for border and transportation security, assured the lawmaker at a March 20 Senate Governmental Affairs Committee hearing that the federal government recognizes Hawaii’s dilemma and security measures would be handled differently than what’s applied to mainland-bound container traffic. (Chris Gillis)

Make trade, not war

Free-trade agreements and other global trade promotional activities may be a more efficient, longer lasting way for the Bush administration to combat terrorism.

With the White House’s trade promotion authority restored after a lapse of eight years, Bush administration officials could launch an international offensive promoting free trade instead of missiles.

The administration is obviously aware that trade can build better nations.

“Trade promotes freedom by supporting the development of the private sector, encouraging the rule of law, spurring economic liberty, and increasing freedom of choice,” said U.S. Trade Representative Robert B. Zoellick to members of the House Ways and Means Committee on Feb. 26.

“The trade also serves our security interests in the campaign against terrorism by helping to tackle the global challenges of poverty and privation,” he said. “Poverty does not cause terrorism, but there is little doubt that poor, fragmented societies can become havens in which terrorists can thrive.”

Last year, the administration completed free-trade agreement negotiations with Chile and Singapore, now awaiting approval from Congress.

The administration also plans to enter negotiations with the five countries of the Central American Common Market, Australia, Morocco, and five countries of the Southern African Customs Union, and continue its efforts to develop a 34-country trade pact under the Free Trade Area of the Americas.

The 2002 Trade Act allowed the administration to cut tariffs by an estimated $20 billion on imported goods from the world’s poorest nations. In addition, the legislation permitted the renewal and expansion of the Andean Trade Preference Act, African Growth and Opportunity Act, Generalized System of Preferences, and Caribbean Basin Trade Preferences Act.

“Even as it has rebuilt support for trade at home, this administration has been working abroad to open markets on all levels: globally, regionally, and bilaterally,” Zoellick said.

“By moving forward on multiple fronts, the United States is exerting its leverage for openness, creating a new competition in liberalization, targeting the needs of poorer developing countries, and creating a fresh political dynamic by putting free trade on a global offensive.” (Chris Gillis)

Shipping lines take to the sky

The airline business is an incredibly tough business going through serious restructuring — but don’t tell any of the shipping magnates who have plans to move into this particular sector.

Jacques Saade, who controls French container shipping line CMA CGM, is the latest wealthy entrepreneur to express an interest in entering the airline business.

Several years ago, it was forwarders who were interested in running their own freighter fleet in an attempt to copy the integrators.

CMA CGM and Virgin Express, the low-cost airline of British entrepreneur Richard Branson, said they are considering a bid for Air Lib, the French airline company that was
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No matter what.
recently declared insolvent.

If he goes ahead with this plan, Saade will have a lot in common with Y.F. Chang, the founder of both Evergreen Marine and Eva Air, and Stelios Haji-Ioannou, the Greek-Cypriot shipowner who founded the easyjet passenger airline in Europe on the model of Southwest Airlines.

There are other multimodal transport groups: A.P. Moller owns Maersk Sealand and Maersk Air; the Hanjin conglomerate includes Hanjin Shipping and Korea Air; and the Hapag-Lloyd/TUI group features both a container shipping line and a charter airline.

It isn’t new for diversified shipping groups to look at the cruise shipping business as a lateral move, but passenger and cargo airlines are one step further.

Maybe the logic is that both shipping and airlines are about big assets, networks, tight margins, low costs ... and big egos. (Philip Damas)

When masters are misled

Capt. James McNamara, president of the National Cargo Bureau, recently warned that despite the heightened scrutiny of containerized cargo for security purposes, misdeclared bulk cargoes continue to plague ocean carriers and their insurers.

“For the past one-and-one-half years, we have heard very little about cargo other than concerns about port security,” McNamara told a group of U.S. Merchant Marine Academy alumni in New York.

“With more middlemen handling cargo and fewer scruples in play, too many shippers looking for cheaper transportation don’t think twice about misnaming a bulk product,” he said.

Rules set out by the International Maritime Organization (IMO) prohibit, for example, such violations as shipping direct-reduced iron as “iron sand,” a familiar misnomer on vessel manifests.

“A vessel sailing from a Gulf port recently was said to carry 12,000 tons of ‘iron sand.’ In truth, the shipper kept the master and crew in the dark. The ‘iron sand’ was direct-reduced iron, very hazardous because it emits hydrogen gas when wet,” McNamara explained.

“When the captain repeatedly inquired exactly what the ‘iron sand’ was, an owner’s representative told him to ‘take a pill and chill.’ Two crewmen later died after an explosion and fire, which damaged the ship’s hull enough for the vessel to be scrapped,” McNamara said.

A comparable threat occurs when ammonium nitrate is shipped as “fertilizer,” another catch-all category. McNamara pointed out that “landfill” is another generalized term that often includes hazardous cargoes.

Recently, dirt from beneath an oil refinery was shipped as “landfill” on one bulk vessel. Unfortunately, the dirt had been contaminated with enough toxins to sicken several crew members.

“Seamen aren’t chemists,” McNamara said. “Another problem today is that too many testing laboratories work for whoever pays them, and blatantly give clients the numbers they want. So, in many cases involving hazardous incidents, the master is often the last to know the real nature of such misrepresentations. When he does find out, it’s usually too late, after a fire or fatalities occur on his own ship.”

A small heavy-lift ship of Norwegian pedigree, instead of sailing home empty, took on as cargo a compound listed as “black sand.” The loading was done with little attention to trimming the sand. While on its return voyage, as the captain turned ‘hard right’ in answering a distress call from a smaller craft, the ‘black sand’ shifted and the ship capsized, killing five crewmen.

The small print in new IMO codes regarding the proper stowage of hazardous cargo “must be observed to the letter,” McNamara warned, “or else charterers will terminate pacts and insurers will cancel vessel coverage.” (Robert Mottley)

Trigger mortis

As the U.S. war on Iraq absorbs the attention of people otherwise concerned with transportation and logistics, the accelerating isolation of the United States in the trading world should not slip off our wide-screen televisions.

Victory in Iraq, even a swift “win” with minimal bloodshed, won’t end the distrust of the United States earned by American cold-shouldering of communal ventures we happen not to agree with, from the Kyoto Protocol on global warming to the International Criminal Court. That is our sovereign right, but every time we trumpet it, ears around us close to a shopworn tune.

Why should the United States expect fair treatment from the World Trade Organization, even as American protectionists not-so-subtly plot to re-impose new textile quotas on Jan. 1, 2005, thereby sustaining faltering U.S. apparel manufacturers.

Commencing the last week in March, the United Nations Commission on International Trade Law’s (UNCITRAL) Working Group III will resume its task of harmonizing an international cargo regime.

The U.S. delegation’s fallback point until now has been, “we must have something our Senate will support.” Already, American delegates to the March session in touch by e-mail with their foreign counterparts are hearing, “why bother, now? The United States will spurn whatever we do, and then pass a domestic upgrade of its 1936 Carriage of Goods by Sea Act.”

Unfortunately, the war seems certain to overshadow the UNCITRAL sessions in New York, and undercut much progress by the U.S. delegation.

Whether the cynics are right is an open question. If America’s temporary xenophobia doesn’t dissipate but lingers after the war’s end, what hope could there be for U.S. approval of a global cargo regime?

More of the world than ever before believes that the United States, in any international venue, will shoot down anything at high noon that it perceives as not being in its interests.

Before foreign investors resume kicking in the $400 billion annually that we need to cover our trade deficit, the United States is going to have to accept the long-shunned notion of a communal trading world in which obligations are equably shared.

We must recognize the unthinkable: we’re not always going to get our way, and we shouldn’t always insist on it.

Only then will the current freeze-out and suspicion of U.S. motives taper off by those once disposed toward giving us an honest hearing. (Robert Mottley)
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With both sides intent on defending their ground, it’s a question of who will blink first.

Shippers in the eastbound transpacific container trade were told by ocean carriers they must pay much higher freight rates in the new season, but they are unwilling to easily concede.

Ocean carriers are asking for eastbound rate increases of $700 per 40-foot container for port-to-port moves and $900 per FEU for intermodal moves.

“Traditionally, shipping lines go after the big retailers first,” said Bengt Henriksen, general manager of Unaffiliated Shippers of America. “But retailers have increased their negotiation leverage by waiting.”

“The shippers are saying: ‘We’re not taking the rate increases — we’re prepared to wait.’”

Henriksen said carrier executives “are all getting worried.”

What both sides appear to agree on, though, is that rates will go up this year, after decreases in rates experienced in the last two years. The unresolved question is by how much.

Henriksen and other sources dismissed as gossip reports that shippers have started to accept rates increases of $300 to $500 per container.

A major shipper, who asked not to be named, said rate increases in the Asia-to-U.S. trade are likely, but it is too early to say how much. He also reported a standoff between shippers and carriers.

Ocean carriers said they will be firm in this year’s negotiations. An Asian carrier said the $700 and $900 increases are a minimum.

“We see clear signs that rates will increase,” said Michael Dietmar, assistant product manager, sea freight at Schenker. “We expect that freight rates will definitely go up.”

While making a forecast at this stage is difficult, Dietmar said he would not be surprised if rates eventually increased by $200 to $300 per container.

OOCL and other carriers say they have seen early indications that the requested rate increases will stick.

“Every year, at this time, it’s going through the process of crystallizing market rates,” said Peter Leng, senior vice presi-
“Every year at this time, it’s going through the process of crystallizing market rates. Last year, the GRI (general rate increase) turned into a GRD (general rate decrease).”

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I t’s hard to assess where the market is tilting, because figures on supply and demand do not reflect the true picture, according to carriers and other industry players.

The Box Club of chief executives and senior executives of the world’s largest container shipping lines has discussed the need for more accurate information concerning the effective capacity of containerships.

The carriers are concerned that the nominal container capacity of ships used by industry analysts exceeds their actual carrying capacity, according to an industry source.

Knud E. Stubkjaer, chief executive of Maersk Sealand, said the industry used incorrect supply and demand forecasts in the transpacific trade last year.

“The analysts — and the industry — misread the 2002 supply/demand dynamics,” he said.

Ocean carriers believe market supply calculations should take into account operational restrictions that reduce the effective capacity of vessels.

Finding accurate figures for effective ship capacity “is something which has been stirring the Box Club for six months,” an industry source told American Shipper.

Revising Gap. Rogan McLellan, director of liner research at London-based Clarkson Research Studies, said carriers are trying to reconcile the gap between the estimated eastbound transpacific capacity of about 11 million TEUs, and the Asia-to-U.S. traffic statistics of about 8 million TEUs.

A portion of the apparent surplus capacity is used by out-of-scope transshipped cargoes from India or to Mexico and Latin America that is not included in the traffic data, McLellan said.

“Nobody really knows how much of that is being carried on transpacific services,” he said.

Stubkjaer deplored what he regards as mistakes made by forecasters and the industry that led to lower eastbound Pacific freight rates in 2002.

“It’s worth spending a few minutes on the reason why rates were depressed in 2002 at the same time as volume increased beyond the industry’s capacity to handle this volume,” Stubkjaer said. “In a word, the analysts — and the industry — misread the 2002 supply/demand dynamics.”

He said the size and duration of the market demand was largely underestimated, while vessel capacity available to service the high demand was vastly overestimated. “Not a good cocktail for any of the many stakeholders,” he said.

The eastbound transpacific container traffic increased nearly 20 percent in 2002, to about 8.5 million TEUs, whereas forecasting organizations had predicted only a single-digit percentage.

Low Drewry Forecast. Stubkjaer cited demand forecasts made by Drewry Shipping Consultants last year that proved too low.

John Fossey, consultant at Drewry Shipping, said his organization had used a model that predicted container imports as a multiple of GDP growth in the destination markets.

He conceded that the actual eastbound transpacific growth exceeded his organization’s forecasts, but said few had factored in “the complete restructuring of manufacturing moving to China.”

“During the summer of 2001, when most companies were evaluating their market-
said Bronson Hsieh, managing director of Lloyd Triestino, in a recent interview (March American Shipper, page 62).

Lloyd Triestino and Zim Israel Navigation are launching in mid-April a joint Asia/U.S. East Coast all-water service. The “AUX” service will use nine containerships of 2,700-TEU capacities. The service will cover ports in mainland China, South Korea, Central America, the Caribbean and U.S. East Coast, with a rotation of Shanghai, Ningbo, Busan, Colon (Panama), Kingston (Jamaica), Port Everglades, Savannah, Norfolk, Colon, and back to Shanghai.

Intermodal services via West Coast ports to interior destinations have traditionally been regarded as more reliable than the slower all-water services to the U.S. East Coast.

But Aaron Young, junior vice president at Yang Ming, said some now believe that the Asia/U.S. East Coast all-water routing is “safer,” following last year’s West Coast ports shutdown.

“Even if the dock problem has been solved, their bad effect has been kept in people’s minds,” he said. “Some customers are willing to pay a premium for safety.”

“The West Coast strike shook up a lot of people,” added Henriksen, of Unaffiliated Shippers of America. But he cautioned that only certain shippers can shift cargo to the East Coast.

“A high proportion of westbound shippers also ship cargoes via East Coast ports, because of the lower all-water rates.

While the West Coast ports will retain the lion’s share of the 9 million TEUs that move from Asia to the United States, eastern ports are gaining market share.

An analysis of OOCL (USA) Inc. noted that the East Coast eastbound traffic in December 2002 was nearly twice as large as it had been a year earlier.

While traffic growth to the U.S. West Coast rose 10 percent in the fourth quarter, volumes to the East Coast soared 68 percent.

The diversion of traffic was partly caused by the U.S. West Coast port labor disruptions of last fall, but OOCL (USA) noted that East Coast traffic also increased faster than West Coast traffic in the first and third quarters of last year.

Traditionally, U.S. East Coast ports have handled about 20 percent of the Asia/U.S. eastbound market, but the proportion is increasing.

“This year, about 25 to 28 percent (of total eastbound traffic) will be to the U.S. East Coast,” said Young at Yang Ming.

In January, the global alliance of COSCO, “K” Line, Yang Ming and Hanjin Shipping launched an additional Asia/U.S.

“More and more importers are choosing not to disclose.”

Bengt Henriksen, general manager of Unaffiliated Shippers of America,
### All-water liner services between Asia and the U.S. East Coast

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<tr>
<th>Carriers or carrier group</th>
<th>Service name</th>
<th>Port rotation</th>
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<tbody>
<tr>
<td><strong>Service starting in May</strong></td>
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<tr>
<td>CMA CGM, P&amp;O Nedloyd</td>
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<td>GALI</td>
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<td>TP7</td>
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<td>TP Pendulum</td>
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<td>New World Alliance (APL, Hyundai, MOL)</td>
<td>APX</td>
<td>Chiven, Hong Kong, Kaohsiung, Kobe, Nagoya, Tokyo, Balboa, Manzanillo (Panama), Miami, Savannah, Charleston, Norfolk, New York, European ports, New York, Norfolk, Charleston, Manzanillo (Panama), Balboa, Oakland, Tokyo, Kobe, Chiwan</td>
</tr>
<tr>
<td>Wallenius Wilhelmsen</td>
<td>PCTC RTW eastbound</td>
<td>Singapore, Shanghai, Yokohama, San Juan, Brunswick, Savannah, Baltimore, New York</td>
</tr>
<tr>
<td>Wallenius Wilhelmsen</td>
<td>PCTC RTW westbound</td>
<td>Baltimore, Port Hueneme, Tacoma, Yokohama, Toyohashi</td>
</tr>
<tr>
<td>Wallenius Wilhelmsen</td>
<td>RTWo/Ro</td>
<td>Singapore, Kobe, Nagoya, Yokohama, Hitachinaka, Long Beach, Manzanillo (Panama), New Orleans, Miami, Jacksonville, Savannah, Norfolk, Baltimore, New York, Charleston, Saint John (New Brunswick)</td>
</tr>
<tr>
<td>Zim/CSCL</td>
<td>ZCS</td>
<td>Halifax, New York, Savannah, Kingston, Panama, Los Angeles, Ningbo, Shekou, Hong Kong, Keelung, Busan, Osaka, Yokohama, Los Angeles, Panama, Kingston, Savannah, New York, Halifax</td>
</tr>
<tr>
<td><strong>Service that will change</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maersk Sealand</td>
<td>TP3</td>
<td>Hong Kong, Kaohsiung, Kobe, Nagoya, Yokohama, Oakland, Los Angeles, Manzanillo (Mexico), Balboa, Miami, Charleston, New York, European ports, Halifax, New York, Norfolk, Charleston, Port Everglades, Manzanillo (Panama), Balboa, Manzanillo (Mexico), Los Angeles, Oakland, Yokohama, Kobe, Hong Kong</td>
</tr>
</tbody>
</table>

**Notes:** Maersk Sealand’s TP3 service will be revised in the next few weeks; the revised port rotation was not available at the time of publication.

**Source:** Carriers and global liner shipping database ComPairData.
A major retailer reportedly sent carrier executives away until they came back with a different contract proposal.

In 1999, carriers kept a no-compromise position until the end, and reportedly secured the high rate increases they had asked.

Some suggest that carriers have too much to lose if they don’t get their full rate increase this year.

APL, which recently reported heavy losses, saw its transpacific freight rates decrease 14 percent in 2002, when compared to the previous year.

“The depressed freight rates cannot and will not continue,” said Stubbjaer, who is also a partner of the A.P. Moller group, the parent company of Maersk Sealand.

Last year, estimated financial losses for Pacific carriers exceeded well over $1 billion and two carriers pulled out of the trade completely due to losses,” Stubbjaer stressed.

“It’s pretty simple — this year, carriers are in a much stronger position,” said Jon Monroe, a consultant engaged in service contract negotiations. “Carriers, I believe, will turn away unprofitable business. Rates are at an all-time low. Carriers are looking to recoup their losses.”

But in the current environment of individual customized contracts, a refusal by carriers to negotiate the requested $700 to $900 rate hikes will not go down well with shippers.

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Jon Monroe
consultant

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East Coast service, called “AWE3.”

The “AWE3” service employs nine ships of about 3,600 TEUs and calls at Yantian, Hong Kong, Kaohsiung, Busan, Savannah, New York, Wilmington, Savannah, Kaohsiung, Hong Kong and Yantian.

Young said carriers that did not move early are now unable to find suitable ships available on the charter market to start new Asia/U.S. East Coast services.

“This year, U.S. East Coast margins could be better (for shipping lines),” he said.

With a substantial additional volume of containers and ships to handle, the pressure now is on East Coast ports.

Through the first two months of 2003, the port of Charleston’s container volume rose by 19 percent from the same period last year, to 263,401 TEUs. Loaded import TEUs drove the growth, increasing 25 percent, while loaded exports increased by 11 percent.

“Increasing transpacific volume has contributed significantly to our recent growth,” said Byron Miller, spokesman for the port of Charleston. He added that the port also attracted additional inbound distribution business.

**Nearing Deadline.** Shippers and carriers have just a few more weeks to bridge the gap between their positions by the May 1 deadline.

The longer shippers and ocean carriers remain in their current standoff, the more tensions will mount.

In addition to their request for higher ocean rates, many carriers are charging a new manifest documentation charge of $25 per bill of lading for shipments to the United States, following the introduction of U.S. Customs’ 24-hour advance manifest rule.

Negotiations will likely not center on the $25 charge, but on the larger $700-to-$900 increase in ocean rates.

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The 30-year-old NVO and liner carrier relationship endures.

BY CHRIS GILLIS AND PHILIP DAMAS

The featured couple — ocean freight consolidators and liner carriers — may scorn each other periodically, but deep down they know they’re inseparable.

Such is the case of this industry courtship and marriage that spans nearly 30 years — brought together inevitably by containerization. The spats over turf will probably continue for another 30 years within this ever-transforming industry.

“Will we ever see eye to eye, even the liner carriers that work closely with us? Probably not,” said Michael Cadden Troy, owner of Red Bank, N.J.-based consolidators Troy Container Line, in a recent interview. “That’s just the way it is.”

“NVOs have evolved into major players,” said Christopher Koch, president and chief executive officer for the Washington-based World Shipping Council, whose liner carrier members represent about 90 percent of the global containerized freight market. “They’re not going away. People in the liner industry understand that.”

NVOs have carved out an increasing share of the container market, upwards of 30 to 40 percent in most major liner trades. In good times and bad, liner carriers often begrudgingly appreciate the containers from NVOs.

The NVOs, however, didn’t have an easy start in dealing with the liner carriers.

Until the early 1980s, stuffing and unloading of freight containers was largely controlled by the liner carriers and unionized dockside labor in their contracts with

Michael Cadden Troy
owner,
Troy Container Line

“Will we ever see eye to eye, even the liner carriers that work closely with us? Probably not. That’s just the way it is.”
Freight Control. Despite these early setbacks, the NVOs demonstrated to the shipping industry their ability to handle less-than-containerload shipments more efficiently than the liner carriers.

In the mid-1990s, many large neutral NVOs moved beyond LCL cargoes and started offering shippers and freight forwards full-containerload services. Some NVOs were reluctant to take on full-containerload traffic for fear of damaging their already fragile relationship with the liner carriers.

One of the pioneers in the NVO full-load business was Ocean World Lines. In 1992, the NVO signed a service contract for 7,500 TEUs with the Trans Atlantic Conference Agreement. The NVO now handles more than 60,000 TEUs of mostly full containerloads.

Other large NVOs have jumped into the full-containerload arena, such as NACA Logistics Group, Danzas, Kuehne & Nagel, Panalpina and Schenker. Small to mid-sized NVOs increased their position in the full-containerload market in recent years by joining shippers’ associations, such as the North Atlantic Alliance Association, and the National Customs Brokers and Forwarders Association of America Shippers Association. By combining freight volumes, shippers’ association can negotiate lower rates and better service for full containers from ocean carriers.

Also working in the NVOs’ favor in the full-containerload business has been the deteriorating freight rates of the past several years. In many major trades, the low rates give shippers and forwarders the option to move some traditional less-than-containerload shipments into 20-foot containers.

Christopher Koch
president and chief executive officer,
World Shipping Council

“NVOs have evolved into major players. They’re not going away. People in the liner industry understand that.”

The breaking point between shipping within a consolidated shipment of 20-foot container can be as low as $650. By acquiring 20-foot container capacity, some shippers are able to increase their shipment sizes to their overseas buyers with little cost.

“When the FCL (full-containerload) rates were bottomed out, you could move the nice eight-and-up-cubic-meter shipments via FCL and still be less expensive than LCL,” said Mark L. Haywood, president of Minneapolis-based Midwest Consolidators, and an agent for NACA Logistics Group’s Direct Container Line. “With crating and packaging costs still fairly high, it was cheaper to move these consignments in exclusive boxes.”

Operationally, many NVOs discovered that full-containerload shipments are an easier way to make money because there’s less handling and clerical work involved with the cargo. Some freight-forwarder-affiliated NVOs have added intermodal transport and warehousing to their full-containerload services.

Liner carriers are still wary of dealing with NVOs on full-containerload traffic, but many have grown accustomed to their place in the market.

“Our customers are the ones who will ultimately choose either NVOCC or carrier to be their service provider,” said David Xiao, vice president of marketing and sales for “K” Line America, based in Richmond, Va. “We as an industry must respect our customers’ choice, while individual lines will have the choice as to how they work with NVOCCs.”

Small to mid-sized liner carriers, in particular, are likely to use NVOs to serve as their sales forces to shippers and forwarders and simply concentrate on their vessel and equipment management.

However, not all small carriers buy into this operations strategy. Liner carrier Eimskip, which specializes in container transport between Iceland, the United States and Europe, does not use NVOs to fill its ships.

“Our strength in the market is based on the relationship we have with shippers,” said Gardar Thorsteinsson, vice president and general manager of Eimskip USA, based in Norfolk, Va. “In our view, the only reason why shippers would want to use NVOs is because they’re not getting the customer service they expect from the large carriers.”

Some liner carriers, such as APL, SeaLand and Maersk, held on to portions of the U.S. inbound LCL business, particularly from Asia, by setting up in-house consolidation units. In recent years, logistics operations took increased significance for these carriers when container rates eroded.

“Many vessel operators appear to be interested in consolidation services,” said John Abisch, president of Miami-based Econocaribe Consolidators. “Similar to many of the trucking companies, which a few years ago focused more resources on becoming NVOs, the vessel operators will learn that the margins are not very good and refocus their resources on other opportunities.”

For now, “we’re keeping a close eye on the developments of (liner carrier) logistics divisions and naturally will move support away from vessel operators that are directly competing with us,” Abisch said.

“Simply put, the carriers have to decide what they want to be,” said Mike Madden, director of U.K.-based Box Consolidators. “Do they want to be shipping companies or logistics companies? They still don’t seem to know how to control their own destinies.”

Rate Scuffles. In recent years, there have been signs that the liner carriers want to buck the NVOs’ influence in the market.

NVOs claim that liner carriers in the discussion agreements offered container rates to shippers at slightly less than what they’ve promised similarly situated NVOs.
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customers in their service contracts, or given direct shippers preferential access to limited vessel capacity in tight container trades.

In 1999, the U.S. Federal Maritime Commission initiated a fact-finding investigation in 1999 to look into controversial “opting-out” service contract provisions used by liner carriers in the eastbound transpacific trade. These provisions allow liner carriers to unilaterally impose general rate increases or peak season surcharges on NVOs during the contract period.

While the commission disagreed with the liner carriers’ use of opting-out provisions, it did not fine the former Asia North America Eastbound Rate Agreement. Last May, the NCBFAA and IANVOCC alleged that Transpacific Stabilization Agreement liner carrier members discriminated against the NVOs during the 2002-2003 contract season by refusing to negotiate service contracts with them until after they have signed contracts with their direct shippers.

The associations also said NVOs were charged “substantially” higher rates than direct shippers, regardless of their freight volumes or other lawful transportation factors and charged general rate increases and peak-season surcharges under NVOs’ service contracts, but not under direct shipper contracts.

The associations also accused the TSA members of “abusing” their voluntary guidelines authorized under the Shipping Act “by failing to file their true agreements with the commission.”

The TSA carriers maintain an estimated 80 percent of the transpacific container trade. Its members are APL, CMA CGM, COSCO Container Lines, Evergreen Marine Corp., Hanjin Shipping, Hapag-Lloyd, Hyundai, “K” Line, Maersk Sealand, MOL, NYK, OOCL, P&O Nedloyd, and Yang Ming Marine.

The FMC decided to investigate TSA’s service contracting actions for 2002-2003 to find out if it indeed violated the Shipping Act.

In the FMC investigation finds wrongdoing by the TSA, the NCBFAA and IANVOCC urge the agency to:

• Impose sanctions against TSA and its members under section 13 of the Shipping Act.
• Require TSA member lines to pay reparations of affected NVOs.
• Seek other actions for relief.

With the FMC’s ongoing investigation, liner carrier executives in the transpacific trades refused to comment for this report about how the allegations have affected their relations with NVOs.

The FMC, however, rejected a similar complaint filed by the South Florida NVOC-NAOCC Association against the Caribbean Shipowners Association for failure to provide sufficient facts for the agency to initiate an investigation for wrongdoing.

The wrangling over rates will continue between liner carriers and NVOs in the down global economy. Liner carriers and NVOs with close relations often see past the pettiness over a few dollars difference in rates.

“We do not make a lot of noise over little things,” said Hans Mikkelsen, executive vice president of Hoboken, N.J.-based Shipco Transport. “We try to be as easy as possible for the carriers to deal with.”

NVO operators generally praise the recent trend toward across-the-aborad container rate increases by the liner carriers, which consequently allows NVOs to increase their profit margin per shipment.

“We have noticed already that the cost per TEU of the carriers is moving upwards in most of the trade lanes,” said Raymond Van Achteren, president of Ecu International, based in Antwerp. “This should have a positive impact on our bottom line.”

“I believe that once the vessel operators can get back to more profitable results, they will again embrace the middlemen, who help fill the ships and do a lot of administration work with the smaller clients,” Abisch said.

NVOs hope that with the rate increases the liner carriers may improve their customer service. Many complain about the liner carriers’ centralized documentation centers. “It’s impossible to get immediate intervention in case of problems,” said Roger Claessens, president of Confreight Group in Antwerp. “We are spending more time to ensure that problems are being solved.”

Claessens said the problem with management centralization and reorganization in the liner carrier sector is the lack of knowledge of local market situations encountered by the NVOs. “It’s neither flexible nor commercial,” he said.

The NVOs have since tried to level the playing field on these OSRA requirements but without much success.

It wasn’t until the Sept. 11, 2001 terrorist attacks and recent changes to U.S. Customs’ rules for inbound containerized cargo that the NVO lobby was rekindled in Washington, first with the creation of the NVO-Government Affairs Conference, then the resurrection of the IANVOCC and the newly formed United NVOCC Association.

Effective Dec. 2, the U.S. Customs Service (now the Bureau of Customs and Border Protection) requires liner carriers and NVOs to file their cargo manifests to the agency 24 hours prior to loading on U.S.-bound vessels overseas. The agency said the purpose is to help it pre-screen high-risk containers before they reach U.S. ports.

During Customs’ proposed rulemaking, the NVO-GAC generally sided with the World Shipping Council that NVOs needed to take more responsibility for filing their manifest information. The association also pressed for NVOs to have access to Customs’ Automated Manifest System.

Besides the automation requirements, the so-called 24-hour rule brought many business changes to liner carriers and NVOs. NVOs could no longer use “freight all kinds (FAK)” or “said to contain (STC)” to identify their freight on the manifests. Customs wants clear and precise cargo descriptions.

NVOs must also identify their shippers and consignees on the manifests. Customs no longer accepts NVO-to-NVO shipper/consignee designations. This raised a concern about customer confidentiality of NVO data with liner carriers and competitors, because
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“Once the vessel operators can get back to more profitable results, they will again embrace the middlemen, who help fill the ships and do a lot of administration work with the smaller client.”

U.S. inbound manifest data may be published for sale by reporting services. Customs said it would deal with the NVOs’ concerns about manifest confidentiality in a separate ruling.

Both liner carriers and NVOs are taking the 24-hour rule seriously to avoid Customs’ denials to load and penalties for non-compliance.

The NVOs, in particular, have scrambled to gain access to AMS and secure the proper bonds to process their own in-bond transactions with Customs.

However, some NVOs recently complained during a February teleconference that shipments were being held at their expense by liner carriers not willing to be liable for submitting what they perceive as incomplete information, especially the names of shippers and receivers.

“Basically they are holding us hostage,” said an NVO executive. “The steamship lines feel they have one up on us.”

The World Shipping Council and its liner carrier members assert they have not used the 24-hour rule to pick on the NVOs. “Those who preach conspiracy are generally wrong,” Koch said.

Joseph Saggese, president of Consulting Services International, which caters to the NVO industry, agrees. “I’d like to squash this type of talk. It’s counterproductive,” he said.

“In six months, I think we’ll look back at this nightmare and see that we all got through it,” said Alan Baer, president of Ocean World Lines, and chairman of the NVO-GAC. “It will get better.”

Airlines, consolidators cozy up in U.S.

Aversions set aside in business plagued by tight margins and security concerns.

By Chris Gillis

Timothy Pfeil, district sales manager in the New York area for Lufthansa Cargo, doesn’t hesitate to recommend the services of consolidators to small freight forwarders.

“Unlike many airline managers, I come from the forwarding industry myself,” said Pfeil who worked for two global forwarders both in the United States and Middle East. “With this background and understanding, my view of the air-cargo wholesalers is very much influenced by my own direct experience with many of these companies.”

Pfeil represents an emerging trend among the nation’s airline cargo executives who increasingly embrace the value that consolidators, also known as wholesalers, bring to the transportation logistics business.

Several years ago, Pfeil would not have spoken so boldly about his views of consolidators. While a common practice outside the U.S. air-cargo trades, U.S. airline cargo executives still largely believed that dealing with consolidators was selling out their business. Consolidators buy cargo space from airlines and retail it back to forwarders at a slightly higher price.

“They often recommend (small) agents speak with a wholesaler as one avenue to explore their continuing relationship with Lufthansa Cargo in New York,” Pfeil said.

Emerging Players. U.S. consolidators began to make their presence felt in the air-cargo market in the early 1990s. Former forwarder and airline cargo executives in United States could set up consolidation services with relative low overhead costs, and the forecasts for freight volumes were promising for the industry.

Players that emerged on the U.S. air-cargo scene by the mid-1990s varied in size and market focus. They included Universal Air Cargo, Consolidators International, Shipco Air, ACI, Forwarding Systems, Freight Solutions and Jardines.

The overall service provided by these consolidators gave small forwarders the ability to receive similar rates and service
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that large forwarders, such as Danzas (formerly AEI) and BAX Global, received from the airlines.

“The forwarder continues to do the customer sales and service,” said Kim Ekstroem, vice president for Shipco Air, based in Hoboken, N.J. “After the forwarder books its cargo with us, we handle the pickup, consolidation and post-landing services, such as delivery and collection of outs on behalf of the forwarder. We’re essentially doing all of this behind the scenes, allowing the forwarder to offer its customer full-scale services, literally to and from anywhere in the world.”

Shipco began offering air-freight consolidation services in 1994 as an add-on to its neutral non-vessel-operating common carrier service. In this case, Shipco operates as the “air carrier” to the forwarder, but has access to global flights of more than 100 airlines.

Consolidators International, which specializes in the U.S./Australian air-cargo market, became the first operator in America to negotiate a domestic package deal for international freight, through which it can offer its customers all the services FedEx has at its disposal, including overnight movement of large shipments to five-day trucking.

“Not only are the rates competitive, but when the forwarder deals with us, even his customers can maintain their own tracking and tracing for their shipments,” said Julian Keeling, president of Consolidators International in Los Angeles. The company has similar arrangements with UPS.

During the past decade, Peter Whitfield, president and chief executive officer of Inglewood, Calif.-based Universal Air Cargo, turned his air-cargo consolidation operation into the biggest in the country.

In recent years, other players didn’t fair so well. A majority of consolidators couldn’t endure the cutthroat rate practices that swept through the business in the late 1990s.

“The strategy was to buy space from the airlines at a $1 per kilo and sell for a $1.10 per kilo to the forwarders,” a consolidator said. “The margins essentially disappeared.”

This has not precluded one new entrant, Econocaribe Consolidators, from taking part in the air-cargo sector. The long-time Miami-based neutral NVO began to provide air-cargo consolidations three years ago to Latin America and the Caribbean.

“Our air cargo is growing well, but because our market share is so new and relatively small it easy to grow,” said John Abisch, president of Econocaribe. “We have been fortunate to receive excellent support from the freight forwarders who do not have the U.S. and foreign agent network.”

U.K.-based Air Menzies International, the largest consolidator globally, also has its eye on the U.S. market. It’s uncertain whether the company will enter the market by setting up its own operations or acquire a U.S. consolidator.

Survivors. While the number of consolidators in the air-freight business has decreased, the downward pressure on revenues has not eased up for the survivors. These companies have had to continue to find creative ways to attract freight volumes.

“Technology has played a part in our ability to survive the current tough times,” Keeling said. “We have, in fact, increased our telemarketing, fax broadcasts and personal representation over the period in the belief good old-fashioned service provides us with a better platform to look after our customers, both existing and potential.”

Other U.S. consolidators have recently taken advantage of information technology to more efficiently manage their air-cargo business.

Econocaribe, for instance, developed its air-freight software in house. The system is similar to that it uses to manage its less-than-containerload service. The system automatically notifies air-cargo customers via e-mail or fax upon arrival in its warehouse. Customers can also access Econocaribe’s Web site to track and trace their shipments.

U.S. consolidators are also searching the global shipping market for opportunities.

“China inbound and outbound now accounts for 20 percent of our business,” Keeling said. “The growth in China has offset a downturn in revenue from our other more traditional and established markets.”

Integrators bring single control to LCL

UPS, FedEx say their consolidation offerings differ from the norm.

By Philip Damas

With their own consolidation centers and inland networks, United Parcel Service and Federal Express are developing one-stop services for shippers of less-than-containerload ocean freight.

Neither UPS nor FedEx are new to international maritime transport. UPS acquired Fritz Co. several years ago, while FedEx bought Tower Group.

Now, the relevant divisions of the two groups — UPS Supply Chain Services, FedEx Freight and FedEx Trade Networks — are introducing their own LCL services to the market with an emphasis on the simplification of transactions and single control.

Knowing their inland networks and commercial strengths, the integrators could become a major force in international maritime transport.

Last August, UPS Supply Chain Services announced the start of an expedited ocean service for small shipments from China and Brazil to the United States. Under the “TradeDirect” UPS product, shipments are labeled, consolidated and eventually delivered direct to the shippers’ customers. This means they bypass distribution center stops and thereby reduce the need for shipper-owned warehouses, UPS said.

The TradeDirect service could be extended to the Europe-to-U.S. trade soon, said Mike Gargaro, vice president of ocean services at UPS Supply Chain Services.

Meanwhile, last November, FedEx Freight launched a LCL service between the United States and Europe in cooperation with Frans Maas, one of Europe’s largest forwarding and trucking groups.

“We leveraged the capabilities of FedEx Freight and FedEx Trade Networks,” said Ed Alderman, FedEx Freight director of international development. FedEx Freight is the less-than-truckload arm of the Memphis-based group and its sister company, FedEx Trade Networks, is an ocean trans-
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portation intermediary and customs broker. FedEx Freight provides transatlantic LCL door-to-door or door-to-port service to and from Europe, including eastern Europe. But Alderman said that FedEx Freight will extend the LCL service to other international trades and regions.

The LCL service uses the first-day and second-day ground capability of FedEx Freight in the United States.

**LCL Under One Roof.** FedEx and UPS said they can clearly differentiate their services from their many competitors in the LCL market.

“We bundle our services,” Alderman said. “We provide a bundled rate including inland, forwarding, etc.” The company provides shippers with one invoice and a single source of accountability.

“UPS really offers an integrated service — we provide every service that a customer would need ... for any component of their supply chain,” Gargaro said.

After launching the TradeDirect service from China and Brazil to the U.S. for LCL, UPS added associated services: pick-and-pack and multiple-vendor consolidation. Shipments from several Asian or Brazilian vendors are then combined in one container and move to a single consignee in the U.S.

“Half of our inbound volume of LCL moves direct to inland points in the U.S.,” Gargaro said.

UPS Ocean Freight Services is the NVOCC arm of the group.

Gargaro also said his company offers its LCL ocean services under a single rate and under the responsibility of a single provider.

**Operational Integration.** Many of UPS Supply Chain Services’ customers are from the high-tech and computer sectors.

To provide faster transit times for high-value cargo shipments, Gargaro said UPS capitalizes on its fast motor carrier and rail carrier networks.

“We do things more as motor carrier moves rather than as rail moves,” he said. UPS, a major rail user, also has contracts with railroads for fast intermodal trains.

After labeling and receiving cargoes from customers, UPS ships them across the seas and carries out all other operations, ranging from customs clearance to inland transport and final delivery.

“The most important aspect of LCL or groupage is the ability to control the service,” Gargaro said.

At FedEx, two operational divisions are involved in providing the international door-to-door LCL service. FedEx Freight’s LTL network takes care of the U.S. inland ground service. FedEx Trade Networks, as a Federal Maritime Commission licensed ocean transportation intermediary, handles the ocean portion of the move. In Europe, Frans Maas handles the European ocean coordination and ground transportation.

Alderman said the initial contact with the customer is made with FedEx Freight, but FedEx Trade Networks will often contact the customer to complete documentation tasks such as the shipper’s export declaration.

In a separate development, FedEx Trade Networks last year started a U.S. inbound maritime and air freight service for cargoes from Europe and Asia. The “ocean-ground distribution” service provides day-definite delivery to the United States for consolidated cargoes.

Alderman said FedEx Freight has “fast ground transit times” and that, by using the fastest port-to-port services of ocean carriers, it can offer door-to-door transatlantic transit times of 17 to 23 days.

**“The most important aspect of LCL or groupage is the ability to control the service.”**

Mike Gargaro
VP of ocean services, UPS Supply Chain Services

Reliable inland transit times are critical, he said. If delivery to the port of export was late by one day, this could mean missing the intended vessel sailing and losing a week overall.

UPS Supply Chain Services comprises separate units responsible for surface, ocean and air transport. Surface transport includes LTL operations.

“We work together globally to maximize the network,” Gargaro said. The company operate a hub-and-feeder network that serves both air and ocean freight shipments.

There is some overlap between the LCL and ground operations of UPS. “Whenever we can, we like to use a dedicated trailer,” Gargaro. He noted, though, that the UPS small package business “is quite separate from ourselves.”

**LCL Focus.** Both UPS Supply Chain Services and FedEx Freight have identified LCL services as a central business for international maritime transport.

“We specialize in LCL and LTL,” Alderman noted, speaking on behalf of FedEx Freight. However, the FedEx Trade Networks NVOCC and customs brokerage division also handles full containerloads.

“We have intended to focus more on the LCL segment for some time in our strategy,” Gargaro said.

Much of the economics of running efficient LCL services hinges on the consolidation and deconsolidation of containers at multiple regional hubs. Both FedEx and UPS have multi-country networks of hubs.

Alderman said FedEx Freight uses gateways, or hubs, operated by FedEx Trade Networks for its international LCL services.

“Moving forward, we are looking at using FedEx Freight facilities,” he said.

In the United States, the FedEx gateways are located in Houston; Atlanta; Newark, N.J.; and Chicago. An additional gateway will open in Los Angeles in the next few weeks.

Here’s how the operation works for LCL. An LCL shipment from Memphis, for example, would be trucked overnight by FedEx Freight to the Atlanta gateway. There, cargo will be consolidated and stuffed into the container. Then the box will be trucked to the selected port, such as Charleston, Savannah or New York on the East Coast.

For its LCL service, UPS Supply Chain Services runs gateways in Dallas, Atlanta, Miami, New York, Chicago, Los Angeles and San Francisco.

It receives LCL export cargoes in 60 U.S. locations, from where it moves to the regional gateway for consolidation.

If there is an overflow of cargo, UPS uses its trucking network to move cargoes to an alternate location.

UPS also operates container freight stations outside the United States, notably in Hong Kong, Yantian, Xiamen and Qingdao in China.

Like other intermediaries and carriers, UPS and FedEx have had to comply with U.S. Customs’ more stringent 24-hour advanced manifest rule for containerized shipments to the U.S.

For its maritime customers, UPS has implemented $25-per-bill-of-lading security manifest document charge.

UPS is a member of the Commercial Operations Advisory Committee that liaises with U.S. Customs, where it also represents the interests of express carriers.

Gargaro said UPS is directly linked with U.S. Customs for the transmission of cargo manifest inbound data.

“We are reviewing relationships with all of our carriers in this new environment,” he said. “We believe that regulatory compliance will become more important.”

Both UPS and FedEx Freight said they work with ocean carrier services that provide fast port-to-port transit times from specific ports.

But although FedEx and UPS appear to target the high-service end of the LCL market, Gargaro hinted that current market rates don’t allow a substantial premium.
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Major ports in continental Europe experienced brisk container volume growth last year, and are getting ready to introduce new legislation to liberalize port services.

For the first time, the top five continental European ports exceeded a combined throughput of 20 million TEUs last year. European ports don’t handle the huge volumes that characterize the Asian container hubs of Hong Kong and Singapore. But three European ports — Rotterdam, Hamburg and Antwerp — now each control roughly 5 million TEUs of traffic (By comparison, the U.S. ports of Los Angeles and Long Beach handle about 5 million TEUs a year each).

Whereas 2001 was a lackluster year for box volumes in Europe and elsewhere, statistics published recently by European ports show that growth rebounded in 2002, with...
several ports reporting double-digit growth rates for the year (see chart).

**Upriver Ports.** Some industry analysts had expressed concern that Europe’s two major upriver ports — Hamburg and Antwerp — could lose container traffic to seaports that have the advantage of accommodating deeper draft. This has not happened so far.

In fact, Hamburg had the fastest growth in container volume among European continental ports last year (more than 14 percent), and Antwerp wasn’t far behind (13 percent).

By contrast, the deepwater ports of Rotterdam and Bremerhaven witnessed modest increases in box volumes last year.

The port of Le Havre, also a deepwater seaport, experienced a 13-percent jump in box volume last year that was nearly as high as the volume gains of Hamburg and Antwerp.

Joeri Tielmans, commercial advisor to the Antwerp port authority, said the port’s 13-percent increase in box traffic last year resulted from new transshipment activity for cargoes to and from the United Kingdom, and from a gain in market share at the expense of Rotterdam.

“We took away some business from them,” Tielmans said.

Gunnar Uldall, minister of economics and employment of the city of Hamburg, said container traffic has once again been “powering growth” at the German port.

“Over 58 percent of (the) entire cargo tonnage handled in the port is containerized,” he said. Of the port’s general cargo traffic, more than 95 percent is now containerized, a ratio that is said to be higher than at other European ports.

The port of Hamburg has increased its share of container traffic handled by ports in the Hamburg-Antwerp range, Uldall said. “Competition between the ports of the Hamburg-Antwerp range is intense and will remain so,” he added.

Several Asia/Europe container services operated by Evergreen and Mediterranean Shipping Co. have switched from the port of Bremerhaven to Hamburg. This has hindered growth at Bremerhaven, a rival port for Hamburg.

Bengt van Beuningen, spokesman for the port of Hamburg, said the port hopes to attract Evergreen’s transatlantic service to Hamburg and away from Bremerhaven.

In 1999, a 150-million-euro (about $150-million) program to deepen the navigation channel of the river Elbe to Hamburg was completed. While this helped, the German port wants to deepen the river by another 1.5 meters (about 5 feet) to allow access to the largest containerships without tidal restrictions.

“The government of the city of Hamburg asked the federal Ministry of Traffic to allow finance to deepen the river,” van Beuningen said. “We hope to get a response or decision in April.”

The German port predicts that large containerships of up to 7,500 TEUs with a draft of up to 48 feet will become the backbone of the liner trades with Asia.

**Additional Capacity.** Antwerp and Le Havre have started construction of large container terminals that will change the landscape of their ports.

In Antwerp, the new Deurganck Dock facility on the left bank of the river Scheldt will provide an annual handling capacity of 5 million TEUs, when all development...
Inland Costs. The European hinterland can be reached by shippers and shipping lines via several alternative ports.

Van Beuningen said inland transport costs are central to the use of a particular port. “It’s not so much competition between Hamburg and Bremerhaven,” said van Beuningen, at the port of Hamburg. “It’s (competition) with Rotterdam and Antwerp.”

National governments in Europe subsidize their railway companies, which leads to some distortion of the market.

In January, an intermodal rail container link called the “Baltic Bridge” commenced; it connects the port of Hamburg, located on the North Sea, with the port of Luebeck, on the Baltic Sea.

In the port of Le Havre, a company has been set up to consolidate container rail freight and operate shuttle services to and from Lille, Strasbourg, Dijon and Milan. Le Havre Shuttles offers its rail services to shipping lines and freight forwarders. The French port reported that its rail container traffic increased by 12 percent last year, to 1.29 million tons.

The port of Amsterdam has seen its container traffic decline. Despite the opening of a new container terminal by Ceres, the port saw its box traffic fall 6 percent in 2002, to 45,000 TEUs.

In nearby Rotterdam, the Dutch port has seen a small recovery of box volumes, after two years of declining traffic. Rotterdam is Europe’s largest container port, but it has lost market share to Hamburg and Antwerp.

“We want to remain market leader and therefore we must reclaim lost terrain,” said Willem Scholten, chief executive officer of Rotterdam Municipal Port Management. “Things are getting better, but there is still room for improvement.”

The ports of Rotterdam, Hamburg, Antwerp, Bremerhaven and Le Havre were among the first to join U.S. Customs’ Container Security Initiative. Other European ports that have since signed under the U.S. Customs program are Algeciras, Felixstowe, Genoa, Gothenburg and La Spezia (March American Shipper, page 34).

Port Legislation. European nations and their ports will have to implement a major new body of European port legislation, called the “directive on market access to port services.”

Dockworkers’ unions oppose the directive.

Kees Marges, secretary of the International Transport Workers’ Federation’s dock
The terminal will be located on the north shore of the outer harbor area. The $200-million first phase of the project, due to be completed in 2004-2005, will create an initial terminal with container capacity of 500,000 TEUs a year and roll-on/roll-off capacity of 160,000 TEUs.

The port licensee said it expects 80,000 TEUs of container traffic in the first year of operation, rising to 500,000 TEUs a year by the sixth year. A later project will increase annual capacity to 1 million TEUs.

DCT Gdansk’s management includes Derek Peters, who developed the British ports of Felixstowe and Thamesport; Robin MacLeod, formerly operations director of Felixstowe and Thamesport; and James Sutcliffe, chairman of John Sutcliffe & Son and a former operator of the port of Grimsby.

“Much of Poland’s import and export freight is currently transported by road and rail across Europe,” a company spokesman said. “Gdansk is the only port in Poland that will be capable of handling large container and feeder vessels — up to 6,000 TEUs.”
What EXACTLY is a U.S.-flag bulk ship?

MarAd’s goal to clarify vessel types for food-aid causes exit for tankers.

By Chris Gillis
Rick Stickle, chairman of Stickle Enterprises, is first and foremost a businessman.

When Stickle decided to give up his vessel fleet two years ago, for reasons he largely blames on the federal government, he didn’t look back with any guilt for exiting the U.S.-flag merchant marine.

“I’m pragmatic,” he said in a recent interview from his office in Cedar Rapids, Iowa. “The loser is the U.S. government and the taxpayers.”

Stickle once operated 12 aged U.S-flag tankers, under the firm August Trading, to transport government-funded bulk food aid shipments. While these single-hull ships, ranging in size from 125,000 to 35,000 deadweight tons, were more than 20 years old, they competed successfully against the long-time bulk operators in the so-called U.S. cargo preference business.

Stickle said his ships could transport large 40,000 to 60,000-ton food-aid shipments at $500,000 to $700,000 cheaper per voyage than the more traditional bulk operators in trade. In five years, August Trading became a dominant player in the food-aid business, transported about 35 percent of the U.S. Agency for International Development’s food-aid tonnage in cargo preference year 2000 (April 1, 1999 to March 31, 2000).

Stickle, whose handful of companies specialize in freight transportation, warehousing and real estate, bought his tankers cheap, often at scrap values of $2 million to $3 million, because the ships no longer met the 1990 Oil Pollution Act’s stringent double-hull requirement for petroleum transport. New bulk ships in the size of August Trading’s tankers could easily exceed $35 million apiece in Asian shipyards.

In 1999, the U.S. Maritime Administration set out to clarify and strengthen its authority over the country’s cargo preference business. Food-aid transport, in particular, must comply with the 1936 Merchant Marine Act, which requires at least 75 percent of the annual food-aid tonnage to move on U.S.-flag commercial ships.

A major sticking point in MarAd’s cargo preference authority is the continued allowance of former tankers to transport U.S. bulk food aid. Because these U.S.-flag tankers were originally built for liquid bulk transport, the agency believes these operators should not be involved in dry bulk food-aid transport. While MarAd’s clarification of its cargo preference rules have yet to be finalized, the agency has clearly indicated it’s headed in this direction.

Stickle believes MarAd’s cargo preference policy towards tankers is inevitable, and that his place in the food-aid transport business is over.

“I’ve had it,” he said. “It’s not worth the involvement.”

The last large food-aid shipment for August Trading was 60,000 metric tons of bulk soft white wheat transported on the carrier’s Sag River tanker from Kalama, Wash., to Karachi, Pakistan, in mid-December 2001 for onward land transport to Afghanistan. The Sag River continued to handle other food-aid shipments until it was recently scrapped overseas.

Stickle, however, took his smallest tanker from August Trading, a 30,000-deadweight-ton ship, and placed it in a U.S.-flag clean liquid products coastal transport service, known as Sabine Transportation Co. The vessel, Sabine Eagle, may operate as a single-hull tanker in the Jones Act under OPA through 2008.

Other operators, such as Overseas Shipping Group (OSG), have also discontinued their tanker operations for food-aid transport. OSG scrapped its 105,000-deadweight-ton tanker, the Overseas Juneau, last year.

Pressure. By the late 1990s, U.S. maritime unions, vessel operators and industry groups became concerned about how food-aid shipments were handled.
aid agencies, such as the U.S. Department of Agriculture and USAID, were applying the cargo preference law. They generally disagreed with the concept that the lowest cost transporter wins the contract of carriage.

“We believe the shipper agencies’ argument regarding costs should be forcefully rejected by MarAd,” said an industry coalition in comments to a 1999 notice of proposed rulemaking from MarAd. “It is no more acceptable than the proposition that our country should buy subsidized wheat from South America or butter from Europe for our food aid programs because these commodities can be purchased for less than those produced in the United States.”

Dry-bulk vessel operators with higher capital and operations costs, such as Liberty Maritime Corp. and Sealift, found it difficult to compete on a rate basis with tanker operators, such as August Trading and OSG.

“The tankers were only competitive because of their low capital cost,” said Philip J. Shapiro, president and chief executive officer of Lake Success, N.Y.-based Liberty Maritime. “They certainly couldn’t load or unload that efficiently.”

Food-aid distributors, such as the United Nation’s World Food Program, complained about the use of tankers because of their less efficient evaporator systems used to pump bulk food-aid from their hulls. Evacuators are also known to damage certain grains, such as corn kernels, during multiple handlings.

Still, USDA and USAID continued to place large volumes of food aid on less expensive U.S.-flag tankers operated by August Trading, despite legal actions taken by U.S.-flag vessel operators Farrell Lines in 1998 and Sealift in 2000 against the agencies for alleged non-compliance with the cargo preference laws.

“While we wanted to use the right tools for the job, and tankers weren’t quite the right tools, they did give us the cheapest way to move our shipments,” said Robert M. Goldman, chief of USAID’s Transportation and Commodity Division in Washington.

“Did (the August Trading ships) cause us some problems? Once in a while,” Goldman said.

The 20-to-25-year-old former tankers did experience occasional breakdowns. The ships’ steam engines also burned about 130 metric tons of bunker fuel a day, compared to the more modern diesel-powered bulk ships, which will burn between 20 to 40 metric tons of bunker fuel a day. Since the tankers were close to scrapping, operators did not view it necessary to invest in significant upgrades in their ships.

**Weighing In.** With MarAd and the food aid agencies in disagreement, the Justice Department stepped into the fray last year to attempt to resolve the dispute. Justice’s Civil Division reviewed section 901(b) of the 1936 Merchant Marine Act and sided with MarAd’s interpretation of the cargo preference law.

**Philip J. Shapiro**

President and chief executive officer,
Liberty Maritime

**“The tankers were only competitive because of their low capital cost. They certainly couldn’t load or unload that efficiently.”**

Last November, Maritime Administrator William G. Schubert sent a policy statement to USDA and USAID pending a final rulemaking in its cargo preference regulations. In the future, MarAd will “score” U.S.-flag food aid vessels in three categories: dry cargo liners, dry bulk carriers and tankers.

“A service will be designated as liner service if the service is advertised to the public as ocean freight service of packaged goods by regularly scheduled common carriers, or vessels that follow specific routes to a range of ports on a trade route in U.S. foreign trade,” the MarAd policy statement said.

MarAd said: “Service will be designated as ‘bulk’ service if it comprises an offer, in response to an invitation to bid or other solicitation, to carry bulk cargo (i.e. cargo without mark or count) to any foreign destination.”

“If a service exhibits characteristics of both liner and bulk service, MarAd will determine which category applies,” the agency said.

With MarAd’s focus on vessel type, tanker operators are excluded from handling bulk food aid shipments.

In a Dec. 19 letter, Justice said USDA and USAID “should defer to MarAd while the regulations are being revised.”

Most U.S.-flag carriers in the food aid business generally approve of MarAd’s policy statement regarding vessel type designation.

“It’s beneficial to what we want to do,” said Tim Casey, president and chief executive officer for Staten Island, N.Y.-based K-Sea Transportation Corp. “It keeps away the dry bulk operators from the food aid cargoes we transport.”

K-Sea operates an integrated tank barge, Spring Creek, to transport U.S. edible oils from the southern United States to recipient countries of Pakistan, Peru and Dominican Republic. Because of the barge’s size and the limited volumes of edible oils, K-Sea generally controls the business.

Some large U.S.-flag dry bulk vessel operators still disagree with MarAd’s policy statement regarding scoring ship types by country of destination. The operators, along with the food-aid agencies, would prefer to continue the long-standing policy of complying with cargo preference laws by geographic regions, since many operators will carry large loads to be discharged to several ports in a region. This has become a common practice for food-aid shipments destined to Eastern Africa.

MarAd officials admit they’re still working out the wrinkles in the agency’s final cargo preference policy for food aid transport and hope to clarify the regulations soon.

**Food Aid.** Meanwhile, USDA and USAID continue to ship millions of tons of food aid to needy countries around the world.

USDA manages three food aid programs:

- Title I provides for government-to-government sales of agricultural commodities to developing countries under long-term credit arrangements.
- Section 416(b), which was created by the 1949 Agricultural Act, provides overseas donations of surplus commodities owned by the USDA’s Commodity Credit Corp. to developing countries.
- The Food for Progress program, which was enacted in 1985, allows the Commodity Credit Corp. to finance the sale and export of agricultural commodities to developing countries to stimulate free enterprise in those markets.

USAID manages two food aid programs, including the Public Law 480 programs, Title II and Title III. These programs were authorized under the 1954 Agricultural Trade Development and Assistance Act.

The largest program, Title II, provides donations of U.S. agricultural commodities to meet humanitarian food needs in other
These commodities are distributed through private voluntary organizations. Shipments include bulk and bagged whole grains, such as corn, soybeans, sorghum and wheat, and processed grains, such as bulgur, all-purpose flour, cornsoy blend, and cornmeal. USAID also moves miscellaneous products, such as rice, peas, beans, lentils and vegetable oil.

USAID’s Title III program provides for government-to-government grants to support long-term economic development in underdeveloped countries, but the program has remained dormant in recent years due to lack of funding.

Some of the biggest recipients of food aid in recent years are Bangladesh, Ethiopia, India, Kenya, Mozambique, Peru and Haiti. Afghanistan took on a higher profile for USDA and USAID after U.S.-led forces ended the Taliban rule in that country. Drought-stricken Southern Africa received attention from the agencies last year.

The Bush administration and Congress continue to support increased food aid shipments abroad. The P.L. 480 budget for fiscal year 2003 has recently been increased to $1.45 billion, compared to $850 million in fiscal year 2002.

More Competition. With increased commitments in food aid, USDA, USAID and MarAd officials worry about sufficient access to U.S.-flag capacity to meet the requirements of the cargo preference law.

“At the moment, there is sufficient U.S.-flag vessel capacity,” said Thomas W. Harrelson, director of MarAd’s Office of Cargo Preference in Washington. “But with the call for more donations, we could anticipate capacity concerns.”

MarAd is considering ways to increase certain types of vessels under the U.S.-flag. The agency has recently developed expedited re-flagging procedures to entice product tankers to re-flag to the U.S. merchant marine.

Last year, however, MarAd reversed its confirmation of TECO Ocean Shipping’s U.S.-flag dry bulk vessel, Sheila McDevitt, to immediately enter the cargo preference trade after receiving opposition from other U.S.-flag vessel operators and maritime unions.

The biggest vessel operators in the food-aid transport business today are Sealift, Liberty Maritime, APL, Maersk Sealand, and Lykes Line. Liberty Maritime has the newest fleet of dry-bulk vessels under the U.S.-flag.

“We’re optimistic about this market,” said John Raggio, a partner in Oyster Bay, N.Y.-based Sealift, which operates four 20,000-deadweight-ton dry-bulk ships of its 10- vessel fleet in the bagged food-aid business. “It’s a nice niche.”

USAID officials, however, are concerned about the waning competition among U.S.-flag carriers for certain levels of food aid volumes. Without the tankers, Liberty Maritime, for example, wins most contracts for shipments ranging from 35,000 to 60,000 deadweight tons.

“Liberty Maritime’s ships do a good job and are well maintained,” Goldman said. “They’re just becoming too costly to use due to the lack of competition. We need many Liberty Maritimes in the business.”
With industrialized nations pouring millions of dollars into high-tech customs resources to improve cargo security in their ports, many developing nations find themselves unable to keep up.

The United Nations Office on Drugs and Crime and World Customs Organization have developed what they believe are low-tech, low-cost risk assessment techniques to help developing nations’ customs administrations work with other law enforcement agencies to more efficiently target illicit shipments moving through their ports.

“The dimensions of illegitimate container utilization by organized crime and its adverse effects on trade growth potentials in developing countries would justify a large-scale global intervention right away.”

Dagmar Thomas
Program Manager, Operations and Analysis
United Nations Office on Drugs and Crime

The aftermath of the Sept. 11, 2001 terrorist attacks against the United States increased the focus on cargo security among industrialized nations. Security experts continue to warn that Osama bin Laden’s al Qaeda terrorist network may use containers to transport weapons of mass destruction. U.S. Customs responded to this threat early last year with the implementation of the Container Security Initiative. CSI requires the agency to secure bilateral agreements with other customs administrations to target and pre-screen high-risk containers in overseas seaports before they are shipped to the United States. Armed with advance cargo manifest information and non-intrusive inspection equipment, U.S. Customs inspectors work with their overseas counterparts in the CSI ports.

In June 2002, the Group of Eight nations and WCO endorsed the CSI concept as a way to improve security in the international supply chain without disrupting the flow of legitimate cargoes.

So far, more than a dozen countries in Europe and Asia — accounting for more than two-thirds of the container traffic to the United States — have signed CSI agreements with U.S. Customs.

Developing nations’ customs administrations and industry, however, believe CSI and other high-tech-driven cargo security initiatives may further hinder their ability to efficiently participate in the global economy.

It’s estimated that more than 200 million containers move between the world’s ports annually. The top 20 container ports alone handle from 300 to 2,000 containers per hour.

Small container ports in developing countries, on the other hand, process 500 to 2,000 containers a day. U.N. Conference on Trade and Development forecasts indicate that container flows in African seaports will double by 2012 at the earliest.

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the growing demands for better facilitation, faster container throughputs, and, at the same time, improved revenue collection systems, control measures and increased security,” Thomas said.

Once CSI and other initiatives are fully operational, some security experts fear that terrorist groups may conduct future attacks in developing countries, while still achieving their goal of spreading global fear.

**African Ports.** Several years ago, the UNODC, with help from the WCO, began developing a series of cargo-container control programs in a half-dozen Southern and Eastern African nations to target drug smuggling. Programs were established in Djibouti; Mombasa, Kenya; Dar es Salaam, Tanzania; Maputo, Mozambique; South Africa’s Cape Town, Port Elizabeth, Durban and Johannesburg; and most recently Port Louis, Mauritius.

One of the biggest hurdles faced by UNODC and WCO officials during the program rollout was convincing African government officials that drug smuggling occurs in their ports and helps to fuel drug abuse and other crimes in the region. The UNODC estimates that there are more than 32 million drug abusers in Africa.

Another difficulty was developing the interagency framework between customs administrations and other local law enforcement to work together. Customs administrations in these African countries have traditionally focused more on revenue collection and less on drug and contraband interdiction.

In addition, the UNODC had to demonstrate to the African countries that the programs could be done with minimal cost. According to the UNODC, the total cost of the programs in these ports, so far, has been about $1.2 million.

To keep the cost of the programs down, the WCO provided trainers and coordinators from the customs administrations of Belgium, France, Canada, Ireland, and the United Kingdom free of charge to the African countries. The focus of the training was on risk assessment and intelligent use of information to stop illegal cargo traffic, said Jouko Lempianinen, director of compliance and facilitation for the Brussels-based WCO.

WCO instructors stress the importance of customs administrations to work with the local shipping industry in developing cargo security programs.

**Moving Ahead.** The UNODC and WCO want to take the African port control unit model to developing countries in other regions. “The experience gathered during project operations in Africa, and lessons learned in this process, were a crucial factor in our decision-making to embark upon a new and more comprehensive container initiative,” Thomas said.

“In our view, the dimensions of illegitimate container utilization by organized crime, and its adverse effects on trade growth potentials in developing countries would justify a large-scale global intervention right away,” she added.

In March, the UNODC and WCO finalized a pilot program plan for container ports in Ecuador, West Africa and Pakistan/Afghanistan. “We chose pilot ports in different developing regions with trade growth potential, which are assessed as high-risk ports in terms of transnational cross-border crime in all its patterns, not just drug trafficking,” Thomas said.

Other factors for choosing these pilot sites include:

- Existing local need and commitment to enter new forms of enforcement operations at container ports and terminals.
- Potential to test and apply different control concepts.
- Availability of experienced UNODC enforcement experts on site to ensure careful monitoring and review throughout the pilot phase.

Thomas said Ecuador would focus on ocean container exports to intercept cocaine trafficking, while West Africa would test control of transit movements for heroin and cocaine trafficking, in addition to weapons and precious resources smuggling.

“We also had to consider anticipated donor interest and availability of funds for this pilot action, and we want it to be complementary to ongoing bilateral assistance,” Thomas said. “Therefore, we did not consider ports at this stage, that are or may soon become participants in larger bilateral action.”

The UNODC estimates that the cost to develop the three new pilot programs over the next three years will cost about $2 to $3 million. Thomas said the final budget will
depend on the “nature and quality of cooperation or co-financing or cost-sharing agreements” that the UNODC will conclude with interested parties.

The main components of the three pilot programs are:

- Formation of appropriate legal frameworks and port control teams.
- Training and advisory services at all levels, with a focus on intelligence gathering, management, capacity building and sustainability.
- Development of new partnerships between other law enforcement authorities, and new forms of cooperation with the shipping industry.
- Provisions for limited equipment and logistics.

“At the pilot sites, port action will be managed locally, as part and parcel of the ongoing UNODC program portfolios in the respective countries and regions,” Thomas said.

“ODC law enforcement experts present in Ecuador, West Africa and Pakistan/Afghanistan will provide the inputs and services to cooperate with WCO in day-to-day project delivery and implementation,” she said. “In particular, these experts will facilitate local negotiations and conclusions of written agreements for new port control units. They will serve to motivate, coordinate, and advise on participation of all involved in port control.”

The UNODC is also meeting with pilot site authorities and industry to consider sharing some resources, such as X-ray equipment, which, in the case of West Africa and Ecuador, is used for revenue collection and safety procedures but not for enforcement purposes.

“Rather than spending pilot funds on the purchase of equipment, we hope to assist local project beneficiaries in their conclusion of pooling arrangements,” Thomas said. “There should be room for pooling resources with local trade and port associations for new trade and enforcement cooperation measures. We might be able to negotiate cost-sharing elements with governments — by tapping into national budgets allotted to port development programs.”

The UNODC and WCO hope the pilot programs will encourage new forms of cooperation agreements with customs administrations, trade associations and U.N. agencies. Customs administrations, for instance, could provide “mentor” support to the pilot programs and trade associations could provide related workshops and training.

The ultimate goal for the global pilot programs is to create best practices for cargo security that could be used efficiently by customs and law enforcement agencies in developing country ports.

“Based on progress and results under this pilot, we can increase awareness among decision-makers for the need to integrate security and enforcement elements into their larger port/trade development programs,” Thomas said. “We could also develop standard packages containing the institutional, operational and resource requirements for such elements and provide the expertise and advisory services to local authorities for their implementation.”

“Our trainers explain the mutual benefits of building trust with the industry. Every effort is made for customs administrations to relate to trade.”

Peter Clark
senior technical officer,
World Customs Organization

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Security from the sidelines

Bonni Tischler, retired U.S. Customs veteran, discusses evolving security issues.

By ROBERT MOTTLEY

The revolving doors connecting government service and the private security sector have brought in a stream of applicants eager to fill jobs in the new Department of Homeland Security.

Bonni Tischler, formerly assistant commissioner for the Office of Field Operations in the U.S. Customs Service, who helped shape policy in the wrenching days after Sept. 11, 2001, went the other direction.

Tischler, now a vice president for global transportation and supply chain security at Pinkerton Consulting & Investigations, retired from U.S. Customs (now the U.S. Bureau of Customs and Border Protection) in June 2002, after a 31-year career. She had managed the initial establishment of the Customs-Trade Partnership Against Terrorism (C-TPAT) program, and sensed that Customs as she had known it would soon be absorbed and inevitably altered in the Department of Homeland Security.

Before Tischler’s two-year stint as assistant commissioner for the Office of Field Operations, she had been assistant commissioner for the Office of Investigations in U.S. Customs for three years.

“My background was in criminal investigations. I started as a Sky Marshal, became a Customs agent, and worked my way up. I was the only agent to ever come across as an assistant commissioner for field operations,” she said.

Her view about transportation security — held long before 9/11 — was that in terms of trade issues, “vessels, trucks, and planes are their own delivery systems. Some attention needs to be paid that they are cleared as units,” Tischler said.

“Security isn’t just a container issue — it concerns all cargo. People are concentrating on containers, but there are other issues involving bulk cargo and rolling stock, which are equally vulnerable.

“All along, I’ve felt strongly about people as well as processes. We can’t protect the country without technology, but the weak point is the human factor. I have a problem with that. My enforcement background left me with some suspicion of internal conspiracies. When things came crashing down, there was always some person at the bottom of it,” she said.

Assessing Technology. From her Pinkerton office in Arlington, when she went to work in mid-August, Tischler sees an evolving process as the new Department of Homeland Security sorts through “what is practical and what is not,” she said.

“It’s important to shake out the bugs and determine what’s good and what isn’t, especially since vendors and profferers of one security remedy or another are all singing in different keys.

“When I was at Customs, it wasn’t like I was a techie — although I have the shopping gene — but a lot of vendors came to me. I had a good relationship with applied technology, which you can’t do blindly. You have to have a marriage between operators and engineers. I would frequently preview technologies from a realist sense, asking ‘will this do any good? Should we give this a shake?’ ”

Her assessment of radiation-detection devices was blunt: “You need neutron detection equipment. Gamma ray detectors are good, but they aren’t the best. The neutron detectors need to be made more user-friendly from a civilian perspective, and that is being done.”

As for detecting emissions on containerships, Tischler was especially surprised by the six-day delay of the vessel Palermo Senator just outside of New York harbor, until a satisfactory explanation was found for an emission coming from a container.

“That should not have taken so long. The U.S. Coast Guard didn’t call Customs right away. We’ve known for years about clay tiles emitting radiation,” she explained.

An alternative must be found to dragging a suspected ship into port because the Coast Guard can’t unload it on the high seas.

“If they can’t find an isolated island for such inspections, they need to think out of the box and build something like an oil platform out at sea where they could unload anything dangerous,” Tischler said.

Security costs associated with such episodes “are going to wind up having to be shared by the government and private industry,” she predicted.

No C-TPAT Hectoring. Tischler said she has heard reports that U.S. Customs had threatened a number of companies with penalties unless they joined the C-TPAT program.

While Tischler wasn’t with Customs last fall, “I can say with complete assurance that I don’t know of any pressure being brought to bear on companies … That would have been unethical and counterproductive,” she said.

While the goal of C-TPAT is an endless supply chain free of vulnerability, the key to success is spotting the “black holes in the process,” Tischler said.

Particularly vulnerable are freight forwarders and consolidators, whose employees do most of the stuffing of containers, she said.

“There are people doing this; it’s a very high-risk area,” she said. Since there’s no mechanized way of stuffing cargo into containers, it is key for forwarders and consolidators to secure their work forces.

In terms of drawing support from the private sector, U.S. Customs Commissioner Robert Bonner “stepped out smartly — there was a lot of envy that he was able to command the respect of so many segments in the trade — and, by being honest with them, received a lot of support,” she said.
Department Juggling. In Tischler’s view, the creation of the Department of Homeland Security was spurred by the accelerating deterioration of the Immigration and Naturalization Service.

“The goals were to integrate functions so the powers-that-be would have cooperation and coordination. The architecture of the new department was as follows: silo 1 was the law enforcement component; silo 2 was FEMA (Federal Emergency Management Agency) and the responders, and so on. What was to go into the first silo? Customs, the TSA (Transportation Security Administration), INS and the Coast Guard,” she said.

Since then, “the Coast Guard has cut quite a deal — they report directly to Homeland Security Secretary Tom Ridge, not to Ridge’s deputy, Asa Hutchison,” Tischler said.

“The goal was to have one reporting chain for law enforcement functions. I personally don’t think that Alcohol Tobacco and Firearms should have gone into the Justice Department. ATF does domestic security internal to the U.S. and should be in Homeland Security,” she said.

“Isn’t the FBI homeland security? I think the FBI should be inside the Department of Homeland Security, not outside,” she said. There was talk of splitting Customs’ operations between Treasury and Homeland Security.

“It would be wrong to send any part of Customs back to the Treasury Department. After Sept. 11, when we were doing white papers, Treasury asked if we could split Customs and we said no, not from a management perspective,” Tischler said. “If, after Sept. 11, we had to ask the permission of another department to do what we did along all of the U.S. borders, it would have been impossible.”

Coordination between trade and enforcement is a necessity to allow cargo and commerce to move in the current environment of terrorist threats. “You have to be cognizant of both in order to get the job done,” she said. “If trade stops, the economy suffers and they (terrorists) win.”

Pinkerton. After Tischler left Customs, she became interested in Pinkerton because “they had a tradition of helping companies cut their losses from cargo theft,” she said.

“When I was a Customs agent, we would ask large shippers, ‘why don’t you do something about the theft you’ve been suffering?’ Their answer inevitably was, ‘well, we’re only losing 10 percent — and we’re a bazillion-dollar company. It costs too much to do security. That view is changing today, not least because the burgeoning losses from theft come off a company’s net, not gross,” Tischler said.

“I knew that Pinkerton had also started C-TPAT work, helping companies qualify for the program,” she said. Companies with security backgrounds should be involved in the C-TPAT arena, she added.

“I’ve tried to expand Pinkerton’s perimeters into port security. My partner here is Barry Wilkins, managing director for cargo logistics. He set the stage for the way we’re growing the business.”

“Bonni has shaken us up, without doubt,” said Jan Johnson, a Pinkerton spokesperson.

Pinkerton, which began operations as a private security firm in 1850, was soon known for sending investigators and detectives-for-hire throughout the country.

Today, “security consulting has become a large part of our business, especially since Sept. 11. We do water risk and facility risk assessments; we have a homeland security section; compliance service for workplace issues; crisis management, including kidnapping and ransom scenarios, and computer forensics, dealing with breaches of intellectual property and electronic discovery,” Johnson explained.
Open for business

New Department of Homeland Security, an integration of 22 separate U.S. agencies, takes first steps

By Eric Kulsch

The Department of Homeland Security officially opened for business March 1 with a mandate to prevent terrorist attacks on U.S. soil, reduce vulnerability and prepare for an emergency response that should become necessary.

The importance of the mission alone has propelled the department near the top of the pecking order among Cabinet-level departments, and reportedly made Homeland Secretary Tom Ridge one of President Bush’s most influential advisors.

Ridge and his staff now have an organizational chart in place, but the heavy lifting of integrating 22 separate agencies, 180,000 employees and disparate information technology systems from elsewhere in the government has just begun. Improving the performance of a dysfunctional agency such as the Immigration and Naturalization Service, changing the culture of organizations from one of turf protection to cooperation, improving morale, and getting everyone on the same computer and e-mail systems could realistically take years.

A top priority for the new department is keeping weapons of mass destruction out of the country by securing the nation’s border and transportation system. The trick, department officials acknowledge, is finding the right balance between beefing up security and allowing the free flow of international commerce. How the department executes its mission will greatly impact the livelihoods of importers, exporters, carriers and transportation intermediaries.

Organization. The largest division within the Department of Homeland Security is Border and Transportation Security, headed by Under Secretary Asa Hutchinson. Synthesized under his command are the former U.S. Customs Service, the Border Patrol and other enforcement division of the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, the Federal Law Enforcement Training Center, the Transportation Security Administration, and the Federal Protective Service.

Department of Homeland Security

<table>
<thead>
<tr>
<th>Agency</th>
<th>Former department</th>
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<tbody>
<tr>
<td>Border and Transportation Security Directorate</td>
<td>Treasury</td>
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<tr>
<td>U.S. Customs Service</td>
<td>Treasury</td>
</tr>
<tr>
<td>Immigration and Naturalization Service</td>
<td>Transportation</td>
</tr>
<tr>
<td>Transportation Security Administration</td>
<td>Agriculture</td>
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<td>Animal and Plant Health Inspection Service</td>
<td>General Accounting Office</td>
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<td>Federal Protective Service</td>
<td>General Accounting Office</td>
</tr>
<tr>
<td>Federal Law Enforcement Training Center</td>
<td>Justice</td>
</tr>
<tr>
<td>Office for Domestic Preparedness</td>
<td>Justice</td>
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Emergency Preparedness and Response Directorate

<table>
<thead>
<tr>
<th>Agency</th>
<th>Former department</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Emergency Management Agency</td>
<td>FEMA</td>
</tr>
<tr>
<td>Strategic National Stockpile National Disaster Medical System</td>
<td>Health &amp; Human Services</td>
</tr>
<tr>
<td>Nuclear Incident Response Team</td>
<td>Energy</td>
</tr>
<tr>
<td>Domestic Emergency Response Teams</td>
<td>Justice</td>
</tr>
<tr>
<td>National Domestic Preparedness Office</td>
<td>FBI</td>
</tr>
</tbody>
</table>

Science and Technology Directorate

<table>
<thead>
<tr>
<th>Agency</th>
<th>Former department</th>
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<tbody>
<tr>
<td>CBRN Countermeasures Program</td>
<td>Energy</td>
</tr>
<tr>
<td>Environmental Measurements Laboratory</td>
<td>Energy</td>
</tr>
<tr>
<td>National Biowarfare Defense Analysis Center</td>
<td>Defense</td>
</tr>
<tr>
<td>Plum Island Animal Disease Center</td>
<td>Agriculture</td>
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Information Analysis and Infrastructure Protection Directorate

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<th>Agency</th>
<th>Former department</th>
</tr>
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<tbody>
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<td>Critical Infrastructure Assurance Office</td>
<td>Commerce</td>
</tr>
<tr>
<td>Federal Computer Incident Response Center</td>
<td>General Services Administration</td>
</tr>
<tr>
<td>National Communications System</td>
<td>Defense</td>
</tr>
<tr>
<td>National Infrastructure Protection System</td>
<td>FBI</td>
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<td>Energy Security and Assurance Program</td>
<td>Energy</td>
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Secret Service

Coast Guard

Some of these agencies have remained intact, while others have been split up according to their functions within two subgroups: the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement.

Customs and Border Protection has 35,000 employees devoted to border inspection functions, including 10,000 U.S. Border Patrol agents, 9,000 former Customs inspectors, 6,000 former INS inspectors and 3,000 Agriculture Department inspectors. The bureau’s commissioner is Robert Bonner, who previously headed the U.S. Customs Service. Jayson Ahern, assistant commissioner for the Customs Office of Field Operations, will carry the same title in the Bureau of Customs and Border Protection and oversee 20 interim directors of field operations.

Department officials contend that border agencies will operate more efficiently under a streamlined chain of command previously controlled by the Treasury and Agriculture departments, and because inspectors and agents at airports, land border crossings and ports now report to a single “port director” who coordinates their activities.

The merger has already resulted in Customs sharing its 7,000 pocket-sized radiation detectors with INS inspectors to screen every visitor for radioactive material.

“Part of the flexibility that the president desired and Congress provided was the ability to take multiple organizations and coalesce them and create stronger entities and more capacity at the borders,” Ridge said in a speech before the National Association of Counties in early March. Immigration and Customs Enforcement has 14,000 employees comprising Customs Service and INS criminal investigators, INS detention and deportation officers, the INS

By Eric Kulsch
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logistics

England and Hutchinson. Assistant have been confirmed by the Senate in the department is that few of Ridge's top trained during the next 18 months to target 700 along the northern border, 100 in the department says it will hire 1,700 additions in year 2003. In a funding fact sheet, the Budget.

The Department of Homeland Security, which will use intelligence to promote research and development programs that can lead to anti-terrorism capabilities.

Homeland Security is organized into four other divisions:

- Emergency Preparedness and Response.
- Science and Technology, which works to promote research and development programs that can lead to anti-terrorism capabilities.
- Information Analysis and Infrastructure Protection, which will use intelligence to assess threat levels and coordinate how that information is shared with state and local governments as well as the private sector.
- Management.

The U.S. Coast Guard is one of three agencies that report directly to the secretary of homeland security, but works closely with agencies in each division.

One factor that could slow some decisions in the department is that few of Ridge’s top assistants have been confirmed by the Senate, except for Deputy Secretary Gordon England and Hutchinson. The Washington Post reported that C. Stewart Verdery Jr., a senior legislative counsel at Vivendi Universal Entertainment and formerly counsel on the Senate Judiciary and Rules committees, has been selected to be assistant secretary for border and transportation security policy.

Budget. The Department of Homeland Security has a budget of $37 billion in fiscal year 2003. In a funding fact sheet, the department says it will hire 1,700 additional inspectors this year, including about 700 along the northern border, 100 in the southwest and nearly 300 at seaports. Nearly 100 customs officers are being hired and trained during the next 18 months to target and inspect suspected high-risk shipments in foreign ports as part of the Customs Container Security Initiative.

Funding includes $57.2 million for 570 new Border Patrol agents and $36 million to upgrade and strengthen border infrastructure to make it more difficult to cross illegally.

Technology investment includes $45 million for non-intrusive inspection systems that can scan rail cars and containers, ultra-sensitive road-side radiation detectors for checking vehicles, isotope identifiers that can distinguish whether radioactive material is the type found in nuclear devices or industrial sources, and acoustic devices that can check anomalies in cargo density using sound waves. Another $331 million will go to the development of the Automated Commercial Environment, the next-generation automated trade support system.

Ridge said in his speech that technology enhancements eventually will allow the department to pre-screen information on 65 percent of containers that come into this country so they can be sorted as low or high risk and physically inspected accordingly.

Critics, including state and local government officials, say the Bush administration has not devoted enough resources to domestic security programs. Three Democratic senators criticized the Bush administration in March for not providing enough federal funds to prevent weapons of mass destruction from being smuggled through U.S. ports and border crossings.

In a joint statement, Sens. Ernest Hollings, S.C., Charles Schumer, N.Y., and Patty Murray, Wash., said the failure to back up homeland security priorities with enough money is particularly worrisome because of the heightened risk that North Korea could sell terrorists nuclear material from a recently reactivated reactor. “I have not seen from this administration the requisite commitment to secure our seaports in the future,” said Hollings, who introduced the first version of the Maritime Transportation Security Act that President Bush signed into law in November. “If they do make that commitment, we will be defenseless from a catastrophic attack.”

Fine-tuning manifest filing

Trade Act may bring time-frame changes for vessel filings. COAC proposes changes for other modes.

BY ERIC KULSCH

A U.S. Bureau of Customs and Border Protection official said the agency would revisit the current 24-hour advance manifest rules on ocean imports, as part of the preparation to promulgate new regulations under the Trade Act of 2002, due out in October.

Charles Bartoldus, director of border targeting and analysis, speaking at the National Customs Brokers and Forwarding Association of America conference in San Antonio, Texas, said the review is necessary as the Trade Act mandates that manifests be electronically filed. Current regulations on manifest filings allow some paper submissions, and the agency’s 24-hour advance requirement, which went into effect Feb. 2, was necessary to ensure accuracy of data, he said.

“The goal of CBP is to use the Trade Act as our tool to refine our current regulations,” Bartoldus said. “The 24-hour rule was based on current regulations and our knowledge (at the time). We have learned a lot. The whole timing in the vessel environment is something that will be revisited as part of the Trade Act.”

In an entirely electronic environment, the agency would assess how far in advance manifests would need to be filed.

Bartoldus said the review would take place as the agency attempts to address technical, operational and competitive problems some sectors are having complying with the 24-hour rule.

Those problems were also the backdrop for a set of March 14 recommendations from the Advisory Committee on Commercial Operations (COAC) on how to implement advance manifest filing for air, rail and truck by Oct. 1, and Bartoldus signaled that Customs could adopt a significant portion of the panel’s ideas.

In Transit. COAC proposed that the security agency scrap controversial plans for collecting cargo information prior to loading, instead suggesting that air, rail and truck carriers and their transportation intermediaries submit the necessary data in most cases while the goods are in transit.

The COAC report indicates that “we have made a lot of progress” since Customs originally proposed some preliminary manifest reporting scenarios for non-ocean trans-

(continued on page 46)
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While it is not directly the 24-hour rule," he told American Shipper and thus makes it possible to consider revisions as required by the Trade Act, "then we can get the trade data it needs from industry for terrorism screening while maintaining the status quo for many Customs operations and requirements — including existing exemptions for manifest data on shipments valued under $2,500, exports to Canada and post-departure filing of exports.

Unintended Consequences. COAC did not propose changing the 24-hour timeline on vessels, but was blunt in its assessment that carriers and NVOCCs are experiencing serious problems dealing with the unintended consequences of the rule.

Under the COAC model, airlines and freight forwarders should electronically file data on cargo shipments no later than one hour prior to arrival, a significant departure from Customs’ preliminary “strawman” proposal for general air cargo carriers and air express companies to submit manifest data eight hours and 12 hours prior to the planes departure, respectively. For flights from Mexico and Canada or with estimated flying times less than two hours, cargo will be held either on the aircraft if it is in route or intact in the carrier’s custody for 30 minutes after transmission of cargo data. COAC said many national, international and internal security measures, such as employee background checks and known shipper requirements, are in place that the extra time is not necessary to target and profile air cargo.

COAC trimmed the Customs’ strawman for railroads to transmit data 24 hours prior to lading for imports and eight hours for exports to four hours in advance of arrival for inbound carloads and one hour for outbound traffic.

Other exemptions apply to carloads picked up by trains moving between railroad hubs and the border from approved shippers in the Customs-Trade Partnership Against Terrorism program and some types of hybrid truck trailer services.

Intermodal ocean containers from Canada would be subjected to four-hour advance notification requirements under the COAC plan.

Customs should reply to the railroad within one hour of data transmission in cases where it decides to issue a message to hold the railcar for further inspection, COAC said.

For cross-border trucking, COAC dropped Customs’ four-hour filing timeline to no more than 30 minutes for imports. Under the proposed model, carriers participating in the Border Release Advanced Selectivity System (BRASS) line release and Free And Secure Trade (FAST) expedited clearance programs would transmit manifest data 15 minutes before the truck arrived at the border. Carriers that use the Pre-Arrival Processing System’s barcode system to link their vehicle to the load and all declarations filed through the exporters Automated Export System will require 30 minutes pre-notification.

COAC said the exclusion of postal services from the advance transmission requirements represents a security loophole and gives the U.S. Postal Service a “distinct competitive advantage.” In the report, COAC said Customs should “require all goods shipped into the United States be subject to the detailed manifesting requirements and be included in the Customs and Border Protection mandate of 100 percent automation. Mode-specific subcommittees headed by COAC members and comprising outside advisors from many industry sectors technically drafted the recommendations, which COAC cannot officially adopt under federal sunshine laws until its next public meeting, scheduled for April 4 in Washington.
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The energy enigma

Oil-dependant industry stalled by disjointed energy, transportation policies.

BY THEODORE PRINCE

Sixty-one years ago this month, on April 27, 1942, President Franklin Roosevelt announced a seven-point economic mobilization plan for World War II, which included higher taxes, wage and price controls and the rationing of “all essential commodities which are scarce.” The intent of these controls was more than simply to guarantee a smooth flow of supplies to the war effort. Roosevelt felt that rationing ensured a chance for the entire nation to experience “equality of sacrifice.”

In the wake of the catastrophic events of Sept. 11, 2001, President Bush made no similar appeal to our nation for shared sacrifice. As I write, our nation has not yet launched its imminent attack on Iraq. Today, while nations have stood by our country in this drama, many throughout the world view our dispute with Iraq — despite protestations to the contrary — to be really about the oil.

In a column written last summer, New York Times columnist Thomas Friedman outlined the politics of oil. He described the Islamic world’s view of the United States as needing to maintain its monopoly of nonrenewable energy by keeping collaborators in power — “feudal powers trying to stave off the march of democracy.” This theory is certainly supported by the fact that, since 9/11, the current administration has done nothing to make the world less dependent on oil.

Almost six months after Friedman’s column, President Bush addressed these concerns in his State of the Union address, with a sweeping vision of democratic change, including a proposed $1.2-billion of research funding for hydrogen-powered automobiles. This gesture would appear to align the administration more closely with environmental groups, but the “green” reaction has not been positive. The reasons demonstrate the complex nature of the problem.

For hydrogen fuel cells to be a viable alternative, complicated engineering issues (e.g., vehicle range and power) must be overcome. Based on recent product introductions by Toyota and Honda, the technology is moving towards commercial viability. Yet, as is the case with traditional petroleum products, hydrogen extraction and distribution are problematic. According to the Department of Energy, 96 percent of hydrogen is produced from natural gas, oil and coal. These are the same fossil fuels we struggle to produce today. Also, to avoid the time and expense of creating a new distribution infrastructure, the administration has suggested using the existing fuel distribution network for hydrogen.

For those of us in the transportation industry, oil is a critical factor of production. According to David Greene of Oak Ridge National Laboratory, the U.S. transportation industry is the largest in the world — consuming almost 20 percent of the world’s oil production. The annual movement of 5-trillion passenger miles and 4-trillion tons-miles consumes almost 70 percent of U.S. petroleum. Transportation is 96 percent dependent on petroleum. In addition, most petroleum consumed comes in the form of high-end refined products.

Energy policy today is increasingly interwoven with economics, environments and international politics. In the absence of sustained growth, economics has taken on a greater role. Many policymakers view energy security as an economic security issue (i.e., The government should protect the country from economic damage caused by oil price spikes — such as took place in 1973 and 1979). Meanwhile, the cost of petroleum continues to rise, due to war concerns and turmoil in Venezuela.

To help maintain reliable supplies in such circumstances, Congress established the U.S. Strategic Petroleum Reserve (SPR) in 1974 — after the first oil crisis. It currently holds almost 600 million barrels, and President Bush has announced his intention to raise the inventory to 700 million barrels. Increased supply is one thing, but clear doctrine on how — and when — to use it is another. Although the SPR has been accessed only four times in its history — during the Gulf War, and three times during the Clinton regime — the process is seen by many as erratic and controversial.

The other suggested solution to oil spikes is to reduce U.S. independence on foreign oil — from 56 percent imported today to an intended 45 percent by 2012. President Bush’s energy plan implies this can be accomplished by accessing domestic oil, gas and coal production. It also calls for an increase in nuclear power. All told, 1,300 new power plans are to be built by 2020.

Many of these proposals face opposition from environmental groups. Part of the debate centers around the damage that will be done to protected areas. The debate over drilling in the Artic National Wilderness Refuge (which has also been sold as a jobs program) is one of the most acrimonious. But many environmental groups feel there is a better way to meet America’s energy needs. For example, the Sierra Club advocates a policy of energy efficiency, expanded use of renewable energy, and power generation conversion from coal power to natural gas. Such a solution would likely address the multiple challenges of fuel, clean air and global warming.

Two years ago, when Vice President Cheney outlined the Bush administration’s energy plan he stated, “the aim here is efficiency, not austerity.” He went on to add, “conservation may be a sign of personal virtue, but it is not a sufficient basis for a sound, comprehensive energy policy.” This statement does not account for the fact that per-capita consumption of energy is less today than it was in 1979. This is partially the result of the economy’s transformation from heavy manufacturing to services, but conservation and efficiency have also had some beneficial impact.

The nexus of energy and environmental issues confront all Americans. The transportation industry faces an added challenge. The trucking industry has been engaged in a long-running dispute with the government over diesel engine emissions. Support (or lack thereof) for intermodal transportation alternatives also touch all these issues. Since funding for these initiatives is always challenging, additional fuel taxes are always perceived to have two benefits. Higher prices can depress demand, while tax revenues could be directed to infrastructure.

Transportation — and our mobile economy — run on energy and impact our environment. And they are key components of our nation’s economic success. The disjointed methods used today to create transportation policy — primarily by mode — are exacerbated because transportation and energy policy, formed in separate vacuums, must be modified to suit the times and help us rid them out.

Theodore Prince (ted@oax.com) is senior vice president of marketing and sales for Optimization Alternatives Inc.
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In logistics and other service industries, the priority remains to deliver a dependable service at a competitive cost, said the senior management of GeoLogistics.

“After 25 years in the industry, common sense tells me that what customers are buying is your performance,” said Bill Flynn, president and chief executive officer of GeoLogistics. Flynn, who was appointed to head the Santa Ana, Calif.-based forwarding and logistics company last summer, came with a background of hands-on management.

GeoLogistics monitors its service delivery performance closely, he said.

“GeoLogistics is a global player in the freight forwarding and freight management industry,” Flynn said. “Our strategy is a back-to-basic strategy.” He stressed the importance of providing the service committed to the customer, and at the lowest possible cost to meet the company’s commitments.

As a business, Flynn said GeoLogistics must first do what it is good at, and then look for opportunities for “adjacent space” — additional activities that it can add to its portfolio of services.

“What we do is freight management,” he said. “It could be a traditional freight forwarding service proposition moving freight from A to B, or the provision of value-added services prior to, or after the shipment.”

Flynn, an executive with experience of the maritime, railroad and intermodal industries, doesn’t fall for many of the buzzwords that are overused by many logistics service providers.

“We’re moving into providing more value-added services,” Flynn said. “I shy away from saying more supply chain management or 4PL services — these terms are not well defined.” When Flynn worked for Sea-Land Service in Asia, he was on the boards of several logistics and cargo consolidation operations and joint ventures affiliated with the former container shipping line.

Flynn’s management team includes Tom Escott, regional CEO of the Americas region, who was formerly president of Caliber Logistics and founder of ShipLogix.com. Wolfgang Hollermann is regional CEO of the Asia-Pacific region. In February, GeoLogistics appointed a new CEO for its Europe/Middle East/Africa region — Karl Nutzinger, a former senior executive of the German forwarding group Schenker.

Disposals, Range of Services. After a series of acquisitions in the 1990s and a subsequent financial restructuring in 1999, GeoLogistics has refocused the range of its activities. The company sold most of its U.S. domestic services to FedEx in 1999, and now provides domestic services in America through partnerships with other companies. In 2002, GeoLogistics also sold The Bekins Co., a household goods relocation company.

“GeoLogistics went through some restructuring and change,” Flynn said, referring to the organizational revamp of the company on 1999-2000. “We are very well positioned now. Our business is growing.”

GeoLogistics looks for customers “with a mix of ocean and air freight,” Flynn said. Its services range from traditional freight forwarding and distribution through complex inventory control and other programs.

The company provides services in some 140 countries, through a network of company-owned offices, partners and alliances.

The group remains a non-asset-based provider. But it will lease warehousing space and make commitments on transportation.

To provide value-added services such as packing and labeling, GeoLogistics also has partnerships with specialized providers to whom it outsources certain tasks.

“We’re less of a commodity when we have a close relationship with, and are integrated more closely with our customers,” Flynn said.

GeoLogistics serves companies from many industry sectors, ranging from computers and electronics to toys, automotive parts and life sciences.

International Environment. Does Flynn see a recovery of the forwarding market? “The forwarding recovery is highly correlated to freight flows,” he replied.

Like other businesses engaged in the movement of international freight, GeoLogistics faces an uncertain international environment. “It’s a curious time that we’re in,” Flynn said. He cited the potential conflict in Iraq, high oil prices and the economic slowdown in the short term.

But Flynn has forecasts that suggest the transpacific freight market for air freight will expand about 6 percent and ocean freight will grow 5 percent. He also said freight management is an industry with “an inherent, natural growth.”

“Trade is globalizing,” he said. “Customers are looking for strategic relationships with service providers.”

“China is a very, very important market for global trade,” he added. Last October, GeoLogistics obtained a license to operate as a non-vessel-operating common carrier in China.

Outside North American, Flynn said GeoLogistics is well positioned in the Indian Subcontinent, Southeast Asia and Europe, among others.

“We are looking to extend our presence ... in central Europe and Mexico,” he said. Because the former European forwarding group Lep formed the nucleus of what is GeoLogistics today, the company has traditionally had substantial activities in Europe. Some 45 percent of the revenues of the group are generated in Europe, against roughly 30 percent for each of the North America and Asia regions.

Today, the main stockholders of GeoLogistics are Questor, William E. Simon & Sons and Oaktree Capital Management. William E. Simon & Sons, a private equity and merchant bank company run by former U.S. Treasury Secretary William E. Simon and his sons, was engaged in the initial acquisition of Lep in the mid-1990s and the formation of what became GeoLogistics.

GeoLogistics has annual revenues of about $1.2 billion, and employs some 6,000 staff worldwide.
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NTE sticks with technology
Company survives through expanding beyond transportation exchange.

BY ROBERT MOTTLEY

NTE got its start in 1994 as an electronic truckload-matching service, matching shippers’ loads and trucks’ capacity through a proprietary computer network.

Originally called National Transportation Exchange, NTE adapted to the Internet in 1998, but faced an even greater transformation to survive the dot-com fallout.

The Downers Grove, Ill.-based company creates application platforms for individual users or private groups of users to supplement NTE’s public exchange, which continues to be a forum for spot-market transportation.

“We started with the idea of creating a marketplace for the broader transportation community, and building a robust technology around that,” said James K. Davidson, president and chief executive officer of NTE, in an interview.

“Some early Internet models tried to disintermediate relationships, reflecting a genuine belief that ‘my software can do it better than two people talking.’

“In this environment, relationships really do matter,” Davidson said, which was why there was no wide acceptance, or understanding, of how a private deal could be conducted on a public auction.

In fairness, “the public auction was maligned because relationships that did matter were taken off to the side in private communities. The tough thing there was to try to scale those private relationships in any kind of meaningful way,” he said.

NTE saw the potential of targeting software to such private communities. “Some were free-form, others appeared more designed to a purpose,” he said.

“About a year ago, we decided to take what we had learned from the technology we had built for a public environment and create something more fitting for private communities. We would focus not on finding capacities at lower prices, which is really what the public marketplace was about, but on maximizing shipper-carrier relationships,” Davidson said.

“That meant making sure you had complete visibility on who’s getting what loads at what prices — in essence, standardizing the transactions or rules of engagement,” he said.

Essentially the idea is to exhaust all options within a private community of relationships before going to a public exchange, he added.

“The fundamental flaw in what we had done before was that we tried to force people into a public environment before they really had gone through all of the options within their own network,” Davidson said. “Our premise now has been to help clients create a network, establish relationships, overlay business rules on top of those relationships, and then let technology function.”

NTE’s original venture capitalists “remain with us, and we believe we will create a significant financial event for them sometime in the near future,” Davidson said.

“Will they let us run another four or five years without a payoff event? Absolutely not. They need to create a return within a time-definite cycle.”

NTE has three technology products: NTE Trade, NTE Manage and NTE View.

“Under NTE Trade, we have NTE Bid, but the bid piece goes directly into execution. NTE Trade and NTE View are completely proprietary — built, managed, developed and owned by NTE,” Davidson said.

He didn’t deny that NTE Trade and NTE View could be the cornerstones for a further metamorphosis of the company if NTE’s venture capitalists were to yank the rug.

NTE uses a commercially available transportation management system (TMS), which is made by Logility, “as one of our engines behind the optimization of NTE Manage. Obviously, we have usage and marketing rights to that,” Davidson said.

“Mid-sized or smaller companies which don’t own a transportation management system, or don’t necessarily want to invest in one, can use our Logility-sourced TMS and pay for it in our subscription, pay-as-you-go pricing model,” he said.

“Our larger customers have their own TMS programs, and we just bolt Trade and View onto their systems. We didn’t want to try to unseat something for which someone has paid millions of dollars,” Davidson explained.

NTE’s systems can be programmed to flag hard or soft errors in order cycles as mistakes are caught and rejected.

For example, a hard error is one that has to be corrected before the ordering process can continue. “If I’m shipping 1,000 cartons of widgets and a customer only ordered 100, when I submit my 1,000-carton order, a red-flagged reminder comes back saying, ‘you’re way over what your allocation should be. Are you sure you meant 1,000?’ To go on, I’d have to manually override and explain the difference,” he said.

A soft error is one that a vendor or shipper can adjust without stopping an order cycle. “I might have put in 105 cartons of widgets instead of 100,” Davidson noted. “My prior history with a certain vendor could be such that the vendor would say, ‘I’ll give them a 20-percent variance,’ so he’ll send me the extra five cartons, for which I can adjust readily through my inventory.

“Hard errors are stopped — you have to fix them before going any further. Soft errors are flagged, but the process continues,” he said. A user can determine what is ‘hard’ or ‘soft.’ ”

For Target Corp., NTE has created a network that operates from the receipt of purchase orders through the transport of product, creating a private community of connected vendors.

“When you light these systems up, once they’re turned on, what you thought you knew about your supply chain is completely different from the reality they show,” Davidson said.

For Target’s Steve Carter, director of domestic transportation, “the greater value comes in the form of enhanced visibility and control of our supply chain.”

NTE has 38 full-time employees working in Downers Grove, most of them software designers. “We’re happy to remain on the technology side of the curtain. We don’t offer logistics services. We don’t want to roll up our sleeves and help do our clients’ business,” Davidson said.

He acknowledged that stresses and pressures of the day are keeping logistics-minded CEOs and CFOs from “looking at us and other technology companies that are keeping traction and staying in the game.

“The truth is, we’re not all dying, and we’re not all bad,” Davidson said. “I would say, ‘this is the time to dip your toe in the technology waters. You don’t have to write big checks to see IT improvement.” ■
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IOgistics’ no-frills TMS

Transportation management system performs for Harley Davidson, KI, others.

By Robert Mottley

The logistics software market is brimming with transportation management systems (TMS) that range from multimillion-dollar installations to less robust applications.

“Shippers that need a TMS usually ask themselves, ‘how much of a burden is this going to be?’” said Larry Sur, chief executive officer of IOgistics, a Green Bay, Wis.-based company that has supplemented its contract logistics services with a TMS called ShipIO.

“There are two components to any TMS,” said Steve Silvis, director of engineering and technology at IOgistics. “The first is decision support. The other is data management.

“Optimization is the core of decision support: deciding what LTL loads to put together. A user with 200 orders in front of him or her is looking for the lowest-cost carrier to consolidate LTLs in the most logical way,” Silvis said.

Data management refines order fulfillment, Silvis said. “What kind of data on that order does a customer want? What business unit did it come from? What is the product? What are its dimensions?”

“We looked at that dilemma through the eyes of our likeliest users,” Sur said. “Most of our customers have less-than-truckload shipments, which need to be consolidated through an optimization system. To that, we’ve added a rating engine for assessing carrier rates. We also factor in the highway system of the U.S., determining which shipments should go truckload multi-stop, LTL, or full-truckload.”

KI (formerly Krueger International), a provider of office furniture, said, initially used IOgistics to do some third-party parcel negotiating on a gain-share basis, said Gary Van Handel, director of supply chain management.

“They saved me in the range of 17 percent, enough money to take that savings and put it into ShipIO, which now saves me 7 to 10 percent on my outbound freight,” Van Handel said.

More than 80 percent of KI’s shipments are LTL, and the company uses ShipIO to consolidate those shipments into truckloads, Van Handel said.

“Some products are easy to understand in terms of cubic dimensions. Because our products range from office chairs to bookshelf cubicule modules, we don’t have a standard pack size. That makes it difficult to come up with the cube dimensions you need for any kind of consolidation system,” he said.

“IOgistics spent hours of time with us to get rules of thumb we could use. They said, ‘if you can figure it out in your heads, we’ll show you how you can figure it out systematically,’” Van Handel said.

“They were able to provide me with a solution set that was affordable, and do it in a way that I could see the benefit,” he said. In fact, KI’s deal with IOgistics including holding back portions of their payment until ShipIO showed confirmed savings.

“I don’t think the ShipIO solution set is so much grander than others on the market, but its ease of implementation and price were such that I could afford it and not have to take as much risk,” Van Handel said.

While there were no major issues, “there were some problems with us getting the required information together for the data management component, but IOgistics stuck with us, by phone and e-mail every day,” he said.

IOgistics is now KI’s “primary outside source for intellectual capital when it comes to logistics. They are the first place I go,” Van Handel said. “That said, they don’t tell me my business, or come any closer than I need them.”

Motorcycle manufacturer Harley-Davidson Motor Co. in Milwaukee uses IOgistics “to manage reverse logistics programs,” recycling empty motorcycle pallets through a nationwide network of 650 dealers, said Allen Clem, director of global logistics planning and engineering.

“ShipIO is practical and scaled very well for the job. It’s not a system that is very robust in terms of cost or functionality,” Clem said.

ShipIO can be installed in a month, “with rates put in and users properly trained,” Silvis said. IOgistics collects initial licensing fees for ShipIO that range from $75,000 to $125,000, paid either one time up front, or over a period of time.

After that, customers pay maintenance fees that run 10 to 15 percent of the initial cost each year, Sur explained.

As carrier rates inevitably change, “we’ve agreed that as part of our maintenance fee, we will make modifications in the rates,” Silvis said.

“If our software was to short-pay a carrier, they are going to come back at us. If our software was to overpay a carrier, then we haven’t done any good for a shipper,” he explained.

IOgistics software, which the company develops in-house, can be sold individually, or as part of a package of logistics services. “Half of ShipIO’s customers want just the software, and half want it integrated with other things we do,” Silvis said.

IOgistics, which has 25 employees on staff and 45 revenue-producing customers in its third full year of business, is non-asset based, Sur said.

“We act as a third-party provider, managing transportation and distribution for a customer. We also work on an ‘in-source’ basis, putting our people on site when customers ask us for help with a particular supply chain problem,” Sur said.

“We recommend where customers should locate manufacturing facilities or distribution centers. We’ll negotiate with their carriers for optimum rates and tariffs, and also do complete parcel management,” Sur said.
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Savi-faire

Company leverages military links for commercial business.

By Robert Mottley

In the hurly burly of disparate voices hawking security solutions, Savi Technology, a provider of security, supply chain asset management and collaboration software, has held its own.

“Their equipment does the job for which it was designed, but I’m impressed equally by their networking,” said Adrian Gonzalez, senior analyst, supply chain, for ARC Advisory Group in Dedham, Mass. “They figured early, correctly, that no single technology provider can prevail in that market. The key is building relationships with other companies, collaborating to survive.”

“There’s been a lot of attention given to safeguarding and monitoring containers since security has become such a paramount concern. Some of the current buzz and hype is just that, since in the on-rushing pursuit of the security dollar, both entrepreneurs and crooks follow the gravy,” he said.

“I feel personally that national security is not about trying to feed at the federal trough,” said Vic Verma, Savi’s president and chief executive officer. “In the end, it’s about deploying technology and solutions to solve a problem.”

Savi focuses “on tracking and managing assets — which to us mean conveyances, such as containers. We use barcode to track items, as well as transmit data from bills of lading and cargo manifests through our software,” Verma said.

The company’s core offering is an “electronic seal” or radio frequency transponder, about the size of a first-generation cell phone, that fits between brackets on container doors. The device contains a sensor that will detect if anything goes amiss after the container has been sealed. This basic “tag” costs about $25, Verma said.

The transponder is part of Savi’s 600 RFID (radio frequency identification) system. Each transponder contains an identification code and security procedures for the container at hand. “Readers” obtain the transponder’s data, including its location, identity and security status, information, which is transmitted wirelessly to a software platform called Savi SmartChain. Finally, “signposts,” fixed, mobile, or hand-held, located at strategic points, determine the location of a container.

“The manifest for the container is put into our database at the point of origin where the container is loaded, and also onto our sealing device,” Verma said. “Our system can then interface with the management information system of the guy packing the container. Somebody who is certified can go into the container and verify its contents. If the contents match the manifest, he presses a button on a hand-held unit and seals the container.”

Savi’s tracking, monitoring and data components, through a network of collaborators, will also support X-ray scanners and radiation emission detectors made by other companies.

Ann Scotti, product manager, Automatic Identification Technology (PM AIT), for the Department of Defense at Fort Belvoir, Va., said, “the Defense Department has a line of Savi products since it competitively awarded Savi a $70-million contract in 1994, and follow-on contracts up to the current year, to supply and install its RFID hardware and software for item-level tracking of containers shipped to military installations around the world.

“Current contract products include radio frequency transponders or tags, active fixed and mobile interrogators, retrievers, mounting kits, radio frequency relays, links and software,” Scotti said.

During the first Gulf War, the U.S. Army shipped 40,000 containers to the Persian Gulf and then had to open 25,000 of them to see what was inside. The Army estimated that had an effective way of tracking the location and content of the containers been available, it could have saved $2 billion.

“Most of the military containers now positioned or on their way to the Gulf region have been fitted with Savi’s systems,” Verma said.

“Thanks to hand-held scanners and RFID tags on every air pallet and cargo container, logisticsian can keep track of cargo every step of the way,” said Corrina Panduri, project leader for the product manager, Defense Wide Transmission Systems, in the DoD. “We have no more mystery containers.”

The next marketing area for Savi is general commercial containers. “We are making sure that our technology is known to the Department of Homeland Security,” Verma said.

Gary Gilbert, corporate advisor for Hutchison Port Holdings, said, “we are using Savi’s transponders, readers, and associated software on our commercial containers in three ports: Felixstowe, Rotterdam, and Hong Kong.”

“There’s been no geographical hindrance to the technology. We are satisfied with its performance in each of the ports,” Gilbert said.

Hutchison Port Holdings selected Savi’s system “because it’s the standard the Department of Defense uses,” he said. “Word of mouth counts. In fact, I first heard about Savi from a former Defense official.”

Jeff Krawczyk, vice president and chief operating officer of Flight Explorer, a company in Arlington, Va., that markets aircraft tracking systems, said, “we use Savi’s systems for air cargo containers. We’ve had no problems.”

Sunnyvale, Calif.-based Savi was started in 1989. Texas Instruments acquired Savi in 1995, and then sold it to Raytheon Corp. in 1997. In 1999, four venture capitalists joined with Verma and others to buy Savi from Raytheon.

Now privately held by its investors, Savi has received four rounds of financing totaling $108 million.
Brokers should get share in bankruptcies

When an importer files for bankruptcy protection, customs brokers who paid estimated duties to the government on that importer’s behalf aren’t likely to see that money returned.

This isn’t fair, especially to the small brokers who are already struggling to make ends meet, and who help ensure that the federal government receives its valuable revenue.

The common practice of extending credit to pay duties essentially turns the broker into the importer’s banker. Ten years ago, many brokers could afford to extend credit. But as competition has increased, profit margins for customs entries have decreased.

Brokers should have priority during bankruptcy proceedings for repayment of money they’ve advanced to pay U.S. Customs. Instead they’re left in line with other low-priority creditors unlikely to see a cent.

The current bankruptcy law, however, gives specific priority to claims that are made by Customs for unpaid import duties within a specified period before the date of filing the petition.

The National Customs Brokers and Forwarders Association of America wants to change the bankruptcy law to give brokers a better chance to receive compensation for lost credit. The Washington-based group, and its champion in Congress on this issue, Sen. Lindsey Graham, R-S.C., of the Senate Judiciary Committee (and former four-term representative in the House), will push for an amendment to bankruptcy law this year, called the 2003 Customs Business Fairness Act.

If passed, the duties that are paid by brokers would be recovered under a so-called “Tenth Priority.” The proposed amendment states: “Tenth, allowed unsecured claims of customs brokers (as defined in section 641 of the Tariff Act of 1930) for duties, taxes, or other charges paid to the Customs Service of the United States on behalf of the debtor arising out of the importation of merchandise entered for consumption within one year before the date of the filing of the petition.”

The NCBFAA is also looking for a sponsor in the House for the proposed legislation. The House leadership has expressed interest in pursuing bankruptcy reform again this year.

This isn’t the first time the NCBFAA has tried to change the bankruptcy law for brokers. In 1992, the association unsuccessfully sought protection through a Customs regulation that would protect a broker who receives money for duties before an importer files for bankruptcy. The bankruptcy courts have disregarded the regulation.

In 2000, Congress passed compromise bankruptcy reform legislation, which President Clinton vetoed. Congress has since failed to move this type of legislation forward due to controversial non-bankruptcy-related additions. Last year’s bankruptcy reform legislation excluded the broker amendment altogether.

Creating legislation is the easy part in Washington, passing it is more difficult. “It’s a matter of persistence,” said Jon Kent, Washington representative for the NCBFAA.

What needs to be made clear to Congress and the administration is that brokers aren’t necessarily to blame for their bankruptcy woes. Extension of credit to importers by brokers is common practice in the industry to retain business and is legal under current trade law.

Duties must be paid to the government within 10 days of release of the goods. The arrangement, which uses the government’s Automated Clearinghouse system, speeds cargo release. It’s estimated that collectively brokers remit to the government more than $10 billion a year in duty and fee payments owed by importers.

For now, lawyers recommend the best way for brokers to protect themselves is to take steps to avoid the appearance of getting preference over other creditors. Bankruptcy judges frown upon debtors singling out favored creditors for payment. Even if the importer pays a broker before filing for bankruptcy, the broker may be ordered to return the money for a bill, which is not current, received within 90 days of the filing.

More so, protection from delinquent importers requires brokers to use their common sense. Brokers should simply know with whom they’re doing business and pick their customers carefully.

In a period when time is of the essence in business and margins are tight, most brokers no longer meet importers for lunch and drinks, or routinely visit their operations.

Brokers could use credit-reporting services to learn about the financial stability of existing and potential clients. One of the biggest credit-reporting firms serving small businesses is the National Credit Group (www.ncgcredit.com), which uses the databases of Dun & Bradstreet and Experian.

Some brokers have resorted to the more questionable practice of forcing delinquent importers to pay their bills or withhold their cargo. Others may attempt to directly confront the importers at their premises, which could be dangerous if the relationship has already turned hostile.

What brokers shouldn’t do is conduct an illegal act to get importers to pay. Customs broker Hector Caballero of Laredo, Texas, recently learned this the hard way.

U.S. District Judge Keith P. Ellison found Caballero guilty of forging and using a Customs form to collect a business debt. Caballero, 40, pled guilty to faxing a “notice of penalty” form to Federico Salcedo, a forwarder in Nuevo Laredo, Mexico. Caballero’s form contained a notice of penalty of $1 million, with a mitigation of $3,000 upon payment within 30 days of the notice.

The “notice of penalty” pertained to a shipment of Salcedo’s clothing goods covered by a carrier bond of Caballero Brothers Inc., a licensed customs broker and general order warehouse in Laredo.

“The document which Caballero faxed was fraudulent,” said Michael Shelby, U.S. attorney, in a statement. “Caballero took a notice originally issued to his own company, Caballero Brothers Inc., in the year 2000, and altered it to make it appear to have been issued in 2002.”

Caballero, who will be sentenced May 16, now faces a maximum penalty of three years in federal prison and a $250,000 fine.

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

“It’s a matter of persistence.”
Devil’s in the EAA details

Exporters urged to speak out on proposed regulations that could harm industry.

By Chris Gillis

The Cold War may have ended more than a decade ago, but the U.S. government’s export controls still largely reflect that era.

An ad hoc group of trade associations, along with certain lawmakers and Bush administration officials, want to modernize the nation’s aging export control regime this year, an effort that’s been repeatedly stalled since the mid-1990s.

“The issue of export controls has never broken down along political party lines,” said Edmund B. Rice, president of the Washington-based Coalition for Employment through Exports. “It’s broken down on national security vs. international trade lines. These two view points have been evenly balanced in the Congress for years.”

The Export Control Working Group, which Rice also heads, hopes to use its influence on Capitol Hill to tip the balance in favor of more liberal export controls. There are about 160 trade associations, corporations and law firms involved in the group.

“No one in the industry is suggesting that we abandon regulations to keep certain technology out of the hands of rogue nations and terrorists,” Rice said. “But U.S. policies must be more consistent with other industrialized countries.”

“We have to harmonize our export system with other governments, even if that means we have to let go some of the long-held, outdated policies of whether who should or shouldn’t have access,” he said.

Industry representatives believe that failure of companies and trade associations to partake in export control legislative reform in the coming year could harm the U.S. export business for many years to come. Some members of Congress have already signaled that they support more stringent export regulations.

“This is an issue that the industry cannot afford to be passive about,” said Paul Freedenberg, vice president of government relations for the Association for Manufacturing Technology, and underssecretary at the U.S. Commerce Department during the Reagan administration.

William Reinsch, president, National Foreign Trade Council

“Not only are the vultures circling, they’re now starting to land.”

William Reinsch, underssecretary for the Commerce Department during the Clinton administration and now president of the Washington-based National Foreign Trade Council, warned the industry in an outgoing speech more than two years ago that some members of Congress might clamp down on exports. “Not only are the vultures circling, they’re now starting to land,” he said in a recent interview.

Export Controls. The U.S. government has monitored the exports of so-called dual-use items, including advanced computers, telecommunications equipment, machine tools, composite materials, certain chemicals, biological agents, police and surveillance equipment, testing devices, optics, and aerospace technology, which require export licenses before they’re shipped abroad.

The multilateral control regime was largely successful against the Soviet Union, Rice said. But it came unraveled after the Soviet Union’s demise in the early 1990s. By 1994, the Clinton administration and members of the Senate Committee on Banking, Housing and Urban Affairs were faced with overhauling the Export Administration Act (EAA).

Current events and philosophical differences in Congress, however, prevented an EAA reform bill from going forward. For the past seven years, Presidents Clinton and Bush have used their powers under the International Emergency Economic Powers Act to keep the 1979 EAA alive until new legislation is enacted.

The closest attempt at establishing new EAA legislation came on March 22, 2001, when the Senate Banking Committee, with the endorsement of the Bush administration, approved new EAA legislation (S.149).

“Today, we are closer to success than we have ever been,” said then Senate Banking Committee Chairman Phil Gramm, R-Texas, after the legislation’s approval. “It is a testament to this committee that if we decide that we’re going to get something done and work with everybody in goodwill, we can get something done.”

While the industry was lukewarm to the legislation, it was nonetheless considered a big step above the 1979 Act.

Major changes in the 2001 EAA included:

• A risk analysis of proposed exports and “transparency and accountability” to Congress and the exporter.
• Presidential “special control” authority for cases involving national security and international terrorism, in addition to international commitments made by the United States.
• Enhanced control for the president to impose controls on any item, including parts, for national security purposes.

The bill also increased penalties for corporations to $5 million per violation or 10 times the value of the export, which ever is greater. Criminal penalties for individuals would be raised from $250,000 to $1 million, and civil penalties would be increased from $10,000 to $500,000. The 2001 EAA also called for an increased budget for enforcement activities, including $4.5 million to conduct end-use checks.

The industry appreciated the legislation’s call for a more efficient export licensing process, and more emphasis placed on align-
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ing U.S. export controls with multilateral export control regimes, such as the Wassenaar Arrangement, which controls conventional weapons; the Nuclear Suppliers Group; the Missile Technology Control Regime; and the Australia Group, which relates to biological and chemical weapons.

While the EAA 2001 showed the most progress toward export control reform in years when it passed the full Senate, lawmakers in the House kept it from going forward.

Enzi’s Rewrite. Sen. Michael Enzi, R-Wyo., who, along with Gramm, was a principal author of the EAA 2001, said he plans to introduce a revamped export control bill in the 108th Congress.

“S.149 was a good bill that would have put into place an effective framework for controlling exports and would have substantially increased penalties to deter illegal exports,” said Enzi in mid-December. “However, there are areas of the old bill that can be enhanced to create a new and improved EAA.”

Enzi said the formation of the new Homeland Security Department might impact the final legislation. The senator also wants to review foreign availability and mass-market status.

“Investigating ways to incorporate foreign availability and mass-market status as criteria for controlling goods on the Commerce Control List may help streamline the licensing process and save time and money,” Enzi said.

Enzi also plans to make the provisions concerning multilateral export control regimes more prominent, indicating that consolidation of the various regimes and arrangements may enhance the value of their membership.

The Bush administration continues to support reform of the EAA. Changes in technology and expanding international trade have made it increasingly difficult for the Commerce Department’s Bureau of Industry and Security (formerly Bureau of Export Administration) to ensure that “sensitive” items do not end up in the hands of rogue nations or terrorist groups.

“Vast amounts of technology — including sensitive information for the design or development of weapons of mass destruction — can be transferred virtually anywhere in the world by the click of a button,” said Kenneth I. Juster, undersecretary of Commerce at the Update 2002 Export Controls and Policy Conference in Washington in mid-October. “And the sheer volume of global trade is growing exponentially, as more and more countries come to the realization that free trade and open markets are the surest path to economic prosperity.”

“Unfortunately, our export control legislation has not changed at the same pace,” Juster added. “The bureau has the difficult mission of administering and enforcing export controls in a way that protects U.S. national security, but does not impede legitimate exports or unreasonably interfere with U.S. commercial interests.”

Juster said that legislation, such as the former S.149, would help exporters by providing “transparency, predictability, and time limits in the export licensing process.”

“It sets forth procedures for U.S. companies to seek to decontrol mass market items and items that are readily available from foreign sources. It thus enhances the ability of U.S. companies to compete for ‘legitimate’ international sales on a fair and equal footing with their foreign competitors,” Juster said.

Some changes have been made by the Bureau of Industry and Security to ease the licensing burden for U.S. exporters of general-purpose microprocessors. The new rule applies to most microprocessors in the range of 6,500 MTOPS (million theoretical operations per second), and is in line with agreement reached by the United States during the meeting of the Wassenaar Arrangement members in February 2002.

Eyes Wide Open. The Export Control Working Group is under no pretext that the battle to reform the EAA for the betterment of industry will be easy. It may be even more difficult to accomplish in the post-Sept. 11, 2001 political environment.

With Gramm no longer in the Senate, Enzi’s new EAA legislation is also expected to face strong opposition, as well as competing bills, in both the Senate and House. Sen. Richard C. Shelby, R-Ala., Senate Banking Committee chairman, has already mentioned plans to tighten export controls. Other lawmakers with similar views to Shelby include Rep. Duncan Hunter, R-Calif., chairman of the House Armed Services Committee; and Rep. Henry Hyde, R-Ill., chairman of the House International Relations Committee.

One of the sticking points for lawmakers is future trade with China. The United States is China’s second-largest trading partner and the largest non-Chinese investor. U.S. shippers have become increasingly dependent on shipments to and from this developing market. But concerns remain about China’s weapons exporting activities.

U.S. companies, meanwhile, continue to spend millions of dollars to cover the administrative costs to understand and comply with the current export control regulations.

The Export Control Working Group has stepped up its lobbying activities on Capitol Hill in recent weeks.

“Make no mistake, we in the industry have a large education exercise ahead of us,” said an executive of a large U.S. energy technology developer and a member of the working group. “This stuff is complicated, dark, arcane and extremely political.”
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FORWARDING / NVOs

Brokers seek inclusion in 24-hour rule

NCBFAA proposes ‘Pre-shipment Entry Declaration’ as alternative to AMS.

By Chris Gillis

With the import industry struggling to meet the U.S. Bureau of Customs and Border Protection’s new manifest regulation, the nation’s customs brokers believe they have a way to help alleviate some of the pressure.

The Washington-based National Customs Brokers and Forwarders Association of America proposed to Customs an alternative method to file advance electronic inbound cargo information.

Effective Dec. 2, Customs requires vessel operators and non-vessel-operating common carriers to submit manifest to the agency, preferably through the Automated Manifest System, 24 hours prior to loading on U.S.-bound ships overseas. Many importers involved in containerized shipping still find it difficult to meet the regulation’s filing timetable.

The NCBFAA proposed that brokers transmit entry summary information to Customs through the Automated Broker Interface in advance of loading on vessels overseas, a program the association has called a “Pre-shipment Entry Declaration” or PED.

The NCBFAA believes the method is simple and requires minimal programming changes in existing Customs systems — ABI and AMS — to bring it to operation.

“Far more difficult is the matter of importers obtaining the data necessary to prepare the pre-entry transmission,” the NCBFAA said. “Currently, brokers work with several means of receiving the data, including EDI (electronic data interchange), e-mail with data and/or scanned documents, and fax documents. All of these will still work, but the big issue will be getting the data much, much earlier than they do now.”

The PED essentially serves as a legitimate substitute for data required in the Customs cargo declaration, Customs Form 1302.

“Portions of the current ‘pre-entry’ that duplicate manifest data could be used in AMS instead of manifest data, eliminating a significant amount of work for the carrier/NVO,” the NCBFAA said.

The association believes that security-minded importers will recognize the benefits of PED and want to participate.

“Once understood, the benefits flowing from this program will outweigh any problems in its implementation — importers know what they are buying and suppliers know what they are shipping — all that is necessary is to impress upon them the need to create invoices immediately, instead of after the fact,” the NCBFAA said. “It’s important to remember that only the invoice and packing list are necessary in order to transmit the pre-entry data.”

The association said another benefit to the proposal is that it protects the confidentiality of the shipment information from reporting services, such as PIERS. The Freedom of Information Act only applies to import details filed through AMS. The NCBFAA is one of numerous trade groups that support stricter confidentiality measures for manifest data for commercial and security purposes.

The NCBFAA outlined the primary benefits of PED for Customs:

- Retains control of the process in the United States.
- Transmission of data made by “known” brokers and importers.
- Allows for earlier receipt of release and selectivity results.

The association emphasized that the proposed option should be independent of the agency’s Customs-Trade Partnership Against Terrorism (C-TAPT).

“Customs cannot possibly certify all 3,000 brokers and all 400,000 importers on C-TPAT any time soon and it would frustrate rapid implementation of this program,” the NCBFAA said.

Source: National Customs Brokers and Forwarders Association of America.

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Securing NVOCC compliance
Some foreign-FMC registered NVOCCs step up to comply with 24-hour advance manifest rule.

BY ALBERT W. SAPHIR

One week before U.S. Customs’ Dec. 2 deadline for implementation of the 24-hour advanced manifest rule for U.S.-bound shipments, only 82 non-vessel-operating common carriers had been placed on the U.S. Customs-approved NVOCC Automated Manifest System (AMS) participant list.

That total is almost impossible to comprehend, as about 2,800 U.S. Federal Maritime Commission-registered and/or licensed NVOCCs would qualify. Of course, the approved number grew as many NVOCCs were trying to beat Feb. 2 deadline when Customs would begin enforcing the manifest rule. As of Jan. 31, the list had grown to 242 and as of March 7, the count was up to 507.

The listed NVOCCs are a mix of small and large companies, domestic and foreign, and it is noteworthy and interesting to see that many of the large global players were absent for a long time, and some still are. The majority of approved foreign NVOCCs are from Asia, confirming an “attitude” pattern developing in recent months: Asian NVOCCs showing a much larger degree of concern and willingness to cooperate, whereas many European NVOCCs believe they would not have to deal with this.

The low approval number may be a reflection of the difficulties most of the foreign-based NVOCCs are facing, including some of the following obstacles:

• A complete disbelief that U.S. Customs would proceed as indicated.
• A serious lack of understanding of U.S. Customs procedures.
• Confusion and contradictory information, varying greatly by country.
• Reliance on having the vessel-operating common carrier “do the work as we do not want to do with this.”
• An unwillingness to invest in a better, more secure and automated environment.
• Considerable difficulties in obtaining the required C3 (International Carrier Bond) and C2 (Customs Custodial Bond), and if successful at a very high cost.
• Great uncertainty about the risks of U.S. Customs penalties.

Foreign FMC-registered NVOCCs have had prior exposure to U.S. law, but never as drastic or on such short notice and not with U.S. Customs. Additionally, there are many foreign forwarders that have failed to register with the FMC as NVOCCs for a number of reasons. Hong Kong claims about 3,000 forwarder/NVOCCs, including branch offices of foreign companies. But there are less than 200 FMC registered NVOCCs headquartered in Hong Kong, and no one can be sure how many of those would be able to qualify for Sea AMS participation.

“A well-managed automated Sea AMS program will translate into a new stream of revenue for those forward-thinking NVOCCs, as shippers will search out those that provide the best value.”

Our Canadian NVOCC neighbors that ship containers into Canada via U.S. ports must now register with the FMC, just so they can apply for Sea AMS participation. That’s something that makes little sense and adds a lot of unnecessary cost as the FMC does not regulate Canadian NVOCCs that have no U.S. originating or terminating shipments.

Initially, steamship lines had been slow in enforcing the rule — possibly their own offices did not understand the requirements or applying different rules in different countries since Dec. 2. Others have offered to enter data for non-automated NVOCCs free of charge, even creating multiple master bill of lading (MBL) entries in Sea AMS for NVOCC consolidations. This is now rapidly changing, as these VOCCs realize they cannot take on tremendous amounts of additional work and liability with no compensation. Further, they may also create possible exposure to FMC tariff violations as they legally no longer issue one MBL for one container but multiple less-than-containerload MBLs for each shipment they now enter into Sea AMS.

There are potential conflicts in the way U.S. Customs now “equalizes” the NVOCC and VOCC on the manifest: both are treated as if they are vessel-sharing partners, something the FMC prohibits. This carries over into “vessel arrival,” “in-bond” movements and customs release functions in the United States. No foreign NVOCC should be required to file “vessel arrival” notifications and U.S. “in-bond” movements with U.S. Customs. It is creating mass confusion, data chaos and considerable delays for containers arriving in the United States. VOCCs have done this successfully for years — they know what to do and are physically in control of their containers and can easily add house bill of lading (HBL) numbers to their MBL level “vessel arrival” manifest transmissions and “paperless in-bond” movements.

Sea AMS was not designed with NVOCCs in mind — it has worked well for a limited number of VOCC participants, but simply cannot provide the visibility and functionality required when suddenly hundreds, possibly thousands of NVOCCs try to coordinate these U.S. side functions. Just imagine the complexity this adds for foreign-based NVOCCs who are five to 18 hours removed from U.S. time zones, not to mention language barriers and fundamental differences in business practices.

Other areas of concern that have not been addressed for foreign NVOCC in Sea AMS:

• Lot of U.S.-bound shipments are transshipped from their original load port, sometimes more than once. The origin NVOCC who has all the knowledge and information cannot transmit Sea AMS as U.S. Customs can only receive the information from the last transshipment load port, which may be time zones and countries removed from the origin with no one there who has shipment knowledge.
• Confidentiality of shipper/consignee and other proprietary information that has never been published before is now in the public domain. As U.S. Customs cannot separate in Sea AMS the data received under the 24-hour advance rule from the “traditional” MBL level manifest data published since 1930, all data is now published. Importers can request confidentiality from U.S. Customs, but shippers who often have more proprietary issues at stake than importers cannot protect their data as they are prohibited from requesting confidentiality with U.S. Customs.

Of course, all this should not invite foreign NVOCCs to procrastinate, although
many seem to be doing exactly that. That’s not surprising to some experts, as many NVOCs fail to provide on-time documentation to VOCCs. This will rapidly change, as shippers can no longer afford to engage the services of NVOCs that fail to provide the timely services and solutions needed to keep the shippers’ goods moving. More than ever, time is increasingly becoming an important cost factor that shippers recognize.

The good news is, there are a number of small-and medium-sized foreign-based NVOCs, with no U.S. offices who have made every effort and investment to:

• Understand the U.S. Customs 24-hour advance manifest rule.
• Make the financial commitments needed to obtain International Carrier Bonds and now also Customs Custodial Bonds.
• Make changes to their business systems to accommodate Sea AMS.
• Sign up and work with one of the established Sea AMS service providers.
• Dedicate staff and management resources and for ongoing training.

These companies have shown that even with very little time available (considering that most foreign companies first heard about the 24-hour rule in late November), Advance Sea AMS participation can be achieved. Of course, this comes at an annual cost of $12,000 to $15,000, plus overhead, management expenses and exposure to fines and penalties from U.S. Customs. This vision has greatly helped them to achieve success in Advance Sea AMS and will secure their business long into the future. Although nothing is final yet, as the recently updated (Feb. 25) FAQs from U.S. Customs clearly demonstrate.

Sea AMS is working well for NVOCs under the new 24-hour rule, as most are using the services of established service providers. U.S. Customs has been able to quickly adapt an old module to provide a very nice and working solution. But, unfortunately, it has also created a considerable “nightmare” on the U.S. side for NVOCs and VOCCs. U.S. Customs must rapidly connect VOCC (MBL) and NVOC (HBL) data fields to provide full visibility and put all U.S. side functions of Sea AMS (starting with vessel arrival) back into the sole control of VOCCs. Otherwise all NVOCs and VOCCs — especially foreign NVOCs — will face considerable delays, added cost with no further benefit and a mountain of fines and penalties from U.S. Customs for unresolved arrival, in-bond and release issues.

One thing is certain: no NVOC or VOCC can add all these tasks and take on tremendous liability exposure free of charge. Security always comes at a price. But a well-managed automated Sea AMS program will translate into a new stream of revenue for those forward-thinking NVOCs, as shippers will search out those that provide the best value.

It is time for NVOCs to transition into the 21st century — complacency is not an option.

I congratulate those foreign NVOCs who have decided to become successful operators even in these difficult times. They have shown the world what can be done, even as U.S. Customs must still continue to resolve mostly U.S.-side problems. Inbound Sea AMS is only the first of many more programs U.S. Customs is going to roll out this year, with “Inbound Air AMS” surely having an even greater impact on foreign-based forwarders. So get ready now! Increased security will become a part of everyday life. The clock cannot be turned back again.

Albert Saphir, of Marietta, Ga.-based ABS Consulting, can be reached by e-mail at albert@abs-consulting.net.
Export data collection eyed in Puerto Rico

Census seeks improvements to how the island’s shipping industry manages SEDs.

BY CHRIS GILLIS

Puerto Rico is technically a U.S. domestic trade, but shipments destined to this island nation still require export declarations to be filed with the federal government.

The Census Bureau’s Foreign Trade Division, which keeps track of trade statistics, recently met with U.S. and Puerto Rican shipping executives in San Juan to emphasize the need for compliance with the rule.

“In an effort to assist the government of Puerto Rico to measure its economic growth, the Census Bureau tracks the statistics on (cargo) movements between the United States and Puerto Rico,” said Charles Woods, assistant division chief for data collection at the Suitland, Md.-based agency.

In addition to Census and the Puerto Rican government, the U.S. Bureau of Customs and Border Protection uses the data contained in shipper’s export declarations (SEDs) to track and stop the movement of illegal exports. Law enforcement officials have expressed some concern about Puerto Rico serving as a transshipment country for illegal exports. Law enforcement officials have expressed some concern about Puerto Rico serving as a transshipment country for illegal exports.

Census has its own nine-person operation in Puerto Rico to process SEDs. The staff is responsible for keying paper SEDs for entry summaries, Customs Form 7501, which aren’t electronically entered in U.S. entry summaries, Customs Form 7501, which aren’t electronically entered in U.S. entry summaries. The staff serves as a transshipment country for Puerto Rican shipping industry’s interest in AES, lots more work needs to be done by the agency to generate a bigger shift to electronic filing on the island.

Census would prefer to receive SED information electronically through the Automated Export System, and has spent the past several years aggressively marketing the benefits of the system to the industry. The agency has found that one out of every two paper-based declarations contains errors. The automated system’s numerous edits help to prevent the filing of incomplete SEDs to the government by exporters or their freight forwarders.

To make the transition to automated SED processing even easier and cheaper for the shipping industry, Census and its contractor, Flagship Customs Services, developed a free online link to the system, AESDirect.

While Census generally praises the Puerto Rican shipping industry’s interest in AES, lots more work needs to be done by the agency to generate a bigger shift to electronic filing on the island.

“Puerto Rico is still far behind, especially in its southern ports,” said Gerard J. Horner, chief of the AES Branch at Census.

About 50 percent of SEDs for shipments passing through the northern Puerto Rican seaport of San Juan are processed in AES. The system’s use in the Aguadilla seaport has reached 69 percent a month. More than 70 percent of air-cargo shipments at San Juan airport are processed in AES.

However, the island’s southern seaport of Ponce processes only 42 percent of SEDs in AES, and the shipping industry’s use of the system in Mayaguez is a meager 4 percent.

The four U.S.-flag carriers serving the Puerto Rican trade — Sea Star, Horizon Lines (formerly CSX Lines), Trailer Bridge, and Crowley — operate Census-approved data entry centers to process customers’ export data in AES, which has helped to eliminate some of the paper SEDs.

Census is expected to propose regulations this month to push the nation’s exporters, including those in Puerto Rico, toward mandatory electronic filing of shipment data in AES. The first shipments subject to the new regulations will be those controlled by the State and Commerce departments.

In 1999, Congress passed the Consolidated Appropriations Act, which called for a study into the feasibility of mandatory filing in AES. A comprehensive report by the agency to Congress in July 2000 determined that AES could handle mandatory filing requirements.

The same legislation also included the so-called Proliferation Prevention Enhancement Act, which called for mandatory AES for exporters with items regulated by the State Department’s U.S. Munitions List and the Commerce Department’s Commerce Control List. In a report to Congress in June 2001, Census said AES could securely handle this sensitive data.

Census encourages Puerto Rican exporters and forwarders to closely follow the development of these regulations and begin preparing for mandatory AES.

The data entry centers will essentially be eliminated under the proposed rules. Ocean carriers, however, could become U.S. agents for either the U.S. or Puerto Rican exporters (known as the “U.S. principal party in interest”) through a written authorization or power of attorney, or force the exporters or their forwarders to do the filing themselves, Horner said.
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Special Thanks to Our Sponsors:
Preparing for takeoff
Kuehne & Nagel’s air-freight executives see continuing industry surge.

BY ROBERT MOTTLEY

Air-freight forwarders, while pleased that cargo is definitely on the rebound, remain skittish about seasonal market capacity and the as-yet-undetermined notification time that U.S. Customs is going to require for cargo destined for the United States.

“The year 2002, in terms of air freight, was a very difficult year both for Kuehne & Nagel and for the industry in general,” said Rainer Wunn, senior vice president of air freight for the United States, Mexico and Central America at Kuehne & Nagel Inc.

“The first two quarters of last year were very tough, very demanding. It’s not that we’ve lost any particular customers, but that we have seen our customers significantly reduce their shipments and volume. That brought down our overall revenue,” Wunn said.

However, starting with the third quarter, “we have seen a very gradual recovery. The second half of last year was excellent, which surpassed our expectations,” he said.

Level of improvement depended on the trade lane, but Kuehne & Nagel saw some markets with improvements “much better than 3 to 5 percent,” he noted.

“As for our traditional Kuehne & Nagel business, which is primarily on the North Atlantic, as well as comprising southbound traffic to Latin America, I would say we have at least a 7 to 8-percent increase over 2001. We are hopeful this trend will continue through 2003, especially with our strategic drive in the transpacific trade,” Wunn said.

Asian Rate. In the eastbound transpacific trade, general rate increases for air freight are beginning to stick. “Eastbound is truly dictated by tonnage flow,” said Michael Tomasulo, corporate director of transpacific pricing & operations.

“After the Chinese New Year, the eastbound market has begun to pick up,” he said, “although Shanghai is the only locality where we have begun to see rate increases occur.

“Hong Kong and other Asia markets are pretty much at the level of pre-Chinese New Year rates. Rumor has it that Taipei, Hong Kong, and Bangkok will begin to get very heavy again. If that happens, we’ll have to see what happens to the rates,” Tomasulo said.

As a safeguard for its customers, Kuehne & Nagel has worked with “a group of preferred carriers to secure block-space agreements on our eastbound traffic, while further supporting those identical carriers with westbound business,” Tomasulo said.

“Many of the block-space agreements we have clearly define ‘peak,’ ‘off-peak,’ and in some cases, ‘shoulder’ rates. Some carriers actually label their services that way, and offer dates that coincide with their anticipation of what peak, off-peak and shoulder will be in a given year,” he said.

“There are also provisions within these block-space agreements to indicate that market rates will still prevail,” he noted.

“That means in the event a shoulder period occurs between peak and off-peak, and if it isn’t difficult to get space in the market, then off-peak rates will remain in effect,” Tomasulo said.

Some shippers report that carriers have been edging toward a rate increase on May 1. Kuehne & Nagel has not found that to be true for eastbound traffic.

“I know that for cargo coming west out of the U.S., you have carriers talking about a May 1 increase, but that has nothing to do with eastbound services,” Tomasulo said.

Kuehne & Nagel’s emphasis has been on “securing space for 12 months to protect both new and existing customers in a high-peak season,” which will extend from September through December, Tomasulo said.

“We’ve made a lot of arrangements so far to see that our customers’ goods move, either on commercial flights or on flights we will support if the commercial lift should not be available.”

No Owned Assets. The need to have planes available has drawn other logistics providers toward owned assets, but not Kuehne & Nagel.

“We would not consider owning an aircraft. We would consider sharing planes, either through block-space agreements or charters,” Tomasulo said.

“For us, it’s not about having to acquiring landing rights, flyover-rights, insurance, and paying for maintenance and operating costs,” Wunn said. “It’s just that we really don’t see the financial necessity for doing so, thereby becoming our current carriers’ competition.”

Strategic Integration. Kuehne & Nagel International AG’s purchase of USCO Logistics has led to some confusion about the role of Kuehne & Nagel Inc., the parent company’s prior U.S. arm for 26 years.

“There’s no immediate plan to move our U.S. headquarters to combine with USCO Logistics,” Wunn said. “We cooperate fully with USCO on all levels.”

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High-tech and retail customers, primarily coming from Asia Pacific or Eastern Europe, expedite their merchandise here, first to a central receiving point, and then straight to their end-customers’ destination,” Wunn said. “This requires a strong U.S. distribution network, which Kuehne & Nagel did not have before it acquired USCO Logistics.”

The direction of an importer’s logistics processes “depends on the customer’s trading terms. If an importer purchases his goods ‘duty cleared and delivered,’ we have one and the same decision makers,” Wunn said.

But that’s not often the case. “Quite a large number of importers have different decision-making procedures in place for the overall importation of the goods and for their domestic distribution,” he said. “Our job is to bridge this divide and bring these two decision-making processes together, so that a shipper can benefit from using one operating system.”

Security Notification. U.S. Bureau of Customs and Border Protection (formerly U.S. Customs) has proposed a rule that could require between eight to 12 hours notice to the agency before cargo at an airport abroad is actually loaded on a U.S.-bound plane.

“For shippers and those who handle their cargo, the proposed eight-12-hour rule creates hardship in terms of paper and information flow from commercial invoices, but it can be accommodated,” Wunn said. “It may require some tweaking on our customer side. It can physically be done.”

The problem is, “Kuehne & Nagel physically receives a large number of documents only four or five hours before flight time,” he said. “We also receive documents much closer to the cut-off time of the airline. We need to have time to generate the required documentation, proofread it, and get the data in our system. Once the information is there, we definitely can communicate with U.S. Customs. That is not an issue. Rest assured, we will meet the response requirement,” he said.

Looking at the industry as a whole, one consequence of even 12 hours’ required notification could be delayed cargo. “If goods arrived after the deadline for a certain flight had passed, they could have to wait for the next plane,” Wunn said.

“That could play havoc with just-in-time planning, but one remedy is to add whatever the notification period proves to be into the original planning,” he said.

“The known shipper environment, which developed in the aftermath of the TWA Flight 800 crash in 1996, has been a real help in knowing what we are moving,” Tomasulo said. “Our customers know a lot more about who is picking up their cargo, and about their vendors in general. In fact, there’s a hell of a lot more awareness now of security in terms of the air-freight product.”

“For us to obtain new business, so much communication goes on prior to an award of business that we come to know a great deal about the putative customer, as well as other entities with whom that customer has done business,” Wunn said.

“If there is any mystery, the cargo won’t move,” Tomasulo added.

“If we give wrongful information, or unwittingly pass on wrongful data, we are liable,” Wunn explained. “That much is clear at this time.”

Customs’ intention to punish noncompliance is not in doubt, either. “The minute you put a financial burden on an irregularity, you see how quickly people comply,” Wunn said.

To handle the expected deluge of data from its air-freight customers complying with the notification rule — not to mention the information already coming in from ocean freight customers complying with U.S. Customs’ 24-hour advance manifest rule — Kuehne & Nagel has “integrated new IT components into our global CIEL in-house system,” Wunn said.

“Air freight, ocean freight, contract logistics, warehousing, distribution, all of our operations are driven by IT,” he explained.

“We are the first forwarder to reach phase 2 certification of Cargo 2000. Our new Web-compatible route mapping shows cargo while it is in the hands of our air carriers, as well as when we have custody of it. Customers expect that today,” Wunn said.

‘Devastating’ Repeal. The European Union has recently proposed repealing of all “open-skies” agreements between individual member countries and the United States.

“This is protective behavior to safeguard the EU’s own local, individual airline industry, and to keep U.S.-flag carriers out of their home areas,” Wunn said. “European carriers would like to have a bigger slice of what they perceive as this big, famous U.S. business.”

Rescinding the “open-skies” agreements will not affect eastbound cargo — the out-bound U.S. export business, “where there’s enough commercial uplift available as it is,” Wunn said.

“In fact, it would be positive for that market if some carriers would reduce capacity. Unfortunately, the world does not consist of one-way traffic,” he said.

The effect of repealing “open skies” agreements for cargo inbound to the U.S. from Europe “would be devastating,” Wunn said.

One consequence would be that U.S.-bound European freight carriers would have to fly with reduced capacity.

“Even a 10-percent reduction in capacity would cause serious westbound delays. If customers didn’t want to accept those delays, they would need to upgrade their regular air cargo to express air cargo. That difference could seriously increase costs,” Wunn said.

“The point is, let’s not panic,” he noted. “This is not happening right now.”
Turbulent times for Atlas

Air carrier loses bet on market strength, overestimates demand for jumbo cargo planes.

By Eric Kulisch

In October 2000 Atlas Air was the golden child of freight transportation stocks on Wall Street.

The air-freighter charterer was reporting record earnings quarter after quarter and there seemed to be no end in demand for its long-haul, airlift services. Airline customers were happy, too, because they could lease Atlas Air’s planes and still make money on their freight moves.

Company officials projected the air cargo market would continue to grow at a healthy rate following the late 1990s and invested accordingly, ending up with the world’s largest fleet of 747 jumbo jet freighters.

Thirty months later Atlas Air is on the verge of bankruptcy, analysts say, a victim of the stagnant air-freight market and over-expansion.

“The fundamental problem was that they confused a bubble in the economy for long-term demand and went out and purchased (leases for) airplanes,” said Gregory Burns, a transportation research analyst at investment bank J.P. Morgan, in an interview. “As the cyclical forces slowed down they couldn’t reverse the debt they had acquired on their balance sheet” and didn’t have the income to pay back their lenders.

Parent company Atlas Air Worldwide Holdings shook up its top management last month amidst mounting debt and the discovery last year of possible accounting irregularities at subsidiary Atlas Air.

The Purchase, N.Y.-based provider of dedicated cargo airlift said it replaced chief executive officer Richard Shuyler on an interim basis with John Blue, who served as the president of Atlas Air Inc. from the company’s inception in 1992 through 1995, and who is currently a director of the company. Shuyler, who became CEO two years ago after company founder Michael Chowdry died in a private plane crash, also resigned as director of the company and its subsidiaries.

Atlas Air Worldwide Holdings also owns Polar Air Cargo.

Jeffrey Erickson, who had been serving as acting president of the holding company has become its president and joined the board of directors.

Also departing the company were Thomas Scott, senior vice president and general counsel; Fred deLeeuw, senior vice president of strategic planning; and Stanley Wraight, senior vice president of marketing and commercial strategy. John Dietrich, currently deputy general counsel, will become acting general counsel and others will assume the planning and marketing duties.

“This leadership change is an extremely difficult measure to take, but it is necessary at this time,” Erickson said in a statement.

“The depressed air cargo market, Atlas’ declining profitability and the board’s belief that Atlas needed new leadership and a lower cost structure,” led to the management change, said Rachel Berry, Atlas Air spokesperson.

The airline holding company is beset by financial challenges.

Atlas Air, which operates 40 B747 jumbo jet freighters for airline customers, did not file financial reports for the third and fourth quarters of 2002 because it is in the process of auditing and restating earnings for 2000, 2001 and the first half of 2002. The company discovered potential errors in its financial statements last year after it dropped its auditor, Arthur Anderson, which became embroiled in the Enron collapse and other financial scandals.

Atlas planned to complete the re-audit by March 31, but it will take a little longer to do so, Berry said. The U.S. Securities and Exchange Commission is investigating the matter.

Berry declined to project how much earnings would change once results are recalculated, but in an October news release the company estimated the restatement will reduce after-tax income for 2000 and 2001 by about $60 million to $65 million.

The company lost $40.9 million in the first half of 2002, the latest period for which there are complete financial records.

Last December, Atlas’ chief financial officer, Douglas Carty, left the company after receiving another job offer. His replacement has yet to be named.

In January, Atlas Air obtained a waiver from Deutsche Bank allowing it extra time to file quarterly reports with the U.S. Securities and Exchange Commission and preventing it from technically defaulting on the terms of a loan.

“Failure to successfully conclude refinancing negotiations would likely lead to a general default and bankruptcy filing,” the Standard & Poor’s Rating Service said in a March 10 statement.

“We have no desire to declare bankruptcy,” Berry said. “We believe that we have a viable business here and we are...
B  Y  E R I C  K U L I S C H

Feeder frenzy?

Late-model aircraft offer options for feeder air-freight services.

BY  E R I C  K U L I S C H

As regional airlines switch all-passenger flights to jets, air cargo carriers are finding a growing supply of cheap, reliable turboprops that could help improve freight service to secondary markets, analysts and airline industry officials say.

Some aircraft used to deliver packages to and from towns such as Ketchikan, Alaska, or Missoula, Mont., are the stripped down, single-engine, general aviation aircraft typically used by recreational aviators. Others are converted passenger planes that have found a second life in the cargo industry.

As air couriers acquire newer generations of aircraft that are larger, faster and less prone to breakdowns, they will be able to offer shipping options usually available only in larger urban areas.

“The name of the game is reliability for...
the regional cargo carriers and the newer the equipment, the more reliable,” said Stan Bernstein, president of the Regional Air Cargo Carriers Association.

That could translate “into better percentages of on-time transportation from some markets,” as well as extra capacity for larger shipments such as pallets, and later cutoff times to make a flight, said Chris Reanier, research director at Air Cargo Management Group, a Seattle-based aviation consulting firm.

There are about 800 regional cargo aircraft in the air every night, more than all the big jets combined serving the main intercity routes, Bernstein said. But small aircraft move a tiny fraction of total volume moved by the big trunk aircraft that feed into major cities.

Nonetheless, the large integrated carriers consider feeder operations critical to their ability to provide coverage to virtually anywhere in the world.

Much like airline passengers, air cargo shippers prefer that their packages ride on one carrier the whole trip. Small cargo aircraft can reach areas that are too remote for express truck delivery, have small airports or don’t generate enough business to justify expensive jet service.

The feeder network’s “reliability has to equal the network as a whole because you are as strong as your weakest link,” said Mark Blair, vice president of supplemental air operations for FedEx Express.

“If you can’t offer service in certain parts of the country, you are hurting,” Bernstein said. “If you lose the customer, you have the potential of losing them for the long-haul trips.”

FedEx is the only large integrated carrier that owns its feeder aircraft. United Parcel Service, DHL and Airborne Express farm out the regional business to independent owner-operators that fly, maintain and insure the aircraft. These companies range in size from Ameriflight, which has a fleet of about 175 turboprop aircraft, to mom-and-pop operations with two or three piston-powered planes.

Conversion. Air Canada, American Airlines and the commuter divisions of other airlines have created a large supply of potential cargo aircraft by accelerating the turnover of their 30-50 seat passenger turboprops far before their normal retirement ages to switch to jets, industry sources said.

FedEx Express recently purchased eight ATR 42-320 turboprop aircraft from Express Jet Inc., the regional air subsidiary of Continental Airlines. FedEx plans to swap the ATRs with its much older Fokker F-

“The name of the game is reliability for the regional cargo carrier, and the newer the equipment, the more reliable.”

Stan Bernstein
President
Regional Air Cargo Carriers Association

27s. FedEx has 32 Fokker’s in its fleet. It also owns about 258 Cessna Caravans, known in their cargo configuration as Super Cargomasters, which have a payload of 4,100 pounds.

FedEx spokesman Ed Coleman said additional ATR purchases would depend on future fleet requirements. The ATR 42s purchased by FedEx average 11.5 years in age, he said.

ATR is a French-based consortium of European aircraft manufacturers that builds short-haul turbo prop planes. The ATR 42 and 72 have a 12,000-pound payload and can accept palletized loads, but U.S. Federal Aviation Administration regulations restrict the class of turbo props to 7,500-pound payloads.

Gene Mallette, chief executive of Provo, Utah-based Alpine Air Express Inc., said the regional cargo transporter bought five Beechcraft 1900s in September after they came off lease to an airline. The company plans to purchase 15 Beech 1900s, which are capable of carrying 5,000-pound payloads, according to the company’s Web site.

Ameriflight, based in Burbank, Calif., purchased five Embraer 120 Brasilias that were under lease to American Airlines. Bernstein said.

“There certainly has been more activity with aircraft transactions in the last month or two, and you’ll probably see more transactions this year because valuations are down” for used aircraft, due to excess capacity, Reanier said.

Some Saab aircraft, for example, are also being converted to cargo configurations in Europe and Africa, he said. “It’s happening, but it’s not as sexy as buying big new aircraft so it doesn’t get the same coverage.”

“Values are plunging to new lows for relatively new aircraft,” said David Hoppin, principal at air-freight consulting firm MergeGlobal Inc.

Some types of airplanes that sell for $4 million when new are selling for $1.5 million to $1.8 million, Bernstein said. Low acquisition cost is key for cargo airlines, and feeder operators in particular, because the planes may only be utilized a few hours per day, compared to a passenger airline that generates revenue most of the day.

Despite the favorable prices most small and mid-size air couriers do not have capital available, and will have to wait for the economy to turn around to upgrade their fleets, analysts said. Even with good deals to be had, FedEx is holding off on expanding its feeder fleet until it sees whether business will rebound.

The dilemma for the large parcel integrators is that feeder network profitability is declining as the freight mix changes from heavy, high-yield documents to low density boxes with goods stuffed with packing material. The products from catalog retailers tend to earn less money per cubic foot.

If the trend from documents to boxes continues, along with increased pressure from expedited trucking services, FedEx, UPS, DHL, and Airborne Express could eventually decide to shrink their feeder networks, leaving trucks as the only way to serve some regions, Hoppin said.

However, the integrated delivery companies might decide that the only way to counter the drop in unit revenue is to reduce the number of cities served by regular jets and transition to widebody aircraft for major routes.

Such a strategy could, in turn, increase the need for efficient feeder aircraft in mid-size markets previously served by jets, explained Hoppin, who has recently studied the issue for a client.

Some air cargo companies and aircraft manufacturers are evaluating whether they can build a regional cargo aircraft that can handle containers cheaper than buying a plane and converting it, industry analysts said. The ability to roll containers and pallets off one aircraft and straight into the hold of another could add efficiency to a system predominantly geared to handle bulk loads by hand.

AMERICAN SHIPPER: APRIL 2003 73
New rule for split shipments

Customs rule benefits air freight importers, but may cost customs brokers revenue.

By Eric Kulisch

A new U.S. Customs rule designed to reduce paperwork for air cargo could save importers money on shipments that airlines split and send on different airplanes.

The regulations issued by the U.S. Bureau of Customs and Border Protection, which took effect March 27, offer importers potential administrative and tax savings by allowing them to file a single import entry form for split shipments of air freight.

Importers will also benefit from classifying goods as a single shipment because duties on the parts can sometimes be more than if calculated on the shipment as a whole, said Tom Heffernan, a Customs program officer who worked on developing the rule.

Single filing of split shipments, especially for low-value merchandise, could also save importers from having to pay extra duties and merchandise processing fees. An importer, for example, that pays $75 now on three split shipments could save $50 by just paying the minimum fee of $25 once, said Kenneth Bargteil, a vice president in the U.S. office of Kuehne & Nagel.

Split shipments are common in the air cargo business because airlines frequently adjust their load depending on capacity, whether weight is properly distributed throughout the cargo hold, or that a portion of a shipment might get bumped from a flight because another customer is willing to pay more for the space.

Although a shipment might be grouped together and listed on one bill of lading or waybill, through split shipments, the components might reach a U.S. airport days apart.

Customs regulations ordinarily require that all imported merchandise arriving on each conveyance and consigned to one receiver be included on a separate entry. The agency was authorized to accommodate split shipments under the 2000 Tariff Suspension and Trade Act after importers pushed for the change, Heffernan said. The streamlined entry procedures mirror many of those long in place at John F. Kennedy International Airport.

“It works beautifully over here,” said Tom Heffernan, a Customs program officer who worked on developing the rule.

By Eric Kulisch

BRUSSELS

The European Commission adopted measures on Feb. 26 designed to create a legal framework for bilateral relationships between the European Union and the rest of the world in the field of air transport.

Bilateral air transport agreements between EU countries and other nations have faced legal uncertainty following a ruling last November by the European Court of Justice that individual agreements signed by several EU member states broke EU rules.

The EC said its regulatory proposals “will remove the uncertainty of the international air transport industry since the European Court of Justice found that the ‘open-skies’ bilateral agreements between eight member states and the United States were not in conformity with the EU Treaty.”

The measures would also allow EU airlines to develop Europe-wide and international networks by removing the “national ownership” requirements still found in most bilateral agreements.

The EC package includes a proposal for a general negotiating mandate for the EC to negotiate agreements, and a proposal for a regulation to ensure proper information exchange within the European Union and non-discriminatory treatment for all European airlines for matters managed by member states.

The package of measures would trigger potentially wide-ranging changes in the structure and traffic rights of existing country-to-country bilateral agreements.

The EC said the EU-wide agreements would replace provisions of existing bilateral agreements that do not conform with the European treaty and common standard clauses.
Big carriers, big losses?
This year’s season of financial results has produced some truly abysmal losses.

The erosion of freight rates was bound to affect carriers adversely — no surprise here. Many container carriers have indeed announced worse results for 2002. But it cannot be good for the industry to see P&O Nedlloyd Container Line suffer a $292-million annual deficit, nor Neptune Orient Lines absorb a deficit of $330 million for 2002.

God knows what sort of results many of the privately owned shipping lines have also suffered, but without the public embarrassment of announcing their losses. Only a minority of container carrier groups disclose their financial results.

Anybody saying that carrier results were poorer last year is on safe ground. But making broad, gloomy generalizations on what this means for the shipping industry, shippers and future investment would be excessive.

Some will probably say that carrier losses prove that freight rates are unsustainably low (probably true last year on the east/west routes, but remember that this was the bottom of the cycle). Others will point at the continued profits of niche carriers like Seaboard Marine and Tropical Shipping, and conclude that major carriers should restructure and find their own area of specialization and differentiation (this may be a simplification of more complex issues). Even among large container carriers, losses are far from universal and generalized. Both CP Ships and Orient Overseas (International) Ltd., the parent company of OOCL, remained in the black in 2002.

So, there is more to this debate than general statements like “rates are too low” and the “container shipping never makes money for carriers.”

Take two examples that profit margins have also been slim for shippers in a poor economy. Hewlett Packard made an operating loss of $1 billion on revenue of $56.6 billion in 2002 — representing a negative operating margin of 2 percent. Toys R Us had an operating income of $471 million on revenue of $11.3 billion — a 4 percent margin.

Comprehensive comparative financial data on liner shipping carriers will be published in the “Who’s Making Money” annual review of American Shipper in June or July.

Other shipping sectors fare better
Overall, it does appear that asset-owning container shipping, on average, makes less money than the roll-on/roll-off and tanker shipping sectors.

Container shipping lines also believe that non-asset-owning forwarding groups make much more money than they do, too.

The Scandinavian shipping group Wilh. Wilhelmsen said Wallenius Wilhelmsen Lines — its liner and car carrying business — earned a net income of $51.8 million for 2002, up from $18 million in 2001. Operating income came to $86.1 million, up from $59.8 million the year before. Gross revenue increased to $907 million in 2002, from $674 million.

Meanwhile, Frontline, the world’s largest tanker operator, suffered a $7-million net loss on net revenues of $429 million in 2002. Its operating profit, though, was $98 million. 2002 was also a bad year in tanker shipping. By contrast, in 2001, Frontline earned an enormous net profit of $385 million on revenue of $647 million.

More takeovers
In 2002, there were eight takeovers of container operators worldwide, as compared to three in 2001 and six in 2000, according to our count.

The acquired companies of the 2002 vintage and their buyers were: Navieras (by Sea Star), Italia (by CP Ships), various assets of Tecmarine (partly by Tropical and partly by Seaboard), Concorde (by Seaboard), Torm Lines (by A.P. Moller), Ellerman (by Hamburg Sud), MacAndrews (by CMA CGM) and CSX Lines (by the Carlyle group).

There are still more than 200 container carriers worldwide. At this slow rate of consolidation in the carrier industry, there is no risk of an oligopoly during your lifetime.

Containers overboard
When stowed on the deck of vessels, containers lost overboard in bad weather remain a cause of concern for shippers and for shipping lines.

The Swedish protection and indemnity club, which insures shipping lines, said hazards and potential liabilities associated with the loss of deck containers warrant more attention.

The P&I Club said it has found a potential conflict between time pressure in the busy liner trades and adherence to correct procedures for safe stowage and securing.

The Swedish P&I Club noted that the container trades operate at “a frenetic pace.”

“...there is little doubt that this pressure can have a negative influence on those responsible for container stowage,” it said.

In one recent case, involving a vessel entered with the P&I Club, the ship encountered severe weather in the North Pacific while on a voyage from California to Korea. During the storm, the ship lost 46 containers overboard.

“There is always a risk when extreme weather is encountered. It is always possible that the vessel can be struck by an abnormal wave, which imposes excessive loads on cargo and fittings,” said Göran Rudelius, assistant claims director at the Swedish P&I Club’s Hong Kong office. “At the same time, the club takes the view that more can be done to reduce the incidence of damage and loss resulting from inadequate or inappropriate stowage.”

The P&I Club noted the problem of “lack of clarity in the division of responsibility for safe stowage and securing.” Some shipowners appear to believe this is the responsibility of the charterer and stevedores, it said. In fact, the vessel’s master and officers are responsible.

“While cargo planning is usually a matter for the charterer, this does not absolve the master from the responsibility to ensure that correct and safe procedures are followed,” the P&I Club said.

Unfortunately, there appears to be little scope for the development of new equipment, of radical design, offering safe stowage and a significant time-saving, it said.

It follows that the only option is to ensure that sufficient time is built into the system for compliance with safe stowage procedures.
Hitting bottom?

P&O Nedlloyd, APL parent suffer record losses, but confident they’ll rebound in 2003.

BY PHILIP DAMAS

Battered by the slide in freight rates in 2002, P&O Nedlloyd Container Line and Neptune Orient Lines, the parent company of APL, reported their worst-ever annual results.

P&O Nedlloyd’s pre-tax deficit of $292 million for last year and Neptune Orient Lines’ net after-tax loss of $330 million made industry observers gasp at the amount of red ink poured by these major container ship operators last year.

Robert Woods, group managing director of P&O Nedlloyd, described 2002 as “a terrible year.” Yet, he said results for 2003 would significantly improve.

“While 2002 was tough for the industry as a whole, it was particularly tough for NOL,” said Cheng Wai Keung, chairman of the Singapore-based group. “We were geared for growth just as the tide of world trade ebbed, and we did not adjust quickly enough to the changed circumstances.”

Neptune Orient Lines’ 2002 loss includes $109 million in negative exceptional items, including $36 million in restructuring and severance costs, and $8 million of costs from the U.S. West Coast port labor disruption.

Neptune Orient Lines controls APL Liner as well as APL Logistics and tanker shipping activities. Neptune Orient Lines’ big loss for 2002 reflected heavy exceptional losses and write-offs, in addition to poorer results from liner shipping and tankers.

APL suffered a $73-million operating deficit, as compared to a $19-million operating income in 2001. APL’s liner shipping arm continued to contribute the largest proportion of the group’s revenue at 74 percent of the total.

“Lower freight rates, cost cuts impact carrier margins

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<th>P&amp;O Nedlloyd</th>
<th>APL</th>
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<tr>
<td></td>
<td>2001</td>
<td>2002</td>
<td>% chng</td>
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<tr>
<td>Traffic carried (in million TEUs)</td>
<td>3,184</td>
<td>3,560</td>
<td>12%</td>
</tr>
<tr>
<td>Unit revenue (in $/TEU)</td>
<td>$1,298</td>
<td>$1,145</td>
<td>(12%)</td>
</tr>
<tr>
<td>Revenue (in $million)</td>
<td>$4,132</td>
<td>$4,075</td>
<td>(1%)</td>
</tr>
<tr>
<td>Unit operating cost (in $/TEU)</td>
<td>$1,270</td>
<td>$1,210</td>
<td>(5%)</td>
</tr>
<tr>
<td>Operating costs (in $million)</td>
<td>$4,045</td>
<td>$4,039</td>
<td>7%</td>
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<tr>
<td>Unit operating profit before interest (in $/TEU)</td>
<td>$87</td>
<td>$90</td>
<td>(3%)</td>
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<tr>
<td>Operating profit before interest (in $million)</td>
<td>$87</td>
<td>$90</td>
<td>(3%)</td>
</tr>
<tr>
<td>Operating margin (% of revenue)</td>
<td>2.1%</td>
<td>(5.7%)</td>
<td></td>
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</tbody>
</table>

Source: ComPair Data.

London-based P&O Nedlloyd is primarily a container-shipping business, although it also has some logistics, forwarding and port activities.

Both carriers blamed the well-known erosion of container freight rates as a major factor in their deficits.

“The losses had been widely flagged for a long time,” said John Fossey, executive consultant at Drewry Shipping Consultants. “It was always going to be a very tough year.”

Lower Rates. P&O Nedlloyd’s average rate per TEU fell 12 percent last year to $1,162.

APL said its average freight rates decreased 9 percent to $2,092 per TEU from $2,304 per TEU in 2001. Calculated on the same basis as P&O Nedlloyd, APL’s revenue per TEU fell 10 percent last year to $1,142 per TEU from $1,274 in 2001.

As a result, APL liner’s decreased 5 percent over the same period to $3.4 billion, despite a 6-percent increase in container volume to 3 million TEUs.

At P&O Nedlloyd, box volume for 2002 rose 12 percent to 3.6 million TEUs, but revenue for the year fell 1 percent to $4.1 billion.

Woods said P&O Nedlloyd’s and Neptune Orient Lines’ 2002 results were similar.

P&O Nedlloyd calculated its 12-percent fall in revenue per TEU last year caused a shortfall in revenue of $487 million. Similarly, APL’s fall in average freight rates eroded freight revenues by $400 million last year.

Such figures show the enormous impact of lower freight rates on the bottom line of carriers, a relationship that analysts describe as “operational gearing” (see chart). With small margins, a certain percentage decrease in freight rates has a disproportionate effect on profit results.

Neptune Orient Lines said its transpacific and Asia/Europe trades widened their losses in 2002 because of “unsustainable rates.” Freight rates were down 14 percent in the transpacific and 10 percent in Asia/Europe.

“Despite rates recovering in the second half of 2002, freight rates are still below 2001 average,” a spokesman for Neptune Orient Lines said.


Cost Cuts. APL reduced its cost per FEU excluding bunker costs by 7 percent in 2002, but this was insufficient to compensate for the decline in freight rates.

This year, APL Liner aims to cut costs
again by $150 million to $200 million.

The Neptune Orient Lines group will reduce its workforce and cut administrative costs. The group has not finalized the number of job cuts concerned, but it has made provisions for the elimination of 200 to 350 positions, a spokesman for the group said.

“This is part of an ongoing efficiency process,” the spokesman said, adding that 200 positions were eliminated in 2002. P&O Nedlloyd realized annualized cost savings of $290 million in 2002. Overheads were down $24 million during the year. It aims to reduce costs again this year.

But higher bunker prices cost P&O Nedlloyd $56 million more in 2002 than in 2001.

Furthermore, the Anglo-Dutch carrier incurred $28 million of restructuring costs last year. Its pre-tax result for the year was a loss of $292 million, showing a significant adverse swing in profitability when compared to the $31 million pre-tax profit of 2001.

For the fourth quarter, P&O Nedlloyd made an operating loss of $49 million before restructuring costs. Its fuel costs for the quarter were $23 million higher than in the fourth quarter of 2001 and costs incurred from the West Coast port shutdown were $7.5 million. The carrier suffered a fourth-quarter pre-tax deficit of $79 million, as compared to a pre-tax loss of $35 million in the fourth quarter of 2001.

**Recovery Seen.** P&O Nedlloyd noted that rates have now improved in two successive quarters and were 3 percent higher in the latest quarter than in the second quarter of 2002. “Rate increases are continuing to be achieved on the important Europe/Asia trades,” a spokesman for the carrier said.

“Clearly there are uncertainties surrounding the economic outlook but if current trends continue the 2003 result should be significantly improved,” a P&O Nedlloyd spokesman said.

P&O Nedlloyd declined to comment on whether it would make a profit this year.

Woods noted the planned May 1 rate increases in the eastbound transpacific trade are the next step in the carrier’s effort to push rates back up again.

Neptune Orient Lines said it expects “steady volume growth with further improvements in freight rates.” The carrier has seen “early indications” that rates in the transpacific are increasing this year, but warned that uncertainty in the world economic and political environment may slow down recovery.

“The shipping industry will continue to face a difficult environment in fiscal year 2003,” Neptune Orient Lines said.

Meanwhile, Neptune Orient Lines said APL Logistics’ operating deficit widened to $22 million in 2002, from $16 million the year before.

Neptune Orient Lines’ tanker shipping business saw its operating income fall to $7 million last year, from $85 million in 2001. Group revenue for the year decreased 2 percent to $4.6 billion from $4.7 billion in 2001.

The Singapore-based group aims to move both APL Liner and APL Logistics back into the black this year.

Neptune Orient Lines is also looking for a new group chief executive officer, following the dismissal of Flemming Jacobs in January.

Woods will step down as group managing director of P&O Nedlloyd at the end of this year to become group chief executive of the P&O parent group. P&O Nedlloyd will conduct a search for a successor to Woods both internally and outside the company.

Despite their heavy losses, both Neptune Orient Lines and P&O Nedlloyd said they continue to have a positive cash flow.
HONG KONG
Orient Overseas (International) Ltd., the parent company of Hong Kong-based OOCL, reported a net profit after taxation and minority interests of $52 million and a double-digit increase in container volume for 2002, despite the decline of container freight rates last year.

The latest annual profit is 16 percent lower than the $61 million net profit recorded for 2001, and compares favorably with large deficits at peer companies P&O Nedlloyd Container Line and Neptune Orient Lines/APL (see story, page 76).

Orient Overseas (International) Ltd. recorded total revenue growth of 3 percent last year, on a 13 percent increase in total carryings, but against a 9 percent drop in the underlying average revenue per TEU. Revenue rose to $2.5 billion in 2002, from $2.4 billion in 2001.

Operating profit before finance for 2002 fell 15 percent to $91 million from $107 million a year earlier. Finance charges decreased to $31 million from $46 million.

“The performance for the year of 2002 as a whole has turned out to be much better than expected,” said C.C. Tung, chairman and chief executive officer of OO(I)L.

He said the imbalance between supply and demand has improved. “Container volume growth in 2002 exceeded all expectations and the introduction of new tonnage into service was at a lower rate than forecast.”

During the second half of 2002, better utilization rates led to higher freight rates as the availability of space tightened, the company said. The Hong Kong-based shipping company reported a 4-percent improvement in its overall ship load factor.

The company’s container terminals in North America — two in New York and two in Vancouver — increased their combined throughput by an average of 4 percent.

In New York, the company’s Global Terminal in New Jersey saw its traffic fall 60 percent, while the terminal at Howland Hook made “a meaningful contribution to group profits” for the first time last year, with no substantial change in throughput.

In Vancouver, the Vanterm and Deltaport terminals handled 26 percent more traffic last year, and improved operating profits by 75 percent.

During 2002, OO(I)L ordered two additional 8,000-TEU “SX-class” ships for delivery in 2005. Including the seven vessels ordered in 2000 and 2001, the group has in total nine new vessels to be delivered in 2003, 2004 and 2005.

OOCL Logistics experienced double-digit growth during 2002.

Commenting on prospects for 2003, Tung said there are some conflicting indicators.

“While the measures of consumer confidence reflect some volatility, the actual levels of consumer demand for imported goods have of late remained relatively strong,” he said. The company believes the Middle East conflict issue causes uncertainty in the global economy and destabilizes world consumer markets.

There is also a “delicate supply and demand balance” between container volumes and new tonnage deployment in the major trades in which OOCL operates, he noted.

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FMC ‘04 budget covers operations costs ... barely

WASHINGTON
The U.S. Federal Maritime Commission’s proposed budget for fiscal year 2004 is expected to cover the operational costs of the 137-person agency, but barely.

The budget proposes $18.47 million for fiscal year 2004, an increase of about 10 percent over the FMC appropriations in fiscal year 2003.

“After many years of reductions, this increase should help to restore the commission’s budget to a more reasonable level so it can continue vigilant enforcement of foreign shipping rules and regulations that protect U.S. shipping concerns,” said Rep. Frank LoBiondo, R-N.J., chairman of the House Coast Guard and Maritime Transportation Subcommittee on March 13.

Steven R. Blust, chairman of the FMC, explained to the subcommittee that the agency’s budget will just make ends meet, but operational costs are expected to rise.

The proposed budget does not include funding for the 1 percent fiscal year 2003 pay increase.

“The commission must find the resulting $140,000 increase in fiscal year 2004,” Blust said.

Blust also said the commission must not reduce its travel budget any further.

“Travel remains an essential aspect of our effort to provide better service to the ocean transportation industry and to accomplish our oversight duties more effectively,” he said.

In addition, the FMC is bracing for a “substantial increase” in rent as a result of a new long-term lease.

“Other administrative expenses will be incurred in fiscal year 2004 to support increases in our customary business expenses, such as maintaining government and commercial contracts, and for items such as telephone, postage, and supplies,” Blust explained.
A new bill in the California legislature would make shippers and transportation intermediaries liable for accident damages if the harbor drayage companies they use lack adequate insurance and don’t comply with state and federal safety regulations.

The legislation, pushed by the California Trucking Association (CTA) and introduced in February by Assemblyman Marco Firebaugh, also would prevent terminal operators and steamship lines from imposing equipment handling charges, late fees and certain types of work rules on motor carriers.

Other intermodal legislation passed or being considered in California and other states mostly deals with the maintenance of intermodal equipment or better managing of traffic flow to reduce exhaust from idling trucks.

The Firebaugh bill, however, could directly saddle shippers with damage claims, extra late fees new expenses to qualify carriers, shippers say. The bill makes clear that terminals and vessel operators can impose the fees on shippers.

Importers, exporters, ocean carriers and others say they will oppose the bill as written, because it interferes with the market and redirects detention fees for late return of empty containers, as well as demurrage fees for late pickup of full containers, to the wrong party.

“The liability provisions of the bill constitute an unnecessary intrusion into the commercial relationship between importers and exporters and their service providers.”

The Waterfront Coalition’s members comprise manufacturers, retailers, transportation providers, terminal operators, logistics companies, and others who arrange or facilitate the movement of freight.

“What’s curious about this, and about the (intermodal maintenance) bills, is that we see an increasing attempt to legislate private business practices that the business community is in a better position to resolve,” said Joni Casey, president of the Intermodal Association of North America. The organization administers the Uniform Intermodal Interchange and Facility Access Agreement (UIIA), a standard contract used by vessel, rail and motor carriers that governs the interchange of equipment and access to ports, rail yards and other transportation hubs.

The Intermodal Reform Act addresses items that already have been incorporated in the UIIA, and a working group is attempting to modify the agreement with input from all parties, Casey said.

“We are very concerned about (liability provisions) because what we don’t need is everybody having to go through one more step, or opening themselves up to any more lawsuits” in this era of proliferating security regulations, said Robert Voltman, executive director of the Transportation Intermediaries Association.

TIA represents companies that provide third-party logistics and freight brokerage services.

He pointed out that the liability provisions appear to extend beyond drayage companies to include any motor carrier operating in California since the language on liability provisions is not limited to intermodal carriers operating at ports.

“I think it’s a hell of a lot broader than just intermodal,” Voltman said.

Under California law, motor carriers are required to have their terminals inspected every two years, register to be notified when employees commit driving violations, carry proper insurance, and meet federal driver and equipment safety standards, such as passing mandatory driver drug tests and roadside inspections, properly recording how many hours drivers work, and holding a valid Department of Transportation operating permit.

The Firebaugh bill would indemnify non-compliant motor carriers involved in an accident and make importers, cargo owners, freight brokers, customs brokers, freight forwarders, non-vessel-operating common carriers or freight payment companies liable for personal injuries and the loss of their own cargo.

The CTA argues that steamship lines, terminal operators and intermediaries take advantage of legitimate motor carriers by hiring non-compliant independent truckers that charge less to move trailers, and by blocking access to the freight if they don’t accept the late charge policies.

“If you are going to act like a trucking company and arrange freight, fine. Follow the rules. Check that everyone is in compliance,” Stephanie Williams, CTA vice president, told American Shipper. “That’s what we do when we use owner-operators. We want them to be regulated too.”

“It’s absurd,” Lanier countered in an interview. “Why should we have to go through the whole process of checking all of this. It puts us in the position of being the enforcement body. We’re not truckers. We don’t know that business.”

Large retailers and manufacturers tend to screen motor carriers for safety and other requirements, but small shippers do not have the resources to verify whether a carrier’s records are in order.

Lanier said the legislation is unnecessary because the very large companies that belong to the Waterfront Coalition have a vested interest in doing “business with reputable drayage companies that take care of our cargo” and have a track record of safety.

“It will make it much more expensive for (small importers) to do business, and if they...
screw up and the trucker destroys their cargo in an accident, they can’t sue” the motor carrier, she said. “The worst truckers in the world are going to have no liability.”

The second half of the Firebaugh bill classifies as unfair detention and demurrage charges along with a host of other activities conducted by port operators. It would also be an unfair business practice for a terminal to lock out a trucking company because of maintenance and repair invoices, penalties inside the terminal, or to offset money owed due to maintenance and repair.

Other provisions in the Firebaugh bill would ban the practice of requiring outside truck drivers to maneuver containers within the terminal yard without compensation or certification that the driver meets the same training standards of a union driver; fixing prices for transportation services; threatening retaliation against a motor carrier that refused to provide services at a non-compensatory rate; refusing the return of equipment; and charging usage or handling fees except during terminal operating hours.

As for the provisions on detention and demurrage, Lanier said in a Feb. 20 letter to CTA Executive Director Joel Anderson, “it would be highly inappropriate to allow the automatic forwarding of these charges to customers even in cases where the drayage company is at fault.”

CTA said it agrees with the Waterfront Coalition that demurrage and detention charges (which can range from $40 to $100 per day for each container) serve a purpose in making ports efficient, but that steamship lines and terminal operators have abused the system.

“A year after the fact they will bill you for detention and they don’t even have proof. When they get short on money they start coming after us,” Williams complained. “They treat the trucking industry like labor. If we don’t pay, they lock us out. These guys don’t run a good business and we don’t want to be a part of them.”

Williams said the West Coast ports shutdown last fall brought to a head some of the unfair practices imposed on trucking. “Anybody with the nerve to charge detention when they voluntarily shut out trucks needs to be regulated,” she said. Short grace periods did not take into account that six-hour waits due to the backlog were common until recently and made trucks late.

Drayage companies, some 600 of which belong to CTA, do not want to be billed by a third party. They are willing to accept fees through their cargo customers because the shippers’ ability to pick with whom they do business gives them the leverage to make sure steamship companies only assess legitimate fees, Williams said.

IANA’s Casey said in reality intermodal business relationships are not that regimented and that in some scenarios the motor carrier may work directly for the vessel operator. Whether the motor carrier works directly for the ocean carrier, the shipper or a broker, depending on how each freight bill is structured.

And, Lanier added, shippers tend to pay most demurrage charges themselves anyway. When truckers are held up at the port, it has more to do with miscommunication between the shipper and terminal over the timing of payments than with penalizing the trucker.

Extended gate hours, appointment times, credit card and online payment of detention and demurrage, and a system similar to that used at East Coast ports for speeding the approval process for demurrage payments are better ways than legislation to help relieve the congestion that make truckers miss scheduled pick ups and deliveries, she said.

Williams stressed that CTA is not going after large shippers. In a draft letter to be sent to the Waterfront Coalition, Williams said the trucking organization “is specifically targeting steamship lines and freight brokers who are contracting with truckers and failing to police the owner-operators who work for them.” Underlining the point, Williams said in an interview that the bill’s definition of a shipper needs to be modified.

Both groups are offering to discuss their differences, but have been unable to set up a meeting. No hearings on the bill have been announced so far, but Williams said CTA hoped to get the legislation passed this year, if it can rebuild the coalition of community, environmental and labor groups that helped pass truck idling restrictions that took effect Jan. 1. Local groups want to ride the areas around ports of old trucks that are unsafe and pollute.

### Congress reviews freight rail spending

### WASHINGTON

American railroads do not have the resources to maintain, upgrade and expand tracks and other infrastructure needed to take more freight volume off crowded roadways, state government and industry officials told a House panel March 6.

Rep. Jack Quinn, chairman of the House Transportation and Infrastructure railroads subcommittee, called railroads “the country’s most under utilized infrastructure.” But without federal assistance the railroads will not be able to accommodate heavier cars, faster transit trains and new routes, the witnesses said.

The hearing was held to outline rail priorities as Congress prepares to pass legislation to reauthorize the Transportation Equity Act for the 21st Century, the multi-year spending plan for surface transportation. The committee is looking at ways to clear administrative hurdles that have prevented railroads from taking advantage of loan programs established in 1998.

Expanding the Rehabilitation and Improvement Financing Program and easing regulatory barriers to its use could help short-line and Class I railroads maintain service levels, said Edward Hamberger, president of the Association of American Railroads.

Other suggestions from witnesses included:

- Increasing the flexibility of environmental rules designed to reduce smog in urban areas by allowing funding for rail projects that cut road congestion and vehicle idling.
- The National Industrial Transportation League, representing shippers, also called on the federal government to boost financing of rail infrastructure, especially short-line rail carriers that cannot handle the new generation of 286,000-pound freight cars that are now standard.
- Unless small railroads connect rural America to the national railroad system by small railroads, “the cost of transportation for small shippers will increase and the cost of maintaining local roads will skyrocket as millions of carloads are moved from rail to truck,” explained Richard Timmons, president of the American Short Line and Regional Railroad Association.
- Philip Marlino, director of commercial transportation at ConocoPhillips and head of NIT’s rail transportation committee, added that federal support “must be coupled with legislative changes that would provide for increased rail-to-rail competition and measures that would bring about a better balance in the commercial relationship between shippers and their rail carriers.” Increasing the number of railroads serving an area might be accomplished by competitive switching within a certain distance of a terminal.
- Mandatory, expedited arbitration of disputes between shippers and rail carriers could also bring some balance to the market, he said.
CAFES arrives in seaports

U.S. Bureau of Customs and Border Protection program eases paper in-bond crunch from 24-hour rule.

BY CHRIS GILLIS

Since the implementation of U.S. Bureau of Customs and Border Protection’s new 24-hour advance manifest regulation for inbound cargo, there has been a substantial increase in paper-in-transit cargo documentation filed to the agency in the nation’s largest container ports.

To ease this paperwork burden on its inspectors and to speed the flow of containers across the docks, Customs has introduced a promising land-border in-bond processing system to the seaport environment.

The application, Customs Automated Forms Entry System or CAFES, uses a redesigned in-bond form with a two-dimensional barcode (PDF-417). The barcode, which resembles a checkerboard, contains larger amounts of information than traditional vertical-lined barcodes used for other land-border clearance documentation.

“We’re trying to quickly provide the ports with as much in-bond processing capability as possible,” said John Considine, director of cargo verification at Customs and Border Protection in Washington. “We don’t want to hold up boxes.”

The first seaports to receive CAFES capability in mid-March were Los Angeles/Long Beach, Calif., and New York/Newark, N.J. Miami is expected to receive the program in early April. Other seaports marked by the agency for CAFES have yet to be determined.

Paper CF-7512s. Effective Dec. 2, Customs began requiring liner carriers and non-vessel-operating common carriers to file their cargo manifests 24 hours prior to loading containers on U.S.-bound ships in overseas ports. The purpose of the regulation is to help Customs detect and prescreen high-risk containers before they’re shipped to the United States.

However, the short-term implementation of the regulation has caused a rapid shift in the responsibility to produce and manage the liability of in-bond shipments from liner carriers to NVOs.

The technologically sophisticated NVOs can obtain custodial type 2 bonds and establish themselves as paperless master in-bond participants in Customs’ Automated Manifest System (AMS). Otherwise, NVOs may contract the in-bond movement to a bonded carrier that will create a paper Customs Form-7512 to hand over to Customs at the port of destination or outbound ports.

CAFES, although still reliant on a paper CF-7512, allows Customs’ staff to instantly populate the agency’s system with in-bond information by using a wand to scan the 2-D barcode. Not a keystroke is required by Customs.

“The program is certainly not better than paperless transmissions in AMS, but it’s better than just pure paper processing,” Considine said.

Considine said Customs estimates that about 40 percent of all shipments processed in its current umbrella system, the Automated Commercial System (ACS), are in-bond related. According to the agency, there are about 1.8 million in-bond movements initiated annually in AMS, of which a large portion is ocean transport related.

The program to produce the CAFES CF-7512 is easy to install and is free for filers to download from Customs’ Web site (www.customs.gov).

Evolving Success. CAFES has already experienced some success on the U.S. land border where it was first implemented at the high-traffic ports of Port Huron, Mich., and Laredo, Texas, in 2001. In mid-July 2002, Customs implemented the CAFES at Buffalo, N.Y.

In the land-border environment, U.S. customs brokers and shippers, with operations in Mexico and Canada, generate CAFES CF-7512s. Truckers carry these forms with them as they transport their shipments to the border. When the drivers arrive at the designated CAFES border ports, they hand the documents to the U.S. Customs inspector in the “primary” booth.

The inspector scans the barcodes, which uploads all the data required by the agency and disperses in-bond data to other related ACS applications, such as the AMS and Automated Broker Interface.

After a successful scan of the barcode, the inspector has the option to endorse the CAFES CF-7512 with a “movement authorization” stamp from a slip printer. The slip printer is used to endorse the entry number on the invoice or other commercial documents used in the agency’s Border Release Advanced Screening System (BRASS), formerly Line Release. Otherwise, the truck is directed to “secondary” for additional query and inspection.

With more efficient access to in-bond data in ACS, truckers are able to improve their delivery times to importers. A study by Customs’ Houston office last year found that CAFES shipments destined to locations within a several-hundred-mile radius of Laredo would be delivered to an importer’s premises before non-CAFES shipments crossing on the same day. The biggest reason is because non-CAFES shipments often get stuck in Laredo’s import lots.
When CAFES was first introduced by the agency, it was estimated that the program had the potential to eliminate more than 2 million hand-keyed, in-bond transactions, a savings to Customs of more than $566,000 a year, freeing inspectors of about 33,000 hours nationwide.

Last May, U.S. and Mexican Customs started an initiative at Laredo to mutually improve decisions and assessments of cargo moving in both directions across the border. Part of this initiative involves the capture of the Mexican entry number, known as the Pedimento, on the U.S. in-bond document or shipment exiting Laredo into Mexico.

Bonded NVOs and other carriers would bring the CAFES CF-7512 documents to the seaport Customs office, where they would be scanned into the system. The inspector would receive a movement authorization message for each transaction. Unlike the land border, there is no movement authorization printed on the ocean CAFES CF-7512 document. “The trade participant would receive their copies with the same perforations that they currently receive,” Considine said.

CAFES closeout for seaport-related shipments can be done two ways:
- Since the CAFES CF-7512 is a valid in-bond document, it can be closed out by manual input like any paper CF-7512.
- If the destination port is a CAFES-enabled port, the document can be scanned in once to post arrival and again to export, if necessary.

**ACE Question.** Customs and Border Protection officials admit CAFES probably has more potential in the field. However, the agency remains uncertain about the program’s future in the Automated Commercial Environment (ACE).

**Goebel**

“We want to be careful to see how (CAFES) worked in a high-volume cargo environment. We also don’t want to expand it if we’re going to do something entirely different in ACE, which is kind of an unknown at this point.”

Elizabeth Durant
executive director for trade compliance and facilitation,
U.S. Bureau of Customs and Border Protection

“**Maher Terminals extends gate hours**

**NEWARK, N.J.**

Maher Terminals Inc., which operates a major terminal at the Port of New Jersey and New York, has extended its gate hours for receiving empty containers and delivering import cargo from 6 a.m. until midnight. Refrigerated cargo is not handled during the extended schedule.

Motor carriers nationwide have long lobbied for ports to extend operating hours to eliminate long waits to pick up and drop off trailers.

“**Hong Kong still world’s busiest container port**

**HONG KONG**

The port of Hong Kong remained the top container port in the world in 2002 when it handled 19 million TEUs, 6.6 percent more than in 2001.

Stephen Ip, Hong Kong’s secretary for economic development and labor, said the record volume “confirms Hong Kong’s position as the world’s busiest container port for nine of the past 10 years.”

Growth in cargo volumes from the southern part of mainland China has continued to boost volumes at the port of Hong Kong, despite the rapid growth of mainland ports in the region.

Hong Kong was once challenged as the top container port in the world by the port of Singapore. However, Singapore suffered a 9-percent fall in container traffic in 2001 and it is now far behind Hong Kong in container volume terms. In 2002, Singapore handled 16.94 million TEUs, an 8.8-percent over 2001.

Singapore has seen increasing competition as a Southeast Asian transshipment hub from the Malaysian port of Tanjung Pelepas.

Ip said authorities are studying the feasibility of a bridge linking Hong Kong with the western part of the Pearl River delta on the mainland.

“We have also jointly commissioned a study with the State Development and Planning Commission on how to boost cross-boundary logistics cooperation with the mainland,” Ip said.
Bill of lading’s small print is still binding

Delta, a shipper, engaged Expeditors International of Washington Inc., to arrange a shipment of electronics from Thailand through Long Beach, Calif., to Austin, Texas. The goods traveled on a vessel chartered by Hanjin. After alleged water damage to the shipment, Cigna Insurance Asia Pacific, Delta’s insurer, paid $215,581.48 to Delta, and then sued Expeditors and Hanjin in federal court in California seeking to recover that amount. Both Expeditors and Hanjin asserted at trial that the terms of their bills of lading and of the Carriage of Goods by Sea Act (COGSA) limited their liability to Cigna to $500 per shipped package. Cigna argued that nothing in either Expeditors or Hanjin’s bills of lading prevented Cigna from seeking full compensatory damages.

U.S. District Judge A. Howard Matz noted in his ruling that the front page of Expeditors’ bill of lading said the shipper “understands that carrier’s liability will be limited . . . unless shipper declares ad valorem valuation in excess of $500 per container.”

“It is undisputed that Decca, the shipper, did not declare any value, let alone a higher value, in the appropriate space, or any other space, on the bill of lading,” Matz said.

One of Cigna’s arguments why the bill shouldn’t apply was that “Expeditors’ bill is blurry, microscopic and cannot be read without resort to a magnifying glass — or hours of time-consuming tedious struggle with the tiny and blurred print.”

Matz determined that “although the print on the rear side of the bill is very small, it is not at all blurry and can, albeit with some eye strain, be read without any magnification. Under such circumstances, the bill is not defective.”

“It is certainly true that the language (of the bill) is not a model of clarity and shows lack of attention to detail,” Matz said further. “It is also true, as Cigna pointed out, that bills of lading are to be ‘strictly construed against the carrier’ who issued them. However, the language is not so unclear or ambiguous as to warrant invalidating this bill’s terms.

“In sum, the court finds that, as a matter of law, Expeditors’ bill of lading provided Delta with sufficient notice that the COGSA $500-per-package limit would apply, and with sufficient opportunity to opt out of that limit. The liability limitation is enforceable against Cigna,” Matz said.

Cigna also argued that if the $500 liability limitation applied at all, it did so only tackle-to-tackle, because the bill of lading did not expressly extend the limitation time. On that point, Matz agreed. He determined that language in the bill of lading indicated “that Expeditors’ pre-loading and post-discharge liability is not that of a carrier but of ‘an ordinary bailee,’ with particular limitations. Nothing in it states or suggests that the COGSA $500 liability limitation applies to damages incurred during pre-loading or post-discharge periods.”

Accordingly, “the court finds that the $500 liability limitation does not apply to pre-loading or post-discharge cargo damages.” A bill of lading must expressly extend the COGSA limitation beyond the tackle-to-tackle period. The mere use of the words “door to door” on the face of the bill of lading does not do so. Judge Matz went on to say that the Harter Act applied to pre-loading and post-discharge periods, but declined “to rule at this time” on which terms of Expeditors’ bill of lading were void under the Harter Act.

Cigna also disputed that it was bound by the bill of lading because the definition of ‘merchant’ on the rear of the bill did not include Delta, the shipper, but only included the bill’s holder. “So what?” Matz wrote in his ruling. “If Expeditors was Delta’s agent, then if Expeditors was bound by the contract, so was Delta and its insurer, Cigna. That is so even if Delta, independent of its agency relationship with Expeditors, was not an express party to the bill. Accordingly, the Hanjin bill of lading, including its liability limitation, is enforceable against Cigna because, on behalf of Delta, and therefore Cigna, Expeditors signed on to that bill.”

Matz took pains to cite case law behind his reasoning: “The Ninth Circuit (Court of Appeals) has held [Carman Tool v. Evergreen Lines,” 871 F.2d 897 (9 Cir. 1989)] that a carrier, Evergreen, was not required to give a purchaser of goods, Carman, actual notice of COGSA’s liability limitation in order for the limitation to apply.”

The Ninth Circuit appellate panel in Carman explained why this should be so in very plain English: “it would be next to impossible for a carrier to give actual notice of the liability limitation to everyone a court might later hold has a foreseeable economic interests in the goods. It could also substantially delay shipment, as the carrier attempts to identify and notify parties many thousands of miles away. Invariably, there would be miscommunication, and the question of who-said-what-to-whom would provide fertile soil enough for a bumper harvest of lawsuits. These are precisely the problems that COGSA was designed to prevent.

“The underlying premise has always been that, so long as the bill of lading, on its face, provides adequate notice of the liability limit and an opportunity to declare a higher value, the carrier has discharged its responsibility. Parties who do not deal with the carrier directly have a responsibility to obtain a copy of the bill of lading if they have an interest in knowing its terms.”

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Bill of lading trumps service contract

After damages allegedly incurred by plaintiff TMC Co. Ltd. as a result of thawing and other mishaps that befell a cargo of chilled beef shipped aboard the Mosel Bridge from Oakland Calif., to Osaka, Japan, a lawsuit in federal court in New York required U.S. District Judge Lewis A Kaplan to decide which document had more legal validity: a service contract or a bill of lading.

The service contract between “K” Line, an ocean carrier, and Nippon Express, a non-vessel-operating common carrier, contained a New York arbitration clause. “K” Line’s bill of lading for the shipment contained a Japan forum selection clause. Which should prevail? Kaplan determined that the service contract “itself makes clear that any forum selection clause in any subsequently issued bill of lading would trump the one it contained itself.” Since the service contract preceded the bill of lading, it “could not possibly have superseded” it.

The court ruled that the terms of the bill of lading applied. [TMC Co. Ltd., v. Mosel Bridge, etc., et al.; U.S. District Court, Southern District of New York; docket number: 01 Civ. 7860; date of ruling: August 15, 2002]
Corporate Appointments

Logistics

Danzas
The company has made several executive changes and appointments in its North America network.

Todd Boice has been promoted to regional vice president, western sub region, from regional manger, northwestern sub region.

Kevin Bock was promoted to regional vice president, central sub region, from regional manager, central sub region.

L. Scott Robbins was promoted to regional vice president, northern border sub region, in charge of brokerage and warehousing sales and operations for U.S./Canada border crossings in Michigan, New York and Vermont. He was regional manager, northern border sub region, based in Port Huron.

Hal Dieterle, regional vice president, western sub region, has left his post to further develop Danzas’ southern border operations in coordination with DHL, support Danzas’ project forwarding business, expand the company’s services in the area of trade fairs and events, manage offices in Laredo and El Paso, Texas, Tucson, Ariz., and oversee franchise operations in Alaska and Hawaii.

GeoLogistics Corp.
The provider of logistics services has appointed Rainer Haverkamp as regional manager, central sub region, based in Port Huron.

Velant three years ago.

Gatti was a sales director in the company’s logistics practice.

Kearney, with responsibilities in the manufacturing and supply chain-consulting practice at Coopers & Lybrand LLP, and was a principal with investment house A.T. Kearney, with responsibilities in the logistics technology firm. Don Ratliff worked for Ryder since 1977.

Ryder System Inc.
The Miami-based provider of transportation and logistics solutions has appointed Anthony G. “Tony” Tegnelia as executive vice president of U.S. supply chain solutions and Robert D. Fatovic as senior vice president of its U.S. logistics operations for high-tech and consumer industries.

Tegnelia was senior vice president of global business value management. He has worked for Ryder since 1977.

Fatovic was vice president, heading Ryder’s supply chain solutions business, and deputy general counsel for the company’s legal department.

Velant Inc.
Ron Gable has been named president of the logistics technology firm. Don Ratliff will continue as chief executive officer.

Gable was a business unit manager at consulting firm Scient Inc. Prior to that he was vice president of global supply chain for the Campbell Soup Co. He also has served as managing partner for the manufacturing and supply chain-consulting practice at Coopers & Lybrand LLP, and was a principal with investment house A.T. Kearney, with responsibilities in the company’s logistics practice.

Ratliff, a logistics expert who has mentored industry professionals at the Logistics Institute at Georgia Tech, founded Velant three years ago.

Maritime

APL
Following the promotion of Ron Widdows to become acting chief executive officer, APL has appointed Goh Teik Poh as the new head of its operations and network division.

Goh will be responsible for liner operations, globally, and will have specific accountability for directing linehaul and feeder operations, global equipment and terminals, network planning and analysis.

Most recently, Goh headed global equipment management. He began his career with APL’s parent company, Neptune Orient Lines, in 1980, serving at sea for five years before moving on shore.

CP Ships
David Halliday, one of four senior business unit heads of CP Ships, has left the London-based container-shipping group.

Halliday was chief executive officer of Contship Containerlines, one of the shipping lines operated by CP Ships. He has worked for more than 22 years with Contship Containerlines and since 1997 with CP Ships.

He has been replaced by Jeremy Masters, vice president of the Australasian/Indian business unit.

Besides Masters, the other senior executives in charge of regional business units at CP Ships are Jeremy Burrows, responsible for the Montreal gateway unit; Tony Bruno, Gulf/Atlantic unit; and Manuel Gonzales (Americas/Pacific unit).

Kawasaki Kisen Kaisha, Ltd.
Toshio Suzuki has been named chief executive officer and president of subsidiary “K” Line America Inc. and director of the Tokyo-based parent company, effective June 27.

Suzuki, vice president of “K” Line America, will replace Yoshio Inuma, who has been promoted to senior managing director of the “K” Line group.

“K” Line has also made several changes to its board of directors and to areas of responsibility of its senior executives.

Fumito Araki, chief executive officer of “K” Line (Europe), will be promoted to managing director of the group.

Takefumi Araki, senior managing director in charge of bulk shipping and energy transport, and Keisuke Nagato, managing director in charge of the marine sector, will retire from “K” Line in June. However, as is traditional with Japanese shipping groups, they have been given senior positions with sister companies. Araki will be president of Kawasaki Kinkai Kisen Kaisha, Ltd., a Japanese shipping subsidiary, and Nagato will be senior managing director of Daito Corp., a port and logistics affiliate.
NYK Star Reefers Ltd.
Lars Rutberg has been appointed chief executive officer of the a reefer shipping company.

Rutberg replaces Fumiya Aoki, who has been named managing director of NYK Reefers Ltd. (London).

Rutberg has worked in the reefer shipping industry for more than 20 years, most recently as executive vice president of Lauritzen Cool AB.

P&O Group
Peninsular & Oriental Steam Navigation Co., the parent company of P&O Nedlloyd Container Line and P&O Ports, has named Robert Woods group chief executive, in a move that positions him to succeed Jeffrey Sterling as the head of the London-based group.

Jeffrey Sterling, chairman of the P&O group, said he plans to leave P&O after the annual general meeting of the group in 2005.

Woods, currently group managing director of P&O Nedlloyd, chairman of P&O Ports and a director of P&O group, will take over from Bruce MacPhail, group managing director of P&O, who will step down at the end of this year.

When he becomes chief executive, Woods will retain direct executive responsibility for P&O Ports, but he will relinquish his position as group managing director of P&O Nedlloyd Container Line.

The P&O group said it will appoint Nick Luff as its new chief financial officer, effective from June. He is currently chief financial officer of P&O Princess Cruises plc.

Maersk Sealand said the change is being introduced “because of the still very low rates on the Atlantic trade,” particularly in the eastbound direction.

Carriers of the Canada U.K. Freight Conference and the Canadian conferences raise eastbound rates

Maersk Sealand said it will reduce its vessel capacity by about 1,500 TEUs a week on the U.S./northern Europe/U.S. container trade in April.

A Maersk Sealand spokesman said the carrier is reorganizing its Atlantic deployment, particularly the “TA3/TP3” pendulum service. This northern Europe/Halifax/U.S. East Coast/U.S. West Coast/Asia/U.S. West Coast/U.S. East Coast/northern Europe multi-trade service currently uses 12 ships with a nominal capacity of about 4,400 TEUs.

Maersk Sealand said three of the vessels on this service will be redeployed elsewhere, and a reduced Atlantic capacity will be offered. It appears the carrier will continue to provide an all-water Asia/U.S. East Coast service with large ships.

The carrier indicated it would “still provide basically the same port coverage,” but will stop its westbound calls at Halifax from early April.

Maersk Sealand said the change is being introduced “because of the still very low rates on the Atlantic trade,” particularly in the eastbound direction.

Other changes to Maersk Sealand’s services are expected, including in the transpacific trade.

Service Announcements

(800) 874-6422, FAX (904) 791-8836, e-mail releases@shippers.com

TACA raises eastbound rates, surcharge
The Trans-Atlantic Conference Agreement said it will increase eastbound tariffs and its fuel surcharge for U.S. intermodal transportation modes, both effective April 15.

Under its rate restoration program, TACA will raise rates for U.S. Atlantic and Gulf ports by $160 per 20-foot container and $200 per 40-footer. Rates for Pacific ports will increase $240 per 20-foot and $300 per 40 or 45-foot dry van container, while rates for temperature-controlled containers will increase by $400 per 20-foot and $500 per 40-foot container.

TACA’s U.S. inland fuel surcharge will increase to 12 percent for all intermodal transportation modes eastbound and westbound, due to the “escalation of U.S. inland transportation fuel prices,” the conference said.

Maersk Sealand to cut transatlantic capacity
Maersk Sealand said it will reduce its vessel capacity by about 1,500 TEUs a week on the U.S./northern Europe/U.S. container trade in April.

A Maersk Sealand spokesman said the carrier is reorganizing its

Canadian conferences raise eastbound rates
Carriers of the Canada U.K. Freight Conference and the Canadian Continental Eastbound Freight Conference said they would initiate a “freight rate restoration program” on eastbound rates,

Safmarine is a sister company of Maersk Sealand within the A.P. Moller group.

Inland

Schneider National Inc.
Greg Sanders has been named area vice president of sales in the U.S. western and southwestern regions for the truckload carrier and transportation services provider.

Sanders was Schneider’s regional vice president of U.S. western sales.

Green Bay, Wis.-based Schneider also appointed Sanders as general manager for the company’s 600-unit truck fleet in 11 western states.

Ports

CSX World Terminals LLC
The terminal operator has appointed Geret De Piper as senior vice president and chief commercial officer; William McHugh as senior vice president, Hong Kong and China investments; and Ronald Sforza as senior vice president and chief financial officer.

De Piper was the company’s vice president for development. McHugh was vice president for business development in Hong Kong and mainland China. Sforza was vice president for finance.
Pacific lines to raise westbound reefer rates

Shipping lines of the Westbound Transpacific Stabilization Agreement have reaffirmed a plan to increase westbound rates for refrigerated beef, pork and poultry, effective July 1.

The WTSA said beef, pork and poultry rates are “well below those of other refrigerated cargoes.”

WTSA member lines said last December they planned to raise rates on frozen and chilled beef and pork by $800 per 40-foot container for all-water port-to-port shipments from all U.S. coasts, and by $1,000 per 40-foot container for intermodal shipments, effective July 1. The carriers also want to raise rates by the same amounts on July 1 for frozen poultry shipments.

The carrier group warned that, effective July 1, carriers would no longer provide transfers of refrigerated beef, pork and poultry free of charge at West Coast container freight stations. Instead, WTSA lines plan to charge separate container freight station costs.

WTSA carriers said they intend to include clauses in new 2003 service contracts “that allow for future implementation, at any time over the contract term, of charges aimed at recovering extraordinary security-related costs as they arise,” the carrier group said.


China Shipping expands Pacific service

China Shipping Container Lines has added two containerships to its “AAS 2” transpacific service and renamed it “Asia America Central.”

The additional ships will allow the carrier to resume the weekly frequency of the service, after several months of operating on a fortnightly basis.

Zim Israel Navigation Co. had taken space on the “AAS 2” service and a spokesman said discussions were being held regarding joining the “AAC” service.

The “AAC” service now uses five ships averaging 2,874 TEUs and calls Liuyangung, Ningbo, Shanghai, Hakata, Busan, Los Angeles, Oakland, Lianyungang, Ningbo, Shanghai, Hakata and Busan.

The switch from the fortnightly “AAS 2” service to the “AAC” will see an increase of around 85,000 TEUs in annual one-way capacity to the transpacific market.

Lykes starts Asia/Vancouver/Alaska service

The CP Ships group has started a new Asia/Canada weekly container service it announced at the end of January.

CP Ships-owned carrier Lykes Lines operates the “Asia Canada Sprint” service with five 2,100-TEU ships, adding some 110,000 TEUs in annual one-way capacity before the transpacific peak season starts. Lykes said each vessel will have up to 430 reefer plugs, and the service will serve fish exporters in Alaska.

The service has a rotation of Vancouver, Anchorage, Tokyo, Qingdao, Shanghai, Pusan, Vancouver. It connects with rail links to Toronto, Montreal and eastern Canada, as well as the U.S. Midwest.

This will be the only transpacific container service calling direct at the port of Anchorage, according to CompAirData, the global liner-shipping database.

CP Ships, a relatively small carrier group in the transpacific trade, will now operate three weekly services between Asia and the Americas. It already has an Asia-West Coast Americas service and a Pacific Sprint service. The latter service serves China, Japan, Korea, Taiwan, California and Mexico.

Wallenius Wilhelmsen boosts Australasia link

Wallenius Wilhelmsen will provide roll-on/roll-off and non-containerized cargo ships with two regularly scheduled sailings a month from the U.S. East Coast to Australia/New Zealand.

The port rotation for the service is Saint John; Baltimore; Savannah, Ga.; Manzanillo, Panama; Papeete; Auckland; Sydney; Melbourne and Fremantle. Saint John, and Papeete are monthly calls, the carrier said.

Last year, Wallenius Wilhelmsen converted the on-deck container capacity on four of its container/ro-ro vessels to covered deck space. Four of the five covered decks are mostly for cars while the fifth is generally for ro/ro cargo.

Wallenius Wilhelmsen also provides service to Australia/New Zealand from the U.S. Gulf and West Coast ports of Galveston, Texas, and Long Beach, Calif. Cargo is relayed at Manzanillo for direct service to Australia/New Zealand.

COSCO, Yang Ming add Asia/PNW service

COSCO Container Lines and Yang Ming Marine have started an additional transpacific service covering ports in Asia and the U.S. and Canadian Pacific Northwest.

The new “CY-PNW” service has a port rotation of Shanghai; Yantian; Hong Kong; Yokohama; Vancouver, B.C.; Seattle; Wash.; Yokohama; Shanghai; Yantian; and Hong Kong.

COSCO operates five ships with capacities of about 2,500 TEUs, with Yang Ming taking 500 TEUs each week. The service adds about 130,000 TEUs in annual one-way capacity to the transpacific market.
Lykes, TMM, partners raise Gulf/Med frequency
Lykes Lines and TMM Lines have added a sixth containership and raised the frequency of their joint Miami/U.S. Gulf/Mexico/Mediterranean service from nine days to weekly. Compania Chilena de Navegacion Interoceania, Contship Containerlines, Compania Sud Americana de Vapores, Hapag-Lloyd and Italia also take space on the service.
The port rotation of the service remains Miami, Veracruz, Altamira, Houston, New Orleans, San Juan, Gioia Tauro, Leghorn, Genoa, Barcelona, Valencia and Miami.

Crowley adds 3rd Gulf/Central America link
Crowley Liner Services said it has added a third weekly fixed-day sailing to its service between Gulfport, Miss. and Guatemala, Honduras, Nicaragua and El Salvador in Central America.
The roll-on/roll-off ship Siem has been added to the service along with the Crowley Express and Mar Caribe, providing southbound sailings every Tuesday, Thursday and Saturday from Gulfport.
The additional vessel, along with the redeployment of other vessels, will result in a 12.5-percent increase in Crowley’s overall weekly sailing capacity in each direction.
Rotation for the service is Gulfport, Puerto Cortes, Honduras; Santo Tomas, Guatemala; and Gulfport. Overland service is provided to Managua, Nicaragua, via Puerto Cortes, and to San Salvador, El Salvador via Santo Tomas. Thursday’s service from Gulfport calls at Havana, Cuba, and Puerto Cortes before returning to Gulfport.

Crowley, Dole Ocean in Costa Rica slot swap
Crowley Liner Services and Dole Ocean Cargo Express will exchange vessel space in the Florida/Costa Rica trade under a proposed space charter and sailing agreement.
The agreement, filed with the U.S. Federal Maritime Commission, would allow the carriers to engage in reciprocal vessel slot chartering in the trade between Port Everglades in Florida, and Puerto Limon in Costa Rica. The carriers requested expedited review by the FMC.

Libra to take slots on U.S./Colombia service
Companhia Libra de Navegacao, a Brazilian shipping line owned by the Chilean group Companhia Sud Americana de Vapores, plans to take space on the U.S. Gulf/Mexico/North Coast of South America service of Lykes Lines, an affiliate of CP Ships.
A proposed space-charter agreement filed with the U.S. Federal Maritime Commission would allow Lykes to take space on Libra’s vessels operating between the U.S. and Mexican Gulf ports and the Atlantic Coast of Colombia.
Companhia Sud Americana de Vapores already takes space on the service.

Pacer Stacktrain begins U.S./Mexico services
Pacer Stacktrain, a division of Pacer International, has started a long-haul intermodal freight service for general merchandise, linking the U.S. Midwest with destinations in Mexico. Pacer Stacktrain also has begun a cross-border intermodal service for freight moving between the U.S. border region and Mexico City.
“By using double-stack technology, both services provide excellent cargo security, eliminating the need for long-haul security escorts that have become increasingly common with highway transports,” said Tom Shurstad, president of Pacer Stacktrain. The company attributes one-fourth of its annual container volumes to the U.S./Mexico trade, or more than 173,000 loads per year.
The long-haul “PacerMex NonStop” service connects Chicago and San Luis Potosi, Queretero, and Mexico City, with delivery to Mexico City on the sixth morning after departure from Chicago. The new intermodal cross-border service, “PacerMex Gateway,” uses Pacer’s Stacktrains with a truck transfer across the border.
Half full or wholly full?

The latest issue to occupy the minds of ocean carriers and analysts is how to measure the effective carrying capacity of vessels.

The Box Club of chief executives and senior executives of the world’s largest container shipping lines has discussed the need for more accurate information concerning the capacity of containerships.

Knud E. Stubkjaer, chief executive of Maersk Sealand, said the industry used incorrect supply and demand forecasts in the transpacific box trade last year, and overstated the vessel capacity supply (see story, page 10).

Stubkjaer is right that analysts did not predict the 20-percent jump in eastbound Pacific traffic last year.

Yet, to provide supply-and-demand market intelligence required by the industry, analysts and forecasting organizations made reasonable forecasts based on economic and other data available data at the time.

Overcapacity did exist in early 2002, as anybody involved in the containership chartering market will tell you, but it virtually disappeared in the following months, contrary to expectations.

Maersk Sealand said analysts should have adjusted vessel capacity downwards to reflect operational restrictions. But short of having access to agreed, refined measurements of effective containership capacities, using the full “nominal” capacity figure of ships is the best objective benchmark. And if you compare capacity at two different times using the same definition of capacity, the capacity increase or decrease is a valid measurement of trends in the market.

Shippers also know that carriers have laid up ships and mothballed some services temporarily for the off-peak season. This adds another dimension to the debate. Should a mothballed ship be deducted from capacity calculations?

If carriers are willing to open their books and talk to analysts or to a trusted third party about effective vessel capacity, it can only be a good thing.

This won’t be an easy task. It seems that carriers themselves have different ways of calculating their capacity utilization figures. And shippers, analysts and the media will want to be convinced that the figures are objective. Carriers have an interest in changing capacity figures to make the market appear tighter than it is.

In the airline industry, figures on available ton-kilometers (a measure of capacity), revenue ton-kilometers (carryings) and load factors (utilization) are common. A higher proportion of airlines than shipping lines are public, and they provide more information on their operations.

What could also be introduced in shipping is an industry-backed survey of U.S. shippers on their forecasts for imports and exports by trade route.

Stubkjaer asked a sound question. The problem now is whether all the parties would be prepared to grasp all the transparency and definition issues involved, and come up with a solution.

Philip James
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