

Memorandum

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OFFICE OF THE SECRETARY
FEDERAL MARITIME COMM

TO : Bryant VanBrakle, Secretary

DATE: January 29, 2004

FROM : Steven Najarian, Counsel to the Commissioner *SN*

SUBJECT : Summary of Oral Presentation of Trans.-Net, Inc. re Docket No. 03-15, Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984

This summary of an oral presentation, which took place on January 27, 2004 at 2:30 PM at 800 North Capitol Street, NW, Washington, DC, is being submitted to the Secretary for submission into the record Docket No. 03-15. Present for the Commission were Commissioner Joseph E. Brennan and Steven Najarian, Counsel to Commissioner Brennan. The presenter, Eliot J. Halperin of Manelli, Denison, and Selter, PLLC, made the following points on behalf of Trans-Net, Inc.:

Trans-Net, Inc. is a NVOCC that wishes to comment on the part of 03-15 dealing with transshipment. Trans-Net supports the proposed rule changes for transshipment agreements.

FMC regulations have traditionally exempted non-exclusive transshipment agreements from filing with the FMC on the basis that such agreements have little competitive impact. The industry has changed since OSRA. Now, for efficiency, ocean carriers share space more often.

In a transshipment arrangement, the shipper should be able to know whether the ocean carrier is carrying the shipper's goods or has chartered space from another carrier. The ocean carrier should file a space charter for the portion of the transshipment agreement for which that ocean carrier does not offer service. There should be transparency. The Commission needs this information to know what is going on in the industry.

A shipper who deals with an ocean carrier alliance knows the frequency of service. In the case of transshipment, however, a shipper may not know which ocean carrier is performing the transportation. The NVOCC, as a shipper, is entitled to know how the transshipment is being run. After the rules are revised, a shipper could inquire of the ocean carrier whether a transshipment agreement is on file with the FMC.