directed to the Secretary, Federal Maritime Commission, Washington, DC 20573–0001, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on each party of record.

Finally, it is ordered, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61, the initial decision of the presiding ALJ shall be issued by May 5, 1998, and the final decision of the Commission shall be issued by September 2, 1998.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–11999 Filed 5–7–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 97–07]

Possible Unfiled Agreement Between Hyundai Merchant Marine Company, Ltd., and Mediterranean Shipping Co., S.A.; Order of Investigation and Hearing

On September 6, 1995, Hyundai Merchant Marine Company, Ltd. (''Hyundai'') and Mediterranean Shipping Co., S.A. (''MSC'') filed with the Federal Maritime Commission (''Commission'' or ''FMC'') FMC Agreement No. 217–011512 (''FMC agreement'' or ''filed agreement''), under which Hyundai is authorized to charter space on MSC's vessels in the trade between U.S. Atlantic and Gulf ports and ports in North Europe. At the time this FMC agreement was filed, MSC was a member of the Trans-Atlantic Conference Agreement (''TACA''). Hyundai became a member of TACA on September 11, 1995.

As a result of discussions with filing counsel concerning possible restrictions on the rights of TACA members to charter space to non-conference carriers, the staff questioned whether the FMC agreement reflected the entire agreement between the parties. There was no reference to TACA membership in the FMC agreement, as initially filed. In response to the staff's inquiry, on September 29, 1995, the parties filed an amendment to the FMC agreement, as follows:

> 5.7 In the event either or both of the Parties shall, at any time during the period this agreement may remain in effect, adhere to any other agreement in the Trade, including the Trans-Atlantic Conference Agreement (''TACA'') and/or Transatlantic Policing Agreement (''TPA'') and any successor to the TACA and/or TPA, they herein undertake to abide by the terms and conditions of any such other agreements and, in the particular case of the TACA, the provisions of Article 15 thereof.

The FMC agreement between Hyundai and MSC, as amended, became effective, pursuant to section 6 of the Shipping Act of 1984, 46 U.S.C. app. 1701, *et seq.* (''1984 Act'') on October 21, 1995.

Article 15 of the TACA agreement is entitled ''Adherence to Tariffs, Service Contracts and Authorized Practices; Conflicts of Interest.'' Article 15.3 thereof reads, in part:

> All Parties shall strictly abide by and observe Agreement rules, regulations and authorized practices and no Party shall engage, directly or indirectly, through any holding, parent, subsidiary, associated or affiliated company or companies (''Related Companies'') or otherwise, in the transportation of cargo in the Trade at rates or on terms and conditions other than those agreed upon or otherwise authorized pursuant to the provisions of this Agreement * * *.

On the basis of concerns that this language may preclude TACA members from chartering space on their vessels to non-conference lines, the Commission issued an order pursuant to section 15 of the 1984 Act on February 22, 1996, requiring information and documents related to this issue.[1]

In response to that order, Hyundai and MSC produced a number of documents, including a slot charter agreement between Hyundai and MSC, dated August 4, 1995, and referred to by the parties as a memorandum of agreement (''MOA''). In addition, Hyundai and MSC produced copies of correspondence between negotiators for the two carriers, indicating that the terms of the MOA were the focus of extensive negotiations, while the first draft of the FMC agreement was agreed to without change or substantive discussion. Moreover, the negotiator for MSC informed his counterpart at Hyundai that, where there were discrepancies between the two documents, the terms of the MOA would supersede those of the filed agreement.

The MOA is a detailed document with four appendices,[2] while the FMC agreement is written in general terms and does not contain any appendices or certain other specifics set forth in the MOA.[3] In addition to this difference in the level of detail, there are at least three differences of a more substantive nature between the filed agreement and the MOA.

First, the MOA makes several references, on the title page and in the preamble, to the relationship between this slot charter and TACA. The title page of the MOA states that the slot charter agreement is ''Under the Trans Atlantic Conference Agreement.'' The preamble states:

> This agreement is adopted pursuant to the Conference Agreement.[4] In furtherance of the Conference agreement, the parties have met and communicated among themselves for the purpose of effecting the purposes and provisions of the Conference Agreement. Their decisions are set forth in this agreement. This agreement is supplemental to the Conference Agreement and is subject to all of the rights, obligations, definitions, terms and conditions set forth in the Conference Agreement.

The filed agreement contains no counterpart to this preamble, nor any reference to TACA on the title page.

Second, as originally signed by the parties, the MOA contained an Article 15 which stated:

> 15. Conference Membership
>
> Hyundai and MSC shall take a common position to membership in TACA for the period of this Agreement. No Party will resign from TACA without the agreement of the other Party.

Nothing similar to this commitment appears in the filed agreement. The MOA appears to have been amended by the parties on May 20, 1996, to delete this conference membership provision.[5] A copy of that amendment to the unfiled MOA was submitted to the Commission on June 28, 1996.

The third significant difference between the MOA and the filed agreement is found in the duration of the respective agreements. The MOA states that:

> This agreement will have a firm validity of three years and shall commence on October 1st, 1995 or latest January 1st, 1996. It will remain in effect for a minimum of 36 months. [T]hereafter it will be subject to termination on six months notice given by any party in writing to the party [sic]. The earliest effective notice of termination date, however, will be March 30th, 1998.

Article 9 of the filed agreement states, in pertinent part, that:

[1] This section 15 order was addressed to TACA and its seventeen member lines. Responses were submitted in May 1996, and required informal follow-up with the conference and its members which was completed in December 1996.

[2] These appendices are: 1. Containerships/capacity/schedules; 2. Financial arrangements; 3. Slot Charter Party; and 4. Restrictions in respect of dangerous goods.

[3] E.g., compensation for unavailable slots; carriage of empty containers; intercoastal moves; utilization reports; costs of vessels out of service; etc.

[4] Conference Agreement is defined by the MOA to mean TACA.

[5] The MOA was first disclosed to the Commission on May 7, 1996, in response to the section 15 order.

This Agreement may be implemented as from the date it becomes lawfully effective and its term shall be of indefinite duration. The Parties may terminate or suspend this Agreement at any time upon such terms as they may determine * * *.

The 1984 Act and the Commission's regulations are explicit in requiring that a true and complete copy of every applicable agreement be filed with the Commission, and that parties operate only pursuant to the terms of such agreements. Section 5(a) of the 1984 Act, 46 U.S.C. app. 1704(a), requires that:

A true copy of every agreement entered into with respect to an activity described in section 4(a) or (b) of this Act shall be filed with the Commission * * *. The Commission may by regulation prescribe the form and manner in which an agreement shall be filed and the additional information and documents necessary to evaluate the agreement.

Sections 10(a)(2) and 10(a)(3) of the 1984 Act, 46 U.S.C. app. 1709(a)(2) and 1709(a)(3), state that no person may:

(2) operate under an agreement required to be filed under section 5 of this Act that has not become effective under section 6, or that has been rejected, disapproved, or canceled; or

(3) operate under an agreement required to be filed under section 5 of this Act except in accordance with the terms of the agreement or any modifications made by the Commission to the agreement.

The Commission's rules implementing these statutory provisions are set forth at 46 CFR part 572, and, as pertinent to the issues set forth herein, provide as follows:

46 CFR 572.103 Policies * * *

(g) An agreement filed under the Act must be clear and definite in its terms, must embody the complete understanding of the parties, and must set forth the specific authorities and conditions under which the parties to the agreement will conduct their present operations and regulate the relationships among the agreement members.

46 CFR 572.407 Complete and Definite Agreements

(a) Any agreement required to be filed by the Act and this part shall be the complete agreement among the parties and shall specify in detail the substance of the understanding of the parties.

(b) Except as provided in paragraph (c) of this section, agreement clauses which contemplate a further agreement, the terms of which are not fully set forth in the enabling agreement, will be permitted only if the enabling agreement indicates that any such further agreement cannot go into effect unless filed and effective under the Act.

(c) Further specific agreements or understandings which are established pursuant to express enabling authority in an agreement are considered interstitial implementation and are permitted without further filing under section 5 of the Act only if the further agreement concerns routine operational or administrative matters, including the establishment of tariff rates, rules, and regulations.

Section 7(a) of the 1984 Act, 46 U.S.C. app. 1706(a), provides, as pertinent here, that the antitrust laws of the United States do not apply to—

(1) any agreement that has been filed under section 5 of this Act and is effective under section 5(d) or section 6 * * *, [or]

(2) any activity or agreement within the scope of this Act, whether permitted under or prohibited by this Act, undertaken or entered into with a reasonable basis to conclude that (A) kit is pursuant to an agreement on file with the Commission and in effect when the activity took place * * *.

This broad grant of antitrust immunity necessitates careful Commission oversight of the activities carried out pursuant to agreements. Effective oversight could be thwarted by failure to disclose essential elements of agreements, or by language filed with the Commission which may not permit an assessment of an agreement's true competitive impact.

It appears that the differences between the Hyundai/MSC filed agreement and the MOA extend beyond routine operational or administrative matters and provide for activities which affect competition between the parties and with other carriers in the transatlantic trades. In particular, it appears that the MOA, as originally signed, effectively ties Hyundai, traditionally a non-conference carrier, to membership in TACA for at least three years. There is nothing in the filed agreement which would alert the Commission or the public to this anticompetitive aspect of the slot charter agreement.

As noted, Hyundai joined TACA effective September 11, 1995, and the FMC agreement became effective on October 21, 1995. Thus, it appears that Hyundai and MSC implemented at least the first part of their unfiled agreement on conference membership, i.e. Hyundai and MSC took a common position to membership in TACA, more than eight months prior to its reported deletion from the MOA on May 20, 1996, and more than a month prior to effectiveness of the FMC agreement.

In view of the above, the Commission is instituting this investigation to determine whether Hyundai and/or MSC are violating or have violated pertinent provisions of the 1984 Act and Commission regulations by operating pursuant to an agreement not filed with the Commission, the terms of which may be substantively different from those contained in the parties' agreement which is on file with the Commission and effective pursuant to the 1984 Act. If so, this proceeding also shall determine whether civil penalties should be assessed and, if so, in what amount, and whether a cease and desist order should be issued.

Now therefore, it is ordered, that pursuant to sections 5(a), 10(a)(2), 10(a)(3), 11, and 13 of the Shipping Act of 1984 (''1984 Act''), 46 U.S.C. app. 1704(a), 1709(a)(2), 1709(a)(3), 1710, and 1712, and the Commission's regulations set forth at 46 CFR 572.103(g), and 46 CFR 572.407, an investigation is hereby instituted to determine, with respect to space/slot chartering in the transatlantic trades:

1. Whether Hyundai and MSC are violating or have violated section 5(a) of the 1984 Act by failing to file a true copy of an agreement entered into with respect to an activity described in section 4(a) or (b) of the 1984 Act, 46 U.S.C. app. 1703 (a) or (b);

2. Whether Hyundai and MSC are violating or have violated section 10(a)(2) of the 1984 Act by operating under an agreement required to be filed under section 5 of the 1984 Act that has not become effective under section 6 thereof;

3. Whether Hyundai and MSC are violating or have violated section 10(a)(3) of the 1984 Act by operating in a manner not in accordance with the terms of an agreement required to be filed under section 5 of the 1984 Act;

4. Whether Hyundai and MSC are violating or have violated 46 CFR 572.103(g) by filing an agreement with the Commission that does not embody the complete understanding of the parties and/or does not set forth the specific authorities and conditions under which the parties will conduct their present operations and regulate the relationships among the agreement members; and

5. Whether Hyundai and MSC are violating or have violated 46 CFR 572.407 by filing an agreement with the Commission that is not the complete agreement among the parties and/or does not specify in detail the substance of the understanding of the parties.

It is further ordered, That Huyndai and MSC are designated as Respondents in this proceeding.

It is further ordered, That, in the event violations of the 1984 Act or the Commission's regulations are found, this proceeding shall determine whether civil penalties should be assessed against either or both of the Respondents and, if so, in what amounts.

It is further ordered, that, in the event violations of the 1984 Act or the

Commission's regulations are found, this proceeding shall determine whether a cease and desist order should be issued against either or both to the Respondents.

It is further Ordered, That a public hearing be held in this proceeding and that these matters be assigned for hearing before an Administrative Law Judge (''ALJ'') of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the ALJ in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding ALJ only after consideration has been given by the parties and the presiding ALJ to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further Ordered, That the Commission's Bureau of Enforcement is designated a party to this proceeding.

It is further Ordered, That notice of this Order be published in the **Federal Register**, and a copy be served on each party of record.

It is further Ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72.

It is further Ordered, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on each party of record.

It is further Ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573–0001, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on each party of record.

Finally, it is further Ordered, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61, the initial decision of the presiding ALJ shall be issued by May 5, 1998, and the final decision of the Commission shall be issued by September 2, 1998.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–11998 Filed 5–7–97; 8:45 am]

BILLING CODE 6730–01–M

GENERAL SERVICES ADMINISTRATION

Report on Revised System of Records Under the Privacy Act of 1974

AGENCY: General Services Administration.

ACTION: Notification of revised system of records.

SUMMARY: The purpose of this document is to give notice, under the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent by the General Services Administration (GSA) to revise a system of records maintained by GSA.

The system of records, Credentials, Passes, and Licenses, GSA/HRO–8, will be revised to show that GSA will collect individual next of kin name and phone number and medical information from employees on a voluntary basis, so that this information may be made available to security and medical personnel in the event of a medical emergency. The system will also be revised to show that data storage will be in the form of or in electronic chips in the individual's identification card itself, and in associated automated data systems.

A new system report was filed with the Chairman of the Committee on Government Operations in the House, the Committee on Governmental Affairs in the Senate, and the Office of Management and Budget.

DATES: Any interested party may submit written comments about this revision. Comments must be received on or before the 30th day following publication of this notice. The system will become effective without further notice on the 30th day following publication of this notice unless comments are received that would result in a contrary decision.

ADDRESS: Address comments to the General Services Administration (CAI) Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Cunningham, GSA Privacy Act Officer, telephone (202) 501–3415.

Background

The system of records, Credentials, Passes, and Licenses, GSA/HRO–8, will be revised to show that GSA will collect individual next of kin NAME and phone number and medical information from employees on a voluntary basis, so that this information may be made available to security and medical personnel in the event of a medical emergency. The system will also be revised to show that data storage will be in the form of or in electronic chips in the individual's identification care itself, and in associated automated data systems.

System number: GSA/HRO–8.

System name: Credentials, Passes, and Licenses.

System location: This system of records is maintained by the Director, Office of Management Services, 1800 F St. NW, Washington, DC and by the regional Administrative Services Divisions as listed in the appendix.

Categories of Individuals Covered by the System

All employees whose assigned responsibilities require the issuance of credentials for identification and security purposes.

Categories of Records in the System

1. GSA Form 15, Weekend and Holiday Pass (Various personal characteristics).

2. GSA Form 22, Employee Identification Credential—Regional (Photo, name, Social Security Number (SSN), issuance date, serial number, employee signature, and issuing official.

3. GSA Form 48, Request for and Record of Credential or Pass (Name, photo, official address and phone number, home address, next of kin and next of kin phone number, issuance date, serial number, employee signature, and issuing official).

4. GSA Form 277, Employee Identification and Authorization Credential-General (Photo, signature of bearer, name of employee, signature of issuing official, date issued, identification serial number, SSN, position title, official address and phone number, home address and phone number, next of kin, next of kin phone number and medical information).

5. OF 7, Property Pass (Name, building, description of property, agency, and effective date).

6. GSA Form 2941, Parking application (Name address, agency, correspondence symbol, office telephone number, and length of service).

Authority for Maintenance of the System

The Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended.

Purpose. To assemble in one system information pertaining to passes and credentials for identification and security purposes.