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Report to Secretary, Department of Defense; by Fred J. Shafer, Director, Logistics and Communications Div.

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Contact: Logistics and Communications Div.

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Organization Concerned: Federal Maritime Commission.

Congressional Relevance: House Committee on Merchant Marine and Fisheries.

Authority: B-154967 (1964).

The Department of Defense (DOD) did not concur with the following two GAO recommendations concerning containerized shipping service to Puerto Rico, Hawaii; and Guam: (1) the Military Sealift Command (MSC) should be directed to develop a staff knowledgeable in commercial ocean tariffs; and (2) MSC should review its negotiation efforts to date in the Puerto Rico trade. DOD replied to GAO that they disagreed that MSC has a void in the ability to use commercial ocean tariffs, and that the problem was not one of a lack of staff competence but a lack of basic commodity information necessary to properly rate the shipments. Findings/Conclusions: GAO requested that DOD reconsider GAO's recommendations in these two areas. GAO's conclusion that MSC needed to develop a staff knowledgeable in this area was based primarily on statements MSC made in its cases before the Federal Maritime Commission. The record shows that neither MSC, nor anyone in DOD, possessed the tariff expertise to use commodity information prudently. The study DOD cited as showing a 6% cost advantage in favor of the Government negotiated rates over the commercial tariffs lacked the basic foundation for a comparative cost study. Also, there is a continuing need to obtain better commodity description information to enable MSC to evaluate the reasonableness of its negotiated rates. The original recommendations are still appropriate. (SC)

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UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

LOGISTICS AND COMMUNICATIONS  
DIVISION

MAY 3 1977

B-145455

The Honorable  
The Secretary of Defense

Dear Mr. Secretary:

Your letter of November 29, 1976, signed by the Honorable Dale R. Babione, Acting Principal Deputy Assistant Secretary of Defense (I&L), was in final reply to our report on containerized shipping service to Puerto Rico, Hawaii, and Guam (B-145455, OSD Case #4432). You generally concurred with our conclusions and recommendations except where we recommended that:

- The Military Sealift Command should be directed to develop a staff knowledgeable in commercial ocean tariffs, and
- MSC should review its negotiation efforts to date in the Puerto Rico trade.

We have reviewed the information cited in your letter and find that it does not alter our conclusions. We ask that you reconsider our recommendations. Our basis for this request is as follows:

NEED TO DEVELOP STAFF KNOWLEDGEABLE  
IN COMMERCIAL OCEAN TARIFFS

In your letter you state that you do not agree the MSC has a void in the ability to use commercial ocean tariffs. You further state that the problem was not one of a lack of staff competence, but a lack of basic commodity information necessary to properly rate the shipments. Our conclusion that MSC needed to develop a staff knowledgeable in the use of ocean tariffs was based primarily on statements MSC made in its two cases before the Federal Maritime Commission (FMC).

In its opening brief before the FMC on 1 August 1975, relating to the Puerto Rico Maritime Shipping Authority--Government Cargo (Docket No. 75-20), MSC stated:

"In this regard, it was suggested by Counsel for Matson that most large commercial shippers have a traffic department with people trained in using commercial tariffs (Tr. p. 478). Of course, it can be added that it is absolutely essential for such commercial shippers to train these tariff experts to protect the shipper's interest. The point to be made here is that the DOD is also a large shipper, probably the largest shipper in both volume and number of different commodities shipped on any trade route, but at this time it does not have a traffic department or the tariff experts needed to protect its interests. Mr. Hoy testified that MTMC personnel trained in tariffs are trained only in inland tariffs, not ocean tariffs, and even then 'do not become highly qualified freight tariff people, they are overall transportation specialists or traffic management specialists rather than tariff specialists' (Tr. pp. 317, 465).

"MSC is of the view that to force the military to utilize commercial tariffs at this point in time and in light of the well-known lack of familiarity with ocean tariffs on the part of defense agency employees and military personnel would be extremely unfair and costly to the military services."

In the hearings before the FMC in October 1975, relating to the complaints of MSC against Matson Navigation Company (Docket Nos. 75-4 and 75-5), two witnesses for MSC spoke about the weaknesses of DOD in using commercial tariffs. Captain F. K. Feagin, Assistant Chief of Staff (Operations and Plans), Military Sealift Command, Pacific was questioned as follows:

Mr. Eugene L. Stewart, Esq., for the Government of Guam: Now, in the -- in your very concise statement, you have said at page 13, in the last paragraph at the bottom of the page, that you have had to establish a separate system, and have not been able to attract supervisory personnel experienced in commercial tariffs.

Would you please explain the nature of the separate system in your Command that you have reference to, and a part of that expertise in commercial tariffs would play under your intended operation of that system?

Captain Feagin: We have established our cargo passenger division, is divided -- was divided into a break-bulk, passenger section, a container reefer section, and a documentation and statistics section. We found that the procedures for booking cargo under the tariffs was so different in the -- to that used with contracts

in the container reefer trade, that we segregated those responsibilities out, and established a domestic traffic branch and we had no -- no one in the organization that was at all familiar with commercial tariffs.

So we contracted for a consultant who was more familiar with steamship commercial practices than a tariff man, but did have certainly much more understanding of the tariffs than we did.

Then we took two people from other sections, other duties, and put them to work in this group.

Mr. Stewart: Is it your testimony that those people that you have so assigned are not qualified in commercial common carrier tariff matters?

Captain Feagin: They are not qualified.

Mr. Stewart: Have you requested the Military Traffic Management Command to make available to you on a loan, or other basis, from their qualified staff, experts in the interpretation of common carrier ocean freight tariffs?

Captain Feagin: We have discussed the availability of such experts, and have been advised informally that such personnel are not available.

Mr. James Hoy of the MTMC's Directorate of International Traffic was also questioned about the ability to use commercial ocean tariffs

Mr. David P. Anderson, Esq., for Matson Navigation Company: Do I understand correctly, Mr. Hoy, that since February 20th, when these contracts expired, neither MTMC nor MSC has acquired anyone with knowledge of ocean tariffs in connection with these traffic management functions?

Mr. Hoy: I can't speak for MSC, but MTMC has not, no.

Mr. Anderson: Well, you actually do not provide any traffic management advice as far as having -- as far as it might be based on tariffs, ocean tariffs, is that correct?

Mr. Hoy: On ocean tariffs, yes.

While we agree that a lack of basic commodity information necessary to rate the shipments was a problem, that was not the only problem. In addition to getting good information, MSC needs the tariff expertise to use commodity information prudently. The record shows that neither MSC, nor anyone in DOD, possessed such expertise.

NEED TO REVIEW ITS NEGOTIATION EFFORTS  
TO DATE ON SHIPMENTS TO PUERTO RICO

In your letter you also state:

"A detailed analysis of Puerto Rico Maritime Shipping Authority's tariff rates prepared by MSC indicates that costs under the government negotiated rates amount to approximately 6 percent less than the cost would be under commercial tariff."

We have reviewed that study and conclude that the 6 percent difference is not adequately supported. Our detailed evaluation of the study, which was presented to officials of MSC, indicated that:

- (1) MSC did not know and did not make any attempt to determine the precise tariff descriptions for the shipments in the study and therefore could not make a valid comparison between the commercial tariff rates and the Government's simplified class rates.
- (2) MSC did not audit the charges the carrier actually billed to insure the carrier billed the correct charges according to its tariff.
- (3) MSC could not support the basis for the charges it stated it would have paid had the rates it wanted to use been in effect.
- (4) The sample of GBLs used for the study did not reflect the universe of the shipments made to Puerto Rico during the study period.

The MSC study was initiated to compare DOD's cost under the Puerto Rico Maritime Shipping Authority's full tariff rates with the class rates (general cargo, vehicles, refrigerated cargo) MSC would have paid had the class rates not been temporarily suspended by the FMC. MSC reviewed 21 of the 144 Government bill of lading (GBL) sailings made during the period 8 June 1975 through 1 December 1975. The 21 GBLs covered sailings between 24 June 1975 and 13 August 1975.

The documents MSC used for the study were GBLs prepared by Army port representatives. These officials used commodity description information furnished by the shipper services under MILSTAMP. It had been acknowledged that MILSTAMP information was inadequate for describing shipments in terms of commercial tariffs.

Although MSC was aware of this, it did not attempt to go behind the GBL records to determine whether what was described on the GBLs was in fact what was shipped. It accepted the GBL descriptions as its basis for the comparative cost analysis. Moreover, MSC did not audit or have GSA verify that the rates the carrier billed were the correct rates for what was described on the GBLs.

We believe the costs MSC would have had to pay on the 21 GBLs used in its study would have been considerably reduced had MSC used more precise commodity descriptions and then audited the carrier's charges. From the information we reviewed, we believe MSC was overbilled about \$2600 on the dry cargo containers and \$4300 on the refrigerated containers. Several containers described as "freight-all-kinds" should have been described as "beverages" based on a comparative analysis of the pieces, weight, and cube listed for the containers on the same GBLs. Other containers were billed as "refrigerated cargo, NOS" which had they been described in more precise terms, would have qualified as "meats, NOS" or other lower rated items.

MSC also incorrectly determined the charges it would have paid had the class rates under FMC suspension been in effect. MSC failed to consider that it would have had to pay not only for the freight loaded in each container but also for the deficit tonnage necessary to meet the rate item's minimum tonnage charge for each container.

Finally, MSC chose to select shipments from only three of the ports--New York, Charleston, and Jacksonville--from which MSC shipped cargo to Puerto Rico. It ignored shipments made from Baltimore and New Orleans. Since Baltimore was the primary port from which "straight," or single commodity, containerloads were shipped, the study sample of GBLs was weighted in favor of "mixed shipment" containerloads and against "straight" containerloads.

As we pointed out in our report, "mixed shipments" offered MSC the most potential for reduced rate negotiation of "freight-all-kinds" rates. However, "straight" shipments offered MSC the opportunity to use the reduced rates in existing tariffs. But, by its sample of GBLs, MSC chose to ignore those shipments--from Baltimore, particularly--where the existing tariff rates were lower than the rates MSC was trying to use. The result was that the study showed that the tariff rates were higher than the other rates.

In the GBLs used in MSC's study, 51 of 123 dry cargo containerloads consisted of a single commodity. Eighty-four out of 84 of the containerloads from Baltimore, which MSC did not use in its study, consisted of a single commodity. We do not know why MSC would want to use "freight-all-kinds" rates for single commodity shipments wherein it was almost always required to pay higher charges than at the tariff specific commodity rates. The difference in favor of the tariff rates for those 84 containers was over \$14,000 or 17 percent.

We want to reiterate that we are not opposed to the negotiation of "freight-all-kinds" rates, provided the overall cost to the Government is no more than it would be otherwise. Comptroller General decision B-154967, December 21, 1964--which MSC introduced into the Puerto Rico hearings before FMC--addressed the issue of the validity of Section 22 quotations which provided some instances of rates or charges on "freight-all-kinds" higher than those named in tariffs, but which, overall, provided rates and charges considerably below those in tariffs. The Comptroller stated that he believed there was merit in use of "freight-all-kinds" rates related to the savings in transportation charges, manpower, and paperwork and to facilitate the audit of payments. However, the basis upon which authorization was given to use "freight-all-kinds" rates was that (1) the shipments were almost all "mixed shipments" and (2) the shipper would be able to determine what he was shipping in the precise commodity descriptions of the underlying tariff and be able to compare the charges under the tariffs with those of the simplified tender.

We found MSC was unable to determine what the precise tariff commodity descriptions were for the cargo in the "mixed shipment" containerloads. There was simply no way MSC could compare the tariff rates with the simplified class rates.

In our opinion, the study you cited to us as showing a 6 percent cost advantage in favor of the Government negotiated rates lacked the basic foundation for a comparative cost study. The cost advantage in favor of the negotiated rates, considering what we believe to be the more precise commodity descriptions, was only one percent. However, that difference would have been obviated by a better sample which included some Baltimore shipments.

NEED TO OBTAIN BETTER COMMODITY  
DESCRIPTION INFORMATION

In your letter you state:

"The Military Traffic Management Command (MTMC), as the Military Standard Transportation and Movement Procedures (MILSTAMP) Administrator in conjunction with MSC, has developed and promulgated procedures to provide the necessary commodity descriptive information to allow us the use of the lowest cost commercial rates in the domestic offshore trades."

At present cargo shipped to Hawaii and Guam must be described more specifically than the generalized descriptions MSC has been using in connection with its container agreements to overseas locations. Cargo shipped to Puerto Rico can still be described in general terms, but the FMC has under consideration whether those procedures are legal.

From our discussions with MSC and MTMC, the information MSC is provided to describe its shipments to Hawaii and Guam is still inadequate. The breakdown is apparently at the shipper services' level. MTMC has asked the shippers to provide more specific descriptions for cargo shipped to Hawaii and Guam, but MSC advises that the information is not adequate for all shipments. The result has been that MSC must describe many containerloads of cargo as "freight-all-kinds."

Rating cargo as "freight-all-kinds" is permitted under the commercial tariffs for shipments to Hawaii and Guam, but there are conditions to the use of that rate that MSC cannot meet. MSC may be subjecting DOD to future claims for failing to describe its shipments properly. The tariffs require that "freight-all-kinds" shipments consist of five or more different commodities--as defined by separate rate items in the tariffs or separate item numbers in the Uniform Freight Classification--no one of which may weigh more than 50 percent of the total shipment weight. MSC must be able to certify that it knows these conditions are met for each shipment so described. The information MSC is receiving from the shipper services, through MTMC, does not give MSC assurance that it can meet these conditions, since the information is often not stated in clear descriptive terms MSC can use in conjunction with the commercial tariffs.

We are aware that GAO was not the first to point out this particular problem with commodity descriptions. MSC--Pacific was aware of the problem in early 1975. The need for commodity description information underlies the whole basis by which MSC can evaluate the reasonableness of its negotiated rates.

In summary, we believe that our original recommendations that MSC be directed to develop a staff knowledgeable in commercial ocean tariffs and that MSC should review its negotiation efforts in the Puerto Rico trade were and still are appropriate. We also believe there is a need for DOD to further emphasize to the shipper services the importance and necessity for adequate commodity descriptions.



B-145455

We would be glad to discuss with you any of the matters presented in this letter. Please contact us if you have any questions or additional comments on our report.

Sincerely yours,



F. J. Shafer  
Director

cc: Senate Committee on Government Operations  
House Committee on Government Operations  
Senate Committee on Appropriations  
House Committee on Appropriations