

in this part may be waived in writing, by mutual agreement of the parties, in keeping with the circumstances then present, so long as the procedures adopted are consistent with the Act and with the intent of these regulations.

**Subpart B—Foreign-Flag Competition**

**§ 282.10 Basis for determining foreign-flag competition.**

The foreign-flag competition shall form the basis for determining the cost disadvantage of operating the subsidized vessels in the essential service. The Maritime Administrator shall determine the foreign-flag competition from those countries that have carried

a significant amount of cargo in the service by using the following procedures:

(a) The primary source of information shall be commodity import/export data compiled by the Bureau of the Census. Cargo data shall be compiled in long tons. Trade publications which show advertised sailings shall be used to verify the liner services offered by foreign-flag operators.

(b) The U.S. import/export data shall be compiled by reference to countries actually served by the subsidized operator, using the subsidized operator's own competition data for each country to eliminate the flags which are not substantial competitors with the subsidized vessels. An example of the weighting procedure follows:

EXAMPLE

	Country A	Country B	Country C	Total
I. Determination of U.S.-Flag Weights:				
U.S. Subsidized Carrier .....	300	500	200	1,000
Percent .....	30	50	20	100
II. Actual Foreign-Flag Carryings:				
Flag 1 .....	1,500	500	1,000	3,000
Flag 2 .....	4,000	6,000	0	10,000
Flag 3 .....	5,000	2,000	5,000	12,000
III. Adjusted Foreign-Flag Carrying (Actual Foreign × U.S. wts):				
Flag 1 .....	450	250	200	900
Flag 2 .....	1,200	3,000	0	4,200
Flag 3 .....	1,500	1,000	1,000	3,500
				8,600
IV. Competition Computation:				
Flag 2 .....	4200/8600	Actual percent 49.0		Re-weight (percent) 55.0
Flag 3 .....	3500/8600	41.0		45.0
				100.0

(c) The principal foreign flags shall be those countries whose cargo carrying would rank the flag among those carriers that aggregate at least 50 percent of the total foreign-flag carryings.

(d) The total cargo carryings of each principal foreign flag shall be expressed as a percentage of total cargo carryings of all principal flags on the service. The resultant ratio shall be applied to the costs of that principal flag for determining its portion of the composite foreign cost, which shall be used for establishing the cost disadvantage of U.S. vessels in the service.

(e) The determination of the principal competitors and competition

weight factors shall be based upon the import/export data for the twelve months of the penultimate calendar year preceding January 1 of the subsidized year to allow several months to collect foreign cost data.

**§ 282.11 Ranking of flags.**

The operators under each principal foreign flag shall be ranked as predominant, secondary, etc., for the purpose of establishing the priority of costs which are representative of the flag. For liner cargo vessels, the ranking of operators shall be based on the long tons of cargo carried.