MARITIME TRANSPORTATION SUPPLY CHAIN ISSUES

(118–9)

HEARING

BEFORE THE

SUBCOMMITTEE ON
COAST GUARD AND MARITIME TRANSPORTATION

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

MARCH 28, 2023

Printed for the use of the
Committee on Transportation and Infrastructure

Available online at: https://www.govinfo.gov/committee/house-transportation?path=/browsecommittee/chamber/house/committee/transportation

U.S. GOVERNMENT PUBLISHING OFFICE

54–882 PDF WASHINGTON : 2024

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MARCH 24, 2023

SUMMARY OF SUBJECT MATTER

TO:	Members, Subcommittee on Coast Guard and Maritime Transportation
FROM:	Staff, Subcommittee on Coast Guard and Maritime Transportation
RE:	Subcommittee Hearing on "*Maritime Transportation Supply Chain Issues*"

I. PURPOSE

The Coast Guard and Maritime Transportation Subcommittee will meet on Tuesday, March 28, 2023, at 2:00 p.m. ET in 2253 Rayburn House Office Building to receive testimony on "*Maritime Transportation Supply Chain Issues*." The hearing will focus on the Federal Maritime Commission's (FMC) implementation of the Ocean Shipping Reform Act of 2022 (P.L. 117–146) and the Maritime Administration's (MARAD) management of the Port Infrastructure Development Program (PIDP). Members will receive testimony from the World Shipping Council, National Association of Waterfront Employers, the American Cotton Shippers Association, and the Port of Long Beach.

II. BACKGROUND

FEDERAL MARITIME COMMISSION (FMC)

FMC was established in 1961 as an independent agency that regulates oceanborne transportation in the foreign commerce of the United States.[1] FMC protects shippers and carriers from restrictive or unfair practices of ocean carriers, including foreign-flagged carrier alliances. FMC also enforces laws related to cruise vessel financial responsibility to ensure cruise vessel operators have sufficient resources to pay judgments to passengers for personal injury or death or for nonperformance of a voyage.[2]

FMC is composed of five commissioners appointed for five-year terms by the President, with the advice and consent of the Senate.[3] The Honorable Daniel B. Maffei was designated as Chairman of the Commission by the President in March 2021.[4]

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[1] 46 U.S.C. § 46101.

[2] FMC, FEDERAL MARITIME COMMISSION FY 2024 BUDGET JUSTIFICATION, (Mar. 2023) *available at* https://www.fmc.gov/wp-content/uploads/2023/03/FMCFY2024CongressionalBudgetJustification.pdf.

[3] *Supra* note 1.

[4] FMC, *Chairman, Daniel B. Maffei, available at* https://www.fmc.gov/commissioners/daniel-b-maffei/.

SUPPLY CHAIN

The Supply Chain is an intricate logistical system consisting of several sequential steps to produce and distribute products.[5] The Marine Transportation System is an integral link in a long chain of serialized processes that make up the supply chain and facilitates the transport of goods to our shores and around the country.[6] During the COVID–19 pandemic, the supply chain faced unprecedented strain. With activities and travel limited and hindered by COVID–19 spread and government responses, consumers repurposed their cash toward manufactured goods and merchandise instead of going to the movies, dining out, or other activities.[7] This increased demand for manufactured consumer goods, a large part of which are moved by shipping containers, strained shipping capacity.[8] The pandemic challenged the traditional market scheme of "just-in-time" supply chains with "little inventory" as consumer appetite for manufactured goods grew.[9] As inventory began to run low, manufacturers and retailers pressured shipping companies to expeditiously move cargo, as they frantically tried to keep up with the outsized demand.

The resulting consequence was an imbalance in maritime trade flows. Consumer demand in the Western Hemisphere for goods like electronics, furniture, and clothes outpaced that of the Eastern Hemisphere where goods are ordinarily manufactured.[10] This imbalance drove shipping companies to ship empty containers to Eastern countries like China, Japan, India, and South Korea, examples of top manufacturing countries, for rapid loading of cargo to be transported to countries like the United States, where demand for consumer goods surged.[11] This induced a sharp rise in ocean shipping costs creating a seller's market for global container shipping and allowing shipping companies to charge four to ten times the normal price to ship cargoes.[12] At its peak, the cost to ship one container from China to the United States reached a record high of over $20,000.[13]

[5] Anshu Siripurapu, *What Happened to Supply Chains in 2021*, COUNCIL ON FOREIGN RELATIONS, (Dec. 13, 2021) *available at* https://www.cfr.org/article/what-happened-supply-chains-202 [hereinafter *Siripurapu*].

[6] UNITED STATES MARINE TRANSPORTATION SYSTEM, *MTS Fact Sheet, available at* https://www.cmts.gov/assets/uploads/documents/MTS__Fact__Sheet__2018__07__25.pdf.

[7] *Siripurapu, supra* note 5.

[8] *Shipping during COVID–19: Why container freight rates have surged*, UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, (Apr. 23, 2021) *available at* https://unctad.org/news/shipping-during-covid-19-why-container-freight-rates-have-surged.

[9] *Siripurapu, supra* note 5.

[10] Roslan Khasawneh & Muyu Xu, *China-U.S. container shipping rates sale past $20,000 to record*, (Aug. 5, 2021) *available at* https://www.reuters.com/business/china-us-container-shipping-rates-sail-past-20000-record-2021-08-05/ [hereinafter *Khasawneh & Xu*].

[11] *See Top 10 Manufacturing Countries in the World*, SAFEGUARD GLOBAL, (Dec. 20, 2022) *available at* https://www.safeguardglobal.com/resources/blog/top-10-manufacturing-countries-in-the-world; *Khasawneh & Xu, supra* note 10.

[12] *Khasawneh & Xu, supra* note 10.

[13] *Id*.

Global Shipping Costs Surged in 2021
Market rates for forty-foot shipping containers

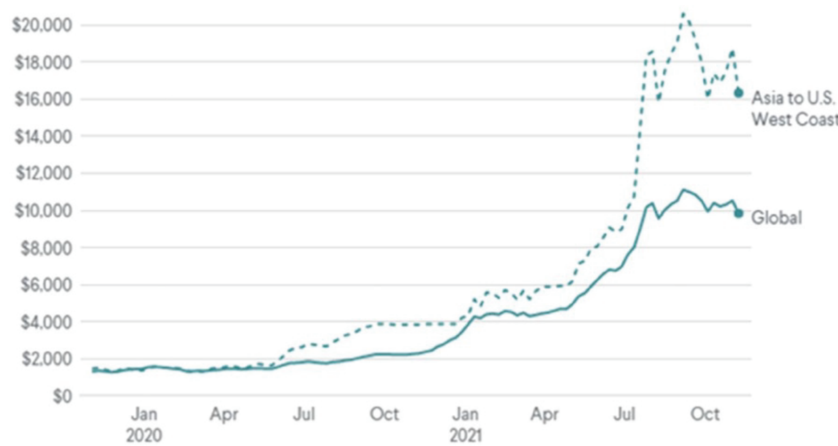

Chart from Council on Foreign Relations.[14]

In addition to increased container shipping rates, cargo wait times soared as cargo volumes at major United States ports rose precipitously. Large ports like the Port of Los Angeles and Long Beach experienced long delays for ships waiting to berth, at one point reaching a peak of 109 ships in January 2022.[15]

Excessive demand and insufficient shipping capacity were not the only contributors to the disruption in the supply chain. The crisis was multi-faceted, highly complex, and heavily nuanced created by a perfect collision of ill-timed events—including degradation of shoreside infrastructure, the Suez Canal week-long blockage, poor information sharing, low cargo unloading/loading equipment, closure of major Chinese ports, and workforce decreases.[16] In recent months, the crisis has stabilized with shipping rates returning to normal as demand weakens. For instance, Asia to United States West Coast prices have fallen about 90 percent since December 2021, to $1,426 per forty-foot equivalent unit (forty-foot container).[17]

III. OCEAN SHIPPING REFORM ACT OF 2022

Congress passed the Ocean Shipping Reform Act of 2022 (P.L. 117–146) in an effort to alleviate many of the challenges and issues faced by United States exporters within the ocean transportation system.[18] It became law on June 16, 2022.[19] The Ocean Shipping Reform Act of 2022 strengthened FMC authorities to promote the growth and development of United States exports through an ocean transportation system that is competitive, efficient, and economical.[20] This legislation authorizes appropriations for FMC through Fiscal Year (FY) 2025; sets standards for detention and demurrage charges, as well as penalties for charges deemed inaccurate; allows FMC to set minimum contract standards for ocean shipping service contracts to protect United States shippers from actions which leave export cargoes stranded at

[14] *Siripurapu, supra* note 5.

[15] Paul Berger, *Southern California's Notorious Container Ship Backup Ends*, THE WALL ST. J., (Oct. 21, 2022) *available at* https://www.wsj.com/articles/southern-californias-notorious-container-ship-backup-ends-11666344603.

[16] FMC, FACT FINDING INVESTIGATION 29 FINAL REPORT, (May 31, 2022) *available at* https://www2.fmc.gov/readingroom/docs/FFno29/Fact%20Finding%2029%20Final%20Report.pdf/ [hereinafter FACT FINDING INVESTIGATION 29 FINAL REPORT].

[17] Lori Ann LaRocco, *Freight Rates from China to West Coast Down 90% as Global Trade Falls Off Fast*, CNBC, (Dec. 7, 2022) *available at* https://www.cnbc.com/2022/12/07/freight-rates-from-china-to-west-coast-down-90percent-as-trade-falls-rapidly.html.

[18] Ocean Shipping Reform Act, Pub. L. 117–146, 136 Stat. 1272.

[19] *Id.*

[20] *Id.*

United States ports; and increases protections for United States shippers from retaliation by foreign ocean carriers.[21]

The FMC is currently taking actions to enact the requirements of this law. Since the Act's enactment on June 16, 2022, FMC has:

- Provided industry guidance on filing charge complaints with respect to charges assessed by a common carrier that the complainant believes may not comply with statute.[22]
- Provided industry guidance on the applicability of self-executing provisions of the law to common carriers, including compliance with demurrage and detention billing practices.[23]
- Solicited public comments on a new data collection system for containerized vessel imports and exports to and from the United States.[24]
- Solicited public comments on a proposed rule requiring inclusion of specific information on demurrage and detention invoices.[25]
- Solicited public comments on a proposed rule that would define unreasonable refusal to deal or negotiate with respect to vessel space accommodation provided by an ocean common carrier.[26]
- Established the Bureau of Enforcement, Investigations, and Compliance for improved effectiveness of the Commission's enforcement and compliance activities.[27]
- Entered into an agreement with the National Academies of Sciences, Engineering, and Medicine to carry out a study to develop best practices for the efficient supply of chassis for transporting intermodal containers.[28]
- Published on their website the "Fact Finding Investigation 29 Final Report on the Effects of the COVID–19 Pandemic on the United States International Ocean Supply Chain: Stakeholder Engagement and Possible Violations of 46 U.S.C. 41102(c)."[29]

IV. PORT INFRASTRUCTURE DEVELOPMENT PROGRAM

The PIDP administered by MARAD has grown exponentially over the last several years with the Infrastructure Investment and Jobs Act (IJJA) (P.L. 117–9) providing advanced appropriations of $450 million per year through FY 2026, totaling $2.25 billion, which is in addition to annual appropriations the program receives.[30] PIDP provides grants for coastal seaports, inland river ports, and Great Lakes ports infrastructure to improve the safety, efficiency, or reliability of the movement of goods, and to reduce environmental impacts in and around ports.[31]

V. WITNESSES

- Bud Darr, Executive Vice President, MSC Group, on behalf of the World Shipping Council
- Matthew Leech, President and Chief Executive Officer (CEO), Ports America
- William H. "Buddy" Allen, President and CEO, American Cotton Shippers Association
- Mario Cordero, Executive Director, Port of Long Beach, California

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[21] *Id*.

[22] FMC, *Industry Advisory—Interim Procedures for Submitting "Charge Complaints" Under 46 U.S.C. 41310*, (July 14, 2022) *available at* https://www.fmc.gov/industry-advisory-interim-procedures-for-submitting-charge-complaints/.

[23] FMC, *Industry Advisory—Applicability of Provision Contained in PL 117–146*, (June 24, 2022) *available at* https://www.fmc.gov/industry-advisory-applicability-of-provisions-contained-in-pl-117-146/.

[24] *Agency Information Collection Activities: 30-Day Public Comment Request*, 87 Fed. Reg. 75629 (Dec. 9, 2022).

[25] FMC, *FMC Proposing New Demurrage & Detention Billing Requirements*, (Oct. 7, 2022) *available at* https://www.fmc.gov/fmc-proposing-new-demurrage-detention-billing-requirements/.

[26] FMC, *FMC Seeking Public Comment on Unreasonable Refusal to Deal Proposed Rule*, (Sept. 13, 2022) *available at* https://www.fmc.gov/fmc-seeking-public-comment-on-unreasonable-refusal-to-deal-proposed-rule/.

[27] FMC, *New FMC Enforcement Structure*, (July 29, 2022) *available at* https://www.fmc.gov/new-fmc-enforcement-structure/.

[28] NAT'L ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, *Best Practices for the Efficient Supply of Chassis for Transporting Intermodal Containers, available at* https://www.nationalacademies.org/our-work/best-practices-for-the-efficient-supply-of-chassis-for-transporting-intermodal-containers#sectionContact.

[29] FACT FINDING INVESTIGATION 29 FINAL REPORT, *supra* note 16.

[30] Infrastructure Investment and Jobs Act, Pub. L. No. 117–58, 135 Stat. 429.

[31] 46 U.S.C. § 54301.

MARITIME TRANSPORTATION SUPPLY CHAIN ISSUES

TUESDAY, MARCH 28, 2023

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COAST GUARD AND
MARITIME TRANSPORTATION,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to call, at 2 p.m. in room 2253 Rayburn House Office Building, Hon. Daniel Webster (Chairman of the subcommittee) presiding.

Mr. WEBSTER OF FLORIDA. The Subcommittee on Coast Guard and Maritime Transportation will come to order.

I ask unanimous consent that the chair be authorized to declare a recess at any time during the subcommittee hearing. Without objection, so ordered. I also ask unanimous consent that Members who are not on the subcommittee be allowed to participate in asking questions and other items. Without objection, so ordered.

As a reminder, well, I'm not going to remind you of that, just, if you have an amendment, make sure it gets emailed to the Transportation and Infrastructure Committee.

I recognize myself for the purpose of an opening statement for 5 minutes.

OPENING STATEMENT OF HON. DANIEL WEBSTER OF FLORIDA, CHAIRMAN, SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

Mr. WEBSTER OF FLORIDA. Today, we will receive testimony from stakeholders regarding the maritime supply chain, including their views on the implementation of the Ocean Shipping Reform Act and the Maritime Administration's management of the Port Infrastructure Development Program.

I would like to welcome our witnesses: Bud Darr, executive vice president of MSC Group; Matthew Leech, president and CEO of Ports America; Buddy Allen, president and CEO of American Cotton Shippers Association; and Mario Cordero, executive director of the Port of Long Beach, California. Small port out there, right?

These witnesses represent crucial aspects of the supply chain, including shippers, ports, marine terminal operators, and ocean carriers, and we look forward to having them share their valuable insight.

During the COVID–19 pandemic, a sudden and massive increase in consumer demand, combined with labor shortages, manufacturing disruptions, and other factors fueled a supply chain crisis that continues to strain the capacity of our maritime transportation system. This led to significant increases in ocean shipping costs, delayed shipments, and extended cargo wait times at ports, as well as an imbalance in maritime trade flows, leading to frequent export of empty containers from the United States rather than moving those containers inland to be filled with domestically produced goods, particularly agricultural products.

Consumers were left with higher prices. American companies seeking to export their goods faced hurdles in getting their products to the ports. In response, Congress passed the Ocean Shipping Reform Act of 2022.

Among its provisions, the law sets standards that detention and demurrage charges must comply with; sets penalties for charges deemed inaccurate; allows the Federal Maritime Commission to set minimum contract standards for ocean shipping service contracts to protect U.S. shippers from actions that leave export cargo stranded at United States ports; and increases protections for United States shippers from retaliation by foreign ocean carriers.

Last week, the subcommittee heard from the Federal Maritime Commission on their efforts to implement the Ocean Shipping Reform Act. We look forward to hearing your views as well. To provide support for our maritime supply chain, Congress authorized significant funding for the Port Infrastructure Development Program, known as PIDP, which is operated by the Maritime Administration and provides grants for coastal ports, inland river ports, and Great Lakes port infrastructure to improve the safety, efficiency, and reliability of the movement of goods.

Last week, we also heard from the Maritime Administration regarding the President's budget request for this program, which in addition to the $450 million in advanced appropriations the program received through the Infrastructure Investment and Jobs Act. Though this program is intended to help optimize and improve port operations, I am concerned that the program's ability to fully realize this goal is limited by language Congress has routinely included in the program's authorization that prohibits the use of funds for automated cargo handling equipment.

I look forward to hearing your views on how port operations can be optimized and the role automation can play in improving port operations in our Nation's supply chains.

[Mr. Webster of Florida's prepared statement follows:]

Prepared Statement of Hon. Daniel Webster of Florida, Chairman, Subcommittee on Coast Guard and Maritime Transportation

Today we'll receive testimony from stakeholders regarding our maritime supply chain, including their views on implementation of the Ocean Shipping Reform Act and the Maritime Administration's management of the Port Infrastructure Development Program.

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I look forward to hearing your views on how port operations can be optimized and the role automation can play in improving port operations and our Nation's supply chains.

Mr. WEBSTER OF FLORIDA. Thank you for participating today. I look forward to your testimony. I now recognize Ranking Member Carbajal for an opening statement for 5 minutes.

Mr. CARBAJAL. Thank you, Mr. Chairman. As in the past, I will yield the floor to Ranking Member Larsen, with your consent?

Mr. WEBSTER OF FLORIDA. Ranking Member Larsen, you're recognized for 5 minutes.

OPENING STATEMENT OF HON. RICK LARSEN OF WASHINGTON, RANKING MEMBER, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. LARSEN OF WASHINGTON. Thank you, Mr. Chair, and thank you, Ranking Member.

If the last 3 years has taught us anything, it is how a robust and resilient supply chain is essential to our economic and national security.

Last week, this subcommittee heard from the Federal Maritime Commission and the Maritime Administration on the fiscal year 2024 budget request and the implementation of the Bipartisan Infrastructure Law and the Ocean Shipping Reform Act.

Today we will hear from industry representatives on how they think implementation of these laws is going and what more we can do to prevent disruption to our supply chain in the future.

There is no better demonstration of the supply chain backlog during the COVID–19 pandemic than at the Ports of Los Angeles and Long Beach, although I think the Port of Everett came in at a close second, where nearly 100 vessels were forced to idle offshore. However, the problem was nationwide, and the Puget Sound saw more vessels seeking anchorage than ever before.

As imported goods were in high demand, carriers rushed to return containers, often empty, to Asia, so they could be loaded again. Meanwhile, U.S. companies struggled to obtain cargo space at a reasonable price in a timely manner, which meant their exports, often perishable, languished landside. The icing on the cake was when they were given a bill for unfair and unreasonable detention and demurrage fees as a result of a situation over which they had no control.

Thankfully a bipartisan Congress and President Biden moved quickly to address the supply chain crisis, passing historic legislation like the Bipartisan Infrastructure Law and the Ocean Shipping Reform Act of 2022.

Included in the BIL was $6½ billion exclusively for ports and $27 billion that ports would be eligible for.

The creation of the Supply Chain Disruptions Task Force and the Freight Logistics Optimization Works initiative, or the FLOW initiative, optimized funding for ports to improve supply chain fluidity and increase coordination among every link of the supply chain.

Since the passage of OSRA, the FMC has moved quickly to establish a process for accepting, investigating, and adjudicating charge complaints, update regulations on penalties, and issue a final rule on detention and demurrage.

The pandemic made clear the need for investments in maritime infrastructure. Maritime commerce is a significant contributor, as well, to global carbon emissions, and both the BIL and the Inflation Reduction Act demonstrate that targeted investments can improve resiliency in the maritime supply chain and reduce emissions.

Investing in low- or no-emission technology at ports does not mean sacrificing efficiency. Projects like the Middle Harbor Terminal zero-emission conversion project at the Port of Long Beach demonstrate that fact clearly. That project will lower emissions, create a more resilient port, and make the movement of cargo more efficient. This project funds the replacement of aging diesel tractors with electric tractors, construction of electric charging infrastructure, and installation of software equipment to streamline cargo handling operations.

Mr. Cordero, I look forward to hearing about this and other projects underway at the port.

Despite the congestion we saw at the ports in 2021 and 2022, one thing never slowed: the hard-working and dedicated longshore workers. They put in long hours each day to keep containers flowing, despite the constant threat of exposure to COVID–19 and a massive backlog of cargo waiting to be shipped.

Our human infrastructure is critical to the U.S. economy, and I want to be clear that I think Federal dollars should not be used to put longshore workers out of a job. The Port Infrastructure Development Program prohibits Federal dollars from being used to eliminate jobs, and I will work to ensure that prohibition remains.

If we want to prevent the next supply chain crisis, we have to invest in ports. They serve as the gateway for international trade, and without modern infrastructure, our businesses, consumers, and communities are at risk.

So, I look forward to hearing from our witnesses on what they are doing and what the Federal Government can do to work with them to prevent another supply chain crisis.

And with that, I yield back.

[Mr. Larsen of Washington's prepared statement follows:]

Prepared Statement of Hon. Rick Larsen of Washington, Ranking Member, Committee on Transportation and Infrastructure

If the last three years have taught us anything, it's that a robust and resilient supply chain is essential to our economic and national security.

Last week, this subcommittee heard from the Federal Maritime Commission and the Maritime Administration on the fiscal year 2024 budget request and implementation of the Bipartisan Infrastructure Law (BIL) and Ocean Shipping Reform Act (OSRA).

Today we will hear from industry representatives on how they think implementation of these laws is going and what more we can do to prevent disruption to our supply chain in the future.

There was no better demonstration of the supply chain backlog during the COVID–19 pandemic than at the ports of Los Angeles and Long Beach where nearly 100 vessels were forced to idle offshore.

However, the problem was nationwide and the Puget Sound saw more vessels seeking anchorage than ever before.

As imported goods were in high demand, carriers rushed to return containers, often empty, to Asia so they could be loaded again. Meanwhile, U.S. companies struggled to obtain cargo space at a reasonable price and in a timely manner which meant their exports, often perishable, languished landside. The icing on the cake was when they were given a bill for unfair and unreasonable detention and demurrage fees as a result of a situation over which they had no control.

Thankfully, Congress and President Biden moved quickly to address the supply chain crisis, passing historic legislation like the Bipartisan Infrastructure Law and the Ocean Shipping Reform Act of 2022.

Included in the Bipartisan Infrastructure Law was $6.5 billion exclusively for ports and $27 billion that ports would be eligible for.

The creation of the Supply Chain Disruptions Task Force and Freight Logistics Optimization Works (FLOW) initiative optimized funding for ports to improve supply chain fluidity and increased coordination among every link of the supply chain.

Since the passage of OSRA, the FMC moved quickly to establish a process for accepting, investigating and adjudicating charge complaints, update regulations on penalties and issue a final rule on detention and demurrage.

The need for investments in maritime infrastructure was also made clear by the pandemic. Maritime commerce is a significant contributor to global carbon emissions. Both the Bipartisan Infrastructure Law and the Inflation Reduction Act demonstrate that targeted investments can improve resiliency in the maritime supply chain and reduce emissions.

Investing in low or no emission technology at ports does not mean sacrificing efficiency.

Projects like Middle Harbor Terminal Zero Emission Conversion Project at the Port of Long Beach demonstrate that fact clearly. That project will lower emissions, create a more resilient port and make the movement of cargo more efficient. This project funds the replacement of aging diesel tractors with electric tractors, construction of electric charging infrastructure and installation of software equipment to streamline cargo-handling operations.

Mr. Cordero, I look forward to hearing about other projects underway at the Port of Long Beach.

Despite the congestion we saw at ports in 2021 and 2022, one thing never slowed: our hardworking and dedicated longshore workers. They put in long hours each day to keep containers flowing, despite the constant threat of exposure to COVID–19 and a massive backlog of cargo waiting to be shipped.

Our human infrastructure is critical to the U.S. economy and I want to be clear, federal dollars should not be used to put longshore workers out of a job. The Port Infrastructure Development Program prohibits federal dollars from being used to eliminate jobs and I will work to ensure that prohibition remains.

If we want to prevent the next supply chain crisis, we have to invest in ports. They serve as the gateway for international trade, and without modern infrastructure, our businesses, consumers and communities are at risk.

I look forward to hearing from our witnesses on what they are doing and what the federal government is doing to prevent another supply chain crisis.

Mr. WEBSTER OF FLORIDA. Thank you very much.

Mr. Carbajal, you are now recognized for your remarks.

OPENING STATEMENT OF HON. SALUD O. CARBAJAL OF CALIFORNIA, RANKING MEMBER, SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

Mr. CARBAJAL. Thank you, Chairman Webster, for scheduling this important "Maritime Transportation Supply Chain Issues" hearing. While we touched on aspects of the supply chain and the bipartisan Ocean Shipping Reform Act in the previous hearing, I look forward to a deeper discussion on this important topic.

The maritime industry is a critical pillar of our economy. In 2020, oceangoing trade accounted for 40 percent of U.S. international trade value, amounting to 18 percent of our country's GDP. In 2020, the top 25 tonnage ports alone handled alone over 1.7 billion tons of cargo, including vital goods like food, medical supplies, and everyday household items. It is an understatement to say that our economy would not function without a reliable and fair maritime industry.

In fact, the COVID pandemic highlighted the importance of our supply chain and the devastating impacts that can occur if we do not invest in our maritime industry and the agencies that regulate them, like the FMC, Federal Maritime Commission, and the United States Coast Guard.

During the height of COVID, I heard from exporters across dozens of industries about unfair shipping practices and exorbitant costs, which put companies out of business and resulted in higher prices for their customers.

To be clear, the astronomical profits realized by foreign shipping companies contributed to inflation in the United States.

Some supply chain gridlock and unfair shipping practices caused the value of California food exports to fall by $2.1 billion, or about 17 percent. That's just in California.

I was proud to work across the aisle to pass OSRA last Congress. Since its passage, we have already seen a decrease in vessel congestion at the ports and significant refunds in undue charges by carriers.

As we heard last week, the FMC moved quickly on rulemaking and the self-executing policies included in the law. I look forward to hearing from our witnesses today about how our supply chain has become more resilient, fair, and transparent as a result of the passage of this bill.

I am also eager to hear about how the investments in our ports and port infrastructure will continue to support robust international trade and American jobs. As the nexus where cargo moves in and out of our economy, ports have an important role to play in our supply chain.

There is no doubt that our supply chain remains susceptible to major market fluctuations and international events. With the passage of OSRA and the Bipartisan Infrastructure Law though, we have already made significant progress in building a more resilient supply chain.

Thank you to our witnesses for being here today. I am eager to dive into a conversation about how Congress can further support a strong maritime industry and resilient supply chain.

Mr. Chair, I yield back.

[Mr. Carbajal's prepared statement follows:]

Prepared Statement of Hon. Salud O. Carbajal of California, Ranking Member, Subcommittee on Coast Guard and Maritime Transportation

Thank you, Chair Webster, for scheduling today's hearing on "Maritime Transportation Supply Chain Issues." While we touched on aspects of the supply chain and the Ocean Shipping Reform Act in the previous hearing, I look forward to a deeper discussion on this important topic.

The maritime industry is a critical pillar of our economy. In 2020, ocean-going trade accounted for 40 percent of U.S. international trade value, amounting to 18 percent of our country's GDP. In 2020, the top 25 tonnage ports alone handled over 1.7 billion tons of cargo, including vital goods like food, medical supplies and everyday household items.

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Thank you to our witnesses for being here today. I am eager to dive into a conversation about how Congress can further support a strong maritime industry and resilient supply chain.

Mr. WEBSTER OF FLORIDA. Thank you so much. First of all, let me introduce the mayor of Petersburg, Alaska, who happens to be here. Yes. Good to have you.

[Applause]

Mr. WEBSTER OF FLORIDA. Now, I would like to welcome our witnesses and thank them for being here today. Briefly, I would like to take a moment to explain our lighting system. There is red:

you're out of time, but yellow means you are leading up to it, and green means you still have time. So, just watch that.

I would also like unanimous consent for the witnesses' full statements to be included in the record. Without objection, so ordered.

As your written testimony has been made part of the record, the committee asks you to limit your remarks to 5 minutes, and with that, Mr. Darr, you are recognized as the first to give your 5-minute testimony.

TESTIMONY OF CHARLES "BUD" DARR, EXECUTIVE VICE PRESIDENT, MSC GROUP, ON BEHALF OF THE WORLD SHIPPING COUNCIL; MATTHEW LEECH, PRESIDENT AND CHIEF EXECUTIVE OFFICER, PORTS AMERICA, ON BEHALF OF THE NATIONAL ASSOCIATION OF WATERFRONT EMPLOYERS; WILLIAM H. "BUDDY" ALLEN, CHIEF EXECUTIVE OFFICER, AMERICAN COTTON SHIPPERS ASSOCIATION; AND MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH

TESTIMONY OF CHARLES "BUD" DARR, EXECUTIVE VICE PRESIDENT, MSC GROUP, ON BEHALF OF THE WORLD SHIPPING COUNCIL

Mr. DARR. Thank you, Mr. Chairman; thank you, Ranking Members; thank you, Members, for the opportunity to be here today and speak with you about this important topic.

My name is Bud Darr. I'm the executive vice president for maritime policy and government affairs at the MSC Group. MSC stands for Mediterranean Shipping Company. We are the world's largest liner shipping company.

I'm also here today on behalf of the World Shipping Council, which represents 90 percent of the liner shipping industry worldwide.

I'm not going to repeat what's in my written statement, you have it, but I would like to just highlight a few points for you to consider.

First of all, with regard to what we've just been through: It has been an extraordinary excursion in supply, demand, volumes, rates, and congestion, the likes of which we've not seen in this industry, ever. All related to, in one way or another, the COVID pandemic.

We made it through that, and now we've seen an environment where, as quickly as rates went up, rates came down even faster, volumes came down faster, and we're now at the point where the supply chains are fluid once again, but quite honestly, not for necessarily the best of reasons.

Supply chains opened up because demand fell way off, not necessarily because of things collectively that we have accomplished, although we did a lot to get through it together. And I have to say, commerce kept moving, world trade kept moving because the liner shipping industry and others in the shipping industry, with the great, great assistance of our seafarers who endured terrible hardship during the pandemic, managed to keep it all flowing. And I do really want to recognize that as a fact.

Three points I'd like to leave you with briefly. One is the market has reacted as if market dynamics would suggest it should. That we immediately saw when the pandemic began a drop-off in demand, capacity was taken out of the networks, and then when demand came back very, very quickly in the third quarter of 2020, we saw an enormous rebound in volumes, which together with congestion, overloaded supply chains around the world resulted in a decrease in capacity to meet that demand and, as you might expect, rates went up accordingly.

But what comes up must come down. We predicted that would happen. It has happened. Now that volumes have dropped off, the cliff on the way down has been very steep as well, and we're now at the point of essentially similar market dynamics of both volumes and rates to what we saw pre-pandemic.

I will add, as an illustration of that, that we could have had 7,000 ships in our network instead of 700, and it still wouldn't have made a difference. Those 7,000 ships would have been piled up outside the ports rather than the numbers that we did have.

So, fundamentally, what we had here, and this is my second point, about the supply chains themselves and what it takes to make them more resilient and more capable to meet the needs of commerce of the United States market in the future, is let's not persuade ourselves that it's a job done with that regard, because it's not.

And the fundamentals about both infrastructure and the way that we operate the supply chains on the inland side of the supply chain needed work before the pandemic, became painfully illustrated during the pandemic, and continue to need work today so that we'll be better prepared for whatever the next catalyst is for disruptions in the supply chain. And hopefully we'll be better prepared at that point to deal with it, but we need to do those things and do them in a serious way up and down the supply chain.

You didn't see a meltdown of ocean shipping. We didn't suddenly forget how to operate ships. We did that very, very well. What you saw was a meltdown of the shoreside elements causing congestion in the terminals, congestions in the ports, and the symptoms of seeing ships anchored, numbers larger than 100, for example, in San Pedro Bay, which I hope in my lifetime we never see again.

The last point that I'll leave you with for your consideration is about caution in Government intervention in the market at this moment. OSRA 2022 was just enacted not too many months ago. The FMC, I don't believe, has actually completed yet the first of numerous rulemakings they have to do, and I think that we would all benefit from seeing where that lands and how it goes. But this was a market system that functioned quite well and delivered extraordinarily low-cost shipping services worldwide pre-pandemic, and I think it can do so again, but we do need to be somewhat cautious to make sure that well-intentioned efforts do not have the opposite effect of perhaps what's intended.

Thank you very much, and I look forward to your questions.

[Mr. Darr's prepared statement follows:]

Prepared Statement of Charles "Bud" Darr, Executive Vice President, MSC Group, on behalf of the World Shipping Council

1. Introduction: Mediterranean Shipping Company, the World Shipping Council, and the Liner Shipping Industry.

Chairman Webster, Ranking Member Carbajal, and Members of the Subcommittee, thank you for the invitation to testify today. My name is Bud Darr. I am Executive Vice President for Maritime Policy & Government Affairs of MSC Group. MSC stands for Mediterranean Shipping Company.

MSC is a global leader in transportation and logistics. As one of the world's leading container shipping lines, MSC's fleet sails on more than 260 trade routes, calling at 520 ports, and is targeting net-zero decarbonization by 2050. The global footprint of our cargo businesses also includes container terminal investments, as well as inland transportation and logistics networks around the world. To support our customers, MSC has 675 offices across 155 countries worldwide, including here in the U.S. where we employ more than 1,300 staff in 10 office locations. Together with the cruise and other passenger transportation businesses in the MSC Group, we employ more than 150,000 people onboard and ashore.

MSC is also a member of the World Shipping Council (WSC). The World Shipping Council (WSC) is a non-profit trade association that represents the liner shipping industry, which is comprised of operators of containerships and roll-on/roll-off (ro-ro) vessels (including vehicle carriers). Together, WSC's members operate approximately 90 percent of the world's liner vessel services including more than 5,000 ocean-going vessels of which approximately 1,500 vessels make more than 27,000 calls at ports in the United States each year.[1]

The liner shipping industry provides American importers and exporters with door-to-door delivery service for almost any commodity to and from roughly 190 countries. Approximately 35 million TEU2 of containerized cargo are currently imported into or exported from the United States each year. The container shipping industry is one of the most important facilitators of the nation's growth and ongoing economic activity. Ocean shipping is also—by far—the most fuel-efficient form of mass cargo transportation on the planet.

2. The U.S. Supply Chain is Back to Normal after 3 Years of COVID-driven Congestion.

The U.S. international ocean supply chain has returned to normal. The return to pre-pandemic trade volumes has alleviated the severe congestion caused by the COVID-driven consumer demand for imported goods. U.S. consumers have resumed more normal spending patterns and are once again spending their disposable income on travel, entertainment and services. Unfortunately, inflationary pressures have also reduced U.S. consumer spending, resulting in retail importers holding large volumes of inventory, which has further reduced import orders. While the emergence from COVID-driven supply chain congestion is welcomed, the drop in import demand has caused cargo volumes to plummet. U.S. imports from Asia plunged 31 percent year over year in February 2023, which is the lowest level since March 2020, extending the sixth consecutive month of year-over-year declines in Asian imports that began in September.

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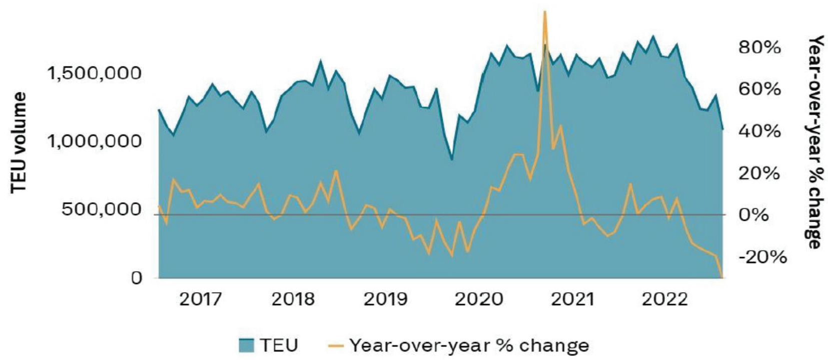
[1] A full description of the Council and a list of its members are available at www.worldshipping.org.

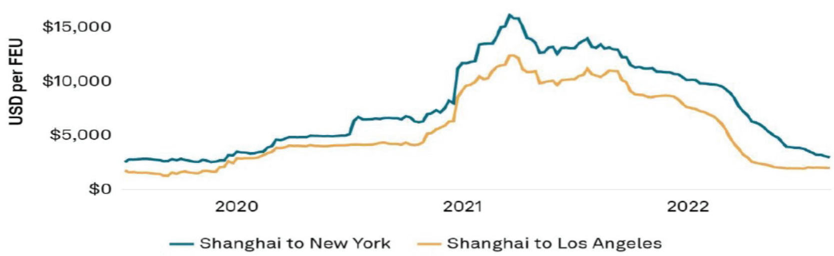
Asia imports to U.S. in February slid to lowest in three years
U.S. containerized imports from Asia with year-over-year change



Source: PIERS, S&P Global © 2023 S&P Global

The plummet in import demand has resulted in a corresponding drop in freight rates, which are now generally at or below pre-pandemic levels.

Asia-U.S. spot rates near three-year low
Trans-Pacific eastbound spot rates as assessed by Drewry



Source: World Container Index assessed by Drewry © 2023 S&P Global

3. U.S. Agricultural Exports Smashed Records in 2021 and 2022.

Ocean carriers continue to work closely with U.S. agricultural exporters to provide innovative solutions to carry their goods to foreign markets. While all shippers, both importers and exporters, were affected by the COVID-driven bottlenecks resulting from import demand, allegations that agriculture exporters were disproportionately affected are not supported by U.S. government data. Rather, according to the U.S. Department of Agriculture (USDA), U.S. agriculture sector exports in FY 2022 reached a new record, up $24.7 billion from the previous FY 2021 record of $172.2 billion (which was a 23% increase from FY 2020). Moreover, the value of sales increased in all of the United States' top 10 agriculture markets—China, Mexico, Canada, Japan, the European Union, South Korea, Taiwan, the Philippines, Colombia and Vietnam, with sales in seven of the 10 markets (China, Mexico, South Korea, Taiwan, the Philippines and Colombia) setting new records. The increase in U.S. Agriculture exports in FY 2022 was principally due to record sales of these top commodities:

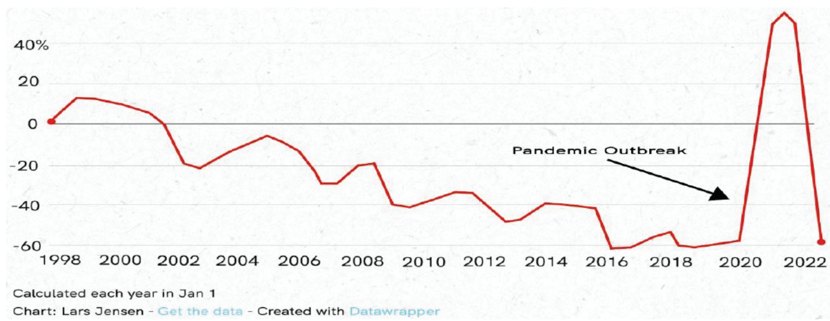
Soybeans	$33.3 billion
Corn	$19.5 billion
Beef & Veal	$10.8 billion
Feeds & Fodders	$10.6 billion
Tree Nuts	$ 9.8 billion
Dairy Products	$ 9.1 billion

Source: U.S. Department of Agriculture, Foreign Agricultural Service.

4. The Latest Developments and Trends Reflect a Competitive Ocean Shipping Market.

Increased freight rates and reduced reliability during the pandemic were not attributable to carriers or alliances. Instead, both the Federal Maritime Commission[2] and the European Commission[3] concluded that these developments were caused by several other factors wholly outside ocean carriers' control, including exceptional supply and demand imbalances, a surge in U.S. import demand, labor shortages, and port and inland congestion that removed effective capacity from the market. Over the past 24 years, as carriers have worked hard to increase operational efficiency and reduce costs, freight rates have fallen considerably compared to the consumer price index. While consumer prices globally more than doubled from 1998 to 2019 due to inflation, freight rates have actually decreased, acting as a deflationary factor to push consumer prices down. Reliability impacts during this crisis were generally due to supply chain disruption ashore, which led to congestions in ports and terminals, whereas the operation of our ships at sea remained highly efficient and essentially unchanged.

Freight Rate Discount Compared to Global Consumer Price Index



5. Ocean Carriers are Highly Concerned that the FMC has Abandoned their "Incentive Principle" in their OSRA 22 Detention and Demurrage Rulemaking.

For the better part of the last five years, the Commission has consistently worked through its Fact Findings, policy guidance, and case law to make clear to the regulated industry that the "Incentive Principle," as set forth in its final Interpretive Rule on Demurrage and Detention,[4] is the touchstone of its detention and demurrage policy. The Incentive Principle states that in assessing the reasonableness of detention and demurrage practices, the Commission will first consider the extent to which those practices are serving their primary purpose of financially incentivizing cargo interests to remove their cargo from the terminal promptly and to return equipment in a timely manner. The Interpretive Rule also states that the concept of reasonableness is fact-specific, and therefore the application of the Incentive Principle will "vary depending on the facts of a given case."[5]

Congress in the Ocean Shipping Reform Act of 2022 (OSRA 22) directed the FMC to initiate a rulemaking that, "shall only seek to further clarify reasonable rules and practices related to . . . the final rule published on May 18, 2020, entitled 'Interpretive Rule on Demurrage and Detention Under the Shipping Act'"[6]. The Interpretive Rule that Congress told the FMC to make the basis of its detention and demurrage rulemaking is built around the Incentive Principle, but the Commission's proposed rule never once even mentions the Incentive Principle. Instead, the Commission's

[2] FMC Fact Finding Investigation, Final Report "The Effects of COVID–19 on the U.S. International Ocean Transportation Supply Chain" FactFinding29FinalReport.pdf (fmc.gov).
[3] Answer given by Executive Vice-President Vestager on behalf of the European Commission (23.5.2022), Parliamentary question / Answer for question P–001454/22 / P–001454/2022(ASW) / European Parliament (europa.eu)
[4] See Interpretive Rule on Demurrage and Detention Under the Shipping Act, 85 Fed. Reg. 29665 (May 18, 2020), 46 CFR § 545.5 (Interpretation of Shipping Act of 1984—Unjust and unreasonable practices with respect to demurrage and detention) (2020).
[5] See Interpretive Rule on Demurrage and Detention Under the Shipping Act, 85 Fed. Reg. 29665, 29641 (May 18, 2020).
[6] See Public Law No: 117–146 (June 16, 2022), Section 7, paragraph (b)(2).

proposed rule abandons the Interpretive Rule's fact-specific analysis and focus on the Incentive Principle and replaces those concepts with absolute prohibitions on charging detention or demurrage to broad classes of entities. Because the proposed detention and demurrage rule does not consider how billing certain parties other than shippers incentivizes freight fluidity through the supply chain, it runs a real risk of increasing supply chain congestion, which is the opposite of what properly structured detention and demurrage charges are supposed to do.

Ocean carriers, ports, marine terminal operators and shippers are concerned that the Commission's rule, if adopted as proposed, will disincentivize many players in the supply chain from timely collecting goods from marine terminals and returning empty equipment for use by other customers. That in turn will only increase congestion in our nation's ports—threatening to worsen the very problem that properly applied detention and demurrage charges are designed to minimize. Congress was clear in instructing the Commission to use this rulemaking to provide further clarification on how to reasonably use the tools of detention and demurrage to incentivize cargo velocity. Given that we are only now clearing the congestion that snarled our ports and inland supply chains during the pandemic, it is hard to imagine a Commission initiative that is worse aligned with Congress' objectives in passing OSRA 22. The shipping industry welcomes clear regulations that ensure that everyone is treated fairly. But what the Commission has proposed will make some people pay when they have no ability or incentive to keep cargo moving, and it will prohibit some people from paying even when they are precisely the people that decide whether and when the cargo moves. This is exactly backwards, and it needs to be fixed before the FMC issues a final rule.

WSC looks forward to continuing to work with the Congress, and to encourage the Commission towards a rule that implements OSRA consistent with Congressional intent and sound policy, to ensure a workable and fluid international ocean transportation system for U.S. businesses and consumers.

6. CONCLUSION.

The work of thousands of supply chain stakeholders enabled the U.S. international ocean supply chain to move record amounts of import and export cargo throughout the COVID–19 pandemic. The return to normal volumes and balance of import and export cargo has resulted in relieving congestion throughout the supply chain. We must continue to collectively address the operational and commercial challenges we faced, to ensure our supply chain has the capacity and resiliency to meet the next challenge. We also need the support of reasonable regulations, consistent with Congressional direction in OSRA 22, to incentivize cargo velocity and fluidity. *The ocean common carrier community is committed to serving the international trade of the United States, and the historical volume of cargo that we moved throughout the pandemic, and continue to move, is the evidence of that commitment*.

Mr. WEBSTER OF FLORIDA. Thank you so much.

Mr. Leech, you are recognized for 5 minutes.

TESTIMONY OF MATTHEW LEECH, PRESIDENT AND CHIEF EXECUTIVE OFFICER, PORTS AMERICA, ON BEHALF OF THE NATIONAL ASSOCIATION OF WATERFRONT EMPLOYERS

Mr. LEECH. Chairman Webster, Ranking Member Carbajal, and members of the subcommittee, my name is Matthew Leech, and I serve as president and CEO of Ports America.

I appreciate the opportunity to appear before you this afternoon. Ports America is the largest marine terminal operator, or commonly known as MTO, and stevedore in the United States.

As an American company, we've been operating for over 100 years, and we are one of the largest U.S. maritime employers. Currently, Ports America manages operations in 33 ports in 70 locations throughout the country.

The highest priority in our operations is the health and safety of our indispensable workers. I'm also here today on behalf of the National Association of Waterfront Employers, NAWE, of which Ports America is a proud member.

NAWE is a nonprofit trade association who ensures that there are open lines of communication between Congress, regulatory agencies, and the gateways to our Nation's international commerce through proactive advocacy.

MTOs are the linchpin of our maritime transportation industry, employing thousands of American waterfront workers, investing in U.S. port infrastructure, and serving as the critical link moving cargo between sea and land.

We all understand and witnessed the significant supply chain disruptions experienced during the COVID–19 pandemic. However, the current maritime supply chain is vastly different.

Maritime cargo volumes and freight rates have normalized to pre-COVID–19 levels, and in many cases, they are lower. In 2022, Congress responded to this crisis, including leaders within this subcommittee, and enacted the Ocean Shipping Reform Act, commonly referred to as OSRA.

OSRA directed the Federal Maritime Commission to undertake several administrative and regulatory actions to implement the Commission's new authorities. I applaud the efforts of the Commissioners and their staff in taking rapid action through repeated public engagement.

In some cases, the Commission has gotten it right, such as increasing investigation of improper charges and practices, and diligently implementing the new charge complaint process.

In other cases, however, the Commission doesn't appear to be getting it right. Notably, in the issuance of its October 2022 notice of proposed rulemaking regarding demurrage and detention billing requirements, I offer two specific examples.

First, the proposed rule as drafted would penalize MTOs and threaten an MTO's ability to charge terminal demurrage, which we consider a storage fee.

Second, in a recent informal adjudication decision taken up by the FMC, a majority of the Commissioners determined that the imposition of equipment detention—essentially a fee charged by ocean carriers for the use of their equipment beyond free time—on a holiday weekend when the equipment return location was normally closed, was at odds with the incentive principle and therefore unreasonable under the Shipping Act.

The application of the interpretation of this recent decision falls short of the Commission's own incentive principle as noted in Commissioner Bentzel's sole dissenting opinion.

Mr. Chairman, I ask unanimous consent to submit for the hearing record Commissioner Bentzel's dissenting order, *TCW, Inc.* v. *Evergreen Shipping Agency America Corp. and Evergreen Line*.

Mr. WEBSTER OF FLORIDA. So ordered.

[The information follows:]

Proceeding No. 1966(I), Served Order of December 29, 2022, Affirming the Initial Decision, *TCW, Inc.* v. *Evergreen Shipping Agency (America) Corporation & Evergreen Line Joint Service Agreement*, Submitted for the Record by Hon. Daniel Webster on behalf of witness Mr. Leech

The 20-page order is retained in committee files and is available online at https://www2.fmc.gov/readingroom/docs/1966(I)/1966(I)%20Order%20Affirming%20Initial%20Decision.pdf/. Note: Commissioner Bentzel's dissenting opinion is on pages 16–20.

Mr. LEECH. Thank you.

Despite this clear notice and the fact that the shipper's agent had every opportunity to return the equipment before the holiday weekend, the Commission deemed the detention charges unreasonable.

Some in the industry believe that this logic could be extended to terminal demurrage or storage, even though the terminal demurrage or storage is qualitatively different from equipment detention.

The analysis under the incentive rule should consider both the actual differences in the charges, as well as the costs associated for the services that the fees are compensating.

In this industry, fees for storage of goods are and always have been a time-based service, irrespective of the day of the week.

In the interest of time, my written testimony includes relevant information regarding investments MTOs have made on operations and cargo handling equipment. Our industry appreciates congressional support to modernize port infrastructure and achieve decarbonization of the entire maritime sector, including our local communities.

I want to thank you all for inviting me to share these updates and these concerns on critical issues which impact our industry.

[Mr. Leech's prepared statement follows:]

Prepared Statement of Matthew Leech, President and Chief Executive Officer, Ports America, on behalf of the National Association of Waterfront Employers

Good morning, Chairman Webster, Ranking Member Carbajal, and members of the Subcommittee. My name is Matt Leech, and I serve as President and Chief Executive Officer of Ports America. Thank you for the invitation to be here today. I appreciate the opportunity to discuss the status of the maritime supply chain and the implementation of S.3580, Ocean Shipping Reform Act of 2022 ("OSRA"), enacted into law last year.

Ports America is the largest marine terminal operator and stevedore in the United States. The company has been operating for over 100 years, is one of the largest U.S. maritime employers with approximately 945 full-time employees and hires more than 12,000 union workers on a daily basis to operate our terminals. Currently, Ports America manages operations in thirty-three ports and seventy locations. In 2022, Ports America handled over 19.25 million twenty-foot equivalent units, 1.6 million vehicles, 8.27 million tons of general cargo, and 4.4 million cruise passengers. In the industry, our marine terminals and cargo handling operations are commonly known by the acronym "MTOs." At the corporate level, Ports America maintains its focus on key areas, including terminal concessions, joint venture partnerships, infrastructure funding, public-private partnerships, labor management, and relationships with the world's leading shipping lines. Above all is Ports America's commitment to a culture of safety. The health and safety of our dedicated workforce is our single highest priority.

I am also here today on behalf of the National Association of Waterfront Employers ("NAWE"), of which Ports America is a proud member. NAWE is a non-profit trade association whose member companies are privately-owned stevedores, MTOs, and other U.S. waterfront employers. NAWE's member companies engage in business at all major U.S. ports on the Atlantic and Pacific Coasts, the Gulf of Mexico, the Great Lakes, and Puerto Rico. In that manner, NAWE, as the voice of MTOs in Washington, DC, ensures that there are open lines of communication between Congress, regulatory agencies, and the gateways to our Nation's international commerce.

IMPORTANCE OF MARINE TERMINAL OPERATORS

As the American public has come to understand more acutely in recent years, MTOs are the critical lynchpin of our maritime transportation industry. MTOs employ hundreds of thousands of American waterfront workers, privately fund the purchase of cargo handling equipment at U.S. ports, and most importantly, serve as the critical link moving cargo between the sea and the land.

MTOs are the bridge between ocean transportation and inland land transportation. All U.S. imports and export cargo using international ocean transportation—which is [the vast majority] of all commercial cargo—rely on MTOs to perform a combination of essential and critical links in the supply chain. MTOs transition cargo from very different modes of transportation (ships, trucks, and rail cars), and MTOs manage the orderly, safe, and secure collection and distribution of cargo from a vast array of different parties. It is the work of MTOs that connects the products of American workers to the global economy and, in turn, ensures that global commerce constantly flows in support of our Nation's economy.

The national economy increasingly demands just-in-time delivery and associated reductions in container turn time throughout the maritime supply chain. Accordingly, MTOs must be adaptive and forward-thinking, looking to leverage new technologies and advanced infrastructure to ensure that the operators' skilled workforce can meet stakeholder needs in a safe operating environment that seeks to mitigate the risk of injury. However, while MTOs can create efficiencies through infrastructure and equipment investment, the waterfront land upon which MTOs operate (some of the most expensive real estate in the country) remains finite.

Supply chain challenges from 2020 through late 2022 demonstrate this basic supply and demand problem. Unprecedented consumer demand following the COVID–19 pandemic and limited capacity in other parts of the supply chain led directly to a scarcity of capacity at marine terminal property. Two main factors drove MTO congestion: (1) an extraordinary *increase* in container volumes and (2) an unprecedented *decrease* in container throughput—the period of time a container stays on a terminal. Marine terminals are a zero-sum game—each container sitting on a terminal is occupying space that is needed for another container coming off of (or going on to) the next ship. The analogy of an MTO as a bridge between transposition modes is very apt. The capacity of a bridge is a function both of how many cars it can hold at any one time, i.e., how many lanes *and* the speed that those cars can safely and efficiently move over the bridge from one side to the other. Marine terminal throughput works just the same. Increased demand (for a bridge, traffic on labor day weekend, for a terminal, a peak season before Christmas) is enough to stress capacity. Still, anything that slows down throughput can have catastrophic effects (for a bridge, think of how road construction on one lane at the other side can back up traffic for miles on a busy day, and for a terminal, any number of backups outside of a terminal and beyond an MTO's control can do the same—shortage of truckers, availability of chassis, rail congestion, not enough warehouses to unload containers, and, sometimes, even bridge traffic.). Terminals, like bridges, are also very expensive, have finite capacity, and are difficult to expand without major infrastructure development.

But there is a big difference between bridges and marine terminals that is part of the reason for my testimony today. No one would think it is okay use a bridge for long term parking. Indeed, if cars parked on a bridge in rush hour, everyone would expect—demand even—that the bridge operator has the ability and the tools to get parked cars moving. Yet, containers are often improperly "parked" at marine terminals for excessive periods of time, which was a particularly acute problem during the pandemic, but "warehousing" containers at marine terminals is an ongoing problem. Worse, the critical tools that MTOs have available to move containers off terminals are at risk. Well-meaning efforts to regulate excessive and unreasonable charging practices in certain areas of the supply chain, perhaps inadvertently or as an unintended consequence, are threatening essential tools used by MTOs to charge for use of services and to promote movement of cargo—namely assessment and collection of "terminal demurrage."

Accordingly, it is imperative that MTOs have the flexibility to use all available tools—*including the assessment of terminal demurrage*—to ensure the expedient retrieval of containers from a terminal property and to avoid a repeat of the congestion issues of recent years.

STATUS OF THE MARITIME TRANSPORTATION SUPPLY CHAIN

It is well known that the exceptional levels of consumer demand that began in 2020 have receded, and the overall flow of cargo has returned to relatively normal levels, with accordant reductions in ocean transportation freight rates. For example, Freight Waves reported that unlike in January 2022, when over 100 container ships were stuck waiting off the Ports of Los Angeles and Long Beach, in January 2023, no ships were waiting offshore to enter San Pedro Bay. Moreover, this turnaround is not unique to the Pacific Coast. Major Atlantic and Gulf Coast ports have experienced similar reductions in vessel queues despite increased port calls. Overall, marine exchange data indicates that vessel queues and container dwell times at North American ports and marine terminals have essentially returned to pre-COVID norms.

The current status of the maritime supply chain now must be one of reflection, focused on the implementation of important lessons of recent years to mitigate the risk of future congestion issues. When examining how MTOs were able to address these historic cargo volumes and throughput pressures, it becomes clear that the availability of two tools was critical.

First, the assessment and collection of terminal demurrage and long dwell fees was decisive in ensuring that containers were removed from a terminal yard in a timely manner. While marine terminals are not warehouses, part of moving containers through a marine terminal requires short-term storage between the time a container is discharged from a ship until it is loaded on a truck or rail car (and the reverse). That period of time, which is referred to as "free time," is the intended period of time to move cargo off the terminal without additional changes. But when containers remain on the terminal after free time, terminal demurrage is charged.

Simply put, terminal demurrage is part "rent" or a "storage fee" for the use of the space and extended care and custody of the container and cargo on a terminal after free time. It is also an incentive for cargo interests to remove cargo in a timely fashion to avoid using the terminal as a warehouse. In many situations, even with demurrage and dwell fees, MTOs are not compensated for the negative impact of overstaying containers, and some cargo interests persist in abusing marine terminals as de facto warehouse storage because other options are less convenient or more expensive.

As noted above, terminal space is finite; therefore, it is critical both to the health of the American supply chain and the basic business principles of MTOs that containers be retrieved as quickly as possible. Managing the time a container is on terminal—"dwell time" as it is known—is critical to managing throughput and ultimately maintaining capacity. Think of cars at an airport. Cars at arrivals and departures are not charged for quick and usually well-monitored periods, and some airports have short-term pickup lots that may offer a first hour free. But virtually all major airports manage the efficiency and availability of short- and long-term parking through the application of rates and charges. As with marine terminals, there are both cost differences and incentive differences at play in service charges. Close-in parking buildings tend to cost more than more distant open lots, and close-in, short-term parking tends to have higher charges than more distant open lots to incentivize efficient use of time and space.

MTOs similarly use terminal demurrage to manage the on terminal dwell time of containers. After free time there is a cost recovery element to terminal demurrage and an incentive element (often reflected in the use of tiers or rate increases over time) to incentivize shorter stays and more prompt removal.

Terminal demurrage, therefore, ensures that marine terminals are the bridge that is needed for the supply chain to function properly, not a very expensive and under-compensated warehouse that risks supply chain congestion. If additional warehouse space is needed, the industry should invest in warehouse capacity, not unduly burden MTOs and risk untenable supply chain congestion.

Second, MTOs were able to work together to create operational efficiencies and—as necessary and when appropriate and feasible—extend gate hours to expedite the flow of cargo through U.S. ports. This coordination was only possible through the ability to coordinate facilitated by the limited antitrust immunity afforded to MTO agreements filed with the Federal Maritime Commission ("FMC") under the Shipping Act. Without this immunity, competitor MTOs operating on the same public port property would be unable to coordinate efforts and share data, which would have made it virtually impossible to address the supply chain capacity issues of recent years.

OSRA Implementation

OSRA directed the FMC to undertake a number of administrative and regulatory actions to implement the Commission's new authorities. I applaud the efforts of the Commissioners and their staff in taking rapid action through repeated public engagement. In some cases, the FMC has gotten it right, such as increasing investigation of improper charges and practices, following Congress' directive to implement OSRA's requirements for ocean carrier demurrage and detention invoices, and diligently implementing the new charge complaint process. In other cases, however, the FMC appears to be getting it wrong, notably in the issuance of its October 2022 Notice of Proposed Rulemaking ("NPRM") regarding demurrage and detention requirements mandated by Section 7(b) of OSRA. We offer two examples.

(1) Proposed Rules Would Penalize MTOs, threaten MTO Ability to Charge Their Own Terminal Demurrage, and are Inconsistent with how the Supply Chain Really Works

First, the FMC's October 2022 NPRM, unfortunately, chose to ignore the express directive from Congress in Section 7(b) of OSRA to initiate a very specific rulemaking: clarifying reasonable rules and practices identified in the FMC's May 18, 2020, "incentive rule," but it was not an invitation to re-write the common carrier provisions enacted by Section 7(a) of OSRA to apply wholesale to MTOs. Aside from not following the express directive, the FMC should not be engaging in proposed regulation that would do by regulation what Congress chose not to do by legislation. Indeed, instead of further clarifying issues not resolved in the inventive principle rulemaking, the NPRM broadly and inexplicably sweeps MTOs into such requirements, notwithstanding the impossibility of complying with the proposed regulations. Specifically, the NPRM proposed rules would require MTOs to have a "direct contractual relationship" with cargo owners in order to bill them for terminal demurrage. This is not only inconsistent with longstanding relationships in the supply chain but quite frankly astonishing that the FMC would suggest a rule that a terminal not be able to charge for services it actually performs and which are the essential tool that MTOs have to facilitate cargo movement. MTOs are also in the best position to efficiently assess and collect demurrage-type charges because the amount due is generally only known at the time a container is removed from a terminal, which MTOs directly facilitate and manage. If anything, MTOs should be the only party to charge terminal demurrage, not the other way around.

The FMC's proposed rules on MTOs are inconsistent with OSRA 2022, target the wrong part of the supply chain, and would almost certainly not only do more harm than good but would very likely have the direct opposite effect than Congress intended. Accordingly, not only would the Commission's proposed changes be impossible without senselessly prohibiting MTOs from charging for their owner services, but they would also slow the flow of cargo, undermining the recent successful efforts to mitigate supply chain congestion.

We hope the FMC takes this issue into consideration.

(2) Demurrage and the Incentive Principle

In addition to the FMC's rulemaking efforts, I am concerned about some of the related policy directions of the Commission. For example, in a recent informal adjudication decision taken up by the FMC, a majority of the Commissioners determined that the imposition of equipment detention (essentially a fee charged by ocean carriers for the use of their equipment beyond "free time") on a holiday weekend when the equipment return location was normally closed was at odds with the "incentive principle" and therefore unreasonable under the Shipping Act. The "incentive principle"—a creation of the FMC's own regulatory efforts—considers as a factor in the reasonableness analysis the degree to which detention and demurrage charges act as "financial incentives to promote freight fluidity." As noted in Commissioner Bentzel's dissent, the "incentive principle" does not replace the statutory test under Shipping Act, i.e., whether or not the charge is "reasonable."

I am extremely concerned about what this recent decision could mean for the imposition of terminal demurrage. Not because the decision applies to marine terminal demurrage, as it does not. And not that it should be applied to marine terminal demurrage, as it should not. But my concern is that in the absence of clear legislation or a normal rulemaking process—like the process Section 7(b) of OSRA mandated that FMC undertake, the decision has created a significant amount of uncertainty among various industry segments, and thus the potential for rash operational changes that are both unnecessary as a matter of law and regulation and detrimental to the interests of MTOs.

Notably, in this recent case, the shippers had advanced notice that the marine terminal (the designated return location) would be closed on the holiday weekend. Nonetheless, they chose to continue to hold the ocean carrier's equipment.

Despite this clear notice and the fact that the shipper's agent had every opportunity to return the equipment before the holiday weekend, the Commission deemed the detention charges unreasonable. Some in the industry believe that this logic could be extended to terminal demurrage, even though terminal demurrage is qualitatively different from equipment detention (e.g., the charge for the use of space), and the analysis under the incentive rule should consider both the actual differences in the charges as well as the different incentivizing facts at issue. Despite this, the uncertainty is already affecting stakeholders, and the results, if continued to their (il)logical conclusion, would be illogical and potentially devastating.

The costs borne by the MTO in storing a container at the terminal that has improperly exceeded its free time remain constant, whether or not the terminal is open. To repeat, a marine terminal is not intended to be used as a warehouse. The business model of a marine terminal depends on a constant flow of cargo through the terminal. Accordingly, the MTO must be compensated for a party failing to remove a container. This is quite different from the "lost opportunity" costs of already unused equipment at issue in equipment detention.

Moreover, it is clear that the imposition of weekend and holiday terminal demurrage promotes freight fluidity, consistent with the incentive principle. If free time has expired, cargo is incentivized to remove a container before the weekend or holiday to avoid paying for such additional storage costs. In addition, the availability of free storage on the weekend is likely to disincentivize the flow of cargo, when the alternative is relocating cargo to an offsite facility where fees would be incurred. The aggregate result, therefore, would be an increase in supply chain congestion at U.S. ports. Because the potential implications of the FMC's recent decision fly in the face of the incentive principle, we urge this Subcommittee to encourage the FMC to avoid extending its scope to terminal demurrage.

MTO Investments in Cargo Handling Equipment

Notwithstanding the success of reducing supply chain congestion through the use of terminal demurrage and filed MTO agreements, new challenges are emerging. For example, Congress passed the Inflation Reduction Act ("IRA") last August, which appropriates $3 billion for maritime decarbonization. The government's investment is intended to help MTOs switch to zero- or near-zero emissions equipment to decarbonize port operations and improve air quality in port communities. NAWE and its members are extremely grateful to Congress for its leadership in passing the IRA and supporting MTO investment in next-generation cargo handling equipment. However, although MTOs and other stakeholders want cleaner, safer, and healthier ports, the IRA's timelines for getting new equipment are challenging for several reasons, including:

1. The much higher cost of electric equipment;
2. Lost value in replacing existing equipment before the end of its useful life;
3. The need for expensive electric infrastructure; and
4. The lack of U.S.-manufactured zero- or near-zero emissions cargo handling equipment.

NAWE and its members continue to investigate the anticipated costs and timelines of switching from existing cargo handling equipment to zero- or near-zero emissions equipment. However, given the above-listed challenges, we anticipate that the aggregate costs to bring U.S. ports into compliance with the IRA's decarbonization goals will be in the tens (and possibly hundreds) of billions of dollars and will far exceed the IRA's timelines, even if U.S. manufacturing of next-generation cargo handling equipment can be rapidly expanded.

Given these challenges, Ports America and NAWE will continue to engage with Congress to find flexibility in the IRA to account for the realistic costs, timelines, and U.S. equipment availability to achieve the Act's policy goals. While the IRA is outside this Subcommittee's jurisdiction, we appreciate the members' support for our efforts. We will keep you apprised of these implementation challenges as they directly impact the U.S. maritime supply chain.

* * *

In closing, I want to thank you all for inviting me to share updates and concerns on these critical issues that impact our industry. I am truly grateful for your support of American marine terminal operators in ensuring resilient maritime supply chain and safe working environment for our waterfront workforce. I am happy to respond to any questions you may have.

Mr. WEBSTER OF FLORIDA. Thank you very much.

Mr. Allen, you are recognized for 5 minutes.

TESTIMONY OF WILLIAM H. "BUDDY" ALLEN, CHIEF EXECUTIVE OFFICER, AMERICAN COTTON SHIPPERS ASSOCIATION

Mr. ALLEN. Thank you very much.

Chairman Webster, Ranking Member Carbajal, and members of the subcommittee, thank you for holding this hearing. I'm honored to have the opportunity to contribute my testimony and the perspective of the American Cotton Shippers Association or ACSA.

ACSA is a trade association primarily made up of cotton merchants founded in 1924. Our members handle the vast majority of U.S. cotton and foreign growths of cotton traded around the world.

Our services consist of merchandising, delivery logistics, and risk management. Simply put, we buy cotton from farmers, and sell and deliver it to yarn spinners in the U.S. and around the world.

We harmonize our customers' very different needs while managing many of their risk, including price, time, transportation, currency, geopolitics, and quality. With approximately 85 percent of U.S. cotton exported in a containerized and nonfungible manner, a functional and reliable intermodal supply chain that provides adequate service to exporters is mandatory to support overall risk management and U.S. competitiveness in the global marketplace.

During the supply chain crisis that stemmed from the COVID–19 pandemic, our members experienced unprecedented challenges and risk. Cotton is produced and concentrated in our country's interior and moved intermodally to domestic mills or ports of export around the world. Efficient performance requires harmony in sequencing and executing appointments with warehousemen, equipment providers, draymen, rail providers, ocean shippers, and terminal operators. Challenges at each point within our industry's procedures created collective dysfunction.

Our industry has enjoyed a long and fruitful relationship with ocean carriers. We are not here today to assign blame to any single party for these events. We must work together to develop practical solutions moving forward.

We believe that meaningful structural changes must be made to prevent similar dysfunction from occurring. Our view is that current relief in our supply chain is solely based on global economic downturn that curtailed consumption of goods and related volumes of inbound cargo.

Inundation has been replaced with elasticity in our supply chain. This reprieve is temporary. Our economy will strengthen, cargo volumes will increase, and we must capitalize on this opportunity to prepare for renewed cargo saturation within our supply chain.

ACSA applauds Congress and the Federal Maritime Commission or FMC for the passage and aggressive implementation of the Ocean Shipping Reform Act, referred to as OSRA. Key elements of ACSA policy positions are addressed in OSRA, including the categorical denial of service to exporters, reasonableness when levying fees, and choice in the procurement of chassis.

The results of OSRA's implementation, related rulemaking, and administrative processes are pending and appear to be, in our opinion, of varying value. We believe that OSRA will likely fall short of providing the needed assurance exporters seek concerning the availability of service when economic conditions favor empty sailings or imports.

Concerning detention and demurrage, we find value in the documentation regime created by FMC, although we request further establishment of causation in these submissions.

ACSA is supportive of FMC's recent decision of denial of choice in chassis procurement for merchant haulage is unreasonable and in violation of the Shipping Act, a decision that has been broadly advocated for by an extensive coalition of importers, exporters, and their service providers. We also want to flag the importance of OSHA's prescribed study on best practices for chassis. This should be done in a comprehensive manner.

ACSA was a proponent of creating the National Shipper Advisory Committee and is supportive of their recommendations to the FMC. Specifically, we endorse measures to bring clarity to jurisdictional questions and expanded oversight to FMC throughout the entirety of maritime bills of lading, the establishment of uniform and reasonable terms concerning cargo receiving, and active steps to enhance data visibility and integrity.

In addition to the reform and commercial practices outlined in my testimony, I'd like to acknowledge ACSA's commitment to the development of a modernized culture in containerized shipping—one that embraces digitalization and the utility of a blockchain ledger to streamline data management and expand opportunities for global cotton merchandising.

In conclusion, I would be remiss not to acknowledge how valuable our experience working with the FMC has been in recent years. Given their size and given their resources, they have been asked to punch above their weight class throughout this process. I'm pleased to report that they are doing so while maintaining active engagement with stakeholders and seeking equitable outcomes that will promote a sound supply chain. We hope this will be taken into consideration as FMC appeals for critical resources to manage their expanding scope.

Mr. Chairman, thank you for this opportunity to testify. I look forward to answering your questions.

[Mr. Allen's prepared statement follows:]

Prepared Statement of William H. "Buddy" Allen, Chief Executive Officer, American Cotton Shippers Association

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ACSA is a trade association primarily made up of cotton merchants founded in 1924. Our members handle the vast majority of U.S. cotton and foreign growths of cotton traded globally. Our services consist of merchandising, delivery logistics, and risk management. Simply put, we buy cotton from producers, sell, and deliver it to yarn spinners in the U.S. and around the world. We harmonize our customers' very different needs while managing many of their risks such as price, time, transportation, currency, geopolitics, and quality. With approximately 85% of U.S. cotton exported in a containerized and non-fungible manner, a functional and reliable intermodal supply chain that provides adequate service to exporters is mandatory to support overall risk management and U.S. competitiveness in the global marketplace.

During the supply chain crisis stemming from the COVID–19 pandemic, our members experienced unprecedented challenges and risks. Cotton is produced and concentrated in our country's interior and moved intermodally to domestic mills or ports of export. Efficient performance requires harmony in sequencing and executing appointments with warehousemen, equipment providers, draymen, rail providers, ocean shippers, and terminal operators. Challenges at each point within our industry's procedures created collective dysfunction.

Our industry has enjoyed a long and fruitful relationship with ocean carriers, and we are not here to assign blame to any single party for these events. We must work together to develop practical solutions. We believe that meaningful structural changes must be made to prevent similar dysfunction from recurring. Our view is that current relief in our supply chain is based on a global economic downturn that curtailed consumption of goods and related volumes of inbound cargo. Inundation has been replaced with elasticity in the supply chain. This reprieve is temporary. Our economy will strengthen, and cargo volumes will increase. We must capitalize on this opportunity to prepare for renewed cargo saturation within our supply chain.

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ACSA was a proponent of creating the National Shipper Advisory Committee (NSAC) and is supportive of their recommendations to the FMC. Specifically, we endorse measures to bring clarity to jurisdictional questions and expanded oversight to FMC throughout the entirety of maritime bills of lading, the establishment of uniform and reasonable terms concerning cargo receiving, and active steps to enhance data visibility and integrity.

In addition to the reform in commercial practices outlined in my testimony, I would like to acknowledge ACSA's commitment to the development of a modernized culture in containerized shipping. One that embraces digitalization and the utility of a blockchain ledger to streamline data management and expand opportunities for global cotton merchandising.

In conclusion, I would be remised not to acknowledge how valuable our experience working with the FMC has been in recent years. Given their size and resources, they have been asked to punch above their weight class throughout this process. I am pleased to report that they are doing so while maintaining active engagement with stakeholders and seeking equitable outcomes that will promote a sound supply chain. We hope that this will be taken into consideration as FMC appeals for critical resources to manage their expanding scope.

Mr. Chairman, thank you for this opportunity to offer my testimony. I look forward to answering your questions.

Mr. WEBSTER OF FLORIDA. Thank you very much.

OK. Former FMC Chairman Mario Cordero, you are recognized for 5 minutes.

TESTIMONY OF MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH

Mr. CORDERO. Thank you, Mr. Chairman.

OK, here we go, all right. Thank you, Mr. Chairman.

Chairman Webster and Ranking Member Carbajal, thank you for inviting me to testify before the subcommittee today regarding the state of maritime transportation supply chain issues.

My name is Mario Cordero, and I am the executive director of the Port of Long Beach. The Port of Long Beach is the premier U.S. gateway for transpacific trade, and nearly 40 percent of the container cargo entering the United States comes through the Port of Long Beach and our neighbor, the Port of Los Angeles.

The port welcomes the largest vessels in operation and is the Nation's leading export port with more than 1.4 million TEUs of loaded exports that have been moved. The port is building some of the most modern and sustainable marine facilities in the world, and we are committed to a zero-emission future.

We all remember not so long ago when ships were waiting in the San Pedro Bay Complex for days before they were able to unload their vessels. While trade has slowed, we need to take into consideration the past and not make the mistakes of the past, and take action to ensure that we do not have supply chain interruptions in the future.

Recognizing the need for technology solutions that would enable terminal operators, ocean carriers, and shippers to efficiently coordinate the movement of goods, the port developed the Supply Chain Information Highway, a digital solution that provides shippers and the supply chain with data that can be integrated into their own systems.

Congress' passage of the Ocean Shipping Reform Act will be a catalyst to ensure goods move efficiently through our ports. As a former Chairman of the FMC, I am well aware of the balance that the FMC must strike by enabling competition among ocean carriers and terminal operators, while protecting shippers and consumers from unfair practices.

OSRA will give the FMC additional authority to promote the growth of U.S. exports through an ocean transportation system that is competitive, economic, and efficient.

The Port of Long Beach is in the midst of a $2.6 billion program of capital improvements for the next decade. New grant programs create opportunities to secure funds for projects that will put more containers on rail, reduce truck traffic, and reduce carbon emissions.

The port has benefited greatly from the Port Infrastructure Development Program. Most recently, the port secured FY 2022 funding for $30.1 million to deploy the Nation's largest fleet of manually operated, zero-emission cargo handling equipment at the Long Beach Container Terminal.

PIDP funds, however, do fall short of what is necessary. PIDP is oversubscribed at the rate of four to one, and I call on Congress to fully fund the PIDP at its $750 million authorization level.

Permitting delays are also making the program more difficult, such as MARAD's unnecessary barriers that prevent it from using the categorical exclusions of other U.S. DOT modal agencies. Congress should require U.S. DOT to update its regulations to allow modal agencies to use the same categorical exclusions.

We also have concerns about the level of data that's requested by the port performance reporting requirements. We are interested in exploring how we can coordinate data-sharing efforts in place through U.S. DOT's FLOW initiative and our Supply Chain Information Highway.

The Port of Long Beach is investing in a state-of-the-art rail facility—a Pier B On-Dock Support Facility, which will enhance on-dock rail capacity and expedite cargo movement. We are building the $1.5 billion project in phases and are pursuing competitive grants for Federal funds from the U.S. DOT.

I have six recommendations as follows. One, encourage an investment in technology so that the shippers, ocean carriers, container terminal operators, and trucking companies are able to efficiently plan and schedule their operations to prevent bottlenecks. In essence, maximizing digital transformation.

Two, encourage the supply chain to operate within a 24/7 framework, when needed, to reduce bottlenecks and promote efficiency.

Three, direct Federal funding to projects that will facilitate goods movement and reduce greenhouse gas emissions, such as the Mega program.

Four, I ask Congress to fully fund the PIDP at its $750 million authorization level. It will take more than $2 billion to achieve our goals of zero-emission cargo handling equipment by 2030 and zero-emission drayage trucks by 2035.

Five, likewise, funds in the IIJA and IRA directed to reducing emissions at ports are invaluable and will spur investments to expedite port electrification.

And last, continue to support the required resources to the FMC to ensure a competitive and reliable international ocean transportation supply system.

In conclusion, I appreciate the opportunity to testify before the subcommittee. This is an exciting time, in terms of technology and innovation, to enable U.S. ports to be true economic drivers. I am happy to offer my views and look forward to any questions the committee may ask. Thank you, Mr. Chairman and Ranking Member.

[Mr. Cordero's prepared statement follows:]

Prepared Statement of Mario Cordero, Executive Director, Port of Long Beach

Chairman Webster, Ranking Member Carbajal, thank you for inviting me to testify before this Subcommittee today regarding the state of maritime transportation supply chain issues. My name is Mario Cordero and I am the Executive Director of the Port of Long Beach.

The Port of Long Beach (Port) was on the frontline of experiencing supply chain disruptions, but has also been at the forefront of making transformational investments in infrastructure and technology that not only have addressed supply chain issues but also reduced emissions from port operations. As the former Chairman of the Federal Maritime Commission (FMC), I also have first-hand experience with balancing the regulatory regime ensuring the efficient and nondiscriminatory movement of goods by ocean carriers. I look forward to sharing my views on what we have done at the Port of Long Beach to facilitate goods movement and how Congress can ensure ports are able to make critical investments in infrastructure that enable efficient, and ultimately zero emissions port operations.

I. Background

The Port of Long Beach is the premier U.S. gateway for trans-Pacific trade and a trailblazer in innovative goods movement, safety, environmental stewardship and sustainability. Nearly forty percent of the container cargo entering the U.S. comes through the Port of Long Beach and our neighbor, the Port of Los Angeles. As one of the busiest container seaports in the United States, the Port handles trade valued at $200 billion annually and supports 2.6 million jobs across the nation and more than 575,000 in Southern California. Altogether, the Port generates $374 billion in total economic output across the U.S. economy and $46 billion in local/state and federal tax revenues annually.

The Port of Long Beach welcomes the largest vessels in operation, serving 175 shipping lines with connections to 217 seaports around the world. In 2022, the Port handled more than 9 million twenty-foot equivalent units (TEU), achieving the second-best year in its history. The Port of Long Beach remains the nation's leading export port for a second consecutive year with more than 1.4 million TEUs of loaded exports moved. As part of an industry-leading $2.6 billion capital improvement program this decade, the Port is building some of the most modern, efficient and sustainable marine facilities in the world to accommodate larger ships and move cargo faster, while generating thousands of new jobs.

The Port is also committed to a zero-emissions future—testing and deploying new technology and infrastructure, including zero-emission terminal equipment, a microgrid project, zero-emission cargo handling vehicles and a blueprint for broad use of electric vehicles.

This month, the Port of Long Beach announced its participation in a new effort between California and Japan to collaborate on strategies aimed at cutting planet-warming pollution at seaports and establishing green shipping corridors. The letter of intent, signed in Tokyo during a trade mission to Japan led by California Lieutenant Governor Eleni Kounalakis, is part of a series of international partnerships the Port is engaged in to tackle climate change and improve air quality. The Port is already engaged in a similar agreement with the Port of Kobe and is collaborating with the nation of Singapore on a green and digital shipping corridor that will focus on low- and zero-carbon ship fuels, as well as digital tools to support deployment of low- and zero-carbon ships.

II. Supply Chain Issues

We all remember not long ago when ships were waiting in the San Pedro Bay Port Complex for days before they were able to unload their vessels. At the same time, exporters were unable to ship their goods out of the United States and manufacturers were waiting weeks and sometimes months for parts or finished goods to arrive. While trade has slowed following the record-breaking numbers of last year, it is important that we learn from the past and take action to ensure we do not have supply chain interruptions in the future. I would like to address some of the initiatives that have been key to addressing supply chain challenges and offer recommendations on what more we should be doing.

1. Implementation of Technology Platforms

Recognizing the need for a technology solution that would enable terminal operators, ocean carriers and shippers to efficiently coordinate the movement of goods through the Port, the Port of Long Beach developed the Supply Chain Information Highway. The project is a digital solution that provides shippers and the supply chain with data that can be integrated into their own systems, enabling them to track cargo from origin to destination and make better operational decisions. This digital infrastructure should enable shippers to better schedule container pick-ups at the Port based on real-time information regarding when ships will arrive at the Port and be unloaded. The Port of Oakland, the Northwest Seaport Alliance, a marine cargo operating partnership of the ports of Seattle and Tacoma, the Port of New York/New Jersey, the Port of Miami, the South Carolina State Ports Authority, the Port of Hueneme and the Utah Inland Port Authority are collaborating with the Port of Long Beach on the Supply Chain Information Highway. The goal is to offer access to data that will result in increased delivery visibility for authorized supply chain partners nationwide.

The Port appreciates the Biden-Harris Administration's recognition and support to invest in projects like the Supply Chain Information Highway and the U.S. Department of Transportation's major supply chain initiative, Freight Logistics Optimization Works (FLOW), to help speed up delivery times and reduce consumer costs.

In June of 2022, Governor Gavin Newsom signed the California Budget Act of 2022, which included a one-time investment of thirty million dollars that will support direct cloud-based port data system development at California's containerized ports and support emerging data aggregation and analysis to support port operations.

Investment by the federal government in developing common data standards to facilitate freight movement is an important part of bringing the supply chain industry into the 21st century. Together, they are clearing obstacles for much needed coordination across the supply chain to make goods movement more efficient.

2. 24/7 Operations

I also have been a leading proponent of ports operating 24/7 to reduce bottlenecks and create efficiencies. President Biden announced his support for this effort in the fall of 2021.

Dockworkers, terminal operators and railroad labor took this mantra to heart during the height of port congestion. Thanks to their unwavering commitment, we did not shut down our operations amidst the pandemic. They stepped up and helped us move 1 million more containers in 2021 than previous years.

Unfortunately, implementing 24/7 operations is a work in progress since it must be coordinated with container terminal operators, shippers, trucking companies and warehouses. This has happened at ports in other parts of the world and the U.S. needs to catch up.

3. Reasonable Regulation by the FMC

Congress' passage of the bipartisan Ocean Shipping Reform Act (OSRA) gives the FMC greater oversight over international ocean carriers that, among other things, should ensure that goods move efficiently through ports. Having previously served as Chairman of the FMC, I am well aware of the balance the FMC must strike between enabling competition among ocean carriers and terminal operators, while also protecting shippers and ultimately consumers from unfair practices. OSRA will give the FMC additional authority to promote the growth and development of U.S. exports and businesses through an ocean transportation system that is competitive, economical, efficient, and one that brings strategic advantages to the U.S. OSRA seems to strike that balance and I commend Congress for its leadership in developing a compromise package of reforms.

OSRA came as a result of trying times in the industry, with a focus on preparing the maritime transportation system for the future, while addressing inefficiencies and disruption within the supply chain. These changes are still being implemented and the industry has been an active participant in the rulemaking process surrounding many of OSRA's provisions.

The American Association of Port Authorities and its members have been clear during the OSRA detention and demurrage rulemaking that changes to the way these charges are billed to motor carriers should not upend the status quo. Prohibiting motor carriers from being billed for these charges risks congestion and slowdowns.

4. Investment in Infrastructure

The Port of Long Beach is in the midst of a $2.6 billion program of capital improvements over the next 10 years. The funding increases and new competitive grant programs in the Infrastructure Investment and Jobs Act (IIJA) and Inflation Reduction Act (IRA) create opportunities for the Port to secure funds for priority projects that will put more containers on rail and reduce truck traffic as well as reduce carbon emissions from port operations.

- *Port Infrastructure Development Program*. The Port of Long Beach and other ports around the country have benefitted from the Port Infrastructure Development Program (PIDP), which provides funding for a broad range of infrastructure at ports and enables public ports to partner with their container terminal operators to deliver infrastructure improvements through public private partnerships. Most recently, the Port of Long Beach secured fiscal year 2022 funding of $30.1 million to deploy the nation's largest fleet of manually operated, zero-emissions cargo handling equipment at a single marine terminal. The project will replace diesel yard tractors at Long Beach Container Terminal with approximately 60 electric human-operated yard tractors and includes construction of electric equipment charging stations with energy efficiency-enhancing software, training for operators and maintenance personnel, and installation of software equipment to streamline cargo-handling operations within the terminal.

PIDP is delivering record levels of funding to the port industry, with over $700 million awarded last year. However, the funding levels still fall short of what is necessary. PIDP is oversubscribed at a rate of over 4:1. There are so many more critical projects across the country that are going unfunded. I call on Congress to fully fund PIDP at its $750 million authorization level.

Permitting delays are also making the program more difficult for ports. There are bipartisan steps Congress can take to get shovels in the ground faster without sacrificing environmental protection. For example, the U.S. Maritime Administration (MARAD) has unnecessary barriers that prevent it from using the categorical exclusions of other U.S. Department of Transportation (USDOT) modal agencies, like the Federal Railroad Administration or Federal Highways Administration. Congress should require USDOT to update its regulations to allow MARAD and all modal agencies to use the same categorical exclusions, freeing up staff resources to focus on more.

An area we need further coordination with MARAD and Bureau of Transportation Statistics on is Port Performance Reporting requirements. We have concerns about the level of data that is requested, some of which is proprietary and terminal-specific. We are also interested in exploring how we can coordinate data sharing efforts already in place or under development through USDOT's FLOW initiative and the Port's Supply Chain Information Highway. This would help to address managing resources related to data collection, synthesis, and sharing. How we resolve this issue has implications for implementing projects through PIDP, particularly zero emission infrastructure and tenant-led improvements.

- *Funding for On-Dock Rail*. The Pier B On-Dock Rail Support Facility will enhance on-dock rail capacity and expedite the movement of cargo. We are building the $1.567 billion project in phases and are pursuing competitive grants for federal funds from the Department of Transportation. The Pier B Rail Program is a project of national significance that will reduce port congestion, increase cargo velocity and enhance rail connectivity with key inland points. Together, these benefits will strengthen supply chain resilience and complement private sector investments such as the planned Barstow International Gateway project announced by BNSF Railway on October 1, 2022. Shifting cargo movements to trains will reduce greenhouse gases and other harmful emissions that disproportionally impact port-adjacent communities. Furthermore, the construction and future operation of the project will create good paying jobs for American workers.

III. Recommendations to Spur Further Investment at Ports

While volumes of goods moving through ports may be down temporarily in light of the current economic climate, this is not a time to be complacent. We should learn from the past and invest now to ensure that we do not have supply chain issues in the future. I have the following recommendation for the Subcommittee:

- Encourage investment in technology that provides transparency and an open platform so that shippers, ocean carriers, container terminal operators and trucking companies are able to efficiently plan and schedule their operations to prevent bottlenecks.
- Encourage the supply chain to operate 24/7 when needed to reduce bottlenecks and promote efficiency.
- Direct federal funding to projects that will facilitate goods movement and reduce greenhouse gas emissions. Congress should direct more money to the National Infrastructure Project Assistance program (known as Mega grants), which funds complex projects that will have a significant effect on the economy—such as the Pier B on-dock rail project. A project like the Pier B project will benefit the entire country since goods from the Port end up in literally every Congressional District in the United States, and projects that have national significance such as Pier B should be prioritized for funding.
- Congress should continue to recognize the benefits of the PIDP program since ports are critical economic engines, while at the same time they historically have been polluters. The Port of Long Beach is known as the Green Port as we have made significant strides to cut greenhouse gas emissions and tackle the effects of climate change. It will take more than $2 billion to achieve our goals of zero emission cargo handling equipment by 2030 and zero emission drayage trucks by 2035. Ports like the Port of Long Beach that are making significant investments to operate as "clean ports" should receive federal funding to enable

further investment. I also ask Congress to fully fund PIDP at its $750 million authorization level.

- Likewise, funds in the IIJA and IRA directed to reducing emissions at ports are invaluable and will spur investments to expedite port electrification.

Of note, between 2010 and 2020, West Coast ports lagged 10 to 1 in federal investments in comparison to Gulf and East Coast ports, the latter having received more than $11 billion compared to just over $1.2 billion for the West Coast.

On the rail side, the Canadian government has invested heavily in its west coast rail system that has resulted in taking away approximately 22% of business from our U.S. West Coast ports. In addition, the Canadian Pacific Railway Ltd, recently received regulatory approval from the Committee on Foreign Investment in the United States for its acquisition of Kansas City Southern, thus allowing a foreign company to strategically create the only single-line railroad linking the United States, Mexico and Canada. Investments in rail and on-dock rail infrastructure projects at West Coast ports are critical to remaining competitive, growing our national economy, and creating a more efficient, environmentally sound and faster method of moving goods.

IV. CONCLUSION

I appreciate the opportunity to testify before the Subcommittee. This is an exciting time in terms of technology and innovation to enable our ports to be true economic drivers. I am happy to offer my views and look forward to answering your questions.

Mr. WEBSTER OF FLORIDA. Thank you very much. We will go to questions, and I will ask my questions first.

Mr. Darr, you expressed concerns about FMC's proposed rulemaking that would limit detention and demurrage charges for certain entities and the potential impact on the incentive principle. What would you like to see as a better alternative, and how can we find balance between incentivizing the movement of cargo while ensuring the charges are fair?

Mr. DARR. Thank you, Mr. Chairman. First of all, I think we're all in agreement here, it sounds like among the witnesses, that detention and demurrage has an important role to play in ensuring fluidity.

So, it has some role. The question is: What's the right framework? And the challenge that we raised, with regard to the rulemaking, is that the proposed rule seems to abandon the incentive principle that the FMC had previously embraced, which basically judges it on a fact-specific, case-by-case basis on if a charge actually improves fluidity and resiliency in the supply chain, and instead specifies specific parties that can be charged and those that cannot.

And the real fundamental problem with that is it could leave you in a situation where, in many cases, a party gets charged that is not in a position to actually improve that fluidity and other cases where the party that could actually make a difference cannot be charged.

So, it would seem to miss the mark on the direction that it is headed right now with—and certainly that can't be what Congress actually intended from my perspective, because I think the intention was to improve fluidity.

Mr. WEBSTER OF FLORIDA. Mr. Leech, do you have anything to add to that?

Mr. LEECH. I concur with that, and I think I clarified that pretty well in my oral statement, Mr. Chairman. And one of the distinctions I would like to make very clearly amongst the committee is the demurrage on terminal.

Terminal demurrage, as I call it, is just storage. And when goods are moved through the transport chain, terminal, off terminal, to destination, there is storage along that way for those goods, whether it's in a warehouse, a depot, or a terminal.

So, there is no distinction, in terms of that as a reasonable charge. And one way to facilitate better engagement is for shippers to directly engage with MTOs who have that capacity inside of their asset base and can offer different service levels under different pricing levels.

So, part of the issue we have as an industry is MTOs are operating underneath a supply chain that's being managed end-to-end typically by a liner company.

Mr. WEBSTER OF FLORIDA. Mr. Allen, do you have anything to add to that?

Mr. ALLEN. I would simply say that the amount of erroneous charges and the lack of an efficient appeal process begged for reform and improvement. Is this perfect? Arguably not. What is it exactly is still somewhat to be determined, but we believe that significant progress has been made.

Mr. WEBSTER OF FLORIDA. The Shipping Act provides for certain anti-trust exemptions for ocean carriers. Can you talk about the role of these anti-trust exemptions and how they are used in the industry? What would be the impact of removing them?

Anybody want to respond to that? Yes.

Mr. DARR. Thank you, Mr. Chairman. I'd certainly be happy to comment.

First of all, I'd like to put it in perspective. I checked this morning to make sure my recollection was accurate, and of our 700 or so ships in our network, we have 86 that are actually in the 2M alliance, which is our alliance.

So, you need to be careful not to overstate what role the alliances play in the overall picture and in the market, because it can be kind of distorted if you're not careful with the numbers.

The reason that the alliances are very useful and vessel sharing agreements, which is a broader term which is used sometimes in very small agreements too, is that it provides additional capacity because you can better utilize the available capacity that's out there.

You can provide more services to more ports, particularly smaller ports that might not end up getting services at all if a carrier had to rely simply on their own very capital-intensive resources to serve those. And the efficiencies that are gained, not just as far as managing cost, but also efficiency with energy consumption and therefore, greenhouse gas emissions are minimized, that would change.

And those additional costs that come from that ultimately would find their way back into the market if the VSAs were not allowable in some form, as we understand them today. They serve a very valuable purpose and particularly with smaller ports and niche shippers.

Mr. WEBSTER OF FLORIDA. Thank you very much. My time is expired. OK. Mr. Carbajal, you are recognized for your questions.

Mr. CARBAJAL. Thank you, Mr. Chairman.

Mr. Allen, in your testimony you expressed concern regarding the FMC's "refusal to deal" rulemaking. What do you believe should be the result of rulemaking, and are there any issues Congress should be considering?

Mr. ALLEN. Thank you, Mr. Carbajal. As we can all imagine, this is a complex matter to resolve. I enjoyed the exchange this subcommittee had with Chairman Maffei last week where he testified if you built a bridge in the interior it would help him. We tend to agree with that. I think all of these witnesses appreciate the complexity.

With that said, we think there are some commonsense improvements. We do desire some form of assurance or mandate that in all economic conditions, exporters, particularly agricultural exporters like our members, would be afforded access to services that we depend upon, and we're very good customers of our colleagues here at the table today.

With that said, we think there's some low-hanging fruit in the cultural practices within the U.S. that don't necessarily cost a lot of money, or time, or change, if we can work together.

One is coming up with a reasonable regime for cargo receiving that's consistent. When carriers are sharing space in the alliances that Mr. Darr just described, if we could find harmony in their procedures and requirements, as well as the terminal operators, it would bring great visibility and opportunity for us to make our scheduling.

When we're weeks out at interior warehouses and days out from change with ocean carriers, it just simply does not synchronize. At the same time, data sharing, visibility, and communication is ripe for improvement.

We need every measure to open systems for equipment use and introduce additional assets. And the thing that I would flag for this subcommittee to please consider focusing on is jurisdictional clarity—jurisdictional clarity across the full entirety of maritime bill of lading. Through what extent is it governed, or is the oversight provided by the Federal Maritime Commission, and at what point is it the Surface Transportation Board?

And we would ask an expansion of the Federal Maritime Commission's jurisdiction to cover the entirety of that maritime move.

Mr. CARBAJAL. Thank you.

Mr. Cordero, you have highlighted the work the Port of Long Beach has done to reduce emissions at the port. By investing in emissions reduction, are you losing out on efficiency, or is the port becoming more efficient at the same time?

Mr. CORDERO. Thank you, Ranking Member Carbajal, for the question. And my answer to that question is, there is no question that we are creating more efficiency in my view.

So, I think, again, over the many years that the port has moved forward, pursuant to the Green Port Policy that was initially passed back in 2005, I think that we have been environmental stewards and operational stewards in terms of proving to the fact that not only have we increased, in terms of our ability of how we move cargo in good times, but also how efficient we do it in a sustainable fashion in reducing emissions.

So, I think, again, and I will say our partner in doing this at the Port of L.A. and the San Pedro Bay Complex, I think it's a gateway that has proven the fact that the efficiency is in fact further with our reducing emissions gameplan, in terms of going towards zero emissions.

Mr. CARBAJAL. Thank you.

Mr. Darr, in your testimony you mentioned MSC's goal of achieving net-zero emissions by 2050. How will investments in ports from the funds in the Bipartisan Infrastructure Law support MSC's goal and benefit industry overall? What is the magnitude of shoreside investments needed to bring on new alternative fuels?

Mr. DARR. Thank you, sir. The role of shoreside investments is key, in part minimizing the amount of wasted transit time and moving to a system that's much more of a just-in-time port arrival, rather than a hurry-up-and-wait, sort of, port arrival system, could make an enormous difference.

We've kind of done that on the west coast to relieve pressure on the anchorage, but I was literally sitting in Glasgow at the climate conference there when we enacted that as an industry initiative, and it made a huge difference, as well, in efficiency of how we operate the ships.

The fuel itself, that energy transition will be between $1 and $2 trillion at a minimum to actually help the shipping industry fully transition to net zero by the fuels in 2050.

So, investments in fuel development, fuel infrastructure, delivery, and making them available particularly on the largest of the trade lanes could make a huge difference sooner rather than later, and we would certainly encourage all of those types of investments, as well as those in terminal efficiency.

Mr. CARBAJAL. Thank you. I am almost out of time, so, I am going to ask my question. If you could submit the answer for the record?

Mr. Cordero, I am greatly concerned by the impact of emissions and poor air quality on the oftentimes disadvantaged communities that live around ports.

Can you discuss, not necessarily discuss, but forward some information, some of the environmental justice work the Port of Long Beach has done and how smaller ports can replicate that?

If you could submit that for the record, that would be great.

Mr. Chairman, I am out of time. I yield back.

Mr. WEBSTER OF FLORIDA. Mr. Babin, you have 5 minutes.

Dr. BABIN. Yes, sir. Thank you very much, Mr. Chairman. I want to thank all the witnesses for being here today. I appreciate it.

The U.S. maritime industry keeps our Nation's economy running. The ongoing growth seen in southeast Texas is a great example of that. We have some great ports there, including the number one port in the Nation by tonnage, the Port of Houston, which is in my district.

The entire Houston Ship Channel is busy day and night, the conduit for shippers sending and receiving goods to and from all around the world. COVID brought new attention to port operations in ocean shipping, shining a light on the importance of an industry that many folks, in fact, I think most of our country, simply doesn't understand.

Last Congress, we tried to address both new and longstanding issues with our ocean transportation system when we passed OSRA, the Ocean Shipping Reform Act. However, even as we have heard so much about supply chain issues and the need to improve the status quo, I have heard concerns from industry about the direction that regulators want to move forward with.

My colleagues and I are all too familiar with unelected Federal employees in Washington taking a completely different direction from the intent of Congress, resulting in new, unintended problems rather than the intended solutions.

So, Mr. Leech, thanks for your testimony earlier. Given your background and industry knowledge, you should be well-qualified to answer these questions.

Last week, FMC Chairman Maffei testified that the Commission must avoid actions that would disincentivize the timely retrieval of cargo from marine terminals. Do you believe that if cargo owners are given free weekend and holiday storage at marine terminals, that it would disincentivize cargo owners from removing their cargo in a timely manner?

And also would the resulting Monday traffic increase be potentially dangerous?

Mr. LEECH. In response, I've made some commentary already in my statement——

Dr. BABIN [interposing]. Right.

Mr. LEECH [continuing]. Regarding this issue, and clearly, we are very clear to the industry, in terms of the disincentive principle and the availability of cargo and giving free, another free use of the asset to the cargo community ultimately is a disincentive.

We want to encourage pickups. We want to encourage fluidity. We can manage those parties who wish to have an engagement, a long-stay engagement. We can segregate and operationally change what we do to manage efficiently and provide a service, but we need to know about it. There needs to be an open channel of communication.

Dr. BABIN. Would the resulting Monday increase in traffic be potentially dangerous too?

Mr. LEECH. That's very difficult to predict.

Dr. BABIN. OK. All right. Marine container terminals lease waterfront property in most U.S. ports and that property is typically finite.

When containers are not picked up in a timely manner, how does that affect your operations?

Mr. LEECH. Typically, the longer the container stays, the denser the facility becomes, the more nonrevenue work we do to manage an operation, which reduces fluidity.

So, it directly affects capacity and capability.

Dr. BABIN. Congestion will be back sooner or later, and we need to get away from the idea that terminals are waterfront warehouses. How do you suggest we change this perception?

Mr. LEECH. We in the industry, from a terminal operator perspective, are flexible to be a solution provider to storage, but it is something we need to plan for in advance and a dialogue with the cargo owner and not be caught with unexpected.

Again, to manage that capacity, manage fluidity, we can provide solutions with the right sharing of information.

Dr. BABIN. Absolutely. I still have another minute, so, I will yield that back to the whole committee.

Mr. WEBSTER OF FLORIDA. It is too hard to divide. Mr. Larsen?

Mr. LARSEN OF WASHINGTON. Thanks. I appreciate that. One of my questions was asked by Mr. Carbajal's last one, which Mr. Cordero will get back for the record, so, I don't want you to answer that. You will get back to him for the record.

I want you, though, for Mr. Cordero, sorry, I can't read that far without my glasses——

Mr. ALLEN [interrupting]. Allen.

Mr. LARSEN OF WASHINGTON. Allen. Mr. Allen, to discuss two things you alluded to and just very briefly, your recommendation to encourage investment in technology that provides transparency on an open platform that shippers, carriers, and such can use to plan and schedule.

Mr. Cordero, can you select that right now? It was an issue that came up obviously during COVID. Is there a platform to be used right now that provides better transparency to all the players about where things are, when they are going to be there?

Mr. CORDERO. Yes, Congressman. Individual stakeholders, be it carriers, be it the terminals, or truckers, the movement in terms of augmenting technology to achieve transparency and visibility is a very aggressive one.

So, there are platforms. I think from the Port of Long Beach's perspective, I think what we're doing is putting together a system that is integrated, so, no matter what platform you use, again, it will be integrating into a system and that everybody can participate.

So, I think, again, the answer to the question is, yes. And it's, again, I think what's in the future, in the next 5 years, the shape of things to come is that we are going to be better, in terms of how fast this is moving.

Mr. LARSEN OF WASHINGTON. Yes, I think we heard last year, during some testimony, that it is not integrated. There are a lot of platforms, but there is not a picture that folks can use.

Mr. Allen, can you talk a little bit about where you think the technology ought to head?

Mr. ALLEN. Well, I think you have laid it out very well, Mr. Larsen. And Mr. Cordero, I'll commend the Port of Long Beach for being the tip of the spear on leading this effort.

I hope that we can build continuity in the systems and we can integrate them. To your point, this needs to be done in a comprehensive manner across terminal operators' ports and ocean carriers so that we can utilize that information as efficiently as possible in one place.

Mr. LARSEN OF WASHINGTON. That is fair enough. I appreciate that, and I will yield back 2 minutes and 43 seconds.

Mr. WEBSTER OF FLORIDA. Mr. Ezell?

Mr. EZELL. Thank you, Mr. Chairman.

Mr. Leech, thank you for your testimony today before our subcommittee. Last week, Ports America announced a critical agreement with the Port of Gulfport. This agreement will significantly benefit my constituents and add value to one of the gulf coast's most underutilized gateway ports.

Can you begin by talking about the importance of private-public partnerships, such as the one Ports America has at the Port of Gulfport, to our Nation's supply chain and critical infrastructure?

Mr. LEECH. Thank you. Yes, in terms of the public-private partnerships, which is what we've endeavored to put forward and now agreed with the Port of Gulfport, provides leverage for us to play a different role, more than just a service provider doing stevedoring, we're moving into a space where we're coinvesting and taking a role in the infrastructure development, as well as the marketing of that facility and the utility of that facility to a broader marketplace.

So, actively partnering with a port to be a steward of those assets to develop that economic and trade platform. Not a port, but an economic engine.

Mr. EZELL. Thank you.

Despite the impressive amount of annual imports and exports that are handled at the Port of Gulfport, a shallow shipping channel remains a challenge for local and regional importers and exporters. What opportunities would be realized in the Port of Gulfport if the Gulfport Shipping Channel was dredged to a competitive depth?

Mr. LEECH. The marine access is a critical issue for many ports, not just Gulfport. But Gulfport, as you highlighted, is in an uncompetitive position relative to its port peers in the gulf.

And so, the opening up of marine access in an efficient way, essentially opens the entire market for Gulfport to compete with New Orleans, with Houston, with Mobile, that it doesn't have the capacity to do today.

Mr. EZELL. Thank you. So, you agree that dredging projects, in general, would lead to greater resilience in ports and marine terminals, which also would prevent some further future supply chain disruptions?

Mr. LEECH. Yes, it's a critical element of our overall strategy or what should be our overall strategy from a national perspective is marine access to ensure that all ports can compete with each other. And we have an obligation to create resiliency through greater choice of port of entry for cargo.

The broader we have that base for both import and export goods, the better we are, in terms of supply chain resiliency. Trying to force through the entire import base for the entire country through six or seven ports is not a sustainable future.

Mr. EZELL. Right. Thank you. Thank you again for your time today, and I thank all the folks for coming out and testifying, and we look closely to working with all of you to help create some jobs on the Mississippi coast.

Mr. Chairman, I yield back.

Mr. WEBSTER OF FLORIDA. Thanks so much. Mr. Garamendi.

Mr. GARAMENDI. Thank you, Mr. Chairman.

The Ocean Shipping Reform Act, I see Mr. Dusty Johnson here and the pleasure of working with him to get that enacted. There's an enforcement issue in that any effort by the FMC to enforce the existing law or any future law would require them to go to court first to get permission from the court to carry out the enforcement. That's backwards.

No other independent agency has that requirement. They issue a enforcement and then the entities that are affected by that enforcement have the opportunity, if they disagree, to go to court to get it overturned.

So, Mr. Leech, don't you think it is a good idea that the FMC do it the same way as others? Other independent agencies?

Mr. LEECH. I haven't examined this in close detail to really——

Mr. GARAMENDI [interrupting]. Well, you will because I'm introducing a bill to require just that. How about you, Mr. Darr? Don't you think it's a good idea that the FMC have the same power as every other regulatory agency? That is to issue an enforcement, and then if you don't like it, go to court.

Mr. DARR. So, my understanding is that the change that's proposed would actually be limited to their review of the competitive nature of agreements between carriers. And it's important that an agency have authority to carry out whatever they're tasked with, however, adjudication is a very complicated matter for an agency, and it is even more complicated to do correctly——

Mr. GARAMENDI [interrupting]. So, you don't like the idea that the FMC have the same enforcement mechanisms as others?

Mr. DARR. I'm——

Mr. GARAMENDI [interrupting]. Other independent agencies?

Mr. DARR. I'm saying I don't know that it is the same, sir, and I leave the judgment to Congress as to how much power to vest in an agency.

Mr. GARAMENDI. Then you're neutral on it. Thank you.

Let's see, Mr. Allen, you said that you don't have access to ships. What if the queuing of ships that are waiting to get to port were to be done in such a way that those ships that would take your product and other agricultural and other export products, would get to the dock ahead of those that would not? Do you think that is a good idea?

Mr. ALLEN. We reviewed that concept, Mr. Garamendi, and appreciate you identifying ways to provide service for exporters. We think that would be effective and should be considered with the broad suite of ideas for additional steps that may be considered going forward.

Mr. GARAMENDI. Very good. Then we will look for your support, once again, as you did with the Ocean Shipping Reform Act, as we deal with the queuing opportunity, which is a nonregulatory thing, it is just simply if your ships are going to take American cargo, you can go to the head of the line; if you don't, you can wait at the outer harbor.

Let's see. Mr. Leech and Mr. Darr, do you believe that international trade should be reciprocal? That is, if you want to import, you also have to take exports?

Mr. Leech?

Mr. LEECH. Well, it's not certainly part of our scope of business. We're a service provider to handle all trade. We are a facilitator, and we're indifferent. Our job is to ensure that there is capacity and capability to export and import——

Mr. GARAMENDI [interrupting]. I just want to get down to the principle here. The principle that trade is reciprocal. If importers enter the United States have access to the American market, then the American exporters ought to also have access, that is to export.

Mr. Darr, do you think that is a good principle?

Mr. DARR. In principle, our business is founded on that.

Mr. GARAMENDI. Perfect.

Mr. DARR. How to balance——

Mr. GARAMENDI [interrupting]. Then you would support legislation that would require such reciprocal nature that as the ocean carriers, if you want to bring exports into the United States, then you ought to be willing to take exports out of the United States so that Mr. Allen and others would have access to the space on your ships?

Mr. DARR. I think the details on how to do that would matter.

Mr. GARAMENDI. Oh, yes, always the details——

Mr. DARR [interrupting]. But in principle——

Mr. GARAMENDI [interrupting]. Well, there's going to be a bill to give you the opportunity to look at those details.

Final point has to do with the anti-trust exemption that the ocean shipping carriers have. Do you believe in free trade? A capitalistic system of competition? All of you? Yes, yes, yes? I suppose all of you would think that is a good idea.

Well, it just turns out that the ocean carriers are exempt from the monopoly and the anti-trust laws of the United States, and there ought to be a law that the ocean carriers are subject to anti-trust laws like other parts of our economy.

Don't you think that is a good idea? Mr. Darr? Mr. Leech?

Mr. DARR. Sir, if you mean with regard to pricing? I——

Mr. GARAMENDI [interrupting]. I mean, with regard to all monopolistic exercises.

Mr. DARR. I'm not sure what that means.

Mr. GARAMENDI. I believe I am out of time.

Mr. DARR. But the vessel sharing——

Mr. GARAMENDI [interrupting]. That means that the 1980 exemption from the anti-trust law be repealed.

Mr. DARR. I don't think that's a good idea. No, sir.

Mr. GARAMENDI. I thought you might not. I yield back.

Mr. WEBSTER OF FLORIDA. Thank you. Mr. Johnson?

Mr. JOHNSON OF SOUTH DAKOTA. Well, I think you can see my partner, John Garamendi, can be a dog with a bone when we are trying to figure out what is the best way to regulate this marketplace and ensure that American exporters are being treated fairly and that we have the data and the authority for the FMC to do a good job.

And I want to thank John, and frankly, everybody who has helped us put together the Ocean Shipping Reform Act 2.0, which is being introduced today and does address a number of the issues that Mr. Garamendi talked about in his line of questioning.

And I think we look forward to having another robust, bipartisan success related to ocean shipping. Critically, critically important.

So, Mr. Allen, I want to talk with you. You had mentioned that you weren't sure that OSRA was going to provide enough assurance to folks that they will have the capacity, they will have the resources needed when the marketplace otherwise wants empty exports.

Help me understand that a little bit more and, in particular, did OSRA fall short someplace?

Mr. ALLEN. Well, the first thing I would say is that we believe, when you consider the data that supports the total volume of inbound cargo, and you then compare it to the spread between import and export costs, you will see a direct correlation to empty sailings. That concerns us.

On its face, we feel like there should be guardrails around that. We do not know if OSRA creates those guardrails. As many people have said, the implementation and regulatory regime around OSRA is very much ongoing, and there will be complaints, and there will be rulings, and there will be rules that stand up over time.

Your exchange with Chairman Maffei last week, Mr. Johnson, you suggested that this is a meal that may be consumed in courses. I think it was around a bowl of cereal, and I tend to agree with you.

And when we understand the impact that comes from OSRA, we will have a better view to what needs to be done next. And I am certain there is more work to be done and very grateful for the energy in this room to do that work.

Mr. JOHNSON OF SOUTH DAKOTA. Well, since the second bowl of Cheerios is being introduced today, Mr. Cordero, our bill does address some of the things you have talked about, which is having data standards and making sure we have got the information we need to try to harmonize some of the data-sharing efforts, and you have been involved in the DOT's FLOW initiative.

Talk to us a little bit about where we should be headed from a data-sharing and harmonization perspective?

Mr. CORDERO. That's a great question, Congressman. And I think the answer is that, as I mentioned before, I think it's fair to say that every sector in the industry has their respective platforms that are evolving, so, where we should be heading is how do we integrate these platforms into one integrated system?

And I think that's the key that I think we've received, that is the Port of Long Beach, a lot of accolades from other ports, initially, given that we just announced this just a year ago or so.

So, I think that's the direction and the more funding that we have for those opportunities, the better, because I think we've gone beyond the question of proprietary interest issues.

Not that it's not there, but I think everybody has the comfort that this has to move forward in a way to provide visibility and transparency in the supply chain and this is what, in fact, the pandemic surfaced of many issues of the lack of visibility and transparency for the American shipper.

Mr. JOHNSON OF SOUTH DAKOTA. I think you said that very well. And we do need this information. The marketplace needs this information to really be efficient and to well serve American import and export interests.

You mentioned proprietary. I mean, help us—listen, we are going to solve the problem, but give us some guidance on how do we balance the need to protect proprietary information as well as making sure we have enough granularity so that people can do something with the data?

Mr. CORDERO. Well, I think we're there. I only say that because through technology, stakeholders have been convinced that it's not about the proprietary interests, in terms of the data sharing that we're requesting, everybody has a comfort now that all we're seeking is information to further the visibility and transparency of the cargo movement.

So, I think if the individual companies or sectors, whether you're a trucking company, a BCO, or terminal, or a carrier, I think they now have adjusted to the fact that this is not about providing data that's not relevant to the visibility and transparency issue.

So, we're there as opposed to where we were even 5 years ago when that was a real concern.

Mr. JOHNSON OF SOUTH DAKOTA. Yes. We just—we have got to have this information if we are going to have the system that we deserve.

Thanks, Mr. Chairman. I yield, and thanks for the subcommittee for letting me waive on. I'm grateful for your indulgence, and I yield back.

Mr. WEBSTER OF FLORIDA. Ms. Scholten, you are recognized for 5 minutes.

Ms. SCHOLTEN. Thank you, Mr. Chairman. Thank you so much to our witnesses for being before the committee today and discussing such an important topic.

I am so proud to represent miles of beautiful Lake Michigan shoreline on the west coast of Michigan, including the wonderful Port of Muskegon. Ports play such an important role on the Great Lakes and are lifelines to their communities.

Ranking Member Larsen mentioned last week, but I want to stress again, the importance of the small ports set-aside under the Bipartisan Infrastructure Law and the Port Infrastructure Development Program, that it has to ensure the movement of cargo between Canada and the U.S. on the Great Lakes.

One project funded under the Bipartisan Infrastructure Law provided Monroe, Michigan, which sits on Lake Erie, an $11 million grant for funding in 2022, and for energy resilience to build shore power and invest in the local waterfront.

I'm really looking forward to other projects following suit just like this, and I'm wondering, Mr. Allen, can you please talk about the importance of investing in small ports and particularly the impact for your members and others in agricultural?

Mr. ALLEN. Thank you, Congresswoman. I would just say, as has been said already: The concept of moving cotton, in our members' case or all commodities for U.S. agricultural stakeholders, cannot be consolidated into three, or four, or five, or six major hubs. We need a broader base.

We need to utilize your port and your district. We need to utilize Mr. Ezell's Port of Gulfport as he's described. We see opportunities in the near future for containerized shipping in ports that we're not using now, and that excites us.

We can lower costs, we can add efficiency, we can increase the competitiveness of U.S. agriculture if we can broaden our base. We completely support that. Thank you for the question.

Ms. SCHOLTEN. Yes, that's wonderful. We would love to have you out and take a look at the port.

My next question is for Mr. Cordero. Thank you so much. I want to give you a kudos for your Port of Long Beach, one of the most environmentally friendly in the country.

My district is over 2,000 miles from the Port of Long Beach, but I can assure you that we have felt the effects of inflation and supply chain related increases just as much. What will broad investments in ports like those in the BIL and the IRA do to increase the flow of cargo and therefore, some of the inflationary conditions that have existed for the last few years?

Mr. CORDERO. That's a great question because for the Port of Long Beach, as I mentioned, we are, at least for 2022, the number one containerized export port. And just recently I had a conversation with one of your constituents there from the dairy industry. How important that market is as it comes to the San Pedro Bay Complex, and in my case, the Port of Long Beach. So, I think the answer to that question is, it's an unprecedented funding for the supply chain that we are now receiving, including for the intermodal facilities.

And we talk about inland ports, intermodal facilities are just as important because again, at the end of the day, a supply chain throughout the Nation is going to be crucial to make this connectivity whether you're a small port, whether you're an inland port, whether you're a waterway port, marine transportation highway, or a seaport like the Port of Long Beach.

So, I think, again, at the end of the day, the U.S.A. has a big market in the global arena with regard to exports, particularly ag, and protein, and dairy. So, I think, yes, funding for intermodal facilities is just as important.

Ms. SCHOLTEN. Thank you so much.

Mr. Chairman, I yield back the rest of my time.

Mr. WEBSTER OF FLORIDA. Mr. Auchincloss.

Mr. AUCHINCLOSS. Thank you, Chairman.

So, I voted against the OSRA twice in the House precisely because of concerns about the detention and demurrage charges and what that would do to shippers and MTOs. The Senate version, I got on board with finally because I thought that the AAPA's recommendations for improvement were well taken and hopefully would keep the incentive principle in place.

Unfortunately, we are seeing, to your excellent written testimony, both of you, that it doesn't seem to be the case right now. Unfortunately, they are going in the opposite direction with broad classifications and Mr. Leech, in particular, I liked your analogy of, for my simple politician's mind of just long-term parking on a bridge.

And we don't want that. It is not a good use of the capacity. I have been heartened to hear from Mr. Allen and from you, Mr. Leech, though, it doesn't feel like we are that far apart here. It really doesn't.

I hear from Mr. Allen, really a good faith desire to move quickly in and out, but you want predictability, if I am hearing you correctly, sir, and Mr. Leech, that you are willing to provide some storage, but you need also some heads up on that and then a market-based way of supplying it.

So, what, given this, given that we are like, I feel you two are reaching out, trying to hold hands here, there it is, the bridge. What can the FMC do to get that, to close this and keep the incentive principle in place, which I think has served us pretty well, recognizing that you, Mr. Allen, and your co-travelers in the export industry do need some certainty?

What are the final steps here? I invite you both to participate in a colloquy.

Mr. LEECH. Allow me to weigh in first, and I've engaged the FMC on this topic in the very same way. And that is partly the recognition, and I highlighted it earlier, that the MTO has a critical role to play, but how they engage, not simply as a supplier to somebody else as a third party, but as an active participant with direct commercial and product engagement with that cargo owner, with that shipper, with the consignee.

That's the critical element here that needs to change. So, it is in part about engagement and that we become an active partner in providing a service, but it's also about the information.

We all agree that data sets need to be better, there needs to be better access. A cargo owner shouldn't have to go uniquely to our portal to get information.

Mr. AUCHINCLOSS. Information is important. Incentives are also very important, and we do want to keep those incentives in place for demurrage and detention, pick them up, and bring them back, fast.

Mr. Allen?

Mr. ALLEN. Again, we do want to move cargo fast, and we want to take costs off the table. We want certainty, we want choice, we want an open marketplace in the manner by which we procure and utilize assets so that we can move as fast as possible and reduce costs to our customers as much as possible.

At the same time, we incurred $1.3 billion worth of unbudgeted costs during this timeframe—not all of which were detention or demurrage, but certainly some were—and other storage related malfunctions, carrying costs, and credit risks. In addition to the monetary costs, U.S. agriculture lost market share and faced reputational risk, and we simply must do a better job of communicating so we can operate more efficiently together.

Mr. AUCHINCLOSS. I can understand the frustrations that would be there when you are picking up those kind of charges for issues that are probably largely out of your control, certainly during the pandemic. Couldn't that be addressed, though, not with a broad exclusion of categories, but with just faster resolution of specific claims?

Mr. ALLEN. Maybe. Sir, there are lots of elements to the change in this regime of who is responsible, who has the burden of proof. I think we are sending shockwaves through the industry, and I think all participants in the industry are going to be responsive, and we're going to be stronger because of that.

Mr. AUCHINCLOSS. OK. Well, I want to make sure the FMC hears now from a Democrat. We heard from Mr. Babin before as a Republican, that we do need to get this right. The incentive principle does matter, and it doesn't need to be adversarial.

I think there does seem to be strong aligned incentives here. Finally, in the last 30 seconds, Mr. Darr, we have heard in the previous line of questioning pressure to take our MTO and our shipping plumbing in this country and use it as a cudgel on trade-related issues. Do you want to comment specifically on any dangers of politicizing our shipping industry on trade disputes?

Mr. DARR. I think it's fraught with quite a bit of peril and unintended consequences and some of, whether we like it or not, some of the major shipping companies that the world relies upon are state-backed or state-owned to some degree as well.

We face that competition every day. Given the right framework, we'll continue to compete and compete successfully, and we will continue to serve the commerce needs of the United States, which is my country, and I'm very proud to work for a company that believes in that every bit as much as I do.

Mr. AUCHINCLOSS. Thank you, sir. I yield back.

Mr. WEBSTER OF FLORIDA. Mr. Van Drew, you are recognized for 5 minutes.

Dr. VAN DREW. Thank you, Chairman, and thank you all for being here today.

In this Congress, one of my agendas is going to be to focus on the impact, and you have heard me speak about it before, that offshore wind industrialization has on the Atlantic maritime supply chain.

Safe access to the east coast is essential to many maritime users, including the maritime shipping industry, and all of you are represented on this panel today. Unrestrained shore wind threatens this safety.

In fact, the Bureau of Ocean Energy Management has determined that the impacts of offshore wind on navigation and vessel traffic, and this is the Bureau of Ocean Energy Management, would be, quote, "major," and that it would increase, quote, "the risk of collision, " and could, quote, "result in personal injury or loss of life and limb." The reasons for this are obvious.

First, offshore wind leases obstruct maritime traffic lanes and force vessels into tight bottlenecks.

Second, offshore wind structures interfere with navigational radar. In 2022, the National Academies of Sciences, Engineering, and Medicine released a report concluding that offshore wind structures can interfere with ship radar and with ship's navigation.

This is a result of the electromagnetic reflections from wind, a name that you are all familiar with: the Doppler effect. And it is caused by the spinning of the blades. And let's understand, just off my east coast, what kind of presence we are speaking about. We are speaking about thousands of windmills.

We are speaking that each one of them would be 1,000 feet high. We are speaking about millions, no embellishment, millions of acres of ground used for this. Today I chose to speak about this because it is appropriate for you, but you also could talk about the environmental issues.

You could speak about the issues as related to the tourism industry, as related to the fishing industry. I would love for everybody to hear from some fishermen on what they are going through. Some of them are going to lose their businesses completely. Lose their businesses completely.

Our energy is going to be controlled by foreign countries, over 50 percent of it, and it is going to change the entire landscape. One thousand feet tall. Taller than Lady Liberty and thousands of them. Imagine what it is going to look like.

Last week, I questioned the Maritime Administrator who admitted that the Government has not scrutinized this issue. I mean, she is for the issue, but still had to admit that we had not even scrutinized it. I am hoping that with some of the work that I am doing and others are doing now that we will.

I direct my questions to Mr. Bud Darr, executive director of the Mediterranean Shipping Company, or known as MSC, also here on behalf of the World Shipping Council.

Mr. Darr, you have an extraordinary breadth of maritime experience, including service in the Navy Submarine Force, and thank you for that, and the U.S. Coast Guard legal office.

Thank you for your service, and I hope you can provide some information and some clarity on these issues, Mr. Darr. Is it safe, let me put it this way: Is safe access to east coast ports important to the maritime shipping industry? Is safe access important?

Mr. DARR. Yes, sir, and thank you for your compliment. I will say it was my absolute honor to serve.

Dr. VAN DREW. I know. It is an honor, and we are honored that you did.

Can physical bottlenecks impact the safety of maritime operations?

Mr. DARR. Yes, sir.

Dr. VAN DREW. Do large maritime shipping vessels rely on radar for safe navigation?

Mr. DARR. Yes, sir. It's a very important component of navigation.

Dr. VAN DREW. Have you heard of the Doppler effect before?

Mr. DARR. Yes, sir.

Dr. VAN DREW. These things considered, do you agree with BOEM's assessment that these offshore wind projects—and this was BOEM, it was even supporting this—would have a major and potentially dangerous impact on maritime shipping on the east coast?

Mr. DARR. I can't say with precision what impact it will have, but I can say for the reasons you laid out, it must undergo close scrutiny through a proper marine spatial planning analysis to ensure those usages are deconflicted or we may create something very unintended and very negative.

Dr. VAN DREW. Exactly. And we have not done that. Thank you, Chairman. I yield back.

Mr. WEBSTER OF FLORIDA. Ms. Peltola.

Mrs. PELTOLA. Thank you, Mr. Chairman. I am really impressed with the depth and breadth of the expertise that the panel has, and I have enjoyed learning a lot from you all today.

I was going to say something like, add it up, there would be 100 years of experience, but I don't think it is that much. I don't want to say that.

Dr. VAN DREW. It doesn't make them feel good either, right?
[Laughter]

Mrs. PELTOLA. Yes, no. And my question is to Mr. Cordero, and am I pronouncing that right?

Mr. CORDERO. Yes.

Mrs. PELTOLA. OK. I think a couple other Members touched on it earlier, but my question is really about cold ironing, also known as shore power, and Juneau, Alaska, started doing this with their cruise ships back in 2002, and I am just wondering why more ports in America don't do this, and I am not really sure if it's the short timeframe a vessel is at port or the technology not being available?

What are some of the reasons why we don't—I think a lot of people know that when you idle your motor, it is worse for the environment than when you are in gear, and so, having all these vessels just in neutral at the dock to make sure they have power, it just doesn't make sense environmentally.

So, I was wondering if you could touch on why we haven't made more progress in this in the last 20 years?

Mr. CORDERO. Well, as you mentioned, I think the Port of Long Beach has made a lot of progress. We shore powered our six terminals in the early, mid-2000s. The last one was completed in 2014.

And I think the answer to your question, Congresswoman, one big factor is cost. I mean, it was a $200 million endeavor for us to do that. Now, what happened to assist that, at a later point, the State of California did mandate, by regulation, shore powering of containerized cargo terminals, so, I think, one, it's an example of what you do as an initiative as a port authority in conjunction with our regulatory agencies, here being the State of California, so, I think, again, we've been able to develop that technology at the Port of Long Beach.

So, at this point, I think it is safe to say for any port that wants to put that in place, that technology is there. It's very simple, so to speak, in other words, you are not reinventing the wheel anymore. It is just a matter of cost.

Mrs. PELTOLA. Would you mind following up on that question, Mr. Darr?

Mr. DARR. I would, and I apologize, Mr. Chairman, if I'm standing between you and perhaps ending this hearing. But I just want to offer a couple of comments, because we deal with this worldwide in both our cruise and our cargo business.

And first of all, shore power, unfortunately, is today mostly a theoretical conversation because it is a relatively very small number of ports, where Alaska has been a leader, where it has actually been installed.

So, even if you make the investment on the shipside, which is modest and we are prepared to do that where necessary, the investment on the shoreside has just not been made, not been prioritized high enough, but one of the fundamental problems is, you have to think about where the electricity is coming from.

Because particularly with greenhouse gas emissions, if I plug into a grid that's being powered from coal, I am not sure I gained anything over the power that could have been generated on the ship.

So, the business case is actually very poor unless the shoreside energy production infrastructure is really there. Those are two of the major things. It's not an unwillingness on the part of the industry, and where it's provided, you generally see very high levels of uptake.

Mrs. PELTOLA. OK. And that makes sense because in Juneau and southeast Alaska, it really is hydropower, which is very environmentally friendly. So, thank you.

Thank you, Mr. Chairman. I yield back for real.

Mr. WEBSTER OF FLORIDA. Well, that concludes our meeting, and we want to thank the witnesses for being here. Every one of you has provided some very, very good input, and we will be back to hear more, maybe at some point in time. We will see.

I ask unanimous consent that the record of today's hearing remain open until the time as our witnesses have provided answers to any questions that may be submitted to them in writing. Without objection? So ordered.

I also ask unanimous consent that the record remain open for 15 days for additional comments or information submitted by the Members or witnesses to be included in today's hearing record. Without objection? So ordered. The committee stands adjourned.

[Whereupon, at 3:45 p.m., the subcommittee was adjourned.]

SUBMISSIONS FOR THE RECORD

Letter of March 23, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Rodger Rees, Port Director and Chief Executive Officer, Galveston Wharves, Submitted for the Record by Hon. Sam Graves

MARCH 23, 2023.

The Honorable SAM GRAVES,
United States House of Representatives,
1135 Longworth House Office Building, Washington, DC 20515.

The Honorable RICK LARSEN,
United States House of Representatives,
2163 Rayburn House Office Building, Washington, DC 20515.

DEAR CHAIRMAN GRAVES AND RANKING MEMBER LARSEN,

We congratulate the work of your Committee last year to pass the Infrastructure Investment and Jobs Act (IIJA). As you know, the bill has begun to boost the national economy through significant investment in the transportation sector.

As the IIJA moved through Congress and your Committee, we were encouraged by the stated goal to rapidly address supply-chain transportation solutions, which many experts believe created the core of our nation's economic stagnation. As the Department of Transportation developed their grant programs to administer the record funding passed by Congress, they restated on numerous occasions the priority of addressing supply-chain solutions.

Galveston Wharves, which is a critical Gulf Coast deepwater port at the mouth of the Houston Ship Channel, plays a critical role in the national supply-chain solution set. As you know, this is one of the busiest sea lanes in the world, creating a complex set of challenges for shippers, freight handling, and distribution logistics.

In response to the stated goals of Congress and the Administration, we have submitted numerous grant applications for INFRA, RAISE, Port Infrastructure Development Program grants, and more issued by the U.S. Department of Transportation to make critical improvements to the Port of Galveston's docking freight handling capabilities. We believe we met every aspect of the funding objectives to relieve supply-chain challenges, especially as an overflow deepwater port with direct access to heavy rail lines.

To our great surprise, we were not selected over projects which had little or nothing to do with supply-chain solutions.

We respectfully request the Committee engage in a case study on what the real supply-chain solutions are and follow that with appropriate federal funding to address those communities most impacted by the cargo, which has such a large favorable impact on the national economy.

We stand ready to assist with any such efforts by your Committee.

Sincerely,

RODGER REES,
Port Director and CEO, Galveston Wharves.

Letter of March 24, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Dr. Raymond W. Wolfe, Executive Director, San Bernardino County Transportation Authority, Submitted for the Record by Hon. Sam Graves

MARCH 24, 2023.

The Honorable SAM GRAVES,
United States House of Representatives,
1135 Longworth House Office Building, Washington, DC 20515.

The Honorable RICK LARSEN,
United States House of Representatives,
2163 Rayburn House Office Building, Washington, DC 20515.

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As the IIJA moved through Congress and your Committee, our Agency was encouraged by the stated goal to rapidly address supply-chain transportation solutions, which many experts believe created the core of our nation's economic stagnation. As the Department of Transportation developed their grant programs to administer the record funding passed by Congress, they restated on numerous occasions the priority of addressing supply-chain solutions.

San Bernardino County Transportation Authority (SBCTA), is the lead transportation agency for the largest county in the contiguous United States and plays a critical role in the supply-chain distribution for the Ports of Los Angeles and Long Beach. As you know, these are America's busiest seaports and create a complex set of challenges to one of the most populated regions. Truck, rail, air, and storage logistics driven from the ports are one of our region's biggest challenges, not to mention the climate and air quality impacts.

In response to the stated goals of Congress and the Administration, we submitted an SBCTA grant application for the INFRA and MEGA grants issued by the U.S. Department of Transportation with a very significant state match that was contingent on securing a federal grant. We believe we met every aspect of the funding objectives to relieve supply-chain challenges, especially as one of the Ports of Los Angeles and Long Beach's most impacted corridors.

To our great surprise, we were not selected over projects which had little or nothing to do with supply-chain solutions. With more than $600 million in local and state funding already committed to the project, the decision resulted in our county losing $85 million in additional state matching funds. We once again find ourselves wondering when the federal transportation leaders are going to recognize the critical role San Bernardino highways, rail tracks, airports, and logistics warehouses play in the larger national economy driven by our regional seaports.

We respectfully request the Committee engage in a case study on what are the real supply-chain solutions and priorities and follow that with appropriate federal funding to address those communities most impacted by the cargo, which has such a large favorable impact on the national economy.

We stand ready to assist with any such efforts by your Committee. If you have any questions or need further input, please do not hesitate to contact me. Thank you.

Respectfully,

DR. RAYMOND W. WOLFE,
Executive Director, San Bernardino County Transportation Authority.

APPENDIX

QUESTIONS FROM HON. DANIEL WEBSTER TO CHARLES "BUD" DARR, EXECUTIVE VICE PRESIDENT, MSC GROUP, ON BEHALF OF THE WORLD SHIPPING COUNCIL

Question 1. At the height of the pandemic, there were reports that lack of access to equipment, such as chassis, contributed to the delay in retrieving cargo and resulting congestion at the ports. How does an equipment shortage impact the assessment of detention and demurrage charges against a shipper who is delinquent in retrieving their cargo?

ANSWER. The pandemic-caused congestion resulted in logjams across the entire supply chain, which at certain times made it challenging to access equipment such as chassis.

The purpose of detention and demurrage fees is to incentivize the rapid retrieval of cargo and return of equipment to promote freight fluidity. The Federal Maritime Commission's Interpretive Rule on Demurrage and Detention Under the Shipping Act, 85 Fed. Reg. 29638, provides guidance on when it is reasonable to assess detention and demurrage charges by using a non-exclusive use of factors set forth in its rule.

The FMC's assessment is case and fact specific, but it states that importers should not be penalized by demurrage and detention practices when circumstances are such that they cannot retrieve containers from marine terminals, because under those circumstances, the charges do not serve their incentivizing function.

If a shortage of equipment impacted the ability of a shipper to retrieve its cargo, resulting in the issuance of detention and demurrage charges, the Interpretive Rule's factors would be applied to the specific facts of that case, to determine whether the issuance of the charges in that case was reasonable under the circumstances. Preferably, these issues are raised and resolved via the relevant ocean carrier's established processes, such as those we have implemented at MSC.

Under an appropriate "totality of the circumstances" reasonableness analysis, one of the factors for consideration is the role that a shipper (cargo owner) has played in causing a shortage of equipment. During the pandemic, the problem of containers being left on marine terminals by cargo owners for long periods of time became so serious that various port authorities and marine terminal operators either threatened or imposed "long dwell" charges against containers stored on the port for excessive periods of time. One reaction by cargo owners was to remove the containers from the port, but then to store the full containers on chassis without unloading the containers and returning the containers and chassis. This resulted in both container and chassis shortages. This practice was driven by the fact that cargo owners' warehouses and distribution centers could not handle the volume of cargo that importers had contracted to have transported to the United States. This example illustrates why equipment "shortages" are not typically a matter of there not physically being enough equipment units, but rather shortages are driven by whether all players in the supply chain keep that equipment moving so that it can be used for the next shipment. In that context, an equipment shortage can be caused as easily by a shipper as by an ocean carrier, a trucker, or any other actor in the supply chain.

Question 2. A leading challenge during the ocean freight crisis was that ocean carriers were shipping empty containers back to Asia or other import-origin locations, which resulted in American exports being stranded at our docks. Can you explain your views on why that occurred, and what steps are being taken to assure that American exporters have access to the containers and equipment they need to send their product to customers abroad?

ANSWER. Ocean carriers operate services or routes, much like buses, that move on specific schedules to provide consumers reliable and frequent service. There is no separate import system or export system—liner shipping routes are continuous loops—think of 8 ships continuously traveling along the same loop between a U.S. port and Singapore. If each ship carries about 8,000 containers, this single route or service is transporting 64,000 containers of cargo at any point in time.

Due to the current U.S. trade imbalance, containerized imports to the U.S. generally outnumber containerized exports by a ratio of 2 to 1—during COVID–19 this ratio surged due to altered consumer spending patterns. To keep the supply chain moving and provide sufficient equipment to meet both import and export demand, two-thirds of all containers leaving U.S. ports needed to be empty, on average. If those empty containers are not removed from U.S. ports, the resulting port congestion would slow the ocean transportation system for both importers and exporters. The challenge for both U.S. importers and exporters during the pandemic was getting the right equipment to the right place at the right time. Keeping empty containers moving throughout the global network was critical to maintaining service for both importers and exporters.

Ocean carriers deployed every available ship and container to provide sufficient capacity in response to this demand. However, the U.S. landside logistics system was not able to efficiently process the historic surge of import cargo, resulting in bottlenecks throughout the supply chain. If MSC had 7,000 ships in its network rather than 700, it would not have alleviated any congestion because this would have just resulted in that many more additional ships trying to fit into an already over-burdened shoreside infrastructure.

At the height of the congestion, in November 2021, there were more than 100 container vessels with hundreds of thousands of containers aboard stranded off the ports of Southern California waiting for up to 4 weeks to come in and offload their cargo. Long vessel backups also occurred at East coast ports such as Savannah and Gulf ports such as Houston. *It is important here to note that at no time did we have a container supply problem, or a shortage of container vessel capacity, we had a U.S. landside container movement problem*.

Notwithstanding the tremendous COVID-caused strain on the supply chain, it was met with a momentous and extraordinary response with the international ocean and U.S. intermodal supply chain moving more cargo than at any time in history.

While there were allegations that exporters of agricultural products were disproportionately affected by the congestion or ocean carriers' operational requirement to balance import and export equipment demands to keep the supply chain fluid, U.S. government data does not support such claims; rather, despite the challenges in the supply chain, *U.S. agricultural exports moved at record levels*.

The U.S. Department of Agriculture reported in FY 2022 U.S. agriculture exports hit a record $196.4 billion—which was a 14% percent increase from the previous FY 2021 record of $172.2 billion (which was a 23% increase from 2020). Source: U.S. Department of Agriculture, Foreign Agricultural Service.

These record levels of both imports and U.S. agriculture exports during almost 3 years of a global pandemic are testament to ocean carriers working closely with their customers, and more broadly, all members of the supply chain working to meet the demands of both importers and exporters.

Congress has since passed the Bipartisan Infrastructure Bill, which contains $17 billion dollars of directed funding to expand the capacity and resiliency of U.S. ports, and even billions more for landside infrastructure improvement. Ocean carriers believe this type of historic investment is the best way to ensure that when faced with future challenges such as a global pandemic, the U.S. supply chain can keep all goods—both imports and exports—efficiently moving to support the demands of consumers and businesses.

Question 3. When ocean carriers delay vessel departures, leave early, or miss a port visit entirely, American exporters can face significant economic harm—which can mean lost sales, lost product value due to diminishing shelf-life, and product perishability. While trade flows are normalizing, should they pick up again, how can American exporters be confident that they can get their cargo shipped in a timely and reliable manner?

ANSWER. Per our response to question 2, ship movements are dictated by the ability of shoreside infrastructure to handle the cargo transported by ships. If ships are delayed in entering ports and conducting cargo operations because of slow-downs driven by land-side infrastructure failures, then the entire system suffers—import and export. Vessel schedule reliability problems are typically a symptom, not the cause, of land-side failures. The best way to ensure the U.S. landside supply chain has sufficient capacity to handle crisis-driven cargo surges, such as the unprecedented import demand caused by homebound consumers in COVID–19, and prevent against future congestion, is to invest in the capacity and resiliency of U.S. ports and landside infrastructure, as well as to enhance operational practices ashore to ensure maximum fluidity and resiliency.

Now that Congress has passed the bipartisan infrastructure bill which contains historic levels of funding for investments in U.S. ports and landside infrastructure, Congress must ensure this money is used to make the needed investments.

The other critical tool to keep cargo moving expeditiously through the ports is to ensure that regulations on detention and demurrage retain the ability for carriers and marine terminal operators to provide economic incentives for cargo interests to timely pick-up loaded containers and timely return empty containers so that other customers may use that equipment.

As highlighted in my written testimony, *the currently proposed Federal Maritime Commission rule on detention and demurrage fails to provide the proper regulatory structure to insure fair, reasonable, and effective incentives for cargo movement*. We need Congress's assistance to ensure the Commission's proposal is corrected before a final rule is issued.

Question 4. West Coast ports, including Long Beach, have seen a significant drop-off in cargo year over year. While some of that decline can be attributed to a normalization in cargo volumes, to what degree is the uncertainty with labor negotiations at West Coast Ports impacting decisions to divert cargo to the Gulf and East Coast?

ANSWER. The World Shipping Council does not oversee labor negotiations with the International Longshore and Warehouse Union—the ILWU negotiations are handled by the Pacific Maritime Association, and PMA is likely in the best position to answer whether labor uncertainty is a causal factor for the recent cargo volume shift to East and Gulf Coast ports.

What we can say is that ocean carriers deliver the cargo to where its customers—shippers—direct the cargo to be delivered. Recent statistics document a cargo shift from U.S. West Coast ports to East and Gulf Coast ports. It is unclear whether this shift is permanent, or temporary. The cargo shift may be related to several factors beyond ongoing West Coast ILWU labor negotiations, including a recently expanded Panama Canal which can now support transits by larger vessels, investment in Gulf and East Coast ports that has deepened their harbors and expanded their cargo handling capabilities, as well as geographic reasons such as Gulf and East Coast ports proximity to major U.S. consumer markets and newly built manufacturing hubs in the southern United States.

QUESTIONS FROM HON. DANIEL WEBSTER TO MATTHEW LEECH, PRESIDENT AND CHIEF EXECUTIVE OFFICER, PORTS AMERICA, ON BEHALF OF THE NATIONAL ASSOCIATION OF WATERFRONT EMPLOYERS

Question 1. Recent news reports have discussed the potential threat that Chinese manufactured cranes pose to national security, serving as intelligence gathering devices capable of tracking the movement of goods at our ports. What is being done to ensure the security of crane equipment at marine terminals?

ANSWER. Response was not received at the time of publication.

Question 2. As greater amounts of cargo come into our ports, many port and terminal operators are working to optimize and improve operations, including through use of technology and automated systems that have the potential to improve container throughput. At the same time, longshore unions have resisted a transition to these new technologies.

Question 2.a. What role does technology play in improving and optimizing the capacity to move cargo through our ports?

ANSWER. Response was not received at the time of publication.

Question 2.b. Do policies or labor agreements that prevent the adoption of more efficient processes at ports contribute to supply chain bottlenecks?

ANSWER. Response was not received at the time of publication.

Question 2.c. In your opinion, should Congress consider removing limitations on Federal funding for ports that impede the adoption of automated technology?

ANSWER. Response was not received at the time of publication.

Question 3. You assert that ocean carriers are the marine terminal operators' only customers and, in turn, the cargo owners are solely the customers of the ocean carriers. In the Federal Maritime Commission's (FMC) proposed rule on detention and demurrage, the Commission suggested that contracts exist between terminal operators and cargo owners. Why is this contractual concept proposed by the FMC a problem for marine terminal operators?

ANSWER. Response was not received at the time of publication.

QUESTIONS FROM HON. DANIEL WEBSTER TO MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH

Question 1. At a Senate hearing last fall, Department of Homeland Security Secretary Mayorkas testified that the most significant threat to United States ports are cyberattacks. As technology at ports is becoming increasingly complex, cyber criminals and hostile nation states are using cyberattacks to target supply chains and cause disruptions and safety issues. I understand that your neighbor, the Port of Los Angeles, faces up to 40 million cyberattacks per month. Other ports have seen disruptions to their operations and successful ransomware attacks.

Question 1.a. Please discuss the threats that cyberattacks pose to port operations.

ANSWER. The Port of Long Beach (Port) continues to use holistic and layered defense methods to block ever-increasing cyber-attack attempts, which have quadrupled over the past few years. The continually shifting attack techniques pose an ever-changing threat to all Port stakeholders. Port operations continue to be targeted based on critical supply chain infrastructures that are essential for the smooth movement of goods through Port terminals.

The blocked cyber-attacks come in a variety of methods including:

- Attempts to access data using phishing attacks (fake emails posing as a trusted source to deceive a person into clicking on malware or provide their passwords to business-critical systems);
- Opportunistic use of computer networks to gain access to data; and,
- Other sophisticated hacking techniques.

If successful, the above methods could result in operational outages, ransomware, malware, a virus or other similar threats. The Port's holistic layered defense includes strengthening the potentially weak human link through a metrics driven cybersecurity awareness training program since trained users are 40% less likely to click on an email phishing link. The program is regularly run multiple times a year with a 100% staff completion rate. This is in line with best practices as 84% of leading organizations in recent studies cite cybersecurity awareness training as a key building block of cyber resilience.

The current geo-political landscape has resulted in sharp increases of cyber-attack attempts aimed at the Port from nation-state sponsored actors, organized crime syndicates and splinter groups of "lone wolf" hackers.

Question 1.b. What support is the Federal Government providing to ports to address these security threats?

ANSWER. Currently, the primary source of support from the Federal Government to Ports is the Federal Emergency Management Agency's Port Security Grant Program (PSGP). Although authorized at $400 million, appropriation for this funding source has remained stagnant at $100 million and it has multiple priorities, only one of which is cybersecurity. The Port has been awarded multiple cybersecurity related grants from PSGP and have utilized the funding to perform penetration tests, remediate vulnerabilities, install cyber protection mechanisms that are needed to address the current threat landscape, and develop plans for cloud-based resiliency for critical systems. Since 2013, the Port has received $4.7 million in federal funding that was geared toward cybersecurity enhancements in hardware, software, and resiliency. With cybersecurity risk growing and bad actors becoming ever more sophisticated, we urge Congress to increase funding for PSGP grants.

Additionally, the State and Local Cybersecurity Grant Program (SLCGP) that was released in 2022 is a funding source that the Port hopes to leverage. However, the priorities for grant allocation from that program are currently being set at the state level and it is unsure at this time if ports will be given appropriate consideration.

Question 2. Compared to major ports in Europe and Asia that operate 24/7, United States ports tend to operate for only a fraction of the day. In your testimony, you discussed your support for implementing 24/7 port operations, which would increase cargo throughput and efficiency. Can you describe some of the barriers to implementing 24/7 operations, and what can be done to overcome them?

ANSWER. The biggest challenge for implementing 24/7 operations at the Port is to strike the balance between continuous port operations, cargo demand and capacity challenges outside of the ports. Our terminal operators have demonstrated that they are capable and willing to deliver cargo utilizing three shifts of the work day. However, as the later part of 2022 has demonstrated, congestion in the inland rail ramps and warehouses that were no longer capable of accepting more freights have rendered 24/7 port operations ineffective. The ports and the terminals are ready to operate 24/7, but the supply chain outside of the ports have to keep up with the pace.

Question 3. As greater amounts of cargo come into our ports, many port and terminal operators are working to optimize and improve operations, including using technology and automated systems that have the potential to improve container throughput. At the same time, longshore unions have resisted a transition to these new technologies.

Given your experience with the introduction of automated technologies at the Port of Long Beach, can you describe the role technology plays in improving and optimizing the capacity to move cargo through our ports?

ANSWER. Technology can improve supply chain efficiency in two main areas: operations and information. Certain technologies can help better plan and execute ship-side and yard operations as well as optimizing cargo delivery utilizing the skilled labor in the terminals. The other improvement is by providing cargo visibility throughout the supply chain utilizing data sources from various stakeholders such as terminals, ocean carriers and railroads.

In December 2021, recognizing the need for a technology solution that would enable terminal operators, ocean carriers and shippers to efficiently coordinate the movement of goods through the Port, the Port developed the Supply Chain Information Highway. The project is a digital solution that provides the supply chain with data that can be integrated into their own systems, enabling them to track cargo from origin to destination and make better operational decisions. The Port of Oakland, Port of Miami, Port of South Carolina, Utah Inland Port Authority, and the Northwest Seaport Alliance, a marine cargo operating partnership of the ports of Seattle and Tacoma, are collaborating with the Port of Long Beach on the Supply Chain Information Highway. The goal is to offer access to data that will result in increased delivery visibility for authorized supply chain partners nationwide.

Question 4. West Coast ports, including Long Beach, have seen a significant drop-off in cargo year over year. While some of that decline can be attributed to a normalization in cargo volumes, to what degree is the uncertainty with labor negotiations at West Coast ports driving cargo to the Gulf and East Coast?

ANSWER. During our meetings with customers in recent months, we heard their concerns about the ILWU/PMA labor negotiations. Many of these customers have indeed diverted cargo to the East Coast and Gulf ports. However, there is a large consumption base served by the West Coast ports, especially in Southern California. Therefore, the same customers also indicated that they would re-start using West Coast ports once the negotiations have been completed. We are confident that the volume will return to the West Coast once the issues have been resolved.

An imbalance of investments in East Coast and Gulf ports compared to West Coast ports has also led to diminished cargo volumes at the San Pedro Bay Ports (SPBP) Complex. Prior to the pandemic, the SPBP faced loss of market share due to infrastructure investments elsewhere and the lack of investments here. From 2010 to 2020, federal funding was invested heavily in smaller ports on the East Coast and in the Gulf—$11 for every $1 spent on the West Coast. In addition, the SPBP contributes $380 million annually to the federal Harbor Maintenance Trust Fund, but receives less than 1.5% in federal investments back. Canada also out-invested the U.S. in freight rail projects causing 22% of rail cargo business to shift from West Coast ports to Canadian ports. The pandemic exposed how neglect in investments in port infrastructure, shared data systems and the workforce caused unprecedented backlogs throughout the entire goods movement industry.

QUESTION FROM HON. SALUD O. CARBAJAL TO MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH

Question 1. Mr. Cordero, I am greatly concerned by the impact of emissions and poor air quality on the oftentimes disadvantaged communities that live around ports.

Can you provide some information, including some of the environmental justice work, that the Port of Long Beach has done and how smaller ports can replicate that?

ANSWER. I appreciate your question regarding steps that the Port of Long Beach (Port) has taken to improve air quality for our port-adjacent communities and I am pleased to provide a written response detailing the environmental justice work that has been undertaken by the Port which may be replicated at smaller ports across the nation.

As the nation's second busiest seaport and a vital economic engine for the City of Long Beach and the region, the Port recognizes that economic vitality comes at a cost to the local community, which bears the brunt of the environmental and public health impacts of port development and operation. Communities around the Port—including Wilmington, Carson, and West Long Beach—have a higher percentage of minority and low-income populations compared to the state. In general, these communities have worse public health factors and more social and economic disadvantages compared to the broader population.

The Port has a responsibility to ensure that as the Port's business thrives, so do the lives of the surrounding communities. We have undertaken a comprehensive approach to being an environmental leader and giving back to the community through environmental stewardship, establishing a Community Grants Program and adopting the Green Port Policy. Many of the lessons learned for these actions could be replicated on a smaller scale.

Environmental Stewardship. Over the last two decades, the Port has been a leader in environmental stewardship and has been committed to seaport sustainability and addressing environmental and health impacts through such groundbreaking efforts as the Clean Air Action Plan (CAAP) and Water Resources Action Plan. Since 2005, port-related emissions of NOx and SOx have dropped by 62% and 97% respectively, according to the Port's most recent emissions inventory, and port-related DPM has plunged 90%. The area around the San Pedro Bay Port Complex has seen a greater decline in air-related cancer risk than Southern California as a whole.

According to the South Coast Air Quality Management District's MATES–V Study, between 2012–2019, cancer risk near the Port of Long Beach and Port of Los Angeles dropped 57% compared to a 53% reduction for the rest of the region. In April 2021, USEPA recognized CAAP as "an excellent example of what can happen when port operators work with neighboring communities to develop and implement a robust plan, leading to positive impacts on air quality and emissions."

Community Grants Program. The Port established the Community Grants Program (CGP) for community-based mitigation projects for three specific programs that alleviate impacts from port-related activities: Community Health; Facility Improvements; and Community Infrastructure. In March 2017, the Board of Harbor Commissioners allocated an initial $46.4 million for the implementation of CGP to be expended over 12–15 years. Overall, the Port has set aside more than $65 million for this program, making it the largest voluntary port mitigation initiative in the country. Environmental justice is also a critical component in the environmental review process for all Harbor Development Permit applications. Public involvement ensures that the community has a role by providing input on potential environmental and health impacts.

Green Port Policy. Fully committed to improving the environment, in 2005 the Port adopted the Green Port Policy, which established a framework for environmentally friendly port operations. An emphasis is placed on community outreach programs that pursue engagement to enhance understanding of Port operations and encourage greater participation in decision-making. The Port engages regularly with neighborhood associations, community organizations, and environmental justice groups to provide outreach and updates on the Port's development projects. The Port also fosters opportunities for students to learn about careers in the trade and supply chain sectors through partnerships with the Long Beach Unified School District, Long Beach City College and California State University Long Beach. The Port's Academy of Global Logistics at Cabrillo High School is a 4-year program that combines an academic curriculum with industry-relevant training to support career development. In addition, the Port provides community sponsorships while expanding its reach into the local community. The hundreds of local nonprofit recipient groups each year represent a cross-section of the region.

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