A bold voice for transportation workers

WRITTEN STATEMENT OF
GREG REGAN, PRESIDENT
TRANSPORTATION TRADES DEPARTMENT, AFL-CIO

BEFORE THE SENATE COMMERCE COMMITTEE SUBCOMMITTEE ON SURFACE TRANSPORTATION, MARITIME, FREIGHT, AND PORTS

"Uncharted Waters: Challenges Posed by Ocean Shipping Supply Chains"

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On behalf of the Transportation Trades Department, AFL-CIO (TTD) and our 33 affiliated unions, I first want to thank Chairman Peters and Ranking Member Fischer for inviting me to testify before the Subcommittee today on the challenges facing our supply chain and freight network. The employees represented by TTD-affiliated unions are on the front lines of these challenges—including the workers directly engaged in freight transportation at railroads and ports, and who work in industries that are struggling with the down-economy effects of chokepoints and delays.

The State of the Supply Chain

The fact that these disruptions have resulted in enormous economic, financial, and environmental costs is clear. Despite no shortage of finger-pointing and over-simplifying, we

Transportation Trades Department, AFL-CIO
815 Black Lives Matter Plaza, NW / 4th Floor / Washington DC 20006
Tel: 202.628.9262 / Fax: 202.628.0391 / www.ttd.org
Greg Regan, President / Shari Semelsberger, Secretary-Treasurer

must acknowledge that the root cause of our supply chain bottlenecks is multivariate. Principally, we know that year to date, overall cargo volume through the Port of LA Long Beach, for example, has increased by a massive 26% compared to 2020, driven in part by a sharp uptick in consumer demand for durable goods.[1] This remarkable rise in cargo volumes has stressed every component of the freight transportation network, frequently to the breaking point. By way of example, earlier this year, Union Pacific found itself unable to clear backlogs, and stopped running desperately needed trains between the West Coast and its Global IV gateway in Chicago. Burlington Northern Santa Fe similarly began rationing service over its LA-LB to Chicago routes. Still, today, dozens of cargo ships remain anchored off the port, currently unable to dock due to lack of capacity at port terminals. Terminal operators at both LA-LB and the Port of Savannah are repurposing additional facilities to store overflow containers, as storage at the port has been exhausted.

It is not surprising that this historic increase in cargo volumes and demand would result in supply chain challenges. There are few if any industries that would be positioned to handle this level of new demand without difficulties. Ultimately, there is no actor, decision, or policy that is individually responsible for the scenario the nation finds itself in. However, as we seek to move past these supply chain bottlenecks, Congress and the administration must acknowledge and examine conditions that increased the severity of the crisis, alongside efforts to alleviate the backlogs of today and tomorrow.

[1] https://www.portoflosangeles.org/business/statistics/container-statistics
https://www.clevelandfed.org/en/newsroom-and-events/publications/economic-commentary/2021-economic-commentaries/ec-202116-durable-goods-spending-during-covid19-pandemic.aspx

I must also take this opportunity to be perfectly clear on one point. There are many in Congress and in the industries our members serve who are cynically using this opportunity to scapegoat hard-working Americans, undermine their collective bargaining rights, and further deteriorate safety and working conditions for supply chain employees. Putting any amount of blame for this crisis on the shoulders of your constituents—the American workers who drive this economy through thick and thin—is unacceptable. We reject this misguided placement of blame out of hand and urge all policy makers to do the same.

A Decisive Response

As discussed below, many of the potential remedies to the supply chain challenges of today and tomorrow will require long-term structural changes to how we operate the supply chain network, prepare for shocks to the system, and invest in freight infrastructure. However, since the crisis began the Biden Administration, through thoughtful and sustained engagement with stakeholders, has taken decisive actions that are having demonstrable positive results.

When the scope of disruptions became clear, the administration established a whole-of-government Supply Chain Disruptions Task Force that has paved the way for nimble and integrated collaboration and planning. At the Port of Los Angeles/Long Beach, this included working with the private sector to begin 24-hour port operations, and the waiving of fees assessed to truck drivers when they arrive at night or on weekends, incentivizing greater throughput at traditionally slower times. Through its Action Plan for America's Ports and Waterways, the administration leveraged existing federal investments, including allowing the Port of Savannah to flex Port Infrastructure Development Program funding to convert existing inland facilities into five pop-up container yards to hold overflow containers and reduce congestion at the port. And the Department of Transportation has renewed targeted hours of service flexibility for drivers with critical cargoes.

There is no overnight fix that will make these issues disappear. However, since just the beginning of November, we've seen a 41% reduction in containers sitting on docks for over 9 days. While misleading if not outright falsified claims of empty store shelves and unprecedented product scarcity that would leave Americans without turkey on Thanksgiving have abounded, the on-shelf availability of goods sold at grocery and drug stores has effectively returned to pre-pandemic levels.[2] Ocean shipping costs remain high, but are now showing signs of meaningful decrease. These disruptions and their impact are not over, and the continued effects of the COVID-19 pandemic and other variables will remain a challenge. However, we applaud the administration for its approach to the crisis which has played a major role in our path to recovery.

Unexpected Conditions, Inevitable Results

The supply chain crisis has put a spotlight on components of the freight network that were particularly ill-prepared for the demand shock of the last year. For years the Class I railroads have pursued an operating model known as precision scheduled railroading, or PSR. PSR operations seek to lower operating ratios—a railroad's expenses as a percentage of revenue—to appease shareholders and increase returns. Fundamentally, a PSR railroad abandons

[2] https://indices.iriworldwide.com/covid19/?i=5

the traditional operating model of a service industry that responds to the variable demand of its customers. Instead, it operates on a regimented schedule more akin to passenger rail. After eliminating on-demand response, flexibility in the construction of train consists, and the availability of service, railroads then jettison capital assets like locomotives and cars and slash jobs across the network.

In doing so, Class I railroads all but ensured their operations would not be able to rapidly respond to economic shocks or rapid changes in the flow of traffic, like those the nation is currently experiencing. This is evident in the hollowing out of the industry that has taken place in recent years. During the five-year period between 2014 and 2019, Class I railroads eliminated a staggering 20% of their overall workforce. I might add that many of these freight rail employees have specialized skills and training—many require certification—that are not easily replicated in the broad US workforce.

Throughout the pandemic, employment dropped further as freight volumes collapsed. However, freight rail has enjoyed a "v-shaped" recovery—carloads have nearly returned to 2019 levels. Yet, Class I carriers today employ fewer employees than they did pre-pandemic, and amid the supply chain crisis, employment continued to decrease in August and September of this year. Further, in the first three quarters of FYI '21, an analysis of four Class I railroads shows a shocking -19.5% decrease in employee service hours compared to FY '19, while handling only 3.2% fewer carloads. Now, after years of capricious job cuts, yo-yo-ing employees back and forth between active and furloughed status, and a degradation of the work environment, railroads find themselves experiencing service issues due to inadequate staffing. In a recent letter to Norfolk Southern, Surface Transportation Board Chairman Marty Oberman remarked that

"Coinciding with the marked deterioration in NSR's performance metrics, the board has received an increasing number of complaints from NSR's customers about poor performance" and requested "a review of the current state of NSR's network, and your assessment of what factors are affecting NSR's ability to achieve past levels of fluidity and consistent service, and in particular the impact on customer service of previous headcount reductions for train, yard and maintenance employees." Unsurprisingly, NS and other carriers take no responsibility for their role in today's skeleton crew workforce. We are unequivocal—these reductions have resulted in a rail network that is less prepared, less capable, and less safe.

Not only do railroads lack the personnel to respond nimbly to the supply chain crisis, but they frequently also lack equipment. In its 2020 financial disclosures, Union Pacific stated that it had reduced its active locomotive fleet by 24% and only managed to keep 58% of its remaining locomotives in service. Other carriers have similarly eliminated equipment, and TTD unions report that equipment not in use is often not kept in a state of good repair, meaning that it cannot quickly be put into service when needed. As a result, when a surge of force was required to resolve congestion issues, railroads were left without the institutional flexibility required to do so quickly.

While drastic spikes in demand were always likely to result in significant operational challenges, the lack of elasticity among freight railroads has worsened and extended supply chain challenges. Today, while rail carriers will cite that some metrics have improved, many of these improvements are recent—for example, rail dwell times at West Coast ports didn't begin a sustained decrease until August.[3] Further, despite these efforts intermodal rail volumes have actually decreased year over year, with U.S. intermodal volumes for September 6.7% lower than September 2020, and 2.8% lower than October 2020. as shippers look elsewhere to move cargo.[4] It is clear that challenges persist, and have persisted longer than they needed to.

Good Jobs Attract Strong Workforces

Today, Class I's are acknowledging the need to hire additional employees to meet demand, and we strongly encourage them to do so. However, in a tight labor market,[5] rail employers are pointing to so-called "labor shortages" as an explanation for ongoing difficulties in staffing. TTD rejects any characterization that the rail industry is suddenly experiencing a shortage beyond its control, given the calculated elimination of tens of thousands of jobs over the past decade. If the existing rail workforce is inadequate to handle current freight demand, and we believe that it is, this is the result of intentional decision-making by Class I carriers as they've embraced the PSR model. They must be held accountable during this supply chain crisis for decisions that have contracted our freight rail capacity and left our economy in a worse state as a result.

Not only have carriers drastically cut headcount, but they have also fostered workplace conditions that have degraded the quality of railroad employment. TTD unions have increasingly reported on the phenomenon of mid-career rail employees resigning from well-paying jobs and

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[3] https://www.pmsaship.com/wp-content/uploads/2021/10/West-Coast-Trade-Report-October-2021.pdf
[4] https://www.freightwaves.com/news/us-intermodal-rail-traffic-softens-in-september-on-supply-chain-woes
[5] https://fred.stlouisfed.org/graph/?g=E9Bs

giving up stable retirements due to an unwillingness to continue to work in unsafe conditions where the perpetual threat of furlough looms large. According to data provided by the Railroad Retirement Board, even when adjusting for retirements, approximately 7,200 employees left the rail industry during the pandemic. The bulk of these individuals were employed by Class I railroads. While targeted hiring campaigns and incentive programs to boost ranks are certainly welcomed, an ongoing exodus of highly-skilled and experienced employees is liable to undermine any forward progress.

More generally, we do not believe that a shortage of employees in the supply chain is a factor in current conditions. A workforce shortage implies that the workers needed to perform a job do not exist in the market. What we have today in our economy is the failure of employers to respond to market conditions and provide the incentives—wages, benefits, working conditions, that will attract the workforce they need. In addition to rail, proponents of the shortage explanation frequently cite trucking as an example of an industry where total employment is lacking despite best efforts. Yet, the 90% turnover rate for long-haul truckers speaks to a similar market response from drivers who are disinterested in long hours, low wages, and a difficult working environment.[6] As an example, port truck drivers working for XPO Logistics recently won a settlement of nearly $30M after successfully arguing that they had been willfully misclassified under federal labor law, to deny them fair wages, benefits, and bargaining rights.[7] The mistreatment faced by XPO drivers, operating in a key node of the supply chain, was hardly

[6] https://www.ccjdigital.com/economic-trends/article/15064753/driver-turnover-rate-holding-steady

[7] https://teamster.org/2021/10/xpo-drivers-achieve-nearly-30-million-in-settlements-after-company-misclassified-its-workers/

unique. The failure of an employer to incentivize its future workforce is not synonymous with a labor shortage, and the solutions are not interchangeable.

A Path Forward

As Congress and the administration continue to work to solve the ongoing challenges, and prevent future interruptions of this magnitude, we call on you to work closely with supply chain employees and their union representatives across the nation to develop long and short-term solutions to the supply chain crisis.

This must include considerations of the impacts of the drastic reduction in the rail workforce and degradation in service quality, how these factors have contributed to supply chain disruptions, and even if the manner in which railroads have chosen to operate is consistent with statutory common carrier obligations. We encourage the pursuit of long-term structural changes that will reverse the current path of the industry and return to the prioritization of long-term viability, high-quality service, and the creation and support of thousands of good jobs.

Solutions must also include robust and well-directed investments in our nation's freight infrastructure. To this end, TTD strongly applauds the enactment of the generational Infrastructure Investment and Jobs Act (IIJA), and we thank Chairman Peters and Ranking Member Fischer, as well as Chair Cantwell and Ranking Member Wicker, for their hard work and support of this legislation which will transform our nation's transportation and freight systems.

As policymakers and the private sector consider strategies to expedite the flow of goods at major ports, the $2.2 billion the bill contains for the Port Infrastructure Development Program offers a lifeline to the nearly half of U.S. ports that state that better rail access could increase throughput capacity by over 25%.[8] Historic investments in the rail network, and in multimodal development will similarly act to prevent or blunt future supply chain challenges. Critically, to achieve the greatest economic impact for IIJA, it is essential that the legislation is implemented in a way that sustains good-paying jobs while acting as an economic force multiplier throughout the supply chain.

Congress should also consider novel approaches to supply chain challenges that would create jobs and economic activity. For example, the expansion of waterborne transportation alternatives through our Marine Highways may alleviate symptoms of a supply chain bottleneck, particularly at major ports. Short sea shipping is the practice of commercial waterborne transportation utilizing America's Marine Highways and is a practical alternative to moving freight from major ports to its destination. A fully developed short sea shipping sector, utilizing smaller cargo vessels, would supplement and complement services provided by rail and truck transportation and would provide shippers with an additional alternative to direct goods to their final destination. In addition, being able to use our waterways more consistently would create benefits for the U.S. maritime industry by creating good jobs aboard vessels and at ports and shipyards, while reducing port congestion.

We also call on you to reject ill-conceived efforts to hijack the crisis to attack supply chain workers and their industries. The pursuit of a more efficient supply chain cannot be an excuse to eliminate or deconstruct critical regulatory safeguards, such as fatigue protections, or

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[8] https://aapa.files.cms-plus.com/PDFs/State%20of%20Freight%20III.pdf

to water down carefully crafted training and qualification requirements. In particular, we strenuously oppose legislation that seeks to amend long-standing labor law to deny collective bargaining rights. Transportation labor views any such efforts as an unwarranted and deeply misguided assault on employees in the supply chain who continue to work tirelessly to keep the economy and the flow of commerce moving.

TTD thanks the Subcommittee for the opportunity to testify today on the significant challenges facing our supply chain. We look forward to continuing to work together to alleviate current congestion and to foster more resilient freight transportation industries well into the future.