

**Testimony of
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On Behalf of the Agriculture Transportation Coalition**

**Before the
United State Senate
Committee on Commerce, Science and Transportation
Subcommittee on Surface Transportation and Merchant Marine Infrastructure,
Safety and Security
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Background on the Agriculture Transportation Coalition (Ag-TC)

The AgTC is the voice for the U.S. exporter – from small farmers to the largest agriculture merchants across the country. The AgTC’s primary objective is assuring transportation service that allows U.S. agricultural exporters to be competitive in the international market.

Background on Tyson Foods, Inc.

Tyson Foods, Inc. is one of the world’s largest food companies and a major producer of protein for the U.S and global meat markets with sales in FY 2015 exceeding \$40 Billion. We produce poultry, beef, pork and value-added branded protein items for retail and foodservice markets within the U.S. and approximately 130 countries. We have 45 poultry plants, as well as 12 beef, nine pork, one turkey and 38 prepared food facilities. Tyson Foods has operations or sales offices in 26 states as well as four international facilities in China and India. Tyson was the second largest U.S export reefer commodity protein shipper in 2015, with shipments in excess of 40,600 TEU’s of reefer and another 11,400 TEU’s of animal hides, skins and leather.

Issues impacting the U.S Maritime Industry

My name is Perry Bourne and I am the Director of International Transportation for Tyson Foods, Inc., one of the nation’s largest food exporters. I am also pleased to be testifying on behalf of the Agriculture Transportation Coalition (Ag-TC), which represents a wide range of U.S. agricultural exporters. My testimony today will cover three issues regarding maritime shipping that AgTC and Tyson Foods believes are most important to U.S. exporters at the present time:

- 1. Safety Of Life At Sea (SOLAS) amended shipper weight certification**
- 2. Continued congestion at our U.S. West Coast Ports**
- 3. Mega-Carrier Alliances**

SOLAS Amended Shipper Weight Certification

By far the most urgent issue facing shippers today is the impending SOLAS amendment. As this Committee is aware, the International Maritime Organization (IMO), the maritime arm of the United Nations, has been involved for decades with issues related to the safety of vessels and personnel while at sea. A consistent focus for the IMO has been ensuring the accurate reporting by shippers of their loaded cargo weight. This led to the original SOLAS regulation in 1994, which required shippers to provide accurate gross cargo mass on all containers. This process of reporting weights has been acceptable for all U.S. shippers, and shippers worldwide, for over two decades.

In 2014, the IMO updated the SOLAS convention with a new amendment that is scheduled to take effect on July 1, 2016. Under the new amendment, shippers will not only be responsible for reporting the normal gross cargo weight (what shippers like Tyson Foods add to the containers owned by the carriers), but also for certifying the “VGM” or verified gross mass of each container (which includes the weight of the specific container provided by a carrier) prior to the cargo being loaded on the ship. Plus, a designated member of the shipper’s staff must provide a written certification as to the validity of the reported weight.

As you might expect, shippers like Tyson Foods and other members of the AgTC have serious concerns with being responsible for verifying the weight of shipping containers that we do not own, lease or operate. Fortunately, the U.S. Coast Guard, which has responsibility for ensuring U.S. compliance with SOLAS, has made clear on a number of occasions, including in testimony last week before the House Committee on Transportation and Infrastructure, that there are several ways for the “VGM” weight to be reported.

It is our understanding that among the options the Coast Guard deems compliant is the “Rational Approach” that has been proposed by AgTC. Put simply, this would call for the shippers to continue providing the gross cargo mass added to a carrier’s container and the carrier would provide the weight of their owned or leased container asset. This would represent the most efficient, and most accurate, method of determining the total “VGM” weight. The carriers know their assets better than anyone and it is my understanding that many carriers already have this data in their system.

The goal of the new SOLAS amendment is to promote more accurate VGM reporting and increase safety, a goal all shippers share. It is important to note that our current weight reporting is already held to strict requirements for accuracy under The Intermodal Safety Act and timely filing of export data to Customs and Border Protection. We adhere to the requirements developed by the SOLAS Convention of 1994. We are not aware of contentions that U.S. shippers have been responsible for any problems for the ocean carriers that would compromise safety at sea. With this record of compliance and safety in mind, we firmly believe the best way to assure safety in this area is to have the parties report on the assets under their control.

Unfortunately, the ocean carriers, as represented by the World Shipping Council (WSC) and The Ocean Carrier Equipment Management Association (OCEMA) are insisting that the “Rational Approach” proposed by the AgTC, and acknowledged by the Coast Guard as compliant with SOLAS, is not an

acceptable method of determining the “VGM” weight. They contend that the shipper must be responsible for verifying the weight of the containers owned or leased by their own members. I will not speculate on why the carriers have adopted such an inflexible position. But we can certainly predict the possible impacts at the ports if the carriers do not change their position and agree to a reasonable resolution of this issue.

To illustrate the potential impacts, I will talk specifically about my company. Today, approximately 75-85 percent of Tyson Foods’ protein products bound for export markets are shipped to the U.S. ports by domestic rail or truck. These products are then trans-loaded from the domestic conveyance to the ocean carrier’s container. Tyson’s plants and freezer facilities are located anywhere between 1100 and 2200 miles from the U.S. West Coast ports. When we book an export load for shipping, although the ocean carrier has the weight information of all their container assets in its data base, the actual weight of the specific container assigned to Tyson’s booking is not known at the time of loading.

As a logistics professional, I appreciate and understand this fact. However, if the rules are going to be changed that require shippers to find a way of obtaining the specific weight information on a container, we will have to develop some method of obtaining this information in a timely manner from the carrier or from the trans-loader. The alternative, as I will discuss more below, is trying to obtain the actual container weight at the port, which risks missed sailings. In my view, it makes no sense to force the shipper to try and obtain information for a carrier that the carrier *already* has in its database. This builds unnecessary inefficiency into a system with existing challenges.

The cost of this inefficiency, and even more delays at the ports, is not theoretical. It will mean lost revenue for Tyson Foods and other shippers, particularly those of us who ship time sensitive products. To be specific, my company moves between 70-80 loads of chilled meat on a weekly basis. These loads are shipped Wednesday through Friday from our facilities and arrive by truck at the West Coast ports on Sunday and Monday. The cut-offs for delivery to the ocean carriers are Monday for a Tuesday sailing. Under the SOLAS “Best Practices” put forward by the ocean carriers, it states that vessels cutting off each night for a next day sailing must have the “VGM” weight reported by noon on that day. The reality of the export business is that each week shippers like Tyson are up against the carrier deadlines due to various transit problems and often require late gates from the carriers to deliver cargo to the ship early on Tuesday mornings, while the ship is still loading.

However, if the SOLAS approach favored by the carriers is adopted, and Tyson Foods is unable to obtain the specific container weight for the “VGM” until the time of trans-loading, under the carriers’ own rules any cargo trans-loaded late would have to be delayed for the following week’s sailing and we would be required to air freight the cargo or forced to convert a chilled fresh product to a frozen product. All of these alternatives mean lost sales, and potential lost market share, in valuable export markets such as Asia. U.S. agricultural exporters are comprised of some of our most successful and globally competitive companies and commodity sectors. However, we cannot continue to grow our exports if we are faced with additional delays and increased costs at our ports.

Fortunately, this does not need to be the case. The AgTC has put forward a common sense solution to comply with the new SOLAS amendment and the Coast Guard supports our position. We simply need the ocean carriers to sit down with us and agree to a sensible arrangement so that our ports run as efficiently and safely as possible. We need to be talking about ways to grow our exports, to the benefit of shippers, the ports and its workers, as well as the ocean carriers. We ask for this Committee’s support in insisting on a solution to SOLAS that is both compliant and supportive of U.S. export growth.

Continued Congestion at our U.S. West Coast Ports

Although the situation is much improved from last year's severe problems, port congestion continues at some of the U.S West Coast terminals. For a variety of reasons, we are still experiencing delays on a regular basis a full year after the resolution of the contract disputes. As a shipper, it is not my responsibility to resolve the problems within the ports caused by infrastructure, trucking or labor issues. I have food products to move, and as we have discussed, some of it is very time sensitive. If we don't deliver what our customers want on time, we develop a reputation, both as suppliers and as a source country, of being unreliable. Our customers can and do buy similar protein products from Australia, Brazil and the European Union countries. The United States is not the only game in town.

The issues that lead to consistent problems and congestion at the ports must be examined and addressed from a big-picture perspective. There needs to be accountability across the board from carriers, terminals, labor, port authorities and others in the overall supply chain to improve efficiencies and solve problems. I applaud the efforts of FMC Commissioner Rebecca Dye for her initiative to bring together industry working groups of stakeholders in an effort to identify the key drivers causing the persistent delays at the U.S ports and to propose meaningful solutions that will make our ports the most productive and efficient in the world. I am also encouraged by the Congressional proposals to establish meaningful efficiency metrics on port performance and the handling of cargo. We need data and metrics to identify key issues and the systemic problems that must be addressed. Again, our goal should be the best port infrastructure in the world. I urge this Committee to focus on ways that we can better understand the problems and at our ports and help us with long-term solutions.

Mega- Carrier Alliances

From our perspective, many of the issues that have beset the U.S. West Coast ports in particular have arisen from the consolidation of carriers into these foreign flagged mega-alliances. As an example, for a given Tyson Foods shipment from the Oakland's port to Japan we may have booked our cargo with Carrier A, but as part of an alliance that carrier will not be providing the actual vessel the alliance will use for that week's sailing. In fact, it is another member of the alliance, Carrier B, which will be providing the vessel located at a different terminal. Regardless, Tyson Foods must still have a port trucker retrieve the empty containers from Carrier A's terminal, because we still must use the containers of the carrier we booked with, then those containers must rendezvous with our cargo to be trans-loaded at the port. Finally, our trans-loaded cargo has to be transported over to Carrier B's terminal, where the actual ship is located.

Now, think about this process being repeated over and over at a port in a given day for much of the cargo that is coming in. Suddenly you have much more congestion at the port than in the past. Increased congestion at ports, which is already a recurring problem, can mean delays, added costs and even missed sailings. This hampers U.S. export growth. We would like to see more thorough review of these foreign carrier alliances by the FMC to ensure that their actions do not result in a logistics

network within the ports that adds more truck trips and congestion to an already overloaded port infrastructure. From our perspective, this is exactly what is happening. In recent years, we have already seen fewer ships and sailings with the advent of supersized vessels of up to 20,000 TEU's and reduced infrastructure as the carriers have eliminated their own of chassis operations. Now the addition of the alliances and shared sailings has added even more to the shore-side costs of shippers trying to deliver cargo to the ships.

I urge this Committee to increase its oversight of the impacts of carrier alliances on U.S. exporters and to encourage the FMC to undertake a full review of these alliance activities.

Conclusion

As my testimony has made clear, we have significant challenges facing us that can further disrupt U.S. exports and hurt the American economy. However, this is also a time of great opportunity. We are adding millions of customers for U.S. agriculture and food products around the world each year and we are well positioned to serve these customers if our export infrastructure is up to the job. I look forward to working with this Committee and all stakeholders to reach solutions so that we can serve our global customers. I thank the Committee for this opportunity and welcome any questions.