Statement of
The Honorable Mario Cordero
Chairman
Federal Maritime Commission

On
The State of the U.S. Maritime Industry: the Federal Role

Before the
Committee on Senate Committee on Commerce, Science, and Transportation
Subcommittee on Surface Transportation and Merchant Marine
Infrastructure, Safety, and Security
United States Senate

March 8, 2016

Chairman Fischer; Senator Booker; members of the committee—thank you for inviting me to join you today to provide the perspective of the Federal Maritime Commission on the state of U.S. maritime industry and related infrastructure.

As you know, the Federal Maritime Commission is the independent agency charged with promoting the fair, efficient, and reliable transportation of cargo into and out of the United States via international, ocean-borne shipping. We do this primarily through enforcing the Shipping Act of 1984. We regulate all ocean shipping entering and leaving the United States and we engage entities involved in every aspect of moving cargo internationally via the water. Our mission, and exposure to the people who make ocean shipping work, gives the Commission a unique perspective to review and summarize trends in the shipping business.

Looking only at overall container volumes imported and exported into the United States, 2015 was an impressive year for shipping. Total container volumes were 31.5 million Twenty Foot Equivalent Units (TEUs), which represents a two-percent increase in container volumes year-on-year. The imbalance in the container trades grew for the second-year in a row with 20 million TEUs entering the United States and container-based exports dropped to 11.5 million TEUs—a five percent decrease from export volumes of the previous year. The U.S. share of the world's container trade was nearly 17 percent and according to our analysis, this is the second consecutive year that imported container volumes have surpassed the previous record of 18.6 million containers that was established in Fiscal Year 2007.

In terms of container cargo volumes, Asia remains our largest trading region and China our largest trading partner. In Fiscal Year 2015, Asia was responsible for 62 percent of U.S. container trade volumes, 53 percent of that volume being tied to north Asia. Our annual report, which will be published in the next few weeks, has a very useful summary of ocean shipping trends as they relate to the United States on a region-by-region basis. We will be certain to get copies of our report to you and your staff as soon as it has been printed.

The vessel capacity among the global fleet that is available to meet demands for increased container volumes seems more than sufficient. The world's containership fleet continued to expand with nominal capacity growing by approximately 9 percent. At the end of the fiscal year, there are 5,143 containerships with a capacity of 19.7 million TEUs in the global fleet. Additionally, there were orders worldwide for 511 new containerships with an aggregate capacity of 4.1 million TEUs—an increase of 21 percent over the existing fleet capacity. This generous supply of container capacity suggests that shippers will likely benefit from continued low transportation rates for their international ocean cargo.

Regarding competition in the shipping industry, we may see considerable consolidation among container carriers this year. France-based carrier CMA-CGM (CMA) is acquiring Singapore-based carrier NOL; and, China Ocean Shipping Company (COSCO) is absorbing China Shipping as part of a merger. Pending approval by regulators in the United States and other nations, both CMA-CGM and COSCO will grow in size; capabilities; market share; and possibly market power. The FMC has the vital responsibility to monitor possible changes in the marketplace and analyze potential impact on shippers. The CMA and COSCO transactions are complex, far-reaching, and will require careful on-going analysis for some time into the future.

One of the most significant areas of responsibility for the Federal Maritime Commission is its review of operating agreements filed with the agency, particularly as the industry rapidly reacts to changing global economic conditions.

Under the law, Vessel Operating Common Carriers (VOCCs) and Marine Terminal Operators (MTOs) who file agreements with the FMC enjoy a limited exemption from the Nation's antitrust laws. These exemptions are designed to help facilitate efficiencies and provide reliable and fair international ocean-borne transportation services to domestic shippers. Such agreements are thoroughly monitored and analyzed by Commission staff on a continuing basis to confirm that the law is followed and the American shipping public is not harmed.

In Fiscal Year 2015, the Commission received 258 agreement filings—both new agreements and amendments to existing agreements—which is the largest number of agreements filed during a 12-month period since 2006. The nature of international trade has changed tremendously over the nine-years between 2006 and 2015: trade volumes have grown; vessels have become larger in size; and supply chains have become more sophisticated. Corresponding trends in the shipping business are consequentially changing the nature of many of the agreements we consider.

Many of these agreements now filed at the FMC reflect the trend in which carriers and MTOs increasingly work in cooperation with each other, sharing resources and assets. These agreements are much more complex and time-consuming to analyze than previously was the case. Additionally, the complexity and potentially anti-competitive effect of these agreements, require consistent oversight and critical analysis.

As a result of merger and acquisition developments in the container shipping business, we are likely to see much more activity on the agreements front. Carriers that are purchasing other carriers, or are merging, are likely to modify their existing agreements or enter into new agreements and competing lines may change their agreements in reaction to the new reality of the shipping business. These developments warrant careful review and will demand more time, attention, and resources of the FMC.

It is very easy to report a statistic via testimony, but there is a real world impact to all the record breaking volumes of containers landing in the United States and that is the continuing stress on maritime gateways—ports and intermodal connectors that are already congested with trade traffic. Marine Terminal Operators (MTOs) are working to find ways to more efficiently move cargo from ship-to-shore and out the gate.

While the FMC is an enforcement and regulatory agency, it is also an organization that seeks actively to facilitate trade. It has been our experience that sometimes the best solution to a problem in an area under our purview is not simply regulation, but encouraging private sector parties to find their way to a private sector solution. That is the path we have mostly taken when it comes to port congestion.

International trade begins at our Nation's ports and it is through marine terminals that cargo enters and exits the country. International trade moving through America's coastal gateways accounts for 32 percent of America's Gross Domestic Product and some predict that by 2030 this figure may rise to 60 percent. Ensuring that U.S. ports handling international ocean-borne commerce are able to efficiently handle current and projected volumes is a key priority for the Commission.

Over the past two years, the Federal Maritime Commission has actively engaged in surveying the status of the nations' ports and identifying not only what the causes of congestion are, but how private sector, mutually agreeable, and results driven solutions might be found.

In latter FY2014, and throughout FY2015, the Commission hosted four separate listening events at major gateway cities throughout the United States—Los Angeles; Baltimore; New Orleans; and Charleston—to gather input from stakeholders about what problems they were experiencing and how congestion was impacting their ability to move goods. These listening sessions, which were always headed by at least one Commissioner, led to the issuance of two separate publications:

- *Rules, Rates, and Practices Relating to Detention, Demurrage, and Free Time for Containerized Imports and Exports Moving Through Selected United States Ports*
  (April 2015--http://www.fmc.gov/NR15-03/?pg=9)
- *U.S. Container Port Congestion & Related International Supply Chain Issues: Causes, Consequences & Challenges*
  (July 2015--http://www.fmc.gov/NR15-11/?pg=6)

The Commission voted unanimously in February to approve the facilitation of "Supply Chain Innovation Teams"—working groups comprised of industry stakeholders doing business in, at, or with the combined port facilities in the San Pedro Bay, which is our Nation's largest and busiest port complex. Supply Chain Innovation Team members will work to develop commercial solutions to supply chain challenges and related port congestion concerns. This effort will be led by Commissioner Dye and will culminate in a report that will be issued to the FMC. The real value of this undertaking is that we believe it will lead to collaborative, practical solutions that will increase efficiencies and terminal throughput at port facilities.

An issue that the Commission is currently hearing much about is that of Safety of Life at Sea Treaty (SOLAS) amendments coming into force this July that will require shippers to declare a "Verified Gross Mass" (VGM) of containers to ocean carriers before a shipment will be allowed to be loaded on a vessel. Carriers and shippers have not yet resolved the issue, and on February 18, 2016, the FMC hosted a meeting at its headquarters that brought together all interested parties, including the Coast Guard, which is the U.S. Government agency with responsibility and jurisdiction for this matter. The meeting was convened to pursue guided discussion and seek consensus on how to proceed on the VGM matter. At this particular juncture, it seems more work needs to be done to achieve consensus. I reiterate that the Coast Guard is the lead agency on this matter—it represents the United States at the International Maritime Organization; it is responsible for implementing SOLAS; and it is responsible for enforcement matters in terms of vessel and facility safety. That noted, the FMC will maintain a vigilant watch on this issue and carefully monitor developments to see if the situation ever reaches a point where it would warrant intervention by the Commission under the relevant and applicable portions of the Shipping Act. The Commission is prepared to continue its informal role of promoting dialog among all relevant parties and is willing to continue to facilitate meetings.

Earlier in my testimony, I noted that though the Federal Maritime Commission has regulatory and enforcement powers, trade facilitation is very much also at the core of its mission and activities. The ultimate goal of our work is to give the U.S. shipper confidence that when they contract for ocean freight services they are doing so with an honest actor, who is charging a fair rate, and is capable of actually having the shipment moved from origin to destination. We review, analyze, and monitor carrier and marine terminal operator agreements to assure these entities do not engage in anticompetitive behavior; we maintain and review confidentially filed service contracts; we provide forums for exporters, importers, and other members of the shipping public to obtain relief from ocean shipping practices or disputes that impede the flow of commerce; and we guard against unfair and unfavorable conditions caused by foreign government business practices in U.S. foreign shipping trades. The sum total of our efforts is that international trade flows efficiently and at a reasonable cost. When ocean transportation services begin to take longer or cost more, we want to know why this happening and how we can potentially fix any problems.

We do all of this with less than 125 employees and with a budget in Fiscal Years 2015 and 2016 of only $25.6 million. I am very proud of the hard work our employees do, and the commitment they bring to the office each and every.

While acknowledging and commending the hard work of Commission staff, I am not certain how much longer the Commission can sustain current operations if we do not receive modest relief in terms of some additional personnel in key positions and a corresponding realistic increase in funds to carry out our functions.

The demands on the Commission are significant in terms of accepting, processing, analyzing, and acting upon just the routine filings that provide the foundation for a transparent and competitive international ocean shipping network. In just the first quarter of Fiscal Year 2016 (calendar months October, November, and December 2015) 8,491 new service contracts were filed and 177,382 service contract Amendments were filed. Last year, the FMC received 51,109 new service contracts and 653,315 service contract amendments. As I mentioned above, merger and acquisition activity in the container industry will generate substantial new monitoring and analysis requirements.

Simply put, the demands on the agency's resources are continually increasing, but the resources available to the FMC to execute its mission never seem to keep pace with the work that must be done. At some point, we may not be able to provide service at the rate our constituents require to be able to do their business; and if that day comes, we will not be facilitating trade, we will instead risk becoming an impediment to the free flow of cargo.

In summary, the state of the maritime industry is mixed. On the one hand, increasing trade volumes are an encouraging indicator about the strength of the economy and it is fortunate that there is sufficient capacity in terms of vessels and container capacity that the costs of moving cargo internationally via the ocean will likely remain reasonable. On the other hand, if unaddressed congestion at U.S. ports presents a serious potential impediment to continued economic growth as well as the competitiveness of the nation. Continued attention by Congress to ports and the intermodal connectors that link the quayside to the countryside is absolutely requisite. Financing ports, port infrastructure, and goods movement networks are investments that benefit the whole economy.

Chairman Fischer, Senator Booker, once again, I appreciate this opportunity to appear before you and I am happy to answer any questions that anyone may have regarding the Federal Maritime Commission or developments on the waterfront where our insight would be helpful.