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FEDERAL MARITIME COMMISSION

DOCKET NO. 11-19

NOTICE OF INQUIRY

U.S. INLAND CONTAINERIZED CARGO MOVING THROUGH CANADIAN AND MEXICAN SEAPORTS

AGENCY: Federal Maritime Commission.

ACTION: Notice of Inquiry.

SUMMARY: The Federal Maritime Commission is issuing this Notice of Inquiry to solicit the public's views and information concerning factors that may cause or contribute to the shift of containerized cargo destined for U.S. inland points from U.S. to Canadian and Mexican seaports.

DATES: Comments are due on or before December 22, 2011.

ADDRESSES: Submit comments to:

Karen V. Gregory, Secretary
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573-0001

or e-mail non-confidential comments to: Secretary@fmc.gov
(e-mail comments as attachments preferably in Microsoft Word or PDF)

FOR FURTHER INFORMATION CONTACT:

Karen V. Gregory, Secretary
Federal Maritime Commission
800 N. Capitol Street, N.W.
Washington, D.C. 20573-0001
(202) 523-5725
Fax (202) 523-0014
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SUPPLEMENTARY INFORMATION:

Background:

The Federal Maritime Commission (FMC or Commission) has received requests from United States Senators Patty Murray and Maria Cantwell (both of Washington), Members of Congress Rick Larsen, Jay Inslee, Norm Dicks, Adam Smith, Dave Reichert, Jaime Herrera Beutler and Jim McDermott (all of Washington), and Congresswoman Laura Richardson (California), to study the impacts and the extent to which the U.S. Harbor Maintenance Tax (HMT), other U.S. policies, and other factors may incentivize container cargo to shift from U.S. West Coast ports to those located in Canada and Mexico. These requests also asked the Commission to make legislative and regulatory recommendations to address this concern.

In recent years, there has been a steadily observed increase in the amount of U.S.-destined cargo moving through newly established west coast Canadian port Prince Rupert and the expanded Mexican port Lázaro Cárdenas. These same years saw investment in and promotion of Canadian and Mexican port and intermodal rail infrastructure, as well as changes to environmental requirements, security considerations, and customs inspection procedures.

The HMT has also been the subject of recent congressional interest. Originally enacted as part of the Comprehensive Water Resources Development Act of 1986, the HMT was devised to help fund harbor and channel maintenance by charging users of

U.S. seaports at an *ad valorem* rate of 0.125%. See 26 U.S.C. 4461. The HMT is currently imposed only on imports and is payable at the time of unloading of the cargo in the U.S. port. *Id.* Cargo ultimately destined for U.S. inland points but entering at Canadian or Mexican seaports is not subject to the HMT.

In order to prepare the fullest response possible, the Commission now invites comment and information from all members of the interested public (whether they be located in the United States or elsewhere), including public port authorities, private marine terminal operators, ocean common carriers, ocean transportation intermediaries, supply chain experts, providers of rail and trucking services, state, local, provincial or national governments, importers, exporters and beneficial cargo owners. Comments that are specific and provide supporting data are most helpful.

1. Describe the differences, if any, in taxes, fees, laws, regulations, cargo handling, customs processes, related terminal/port procedure, infrastructure, or intermodal services between U.S. and Canadian or Mexican ports that may come into consideration when determining how to route cargo destined for U.S. inland points. Please be as specific as possible.
2. Provide your opinion and supporting data regarding the reasons vessel-operating common carriers serving the U.S., Canada and Mexico may prefer to make Mexican or Canadian ports their first North American ports of call.
3. Describe why ocean transportation intermediaries or importers may prefer to route their customers' inland U.S.-destined cargo via a Mexican or Canadian port.
4. Describe and, if possible, quantify the advantages and disadvantages a beneficial cargo owner may face when considering whether to route inland U.S.-destined cargo via a Mexican or Canadian port. Specifically, what role, if any, does the

assessment of the Harbor Maintenance Tax (HMT) have on that determination? What are the other considerations? If there is a cost advantage due to lower total transportation costs (ocean, truck, rail), please quantify those differences and describe the source of any such cost differentials.

5. Please quantify the effect, if any, the change in cargo routing has had on employment in the United States.
6. Describe what volume or other incentives, bonuses or discounts, if any, are offered by ports, common carriers, terminal operators, or other entities for cargo moved through Canadian or Mexican ports and where these may be available to the shipping public.
7. Describe the advantages and/or disadvantages current transportation services via Canadian or Mexican ports may offer to U.S. exporters.
8. State your view on actions that the U.S. Government can take to improve competitiveness of U.S. ports. Of those actions, what are the most important or pressing?

Submit Comments:

Non-confidential filings may be submitted in hard copy or by e-mail as an attachment (preferably in Microsoft Word or PDF) addressed to secretary@fmc.gov on or before December 22, 2011. Include in the subject line: "U.S. Containerized Cargo Flows – Response to NOI." Confidential filings must be submitted in the traditional manner on paper, rather than by email. Comments submitted that seek confidential treatment must be submitted in hard copy by U.S. mail or courier. Confidential filings must be accompanied by a transmittal letter that identifies the filing as "confidential" and describes the nature and extent of the confidential treatment requested. When

submitting comments in response to the Notice of Inquiry that contain confidential information, the confidential copy of the filing must consist of the complete filing and be marked by the filer as “Confidential-Restricted,” with the confidential material clearly marked on each page. When a confidential filing is submitted, an original and one additional copy of the public version of the filing must be submitted. The public version of the filing should exclude confidential materials, and be clearly marked on each affected page, “confidential materials excluded.” The Commission will provide confidential treatment to the extent allowed by law for those submissions, or parts of submissions, for which confidential treatment is requested. Questions regarding filing or treatment of confidential responses to this Notice of Inquiry should be directed to the Commission’s Secretary, Karen V. Gregory, at the telephone number or e-mail provided above.

By the Commission.

Karen V. Gregory
Secretary