

**National Shipper Advisory Committee
Committee Meeting
Federal Maritime Commission Hearing Room
800 North Capitol St NW, Washington, DC 20573
April 27, 2022**

Minutes

Introduction and Determination of Quorum

Dylan Richmond, the Designated Federal Officer, confirmed there was a quorum present and that the Chair could move forward with the meeting.

Remarks from NSAC Leadership

Brian Bumpass, NSAC Chair, stated that he has seen good productivity from the subcommittees, and that because of their hard work two recommendations will be brought before the Committee at this meeting for a vote.

Briefing by Commissioner Carl W. Bentzel on the Maritime Transportation Data Initiative

Commissioner Carl Bentzel provided an overview of the Maritime Transportation Data Initiative, which he is leading from the direction of Chairman Maffei. This initiative is to address disparities in data availability, access, and transparency within the supply chain. Commissioner Bentzel and his team have held regular meetings since December 2021, with participants representing all parts of the international ocean supply chain. Commissioner Bentzel noted that participants have discussed problems related to data gaps, data delivery and dissemination, and data accuracy. Participants have reported that ocean carriers and marine terminals often have good data, but that there are discrepancies in the data provided to various parties. Commissioner Bentzel announced that there will be a data summit in June where he will convene stakeholders to engage on initial FMC work products around data definitions and data transmission standards.

The Commissioner expressed his opinion that the Federal Maritime Commission has jurisdiction over the movement of ocean freight through the whole bill of lading. He also stated that the FMC wants to hear the advice of NSAC members, as he emphasized the FMC's desire to harmonize the systems already in place rather than recreating the wheel.

Commissioner Bentzel engaged with NSAC members in a Q&A session following his formal remarks. Committee members asked about data quality and accuracy, possible outcomes for this work, and whether other countries are also looking into these issues. Commissioner Bentzel stated that he believes everyone in the supply chain stands to gain from better data.

Data Subcommittee Discussion

The Data Subcommittee Chair, Gabriel Rodriguez, stated that their discussions have focused on three main ideas: creating a "daily diary" of transactions for a container's status along its entire

journey; formulating a national strategy and creating a single entity accountable for coordinating information from various agencies that can report back and provide better alignment and aid in future strategy development; and, finally, developing an ocean shipper's bill of rights which would set minimum requirements to shippers from ocean carriers and MTOs.

Subcommittee members agreed there is a need to ensure data is provided and received within a reasonable time frame to allow actors to react to the information. One member suggested the subcommittee consider a broader ocean transportation bill of rights that encompasses a minimum commitment by all parties. This idea was supported by the NSAC Vice Chair who reiterated that every organization is part of a whole supply chain. The NSAC Chair reiterated the need to focus on objective thinking and to consider both the carrier's and shipper's perspectives. Other members stated that there is a necessity to ensure any data is retrieved from the right source for each point along the supply chain—the carrier is not always the entity moving the container from start to finish.

Creation of a Chassis Subcommittee

The NSAC Chair proposed the creation of a third subcommittee to discuss another important subject to members: chassis availability and efficiency in use. He also suggested this subcommittee could focus on developing best practices for the use of chassis for the broader shipping community. Members discussed how chassis represent a gray area on data visibility, and how freight appears to move more rapidly in Asia and Europe where chassis are more closely tied to the truckers. It was suggested that these models could inform a path forward for the U.S. The NSAC Vice Chair brought up the view that there are regional differences in how chassis are handled and there is no cookie cutter response.

Fees and Surcharges Subcommittee Discussion and Proposed Recommendations

The Fees and Surcharges Subcommittee Chair, Rich Roche, provided an overview of the topics from the subcommittee that are being brought to a vote before the full Committee.

Port or Terminal Imposed Excess Dwell Fees

Committee members contended that currently there is no proper oversight of dwell fees, particularly ones that had been announced in recent months at ports and terminals along the U.S. West Coast. While members stated that some of these fees may have been used merely as a threat, others said these fees are now being added into ports' and terminals' tariffs. The subcommittee brought forth a recommendation for the FMC to codify regulation in concert with the Interpretive Rule incentivizing the movement of cargo that prohibits any unreasonable application of charges on containers for Dwell Fees, while shifting the burden of proof to vessel operators and/or marine terminals and strengthening requirements for proper dispute resolution. Members believe this is reasonable given that these fees are assessed to the shipper without regard to the cause, when in many cases it may be out of the shippers' control.

The full committee discussed the issue and agreed these fees are largely not helpful to moving cargo. After discussion by the full Committee, the NSAC Chair indicated that the Committee

was ready to vote on the proposed recommendation, and the DFO asked members for their votes via roll call. Members voted unanimously in favor of the proposal. A list of members in attendance and their vote on the proposal can be found at the end of these minutes.

Oversight of Intermodal Cargo

The Subcommittee Chair put forth the recommendation that the FMC make a formal declaration of their oversight on intermodal shipments with an ocean bill of lading, in particular intermodal cargo that moves via rail. Members argued this would allow rail issues to be adjudicated when there is currently no avenue for redress by shippers. These could result in millions of dollars of fees due to no fault of the shippers. The NSAC Chair stated that this recommendation will go a long way in removing ambiguity around rail transportation of freight and allow the interpretive rule to cover the entire container move.

After discussion by the full Committee, the NSAC Chair indicated that the Committee was ready to vote on the proposed recommendation, and the DFO asked members for their votes via roll call. Members voted unanimously in favor of the proposal. A list of members in attendance and their vote on the proposal can be found at the end of these minutes.

Following the approval of the Committee on the two recommendations, the DFO stated that the recommendations will be formally submitted to the Commission once he receives a letter from the NSAC Chair with the final versions of the recommendations. Upon receipt by the DFO and subsequent transfer to the Commission, the Commission will provide a formal response on each recommendation within 60 days.

Following the meeting, these recommendations were formally transmitted to the Commission on May 6, 2022. The Commission will provide its response within 60 days of that transmission date.

Closing Remarks

The NSAC Chair recommended that future efforts be focused on the subcommittee meetings. He put forward the idea of holding full committee meetings at less frequent intervals of every three months to reduce travel and associated costs. The members agreed to this proposal.

The Vice Chair underscored the value of in-person meetings given the importance of the matters under discussions. He also re-emphasized the importance of hearing from the broader shipping community.

Recommendation Voting Roll

Recommendation 1: Review of Port Imposed or Terminal Imposed Excess Dwell Fees as to whether payment of such charges can be extended to the account of the cargo

Yes-19

Michael Brock

Justin Cauley

Bob Connor

Chris Crutchfield
Scott Fremont
Sean Healy
Steven Hughes
Alexis Jacobson
Fernando Lagonell
Alison Leavitt
Daniel Miller
Debb Minsky
Jennifer Morrissey
Kenneth O'Brien
Adnan Qadri
Richard Roche
Gabriel Rodriguez
Mike Symonanis, NSAC Vice Chair
Brian Bumpass, NSAC Chair

No-0

Recommendation 2: Expanding the Scope of the Federal Maritime Commission to Include Oversight of rail Carriage and Related Charges for Through Bills of Lading

Yes-19

Michael Brock
Justin Cauley
Bob Connor
Chris Crutchfield
Scott Fremont
Sean Healy
Steven Hughes
Alexis Jacobson
Fernando Lagonell
Alison Leavitt
Daniel Miller
Debb Minsky
Jennifer Morrissey
Kenneth O'Brien
Adnan Qadri
Richard Roche
Gabriel Rodriguez
Mike Symonanis, NSAC Vice Chair
Brian Bumpass, NSAC Chair

No-0

Signed:

Brian Bumpass
Chair
National Shipper Advisory Committee

August 2, 2022