

National Shipper Advisory Committee
2nd Committee Meeting
December 8, 2021
1:00-3:00 pm Eastern Time

Meeting Minutes

The National Shipper Advisory Committee was convened for its second meeting and was held via video conference. In accordance with the Federal Advisory Committee Act (FACA) (P.L. 92-463; 5 U.S.C. App.), the meeting was open to the public.

Meeting Attendees

NSAC Members

Michael Brock (Walmart)
Brian Bumpass (Brenntag North America, Inc.)
Justin Cauley (CHS, Inc.)
Bob Connor (Mallory Alexander International Logistics, LLC)
Chris Crutchfield (American Commodity Company)
Rick DiMaio (Office Depot)
Scott Fremont (Target)
Sean Healy (The Scoular Company)
Steven Hughes (MEMA/Auto Care Association)
Alexis Jacobson (BOSSCO Trading LLC)
Fernando Lagonell (DuPont)
Alison Leavitt (Wine and Spirits Shippers Association)
Daniel Miller (Cargill Incorporated)
Peter Mento (Wayfair)
Debb Minsky (IKEA)
Jennifer Morrissey (Ocean Spray Cranberries, Inc.)
Kenneth O'Brien (Gemini Shippers Group)
Adnan Qadri (Amazon)
Richard Roche (Mohawk Global Logistics)
Gabriel Rodriguez (A Customs Brokerage, Inc.)
Randy Strait (Tyson Foods)
Mike Symonanis (Louis Dreyfus)
Joshua Woods (Blue Diamond Growers)
Colin Yankee (Tractor Supply Company)

Federal Maritime Commission Staff

Dylan Richmond, Designated Federal Officer

Introduction and Determination of Quorum

Dylan Richmond, Designated Federal Officer, confirmed there is a quorum for today's meeting and welcomed all participants.

Remarks from NSAC Leadership

Brian Bumpass, Chair, thanked everyone for participating and for providing constructive criticism in the prior meeting and going into today's meeting.

Michael Symonanis, Vice Chair, echoed Chair Bumpass' comments and emphasized that the group represents a conduit for the larger supply chain community, and that their efforts can bring benefit to the whole supply chain.

General Discussion

The Chair provided an overview of how subcommittees and the full committee will proceed in this and future meetings. In each full meeting only one or two "silos" of discussion topics will be discussed by the members. Subsequently, sub-committees will meet to discuss the points within each silo, and other relevant comments or suggestions brought up in the full meeting in more detail. As subcommittees advance in their discussions and develop potential recommendations, those will be brought to the full committee for discussion at its public meetings. The committee will act only after robust discussion in its full sessions. Members interested in participating in subcommittees were requested to indicate interest via email.

Silo 1: Data Sharing and Visibility

The Chair covered the main points for discussion on this topic that Committee members indicated were of interest, including:

- How to improve end-to-end visibility into data and data sharing;
- The creation of a harmonized lexicon for data terminology;
- Development of a standard list of performance and productivity measures produced at routine intervals;
- Late notification of vessel delays;
- Lack of carrier visibility on vessel arrival and when ports are switch at the last minute; and
- Ensuring aligned and stable Earliest Return Dates (ERDs).

The Committee's discussion primarily focused on the first and second points.

Members discussed the need to agree on defining the data points and metrics that should be measured across the industry before creating standard definitions. Metrics considered crucial by members included, but were not necessarily limited to, detention, demurrage, and free time. Members suggested that defining the exact hours when each of these policies would take effect could be a good idea.

Once Members suggested the creation of a national supply chain data portal, A possible solution for creating a common data lexicon was proposed in the form of a national

supply chain data portal – possibly created and funded through a joint public-private enterprise – where all data could be stored and accessed by all members of the supply chain.

On the issue of data visibility and sharing, several members noted they have experienced issues with carriers billing for detention and demurrage when cargo was unavailable for pick-up. In a related issue, carriers and ports sometime relay, publish, or otherwise make available conflicting information on cargo availability, causing confusion and unnecessary expense to BCOs.

One member mentioned the need to discuss data security because of the desired push to create, collect, and store data, metrics, and measures that would be used throughout the industry, and would affect the entire supply chain.

Silo 2: Fees and Surcharges

The Chair stated the main points for discussion under this topic, including: ‘

- Incorporating rules and regulations for detention and demurrage (D&D) into UIIA rules;
- Enforcement of unfair billing practices related to D&D;
- Interpretive rule on D&D being ignored by vessel operating common carriers (VOCCs);
- Carriers forcing shippers to hold equipment longer than they want to because there are no available return dates for empty equipment;
- Escalated or predatory freight prices;
- New fees at Ports of Los Angeles and Long Beach; and
- Ensuring free time does not start until cargo is available.

Several members noted a common practice from VOCCS of automatically generating bills for detention and demurrage, when shippers are unable to retrieve their containers from the marine terminal. Members also noted the difficulty of securing reliable ERDs for empty containers, only to have the date suddenly changed while in-transit, then be assessed detention charges. Members suggested that no bill should be sent without review by an employee of the shipping line. Members generally agreed that the burden of proving that D&D charges are warranted should be on the carrier’s side.

In response to a concern that vessel operating common carriers are ignoring the interpretive rule on detention and demurrage, the Chair stated the burden is currently on shippers to prove D&D has been applied unfairly. Shippers must collect their own proof of unfair assessment of charges, and sometimes the information is no longer available after the fact. Collecting this information requires devoting staff, making it unfair to those who may not have the resources for that.

The Chair also suggested the subcommittee consider how to establish reciprocity between VOCCs and shippers on the return of empty containers. The burden should not lie solely on the shippers’ shoulders as both parties face an opportunity cost for this equipment.

Shippers want to return empty containers and relieve themselves of that responsibility as much as VOCCs want these assets back in order to carry more cargo.

One member mentioned that the ports of Seattle and Tacoma have now imposed container fees similar to that charged by the ports of Los Angeles and Long Beach. The Chair mentioned that there is some precedent for such charges as long as they are one-off due to congestion but suggested this be discussed further at the subcommittee level.

Future Meeting Schedule

The DFO announced that the full committee will tentatively meet again in mid-February.

Public Comment

The DFO advised that the public has an opportunity to submit written comments to the Committee. He announced that no written comments were received from the public prior to the meeting (the Notice announcing the meeting solicited written comments from the public).

Adjournment

The meeting adjourned at 3:00 P.M. Eastern Time.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

Brian Bumpass
Chair
National Shipper Advisory Committee