

**National Shipper Advisory Committee
Committee Meeting
Tacoma, WA
May 20, 2024**

Minutes

Introduction and Determination of Quorum

Dylan Richmond, the Designated Federal Officer (DFO), called the meeting to order and gave notice that the meeting is being recorded. Mr. Richmond noted that today's meeting is being hosted at the Northwest Seaport Alliance in Tacoma, Washington, and thanked them for allowing NSAC to use their space for this meeting. He reminded those in attendance that meeting minutes are published per the requirements of the Federal Advisory Committee Act and the recording of the meeting would be made available following the meeting. The committee members were reminded that antitrust laws apply to them and that they cannot speak on behalf of the committee, the FMC, or the federal government outside of an official meeting of the NSAC. The DFO confirmed a quorum and turned it over to the NSAC leadership to continue the meeting.

Remarks from NSAC Leadership

Michael Symonanis, NSAC Chair, welcomed all participants both in-person and virtual. He reminded everyone that it is an important opportunity to engage on bigger issues outside of individual firm-level issues. He thanked the NW Seaport Alliance for hosting, along with Agriculture Transportation Coalition (AgTC) for coordinating. Since the Q1 2023 Miami meeting, the NSAC has tried to create opportunities to engage more with others in shipping community, to make more people aware of what the group is working on and encourage them to participate. Part of this is done by participating at events like TPM 24. Mr. Symonanis believes NSAC has a good cross-section of representation in size and scope within the industry but still wants engagement with others. NSAC will continue through 2024 in connecting with as many members of the industry/community as possible.

He noted that a lot of work has been done and the group has tackled issues important to the industry and aligned with issues important to Commissioners. These issues are long-standing issues exacerbated by the pandemic and still affecting shippers at a high-level post-pandemic. The USA is the largest economy in the world, and the NSAC has the opportunity to lead on how to improve physical goods movement, the visibility to it, the behaviors in the system, and coordination around that. The group will continue to focus on the priorities in coordination with the commission.

Rich Roche, Fees and Surcharges Subcommittee Chair, thanked everyone in attendance for their continued hard work. He stated the chartered purpose of NSAC. With the current difficulties that everyone faces on the transpacific trade for both outbound and inbound cargo, shipping is starting to test the boundaries of competitiveness, reliability, integrity and fairness.

Fees/Surcharges Subcommittee Discussion

Rich Roche, the Subcommittee Chair, mentioned that this subcommittee has delivered four (4) recommendations (Jurisdiction over rail storage charges on Through Bills of Lading; Excess Dwell Fees; Early Receipt Date (ERD's); D/D on Government Holds) and one (1) commentary (discussing Jurisdiction over rail storage charges when D/D final bill was being considered) which have been reviewed/discussed at recent NSAC meetings.

Mr. Roche mentioned that the detention and demurrage final rule seemed to be silent on some issues. He stated that without a regulatory fix the behavior of carriers will not change, and their unfair practices will continue, meaning that the shipping public is left fighting these on a case-by-case basis through dispute resolution. He then applauded the FMC on the carrier automated tariff final rule and the and demurrage and detention billing final rule. He believes it moved the shipping industry in the right direction by setting up some needed boundaries which did have an impact on business practices. The subcommittee's ongoing work will consist of revisiting recommendations to determine how to bolster them.

Bob Connor, Subcommittee Vice Chair, asked how the broader shipping community could support the work of the subcommittee. According to Mr. Roche, his group attempts to look at the issues from all angles (importers, exporters, shippers, carriers, etc.) but is ultimately dependent upon getting the information from the shipping public.

Mr. Roche encouraged everyone to visit the FMC webpage for NSAC for reference purposes, as well as encouraged individuals to submit their input on issues.

Data/Visibility Subcommittee Discussion

Gabriel Rodriguez, the Subcommittee Chair, recapped the five (5) recommendations that were submitted. He noted that the FMC has released a new Request For Information for importers, exporters, terminals, and carriers, that closes on June 17. Mr. Rodriguez mentioned that the committee has met with organizations such as the Digital Container Shipping Association and ASTM to learn more on the interaction between behaviors and data standards.

Michael Symonanis, NSAC Chair, reminded everyone that the alignment and accuracy of data in the broader industry is not where it needs to be to support what we need. He stated that the USA can lead on this, but this requires more engagement from those attending virtually. He expressed his appreciation towards ASTM and DCSA in engaging with the NSAC and coming back with what they are working on as it relates to the recommendations that have been sent to the agency.

Chassis Subcommittee Discussion

Steve Schult, the Subcommittee Chair, reminded everyone that the Chassis Subcommittee is the youngest of all the subcommittees. They have not had any substantive updates since the prior meeting in March 2024.

New Committee Business

Michael Symonanis, NSAC Chair, mentioned that the decision was made to add some additional work focuses that NSAC members will be engaged in. There are three new subcommittees: Port Best Practices, Refusal to Deal, and Shipping Exchanges.

Port Best Practices

Debb Minskey mentioned that the subcommittee is at the starting point. They have been touching base and establishing guidelines, as it related to Commissioner Dye's three proposals. At its core the focus of this group is information reliability, so that shippers know where the container is, when shippers can get it, when to take an empty back to a port, and when you can take a loaded container onto a vessel. Currently, the data is lacking consistency, and not always there. Ms. Minskey stated she is excited to move forward and looking forward to next steps.

Refusal to Deal

Michael Symonanis, NSAC Chair, mentioned that this was talked about at the Q1 Public Meeting, and the rulemaking is currently underway. He highlighted his original comments from the beginning of the meeting. Engagement and feedback from the broader community is important to provide feedback to the Commission and the NSAC on its priorities. The FMC reviews all comments that are provided to them, and these comments help the agency to better understand what is happening inside the system. This working group will continue to move forward with reviewing documents and comments.

Shipping Exchanges

Michael Symonanis, NSAC Chair, mentioned that Ken O'Brien could not make the meeting today, therefore, no one is available to discuss the new Shipping Exchanges Subcommittee today

Listening Session/Public Comments

Mr. Richmond stated that the public is always welcome to comment to the NSAC email address. The FMC monitors that inbox, and forwards comments to the NSAC leadership as they come in.

The Digital Container Shipping Association provided a comment. The DCSA is funded by 9 of the top 10 carriers to try and confirm digital standards. He agreed with a comment made regarding the convenience and ease with which people can engage with the airlines, and that is where his group is trying to get to with respect to container shipping. This year, 8 of the 9 member carriers will implement vessel schedules via API. Even though is an enormous and complex undertaking, he expects this to yield a significant difference in the ability to exchange that data.

Lori Fellmer of Basstech International spoke. The speaker mentioned that Basstech International is a family-owned chemical distribution company that is heavily reliant on import and export via maritime. She thanked all individuals in attendance and encouraged all to continue their good work, and in particular was thrilled to hear Mr. Roche mention the unreasonable refusal to negotiate or deal rulemaking. She stated that the problems the industry faced during COVID really need attention of this rulemaking. The FMC missed an opportunity to get this published earlier. According to Ms. Fellmer, the

industry has entered an environment where carriers have decided that they no longer want to publish tariffs that have the purpose of providing rates and access to common carriage.

She understands that ocean carriers don't have to offer service contracts to everyone. However, there needs to be a way for US business to engage with ocean carriers to secure space, to negotiate a rate, or to ship against a tariff published rate. Online dynamic pricing models completely deviate from the idea of public rates for public carriage. Service contracts were enabled to be a specialized option, but according to her, the ocean carriers have changed that dynamic and now offer spot rates and dynamic pricing through online opportunities which require immediate booking and do not have 30-day validity. Businesses who become ineligible to file long-term service contracts are relegated to bidding on an auction site for space on a ship. She would not call this common carriage, or public access to shipping.

Closing Remarks

Michael Symonanis, NSAC Chair, stated again that NSAC is seeking engagement with the broader shipping community, to create awareness of what the group is working on, but more importantly, to check in to make sure the NSAC's priorities align with those of the broader shipping public. He closed with his appreciation for his colleagues and the work that has been performed.

Rich Roche, Fees and Surcharges Subcommittee Chair, echoed the NSAC Chair's comments on appreciation and participation.

Adjournment