



Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

Sam Graves  
Chairman

Rick Larsen  
Ranking Member

Jack Ruddy, Staff Director

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March 24, 2023

**SUMMARY OF SUBJECT MATTER**

**TO:** Members, Subcommittee on Coast Guard and Maritime Transportation  
**FROM:** Staff, Subcommittee on Coast Guard and Maritime Transportation  
**RE:** Subcommittee Hearing on “*Maritime Transportation Supply Chain Issues*”

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**I. PURPOSE**

The Coast Guard and Maritime Transportation Subcommittee will meet on Tuesday, March 28, 2023, at 2:00 p.m. ET in 2253 Rayburn House Office Building to receive testimony on “*Maritime Transportation Supply Chain Issues*.” The hearing will focus on the Federal Maritime Commission’s (FMC) implementation of the *Ocean Shipping Reform Act of 2022* (P.L. 117-146) and the Maritime Administration’s (MARAD) management of the Port Infrastructure Development Program (PIDP). Members will receive testimony from the World Shipping Council, National Association of Waterfront Employers, the American Cotton Shippers Association, and the Port of Long Beach.

**II. BACKGROUND**

*Federal Maritime Commission (FMC)*

FMC was established in 1961 as an independent agency that regulates ocean-borne transportation in the foreign commerce of the United States.<sup>1</sup> FMC protects shippers and carriers from restrictive or unfair practices of ocean carriers, including foreign-flagged carrier alliances. FMC also enforces laws related to cruise vessel financial responsibility to ensure cruise vessel operators have sufficient resources to pay judgements to passengers for personal injury or death or for nonperformance of a voyage.<sup>2</sup>

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<sup>1</sup> 46 U.S.C. § 46101.

<sup>2</sup> FMC, FEDERAL MARITIME COMMISSION FY 2024 BUDGET JUSTIFICATION, (Mar. 2023) *available at* <https://www.fmc.gov/wp-content/uploads/2023/03/FMCFY2024CongressionalBudgetJustification.pdf>.

FMC is composed of five commissioners appointed for five-year terms by the President, with the advice and consent of the Senate.<sup>3</sup> The Honorable Daniel B. Maffei was designated as Chairman of the Commission by the President in March 2021.<sup>4</sup>

### Supply Chain

The Supply Chain is an intricate logistical system consisting of several sequential steps to produce and distribute products.<sup>5</sup> The Marine Transportation System is an integral link in a long chain of serialized processes that make up the supply chain and facilitates the transport of goods to our shores and around the country.<sup>6</sup> During the COVID-19 pandemic, the supply chain faced unprecedented strain. With activities and travel limited and hindered by COVID-19 spread and government responses, consumers repurposed their cash toward manufactured goods and merchandise instead of going to the movies, dining out, or other activities.<sup>7</sup> This increased demand for manufactured consumer goods, a large part of which are moved by shipping containers, strained shipping capacity.<sup>8</sup> The pandemic challenged the traditional market scheme of “just-in-time” supply chains with “little inventory” as consumer appetite for manufactured goods grew.<sup>9</sup> As inventory began to run low, manufacturers and retailers pressured shipping companies to expeditiously move cargo, as they frantically tried to keep up with the outsized demand.

The resulting consequence was an imbalance in maritime trade flows. Consumer demand in the Western Hemisphere for goods like electronics, furniture, and clothes outpaced that of the Eastern Hemisphere where goods are ordinarily manufactured.<sup>10</sup> This imbalance drove shipping companies to ship empty containers to Eastern countries like China, Japan, India, and South Korea, examples of top manufacturing countries, for rapid loading of cargo to be transported to countries like the United States, where demand for consumer goods surged.<sup>11</sup> This induced a sharp rise in ocean shipping costs creating a seller’s market for global container shipping and allowing shipping companies to charge four to ten times the normal price to ship cargoes.<sup>12</sup> At its peak, the cost to ship one container from China to the United States reached a record high of over \$20,000.<sup>13</sup>

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> FMC, *Chairman, Daniel B. Maffei*, available at <https://www.fmc.gov/commissioners/daniel-b-maffei/>.

<sup>5</sup> Anshu Siripurapu, *What Happened to Supply Chains in 2021*, COUNCIL ON FOREIGN RELATIONS, (Dec. 13, 2021) available at <https://www.cfr.org/article/what-happened-supply-chains-2021> [hereinafter *Siripurapu*].

<sup>6</sup> UNITED STATES MARINE TRANSPORTATION SYSTEM, *MTS Fact Sheet*, available at [https://www.cmts.gov/assets/uploads/documents/MTS\\_Fact\\_Sheet\\_2018\\_07\\_25.pdf](https://www.cmts.gov/assets/uploads/documents/MTS_Fact_Sheet_2018_07_25.pdf).

<sup>7</sup> *Siripurapu*, *supra* note 5.

<sup>8</sup> *Shipping during COVID-19: Why container freight rates have surged*, UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, (Apr. 23, 2021) available at <https://unctad.org/news/shipping-during-covid-19-why-container-freight-rates-have-surged>.

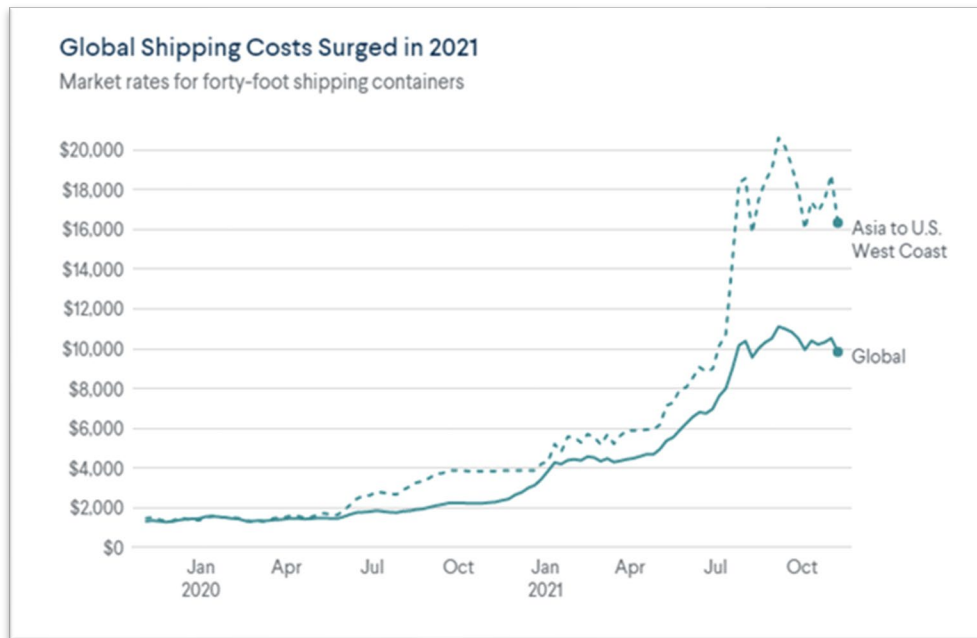
<sup>9</sup> *Siripurapu*, *supra* note 5.

<sup>10</sup> Roslan Khasawneh & Muyu Xu, *China-U.S. container shipping rates sale past \$20,000 to record*, (Aug. 5, 2021) available at <https://www.reuters.com/business/china-us-container-shipping-rates-sail-past-20000-record-2021-08-05/> [hereinafter *Khasawneh & Xu*].

<sup>11</sup> *See Top 10 Manufacturing Countries in the World*, SAFEGUARD GLOBAL, (Dec. 20, 2022) available at <https://www.safeguardglobal.com/resources/blog/top-10-manufacturing-countries-in-the-world>; *Khasawneh & Xu*, *supra* note 10.

<sup>12</sup> *Khasawneh & Xu*, *supra* note 10.

<sup>13</sup> *Id.*



\*Chart from Council on Foreign Relations.<sup>14</sup>

In addition to increased container shipping rates, cargo wait times soared as cargo volumes at major United States ports rose precipitously. Large ports like the Port of Los Angeles and Long Beach experienced long delays for ships waiting to berth, at one point reaching a peak of 109 ships in January 2022.<sup>15</sup>

Excessive demand and insufficient shipping capacity were not the only contributors to the disruption in the supply chain. The crisis was multi-faceted, highly complex, and heavily nuanced created by a perfect collision of ill-timed events — including degradation of shoreside infrastructure, the Suez Canal week-long blockage, poor information sharing, low cargo unloading/loading equipment, closure of major Chinese ports, and workforce decreases.<sup>16</sup> In recent months, the crisis has stabilized with shipping rates returning to normal as demand weakens. For instance, Asia to United States West Coast prices have fallen about 90 percent since December 2021, to \$1,426 per forty-foot equivalent unit (forty-foot container).<sup>17</sup>

### **III. OCEAN SHIPPING REFORM ACT OF 2022**

Congress passed the *Ocean Shipping Reform Act of 2022* (P.L. 117-146) in an effort to alleviate many of the challenges and issues faced by United States exporters within the ocean

<sup>14</sup> Siripurapu, *supra* note 5.

<sup>15</sup> Paul Berger, *Southern California's Notorious Container Ship Backup Ends*, THE WALL ST. J., (Oct. 21, 2022) available at <https://www.wsj.com/articles/southern-californias-notorious-container-ship-backup-ends-11666344603>.

<sup>16</sup> FMC, FACT FINDING INVESTIGATION 29 FINAL REPORT, (May 31, 2022) available at <https://www2.fmc.gov/readingroom/docs/FFno29/Fact%20Finding%2029%20Final%20Report.pdf> [hereinafter FACT FINDING INVESTIGATION 29 FINAL REPORT].

<sup>17</sup> Lori Ann LaRocco, *Freight Rates from China to West Coast Down 90% as Global Trade Falls Off Fast*, CNBC, (Dec. 7, 2022) available at <https://www.cnbc.com/2022/12/07/freight-rates-from-china-to-west-coast-down-90percent-as-trade-falls-rapidly.html>.

transportation system.<sup>18</sup> It became law on June 16, 2022.<sup>19</sup> The *Ocean Shipping Reform Act of 2022* strengthened FMC authorities to promote the growth and development of United States exports through an ocean transportation system that is competitive, efficient, and economical.<sup>20</sup> This legislation authorizes appropriations for FMC through Fiscal Year (FY) 2025; sets standards for detention and demurrage charges, as well as penalties for charges deemed inaccurate; allows FMC to set minimum contract standards for ocean shipping service contracts to protect United States shippers from actions which leave export cargoes stranded at United States ports; and increases protections for United States shippers from retaliation by foreign ocean carriers.<sup>21</sup>

The FMC is currently taking actions to enact the requirements of this law. Since the Act's enactment on June 16, 2022, FMC has:

- Provided industry guidance on filing charge complaints with respect to charges assessed by a common carrier that the complainant believes may not comply with statute.<sup>22</sup>
- Provided industry guidance on the applicability of self-executing provisions of the law to common carriers, including compliance with demurrage and detention billing practices.<sup>23</sup>
- Solicited public comments on a new data collection system for containerized vessel imports and exports to and from the United States.<sup>24</sup>
- Solicited public comments on a proposed rule requiring inclusion of specific information on demurrage and detention invoices.<sup>25</sup>
- Solicited public comments on a proposed rule that would define unreasonable refusal to deal or negotiate with respect to vessel space accommodation provided by an ocean common carrier.<sup>26</sup>
- Established the Bureau of Enforcement, Investigations, and Compliance for improved effectiveness of the Commission's enforcement and compliance activities.<sup>27</sup>

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<sup>18</sup> *Ocean Shipping Reform Act*, Pub. L. 117-146, 136 Stat. 1272.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> FMC, *Industry Advisory – Interim Procedures for Submitting “Charge Complaints” Under 46 U.S.C. 41310*, (July 14, 2022) available at <https://www.fmc.gov/industry-advisory-interim-procedures-for-submitting-charge-complaints/>.

<sup>23</sup> FMC, *Industry Advisory – Applicability of Provision Contained in PL 117-146*, (June 24, 2022) available at <https://www.fmc.gov/industry-advisory-applicability-of-provisions-contained-in-pl-117-146/>.

<sup>24</sup> *Agency Information Collection Activities: 30-Day Public Comment Request*, 87 Fed. Reg. 75629 (Dec. 9, 2022).

<sup>25</sup> FMC, *FMC Proposing New Demurrage & Detention Billing Requirements*, (Oct. 7, 2022) available at <https://www.fmc.gov/fmc-proposing-new-demurrage-detention-billing-requirements/>.

<sup>26</sup> FMC, *FMC Seeking Public Comment on Unreasonable Refusal to Deal Proposed Rule*, (Sept. 13, 2022) available at <https://www.fmc.gov/fmc-seeking-public-comment-on-unreasonable-refusal-to-deal-proposed-rule/>.

<sup>27</sup> FMC, *New FMC Enforcement Structure*, (July 29, 2022) available at <https://www.fmc.gov/new-fmc-enforcement-structure/>.

- Entered into an agreement with the National Academies of Sciences, Engineering, and Medicine to carry out a study to develop best practices for the efficient supply of chassis for transporting intermodal containers.<sup>28</sup>
- Published on their website the “Fact Finding Investigation 29 Final Report on the Effects of the COVID-19 Pandemic on the United States International Ocean Supply Chain: Stakeholder Engagement and Possible Violations of 46 U.S.C. 41102(c).”<sup>29</sup>

#### IV. PORT INFRASTRUCTURE DEVELOPMENT PROGRAM

The PIDP administered by MARAD has grown exponentially over the last several years with the *Infrastructure Investment and Jobs Act (IJJA)* (P.L. 117-9) providing advanced appropriations of \$450 million per year through FY 2026, totaling \$2.25 billion, which is in addition to annual appropriations the program receives.<sup>30</sup> PIDP provides grants for coastal seaports, inland river ports, and Great Lakes ports infrastructure to improve the safety, efficiency, or reliability of the movement of goods, and to reduce environmental impacts in and around ports.<sup>31</sup>

#### V. WITNESSES

**Bud Darr**  
Executive Vice President  
MSC Group  
On behalf of the World Shipping Council

**Matthew Leech**  
President and Chief Executive Officer (CEO)  
Ports America

**William H. “Buddy” Allen**  
President and CEO  
American Cotton Shippers Association

**Mario Cordero**  
Executive Director  
Port of Long Beach, California

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<sup>28</sup> NAT’L ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, *Best Practices for the Efficient Supply of Chassis for Transporting Intermodal Containers*, available at <https://www.nationalacademies.org/our-work/best-practices-for-the-efficient-supply-of-chassis-for-transporting-intermodal-containers#sectionContact>.

<sup>29</sup> FACT FINDING INVESTIGATION 29 FINAL REPORT, *supra* note 16.

<sup>30</sup> *Infrastructure Investment and Jobs Act*, Pub. L. No. 117-58, 135 Stat. 429.

<sup>31</sup> 46 U.S.C. § 54301.