Statement of
The Honorable Mario Cordero
Chairman
Federal Maritime Commission

On
The Fiscal Year 2017 Federal Maritime Commission Budget Request

Before the
House Committee on Transportation & Infrastructure
Subcommittee on Coast Guard & Maritime Transportation
United States House of Representatives

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Chairman Hunter, Ranking Member Garamendi, and Members of the Subcommittee: good morning and thank you for this opportunity to discuss the Federal Maritime Commission's (FMC) budget submission for Fiscal Year 2017.

In short, the FMC seeks $27,490,000 in funding to support 134 full-time equivalent employees. This is a modest, and much needed, increase in funding and personnel for the agency and we hope you will support the budget request at the full amount.

The Federal Maritime Commission is a small, independent agency with a broad mandate and a vital mission to regulate the international ocean transportation system for the benefit of domestic exporters, importers, and most significantly, the U.S. consumer. We achieve these goals through maintaining close contacts with our regulated entities which include literally everyone involved in the movement of goods via the ocean carriers, freight forwarders, non-vessel-operating common carriers, shippers, and marine terminal operators. We analyze business trends, we monitor agreements filed with the agency, and we investigate allegations of Shipping Act violations.

There has likely never been a time when the FMC has been more relied upon by its stakeholders. Indeed, the *Journal of Commerce* began a recent article by noting, "Global changes in container shipping are confronting the U.S. Federal Maritime Commission with some of the most difficult decisions in its 55-year history." It is important to see our work not narrowly, as that of an enforcement and regulatory agency, but rather as an agency that seeks to facilitate international trade at the working level. Our efforts aim to ensure that American manufacturers, distributors, and most importantly, consumers have access to reliable ocean transportation services that are connected to the world's economy and are delivered at lawful rates.

International trade is a significant part of the American economy, and as a result of your work on this Subcommittee, you are keenly aware that the overwhelming majority of U.S. imports and exports, particularly when considered in the context of volume, travel on ships. Last year, 31.5 million twenty-foot equivalent units (TEUs) moved in the U.S. liner trades—an expansion of two percent (2%) from the previous year. If the shipping industry gets to a point where its practices are either inefficient or anticompetitive, then the consequences to our economy will be significant.

The impact will include a diminishment of consumer choices in transportation options as well as what is seen on the shelves of America's stores, resulting in higher prices at the point of sale for shoppers. Free flowing trade, delivered economically via ships as part of a supply chain system that is regulated minimally, but effectively, helps increase purchasing power of consumers and keeps needed cash in the pockets of individual Americans, allowing them to stretch their family budgets.

As part of my appearance before you today, I would like to share with you some of our work over this past year. Allow me to begin by reporting on the status of two Congressional mandates. In the *Howard Coble Coast Guard and Maritime Transportation Act of 2014*, the agency was directed to implement term limits for Commissioners and change how attorney's fees are awarded in cases brought before the FMC. On February 18th of this year, the Commission voted to issue a final rule that meets both of these requirements, which became effective on March 1, 2016.

We have been encouraged by the Subcommittee in years past to operate the Federal Maritime Commission with an eye toward realizing efficiencies and creating cost savings. As a small agency with a small budget, we are constantly exploring ways to be even more economical in carrying out our mission in an era when trade has grown exponentially and there is ever increasing demand for FMC services. There are a number of measures the Commission has initiated to achieve greater returns on every dollar we are fortunate to have appropriated to us. Examples of cost savings and/or efficiency measures include:

- We have sought to enhance shared services wherever possible. To the extent we can share one of our costs with another agency, in order to lower the costs to both, we have done so. Examples of current shared services include:

    - The National Finance Center for human resources processing services;
    - The Office of Personnel Management (OPM) for staffing, recordkeeping, and management of personnel files; and
    - The Bureau of Fiscal Services (BFS) for a wide range of Federal financial reporting system requirements.

- We are reducing the amount of space the agency uses in its headquarters building in Washington. In FY2015, we decreased our physical storage requirement and returned 910 square feet of space to the General Services Administration (GSA). We are currently in the planning stages of reconfiguring our office space at our headquarters building and anticipate being able to reduce our lease requirement by another 400 square feet resulting in savings we would otherwise be paying in rent.

- All offices throughout the Commission have delayed backfilling positions. When filling vacancies, we try to hire at the lower-end of a position's pay band. By both delaying hiring personnel and then hiring at a less senior level, we are able to achieve cost savings, though this sometimes means that we are not able to attract the most qualified candidates. Money saved via personnel hiring deferments has been utilized to advance our Information Technology (IT) refresh efforts. We are planning to migrate our contracted services with the Office of Personnel Management (OPM) to an in-house hiring process to limit costs.

- Our improved IT systems allow staff to operate more efficiently. Our IT refresh has given our analysts and economists increased capabilities. We still have important steps to take in our IT plan, steps that will allow us to eliminate having to literally hand off paper documents to one another.

- To the extent we are legally allowed, we post information and notices related to the Commission on the Commission's website, as opposed to *Federal Register* publication, resulting in significant cost savings.

- We have markedly improved morale within the Commission as reflected by the positive gains we achieved in all 14 categories of the Federal Employee Viewpoint Survey (FEVS) and earning the Award from the Partnership for Public Service "2015 Most Improved Small Agency."

We are particularly challenged in effectively utilizing our budget by the fact that we have no discretionary spending to cut, as this year only two percent (2%) of our budget is not already obligated with the FMC's fixed costs. The two categories that consume the vast majority of our budget are Salaries & Benefits at 74%, and Rent & Communications at 14% of allocated funds, for a combined total of 88% of our budget. The remaining balance of our budget is taken-up by: Commercial Services (5%); Government Services (5%); Travel & Transportation (1%); and Supplies & Equipment (1%).

Mandatory costs and unfunded mandates are also factors that severely limit our ability to either spend more of the money we receive on the core mission of the Federal Maritime Commission, or to be more flexible in moving money internally to help address funding shortfalls or unexpected expenses. Even though the FMC is a small agency, we must comply with each and every requirement all other agencies are obligated to meet.

One of our biggest operational cost categories over which we have no control is security: physical, personnel, and cyber. If the Department of Homeland Security (DHS) or the General Services Administration raises the fees for physical security costs at our headquarters building, we must meet the new payment schedule. As the government continues to work to safeguard itself against cyber threats, it is individual agencies that must finance the necessary upgrades. These upgrades and mandates continue, particularly in the aftermath of the recent Office of Personnel Management security breaches. Security clearances and background investigations for employees and contractors is yet another example of an area where the FMC must comply with requirements set forth by other agencies and where the cost of compliance – as this case the cost of having a background investigation completed – is rising.

An example of the unforeseen and unexpected costs that challenge the ability of the FMC, particularly in the category of security, to be more flexible with our budget is the "Managed Trusted Internet Protocol Service," commonly referred to as "MTIPS." Very briefly, the FMC must upgrade its phone and Internet connections from its current service to this new system that is more secure. Again, this is not a unilateral decision by the Commission, or part of our IT refresh plan, but rather a required response to the mandate to effectuate cyber security enhancements. The cost of necessary hardware, software, and monitoring services must be borne by the agency and may result in a curtailment of other activities and services at the agency.

In 2015, the Commission responded to at least 75 different annually mandated reporting requirements. Some of these were easier to complete than others, and some required no action at all. Irrespective of the complexity of our reporting obligations, each one of these 75 mandated reports required staff attention and action, even if that action was to determine no further action was warranted. This work cost the Commission time and resources; and, as the saying goes, "time is money."

In the last three years the Commission has had to defend its actions in United States Courts of Appeals six times. People are entitled to, and have the unquestionable right to, appeal the actions and decisions of the Commission. I am pleased to say that the Commission thus far has had a very high success rate in defending its actions in Court, which is a testament to our agency and the quality of lawyers in the Office of General Counsel. Given the significance of the issues litigated, and their potential impact on the industry, the appeals had to be addressed immediately. We do not have the luxury of ignoring or delaying petitions for appeal in the hopes we can secure more funding in a future year budget to cover litigation costs. Not only were the costs of going to court borne out of the Commission's overall budget, the Office of General Counsel was forced to take on unpredicted, major, and expensive work.

The work the Federal Maritime Commission does, and its relevance to ensuring the efficient and lawful transportation of oceanborne international trade to the benefit of the American shipping public, represents magnitudes of value beyond our operating budget. The shipping industry continues to grow in terms of volumes carried and increased volumes mean increased filings by carriers and Ocean Transportation Intermediaries (OTIs) at the FMC. Last year, carriers, marine terminal operators, and other entities filed with the Commission:

- 258 agreement filings—an increase of 38 percent over the previous year. This was the largest number of agreements filed, both in terms of new agreements and amendments to existing agreements, in a 12-month period since 2006. I am pleased to say that we analyzed and processed 255 agreement filings during the fiscal year including two new Marine Terminal Operator agreements of significance—the Pacific Ports Operational Improvements Agreement and the Northwest Seaport Alliance.

- 653,315 contract amendments, compared to 573,208 in Fiscal Year 2014.

- 51,109 new service contracts, up from 44,208 in Fiscal Year 2014.

The above statistics represent our constituents, companies engaged in moving international cargo in and out of the United States, working to come up with services that meet the needs of American shippers. Each of the above actions require review, analysis, and monitoring in order to ensure that no harm comes to domestic shippers or that international ocean cargo services serving the United States are not unlawfully anticompetitive.

Over the past two years, port congestion is the key, and perhaps most vexing, policy issue where the Commission has demonstrated leadership in working to address a matter that has real world, bottom line, profit-and-loss consequences. International container volumes entering the United States continue to grow. Our Nation's leading ports struggle to manage the increased numbers of containers landing at maritime gateways. Cargo that does not move increases costs to shippers and the underlying consumer, and can often hamper the United States' economic growth and ability to effectively compete with other nations in a global market. Efficient ports that can move containers off a ship and through marine terminal gates rapidly is a goal we should all share, particularly as using even conservative estimates, it is very likely that the containerized cargo trade will double from current volumes by 2029.

During FY2014 and FY2015, the Commission hosted four separate public listening events at major gateway cities throughout the United States—Los Angeles, Baltimore, New Orleans, and Charleston—to gather input from stakeholders about what problems they were experiencing and how congestion was impacting their ability to move goods. These listening sessions, which were headed by at least one Commissioner, led to the issuance of two separate FMC publications last year:

- *Rules, Rates, and Practices Relating to Detention, Demurrage, and Free Time for Containerized Imports and Exports Moving Through Selected United States Ports* (April 2015--http://www.fmc.gov/NR15-03/?pg=9); and
- *U.S. Container Port Congestion & Related International Supply Chain Issues: Causes, Consequences & Challenges* (July 2015--http://www.fmc.gov/NR15-11/?pg=6).

As a final phase to this initiative, the Commission voted unanimously in February of this year to approve the facilitation of "Supply Chain Innovation Teams," working groups initially comprised of industry stakeholders doing business in, at, or with the combined port facilities in the San Pedro Bay, which is our Nation's largest and busiest port complex. Supply Chain Innovation Team members will work to develop commercial solutions to supply chain challenges and related port congestion concerns. Commissioner Rebecca Dye will be leading this effort and it will culminate in the issuance of a report to the FMC. The real value of this undertaking is that we believe it will lead to collaborative, practical solutions that will increase efficiencies and terminal throughput at port facilities.

Beyond its regulatory and enforcement authorities, the Federal Maritime Commission is able to play a unique role as facilitator and arbiter in times when there are disputes between supply chain stakeholders. There is no other agency that has the same access across all the different sectors of transportation service providers involved in moving a container from an origin in a country on one continent to a destination on another. We have the ability get parties to talk directly to one another with the goal in mind of finding a realistic, mutually agreeable, and mutually beneficial private sector solution.

The most recent example of this facilitation I can cite occurred on February 18th when the Federal Maritime Commission hosted a meeting between the United States Coast Guard and interested parties in the shipper, carrier, and marine terminal operator communities where views concerning amendments to the Safety of Life at Sea (SOLAS) Treaty amendments regarding verifying container weights were exchanged. As I appear before you today, this issue remains unresolved, but the FMC continues to stand ready to help foster a solution through discussion.

Additionally, and related to the analysis and monitoring work of the Commission, we may see considerable consolidation among container carriers this year. France-based carrier CMA-CGM (CMA) is acquiring Singapore-based carrier NOL; and, China Ocean Shipping Company (COSCO) is absorbing China Shipping as part of a merger. Pending approval by regulators in the United States and other nations, both CMA-CGM and COSCO will grow in size; capabilities; market share; and possibly market power. The FMC has the vital responsibility to monitor possible changes in the marketplace and analyze potential impact on shippers. The CMA and COSCO transactions are complex, and far-reaching. There is no question that if these two transactions are approved they will represent "game changing" developments in the container shipping market that will require careful, on-going analysis for some time into the future.

The merger and acquisition activity referenced in the preceding paragraph underscores and illustrates the pressing and compelling need the Commission has for additional people in our Bureau of Trade Analysis; Bureau of Licensing; and, Bureau of Enforcement. The issue is not scores of new hires, but rather a handful of experienced staff to supplement the existing oversight role and safeguard American consumers. Our agency has a total of five economists examining a global industry that is transporting goods in and out of the United States valued at nearly $1 Trillion. It is also an industry that has become increasingly interconnected and complex in its operations. Rigorous monitoring of foreign-based ocean carriers is the preventative prescription for protecting American shippers and consumers.

The FMC frequently renders assistance to other government agencies at all levels – local, state, and Federal. The FMC continues to share its specialized knowledge and expertise with a number of agencies in a number of contexts. More specifically, we have:

- Provided technical advice regarding shipping matters to the Office of the U.S. Trade Representative (USTR) on two different trade agreements: the Trade in Services Agreement and the Transatlantic Trade and Investment Partnership;

- Provided technical advice to Executive Branch agencies concerned with potential anti-competition issues;

- Exchanged investigative information with Customs and Border Protection (CBP) which assists and benefits both agencies in investigating entities suspected of violating the statutes and regulations over which both organizations have jurisdiction;

- Worked in concert with U.S. Attorney's Offices, the Federal Bureau of Investigation, and Immigration and Customs Enforcement when information in our possession or the expertise of our agency was of benefit to investigative efforts; and

- Worked with local law enforcement agencies, including in New York, New Jersey, Florida, and Texas in matters relating to international shipping. Battling the export of stolen vehicles is one particularly good example of how the FMC can assist local police departments to address crime by providing expertise and information on international shipping.

In the community of organizations that work on trade matters for the United States, the Federal Maritime Commission plays an indispensable role. The Office of the Trade Representative opens markets; the Department of Commerce promotes the export of U.S. goods and services; the Coast Guard safeguards life and security aboard vessels, on the water, and at marine terminals; Customs & Border Protection and Immigration & Customs Enforcement protect the homeland; trade disputes are adjudicated by the International Trade Commission; and the Federal Trade Commission protects the consumer when it comes to the end use of an imported item. It is the Federal Maritime Commission, however, that makes certain that international commerce actually works. Our efforts guarantee that there is sufficient capacity to move goods via the ocean; that cargo does not become frustrated when it arrives in the United States; that shippers do not find themselves operating in an anticompetitive environment; and that those who seek shipping services are not defrauded by dishonest actors. The ultimate benefit the American consumer enjoys is that when he or she purchases an item that has arrived in the United States via a ship, the price they pay is not higher than it needs to be as a result of an inefficient global supply chain that revolves around ships and ports. We plan to achieve all of that with the proposal of 134 full-time equivalent employees and $27,490,000. The above achievements come at a cost to an agency as small as the FMC. There are considerable strains and stresses to our workforce that may undermine the future capabilities of the Commission.

Other independent government agencies engaged in similar trade-related functions as the Federal Maritime Commission have more substantial budgets. This year, the Federal Trade Commission is seeking $342 million to support 1,211 fulltime employees; the U.S. International Trade Commission is asking for $92.9 million in funding; and the Surface Transportation Board requests a little more than $42 million for its operations. I am not suggesting that the FMC should be the same size, or have the same budget, as our sibling-Commissions; but, given the trade forecast and growth of the container market, it is ever more vital to have a properly funded and resourced Federal Maritime Commission. The Commission's budget request for $27,490,000 is sufficient for us to continue operations without compromising the quality of service that our constituents not only expect of us, but require of us in order for them to do business.

Thank you for providing me with this opportunity to discuss our budget request for the coming fiscal year and I hope that you will support full funding for the Federal Maritime Commission. I welcome the opportunity to answer your questions.