

TESTIMONY OF
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COMMISSIONER
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Regarding “Impact of Shipping Container Shortages, Delays, and Increased Demand on the
North American Supply Chain”

BEFORE THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION
UNITED STATES HOUSE OF REPRESENTATIVES

JUNE 15, 2021

Thank you, Chairman Carbajal, Mr. Gibbs, and Members of the Subcommittee.

It is a pleasure to be here with you today, to discuss my Fact Finding 29 Investigation, dealing with the global effects of COVID-19 on the U.S. international ocean freight delivery system.

Thank you for your support of the Commission’s National Shipper Advisory Committee, enacted as part of the Elijah Cummings Coast Guard Authorization Act. I plan to recommend an FMC Advisory Committee for ports and ocean carriers as one of my upcoming Fact Finding 29 recommendations to the Commission.

I have included a summary describing our Fact Finding 29 Investigation to date, as part of my testimony today.

The Fact Finding 29 Investigation is my fourth major Commission investigation and I appreciate the strong support I have received from Chairman Maffei.

My focus in Fact Finding 29 is how to strengthen the reliability and resilience of the U.S. international freight delivery system. This requires the involvement of everyone engaged in international ocean freight delivery, including exporters, importers, truckers, ocean carriers, seaports, longshore labor, marine terminals, railroads, equipment providers, and shipping intermediaries.

There are three major obstacles to resolving the major port problems identified by our ten Innovation Teams in Fact Finding 29:

- 1) These problems are not new. They occur in every cargo “surge” or “peak season;”
- 2) No supply chain actor alone can provide a solution without a coordinated approach; and
- 3) The lack of mutual commitment between parties to freight delivery agreements mitigates against an enforceable agreement.

Our primary approach to resolving these problems is our FMC Supply Chain Innovation Teams. These teams are composed of industry leaders with the knowledge and the experience and, most

important, the willingness to work to change the system. I hope to convene in-person teams in the near future.

I'd like to emphasize one final thing about the current state of Fact Finding 29 and the investigations ongoing under the Supplemental Order the Commission issued to me last November.

Our Bureau of Enforcement staff are actively investigating cases of potential unreasonable demurrage and detention charges involving the most common situation affecting exporters. More investigations will follow, perhaps involving the other potentially unreasonable practices under section 41102(c) of title 46, United States Code, formerly section 10(d)(1) of the Shipping Act of 1984.

No further regulatory or statutory action is necessary for us to enforce the Commission's Demurrage and Detention Rule interpreting section 41102(c), which already requires common carriers and marine terminal operators to establish, observe and enforce reasonable practices.

We do require, like any other law enforcement agency, facts involving a potential violation. Our Bureau of Enforcement and investigators simply need evidence, such as a bill of lading number, and a brief description of facts surrounding a potential violation to begin an investigation.

Finally, our U.S. international ocean freight delivery system is unprepared to deal with the growing volumes of cargo, fueled by ecommerce, imports and exports, flowing through our major ports.

Mr. Chairman, if we don't change, we can't grow.

In 2017, our FMC Innovation Teams recommended a National Port Information System to provide end-to-end visibility in our international ocean freight delivery system.¹

Now is the time to move forward with this recommendation, harmonize our supply chain, leap over existing problems, and boost American competitiveness and our economy.

Thank you, Mr. Chairman. I will be glad to answer your questions.

¹ <https://www.fmc.gov/wp-content/uploads/2019/03/SCITFinalReport-reduced.pdf>