



WORLD SHIPPING COUNCIL  
PARTNERS IN AMERICA'S TRADE

Remarks of

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World Shipping Council

at the

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*“Government Policy and Action  
Regarding Improvement of the Nation’s Intermodal  
Transportation Infrastructure”*

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I would like to start my remarks today by recognizing the leadership of Ron Widdows of APL in raising the awareness of both the public and private sectors on the issues facing our nation’s intermodal transportation infrastructure. He has been articulate and persistent in making sure that both the trade community and the government understand the importance and the nature of the challenge. This is hard work, and it involves a multitude of important, yet different, participants and processes.

This conference has an excellent group of industry experts who will discuss forecasted cargo volumes, vessel deployments, terminal operations, and what labor and the industry can do to address the challenges of handling the expected trade volumes efficiently through the available transportation infrastructure.

What I will try to address today is what one might expect in the way of government action and policy affecting the expansion of our transportation infrastructure to handle the economy's need to move growing freight volumes efficiently and reliably.

The first point I would make is that there is not now, nor will there ever be, a national program to address all the shortcomings of our nation's transportation infrastructure. And we should not expect one.

There are good and valid reasons for this. First, each sector of the transportation infrastructure and its related industries has different needs and characteristics, affecting how improvement strategies are developed and implemented. Second, the federal government in Washington, D.C. does not have the money, the interest, the expertise, or the capacity to provide all the solutions. At best, it will be a constructive partner that provides assistance in some areas, particularly on improvements of national significance. Third, some transportation infrastructure is public and requires public solutions, but some is privately owned and operated, and it requires different solutions. Fourth, state and local governments are the essential drivers of much of the needed capital, the prioritization, and the permission to improve the transportation infrastructure. And finally, finding adequate capital to build or improve transportation infrastructure is increasingly only part of the issue. Getting permission from the appropriate authorities to build the improvements is just as much a part of our challenge, and in some cases, the greater part.

In short, there is neither a single issue nor solution. There are many issues and many solutions. That may not be tidy, but it is reality. Understanding who is responsible for what improvements is a necessary foundation for action.

Today, I will start by briefly discussing the U.S. Department of Transportation's (DOT) recently announced draft National Freight Policy; second by considering the different transport sectors and their needs, and third, considering where and how government assistance will interface with addressing the nation's intermodal freight transportation priorities.

## **I. National Freight Policy**

In response to frequent calls for a national freight policy, DOT released a draft National Freight Policy in January, after listening to the input of many transportation sectors and their customers.

It is structured as a high level strategic plan and can serve as a framework to guide future efforts in a cohesive manner. It is not, however, a blueprint for specific decisions or solutions, nor does it propose new government programs. Those continue to be developed, and increasingly funded, locally, as the federal role evolves into one of allocating funds from established programs and seeking to find a role for coordination and facilitation. Additionally, the federal government has considerable work to do to

evaluate future transportation funding mechanisms as reliance on the existing National Highway Trust Fund’s funding mechanism faces challenges.

The National Freight Policy provides a vision, guiding principles (or overarching themes) and seven objectives, which are difficult for anyone to contest.<sup>1</sup> DOT has made it clear that the policy will be a living document and will be updated over time.

In order to move from this broad policy framework to action, it is important to understand the roles and responsibilities of the entities involved, so that one can know who the decision-makers are going to be.

As a general rule, the owner of that part of the transportation system that needs enhancement needs to be the owner of the actions needed to improve that part of the system. In other words, the owner of the problem must also be the owner of the solution.

There are times when multiple parties will have to participate in the solution, but it must be the responsibility of the component owner to develop the solution plan and outline how other help is needed and from whom. While this point seems logical and fundamental, it sometimes gets lost in the discussions of addressing the overall system problems and also in determining what role the federal government may have in delivering solutions.

## **II. Sectors of the Intermodal Transportation Infrastructure**

The following chart provides a brief overview of different sectors of the nation’s transportation system, their ownership, their capacity to handle growth, and their need for additional government assistance<sup>2</sup>:

<b>U.S. Transportation Capacity and Infrastructure Problem Identification</b>			
<i>By Sector</i>	<i>Ownership</i>	<i>Capacity Problem</i>	<i>Need for New Government Assistance Programs</i>
Inland Waterway Conveyances (tugs and barges)	Private	No	No
Inland Waterway Locks and Dams Infrastructure	Public	Yes	The funding mechanisms are adequate for construction <i>if</i> the money collected and deposited in it is spent for lock and dam infrastructure needs.

<sup>1</sup> A full copy of the plan can be found at: [http://ostpxweb.dot.gov/freight\\_policy\\_framework.html](http://ostpxweb.dot.gov/freight_policy_framework.html)

<sup>2</sup> This chart is derived from and similar, but not identical, to one used in the Marine Transportation System National Advisory Committee’s September 2005 Report to the Secretary of Transportation -- “Intermodal Recommendations to Secretary Norman Mineta”.

<p>Trucking Conveyances (trucks and equipment)</p>	<p>Private</p>	<p>At times.</p>	<p>No. Driver shortages exist in some areas, but this is an issue for the market place to address. However, certain regulations, such as those governing hours of service, impact total available capacity and other regulations, like those governing fuel emissions, increase the trucking firm's cost to operate.</p>
<p>Highway Infrastructure</p>	<p>Public</p>	<p>Yes</p>	<p>In 2005, Congress enacted highway funding legislation, the "Safe, Accountable, Flexible, Efficient, Transportation Equity Act" (SAFETEA)– a \$286.5 billion, five-year highway spending bill, applicable to fiscal years 2005 through 2009. Notwithstanding the extensive criticism of Congress' extensive "earmarking" of specific projects in the bill, and the fact that many argued for more money in the bill, there is at present no reason to believe that there will be any substantial new federal highway legislation until 2010.</p> <p>The law does include some new or expanded freight and goods movement programs; however, Congress earmarked all authorized spending in these programs to specific projects, which are named in the bill. For the next four years, the Department of Transportation is thus left with almost no discretionary spending for new projects and programs, unless they have been specifically named in the law.</p> <p>Many port-related freight movement projects were included in the list of earmarks, but the levels of federal funding will need to be supplemented by other funding sources. Some of the goods movement projects included in the final highway bill are for: the Port of Long Beach, the Port of Los</p>

			Angeles, Alameda Corridor East, the Port of Virginia and the “Heartland Corridor”, the Port of New York/New Jersey, the Port of Seattle, the CREATE Intermodal Project in Chicago, and the South Carolina State Port Authority.
Maritime Conveyances and Equipment (ships, containers) <sup>3</sup>	Private	No	No
Harbor Dredging	Public	Yes. Location Specific	The existing trust fund is adequate for O&M <i>if</i> the money collected and deposited in it is spent for harbor dredging. New channel construction funding is project specific and has been slow and underfunded by Congress in the past. It does not need a new federal program as much as it needs better government attention to projects of national significance.
Port Terminal Infrastructure (inside the gate)	Combination of public and private	Yes. Location Specific	No. Ports and the private sector generally can provide the capital. Obtaining permits for capacity expansion is often the more difficult issue.
Rail Conveyances (locomotives and rail cars)	Private	At times.	No. This is the railroads’ investment responsibility.
Rail Trackage, Intermodal Rail Facilities, and Infrastructure	Private	Yes. Location Specific	This is the railroads’ investment responsibility, but is the rail industry’s capital commitment adequate to meet the nation’s needs?

As we consider how the nation can continue to benefit from reliable and efficient supply chains and accommodate the forecasted growth in both international and domestic freight volumes, several questions arise, including: Where are the transportation

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<sup>3</sup> Short sea shipping is and is likely to remain a highly market specific business. It may become a significant part of addressing congestion on the nation’s highways, not when the maritime industry thinks it should, but if and when shippers, particularly the trucking industry, view it as a good and economic alternative to moving their cargo. Significant growth in short sea shipping for the carriage of intermodal cargo will remain, by necessity, a very market specific matter, with obvious geographic limitations.

infrastructure capacity priorities? Who is responsible for seeing that they are met? And, what is the role of the government?

### **III. A Framework for Intermodal Infrastructure Priorities**

#### **A. Overview**

The focus of this Trans-Pacific Maritime Conference is based on the fact that China and the rest of Asia are forecast to remain the star performers of the global economy, and the U.S. economy is expected to stay strong with a growth rate in the neighborhood of 3.5% and with a continued annual import growth rates in the neighborhood of 8% or more. This produces strong volume growth at West Coast ports, for eastbound rail service, for all-water services to the East Coast, for resulting increases in westbound rail service from the East Coast, and for more highway traffic moving cargo to local markets and distribution centers.

If one examines the transportation sectors and the demands on them, the priorities for the intermodal transportation infrastructure could be generally characterized, not necessarily in order or priority, as:

1. Expansion of highways' capacity to move freight
2. Expansion of railroads' intermodal capacity
3. Expansion of U.S. port facilities' capacity
4. Expansion of the Panama Canal's capacity

Each of these presents different issues, different “solutions”, and different solution owners. Yet each has a common, obvious set of characteristics, namely:

- 1. The discussion of what needs to be done to improve the transportation infrastructure is rarely actionable at an abstract level. For action to occur, capacity improvement projects need to be very specifically defined.*

For example, saying “rail capacity is inadequate” is not particularly illuminating or actionable. Identifying double or triple tracking in a particular portion of a railroad's network, or a higher tunnel to accommodate double-stack trains, or a new on-dock rail facility in or adjacent to particular marine terminals – is.

- 2. The owners and operators of the particular infrastructure components are the ones responsible for identifying what is to be done, and for leading the effort to get it done.*

Understanding the responsible parties, their roles, and the appropriate roles of government assistance is important.

- 3. Permits and regulatory approvals are needed within reasonable time frames.*

This is an obvious statement, but too often, discussion in government circles focuses only on money, and not the central importance of the, often painfully slow and difficult, approval process. The National Freight Policy's fourth objective is to "reduce or remove statutory, regulatory, and institutional barriers to improved freight transportation performance." However no specific action steps have yet been identified for addressing the current sluggish approval process.

Additionally, permitting and regulatory hurdles can vary by issue and location. Environmental concerns, particularly in major metropolitan areas such as Southern California, have to be addressed when undertaking major infrastructure improvements. At the same time, transportation infrastructure improvements are essential to sound environmental planning.

The negative environmental consequences of *not* improving the transportation infrastructure and of allowing freight transportation gridlock to develop on our highways and rail systems are substantial. The degree to which this is understood varies, often resulting in lengthier and more burdensome review processes.

To address some of this delay in California, the governor's office has proposed legislation to provide authority to deliver projects more quickly and efficiently through the use of design-build contracting and design-sequencing, which are often standard practice techniques in the private sector construction industry.

4. *The necessary capital needs to be identified and committed.*

It can come from the private sector, from government, from user fees, or from a combination of these sources.

Ample private capital is available for investment if it is allowed to earn a reasonable return. As a general rule, this means that capital is usually available for sound, privately controlled infrastructure projects (e.g., ships, privately operated port facilities<sup>4</sup>), and that there is generally no market-wide shortage of capacity when the infrastructure is under the control of the private sector. The most significant areas of some question in this regard are whether the existing capital spending programs of the railroads are adequate, which I will discuss in more depth later, and truck driver shortages in some areas, which is less a matter of trucking capacity than it is a matter of paying drivers enough for them to be profitable.

Federal transportation funding programs and mechanisms have been clearly established and range from harbor dredging, to inland waterways, to highways. While

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<sup>4</sup> Examples would include the last decade's investments in new terminals in Southern California, Maersk's half-billion dollar investment in a new terminal facility in Virginia, or the many private sector expressions of interest in new port facilities in Charleston, South Carolina, Mobile, Alabama, and Prince Rupert, British Columbia.

good projects and effective Congressional delegations will surely succeed in getting additional funding for particular projects in the future, one should not count on the federal government providing substantially greater capital spending over the next five years than is currently authorized under existing transportation infrastructure programs.

It is also important to understand that the biggest federal program affecting public transportation infrastructure-- the highway spending program -- is basically a formula-based conduit of money to the infrastructure owners – the states, who are the principal decision makers regarding how the money will be spent. The federal dollars from the National Highway Fund are disbursed to individual states for their use in planning, managing and improving the transportation systems within each state.

Not only are the states the principal decision makers and the true “owners” of the public transportation infrastructure, the states are increasing their spending above and beyond what the federal government is allocating to them. This is due in large part to recognition by the states that federal funding falls far short of the money needed to adequately improve the transportation system in their state. From 1983 to 2003, federal highway funding doubled but state funding increased 164%, resulting in states contributing most (55%) of the money spent on highways in 2003 and that pattern continues.<sup>5</sup> In December, the Census Bureau reported that in the first nine months of 2005, state governments’ spending on roads was up 12% and was expected to reach a record \$66.3 billion in 2005.

State voters and legislatures around the country are approving large additional transportation bond measures, from New York to Ohio to Texas. The Virginia legislature, for example, is presently working on a \$4 billion transportation funding plan over the next four years. No better example of state leadership can be found than here in California with Governor Schwarzenegger’s “Strategic Growth Plan” and its proposed \$107 billion for transportation. \$18.9 billion for expanding trade corridors, and \$2 billion for the state's ports. His ambitious goal is to reduce congestion in the state's transportation system by 20 percent in the next decade while increasing its capacity or “throughput” by 15 percent with the increased use of dedicated truck lanes, high occupancy toll lanes and by building some new capacity. A little less than half of the proposed funding plan calls for use of existing transportation funding sources. The plan also proposes expanded authority to fund and deliver projects through a variety of public-private partnerships.

All of this growth in state funding is for good reason. First, the states are the owners and decision makers regarding their highway infrastructure. They need to act and, under SAFETEA, they know how much they can expect from Uncle Sam and how much more they will need. Second, states in need of highway improvements have little incentive to wait on Congress to enact a new highway funding law. Third, the federal government has just acted, providing a \$286.5 billion, five-year highway spending bill, applicable to fiscal years 2005 through 2009, and it’s unlikely to revisit and expand that program. Fourth, Congressional enactment of highway funding legislation is tied to an

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<sup>5</sup> For more information on the activities of States’ Departments of Transportation, go to [www.aashto.org](http://www.aashto.org).

ever-increasing number of “earmarked” projects for particular Members of Congress’ districts. Fifth, highway revenue allocations to the states are politically forced to be as close as possible to the formula of \$1 in tax revenue collected from the state should be \$1 of highway funds returned to the state – so why do you need the federal government for additional assistance if it’s just returning to the state the taxes collected in the state?

State DOT’s have a good idea of what financial support they can expect from Washington, and they understand that if more money is needed to meet the transportation needs of their state, it will be up to them to design ways to raise the additional funds.

Thus far, I have discussed the need for private investment in private infrastructure and public investment in public infrastructure, however there is an increasing call for “public-private partnerships”. Given the funding shortfall many states identify after identifying existing public revenue sources, and given the private sector benefits attained with transportation improvements, it is logical to look for new funding sources. However, private investment in public transportation infrastructure requires that the private investor is assured a reasonable return on its investment. For the term “public-private partnership” to have meaning, it is important that all elements of it are clearly defined, including an equitable sharing of risk. In anticipation of states’ need to enter into more public-private partnerships, the Federal Highway Administration recently launched a website dedicated to providing information on the development and use of these arrangements. (The website is located at: <http://www.fhwa.dot.gov/ppp/> )

User fees are also increasingly viewed as a potentially viable way to finance projects, and as one way to implement or finance these public-private partnerships. User fees exist today, whether it is for the Alameda Corridor, PierPass, or the tolls on bridges or roads. And, RFID technology can make user fee collection increasingly efficient and fast. Recognizing the importance and magnitude of the infrastructure challenge, it would seem logical that user fees will be more frequently considered as a financing option ingredient for major projects. But for user fees to be successful, there are some important and necessary criteria that must be applied:

1. Those who control the infrastructure are responsible for collecting the fees;
2. The fees are tied to a specific project and protected from being diverted to other uses; and
3. All users pay a fair share – meaning that, if a project has multiple beneficiaries, each category of its beneficiaries pays an equitable share and no one category should be expected to pay for it all.

A fair user fee collected by the infrastructure owner to pay for a specific project has worked in the past and is far more likely to be supported and trusted in the future. A fairly developed user fee, which is dedicated to pay for the costs of a specific project, also avoids the inevitable – and likely successful -- legal challenges that would accompany a

state or local government trying to tax interstate or foreign commerce in violation of the U.S. Constitution.

A user fee proposal that amounts to a general tax increase to fund a generic trust fund, where there is little assurance regarding how, when or where the money will be used, will likely not be readily accepted by system users. In other words, there's not much trust in "trust funds".

## **B. Highway Capacity: Public Sector Infrastructure**

The planning, construction and maintenance of the nation's four million miles of public roads is the responsibility of the various state Departments of Transportation.<sup>6</sup> The states' plans are developed largely with input from over 300 Metropolitan Planning Organizations (MPOs), (see <http://www.planning.dot.gov/overview.asp>) which serve as the transportation planners for urbanized areas with a population of 50,000 or more.<sup>7</sup> In order to receive federal funds, states are required to establish MPO's who in turn are required to review and approve transportation projects for the state.

Land-use planning, which affects transportation improvement projects, is also the responsibility of the states and is often planned by regional councils of government (COGs), which represent a number of local governments within the state.<sup>8</sup> In some areas, like Southern California, the MPO and the COG are the same. The decision on structure is left up to the individual state.

The federal government is responsible for developing and managing programs to assist the states in this work and for managing the National Highway Trust Fund (NHTF), which has served as a principal source of funding for the states' transportation budget.

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<sup>6</sup> Except for National Parks' roads, which are not relevant to freight movement issues.

<sup>7</sup> In response to the construction of the Interstate Highway System and out of concern over urban transportation planning, the Federal-Aid Highway Act of 1962 established the requirement for a "continuing, comprehensive and cooperative planning process" for urban transportation projects, in order for states to receive federal financial assistance. Therefore, the Bureau of Public Roads (predecessor to the Federal Highway Administration) required the creation of transportation planning agencies, which have come to be known as MPOs. (For more about MPO's, visit [www.ampo.org](http://www.ampo.org) or <http://www.planning.dot.gov/metro.asp> )

<sup>8</sup> The Housing and Urban Development Act of 1965 amended the urban planning assistance program in support of more comprehensive regional planning by authorizing that grants to be made to "organization's composed of public offices whom he (the Secretary of HUD) finds to be representative of the political jurisdictions within a metropolitan or urban region." This led to the formation of regional planning organizations – for purposes beyond transportation – and they were controlled by elected rather than appointed individuals. These regional planning organizations came to be known as Councils of Government (COGs). Initially, the majority of MPOs were regional councils; however, today more than half of the MPO's are "free-standing" or housed within city or county organizations. (For more about regional councils of government, visit [www.narc.org](http://www.narc.org) )

The NHTF is the “bank” that holds federal gas tax revenues collected by the states. Collections from the tax are placed into the fund, and the federal government then uses that money for transportation in two ways: 1) a direct disbursement to each state for the state to use as it deems appropriate to implement its transportation plan and 2) to fund special programs that are made available to the states, where receipt of such funds is contingent upon meeting certain criteria during an application process. Examples of these might be multi-modal projects, or pilot programs, or grants, such as those included in SAFETEA.

If we think about this in the context of highway projects in port regions, including access to and from those ports, then one should recognize that:

1. The land use planning and environmental regulations governing such projects are generally the state’s responsibility. The federal government may only encourage or recommend planning for certain purposes, such as the draft National Freight policy’s statement that we *should* protect land around ports for future development.
2. Land use recommendations will often come from a regional council of government, hopefully working closely with the port authority that manages land in the port area owned by the state.
3. As the designated transportation planning bodies in the states, MPO’s are required to complete at least two planning documents. One is a 20-year strategic plan outlining transportation improvements recommended but not necessarily funded. The other is the more actionable, annual Transportation Improvement Plan (TIP), which must be fiscally constrained, and therefore identifies all planned and funded projects for the next two to three years. Requirements for a new road or expansion of an existing road should be incorporated into the strategic plan as early as possible, so that MPO’s and state DOT’s can begin the work of identifying appropriate funding options and seeking needed approvals.
4. The State DOT then reviews all of the plans submitted, including the recommended changes to the state’s transportation system and determines which projects to incorporate into the state plan. Historically, that list of projects might have been limited to those that the state thought it could fund with its portion of the NHTF. States are not limited to use of federal funds only, however, which is why the earlier discussion of states becoming more active on raising transportation money is important. Additionally, representatives at the state and MPO level are increasingly cognizant of the importance of efficient freight movement to their statewide transportation network and their state economies, and many have established dedicated freight or goods movement offices and implementation plans.
5. Today, states are increasingly updating their plans based on the projects needed to sustain and grow the economy of the state. States have increased their spending

on transportation, are considering private operation of new roads, and are serving as the ‘enabler’ for larger projects that require cooperation from various levels of government, as well as participation by the private sector.

The private sector may have a sound vision, and at times good plans for what is needed, but not necessarily know how to get it done. Additionally, the capital investment decisions made in the private sector are generally supported by market research and long-term growth plans to which the planners in state transportation often do not have access. The state DOTs are often hungry for such information and at the same time understand the many public funding options available, as well as the public planning process. When discussing this issue recently in Washington, one state DOT official offered this comment: “When we have worked with the private sector in the past, we have always found that there is interest in a project whenever the benefits outweigh the cost. We just do not have the right information to know when to approach the private sector on a project.”

Another state official pointed out that often information about new major distribution centers, which can have significant impact on traffic flow and congestion on local roads, is first brought to the attention of the MPO or state DOT office by a press release announcing the planned opening. That is generally not enough lead time to assess the impact and modify existing TIPs prior to the opening of the new facility.

At the same time, there are many examples of how freight transportation projects can work effectively when the private sector works closely state DOTs and local authorities. For example:

- The Chicago Region Environmental and Transportation Efficiency Program better known as the CREATE project is one of the most extensive public-private partnerships underway. It is a \$1.5 billion project involving the State of Illinois, the City of Chicago, and major freight and passenger railroads serving Chicago. It’s plan calls for separation of track and highways to speed vehicle travel and reduce congestion for motorists; updating track connections and expanding rail routes; and, adding separate, passenger-only tracks in key locations to remove bottlenecks that have increased freight transit times for decades. Although this has clearly been a problem for government and its citizens for some time, it took the active engagement of the private sector to finally deliver an actionable solution plan. During a recent discussion on this topic in Washington, DC, an official from the Illinois DOT was asked how IDOT made the “CREATE” intermodal project in Chicago work. His response was that IDOT’s job had been made much simpler because the railroads had provided sophisticated modeling on traffic flows, recommended solutions, and investment dollars ready to spend. The railroads approached IDOT to say, “We think we have a solution, but we need your help to make it work.” The Illinois DOT then went to work to find additional funding from state, local and federal sources and modify its transportation plans to incorporate the project.<sup>9</sup>

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<sup>9</sup> For more about the Chicago Regional Environmental and Transportation Efficiency (CREATE) project, go to: <http://ncppp.org/cases/create.html>

- The activity associated with the development of the new APM Terminals facility in Portsmouth, Virginia is a series of public-private partnerships, all carefully linked together. The city of Portsmouth faced revenue shortfalls and had been trying for decades to develop a 568-acre riverfront parcel with deepwater access – then known as the Cox property. The Virginia Port Authority identified in 2000 that it would have a capacity shortfall by 2010 in its existing facilities. So in 2001, A.P. Moller-Maersk purchased the Cox property with the intention of developing it as a primary East Coast shipping hub. In 2004 the company, together with the governor, Congressional, and local representatives jointly announced plans not only for APM Terminals to spend one half billion private capital dollars to construct the terminal, but for the state to expand road access to the facility; and for both the state and federal governments to support rail expansion. The latter ultimately led to the development of the Heartland Corridor project – a \$266 million project that will remove height impediments along rail track from Virginia to Ohio enabling the use of double-stack trains, as well as extend the rail line directly into the new facility and adjust the capacity of the roads that feed the railroad and the terminal. Most of the funding is coming from the private sector, and the federal government contributed \$143 million in the last highway bill; Virginia originally approved \$53.4 million for roads and more is proposed. Collectively, these projects will provide the national economy with additional freight capacity; the local Virginia economy with more jobs and more tax revenue; and, reduce the environmental impact of freight movement to communities all along the Heartland Corridor route by taking more trucks off the highways.
- The \$2 billion Alameda Corridor project remains one of the best known examples of a public-private partnership in part because it involved two highly competitive railroads, two ports, and local, state and federal governments – all who came together to find a solution that would expand port capacity, provide for more efficient rail freight movements, reduce noise and delays on local streets and highways; improve safety, and achieve significant reductions in pollution from vehicles and locomotives. The complexity of the “partners” involved and the importance of sustaining public benefit resulted in the creation of a new local government entity – the Alameda Corridor Transportation Authority – to collect revenue from users and continue to operate the new throughway in the manner in which it was intended. (More information about rail public-private partnerships can be found at: [http://www.aar.org/ViewContent.asp?Content\\_ID=2800](http://www.aar.org/ViewContent.asp?Content_ID=2800) )

Highway transportation infrastructure solutions have to be implemented location by location by the owners of the system, either individually or collectively, in cooperation with the users of the system. That means state governments, MPOs and COGs must work closely with the shippers and transportation service providers operating within the state.

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This is at the heart of solution planning.

The federal government will continue its policy work, will continue to provide funding to the extent that the NHTF allows, will continue to manage federal financing programs like those created for special projects or for grants and loans, will be a resource for the states and local governments in addressing various financing options available and how to use them, and can help facilitate discussion among states for projects that cross state borders and serve the national interest -- the concept behind the "Projects of Regional and National Significance" program.

But in the end, the solutions will be driven at the state and local level, and those interested in improving the efficiency of moving freight in a region need to develop close working relationships with state and local planners.

### **C. Rail Capacity: Private Sector Infrastructure**

Rail infrastructure -- unlike highway infrastructure -- is a private sector responsibility. It is the railroads that decide how much to invest in what portions of their infrastructure.

It's a heavily capital intensive business. From 1980 to 2005, major U.S. freight railroad capital spending on infrastructure and equipment was more than \$120 billion. In addition to this capital spending, railroads expend \$10-\$12 billion per year to repair and maintain their assets. The rail industry does not have an easy means of segregating its investment in intermodal facilities vs. others. In fact, much of freight railroads' investment is not in dedicated services, but in joint and common assets which serve intermodal movements and all other movements/commodities/services as well.

In addition to the pace of investment spending, another issue that the railroads face is the need for groups of states to collectively agree to modifications along an entire route. The CREATE project was not really faced with that challenge because resolution of the problem was centralized in Illinois. The Heartland Corridor project is a good example of where multiple state agreements worked well. Had all the states not agreed with the plan, there would be little incentive -- and in fact little value for the shipping public -- for the railroad to invest in partial upgrades.

What is clear at this point is that rail investment overall will be higher in 2005 than previous years and will likely be significantly higher in 2006. According to the American Association of Railroads (AAR), Class I railroads' capital investment was \$6.2 billion in 2004, is projected to be \$6.6 billion in 2005, and is estimated to be \$8.2 billion in 2006. Most of this investment is used for maintaining the existing asset base.

The railroads should be recognized for their expanded capital investment programs. The public policy question is: Is their planned capital investment enough to

address adequately the intermodal congestion and bottlenecks in their networks? Even with their substantial capital investment plans, the railroads would likely answer “no” to that, or at least “no, in the time frame that the shipping public is demanding”.

There are several variables at play that may affect the rate of rail capital investment.

One is rates and volume. As the intermodal business becomes more profitable, railroads will increase their capital investment in the business. That is currently happening, and is how a market should be expected to act. There is some question, however, whether this by itself will produce the level of rail infrastructure improvement in the time desired to avoid degradation of this transportation sector’s service to American commerce

Accordingly, the railroads believe an important, additional step toward the provision of rail capacity sufficient to serve the growing demand for freight transportation is for the government to improve the financial incentive for such investments. The AAR is working on a legislative proposal for an investment tax credit (ITC) that would increase and accelerate what railroads invest in their rail infrastructure. We understand that this proposal would provide a 25% ITC on investments in railroad and rail intermodal infrastructure and the ability to expense the remaining capital outlays, and that these tax credits would be available to railroad and non-railroads parties alike.

Whether the Congress will agree with such a proposal in the present budget environment is an open question, but all stakeholders affected by intermodal rail service should carefully consider the merits of what the railroads will be presenting and arguing for. The challenge for the railroads will be to differentiate what they would spend without an ITC from what they would spend with the ITC, to show what the difference is to the nation’s rail service network, and to convince Congress it’s worth a tax subsidy. They will clearly need, and will presumably be seeking, the support of American shippers in this effort.

Another way is for government to contribute to the capital costs of a rail project, either directly or by assistance with the financing. There are several federal programs that have been made available for certain rail projects, including: 1) the Transportation Infrastructure Finance and Innovation Act (TIFIA), 2) State Infrastructure Banks, under which states may elect to use and leverage of portion of the funds they receive from the National Highway Fund to provide loans and other credit assistance to public and private entities, including rail projects, 3) Private Activity Bonds allowing for the tax-exempt financing of privately owned or operated highway projects and rail-truck transfer projects, 4) the new Capital Grants for Rail Line Relocation Projects to which states can apply for local rail line relocation and improvement projects, and 5) the Rehabilitation and Improvement Financing (RRIF) program, which offers loans or loan guarantees for projects to enhance rail service and capacity, which was given a \$35 billion loan authority.

And so, while we all remain concerned over the need for rail capacity expansion and recognize that doing so is costly, we should note that the Congress has responded by creating some expanded options for accessing public financial support.

#### **D. Port Facilities' Capacity**

There is little question that port facility capacity will need to expand to handle future projected cargo volumes. Marine terminal operators and ocean carriers have shown no lack of interest or willingness in providing the capital for such growth and improvement. So long as government harbor dredging programs are maintained and funded, capital availability is not usually a limiting constraint on building or expanding marine terminal capacity.

Land availability and permission to build are constraints.

From an infrastructure policy perspective, the port and maritime industries have the capital to invest and to grow port facility capacity. In fact, the capital commitment over the past decade has been very substantial, as the new facilities in LA/Long Beach demonstrate. If government wants to help add port capacity, it can count on the capital being available if it can provide the approvals for the expansion.

Government policy makers should appreciate, however, that the efficient utilization of the capital invested and available for ship, equipment, and port facility expansion will continue to depend on the private rail transportation infrastructure and the public highway transportation infrastructure to handle the demands of American importers and exporters.

Also, as a number of speakers at this conference will discuss, capacity at the nation's ports can also be expanded by more efficient utilization of what is already there.

#### **E. Panama Canal Expansion**

The importance of the Panama Canal to America's maritime commerce is difficult to overstate, particularly as U.S. rail and inland infrastructure struggle to keep up with the demands of commerce. 69 percent of the Canal's commerce is to or from the United States. 47 percent of the Canal commerce is to or from Asia.

The liner shipping industry and its customers have dramatically increased their utilization of the Canal, particularly with all-water services from Asia to the Gulf and East Coast. Comparing 2001 to 2005 shows a 59% increase in the TEU capacity of container ships transiting the Canal, a 47% increase in the number of container ships transiting the Canal, and a 21% increase in average vessel size. The Canal, however, is now operating at close to capacity, and additional improvements in throughput are increasingly difficult to obtain.

Plans for expanding the Canal's capacity are expected to be put before the voters of Panama for approval this year. The plans will include new lock dimensions sufficient

for 10,000 TEU vessels. The Canal capacity is currently approximately 330 million tons; with the new third set of locks, the capacity could reach 600 million tons.<sup>10</sup> The project is likely to cost at least \$6 billion (in U.S. 2005 dollars). If the project is approved by the voters, construction could hopefully begin in 2007. The earliest such a huge project is likely to be completed would seem to be 2013 or 2014. As the Canal is now operating at close to capacity, until the expansion project is completed, it will not be able to be absorbing the kind of TransPacific volume growth that it has been able to handle over the past several years.

Further, if TransPacific volumes were to grow by 8% per year between now and 2014, that would be double the volumes of today. The new capacity of the Canal would be very welcome indeed, so long as it is not priced at noncompetitive levels.

The Panama Canal Authority has proven itself to be a very effective, competent and reliable operator of the Canal, and it has spend considerable time researching the market and developing the plans for the necessary infrastructure improvement to serve the needs of commerce in the coming decades.

The decision makers on this important project will be the people of Panama. Recent public opinion polls indicate that a clear majority of voters would favor an expansion, but only if the users, and not the country, have to pay for it.

A combination of funding from retained earnings, external revolving funds and additional user charges, starting in the form of a surcharge -- probably starting in 2007 and running for the period of construction plus for some years thereafter until the expansion had been fully paid for -- can probably be expected.

#### **IV. The Importance of an Effective Security Regime**

While my remarks today focus on transportation infrastructure planning and policy, it would be shortsighted not to at least note the relationship of security policy to our nation's transportation infrastructure and capacity.

Today, there is very little redundant capacity in our transportation infrastructure. The marketplace and shareholders do not reward extra capacity. In fact, they punish it. Government does not encourage it. Whether it is rail capacity, vessel capacity, trucker availability, chassis availability, or terminal capacity – virtually all parts of the intermodal system strive to be as lean and efficient as practicable. Furthermore, much of the capacity that is deployed is often not readily changeable or mobile. So, for example, you can change ships' deployment from California to Puget Sound, but that doesn't mean that there will be available trucks, chassis, rail capacity, or terminal capacity to handle the cargo when it gets there.

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<sup>10</sup> As calculated by the Canal Authority's PC/UMS vessel tonnage calculation.

Because of the lack of redundancy in the infrastructure, industry is very sensitive to security measures that adversely affect their operations or tie up valuable space or assets. This tension will continue to exist, but industry and the government should continue their cooperative and professional efforts to work through these issues when they arise.

But the lack of significant redundancy in the transportation infrastructure also requires industry and government to design and implement a stronger and more resilient transportation security regime, which can withstand a security incident without having a significant adverse effect on transportation system capacity. The economic consequences of a disabling security incident to a transportation system with little redundant capacity could be traumatic.

The port complex of LA/Long Beach, handling roughly 37% of the containerized imports into the U.S., and the Panama Canal are two obvious examples of essential transportation infrastructure for which there simply is no adequate alternative infrastructure. But there are other examples.

On any given day, on average, 370,000 containers of cargo are loaded aboard vessels sailing for the U.S. Those containers and the ships they are on utilize approximately *one-third of all the vessel capacity* serving U.S. international containerized commerce. If the government does not have confidence that the pre-vessel loading security screening of containerized cargo under the “24 Hour Rule” is adequate, and the vessel capacity bound for the U.S. were to have significant restrictions placed on its operations because of security concerns about containers that have already been permitted to be loaded onto them, there would be substantial, adverse consequences to the import and export transportation network and global supply chains. Furthermore, for every day the government cannot provide assured instruction regarding what can be reliably loaded onto and discharged from the remaining two-thirds of the industry’s vessel capacity, the problem would grow.

It is for this reason that the World Shipping Council and the liner shipping industry continue to support development of a more robust and reliable pre-vessel loading cargo shipment screening capacity, including:

1. Close examination of the feasibility and merits of implementing the Integrated Container Inspection System (ICIS) technology and strategy, which uses gamma-ray non-intrusive inspection technology and radiation scanning technology on every container before vessel loading, and
2. Customs’ obtaining more complete shipment data from cargo interests before vessel loading to be used in the container security screening and targeting process. The carrier’s bill of lading data provided to Customs under the 24 Hour Rule is an important component of effective targeting, but no critical examination finds it to be adequate by itself.

In addressing a major container security concern, ocean carrier operations, port facility operations, Coast Guard vessel management, intermodal rail and trucking services, and supply chain reliability all need an ocean transportation security system that can reasonably assume that once a container is loaded aboard a secure vessel, it can be unloaded and delivered in a normal course of business. If we don't have that system, we don't have what we need.

## **V. Conclusion**

Intermodal transportation infrastructure improvement projects are underway across the nation – from New York, to Virginia, to Alabama, to Chicago, to the Alameda Corridor.

These projects succeed when the infrastructure owner develops a specific plan, with specific benefits, and specific financing. If multiple funding sources are needed to make a project work, the funding shares need to be identified and negotiated in a fair and transparent manner.

Continued infrastructure improvement will continue to depend on the infrastructure owners' leadership – whether that is the Government of Panama for new locks in the Canal, the Class I railroads, marine terminals, or the state highways.

The federal government has basically shown what role it will play. There are existing, significant programs that may be available for providing a share of the necessary resources. But Washington doesn't own the infrastructure and will not be the leader of developing or implementing the solutions. Nor would it be realistic to expect dramatic new spending initiatives out of Washington to address these issues. The solutions lie with the industry – including freight owners – working with the proper levels of local government to seek a consensus on the priority projects and the funding shares and mechanisms to make the specific projects work. When that happens, the transportation infrastructure will be improved.