



WORLD SHIPPING COUNCIL  
PARTNERS IN TRADE

Washington, DC  
December 28, 2020

The Honorable Carl W. Bentzel  
The Honorable Daniel B. Maffei  
Federal Maritime Commission  
800 North Capitol Street  
Washington, DC 20573

Dear Commissioner Bentzel and Commissioner Maffei,

Thank you for your letter delivered on December 16, 2020, which we have shared with our members.

I appreciate the recognition in your letter of the fact that the current surge of import cargoes into the United States has resulted in challenges across the entire supply chain, affecting not only ocean carriers, but also marine terminals, truckers, railroads, inland distribution centers, and other supply chain participants. These challenges are not caused on the water; they occur on land when far more cargo than the U.S. intermodal system is designed to handle lands suddenly and in a sustained surge. We are confident that all supply chain participants are adapting as best as they can to these conditions, and ocean carriers will continue to work with their customers and supply chain partners to keep U.S. international trade moving.

The steps that ocean carriers are taking within their networks to improve the speed and efficiency of cargo movement include the following:

- Employing all available vessel tonnage.
- Repositioning vessels to trades with the highest demand.
- Speeding repositioning of excess empty containers and increasing cargo fluidity.
- Purchasing, leasing, repairing, and deploying all available containers.
- Working with customers and inland transportation providers to encourage prompt return of empty equipment for repositioning for carriage of import and export cargoes.

Despite ocean carriers taking multiple simultaneous steps in those parts of the network over which carriers have some control, the fact is that there are multiple factors outside of carriers'

control that negatively affect the free flow of cargo. Your letter lists some of these factors, which include:

- Shortages of labor at marine terminals and inland distribution warehouses, resulting in sub-optimal operations and delays in moving cargo.
- Extended use of containers and chassis for inland storage of cargo by importers, increasing dwell times for this equipment and making it unavailable to carry cargo awaiting transportation.
- Excess of demand versus supply for inland transportation (truck and rail) that results in full containers not being delivered in a timely way and therefore delaying availability of that equipment to carry export and import cargoes awaiting transportation.
- Multiple bookings and no-shows with respect to both vessel bookings by cargo owners and also terminal appointments by truckers, thus complicating forecasting and management of cargo movements.

All of these factors are interrelated, and all have as their root cause the unexpected, sudden, and sustained increase in the volume of U.S. import cargoes. Each supply chain player is seeking to adjust its operations to address the fact that the system is simply not designed to deal with these cargo volumes. As noted in some of the examples above, that means that supply chain participants may take steps – for example storing cargo in containers at inland warehouses – that negatively affect the supply chain as a whole, but for which those supply chain participants may not have lower-cost alternatives in the short term. In this way, sub-optimal responses by individual supply chain actors can add to the already serious congestion problem. I note this fact not to assign blame – many parties are forced to make sub-optimal choices because there are no better alternatives – but to emphasize that this cargo surge is a management challenge that extends from one end of the supply chain to the other.

Against this backdrop, your letter states in particular a desire that export cargo as well as import cargo be accommodated, noting that “it is imperative that we strive for a balanced trade to keep our supply chain fully effective and efficient . . . .”

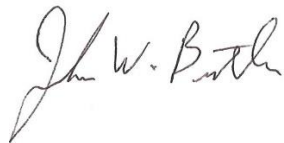
With respect to the issue of U.S. exports, I note first that carriers are in the business of carrying cargo, and so they seek to accommodate the transportation needs of all of their customers – both importers and exporters – in markets around the globe. Second, however, is the fact that U.S. imports and exports are not balanced and have not been for a very long time. For example, reported volume for 2019 shows there were 24.9 million TEUs of import cargo compared to 13 million TEUs of U.S. export cargo. This means that, if the supply chain is to continue to function, almost half of the loaded containers imported must be returned empty to the countries from which U.S. imports originate. Third, the areas within the United States to which imports flow and from which exports flow are often not the same. Speaking broadly, imports flow to areas of high population density, in many cases on the nation’s coasts. Many exports, in contrast, especially agricultural exports, come from areas of relatively low population density. This means that

empty containers, if indeed they are available, must often be moved considerable distances at significant expense and additional time in order to be available for certain export cargoes. These challenges are exacerbated by the stresses on the system discussed above.

Our members' customer bases and network structures are too varied for WSC as a trade association to be able to speak to the specifics of how our members serve their customers, and in any case, these are operational and commercial facts to which WSC is not privy. Moreover, your letter makes reference to reports of difficulties faced by all supply chain participants, with particular emphasis on exporters, but there are no specific facts stated. Because of that, and because the analysis under the Shipping Act sections that you cite is in each case dependent on the facts of any given situation, we have no basis to address the legal points that you raise.

If parties bring credible factual allegations to the Commission, supported by evidence, I am confident that the Commission will fairly adjudicate any such complaints in the same way that it always has. In doing so, I am equally confident that the Commission will recognize the unusual and challenging situation in which all supply chain participants find themselves as a result of the current cargo surge. What all participants prefer, of course, is that the commercial and operational relationships that make up the marketplace upon which the Shipping Act puts primary reliance for our international ocean shipping system will find creative ways to meet the current challenges. It is in this spirit that our members will address the concerns that you have raised in your letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "John W. Butler".

John W. Butler  
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World Shipping Council  
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