



May 18, 2021

Commissioner Rebecca Dye
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573

Dear Commissioner Dye:

I am writing on behalf of the National Association of Chemical Distributors (NACD) regarding the ongoing, time-consuming, and expensive shipping challenges our members are facing in both importing and exporting products critical to the U.S. and world economies. NACD requests the Federal Maritime Commission (FMC) to utilize its full authority to take immediate and definitive actions to address this dire situation.

NACD appreciates the Commission's attention and focus on the shipping crisis in both Fact Finding 28 and the current Fact Finding 29 and believes many of the findings in "29" will be similar to those of "28," if not further exacerbated by the COVID-19 pandemic and other challenges. We look forward to seeing those results. More importantly, we expect the FMC and other governmental bodies, including Congress, the Surface Transportation Board (STB), and other federal agencies, to address the results with quantifiable actions that not only provide data, but also take quantifiable enforcement actions to support the many businesses, both small and large, that import and export and keep our economy competitive in the global marketplace.

After hearing of continued concerning reports from NACD members, we conducted a survey to provide clear data on the challenges chemical distributors are facing. Because of port congestion, container shortages, and soaring costs, inventories of chemicals have been falling to their lowest levels since the great recession, which has led to shortages, particularly of those chemicals imported via the West Coast. This includes integral chemicals no longer produced in this country but critical to U.S. consumers. At the time of our survey in late March, 83.7 percent of respondents were experiencing average delays of 11 days or more, and that number has only increased in following weeks. International shipping has become much less reliable, with delays for some shipments reported to be as much as 150 days, with the average length of the longest delays at nearly 46.5 days.

To provide an example, one NACD member was shipping product from Shanghai to Chicago. Typically, this route would take around 23 days, including 14 to reach Prince Rupert in Vancouver, Canada, followed by nine traveling by train to Chicago. However, a recent shipment of three containers on one vessel departed Shanghai January 12 but did not arrive in Vancouver until February 26. The container ship had been rerouted and sat offshore for a week before being delayed at Anchorage and Seattle. The containers did not reach Chicago until March 10, taking a full two months to reach the customer. These longer transit times and frequent delays have become common-place and have a huge ripple effect on the overall economy, with enormous cost ramifications — costs are up an average of 80.5 percent since the outbreak of COVID-19. NACD's survey also showed that 85.2 percent of our members have

lost revenue as a direct result of these delays, with half of the respondents losing more than \$100,000. For small companies, this is a dire crisis that can put them out of business and make America less competitive in the global marketplace.

As another example of skyrocketing freight rates, 55.7 percent of NACD members responding to our survey said they were being charged additional “premiums” by carriers above the normal tariff or contract rates. These additional “premiums” are for service resulting in products arriving at their final destinations weeks, if not months, late.

Port infrastructure and related supply-chain processes have clearly not kept up with demand and U.S. industry’s needs in a competitive global economy. We are living with a relic of the past. The FMC must step up and advocate for a more modern supply-chain. The FMC must also work to ensure that neither the activities of ocean-liner shipping groups nor foreign government laws or regulations impose unfair costs on American exporters importers, or ultimately on American consumers of imported goods.

Over the past five decades, international ocean transportation has changed dramatically. The FMC, an independent expert agency charged with regulating liner shipping in U.S. trades, must adapt to and evolve with those changes. The FMC’s responsibility is to “its mission to ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices.” Shippers that are the cornerstone of our nation’s economy are being asked to do and pay more for inefficiencies, not efficiencies, in this ongoing supply-chain fiasco. NACD urges the FMC to exercise your authority and take concrete action to protect American importers, exporters, and consumers from ongoing unfair and deceptive shipping practices.

We believe there is enough evidence among NACD members, as well as other shippers, to suggest that the shipping lines have taken advantage of importers and exporters, imposing unfair and exorbitant costs on those who depend on their services. This is a situation that demands the FMC investigate and take appropriate actions to protect consumers and U.S. interests.

Additionally, ocean carriers must not be allowed to dismissively and unscrupulously assess detention and demurrage charges when terminals/ports are not operating and unloading containers, are not open for business, or have considerable backlogs and delays lasting days and weeks. These indiscriminate charges should not fall on the receivers who want nothing more than to get their products efficiently unloaded, so they can transport them to their customers in a timely and more predictable and cost-effective manner. The ocean carriers are now blatantly taking advantage of U.S. businesses in the supply-chain, forcing them to pay for “premium” services that are nothing more than camouflaged late-delivery charges for something outside of their control.

In addition to these actions we believe the FMC can and should take today, NACD and its membership will encourage the Biden administration and Congress to invest dedicated infrastructure dollars wisely in intermodal freight bottlenecks, critical to both the import and export of goods to make our nation more competitive in the global marketplace.

NACD will also encourage the investment in real-time tracking of vessels to customers from ship to port, truck, and rail. Better communication and transparency are needed, as well as

full utilization of the U.S. Customs and Border Protection's Automated Commercial Environment system to streamline import paperwork and processing. The administration and Congress should also support the U.S. manufacturing base for shipping containers and chassis, currently controlled by and subsidized by the Chinese government, and create incentives to encourage more people to enter into the longshoreman and related port worker trades, to include trucking, especially with a shortage of truck drivers.

Finally, but integral to these issues, NACD urges the FMC to coordinate an emergency joint meeting with the STB to address both ocean carrier and rail policies with relevant stakeholders to include shippers.

Again, we look forward to the results of your Fact Finding 29 exercise, but more-importantly, NACD would appreciate the FMC moving beyond fact-finding to advancing solutions that protect our U.S.-based importers and exporters – the businesses that are the backbone to our economy and make America most-competitive in the global marketplace.

Regards,

A handwritten signature in black ink, appearing to read "Eric R. Byer". The signature is fluid and cursive, with the first name "Eric" being the most prominent.

Eric R. Byer
President and CEO

CC:
FMC Chairman, Daniel B. Maffei
Commissioner Carl W. Bentzel
Commissioner Michael A. Khouri
Commissioner Louis E. Sola
Surface Transportation Board (STB)