Lima, 31 de mayo de 2024

Oficio N°494-2023-2024-CEMISPTMCH-CR

Señor Congresista
Alejandro Soto
Presidente del Congreso de la República y
Presidente del Consejo Directivo
Presente.-

De mi consideración:

Nos dirigimos a usted, en nuestra condición, respectivamente, de presidente y vicepresidente de la Comisión Especial Multipartidaria de Impulso y Seguimiento del Proyecto Terminal Multipropósito de Chancay para, en cumplimiento del Acuerdo N° 115-2023-2024/MESA-CR, para hacerle entrega del Informe sobre la Visita de Trabajo Oficial a Estados Unidos de América del 13 al 17 de mayo de 2024, que describe las actividades y los resultados de nuestra participación.

Al respecto, le informamos señor presidente que, en cumplimiento del citado Acuerdo, hemos enviado dicho Informe a los presidentes de las Comisiones de Transportes y Comunicaciones (RU 1524328); y de Producción, Micro y Pequeña Empresa y Cooperativas (RU 1524321), como consta en los reportes de seguimiento que se adjuntan.

Agradeciendo su atención, hacemos propicia la ocasión para renovarle las muestras de nuestra estima personal.

Atentamente:

FIRMA DIGITAL

Firmado digitalmente por: SANCHEZ PALOMINO Roberto Helbert FAU 20161749126 soft
Motivo: Soy el autor del documento
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Roberto Sánchez Palomino
Presidente

Eduardo Salhuana Cavides
Vicepresidente

Comisión Especial Multipartidaria de Impulso y Seguimiento Del Proyecto Terminal Multipropósito de Chancay

REPORTE DE SEGUIMIENTO DE ACCIONES

COMISION ESPECIAL MULTIPARTIDARIA DE IMPULSO Y SEGUIMIENTO DEL PROYECTO TERMINAL MULTIPROPOSITO DE CHANCAY

STD
31/05/2024 2.31 PM
DSANDUMBI

Registro Único : 1524321

Tipo Documento : OFICIO

Nro. Documento : 492-2023-2024-CEMISPTMCH-

FECHA	USUARIO	DESCRIPCIÓN	INDICACIONES	ESTADO
31-05-2024 13.50.50	DAVID JESUS SANDUMBI FERNANDEZ - COMISION ESPECIAL MULTIPARTIDARIA DE IMPULSO Y SEGUIMIENTO DEL PROYECTO TERMINAL MULTIPROPOSITO DE CHANCAY	DIRIGIÓ EL DOCUMENTO A JORGE ALBERTO MORANTE FIGARI - COMISION DE PRODUCCION, MICRO Y PEQUEÑA EMPRESA Y COOPERATIVAS		ENVIADO
31-05-2024 13.49.52	DAVID JESUS SANDUMBI FERNANDEZ - COMISION ESPECIAL MULTIPARTIDARIA DE IMPULSO Y SEGUIMIENTO DEL PROYECTO TERMINAL MULTIPROPOSITO DE CHANCAY	CREÓ EL DOCUMENTO	CREACIÓN CORRECTA	EN PROYECTO

REPORTE DE SEGUIMIENTO DE ACCIONES

COMISION ESPECIAL MULTIPARTIDARIA DE IMPULSO Y SEGUIMIENTO DEL PROYECTO TERMINAL MULTIPROPOSITO DE CHANCAY

STD
31/05/2024 2.39 PM
DSANDUMBI

Registro Único : 1524328

Tipo Documento : OFICIO

Nro. Documento : 493-2023-2024-CEMISPTMCH-

FECHA	USUARIO	DESCRIPCIÓN	INDICACIONES	ESTADO
31-05-2024 13.54.24	DAVID JESUS SANDUMBI FERNANDEZ - COMISION ESPECIAL MULTIPARTIDARIA DE IMPULSO Y SEGUIMIENTO DEL PROYECTO TERMINAL MULTIPROPOSITO DE CHANCAY	DIRIGIÓ EL DOCUMENTO A EDUARDO SALHUANA CAVIDES - COMISION DE TRANSPORTES Y COMUNICACIONES		ENVIADO
31-05-2024 13.53.28	DAVID JESUS SANDUMBI FERNANDEZ - COMISION ESPECIAL MULTIPARTIDARIA DE IMPULSO Y SEGUIMIENTO DEL PROYECTO TERMINAL MULTIPROPOSITO DE CHANCAY	CREÓ EL DOCUMENTO	CREACIÓN CORRECTA	EN PROYECTO

INFORME SOBRE LA VISITA DE TRABAJO OFICIAL A ESTADOS UNIDOS DE AMÉRICA

I. ANTECEDENTES:

a. El 5 de octubre de 2023, el Pleno del Congreso aprobó la Moción de Orden del Día N° 8087, presentada el 19 de setiembre de 2023, que propuso la constitución de la Comisión Especial Multipartidaria de Impulso y Seguimiento del Proyecto Terminal Multipropósito de Chancay. Los integrantes de la Comisión fueron designados en sesión del pleno del Congreso, el 12 de octubre del 2023.

b. Durante la sesión realizada el viernes 20 de octubre de 2023, la Comisión Especial Multipartidaria de Impulso y Seguimiento del Proyecto Terminal Multipropósito de Chancay, bajo la presidencia del congresista Enrique Wong Pujada, aplicando el artículo 36 del, Reglamento del Congreso de la República y en mérito al Oficio 1343-2023-2024-ADP-M/ CR, eligió a los integrantes de la Mesa Directiva, recayendo los cargos en los siguientes congresistas: Roberto Sánchez Palomino, presidente; Eduardo Salhuana Cavides, vicepresidente; Luis Ángel Aragón Carreño, secretario.

c. Durante la séptima sesión ordinaria, llevada a cabo el 25 de marzo de 2024, el Presidente de la Comisión informó que en el trayecto del año pasado se ha sostenido reuniones y conversaciones vinculadas a las inversiones en el Perú y, en ese contexto, se recibió la visita de funcionarios de la Embajada de Estados Unidos con quienes se sostuvo un diálogo importante, sobre las labores que realiza la Comisión, que contó con la participación del congresista José Cueto. En el presente año, viajaron a nuestro país senadores y congresistas del Partido Demócrata y Partido Republicano, quienes desarrollaron un conjunto de actividades y, en ese trayecto, se dialogó con los senadores americanos sobre temas de inversiones, democracia y justicia. En la citada séptima sesión ordinaria, el Presidente informó que el Gobierno de los Estados Unidos ha invitado a los miembros de la Comisión a visitar el puerto de Long Beach, California -donde opera Cosco Shipping- y el puerto de Baltimore en Maryland.

d. La invitación está contenida en carta de 20 de marzo, reiterada en carta de 2 de Abril de 2024, que el Encargado de Negocios a.i. de la Embajada de Estados dirige al Presidente de la Comisión Especial, Congresista Roberto Helbert Sánchez Palomino, para realizar la visita entre el 13 y 17 de mayo de 2024, cuyo contenido se incluye a continuación:

Embassy of the United States of America

Lima, Perú
2 de abril 2024

Señor
Congresista Roberto Helbert Sánchez Palomino
Presidente de la Comisión Especial Multipartidaria de Impulso y Seguimiento del Proyecto Terminal Multipropósito de Chancay
Congreso de la República
Presente.

De mi especial consideración:

Queremos agradecerle por las conversaciones sostenidas con representantes de la Embajada de los Estados Unidos de América en Lima el 13 de marzo, en las que coordinamos la viabilidad de una visita oficial a los Estados Unidos de América para los miembros de la Comisión Especial Multipartidaria de Impulso y Seguimiento del Proyecto Terminal Multipropósito de Chancay.

En este sentido, me complace informarle que estamos trabajando en los arreglos para que usted y otros miembros de la comisión que lidera en el Congreso de la República puedan visitar y participar en un recorrido por diversos puertos marítimos de los Estados Unidos, entre el 13 y el 17 de mayo de 2024, incluyendo, potencialmente, los Puertos de Long Beach, California y Baltimore, Maryland. Esperamos que esta visita los ayude a conocer mejor la política, la normativa y las mejores prácticas de los Estados Unidos en materia de seguridad portuaria, gestión, logística, comercio, inversión, entre otros temas.

El Gobierno de los Estados Unidos de América ayudará con los arreglos logísticos necesarios para su visita y en la coordinación de reuniones con autoridades del sector público y privado. Sin embargo, los costos asociados con su viaje, incluyendo vuelos, alojamiento, y alimentación deberán ser asumidos por los miembros de la delegación.

Quedamos a su disposición para cualquier duda o consulta adicional que puedan tener.

Atentamente,

John McNamara
Chargé d'Affaires, a.i.

I. SUSTENTO NORMATIVO

a. El literal h) del artículo 23 del Reglamento del Congreso de la República, el cual establece que "los congresistas luego de haber realizado un viaje oficial o de visita por cuenta del Congreso, presentarán al Consejo Directivo un informe de todo aquello que pueda ser considerado de utilidad al Congreso o al país (…)".

b. El Acuerdo de Mesa N° 115-2023-2024/MESA-CR, que autoriza el viaje de los congresistas Roberto Helbert Sánchez Palomino y Eduardo Salhuana Cavides para participar en una visita de trabajo oficial a diversos puertos marítimos en los Estados Unidos de América, cuyo contenido se incluye a continuación:

Acuerdo N° 115-2023-2024/MESA-CR
Viaje de los congresistas Sánchez Palomino y Salhuana Cavides para participar en una visita de trabajo oficial a diversos puertos marítimos, en los Estados Unidos de América

Vistos los Oficios 465, 471, 478 y 480-2023-2024-CEMISPTMCH-CR del congresista Roberto Sánchez Palomino, presidente de la Comisión Especial Multipartidaria de Impulso y Seguimiento del Proyecto Terminal Multipropósito de Chancay, la Hoja Informativa 075-2023-2024/OP-OM/CR de la Oficina de Protocolo, la invitación s/n de la Embajada de los Estados Unidos de América, el Informe 0160-2024-OPPM-OM-CR de la Oficina de Planeamiento, Presupuesto y Modernización, y el Memorándum 198-2023-2024-WJCR/SV-CR de la Segunda Vicepresidencia.

Considerando:

Que, el presidente de la Comisión Especial Multipartidaria de Impulso y Seguimiento del Proyecto Terminal Multipropósito de Chancay, congresista Roberto Sánchez Palomino, ante la invitación de la embajada de los Estados Unidos de América, solicita participar en una visita de trabajo a diversos puertos marítimos de los Estados Unidos de América, incluyendo potencialmente los puertos de Long Beach, Los Angeles, Baltimore y Virginia, a fin de conocer la políticas, normatividad y prácticas en materia de seguridad portuaria, gestión, logística, comercio e inversión.

Con la opinión favorable de la Oficina de Protocolo y contando con el informe de disponibilidad presupuestal respectivo.

Se acordó:

1. Autorizar a los congresistas Roberto Helbert Sánchez Palomino y Eduardo Salhuana Cavides, para que participen en una visita oficial de trabajo a los puertos de Long Beach, Los Angeles y Baltimore, Estados Unidos de América, del 13 al 17 de mayo de 2024.

2. Disponer que la Dirección General de Administración realice las acciones administrativas y presupuestarias necesarias, a fin de otorgarle a los mencionados congresistas los pasajes en clase económica y los viáticos correspondientes (6 días).

3. Disponer que los congresistas presenten un informe por escrito ante las Comisiones de Transportes y Comunicaciones y de Producción, Micro y Pequeña Empresa y Cooperativas, sobre las actividades y resultados de su participación en la citada visita de trabajo, en el plazo de quince días hábiles contados a partir de la fecha de culminación del evento al que asistió. Asimismo, deberán remitir una copia de dicho informe al Consejo Directivo. Por último, deberán presentar la respectiva rendición de cuentas ante el Departamento de Finanzas. La presentación oportuna de dichos informes se tomará en cuenta para la autorización de futuros viajes, en el marco del Acuerdo 121-2022-2023/MESA-CR.

II. INFORMACIÓN GENERAL:

a. Delegación en Los Ángeles, California:
- -. Congresista señor Roberto Sánchez Palomino
- -. Congresista señor Eduardo Salhuana Cavides
- -. Alcalde de Chancay señorJuan Alberto Álvarez Andrade
- -. Michael Gunzburger, Embajada de EE UU en Lima
- -. José Luis Chávez Gonzales, Cónsul General del Perú
- -. Carlos Fernando Sandoval Gieraths, funcionario consular
- -. Shirley Bolaños Oballe, Intérprete consular

b. Delegación en Washington D.C.
- -. Congresista señor Roberto Sánchez Palomino
- -. Congresista señor Eduardo Salhuana Cavides
- -. Alcalde de Chancay señor Juan Alberto Álvarez Andrade
- -. Michael Gunzburger, Embajada de EE UU en Lima

-. Jefe Sección Política Milagros Miranda, Embajada del Perú
-. Jefe Sección Económica Samuel Ashcallay, Embajada Perú
-. Consejero Económico Emilio Vega-Centeno
-. Consejero Político Diego Castillo
-.-.Segundo Secretario Diego Castro
-. Segundo Secretario Renzo Rodríguez

c. Cronograma de vuelos

Lima - Los Ángeles:
(1)May 11, 11:45 pm, LIM a MIA, American Airlines 988, llega MIA, May 12, 6:40 am
(2)May 12, 8:47 am, MIA a LAX, American Airlines 1571, llega LAX, May 12, 11:31 am

Los Ángeles - Washington, DC:
(1)May 14, 9:22 pm, LAX a IAD, United Airlines 234, llega IAD, May 15, 5:19 am

Washington, DC. - Lima:
(1)May 18, 9:59 am, DCA a MIA, American Airlines 1252, llega MIA, May 18, 12:37 pm
(2)May 18, 3.45 pm, MIA a LIM, American Airlines 1307, llega LIM, May 18, 8:30 pm

d. Programa de la Visita de Trabajo Oficial

LUNES 13

9.30 A 1.00 PM – VISITA AL PUERTO DE LONG BEACH

9.30 am	Partida al Puerto de Long Beach Join Command & Control Center 1249 Pier F. Avenue, Long Beach, CA 90802
10.30 a 1pm	Reunión, seguida de almuerzo trabajo en el Puerto de Long Beach. Exposición del Director de Desarrollo de Negocios, Roger Wu.

1.25 PM A 4.30 PM – VISITA AL PUERTO DE LOS ÁNGELES

1.25 pm	Partida al Puerto de Los Ángeles
1.45 pm	Puerto de Los Ángeles: descripción general (Briefing) Conference Room 403, Fourth Floor Ms. Marisela Caraballo DiRuggiero, Directora de Desarrollo de Comercio
2.50 pm	Partida al embarcadero Downtown Harbor, Berth 85
3.00 pm	Visita guiada desde el mar al Puerto de Los Ángeles. Harbor Breeze Cruises.
4.30 pm	Finalización de visita.

MARTES 14

DE 8.00 A 6.00 PM VISITA Y REUNIONES CON LA GUARDIA COSTERA DE LOS ESTADOS UNIDOS, SECTOR 101 LOS ÁNGELES – LONG BEACH

8.00 am	Partida hacia la Guardia Costera de los Estados Unidos Sector 101 Los Ángeles – Long Beach 1001 S. Seaside Ave, San Pedro, CA.
9:00 – 9:50 am	Reunión Informativa (brief) sobre el Sector 101 LA - LB de la Guardia Costera, por el LCDR Braden L. Rostad.
10:00 am	Gestión de Riesgos Cibernéticos, por el LCDR Daugherty.
11:00 am	Mesa redonda con el Marine Exchange (Intercambio Marítimo), Aduanas, Patrulla Fronteriza, por el Capitán Patrick Baranic, Gerente General.
12:00 pm	Almuerzo de trabajo en el Sector LA-LB Galley.
1.00 a 3.00 pm	Visita guiada al Puerto de Long Beach (Van Tour)
6:00 pm	Partida al Aeropuerto de Los Ángeles.

MIERCOLES 15

DE 10.30 A 4.00 PM VISITA Y REUNIONES EN EL CONGRESO DE LOS ESTADOS UNIDOS, DEPARTAMENTO DE TRANSPORTE MARÍTIMO Y COMISIÓN FEDERAL MARÍTIMA.

10:30 am	Partida al Congreso de los Estados Unidos Cannon House Office Building 27 Independence Ave SE, Washington, DC 20003.
11:00 am	Reunión con el Congresista (Republicano) Carlos Gimenez, Presidente del Sub Comité de Transportes y Seguridad Marítima. 448 Cannon House Office Building Participan (6): Sánchez, Salhuana, Álvarez, Gunzburger, Castro, Castillo
12:25 pm	Partida al Departamento de Transporte Marítimo de los Estados Unidos (MARAD) 1200 New Jersey Avenue, SE, Washington, D.C.20590
1:00-2:45 pm	Reunión conjunta con el Departamento de Transporte Marítimo de los Estados Unidos (MARAD) y la Comisión Federal Marítima (FMC), con los Directores Chris Hughey y Vartika Varsney sobre Seguridad en la Administración de Puertos y Operaciones. Participan (5): Sánchez, Salhuana, Álvarez, Gunzburger, Vega-Centeno.
2:45 pm	Partida al Congreso de los Estados Unidos Cannon House Office Building 27 Independence Ave SE, Washington, DC 20003
3:20 – 3:40 pm	Reunión con el Congresista (Republicano) Adrian Smith. Presidente del Sub Comité de Comercio. 502 Cannon House Office Building Participan (6): Sánchez, Salhuana, Álvarez, Gunzburger, Miranda, Castillo.
3:40 – 4:00 pm	Reunión con el Congresista (Republicano) Neal Dunn. Miembro del Comité de Energía y Comercio. 466 Cannon House Office Building Participan (6): Sánchez, Salhuana, Álvarez, Gunzburger, Miranda, Castillo
4:00 pm	Partida a la Embajada del Perú 1700 Massachusetts Ave NW, Washington, DC 20036

4:30 – 5:00 pm	Reunión con el Embajador del Perú, Alfredo Ferrero, y participación en la recepción ofrecida por la Embajada del Perú al Congresista (Demócrata) Jared Moskowitz, y congresistas de la Cámara de representantes y miembros del Perú Caucus.

JUEVES 16

DE 8.00 am A 1.00 PM VISITA Y REUNIONES EN EL CUARTEL GENERAL DE LOS GUARDACOSTAS DE LOS ESTADOS UNIDOS.

8.00 am	Partida al Cuartel General de la Guardia Costera de los Estados Unidos. 1790 Ash Street. SE, Washington D.C. Participan (6) Sánchez, Salhuana, Álvarez, Gunzburger, Castillo, Rodriguez.
8.30 am	Recibe el LCDR Rob McCabe
8.30 am	Reunión informativa con el Director de Asuntos Internacionales, Holly Haverstick, y el Capitán Amy Beach, Jefe de Inspecciones y Cumplimiento.
9.10 am	Instalaciones de la Guardia Costera y Cibernética, por el LCDR Kristi Sloan y Adam Cooley de la Oficina de Cumplimiento de Instalaciones Portuarias.
11.00 am	Leyes de Navegación y Programa Internacional de Seguridad Portuaria, señor Roger Butturini, Asesor Técnico para Regulaciones de la Guardia Costera.
12.15 pm	Pesca Ilegal, no reportada y no regulada, a cargo del CDR Kevin Connell, Oficina de Asuntos Internacionales de la Guardia Costera.
12.30 pm	Almuerzo de trabajo en el Comedor de Oficiales, con el Director de Asuntos Internacionales, Holly Haverstick, Capitán Amy Beach y Contralmirante Adam Chamie, Comandante Asistente para Políticas de Respuesta.

DE1.00 A 4.30 PM VISITA Y REUNIONES EN EL DEPARTAMENTO DE ESTADO DE LOS ESTADOS UNIDOS.

1:00 pm	Partida al Departamento de Estado 2201 C St NW, Washington, DC 20451

2:00 – 3:00 pm	Reunión con el Buró de Asuntos del Hemisferio Occidental (WHA) y de Asuntos del Este Asiático y Pacífico (EAP), Participan (7): Sánchez, Salhuana, Álvarez, Gunzburger, Miranda, Castro, Rodriguez
2:00 pm	Reunión con el Director Gary Tripmacher EAP
2:30 pm	Reunión con el Director Rafael Foley WHA
3:00–4:30 pm	Reunión con el Buró de Asuntos Económicos y de Negocios (EB) Participan (5): Sánchez, Salhuana, Álvarez, Gunzburger, Ashcallay, Vega-Centeno
3:00 pm	Bienvenida por Heidi Gomez. DAS
3:15 pm	Departamento de Comercio, Programa de Desarrollo de Leyes Comerciales (CLDP), a cargo del señor Jorge Aguilar, sobre el ambiente regulatorio del manejo de puertos y la seguridad nacional.
3:25 pm	Libre comercio y competencia abierta (BTA)
3:35 pm	Resiliencia en la cadena de suministros (MTA)
3:45 pm	Vulnerabilidades en infraestructuras críticas (TRA)
3:55 pm	Vista general sobre inversiones y seguridad nacional (OIA)
4:05 pm	Administración portuaria: Seguridad e inversions, Karl Jensen (AECOM)
4:15 pm	Preguntas y respuestas.
4:30 pm	Finalización de la reunión.

VIERNES 17

En la invitación del Gobierno de los Estados Unidos de América se incluyó, potencialmente, la visita al Puerto de Baltimore ubicado en Maryland. En los días posteriores, el 26 de marzo, dicho puerto sufrió un accidente por lo que el Gobierno de los Estados Unidos sugirió se visitara los Puertos de Norfolk, Newport, News y Portsmouth, en Virginia, a tres horas de Washington DC, visitas que por la lejanía fueron canceladas.

9:00 am — Reunión con la señora Leslie Reagan, Sub Directora del House Democracy Partnership (HDP)
Participan (6): Sánchez, Salhuana, Álvarez, Gunzburger, Castro, Castillo.

10.00 am — Visita guiada al Capitolio por House Democracy Partnership (HDP)
Washington, DC 20004

III. DESARROLLO DEL PROGRAMA (LOS ÁNGELES Y WASHINGTON)

LUNES 13: VISITA AL PUERTO DE LONG BEACH Y AL PUERTO DE LOS ÁNGELES, CALIFORNIA.

a. El Puerto de Long Beach es el tercer puerto más activo de los Estados Unidos, abarcando más de 3,200 acres de tierra y agua a lo largo de más de 25 millas de costa. Con seis terminales de contenedores de última generación. Cosco Shipping Terminals presta servicios de contenedores a través de una empresa estadounidense conjunta, en la Terminal de Contenedores del Pacífico.(PCT), ubicada en el muelle J.

b. Reunión seguida de almuerzo de trabajo en el Puerto de Long Beach. Exposición del Director de Desarrollo de Negocios, Roger Wu, “Construyendo el Puerto del Futuro”.

   El puerto de Long Beach mueve anualmente 200 mil millones de dólares en comercio y genera 575 mil puestos de trabajo en el sur de California, Los 10 principales socios importadores clasificados por TEUs son, en este orden: China, Vietnam, Corea del Sur, Japón, Hong Kong, Taiwan, Italia, Tailandia, Australia y Malasia. En materia de exportaciones, son: China, Corea del Sur, Taiwan, Japón, Vietnam, Australia, Hong Kong, Indonesia, Tailandia y Malasia. Se importa muebles, ropa, maquinaria electrónica y eléctrica, partes de motor para vehículos, juguetes y equipos para deportes. El 2011 el volúmen de contenedores fue de 6.1 y el 2023 ha sido 8.0 mil millones de TEUS. La construcción del Puerto del Futuro significa incrementar la capacidad del Terminal, incrementar la capacidad del transporte ferroviario, mejorar la eficiencia operacional y lograr operaciones cero emisiones, optimizar la cadena de suministros, con tecnología de avanzada, entre otros. El 2005 el Directorio de Comisionados del Puerto adoptaron las siguientes políticas: protección de la comunidad, distinguir al puerto como un líder global, promover la sostenibilidad, emplear la mejor tecnología e involucrar y educar a la comunidad. El 2017 el Directorio acordó actualizar el Plan de Aire Limpio, es decir, cero emisiones para la flota de camiones, adoptar sistemas eficientes e inteligentes, implementar equipos con cero emisiones en el muelle, expandir el terminal de trenes al 50% y reducir al 40% los gases de efecto invernadero para el 2030 y 80% al 2050. En limpieza de los buques, están implementando el programa de incentivos para buques verdes, así como para reducir la velocidad en buques de bandera verde y el uso de la energía en el puerto.

c. El Puerto de Los Ángeles, adyacente al Puerto de Long Beach, es el segundo puerto más activo de los Estados Unidos, ocupando 7,500 acres de tierra y agua a lo largo de 43 millas de costa. Es también uno de los 10 puertos más activos del mundo.

d. Descripción general del Puerto de Los Angeles y discusión a cargo de la Ms. Marisela Caraballo DiRuggiero, Directora de Desarrollo de Comercio del Puerto de Los Ángeles.

El Directorio de Comisionados del Puerto de Los Angeles está integrado por 5 miembros. El puerto tiene 24 terminales (22 para contenedores y 2 para cruceros) y 86 grúas pórtico de barco a tierra, 116 millas de vías para trenes, 5 patios ferroviarios en los muelles y 1 en el patio de clasificación. En el 2018 fueron 9.5 mil millones de TEUs y en el 2022 9.9 mil millones de TEUs. Los 5 principales socios comerciales son, en este orden: China-Hong Kong, Japón, Vietnam, Corea del Sur y Taiwan; y, en commodities, importa 282.5 mil millones de dólares en: muebles, autopartes, ropa, plásticos y electrónicos, y exporta 28.5 mil millones de dólares en: papel, alimento para animales, soya, chatarra y telas. Tiene 446 mil puestos de trabajo en los cinco condados de la región sur de California y, 838 puestos de trabajo en el Departamento del Puerto de la Ciudad de Los Ángeles, El puerto tiene 7 terminales mayores para contenedores que recibieron el 2023 aproximadamente 20 buques a la semana, con un total de 8.64 mil millones de TEUs. Tiene 100 trenes diariamente desde y hacia la Cuenca de Los Ángeles. Para mejorar la fluidez de la carga, ha incrementado la eficiencia del transporte y la capacidad del patio y expandido el empleo de data digital. El 2017 actualizaron el Plan de Acción para el Aire Limpio, en buques oceánicos y camiones de carga, el desarrollo de tecnología para el equipamiento del terminal y corredores de envío verdes con cero emisiones de carbón. Cuentan con un programa de reducción de velocidad en barcos que provee incentivos financieros (tarifas en el puerto), para los navíos que utilicen una velocidad menor a 12 nudos, cuando se aproximan. Cuenta con un programa de uso de electricidad en el puerto, mejora en la seguridad del puerto y de la comunidad y, en lo que atañe a la seguridad nacional, la mejora en la capacidad del puerto para prevenir o detectar un evento o acción que amenace tanto la seguridad del puerto como el flujo de carga. Sobre la preparación ante emergencias, han mejorado la capacidad del puerto para responder a incidentes, mitigando sus efectos frente a operaciones críticas. El Centro de Ciberresiliencia reduce los riesgos cibernéticos para el ecosistema de la cadena de suministro. El Sistema de Alerta Temprana para los actores del ecosistema del puerto de Los Ángeles, permite la colaboración de los equipos cibernéticos con una mejor calidad, cantidad y velocidad del intercambio de información cibernética y reduce el riesgo de una interrupción de la cadena de suministro.

e. Visita guiada desde el Mar al Puerto de Los Ángeles. Harbor Breeze Cruises.

MARTES 14: VISITA Y REUNIONES CON EL CUERPO DE GUARDACOSTAS DE LOS ESTADOS UNIDOS, SECTOR LOS ÁNGELES – LONG BEACH, CALIFORNIA.

a. Visita a la Guardia Costera de los Estados Unidos Sector 101 Los Ángeles – Long Beach, que incluyó las siguientes exposiciones:

1. El Sector 101, Panorama (brief) a cargo del LCDR Braden L. Rostad

La Guardia Costera tiene como Área de responsabilidad el sector 101 Los Ángeles – Long Beach y las máximas autoridades en esa jurisdicción son: el Capitán del Puerto, el Coordinador de Seguridad Marítima Federal, el Coordinador Federal local, el Oficial Encargado de Inspecciones Marinas, el Coordinador de la Misión de Búsqueda y Rescate, y su enfoque es amplio para operar, regular y coordinar en materia de búsqueda y rescate, interdicción de migrantes, interdicción de drogas, seguridad marítima y preparación para la defensa. El Puerto Los Ángeles es el número 1 en contenedores en América del Norte y el 17 más ocupado en el mundo. Movió 8.6 mil millones de TEUs en el 2023, una carga valorada en 400 mil millones de dólares y representa el 16% de la cuota del mercado de la nación. En contenedores tiene el puesto 9 del más ocupado del mundo y el 31% de todo el comercio internacional en contenedores para los EE.UU. El Departamento de Respuestas, gestiona puertos, vías acuáticas y seguridad costera, operaciones antidrogas e interdicción migratoria ilegal, recursos vivos marinos, seguridad en botes recreacionales y otras misiones determinadas por la ley marítima. El Departamento de Prevención se ocupa de la seguridad en las vías acuáticas (eventos marinos, acuicultura, ayuda a la navegación, tráfico de buques) y su División de Investigación tiene autoridad para investigar los accidentes marinos, la acreditación de la marina mercante, suspensión y revocación, así como investiga las presuntas violaciones a las leyes y regulaciones sobre seguridad marina.

2. Gestión de Riesgos Cibernéticos, a cargo del LCDR Daugherty

La gestión de riesgos cibernéticos de la Guardia Costera se implementa para proteger la vida, el medio ambiente y facilitar el comercio, abarca la inspección de instalaciones costeras, la protección contra sustancias nocivas, petróleo, gas licuefactado (GNL) y desperdicios, así como la seguridad contra interrupciones en el sistema de transporte marítimo. Previenen el abordaje de embarcaciones. Establecen zonas de seguridad. Inspeccionan y registran instalaciones y embarcaciones. Embargan y controlan buques y asisten a otras agencias federales. Han desarrollado estrategias cibernéticas desde el 2003, registrando importantes avances desde el 2013 en adelante, ha establecido, por ejemplo, requisitos mínimos de ciberseguridad para embarcaciones con bandera de EE UU, establecido zonas de seguridad para responder a la actividad cibernética, controlando embarcaciones que presentan amenazas de este tipo, requiriendo informes de sabotaje, actividad subversiva y amenazas a las instalaciones. Realiza la evaluación cibernética marítima, conocida formalmente como Modelo de Evaluación de Riesgo Cibernético Marino, proporcionando las pautas para un proceso recomendado, aunque voluntario, para identificar y describir vulnerabilidades de ciberseguridad. Desarrolla asimismo mejoras en el proceso en colaboración con expertos y partes interesadas de la industria marítima. Define los planes de seguridad de las instalaciones costeras en el denominado Anexo de Ciberseguridad que es aprobado por el Capitán de Puerto. Efectúan ejercicios regulares de ciberseguridad, así como auditorías anuales y comprobaciones de ciberseguridad.

3. Mesa redonda con el Marine Exchange (Intercambio Marítimo), Aduanas, Patrulla Fronteriza, dirigida por el Capitán Patrick Baranic, Gerente General de Marine Exchange.

El Capitán Patrick Baranic, Gerente General de Marine Exchange del Sur de California, que comprende el Servicio de Tráfico de Buques en Los Ángeles y Long Beach y el Servicio de Información Marítima, dijo que Marine Exchange es la única asociación pública-privada de los Estados Unidos, y organización sin fines de lucro, que inició operaciones en 1923, es decir cuenta con más de cien años de antigüedad, y está dedicada al desarrollo y flujo eficiente del comercio marítimo en toda la región. Los registros de llegadas y salidas de barcos se remontan a ese año 1923. Desde entonces, han evolucionado hasta convertirse en el Centro de Información Marítima del Complejo Portuario de Los Ángeles - Long Beach.

Marine Exchange mantiene un servicio continuo las 24 horas y utiliza un sistema de base de datos computarizado, integral y de última generación que proporciona estadísticas vitales e información sobre los barcos que escalan en los cuatro puertos principales del sur de California: Port Hueneme, Los Ángeles, Long Beach y San Diego; y la terminal marítima petrolera El Segundo.

Marine Exchange elabora informes extensos sobre las actividades de los buques en dichos puertos, proporciona reglas operativas, avisos importantes, tarifas de usuario y una imagen en tiempo real de la situación del tráfico de embarcaciones. Cuenta con un novedoso Plan de seguridad portuaria para el complejo portuario así como información sobre la extracción de bolardos y avisos de seguridad recientes.

El Servicio de Tráfico de Buques de Intercambio Marítimo (VTS) Los Ángeles-Long Beach (LA/LB), es operado conjuntamente con la Guardia Costera. Se considera un ejemplo clásico de los beneficios de la colaboración público-privada. La combinación del Capitán de la Guardia Costera, la Autoridad Portuaria y la industria marítima proporciona una sinergia que garantiza una operación de clase mundial.

Marine Exchange también proporciona datos a los puertos de Los Ángeles y Long Beach sobre el cumplimiento de la calidad del aire a través del Programa de reducción voluntaria de velocidad en los puertos.

El Servicio de Mapeo por Objetivo, proporciona ubicaciones de barcos en tiempo real en el área de responsabilidad que tiene un radio de 25 millas hasta el atraque.

El Servicio de Información Marítima da itinerarios a 4550 buques por año arribando o partiendo que se mueven desde los puertos de Los Ángeles y Long Beach. En tanto que el Servicio de Tráfico de Buques para Los Ángeles – Long Beach que es un partenariado público privado entre Marine Exchange, Guarda Coistas Estados Unidos y el Estado de California, mueve por año 28000 buques. Este servicio tiene el propósito de proveer monitoreo activo y orientación navigacional para buques particularmente en vías acuáticas confinadas y muy ocupadas. Cuenta con un sistema de control de largo alcance, equipos para conocer el estado del área de responsabilidad, 8 radares de sitio integrados, 4 radios VHF-FM, cámara óptica, binoculares “Big-eyes” y equipos de grabación.

b. Visita guiada al Puerto de Long Beach (Van Tour)

MIERCOLES 15: DE 10.30 AM A 4.00 PM VISITA Y REUNIONES EN EL CONGRESO DE LOS ESTADOS UNIDOS, DEPARTAMENTO DE TRANSPORTE MARÍTIMO, COMISIÓN FEDERAL MARÍTIMA Y EMBAJADA DEL PERÚ.

a. Reunión con el Congresista (Republicano) Carlos Giménez, Presidente del Sub Comité de Transporte y Seguridad Marítima, Miembro de los Comités de Servicios Armados, Seguridad Nacional y del Comité Especial sobre la Competencia Estratégica entre los Estados Unidos y China, Miembro del Caucus Perú y House Democracy Partnership, Congreso de los Estados Unidos, Cámara de Representantes (House of Representatives).

   Participan (6): Sánchez, Salhuana, Álvarez, Gunzburger, Castro, Castillo

   El Congresista Giménez visitó nuestro país en febrero de 2024. Informó a la delegación parlamentaria peruana que el Sub Comité de Seguridad Marítima (MSC) se ocupa de todas las cuestiones relacionadas con la seguridad y la protección marítimas que entran en el ámbito de la Organización Marítima Internacional (OMI), abarcando tanto los buques de pasajeros como los buques de carga de todos los tipos. Esto incluye las actualizaciones del Convenio Internacional para la Seguridad de la Vida Humana en el Mar - SOLAS y los códigos conexos, tales como las relativas a las mercancías peligrosas, los dispositivos de salvamento y los sistemas de seguridad contra incendios. El Sub Comité también trata los asuntos relacionados con el factor humano, incluidas las enmiendas al Convenio de Formación y

Titulación de la Gente del Mar. El MSC tiene actualmente una amplia variedad de cuestiones en su orden del día, como son las normas basadas en objetivos, los buques autónomos, la piratería y los robos a mano armada perpetrados contra los buques, la ciberseguridad, y la navegación-e.

El Congresista Giménez expresó lo que él denomina “preocupaciones” (concerns) sobre las inversiones chinas en el Perú y en el Puerto de Chancay. La delegación parlamentaria describió el Puerto privado de uso público de Chancay, la administración que tendrá el citado Mega puerto, la actuación de las autoridades peruanas en el mismo, entre otras, DICAPI, Aduanas, SENASA, Migraciones, reafirmando la soberanía del Perú.

b. Reunión conjunta con el Departamento de Transporte Marítimo de los Estados Unidos (MARAD) y la Comisión Federal Marítima (FMC), con los funcionarios Natasha Pavlovich, Wade Morefield y Vartika Varsney del MARAD, Lucille L. Marvin y Chris Hughey de la FMC, sobre Seguridad en la Administración de Puertos y Operaciones.

Participan (5): Sánchez, Salhuana, Álvarez, Gunzburger, Monique, Vega-Centeno.

1. Los representantes del MARAD informaron sobre el Programa de Desarrollo de Infraestructura Portuaria (PIDP) creado en 2019, que viene a ser un programa de subvenciones competitivo cuyas adjudicaciones se basarán en el mérito, de acuerdo con los criterios establecidos por el mismo. El presupuesto del PIDP se asignó en virtud de la Ley Bipartidista de Infraestructura (BIL) por $450 millones con $50 millones adicionales en asignación anual para un total de $500 millones para el año fiscal 2024. Estos fondos estarán disponibles hasta el 2026, año en el que retornan a sus asignaciones regulares que bordean los $230 millones. Los fondos se utilizarán para subvenciones discrecionales para "mejorar la seguridad, eficiencia o confiabilidad del movimiento de mercancías hacia, fuera, alrededor o a través de puertos y conexiones intermodales con puertos". Las subvenciones generalmente están disponibles para proyectos de infraestructura intermodal portuaria y relacionada. Indicaron que los solicitantes elegibles son las autoridades portuarias, o sus comisiones o agentes; Estados o subdivisiones políticas de un gobierno estatal o local; Agencias públicas o autoridades constituidas públicamente establecidas por uno o más Estados; una entidad pública conjuntamente con una entidad privada o un grupo de entidades privadas (las solicitudes conjuntas deben incluir un memorando de entendimiento firmado por todas las entidades que incluya una descripción de las funciones y responsabilidades de cada entidad).

Para el año fiscal 2024, la financiación se divide en las siguientes categorías:
1. Un programa general de subvenciones portuarias que consiste en al

menos 500 millones de dólares para subvenciones para proyectos elegibles. De esta cantidad, no más del 25% de los fondos disponibles. (125 millones de dólares) pueden concederse para otros proyectos.

2. El 25% de los fondos disponibles ($125 millones) se destinará a proyectos descritos como “Pequeños proyectos en pequeños puertos”. Un puerto pequeño se define como aquel que tiene una actividad anual promedio de menos de 8 millones de toneladas cortas de carga en los últimos tres años. Para proyectos en puertos pequeños, ninguna subvención puede superar los 11,25 millones de dólares. Del mismo modo, no más del 10% ($12,5 millones) de esa cantidad se puede utilizar para otorgar subvenciones para la fase de desarrollo.
Este es el 6to año consecutivo en que el Congreso ha asignado fondos para este programa de subvenciones. Los niveles de financiación típicos para el programa, antes de la Ley, fueron de aproximadamente $230 millones por año.
El programa de subvenciones para el desarrollo de infraestructura portuaria es un programa de subvenciones y premios competitivos y se basa en el mérito y de acuerdo con los criterios publicados en el Aviso de Financiación correspondiente.
Los costos del proyecto tienen las siguientes características:
• La parte federal de la subvención puede ser de hasta el 80 % de los costos del proyecto elegibles;
• El Secretario puede aumentar la participación federal por encima del 80 % para: (1) una subvención para un proyecto que esté ubicado en una zona rural; o (2) una subvención otorgada a un pequeño proyecto en un puerto pequeño.
Son solicitantes elegibles:
• Autoridades portuarias, o sus comisiones o agentes bajo autoridad existente;
• Estados o subdivisiones políticas de un gobierno estatal o local;
• Tribus indias;
• Agencias públicas o autoridades constituidas públicamente establecidas por uno o más Estados;
• Jurisdicciones de propósito especial con función de transporte;
• Entidades multi estatales o multi jurisdiccionales; o
• Una entidad líder descrita anteriormente conjuntamente con una entidad privada o un grupo de entidades privadas. Las solicitudes conjuntas deben incluir un memorando de entendimiento firmado por todas las entidades que incluya una descripción de las funciones y responsabilidades de cada entidad.
Hay restricciones de financiación y actividades elegibles:
• No se pueden otorgar más $125 millones del monto total asignado dentro de ningún estado;
• Los fondos otorgados bajo la disposición de Pequeños Proyectos en Pequeños Puertos no se pueden utilizar para ninguna subvención única de más de $11,25 millones o actividades que involucren el canal federal a ser realizadas por el Cuerpo de Ingenieros del Ejército de los EE. UU.
• No se podrá utilizar más del 10% ($12,5 millones) del monto

reservado para pequeños proyectos en puertos pequeños para actividades de la fase de desarrollo (planificación, análisis de viabilidad, previsión de ingresos, revisión ambiental, permisos y trabajos preliminares de ingeniería y diseño);
• No se podrá utilizar más del 10% ($37,5 millones) del financiamiento asignado (después de deducir la reserva para Proyectos Pequeños en Puertos Pequeños) para actividades de la fase de desarrollo de proyectos grandes que no resulten en construcción.
• Ninguna construcción, reconstrucción, reacondicionamiento o compra de una embarcación a menos que sean reemplazos o modernizaciones de embarcaciones o equipos portuarios bajo medidas de mitigación ambiental.
• No se permiten proyectos de astilleros pequeños. No hay mejoras a las instalaciones de propiedad federal;
• Los fondos bajo la disposición de Pequeños Proyectos en Pequeños Puertos no pueden usarse para actividades autorizadas para ser realizadas por el Cuerpo de Ingenieros del Ejército de los EE. UU. en el canal Federal.
• Este programa no financiará la compra o instalación de equipos de manipulación de carga totalmente automatizados, ni la instalación de infraestructura de terminal diseñada para equipos de manipulación de carga totalmente automatizados, si dicho equipo resultaría en una pérdida neta de buenos empleos o una reducción en la calidad. de puestos de trabajo dentro de un puerto o terminal portuaria.

Los proyectos elegibles deberán estar ubicados dentro de los límites del puerto, o fuera de los límites del puerto y directamente relacionados con las operaciones portuarias o con una conexión intermodal con un puerto.
Los proyectos elegibles son aquellos que mejoran la seguridad, eficiencia o confiabilidad de:
I. La carga y descarga de mercancías en el puerto, tales como equipos terminales marítimos.
II. El movimiento de mercancías hacia, desde, alrededor o dentro de un puerto, como por carretera o ferrocarril. infraestructura, instalaciones intermodales, sistemas inteligentes de transporte de carga y sistemas de infraestructura digital;
III. Mejoras operativas, incluidos proyectos para mejorar la resiliencia portuaria; o
IV. Medidas ambientales y de mitigación de emisiones, incluidos proyectos para:
a) electrificación portuaria o planificación maestra de electrificación;
b) reemplazos o modernizaciones de embarcaciones o equipos portuarios;
c) desarrollo de microrredes portuarias o terminales;
d) provisión de infraestructura de reducción del ralentí;
e) compra de equipos de manipulación de carga e infraestructura relacionada;
f) capacitación de trabajadores para apoyar la tecnología de electrificación;

g) instalación de instalaciones portuarias para el abastecimiento de combustible desde buques transoceánicos;
h) infraestructuras de carga de vehículos eléctricos o de repostaje de hidrógeno para acarreo y camiones y locomotoras de carga media o pesada que prestan servicio al puerto y afines. actualizaciones de la red; o
i) otras actividades portuarias relacionadas, incluida la infraestructura de carga, grúas pórtico eléctricas con neumáticos y tecnologías anti-ralentí.
V. Infraestructura portuaria y relacionada con los puertos que respalde los productos del mar y sus productos relacionados. negocios, incluida la carga y descarga de pescado y pescado capturado comercialmente productos, procesamiento de mariscos, almacenamiento en frío y otra infraestructura relacionada
Para el año fiscal 24, se puede otorgar subvenciones para medidas de mitigación de emisiones que prevean el uso de energía en tierra para los buques.
El programa también permite subvenciones para actividades de la fase de planificación y desarrollo (máster en planificación, estudios de ingeniería, estudios ambientales y permisos ambientales).
Las determinaciones de adjudicación de proyectos se basarán en los siguientes requisitos legales. Todo Estos requisitos deben cumplirse para la adjudicación de un proyecto:
• El proyecto mejora la seguridad, eficiencia o confiabilidad del movimiento de mercancías. a través de un puerto o conexión intermodal a un puerto;
• El proyecto se considera rentable;
• El solicitante tiene la autoridad para llevar a cabo el proyecto;
• El solicitante tiene fondos suficientes disponibles para cumplir con los requisitos de contrapartida;
• El proyecto se completará sin demoras injustificadas; y
• El proyecto no se puede completar fácil y eficientemente sin fondos federales o Asistencia financiera disponible para el patrocinador del proyecto.
Los criterios de evaluación estatutarios son:
• Mejoras en seguridad, eficiencia o confiabilidad
• Resiliencia portuaria
• Apoyar la vitalidad económica a nivel regional y nacional.
• Aprovechar la financiación federal
Los criterios de evaluación no estatutarios son:
• Cambio Climático y Sostenibilidad
• Equidad y Justicia
• Desarrollo de la fuerza laboral, calidad del empleo y creación de riqueza
La evaluación del administrativa del parte de la Administración Maritima del Departamento de Transportes (MARAD-Maritime Administration)
• Evaluar la capacidad técnica del solicitante para gestionar la adjudicación y ejecutar el proyecto.
• Evaluar el riesgo ambiental y la probabilidad de obtener las

aprobaciones ambientales necesarias que puedan afectar la obligación de fondos federales hacia el proyecto.
• Evaluar las aprobaciones estatales y locales requeridas.

A solicitud de la delegación parlamentaria peruana el MARAD informó que este programa solo se implementa en los EE.UU. MARAD informó también que en EE.UU existen más de 350 puertos y una cantidad similar de autoridades portuarias que son los que más presentan proyectos para ser subvencionados por el PIDP. Así mismo el MARAD puntualizó que los proyectos elegibles deberán estar relacionados con las operaciones portuarias o con una conexión intermodal a un puerto y además son aquellos que mejoran la seguridad, eficiencia o confiabilidad de la carga y descarga de mercancías en el puerto, tales como equipos terminales marítimos; el movimiento de mercancías (infraestructura vial o ferroviaria, etc); mejoras operativas, incluidos proyectos para incrementar la resiliencia portuaria; medidas ambientales y de mitigación de emisiones. Finalmente, confirmaron también que financiaron proyectos sobre ciberseguridad.

2. Por su parte, los representantes del FMC informaron que la FMC es una agencia federal independiente, del gobierno de los Estados Unidos, cuyo objeto es la regulación del sistema de transporte oceánico en dicho país, en beneficio de los exportadores, importadores y consumidores de los EE. UU. La principal misión de la FMC es garantizar un sistema de suministro de transporte marítimo internacional competitivo y confiable que respalde la economía de los EE. UU. y proteja al público de prácticas injustas y engañosas. En ese contexto, la FMC revisa y monitorea los acuerdos entre transportistas marítimos comunes y operadores de terminales marítimas (MTO) que atienden el comercio marítimo exterior de los EE. UU. para garantizar que no causen aumentos sustanciales en los costos de transporte o disminuciones en los servicios de transporte; proporciona un foro para que los exportadores, importadores y otros miembros de la comunidad naviera obtengan alivio de las prácticas o disputas del transporte marítimo que impiden el flujo del comercio; garantiza que las tarifas y cargos de los transportistas comunes se publiquen en sistemas de tarifas automatizados y estén disponibles electrónicamente para el público; monitorea las tarifas, cargos y reglas de los operadores controlados o propiedad del gobierno para garantizar que sean justos y razonables, entre otros. A fin de cumplir con dichas funciones, el FMC indicó que puede tomar medidas para abordar las condiciones desfavorables causadas por gobiernos extranjeros o prácticas comerciales en el comercio marítimo entre Estados Unidos y el extranjero. El FMC hizo entrega de algunas evaluaciones realizadas a distintos países destacando entre ellos la República Popular China.

El FMC es una entidad única en el mundo independiente de los poderes ejecutivos y legislativos. Indicó que su Junta Directiva, conformada por cinco personas, son elegidas en el Senado pero el Presidente de los EE.UU es quien designa al presidente de la Junta, dentro de ese grupo de cinco personas. Señalaron que de manera anual envían un informe al Congreso sobre sus acciones. Al preguntarle la delegación parlamentaria peruana sobre el alcance de sus decisiones y el poder que tiene para ejecutarlas, el FMC, señaló que sus decisiones son vinculantes y el único que puede revertirlas es el Presidente de los EE.UU. Señaló que tiene la potestad de retirar licencias a embarcaciones por lo que quedan prohibidos de comerciar con los EE.UU., lo que motiva a que cumplan con sus disposiciones. Sobre la inquietud relacionada a su poder de intervención en el exterior, el FMC señaló que pueden evaluar la situación en el exterior siempre y cuando se encuentren involucradas embarcaciones de propiedad de los EE.UU.

En el Reporte Anual Nro. 62 que corresponde al año fiscal 2023, que fue entregado a la delegación parlamentaria peruana, en la parte relativa a Transportistas Controlados y Comisión de Identificación de Prácticas que de Otro Modo Serían Preocupantes, consta lo siguiente: transportista controlado es un transportista marítimo común que es, o cuyos activos operativos son, propiedad o está controlado directa o indirectamente por un gobierno extranjero. El Capítulo 407 del Título 46 del Código de Comercio de los EE UU establece que ningún transportista controlado puede mantener tarifas o cargos en sus tarifas o contratos de servicios que estén por debajo de un nivel que sea justo y razonable, ni ningún transportista puede establecer, mantener o hacer cumplir clasificaciones injustas o irrazonables, reglas o regulaciones en dichas tarifas o contratos de servicios. Además, las tarifas, cargos, clasificaciones, reglas o regulaciones de un transportista controlado no podrán, sin un permiso especial de la Comisión, entrar en vigor antes del trigésimo día después de la fecha de publicación. El personal de la Comisión monitorea la prensa estadounidense y de comercio exterior y otras fuentes de información para identificar a los transportistas controlados y cualquier actividad injusta o irrazonable de los transportistas controlados que pueda requerir la acción de la Comisión.

A finales del año fiscal 2023, cuatro transportistas controlados operaban en las rutas comerciales de Estados Unidos. Los cuatro transportistas controlados son subsidiarias de COSCO SHIPPING Holdings Co., Ltd.:

1. COSCO SHIPPING Lines Co., Ltd. – República Popular de China
2. Orient Overseas Container Line Limited – República Popular de China
3. OOCL (Europe) Limited – República Popular de China
4. COSCO Shipping Lines (Europe) GmbH – República Popular de China.

La Ley de Reforma del Transporte Marítimo 2022 (OSRA 2022 Ocean Shipping Reform Act), obliga a la Comisión a presentar informes anuales de la Comisión, de manera que identifique cualquier “práctica que de otro modo pueda afectar" a los transportistas marítimos comunes que sean transportistas controlados o "de propiedad". o controlada por, una subsidiaria de, o de otro modo relacionada legal o financieramente con, una corporación con sede en un país" que sea:

(1) un país sin economía de mercado, según lo determine el Departamento de Comercio de los EE. UU.;

(2) un país extranjero prioritario, según lo determine el Representante Comercial de los EE. UU.; o

(3) sujeto a supervisión por parte del Representante Comercial de EE. UU. conforme a la sección 306 de la Ley de Comercio de 1974.

La Comisión identificó y continúa investigando dos prácticas preocupantes por parte de transportistas controlados en el último año fiscal. Uno es la fabricación de contenedores y chasis de transporte por parte de la República Popular China (RPC), que el Comisionado Bentzel analiza en su informe, "Evaluación de la República Popular China, Control de Fabricación de Contenedores y Chasis Intermodales". El Comisionado Bentzel evaluó la creciente falta de disponibilidad de contenedores de envío durante la congestión portuaria y la crisis de la cadena de suministro de la pandemia de COVID-19 y elaboró su Informe luego de esa investigación. El informe señala que COSCO Shipping Lines Co. Ltd., que está en la lista de transportistas controlados de la Comisión, es accionista del principal productor chino de contenedores de transporte, CIMC, y que los fabricantes chinos de chasis son igualmente de propiedad estatal. Además, los tres mayores fabricantes chinos controlan más del 86 por ciento del suministro mundial de chasis intermodales, y esas mismas empresas fabrican más del 95 por ciento de los contenedores en el mercado marítimo mundial, incluidos los contenedores intermodales de trenes y camiones nacionales de Estados Unidos. En el punto álgido de la pandemia de COVID-19 y la crisis de la cadena de suministro, China tomó medidas para consolidar la producción de contenedores y chasis de transporte. A medida que aumentó la demanda de contenedores marítimos durante este período, los fabricantes chinos de equipos intermodales tardaron en aumentar la producción.

En segundo lugar, un procedimiento adjudicativo titulado Bed, Bath and Beyond contra Orient Overseas Container Line Limited y OOCL (Europe) Limited (Expediente No. 23-02), que se encuentra actualmente ante uno de los jueces de derecho administrativo de la Comisión. Tanto Orient Overseas Container Line Limited como OOCL (Europe) Limited son transportistas controlados, y COSCO Shipping Lines también figura como demandada. La demanda alega que estos transportistas explotaron la inflación de precios en el transporte de contenedores durante la pandemia, lo que resultó en un gran aumento en la rentabilidad de los demandados a expensas de los transportistas y del público estadounidense. La demanda también alega que los transportistas controlados nombrados adoptaron específicamente las siguientes estrategias:

(1) participaron en una práctica de incumplimiento sistemático de sus compromisos de servicio y asignaron el espacio negociado por Bed, Bath and Beyond a otros transportistas a un precio más alto. ;

(2) muchas de las demoras y los cargos de detención que los transportistas controlados fueron por períodos de tiempo en los que la capacidad de Bed, Bath and Beyond para recoger o devolver contenedores se vio limitada debido a la congestión en los puertos o las políticas implementadas por los transportistas controlados; y

(3) los transportistas controlados trataron de imponer precios superiores induciendo a Bed, Bath and Beyond a celebrar contratos de tarifas superiores como condición previa para asumir una fracción del compromiso de cantidad al que Bed, Bath and Beyond ya se había comprometido. La denuncia alega que las prácticas de los demandados fueron conscientes y deliberadas. Esta adjudicación está en curso y se espera una decisión en 2024.

La Comisión Federal Marítima también entregó también a la delegacion parlamentaria peruana el Informe del comisionado Carl W. Bentzel titulado "Control de evaluación de la fabricación de contenedores y chasis intermodales". El propósito de este informe es alertar al público sobre los desequilibrios actuales del mercado en la fabricación mundial de contenedores y generar un debate político sobre las implicaciones a largo plazo para los Estados Unidos y otros socios comerciales asiáticos de nuestra total dependencia de la fabricación de contenedores de China. El 7 de diciembre de 2020, durante el punto álgido de la preocupación por los niveles reducidos de fabricación de contenedores en China, el Ministerio de Comercio (MOC) de la República Popular China (RPC) aparentemente tomó medidas para asegurar el control gubernamental sobre los niveles de producción y los precios. Como afirmó un funcionario del gobierno Chino, "En cuanto a la logística del comercio exterior, debido al impacto del COVID-19, muchos países del mundo enfrentan ahora problemas similares. El desajuste entre la oferta y la demanda de la capacidad de transporte es la causa directa del aumento de las tarifas de flete, y factores como la mala rotación de contenedores aumentan indirectamente los costos de envío y reducen la eficiencia logística. Sobre la base del trabajo preliminar, trabajaremos con los departamentos pertinentes para continuar aumentando la capacidad de transporte, apoyar la aceleración del retorno de contenedores, mejorar la eficiencia operativa, apoyar a los fabricantes de contenedores para ampliar la capacidad de producción, fortalecer la supervisión del mercado, esforzarnos por mantener estables los precios del mercado. y proporcionar un fuerte apoyo logístico para el desarrollo constante del comercio exterior".

Esta declaración, procedente de un portavoz del Ministerio de Comercio, ilustra claramente el nivel de control comercial que la República Popular China ejerce sobre la fabricación de contenedores. El hecho de que la República Popular China controle una industria que tiene un monopolio mundial casi de facto en la producción de contenedores marítimos debería ser profundamente preocupante.
Después de un año de entrevistas, investigaciones y observación del mercado, el Comisionado Bentzel ha llegado a la siguiente conclusión:

• Los tres mayores fabricantes chinos controlan más del 86% del suministro mundial de chasis intermodales, y esas mismas empresas fabrican más del 95% de los contenedores en el mercado mundial. Incluidos los contenedores intermodales de trenes y camiones nacionales de EE.UU.

• Cuando aumentó la demanda de contenedores marítimos, los fabricantes de equipos intermodales con sede en China tardaron notablemente en aumentar la producción, lo que plantea la cuestión de si esto era parte de una estrategia deliberada para manipular los precios.

• El Departamento de Comercio ha determinado que los fabricantes chinos de contenedores y chasis son de propiedad y control estatales y reciben grandes subsidios gubernamentales.

• El nivel de control manifestado por el gobierno de la República Popular China y los fabricantes de contenedores chinos se ve mitigado por el interés de la República Popular China en apoyar el alcance de sus exportadores a mercados extranjeros, especialmente Estados Unidos. Sin embargo, el interés mitigante en el transporte de exportaciones chinas no se extiende a otros mercados comerciales de Asia ni a otros mercados extranjeros que compitan con las exportaciones chinas, ni disminuye en última instancia el nivel potencial de manipulación del mercado.

La opinión del autor es que la cadena de suministro global es demasiado interdependiente como para no tener un amplio acceso y capacidades de fabricación para equipos operativos intermodales. Estados Unidos debería evaluar si, dado el dominio del mercado, se contemplan nuevas acciones comerciales y si se debe invertir más agresivamente en tecnología de fabricación de contenedores de próxima generación.

En los EE UU, Global Secure Shipping, Inc. está comercializando un nuevo contenedor inteligente fabricado con materiales de envío compuestos, utilizando tecnología desarrollada a través de investigaciones de la Universidad de Maine y el Instituto de Tecnología de Georgia, y se están construyendo contenedores en Old Town, Maine. Se están realizando esfuerzos similares en Europa, pero los esfuerzos para adoptar contenedores de alta tecnología construidos con lo último en rastreo, seguridad y materiales más duraderos aún están en sus inicios. Otros fabricantes estadounidenses también están mirando el mercado en busca de oportunidades potenciales para impulsar la tecnología de contenedores y los procesos de fabricación. Sin embargo, el desafío de competir con los productores dominantes que reciben subsidios gubernamentales es enorme. La tecnología de contenedores marítimos ha cambiado poco desde sus inicios, y el camino para desarrollar este mercado se basará en la tecnología de próxima generación. Inevitablemente, se espera que esta crisis y la interrupción de la cadena de suministro generen un impacto positivo en esta área y proporcionen impulso para esfuerzos futuros para apoyar el desarrollo de tecnología de próxima generación e impulsar un mercado estadounidense en la producción de contenedores.

En conclusión, para el autor está claro que la cuestión del control estatal chino de la fabricación de contenedores y chasis necesita un examen mucho más detenido. La actual interrupción de la cadena de suministro arroja luz sobre cuestiones más amplias relacionadas con el control monopolístico de elementos críticos necesarios para facilitar el comercio internacional de contenedores. Como nación, debemos ser más conscientes del valor y la importancia de este comercio para todos los sectores de la economía y para el bienestar del pueblo estadounidense. Además, se debe considerar si se deben considerar nuevas acciones para combatir la dominación del mercado o proporcionar estímulo económico para incentivar la producción de chasis y contenedores intermodales estadounidenses.

b. Reunión con el Congresista (Republicano) Adrian Smith, Presidente del Sub Comité de Comercio del Comité de Medios y Arbitrios y Miembro del House Democracy Partnership.

Participan (6): Sánchez, Salhuana, Álvarez, Gunzburger, Miranda, Castillo.

Dialogamos, en seguimiento a la visita que recientemente realizó al Perú, sobre las características del comercio exterior en esta época y la importancia de estrechar lazos de cooperación, como economías y democracias, entre Estados Unidos y Latinoamérica fortaleciendo el intercambio de experiencias positivas y de desarrollo mutuo.

c. Reunión con el Congresista (Republicano) Neal Dunn, Miembro del Comité de Energía y Comercio y del Comité Especial sobre la Competencia Estratégica entre Los Estados Unidos y China, Miembro del Caucus Perú y Miembro del House Democracy Partnership.

Participan (6): Sánchez, Salhuana, Álvarez, Gunzburger, Miranda, Castillo.

Compartimos algunas inquietudes expresadas durante su última visita al País, en febrero de 2024, sobre regulaciones del comercio desde el ínterés de Estado, como modelo de economías abiertas reincidiendo en la necesidad de una mayor presencia de inversiones portuarias por la relevancia del comercio marítimo mundial.

En general durante los encuentros con los congresistas Giménez, Smith y Dunn, se abordaron diversos aspectos relacionados con el Puerto de Chancay, el comercio, la logística y los eventuales riesgos en términos de seguridad, tema planteado por los congresistas estadounidenses.

Ellos coincidieron en que las inversiones Chinas en el Puerto de Chancay generan preocupación por la creciente presencia de la República Popular China en el hemisferio Occidental, que afecta a los intereses estadounidenses en la región, lo que podría tener implicancias en la seguridad y soberanía del Perú.

Los parlamentarios peruanos destacaron el trabajo de la Comisión Especial Multipartidaria de Impulso y Seguimiento del Proyecto Terminal Multipropósito de Chancay, en lo que se refiere a la infraestructura, la conectividad y el desarrollo del polo industrial.

En ese sentido los congresistas estadounidenses y peruanos destacaron el Puerto de Chancay como un proyecto estratégico que tendrá sin duda importantes impactos geopolíticos para la region y su conexión con Asia.

d. Reunión con el Embajador del Perú, Alfredo Ferrero, y participación en la recepción ofrecida por la Embajada del Perú al Congresista (Demócrata) Jared Moskowitz, y congresistas de la Cámara de representantes y miembros del Perú Caucus.

JUEVES 16: VISITA Y REUNIONES EN EL CUARTEL GENERAL DEL CUERPO DE GUARDACOSTAS DE LOS ESTADOS UNIDOS, WASHINGTON D.C. Y DEPARTAMENTO DE ESTADO

a. Reunión informativa sobre el cuerpo de Guarda Costas de los Estados Unidos, con el Director de Asuntos Internacionales, Holly Haverstick, y el Capitán Amy Beach, Jefe de Inspecciones y Cumplimiento.

El Director Haverstick, enfocó la conversación en la seguridad marítima y de puertos, el proceso de formulación de regulaciones portuarias y acciones de control contra la pesca ilegal, no declarada y no reglamentada.

Explicó que la Guardia Costera depende del Departamento de Seguridad Nacional y las Fuerzas Armadas y tiene a cargo la seguridad de los puertos y las aguas del dominio marítimo de los Estados Unidos, hace patrullaje en aguas internacionales para efectuar interdicción de narcotráfico, tráfico de personas y migración ilegal, así como prevención de ilícitos marítimos ambientales, en cumplimiento de la Ley. La delegación parlamentaria peruana inquirió sobre las posibilidades de cooperación, en estas materias, en lo que atañe a la seguridad del Puerto de Chancay.

Una preocupación levantada se refirió a la vulnerablidad de los escáneres y grúas automatizadas de procedencia china, que usa software fabricado por empresas de ese país, lo que supone la posibilidad de recabar información estratégica sobre el puerto, por lo que la Guardia Costera recomendó implementar medidas de ciberseguridad y las regulaciones vigentes estadounidenses sobre la materia.

La delegación paralamentaria peruana señaló que el Puerto de Chancay se convertirá en los próximos 5 años en uno de los más grandes del Continente, por lo que garantizar la seguridad de la infraestructura crítica y de los usuarios evitaría riesgos como el espionaje comercial y el sabotaje.

1. Leyes de Navegación, Programa Internacional de Seguridad Portuaria, señor Roger Butturini, Asesor Técnico para Regulaciones de la Guardia Costera.

Otro tema abordado se refirió a la cooperación de la Guardia Costera en aguas del Perú. La Guardia Costera citó los casos de Jamaica, Guyana y Ecuador, países con los cuales Estados Unidos tiene el acuerdo "Shiprider" que permite efectuar operaciones combinadas de vigilancia, es decir patrullaje integrado, en la Zona Económica Exclusiva de estos países, llevando a bordo efectivos loeales a fin de detener e inspeccionar las embarcaciones sospechosas que están realizando actividades ilícitas. El acuerdo mencionado contempla también el entrenaiento de las fuerzas de seguridad costeras así como la interdicción de naves del narcotráfico. La Guardia Costera manifestó su voluntad para negociar un acuerdo shiprider con el Perú, como lo ha hecho con varios países del Pacífico, acuerdo que permite a las autoridades nacionales abordar las embarcaciones de la Guardia Costera y los buques de guerra de los Estados Unidos, coadyuvando con el objetivo de cumplir con la normatividad nacional en materia de protección del medio ambiente y los recursos naturales marinos. La Marina de Guerra del Perú ha expresado el interés y en el mes de junio del 2024 iniciar han conversaciones en la sede del Comando Sur de Estados Unidos en Florida.

Según la Ley de seguridad del Transporte Marítimo (MTSA), la Oficina de Cumplimiento de Puertos e Instalaciones (CG-FAC), esta integra por: Capitán del Puerto, Coordinador Federal en escena, Oficial en Cargo de Marina Inspección, Coordinador de Búsqueda y Rescate y Coordinador del Servicio de Tráfico Marítimo.

La Ley de Seguridad del Transporte Marítimo (MTSA), contiene normas importantes que cambiaron la cultura de seguridad de la comunidad marítima. Esta Ley aplica en 361 puertos, 3.200 Instalaciones y 11.000 buques estadounidenses, así como protege la industria y el comercio marítimos de EE. UU.

Los Objetivos de la Ley MTSA son: la prevención de incidentes de seguridad en el transporte (TSI), prevención de pérdida de vida, daño ambiental, evitar la interrupción del sistema de transporte y la disrupción económica en un área particular.

Los componentes principales de la Ley MTSA son: Seguridad Marítima General, Área de Seguridad Marítima, Planes de Protección de Embarcaciones (VSP), Planes de seguridad de instalaciones (FSP) y Planes de instalaciones (OCS).

Los códigos empleados por la Ley MTSA se diferencian de ISPS, entre otros, en lo que respecta al tipo de embarcación, declaración de seguridad, definición de instalación y sistema de alerta de seguridad del barco.

Se requiere un plan de seguridad de las instalaciones cuando: reciben embarcaciones comerciales certificadas para transportar más de 150 pasajeros, reciben embarcaciones comerciales sujetas a SOLÁS, reciben buques de carga mayores a 100 toneladas de registro bruto, las instalaciones flotantes de barcazas reciben barcazas que transportan cargas a granel reguladas.

Los Planes de seguridad y toma de decisiones basada en riesgos se clasifican de acuerdo con: Evaluaciones de seguridad, Activos / Infraestructura crítica, tipos de ataques, consecuencias y mitigación.

Se deben abordar los planes de seguridad de acuerdo con dos tipos de información: Administrativa y Sensible (SSI). Las secciones administrativas incluyen, en general, responsabilidades y deberes, requisitos de formación para todos, requisitos de ejercicios, requisitos de mantenimiento de registros*, mantenimiento de equipos de seguridad y medios de comunicación, declaración de Seguridad* y requisitos para auditorías y modificaciones. Las secciones de información de seguridad confidencial incluyen: Medidas de seguridad para el control de acceso, medidas de seguridad para áreas restringidas, medidas de seguridad para el manejo de carga, medidas de seguridad para tiendas y bunkers, procedimientos de incidentes de seguridad y medidas de seguridad para el seguimiento.

Se han definido 3 Niveles de Protección Marítima (MARSEC. En el nivel 1: Protección mínima adecuada de medidas de seguridad, en el nivel 2: Protección adicional adecuada de medidas de seguridad y en el nivel 3: Seguridad protectora adicional específica de medidas.
Estados Unidos ha estado en MARSEC nivel 1 desde 2009.

La Ley de Seguridad y Responsabilidad por Cada Ley de Puertos (Puerto SAFE) de 2006 requiere un mínimo de 2 inspecciones de seguridad por año según la Ley MTSA, en instalaciones reguladas, al menos una de las cuales será no anunciada. Los requisitos cambiaron en 2018. Existen dos tipos principales de inspecciones de seguridad: El examen anual de cumplimiento de la Ley MTSA y los controles puntuales de seguridad.

En caso de incumplimiento, se aplica la siguiente lista de opciones:
Carta de Advertencia, aviso de infracción, sanción civil clase I y sanción civil clase II.

Si es necesario, la Guardia Costera tiene la autoridad para cerrar inmediatamente las operaciones de la instalación en caso que: se estuvieran violando las normas de seguridad (y protección), cierta carga peligrosa, se produce una interfaz entre el buque y la instalación.

La Ley señala requisitos adicionales para MARSEC Nivel 1, es decir protección mínima adecuada, para todos los visitantes, contratistas, proveedores y otros empleados que no pertenezcan a las instalaciones en todo momento, mientras esté en la instalación, si no se proporciona la identificación de acceso, así mismo para controlar el estacionamiento, carga y descarga de vehículos dentro de una instalación y exigir al personal de seguridad que registre o informe su presencia en puntos clave durante su patrulla, buscar en áreas costeras no tripuladas o no monitoreadas sustancias peligrosas y dispositivos antes de la llegada de una embarcación a la instalación; proporcionar una fuente de energía alternativa o independiente para seguridad y sistemas de comunicaciones.

Las mejores prácticas demuestran lo valioso de trabajar con socios portuarios, establecer una conciencia nacional, regional y local en tiempo real, aplicar herramientas de modelización de riesgos, contar con información sobre tránsito de buques, evaluaciones de inteligencia, activos de protección disponibles, tamaño de la población y geografía, modelos de pluma (con clima local, mareas, información actual) y vulnerabilidades de seguridad cibernética. Otra mejor práctica se refiere a la capacitación, planes de respuesta y ejercicios estandarizados, así mismo lo concerniente a los Comités de Seguridad Marítima de Área (AMSC), que están compuestros por: Gobierno, Marina, industria u otro.

2. Pesca Ilegal, no reportada y no regulada, (IUUF – Illegal, Unreported and Unregulated Fishing), por la Capitán Patricia Bennett, Jefe de Política de Cumplimiento de la Ley Marítima y CDR Kevin Connell, Oficina de Asuntos Internacionales de la Guardia Costera.

La Capitán Patricia Bennett, Jefe de Política de Aplicación de la Ley Marítima (CG-MLE) de la Guardia Costera de EE. UU., presentó el Informe de la Guardia Costera de EE. UU. sobre pesca ilegal, no declarada y no reglamentada (INDNR) y los acuerdos bilaterales “Shiprider”

Los acuerdos/MOU de Shiprider permiten a la Guardia Costera apoyar las capacidades orgánicas de cumplimiento de los recursos marinos vivos de otras naciones a través de capacitación y provisión de plataformas operativas.

Al embarcar a un funcionario encargado de hacer cumplir la ley de una nación socia (“shiprider”), el activo de los Estados Unidos proporciona a esos oficiales un medio para hacer cumplir su soberanía nacional, así como las leyes de recursos naturales dentro de su propia Zona Económica Exclusiva - ZEE.

La Guardia Costera tiene actualmente 19 acuerdos bilaterales de aplicación de la Ley marítima que contienen una disposición sobre tripulantes para la misión IUUF.

Antes de 2016, el texto modelo para los acuerdos marítimos bilaterales no incluía la misión IUUF y se basaban principalmente en la lucha contra las drogas.

Operaciones conjuntas recientes del Grupo de Acción de Superficie:

- Las unidades de la Guardia Costera CGC ALDER y CGC TERRELL HORNE, realizaron la primera misión oficial en alta mar, frente al Perú, al día siguiente de la adopción de la Medida de Gestión de la Conservación y en el marco del MOU Shiprider, con los siguientes resultados totales:

• HSBI: 04 (3 Transbordo / 1 F/V)

• Informes de avistamientos: 28

• 18 observadores peruanos a bordo del C-130

- Del 17 de septiembre al 1 de octubre de 2023, se realizó la misión GALAPEX, organizada por Ecuador, en la cual participaron 13 países/delegaciones, incluidos Estados Unidos y Perú. Los ejercicios se centraron en una respuesta multinacional coordinada contra la pesca ilegal no reportada no regulada - INDNR y los estupefacientes.

- El 16 de mayo de 2024, fecha en que la delegación parlamentaria peruana visitaba el Cuartel General de los Guarda Costas de los Estados Unidos, Washngton D.C. se encontraba en plena operación la unidad CGC MUNRO con observadores embarcados de Panamá, Ecuador y Perú, el activo de la USCG más capaz con el período operativo más largo hasta el momento.

  Almuerzo de trabajo en el Comedor de Oficiales, con el Director Holly Haverstick, Capitán Amy Beach, y Contralmirante Adam Chamie, Comandante Asistente para Políticas de Respuesta.

b. Departamento de Estado de los Estados Unidos

Reunión con el Buró de Asuntos del Hemisferio Occidental (WHA), Director Rafael Foley; y de Asuntos del Este Asiático y Pacífico (EAP), Director Gary Tripmacher EAP.

Participan (7): Sánchez, Salhuana, Álvarez, Gunzburger, Miranda, Castro, Rodriguez

Se desarrollaron conceptualmente los temas que a continuación se enumeran.

Libre comercio y competencia abierta (BTA)

Es impulsar el desarrollo económico y social de la región a través de la consolidación de la liberalización económica alcanzada hasta el momento y promover la continuación de dicho proceso tendiente al crecimiento económico, así como mejorar los niveles de vida de los ciudadanos, contribuyendo a garantizar la sostenibilidad de nuestras democracias. Avanzar en la construcción de economías abiertas, eliminando cualquier tipo de proteccionismo existente, basados en la modernización, facilitación y dinamización del comercio, con la convicción de que un pilar importante para impulsar el desarrollo económico y social es el libre comercio. Alcanzar una zona de libre comercio brindando nuevas y mayores oportunidades de comercio para la oferta exportable actual y potencial, tanto en el área de bienes como en la de servicios y hacer de esta zona de libre comercio un factor de impulso para el desarrollo económico. Crear un marco jurídico estable para promover y desarrollar las inversiones, coinversiones y alianzas estratégicas. Mejorar, ampliar y profundizar las condiciones de acceso al mercado derivadas de las preferencias comerciales vigentes.

Resiliencia en la cadena de suministros (MTA)

La resiliencia en la cadena de suministros es la capacidad de responder rápido a las disrupciones operativas mediante una flexible planificación y proyección de las contingencias –desde abastecimiento de materiales hasta logística y entrega final de productos y servicios-. Una cadena de suministros resiliente se define por su capacidad de resiliencia y recuperación. Esto significa tener la capacidad de mitigar la mayoría de las disrupciones de la cadena de suministros y limitar en gran medida el impacto de las que ocurren. El riesgo operativo y la interrupción pueden amenazar múltiples áreas de la cadena de suministro y, en última instancia, la resiliencia del negocio. Los desastres mundiales, como hemos visto con el COVID-19, pueden tener un impacto global de gran alcance en la logística de la cadena de suministro, los proveedores y la fuerza laboral. Otras disrupciones en la cadena de suministros pueden surgir en forma de competencia inesperada, tendencias repentinas del mercado, o incluso cambios rápidos en los comportamientos de compra del cliente. Las cadenas de suministros más resilientes y ágiles están diseñadas para hacer más que solo resistir y recuperarse. Se construyen usando procesos y tecnologías modernas de cadena de suministros que les permiten proyectar, anticipar y responder rápido a cualquier riesgo u oportunidad que surja en el futuro.

Vulnerabilidades en infrestructuras críticas (TRA)

Son las infraestructuras estratégicas, que proporcionan servicios esenciales y cuyo funcionamiento es indispensable y no permite soluciones alternativas, por lo que su perturbación o destrucción tendría un grave impacto sobre los servicios esenciales. En otras palabras, las infraestructuras críticas son todos aquellos sistemas físicos o digitales que facilitan funciones y servicios esenciales para apoyar a los sistemas más básicos a nivel social, económico, medioambiental y político.
Una alteración o interrupción en su funcionamiento debido a causas naturales (por ejemplo: una inundación que afecta al suministro eléctrico) o provocada por el hombre (por ejemplo: un atentado terrorista o un ataque cibernético a una central nuclear o a una entidad financiera) podría conllevar graves consecuencias.
Las amenazas a las infraestructuras críticas podrían afectar a cualquier Estado al no poder continuar y desarrollar con normalidad las actividades básicas de la sociedad. Sin embargo, el problema empeora

cuando una infraestructura crítica es dependiente de otra. La caída de una infraestructura crítica supondría la paralización o menoscabo de los servicios de ambas, por lo que la protección de estas adquiere mayor importancia. A pesar de que las infraestructuras críticas son similares en todos los países, su práctica puede variar en función de las necesidades, recursos y nivel de desarrollo de cada país en particular.

Vista general sobre inversiones y seguridad nacional (OIA)

En los últimos años se ha producido un marcado cambio de actitud hacia la inversión extranjera y el control de la seguridad nacional. Muchas jurisdicciones de todo el mundo han reforzado su capacidad de revisar e intervenir activamente en las transacciones. Esto refleja el entorno más complejo e imprevisible al que se enfrentan los inversores y las empresas y el enfoque cada vez más proteccionista de ciertos territorios.

Hoy en día, la atención se ha desplazado más allá de si la empresa objetivo posee tecnología sensible o tiene un uso militar y de defensa. Se trata de si tiene cantidades significativas de datos personales sensibles de individuos y si opera en áreas de infraestructura crítica.

Administración portuaria: Seguridad e inversiones, Karl Jensen / AECOM.

El objetivo de la seguridad portuaria consiste en establecer un entorno en el cual el comercio exterior pueda realizarse con garantías razonables, de tal manera que no será entorpecido por la actividad delictiva, ni se transformaría en un conducto para esa actividad. A nivel mundial, la carga marítima y los vapores son el blanco de organizaciones delictivas o delincuentes individuales que se dedican al contrabando de extranjeros, al robo físico de la carga, así como al contrabando de drogas y al terrorismo. Es vital para esta actividad delictiva aprovechar las deficiencias de la seguridad portuaria. Los costos que esto acarrea reducen la competitividad de las entidades afectadas, incluidos los puertos. En tanto existan amenazas al comercio, la seguridad portuaria seguirá siendo tan esencial para las operaciones portuarias como la carga y las buenas relaciones laborales.

c. Reunión con el Buró de Asuntos Económicos y de Negocios (EB)

Participan (5): Sánchez, Salhuana, Álvarez, Gunzburger, Ashcallay, Vega-Centeno

Bienvenida por Heidi Gomez DAS.

El señor Jorge Aguilar presentó el Programa de Desarrollo de Leyes Comerciales (CLDP Commercial Law Development Program) del Departamento de Comercio.

El Programa tiene como misión proveer asistencia técnica a países socios a nombre del Departamento de Comercio de EE.UU. Esta asistencia se realiza a demanda y a través de un sistema de intercambio de gobierno a gobierno. Son programas de cooperación directa, elaborados por la contraparte gubernamental y en base a su programa de reforma para lograr mejoras a regímenes jurídicos y regulatorios de gobernanza económica (marcos jurídicos e instituciones), así como modernización y ejecución de sistemas de implementación de esos regímenes (mecanismos de política) y también a mejorar el capital humano. Resultan esenciales la gobernanza estratégica de sistemas multimodales, las consideraciones de seguridad nacional, así como las geoeconómicas.

VIERNES 17: OTRAS ACTIVIDADES

a. En la invitación del Gobierno de los Estados Unidos de América se incluyó, potencialmente, la visita al Puerto de Baltimore ubicado en Maryland. En los días posteriores, el 26 de marzo, dicho puerto sufrió un accidente por lo que, el Gobierno de los estados Unidos sugirió se visitara los Puertos de Norfolk, Newport, News y Portsmouth, en Virginia, a tres horas de Washington DC, visitas que por la lejanía fueron canceladas.

b. Reunión con la señora Leslie Reagan, Sub Directora del House Democracy Partnership (HDP)

Participan (6): Sánchez, Salhuana, Álvarez, Gunzburger, Castro, Castillo.

La House Democracy Partnership es una Comisión bipartidista de la Cámara de Representantes del Congreso de los Estados Unidos de América, que trabaja para promover políticas receptivas y efectivas de gobierno y fortalecer las instituciones democráticas ayudando legislaturas en las democracias emergentes. Fue directora de Comunicaciones y asuntos del Congreso, en la Comisión de Revisión Económica y de Seguridad entre Estados Unidos y China, un organismo de investigación del Congreso. En este cargo, la Sra. Reagan dirigió la divulgación sobre una serie de cuestiones que incluyen las relaciones comerciales entre Estados Unidos y China, las relaciones a través del Estrecho, la seguridad del Indo-Pacífico, los desarrollos tecnológicos y cambios en el Comité de Inversiones CFIUS (Committee on Foreign Investment in The United States).

La señora Reagan presentó el Acuerdo Marco de Cooperación entre el Congreso de la República del Perú y la Asociación para la Democracia de la Cámara de Representantes de los Estados Unidos de América, firmado en Lima el 27 de febrero de 2024, por el congresista Alejandro Soto, presidente del Congreso del Perú y el señor Vern Buchanan presidente de la Asociación para la Democracia de la Cámara de

Representantes de los Estados Unidos de América.

En ese sentido, la señora Reagan señaló que el Acuerdo Marco permite organizar visitas de parlamentarios estadounidenses a nuestro país y viceversa, así como realizar eventos con la participación de expertos, en temas de mutuo interés de ambos congresos.

c. Visita guiada al Capitolio por House Democracy Partnership (HDP)

IV. <u>CONCLUSIONES Y RECOMENDACIONES:</u>

a. Se impulsó la seguridad, el desarrollo marítimo y el compromiso para el desarrollo portuario y la industria marítima del Perú.

b. Se impulsó el Hub Portuario y Logístico de Chancay, soberanía, administración del Puerto privado de uso público, la integración y desarrollo nacional, el polo de innovación y transformación industrial, apertura del comercio exterior y atracción de inversiones.

c. Se conoció la política, normatividad y mejores prácticas en materia de seguridad portuaria, gestión, logística, comercio, inversión entre otros temas, vis a vis el desarrollo portuario del Megapuerto de Chancay a inaugurarse en noviembre del 2024.

d. Los Ángeles – Long Beach: Se tuvo la oportunidad de aprender sobre la colaboración conjunta del Capitán de la Guardia Costera, las autoridades del Estado de California, la torre de tráfico, navieras, aduanas y otras organizaciones y entidades que tienen competencias similares al SENASA, DIGESA, Migraciones, DICAPI y otras, asi como el papel fundamental del tráfico marítimo garantizando la seguridad y el orden en el mar.

e. El modelo de subvenciones del Programa de Subvenciones para Desarrollo de Infraestructura Portuaria es una alternativa exitosa a ser evaluada en orden a formular nuestro propio modelo de apoyo, teniendo a la vista el contexto que nos ofrece las poblaciones cercanas al Megapuerto de Chancay y la posibilidad de su réplica en otros puertos nacionales.

f. Considerar la posibilidad de acceder al Programa de Desarrollo de Leyes Comerciales del Departamento de Comercio, a través de la cooperación directa, gobierno a gobierno, que comprende las mejores a regímenes jurídicos y regulatorios de gobernanza económica .

En cumplimiento del Acuerdo 115-2023-2024/MESA-CR, y para los fines pertinentes, se firma el presente Informe hoy viernes 31 de mayo de 2024.

ROBERTO SÁNCHEZ PALOMINO
Presidente

EDUARDO SALHUANA CAVIDES
Vicepresidente

Comisión Especial Multipartidaria de Impulso y Seguimiento
Del Proyecto Terminal Multipropósito de Chancay

VISITA DE TRABAJO OFICIAL A ESTADOS UNIDOS DE AMÉRICA

ANEXO 01: GALERÍA FOTOGRÁFICA

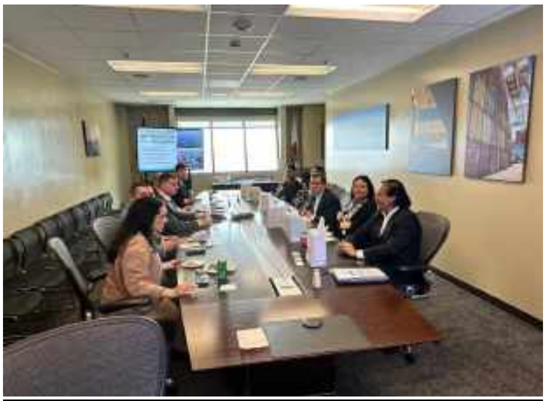
ANEXO 1: GALERÍA FOTOGRÁFICA


IYC02


EVERGREEN


APM TERMINALS
Hapag-Lloyd
YANG MING
ONE
HMM
YANG MING


UNITED STATES
COAST GUARD



REPÚBLICA DEL PERÚ

PERÚ
CONGRESO
de la
REPÚBLICA

COMISIÓN ESPECIAL MULTIPARTIDARIA DE IMPULSO Y SEGUIMIENTO
DEL PROYECTO TERMINAL MULTIPROPÓSITO DE CHANCAY

«Año del Bicentenario, de la consolidación de nuestra Independencia, y de la conmemoración de las heroicas batallas de Junín y Ayacucho»

VISITA DE TRABAJO OFICIAL A ESTADOS UNIDOS DE AMÉRICA

ANEXO 02:

DOCUMENTOS DE EXPOSICIONES

REPÚBLICA DEL PERÚ

PERÚ

CONGRESO de la REPÚBLICA

COMISIÓN ESPECIAL MULTIPARTIDARIA DE IMPULSO Y SEGUIMIENTO DEL PROYECTO TERMINAL MULTIPROPÓSITO DE CHANCAY

«Año del Bicentenario, de la consolidación de nuestra Independencia, y de la conmemoración de las heroicas batallas de Junín y Ayacucho»

VISITA DE TRABAJO OFICIAL A ESTADOS UNIDOS DE AMÉRICA

LOS ÁNGELES CALIFORNIA

Building the Port of the Future

Roger Wu
Director, Business Development

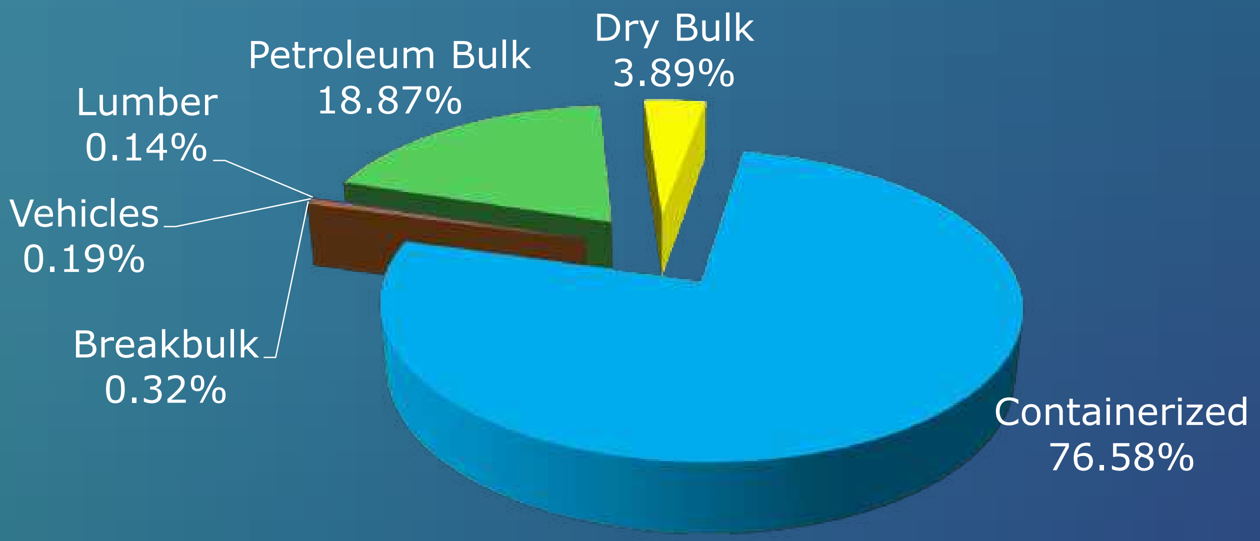
May 13, 2024

SSA
PIER A
SSA
PIER C
TRAPAC
PIER 136-147
WBCT
PIER 100-131
YTI
PIER 212-225
TTI
PIER T
LBCT
PIER E
ITS
PIER G
EVERPORT
PIER 226-236
FMS
PIER 300
SSA PCT
PIER J
APMT
PIER 400
Port of
Long Beach
Port of


PORT OF LONG BEACH
$200 Billion in Trade Annually
2.6 Million Jobs Nationally
575,000 Jobs in Southern California

POLB CARGO PROFILE

BASED ON METRIC REVENUE TONS



Top Trade Partners by TEUs

IMPORTS

1. China
2. Vietnam
3. South Korea
4. Japan
5. Hong Kong
6. Taiwan
7. Italy
8. Thailand
9. Australia
10. Malaysia

EXPORTS

1. China
2. South Korea
3. Taiwan
4. Japan
5. Vietnam
6. Australia
7. Hong Kong
8. Indonesia
9. Thailand
10. Malaysia

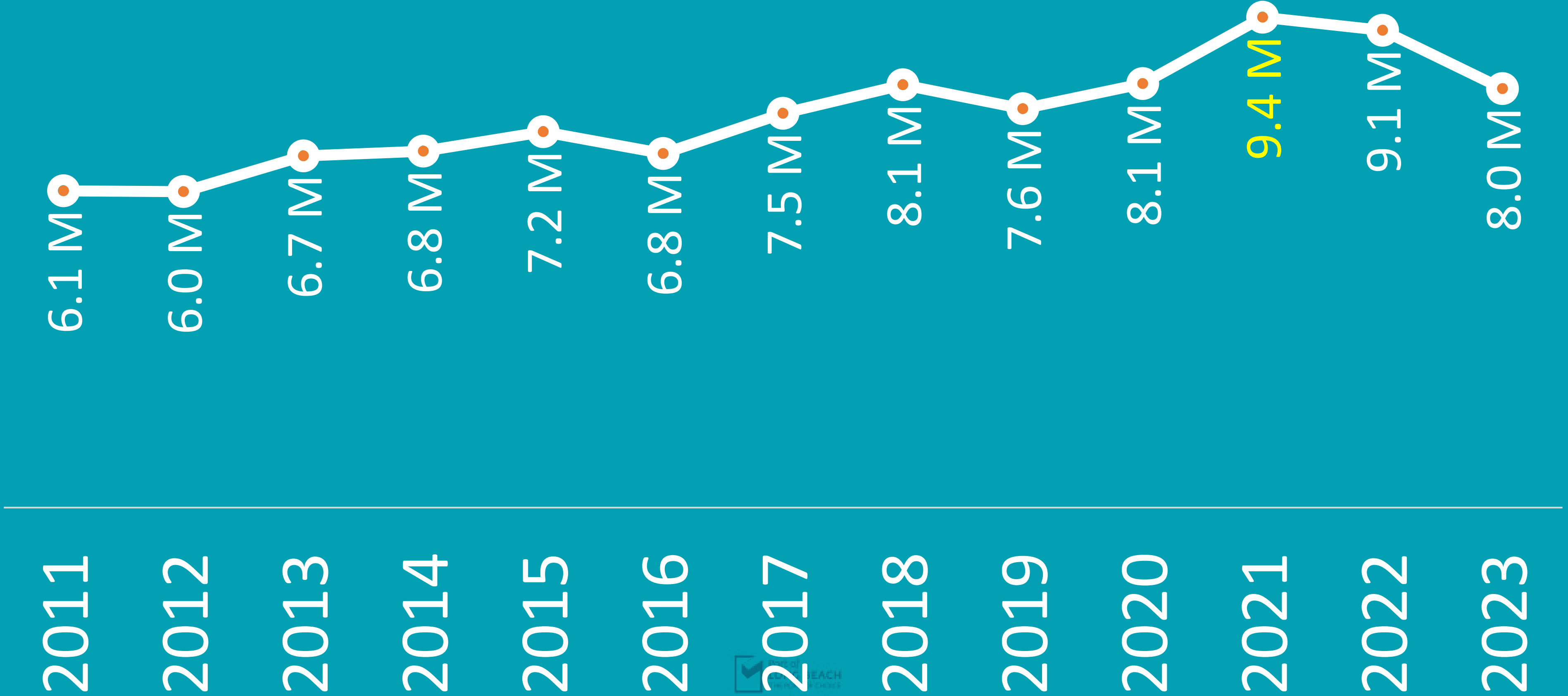
POLB TOP IMPORTS

*Twenty-foot Equivalent Units (TEUs) or 20-foot-long containers

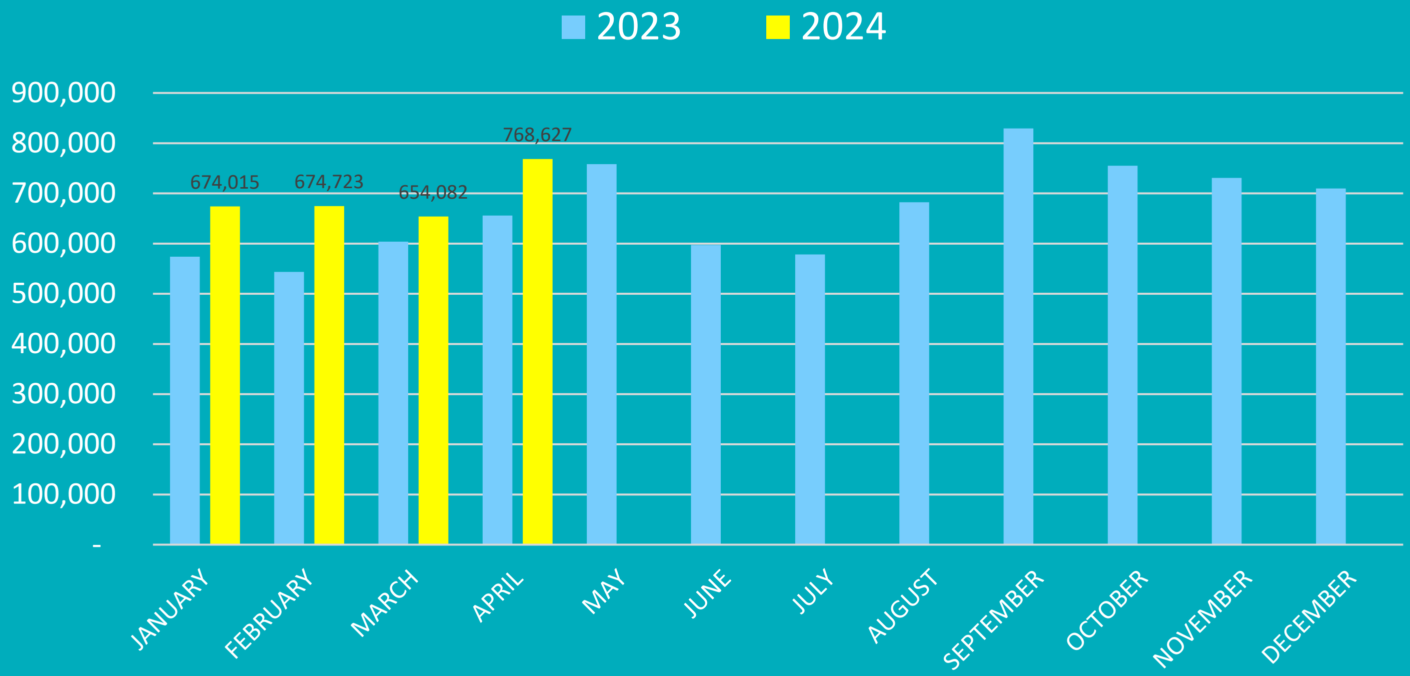
POLB TOP EXPORTS

*Twenty-foot Equivalent Units (TEUs) or 20-foot-long containers

Annual Container Volumes



PORT OF LONG BEACH MONTHLY TEUs*



*Twenty-foot equivalent units (TEUs) or 20-foot-long containers / April volume projected

INFRASTRUCTURE

INVESTING IN PORTS AND WATERWAYS

2022-23 State Budget

$2.3 Billion for goods movement and supply chain projects

Ports of Long Beach, LA to get more than $600M to boost efficiency and air quality

By Alicia Robinson

State grants totaling $1.5 billion, including more than $383 million for the Port of Long Beach and $233 million for the Port of Los Angeles, will help smooth out snags in the supply chain and also reduce air pollution, officials said on July 6.

Projects the funding will help pay for include zero-emission vehicles and equipment at the Port of Long Beach, expansion of a chassis and cargo container storage facility at the Port of Los Angeles, and road improvements and upgraded train crossings for ports up and down the California coast.

"These grants will produce major benefits in the form of increased jobs, greater economic opportunity and cleaner skies in the years ahead," Port of Long Beach Chief Operating Officer Noel Hacegaba said at a press conference announcing the funding.

Officials estimate the funding will help create or retain as many as 20,000 jobs.

Some of the Long Beach port's money will go to a new on-dock rail facility so more cargo can be moved by trains rather than trucks, zero-emission locomotives, and the creation of a grant program to retrofit or replace tugboats and other harbor vessels to reduce pollution.

California State Transportation Agency Secretary Toks Omishakin said that while the funding won't cover the full cost of every project, it will put them in a better position to compete for federal infrastructure dollars.

"It's going to modernize piers, wharfs and docks, expand capacity and improve port efficiency, provide zero-emission terminal equipment, expand truck battery charging and hydrogen fueling locations, improve critical grade separations and grade crossings, and further active transportation at or around the ports," said Omishakin.

Standing on the helipad atop the port's command center, officials recalled how in November 2021—with the port clogged and ships backed up into the harbor—Gov. Gavin Newsom pledged to address supply chain bottlenecks in both the short and long term.

Newsom "kept his promise, and that promise was to invest in goods movement, to invest in California ports and to invest in the sustainable development of our quest to address the climate change issue," Port of Long Beach Executive Director Mario Cordero said.

Other projects receiving some of the state funding include rail line improvements in the San Fernando Valley, rail crossing separations in Riverside and Santa Ana, zero-emission cargo handling equipment for the Port of Hueneme, and modernizing the terminal at the Port of Oakland. ■

Alicia Robinson / Business Journal

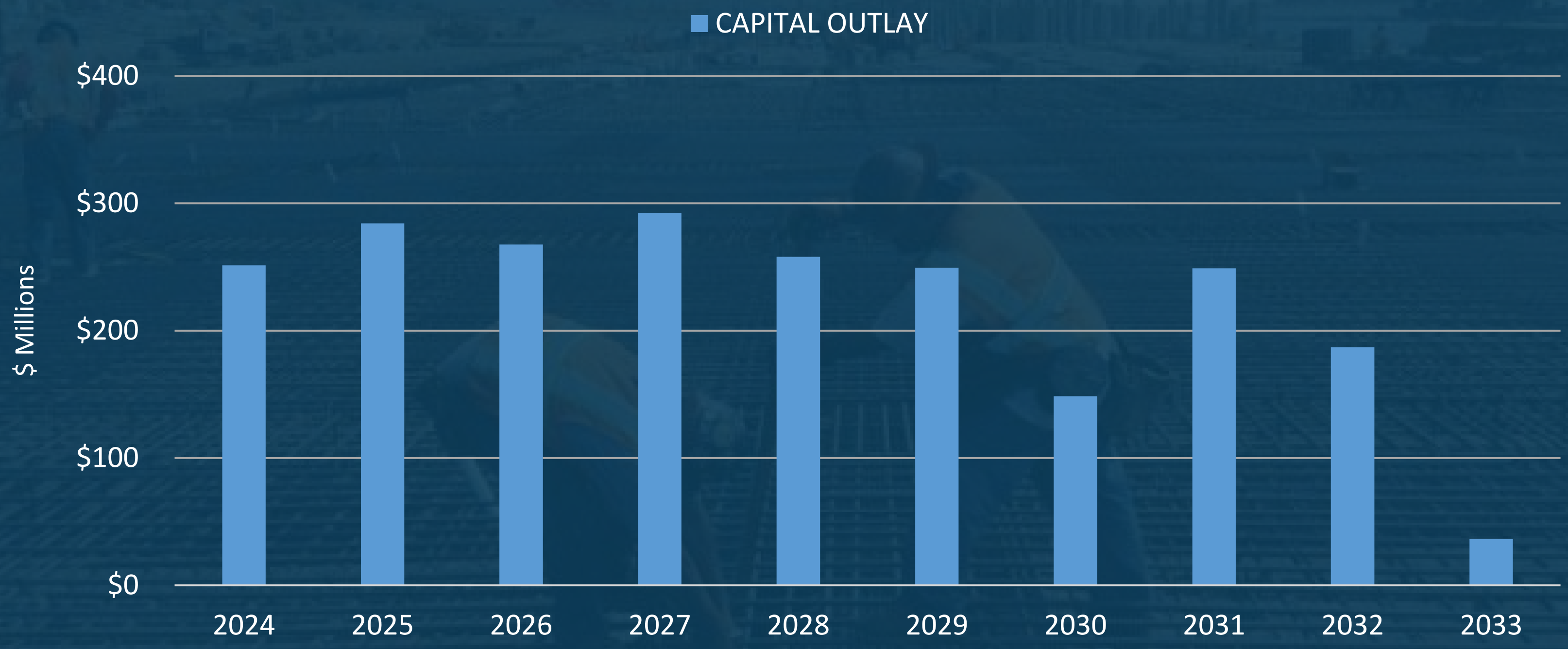
California State Transportation Agency Secretary Toks Omishakin announces $1.5 billion in state grants to improve goods movement and reduce emissions at California ports.


CalSTA
$383,346,997

Port of **LONG BEACH**

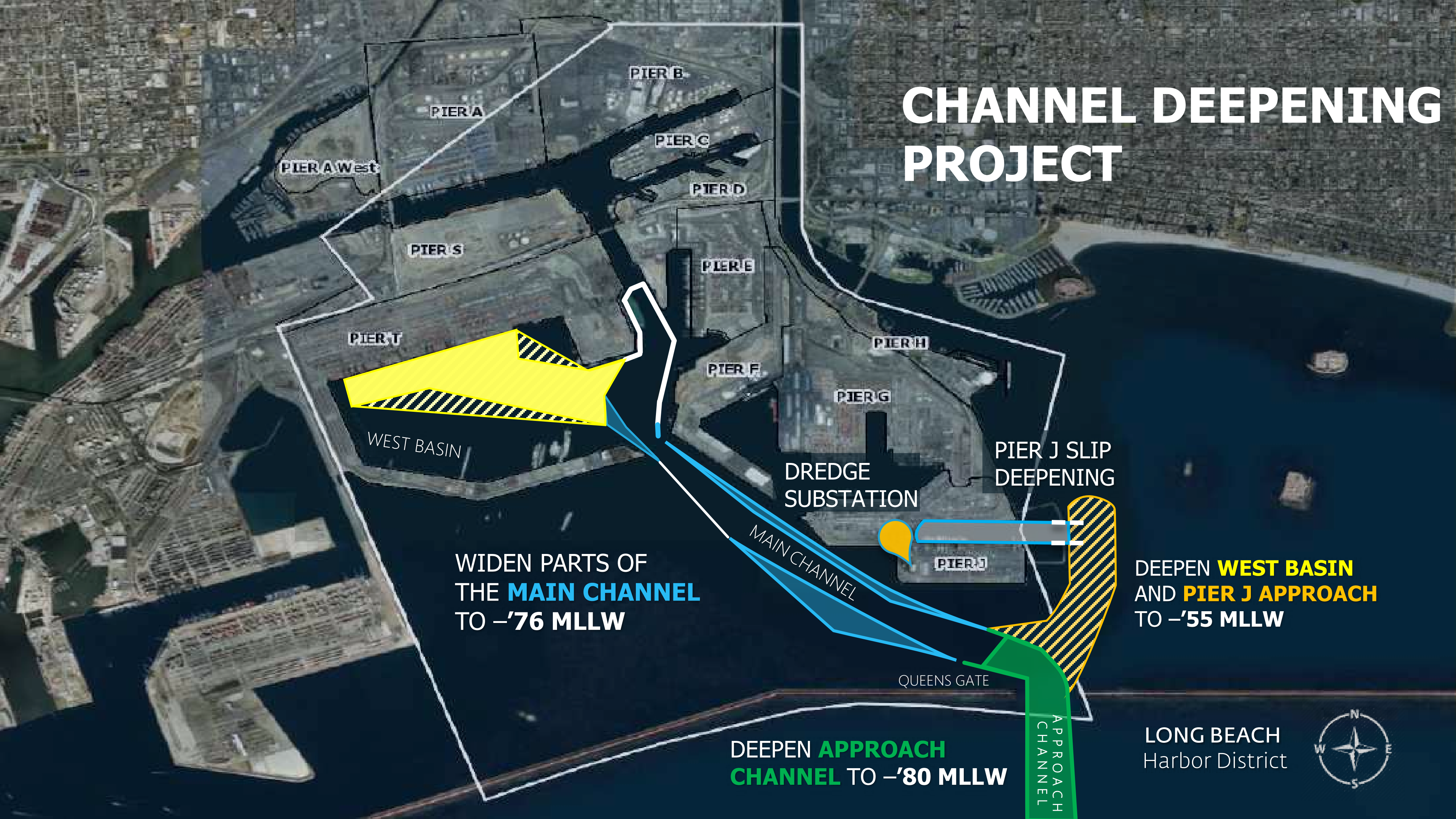
$2.2 BILLION in CAPITAL PROJECTS

FY 2024-2033



- INCREASE TERMINAL CAPACITY
- INCREASE RAIL CAPACITY
- IMPROVE OPERATIONAL EFFICIENCY
- IMPLEMENT ZERO-EMISSIONS OPERATIONS

CHANNEL DEEPENING PROJECT




RAIL EXPANSION & OPTIMIZATION

PIER B ON-DOCK RAIL SUPPORT FACILITY

PHASE 1 PROJECTS

- EAST EXPANSION: $52M
- WEST EXPANSION & PIER B STREET REALIGNMENT: $94M
- LOCOMOTIVE FACILITY: $34M

ADVANCED TECHNOLOGY

LONG BEACH CONTAINER TERMINAL

Supply Chain INFORMATION HIGHWAY

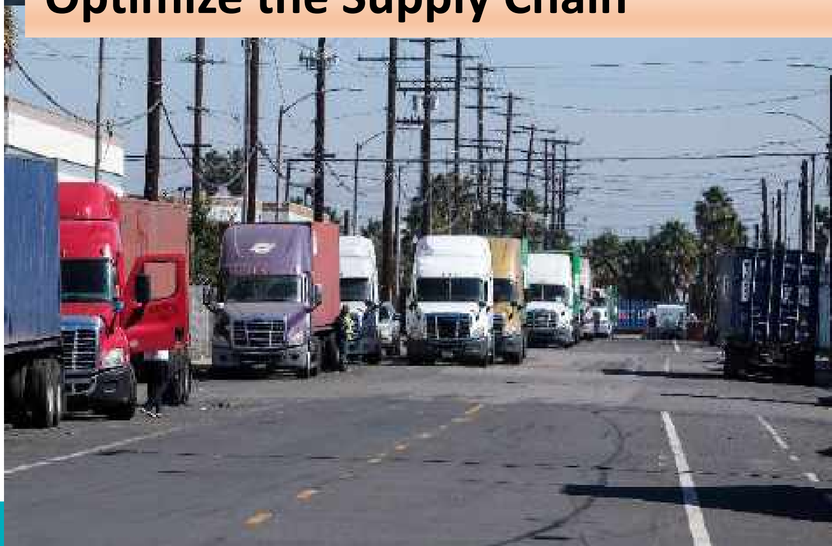
Port of LONG BEACH THE PORT OF CHOICE

Supply Chain

INFORMATION HIGHWAY

- Increase Cargo Visibility
- Increase Seaport Velocity
- Liberate Data from Legacy Transportation Systems
- Increase Access for All
- Increase Timeliness, Accuracy

Optimize the Supply Chain



CARRIER

Arrival
Departure
Load
Unload

PILOTS

Berthing Schedules
Departure Schedules

TERMINAL

Unload
Ship

CUSTOMS

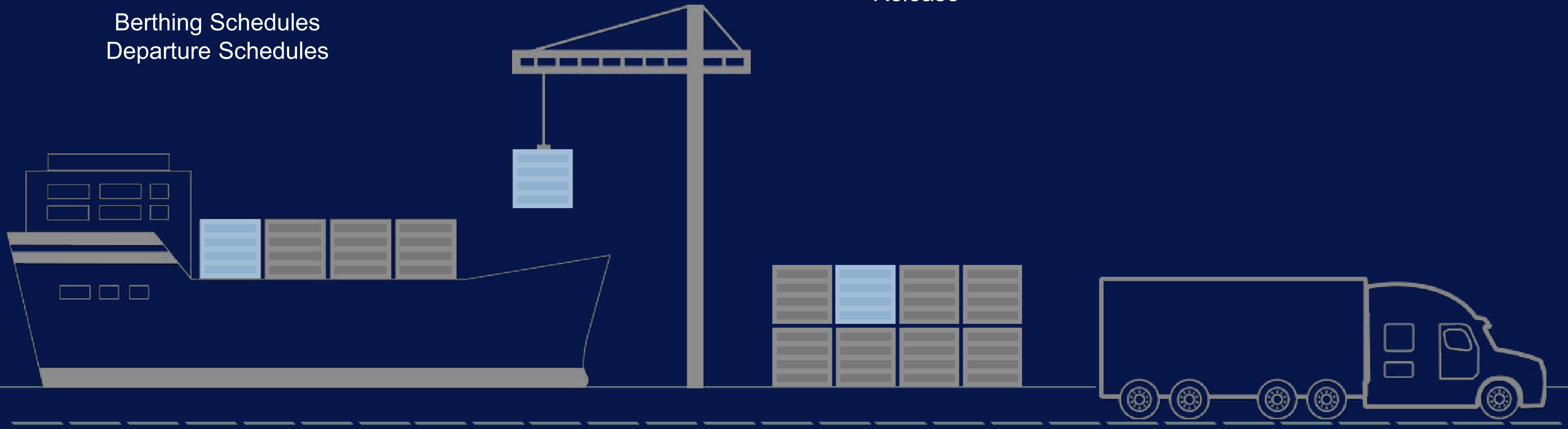
Hold
Discharge

TERMINAL

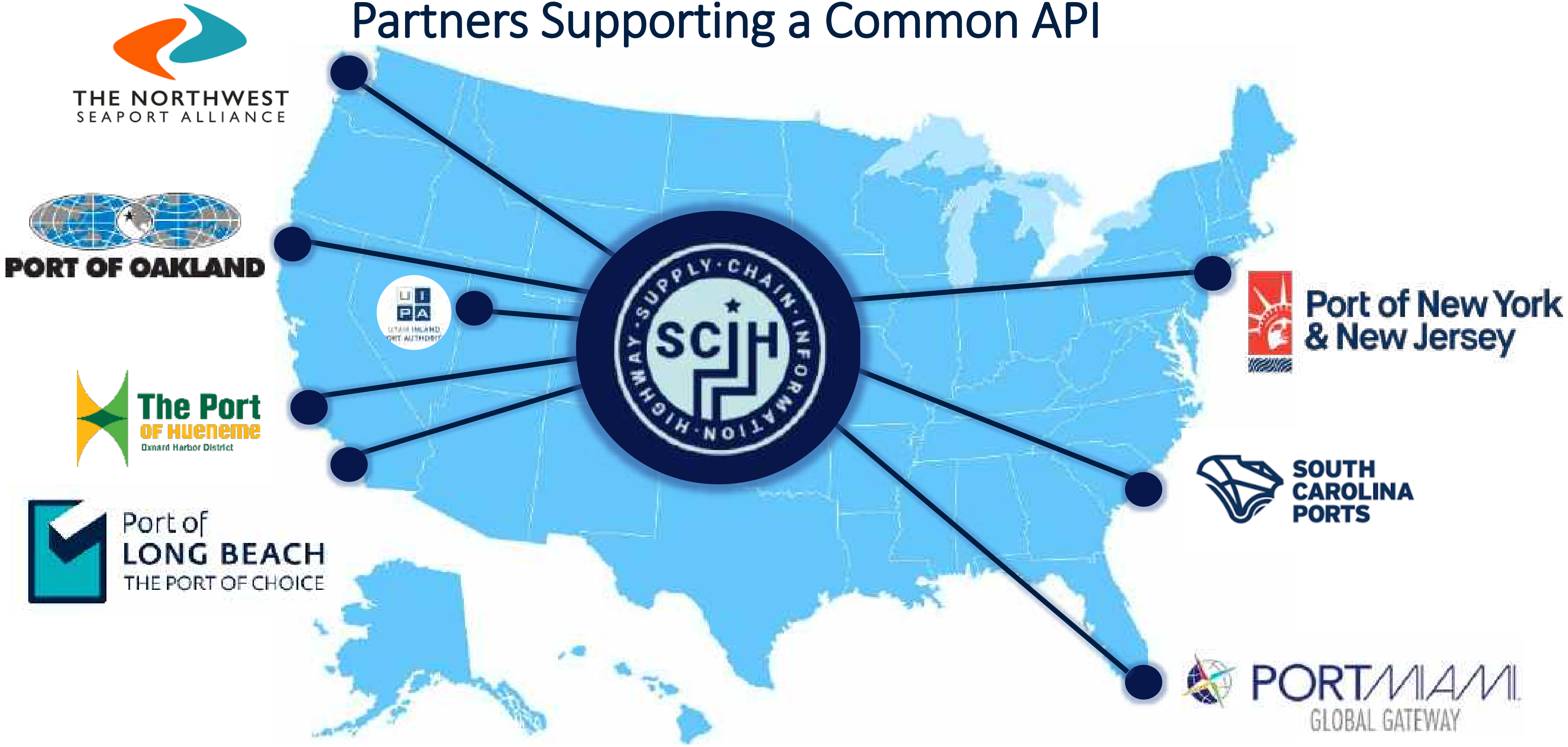
Customs
Release

TERMINAL

In-Gate
Out-Gate



Foundational Port Partners Supporting a Common API

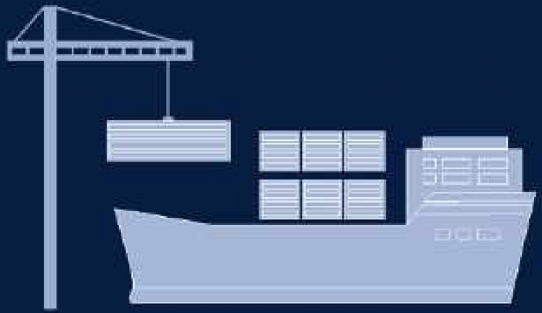


THREE NEW FEATURES

1
BCO Command Center

2
Port Operations Dashboard

3
Public Track and Trace



2022 EMISSIONS INVENTORY

91% ↓ DIESEL SOOT

63% ↓ NITROGEN OXIDES

97% ↓ SULFUR OXIDES

1% ↓ GREENHOUSE GASES

THIS WAS DURING A TIME WHEN CONTAINER CARGO JUMPED 36%

Compared to **2005** Levels

GREEN PORT POLICY

ADOPTED IN **2005** BY THE LONG BEACH BOARD OF HARBOR COMMISSIONERS

- **PROTECT THE COMMUNITY**
- **DISTINGUISH THE PORT AS A GLOBAL LEADER**
- **PROMOTE SUSTAINABILITY**
- **EMPLOY BEST TECHNOLOGY**
- **ENGAGE AND EDUCATE THE COMMUNITY**

UPDATED CLEAN AIR PLAN

ADOPTED IN **2017** BY THE LONG BEACH AND LOS ANGELES BOARDS OF HARBOR COMMISSIONERS

- **A ZERO-EMISSIONS TRUCK FLEET**
- **ADOPT 'INTELLIGENT' EFFICIENCY SYSTEMS**
- **DEPLOY ZERO-EMISSIONS YARD EQUIPMENT**
- **EXPAND ON-DOCK RAIL TO 50 PERCENT**
- **REDUCE GHGS 40% BY 2030 AND 80% BY 2050**

ZE Cargo Handling Equipment by 2030


KENWORTH TOYOTA
ZERO EMISSIONS
ZE Trucks by 2035

CLEANER SHIPS

- GREEN SHIPPING CORRIDORS
  - LONG BEACH ↔ SINGAPORE
  - LONG BEACH ↔ SHANGHAI
- GREEN SHIP INCENTIVE PROGRAM
- GREEN FLAG VESSEL SPEED REDUCTION PROGRAM
- SHORE POWER


2023北外滩国际航运论坛 成果发布
2023 NORTH BUND FORUM PROJECTS RELEASE

Battery Electric: Pacific Harbor Line SD40JR

Port deployment of battery electric locomotive for heavy cross-haul service

California Selected as a National Hydrogen Hub

Published: Oct 13, 2023

SACRAMENTO – California will receive up to $1.2 billion from the U.S. Department of Energy to accelerate the development and deployment of clean renewable hydrogen, critical to cutting pollution and expanding the clean energy economy statewide.

What it means:

- Up to $1.2 billion to build or expand hydrogen projects that will power public transportation, heavy-duty trucks, port operations, and more;
- Will leverage the state's leadership in clean energy technology to produce hydrogen exclusively from renewable energy and biomass.

OFFSHORE WIND POWER

PIER WIND STAGING FACILITY

- ENABLE STATE TO REACH RENEWABLE POWER GOALS
- "PIER WIND" TERMINAL
- EIFFEL TOWER-SIZE WIND TURBINES
- TOW TO CENTRAL, NORTHERN CALIF. SITES

OFFSHORE WIND POWER

PIER WIND PROPOSED STAGING FACILITY

- PLAN TO ENABLE STATE TO REACH RENEWABLE POWER GENERATION GOALS
- CONSTRUCT NEW “PIER WIND” TERMINAL
- ASSEMBLE EIFFEL TOWER-SIZE WIND TURBINES
- TOW TO CENTRAL, NORTHERN CALIFORNIA SITES
- DRAWS UPON LOCAL, SKILLED WORKFORCE


1,000 FEET
1,000 - 1,600 UNITS
25 GW
BY 2045
Source: Pier Wind Vision

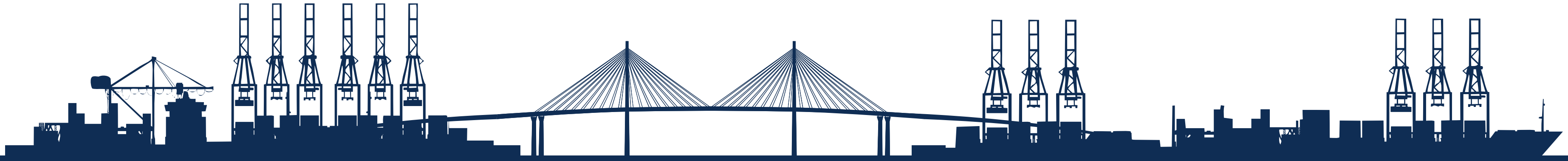

DODGER STADIUM
Dodgers
COMPARISON

WORKFORCE DEVELOPMENT

GOODS MOVEMENT WORKFORCE TRAINING CAMPUS

Port of
LONG BEACH
THE PORT OF CHOICE

THANK YOU



THE PORT OF LOS ANGELES

America's Port

Port of Los Angeles Overview

Welcome Peru Delegation

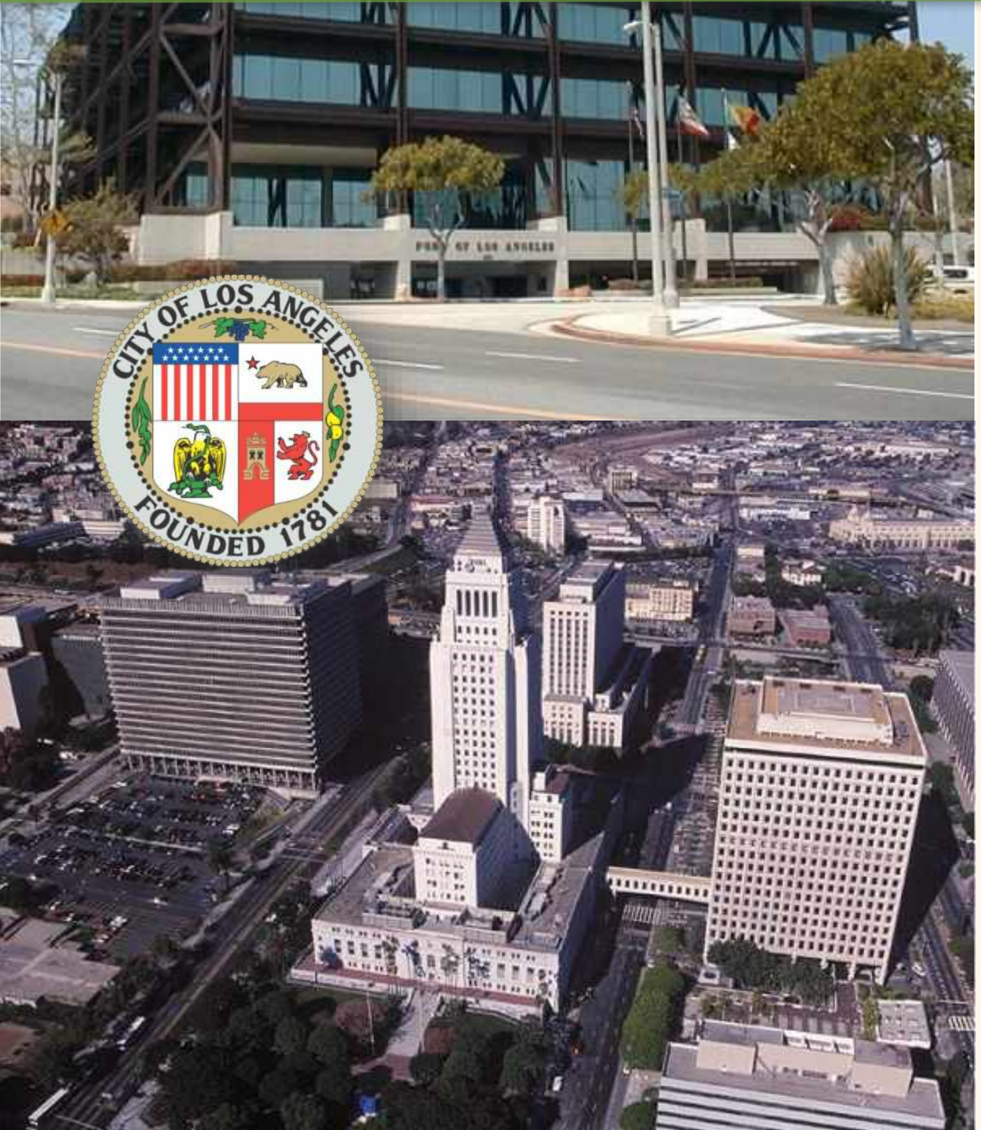
May 13, 2024

San Pedro Bay Port Complex

Landlord Ports (Limited Control Over Cargo Operations)
Destination Ports (Versus “Hub” or “Relay” Ports)

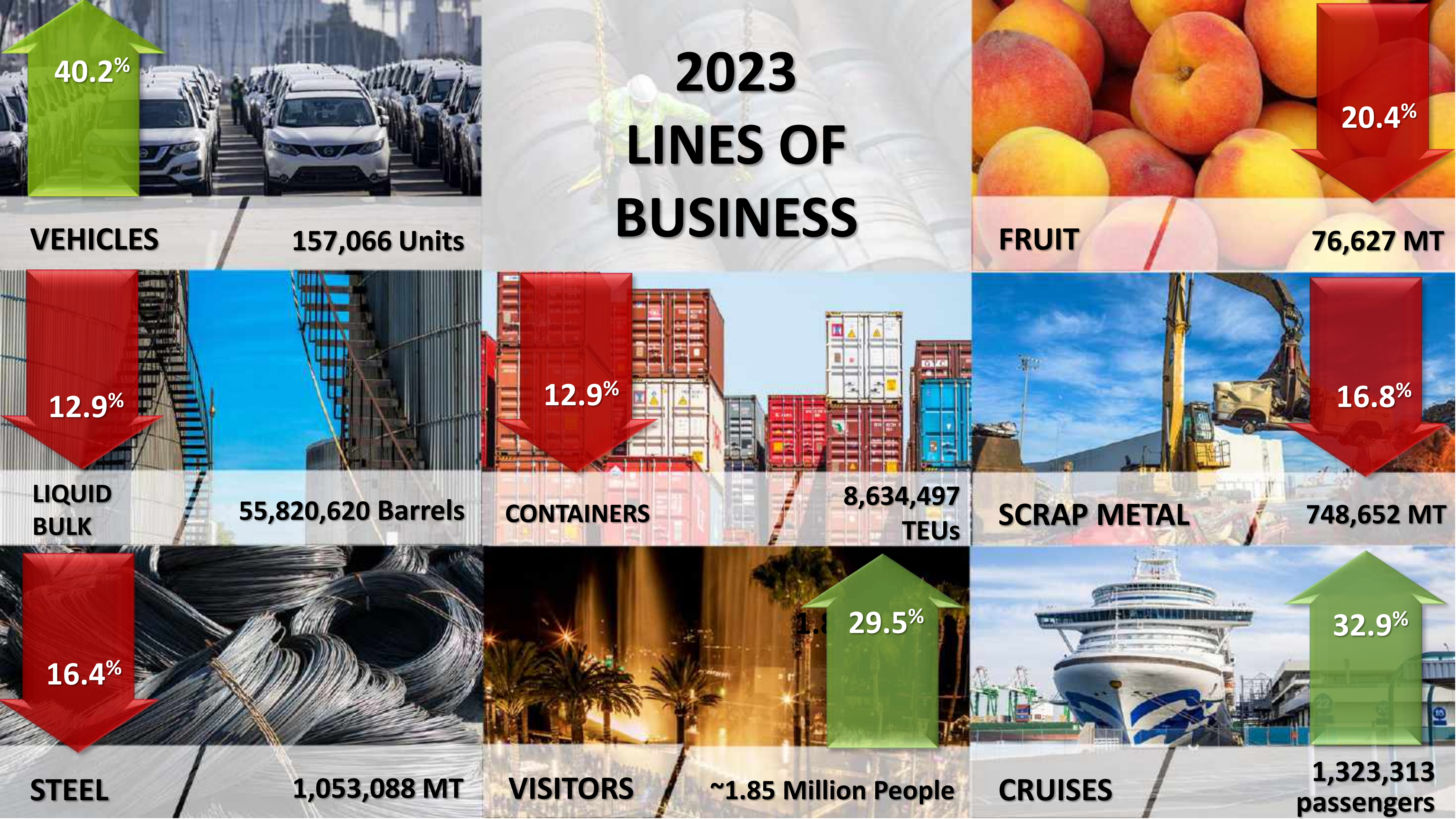
Port of Los Angeles at a Glance

THE PORT OF LOS ANGELES



- Founded in 1907
- State Tidelands Trust
- Non-Taxpayer Supported
- Business Port Model
- 5-Member Board of Commissioners
- 7, 500 Acres Port Property
  - 4,300 Acres Land (1,740 hectares)
  - 3,200 Acres Water (1,295 hectares)
  - 43 Miles of Waterfront
  - -53 Foot Main Channel Water Depth
- 270 Berths and 25 Cargo Terminals
  - 6 Container Terminals
  - 86 Ship-to-Shore Gantry Cranes
- 116 Miles of Rail Tracks
  - 5 On-Dock Railyards & 1 Classification Yard


9.9 M
TEUs in 2022
10.7 M
TEUs in 2021
9.2 M
TEUs in 2020
9.3 M
TEUs in 2019
9.5 M
TEUs in 2018
BUSINESS
YTI
No.7
APL NEW JERSEY
MONROVIA


2023
LINES OF
BUSINESS
40.2%
VEHICLES
157,066 Units
20.4%
FRUIT
76,627 MT
12.9%
LIQUID
BULK
55,820,620 Barrels
12.9%
CONTAINERS
8,634,497
TEUs
16.8%
SCRAP METAL
748,652 MT
16.4%
STEEL
1,053,088 MT
29.5%
VISITORS
~1.85 Million People
32.9%
CRUISES
1,323,313
passengers

Top Trading Partners & Commodities

THE PORT OF LOS ANGELES

Trading Partners

1.	China/Hong Kong	$ 112 B
2.	Japan	$ 38 B
3.	Vietnam	$ 30 B
4.	South Korea	$ 18 B
5.	Taiwan	$ 17 B

(In Cargo Value, CY2023)

Imports

1.	Furniture	561,511 TEUs
2.	Auto Parts	309,039 TEUs
3.	Apparel	256,491 TEUs
4.	Plastics	222,963 TEUs
5.	Electronics	182,263 TEUs

(Containerized, CY2023)

Exports

1.	Waste Paper	196,189 TEUs
2.	Animal Feeds	150,518 TEUs
3.	Soybeans	103,550 TEUs
4.	Scrap Metal	73,673 TEUs
5.	Fabrics	57,666 TEUs

(Containerized, CY 2023)

Economic Drivers

Employment			Cargo Trade Value
~838 Filled positions (CY 2021) at the City of Los Angeles Harbor Department	10-15k Longshore and Terminal Jobs in Los Angeles and Long Beach	124k Jobs (about 1 in 15) in Los Angeles and Long Beach	$282.5 B Imports $28.5 B Exports
446k Jobs (about 1 in 19) in the five-county Southern California region	1.4M Jobs (about 1 in 117) across the United States	435 U.S. Congressional Districts touched by Trade	$310.9 B Grand Total

Calendar Year 2022

Port of LA Capacity

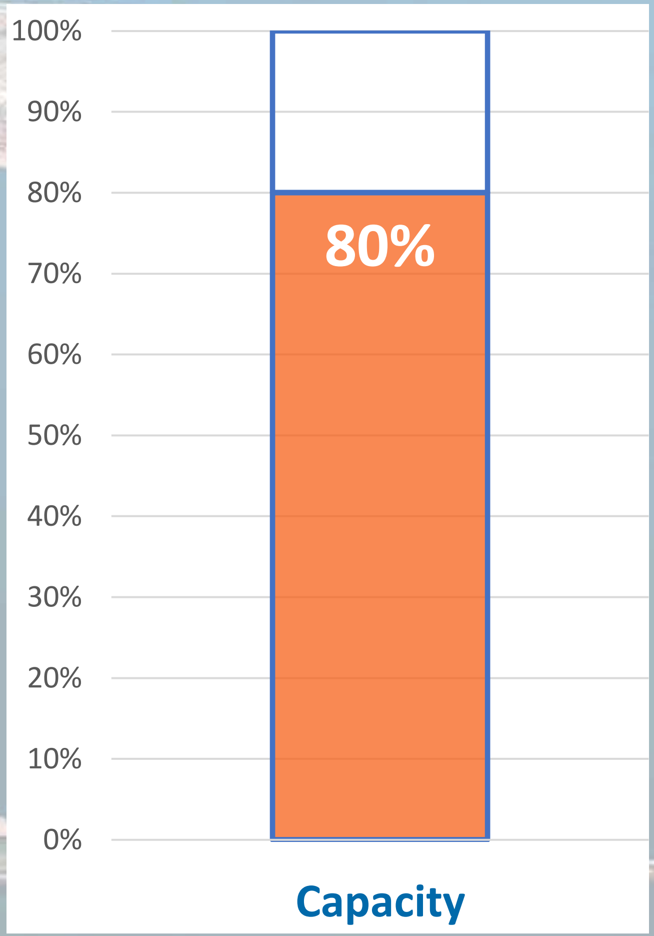
Port of LA Capacity

7 Major Container Terminals

1. WBCT (CS Holdings)
2. WBCT (LATiL)
3. TraPac
4. Yusen Terminals
5. Everport Terminal Services
6. Fenix Marine Services
7. APM Terminals

Approx 20 vessel calls a week

2023 – 8.64 million TEUs



A Gateway of Connectivity

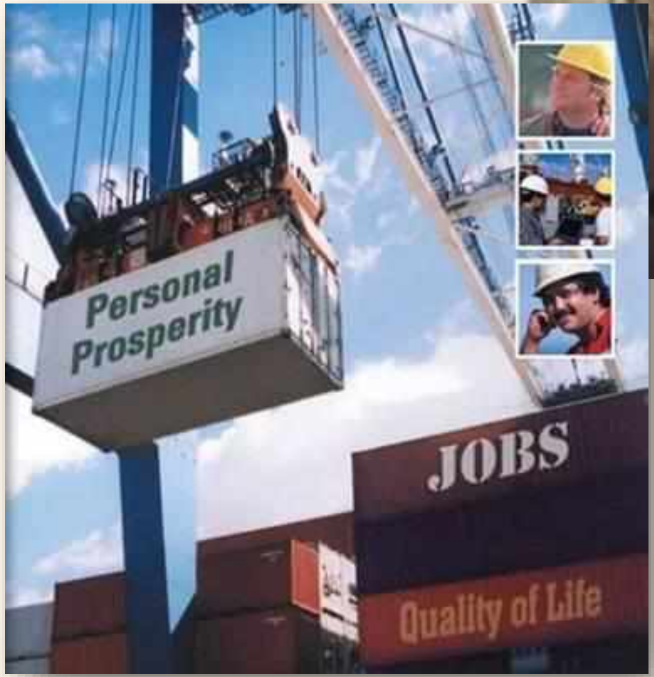
- **Mega-Region of 22 Million Consumers**
- **1.8 Billion Square Feet of Warehouse/Distribution Centers**
  - **15,000 Strong Longshore Workforce**
  - **20,000 Truckers**
- **100 Trains Daily To and From the LA Basin**
- **2 Class Railroad Carriers:**
  - **Union Pacific**
  - **Burlington Northern Santa Fe**
- **Rail Switching Service Yard**
  - **Pacific Harbor Line**
- **Access to Major Freight Hubs:**
  - **Chicago**
  - **Memphis**
  - **San Antonio**
  - **Kansas City**
  - **New York**
  - **Atlanta**
  - **Houston**
  - **Denver**
  - **Dallas**

Trade Connect Program

THE PORT OF LOS ANGELES

THE PURPOSE OF TRADE CONNECT

- Trade Promotion to Increase Export Trade
- Educate U.S. Businesses
- Market Diversification for Businesses
- Employment Creation
- Develop Export Trade throughout the Southern California Trade Gateway
- Service to Business Community
- Seminars are Free of Charge



Trade Connect Program

HOW TRADE CONNECT WORKS

- The Basic Trade Connect Program
- Export University – Advanced 10-Part Series
- Specialized Commodities Program
- Emerging Market Program
- Advance Assistance

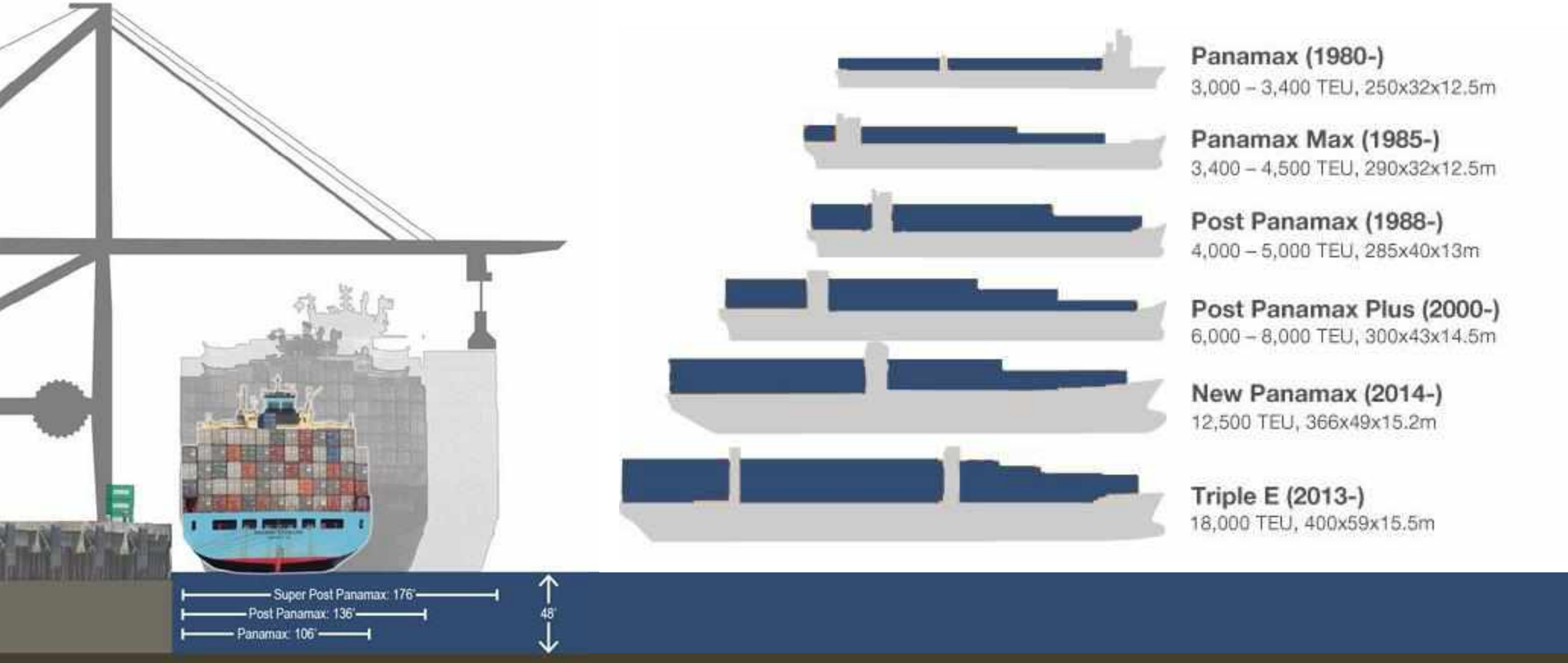
Trade Connect Program

THE PORT OF LOS ANGELES

EXPERT RESOURCES

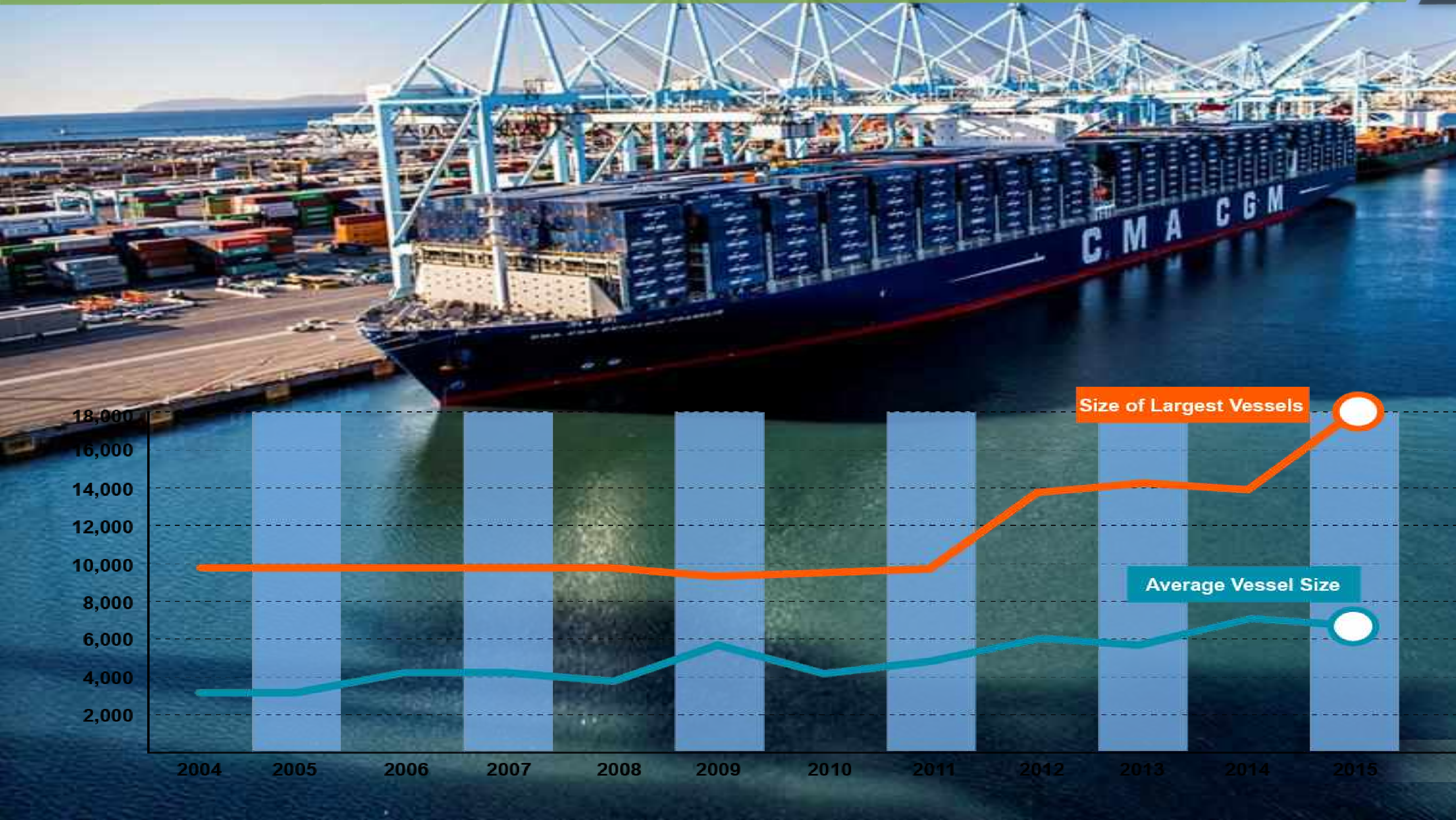
- U.S. Department of Commerce
  - U.S. Commercial Service Export Assistance Center
  - District Export Council of Southern California
- Export-Import Bank of the United States
- U.S. Small Business Administration
  - Export Assistance
- Freight Forwarders Association
- International Trade Compliance Institute
- California Education Training Export Consortium
- Center for international Trade Development (CITD)

Vessels are Getting Larger



Growth In Ships Calling at the Port

THE PORT OF LOS ANGELES



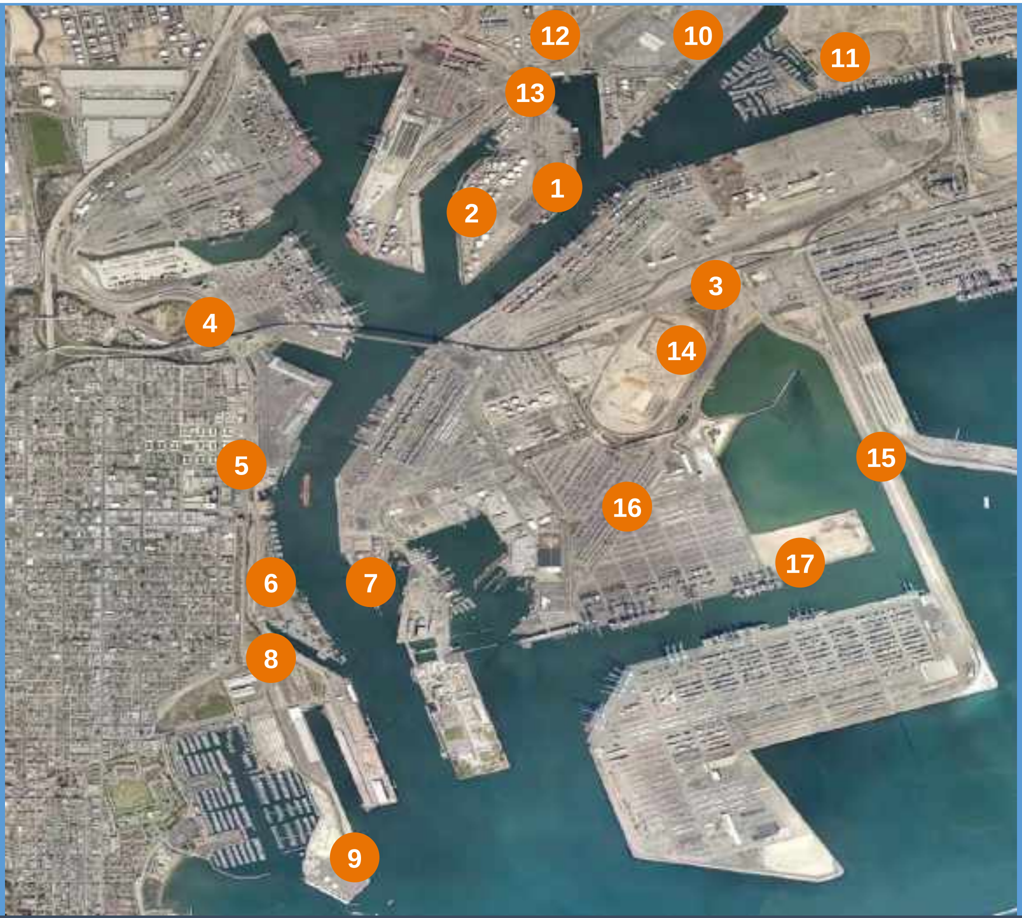
57%

Increase in 13,000 TEU and Larger Vessels

Major Capital Projects

Included in Current 10-Year $2.5B Capital Improvement Program

1. Berths 171-181 (Pasha) Improvements – **$11.4M**
2. Shell Marine Oil Terminal Wharf Improvements – **$44.8M**
3. SR 47/Seaside Ave & Navy Way Interchange Improvement – **$66M**
4. SR 47/Vincent Thomas Bridge/Harbor Blvd. Interchange – **$110M**
5. Harbor Department HQ Facility Improvements – **$14M**
6. San Pedro Waterfront Public Promenade Phase II – **$32M**
7. PBF Energy Marine Oil Terminal Wharf Improvements – **$35M**
8. 22nd Street Parking Improvements – **$20.8M**
9. Berths 49-51 Cruise Terminal Improvements – **$53M**
10. WWL Shore Power – **$17.7M**



11. Joint Ports Goods Movement Training Campus – **$150M**
12. Wilmington Waterfront Avalon Pedestrian Bridge & Gateway – **$65M**
13. Wilmington Waterfront Public Promenade – **$70.8M**
14. Maritime Support Facility (MSF) Grade Sep & Access Island Rail System Grade – **$234M**
15. Pier 400 Corridor Rail Storage Track Expansion – **$73.2M**
16. Berths 302-305 On-Dock Rail Expansion and RMG Rail – **$91.4M**
17. Berths 306 Wharf and Backland – **$256M**

PORT-WIDE:
Electric Infrastructure Improvement Program Preliminary Analysis – **$500M**

What We Have Done to Improve Cargo Fluidity

IMPROVE DRAYAGE EFFICIENCY

INCREASE CARGO CAPACITY

FUTURE: MARITIME SUPPORT FACILITY

EXPAND USE OF DATA

Gen. Stephen R. Lyons (Ret.)
White House Port and Supply Chain Envoy

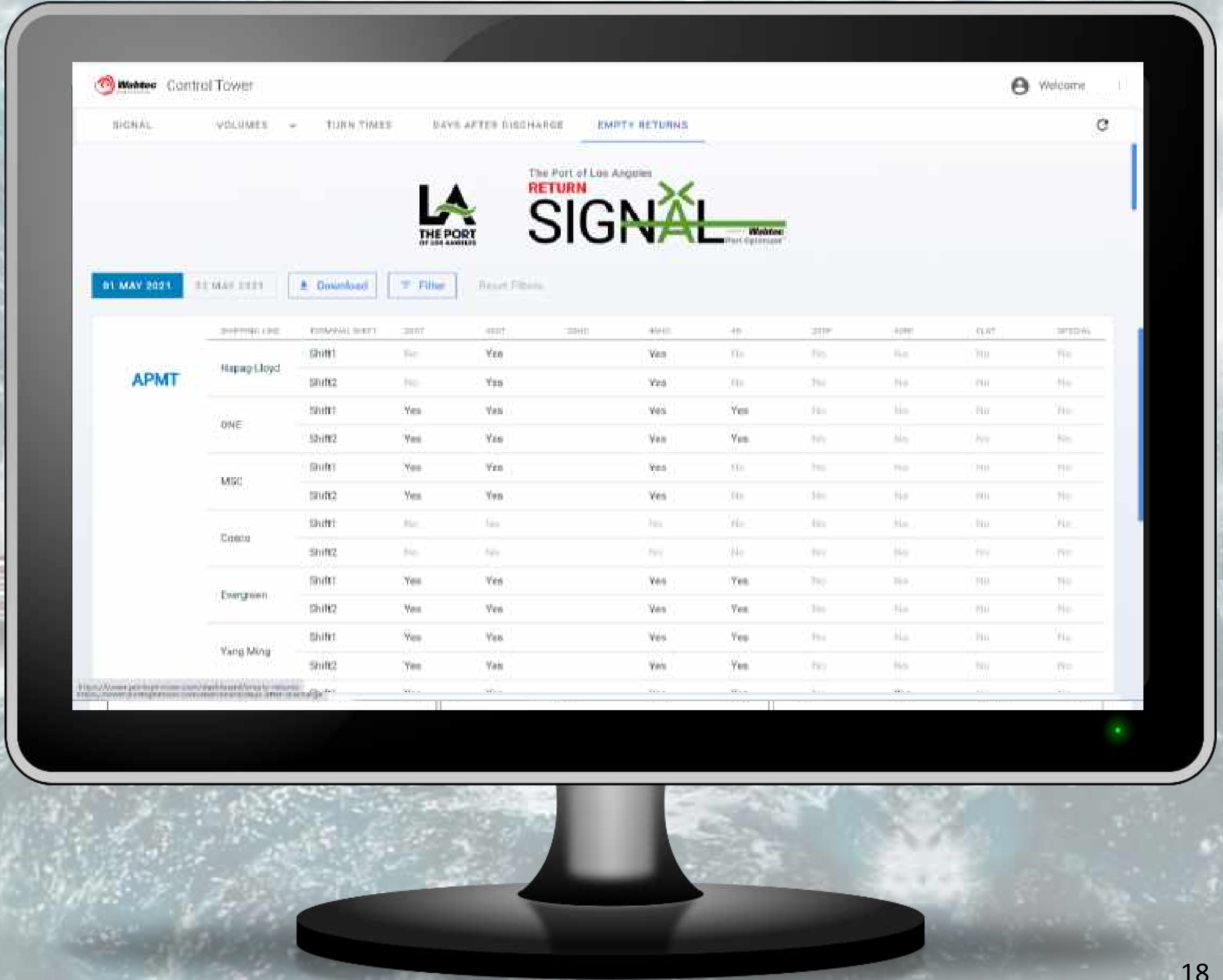
CONTINUED LEADERSHIP ENGAGEMENT

Real-Time Information Sharing

THE PORT OF LOS ANGELES

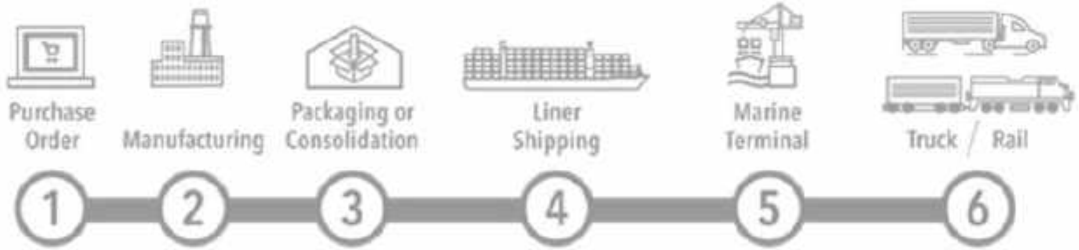
Port Optimizer™

Establish a **Global Data Repository** to Provide Accurate, Actionable Information and Analytics, Accessible to Designated Parties Across the **Port's Supply Chain**



Port Optimizer™ – Digital Data Tool

Optimizing the Global Supply Chain



Enabling visibility and execution across an integrated supply chain

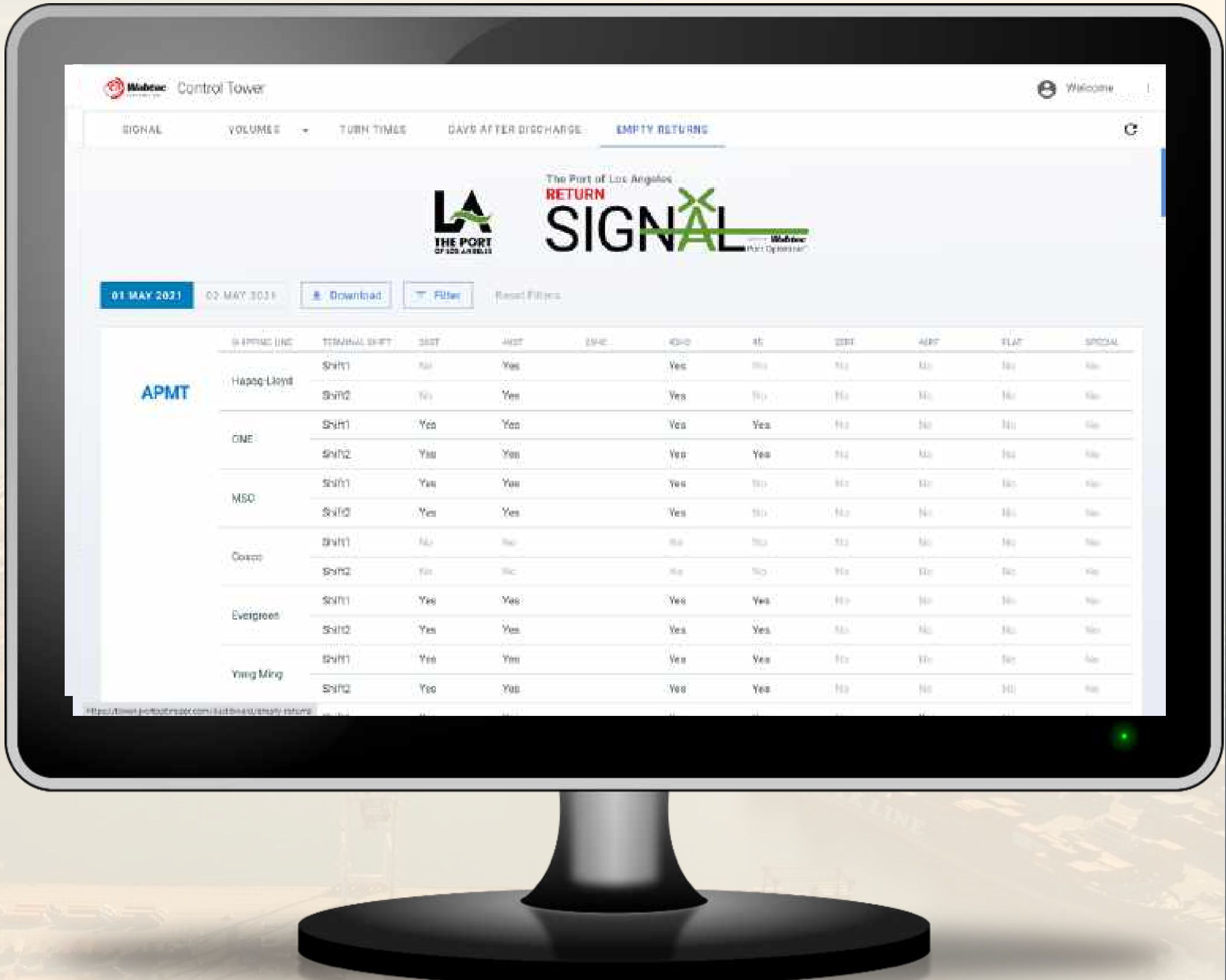
Port Optimizer

Real Time Data Information Sharing

THE PORT OF LOS ANGELES

The Port of Los Angeles
CONTROL TOWER
POWERED BY Wabtec Port Optimizer™

- **Control Tower: Port-Wide Container, Truck, Chassis, & Rail Gate Dwell Metrics**
  - **Horizon: 6-Month Forecasting**
  - **Track and Trace: Container Visibility Planning**
  - **POLA Signal: High-Level Visibility & Data Metrics for Chassis, Trucks and Rail**
- **Return Signal**
  - **3-Week Look Ahead of Import Volumes**
  - **Empty Returns**
- **Inbound Vessel & Cargo Volumes**
- **Truck Turn Time Averages**
- **Date After Discharge**



ENVIRONMENT

THE PORT OF LOS ANGELES

Clean Air Action Plan 2017 Update

- Ocean-Going Vessels
- Technology Development
  - Terminal Equipment
  - Heavy-Duty Trucks
- Green Shipping Corridors

Clean Air Action Plan 2017

THE PORT OF LOS ANGELES

San Pedro Bay Ports are Working Together to Reduce Environmental Impacts

Testing Zero Emission Drayage Trucks (Electric and Hydrogen Fuel Cell-Electric) Pre-Production Models of ZE Class-8 Trucks	Testing Zero Emission Cargo Equipment at Terminal Facilities (Above: World's First All-Electric Top Handler)	Developing Programs to Attract the Cleanest Ships + Green Shipping Corridor with Port of Shanghai	Testing and Deployment of Cleaner Harbor Craft Engines and Operational Strategies to Reduce Harbor Craft Emissions	Cleanest Available Switching Locomotives and Limit Idling to 15-Minutes

Technology Development

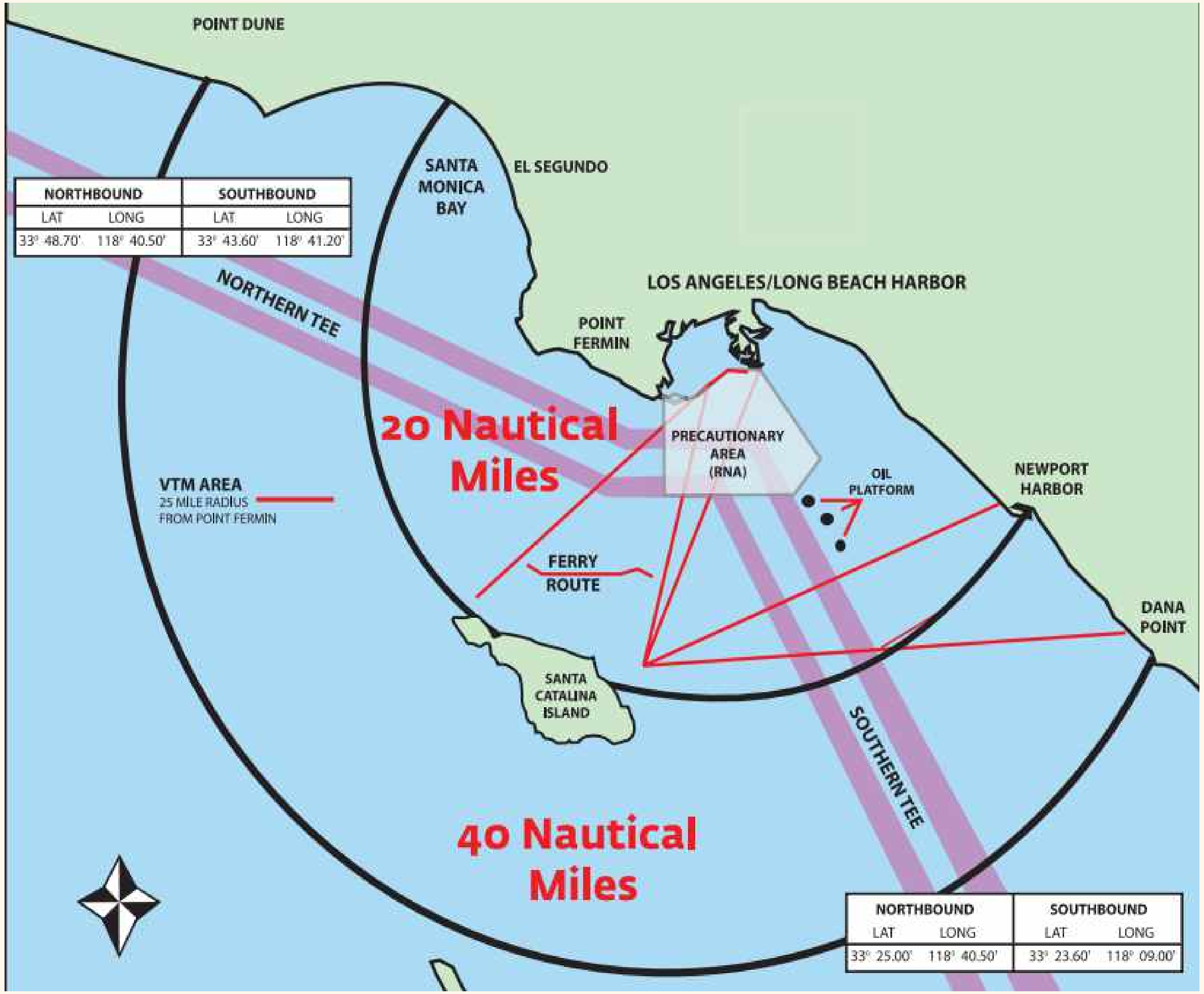
Cleaner Port-Wide Operations

Toyota-Powered Hydrogen Fuel Cell-Electric Truck

World's First All-Electric Top Handler

Vessel Speed Reduction (VSR) Program

- Port Provides Financial Incentives (Reduced Dockage Fees) to Shipping Lines that Slow to 12 Knots when Approaching the Ports
- Two Program Zones: 20NM and 40NM
- Voluntary Program
- Outstanding Participation (CY 2021)
  - 20NM: 96% of Vessels Slow Down
  - 40NM: 92% of Vessels Slow Down
- Alternative Compliance Plans
- Reduces Whale Strikes < 10 Knots



Alternative Maritime Power (AMP)

THE PORT OF LOS ANGELES

- First Port to Install and Use Shore Power at a Container Berth in 2004
- Shore Power First Regulated in 2007 by the State of California, with Requirements Starting in 2014
  - State Regulation Now Requires 100% Emissions Control for Container, Reefer, and Cruise with Limited Exceptions starting 2023
- 24 Berths = 79 Vaults Completed and Operational (January 2022)
- 22 Container Berths = 73 Vaults at 6.6 kV
  - 2 Cruise Berths = 6 Vaults (4 at 11 kV, 2 at 6.6 kV)
- Project Cost: Approximately $230 Million USD



Emissions Reductions (2005-2022)

THE PORT OF LOS ANGELES

Diesel Particulate Matter

DOWN

88%

2023 Goal 77%

Nitrogen Oxides

DOWN

62%

2023 Goal 59%

Sulfur Oxides

DOWN

97%

2023 Goal 93%

Greenhouse Gases

DOWN 4%

UP

32%

TEUs

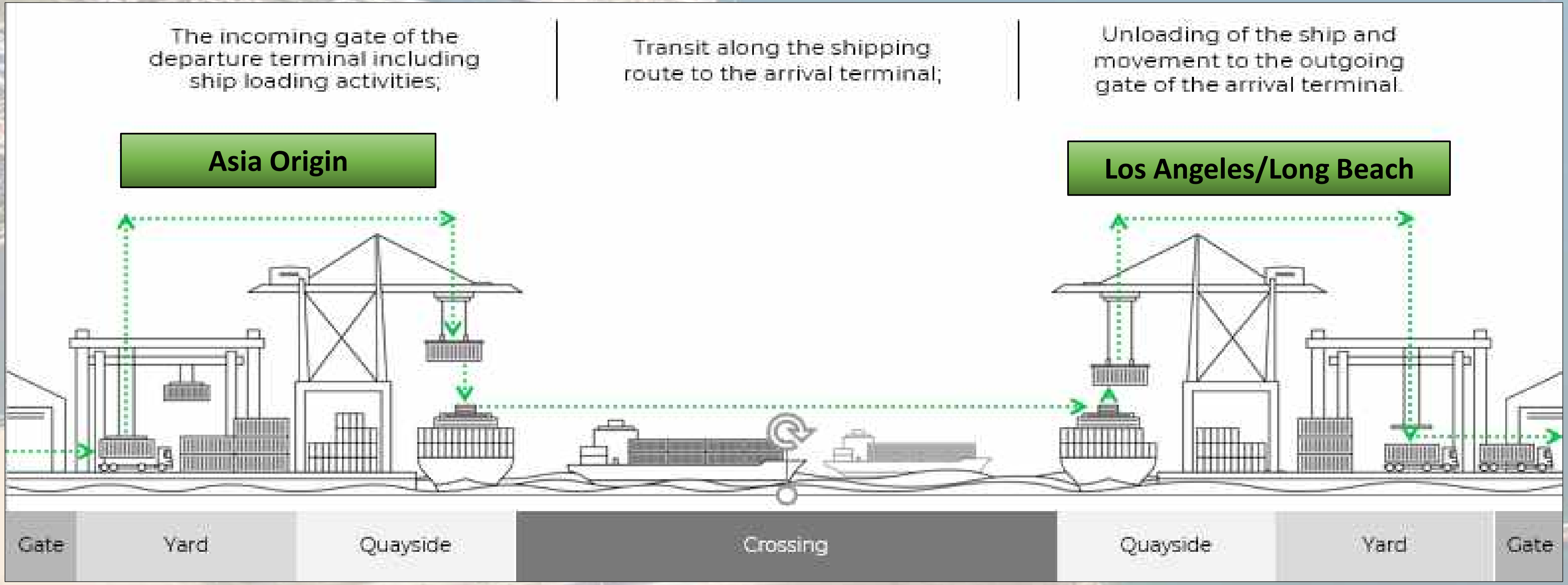
What is a “Green Shipping Corridor?”

Pathway to Zero Carbon Shipping between Two Seaports, including Process Steps, Reduced Carbon Milestones and Procedures to Measure Progress toward Zero Emissions for all to See

Port of Los Angeles Green Shipping Corridor

THE PORT OF LOS ANGELES

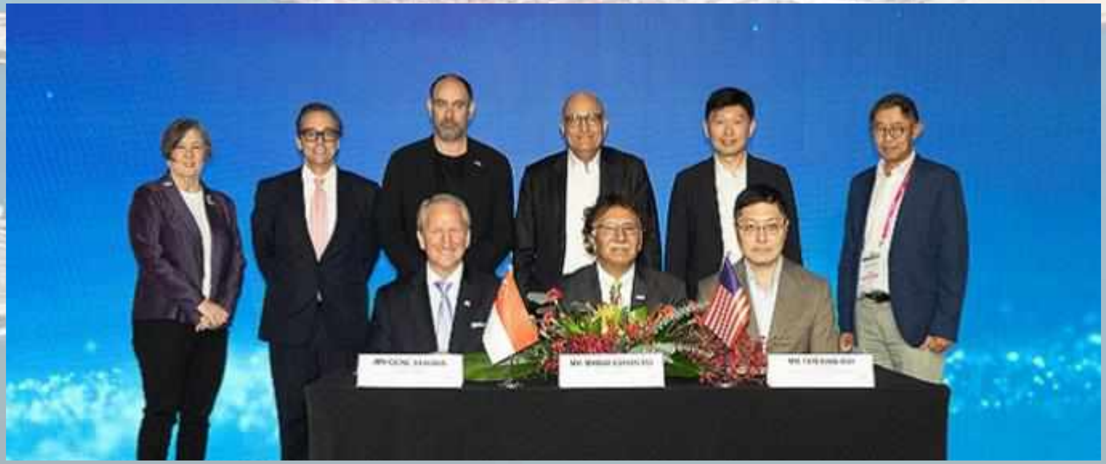
- **By 2025, "begin deploying reduced or zero lifecycle carbon emission capable ships in the corridor"**
- **By 2030, "it is envisioned that qualified and willing shipping lines will work together to demonstrate the feasibility of deploying the world's first zero lifecycle carbon emission container ship(s)"**



Port of Los Angeles Green Shipping Corridor

THE PORT OF LOS ANGELES

- **POLA Green Shipping Corridor Active Agreements**
  - *POLB and Port of Shanghai*
  - *POLB and Port of Singapore*
  - *Port of Tokyo*
  - *Port of Yokohama*
  - *Port of Nagoya*
  - *Port of Guangzhou*
  - *Long Son Port, Vietnam*
  - *Nam Do Son Port, Vietnam*

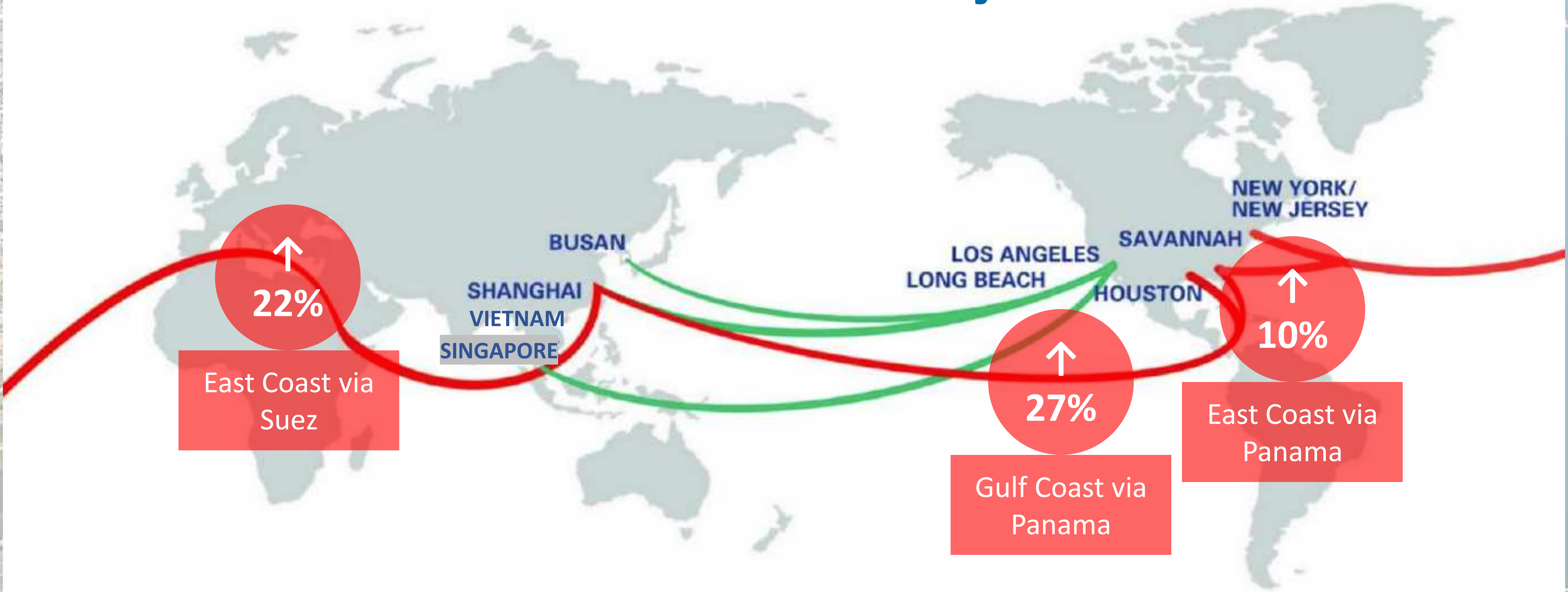


Carbon Diversion

THE PORT OF LOS ANGELES

Average Increase in Carbon Emissions

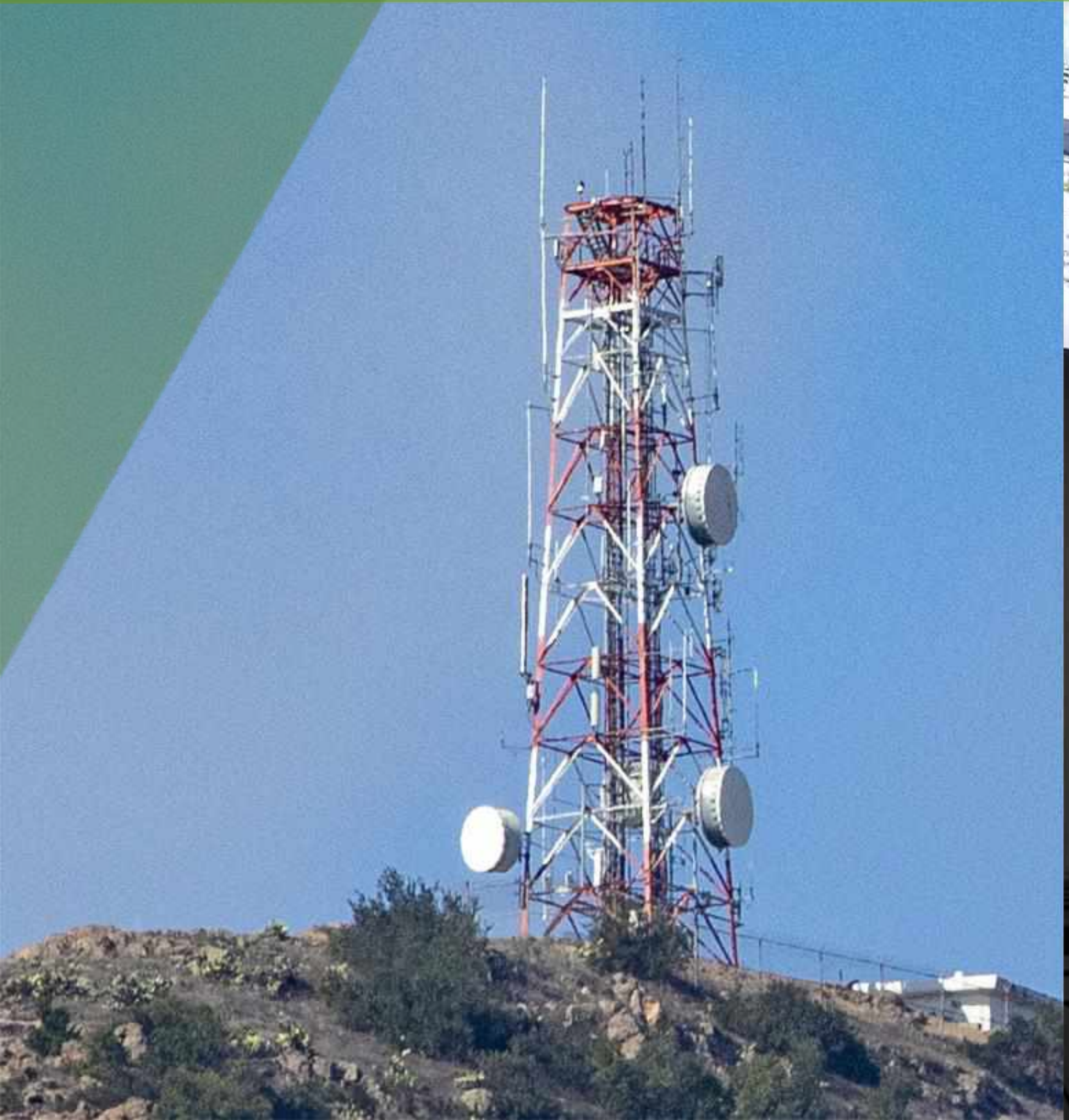
From Diversion to Other Gateways vs. LA/LB



Security

- **Public Safety**
  - Enhance the Safety of the Port and the Community it Protects
- **Homeland Security**
  - Enhance the Port's capability to prevent or detect an event or action that would threaten the security of the Port or the flow of cargo
- **Emergency Preparedness**
  - Enhance the capability of the Port to respond to an incident, mitigate its effects and resume critical operations

Threat Detection Center



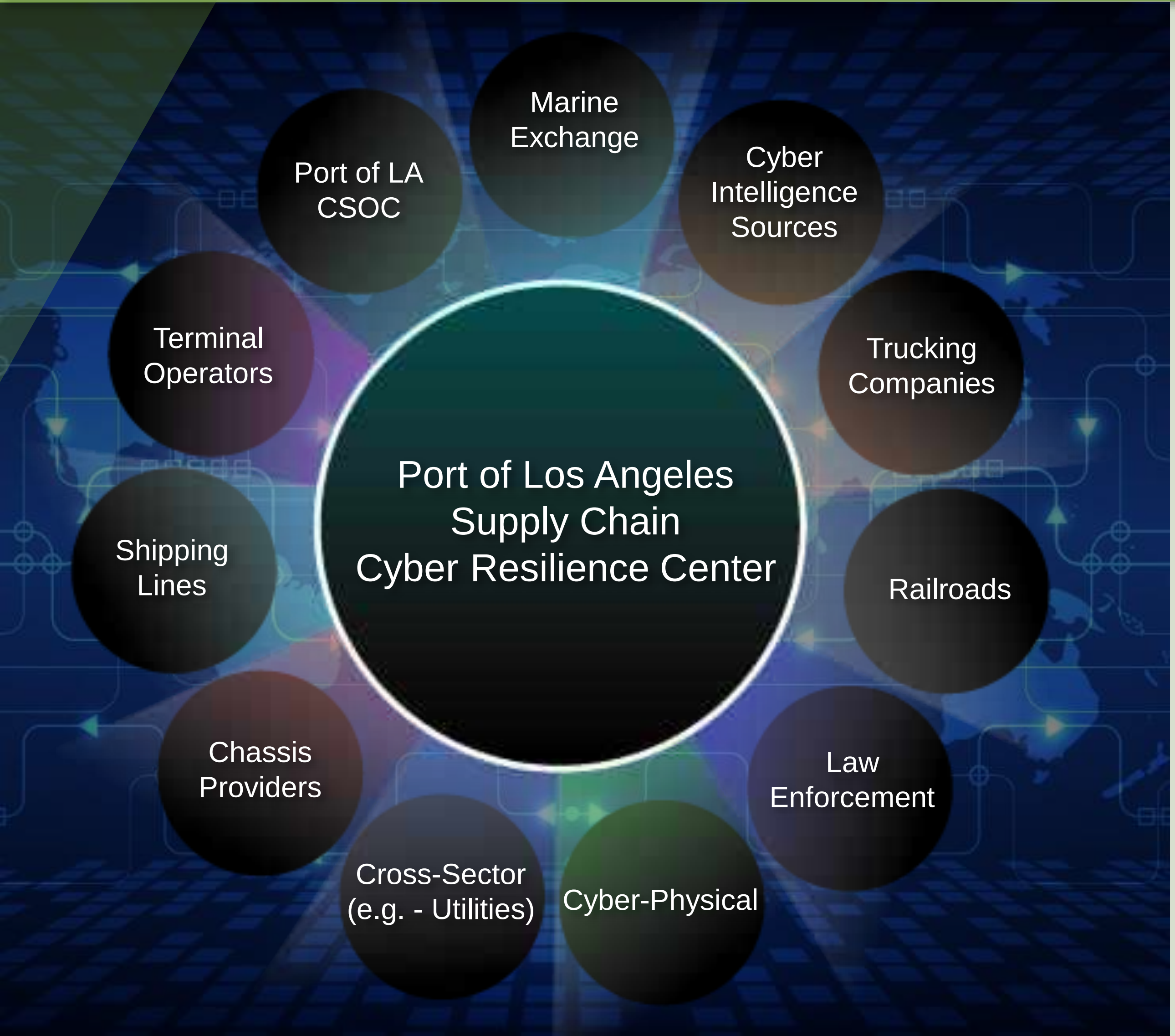
THE PORT OF LOS ANGELES

Cyber Security Operations Center

THE PORT
OF LOS ANGELES

- **Cyber Security Operations Center**
  (First for ports, in operation since 2014)
- **ISO 27001 Certified Information Security Management System**
  (First and only for ports, certified since 2015)
- **Dedicated Cybersecurity Team, including qualified employees with Cyber Security Industry Certifications**
- **Collaboration with City of LA, U.S. Coast Guard, FBI, U.S. Secret Service, DHS, AAPA**
- **24/7 Defense against 44 Million+ Intrusion Attempts per Month; 20-22 Attacks Every Second**

CYBER RESILIENCE CENTER



The **Cyber Resilience Center** Reduces the Cyber Risks for the Supply Chain Ecosystem

- **Early Warning System for the Stakeholders in the Port of Los Angeles Ecosystem**
- **Enable Cyber Teams Collaboration with Improved Quality, Quantity and Speed of Cyber Information Sharing**
- **Reduce Risk of a Supply Chain Disruption**

COMMUNITY


AltaSea
AltaSea
AT THE PORT OF LOS ANGELES

Wilmington Waterfront

Wilmington Waterfront Promenade Design Concepts

San Pedro West End

THE PORT OF LOS ANGELES


Phase 1 Entry Welcome


Outdoor Waterfront Dining


Waterfront Activation


Intimate Shaded Dining


Container Kitchen at Night


Container Kitchens

OUTLOOK

THE PORT
OF LOS ANGELES

CARGO ARRIVAL

ECONOMY

SECURITY

DIGITALIZATION

LABOR AGREEMENTS

EXPORTS

INFRASTRUCTURE

LA THE PORT OF LOS ANGELES

TRADE CONNECT

CONNECTING TRADE TO THE WORLD

Port of Los Angeles

THE PORT
OF LOS ANGELES

Marisela Caraballo DiRuggiero
Director of Trade Development
Port of Los Angeles
Office: (310) 732-3505
Cell: (310) 418-3572
Email: mcaraballo@portla.org

U.S. Coast Guard Sector
Los Angeles – Long Beach

Safety * Professionalism * Vision

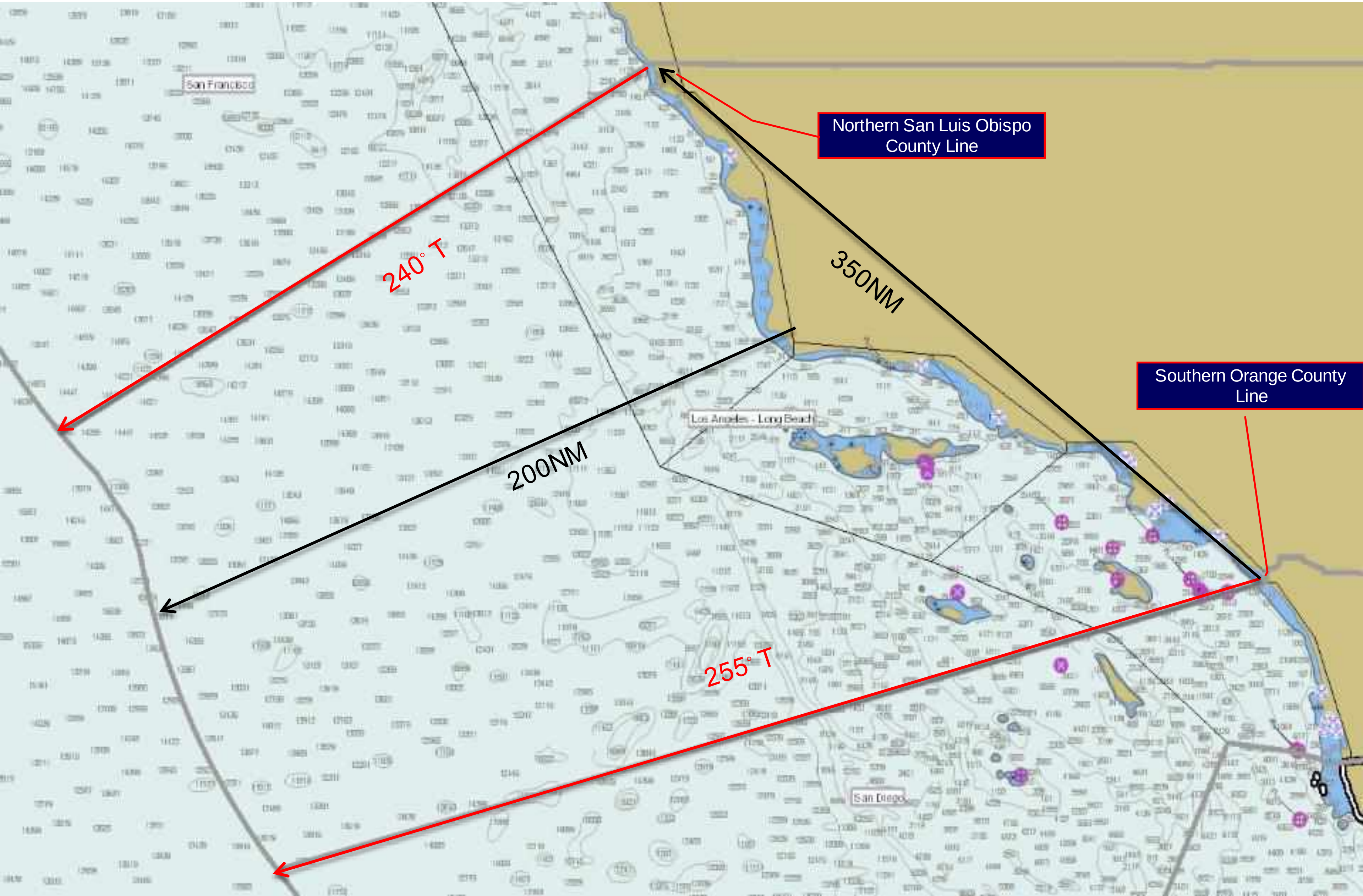
Update: FEB 2024

Geographic Organization

- [Coast Guard 101 - YouTube]

Homeland Security

Sector LA-LB Area of Responsibility



Coast Guard Sector Command

Broad Authorities

- Captain of the Port
- Federal Maritime Security Coordinator
- Federal On-Scene Coordinator
- Officer in Charge, Marine Inspections
- Search and Rescue (SAR)

Mission Coordinator

Broad Focus

- Operate; Regulate; Coordinate
- 10 of 11 USCG Mission Areas (SAR, Migrant Interdiction, LMR, MEP, Drug Interdiction, ICE Ops, PWCS, Marine Safety, Defense Readiness, ATON, LE)

Sector Los Angeles-Long Beach

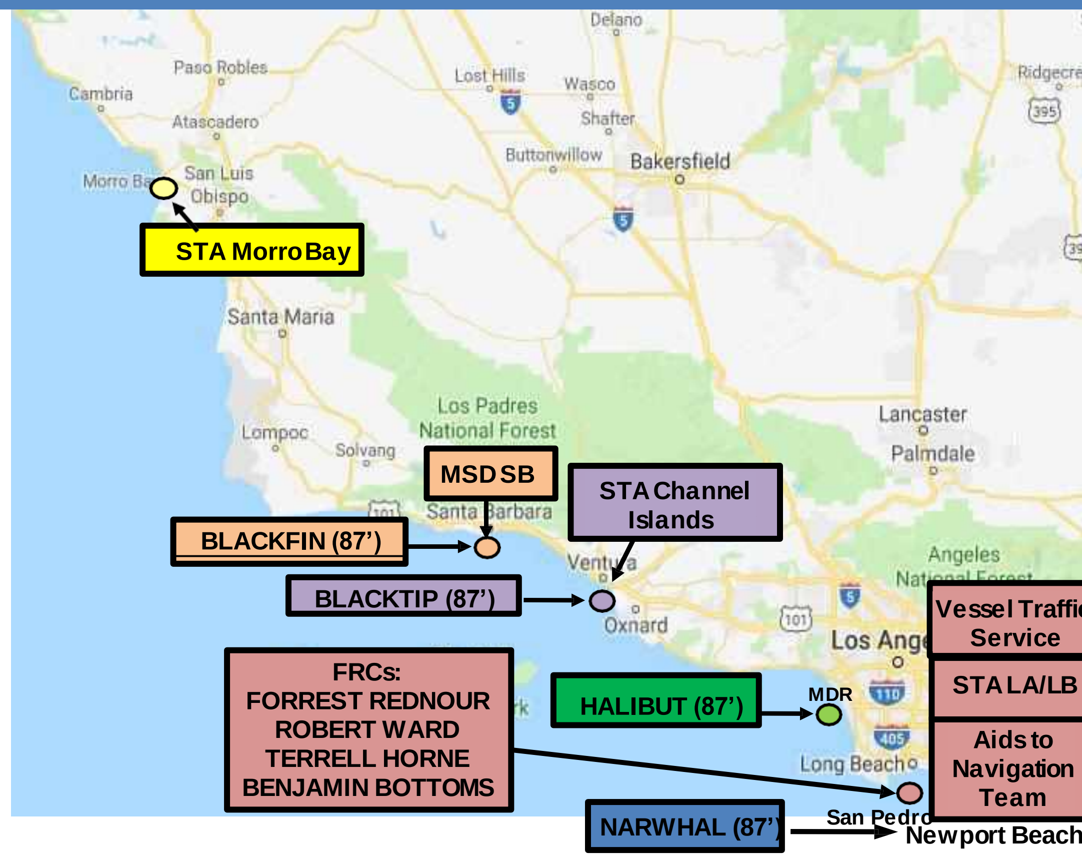
Overview

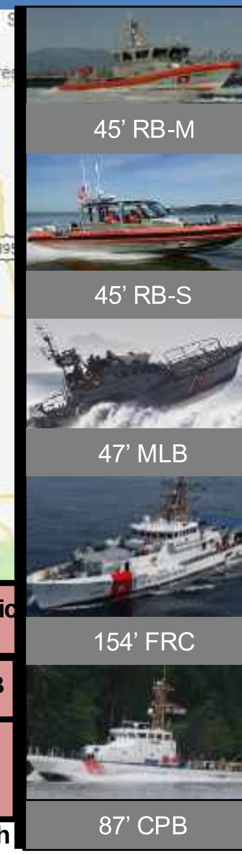
- **14 Field Commands**: 4 FRCs (FORREST REDNOUR, ROBERT WARD, TERRELL HORNE, BENJAMIN BOTTOMS), 4 CPBs (NARWHAL, HALIBUT, BLACKTIP, BLACKFIN), 3 Small Boat Stations (LA-LB, Channel Islands, Morro Bay), ANT LA-LB, MSD Santa Barbara, VTS.

- **Workforce/Budget**: **408** AD, **124** Reservists, **24** civilians and 750 Auxiliarists throughout the AOR; $3.3 million annual budget

Operations (2023)

- **Search and Rescue:**
  - 528 cases; 201 lives saved; 687 lives assisted and $59.1M in property saved/assisted.
- **Counter Drug/MIO:**
  - 35 CD/MIO events; 9 interdictions; 38 pounds of fentanyl; 217 pounds of cocaine; $14.3 million street value; 102 undocumented non-citizens and 22 smugglers apprehended.
- **General Statistics:**
  - 6,285 Container Inspections
  - 392 Facility Inspections
  - 186 Fishing Vessel Exams
  - 1,605 Vessel Inspection Activities
  - 47 Vessel Operational Controls
  - 342 Marine Casualty Investigations
  - 23 Violations/civil penalties/suspension & revocation cases
  - 74 Marine Event Applications, 28 permits issued
  - 130 ATON Managed
  - 583 Pollution Response Cases
  - 224 Investigations/responses to reported pollution
  - 623 Law enforcement/security operations (24.7% of D11)





Ports of Los Angeles & Long Beach

Port of LA

- #1 Container port in North America, 17th busiest in the world
- Moved 8.6 million TEU in 2023
- Cargo Value of $400 billion
- 16% of nation's market share

Port of LB

- No. 1 export seaport in US
- More than 9 million TEU annually
- Cargo Value of $200 billion

https://www.portoflosangeles.org/
http://www.polb.com/

Combined

- 9th busiest by container volume in world
- 31% of all containerized waterborne international trade for the US.

Homeland Security

Port of Hueneme

- Deepwater Port (5 Berths)
- Mixed use Military/Commerce
- Facilitates $11.39 Billion in trade value

Homeland Security

Maritime Safety & Security Partnerships

- Federal
- State
- Local
- Private Industry & Labor
- Elected officials
- Community groups

Homeland Security

Response Department

Enforcement Division

- Ports, Waterways, and Coastal Security (PWCS)
- Counter-Drug (CD)/Migrant Interdiction Operations
- Living Marine Resources (LMR)
- Recreational boating safety (RBS)
- Other General Maritime Law Enforcement missions.

Incident Management Division

- SAR Planning
- All-hazards Response Management
- Maritime Environmental Response

Homeland Security

Prevention Department

- Waterways Management Division
  - Waterways Safety (Marine Events, Space ops, Aquaculture)
  - Aids to Navigation Team
  - Vessel Traffic Service/Marine Exchange of Southern California
- Inspections Division
  - Domestic Vessel Branch
  - Port State Control Branch
  - Facilities and Containers Branch
  - Commercial Fishing Vessel Examinations
- Investigations Division
  - Marine casualty investigations
  - Merchant mariner credential suspension and revocation (S&R) investigations
  - Investigation of alleged violations of marine safety laws and regulations

Homeland Security

Sector Los Angeles – Long Beach: Major Cases

- **(MIO) Pleasure Craft Landing – Marina Pacifica (Feb 2023)**
  - 38' Cabin Cruiser observed by AMO exhibiting smuggling indicators at sea
  - Vessel was followed into Long Beach and boarded by ReCoM partners
  - 35 non-US citizens were identified and detained

- **(MIO) Panga Drug Case – Port of LA (July 2023)**
  - M/V BITTERN recovered a panga that was adrift for 12 days with 02 POB off the coast of Colombia.
  - M/V Bittern transited to Los Angeles and informed USCG and USCBP of intentions to offload the distressed vessel and crew.
  - Upon arrival of USCG Sector Los Angeles – Long Beach Sector Boarding Team (SBT), the 02 POB spontaneously confessed to having cocaine hidden in the panga.
  - After a destructive search, SBT discovered 85kgs of cocaine hidden within the vessel's false deck.

Homeland Security

Sector Los Angeles – Long Beach: Major Cases

- **Fishing Vessel Aground & Sank in National Park/National Marine Sanctuary (June 2023)**
  - SEA JAY
    - F/V SEA JAY ran aground and sank in Pelican Cove of Santa Cruz Island with14 individuals on board.
    - A Unified Command was established with the primary objective of ensuring the safe removal of the pollution threat posed by 600 gallons of diesel
    - Within 24 hours the vessel was re-floated and subsequently towed to safe harbor. Responders removed 1,300 gallons of oily water.

- **Fishing Vessel Aground on Catalina Island (SEP 2023)**
  - Pacific Knight
    - Sector LA-LB received report of F/V PACIFIC KNIGHT aground on Catalina Island.
    - RP hired Towboat Catalina for hydrocarbon and vessel removal actions.
    - On Sep 22, 145 gals of diesel, 40 gals hydraulic oil, other misc. hazmat removed from vessel.
    - On Oct 13, Towboat successfully removed vessel from Catalina Island and towed to Long Beach for disposal.

Homeland Security

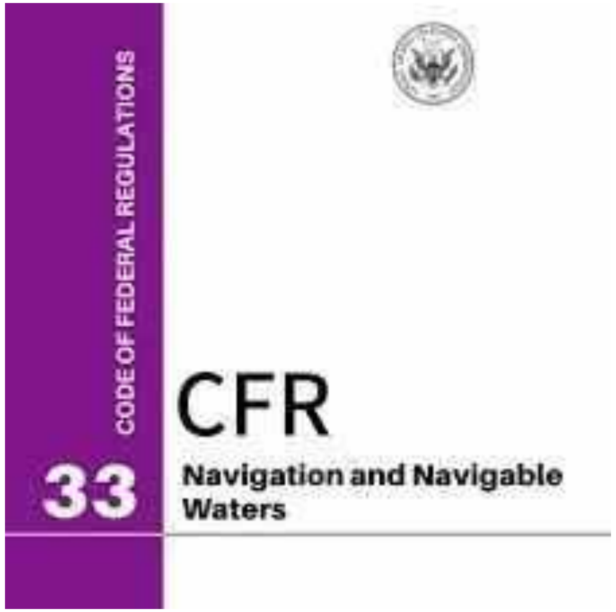
USCG in Action

Conclusion

• Gestión de Riesgos Cibernéticos en el MTS

Misión: Proteger la Vida y el Medio Ambiente y Facilitar el Comercio

- Inspección de instalaciones costeras
- Seguridad – Protección contra sustancias nocivas
  - 33 CFR 126 Materiales peligrosos
  - 33 CFR 154 Petróleo
  - 33 CFR 127 LNG/LPG
  - 33 CFR 156 Desperdicios
- Seguridad – Proteger contra interrupciones en nuestro sistema de transporte marítimo
  - 33 CFR 105



Seguridad Costera

33 CFR 6: Autoridad de Capitanía de Puerto

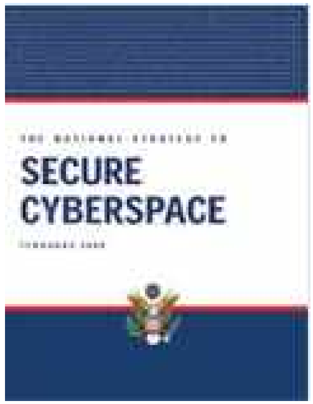
- Prevenir el abordaje de embarcaciones
- Establecer zonas de seguridad
- Inspección y registro de instalaciones y embarcaciones
- Embargo y control de buques
- Asistencia de otras agencias federales

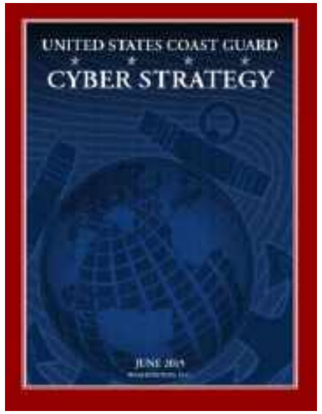
Nuevas leyes e instrucciones extienden estas autoridades a Cibernética

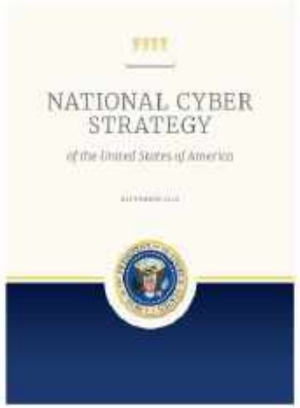
- Aviso sobre propuesta en la reglamentación (NPRM)
- Orden Ejecutiva 14116
- NVIC 02-24

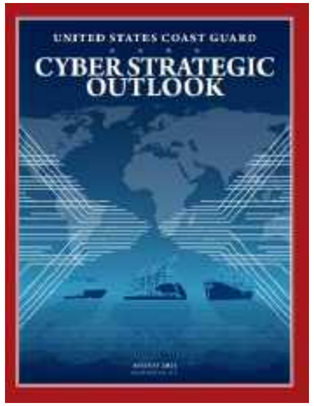
La Evolución de la Estrategia Cibernéticas

- Estrategia Nacional para proteger el Espacio Cibernético (Feb 2003)
- Orden Ejecutiva 13636, mejorando partes críticas en la infraestructura de la seguridad cibernética (Feb 2013)
- Estrategia Cibernética de la Guardia Costera (June 2015)
- Estrategia de ciberseguridad del DHS (May 2018)
- Estrategia Cibernética Nacional (Sept 2018)
- Ley de la agencia de seguridad de infraestructura y ciberseguridad del 2018 (Nov 2018)
- NVIC 01-20
- Perspectiva Cyberstratégica de la Guardia Costera(Aug 2021)
- NVIC 09-02 CH6
- NVIC 02-24
- Orden Ejecutiva 14116 y aviso de la Guardia Costera sobre propuesta en la reglamentación (Feb 2024)





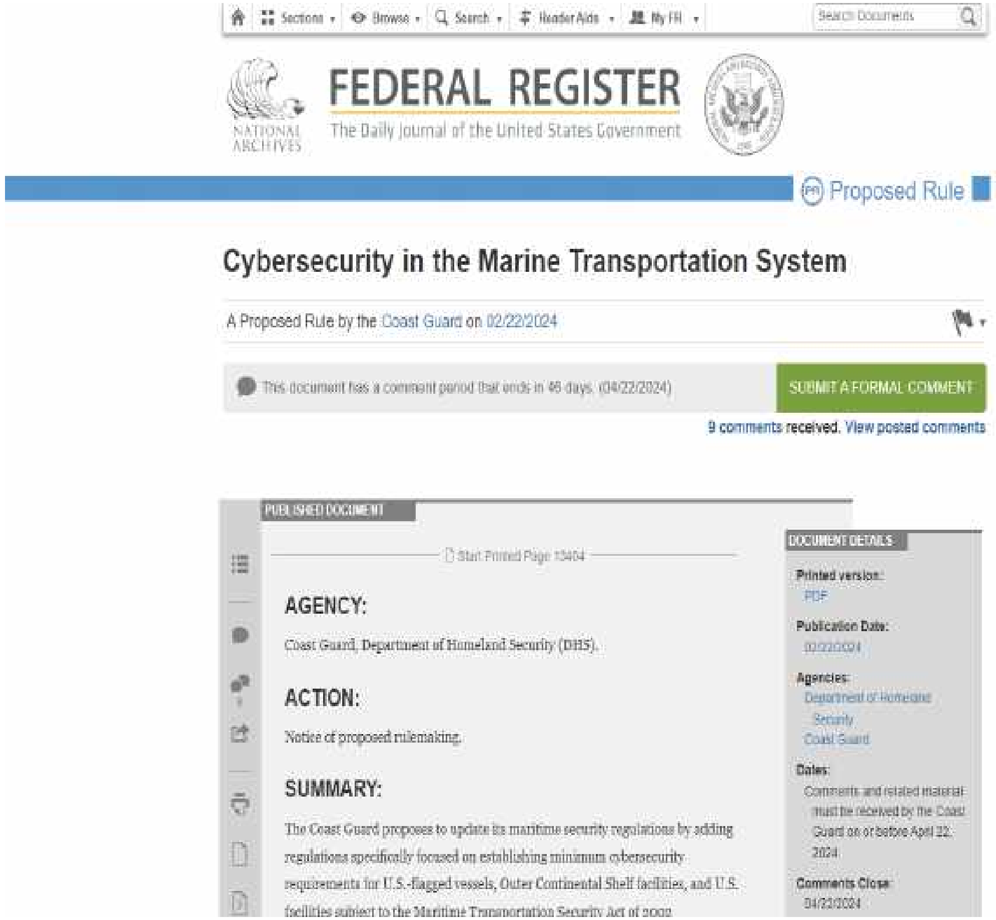




Aviso sobre propuesta en la reglamentación(NPRM)

Ciberseguridad en el Sistema de Transporte Marítimo

- Publicado el 22 de Feb 2024
- Propone Regulaciones específicamente enfocadas en establecer requisitos mínimos de ciberseguridad para embarcaciones con bandera de EE. UU., Instalaciones de Plataforma continental exterior e instalaciones de EE. UU. Sujetas a las regulaciones de la Ley de Seguridad del Transporte Marítimo de 2002.
- Ayudaría abordar las amenazas de ciberseguridad actuales y emergentes en el Sistema de Transporte Marítimo.
- Siguiendo el modelo de los objetivos de desempeño de ciberseguridad intersectorales de CISA
- <u>El período de comentario público termina el 22 May 2024</u>



Orden Ejecutiva 14116

Modificación de reglamentos relacionados con la protección de embarcaciones, e instalaciones costeras de los Estados Unidos

- Firmado el 21 Feb 2024
- Asegura que las autoridades de la Guardia Costera estén alineadas con las amenazas emergentes de ciberseguridad.
- Refuerza el mayor enfoque de la administración y la Guardia Costera en proteger la infraestructura maritíma crítica de acciones cibernéticas maliciosas.
- Deja en claro que las autoridades de la Capitanía de Puerto en 33 CFR Parte 6 se aplican a las amenazas e incidentes cibernéticos
- Modifica 33 CFR Parte 6.16-1 para incluir requisitos de informes para un incidente cibernético real o amanezado.


THE WHITE HOUSE

Administration Priorities The Record Briefing Room Español MENU

FEBRUARY 21, 2024

Executive Order on Amending Regulations Relating to the Safeguarding of Vessels, Harbors, Ports, and Waterfront Facilities of the United States

BRIEFING ROOM › PRESIDENTIAL ACTIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1 of title II of the Act of June 15, 1917, as amended (46 U.S.C. 70051) (the "Act"), and in addition to the finding in Executive Order 10173 of October 18, 1950, and any other declaration or finding in force under section 1 of the Act, I find that the security of the United States is endangered by reason of disturbances in the international relations of the United States that exist as a result of persistent and increasingly sophisticated malicious cyber campaigns against the United States, and that such disturbances continue to endanger such relations, and hereby order that:

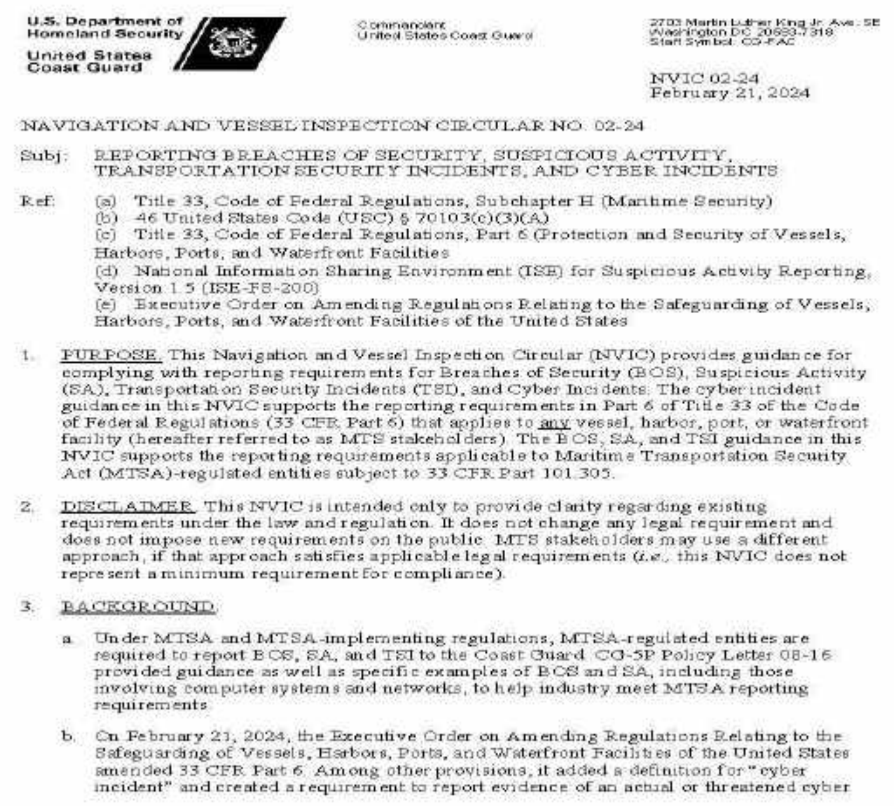
Orden Ejecutivo 14116 Autoridad

- Establecer zonas de seguridad para responder a la actividad cibernética
- Controlar embarcaciones que presentan amenazas cibernéticas
- Inspeccionar y buscar sistemas y redes cibernéticas
- Requerir instalaciones para corregir condiciones cibernéticas insatisfactorias
- Requiere informes de
    - Sabotaje
    - Actividad subversiva
    - Incidentes cibernéticos reales o amenazados a las instalaciones

Anuncio de Navegación e Inspecciónes de Buques (NVIC) 02-24

Informar violaciones de seguridad, actividades sospechosas, incidentes de seguridad en el transporte e incidentes cibernéticos

- Fechado el 21 Feb 2024
- Proporciona aclaraciones y orientación voluntaria sobre los requisitos de presentación de informes identificados en 33 CFR Parte 101 y 33 CFR Parte 6.
- No cambia ningún requisito legal y no impone nuevos requisitos al público.
- **Reemplaza la carta de instrucción CG-5P 08-16**



U.S. Department of Homeland Security
United States Coast Guard

Commandant
United States Coast Guard

2703 Martin Luther King Jr. Ave. SE
Washington DC 20593-7318
Staff Symbol: CG-FAC

NVIC 02-24
February 21, 2024

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 02-24

Subj: REPORTING BREACHES OF SECURITY, SUSPICIOUS ACTIVITY, TRANSPORTATION SECURITY INCIDENTS, AND CYBER INCIDENTS

Ref: (a) Title 33, Code of Federal Regulations, Subchapter H (Maritime Security)
(b) 46 United States Code (USC) § 70103(c)(3)(A)
(c) Title 33, Code of Federal Regulations, Part 6 (Protection and Security of Vessels, Harbors, Ports, and Waterfront Facilities
(d) National Information Sharing Environment (ISE) for Suspicious Activity Reporting, Version 1.5 (ISE-FS-200)
(e) Executive Order on Amending Regulations Relating to the Safeguarding of Vessels, Harbors, Ports, and Waterfront Facilities of the United States

1. PURPOSE. This Navigation and Vessel Inspection Circular (NVIC) provides guidance for complying with reporting requirements for Breaches of Security (BOS), Suspicious Activity (SA), Transportation Security Incidents (TSI), and Cyber Incidents. The cyber incident guidance in this NVIC supports the reporting requirements in Part 6 of Title 33 of the Code of Federal Regulations (33 CFR Part 6) that applies to any vessel, harbor, port, or waterfront facility (hereafter referred to as MTS stakeholders). The BOS, SA, and TSI guidance in this NVIC supports the reporting requirements applicable to Maritime Transportation Security Act (MTSA)-regulated entities subject to 33 CFR Part 101.305.

2. DISCLAIMER. This NVIC is intended only to provide clarity regarding existing requirements under the law and regulation. It does not change any legal requirement and does not impose new requirements on the public. MTS stakeholders may use a different approach, if that approach satisfies applicable legal requirements (*i.e.*, this NVIC does not represent a minimum requirement for compliance).

3. BACKGROUND.

a. Under MTSA and MTSA-implementing regulations, MTSA-regulated entities are required to report BOS, SA, and TSI to the Coast Guard. CG-5P Policy Letter 08-16 provided guidance as well as specific examples of BOS and SA, including those involving computer systems and networks, to help industry meet MTSA reporting requirements.

b. On February 21, 2024, the Executive Order on Amending Regulations Relating to the Safeguarding of Vessels, Harbors, Ports, and Waterfront Facilities of the United States amended 33 CFR Part 6. Among other provisions, it added a definition for "cyber incident" and created a requirement to report evidence of an actual or threatened cyber

Anuncio de Navegación e Inspecciónes de Buques (NVIC) 09-02 CH 6

Lineamientos para Comités de Seguridad Marítima de Área y los Planes de Seguridad Marítima de AreaPlans

- Fechado 20 Jul 2023

- La Guardia Costera ha brindado orientación a los Comités de Seguridad Marítima de Área (AMSC) Para abordar la cibernética a través de NVIC 09-02 CH6, que incluye una Evaluación de la Seguridad Marítima del Area y unas plantillas para un Plan de Respuesta a Incidentes Cibernéticos.

NVIC 09-02 CH 6

U.S. Department of Homeland Security
United States Coast Guard

Commandant
United States Coast Guard

US Coast Guard Stop 7618
2703 Martin Luther King Jr Ave SE
Washington, DC 20593-7618
Staff Symbol: CG-FAC
Phone: (202) 372-1080

COMDTPUB P16700.4
JULY 20, 2023

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 09-02, Change 6

Subj: GUIDELINES FOR THE AREA MARITIME SECURITY COMMITTEES AND AREA MARITIME SECURITY PLANS REQUIRED FOR U.S. PORTS

Ref: (a) Maritime Transportation Security Act (MTSA) of 2002, Public Law (Pub. L.) 107-295
(b) Security and Accountability for Every Port Act (SAFE Port Act) of 2006, Pub. L. 109-347, as amended
(c) Coast Guard Authorization Act of 2010, Pub. L. 111-281
(d) Magnuson Act of 1950, 46 United States Code (U.S.C.) §§ 70051-70054
(e) Regulations Relating to the Safeguarding of Vessels, Harbors, Ports, and Waterfront Facilities of the United States, Executive Order 10173, as amended
(f) Ports and Waterways Safety Act (PWSA) of 1972, 46 U.S.C. §§ 70001-70036, Pub. L. 92-340
(g) Federal Aviation Administration (FAA) Reauthorization Act of 2018, Pub. L. 115-254
(h) Navigation and Navigable Waters, Maritime Security: 33 Code of Federal Regulation (CFR) Parts 101-106
(i) Risk Management (RM), COMDTINST 3500.3 (series)
(j) Sensitive Security Information (SSI), DHS Management Directive 11056.1 (series)
(k) Sensitive Security Information (SSI) Handling Procedures, Navigation and Vessel Inspection Circular No. 10-04, COMDTPUB P16700.4 (series)
(l) Classified Information Management Program, COMDTINST M5510.23 (series)
(m) Physical Security and Force Protection Program, COMDTINST M5530.1 (series)
(n) Area Maritime Security Plan (AMSP) and Area Maritime Security (AMS) Assessment Development and Maintenance Process, COMDTINST 16601.28 (series)

Anuncio de Navegación e Inspecciónes de Buques(NVIC) 01-20

Directivas para abordar los riesgos cibernéticos en las intalaciones reguladas por MTSA

- Fechado 26 Feb 2020

- Se requirió que todas las instalaciones reguladas por MTSA incluyeran la ciberseguridad en su Evaluación de seguridad de instalaciones (FSA) y Plan de seguridad de Instalaciones (FSP)
- Proporcionó un período de implementación de 1.5 años (finalizando 1 OCT 2022)
- Maritime Cybersecurity Assessment & Annex Guide
- Facility Inspector Job Aid – Ayuda Laboral para inspector de instalaciones
- NVIC 01-20 Preguntas frecuentes (FAQs)

Evaluación cibernética marítima y guía anexa (MCAAG)

- Conocido formalmente como Modelo de Evaluación de Riesgo Cibernético Marítimo.
- Proporciona un proceso recomendado, aunque voluntario, para indentificar y describer vulnerabilidades de ciberseguridad en el contexto de una Evaluación de seguridad de las instalaciones.
- Desarrollo en colaboración con partes interasadas de la industria marítima y expertos en la materia.
- Proporciana un formato para crear un anexo cibernético adicional al FSP, que puede ser utilizado por el FSO en estrecha colaboración con el personal de ciberseguridad, tecnología de la información operativa de la instalación.

Maritime Cybersecurity Assessment and Annex Guide (MCAAG)

January 2023

This publication is available free of charge. More information on the U.S. Coast Guard's efforts in cybersecurity can be found here: USCG Office of Port & Facility Compliance - Cybersecurity, here: USCG Cyber Command - Maritime Cyber Readiness Branch, and here: USCG Maritime Commons blog.

Reglamentos de Instalaciones 33 CFR 105

- Planes de Seguridad de las Instalaciones Costeras
  - Anexo de Ciberseguridad
  - Aprobado por el Capitán del Puerto
- Efectuar Ejercicios regulares y Ejercicios Aumentados
- Audites Anuales incluyendo Ciber (FSA)
- Inspecciones anuales de la Guardia Costera
- Comprobaciones de seguridad

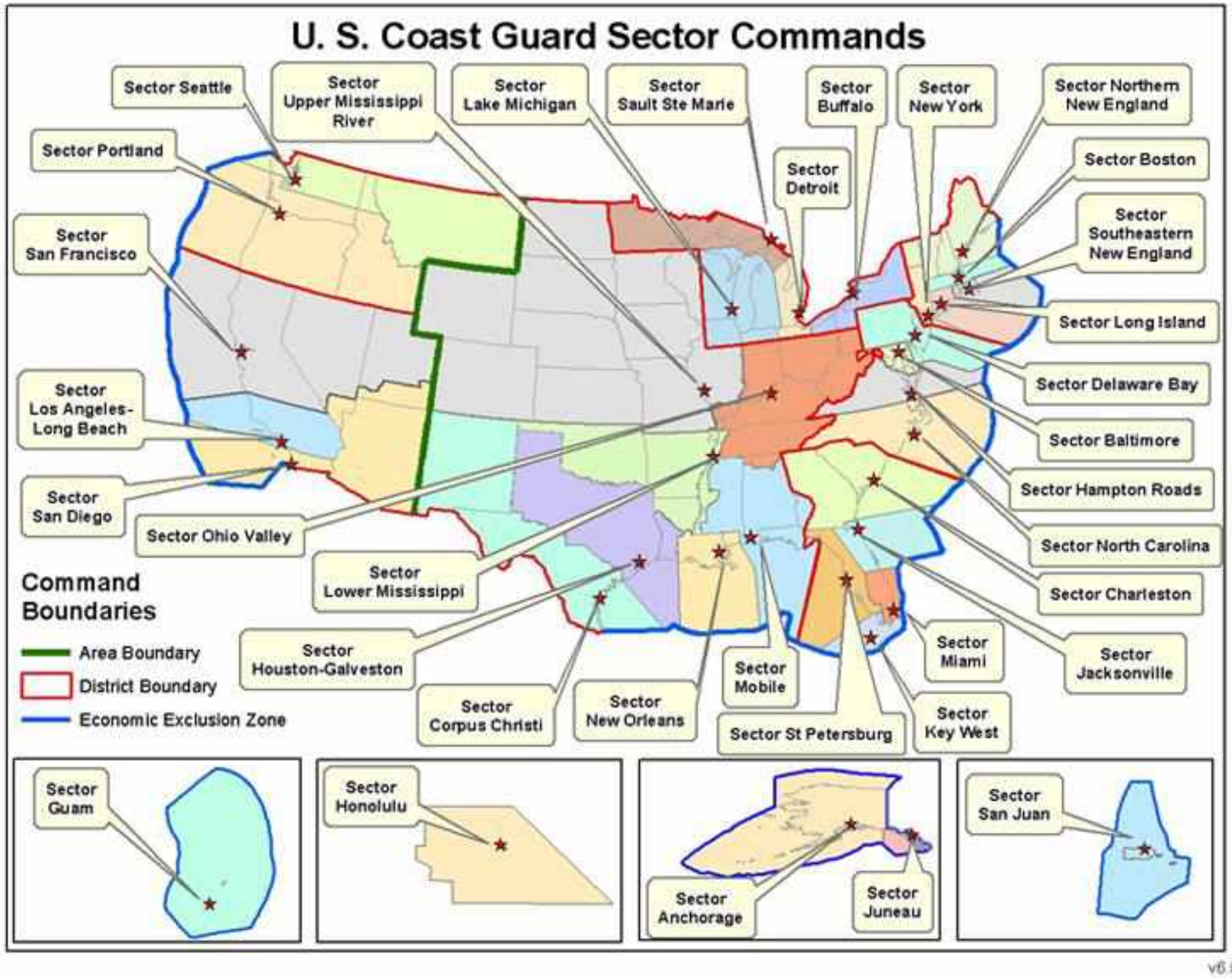
Aumento de la competencia cibernética de la fuerza laboral y los socios de MTS

- **Instituto Nacional de Estándares y Tecnología (NIST)**
  - Cybersecurity & Small Business Cybersecurity Corner – Rincón de ciberseguridad y ciberseguridad para pequeñas empresas
  - Perfiles del marco de ciberseguirdad (CSF)
    - Maritime Bulk Liquid Transfer – transferencia marítima de liquidos a granel
    - Offshore Operations - operaciones costa afuera
    - Passenger Vessel Operations – Operaciones de buques de pasajeros
    - Department of Energy CSF Profile for LNG sub-sector – Perfil del CSF del Departamento de Energía para el subsector de GNL

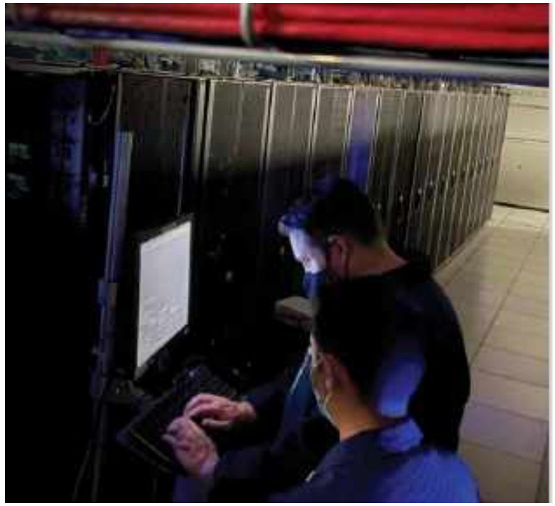
- **Agencia de seguridad de infraestructura y ciberseguridad (CISA)**
  - Entorno federal de capacitación virtual (FedVTE) – mas de 850 horas de contenido del curso sin costo
  - Marco de trabajo de ciberseguridad NICE (NICE), Academia Federal de Habilidades de Defensa Cibernética, Incident Response Training, Workforce Training Guide

Perito de Sistema de Transporte Maritimo - Peritos de Asuntos Ciber (SME)

- **Enlace**
  - Empresa Marítima, interagencia, Area Maritime Security Committee’s, etc
- **Asesor**
  - Ayudar al COTP entender la panorama de amenazas y riesgo al MTS.
- **Coordinador de Ejercicios**
  - Promocionar la inclusión de situaciones de ciberseguridad cuando sea menester en los ejercicios anuales
- **Compartir Informacion**
  - Comunica conciencia cibernética, pericia y cumplimiento legal



Equipos de Ciberprotección



- **<u>USCG Equipos de Ciberprotección:</u>**
- Basados in Washington, D.C. and Alameda, CA
- Apoyan a los Capitanes de Puerto locales in misiones cibernéticas
- 3 Equipos CPTs (39 Miembros en cada uno)
- 9 Elementos desplegables en total (3 por cada CPT)
- Elementos de Inteligencia y apoyo
- **<u>Composición de Equipos</u>**
- Miembros de Servicio Activo
- Civiles gubernamentales
- **<u>Historia e Experiencia de Equipos</u>**
- Capacitados a normas militares
- Calificaciones empresarias amplias
- 8-12+ meses de capacitación cibernetica del Departmento de Defensa
- Posiciones previas en CISA, USCYBER, y NSA

Papel de CPT en el Sistema Marítima de Transporte (MTS)

Tipos de Misiones de CPT:

1. **Analizar (Pruebas Penetrativas)**
   - Identificar vulnerabilidades y debilidades en infraestructura crítica **antes** de que explotación crea un incidente mayor
   - Asesoria y recomendaciones para asegurar y proteger las redes MTS.
   - Provee conciencia situacional a Oficiales Operativos y el liderazgo de la Guardia Costera sobre la postura de riesgo de la infraestructura MTS.

2. **Cazar**
   - Descubrir adversario no detectado en MTS antes que la brecha impacte sistemas o servicios críticos.
   - Analizar tácticas maliciosas, técnicas y procedimientos.

3. **Respuesta al Incidente**
   - Avisar sobre los pasos de mitigación y remediación y mejores prácticas. Análisis forense para informar pasos de mitigación y remediación.
   - Auxilio con la integración de FBI, CISA, y otras Agencias.

Resultados Comunes

- **Credenciales Faciles de Adivinar**
- **Gestion de Parches**
- **Norma de Contrasenas Debiles**
- **Contrasenas Faciles de Robar**
- **Applicacion u OS no Apoyada**
- **Retransmisor de Correo Abierto**
- **Privilegios de Cuenta de Servicio Elevados**
- **Usos no esenciales de Acceso Elevado**

Recursos

[Coast Guard Maritime Industry Cybersecurity Resource Center]

[FAC DCO Website]

[MCRB DCO Website]

¿Preguntas?

Marine Exchange of Southern California and Vessel Traffic Service of Los Angeles & Long Beach

Discussion with Peruvian Congress Delegation

14 May 2024

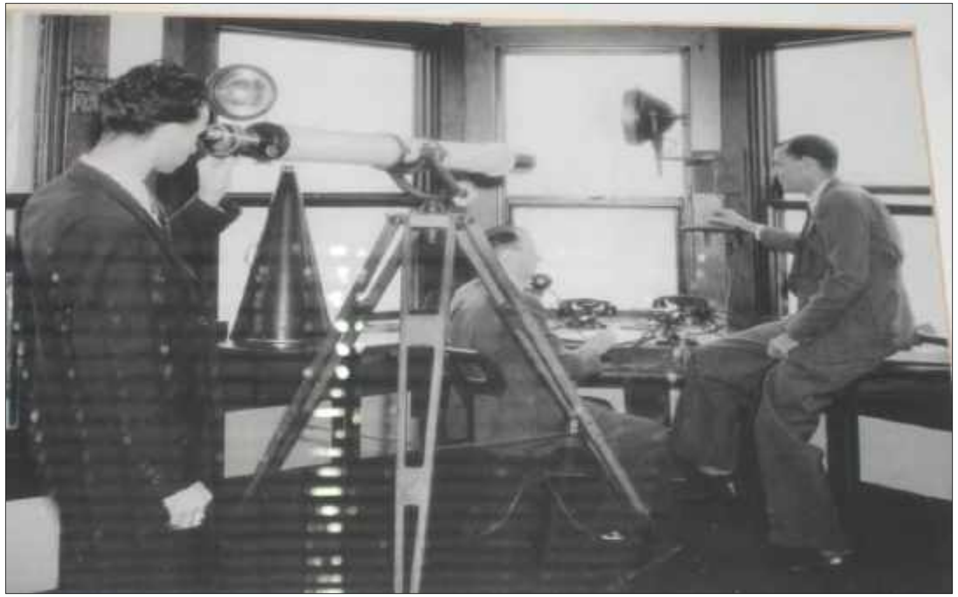
Captain Patrick Baranic
General Manager

Safe, Secure, Efficient, Reliable & Environmentally Sound Maritime Transportation

Providing Maritime Peace of Mind Since 1923

MX SoCAL: 1923 to 2024

101 years of changing functions, processes, and technology to meet needs of customers, partners, vessels, and ports.



Megaphones, telescopes, blackboards & wood *spindle* replaced by state of the market technology

What we do – 2 main business lines
MX SoCal, a 501c(6) nonprofit private business

Maritime Information Service

- 1923 to present
- Gather and collate schedules for ~4,550 vessels per year arriving, departing & moving around ports of LA/LB

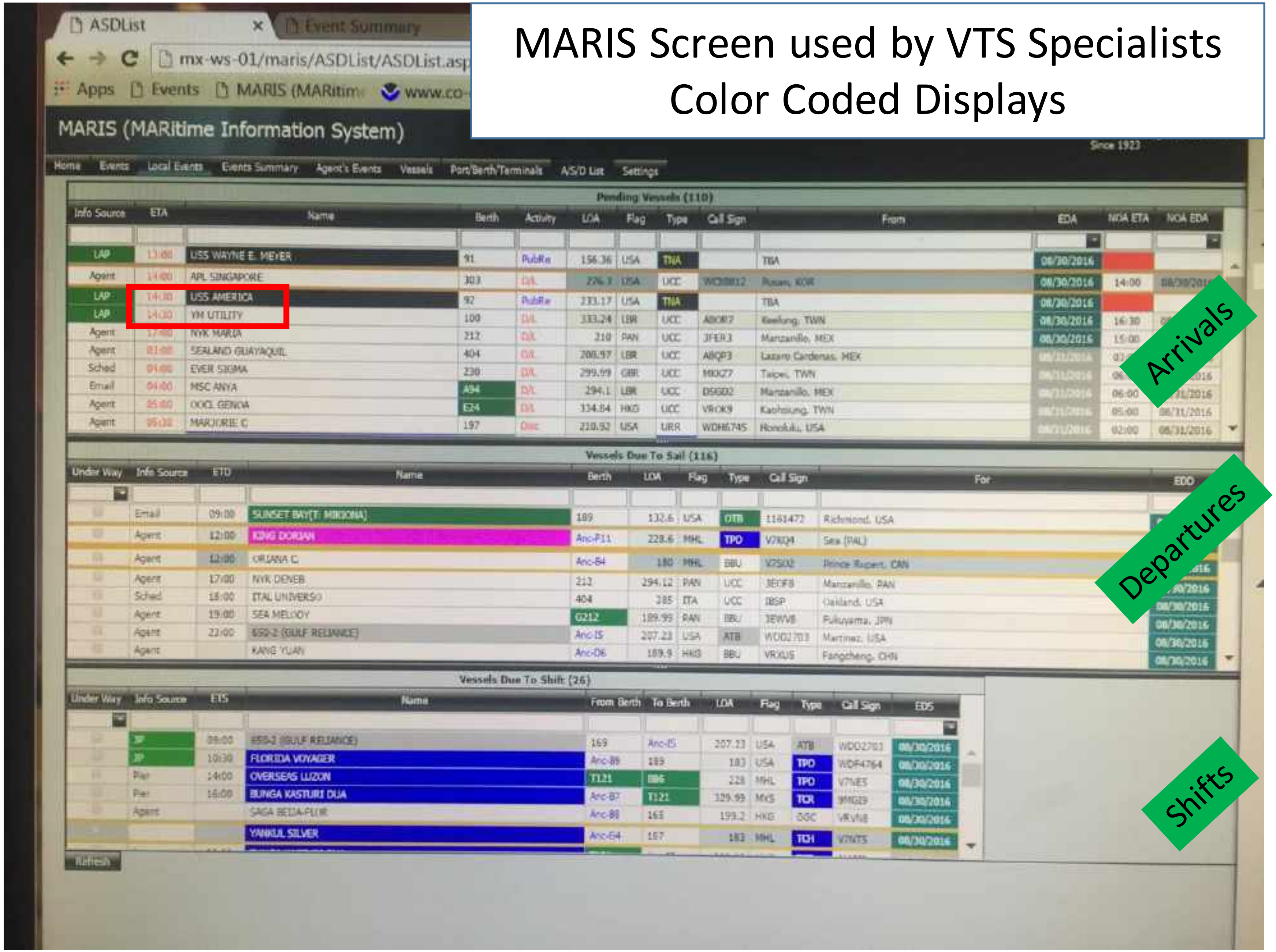
Vessel Traffic Service LA/LB

- 1994 to present
- Unique Public/Private Partnership between MX, USCG & State of California
- Maritime version of Air Traffic Control
- ~28,000 vessel movements per year

Maritime Information Services

- Sample Vessel Info:
  - Arrival
  - Departure
  - Shift
  - LPOC/NPOC
  - Agent
  - Berth
  - Other info
- Pushed out daily at 0700 and 1200
- On-line 7/24 by subscription
- Data Feeds, Custom Reports, Research & Analysis

MARIS Screen used by VTS Specialists
Color Coded Displays



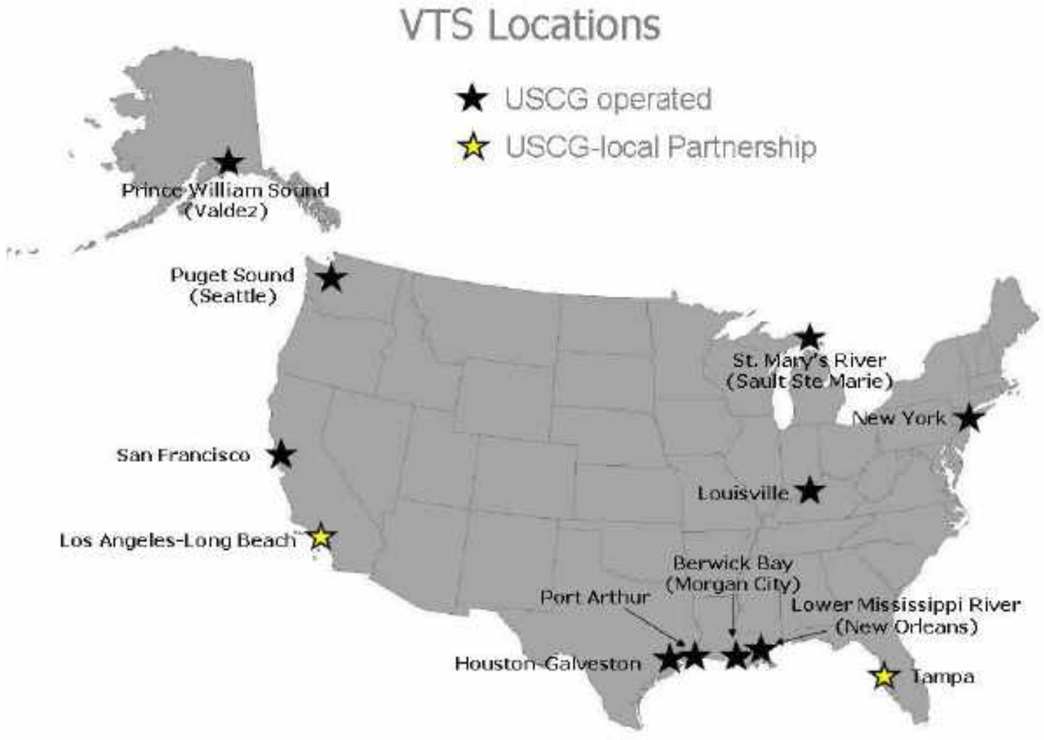
Various agencies included both Ports Import this data for optimization of port operations

12 Vessel Traffic Services (VTS) in the U.S.

"The purpose of a Vessel Traffic Service (VTS) is to provide active monitoring and navigational advice for vessels in particularly confined and busy waterways." USCG

10 VTSs are staffed, equipped, operated, and funded by the Coast Guard
2 are different

- **LA/LB, is a unique public/private partnership between Coast Guard, Marine Exchange, & local partners**
- Tampa is cooperative between the CG and Tampa Port Authority



The unique Public/Private VTS Partnership in LA/LB is safe, secure, effective & efficient

~28,000 vessel movements per year

More than 800,000 safe movements since system established in 1994

The unique CG/MX Public/Private Partnership VTS LA/LB is Safe, Effective & Efficient

- 11 MX members of VTS
- 6 Coast Guard members

- Each 12hr VTS Watch includes:
    - 2 Marine Exchange Watch standers, funded by user fees (Tariff)
    - 1 CG Watch Stander, funded by the CG

CG Controller gives MX VTS LA/LB its Captain of the Port Authority

VTS Equipment

- Kongsberg Norcontrol C-Scope VTS system
- State of the Market Equipment
- 8 Integrated radar sites
- 10 Integrated AIS sites
- 4 VHF-FM radios
- Optical camera
- *"Big-Eyes"* binoculars
- Recording Equipment

The nation's largest port complex has a world class Vessel Traffic Service with great equipment, very well maintained, and fabulous, experienced, and well-trained/qualified team of CG & MX traffic controllers.
3-4 people in the building 7/24/365

5 Vessel Traffic Service Partners in LA/LB

Los Angeles Pilot Station

Long Beach Pilot Station, Jacobsen Pilot Service

Marine Exchange VTS Watch Floor

CG Sector LA/LB Command Center on Terminal Island

Photo unavailable for security reasons

Port of Long Beach
Joint Command & Control Center

The 5 partners use the same Kongsberg Norcontrol VTS system on one Local Area Network w/ cost share funding

MX Partnerships

- **U.S. Coast Guard**
- **State of California**
- **Ports of LA, LB**, San Diego, Hueneme & El Segundo (Chevron)
- **LA & LB/JPS Pilot Services**
- Maritime Industry & Stakeholders
- LA & LB Harbor Safety Committee
- Central California Area Maritime Security Committee (AMSC)
- Channel Island National Marine Sanctuary Advisory Council

- Ship Operators, Owners & Agents
- Terminals & Waterfront Business Community
- Railroads and Truckers
- Cargo consignees and shippers
- Environmental Groups
- Government: (Federal…NOAA, DOT, **FBI**, DoD (USN, USAF, US Space Force, US Army Corps of Engineers)), CA State (OSPR/State Lands), County/Local (PD, FD), etc.
- Universities: USC (Sea Grant), UCSD (Scripps, SCCOOS, CDIP), UCLA, UCSB
- Vessel Types:
  - Petroleum & Chemicals
  - Container, Bulk & General Cargo, & Reefers
  - Passengers and Ferries
  - Vehicles & Roll-on/Roll-off
  - Tugs, Barges & Towing, Pilot Boats
  - Bunkers (fueling)
  - Commercial Fishing
  - Recreational Boaters and Fishing

Special Huge Challenges Met: 1: COVID-19 backup of Tankers & Cruise Ships March - June 2020

Record: 32 ships at anchor including 24 tankers & 6 cruise ships

2: COVID-19 backup of Container Ships: 15 Oct 2020 – 22 Nov 2022

10 Nov 2021

Backup Record 16 Nov 2021: 114 total ships at anchor & *loitering* including 86 container ships

2014-2015 congestion records: 48 total ships at anchor including 28 container ships

Anchorages off Los Angeles and Long Beach

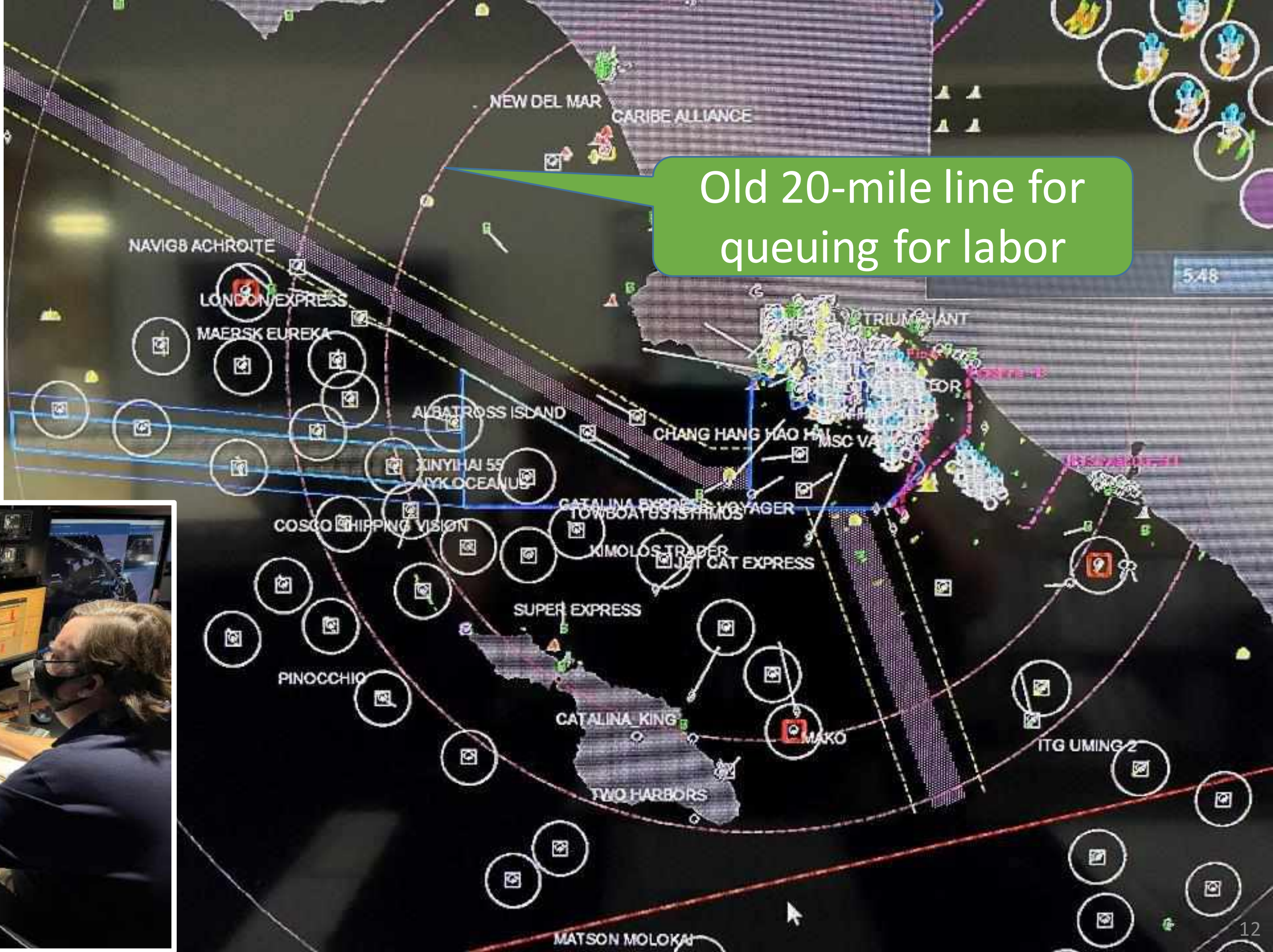
Normal, 2019, Pre-COVID
Average 17 ships at anchor

New Years Day 2021
As many as 55 anchored

The anchorages are the circles; the yellow and white icons are the ships

Plus, as many as 62 vessels loitering in November 2021

Vessel Traffic Supervisor
QM2 Mike Conner
USCG, Retired



Oct/Nov 2021: Industry "Working Group" created *Voluntary* New Queuing System for Labor in 27 days.

Pacific Maritime Association

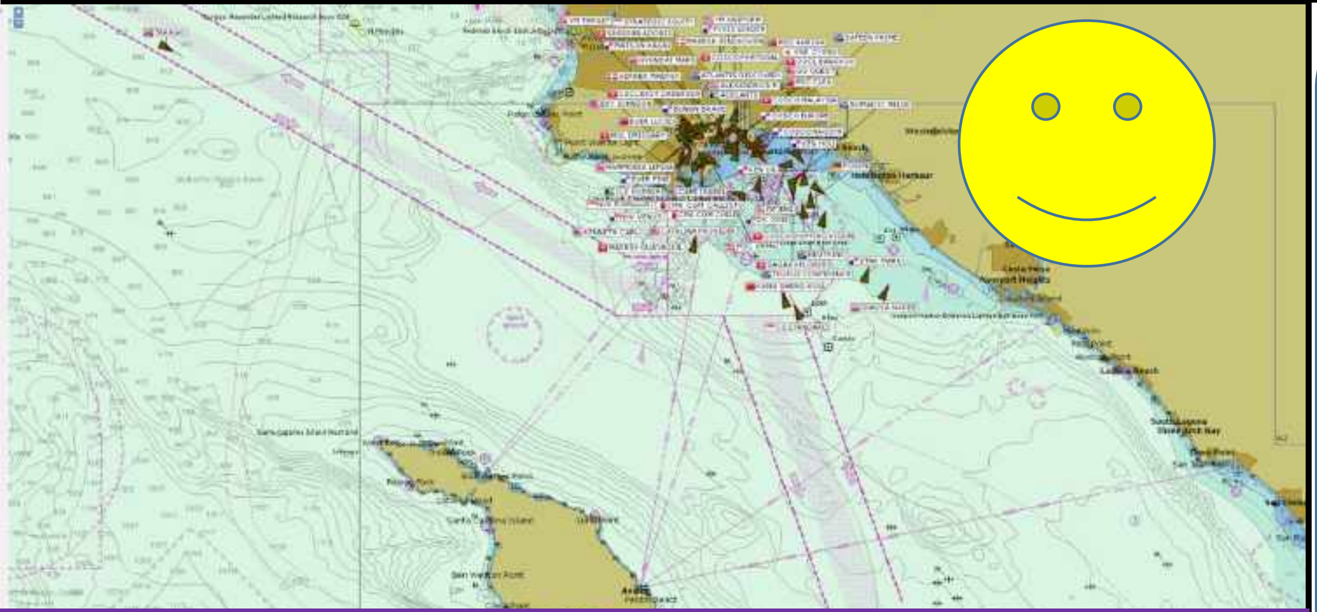
Plus ~10 Ocean Carriers and Terminals

MX SoCal & MX Alaska (Juneau) formed new firm PacMMS for 16 Nov 2021 LA/LB launch

Oakland added 11 January 2022, MX SF

PMA originally paid; mixed funding now

PacMMS Implemented 16 Nov 2021



0 vessels loitering 3 Feb 2022

Look at all the open water, increasing safety and air quality!

The twin goals of the new queuing system for labor administered by PacMMS were met!

62 vessels of all types loitering 16 Nov 2021.

Bad for safety & air quality.

New queuing system for labor was implemented this date, operated by PacMMS (Pacific Maritime Management Services).

#	Emerging Matter	Mitigation
1.	Industry Trend to Fewer, Bigger Ships	Harbor Safety Committee, Ports, Pilots, Partners, Industry & Govt. work together. Examples: a. Space out anchorages due to bigger ships. b. Develop/Use Better Science & Technology c. Change Infrastructure (new POLB International Gateway Bridge greater vertical clearance for ships)
2.	Cyber Security … as we get more networked … as technology changes	a. FBI Cyberhood Watch (Nationwide) b. Area Maritime Security Committee, Cyber Sub-Committee c. POLA Cyber Resiliency Center
3.	LNG / Alternative Fueled Ships	Harbor Safety Committee, Ports, Pilots, Partners, Industry, Fire Departments & Government work together. a. Presently fueling by truck in POLB b. Proposed fueling by ship & barge in both Ports
4.	Palestinian "Block the Boat"/Roads	Area Maritime Security Committee, CG COTP, Ports, Pilots, Partners, Fed/State/County/Local LE & Govt. work together
5.	Rising Costs and Emerging Threats	Continue to seek FEMA Port Security Grant Program Funding

End

REPÚBLICA DEL PERÚ

PERÚ CONGRESO de la REPÚBLICA

COMISIÓN ESPECIAL MULTIPARTIDARIA DE IMPULSO Y SEGUIMIENTO DEL PROYECTO TERMINAL MULTIPROPÓSITO DE CHANCAY

«Año del Bicentenario, de la consolidación de nuestra Independencia, y de la conmemoración de las heroicas batallas de Junín y Ayacucho»

VISITA DE TRABAJO OFICIAL A ESTADOS UNIDOS DE AMÉRICA

WASHINGTON D.C.

Federal Maritime Commission
62nd Annual Report
Fiscal Year 2023

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Letter of Transmittal

FEDERAL MARITIME COMMISSION
800 North Capitol Street, N.W.
Washington, DC 20573-0001

March 29, 2024

To the United States Senate and House of Representatives:

On behalf of the Commission, and pursuant to section 46106(a) of Title 46, United States Code, I am pleased to share with you the 62nd Annual Report of the Federal Maritime Commission, Fiscal Year 2023.

Sincerely,

Daniel B. Maffei
Chairman

Mission, Strategic Goals, and Statutory Authority

The Federal Maritime Commission is the independent Executive Branch agency with jurisdiction over competition, practices, and service in the ocean shipping industry. Our mission is 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. Facilitating commerce and protecting U.S. shippers remain the essential focus of the FMC.

The Commission's Fiscal Year 2022-2026 Strategic Plan has two strategic goals:

Goal 1: Maintain a competitive and reliable international ocean transportation system.

> Objective 1.1: Ensure no unreasonable increases in transportation costs or decreases in transportation service are attributed to anticompetitive practices under FMC-filed agreements.
>
> Objective 1.2: Ensure competition is preserved in the purchase of certain covered services.

Goal 2: Protect the public from unlawful, unfair, and deceptive ocean transportation practices.

> Objective 2.1: Identify and take action to end unlawful, unfair, and deceptive practices.
>
> Objective 2.2: Prevent public harm through licensing and financial responsibility requirements.
>
> Objective 2.3: Enhance public awareness of agency resources, remedies, and regulatory requirements through education and outreach.
>
> Objective 2.4: Impartially and timely resolve international shipping disputes through alternative dispute resolution and adjudication.

The Federal Maritime Commission administers Subtitle IV (Parts A through D) of Title 46, United States Code. Parts A and B of Subtitle IV deal with the regulation of ocean shipping and were formerly known as the Shipping Act of 1984, as amended (the Shipping Act), the Foreign Shipping Practices Act of 1988 (FSPA) and Section 19 of the Merchant Marine Act, 1920. The Commission also administers and enforces Part C of Subtitle IV, formerly sections 2 and 3 of P.L. 89-777, and section 3503(b)(1)(C) of title 46, United States Code. Part C and section 3503 deal with the financial responsibility of cruise line operators towards passengers of such vessels. Part D of Subtitle IV addresses the Commission generally, including its organization and authority to prescribe regulations. Part D also contains provisions or amendments that were in the Shipping Act, the FSPA, the Ocean Shipping Reform Act of 2022 (OSRA 2022) and the Frank LoBiondo Coast Guard Authorization Act of 2018 (LoBiondo Act).

Year in Review - Regulatory and Organizational Change

While the COVID-related disruptions to global supply chains subsided in 2023, the Commission maintained a high level of activity driven by industry demand, along with regulatory and organizational change. The Ocean Shipping Reform Act of 2022 provided the Commission with additional regulatory authority and mandated several initiatives, including rulemakings, data collection, charge complaints, and enhanced web resources, to serve the shipping public. The FMC was also tasked with contracting a study with the National Academies of Sciences, Engineering and Medicine, related to best practices for chassis pools and supporting activities of other agencies, including multiple studies underway at the U.S. Government Accountability Office. In FY 2023, the Commission was active in supporting cross-agency initiatives related to OSRA 2022 and the maritime supply chain.

Throughout the pandemic, the Commission's priorities were focused on enforcement, addressing challenges faced by U.S. exporters, and providing assistance to U.S. shippers and cruise passengers. In FY 2023, the Commission completed its reorganization of the Bureau of Enforcement, Investigations, and Compliance (BEIC), emphasizing the importance of the Commission's enforcement work. Under the new structure, BEIC is led by a senior executive fostering coordination and cooperation between BEIC's offices, leading to a more effective and productive enforcement program. The agency increased staffing in BEIC as well as other areas that support enforcement, adjudication, and customer assistance.

The changes in authority resulting from OSRA 2022 and new Commission priorities have strengthened the Commission. These changes will be reflected in the agency's strategic plan. At the end of FY 2023, the agency initiated a revision to the strategic plan which is anticipated to be complete by the end of FY 2024.

Ocean Shipping Reform Act of 2022 Implementation

Continuing to implement OSRA 2022 was an important priority for the Commission in FY 2023. The Commission made significant progress on rulemakings related to Detention and Demurrage Billing Practices, Unreasonable Refusal to Deal with Respect to Vessel Space Accommodations, and Unfair or Unjustly Discriminatory Methods. This was in addition to other OSRA 2022 implementation successes that included adding resources to key program areas and initiating a redesign of the Commission's website to streamline the process for the public to communicate with the Commission. The staffing effort is complete and the other activities will be completed before the end of FY 2024.

Implementation efforts will continue in FY 2024 and are projected to be completed before FY 2025.

Rulemakings

The NPRM for Definition of Unreasonable Refusal to Deal or Negotiate with Respect to Vessel Space Accommodations Provided by an Ocean Common Carrier was issued on September 21, 2022 (87 Fed. Reg. 57674). On June 14, 2023, a Supplemental NPRM (SNPRM) was issued (88 Fed. Reg. 38789) which revised certain aspects of the original NPRM and clarified the potential standard for unreasonable conduct by ocean common carriers. The SNPRM issued in the Unreasonable Refusal to Deal With Respect to Vessel Space Accommodations addressed, in part, issues related to the Unfair or Unjustly Discriminatory Methods rulemaking requirement. The Commission received 25 comments in response to the SNPRM and is in the process of drafting a final rule.

The NPRM for Demurrage and Detention Billing Requirements was published in the Federal Register on October 14, 2022 (87 Fed. Reg. 62341). It proposed requirements on specific minimum information that must be included on demurrage and detention invoices and outlines certain billing practices on appropriate timeframes for issuing invoices, disputing charges with the billing party, and resolving such disputes. The Commission received 191 comments in response to the NPRM. The Commission completed the final rule on February 23, 2024.

As noted above, work on the Unfair or Unjustly Discriminatory Methods Related to Cargo Space Accommodations rulemaking has begun as a part of the SNPRM issued on Unreasonable Refusal to Deal. All remaining topics related to the Unfair or Unjustly Discriminatory Methods will be addressed in a separate rulemaking. The Commission is also taking the steps necessary to meet the requirement set by Section 4 of OSRA 2022 to issue regulations setting standards necessary to carry out 46 U.S.C. subtitle IV for registered national shipping exchanges.

Reports and Data Gathering

Section 9 of OSRA 2022 mandates a new data collection in which the Commission will collect and publish information from VOCCs on import tonnage and volumes, as well as empty container metrics. The Commission has completed the Paperwork Reduction Act process and will begin this data collection from FY 2024 forward.

Section 19 of OSRA required the Commission to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine on a study of best practices for the efficient supply of chassis for transporting intermodal containers.[1] The committee conducting the study held its first open meeting in January 2023 and completed six open meetings by the end of FY 2023. The committee report is due to be completed and publicly released in 2024.

[1] https://www.nationalacademies.org/our-work/best-practices-for-the-efficient-supply-of-chassis-for-transporting-intermodal-containers#sectionWebFriendly

Increased Investigations and Enforcement

The Commission's investigatory and enforcement programs protect the public by identifying, deterring, and stopping unlawful activities of regulated entities.

The Commission accomplished two key enforcement policy achievements in FY 2023: the reorganization of BEIC and establishing new enforcement priorities focused on unlawful practices that negatively impact significant portions of the maritime industry or that may cause market distortion. As a result of these changes, the enforcement program has been successful in bringing legal actions to collect civil penalties for law violations totaling nearly $2.9 million. In FY 2024, the Commission will add resources necessary to increase its investigatory and enforcement activities.

Enforcement Priorities Produce Results

The Commission's enforcement program focuses on investigating and prosecuting civil violations of the U.S. shipping laws and Commission regulations. The Commission's enforcement priorities change based on industry conditions and practices.

In FY 2023, the Commission's investigative and enforcement priorities focused on unlawful common carrier practices that negatively impacted significant portions of the maritime industry or appeared to cause market distortion. Enforcement priorities include, but are not limited to:

- failing to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property that potentially violate 46 U.S.C. § 41102(c). This includes unlawful demurrage and detention practices and improper use of merchant clauses to impose liability on non-contract parties;
- unreasonable refusals to deal or negotiate that potentially violate 46 U.S.C. § 41104(a)(10);
- unreasonable refusals of cargo space accommodations or other unfair or unjustly discriminatory conduct that potentially violates 46 U.S.C. § 41104(a)(3);
- retaliation that potentially violates 46 U.S.C. § 41102(d); and
- tariff and service contract activities that potentially violate 46 U.S.C. § 41104.

In FY 2023, the Commission collected a combined total of $2.65 million in civil penalties to resolve allegations of misconduct by two large ocean common carriers. In addition to paying civil penalties, the carriers involved in these cases agreed to furnish restitution to impacted shippers in the form of refunds and waivers, and to implement corrective actions to prevent future violations and ensure compliance with the Commission's Interpretive Rule on Detention and Demurrage.

The Commission collected an additional $246,332 in civil penalties from other, non-related, cases. Penalties collected by the Commission are paid in their entirety into the General Fund of the U.S. Treasury.

Charge Complaints

Section 10 of OSRA 2022 established a new way for shippers to submit complaints to the Commission regarding charges assessed by common carriers and to receive a refund or waiver for non-compliant charges. Upon the promulgation of 46 U.S.C. § 41310, the FMC quickly developed an interim process for the administration, investigation, and prosecution of complaints. To enhance awareness of this process, guidance was posted to the Commission's website in FY 2023 along with an accompanying webinar.

In FY 2023, the FMC received 312 charge complaints from the shipping public. As of September 30, 2023, over $1.7 million in assessed charges had been voluntarily waived or refunded since the enactment of OSRA 2022. While most charge complaints were voluntarily resolved during investigation, the FMC's process provides for a fast resolution for non-compliant charges that are not resolved. This process involves staff attorneys recommending that the Commission issue an Order to Show Cause proceeding before the Commission to determine the lawfulness of a charge.

Formal Investigations, Private Complaints, and Litigation before the Commission

The FMC provides a venue for legal proceedings for alleged violations of the statutes it administers. Once a complaint is received, the Office of the Administrative Law Judges (OALJ) adjudicates the claim in a timely manner. The goal is to issue Initial Decisions in formal proceedings within 24 months of filing; and informal small claims Initial Decisions within 12 months of filing. Due process may require additional time to issue Initial Decisions, particularly in complex cases. Staffing is essential to meeting these adjudicatory goals, and the FMC hired a third Administrative Law Judge in FY 2023.

The number of legal proceedings initiated at the FMC increased dramatically during the pandemic and has continued into the post-pandemic era. In addition to increased enforcement actions by BEIC, more private parties are seeking binding decisions before the Commission. In FY 2023, the Office of the Secretary processed 927 filings, a 129 percent increase over FY 2022's record number of filings.

In FY 2023, OALJ closed more cases than it has in any year since 2006. By the end of FY 2023, OALJ had 20 formal proceedings pending.[2] Of those, no cases pending were filed prior to 2022, indicating success in resolving cases in a timely manner.

In FY 2023, OALJ received a total of 21 formal and 12 informal proceedings.[3] The OALJ issued 168 non-dispositive orders. In addition, OALJ issued dispositive orders closing 22 formal proceedings and 14 informal proceedings. At the end of FY 2023, 19 formal proceedings and three small claims complaints were pending before the OALJ.[4]

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[2] At the end of FY 2023 20 formal proceedings (Dockets 14-06, 20-14, 21-05, 21-10, 21-11, 21-16, 22-03, 22-07, 22-11, 22-12, 22-13, 22-16, 22-17, 22-18, 22-20, 22-21, 22-22, 22-23, 22-25, 22-26) and five informal complaints (1980(I), 1981(I), 1982(I), 1983(I), and 1984(I)) were pending before the OALJ.

[3] These proceedings include:

1. 18 private party complaints (22-27, 22-28, 22-29, 22-30, 22-31, 22-32, 22-33, 22-34, 22-35, 23-01, 23-02, 23-03, 23-04, 23-05, 23-06, 23-07, 23-09, 23-10),
2. one enforcement cases (23-08),
3. one subpart T proceeding (1995(F)),
4. one remanded case (21-17), and
5. 12 informal (small claims) complaints (1985(I), 1986(I), 1987(I), 1988(I), 1989(I), 1990(I), 1991(I), 1992(I), 1993(I), 1994(I), 1996(I), 1997(I)).

[4] Pending proceedings before the OALJ include Dockets 22-17, 22-20, 22-23, 22-28, 22-30, 22-31, 22-34, 22-35, 23-01, 23-02, 23-03, 1995(F), 23-04, 23-05, 23-06, 23-07, 23-08, 23-09, 23-10) and three small claims complaints (1992(I), 1996(I), and 1997(I)).

The following summarizes the results of docketed proceedings completed during FY 2023 by the OALJ:

Formal Proceedings

Santa Fe Discount Cruise Parking, Inc. d/b/a EZ Cruise Parking, Lighthouse Parking Inc., and Sylvia Robledo d/b/a 81st Dolphin Parking v. The Board of Trustees of the Galveston Wharves and the Galveston Port Facilities Corporation [Docket 14-06]

In 2014, Complainants filed a complaint against Respondents alleging that Respondents violated 46 U.S.C. §§41102(c), 41106(2), and 41106(3) by charging monthly access fees, based upon the total number of parking spaces in their respective lots, that are excessive and not reasonably related to the value of services rendered to Complainants by Respondents. On July 21, 2014, Respondents filed an answer denying the allegations. On December 4, 2015, an initial decision was issued that dismissed the complaint with prejudice. On January 13, 2017, the Commission issued an order affirming the initial decision. On August 9, 2018, the Commission issued an order remanding the proceeding to the ALJ after the U.S. Court of Appeals for the D.C. Circuit had remanded the proceeding to the Commission. On November 16, 2018, an initial decision on remand was issued dismissing the complaint with prejudice. On April 16, 2021, the Commission issued an Order on Initial Decision on Remand. On June 2, 2022, the Commission issued an Order Granting in Part and Denying in Part Petition for Reconsideration. These two Commission orders narrowed the remaining issue to specific questions with regard to calculating reparations. On February 23, 2023, an Initial Decision was issued approving a settlement agreement with the final remaining complainant. On March 28, 2023, the Commission issued a notice not to review the decision.

Intermodal Motor Carriers Conference, American Trucking Associations, Inc. v. Ocean Carrier Equipment Management Association Inc.; Consolidated Chassis Management, LLC; CMA CGM S.A.; Cosco Shipping Lines Co. Ltd.; Evergreen Line Joint Service Agreement, FMC No. 011982; Hapag-Lloyd AG; HMM Co. Ltd.; Maersk A/S; MSC Mediterranean Shipping Company S.A.; Ocean Network Express Pte. Ltd.; Wan Hai Lines Ltd.; Yang Ming Marine Transport Corp.; and Zim Integrated Shipping Services [Docket 20-14]

IMCC alleges that Respondents adopted and imposed unjust and unreasonable regulations and engaged in unjust and unreasonable practices by requiring the use of OCEMA member default chassis providers and denying motor carriers their right to select the chassis provider for merchant haulage movements, in violation of 46 U.S.C. § 41102(c). Each of the thirteen Respondents filed an answer denying the allegations and raising affirmative defenses, including lack of jurisdiction, failure to join indispensable parties, and failure to demonstrate actual injury or causation. This is a large and complex proceeding with thirteen respondents, discovery from multiple non-parties, and well over a million pages of documents produced in discovery. Given the size of the proceeding, the parties limited the time frame and geographic scope to initially focus their efforts on four geographic regions. The parties filed three separate motions for summary decision, making novel legal arguments based on complex economic theories and extensive expert economist testimony. On February 6, 2023, an Initial Decision partially granting summary decision was issued which granted in part and denied in part IMCC's motion for summary decision and denied Respondents' motion for summary decision and Evergreen's supplemental motion for summary decision. Exceptions to the Initial Decision were filed by the Respondents. The Commission subsequently issued an Order affirming the Initial Decision and remanded the case for further proceedings before the ALJ. Respondents have since filed Motions for Reconsideration with the Commission, which are currently pending.

MCS Industries, Inc. v. COSCO Shipping Lines Co., Ltd. and MSC Mediterranean Shipping Company SA [Docket 21-05]

Complainant filed a complaint alleging that Respondents violated 46 U.S.C. §§ 41102(c), 41102(a)(2), 41104(a)(5), 41104(a)(9), and 41104(a)(10) with regard to provision of ocean shipping services. On August 26, 2021, MSC Mediterranean Shipping filed an answer denying the complaint's allegations and raising defenses. MSC Mediterranean Shipping refused to produce discovery, despite multiple orders to do so. Therefore, on January 13, 2023, an Initial Decision on Default was issued granting default for failure to produce discovery and ordering that MSC Mediterranean Shipping pay a total of $944,655 plus interest in reparations to MCS Industries. Exceptions were filed and the case is pending before the Commission on appeal.

Orange Avenue Express, Inc. v. Hapag Lloyd AG [Docket 21-10]

Complainant filed a complaint alleging that Respondent violated the Shipping Act with regard to the movement of refrigerated containers. On December 21, 2021, Respondent filed an answer denying the allegations. On October 3, 2022, an order was issued approving a settlement and dismissing the proceeding with prejudice. On November 3, 2022, the Commission issued a notice not to review.

OJ Commerce, LLC v. Hamburg Sudamerikanische Dampfschifffahrts-Gesellschaft A/S & Co KG and Hamburg Sud North America, Inc. [Docket 21-11]

This proceeding began on December 13, 2021, when the Commission issued a notice of filing of complaint and assignment, indicating that Complainant OJ Commerce, LLC had filed a complaint against Respondents Hamburg Südamerikanische Dampfschifffahrts-Gesellschaft A/S & CO. KG and Hamburg Sud North America, Inc. An amended complaint, entered on February 18, 2022, alleged that Hamburg violated the Shipping Act at 46 U.S.C. §§ 41102(b)(2), 41102(c), 41104(a)(3), 41104(a)(5), 41104(a)(9), and 41104(a)(10). On August 31, 2022, OJC's claims under sections 41102(b)(2), 41104(a)(5), and 41104(a)(9) were dismissed. In addition, OJC's claim of unreasonable practices under section 41102(c) was resolved, as Hamburg refunded the full amount of the demurrage charges at issue. On June 7, 2023, an Initial Decision was issued finding a violation of sections 41104(a)(3) (retaliation), and 41104(a)(10) (refusal to deal) by HSDG and dismissing the complaint against HSNA. HSDG was ordered to pay OJC reparations in the amount of $9,843,766.40, with interest on the reparations award running from April 29, 2021. Exceptions were filed and the case is pending before the Commission on appeal.

Wan Hai Lines, Ltd. and Wan Hai Lines (USA) Ltd. - Possible Violations of 46 U.S.C. § 41102(c) [Docket 21-16]

The Commission initiated an enforcement proceeding against Respondents by issuing an Order of Investigation and Hearing for possible violations of 46 U.S.C. § 41102(c) by failing to establish, observe, and enforce just and reasonable regulations and practices relating to its assessment of charges on containers when return locations with corresponding appointments were unavailable. On January 24, 2022, Respondents filed an answer denying the allegations. On June 7, 2022, an order was issued denying a request to approve a settlement agreement but permitting the parties to file an interlocutory appeal. On December 15, 2022, the Commission issued an order affirming denial of the joint settlement motion, remanding the proceeding, and requiring an initial decision within four months. On March 13, 2023, an Initial Decision was issued, approving the remand settlement agreement. On April 13, 2023, the Commission issued a notice not to review.

Ocean Network Express Pte. Ltd. and Ocean Network Express (North America), Inc. - Possible Violations of 46 U.S.C. § 41102(c) [Docket 21-17]

The Commission initiated an enforcement proceeding against Respondents by issuing an Order of Investigation and Hearing for possible violations of 46 U.S.C. § 41102(c). Respondents were alleged to have overbroadly defined and applied the definition of merchant in BOLs to unilaterally impose joint and several liability for freight and/or charges on a party with whom Respondents were not in contractual privity and who had not consented to be bound by the terms of the BOL. On May 4, 2022, Respondent Ocean Network Express (North America), Inc. was dismissed from the proceeding. On June 23, 2022, the remaining Respondent and the Commission's Bureau of Enforcement BOE (now the Bureau of Enforcement, Investigations, and Compliance) jointly moved the ALJ to approve a proposed settlement agreement. On June 28, 2022, the ALJ approved the settlement and dismissed the proceeding with prejudice. On July 15, 2022, the Commission issued a notice indicating its determination to review the initial decision approving settlement agreement. On October 27, 2022, the Commission issued an Order Reversing the Initial Decision and Remanding. On remand, the parties reached a settlement. On December 13, 2022, an Initial Decision was issued approving the remand settlement agreement. On January 17, 2023, the Commission served a notice not to review the remand decision.

One Banana North America Corp. v. Hapag-Lloyd AG and Hapag-Lloyd (America) LLC [Docket 22-03]

Complainant filed a complaint alleging that Respondents violated 46 U.S.C. §§ 41104(a)(10) and 41102(c) and 46 C.F.R. §§ 545.4 and 545.5 with regard to movement of refrigerated containers. On February 7, 2022, Complainant was granted leave to file an amended complaint. On

March 9, 2022, Respondents filed an answer to the amended complaint denying the allegations. On October 31, 2022, the parties filed a joint motion seeking approval of a settlement agreement, dismissal of Complainant’s claims with prejudice, and requesting confidential treatment of the settlement agreement. On November 16, 2022, an order was issued approving the settlement and dismissing the proceeding with prejudice. On December 20, 2022, the Commission issued a notice not to review the dismissal.

Acme Freight Services Corp. v. Total Terminals International [Docket 22-07]

Complainant filed a complaint alleging that Respondent violated 46 U.S.C. § 41102(c) and 46 C.F.R. §§ 545.4 and 545.5 with regard to assessing demurrage charges against containers, including containers that were subject to a governmental hold and therefore unavailable for pickup. On May 26, 2022, an order was issued denying Respondent’s motion to dismiss. On October 21, 2022, the parties filed a joint motion seeking approval of a settlement agreement, voluntary dismissal of the complaint with prejudice, and requesting confidential treatment of the settlement agreement. On November 9, 2022, an order was issued approving the settlement and dismissing the proceeding with prejudice. On December 12, 2022, the Commission issued a notice not to review the dismissal.

Aeneas Exporting LLC v. Honeybee International Inc. and All America Shipping [Docket 22-11]

Complainant filed a complaint alleging that Respondents violated 46 U.S.C. §§ 41102(c) and 41104(a)(3), 46 C.F.R. §545.4, and “Fraud and Coercion” regarding the receipt, handling, storing, and delivery of vehicles and assessment of charges and fees. On April 26, 2022, Respondents filed an answer denying the allegations. On October 31, 2022, Complainant and Respondents filed a joint motion seeking approval of a settlement agreement, voluntary dismissal of the complaint with prejudice, and requesting confidential treatment of the settlement agreement. On November 16, 2022, an order was issued approving the settlement and dismissing the proceeding with prejudice. On December 20, 2022, the Commission issued a notice not to review the dismissal.

International Longshoremen’s Association v. Gateway Terminals, LLC; Charleston Stevedoring Company, LLC; Ports America Florida, Inc.; Ceres Marine Terminals, Inc.; and SSA Atlantic, LLC [Docket 22-12]

Complainant alleged that Respondents violated 46 U.S.C. §§ 41102(b), 41105(6), 41106, and 15 U.S.C. § 13 with regard to anticompetitive and trade restrictive practices. On September 29, 2023, an Initial Decision was issued dismissing the claims for lack of jurisdiction. On October 3, 2023, the Commission issued a notice of determination to review the decision. The proceeding is currently pending before the Commission.

International Express Trucking, Inc. v. ZIM Integrated Shipping Services Ltd. [Docket 22-13]

Complainant alleged that Respondent violated 46 U.S.C. §§ 41102(c) and 46 C.F.R. §§ 545.4 and 545.5 with regard to assessing demurrage and/or detention charges against containers. On May

20, 2022, Respondent filed an answer denying the allegations. On October 20, 2022, an order was issued approving a settlement between the parties and dismissing the proceeding with prejudice. On November 22, 2022, the Commission issued a notice not to review.

GoForth & Marti dba GM Business Interiors v. HSIN Silk Road Shipping Limited [Docket 22-16]

Complainant alleged that Respondent violated 46 U.S.C. § 41102(c) and 46 C.F.R. §§ 545.4 and 545.5 with regard to assessing fees against containers. On February 15, 2023, an Initial Decision on Default was issued granting default and ordering $74,000 plus interest in reparations. On March 21, 2023, the Commission issued a notice not to review the decision.

Color Brands, LLC v. AAF Logistics, Inc. [Docket 22-18]

Complainant filed a complaint alleging that Respondent violated 46 U.S.C. §§ 41102(a)(c), 41104(a)(4)(e), and 41104(a)(14) regarding insurance premiums and the adjustment and settlement of insurance claims on its cargo shipments. On October 18, 2022, an order was issued granting Respondent's counsel's motion to withdraw and ordering Respondent to respond to the complaint. On November 28, 2022, Complainant filed a motion seeking default and entry of a default judgment and on December 6, 2022, Respondent was ordered to respond to the motion for default. On January 27, 2023, an Initial Decision on Default was issued granting default and ordering $322,624.17 plus interest in reparations. On February 23, 2023, the Commission issued a notice of determination to review the decision. On January 18, 2024, the Commission issued an Order affirming, in part, and vacating, in part, the Initial Decision and remanding the case to the ALJ for further proceedings.

MSRF, Inc. v. Yang Ming Transport Corporation [Docket 22-21]

Complainant filed a complaint alleging that Respondent violated 46 U.S.C. §§ 41102(c), 41104(a)(2), 41104(a)(5), 41104(a)(9), and 41104 (a)(10), regarding its practices and the rates and terms of its service contract. On September 13, 2022, Respondent filed an answer denying the allegations. On August 24, 2023, the parties filed a joint motion for approval of a confidential settlement agreement. On September 7, 2023, an order was issued approving the settlement and dismissing the proceeding with prejudice. On October 11, 2023, the Commission issued a notice not to review the decision.

U Shippers Group Inc. v. Maersk A/S dba Maersk [Docket 22-22]

Complainant filed a complaint alleging that Respondent violated 46 U.S.C. §§ 40102(21), 41102(c), 41102(d), 41104(a)(2), 41104(a)(3), 41104(a)(5), 41104(a)(9), and 41104 (a)(10), regarding its practices and the rates and terms of its service contract. On September 26, 2022, Respondent filed an answer denying the allegations. On March 31, 2023, the parties filed a joint motion seeking approval of a settlement agreement, voluntary dismissal of the complaint with prejudice, and requesting confidential treatment of the settlement agreement. On April 17, 2023, an order was issued approving the settlement and dismissing the proceeding with prejudice. On May 19, 2023, the Commission issued a notice not to review the decision.

B & G Futures Inc., Revocation of Ocean Transportation Intermediary License No. 026512NF [Docket 22-25]

The Commission's Bureau of Certification and Licensing notified Respondent that the Commission intended to revoke its ocean transportation intermediary (OTI) license. Respondent requested a hearing under Subpart X and the Secretary assigned the proceeding to OALJ. BEIC was instructed to file a copy of the notice and supporting materials. After BEIC's submission, Respondent filed a response contesting the allegations. BEIC then filed a reply. On January 19, 2023, the ALJ issued an Initial Decision revoking Respondent's OTI license. The ALJ's order became administratively final on February 23, 2023, when the Commission issued a notice not to review the decision.

Philip Reinisch Company LLC v. Flexport International LLC [Docket 22-26]

Complainant filed a complaint alleging that Respondent violated 46 U.S.C. §§ 41104(a)(15) and 41104(d) regarding the issuance of invoices without required information and the assessment of detention and demurrage charges. On November 14, 2022, Respondent filed an answer denying the allegations. On March 9, 2023, the parties filed a joint motion seeking approval of a settlement agreement, voluntary dismissal of the complaint with prejudice, and requesting confidential treatment of the settlement agreement. On March 24, 2023, an order was issued approving the settlement and dismissing the proceeding with prejudice. On April 25, 2023, the Commission issued a notice not to review the decision.

Globerunners, Incorporated v. Hoyer Global (USA), Inc. [Docket 22-27]

Complainant filed a complaint alleging that Respondent violated 46 U.S.C. §§ 41102(c) and 41104(a)(14) and 46 C.F.R. § 532.5(d)(2)(iv) in its practices and pass-through of charges. On November 8, 2022, Respondent filed an answer denying the allegations. On June 14, 2023, the parties filed a joint motion seeking voluntary dismissal based on a settlement agreement. On June 28, 2023, an order was issued approving the settlement and dismissing the proceeding. On July 31, 2023, the Commission issued a notice not to review the decision.

MVM Logistics v MSC Mediterranean Shipping Company (USA) Inc. [Docket 22-29]

Complainant filed a complaint alleging that Respondent violated 46 U.S.C. § 41102(c) in its practices regarding the return of containers and related assessment of charges. On November 21, 2022, Respondent filed an answer denying the allegations. On March 24, 2023, the parties filed a stipulation of voluntary dismissal of the action without prejudice. On March 31, 2023, the Commission issued a notice of dismissal discontinuing the proceeding without prejudice.

Doka U.S.A. Ltd. v. MSC Mediterranean Shipping Company (USA) Inc. [Docket 22-32]

Complainant filed a complaint alleging that Respondent violated 46 U.S.C. §§ 41102(c), 41104(a)(15), and 41104(d), regarding its practices and the billing and assessment of charges on the shipments of the Complainant's container cargo, including demurrage, detention, and dwell charges. On December 19, 2022, Respondent filed an answer denying the allegations. On April 27, 2023, the parties filed a joint motion seeking approval of a confidential settlement agreement and dismissal with prejudice of the complaint. On May 12, 2023, an order was issued approving the settlement and dismissing the proceeding with prejudice. On June 15, 2023, the Commission issued a notice not to review the decision.

CCMA, LLC v. Mediterranean Shipping Company S.A. and Mediterranean Shipping Company (USA) Inc. [Docket 22-33]

Complainant filed a complaint alleging that Respondent violated 46 U.S.C. § 41102(c), regarding its practices and the billing and assessment of charges on the shipments of the Complainant's container cargo, including demurrage, detention, and dwell charges. On January 6, 2023, Respondent filed an answer denying the allegations. On May 12, 2023, the parties filed a joint motion seeking approval of a confidential settlement agreement and dismissal with prejudice of the complaint. On May 26, 2023, an order was issued approving the settlement and dismissing the proceeding with prejudice. On June 27, 2023, the Commission issued a notice not to review the decision.

Informal (Small Claims Proceedings)

Southern States Forwarding, Inc. v. Mediterranean Shipping Company (USA) Inc. [Docket 1980(I)]

Claimant alleged that Respondent violated 46 U.S.C. §§ 40101 and 41104(d)(2) of the Shipping Act and the Commission's Rules of Practice and Procedure at 46 C.F.R. § 501.2(c) by changing its shipping schedule after the Port of Norfolk had begun receiving Claimant's booking, resulting in export demurrage, roll-over fees, and other costs. On October 4, 2022, the parties submitted a motion to dismiss, together with a confidential settlement agreement and release stating that they had resolved their dispute. On October 11, 2022, an order was issued approving the settlement and dismissing the proceeding with prejudice. On November 14, 2022, the Commission issued a notice not to review the decision.

Southern States Forwarding, Inc. v. Ocean Network Express (North America) Inc. [Docket 1981(I)]

Claimant alleged that Respondent violated 46 U.S.C. §§ 40101, 41104(a)(15), 41104(d)(2)(A-L), and 41104(d)(2)(M) of the Shipping Act by demanding payment of demurrage on a shipment it knew or should have known it was not entitled to collect. On November 11, 2022, Claimant submitted a motion to dismiss, together with a copy of the parties' confidential settlement agreement and release, indicating that it wished to withdraw its Complaint because the parties had resolved their dispute. On November 18, 2022, an order was issued approving the settlement and dismissing the proceeding with prejudice. On December 20, 2022, the Commission issued a notice not to review the decision.

Germozap, LLC v. Shenzhen Fly International Logistics Co., Ltd. [Docket 1982(I)]

Claimant alleged that Respondent violated 46 U.S.C. § 41102(c) of the Shipping Act and the Commission's regulations related to ocean transportation intermediaries in connection with Respondent's delivery of Claimant's cargo from China to the United States. On April 26, 2023, an Initial Decision was issued finding that the evidence did not demonstrate that a violation of the Shipping Act occurred and dismissing the Complaint with prejudice. On May 30, 2023, the Commission issued a notice not to review the decision.

All-Ways Forwarding of NY Inc., v. Mediterranean shipping Company S.A. [Docket 1983(I)]

Claimant alleged that MSC illegally collected demurrage charges from Claimant in the amount of $4,850.00. On October 17, 2022, Claimant submitted a motion to dismiss, together with a copy of the parties' confidential settlement agreement and release, indicating that it wished to withdraw its Complaint because the parties had resolved their dispute. On October 24, 2022, an order was issued approving the settlement and dismissing the proceeding with prejudice. On December 1, 2022, the Commission issued a notice not to review the decision.

Toyoshima International, America, Inc./TIA v. Mediterranean Shipping Company (USA) Inc./MSC [Docket 1984(I)]

Claimant filed a small claims complaint alleging that in violation of 46 U.S.C. § 41104(a)(3) and (a)(4)(E), Respondents unreasonably delayed releasing original bills of lading on six shipments, causing Claimant to suffer damages in the amount of $10,600.00. On October 3, 2022, prior to the receipt of Respondent's answer, Claimant submitted a motion to dismiss its complaint, together with a settlement agreement between the parties, stating that it had settled its dispute with Respondent. On December 1, 2022, an order was issued approving the settlement and dismissing the proceeding with prejudice. On January 4, 2023, the Commission issued a notice not to review the decision.

Alioune Badara and Dora Mae Ndiaye v. Fleur de Lis Worldwide, LLC [Docket 1985(I)]

Claimants filed a small claims complaint alleging that Respondent had violated 46 U.S.C. §§ 41102(c), 41102(d)(1), and 41102(d)(2)(B) of the Shipping Act in connection with the delivery of Claimants' cargo from Houston, Texas to Dakar, Senegal. On June 21, 2023, a decision was issued finding that Claimants failed to demonstrate that a violation of sections 41102(c), 41102(d)(1), and 41102(d)(2)(B) occurred but that the evidence showed that Respondent violated section 41104(a)(2)(A) by providing service in the liner trade that was not in accordance with its tariff rates and rules. Reparations were awarded to Claimants. On July 25, 2023, the Commission issued a notice not to review the decision.

True Pick, LLC/TP v. Grimaldi Euromed [Docket 1986(I)]

Claimant alleged that Respondent Atlantic Container Line/ACL violated 46 U.S.C. § 40101 in connection with the shipment of Claimant's cargo from Houston, Texas, to Piraeus, Greece. On

December 16, 2022, True Pick amended its complaint to replace Grimaldi Euromed as the respondent in the Claim. On March 17, 2023, prior to the receipt of Respondent's answer, Claimant submitted a motion to dismiss its complaint, together with a settlement agreement between the parties, stating that it had settled its dispute with Respondent. On March 28, 2023, an order was issued approving the settlement and dismissing the proceeding with prejudice. On April 28, 2023, the Commission issued a notice not to review the decision.

A Customs Brokerage, Inc. v. Cargocare Logistics USA, Inc. and Cargocare Logistics America, Inc. [Docket 1987(I)]

Claimant alleged that Respondents violated 46 U.S.C. § 41102(c) of the Shipping Act in connection with the delivery of its cargo from Cochin, India to Miami, Florida. Respondent Cargocare Logistics USA, Inc. (Cargocare USA) failed to respond or participate in the proceeding. On July 17, 2023, a default judgment was entered against Respondent Cargocare USA and it was found, in addition, that Respondents violated section 41102(c) by forcing Claimant to pay double ocean freight to obtain its shipments, and that they were jointly and severally liable to Claimant for its damages. On August 17, 2023, the Commission issued a notice that it had determined to review the decision. The proceeding is pending before the Commission.

Martin David Thibeaux v. Chris Smith/Chris Smyth, Robert Ewing, Trailerland, LLC, Trailer Mania [Docket 1988(I)]

Claimant alleged that Respondents violated 46 U.S.C. § 41102(c) of the Shipping Act in connection with an arrangement to ship Claimant's boat from Fort Lauderdale, Florida to the Bahamas, and that Respondents are operating as an ocean freight forwarder without a Federal Maritime Commission OTI license, financial bond, or insurance. On May 12, 2023, a decision was issued, dismissing with prejudice the complaint against Respondents Robert Ewing and Trailerland, LLC on the basis that Claimant failed to show or allege that they were in any way involved in the arrangement in dispute. The complaint that Respondents Chris Smith and Trailer Mania violated section 41102(c) was also dismissed with prejudice on the basis that the evidence did not demonstrate that they violated the Shipping Act. However, it was found that the evidence supported Claimant's allegation that they operated as an OTI without an FMC license. Because the evidence did not show that Claimant suffered any injury due to the violation, it was found that Claimant was not entitled to receive reparations. However, a cease-and-desist order was issued enjoining Respondents from operating as an OTI in the future without an FMC-issued OTI license, as requested by Claimant. On June 15, 2023, the Commission issued a notice not to review the decision.

Nikon Manufacturing, Inc. v. MSC Mediterranean Shipping Company [Docket 1989(I)]

Claimant alleged that demurrage charges totaling $8323.50 that Respondent imposed on Claimant's containers at the Port of Everglades, Florida failed to comply with the provisions of the Commission's Rules at 46 C.F.R. § 545.5(c)(2)(iv) related to the imposition of demurrage and detention charges. On March 17, 2023, prior to the receipt of Respondent's answer, Claimant submitted a motion to dismiss its complaint, together with a settlement agreement between the parties, stating that it had settled its dispute with Respondent. On March 28, 2023, an order was issued approving the settlement and dismissing the proceeding with prejudice. On April 28, 2023, the Commission issued a notice not to review the decision.

HGMD LLC v. Mediterranean Shipping Company S.A., Mediterranean Shipping Company (USA) Inc. as agent for Mediterranean Shipping Company S.A. and MSC Croatia D.O.O. as agent for Mediterranean Shipping [Docket 1990(I)]

Claimant alleged that it engaged Respondents to ship its container from Croatia to the Port of Newark, but that MSC sent the arrival notice for the container to the wrong party, causing the container not to be timely retrieved and to accrue demurrage charges which MSC then declined to waive, and Claimant was forced to pay, and that by doing so Respondents violated 46 U.S.C. §§ 41102(c) and 41104. On May 1, 2023, prior to the receipt of Respondent's answer, Claimant submitted a motion to dismiss its complaint, together with a settlement agreement between the parties, stating that it had settled its dispute with Respondent. On May 12, 2023, an order was issued approving the settlement and dismissing the proceeding with prejudice. On June 15, 2023, the Commission issued a notice not to review the decision.

TCW, Inc. v. Maersk A/S and Maersk Line U.S.A., Inc as Agent for Maersk A/S (dba Maersk Line, Maersk Line Limited, Safmarine, Sealand) [Docket 1991(I)]

Claimant alleged that Respondents' charging of "street turn" or "usage" fees to motor carriers who reutilize an empty import container for an export booking violates 46 U.S.C. § 41102(c). On April 5, 2023, prior to the receipt of Respondent's answer, Claimant submitted a motion to dismiss its complaint, stating that Respondent had agreed to refund the charge in question and to discontinue charging TCW moving forward, but that the parties "did not execute a formal settlement agreement" and had merely communicated by email. Because Claimant represented that the parties had not entered into a settlement agreement, on April 26, 2023, Claimant's request to dismiss its Complaint was granted without need for review by the Commission, pursuant to 46 C.F.R. § 72(a)(1) of the Commission's Rules of Practice and Procedure.

RGC Coffee Inc. v. Mediterranean Shipping Company [Docket 1993(I)]

Claimant alleged that Respondent violated 46 U.S.C. § 41102(c) in connection with the transportation of its cargo from Cartagena, Colombia to Seattle, Washington. On June 22, 2023, prior to the receipt of Respondent's answer, the parties submitted a motion to dismiss by Claimant and a copy of their settlement agreement. On July 19, 2023, an order was issued approving the settlement and dismissing the proceeding with prejudice. On August 22, 2023, the Commission issued a notice not to review the decision.

TCW, Inc. v. Mediterranean Shipping Company, S.A.; Mediterranean Shipping Company (USA) Inc. [Docket 1994(I)]

Claimant alleged that Respondents violated provisions of the Shipping Act of 1984 in connection with certain invoices they issued to Claimant. On August 2, 2023, prior to the receipt of Respondent's answer, the parties submitted a motion to dismiss by Claimant and a copy of their settlement agreement. On August 23, 2023, an order was issued approving the settlement and dismissing the proceeding with prejudice. On September 25, 2023, the Commission issued a notice not to review the decision.

Rulemakings

Inflation Adjustment of Civil Monetary Penalties [RIN 3072-AC94 / Docket No. FMC-2022-0077]

On January 11, 2023, the Commission published a final rule to adjust for inflation the civil monetary penalties assessed or enforced by the Commission, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114-74, section 701). The Act requires that agencies adjust and publish their civil penalties by January 15 of each year.

Update of Existing FMC User Fees [RIN 3072-AC96 / Docket No. FMC-2023-0009]

On March 21, 2023, the Commission published a direct final rule to update its current user fees and amend the relevant regulations to reflect these updates pursuant to Office of Management and Budget (OMB) Circular A-25. The fee amendments reflect changes in salaries of employees assigned to certain fee-generating services.

Delegations to Bureau of Enforcement, Investigations, and Compliance [RIN 3072-AC97 / Docket No. FMC-2023-0011]

On April 17, 2023, the Commission published a final rule delegating authority to the Bureau of Enforcement, Investigations, and Compliance (BEIC) to issue Notice(s) of Violations and to compromise civil penalty claims subject to review by the Commission. Delegation of authority to BEIC provides enhanced efficiency and flexibility during the enforcement process while maintaining Commission oversight.

Definition of Unreasonable Refusal to Deal or Negotiate With Respect to Vessel Space Accommodations Provided by an Ocean Common Carrier [RIN 3072-AC92 / Docket No. FMC-2023-0010]

On June 14, 2023, the Commission published a supplemental notice of proposed rulemaking (SNPRM) that revised certain aspects of the original NPRM, published on September 21, 2022, and clarified the potential standard for unreasonable conduct by ocean common carriers. OSRA 2022 prohibits ocean common carriers from unreasonably refusing to deal or negotiate with respect to vessel space accommodations. The Commission is proposing to define the elements necessary to establish a violation and the criteria it will consider in assessing reasonableness.

Demurrage and Detention Billing Requirements [RIN 3072-AC90 / Docket No. FMC-2022-0066]

On October 14, 2022, as directed by OSRA 2022, the Commission published a notice of proposed rulemaking (NPRM) proposing new specific minimum information that must be included on demurrage and detention invoices and outlines certain billing practices on appropriate timeframes for issuing invoices, disputing charges with the billing party, and resolving such disputes.

Civil Penalty Amendments to Rules of Practice and Procedure [RIN 3072-AC95 / Docket No. FMC-2023-0008]

On March 20, 2023, the Commission published a final rule to amend its Rules of Practices and Procedure governing the compromise, assessment, mitigation, settlement, and collection of civil penalties. These changes align with the statutory changes in OSRA 2022 on penalties or refunds.

Recent Key Commission Litigation

FMC Docket No. 1966(I), *TCW, Inc. v. Evergreen Shipping Agency (Am.) Corp. & Evergreen Line Joint Service Agreement,* Order Affirming the Initial Decision (December 29, 2022): The Commission upheld the Small Claims Officer's decision that the charging of per-diem for days when a port was closed for a weekend and equipment could not be returned was unjust and unreasonable in the absence of extenuating circumstances. This case is now before the U.S. Court of Appeals for the D.C. Circuit. This case could significantly impact how the industry deals with charges related to weekends, holidays, and other times when containers or chassis cannot be returned.

FMC Docket No. 20-14, *Intermodal Motor Carriers Conference, American Trucking Associations, Inc. v. Ocean Carrier Equipment Management Association, Inc. et al., Initial Decision Partially Granting Summary Decision* (February 6, 2023): Complainant IMCC, a conference of ATA – American Trucking Associations, alleges that OCEMA and CCM (VOCC-backed equipment management groups which have FMC-filed agreements) have engaged in unreasonable practices related to chassis (chassis choice and gray pools) in nearly every port in the U.S. IMCC alleges that respondents' actions are more restrictive than necessary to support chassis availability and that they unreasonably restrain the market for haulage chassis. As a result, IMCC maintains that motor carriers, shippers, and the downstream public have paid higher chassis prices and suffered inefficiencies, and thus OCEMA/CCM actions violate 46 U.S.C. § 41102(c) of the Shipping Act. IMCC requests cease and desist relief from these practices. On February 6, 2023, an Initial Decision partially granting summary decision was issued which granted in part and denied in part IMCC's motion for summary decision and denied Respondents' motion for summary decision and Evergreen's supplemental motion for summary decision. Exceptions to the Initial Decision were filed by the Respondents. The Commission subsequently issued an Order affirming the Initial Decision and remanded the case for further proceedings before the ALJ. Respondents have since filed Motions for Reconsideration with the Commission, which are currently pending. This factually and legally complex case is now pending with the Commission on review of respondents' Exceptions to the Initial Decision.

FMC Docket No. 21-11, OJ Commerce, LLC v. Hamburg Sudamerikanische Dampfschifffahrts-Gesellschaft A/S and Co KG and Hamburg Sud North America, Inc., Initial Decision (June 7, 2023): Complainant OJ Commerce (OJC), a shipper, alleged that Respondents Hamburg Sudamerikanische Dampfschifffahrts-Gesellschaft and Hamburg Sud North America (collectively "HSDG"), a carrier, failed to provide cargo space pursuant to a service contract. OJC alleges when it complained and threated action before the Commission, HSDG cut off all negotiations towards future service contracts and refused to provide further space under the existing service contract. The ALJ found that the HSDG violated 46 U.S.C. § 41104(a)(3) by refusing to deal with OJC and § 41104(a)(10) by retaliating against OJC. The ALJ ordered HSDG to pay OJC

$9,843,766.40 in reparations with interest. This case is now pending with the Commission on review of both the respondents' and complainants' Exceptions to the Initial Decision.

Ensuring a Competitive Industry through Agreements Review and Monitoring

In support of strategic goal 1, maintaining a competitive and reliable international ocean transportation system, the FMC's competition program involves careful analysis of agreements upon filing and ongoing review of actions that are taken under these agreements.

The FMC's statutory authority and regulations require that agreements which allow collaboration among ocean common carriers or marine terminal operators (MTOs) must be filed with the Commission. Commission staff analyze these agreements upon filing for potential anticompetitive effects. For those agreements that are competitively concerning (including all alliances described below), the Commission staff monitor activity on an ongoing basis. Conduct inconsistent with the terms of an agreement is illegal and exposes parties to criminal and civil prosecution under existing statutes.

At the end of FY 2023, there were 343 agreements on file with the Commission, comprised of VOCC agreements, MTO agreements, and assessment agreements. There are 45 agreements on file which staff monitor regularly due to competitive concerns. The vast majority of agreements on file with the Commission are vessel sharing agreements (VSAs) which allow straightforward space sharing.

Agreement Review Process

- All agreements are reviewed pursuant to the standard set forth in 46 U.S.C. § 41307(b)(1).
- Agreements become effective 45 days after filing unless the Commission has requested additional information to evaluate the competitive impact of the agreement.
- The Commission has the authority to reject a pending agreement filing if it determines that the filing fails to meet the Shipping Act and Commission regulations requiring filed agreements to be clear and definite, or if the filing is outside of the Commission's jurisdiction.
- The Commission may seek to prevent the operation of an agreement under 46 U.S.C. § 41307(b) where it determines that the agreement could reduce competition to the point of unreasonably impacting the market, or substantially lessen competition in the purchasing of certain covered services as defined in the Frank LoBiondo Coast Guard Authorization Act of 2018 (Pub. L. No. 115-282).
- Effective agreements are subject to Shipping Act restrictions and Commission oversight.

In FY 2023, there was an uptick in the number of VOCC and MTO agreements on file with the Commission that were cancelled. Among VOCCs, major agreement cancellations included multiple VSAs involving carriers who entered the U.S. trades during the pandemic and left the trades after the downturn in spot prices in 2023. This is further described in the section on tariffs and service contracts later in this report. In fall 2022, Maersk and IBM announced that they were discontinuing the TradeLens platform. This led to the cancellation of two FMC-filed agreements – the TradeLens Agreement (FMC No. 201328) and the Foundation Carrier Agreement (FMC No. 201351).

The Commission issued multiple Requests for Additional Information for certain filed agreements beginning at the end of FY 2022 and continuing throughout FY 2023. Under agency regulations at Part 535, the Commission "may request from the filing party any additional information and documents necessary to complete the statutory review required by the Act." The agreements for which the Commission requested additional information upon filing of the agreement or amendments to an existing agreement include the World Shipping Council Agreement (FMC No. 201349), the South Atlantic Multiport Chassis Pool Agreement (FMC No. 201391), and the Agreement by Ocean Common Carriers to Participate on the Exchange Board (FMC No. 201234).

The largest ocean common carriers participate in "alliances" or global VSAs. There are three alliances with agreements on file at the Federal Maritime Commission. Alliance agreements allow coordination of capacity, but discussion or coordination on rates is categorically prohibited. Alliance agreements are the class of agreement that is most closely and regularly scrutinized by the Commission. Alliances provide extensive information to the Commission including meeting minutes and measures of blank and delayed sailings, capacity, volumes, and revenue. Additionally,

What are Alliances? What are Vessel Sharing Agreements?

FMC statutes and regulations contain no definition of Alliances or VSAs. Generally, however, Alliances refer to carriers participating in VSAs that have a global geographic scope.

VSAs are agreements between two or more ocean common carriers to share space on a serviced string or trade lane and include the authority to rationalize capacity. This contrasts with space charter agreements, where carriers provide space for other carriers on a service but do not contain capacity rationalization authority.

Alliances are large VSAs. Currently, there are three global alliances – 2M, OCEAN, and THEA. Each Alliance filed agreements with the FMC that are available through the Commission's website. Each agreement is slightly different, but discussion of pricing or other operational considerations is not authorized in an Agreement. If Agreement parties engage in those kinds of unauthorized activities, they would be subject to criminal and civil prosecution.

Agreements are not mergers nor joint ventures. Ocean carriers in these agreements compete with one another based on price and service. The FMC monitors agreements through submitted data, external data on market activities, and through regular conversations with agreement parties.

Commission staff responsible for marketplace competition issues hold meetings with each of the alliances semi-annually.

The largest alliance, measured by market share in the major east-west trades, is the 2M alliance, consisting of Maersk and Mediterranean Shipping Company. The 2M alliance will be dissolved in 2025, and its member carriers began taking actions in 2023 to move towards increasingly independent services. In FY 2023, the Commission continued its regular, ongoing engagement at both the Commissioner and staff levels with competition authorities in the UK and EU to address the state of the industry and potential marketplace changes due to macroeconomic shifts. Due to the UK's exit from the EU, the Commission now engages with the UK Competition Authority directly on an as-needed basis.

The FMC's monitoring program is unlike any other. Competition authorities in the European Union, the People's Republic of China, and in various other nations do not have access to the same detailed, business confidential information that the FMC collects from alliance carriers. The Commission regularly evaluates the information it collects to carefully monitor activities under agreements and monitoring requirements are adjusted as needed. Monitoring requirements for alliance carriers were most recently revised in spring 2022. As the ocean transportation market in the major trade lanes shifts from supply scarcity to supply excess, the FMC's focus will be on ensuring that alliance carriers do not restrict capacity to artificially increase rates. The 2022 changes to monitoring requirements properly position the Commission to rapidly track changes in capacity and act quickly if circumstances warrant intervention.

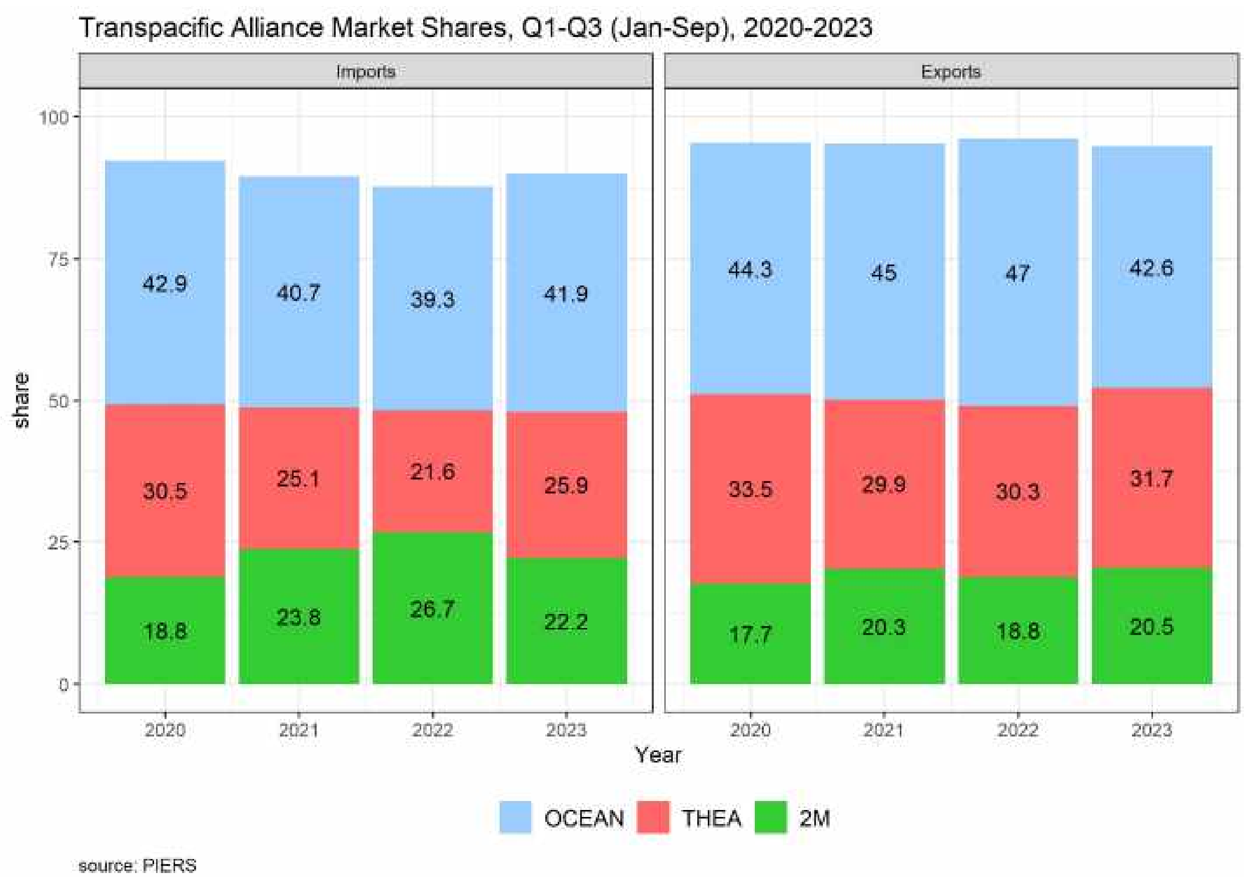
In the first half of calendar year 2023, the number of blanked/cancelled sailings increased substantially across the three alliances. The alliance carriers collectively removed approximately 1.7 million Twenty Foot Equivalent Units (TEUs) in capacity through blank sailings in Q1 2023 and roughly 0.5 million of this was due to continued congestion in the first three months of 2023. In Q2 2023, the capacity removed through blank sailings was roughly 840,000 and very little of this was due to congestion – nearly all was due to decreased demand or realigning fleets. Despite this, total capacity in the major trades increased overall. In the transpacific trade, inbound capacity increased by 36 percent quarter-over-quarter in Q2 2023 and the corresponding increase in the transatlantic inbound trade was 20 percent.

Utilization and average revenues fell across the major trades for the alliance carriers. Utilization was 73 percent on the inbound transpacific trade in Q2 2023 and 74 percent on inbound transatlantic trade. The average revenue for alliance carriers on transpacific inbound containers has settled at its approximate pre-pandemic levels. On the transatlantic inbound trade, average revenue still exceeds pre-pandemic levels, but has declined considerably – with monthly average decreases of 14.7 percent in Q2 2023.

Market Shares of Carriers in the Major East-West Trades

The Commission uses PIERS[5] data to calculate carrier market share within the global alliances. The shares below are computed based on the total TEUs transported in the major east-west trade lanes by the carriers and reflect the totals carriers by via alliance services, other shared services under VSAs, and independent services provided by the carriers.

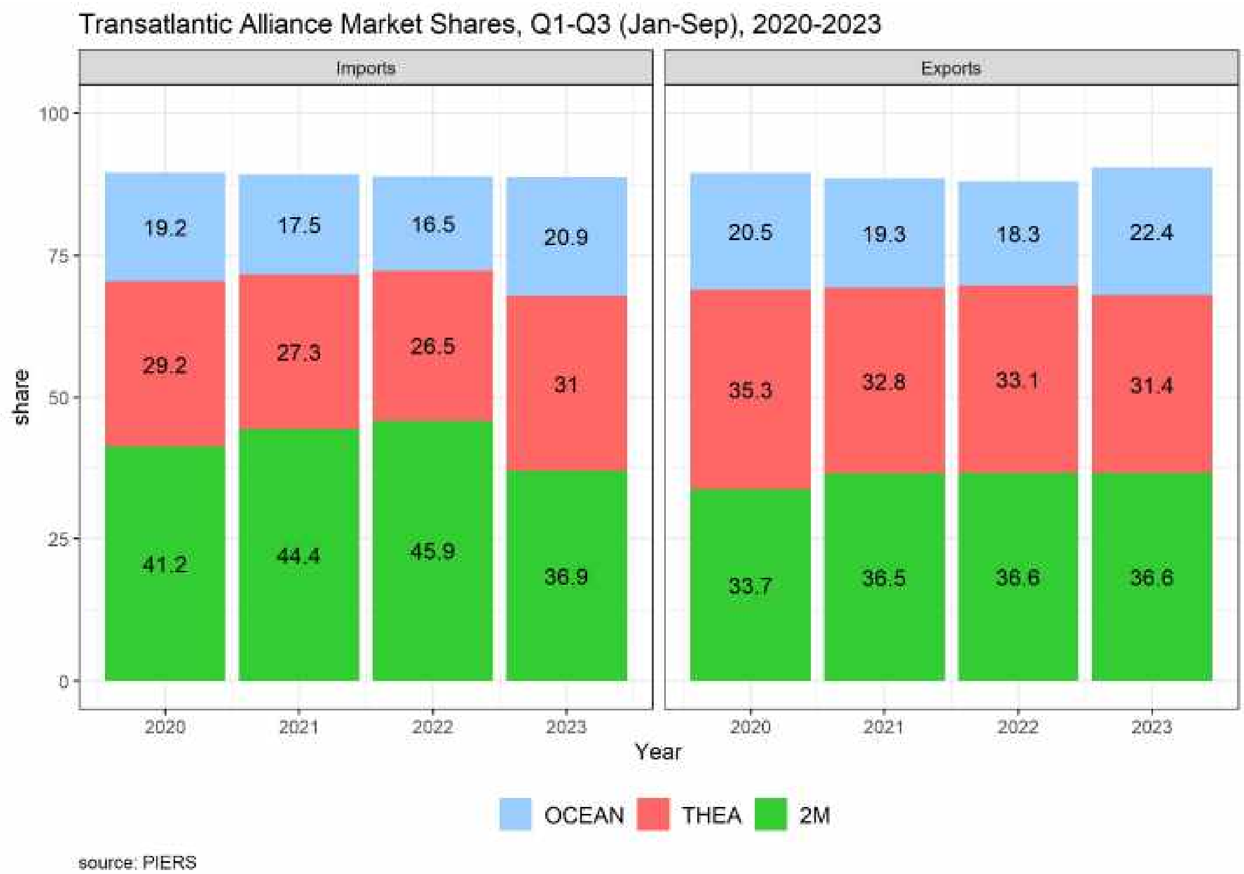
The three alliances are OCEAN, 2M, and THE Alliance (THEA). The OCEAN Alliance consists of CMA CGM, COSCO (including its majority-owned affiliate OOCL), and Evergreen. THEA members include Hapag-Lloyd, HMM, Ocean Network Express (ONE), and Yang Ming. 2M is comprised of Maersk Line and Mediterranean Shipping Company (MSC).



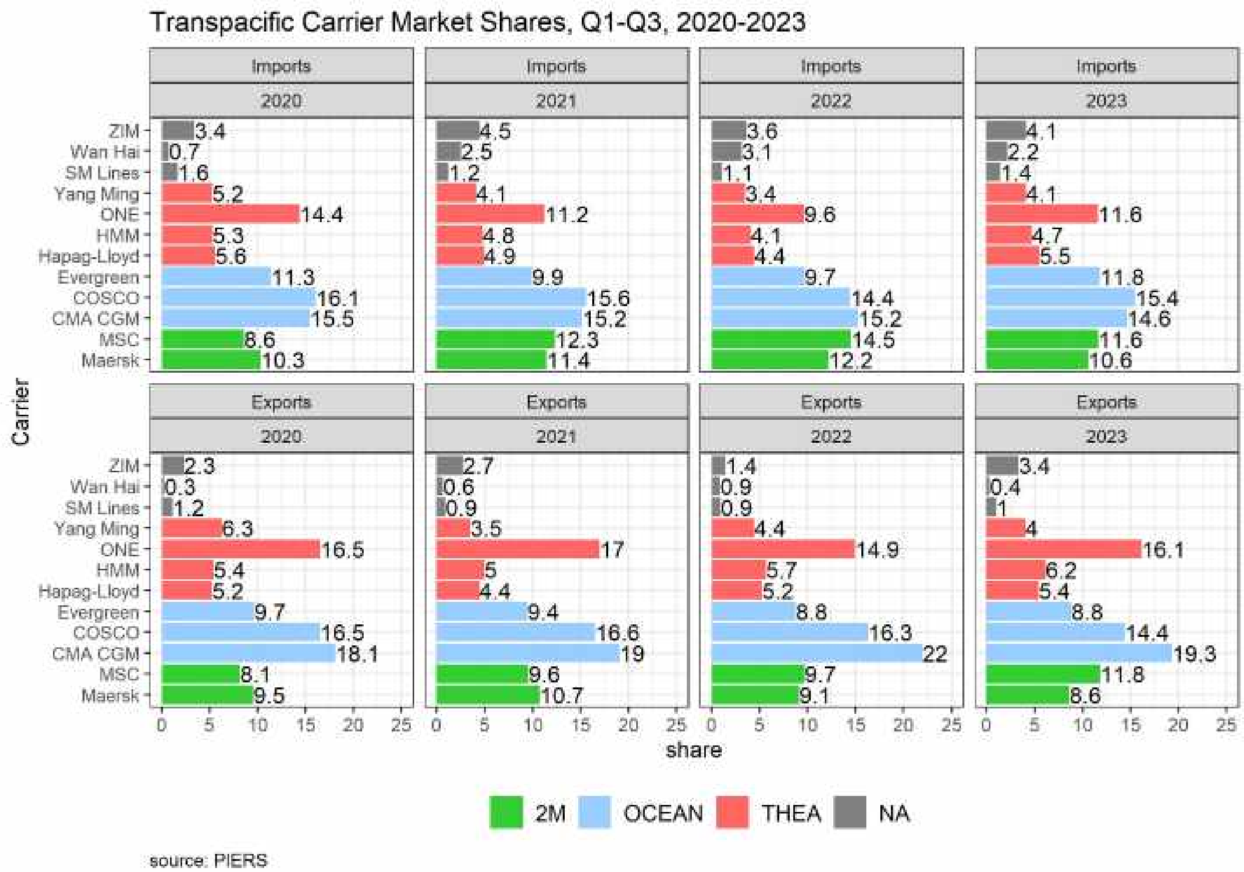
As shown in the Transpacific Market Shares Chart, carriers in the three global alliances held a combined market share of 90 percent of imports and 94.8 percent of exports in the transpacific trade in the first half of calendar year 2023. While the OCEAN alliance carriers' share of the import trade declined from 2020 to 2022, the market share increased to nearly 43 percent in

[5] Port Import/Export Reporting Services (PIERS) provides comprehensive trade data which contains detailed information on import and export transactions, based on bills of lading filed with U.S. Customs and Border Protection.

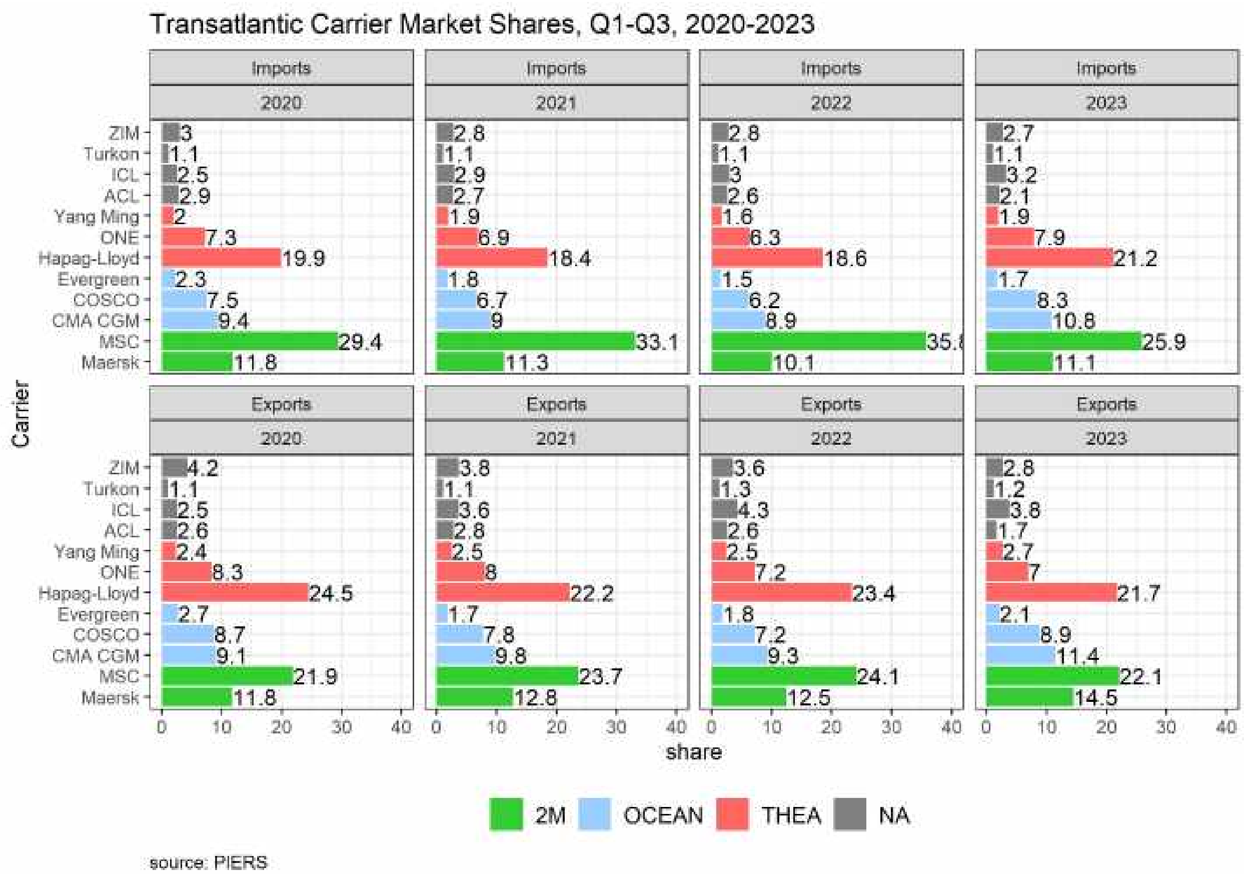
2023 and the carriers in this alliance dominate the transpacific trade for both imports and exports. The 2M carriers' share of the import market increased between 2020 and 2022, but declined in the first three quarters and is below 2021 levels. Their share of the export market has hovered around 20 percent for the past three years. After a decline in market share on the import trade in 2022, THEA carriers reached a market share of 25.9 percent in the first three quarters of 2023, roughly on par with the 2021 numbers, but below 2020. Their share of the export market has been relatively stable over recent years.



In the transatlantic trades, the alliance carriers collectively accounted for 88.8 percent of imports and 90.4 percent of exports. On the import side, the 2M carriers saw a substantial reduction in their share of the import market, which decreased 9 percentage points in 2023 versus 2022 and is over 4 percentage points below their market share in 2020. The carriers in OCEAN and THEA increased their market shares of imports, roughly splitting the decline in the 2M carrier share. The export side of the market showed fewer changes with 2M carrier shares stable between 2021 and 2023, OCEAN carriers' shares increasing slightly and THEA decreasing slightly.



Focusing on the market share of individual carriers, Zim is the largest non-alliance carrier in the transpacific trade and has sustained a stable market share of roughly 4 percent of imports, while increasing its share of exports to 3.4 percent in the first three quarters of 2023. Most of the alliance carriers have had relatively stable import market shares over the past four years, with both Maersk's and MSC's market shares decreasing in 2023. However, MSC still has a substantially higher market share in the transpacific import market than in 2020. MSC has also increased its export market share in the transpacific trade.



In the transatlantic trade, the non-alliance carriers have exhibited stable market shares over the past four years. Within THEA, the increased import market share is largely attributed to an increase in Hapag-Lloyd's share, which had dropped in 2021 and 2022 before returning to levels in 2023 that are slightly higher than 2020. Even with a marked decline in its market share between 2022 and 2023, MSC remains the market leader in the transatlantic import market. On the export side, MSC's market share is slightly higher than Hapag-Lloyd's. Both CMA CGM and COSCO from OCEAN increased their export market shares in the first three quarters of 2023.

Protecting the Public and Consumer Assistance

The scope of the Commission's statutory and regulatory authority is broad, and it oversees international waterborne commerce valued at trillions of dollars, as well as passenger vessel operations embarking at U.S. ports. As a small agency, it is imperative that the Commission's program offices focus on vigilant oversight which includes compliance, investigations, and enforcement.

The Commission works proactively to meet the objectives of strategic goals 1 and 2 of protecting the public from unfair and deceptive practices by communicating clearly to regulated entities their obligations under statute and regulation. Commission resources are focused to address noncompliance in the areas with highest impact. In FY 2023, the Commission added resources to compliance efforts across multiple bureaus and offices.

FMC Audit Program

The need for clear communications between the Commission and carriers to achieve industry compliance underpins an audit program initiated by Chairman Maffei in July 2021. In FY 2023, the scope of this program was expanded to marine terminal operators as well as some port authorities.

The FMC Audit Program provides a forum for focused conversations between senior Commission staff and representatives from ocean common carriers, port authorities, and MTOs. The agendas for regular meetings are driven by industry issues. Past issues have included congestion and movement of empty containers, fees and billing practices, export strategies, and challenges faced by the industry. Under this program, the Commission has tracked trends, policies, and procedures related to detention and demurrage billing and identified best practices for carriers related to communicating their practices to the shipping public.[6]

In FY 2023, meetings with the 11 largest carriers included discussions of carrier compliance with OSRA 2022, trends in demurrage and detention, updates on export services, and market outlook. The meetings with port authorities and MTOs included discussions of OSRA 2022 scope and compliance as well as challenges faced by terminal operators.

The program continues to collect information from carriers and work within the Commission to set agenda items for FY 2024 meetings.

Fact Finding 29 included a recommendation for all carriers and MTOs to identify FMC Compliance Officers. The agency leveraged the FMC Audit Program to obtain information on compliance officers for the major carriers and terminal operators and this information is shared within the Commission. These points of contact are used to further communicate industry

[6] https://www.fmc.gov/detention-and-demurrage/vessel-operating-common-carrier-vocc-audit-program/

alerts and other industry advisories to ensure that carriers and MTOs are aware of Commission policies.

Tariffs and Service Contracts

Beyond the FMC Audit Program, Commission program offices have expanded their efforts to address identified gaps in regulatory compliance by regulated entities. These gaps resulted from changes to industry over time, the increase in non-vessel-operating common carriers (NVOCC) in the marketplace, and the lingering aftereffects of the pandemic. Through their efforts in FY 2023, Commission program offices successfully achieved increased industry compliance with regulations addressing Carrier Automated Tariffs (Part 520), Marine Terminal Operator Schedules (Part 525), NVOCC Service Arrangements (Part 531), and NVOCC Negotiated Rate Arrangements (Part 532).

In FY 2023, the FMC increased staffing in the Bureau of Trade Analysis and refocused on tariff and service contract compliance activities that would lead to highest impact. This included increased outreach to the industry through industry alerts and communication with designated compliance officers to ensure that service contracts are filed timely, that ocean common carriers vet NVOCCs for compliance with FMC regulations when entering into service contracts, and that all carriers maintain tariffs.

As rates increased on the major east-west trade lanes during the pandemic, smaller carriers drawn by high freight rates entered the U.S. trades for the first time. As rates fell in 2022 and 2023, several of these carriers ended their services calling in the U.S. The Commission staff tracked this activity closely and ensured that carriers exiting the trade cancelled their tariffs so shippers had an accurate understanding of which ocean carriers were legally operating in the U.S. trades.

By the end of FY 2023, each of the carriers who entered the transpacific trade during the pandemic had left the trade. These include:

- Iris Logistics: entered August 2021; left November 2022
- Lihua Logistics: entered August 2021; left October 2022
- Oriental Lake Shipping: entered July 2021; left July 2022
- Shanghai Jinjiang Shipping: entered August 2021; left January 2023
- SITC Container Lines: entered Sept 2021; left January 2023
- Starocean Marine Co.: entered Sept 2021; left January 2023
- WTS International Logistics: entered August 2021; left February 2023
- T.S. Lines: entered July 2021; left May 2023
- C.U. Lines: entered June 2021; left August 2023
- BAL Container Line: entered May 2021; left August 2023
- Transfar Shipping: entered July 2021; left September 2023

During the pandemic, the number of NVOCCs offering service in the U.S. increased substantially. As of June 2023, there were approximately 8,500 NVOCCs with tariff locations published on the FMC website. In FY 2023, there was a Commission effort to target entities that were out of compliance with either tariff postings or financial responsibility requirements. This included revoking licenses, working with tariff publishers to cancel tariffs, and removing entities from the FMC website. Work continues to ensure that non-compliant NVOCCs are identified quickly, and if the NVOCCs do not take actions to be compliant, then the Commission will promptly and efficiently address a refusal to comply.

Licensing and Financial Responsibility for Ocean Transportation Intermediaries and Passenger Vessel Operators

The Commission's regulatory scope includes Parts 515 (Licensing, Registration, Financial Responsibility Requirements, and General Duties for Ocean Transportation Intermediaries) and 540 (Passenger Vessel Financial Responsibility). There are over 9,100 ocean transportation intermediaries regulated by the Commission. To receive an OTI license, applicants must employ a Qualifying Individual with the necessary character and a minimum of three years of shipping experience in the U.S. Additionally, OTI applicants must demonstrate financial responsibility by means of a bond, insurance, or other financial instrument available to pay claims for damages or civil penalties. Under the Commission's triennial renewal program, OTIs review and update their information on file with the Commission. In FY 2023, the agency took approximately 900 actions to revoke or terminate licenses for OTIs no longer maintaining financial responsibility.

In addition, the Commission administers a requirement pertaining to passenger vessel operators (PVOs) that arrange, offer, advertise, and provide passage on a vessel; have berths or stateroom accommodations for 50 or more passengers; and embark passengers from a U.S. port. These PVOs are required to establish financial responsibility with the Commission for the Indemnification of Passengers for Nonperformance of Transportation and to Meet Liability incurred for Death or Injury to Passengers or Other Persons on Voyages.

In response to the disruptions experienced by the cruise industry during the pandemic, new regulations mandated that, for passengers who are due refunds, PVOs must provide full compensation of all fees, including ancillary fees, within 180 days . Optionally, in lieu of a refund, passengers may agree to receive future cruise credits.

Consumer Assistance

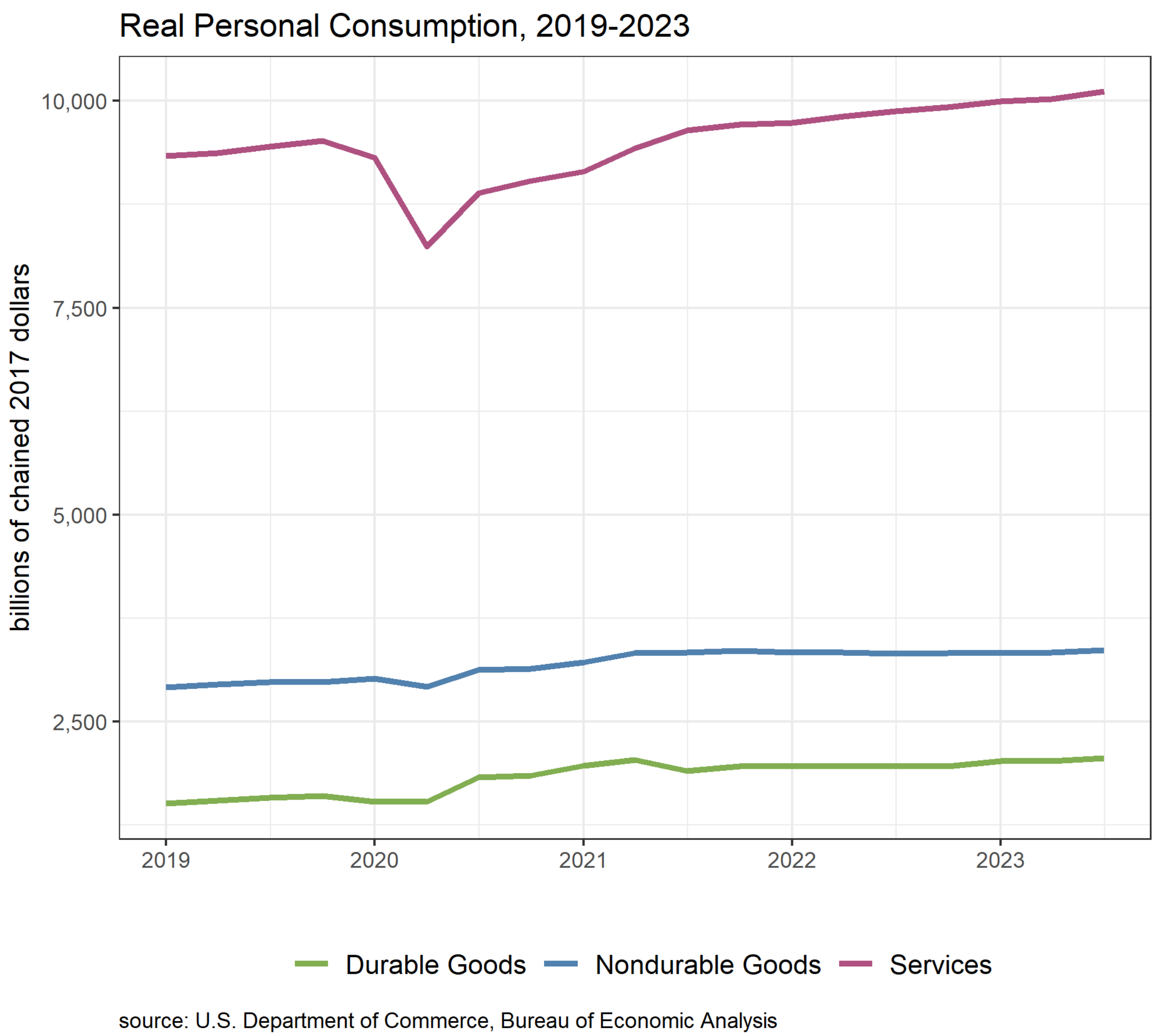
The Office of Consumer Affairs and Dispute Resolution Services (CADRS) helps private parties informally resolve disputes related to cargo and cruise voyage matters without the costs, risks and delays associated with pursuing formal legal actions. CADRS also offers mediation services for formal proceedings that have been filed at the Commission. All assistance is provided without charge.

In FY 2023, CADRS handled over 300 cases. Roughly 65 percent of cases involved commercial cargo, 25 percent involved passenger vessels/cruises and the balance involved household goods movement. The vast majority of the commercial cargo cases (80 percent) concern import cargo and 20 percent involve export cargo.

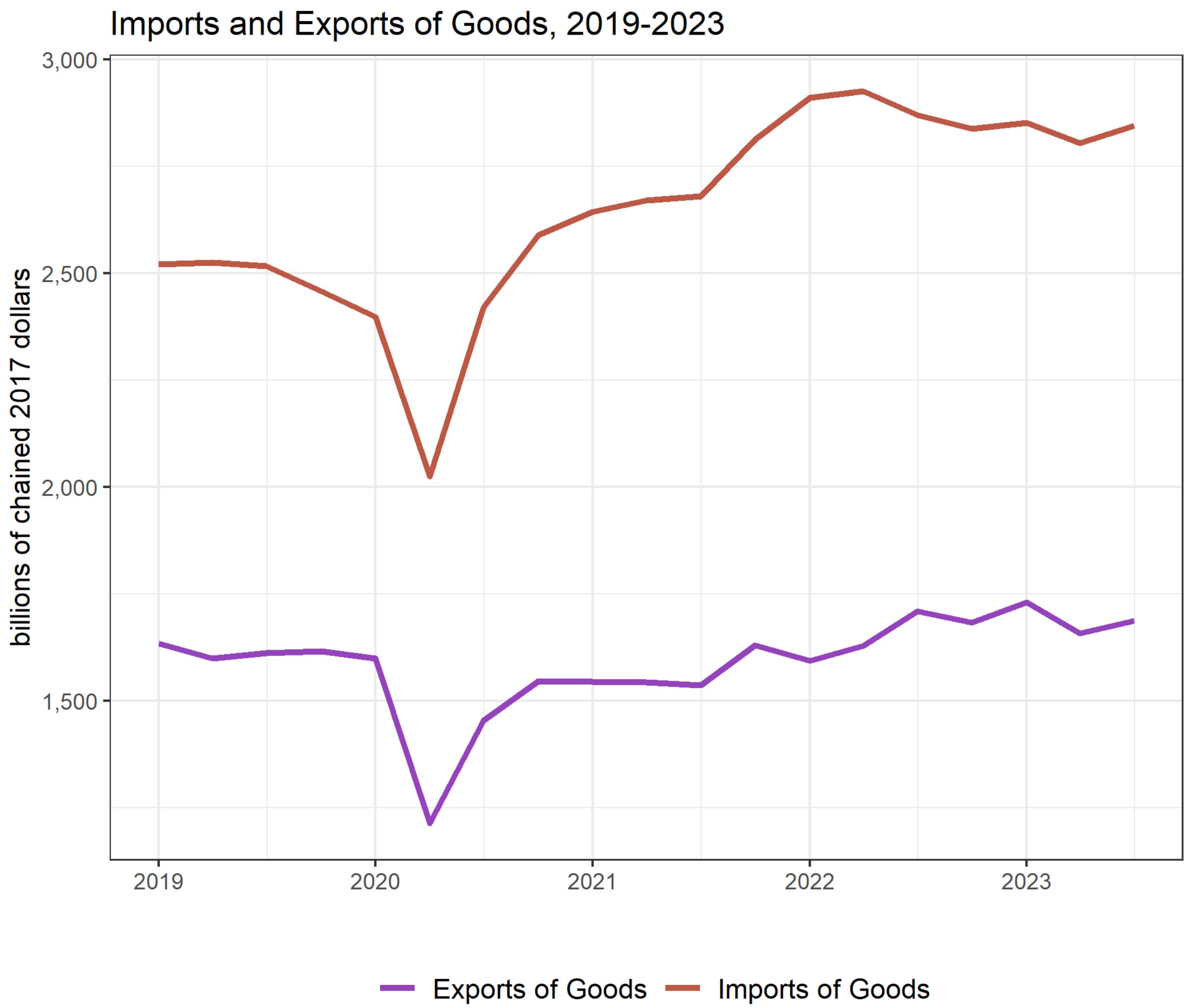
CADRS staff has taken on an additional role in Commission outreach. In FY 2023, staff participated in several industry events and met with multiple federal agencies. Much of this outreach work has been in support of export activities. In FY 2024, CADRS will continue expanding its outreach efforts.

Developments in Major U.S. Foreign Trades

The shift in consumer demand from services to goods at the outset of the COVID-19 pandemic is well documented. By 2022, inflation-adjusted personal consumption on services had returned to pre-pandemic levels and rose throughout Q3 2023. While real consumer spending on both durables and nondurables was relatively flat in real terms in 2022 and 2023, consumer spending remains above pre-pandemic levels, particularly on durable goods.



While increased spending on goods is typically associated with increased level of imports, real imports decreased throughout most of 2023, rebounding a bit in the third quarter. This is mainly attributed to high levels of inventory in the U.S. due to the surge in imports in 2022. On the export side, the value of real exports dropped in Q2 2023 and increased in the third quarter of the year.



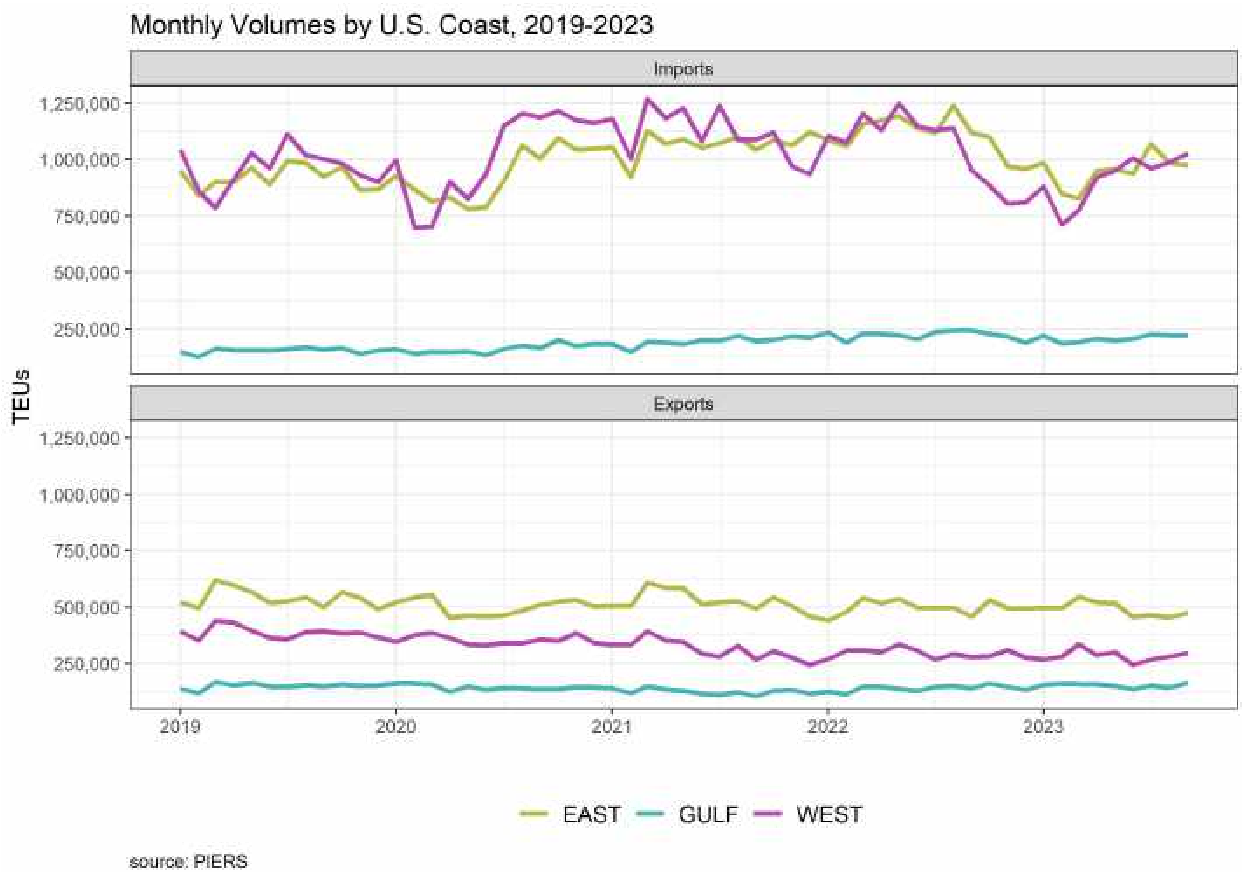
source: U.S. Department of Commerce, Bureau of Economic Analysis

Containerized U.S. Imports and Exports

Rates for containerized shipping dropped precipitously in 2023, due to the decreased congestion in global supply chains, declining demand for imports, and increased global capacity created by delivery of newbuild ships. Average rates in all key U.S. trade lanes have fallen from their COVID-era historic highs and returned to rates that are more historically normal.

The Drewry Container Freight Insight estimates the Shanghai to New York trade peaked in mid-2021 at roughly $15,000 per forty-foot equivalent unit (FEU), dropped below $4,000 by the end of calendar year 2022, and was approximately $3,300 in September 2023. Rates from Shanghai to Los Angeles peaked at roughly $12,000 in mid-2021 and were below $3,000 for most of calendar year 2023. The September 2023 rate for this trade was roughly $2,400.

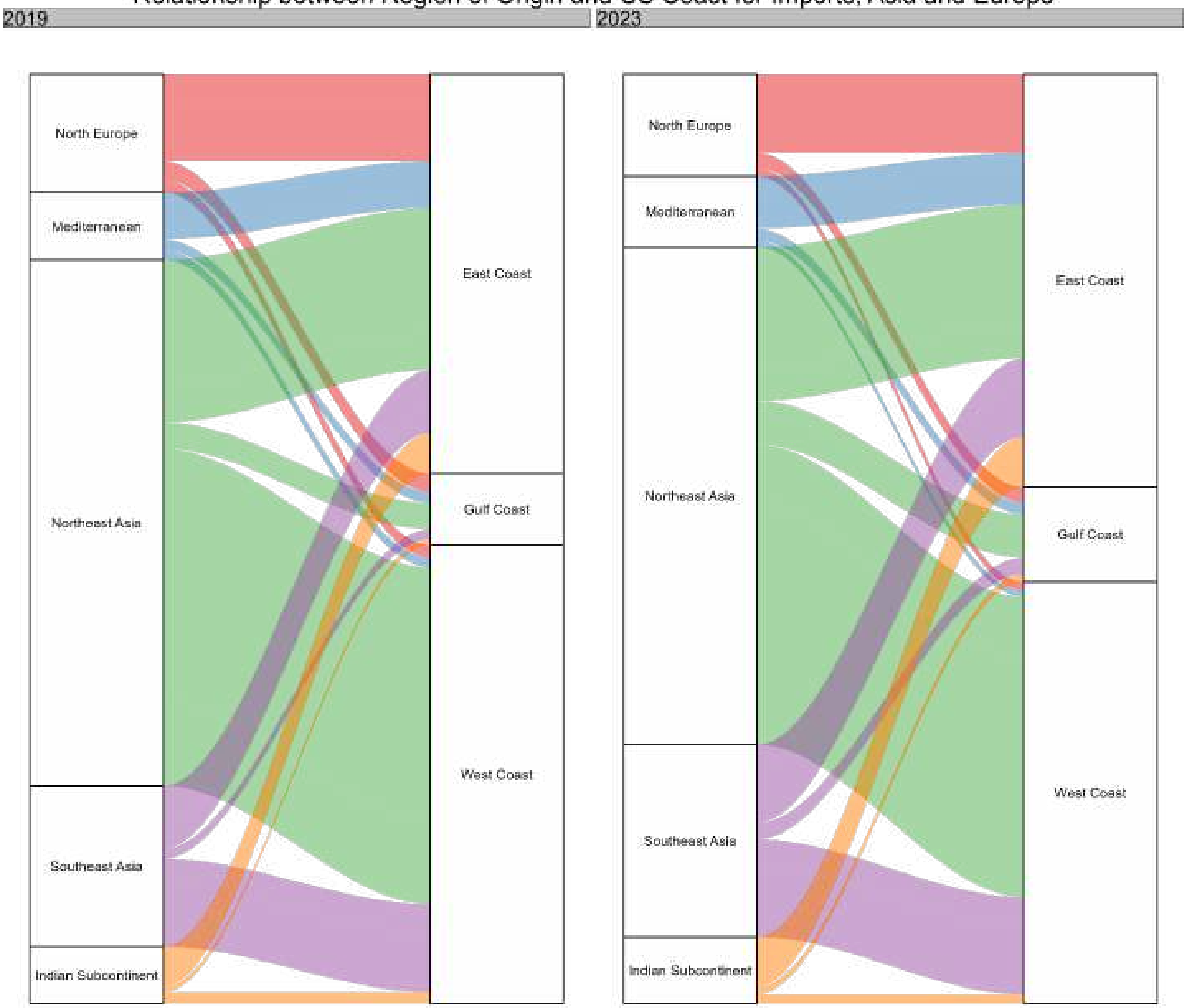
On the transatlantic trade, Drewry reported rates for an FEU from Rotterdam to New York hovered at a high of roughly $7,000 per FEU for most of 2022, before dropping throughout 2023 and settling at $1,500 in September, lower than the 2019 rates on this trade. Rotterdam to Los Angeles rates were at $2,790 in September 2023, roughly on par with the rates in spring 2019.



Turning to container volumes (in TEUs) by coast, import volumes through the East and West Coast ports decreased from mid-2002 through the first few months of 2023 and then trended upward in spring and summer 2023. While total TEUs imported through the East Coast were greater than the West Coast in the second half of 2022 and beginning of 2023, they were roughly equivalent for the period July through September 2023. Export volumes were relatively stable across the last several months of 2022 and the beginning of 2023 before starting to decrease in the spring months.

The distribution of the major east-west trade among the U.S. coastal ports changed markedly post-pandemic, as depicted in the following two charts. The share of imports entering through the Gulf Coast increased between 2019 and 2023. Much of this was the result of an increased share of trade from Northeast Asia entering through Gulf ports as well as a slight increase in trade from Southeast Asia entering through the Gulf. The East Coast also increased its share of containerized imports on the major east-west trades, with nearly all of that increase originating in Southeast Asia and the Indian subcontinent.

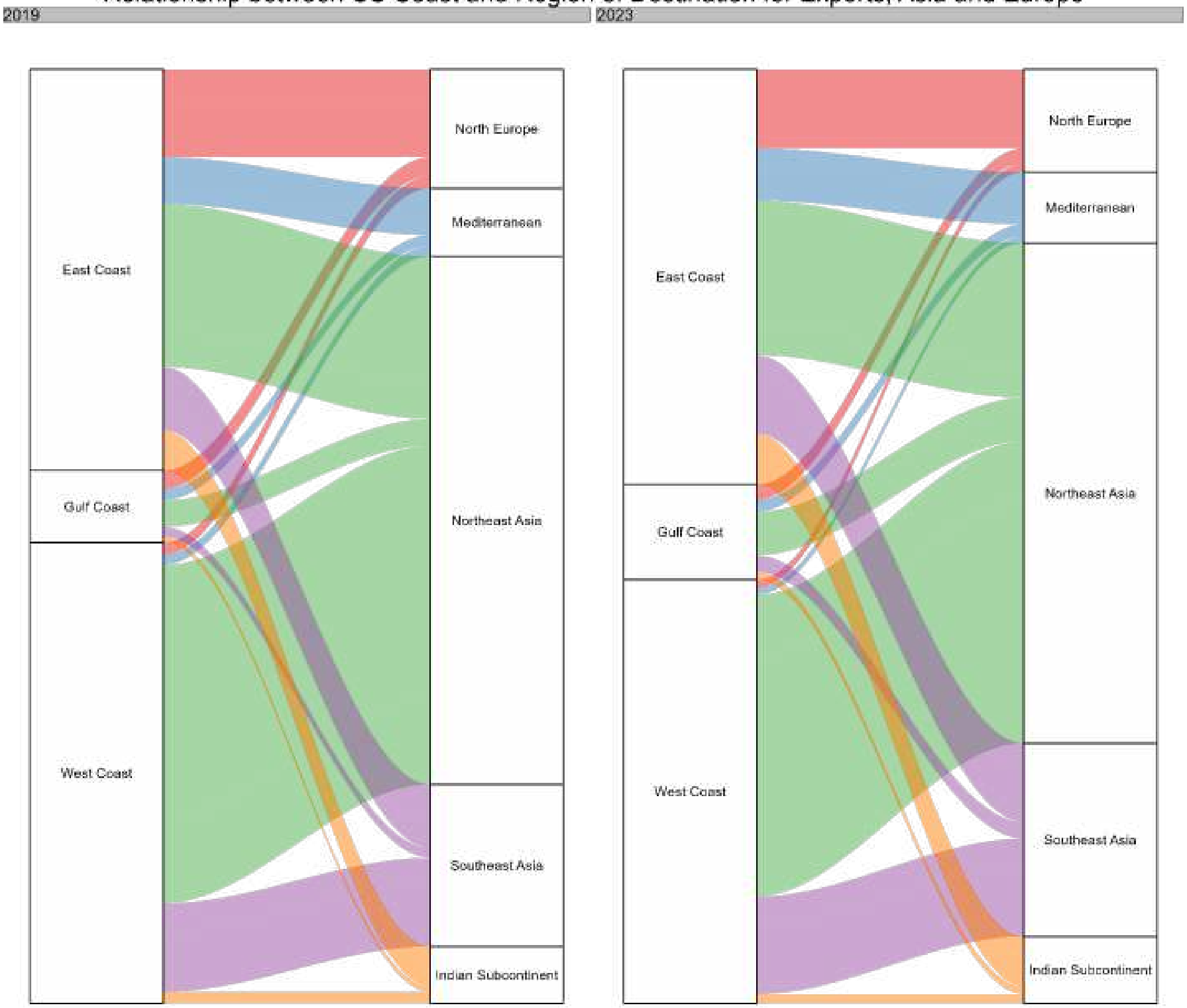
Relationship between Region of Origin and US Coast for Imports, Asia and Europe



source: PIERS

Likewise, East Coast and Gulf Coast ports increased their shares of exports. The share of Southeast Asia and Indian subcontinent export trade grew between 2019 and 2023 and the East and Gulf Coast ports have increased their shares of this trade. They both have also increased slightly their share of the Northeast Asia export trade.

Relationship between US Coast and Region of Destination for Exports, Asia and Europe



source: PIERS

Report on Foreign Laws and Practices

Trading Partners

Section 46106(b)(1) of Title 46 requires the FMC to include in its annual report to Congress, “a list of the twenty foreign countries which generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States.” The most recent calendar year available from PIERS data is 2022. China remained the U.S.’s ocean top trading partner in containerized oceanborne cargo in 2022, though the total volumes decreased from nearly 14 million TEUs in 2021.

Rank	Country	TEUs
1	China (PRC)	13,320,873
2	Vietnam	2,914,367
3	South Korea	1,831,218
4	India	1,678,749
5	Taiwan (ROC)	1,298,111
6	Japan	1,293,458
7	Thailand	1,227,980
8	Germany	1,025,387
9	Indonesia	816,457
10	Malaysia	780,572
11	Belgium	773,409
12	Italy	744,939
13	Brazil	743,573
14	Guatemala	565,145
15	Turkey	492,683
16	Netherlands	480,522
17	Spain	449,382
18	Chile	397,486
19	Honduras	386,604
20	United Kingdom	375,163

Source: PIERS

The top 9 countries were identical to 2021. Brazil dropped from number 10 in 2021 to number 13 in 2022. Malaysia, Belgium, Italy, Netherlands, Turkey, and Spain moved up in the rankings.

Competitive Impact of Ocean Carrier Alliance Joint Purchase of Certain Covered Services

Section 46106(b)(6) of Title 46 requires the Commission to analyze agreements that jointly purchase certain covered services. THE Alliance jointly contracts for terminal services in the U.S. and is subject to alternative monitoring requirements. The FMC conducted two safety zone threshold tests based on U.S. Department of Justice/Federal Trade Commission (DOJ/FTC) guidelines using available data for FY 2023 (October 2022 — June 2023).[7] In the first test, the number of container lifts jointly purchased by THEA were compared to the number of overall lifts in each port market where THEA jointly contracts, with the threshold being 35 percent. In the second test, the value of THEA's jointly purchased input (terminal services) was compared to the combined sales revenue of the members in each of the relevant trade lanes, with the threshold being 20 percent. In FY 2023, THEA operated within the safety zone thresholds.

Foreign Practices Cases

The Commission has the authority to address restrictive foreign shipping practices under Chapters 421 and 423 of the U.S. Code, as well as section 41108(d) of Chapter 411. Section 42101 empowers the Commission to make rules and regulations to adjust or meet conditions unfavorable to shipping in the foreign trade of the United States. Section 42302 directs the Commission to investigate whether any laws, rules, regulations, policies or practices of a foreign government or practices of a foreign carrier result in adverse conditions that affect U.S. carriers in U.S. oceanborne trade and that do not exist for foreign carriers in the United States. Section 41108(d) directs the Commission to address actions by a foreign government or foreign carrier that unduly impair the access of a U.S.-flag vessel to ocean trade between foreign ports.

On March 6, 2020, the Commission received a Petition for Section 19 relief from the Lake Carriers' Association, a trade association of owners and operators of vessels on the Great Lakes, alleging that conditions created by Transport Canada, an agency of the government of Canada, are unfavorable to shipping in the United States/Canada trade. The Lake Carriers' Association asserted that Transport Canada's proposed regulations requiring the installation of ballast water management systems on vessels loading or discharging ballast water in Canadian waters would drive U.S.-flag vessels from the cross-lakes U.S. export trade with Canada. On June 16, 2020, the Commission issued a Notice of Investigation and Request for Comments. 85 Fed. Reg. 37453. The comment period closed on July 22, 2020, and the Commission received 21 comments, mostly in support of the Petition.

On October 26, 2020, the U.S. Environmental Protection Agency published a Notice of Proposed Rulemaking (NPRM) regarding Vessel Incidental Discharge National Standards of Performance. 85 Fed. Reg. 67818. Like the Canadian rule, the EPA's proposed rule intends to reduce the

[7] U.S. Department of Justice/Federal Trade Commission. Antitrust Guidelines for Collaborations Among Competitors (April 2000) https://www.justice.gov/media/970831/dl?inline. Data used for these tests include those directly collected from THEA through monitoring and data from PIERS.

environmental impact of vessel discharges, such as ballast water. Though similar in intent, it is unclear if the EPA's final rule will ultimately match the Canadian rule. The EPA's approach to Great Lakes ballast water contained in their proposed rule did not align with the Canadian approach and will not have an effect on the U.S.-Great Lakes fleet. The NPRM required that comments be received on or before November 25, 2020. On June 4, 2021, Transport Canada issued its final rule. *See* Ballast Water Regulations: SOR/2021-120, Canada Gazette, Part III, Volume 155, Number 13 (June 4, 2021). The general approach to the Canadian regulation of Great Lakes ballast water did not change. However, while the effective date of the final rule remains 2024, the rule delayed implementation until 2030 for vessels built prior to 2009.

On February 3, 2022, the Commission sought additional comment on Transport Canada's final rule. 87 Fed. Reg. 6173. The Commission requested specific input in several areas, including: the application and economic impact of the final Canadian regulation, considerations of the EPA's proposed rule, applicable international law, and the range of possible Commission actions. The Commission received eight comments, two of which are public. In January 2023, the EPA announced that it planned to issue an SNPRM in fall 2023 to provide clarification on the proposed rule, share new ballast water data that EPA is receiving from the U.S. Coast Guard, and discuss additional regulatory options the EPA is considering for the final rule.

The Commission continues to monitor the situation and remains in contact with other relevant federal agencies as it proceeds with its investigation. At this time, the Commission does not have any recommendations for additional legislation in this area.

Controlled Carriers and Commission Identification of Otherwise Concerning Practices

A controlled carrier is an ocean common carrier that is, or whose operating assets are, owned or controlled directly or indirectly by a foreign government. Chapter 407 of Title 46, U.S. Code provides that no controlled carrier may maintain rates or charges in its tariffs or service contracts that are below a level that is just and reasonable, nor may any such carrier establish, maintain, or enforce unjust or unreasonable classifications, rules, or regulations in those tariffs or service contracts.

In addition, tariff rates, charges, classifications, rules, or regulations of a controlled carrier may not, without special permission of the Commission, become effective sooner than the 30th day after the date of publication. The Commission's staff monitors U.S. and foreign trade press and other information sources to identify controlled carriers and any unjust or unreasonable controlled carrier activity that might require Commission action.

As of the end of fiscal year 2023, four controlled carriers operated in the U.S. trades. All four controlled carriers are subsidiaries of COSCO SHIPPING Holdings Co., Ltd.:

1. COSCO SHIPPING Lines Co., Ltd. – People's Republic of China
2. Orient Overseas Container Line Limited – People's Republic of China
3. OOCL (Europe) Limited – People's Republic of China
4. COSCO Shipping Lines (Europe) GmbH – People's Republic of China

OSRA 2022 revised the Commission's annual reporting provisions to require the Commission to identify any "otherwise concerning practices" by ocean common carriers that are controlled carriers or "owned or controlled by, a subsidiary of, or otherwise related legally or financially, to a corporation based in a country" that is: (1) a non-market economy country, as determined by the U.S. Department of Commerce; (2) a priority foreign country, as determined by the U.S. Trade Representative; or (3) subject to monitoring by the U.S. Trade Representative under section 306 of the Trade Act of 1974, 46 U.S.C. § 46106(b)(7).

The Commission identified or continues to investigate two concerning practices by controlled carriers in the past fiscal year. One is the manufacturing of shipping containers and chassis by the People's Republic of China (P.R.C), which is analyzed in Commissioner Bentzel's recent report, "Assessment of P.R.C. Control of Container and Intermodal Chassis Manufacturing." Commissioner Bentzel assessed the increasing unavailability of shipping containers during the port congestion and supply chain crisis of the COVID-19 pandemic, and produced this report following that investigation. The report noted that COSCO Shipping Lines Co. Ltd., which is on the Commission's controlled carrier list, is a shareholder of the major Chinese shipping container producer CIMC, and that Chinese chassis manufacturers are similarly state-owned. In addition, the three largest Chinese manufacturers control over 86 percent of the world's supply of intermodal chassis, and those same companies manufacture over 95 percent of containers in the global shipping market, including U.S. domestic train and truck intermodal containers. At the height of the COVID-19 pandemic and supply chain crisis, China took steps to consolidate the production of shipping containers and chassis. As demand for ocean containers increased during this period, Chinese intermodal equipment manufacturers were slow to increase production.

Secondly, an adjudicatory proceeding captioned *Bed, Bath and Beyond v. Orient Overseas Container Line Limited and OOCL (Europe) Limited* (Docket No. 23-02) is currently before one of the Commission's Administrative Law Judges. Both Orient Overseas Container Line Limited and OOCL (Europe) Limited are controlled carriers, and COSCO Shipping Lines is also named as a respondent. The complaint alleges that these carriers exploited price inflation in container shipping during the pandemic, resulting in a large increase in Respondents' profitability at the expense of shippers and the U.S. public. The complaint also alleges that the named controlled carriers specifically adopted the following strategies: (1) they engaged in a practice of systematically failing to meet their service commitments, and allocated Bed, Bath and Beyond's bargained-for space to other shippers at a higher price; (2) many of the demurrage and detention charges that the controlled carriers assessed were for periods of time in which Bed, Bath and Beyond's ability to pick up or return containers was constrained due congestion at ports or policies implemented by the controlled carriers; and (3) the controlled carriers sought to coerce premium pricing by inducing Bed, Bath and Beyond to enter into premium rate contracts as a precondition to carry a fraction of the quantity commitment to which Bed, Bath and Beyond had already committed. The complaint alleges that Respondents' practices were knowing and deliberate. This adjudication is ongoing, and a decision is expected in 2024.

International Affairs Program

The Commission's international affairs program supports the agency's mission to ensure and maintain a competitive and reliable international ocean transportation supply system. The program contributes to this goal by enhancing awareness of regulatory requirements through education and outreach with private sector and foreign government representatives, at both staff and leadership levels. The program also supports the Commission's unique, independent authority to identify and address unfavorable conditions created by foreign governments or businesses in foreign shipping trades. Finally, the international affairs work contributes to the agency's mandate to actively monitor foreign government-owned controlled carriers in U.S. trades.

Throughout the year, the Commission hosted or attended in-person and virtual meetings with foreign peer regulatory agencies to share information about the Commission's role and authorities, and to improve its familiarity with foreign shipping and competition regulations. In April 2023, the Commission hosted the Belmont Shipping Club, a group of 17 maritime nations and a delegation from the European Union, at FMC headquarters in Washington, D.C. Commission staff met at the working level with many parties throughout the fiscal year, including staff from embassies and ministries of Australia, New Zealand, the United Kingdom, the European Commission, and Ports Australia. The Commission hosted a working-level meeting in September 2023 with representatives from Brazil's Agência Nacional de Transportes Aquaviários (ANTAQ).

Individual Commissioners broadly engaged with foreign government counterparts. The Chairman participated virtually in a bilateral meeting with the United Kingdom's Department for Transport (DfT), in December 2022, and Commissioner Dye met with DfT representatives in June 2023. She also met with the United Kingdom's Competition and Markets Authority (CMA) in May 2023, and the Chairman met with CMA during London International Shipping Week in September 2023. The Chairman met with the European Union regulators in Belgiumin February 2023. Commissioner Bentzel also met with representatives from the European Union in Belgium in March 2023. Commissioner Dye participated remotely in a bilateral meeting with South Korea's Ministry of Oceans and Fisheries in August 2023. Commissioner Sola traveled to South Korea in August 2023 to engage with the Port of Busan and participate in a meeting between the South Korean Prime Minister Han Duck-soo and Panamanian Minister of Private Investment

Jose Alejandro Rojas Pardini. Also in August 2023, the Chairman participated in a bilateral meeting in Washington, D.C., with representatives from the Vietnam Maritime Administration.

Information Technology

The Commission ensures that IT investments are efficiently aligned with and implemented based on its strategic priorities. The Commission is revising its IT governance policies as part of longer-term initiative to update our IT investment management framework, enhance IT spending transparency, gain visibility into the demand from customers and the cost to serve them, and optimize the level of enterprise IT spending to support key mission goals and objectives.

The Commission uses multiple legacy systems to collect information from the public and regulated entities that must be modernized. The modernization of these systems will improve efficiency in the way the Commission interacts with the ocean shipping industry to collect required information, the management and use of the data collected, and mitigate cybersecurity risks. In FY 2023, the Commission completed an initial evaluation of its IT infrastructure, with a focus on cybersecurity risk mitigation and system integration. This evaluation included a roadmap and initial budget estimate. The IT modernization project plan will be finalized in the first half of FY 2024.

The modernization plan will include the replacement of several independent systems and fillable forms submitted by regulated entities and the shipping public and will feature the integration of systems to streamline cross-office activities. The modernized systems will have enhanced analytic capabilities, including dashboards, to support data-driven compliance and enforcement actions and enhance reporting capabilities.

Through its evaluation of the current systems modernization needs, the Commission has identified legacy applications and manual processes that should be replaced by commercial off-the-shelf case management solutions. This includes key work in support of investigations, enforcement, and consumer assistance.

In addition to replacing legacy applications, the agency has identified multiple functions handled through manual or ad hoc processes that reduce staff effectiveness. In FY 2024 and FY 2025, these areas will be modernized through procurement and customization of commercial off-the-shelf solutions. This will include e-signature workflow management and court management systems, as the increased filings since FY 2020 has made the replacement of ad hoc processes an agency priority.

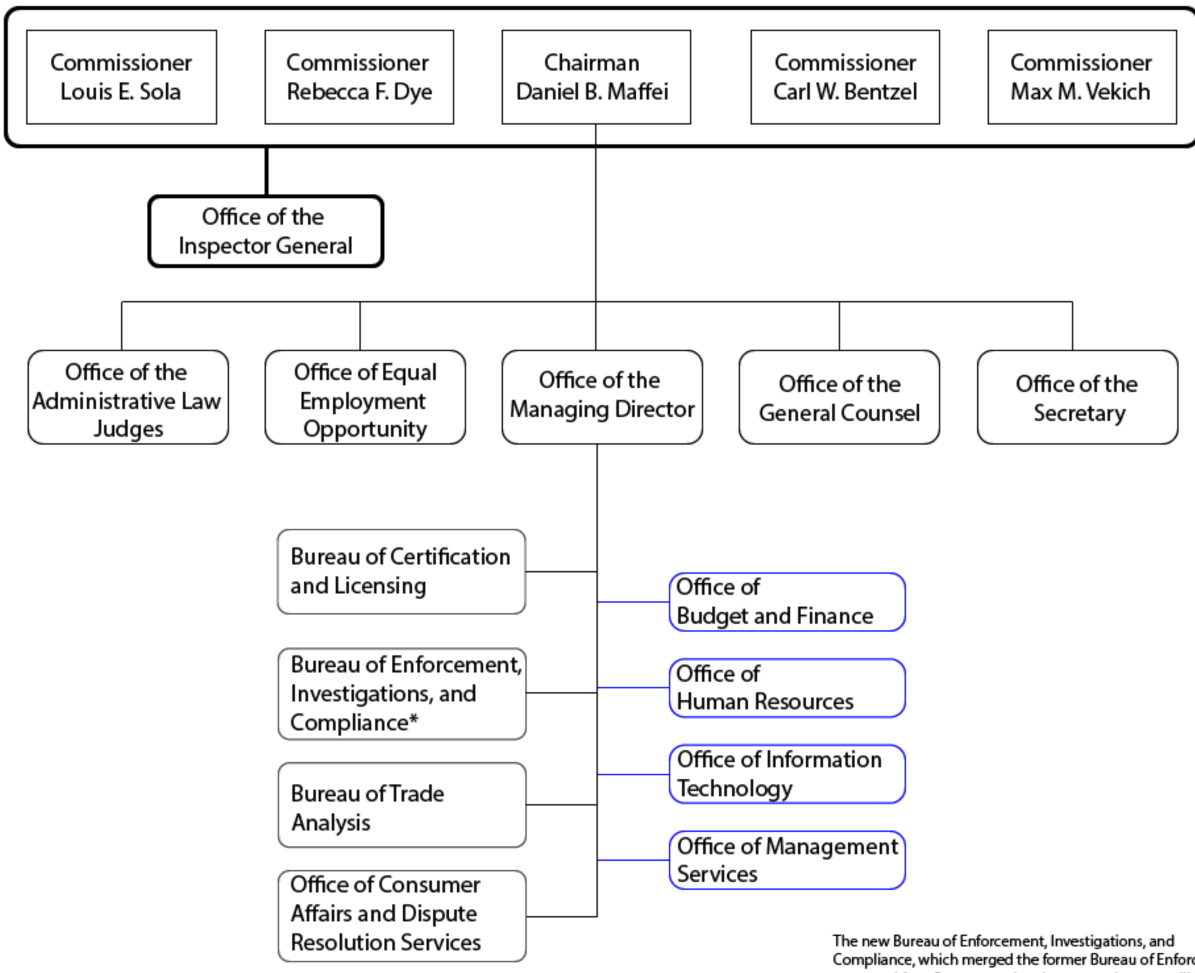
In FY 2023, the Commission began work to replace the current FOIA and Privacy Act processing functions that are handled via email and an Excel-based tracking system with off-the-shelf FOIA software. This work will continue in FY 2024.

In addition, also in FY 2023, the Commission began modernizing its website through a contract with the GSA Center of Excellence. The resulting website will serve the shipping public by enhancing awareness of agency resources, remedies, and regulatory requirements and by making the FMC's web content easily searched and accessible. The agency will ensure that its materials are compliant with Section 508 best practices. This project is composed of two phases: (1) planning and design; and (2) implementation and launch, slated to be complete in FY 2024.

The Commission continues to prioritize its cybersecurity framework through infrastructure enhancements and maturation of its cybersecurity and privacy programs. Improvements include an integrated cybersecurity incident and privacy breach response plan, enhanced cybersecurity monitoring and response, and an improved ability to continue business/mission operations in the event of a cyberattack. The agency continues to identify opportunities to address gaps in its security to enable better decision-making and improve leadership visibility and oversight.

Appendix A: Organization Chart

The FMC is composed of five Commissioners nominated by the President and confirmed by the Senate, each serving a staggered five-year term. The Commission is a bipartisan body; no more than three members of the Commission may be of the same political party. One Commissioner, designated by the President, serves as Chairman, Chief Executive, and Chief Administrative Officer of the Commission.



The new Bureau of Enforcement, Investigations, and Compliance, which merged the former Bureau of Enforcement and Area Representatives into a new bureau, will be reflected in an upcoming rulemaking.

Appendix B: Statement of Appropriations, Statement of Custodial Activity, and Financial Operations

Statement of Appropriations - Public Law 117-328:

For necessary expenses of the Federal Maritime Commission as authorized by 46107 of title 46, United States Code, including services as authorized by section 3109 of title 5, United States Code; hire of passenger motor vehicles as authorized by section 1343(b) of title 31, United States Code; and uniforms or allowances therefore, as authorized by sections 5901 and 5902 of title 5, United States Code, $38,260,000: Provided, That not to exceed $3,500 shall be for official reception and representation expenses.

		2023		2022
Fines, Penalties, and Forfeitures	$	2,896,852	$	2,082,000
General Fund Proprietary Receipts (User fees)		425,994		253,715
Refunds of Proprietary Receipts (User fees)		(250)		(480)
Interest		98		-
Total Custodial Collections	$	3,322,694	$	2,335,235

Financial Operations: For a detailed review of the FMC's financial operations, including expenditures, please refer to the FMC's Congressional Budget Reports and its Performance and Accountability Reports found at https://www.fmc.gov/about-the-fmc/strategies-budgets-and-performance/.

800 North Capitol St., NW, Washington, D.C. 20573

Report of Commissioner Carl W. Bentzel

Assessment of P.R.C. Control of Container and Intermodal Chassis Manufacturing

Final Report

This report presents the observations and views of Commissioner Bentzel as an individual Commissioner and is not an official publication of the Federal Maritime Commission. Commissioner Bentzel would like to express his sincere thanks to his Counsel, John Young, for the hours of work spent working on this project, without which there would be no report. The Commissioner would also like to thank interns, Tristan Gubert and Nicole Arias, for their contributions to this report.

Finally, information for this report was obtained from news media, published statistics, stakeholder websites, and meetings with U.S. government officials, ocean carriers, intermodal equipment providers, marine terminals, port authorities, railroads, intermodal trucking lines, shippers, industry analysts, and foreign government officials.

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Executive Summary

The purpose of this report is to alert the public to the current market imbalances in global container manufacturing and to generate policy debate of the longer terms implications to the United States and other Asian trading partners on our complete reliance on China's manufacturing of containers. On December 7, 2020, during the height of concern about suppressed levels of container manufacturing in China, the People's Republic of China's (PRC) Ministry of Commerce (MOC), ostensibly took steps to assure the public of government control over production levels and price stability. As a government official stated:

> "With regard to foreign trade logistics, due to the impact of COVID-19, many countries the world are facing similar problems now. The mismatch between supply demand of transport capacity is the direct cause why freight rates increase, and factors such as poor container turnover indirectly push up shipping costs and reduce logistics efficiency. On the basis of preliminary work, we will work with relevant departments to continue to increase transport capacity, support the acceleration of container return, improve operation efficiency, support container manufacturers to expand production capacity, strengthen market supervision, strive to keep market prices stable, and provide strong logistics support for the steady development of foreign trade. Thank you!"[1]

This statement, coming from a MOC spokesmen, starkly illustrates the level of commercial control that the PRC exerts over container manufacture. The fact that the PRC controls an industry that has a near defacto worldwide monopoly in the production of shipping containers should be deeply concerning.

After a year of interviews, research and market observation, I have concluded the following:

- The three largest Chinese manufacturers control over 86% of the world's supply of intermodal chassis, and those same companies manufacture over 95% of containers in the world's market, including U.S. domestic train and truck intermodal containers.

- When demand for ocean containers increased, Chinese-based intermodal equipment manufacturers were notably slow in ramping up production, raising the question of whether this was part of a deliberate strategy to manipulate prices.

- The Department of Commerce has determined that Chinese container and chassis manufacturers are state-owned and controlled and are the recipients of large government subsidies.

- The level of control manifested by the PRC government and Chinese container manufacturers is mitigated by the interest of the PRC in supporting their exporters reach

[1] PRC Ministry of Commerce, *Press Conference Home Page/Foreign Trade,* english.mofcom.gov.cn (December 7, 2020) available at http://english.mofcom.gov.cn/article/pressconferencehomepage/foreigntrade/202101/20210103028540.shtml

overseas markets, especially the United States. However, the mitigating interest in carriage of Chinese exports does not extend to other trade markets in Asia, or other overseas markets that compete with Chinese exports, nor does it ultimately diminish the potential level of market manipulation.

It is the author's view that the global supply chain is too interdependent not to have broad access and manufacturing capabilities for intermodal operational equipment. The United States should assess whether given market dominance that further trade action be contemplated and whether to invest more aggressively in next generation container manufacturing technology.

How maritime operational equipment impacts the U.S. supply chain

The U.S. maritime intermodal shipping industry is complex, blending a mix of transportation modes (ocean, rail, and truck) with marine terminals, intermodal equipment providers, and warehousing and distribution facilities. The extreme level of interdependence that is required in the intermodal system requires constant coordination and communication, and breakdown of one element will cause gridlock.

Complexity increased with ocean shipping deregulation. In the early 1990s, prior to deregulation, there were well over 25 major ocean shipping carriers in the international liner shipping trade and market shares of those companies were all well less than 5% market.

Currently, there are 9 major ocean carriers in the international liner shipping trade operating through 3 vessel sharing alliances and multiple carriers have market share ranging between 2% to 30% in the transatlantic market shares of carriers and alliances, (first half of 2021) and 4% to 16% in transpacific market shares of carriers and alliances, (first half of 2021). [2]

Traditionally, the international shipping market was characterized by chronic over-capacity culminating in relatively low shipping costs for shippers and low profits for carriers. From 1996 to present day, we have seen a gradual, yet consistent market consolidation in the ocean carrier segment, with fifteen mergers merging 31 carriers into 15. These entities must share, schedule, and move containers and chassis through increasingly congested shoreside infrastructure.[3]

The U.S. supply chain had become reliant on just-in-time delivery, which allowed shippers to leverage the efficient ocean shipping market and reduce warehouse and storage time and costs. However, the key for just-in-time delivery to work is reliability of service throughout the

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2 *FMC 60th Annual Report Efficiency and Competition (BTA).*

3 Drewry, Consolidation in the Liner Industry, White Paper (March 2016) available at: http://www.truevaluemetrics.org/DBpdfs/Shipping/Drewry-WhitePaper-Liner-Industry-Consolidation-March-2016.pdf

supply chain and imbalances such as the availability of operational equipment (intermodal chassis and containers) can upend the entire intermodal chain.

Chassis are the wheels of the supply chain. Prior to 2005, intermodal chassis were typically owned and operated by the ocean carriers, which allowed carriers to more accurately deploy sufficient chassis resources to cover intermodal shipping needs. When the carriers made the decision to disinvest in chassis, because of increasing concerns about safety and the imposition of regulatory requirements for safe management of chassis, it created another coordinating point in the supply chain, the intermodal equipment provider.

While the approach has worked and injected higher levels of safety and maintenance in chassis operations there have been other challenges as well. If chassis are not available, then containers do not move. By removing or delaying the use of one component of operational equipment, the entire supply chain will slow down. Movements from marine terminals to inland and destination points in the interior are heavily reliant on chassis for intermodal trucking services.

Another piece of intermodal equipment impacting the U.S. and global supply chain is the maritime container. Standardization of maritime freight through a 20-foot or 40-foot container allowed handling of maritime freight to become more streamlined, and provided massive benefits to manufacturers, retailers and consumers. The global container manufacturing base typically follows the manufacturing and retail product manufacturing base, and the manufacturing of maritime containers and intermodal chassis is entrenched in China with the aid and direction of the Chinese government.

The supply chain is much more diverse and touches many more regions and countries than ever before. It has spread and stretched the container fleet throughout the world, operating generally in a hub and spoke operational pattern, connecting smaller scale manufacturing in lower-cost production locations to larger distribution hubs and end-use product locations. If container flow is hindered by congestion or disruption, it slows the velocity of the supply chain.

The Impact of COVID-19 on Maritime Operations

The COVID-19 pandemic revealed many challenges facing the United States supply chain. U.S. ports have record volumes of cargo. Still, congestion has strained the intermodal transportation system to a breaking point.

While the maritime industry sustained the United States during the pandemic, there were interruptions along the way. Chassis shortages and the inability to reposition chassis to highly leveraged gateways early during prolonged cargo surges were an indicator that operation practices within the U.S. were not sustainable. This was followed by a limited flow of the manufacture of maritime containers, caused in part by the market manipulation of Chinese container manufacturers who jointly decided to reduce production.

In 2019, as the pandemic spread from China, and other countries implemented lockdowns, substantial amounts of manufacturing significantly slowed. Many factories closed temporarily, causing large numbers of containers to be stopped in temporary storage space and equipment was shifted to accommodate the volumes of commerce that continued to be produced. To stabilize operations, ocean carriers, authorized under agreements on file at the FMC and other carriers outside the FMCs agreements, reduced the number of vessels in service through cancellations (blanked sailings). Not only did this disruption put the brakes on import and export movements, but it also meant empty containers were not picked up and re-positioned, and that other intermodal equipment was left stranded in locations without normal return practices being followed. This was especially significant on cargoes originating from China, dependent on the return of empty containers from the U.S. and only served to exacerbate the severe imbalance of trade between the countries.

During the early time frame of COVID-19, U.S. ports suffered heavy losses in the Pacific trades, due to the cessation of Chinese and Southeast Asian manufacturing, with losses of 20-30% at the Ports of Los Angeles and Long Beach. However, while the first months of the pandemic yielded heavy losses of manufactured cargo at most U.S. ports, losses at ports were not as heavy as airports due to the influx of cargoes to respond to COVID-19, such as cleaning and disinfecting products, Personal Protective Equipment (PPE), and other products intended to allow for at-home work adjustments. What was critical at this juncture was efforts by the port and maritime industry to push for clarifications to allow their industry to be classified as essential service providers, and the recognition of this designation by state and local governments, and the institution of workplace COVID-19 safety measures at U.S. ports.

While Congress passed legislation to provide stimulus to individuals, as well as targeted industries, U.S. ports were largely left to their own devices to keep cargo flowing, and governmental assistance was almost non-existent.[4] To their great credit, management and longshoremen set up their own system of safety protocols to continue the movement of cargo even with depleted numbers of longshoremen.

As countries addressed their COVID-19 recovery, it generated massive opportunity for pent-up demand in the United States for e-commerce retail consumption. This new pent-up demand for retail imports, combined with the increased volumes of cargoes to respond to COVID-19, generated a cargo boom. This level of sustained import cargo demand remains unabated to present, tempered only recently by the fact that congestion has reduced the ability for cargo processing, as ships sit offshore waiting for space at U.S. ports.

This drastic swing in shipping occurred at precisely the wrong time, as intermodal equipment was not properly in place, and the longshore workforce was reduced due to COVID-19 health

[4] According to Department of Transportation's Bureau of Transportation Statistics in the CARES Act, the **Aviation industry received $88.3 billion, and the Transit industry received $25 billion, and the Maritime industry received $4.1 million** (Maritime received less than .04% than amounts received by Aviation and Transit combined).

impacts. By the early summer of 2020, reports were suggesting that the Ports of Los Angeles and Long Beach was slowing down substantially because intermodal chassis supplies were unavailable. According to the IEP industry representatives that were interviewed for this report, supply was low at this juncture because certain equipment had been shifted to other areas in the country where it could be used more productively, and other equipment was undergoing deferred maintenance during the early period of cargo reduction. This was the first major area of disruption in the supply chain.[5]

The initial congestion soon began to be felt on the ocean side as carriers were forced to wait for berth. Traditionally, ocean carriers can anchor at a marine terminal berth without delay, but by the summer of 2020, ocean carrier vessels were forced to rest at anchorage outside the ports to wait, sometimes for as long as two weeks. The number of vessels waiting for berth space at the Ports of Los Angeles and Long Beach ballooned to well over 100 in the Fall of 2021, and 150 nationwide.

Delays soon migrated to cargo containers. Early in the pandemic, an ocean carrier representative explained that benchmark service from Beijing to Chicago pre-pandemic averaged 32 days in transit was now averaging 72 days in transit. Reports from carrier executives later in the pandemic indicated that transits were approaching three times the pre-pandemic transit turn time. The delays in transit meant that container utilization went from 10-12 round trips across the Pacific to 3-5 round trips, which in turn means reduction in the availability of containers and market constriction. With products piled up in Chinese factories and traders bidding high prices for containers, a Reuters article claimed that the "average container turnaround times have ballooned to 100 days from 60 days previously".[6]

Massive workforce disruptions due to COVID-19 in North America affected not only ports, but distribution centers, railroad intermodal facilities and warehouses across the country, as well as inland rail and truck transport lines. Without adequate staffing, containers started to pile up. In addition, there were rapid shifts in trade lane demands based on shifting commodity and cargo blends that were forced by changes in consumption patterns and the need for shippers to adjust trade flows because of the unavailability of shipping resources. These factors posed extraordinary challenges to ocean carriers.

In addition to the extreme challenges of COVID-19 on ocean shipping, the transpacific trade poses additional challenges because of the imbalance of the trade. It is estimated that for every 100 containers imported into the United States that only 40 are used for export. This problem is particularly acute in the ports of Los Angeles and Long Beach where it is estimated that the

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[5] Frankie Youd, *Global shipping container shortage: the story so far*, Ship Technology.com, (April 29, 2021), available at https://www.ship-technology.com/features/global-shipping-container-shortage-the-story-so-far/.

[6] Stella Qiu, Shivani Singh, Roslan Khasawneh, *Boxed out: China's exports pinched by global run on shipping containers, Reuters.com* (Dec. 10, 2020) available at https://www.reuters.com/article/us-global-shipping-container/boxed-out-chinas-exports-pinched-by-global-run-on-shipping-containers-idUSKBN28K0UA.

container imbalance can be as high as 80-20% import/export and considering the China to USA trade route sustains on average 900,000 TEUs per month, means that in periods of normal shipping activity, that massive numbers of empty containers need to be re-positioned to Asia.

The shortage of shipping containers is yet another symptom of the havoc the pandemic has brought on international supply chains. As a result, freight costs are rising, which in turn leads to higher prices for consumer goods.

The United Nations Conference on Trade and Development (UNCTAD) reported that shipping rates have increased more than fourfold over the past decade, and this could increase the price for consumer products.[7]

There are some measures underway to help resolve the gridlock: ocean carriers are attempting to reduce free time and the detention periods to clear out built up cargo at ports, congested ports are developing programs to clear out cargo more efficiently such as pop-up port facilities, and shippers are considering the use of alternative, less congested port venues. Realistically, because of existing congestion and continued pent-up demand, we won't see the global container shortage crisis returning to normal within this year. While there are new shipbuilding contracts on order, they will not be completed until 2023, and even this will not ensure that we relieve shoreside congestion.

Container and Chassis Manufacturing and U.S. Trade Investigations

Currently, there are three major Chinese companies manufacturing almost all intermodal cargo containers in global use, as well a few smaller Chinese companies, comprising over 95% market share. The balance of container volumes produced are for certain regional markets, and unique-sized type containers, not used in regular international trade service. The three major container manufacturers are heavily subsidized by the Chinese government, and they are state-owned enterprises.

Coinciding with complete monopolization of container manufacturing is a formidable market dominance in the manufacture of intermodal trucking chassis, as approximately 85 percent of all intermodal truck chassis are also manufactured in China. These three companies have also been classified by the U.S. government as state-owned enterprises. The United States Department of Commerce (DOC) and the United States International Trade Commission (ITC) have reviewed the trade, and because of their determinations, the DOC has issued countervailing duties against Chinese manufactured chassis.

The consolidation of the maritime container and chassis manufacturing base to China did not happen accidentally. The Chinese government has long identified international maritime

7 Bryce Baschuk, *Shipping Rates to Boost Global Inflation by 1.5%, UN Says,* bloomberg.com, (Nov. 18, 2021) available at https://www.bloomberg.com/news/articles/2021-11-18/shipping-rates-to-boost-global-inflation-by-1-5-un-says.

transportation as a vital national interest, and as a government has increasingly exerted significant control over the industry and its many facets. Evidence of this initiative is available in the materials presented through the DOC and the ITC investigations on antidumping and countervailing duties on China International Marine Containers (CIMC), and this report uses the observations and determinations of the DOC and the ITC on the nature of governmental control and market interference.

It should be alarming that of the 44.2 million maritime container global inventory, over 95 percent are manufactured in China, and the balance of containers manufactured were manufactured for specialized markets, and not commonly used for international trading. Manufacturers in China also produce all the 53-foot intermodal shipping containers used by U.S. domestic intermodal rail and trucking market.

While the United States government has spent the past 40 years deregulating their transportation industry, the Chinese government has utilized industrial policy planning to support Chinese firms in strategic sectors, including marine shipping, and specifically to support its state-owned companies and, ultimately, entire industries. Over 85% of the intermodal chassis are manufactured in China, and almost every marine and domestic intermodal container used in the U.S. has been made in China, and according to UNCTAD, in 2020, over 40% of the world's commercial ship order book were built in China.

China early in the development of intermodalism in the 1970s, through SOEs such as China Merchants Group Limited (CMG) and China Ocean Shipping Company Limited (COSCO), developed policies supported by the government to aggressively pursue control of maritime assets, and they have achieved worldwide market dominance.

Establishing a socialist market economy system means enabling markets to play a fundamental role in the allocation of resources under the overall control of the state. As outlined in the United States Trade Representative's Section 301 Report, the Government of China (GOC) laid out its economic roadmap as "various economic elements developing together with state ownership structures as the primary part." This approach has developed into a system where "China maintains an extensive state sector and uses state-invested enterprises and other mechanisms as instruments to achieve the government's economic objectives."[8] Increasingly, this takes the form of increased party influence over the SOE's corporate governance.[9] Further,

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8 *Findings of the Investigation into China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation Under Section 301 of the Trade Act of 1974*, Office of the U.S. Trade Representative (Mar. 22, 2018) at 164, available at https://ustr.gov/sites/default/files/Section%20301%20FINAL.PDF) ("USTR Section 301 Report").

9 Scott Livingston, *The New Challenge of Communist Corporate Governance*, CSIS (Jan. 2021), available at https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/210114_Livingston_New_Challenge.pdf.

as recently reported, current Chinese President Xi Jinping is steering China's economy even further into socialism and increasing Chinese government control over the economy overall.[10]

China also controls economic growth by promoting "national champions"—large companies in strategic industries that receive favorable treatment through close government ties or outright state ownership.[11] To produce these large state champions in desired sectors, the GOC has mandated consolidation through mergers and acquisitions, creating large conglomerates or business groups, such as container shipping company COSCO.[12]

National champions in strategic industries, such as the shipping industry, and companies in "heavyweight industries," such as iron and steel production, "receive land and energy subsidies, favorable tax policies, and below-market interest rate loans issued from state banks with reduced or no expectation of repayment."[13] As a result, in 2020, 96 of the 500 largest global companies (almost one-fifth) were Chinese SOEs, accounting for more than $63 trillion in combined assets.[14] Fortune's Global 500 includes Chinese national champions in the shipping industry, such as CMG and COSCO, both shareholders of major Chinese shipping container producer CIMC. This also includes Chinese steel companies providing steel inputs to producers in the shipping industry, such as China Baowu Steel Group, HBIS Group, and Ansteel Group, among others.

These national champion steel companies can establish prices that force downstream companies to act accordingly. Through the *Notice Regarding Further Implementing the Policy of Supporting Some and Restricting Others to Promote Stable Operation of the Steel Products Market*, Chinese policy instructs large, state-owned steel makers to play a signaling role, and to proceed according to the interests of the entire industry, to scientifically set steel product prices, actively guide prices to reasonable levels, and realize the role of large steel enterprises as 'bellwethers' and 'stabilizers." This direction to set prices has downstream effects on the ability of steel-consuming industries, such as container manufacturing, to aggressively pursue market dominance, in large part in harmony with subsidized steel.

The world's largest producer of intermodal shipping containers, CIMC, is a key link in a chain of shipping-related Chinese companies ultimately owned by China's State-owned Assets

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10 *See, e.g.,* Lingling Wei, *Xi Jinping Aims to Rein In Chinese Capitalism, Hew to Mao's Socialist Vision*, Wall Street Journal (Sept. 20, 2021), available at https://www.wsj.com/articles/xi-jinping-aims-to-rein-in-chinese-capitalism-hew-to-maos-socialist-vision-11632150725.

11 *The National Security Implications of Investments and Products from the People's Republic of China in the Telecommunications Sector*, U.S.-China Economic and Security Review Commission (Jan. 2011) at 10-11, available at https://www.uscc.gov/sites/default/files/Research/FINALREPORT_TheNationalSecurityImplicationsofInvestmentsandProductsfromThePRCintheTelecommunicationsSector.pdf) (U.S.-China Comm'n Report).

12 *See* Letter from Gary Taverman through P. Lee Smith, James Maeder, Robert Heilferty & Albert Hsu to Leah Wils-Owen, re: *China's Status as a Non-Market* Economy (Oct. 26, 2017) at 78-79, available at www.access.trade.gov; barcode number 3634494-01) ("DOC China NME Status Memo").

13 U.S.-China Comm'n Report at 10.

14 Jude Blanchette, *Confronting the Challenge of Chinese State Capitalism*, CSIS (Jan. 22, 2021), available at https://www.csis.org/analysis/confronting-challenge-chinese-state-capitalism.

Supervision and Administration Commission of the State Council (SASAC). SASAC describes itself as "an ad hoc ministerial-level organization directly subordinated to the State Council" that "performs the responsibilities mandated by the Chinese Communist Party."[15] The DOC recognizes that the Chinese government controls the operations of state-owned entities through "control pyramids," "in which SASAC controls a group of enterprises, which in turn controls its own subsidiaries."[16] Because SASAC exists to serve the Chinese Communist Party (CCP), "these corporate structures allow the Chinese government and the CCP to exert control over large segments of China's economy, influencing economy-wide resource allocation, rates of innovation, and economic growth."[17] Chinese container production is subsumed in a control pyramid supporting the container shipping industry supply chain—which includes SASAC-owned logistics management conglomerate CMG and SASAC-owned marine container transportation company COSCO. The companies, in turn, are major shareholders of CIMC, which produces shipping containers and owns subsidiaries that produce other products used in container shipping.

As the Office of the U.S. Trade Representative recognized in its March 2018 Section 301 China Report, the State Council of the People's Republic of China's (PRC) policies superficially reference market-oriented principles while affirming government intervention.[18] China's notice of its "Made in China 2025" policy reaffirmed the government's central role in economic planning; called on all facets of society to mobilize behind the plan; leveraged state resources, policy support, and regulatory systems; and heralded certain Chinese enterprises in key industries to dominate international competition. Among these prioritized industries, the Chinese government identifies "maritime vessels and marine engineering equipment." China's overall goal is to achieve 70% "self-sufficiency" in this area by 2025. The GOC's 14th Five-Year Plan also identifies policy objectives of "enhancing the competitiveness of international shipping," "optimizing international logistics channels," "accelerating the formation of safe and efficient logistics networks with internal and external connections," and "consolidating and enhancing the competitiveness of the entire production chain in shipping."[19]

The DOC indicates that government measures used to support Chinese maritime transportation include:

- **Direct Subsidies:** A July 2020 briefing from the Center for Strategic International Studies ("CSIS") calculates that China provided direct subsidies to develop its shipping industry

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15 *What We Do*, SASAC (last updated July 17, 2018), available at http://en.sasac.gov.cn/2018/07/17/c_7.htm.

16 DOC China NME Status Memo at 80-81, (available at www.access.trade.gov; barcode number 3634494-01).

17 DOC China NME Status Memo at 80-81, (available at www.access.trade.gov; barcode number 3634494-01).

18 USTR Section 301 Report at 14-16.

19 *Outline of the People's Republic of China 14th Five-Year Plan for National Economic and Social Development and Long Range-Objectives for 2035*, translated by the Center for Security and Emerging Technology (May 12, 2021) at 20, 34, available at https://cset.georgetown.edu/wp-content/uploads/t0284_14th_Five_Year_Plan_EN.pdf) (GOC 14th Five-Year Plan).

of up to $5 billion between 2010 and 2018.[20] This includes "subsidies for exports, insurance, research and development, employment, and loan interest, as well as value-added tax rebates, income tax exemptions, and reduced port fees."

- **Indirect Subsidies:** The Chinese government provides subsidies to related and upstream industries necessary for intermodal container production (*e.g.*, steel, electricity, and land). This decreases the cost of container production and empowers CIMC to provide containers at below fair value. As discussed below, the DOC has previously found that CIMC's subsidiaries benefited from the provision of land use rights at below market value.

- **State-Owned Banks:** China's largest banks are also state-owned and constitute the largest lenders to shipping companies. These banks offer preferential financing terms to Chinese companies, and Chinese SOEs have been found to pay lower interest rates on outstanding bonds than their private counterparts.[21] The Department of Commerce has twice found that CIMC or its subsidiary received benefits from programs in this category.[22]

- **Ownership Requirements:** The Chinese government requires any international maritime transport company to be a joint venture with a Chinese investor, and a Chinese investor must control the joint venture.[23] In practice, this means that most Chinese maritime transportation companies and their sprawling network of subsidiaries are majority-owned and controlled by the Chinese government.

- **Industry Consolidation:** The GOC encourages consolidation of its shipping companies to promote market dominance. A 2015 merger made CMG the largest logistics company in the world, and a 2016 merger created COSCO, which is now the world's third largest shipping company. Both companies are container producer CIMC's shareholders.

- **SOE "Feedback Loops":** Support for one Chinese SOE inflates demand for products that can be satisfied with production from another SOE. For example, CIMC describes its business relationship with state-owned COSCO Shipping as "reliable" and "long-term,"

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[20] Jude Blanchette, Jonathan E. Hillman, Maesea McCalpin & Mingda Qiu, *Hidden Harbors, China's State-Backed Shipping Industry*, CSIS (July 2020) at 2, available at https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/207008_Blanchette_Hidden%20Harbors_Brief_WEB%20FINAL.pdf) (Hidden Harbors Brief).

[21] Hidden Harbors Brief at 2.

[22] *See* Memorandum from Christian Marsh to Ronald K. Lorentzen, re: *Countervailing Duty Investigation of 53-Foot Domestic Dry Containers form the People's Republic of China: Issues & Decision Memorandum for the Final Determination* (Apr. 10, 2015) at 16, (available at https://enforcement.trade.gov/frn/summary/prc/2015-08904-1.pdf) ("DOC China Container CVD Determination"); Memorandum from James Maeder to Christian Marsh, re: *Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Chassis and Subassemblies thereof from the People's Republic of China* (Mar. 15, 2021) at 8-9 available at https://enforcement.trade.gov/frn/summary/prc/2021-05815-1.pdf) ("DOC China Chassis CVD Determination").

[23] USTR Section 301 Report at Appendix D.

> and notes that continued transactions with this company are in its financial interests and the interests of its shareholders, which include COSCO Shipping itself.[24]

These actions led to consolidated Chinese government control of container shipping companies and producers of related products, as well as growing international dominance throughout the supply chain. The Department of Commerce has found that CIMC and its subsidiaries have benefited from many of these subsidies to gain an advantage in international markets, including the United States.

Antidumping and Countervailing Duty Investigations into CIMC's State-Owned Status

On four separate occasions, the DOC has made findings in antidumping (AD) and countervailing duty (CVD) investigations relating to CIMC's status as a state-owned entity. In each of these investigations, the DOC conducted an in-depth analysis of public and proprietary information to determine whether CIMC should be considered a state-owned entity. Ultimately, the DOC found in each instance that CIMC is government-owned and-controlled through a chain of state-owned enterprises under the umbrella of SASAC. The results and record of the DOC's investigations concluded the world's largest container manufacturers operates pursuant to GOC direction and receives significant subsidization.

The Department of Commerce has twice found that CIMC is an SOE based on its level of ultimate state ownership in AD and CVD proceedings, once in respect to 53-foot intermodal containers, and once with respect to intermodal chassis. In the case, of intermodal chassis, the ITC found that U.S. chassis manufacturers were materially injured by reason of imports of chassis, requiring the implementation of protective tariffs.

A company's level of state-ownership and state-control is relevant in CVD proceedings to determine whether a Chinese company qualifies for benefits provided exclusively to state-owned enterprises. CVD investigations attempt to measure the benefits companies receive from their governments to produce the merchandise under investigation. Duties will then be imposed to counteract the unfair advantage these government subsidies provide. While production and export subsidies saturate the Chinese economy, there are certain subsidies for which only SOEs qualify. Again, the DOC will base its decision on the level of government ownership and any other indication of control. Review of these cases provide insight into how China maintains control over its container shipping supply chain.

Likewise, a company's level of government ownership is relevant in nonmarket economy AD investigations. The DOC has found CIMC to be *de facto* controlled by the GOC in two separate AD investigations. In general terms, antidumping proceedings determine the level at which foreign products are sold in the U.S. market at a price lower than in the producer's home market or in a third-country market. Because of the extreme level of government control by the

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[24] CIMC 2020 Annual Report at 118, available at https://portalvhds1fxb0jchzgjph.blob.core.windows.net/press-releases-attachments/1304426/HKEX-EPS_20210430_9746277_0.PDF.

GOC throughout the Chinese economy, the DOC applies a non-market economy methodology and considers all companies to be controlled by the GOC, unless an individual company affirmatively demonstrates it operates independently of the Chinese government. The DOC considers majority ownership of a company "in and of itself" to preclude a finding that a company is autonomous.[25] Therefore, the DOC will undertake a rigorous examination of a company's corporate ownership structure to decide of state-ownership, especially given the prevalence of control pyramids.

53-Foot Container Countervailing Duty Investigations[26]

On April 10, 2015, the DOC found that CIMC was a state-owned enterprise that qualified for special subsidies provided only to SOEs. During the CVD investigation period, the DOC found that CIMC was an SOE due to its 53.45% aggregate share of ownership through entities ultimately owned by SASAC. This included the shares of COSCO and CMG—two companies ultimately owned by SASAC and qualified as CIMC's ultimate shareholders. This also included shares of Hony Capital Management Limited—shares that CIMC reported were "controlled by the substantial shareholder" (*i.e.*, under the control of an SOE).[27] As a result, the DOC found that CIMC benefited from an SOE-specific benefit when it received loans from state-owned commercial or policy banks.[28] The Department of Commerce ultimately found that CIMC received a benefit equivalent to 10.54% from these preferential loans. In total, CIMC benefited from subsidies of up to 28% to produce containers destined for the United States.

The same day, the DOC also determined in the parallel antidumping investigation that CIMC could not prove independence from the GOC. The Department of Commerce explained that CIMC's 2013 annual report listed CMG and COSCO as CIMC's two largest shareholders—collectively controlling 48.62 percent of CIMC's shares.[29] This level of ownership meant that these two companies—both 100-percent-owned by SASAC—were CIMC's only "substantial shareholders."

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25 The Department of Commerce has also found companies with minority government-ownership to be *de facto* controlled by the government where there is some other indication of control over company operations.

26 *53-Foot Domestic Dry Containers from the People's Republic of China: Issues and Decision Memorandum for the Final Determination of Sales at Less Than Fair Value* (Apr. 10, 2015), available at https://enforcement.trade.gov/frn/summary/prc/2015-08903-1.pdf.

27 Hony Capital's website indicates that it was founded and sponsored by Legend Holdings. *See About* Us, Hony Capital (last accessed September 23, 2021), available at https://www.honycapital.com/aboutus_en/index.aspx?nodeid=2017). Legend Holding's major shareholder is, in turn, state-owned Chinese Academy of Sciences Holdings Co., Ltd. *Corporate Governance,* Legend Holdings (last accessed September 23, 2021), available at http://www.legendholdings.com.cn/Manage_en/index.aspx?nodeid=1040).

28 The Department of Commerce China Container CVD Determination at 16.

29 The antidumping investigation covered a longer period than the countervailing duty investigation, resulting in a slightly different set of facts and ownership shares. The conclusion regarding GOC control was the same in each investigation.

According to Article 62 of CIMC's Articles of Association, this made SASAC—through CMG and COSCO Shipping—the controlling shareholder of CIMC. The controlling shareholder was responsible for controlling management decisions for CIMC, such as selecting the board of directors and the supervisory committee. SASAC used this control to install former employees from COSCO Shipping and CMG to CIMC's board of directors and select CIMC's senior management positions. Based on this record evidence, the DOC concluded that CIMC's operations were ultimately controlled by the Chinese government through SASAC.

However, in June 2015, the ITC determined that pursuant to the Tariff Act of 1930 ("the Act"), that the establishment of an industry in the United States is not materially retarded by reason of imports of 53-foot domestic dry containers from China.[30] Essentially, the ITC determined that since U.S. manufacturers had not been in the domestic market for such a long period of time that it did not satisfy the Tariff Act requirements to justify implementation of tariff protection. While this decision reflects the ITC jurisdictional authority to order tariff protection to U.S. industry for unfair competition, it also stands to show that Chinese container manufacturers were functioning under control of an SOE, and that the government was subsidizing manufacturing to help control the market. The decision did not consider the issue of the over 95% market dominance of the Chinese manufacture of containers, as the ITC jurisdiction is confined to trade distortion and impacts on U.S. manufacturing, and in this case, could not act since U.S. manufacturers were no longer involved in the container manufacturing market.

Chassis Countervailing Duty Investigation[31]

Six years later, the DOC again issued an affirmative final determination that CIMC, the world's largest container manufacturer, is owned and controlled by the GOC. The CVD investigation into chassis involved CIMC Vehicles, a CIMC subsidiary that produces intermodal chassis. Ultimately, the DOC concluded that CIMC Vehicles was directly controlled by CIMC and CIMC was ultimately owned and controlled by the SASAC. This finding was necessary to determine whether CIMC Vehicles was eligible for three SOE-specific benefits: (1) the government provision of land to SOEs for less than fair value, (2) government directed debt restructuring, and (3) capital injections and other payments to SOEs from the State Capital Operating Budget. Evidence in the investigation showed that CMG and COSCO remained CIMC's largest shareholders, holding 24.56%, and 22.70% of shares, respectively. Despite requests from the DOC, CIMC Vehicles withheld information about its other shareholders. Therefore, the DOC again considered CIMC's other shareholders to be SOEs as well, based on available record evidence. In total, CIMC received subsidies of 13.93% under the SOE-specific programs and

30 *53-foot Domestic Dry Containers from China, Investigation Nos. 701-TA-514 and 731-TA-1250*, (USITC Pub. 4537), (Final).

31 *Certain Chassis and Subassemblies Thereof from the People's Republic of China: Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value* (May 11, 2021) at 27-32, available at https://enforcement.trade.gov/frn/summary/prc/2021-10346-1.pdf.

overall subsidies of up to 44.32%. That is, the Chinese government footed nearly half of the costs of producing CIMC's chassis and gave CIMC's subsidiary a significant price advantage over domestic chassis producers.

Finally, in May 2021, the DOC issued a final determination in the antidumping investigation into chassis from China—once again finding that CIMC was not independent from GOC control. As in the container case, CIMC's subsidiary asked the DOC to assign it an individual dumping rate—rather than the higher rate applicable to companies owned and controlled by the GOC—on the grounds that it was not majority-owned by companies ultimately owned by SASAC. When asked specific questions about its ownership structure and shareholders, however, CIMC failed to respond again. The Department of Commerce ultimately relied on information already on the record in CIMC's 2019 Annual Report that identified its other shareholder's shares as ultimately being controlled by China Merchants Group and COSCO Shipping (both of which also held shares in CIMC directly).

On July 1, 2021, the ITC announced, in contrast to the determination on containers, that pursuant to the Tariff Act of 1930, that an industry in the United States, that had been assessed as selling at less than fair market value by the DOC, was materially injured by reason of imports of chassis and subassemblies from China.[32] On July 8, 2021, the International Trade Administration of the DOC, instructed the U.S. Customs and Border Protection to require cash deposits equal to weighted-average dumping margins from imported chassis and subassemblies from China.[33]

Federal Maritime Commission Jurisdiction and other Legal Authority

I would be remiss, if this report did not touch on potential avenues for regulatory or trade actions to counter the monopolistic market control in container manufacturing. Seemingly the DOC and the ITC have acted to the full extent of their jurisdiction, and subject to future modifications, or in the case of container manufacturing, U.S. market development that would authorize the re-assessment of the determination on 53-foot containers, have concluded their role.

The Department of Justice, through its Antitrust Division, has plenary authority over competition impacts affecting the U.S. consumer. To date, the author is unaware of any public action that has been taken to review the container market, however, it should be noted that in the case of China, recent developments aimed at blocking the extra-territorial application of

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[32] *Chassis and Subassemblies from China* (Inv. No. 731-TA-1537 (Final), USITC Publication 5211, (June 2021) available at, http://pubapps.usitc.gov/applications/publogs/qry_publication_loglist.asp.

[33] *Certain Chassis and Subassemblies Thereof from the People's Republic of China: Antidumping Duty Order*, 86 FR 36093, (July 8, 2021) available at, https://www.federalregister.gov/documents/2021/07/08/2021-14561/certain-chassis-and-subassemblies-thereof-from-the-peoples-republic-of-china-antidumping-duty-order.

laws on vital Chinese interests have been implemented.[34] Additionally, action could be taken by the Office of the United States Trade Representative at the World Trade Organization should it be deemed to be a GATT covered trade activity.

The FMC's jurisdiction over intermodal container usage includes authority to prohibit certain actions by common carriers to refuse to deal or restrict access to intermodal equipment. The FMC also has expansive authority to take actions against the activities of foreign governments, foreign carriers, and foreign maritime service providers for restrictive trade practices that adversely affect U.S. carriers in foreign trade.

Vessel-Operating Common Carriers (VOCCs) and Marine Terminal Operators (MTOs) are authorized to enter into agreements for cooperative or joint working arrangements under the provisions of 46 U.S.C. § 40301 et., seq., and have done so for joint pooling of intermodal equipment such as chassis. The FMC is required to review these agreements filed with the agency to determine whether action pursuant to the agreement is, "likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost or to substantially lessen competition in the purchasing of certain covered services." Upon finding an unreasonable increase in cost or decrease in service the FMC may take action to enjoin the operation of the agreement in District Court.[35]

While the provisions authorizing agreements under the Shipping Act of 1984, arguably, allow for joint working arrangements to facilitate efficiencies, 46 U.S.C. et., seq., outlines and enumerates actions that are prohibited from being undertaken by VOCCs and MTOs. The general requirement governing both VOCCs and MTOs is 41102(c), requires regulated entities[36] to "not fail to establish, observe, and enforce just and reasonable regulations and practices related to or connected with the receiving, handling, storing, or delivering property." In a similar vein, VOCCs under section 41104(a)(10) may not "unreasonably refuse to deal," and VOCCs under section 41105(2), acting in concert, are prohibited from engaging "in conduct that unreasonably restricts the use of intermodal services or technological innovations."

The two FMC statutes that authorize trade actions are Section19 of the Merchant Marine Act, 1920 (Section 19), and the Foreign Shipping Practices Act (FSPA). FSPA is the most pertinent to the container manufacturing market situation. The FSPA addresses conditions created by foreign governments or the practices of foreign carriers or foreign maritime-service providers that adversely affect the operations of U.S. carriers in U.S. ocean borne trade that do not exist for foreign carriers operating in the U.S.[37] The Commission is authorized to investigate those

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[34] Order No. 1 of 2021: *Rules on Counteracting Unjustified Extra-Territorial Application of Foreign Legislation and Other Measures*, MOFCOM (Jan. 9, 2021) available at http://english.mofcom.gov.cn/article/policyrelease/questions/202101/20210103029708.shtml.

[35] 46 U.S.C. § 41307(b)(1).

[36] VOCC's and MTO's, but also includes Non-Vessel-Operating Common Carriers (NVOCCs)

[37] 46 U.S.C. § 42302 et. seq.

conditions, gather information, make determinations, and impose or request sanctions against the responsible government or party. The FSPA was enacted in 1988, as part of the Omnibus Trade and Competitiveness Act of 1988, to expand the Commission's authority to address trade restrictions imposed by foreign governments or resulting from the practices of foreign carriers or maritime-service providers.

The FSPA defines maritime services as port-to-port transportation of cargo by vessels operated by an ocean common carrier.[38] Maritime related services is defined by the FSPA to include "intermodal operations, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations," as well as "all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates for themselves and others."

After appropriate due process consideration and a FMC determination that conditions do adversely affect U.S. carriers in foreign commerce, the FMC can impose sanctions against a foreign carrier to include: (1) limiting sailings to and from U.S. ports or restricting the amount or type of cargo carried; (2) totally or partially suspending some or all of the foreign carrier's tariffs and service contracts (which suspends its right to trade); (3) totally or partially suspending its right to operate under any agreement filed with the Commission; (4) imposing a fee not to exceed $1 million per voyage; and (5) refusal of entry or departure clearance. Before imposing any of these sanctions, the Commission can consult with, request the cooperation of, or make recommendations to other appropriate U.S. government agencies. Further, before a determination under § 42304 becomes effective, it must be submitted to the President who has 10 days to disapprove the Commission's determination on national defense or foreign policy grounds.[39]

The FSPA is a broad trade remedy and has not been employed often or recently. Additionally, it should be noted that the international ocean shipping industry has shifted drastically in the last thirty years; characterized as a fiercely competitive market with many companies, many acting with government support or control, to now with less than ten companies representing 95% of the market share.

Container Manufacturing Market

Compounding COVID-19 impacts, congestion and trade imbalances was the slowdown in production of newly manufactured containers. The rate of production was already down in 2019 and dropped even further in 2020, especially in Q1. At this point in time, the scrapping of older containers, and the repurposing of marine containers for other purposes exceeded the building of new ones, and inventories in the Chinese factories were exceedingly low.

[38] 46 U.S.C. § 42301(b)(2).

[39] 46 U.S.C. § 42306.

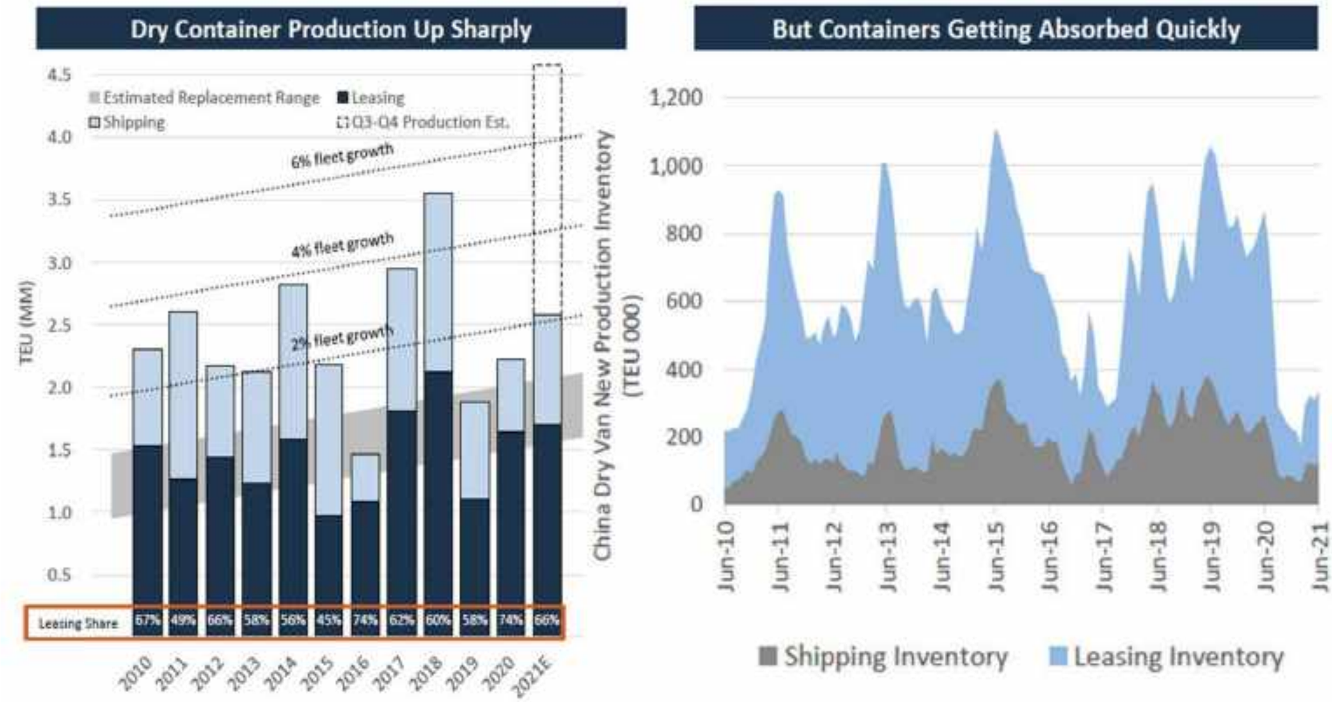

Figure 1Triton International, 2021, p.6

Note: excludes non-leasing and non-shipping purchasers, published in Freightwaves

The prices for Chinese manufactured containers increased from $1,600 to $2,500 between 2019 and 2021.[40] Likewise, container leasing rates increased, up by around 50% in the space of just six months, as reported on November 11, 2020. By 2021, reports were that container prices had risen to $6,500 or close to 400% higher than the pre-pandemic time frame.[41]

Since the initiation of trade actions at the DOC and the ITC, the Chinese government has tightened its control over CIMC and the container industry at large. In May 2019, another Chinese container producer, Singamas, announced that it was selling its interest in four container manufacturing subsidiaries to SASAC-owned COSCO.[42] In doing so, Singamas sold off all its production units of standardized containers to the Chinese government, pivoting to logistic services and the manufacturing of specialized containers.[43] COSCO's takeover of Singamas, a major Chinese container producer at the time, helped it consolidate the total

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40 Sam Chambers, *Acute container shortages roil global supply chains*, Splash 247.com, (Nov. 11, 2020) available at https://splash247.com/acute-container-shortages-roil-global-supply-chains/.

41 Michal Pakulniewicz*, Container production surges by over 200% as prices hit record high*, trans.info, (Oct. 8, 2021) available at https://trans.info/en/container-production-surges-by-over-200-as-prices-hit-record-highs-250010.

42 *Very Substantial Disposal in Relation to the Disposal of 100% Equity Interest in Target Companies*, Singamas Container Holdings Limited (May 6, 2019) at 9, available at https://www.singamas.com/files/e_VSD_Announcement_20190506_clean.pdf.

43 Jason Jiang, *Singamas Sells Four Container Manufacturing Units to Cosco*, Splash247.com (May 7, 2019), available at https://splash247.com/singamas-sells-four-container-manufacturing-units-to-cosco/.

amount of container production COSCO ultimately owned—through its own producer, Shanghai Universal Logistics Equipment,[44] and through CIMC. This acquisition was announced shortly after Danish manufacturer Maersk Container Industry indicated it would no longer make dry, non-refrigerated trailers in China.[45] Thus, in one year, a significant portion of Chinese container production was ultimately consolidated under control of the Chinese government.

In August 2020, CIMC announced that shareholders including COSCO Shipping would transfer their shares to SASAC.[46] These shareholders transferred a total of 29.74% shares to Shenzhen Capital Group, while SOE CMG retained 24.49% of shares and COSCO decreased its shares to 4.69%[47] and replaced COSCO as a substantial shareholder of the company.[48]

As a result, SASAC consolidated its direct ownership of CIMC and now owns a majority of CIMC's shares, with SASAC acting as its largest direct shareholder. CIMC explained in its 2020 Annual Report that it "looks forward to closer cooperation with the Shenzhen/SASAC in the future and the start of CIMC's second growth curve."[49] CIMC's chairman further explained that SASAC's acquisition was "in-line with the national 14th Five-Year Plan and the Long-Range Objectives Through the Year 2035."[50] Indeed, these actions to consolidate CIMC under SASAC align with the Chinese government's general plan to "accelerate the centralized and unified supervision of state-owned assets in operation."[51]

In the shipping industry, CIMC is China's "national champion" for containers and a variety of other shipping-related products, such as trailers and chassis. CIMC is now the largest container manufacturer in the world and produces approximately 40% of the world's shipping containers. The top three global manufacturers—CIMC, Dong Fang, and CXIC—are all located in China, and they produce an estimated 82% of containers globally.[52] The China Container Industry Association (CCIA), reports that Chinese companies, led by state-owned CIMC, now produce **<u>more than 95%</u>** of the world's shipping containers.[53] The majority of the balance of containers are manufactured for specialty markets are to address regional variances, so effectively the Chinese government-controlled container manufacturers control all major world-wide manufacture. Industry experts explain that Chinese container manufacturers increasingly are

44 Shanghai Universal Logistics Equipment Co. Ltd. Website, available at http://en.cshuanyu.com/.

45 Chris Dupin, *Maersk Container Industry Will Focus on Reefers*, Freightwaves – American Shipper (Jan. 3, 2019), available at https://www.freightwaves.com/news/maersk-container-industry-will-focus-on-reefers).

46 Jason Jiang, *SASAC Takes Over CIMC*, Splash247.com (Sept. 2, 2020), available at https://splash247.com/sasac-takes-over-cimc/.

47 CIMC 2020 Annual Report at 234.

48 CIMC 2020 Annual Report at 234.

49 CIMC 2020 Annual Report at 22.

50 CIMC 2020 Annual Report at 25.

51 GOC 14th Five-Year Plan at 48.

52 Greg Miller, *How Three Chinese Companies Cornered Global Container Production*, Freightwaves American Shipper (May 24, 2021), available at https://www.freightwaves.com/news/how-three-chinese-companies-cornered-global-container-production.

53 *Introduction to China Container Industry Association*, CCIA, (last accessed Sept. 23, 2021), available at http://ccia.chinaccia.com/index.php?id=298.

aware of their market dominance and have taken coordinated steps through CCIA to suppress manufacture of containers, facilitating price increases, and perhaps more alarmingly, effecting overall capacity to provide transportation service.[54] The shipping lines that were reviewed for this report all indicated severe frustration, and experienced both delays in orders, and increases in price that they admitted were impacting service ability and reliability.

The good news is that Chinese container manufacturers substantially ramped up production in 2021. However, the price of containers is an indication of ongoing scarcity, in part attributable to the slowdown in production in 2019-20, and in part attributable to congestion. The price for a new container is now $3,500 per cost equivalent unit (CEU, a measure of the value of a container as a multiple of a 20-foot dry cargo unit) versus $1,800 per CEU in early 2020 and $2,500 per CEU in late 2020. The price has remained roughly steady at $3,500 per CEU for the past three months.

The rise in production in 2021 comes after a period when orders were below market replacement requirements. According to Triton CEO Brian Sondey, a leading company in the container leasing industry, "A lot of the container production that's happened this year, to some extent, is making up for low production volumes in 2019 and the first part of 2020." Added O'Callaghan, "We're still playing catch-up." (Miller, 2021).

The one levelling element in the competitive situation with Chinese government-controlled container manufacture is the fact that the Chinese container manufacturers need to manufacture enough containers to help sustain their own national export policy. While this might operate as a market deterrent for manipulation into the United States with an 80-20% imbalance of trade, it is not prevalent in trade between other markets in Asia, such as South Korea, Thailand, Malaysia, and Vietnam, where Chinese manufacturers are competing with other Asian nations.[55] This dynamic has provided the specter that the Chinese government could exert substantial control over the movement of goods to, from, and within those other Asian nations and the U.S., or in fact, any nation other than China and the U.S.

Our Nation faces a fundamental policy question: should the shipping container be considered an essential piece of equipment by our country instead of being seen as a fungible commodity? The PRC has already considered this question and answered that the container is essential and has promoted the Chinese container manufacturing industry to status as a "national champion." Seemingly, our Nation recognizes the need and value of certain types of products like semi-conductors, but in this author's view, has not yet recognized our Nation's absolute

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[54] Miller, *How Three Chinese Companies Cornered Global Container Production*, Freightwaves – American Shipper.

[55] Cynthia Kim, *South Korea's container squeeze throws exporters into costly gridlock*, reuters.com, (July 11, 2021) available at https://www.reuters.com/business/south-koreas-container-squeeze-throws-exporters-into-costly-gridlock-2021-07-09/.

reliance on containerized shipping, and therefore our complete and utter reliance on the lowly shipping container.

Chassis Manufacturing Market Impact

The chassis manufacturing market is also extremely concentrated, with over 85% of the world's market share being provided by Chinese SOEs. Unlike the market for containers, there are pockets of chassis manufacturing outside of China, such as Hyundai's operations in Mexico, and a growing number of smaller domestic chassis manufacturing operations. The timing of the determinations of the DOC and the ITC that China was subsidizing and the implementation of tariffs of Chinese manufactured could not have been worse because of the COVID-19 pandemic-related cargo surges and congestion. However, the long-term value of not having to rely on monopolistic control in the market for chassis manufacture will outweigh the temporary short-term costs.

Hopefully, this action will help avoid the situation that we face in the market dominance of containers. There is positive evidence that all major U.S. domestic chassis manufacturing are in the process of ramping up production and one of the Chinese manufacturers of chassis has opened business to build in the United States. According to interviews, the industry has been adversely impacted in ramping up manufacturing because of supply chain challenges, and that has blunted immediate production capacity. However, there is firm evidence of domestic chassis manufacturing growth, for instance, Stoughton Trailers recently announced the establishment of a new chassis manufacturing facility in Texas, and other companies have announced resumption of business or bought and are planning to expand facilities.[56]

Ocean Shipping Costs

The primary causes of supply chain disruption were the massive swing of cargo in the spring and summer of 2020, the challenge in handling cargo volumes with existing intermodal chassis, and supply limitations on containers. This in turn caused the surge in rates for container shipping on most all east to west cargoes since May 2020. The Drewry World Container Index, which reflects a composite score of a number of services benchmarking rates, indicated that the latest composite rate for shipping a container from Shang Hai to Los Angeles was at $8,470.00, down slightly from a benchmark rate of over $10,000.00, that was quadruple the composite rate prior to the outbreak of COVID-19, and the rate for shipping for the spot market for smaller shippers without shipping contract leverage is breaking all records.[57] While rates

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[56] Ari Ashe, *Stoughton expanding chassis production to Texas,* (Jan. 4, 2022), joc.com. available at https://www.joc.com/trucking-logistics/trucking-equipment/stoughton-expanding-chassis-production-texas_20220104.html.

[57] https://www.drewry.co.uk/supply-chain-advisors/supply-chain-expertise/world-container-index-assessed-by-drewry

are higher than ever before, it should also be mentioned that historically, despite the value of service provided by the container carrier industry, that the industry was unprofitable in 8 of the 10 years leading up to COVID-19.

While price increases in ocean shipping costs can be catastrophic for low value or low margin products, many retailers are less impacted by cost since the per unit shipping costs for most retail products are marginal compared to profit level per unit of sale. However, it is the author's view that the level of outsourcing of components and materials throughout the U.S. economy, and our Nation's dependence on just-in-time delivery for almost every facet of production of goods (durable and perishable) require a stable and reliable system of overseas intermodal and domestic intermodal transport. It is the level of interconnectivity itself that poses the greatest threat to economic welfare. Through the course of this investigation, numerous shippers have explained the need to increase product pricing, because of the absence of products instrumental to final delivery, be it an additive, a subcomponent, or equipment necessary for manufacture or packaging.

An example provided to the author that graphically illustrates the economic challenges with the current supply chain disruption was provided to me by a home builder in Utah that had market plans to build over 200,000 residential housing units in the Salt Lake City region in 2021, but that had been forced to ultimately sell just over 140,000 units, not because of the market, but because they were not receiving adequate building supplies. Perhaps even more concerning than price increases, is the failure to secure certain commodities, or delays that result in the absence of vital commodities such as healthcare products, chemical additives that contribute to safer or cleaner products, or products used in the water purification process.

Next Generation of Containers

In the U.S., Global Secure Shipping, Inc. is commercializing a new smart container manufactured using composite shipping materials using technology developed through research of the University of Maine and Georgia Institute of Technology, and containers are being built in Old Town, Maine. Similar efforts are underway in Europe, but efforts to adopt high technology containers built with state-of-the-art tracking, security, and longer lasting materials are still in their infancy. Other U.S. manufacturers are also eyeing the market for the potential opportunity to jump start container technology and manufacturing processes. However, the challenge of competing with dominant producers who are receiving government subsidies is daunting. Marine container technology has changed little since inception, and the path to develop this market will be rooted in next generation technology. Inevitably, this crisis, and the supply chain disruption, would hopefully generate positive impact in this area and provide impetus for future efforts to support the development of next generation technology and jump start a U.S. market in container production.

Conclusion

It is clear to the author that the issue of Chinese state control of manufacture of containers and chassis issue needs much closer review. The current supply chain disruption provides illumination on the larger issues related to monopolistic control of critical elements needed to facilitate international trade in containers. As a Nation, we need to be more aware of the value and importance of this trade to all sectors of economy, and to the welfare of the U.S. people. Further, consideration should be given to whether to consider further actions to combat market domination, or to provide economic stimulus to incent the production of U.S. intermodal chassis and containers.

Given the potential economic consequence of market disruption or market manipulation. The following facts should be reiterated:

- The three largest Chinese manufacturers control over 86% of the world's supply of intermodal chassis, and those same companies manufacture over 95% of containers in the world's market, including U.S. domestic train and truck intermodal containers.

- When demand for ocean containers increased, Chinese-based intermodal equipment manufacturers were notably slow in ramping up production, raising the question of whether this was part of a deliberate strategy to manipulate prices.

- The Department of Commerce has determined that Chinese container and chassis manufacturers are state-owned and controlled and are the recipients of large government subsidies.

- The level of control manifested by the PRC government and Chinese container manufacturers is mitigated by the interest of the PRC in supporting their exporters reach overseas markets, especially the United States. However, the mitigating interest in carriage of Chinese exports does not extend to other trade markets in Asia, or other overseas markets that compete with Chinese exports, nor does it ultimately diminish the potential level of market manipulation.

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PORT INFRASTRUCTURE DEVELOPMENT PROGRAM GRANTS

BACKGROUND

The Port Infrastructure Development Program (PIDP) was created in 2019 and is codified at 46 U.S.C. 54301. The Fiscal Year 2024 (FY24) round of grants was appropriated under both the *Bipartisan Infrastructure Law* (BIL) (Pub.L. 117-58) for $450 million with an additional $50 million in annual appropriation for a total of $500,000,000 for FY24 grant activities.

The BIL provided $450 million in annual funding for the program for FY22-FY26 for a total of $2.24 billion in addition to other funding through the annual appropriation process.

The funding is to be used for discretionary grants to "**improve the safety, efficiency, or reliability of the movement of goods into, out of, around, or through ports and intermodal connections to ports**." Grants are generally made available for port and related intermodal infrastructure projects (See *Eligible Projects*, below).

For FY24, the funding is broken down into the following categories:

1. A general seaport grant program consisting of at least **$500 million** for discretionary grants for eligible projects. Of this amount, not more than 25% of the available funds ($125M) can be awarded for projects in any one State;
2. Twenty-five percent of the available funds ($125M) shall be for projects described as "Small Projects at Small Ports." A **small port** is defined as a port that has an annual average of **less than 8 million short tons** of cargo **over the past three years**. For small projects at small ports, no single grant may be more than $11.25M. Similarly, no more than 10% ($12.5M) of that amount may be used to make grants for development phase activities under 46 U.S.C. 54301(b)(3)(A)(ii)(III).

This is the 6th consecutive year that congress has appropriated funding for this grant program. Typical funding levels for the program, before the BIL supplement, are approximately $230 million per year.

GUIDANCE

The Port Infrastructure Development grant program is a competitive grant program and awards will be based on merit according to the criteria published in the applicable Notice of Funding Opportunity (NOFO). A link to the NOFO will be provided below under RESOURCES. Grant applications must be submitted through the grants.gov website (www.grants.gov).

Cost Sharing or Matching

- The Federal share of the grant award may be up to 80% of eligible project costs;
- The Secretary may increase the Federal share above 80% for: (1) a grant for a project that is located in a rural area; or (2) a grant awarded to a small project at a small port under the provisions of 46 U.S.C. 53401(b). "Rural Area" and "small project at small ports" are defined in section A.4 of the NOFO.

Eligible applicants:

- Port authorities, or their commissions or agents under existing authority;
- States or political subdivisions of a state or local government;
- Indian Tribes;
- Public agencies or publicly chartered authority established by one or more States;
- Special purpose jurisdictions with a transportation function;
- Multistate or multijurisdictional entities; or
- A lead entity described above jointly with a private entity or group of private entities (*joint applications must include a memorandum of understanding signed by all entities that includes a description of the roles and responsibilities of each entity*).

Funding restrictions and ineligible activities

- No more than $125 million of the total amount appropriated can be awarded within any one state;
- Funds awarded under the Small Projects at Small Ports provision may not be used for any single grant more than $11.25 million or activities that involve the Federal channel to be carried out by the U.S. Army Corps of Engineers;
- Not more than 10% ($12.5M) of the reserved amount for Small Projects at Small Ports may be used for development phase activities (*planning, feasibility analysis, revenue forecasting, environmental review, permitting, and preliminary engineering and design work*);
- No more than 10% ($37.5M) of the appropriated funding (after deducting the Small Projects at Small Ports set-aside) may be used for development phase activities for large projects that do not result in construction.;
- No construction, reconstruction, reconditioning, or purchase of a vessel unless under Section C.3.a.(IV) of the NOFO (*harbor craft or equipment replacements or retrofits under environmental mitigation measures*);

- No small shipyard projects as defined in 46 U.S.C. 54101;
- No Improvements to Federally owned facilities;
- Funding under the Small Projects at Small Ports provision may not be used for activities authorized to be carried out by the U.S. Army Corps of Engineers in the Federal channel.
- This program will not fund the purchase or installation of fully automated cargo handling equipment, or the installation of terminal infrastructure that is designed for fully automated cargo handling equipment, if such equipment would result in a net loss of good jobs or reduction in the quality of jobs within a port or port terminal.

Eligible Projects

Eligible projects shall be located within the boundary of the port, or outside the boundary of the port and directly related to port operations or to an intermodal connection to a port. Eligible projects are those that improve the safety, efficiency, or reliability of:

I. The loading and unloading of goods at the port, such as for marine terminal equipment;

II. The movement of goods into, out of, around, or within a port, such as for highway or rail infrastructure, intermodal facilities, freight intelligent transportation systems, and digital infrastructure systems;

III. Operational improvements, including projects to improve port resilience; or

IV. Environmental and emissions mitigation measures, including projects for—

(a) port electrification or electrification master planning;
(b) harbor craft or equipment replacements or retrofits;
(c) development of port or terminal microgrids;
(d) provision of idling reduction infrastructure;
(e) purchase of cargo handling equipment and related infrastructure;
(f) worker training to support electrification technology;
(g) installation of port bunkering facilities from ocean-going vessels for fuels;
(h) electric vehicle charging or hydrogen refueling infrastructure for drayage and medium or heavy-duty trucks and locomotives that service the port and related grid upgrades; or
(i) other related port activities, including charging infrastructure, electric rubber-tired gantry cranes, and anti-idling technologies.

V. Port and port-related infrastructure that supports seafood and seafood-related businesses, including the loading and unloading of commercially harvested fish and fish products, seafood processing, cold storage, and other related infrastructure

For FY24 the Secretary may also make grants for emission mitigation measures that provide for the use of shore power for vessels.

The program also allows for grants for planning and development phase activities (master planning, engineering studies, environmental studies, and environmental permitting).

Statutory Requirements

Project award determinations will be based on the following statutory requirements. All of these requirements must be met for a project award:

- The project improves the ***safety, efficiency, or reliability*** of the movement of goods through a port or intermodal connection to a port as described in Section D.2.h. of the NOFO;
- The project is considered cost-effective;
- The applicant has the authority to carry out the project;
- The applicant has sufficient funding available to meet the matching requirements;
- The project will be completed without unreasonable delay; and
- The project cannot be easily and efficiently completed without Federal funding or financial assistance available to the project sponsor.

Statutory Evaluation Criteria

- Safety, Efficiency, or Reliability Improvements
- Port Resilience
- Supporting economic vitality at the regional and national level
- Leveraging Federal funding

Non-Statutory Evaluation Criteria

- Climate Change and Sustainability
- Equity and Justice40
- Workforce Development, Job Quality, and Wealth Creation

MARAD Administrative Assessment

- Evaluate the technical capacity of the applicant to manage the award and execute the project.
- Assess the environmental risk and the likelihood of necessary environmental approvals that may affect the obligation of Federal funds toward the project.
- Assess any required State and local approvals.

ADDITIONAL RESOURCES

MARAD Port Infrastructure Development Program Website
https://www.maritime.dot.gov/PIDPgrants

Port Infrastructure Development Program FY2024 Notice of Funding Opportunity
https://www.maritime.dot.gov/office-port-infrastructure-development/port-and-terminal-infrastructure-development/2019-port-1

Port Infrastructure Development Program Legislation
http://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title46-section50302&num=0&edition=prelim

U.S. Department of Transportation Grants Information:
https://www.transportation.gov/grants

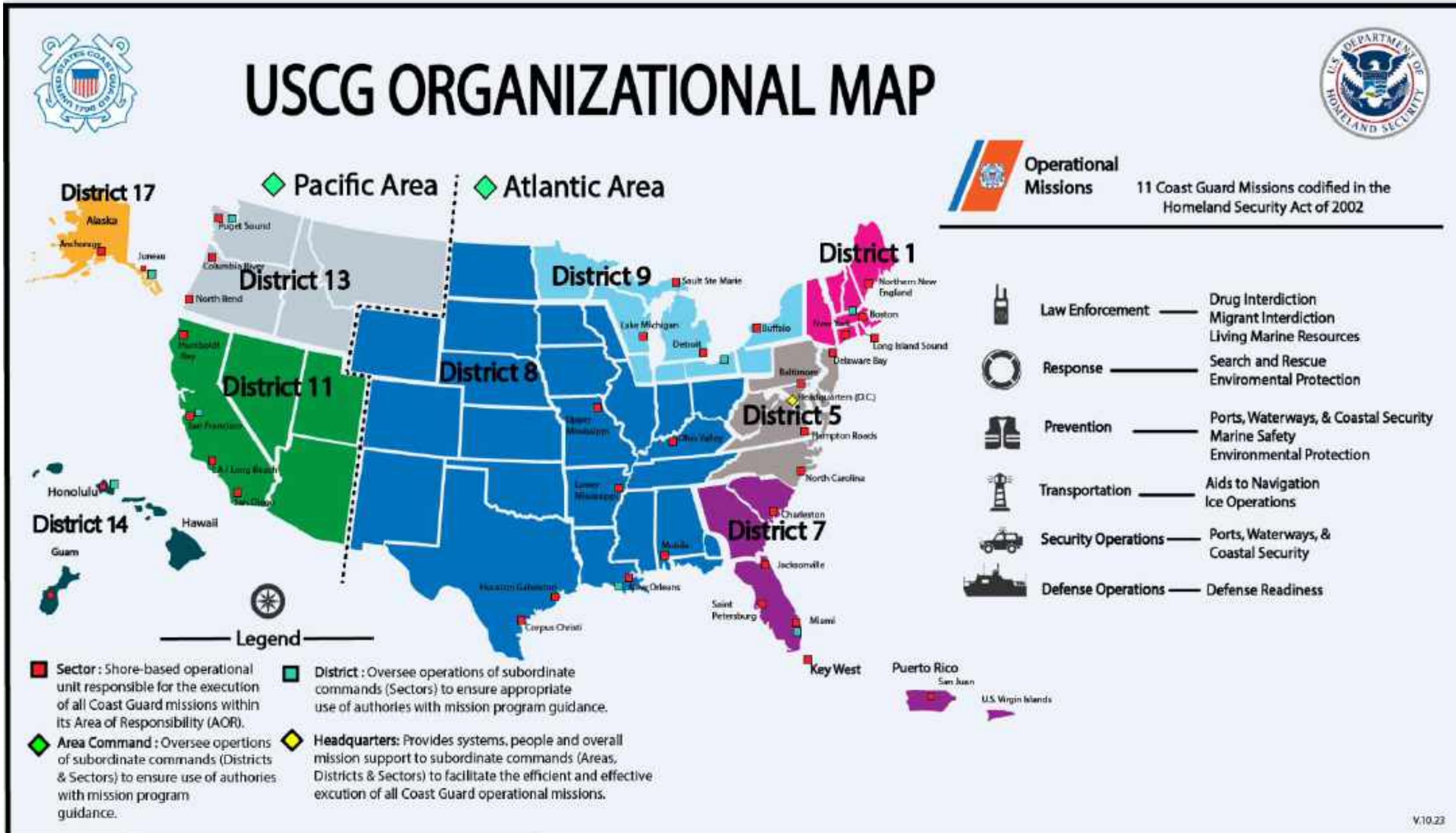
MARAD Port Planning and Investment Toolkit:
https://www.maritime.dot.gov/ports/office-port-infrastructure-development/office-port-infrastructure-development

FOR FURTHER INFORMATION
Please email PIDPGRANTS@dot.gov.

Maritime Transportation Security Act (MTSA)

Office of Port and Facility Compliance (CG-FAC)

UNCLASSIFIED



USCG ORGANIZATIONAL MAP
Pacific Area
Atlantic Area
District 17
Alaska
Anchorage
Juneau
District 13
Puget Sound
Columbia River
North Bend
District 11
Humboldt Bay
San Francisco
LA / Long Beach
San Diego
District 14
Honolulu
Hawaii
Guam
District 8
Upper Mississippi
Ohio Valley
Lower Mississippi
Houston Galveston
New Orleans
Mobile
Corpus Christi
District 9
Sault Ste Marie
Lake Michigan
Detroit
Buffalo
District 1
Northern New England
Boston
New York
Long Island Sound
District 5
Delaware Bay
Baltimore
Headquarters (D.C.)
Hampton Roads
North Carolina
District 7
Charleston
Jacksonville
Saint Petersburg
Miami
Key West
Puerto Rico
San Juan
U.S. Virgin Islands
Operational Missions
11 Coast Guard Missions codified in the Homeland Security Act of 2002
Law Enforcement — Drug Interdiction, Migrant Interdiction, Living Marine Resources
Response — Search and Rescue, Enviromental Protection
Prevention — Ports, Waterways, & Coastal Security, Marine Safety, Environmental Protection
Transportation — Aids to Navigation, Ice Operations
Security Operations — Ports, Waterways, & Coastal Security
Defense Operations — Defense Readiness
Legend
Sector: Shore-based operational unit responsible for the execution of all Coast Guard missions within its Area of Responsibility (AOR).
District: Oversee operations of subordinate commands (Sectors) to ensure appropriate use of authories with mission program guidance.
Area Command: Oversee opertions of subordinate commands (Districts & Sectors) to ensure use of authories with mission program guidance.
Headquarters: Provides systems, people and overall mission support to subordinate commands (Areas, Districts & Sectors) to facilitate the efficient and effective excution of all Coast Guard operational missions.
V.10.23

Sector Commander Duties

Federal On-Scene Coordinator

Vessel Traffic Service Coordinator

Captain of the Port

Officer in Charge of Marine Inspection

Search and Rescue Coordinator

Maritime Transportation Security Act (MTSA)

- MTSA is a major legislation that changed the security culture of the maritime community

- MTSA aligns with ISPS
- Impacted
  - **361** Ports
  - **3,200** Facilities
  - **11,000** U.S. vessels
- Protects the U.S. maritime industry and commerce

UNCLASSIFIED

MTSA Goal

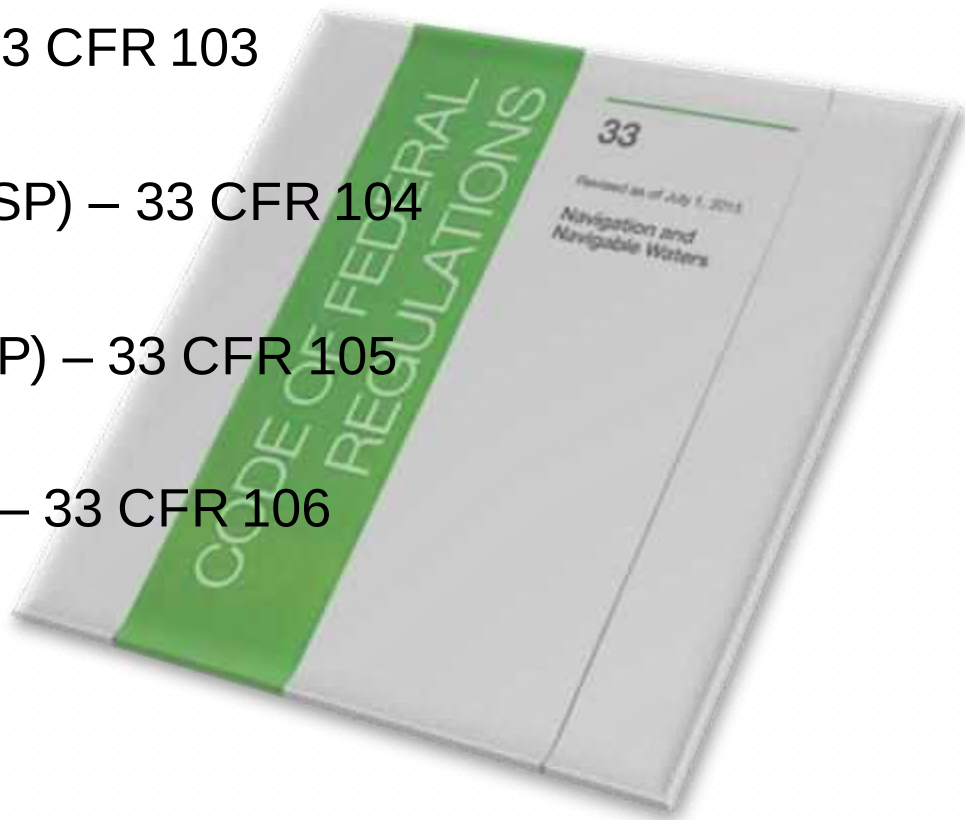
Preventing Transportation Security Incidents (TSI)

- Loss of Life
- Environmental Damage
- Transportation System Disruption

- Economic Disruption to a Particular Area

Major Components of MTSA

- Maritime Security General – 33 CFR 101
- Area Maritime Security – 33 CFR 103
- Vessel Security Plans (VSP) – 33 CFR 104
- Facility Security Plans (FSP) – 33 CFR 105
- OCS Facility Plans (OCS) – 33 CFR 106



MTSA & ISPS Code Differences

- Vessel Size
- Vessel Type
- Declaration of Security (DoS)
- Definition of Facility
- Ship Security Alert System

When is a Facility Security Plan Required?

33 CFR 105.105

- Facilities subject to 33 CFR 126, 127, or 154
- Facilities receiving commercial vessels certificated to carry more than 150 passengers
- Facilities receiving commercial vessels subject to SOLAS
- Facilities receiving cargo vessels greater than 100 gross register tons
- Barge fleeting facilities receiving barges carrying cargoes in bulk regulated in 46 CFR

Security Plans & Risk-Based Decision Making

- Security Assessments
- Critical Assets/Infrastructure
- Types of Attacks
- Likelihood of occurring
- Consequences
- Mitigation

What Must Security Plans Address?

- Security Plans contain two types of information: **Administrative & Sensitive (SSI)**

Administrative sections include:

- Responsibilities & duties of CSOs, FSOs, VSOs
- Training requirements for all
- TWIC requirements
- Drill & exercise requirements
- Recordkeeping requirements*
- Maintenance of security equipment & means of communications
- Declaration of Security*
- Requirements for audits & amendments.

What Must Security Plans Address?
(Continued)

- **Sensitive Security Information sections include:**
  - Security measures for access control
  - Security measures for restricted areas
  - Security measures for handling cargo
  - Security measures for stores & bunkers
  - Security incident procedures
  - Security measures for monitoring

Maritime Security Levels (MARSEC)

ISPS Code 2.1.9 & MTSA definitions are the same.

- MARSEC Level 1 : Minimum appropriate protective security measures
- MARSEC Level 2: Appropriate additional protective security measures
- MARSEC Level 3: Further specific protective security measures
- United States has been at MARSEC 1 since 2009

Facility Inspection Requirements

Sec. 103 of The Security and Accountability For Every Port (SAFE Port) Act of 2006 required a minimum of 2 security inspections per year to MTSA Regulated Facilities, at least one of which shall be unannounced. Requirements changed in 2018.

Two primary types of security inspections:

- Annual MTSA Compliance Exam
- Security Spot Checks

Enforcement Options

Below is a list of enforcement options for non-compliance with MTSA:

- Letter of Warning (LOW)
- Notice of Violation (NOV)
- Civil Penalty Class I
- Civil Penalty Class II
- Facility Shutdown: If necessary, the Coast Guard has the authority to immediately shutdown facility operations if security (and safety) regulations are being violated.

Certain Dangerous Cargo (CDC)

- **Facility Classification**
  - Vessel to facility interface occurring
  - The capability exists, and
  - Involves transfer of CDC in **bulk**

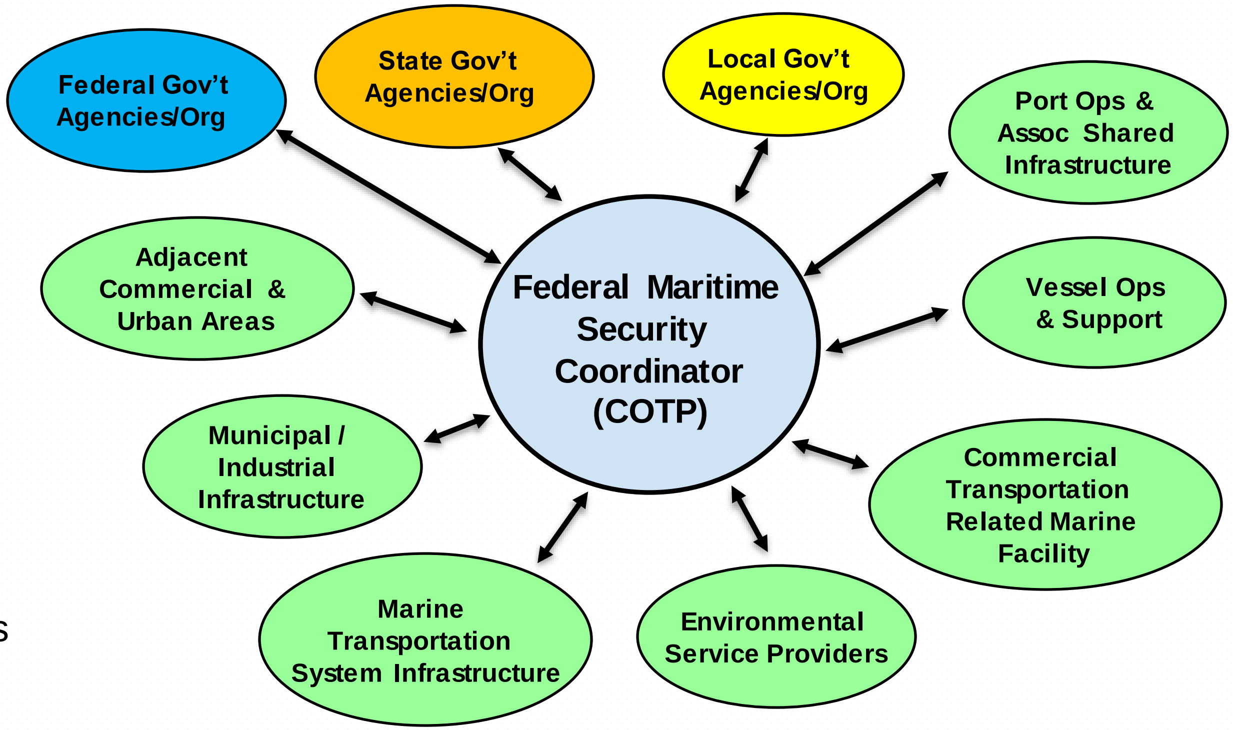
- **Additional Requirements per 105.295 (MARSEC Level 1)**
  - Escort all visitors, contractors, vendors, and other non-facility employees at all times while on the facility, if access identification is not provided.
  - Control the parking, loading, and unloading of vehicles within a facility;
  - Require security personnel to record or report their presence at key points during their patrols;
  - Search unmanned or unmonitored waterfront areas for dangerous substances and devices **prior** to a vessel's arrival at the facility; and
  - Provide an alternate or independent power source for security and communications systems.

Certain Dangerous Cargo (CDC)

Best Practices

- Work with port partners
- Establish a real-time national, regional, and local awareness
- Apply risk modeling tools:
  - Vessel transit information
  - Intelligence assessments
  - Available protection assets
  - Population size and geography
  - Plume Models (w/local weather, tide, current information)
  - Cyber security vulnerabilities
- Standardized training, response plans, and exercises

Area Maritime Security Committees (AMSC)

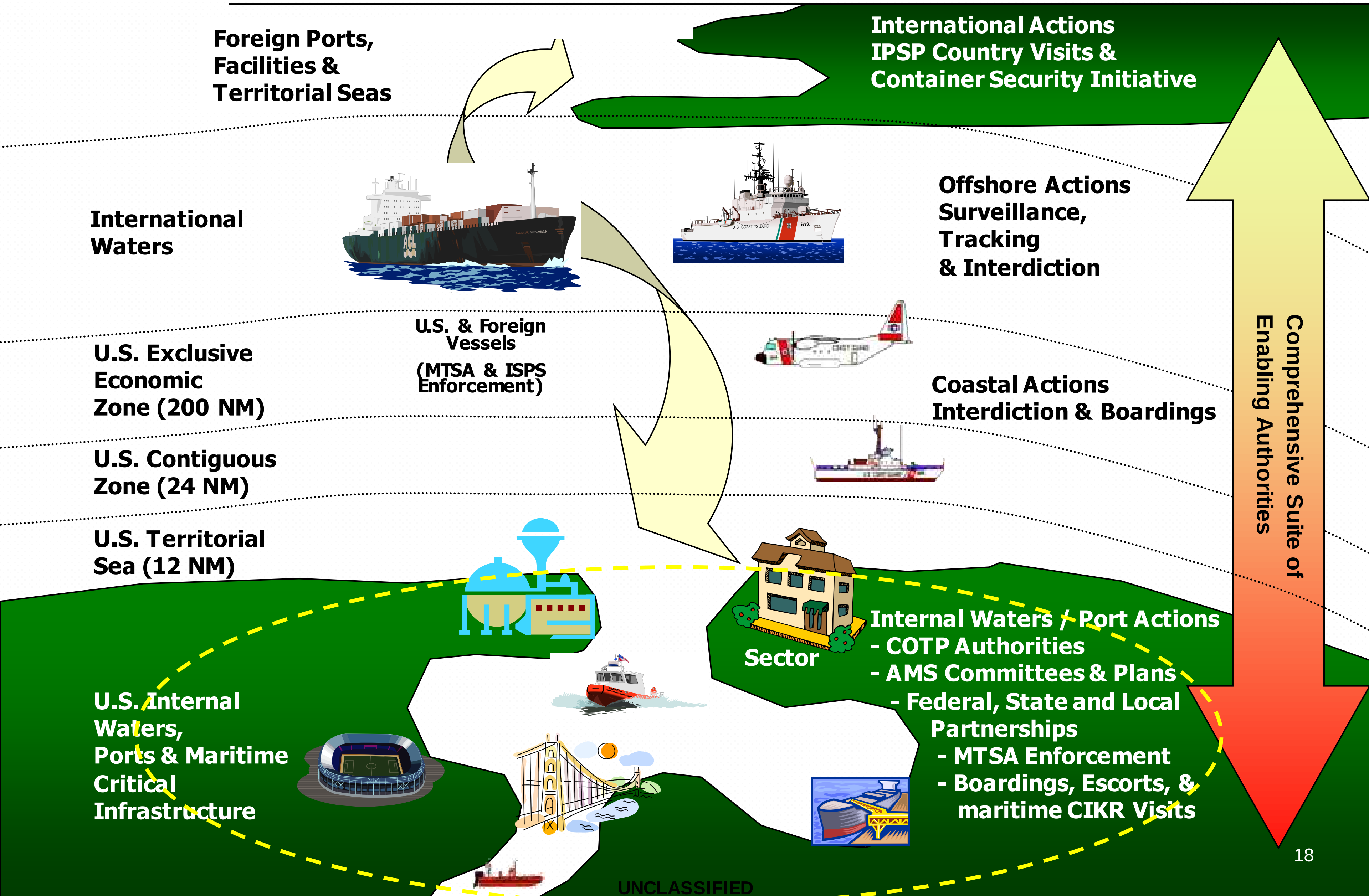


Composed of:

- Government
- Marine industry
- Other Stakeholders

- Mandated by Maritime Transportation Security Act of 2002 (MTSA)
- Established under direction of: USCG Captain of the Port (COTP) / Federal Maritime Security Coordinator (FMSC)

Layered Security



MTSA / ISPS

Working **Together** for

Maritime Security

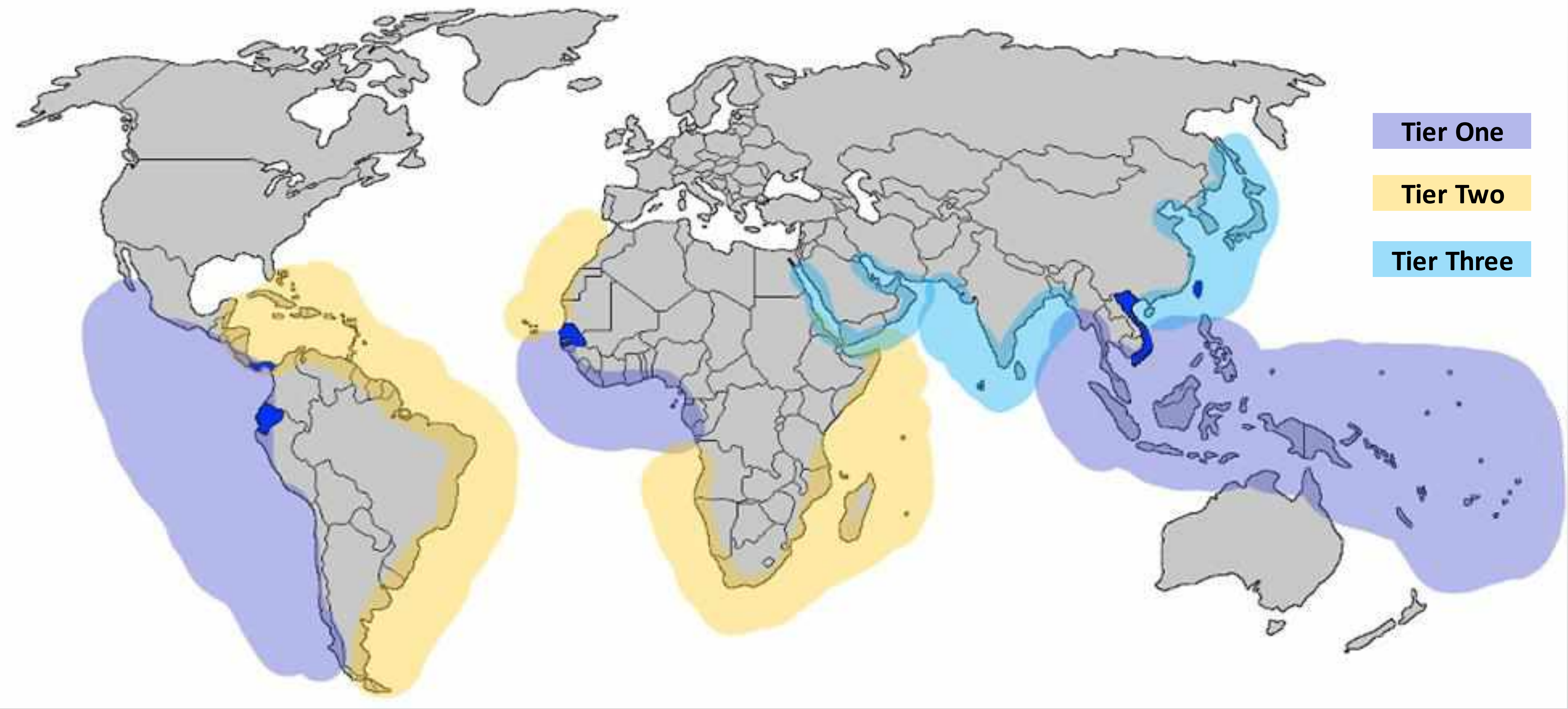
Around the World

U.S. Coast Guard Brief on

Illegal, Unreported and Unregulated (IUU) Fishing

CAPT Patricia Bennett
U.S. Coast Guard
Chief of Maritime Law Enforcement Policy (CG-MLE)

Maritime SAFE Act Priority Regions and States



Priority Flag States: Ecuador, Panama, Senegal, Taiwan, and Vietnam

Bilateral "Shiprider" Agreements

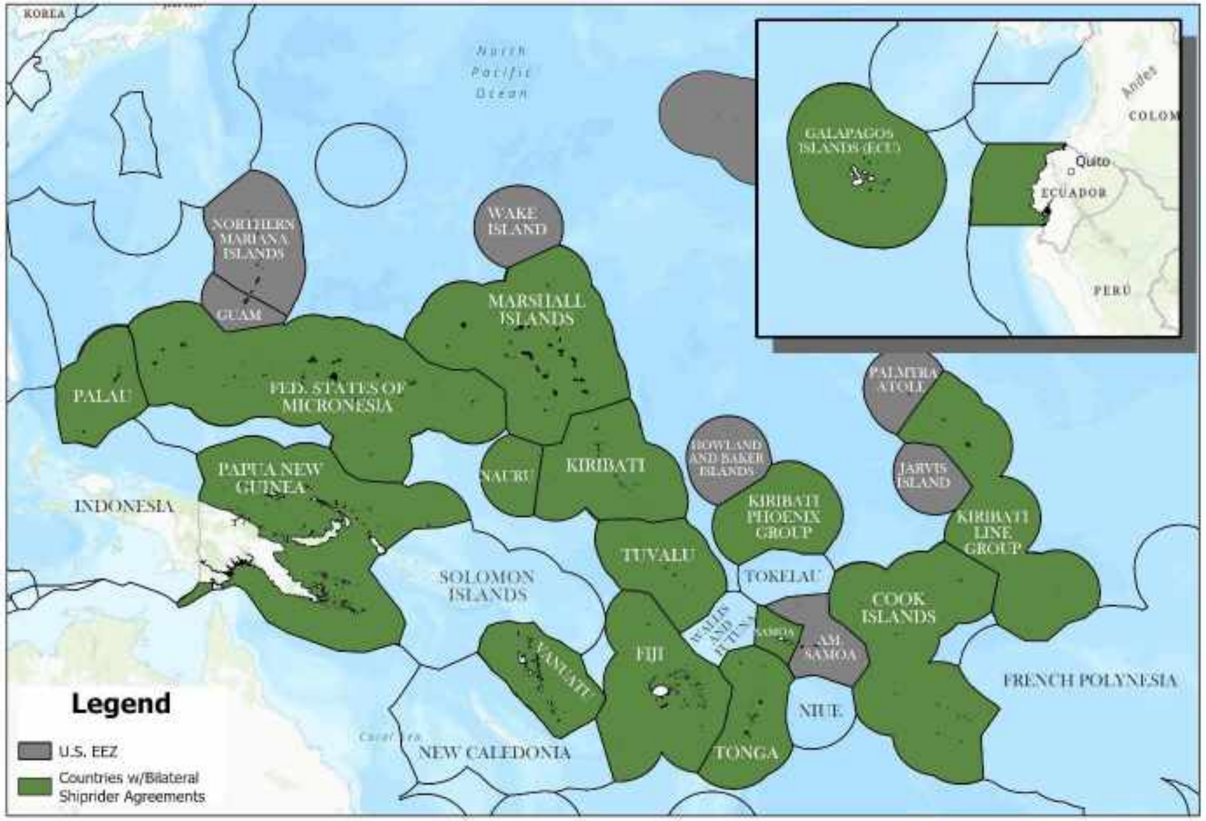
- Shiprider Agreements/MOUs allow the Coast Guard to support other nations' organic Living Marine Resource enforcement capabilities through training and providing operational platforms

- By embarking an enforcement official from a partner nation ("shiprider"), the United States asset provides those officers a means to <u>enforce their national sovereignty as well as the natural resource laws within their own EEZ</u>.

- The Coast Guard currently has 19 bilateral maritime law enforcement agreements that contain a shiprider provision for the IUUF mission.

    - Prior to 2016 the model text for the bilateral maritime agreements <u>did not include the IUUF mission</u>, and were mostly counter-narcotic based

Pacific Area
Bilateral Shiprider Agreements



EEZ Data: Flanders Marine Institute (2024): MarineRegions.org. Available online at www.marineregions.org. https://doi.org/10.25504/FAIRsharing.5164e7

Recent Joint Operations

<u>2023 – OP SOUTHERN SHIELD – SURFACE ACTION GROUP</u>

- CGC ALDER & CGC TERRELL HORNE conducted first official HSBI in the high seas off Peru the day following adoption of the Conservation Management Measure
- Total Results:
  - HSBI: 04 (3 Transshipment / 1 F/V)
  - Sighting Reports: 28
  - 18 Peruvian Observers aboard C-130

<u>2023- GALAPEX</u>

- Hosted by Ecuador September 17 – October 1
- 13 Participating countries/delegations including the United States and Peru
- Culminating Exercises focused on a coordinated multinational counter-IUU fishing and counter-narcotics response

<u>2024 – OP SOUTHERN SHIELD – CGC MUNRO</u>

- Operation ongoing as of 16 May
- Observers Embarked (PAN, ECU, PER)
- Most capable USCG asset with longest operational period thus far

Questions?

Programa para el Desarrollo del Derecho Comercial (CLDP)

Departamento de Comercio de EE. UU.

El CLDP

- División de la **Oficina del Consejero General** cuya misión es proveer asistencia técnica a países socios a nombre del **Departamento de Comercio de EE. UU.**
  - La asistencia es a demanda y a través de un sistema de intercambio gobierno a gobierno (entre pares)

- **Gobierno a gobierno:** Programas de cooperación directa elaborados a la par de la contraparte gubernamental y en base a su programa de reforma:
  - Mejoras a regímenes jurídicos y regulatorios de gobernanza económica (marcos jurídicos e instituciones)
  - Modernización y ejecución de sistemas de implementación de esos regímenes (mecanismos de política)
  - Apoyo a mejoras en el capital humano

CLDP y AmCham Peru lideran taller sobre mejoras en la adquisición y contratación de infraestructura

Gobernanza estratégica de sistemas multimodales

- Marcos comparativos
  - **EE. UU.** – Comité para la Inversión Extranjera (CFIUS)
    - Evaluación de riesgos a la seguridad nacional presentados por ciertas inversiones extranjeras – **Marco para la evaluación y gestión de riesgos** (amenaza, vulnerabilidades y consecuencias)
    - **Caso de Dubai Ports World** de 2006 – Control de la operación de 6 puertos estratégicos a un instrumento de los Emiratos Árabes

- **El Marco de la UE para el Control de Inversiones Extranjeras** – *Un riesgo para uno es un riesgo para todos*
- **Directiva de la UE Relativa a la Resiliencia de Entidades Críticas**
  - Estrategias nacionales de evaluación de riesgos presentadas a Bruselas
  - Medidas técnicas de seguridad y organizacionales para la gestión de riesgos (preparación, respuesta y cooperación internacional)

Consideraciones de seguridad nacional

- **Visión multimodal de la gobernanza:** Integración logística y distribución de carga/funciones en tierra, conexión y sometimiento de actividad económica al punto neurálgico de la cadena.
  - *Mayor centralización = más riesgo*

- Objetivo dual de un puerto
  - Desarrollo económico – Distribución y agregación equitativa de la actividad comercial
    1. Requerimientos de contenido local: Subcontratación de servicios y bienes
  - Servir intereses comerciales y económicos – Buscar equilibrio

- Riesgos sobre este tipo de “privatización” tan completa
  - Dinámicas de empleo
  - Precios que responden a condiciones externas al interés del país
  - Canibalización de la demanda
  - Presión extractiva desarticula la diversificación económica
  - Poder de negociación sobre los ingresos del estado

- Consideraciones sobre cláusulas financieras
  - Repago inmediato de la deuda
  - Costo de un conflicto
  - Controles sobre la transferencia de activos (diferentes compañías, 100% control de Beijing)

Consideraciones geoeconómicas

- **Exclusividad absoluta –** No es extraño, pero existen consideraciones cuando se le da a un instrumento de un gobierno extranjero para que funja una función pública estratégica

- **Múltiples interesados – Garantías de equidad**
  - Consideraciones sobre funciones como el atraque y servicios complementarios a navíos (agua y electricidad) – acceso equitativo a los servicios
  - Cláusulas de garantía de eficiencia y acceso en la oferta de servicios a usuarios portuarios

- **Reglamentación de mercados y precios en puerto**
  - Tarifas por cargos de infraestructura
  - Tarifas por cargo de servicios
  - Quejas de usuarios
  - Problemas relacionados a prácticas que violen la competencia y trato equitativo
  - Disputas entre usuarios y el operador

- **Riesgos sobre el desarrollo y soberanía económica**
  - El desarrollo de infraestructura compleja no se vea como parte de un ecosistema:
    - Vulnerabilidad y poca resiliencia a choques
    - Impacto sobre la desigualdad: Desarrollo de infraestructuras aisladas sin ser parte de un plan coherente de desarrollo integral a largo plazo (infraestructura, servicios, y capital humano)

VERN BUCHANAN, CHAIRMAN • DINA TITUS, RANKING MEMBER

COLLABORATION AGREEMENT BETWEEN THE CONGRESS OF THE REPUBLIC OF PERU AND THE HOUSE DEMOCRACY PARTNERSHIP OF THE UNITED STATES HOUSE OF REPRESENTATIVES

ARTICLE I: PARTIES

This Memorandum of Understanding (hereinafter referred to as **"Agreement"**) is made and entered into by and between **THE CONGRESS OF THE REPUBLIC OF PERU** (referred to hereinafter as "the Peruvian Congress"), whose address is Plaza Bolivar s/n, Lima, Peru, and **THE HOUSE DEMOCRACY PARTNERSHIP OF THE UNITED STATES HOUSE OF REPRESENTATIVES** (referred to hereinafter as "The Commission"), whose address is 463 Cannon House Office Building, Washington, DC, United States.

The **PERUVIAN CONGRESS** and the **COMMISSION** together are referred to hereinafter as "**the Parties**".

ACUERDO MARCO DE COOPERACIÓN ENTRE EL CONGRESO DE LA REPÚBLICA DEL PERÚ Y LA ASOCIACIÓN PARA LA DEMOCRACIA DE LA CÁMARA DE REPRESENTANTES DE LOS ESTADOS UNIDOS DE AMÉRICA

ARTÍCULO I: LAS PARTES

El presente Acuerdo Marco de Cooperación en lo sucesivo denominado **Acuerdo Marco-** el cual se establece entre **EL CONGRESO DE LA REPÚBLICA DEL PERÚ** de una parte, en Adelante –**CONGRESO PERUANO-**, cuya dirección es Plaza Bolívar s/n, Lima, Perú, y **LA ASOCIACIÓN PARA LA DEMOCRACIA DE LA CÁMARA DE REPRESENTANTES DE LOS ESTADOS UNIDOS** (denominada en lo sucesivo **–EL COMITÉ-**), cuya dirección es 463 Cannon House Office Building, Washington, DC, Estados Unidos.

El **CONGRESO PERUANO** y **EL COMITÉ** se denominarán en lo sucesivo "**Las Partes**".

ARTICLE II: PURPOSES

The purpose of this Agreement is to set forth the Parties' mutual agreement and intent to enter into a partnership based on the following principles:

1. Facilitating the exchange of information on the legislative system of each respective country;
2. Sharing knowledge and offering consultations on effective legislative management; and
3. Cooperating and assisting each other through training programs for the Members and staff of the legislatures (including personal, professional, and support staff), for the purposes of strengthening the Parties as independent institutions.

ARTICULO II: LOS OBJETIVOS

Las Partes de común acuerdo es establecen que el propósito y la intención de este Acuerdo Marco de realizar una asociación basada en los siguientes principios:

1. Facilitar el intercambio de información sobre el sistema legislativo de sus respectivos países;
2. Intercambio de conocimientos y ofrecer consultas sobre administración legislative efectiva; y
3. Cooperación y asistencia mutua a través de programas de capacitación para los miembros y personal de las legislaturas (incluido el personal, profesional y de apoyo), a fin de logar el fortalecimiento de las Partes, como instituciones independientes.

ARTICLE III: SCOPE OF CONSULTATION, EXCHANGE OF INFORMATION AND COOPERATION

The Parties agree to engage in regular communications concerning the legislative matters of each Party, and consult on a regular basis regarding general developments and issues relevant to the implementation of effective legislative processes.

ARTÍCULO III: ALCANCE DE LAS CONSULTAS, EL INTERCAMBIO DE INFORMACIÓN Y COOPERACIÓN

Las Partes se comprometen a participar regularmente en las comunicaciones relativas en materia legislativa de cada una de ellas, y consultar de manera regular con respecto a la evolución general y las cuestiones pertinentes para la aplicación eficaz de los procesos legislativos.

The partnership will be carried out through various mechanisms, including, but not limited to:

- Visits of Members of the U.S. Congress and U.S. Congressional staff to the Peruvian Congress and to constituency offices;
- Participation by Members and staff of the Peruvian Congress in seminars and training programs organized by the Commission; and
- Regular consultation among Members and staff of the two legislatures.

The seminars and training programs mentioned herein will focus on (but will not be limited to) four target areas:

- Representation, with a special focus on constituent relations;
- The oversight function of the legislature, with a particular emphasis on committees;
- Legislative research and analysis services;
- Information technology, particularly applications to improve internal administration, communication with constituents and legislative information; and
- Other areas of common interest.

La cooperación se llevará a cabo a través de diversos mecanismos, que incluyen, pero no se limitan a:

- Visitas de los miembros y funcionarios del Congreso de los Estados Unidos de América, al Congreso peruano y a las oficinas distritales del Congreso;
- La participación de los congresistas, funcionarios, y personal del Congreso peruano en seminarios y programas de formación organizados por el Comité; y
- Consulta periódica entre los miembros, funcionarios y personal de las dos legislaturas.

Los seminarios y programas de capacitación mencionados en presente documento se centrarán en principio en cuatro áreas claves:

- Representación, con especial énfasis en las relaciones con el electorado;
- La función de control político y fiscalización, con énfasis particular en las comisiones;
- Investigación y análisis legislativo;
- informática legislative en particular aplicaciones que aportan a mejorar la gestión interna y la comunicación con el electorado, y de información legislativa; y
- Otras áreas de interés común.

ARTICLE IV: ROLES AND RESPONSIBILITIES

The Parties agree to establish a mechanism for regular bilateral meetings as a means of facilitating the development of collaborative activities.

The Parties agree to provide any information, data, or consultation free of charge. However, the parties may also assist each other in identifying outside sources of funding for activities conducted in relation to the partnership.

ARTICLE V: CONFIDENTIALITY, COMMENCEMENT AND REVIEW

The Parties shall use any information communicated by each party in accordance with this Agreement. The Parties agree to treat such information confidentially, unless they otherwise mutually agree to make such information public.

This Agreement is effective upon the day and date last signed and executed by the duly authorized representatives of the Parties to this Agreement.

ARTÍCULO IV: FUNCIONES Y RESPONSABILIDADES

Las Partes acuerdan establecer un mecanismo de reuniones bilaterales regulares como medio para facilitar el Desarrollo de actividades de colaboración

Las Partes se comprometen a proporcionar cualquier información, datos o consulta de forma gratuita. Asimismo, las Partes también pueden apoyarse mutuamente a la identificación de fuentes externas de financiamiento para las actividades realizadas en relación con la asociación.

ARTÍCULO V: CONFIDENCIALIDAD, APERTURA Y EXAMEN

Las Partes deberán utilizarán toda la información comunicada por cada una, de conformidad con el presente Acuerdo. Las Partes deberán tratar dicha información de manera confidencial, salvo pacto en contrario para hacer pública dicha información.

El presente Acuerdo entrará en vigencia en el momento de la suscripción de la firma y ejecutado por los representantes autorizados según cada una de las Partes del presente Acuerdo.

The partnership described herein may be terminated by either party by providing written notice to the other.

El presente Acuerdo Marco podrá terminar en de las partes, cuando se comunique por escrito dicha solicitud de la otra parte

Signed in duplicate, at Lima February, 27 of, 2024

Firmado por duplicado, en Lima, 27 de febrero 2024

Vern Buchanan
CHAIRMAN,
House Democracy Partnership

Alejandro Soto
PRESIDENTE,
Congreso de la Republica del Perú

Dina Titus
Ranking Member, House Democracy Partnership