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January 31, 2024

Mr. David Eng, Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, D.C. 20573

Via email: Secretary@fmc.gov

RE: Docket No. FMC-2024-0003

Informal Public Hearing on the Impact of Current Conditions in the Red Sea and Gulf of Aden Regions

Dear Secretary Eng,

On behalf of the Retail Industry Leaders Association (RILA), I want to thank the Federal Maritime Commission (FMC) for organizing this public hearing, which provides a necessary platform to present the perspectives of leading retailer shippers amidst the current challenges faced by the industry.

RILA is the trade association of the world's largest and most innovative retailers. The retail industry employs over 42 million Americans and accounts for $2.7 trillion in annual sales. RILA's membership is comprised of more than 200 companies that account for more than 100,000 retail stores, manufacturing facilities, and distribution centers around the world. RILA member companies are some of the country's largest movers of freight, representing 12 of the top 20 importers in the U.S., dealing with all the primary ocean carriers, and sourcing from most producing countries around the world.

The current Red Sea disruption is a matter of substantial consequence to major retailers and the ongoing uncertainty continues to make it challenging to formulate comprehensive long-term strategies to mitigate supply chain disruptions and cost increases. While shippers and carriers work collaboratively on mitigating the supply chain disruptions it is important the FMC continues to monitor this situation especially, given its increased regulatory powers, to ensure that carrier actions do not unduly penalize retailers and ultimately consumers.

Since late December, the rerouting of vessels away from the Red Sea and Suez Canal due to security concerns has affected an estimated 8 million containers overall, on approximately 600 ships, constituting roughly 25% of global container ship capacity. These disruptions have resulted in delays of several weeks of delay per voyage, accompanied by additional fees and costs borne by cargo owners.

At the outset of the attacks, there was a lack of clarity regarding the diversion of vessels and cargo, and their status in holding or facing delays at origin. This initial uncertainty created significant confusion and added complexity to contingency planning. However, in the subsequent weeks, carriers have made notable progress in enhancing visibility and transparency concerning vessel routes, departures, and other scheduling decisions.

Fortunately, carriers have had significant excess capacity available, which proved instrumental in mitigating some of the impacts of delayed schedules. Despite this, schedules have not yet stabilized. As carriers work to reconstruct schedules and vessel deployment plans, retailers find themselves in a continuous state of adaptation, modifying transportation plans in response to ongoing announcements of blanked sailings, schedule and route changes, surcharges, omitted port calls, and other related disruptions.

These adaptations include retailers rerouting shipments to the U.S. West Coast or to the U.S. East and Gulf Coasts via the Panama Canal. Others have accelerated production timelines, incurring additional costs at origin and potential inventory and storage expenses. Implementing these contingency measures such as rerouting, transshipment, additional truck or rail shipping, and converting critical shipments to air freight is costly.

Ocean shipping rates have surged, with Red Sea-related lanes to the U.S. East Coast experiencing a roughly 180% increase from December to late January. Drewry's World Container Index has almost tripled during the same period, indicating that lanes worldwide are impacted by the regional disruption in the Red Sea. On the other side of the world, rates for Transpacific eastbound shipments have more than doubled. Also, many large U.S. retailers have global store footprints and thus are affected by Asia-Europe rate increases, which have been even more significant than rates to the U.S.

The concerning cost scenario arises from various factors. First, shippers find themselves exposed to elevated costs and heightened demand, while carriers' previous surplus capacity undergoes adjustments to meet the current supply chain dynamics because of the ongoing attacks.

Second, as the industry approaches contract season, there is a looming risk that the localized disruption in the Red Sea, along with the immediate responses, could impact longer-term contract rates. This potential outcome poses a threat of injecting additional unplanned costs into the system over the next year and beyond. Moreover, shippers collaborating with Non-Vessel Operating Common Carriers (NVOCCs) face heightened exposure to increased costs and occasional capacity challenges, given the pressure exerted by carriers on NVOCCs for space. It is imperative that long-term contract negotiations accurately reflect the reality that the attacks in the Bab al-Mandab Strait are isolated events, distinct from the normal run of operations.

Virtually all major carriers have introduced new surcharges since the onset of Houthi attacks, and they have swiftly received expedited approval from the FMC. We believe the FMC should closely monitor the surcharges and additional fees that have proliferated throughout the industry in the past month and a half.

The transparency of these new surcharges has raised concerns among many shippers. Questions persist regarding the direct correlation between surcharges and the tangible costs associated with avoiding the Red Sea, encompassing additional expenses such as fuel, crew time, provisions, and more. Furthermore, there is uncertainty about whether these surcharges take into account the potential savings resulting from bypassing Suez Canal tolls. With emergency surcharges reaching as high as $3,000 per container, in some instances, these fees have the consequential effect of almost doubling the already inflated rates. Some surcharges seem to be designed to offset administrative costs and the time spent on business tasks, including revising schedules, redeploying vessels, and blanking sailings.

Moreover, in certain instances, shippers find themselves grappling with carriers implementing Peak Season Surcharges, coupled with other supplementary fees. This practice exerts a dual impact on shipping costs, prompting questions about the shipping industry's response and the capacity of existing infrastructure to absorb the repercussions of planned delays. Additionally, many shippers that operate through NVOCCs, have an extra layer of costs and surcharge fees associated with these intermediaries. Some shippers are also experiencing additional insurance costs related to the disruption.

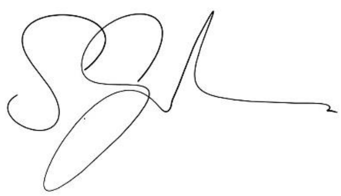
Taken together, if the Red Sea crisis persists for six months, the cumulative effect of surcharges is projected to result in tens of millions of additional costs for retailers. Furthermore, operational challenges have surfaced, with retailers reporting instances of cargo being refused if they raise queries about the newly imposed surcharges.

Enhanced transparency and comprehension regarding the nature and formulation of expedited surcharges are imperative to ensure that these fees accurately align with the real costs associated with diversion. Again, given the nature and cost of these fees the FMC must seek to facilitate greater clarity into the factors comprising the surcharges.

The year ahead poses a complex picture for global supply chains. The Panama Canal continues to dramatically restrict traffic, affecting approximately 46% of Asia-U.S. container flow. Early indications point to a potentially challenging labor contract negotiation between the ILA and USMX on the East and Gulf Coasts. Furthermore, cascading effects from the Red Sea disruption are already manifesting in global operations. Ocean schedule reliability is approaching COVID-era lows, and operations are already affected by blanked sailings, rolled bookings, equipment dislocation, vendor struggles with raw material unavailability, and various other issues. Thirty percent of retailers surveyed have already encountered shortages of containers at origin, and more are anticipated. U.S. ports have already noted ship delays, vessel bunching, and some impacts to appointment availability. Instances of refused cargo are causing delays in origin ports, and there is a looming risk of significant impacts on U.S. ports, trucking lines, and rail/intermodal carriers as the industry races to rebalance operations, aiming to avoid a recurrence of COVID-era congestion and backlogs.

RILA appreciates the FMC's proactive involvement and attention to the Red Sea disruption along with its wider disruption throughout the global supply chain. RILA and its member companies look forward to working with the FMC to help inform and hopefully mitigate any short- and long-term negative impacts. Thank you for your time, and please consider RILA and our members a resource as you continue to monitor the effects on oceangoing commerce.

Sincerely,



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