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February 24, 2017

Ms. Rachel E. Dickon  
Assistant Secretary  
Federal Maritime Commission  
800 North Capitol Street N.W.  
Washington, DC 20573-0001

**RE: Petition of the Coalition for Fair Port Practices for Rulemaking [Petition No. P4-16]**

Dear Assistant Secretary Dickon:

I am writing on behalf of the **Midwest Shippers Association** and its shipper and logistics service members to the Federal Maritime Commission (FMC) *Federal Register* notice published on December 28, 2016 concerning a petition for rulemaking from the Coalition for Fair Port Practices. The **Midwest Shippers Association** fully support/s the policy statement requested by the Coalition which would help bring about more reasonable demurrage and detention practices for cargo moving through our nation's seaports. We urge the FMC to begin a formal rulemaking on this matter as soon as possible.

I serve as the executive director of the Midwest Shippers Association. MSA is a regional cooperative trade association, originally established by the Minnesota State Legislature, to promote value-added grain and oilseed production and international marketing, and to work for more competitive shipping for our Upper Midwest USA region. MSA members include agricultural processors and export traders of higher value specialty and commodity grains and oilseed crops, including more than 25 food-grade soybean companies, that market their products worldwide. MSA also has several freight forwarder members, and grain transloader logistics members at ports and near inland container rail ramp locations that specialize in logistics services for our export shipper members.

Timey, reliable intermodal containerized shipping is a vital component of our shippers' global supply chains because many of their food manufacturer customers in Asian countries, Europe and elsewhere demand that they are shipped the exact special trait food ingredient grain products that were harvested, processed and loaded into sealed containers on site. Container shipping is part of the lifeblood of their customer service supply chains, because it is ideal for "identity preservation" and for quality control. We also have several commodity feed export companies that have developed substantial business using containers to ship distillers grains, corn, soybeans and soy meal to serve livestock and poultry producers in north and southeast Asian and other

countries. Our container shipments are either loaded at inland locations and sent by rail to export ports, or the commodity is sent by rail car and transloaded into containers at the ports, at which point the containers are drayed to the terminals for loading onto the vessels.

The problems of unfair detention and demurrage charges being forced on shippers and truckers was most acute during the recent West Coast ports congestion/labor slow down crisis that gradually strangled the ports to near standstill for many weeks. During that time we heard continually about truckers waiting in line for hours, unable to move, and unable to get near terminal gates that were often shut. It was shocking later to learn that some terminals/carriers sought to charge demurrage or detention charge penalties when the trucker and cargo owner had no way to even remotely get the containers in and out of the terminals on time.

Many carriers understood this and chose not to issue these charges. Others, however, later did seek to issue the penalties. Some of our members complained through the FMC's Consumer Affairs & Dispute Resolution program, and with some persistency they did finally receive a repayment of charges they were initially forced to pay. Some carriers were worse than others.

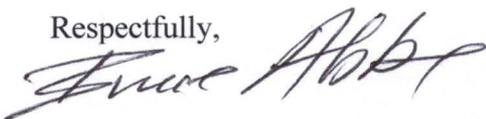
We understand there is a purpose for detention and demurrage charges and are not saying they should be done away with. They are a tool that in theory – if applied fairly -- can help keep container flow moving at the ports. But the reality is there are more and more instances of severe congestion at ports on the West and East Coasts, and it is unfair and abusive when the truckers are enroute, in line and attempting to get into terminals and they have no means of making it on time.

All too frequently shippers and truckers are being charged demurrage and detention penalties for late pickup or return of containers when it is not their fault. If the terminal is closed during normal working hours, or if a container is unavailable for pickup during the free time period due to congestion or other disruption at the port, carriers and terminals should not assess demurrage. The same is true for detention charges when attempts to return an empty container are frustrated. These are real costs that hurt American businesses and American competitiveness.

The Coalition for Fair Port Practices has proposed a policy statement that would help to stop this unfair practice. The FMC has the authority to ensure that demurrage and detention practices are fair and reasonable and it needs to act to address this problem.

The FMC has taken important steps to examine port congestion issues challenging carriers, shippers, terminals and intermediaries. It is time for the FMC to develop and enforce policies that prevent abuse in the application of these penalty charges. As the next step, we urge you to grant the petition and open a rulemaking on the Coalition's policy statement to ensure that U.S. imports and exports are not burdened with unfair demurrage and detention charges. Thank you for considering our views.

Respectfully,

A handwritten signature in black ink, appearing to read "Bruce Abbe". The signature is fluid and cursive, written over a horizontal line.

*Bruce Abbe, Executive Director*