

February 1, 2018

Rachel Dickon, Assistant Secretary
Federal Maritime Commission
800 North Capitol St. NW, Room 1046
Washington, DC 20573-0001

RE: PETITION NO. P4-16, NOTICE OF PUBLIC HEARING AND REQUEST FOR COMMENTS, PETITION OF THE COALITION FOR FAIR PORT PRACTICES FOR RULEMAKING

On behalf of the U.S. apparel and footwear industry, I am writing in strong support of the December 7, 2016 Coalition for Fair Port Practices petition, and believe that it is both appropriate, and necessary, for the Federal Maritime Commission (FMC) to adopt a Policy Statement with respect to the application of detention, demurrage, and per diem charges in extreme circumstances. As evidenced by the recent hearing, this issue impacts all supply chain stakeholders, including all companies, both large and small, in our industry.

Representing more than 1,000 world famous name brands, the American Apparel & Footwear Association (AAFA) is the trusted public policy and political voice of the U.S. apparel and footwear industry, its management and shareholders, its nearly four million U.S. workers, and its contribution of \$384 billion in annual U.S. retail sales. 98 percent of all apparel and footwear sold in the United States is imported, with virtually all of those imports shipped through the nation's ports.

We work in an industry where lean inventories, quick turn, and on-time delivery are everything. There is a reason behind the term "fast fashion." However, carriers and marine terminals, based on their testimony, seem to believe that all our industry wants is more free time, to turn every port into a temporary warehouse. This could not be further from the truth. In reality, we have every incentive to move cargo out of the terminal as quickly as possible, or be faced with missed delivery dates, which translate into missed/canceled sales, significant chargebacks, faster markdowns, and increased advertising costs.

As a result, our industry expects, and plans around, free time and the expectation that detention/demurrage charges will be incurred if the cargo is not moved in the allotted time. However, as noted in the petition, and highlighted in the hearing, there have been a number of extreme circumstances in the past that have prevented us, through no fault of our own, from retrieving our cargo in a timely manner.

Despite the fact that we, as shippers, have had no control over these extreme circumstances, our industry's cargo has been subject to demurrage, detention, and per diem charges. In many cases, these charges were arbitrary, non-transparent, and unreasonable.

Our support for the Coalition's petition is an attempt to have the FMC provide guidance on what is and what is not the reasonable application of detention and demurrage fees. We strongly believe that it is unreasonable to impose a fee designed to incentivize the movement of containers or equipment, when it is impossible to do so because of factors beyond the shipper's control. Such factors include weather-related emergencies, labor strife that results in terminal closure or significant slowdowns, or other situations such as breakdowns in terminal operating systems, problems with appointment systems, stop-work meetings, or any other situation in which the shipper arrives within the free time window and the terminal is unable to tender the cargo.

Our industry lives in fast-fashion world, where our entire business model relies on having our cargo at the right place at the right time. Companies that can't do this go out of business. Based on the hearing testimony, carriers and terminal operators would have us pay for the privilege – demurrage fees, detention fees, storage per-diem fees – of not being able to access the very cargo we need to survive, and thrive.

Therefore, we again urge the FMC to issue a Policy Statement with respect to the reasonable application of detention, demurrage, and per diem charges in extreme circumstances as soon as possible, so that all stakeholders clearly understand the rules before the next extreme situation arises.

Thank you for your time and consideration in this matter. Please contact Nate Herman of my staff at 202-853-9351 or nherman@aafaglobal.org if you have any questions or would like additional information.

Sincerely,



Rick Helfenbein
President and CEO, AAFA