



Testimony Submitted for the Record

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On behalf of the North American Meat Institute (NAMI or the Meat Institute), based in Washington, DC, thank you for the opportunity to testify regarding the ongoing challenges confronting our members, and the broader agriculture sector, at U.S. ports. The Meat Institute is the United States' oldest and largest trade association representing packers and processors of beef, pork, lamb, veal, turkey, and processed meat products. NAMI member companies account for more than 95 percent of red meat output and 70 percent of turkey production in the U.S. The Meat Institute provides legislative, regulatory, international affairs, public relations, technical, scientific, and educational services to the meat and poultry packing and processing industry.

An efficient, dependable transportation network has always been essential to America's agricultural economy. Over the past year, however, America's ports, a critical part in that network, have experienced increasing pressure caused by a myriad of factors that have hampered U.S. agricultural trade with devastating consequences for farmers, ranchers, truckers, manufacturers, food industry workers, and rural communities. In addition to contending with perennial challenges, including delays and congestion at many U.S. marine terminals, U.S. agricultural importers, exporters, truckers, and producers have experienced the near-constant predatory and unreasonable behavior of vessel-operating common carriers (called common carriers or ocean carriers from this point forward). This behavior has exacerbated existing delays and congestion concerns, and has gone largely unchecked, with no sign of abating.

Perhaps the most egregious action perpetrated by ocean carriers is their growing proclivity to decline to carry U.S. agricultural commodity exports, including meat and poultry exports, instead choosing to hasten empty containers to Asian markets to fill them with more lucrative consumer goods to export to the U.S. In some instances, common carriers are collecting freight rates as high as \$12,000 per container to carry cargo from Asia to the U.S., while containers carrying U.S. agriculture exports earn only \$1,800. Typically, containers filled with imported goods are unloaded, sent to rural areas in the U.S. to receive agricultural commodities, and shipped to foreign export markets. By electing to send empty containers back to their points of origin rather than carry U.S. exports, ocean carriers are wielding enormous power in dictating which cargo is carried, to the disadvantage of U.S. agriculture, and are inflating freight rates. To make matters worse, U.S. exporters must rely on fewer than a dozen foreign-owned carriers to deliver our

agricultural products to overseas customers. Because these carriers face few consequences for their actions, many appear impervious to U.S. oversight.

Failure to hold these carriers accountable could have long-lasting, detrimental effects for the trade-dependent U.S. meat and poultry industry and agriculture sector. For instance, the U.S. Department of Agriculture estimates that the \$141.6 billion in U.S. agricultural export value 2019 (the last data set available) generated an additional \$160 billion in economic activity for a total of \$301.6 billion in economic output. Agricultural exports also supported 1.96 million full-time civilian jobs, including 604,000 jobs in the nonfarm sector.

The U.S. meat and poultry industry, meanwhile, is the economic engine powering the agriculture sector, accounting for \$1.02 trillion in total economic output or 5.6 percent of gross domestic product, according to an economic impact analysis conducted by John Dunham & Associates. The meat and poultry industry is directly or indirectly responsible for 5.4 million jobs and \$257 billion in wages, the report found. The domestic U.S. meat and poultry industry's long-term economic viability depends on robust international trade, particularly as domestic per capita consumption of meat and poultry remains relatively stable.

However, as the data reveal, if current ocean carrier practices persist, and are not subject to oversight, then the U.S. meat and poultry industry, its workers, and the communities it supports will struggle to access these vital markets cultivated over decades. This threat is particularly concerning because Asia accounts for a significant portion of U.S. meat and poultry trade, with China, Japan, and Korea among the top markets for both beef and pork annually. The U.S. meat and poultry industry has earned the reputation of being a reliable supplier of safe, high-quality products to these export markets. But the European Union, Australia, and countries in South America are ready to fill the void left by the U.S.'s absence – an absence resulting directly from ocean carriers' nefarious actions. Once foreign competitors seize previously held U.S. market share, it becomes increasingly difficult, if not impossible, to recapture the same level of hard-earned access.

The U.S. meat and poultry industry counts on these markets to send products that otherwise would not be consumed, or would be consumed in extremely low quantities, by Americans. As a result, the U.S. domestic market would not easily absorb these products, placing undue economic pressure on livestock producers, packers, and processors, and the communities they support. Moreover, it would be cost prohibitive for many of these businesses to reengineer supply chains or to find alternative buyers to fulfill overseas contracts. Continued port disruptions could also undermine the U.S.'s food supply, which relies on imports to fill gaps in U.S. production. This would inevitably curtail consumer choice.

Because meat and poultry exports are perishable, with a relatively short shelf-life in the case of chilled meat products, the decision by ocean carriers to cancel export bookings or bypass carrying U.S. agriculture products altogether is particularly consequential. These exports cannot withstand extensive disruptions or delays, and should not be forced to if there is sufficient space available on a vessel. Yet, often ocean carriers are departing U.S. ports with vessels loaded at less than 50 percent capacity – a stark contrast to the near 100 percent capacity observed on vessels making the journey to the U.S. These cancellations and delays are costing U.S. meat and

poultry companies millions, as they are forced to downgrade, discard, or divert product in the case of exports, and source from non-traditional suppliers at extremely high prices in the case of imports.

Those costs are compounded by excessive and unreasonable detention and demurrage fees assessed on U.S. importers and exporters by ocean carriers and marine terminal operators for the failure of these importers and exporters to either retrieve a container from a marine terminal or return one within a specified amount of time. The Federal Maritime Commission (FMC) has found that ocean carriers and marine terminal operators regularly issue these costly penalties even if delays in retrieving or returning containers are beyond the control of the importer or exporter. Although the FMC has deemed such charges to be “unreasonable,” and in violation of the Shipping Act, ocean carriers and marine terminal operators have faced few, if any, consequences for imposing these exorbitant, punitive costs. The Meat Institute, along with many of its counterparts in the agriculture sector, supported FMC’s investigation Fact Finding No. 29, “International Ocean Transportation Supply Chain Engagement,” to address ocean carriers’ predatory or unreasonable behavior, and its attendant Interpretive Rule setting forth guidelines for detention and demurrage. It is now essential that FMC be granted the proper authority to enforce this rule and stem the practices it identified that continue to hamper U.S. agricultural trade.

Taken together, the costs outlined in this testimony have forced smaller businesses that rely on trade, both imports and exports, to shutter, and have cost the U.S. agriculture sector more than \$1.5 billion in lost revenue. In the process, jobs have been lost, wages depressed, and communities gutted. As the U.S. emerges from the economic hardship inflicted by the COVID-19 pandemic, our farmers, ranchers, agricultural producers, manufacturers, and food industry workers need functioning ports, and the access to export markets and critical inputs they afford.

NAMI appreciates the attention this issue has garnered in Congress, including the strong bipartisan support for a resolution to many of the concerns described in this testimony. More urgent action is necessary to ensure the continued competitiveness of U.S. agriculture exports abroad and to preserve the jobs of millions of hardworking Americans employed by the trade-dependent agriculture sector and meat and poultry industry. The ambiguity of FMC’s authority to apply enforcement measures in response to abusive ocean carrier practices has only accelerated the carriers’ exploitative behavior. Granting the FMC explicit statutory authority to enforce its detention and demurrage rule could help stem future abuses. American importers and exporters would also benefit from efforts to shift the burden of proof to carriers and terminals to confirm detention and demurrage charges comply with FMC’s rule. It is equally important to prevent ocean carriers from declining export cargo bookings if such cargo can be safely loaded on vessels in an appropriate timeframe; the fate of U.S. agriculture exports should not solely be determined by carriers. Addressing this crisis not only involves holding ocean carriers accountable for their actions, it also requires improving port efficiencies, including expanding the hours U.S. marine terminals operate and ensuring an adequate supply of labor to staff the additional gate hours. The Meat Institute is ready to work with members of Congress on solutions to these concerns.

Thank you again for the opportunity to provide this testimony.