

**MARITIME TRANSPORTATION:
OPPORTUNITIES AND CHALLENGES FOR
THE MARITIME ADMINISTRATION
AND FEDERAL MARITIME COMMISSION**

HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION
AND MERCHANT MARINE INFRASTRUCTURE,
SAFETY AND SECURITY

OF THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

MAY 9, 2017

Printed for the use of the Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PUBLISHING OFFICE

28–642 PDF

WASHINGTON : 2018

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

JOHN THUNE, South Dakota, *Chairman*

ROGER F. WICKER, Mississippi	BILL NELSON, Florida, <i>Ranking</i>
ROY BLUNT, Missouri	MARIA CANTWELL, Washington
TED CRUZ, Texas	AMY KLOBUCHAR, Minnesota
DEB FISCHER, Nebraska	RICHARD BLUMENTHAL, Connecticut
JERRY MORAN, Kansas	BRIAN SCHATZ, Hawaii
DAN SULLIVAN, Alaska	EDWARD MARKEY, Massachusetts
DEAN HELLER, Nevada	CORY BOOKER, New Jersey
JAMES INHOFE, Oklahoma	TOM UDALL, New Mexico
MIKE LEE, Utah	GARY PETERS, Michigan
RON JOHNSON, Wisconsin	TAMMY BALDWIN, Wisconsin
SHELLEY MOORE CAPITO, West Virginia	TAMMY DUCKWORTH, Illinois
CORY GARDNER, Colorado	MAGGIE HASSAN, New Hampshire
TODD YOUNG, Indiana	CATHERINE CORTEZ MASTO, Nevada

NICK ROSSI, *Staff Director*

ADRIAN ARNAKIS, *Deputy Staff Director*

JASON VAN BEEK, *General Counsel*

KIM LIPSKY, *Democratic Staff Director*

CHRIS DAY, *Democratic Deputy Staff Director*

RENAE BLACK, *Senior Counsel*

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT
MARINE INFRASTRUCTURE, SAFETY AND SECURITY

DEB FISCHER, Nebraska, <i>Chairman</i>	CORY BOOKER, New Jersey, <i>Ranking</i>
ROGER F. WICKER, Mississippi	MARIA CANTWELL, Washington
ROY BLUNT, Missouri	AMY KLOBUCHAR, Minnesota
DEAN HELLER, Nevada	RICHARD BLUMENTHAL, Connecticut
JAMES INHOFE, Oklahoma	TOM UDALL, New Mexico
RON JOHNSON, Wisconsin	TAMMY BALDWIN, Wisconsin
SHELLEY MOORE CAPITO, West Virginia	TAMMY DUCKWORTH, Illinois
CORY GARDNER, Colorado	MAGGIE HASSAN, New Hampshire
TODD YOUNG, Indiana	

CONTENTS

Hearing held on May 9, 2017	Page 1
Statement of Senator Fischer	1
Statement of Senator Booker	3
Prepared statement	3
Statement of Senator Wicker	30
Letter dated May 8, 2017 to Hon. Deb Fischer and Hon. Cory Booker from Paul Doell, National President, American Maritime Officers	30
Statement of Senator Young	34
Statement of Senator Baldwin	40
Statement of Senator Blumenthal	42

WITNESSES

Hon. Michael A. Khouri, Acting Chairman, Federal Maritime Commission	4
Prepared statement	5
Hon. Rebecca Dye, Commissioner, Federal Maritime Commission Supply Chain Innovation Teams	9
Prepared statement	10
Joel Szabat, Executive Director, Maritime Administration, U.S. Department of Transportation	12
Prepared statement	13
Rear Admiral James Helis, U.S. Maritime Service Superintendent, United States Merchant Marine Academy	17
Prepared statement	19
Hon. Mario Cordero, Commissioner, Federal Maritime Commission	22
Prepared statement	25

APPENDIX

Response to written questions submitted to Joel Szabat by:	
Hon. Todd Young	45
Hon. Tammy Baldwin	45

**MARITIME TRANSPORTATION:
OPPORTUNITIES AND CHALLENGES FOR
THE MARITIME ADMINISTRATION
AND FEDERAL MARITIME COMMISSION**

TUESDAY, MAY 9, 2017

U.S. SENATE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND
MERCHANT MARINE INFRASTRUCTURE, SAFETY AND SECURITY,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:33 p.m. in room SR-253, Russell Senate Office Building, Hon. Deb Fischer, Chairman of the Subcommittee, presiding.

Present: Senators Fischer [presiding], Booker, Wicker, Young, Baldwin, Blumenthal, Cantwell, Klobuchar, Gardner.

**OPENING STATEMENT OF HON. DEB FISCHER,
U.S. SENATOR FROM NEBRASKA**

The CHAIRMAN. The hearing will come to order. Welcome. Thank you all for being here today for our fourth hearing of the Surface Transportation and Merchant Marine Infrastructure, Safety and Security Subcommittee. Today's hearing is entitled, "Maritime Transportation: Opportunities and Challenges for the Maritime Administration and Federal Maritime Commission."

As I mentioned before in this Subcommittee, the United States has a rich maritime heritage. In fact, shipbuilding is one of our country's oldest industries, dating back to the early colonial period. From the beginning, America's coastal and inland waterways were used for exploration, commerce, transportation, defense, and recreation.

Today, ocean transportation and seaports remain critical to the economy and our Nation's transportation system. According to the International Maritime Organization, over 90 percent of global trade is transported by ocean carriers.

The Bureau of Transportation Statistics has found that freight tonnage on our Nation's transportation network will grow by 40 percent over the next 30 years. As our freight flows grow, seaports will serve as a key connection point for all modes of transportation.

In Nebraska, our agriculture producers work hard to feed a hungry world, but in order for these producers to compete internationally and meet customer needs, they rely on efficient ports and access to maritime carrier services.

Today, our Subcommittee will examine the activities of the U.S. Maritime Administration, U.S. Merchant Marine Academy, and Federal Maritime Commission. The Maritime Administration plays an important role in our national security. MARAD manages the Department of Defense Ready Reserve Force, which serves to transport combat support, resupply, and unit equipment to the Army and Marine Corps.

Senator Booker and I have authored and passed significant reforms to strengthen MARAD over the past 2 years. In addition to reauthorizing MARAD's national security vessel programs, we included measures recommended by the DOT Inspector General to improve workforce management at the agency. Our 2016 MARAD legislation, which was included in the annual National Defense Authorization Act, also provided greater flexibility for joint DOT and DOD vessel management programs.

Importantly, we also included significant measures to help address instances of sexual assault and harassment at the U.S. Merchant Marine Academy. The Academy's 2015 anonymous survey of midshipmen found that as many as 28 women and 24 men had been sexually assaulted on campus. However, the Academy noted there was only one officially reported case of sexual assault.

Because of our legislative efforts, midshipmen will have greater access to victim advocates and a 24/7 hotline. Moreover, the Academy is now required to employ sexual assault response professionals and provide preventative training to midshipmen.

As one of our five service academies, the USMMA plays a vital role in developing future leaders in the maritime industry, including many who will go on to serve in our nation's armed forces. I am thankful for their service to our country. Moving forward, we must continue to work toward ensuring a safe environment on campus and during the Sea Year program.

We are also going to hear testimony from three Commissioners of the Federal Maritime Commission. The FMC is an independent Federal agency tasked with fostering a fair, efficient, and reliable international ocean transportation system for U.S. exporters, importers, and consumers. The FMC is responsible for regulating ocean carrier activities, approving ocean carrier alliances, and monitoring ocean transportation, operation, and rates. The FMC also has an important role in overseeing freight activities at our Nation's port terminals.

As many here are aware, the 2015 West Coast ports slowdown caused massive congestion and gridlock. According to a study by the National Retail Federation and National Association of Manufacturers, a 5-day West Coast ports stoppage would reduce U.S. GDP by \$9.4 billion and disrupt 73,000 jobs. Greater information is essential to improving the efficiency of our ports.

I want to commend Commissioner Rebecca Dye, who has led in this area by establishing the Supply Chain Innovation Teams initiative. Better communication between stakeholders and real-time data sharing will go a long way toward addressing bottlenecks and enhancing the flow of goods through our ports.

I look forward to learning more about how the FMC is working to strengthen ocean transportation. Thank you again to our witnesses for being here today.

And I would now turn to my colleague and Ranking Member Senator Cory Booker for his opening remarks.
 Senator Booker.

**STATEMENT OF HON. CORY BOOKER,
 U.S. SENATOR FROM NEW JERSEY**

Senator BOOKER. Chairman Fischer, this is going to disappoint my colleagues, but I'm just going to submit my testimony for the record. They can get it from me if they would like. And we have a big panel, we should probably get to it.

[The prepared statement of Senator Booker follows:]

PREPARED STATEMENT OF HON. CORY BOOKER, U.S. SENATOR FROM NEW JERSEY

Thank you, Chairman Fischer for holding this important hearing on the opportunities and challenges facing the Maritime Administration and the Federal Maritime Commission.

The country's ports, vessels, and mariners are critical to our Nation's economic growth, military preparedness, and disaster relief efforts.

Our nation's ports and marine terminals, as well as the rail and road networks that support them, are essential for getting American products to overseas markets and generating U.S. jobs.

Residents of my home state of New Jersey know this as well as anyone.

New Jersey is home to the Port of New York and New Jersey, which has moved more than 120 million tons of cargo annually in recent years, and is the busiest port in the East Coast.

Overall, New Jersey's ports and the trade industries that rely on them, employed 285,000 people in New Jersey in 2014, and generated \$60 billion in family incomes and business revenues for New Jersey's economy.

In the past few years, the public and private sectors have helped fund more than \$2 billion in infrastructure improvements at the Port of New York and New Jersey to expand the region's economic capacity.

And this is in addition to the more than \$1 billion invested by the Port Authority to raise the roadway of the Bayonne Bridge to allow larger and taller "post-Panamax" ships to serve the region.

While investments like these are essential, and offer long-term benefits to our regional economy, they cannot—by themselves—reduce the congestion caused by our Nation's outdated infrastructure.

That's why I'm proud of the work this Committee did last Congress to pass the FAST Act and establish the Nation's first multimodal freight grant program.

Last year, the FASTLANE multimodal freight grant program, when combined with the important TIGER grant program, invested more than \$850 million in our Nation's port infrastructure.

While the FAST Act was a substantial achievement, there is more that we must do.

For many decades, the United States has relied upon the U.S. Merchant Marine, with its fleet of commercial vessels and crew of U.S. mariners, to assist the military during times of war or national emergency.

But as the U.S. international fleet has diminished, U.S. Mariners lose employment and the opportunity to remain certified to crew large ocean-going vessels.

And as we lose U.S. mariners, we lose sealift capacity to support the U.S. military during times of war or in national disasters.

We must also address challenges that could prevent students from wanting to enter the field in the first place.

I know the U.S. Merchant Marine Academy has been focused on preventing sexual assault and harassment at the Academy and during Sea Year.

I appreciate the changes that have occurred at the Academy under Admiral Helis' leadership.

However, there is more work to be done. Each year I nominate promising young women and men from New Jersey to attend this academy, and we must ensure that every cadet has an environment of respect, safety, and dignity.

Last but not least, delays in the freight network remain a serious concern.

The maritime industry is experiencing significant changes that impact how and where goods are moved.

Unfortunately, when one part of the network experiences a problem, it can have ripple effects that spread through every part of the network.

That's why it is important that we aren't looking at changes in a vacuum.

Whether it's changes that impact ports, shipping, rail or trucking—these changes must be viewed by how they impact the whole system.

I look forward to hearing from each of our witnesses about these and other issues that the Committee should consider as we work to improve our Nation's maritime transportation system.

The CHAIRMAN. Thank you, Senator Booker.

Next I would ask our witnesses to please give their opening statements. We will begin with the Acting Chairman, Michael Khouri—did I pronounce that correctly?—with the Federal Maritime Commission. Chairman Khouri has served as an FMC Commissioner since 2009 and as Acting Chairman since January 2017.

Welcome.

**STATEMENT OF HON. MICHAEL A. KHOURI, ACTING
CHAIRMAN, FEDERAL MARITIME COMMISSION**

Chairman KHOURI. Chairman Fischer, Ranking Member Booker, Senators, thank you for the opportunity to appear today on behalf of Federal Maritime Commission.

First, I am pleased to be joined by my colleague, Commissioner Rebecca Dye.

And we want to especially recognize our friend, Commissioner and former Chairman Mario Cordero, and thank him for his commendable service and leadership of the FMC. This is his last week with us, and he moves on to become the Executive Director of the Port of Long Beach, California. We look forward to his comments today. We wish him well as he takes the helm of a major seaport that is a critical part of our Nation's maritime supply chain.

I would like to address a number of matters about the Commission and the Shipping Act that are of current interest to the Subcommittee. The FMC is a specialized competition agency charged by Congress to prevent anticompetitive behavior by competitor collaborations in the international ocean liner industry. Since 1916, Congress has recognized that special factors affecting this international industry, which transports 65 percent of our Nation's waterborne international exports and imports, and requires a dedicated agency of specialized expertise to ensure certain national objectives are met. The Shipping Act of 1984 provides the Commission with authority to address the issues under our jurisdiction and protect a competitive marketplace.

2016 was a financially challenging year for international open shipping with ongoing consolidation and a major carrier bankruptcy. By mid-2018, there will be 10 companies arranged into three major operating joint ventures called "alliances," that, combined, will carry 82 percent of containerized cargo across all U.S. ocean trade lanes.

Even with these developments, however, the liner industry is still relatively unconcentrated by traditional antitrust standards. It is important to note that these alliances are not permanent mergers. Alliances provide the carriers with flexibility, cost savings, and efficiencies. There is vigorous price and capacity competition within alliances, and participants can and do change quickly in response to market forces, as we have seen in the last year. As long as they

do not exercise market power, alliances are widely recognized as potentially beneficial and pro-competitive and ultimately benefiting U.S. shippers and consumers. And as noted by the Supreme Court, these carrier joint ventures can help prevent outright mergers, thus preserving competition.

Concerns about these trends, however, have been expressed by U.S. cargo interests as well as other participants in the ocean cargo supply chain. As larger alliance agreements have been filed at the Commission, we have strengthened our economic and competition review process and require tighter limits on the scope of each agreement's authority. We will continue to review and monitor these agreements carefully for anticompetitive behavior to safeguard against harm to shippers and consumers.

As Congress directed the Commission in both the 1984 Act and the 1998 amendments, the FMC remains committed to finding additional ways to reduce unnecessary regulatory costs and burdens, and obtaining greater efficiencies for the regulated community.

Most recent, March 6, the Commission unanimously approved a new rule to reduce the complexity, burden, and cost of contract filings for the 165 ocean carriers and the 6,200 ocean transportation intermediaries who submit 53,000 service contracts and over 730,000 contract amendments with the agency each year.

I intend for this deregulatory effort to continue as we take up other pending and proposed issues. After consulting my fellow Commissioners, I designated the FMC's Managing Director, Karen Gregory, as the Regulatory Reform Officer. She is now standing up a task force to execute on the regulation review process.

Commissioner Dye will address her commendable efforts to help the industry develop information-sharing protocols that should prove extremely beneficial in integrating the global supply chain and providing a boost to the American economy.

To close, the Federal Maritime Commission, with its industry expertise and experience, is well positioned to understand the unique dynamics of the shipping industry and all of its stakeholders, to apply the competition laws fairly in this area, and to prevent anticompetitive behavior in these carrier agreements, all to ensure maximum benefit for the U.S. shipping public.

Thank you for your attention. And I respectfully ask that my full written remarks be accepted into the record. I'll be pleased to answer any questions you may have.

[The prepared statement of Chairman Khouri follows:]

PREPARED STATEMENT OF HON. MICHAEL A. KHOURI, ACTING CHAIRMAN,
FEDERAL MARITIME COMMISSION

Chairman Fischer, Ranking Member Booker, Senators, thank you for the opportunity today to discuss issues related to the Federal Maritime Commission.

I am pleased to be joined at the table by my colleague, Commissioner Rebecca Dye. And I want to especially recognize our friend, Commissioner and former Chairman Mario Cordero and thank him for his exemplary service and leadership of the FMC. This will be his last week with us as he moves on to become the Executive Director of the Port of Long Beach, California. We look forward to his comments today and wish him well as he takes the helm of a seaport that is such a critical part of our Nation's maritime supply chain.

The United States has always been a nation that has engaged in trade, even from the earliest days of our existence as a group of colonies. Transporting goods of all descriptions by ocean, coastal and inland ships is an integral part of American com-

merce. There is simply no more efficient or economical way to move large volumes of commodities than aboard vessels, and the sectors of our economy tied to international trade depend on an efficient global intermodal transportation system. As the Acting Chairman of the Federal Maritime Commission, I am proud of the dedicated men and women of our agency and the work they do every day to safeguard competition in ocean transportation for the benefit of the America's exporters, importers and ultimately, our Nation's consumers.

One of the most positive ways to benefit our American consumers is by helping to keep the end cost paid for goods as low as possible. Identifying and addressing regulations in the ocean transportation sector that are out of date with current commercial practices and technology or have become unreasonably burdensome will always increase consumer choices and lower costs. At the Federal Maritime Commission, we view a commitment to deregulation in the ocean container supply chain as an essential and critical factor in expanding America's economic competitiveness.

As such, we are working to be a more efficient organization by making a concerted and focused effort to reduce regulatory burdens on our constituents. The Commission is aggressively looking for ways to make compliance with its statutory and regulatory requirements easier and more cost effective for shippers, carriers, and ocean transportation intermediaries. An example of the sort of common sense deregulatory action the Commission can take was exhibited on March 6 when we approved key changes to regulatory requirements for ocean carrier service contract filings and non-vessel-operating common carrier (NVOCC) service arrangement filings. The Commission will make it easier and more efficient for shippers and carriers to do business.

Further toward the goal of eliminating or reforming regulations, we have designated Ms. Karen V. Gregory, the Managing Director of the Commission, as our Regulatory Reform Officer. Ms. Gregory is now leading an internal team that is identifying those regulations that have become less relevant in today's fast moving commerce, are more burdensome than current business needs require, and otherwise need updating and revision. They will then establish a definitive timeline within the agency to move those items to a vote before the Commission. This initiative is consistent with the January 30 "Presidential Executive Order on Reducing Regulations and Controlling Regulatory Costs." While the Commission may not be technically required as an independent agency to take this step, I believe that it is the right action to take and is consistent with the broader deregulatory history and scope of the Shipping Act.

Over the past two to three years, there have been tremendous changes to the ocean transportation services marketplace. This period has been marked by considerable merger and acquisition activity among shipping lines, as well as the bankruptcy of a "top ten" carrier late last summer. As a result of these events, the number of major shipping lines operating in the international trades has dropped from 20 in 2015 to what will be 13 by next year when the three Japan-based carriers create a new, consolidated container line. Of equal consequence, consolidation among the liner carriers has led to a reordering of the carrier alliance system and the creation of two new organizations—"THE Alliance" and "The OCEAN Alliance"—that will join the already existing "2M Alliance."

Some stakeholders have expressed concern about these changes, especially developments related to alliances. It is important to note that the evidence shows that carrier and marine terminal alliances can be very beneficial for U.S. exporters, importers, and consumers. Alliances are not permanent mergers like those reviewed by DOJ, but are much more dynamic arrangements that—number one—preserve price and service competition between and among participants. The ocean common carrier members of the alliance do obtain efficiencies and cost-savings that have historically been passed on to domestic consumers especially when healthy competition exists among vessel operators. The benefits of alliances and other forms of joint commercial arrangements are recognized and addressed in the Shipping Act of 1984, as amended, and the contemporaneous Congressional record.

A reassuring data trend that we receive through our alliance monitoring programs shows us that the individual ocean carriers within each alliance continue to independently and vigorously compete on pricing. Further, individual ocean carriers within the alliances continue to add and withdraw vessels from trades both inside and outside the alliances in which they participate, demonstrating that competition remains in both vessel capacity decisions and pricing decisions within the alliances. Finally, these joint ventures provide ocean carriers with flexibility and may facilitate the survival of independent companies, preserving competition and averting further industry concentration. The interests of the American shipping public and the American consumer will not be well served if carrier consolidations ultimately

result in only a handful of mega-carriers remaining to transporting the Nation's cargo.

Clearly, the industry is entering a new era and it is not surprising that some question whether ocean carriers will move into a position to exert some level of market power on freight rates. In fact, by all economic benchmarks used by the Department of Justice (DOJ), the Federal Trade Commission (FTC), and the FMC, the ocean liner marketplace is not concentrated. Concentration is assessed using the Herfindahl-Herschman Index (HHI). The greater the degree of market concentration by virtue of fewer competitors, then the HHI rises. In DOJ's merger guidelines, their Antitrust Division regards markets as not concentrated if the HHI is below 1,500. Following the last ocean common carrier merger, the HHI for the container shipping industry in the international U.S. trades today is 752, far down into the "safe harbor" area.

The reduced number and increased size of the major alliances (2M, THE Alliance, and OCEAN Alliance) has indeed changed the way in which the Commission approaches these joint ventures. The Commission carefully and thoroughly reviews filed agreements and engages in extensive consultations with filing parties to assure that an agreement that ultimately goes into effect is narrowly crafted and only permits specific authorities that provide specific operational benefits. Broad agreements with imprecise authority language will not go unchallenged.

Since these are ongoing cooperative agreements rather than mergers, the Commission is further charged by Congress with continuous monitoring after the initial review and following the effective date of the agreements. The Commission checks for anticompetitive behavior that would violate the Shipping Act. The Commission may challenge an agreement at any time after the effective date. Just as the marketplace has changed, so has how the Commission monitors agreements. Over the past five years, the FMC has been steadily refining reporting requirements mandated of agreement parties both in terms of the information our economic analysis team wants to review, as well as how often data must be provided to the Commission. Additionally, we are working to reinforce our already very capable team of economists and analysts in order to increase our capacity to review and monitor agreements and the marketplace. Finally, I would note that in recent months, the Commission has twice rejected agreement filings, one on jurisdictional grounds and the second for failing to meet the clear and definite disclosure standard required by law, demonstrating that we are far from being a rubberstamp agency.

The current circumstances in the international container industry perfectly illustrate why the Federal Maritime Commission was created, what its job is, and how the agency provides a benefit to American shippers, to our citizen consumers, and to our economy more broadly. The FMC is an independent agency of specialized expertise that administers an antitrust regulatory regime tailored to the special factors affecting the international ocean liner trade. The Shipping Act of 1984, and the Federal Maritime Commission that administers the Act, are related to, but separate from Department of Justice and the Federal Trade Commission and the competition and antitrust statutes they administer.

Under the Shipping Act, cooperative or collaborative agreements between or among competitor international ocean liner carriers are filed with the Commission and reviewed under the Shipping Act's competition standard to prevent anticompetitive behavior in these agreements. This standard the Commission uses to review carrier agreements, 46 U.S.C. §41307(B)(1)—"Anticompetitive Agreements," commonly referred to as 6(g), is analogous to the standard employed by DOJ and the FTC to review mergers, acquisitions, and competitor collaborations. Under 6(g), an agreement filed with the Commission goes into effect *UNLESS* the Commission determines (and convinces a judge to agree) that the agreement *is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost. In the event of such determination, the Commission then must go to a Federal District Judge as discussed below.*

The Commission's process for agreement review under 6(g) is modeled on the Hart-Scott-Rodino Act of 1976 governing premerger clearance of proposed acquisitions and mergers. Congress adapted this process for the Commission as part of the Shipping Act of 1984. Prior to 1984, the Commission reviewed and *approved* agreements under a broad "public interest" standard. Because approval became a lengthy process sometimes stretching into years, Congress put a Hart-Scott-Rodino type framework in place for Commission review of carrier agreements under the Shipping Act to ensure that that potential efficiencies and cost-savings would not be lost by consumers because of delay in agreement effective dates. Agreements filed with the Commission go into effect automatically in 45 days *unless* the Commission determines (and a judge agrees) that the agreement is anticompetitive under the 6(g) standard referred to above. Under certain circumstances, the Commission may ask

for additional information necessary to make a determination under 6(g), extending for an additional 45 days after receiving that information the time before the agreement becomes effective. In order to prevent the agreement from going into effect, the Commission must bring a civil action in the United States District Court for the District of Columbia and successfully obtain an injunction to halt the operation of the agreement. The burden of proof is on the Commission.

If parties agree to undertake activities that are governed by the Shipping Act, but do not comply with the Commission's process of review, they risk not only Shipping Act sanctions, but also Federal criminal sanctions prosecuted by DOJ under the Sherman Act.

Some claim that section 6(g) is ineffective because it presents too high a bar to a successful court challenge of an anticompetitive agreement by the Commission. On the contrary, the paucity of 6(g) cases and the historical absence of the Commission's need to challenge agreements in court is testament to the Commission's successful efforts to mitigate or eliminate potentially anticompetitive provisions in pending agreements through detailed discussions with filing parties during the review process. One need only look at the THE Alliance and the OCEAN Alliance to see recent examples of cases where the major carrier alliance agreements, as originally filed, requested authority to jointly negotiate for goods and services. Following Commission review, however, the agreements lacked these joint purchasing authorities when they went into effect. By its terms, the Shipping Act provides an opportunity for the public to express its concerns about filed agreements. The Commission takes these comments seriously, and uses them together with its own economic analysis under 6(g) during the review process to consider and address anticompetitive concerns.

In addition to the review of carrier agreements for potentially anticompetitive effects under 6(g), the Commission may use section 10, the "Prohibited Acts" provisions in the Shipping Act, to preserve competition. This section of the Act includes prohibitions on a number of business practices on concerted carrier conduct acting outside of approved authority (such as price fixing or market allocation), unreasonable practices, discrimination in price or accommodations, refusal to deal, retaliation, boycotts, predatory practices, and discrimination based on shipper affiliation., 46 U.S. Code §41105(4), prohibits carriers from jointly negotiating with non-ocean carriers *if doing so would violate antitrust laws* (emphasis added).

These prohibited practices mirror remedies found in other competition statutes, such as the Robinson-Patman Act of 1936. The Commission, of course, may enforce section 10; but private litigants may bring actions under these Shipping Act provisions to protect their interests.

Since 1916, Congress has recognized that the international ocean liner industry, which transports a large percentage of the international exports and imports so essential to this Nation's economy, requires special consideration because of the industry's critical role in our international commerce, its international dimension, and the competing and potentially conflicting regulatory regimes and interests of our international trading partners. The FMC reviews and monitors international ocean liner carrier joint collaborations or agreements under the Shipping Act to ensure that procompetitive efficiencies and cost savings are obtained for the benefit U.S. consumers and anticompetitive effects are prevented or properly mitigated.

The global supply chain that has been built around the ocean container is essential to the modern American economy and the competitiveness of the Nation. The Federal Maritime Commission plays a vital role in assuring a fair, efficient, and reliable international ocean transportation system. Thank you for your attention and interest in the work of the Commission, I am happy to answer any questions you might have.

The CHAIRMAN. Thank you, sir.

Next we have Rebecca Dye, Commissioner with the Federal Maritime Commission. Ms. Dye has served on the FMC since 2002. She previously served as a law instructor at the U.S. Coast Guard Academy and an attorney at MARAD.

Welcome.

**STATEMENT OF HON. REBECCA DYE, COMMISSIONER,
FEDERAL MARITIME COMMISSION SUPPLY CHAIN
INNOVATION TEAMS**

Ms. DYE. Thank you, Chairman Fischer, Ranking Member Booker, and members of the Subcommittee. I appreciate the opportunity to appear before you today on behalf of the members of the Federal Maritime Commission Supply Chain Innovation Teams. And on their behalf, I thank you for the kind recognition, Chairman Fischer.

To accompany my statement, I submitted a list of the companies represented on our Innovation Teams, and the port directors, business, and academic advisors, and trade association consultants who supported the initiative.

I would like to take the opportunity to publicly thank the talented individuals and their companies who volunteered their time and resources to advance this project.

After issuing a report in 2015 on the results of the port congestion and supply chain forums the Commission held at ports around the country, we asked ourselves: Should the Commission become more involved in international supply chain challenges? And if so, how could we add value?

As you know, the Commission has broad statutory authority over international ocean carriers, ports, marine terminal operators, and ocean transportation intermediaries. As a result of our work with them, we understand the commercial realities that our stakeholders face. The overall goal of the Commission's competition enforcement program under the Shipping Act of 1984 is to provide competitive ocean transportation rates and service for American exporters and importers, ultimately to the benefit of American consumers.

Our programmatic responsibilities give us a vital perspective on the international supply chain challenges of American exporters and importers.

We concluded that the Commission could add value and help address the challenges of America's international supply chain, but rejected the idea that performance of the commercial supply chain would be improved by additional government regulation.

The approach we adopted for this initiative is built on two concepts: small teams and process innovation. We heard from industry groups that many business leaders were anxious to roll up their sleeves and actively engage across the table to address end-to-end global supply chain issues. To respond to this desire for active engagement, we organized small teams of industry leaders representing key supply chain industries: ocean carriers, U.S. ports, marine terminal operators, warehouse operators, chassis providers, longshore labor, trucking, railroads, intermediaries, and American exporters and importers.

Second, we directed our teams to focus on actionable process innovation. We asked them to step out of their business silos and identify one key process innovation that they believed and agreed would improve overall international supply chain reliability and resilience.

At our launch of our Supply Chain Innovation Teams last May, our three teams quickly identified supply chain visibility as one of

the most effective ways to increase supply chain performance. Integrated information systems provide visibility that encourages businesses to act in a more coordinated and effective way.

Our Innovation Teams identified the development of a national seaport information portal as the one process innovation that could be adapted for use by ports around the United States. Our import teams developed standardized information for each actor in the chain, and determined when that information should be made available to them. In July, our export teams will begin developing standardized information for the export supply chain.

The collateral benefits of our initiative include the insights that team members have gained into the business reality of other actors in the supply chain teams—in the supply chain system. There were plenty of aha moments, and, “Do you really do it like that?”

We’ve also gained great insights into the strengths of U.S. ports from interviews we have organized with ten directors of major container ports on the East Coast, the West Coast, and the Gulf. Their professionalism, dedication, and commitment is impressive.

Chairman Fischer, we believe that information infrastructure that will increase the performance of the country’s international supply chain is key to America’s economic competitiveness.

We have suggested to you legislative authority for the Commission to develop a demonstration project for a national information portal.

We do not recommend that the Federal Government build or maintain an information system. However, while our teams are intact and available for consultation, we believe the time is right to take the next step and test the concept of a national seaport information portal.

Thank you so much, Chairman Fischer and members of the Subcommittee. I’m pleased to answer your questions. Thank you.

[The prepared statement of Ms. Dye follows:]

PREPARED STATEMENT OF HON. REBECCA DYE, COMMISSIONER,
FEDERAL MARITIME COMMISSION SUPPLY CHAIN INNOVATION TEAMS

Chairman Fischer, Ranking Member Booker, and Members of the Subcommittee, thank you for the opportunity to appear before you today on behalf of the members of the Federal Maritime Commission Innovation Teams.

To accompany my statement, I submitted a list of the companies represented on our Innovation Teams, and the port directors, business, and academic advisors and trade association consultants who have supported the initiative.

How to Add Value to Supply Chain Debate

After issuing a report in 2015 on the results of the port congestion and supply chain forums the Commission held at ports around the country, we asked ourselves: Should the Commission become more involved in international supply chain challenges? And if so, how could we add value?

Why the Federal Maritime Commission

As you know, the Commission has broad statutory authority over international ocean carriers, ports, marine terminals, and ocean transportation intermediaries. As a result of our work with them, we understand the commercial realities our stakeholders face.

The overall goal of the Commission’s competition enforcement program under the Shipping Act of 1984 is to provide competitive ocean transportation rates and service for American exporters and importers, ultimately to the benefit of American consumers.

Our programmatic responsibilities give us a vital perspective on the international supply chain challenges of American exporters and importers.

No Additional Government Regulation

We concluded that the Commission could “add value” and help address the challenges of America’s international supply chain, but rejected the idea that the performance of the commercial supply chain would be improved by additional government regulation.

Nor should we look over the shoulders of port officials and attempt to duplicate or second-guess the tough decisions they are making to combat supply chain problems.

Team Work and Process Innovation

The approach we adopted for this initiative is built on two concepts: team work and process innovation.

We heard from industry groups that many business leaders were anxious to “roll up their sleeves” and actively engage “across the table” to address end-to-end global supply chain issues together.

To respond to this desire for active engagement, we organized teams of industry leaders representing key supply chain industries: ocean carriers, U.S. ports, marine terminal operators, warehouse operators, chassis providers, longshore labor, trucking, railroads, intermediaries, and American exporters and importers.

Second, we directed our teams to focus on “actionable” process innovation. We asked them to “step out of their business silos” and identify one key process innovation that would improve overall international supply chain reliability and resilience.

Innovation Teams Recommendation

At the launch of our Supply Chain Innovation Teams initiative last May, our three teams quickly identified supply chain visibility as one of the most effective ways to increase supply chain performance.

Integrated information systems provide supply chain visibility that encourages businesses to act in a more coordinated and effective way.

National Seaport Information Portal

Our Innovation Teams identified the development of a national seaport information portal as the one process innovation that could be adapted for use by ports around the United States.

Our import teams developed standardized information for each actor in the international import supply chain and determined when that information must be available.

In July, our export teams will begin developing standardized information for our export supply chain.

Port Director Interviews

Collateral benefits of our initiative include the insights team members have gained into the business realities of other actors in the supply chain system.

We have also gained a great insights into the strengths of and opportunities for U.S. ports. We have organized interviews with many of our American port directors and are impressed by their professionalism and dedication.

Information Infrastructure Key to American Economic Competitiveness

Chairman Fischer, we believe that information infrastructure that will increase the performance of our country’s international supply chain is key to America’s economic competitiveness.

We have suggested to you legislative authority for the Commission to develop a demonstration project for a national seaport information portal.

We do not recommend that the Federal government build or maintain a national seaport information system. However, while our teams are intact and available for consultation, we believe that the time is right to take the next step and test the concept of a national seaport information portal.

Thank you, Chairman Fischer and members of the Subcommittee. I’m pleased to answer your questions.

The CHAIRMAN. Thank you, Commissioner.

Next we have Mr. Szabat, who is the Executive Director of the Maritime Administration.

And previously you served as Chief of Staff for the Small Business Administration and Transportation Counselor to the U.S. Ambassador to Iraq. Welcome.

**STATEMENT OF JOEL SZABAT, EXECUTIVE DIRECTOR,
MARITIME ADMINISTRATION,
U.S. DEPARTMENT OF TRANSPORTATION**

Mr. SZABAT. Good afternoon, Chairwoman Fischer, Ranking Member Booker, and members of the Subcommittee. Thank you for the invitation to testify.

The Department of Defense relies on U.S.-flag ships, crewed by volunteer American civilian mariners to move our warfighters' equipment and supplies whenever and wherever they need to go. This U.S.-flag fleet of privately owned, commercially operated vessels, along with government-owned vessels, provide the sealift for the armed forces during times of conflict and also responds to humanitarian crises and natural disasters.

MARAD is responsible for ensuring that enough U.S.-flag ships are available to meet these Department of Defense sealift requirements and that there are enough qualified merchant mariners to crew the entire sealift fleet of commercial and government-owned vessels.

Three programs are essential to our sealift mission and to the commercial success of the U.S.-flag fleet: the Jones Act, which ensures the U.S.-flag fleet domestic trade; and Cargo Preference and the Maritime Security Program, which together provide an international U.S.-flag fleet supporting the U.S. military.

As of today, the U.S.-flag commercial fleet is adequate to meet immediate military contingencies, but as the commercial fleet has declined in size in recent years, it no longer employs enough qualified American mariners to sustain an extended military sealift.

To begin to address this shortfall, the most recent National Defense Authorization Act established a Maritime Workforce Working Group. This group has already begun to assess and define the pool of U.S. citizen mariners necessary to support the U.S.-flag fleet in times of national emergency.

Nearly all of our merchant mariner officers qualified to crew commercial and government sealift ships graduate from the State Maritime Academies or from the Federal United States Merchant Marine Academy. Following incidents of sexual harassment and sexual assault at the U.S. Merchant Marine Academy, both on campus and at sea, the Department of Transportation and MARAD leadership suspended the USMMA's critical commercial Sea Year training component. In the Maritime Administration, we look after our people. Any sexual violence or coercion against any of our people, especially including midshipmen at Kings Point, is unacceptable.

During the suspension, a cultural audit of the Academy was conducted by the Department of Transportation to study the reasons for sexual harassment, sexual assault, and coercive behaviors. From that audit came recommendations for establishing strict criteria that commercial shipping companies must meet to participate in Sea Year. Superintendent Helis will discuss actions taken on campus in greater detail.

Shortly after the Sea Year stand-down, a consortium of 14 leading maritime companies came together with MARAD and proposed ways to ensure that Sea Year training is conducted in a safe and respectful environment. Those proposals have been developed into

strict requirements for companies to meet and apply in to participate in Sea Year. To date, eight companies, representing 82 percent of the commercial Sea Year training prior to stand-down, have met these requirements and resumed hosting midshipmen on their vessels.

Going forward, MARAD will continue to work with industry through the Ship Operations Cooperative Program, made up of maritime industry professionals focused on safety. The SOCP will develop computer-based sexual assault prevention and response training that companies can use to educate and equip their vessel crews. This summer, we will review these measures and make changes or improvements as needed.

The NDAA also required MARAD to establish a Sexual Assault Prevention and Response Working Group to examine methods of improving the shipboard climate during Sea Year. The SAPR Working Group had its first meeting on January 31, with over 50 members from industry, labor, the Merchant Marine Academy, the State Maritime Academies, and Federal Government representatives also participating.

Finally, the Fiscal Year 2017 NDAA set deadlines for completing actions identified by the Department of Transportation's Inspector General in a December 2015 management control audit. DOT and MARAD have completed 13 of the 16 recommendations, and we are committed to meeting the remainder.

A final note, with me today, in pink, is my better half, best friend, and wife, who has two Commerce connections. Chiling Tong is a former Deputy Assistant Secretary in the Department of Commerce, and she is now President of the National AAPI Chamber of Commerce and Entrepreneurship.

Thank you for your interest. I ask that my written statements be submitted into the record. And I'm happy to answer any questions you may have.

[The prepared statement of Mr. Szabat follows:]

PREPARED STATEMENT OF JOEL SZABAT, EXECUTIVE DIRECTOR,
MARITIME ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

Good afternoon, Chairwoman Fischer, Ranking Member Booker and members of the Subcommittee. Thank you for the invitation to testify on issues under the jurisdiction of the Maritime Administration, with an emphasis on the implementation of recent statutory requirements and the examination of topics relevant to upcoming reauthorization bills. This testimony will cover the current state of the U.S.-flag fleet and mariner workforce and implementation of the recent MARAD reauthorization bill, including measures affecting the U.S. Merchant Marine Academy (USMMA or Academy).

The U.S.-Flag Fleet and Mariner Workforce

MARAD is responsible for ensuring that U.S.-flag ships and merchant mariners are available to meet Department of Defense (DOD) sealift requirements. The U.S.-flag fleet of privately-owned, commercially-operated vessels, along with government-owned vessels, provide a critical public-private sealift surge and sustainment capacity to move equipment and materials for the Armed Forces and Federal agencies when needed, and where needed, during times of conflict, humanitarian crises, and natural disasters.

Three programs ensure that there are enough U.S.-flag vessels available to provide this capacity: the Jones Act, which ensures a role for the U.S.-flag fleet in domestic trade; and Cargo Preference and the Maritime Security Program (MSP) which, together, support a militarily useful, U.S.-flag fleet sailing internationally.

MARAD and DOD also rely on the commercial fleet to employ enough qualified mariners to crew all the commercial ships tasked with supporting military oper-

ations, as well as enough additional mariners to crew the “surge fleet” of Federally-owned cargo ships. As of today, the size and composition of the U.S.-flag commercial fleet is adequate to meet immediate military contingencies. However, due to the decline in size in recent years of both the domestic U.S.-flag fleet with unlimited horsepower and unlimited tonnage and the international U.S. flag commercial fleet, both the U.S. Transportation Command (USTRANCOM) and MARAD are concerned that there are not enough qualified mariners to sustain an activation of the entire sealift fleet, though there has never been a full activation of the entire sealift fleet.

The National Defense Authorization Act for Fiscal Year 2017 (FY 2017 NDAA) required the establishment of a Maritime Workforce Working Group (MWWG) to examine and assess the size of the pool of U.S. citizen mariners necessary to support the U.S.-flag fleet in times of national emergency. The MWWG has been established and has begun meeting. The MWWG is comprised of more than 50 members that include representatives from industry, labor, the USMMA, State Maritime Academies, and Federal Government representatives, as well as subject matter experts from USTRANCOM, DOD, and the Army. In addition to member meetings, a Federal Register Notice will be published to collect input from the public, as the MWWG prepares a report to Congress due in December 2017.

Maritime Training

Another MARAD responsibility is to provide funding and oversight for mariner training programs to produce highly skilled U.S. Coast Guard (USCG) credentialed officers for the U.S. Merchant Marine. Maintaining an adequate pool of American merchant mariners is vital to both the commercial success of the U.S.-flag fleet and to maintaining the capacity needed to project American sea power. The USMMA and the State Maritime Academies (SMAs) graduate nearly all USCG-credentialed officers. These are merchant marine officers who hold an unlimited tonnage or horsepower endorsement available to crew U.S.-flag ships. These graduates support our Nation as a cadre of well-educated and trained merchant mariners capable of serving in support of military emergency, national emergency, and humanitarian missions.

Addressing Sexual Harassment and Sexual Assault at the U.S. Merchant Marine Academy

The Academy is America’s flagship school for educating licensed merchant mariners capable of serving our Nation in peace and war. DOT, MARAD, and the USMMA take sexual assault and sexual harassment at sea and on campus very seriously. We adopted an approach to this problem similar to that used at the other Federal service academies. As best and as fast as we can, we are introducing policies to change the behavior and culture at the Academy to combat all kinds of abusive or coercive behaviors. This testimony discusses the actions MARAD has taken in conjunction with maritime industry, while testimony from Superintendent Helis will discuss actions taken to combat sexual assault and harassment on the USMMA campus.

Criteria For Vessel Operators to Participate In Sea Year

The USMMA’s shipboard training program, or “Sea Year,” gives Midshipmen experience of life at sea on board commercial and military vessels and provides cost-effective hands-on seamanship and engineering sea time that meets the requirements to secure USCG mariner credentials. Midshipmen are required to have 360 days of sea service during their four-year maritime education to obtain their USCG merchant mariner credentials. Shipping companies and the U.S. Navy are part of a cooperative effort to ensure that a Midshipman’s shore based education is enhanced by the required on-the-job training at sea.

Sea Year is critical to the education and training of Midshipmen at the USMMA, and all training must be conducted in a safe and respectful environment. In the wake of a series of studies and surveys that indicated problems with sexual misconduct and other coercive behaviors, both on campus and at sea, DOT and MARAD leadership suspended commercial Sea Year so we could develop a better understanding of the problem and a strategy to ensure the safety of the Midshipmen. An independent external consultant assessed the organization and made recommendations in December 2016.¹

Last year, Secretary Foxx’s decision to stand down commercial Sea Year over concerns about Midshipmen being subjected to sexual misconduct stirred vocal dis-

¹Logistics Management Institute (LMI). December 2016. “Department of Transportation U.S. Merchant Marine Academy Culture Audit.” Available at: <https://www.usmma.edu/sites/usmma.edu/files/docs/USMMAReport%20508.pdf>

agreement from industry leaders. Those same leaders, including many USMMA alumni, worked with MARAD through an extended stand down of Sea Year while the cultural audit was conducted. A consortium of 14 leading maritime companies came together with MARAD to examine ways to ensure that Sea Year training is conducted in a safe and respectful environment. Just two weeks after the stand down, the consortium brought forth a proposal to address sexual assault and harassment prevention and response. MARAD and DOT subsequently created the Shipboard Climate Compliance Team (SCCT) to establish standards and collaborate with industry, labor and the consortium, and lay out workable criteria for the companies to achieve those standards. The SCCT is led by a MARAD Senior Executive Service leader, who is a USMMA graduate. The team is made up of 10 experienced mariners and sexual harassment and sexual assault prevention experts and civil rights professionals. The SCCT has established stringent new requirements that companies must meet to be eligible to participate in Sea Year training. This strong working relationship between MARAD and these maritime leaders resulted in six companies, representing 75 percent of the commercial Sea Year training provided prior to the stand down, being reinstated to accept Midshipmen as of today. The SCCT standards meet the requirement in Section 3514 of the FY 2017 NDAA for MARAD to establish, in consultation with operators of U.S.-flag vessels, criteria that vessel operators must meet to participate in Sea Year and a process for verifying compliance with the criteria.

MARAD's "Sea Year Eligibility" criteria include the following:

Company-Wide Zero Tolerance Message—Shipping company CEOs will issue an annual company-wide message outlining specific rules for the workplace, strongly stating that sexual assault and sexual harassment, including any retaliation based on a complaint, are unacceptable, and committing the company to eradicate such behavior and enforcing a zero-tolerance policy.

Annual Sexual Assault and Sexual Harassment Prevention Training Requirement for Crew—Annual sexual assault and harassment prevention training will ensure that crewmembers clearly understand what constitutes sexual assault and sexual harassment, its negative impact, the importance of prevention, and the penalties for engaging in prohibited behavior.

Mentors with Enhanced Selection Criteria and Duties—Mentors for each ship play a crucial role in the success and development of cadets. Per enhanced mentor qualifications, a mentor must certify that he/she does not have any pending complaints or history of violations of any other company's Sexual Assault Sexual Harassment policies. The mentor must be of good character, and know, support, and advocate for the company's sexual assault sexual harassment prevention and response policies.

Verify Annual Sexual Assault and Sexual Assault Prevention and Response Training—Each company will provide MARAD documents describing company-specific training protocols; the company's anti-discrimination, harassment, retaliation and sexual misconduct policies, including complaint reporting policies and procedures; a description of the company's investigation process and enforcement procedures; and, a mechanism for verifying their understanding of the issue.

Zero-Tolerance Policy Regarding Romantic or Sexual Relationships—Companies will actively support the USMMA Sea Year Conduct policy for Midshipmen, which prohibits romantic or sexual relationships between Midshipmen and crewmembers, and the consumption of alcohol by Midshipmen under 21 years old. Companies will immediately report known Midshipmen violations to the USMMA. A violation of the USMMA Sea Year policy may result in counseling or punishment pursuant to the Midshipmen Regulations.

MARAD Will Maintain a Record of all Relevant Company Policies—Companies will submit all relevant policies and documentation to MARAD, and MARAD will verify compliance annually. Required documentation includes, but is not limited to, sexual assault and harassment prevention and response policies; a description of company's complaint reporting process and procedures; policies related to confidentiality, enforcement, and retaliation and investigation procedures; and, the location of sexual misconduct prevention policies onboard the vessel.

Company Debrief—Currently, both Midshipmen and the Vessel Masters evaluating them provide a report to the USMMA upon completion of an individual's Sea Year training. In addition to these reports, the new criteria require the company to provide the Academy a sexual assault and sexual harassment debrief at the completion of the Midshipmen's Sea Year time with the company.

The requirements outlined above will be reviewed in September this year, and annually thereafter. The SCCT has implemented a company-by-company review process to recommend eligibility for carrying USMMA Midshipmen aboard their commercial ship. The SCCT will review documents provided by carriers to ensure compliance with the criteria. Once that process is complete, the USMMA Superintendent may issue an eligibility letter. MARAD Headquarters will coordinate with USMMA to board vessels and visit companies to conduct Shipboard Climate Compliance Team (SCCT) audits. The audit priority will be driven by review of company documentation that pertain to sexual misconduct. Additional feedback from the companies will be provided in accordance with the SCCT requirements. This is in addition to current reporting from the Midshipmen to the USMMA Department of Shipboard Training Academy Training Representative Midshipman Assignment Report, which provides feedback from the cadet about the company and Sea Year experience. Each of these reports and opportunities for feedback will specifically address sexual harassment and sexual assault.

At present, six companies have met compliance requirements and resumed hosting Midshipmen on their vessels. MARAD is also reviewing the packages of several other companies which have applied to meet the Sea Year requirements. Collectively, the companies that have been approved, or are applying, represent 84 percent of the commercial Sea Year training provided before the suspension.

Sexual Assault Prevention and Response Working Group

Section 3517 of the FY 2017 NDAA required MARAD to establish a Sexual Assault Prevention and Response Working Group (SAPR WG) to examine methods to improve the shipboard climate during Sea Year, including prevention and response to sexual assault, sexual harassment, and other inappropriate conduct. The SAPR WG had its first formal meeting on January 31, 2017. With over 50 members, the WG includes members from industry, labor, the USMMA, SMAs, and Federal Government representatives in accordance with the FY 2017 NDAA requirements. In addition to member meetings, public input is being sought through a Federal Register Notice which was published May 1, 2017. The WG will report its findings to Congress by September 25, 2017 as required by the FY 2017 NDAA.

In an additional effort to work with industry to address the problems of Sexual Harassment and Sexual Assault, MARAD has entered a cooperative agreement with the Ship Operations Cooperative Program (SOCP) to develop computer-based sexual assault prevention and response training that will be made available for companies to train their vessel crews. SOCP is a trade association made up of maritime industry professionals focused on safety. MARAD is also working with SOCP to roll out management 'best practices' this summer. These efforts will especially benefit smaller companies without the resources to develop robust programs of their own.

School Ships

In addition to providing oversight of the USMMA, MARAD provides funding assistance to six State Maritime Academies (SMAs), which collectively graduate more than two-thirds of the entry-level Merchant Marine officers annually.² Approximately 972 Cadets are expected to graduate from the SMAs in 2017. Assistance provided to the SMAs also includes funding for maintenance and repair costs for training ships on loan from MARAD. Unlike the USMMA Midshipmen, the SMA Cadets receive most of their sea time on these training ships, under the instruction of each school's faculty.

The maintenance and repair projects are particularly important as the training ships age and approach or exceed their designed service life. Two training ships have been in service over 50 years, which is twice the standard service life. Accordingly, MARAD is using the funds to address priority maintenance across all the training vessels, with emphasis on the Training Ship EMPIRE STATE, to ensure that they all meet safety and functional requirements and remain in service as long as necessary.

OTHER FY 2017 NDAA REQUIREMENTS

Ship Disposal Program

MARAD is responsible for the disposal of obsolete Federal Government, merchant-type vessels that are 1,500 gross tons or greater. A portion of the funds generated

²The six SMAs are: California Maritime Academy in Vallejo, California; Great Lakes Maritime Academy in Traverse City, Michigan; Texas A&M Maritime Academy in Galveston, Texas; Maine Maritime Academy in Castine, Maine; Massachusetts Maritime Academy in Buzzards Bay, Massachusetts; and State University of New York (SUNY) Maritime College in the Bronx, New York.

by the sale of these vessels is dedicated for maritime heritage preservation, including funding the National Park Service's National Maritime Heritage Grant Program. Section 3507 of the FY 2017 NDAA established a new formula for distributing these sales proceeds to increase the amount of funds available for the NPS grant program. MARAD is prepared distribute any new funds received from ship recycling sales pursuant to this allocation. In addition, MARAD will provide a report to Congress on the management of MARAD's ship disposal program as required under Section 3507.

Workforce Plans and Onboarding

In a December 2015 audit,³ the DOT OIG made recommendations for improvements in MARAD's management controls related to workforce development and uniform policy. Sections 3519, 3520, and 3521 of the FY 2017 NDAA set deadlines for completing the actions recommended in this audit. MARAD is committed to meeting these deadlines. The MARAD Workforce Analysis, Leadership Succession Plan, and Strategic Human Capital Plan are currently being updated. MARAD expects completion of this requirement by the deadline set in the FY 2017 NDAA. MARAD has performed the review related to new hire orientation, training, and misconduct, and the OIG recommendation regarding onboarding policies and procedures was closed on January 10, 2017.

Drug and Alcohol Policy

In compliance with Section 3520 of the FY 2017 NDAA, MARAD has reviewed its drug and alcohol policies, developed training, and established a system to track training sessions. The OIG recommendation to address these issues was closed on August 1, 2016.

Vessel Transfers

As recommended by the OIG, MARAD conducted a review and revised its Vessel Transfer Office (VTO) procedures to reflect the current range of VTO responsibilities and processes. This recommendation was closed on May 10, 2016. In accordance with Section 3521 of the FY 2107 NDAA, MARAD will submit a report to Congress in September 2017 detailing the updated VTO procedures to process vessel transfer applications.

DOT and MARAD are committed to implementing the changes outlined in the NDAA and we intend to build upon the improvements that have been made in recent years. We appreciate the support this Subcommittee has provided and look forward to working with you to ensure the Maritime Administration's progress.

Thank you for your interest, and I am happy to answer any questions you may have.

The CHAIRMAN. Thank you, sir.

Next we have Rear Admiral James Helis, Superintendent, the United States Merchant Marine Academy.

Welcome, Admiral.

STATEMENT OF REAR ADMIRAL JAMES HELIS, U.S. MARITIME SERVICE SUPERINTENDENT, UNITED STATES MERCHANT MARINE ACADEMY

Admiral HELIS. Thank you, Senator. And good afternoon, Chairman Fischer, Ranking Member Booker, and members of the Subcommittee. Thank you for the opportunity to testify on the implementation of the recent Maritime Administration reauthorization bill's measures affecting the United States Merchant Marine Academy.

The Academy's mission is to educate and graduate licensed merchant mariners and leaders of exemplary character to serve our Nation's marine transportation and national security needs. The Academy attracts quality young men and women who meet rig-

³Office of Inspector General. 2015. Report Number ST-2016-011. Audit report: Weaknesses in MARAD's management controls for risk mitigation, workforce development, and program implementation hinder the agency's ability to meet its mission.

orous admission standards. They demonstrate superior character and leadership qualities to complement a strong academic record.

In compliance with the Fiscal Year 2017 NDAA, I will post a public profile of each class's demographics by state, country, gender, race, and ethnicity, and prior military service this August. I'm glad to say that in recent years, the quality and diversity of our incoming classes have improved considerably, which feeds into our efforts to build a healthy, respectful campus culture.

This culture is an important dynamic that supports my top priority, of ensuring the Academy is a safe learning environment for all students. This committee has also made this a priority, and several requirements of the Fiscal Year 2017 NDAA addressed the prevention of sexual assault, sexual harassment, and other coercive behaviors on campus and during Sea Year training.

Sexual assault and sexual harassment are unacceptable behaviors at any institution of higher education, especially one committed to developing our Nation's future leaders. To that end, we have taken a number of aggressive steps since 2012 to address the problem.

In Fiscal Year 2012, the Merchant Marine Academy hired its first Sexual Assault Response Coordinator, or SARC, and established a 24/7 victim hotline. The Academy also works closely with a local victim advocacy agency to provide another confidential reporting option.

We have beefed up mandatory training for our faculty, staff, and midshipmen on sexual assault, sexual harassment, dating violence, stalking, and bystander intervention. We also have implemented recommendations made by the Department of Transportation's Inspector General in Fiscal Years 2013 and 2014 after a thorough evaluation of the Academy's Sexual Assault Prevention and Response program.

In addition, a campus cultural study commissioned by the Department of Transportation in 2016 generated more valuable recommendations that are also being implemented.

The Defense Manpower Data Center continues to administer a Gender Relations Survey and conduct focus groups across our campus. While we've made progress in increasing midshipmen awareness and understanding of sexual assault and sexual harassment, we are extremely disappointed that the surveys show we are not seeing a decrease in the number of incidents.

In 2016, we redoubled our efforts by recognizing that the core issue is the culture of the Academy and providing a safe learning environment which values and respects every midshipman and allows them to develop into exemplary leaders.

Additionally, this past fall, we created a Sexual Assault Prevention Response Office, or SAPRO, and we are hiring two victim advocate educators and a Sea Year coordinator to plan and execute training for victim services and prevention.

A special team of staff, faculty, and midshipmen participated in a cultural change conference in February 2017 and are now drafting a comprehensive campaign to transform the Academy's culture. Another committee is working to overhaul all Sea Year policies and training.

Other actions this past year include vetting maritime companies through a MARAD Shipboard Climate Compliance Team to enact standards preventing sexual assault and harassment from happening at sea.

All of our efforts are focused on building a community with zero tolerance for sexual assault, sexual harassment, retaliation, bullying, hazing, coercion, victim blaming, and alcohol misuse and abuse. We know that our leadership, staff, faculty, and midshipmen must work together to eliminate these behaviors and hold those who violate Academy standards accountable.

I have a very personal stake in solving this problem, as my own experience in assisting victims of sexual assault dates back to the 1990s when I served in the Army as a battalion commander. I know firsthand from working with victims the lifelong harm these crimes inflict. It undermines unit readiness and cohesion and hurts our ability to accomplish our mission. As a Federal service academy, the U.S. Merchant Marine Academy should be setting an example for eliminating sexual assault and sexual harassment. Anything less is a failure on our part.

The work we've done to improve sexual assault prevention and response also addresses one requirement the Academy must meet for reaccreditation. In June 2016, the Middle States Commission on Higher Education placed the Academy in a warning status for not meeting 5 of their 14 standards of accreditation. As detailed in my written testimony, the Academy is taking actions to correct the deficiencies identified by Middle States, and we submitted a required report on our progress to them on March 1. The Academy remains fully accredited as we work to address the recommendations made by Middle States, and we anticipate their next final report in July.

Thank you for inviting me to testify today. I ask that my written statement be entered into the record. I appreciate your interest and continued support for the Academy and will be happy to answer any questions you may have. Thank you.

[The prepared statement of Admiral Helis follows:]

PREPARED STATEMENT OF REAR ADMIRAL JAMES HELIS, U.S. MARITIME SERVICE
SUPERINTENDENT, UNITED STATES MERCHANT MARINE ACADEMY

Good afternoon, Chairwoman Fischer, Ranking Member Booker and members of the Subcommittee. Thank you for the invitation to testify on issues under the jurisdiction of the Maritime Administration, with an emphasis on the implementation of recent statutory requirements and the examination of topics relevant to upcoming reauthorization bills. This testimony will cover the implementation of the recent MARAD reauthorization bill's measures affecting the U.S. Merchant Marine Academy (USMMA or Academy).

The mission of the Academy is to educate and graduate licensed merchant mariners and leaders of exemplary character who will serve America's marine transportation and defense needs in peace and war. Each year the Academy graduates highly-qualified U.S. Coast Guard (USCG) credentialed mariners committed to serving the Nation as officers in the Armed Forces and the Merchant Marine.

The Academy provides a comprehensive four-year leadership development experience. All graduating Midshipmen will receive a Bachelor of Science degree, a USCG-issued Merchant Marine officer's license, and a commission in an Active or Reserve Component of one of the Armed Forces. They can meet their service obligation in one of two ways: twenty to twenty-five percent will choose to serve five years on Active Duty as an officer in any branch of the Armed Forces, while the remaining majority of the class will sail for five years as a Merchant Marine officer on US-flagged commercial ships or with a Federal agency, which can include the Military Sealift Command or the National Oceanographic and Atmospheric Administration.

The Academy's mission begins with the men and women who pass through its gates in late June to begin their four-year journey. The Academy has a highly competitive and selective admissions process. Candidates must have a strong academic record and demonstrate superior character and leadership potential through their participation in co-curricular activities, athletics, and community service. They must meet rigorous medical and physical fitness qualifications for military service. And they must receive a nomination from a Member of Congress or qualify for one of fifty direct appointments by the Secretary of Transportation by demonstrating qualities deemed to be of special value to the Academy.

My top strategic priorities for the Academy are preventing sexual assault and sexual harassment and other coercive behaviors, reaccreditation by the Middle States Commission on Higher Education (MSCHE), continuing our work to modernize and renovate campus infrastructure and facilities, and strengthening Midshipmen leadership development. I will focus my testimony today on the actions which the Academy has taken on meeting the requirements of the National Defense Authorization Act for Fiscal Year 2017, P.L. 114–328, (FY 2017 NDAA) to address sexual assault and harassment.

The FY 2017 NDAA requires that the superintendent post a public profile of each class' demographics by state, country, gender, race and ethnicity, and prior military service. The USMMA will post this report on the Academy's website by August. I believe that enhancing the diversity of the Regiment of Midshipmen will strengthen our efforts to improving the campus culture, which in turn is critical to eliminating sexual assault, sexual harassment, and other coercive and unacceptable behaviors. Over the past six years the quality and diversity of the incoming classes has improved considerably. Comparing the classes of 2014 and 2020, the most recently admitted, we saw the mean score on the Scholastic Aptitude Test improve from 1215 to 1280. The percentage of women admitted rose from 12.9 percent to 19.7 percent. Admission of individuals who represent racial minorities similarly rose from 15.2 percent to 24 percent. Other indicators of the quality of our incoming candidates include class rank and grade point average, as well as candidates who have held key leadership positions in student government, athletics, and co-curricular and community activities. We are pleased with the progress we are making and expect to see continued improvements in the quality and diversity of future classes.

Sexual assault and sexual harassment are unacceptable behaviors that have no place at any institution of higher education, especially one committed to developing our Nation's future leaders. I am committed to the elimination of sexual assault and harassment on our campus and improving the environment at the Academy so that victims are comfortable reporting all incidents and they are confident that Academy personnel will respond appropriately to reported incidents. The steps we have taken since 2012 to address sexual assault and harassment are included in our annual reports to Congress. We welcomed an evaluation of our programs by the Department of Transportation's (DOT) Inspector General in FY 2013 and FY 2014, which provided another set of eyes on our programs and useful recommendations which we have implemented. In addition, the FY 2017 NDAA requires the DOT Inspector General to report, by March 31, 2018, on the effectiveness of the sexual assault and sexual harassment prevention and response program (SAPR) at the Academy. As required in the NDAA, the Defense Manpower Data Center continues to administer the Service Academy Gender Relations Survey in even numbered years, and conducts focus groups with Midshipmen, staff and faculty in odd-numbered years as they do for the other four Federal Service Academies. The next focus group study will be conducted in 2017. Additionally, the results of the study commissioned by the Department of Transportation in October 2016 on the Academy culture have been reviewed, and we are incorporating the suggestions across campus.

I am personally committed to solving this problem. My experience in assisting victims of sexual assault dates to the 1990s when I served in the Army as a battalion commander. I know from working firsthand with victims the immeasurable, lifelong harm these crimes inflict, and how they undermine unit readiness and cohesion. Sexual assault and harassment are fundamentally at odds with our values as a Nation—values that we are obligated as leaders to live by, model, and expand on. They undermine our ability to accomplish our mission. The USMMA, a Federal service academy, should be setting the example for the Nation in eliminating sexual assault and sexual harassment. Anything less is a failure on our part.

At the Academy, we established a multi-disciplinary Sexual Assault Review Board (SARB), which meets monthly, to provide executive oversight and procedural guidance for the SAPR program by reviewing ways to improve processes, system accountability and victim access to quality services. The SARB has implemented standard operating procedures entitled "Investigating an Unrestricted Report of

Sexual Assault; Processing a Restricted (confidential) Report of Sexual Assault; and, Maintenance of Restricted and Unrestricted Reports.”

In FY 2012, USMMA hired its first Sexual Assault Response Coordinator (SARC). The SARC resides at the Academy, and is available to Midshipmen 24/7 through a victim hotline. Victims are provided with information and referrals, and assistance in obtaining any necessary medical or mental health treatment at the Academy or at an appropriate facility in the local community and/or victim advocacy agency. Victims have access to confidential (also known as restricted) reporting through the SARC, Health Clinic counseling staff, the Chaplain and a small number of specially trained staff and faculty victim advocates. The Academy works closely with the local victim advocacy agency to provide an additional confidential reporting option. A victim may also make an unrestricted report, which will result in the initiation of a criminal and administrative investigation.

The SARC, working with the Superintendent, Commandant and Dean of Academics, has significantly improved training across the Academy aimed at the prevention of sexual assault and sexual harassment. Faculty and staff receive mandatory training annually. Incoming Midshipmen receive mandatory training in the first three weeks in small group settings (20–25 midshipmen per training) covering the topics of sexual assault, sexual harassment, dating violence, stalking, and bystander intervention. Beginning with the Class of 2019, we increased training to three hours from the one hour that previous classes received. The SARC and Commandant continue to provide quarterly training throughout each Midshipman’s academic career in both small and large group settings. To meet the NDAA’s requirements for awareness training programs, the SARC and the Department of Professional Development and Career Services provide special training sessions prior to departure for Sea Year (sophomores spend four months at sea and juniors spend eight months at sea). Training focuses on where to seek help or assistance (captain, designated person ashore, SARC’s 24/7 hotline), situational awareness, risk reduction, and bystander intervention. In 2016, the Academy adopted the Green Dot Bystander Intervention Program, which teaches students to identify volatile situations in which there could be the possibility of sexual violence and to defuse those situations through diversion or distraction. In addition, the SARB recently decided to increase our training on sexual assault and proper conduct for Midshipmen prior to their departure for sea training this summer.

Our survey results since 2012 indicate that Midshipmen have much better awareness and understanding of sexual assault and sexual harassment, and appreciate the commitment of everyone from the Secretary of Transportation through MARAD, the Academy’s senior leadership, and Midshipmen Regimental officers to eliminate this scourge from the Academy. We are extremely disappointed that we are not seeing a decrease in incidents in the survey results. In 2016, we redoubled our efforts to address this problem.

As a first step, we analyzed the available data and feedback from the Advisory Board and our own conversations with Midshipmen. It became clear to me that we needed to more closely examine the Sea Year and its potential effects, as that is the component of our program that sets USMMA apart from the other Federal service academies. MSCHE affirmed this concern in their report last year, highlighting a need for the USMMA to address the issues of sexual assault and harassment at sea and on campus. After further analysis and discussion among the senior leadership at USMMA, MARAD, and DOT, as MARAD Executive Director Joel Szabat discussed in his testimony, former Secretary Foxx decided to stand down Sea Year training until procedures were in place to better assure a safe climate for our Midshipmen. The combined efforts of USMMA, MARAD, DOT, and industry and labor resulted in the certification process described by Mr. Szabat, which we have now implemented.

In addition to the Sea Year stand down, Secretary Foxx directed a deep dive into USMMA culture to identify other factors that could be contributing to our challenges with sexual assault and harassment and other unacceptable behaviors. The study has provided useful analysis that will inform our way forward.

We have implemented policies and programs based on best practices adopted in the military and higher education, including procedures for disciplinary action. However, we have not seen the results we desire or expect. The core issue we must address—that we are now addressing—is the very culture of USMMA. We must take actions to transform the USMMA culture such that every Midshipman is respected, valued, and can develop to her or his fullest potential to serve the Nation as a leader of exemplary character. The entire USMMA community must have zero tolerance for sexual assault and sexual harassment, retaliation, bullying, hazing, coercion, victim blaming, and alcohol misuse/abuse. Leadership, staff, faculty, and Midshipmen must all unite to eliminate this behavior and support victims, and hold

those who violate Academy core values and standards accountable for their actions, when incidents take place.

In the fall of 2016, we determined that the work related to managing USMMA's sexual assault prevention and response program had become more than one individual could reasonably handle. Accordingly, we created a Sexual Assault Prevention and Response Office (SAPRO) and are converting the SARC position, which became vacant in December 2016, to a SAPRO director. We are hiring two Victim Advocate-Educators who will assist the SAPRO director in planning and executing training and providing victim services. We have also added a Sea Year coordinator to the SAPRO.

Additional steps we have taken over the past six months include a reintegration program for Midshipmen when they return from sea and the addition of mandatory online interactive sexual assault and alcohol abuse prevention training. A special team made up of staff, faculty, and Midshipmen participated in a cultural change conference at the United States Air Force Academy in February 2017 and are now drafting a comprehensive campaign plan to transform USMMA culture. The Deputy Superintendent led an effort which has produced a comprehensive and integrated Sexual Assault Prevention and Response Framework. A committee also has begun work to overhaul Sea Year policies and all training in preparation for Sea Year.

In addition to the efforts to improve the Sea Year training experience, the USMMA has developed a comprehensive plan to reduce sexual assault and sexual harassment on campus. The USMMA SAPR Program has significantly improved training across the Academy aimed at the prevention of sexual assault and sexual harassment, including online prevention training, case studies, videos, social media, professional speakers and small groups. Actions taken by the USMMA have included installation of new emergency call boxes and security cameras, improvement of the security guard force, implementation of a 24/7 hotline for reporting inappropriate behaviors, and victim assistance in obtaining medical or mental health treatment. Efforts will continue to improve upon the SAPR Program as the USMMA implements recommendations from the cultural audit and responds to feedback from Midshipmen.

The Academy's work to improve sexual assault and sexual harassment prevention and response addresses one of the recommendations made by MSCHE, which accredits the Academy's academic degrees. In June 2016, MSCHE placed USMMA in a warning status because USMMA was not meeting five of MSCHE's fourteen standards of accreditation. We are presently taking action to meet the requirements identified by MSCHE to be granted full accreditation. Actions taken over the past year include MARAD's establishment of the Maritime Education and Training Executive Review Board, which serves as a formal governing and oversight body for USMMA; requesting and receiving relief from Congressional legislation constraining the Academy's budget during the interim Continuing Resolution period; developing templates for budget development and tools for linking resources with the Strategic Plan.

Thank you for inviting me to testify today. I appreciate your interest and continued support for the Academy and will be happy to answer any questions you may have.

The CHAIRMAN. Thank you, Admiral.

Next we have Mario Cordero, the Commissioner, Federal Maritime Commission. Mr. Cordero has been a Commissioner on the FMC since 2011 and served as Chairman from April 2013 till January 2017.

Welcome, sir.

**STATEMENT OF HON. MARIO CORDERO, COMMISSIONER,
FEDERAL MARITIME COMMISSION**

Mr. CORDERO. Chairman Fischer, thank you, Ranking Member Booker, and members of the Subcommittee. Thank you for providing me this opportunity to appear before you today.

As noted, President Obama designated me to serve as Chairman of the Commission on April 1, 2013, and I had the honor to serve in that role for nearly 4 years. I wish to congratulate my colleague, Michael Khouri, on his recent appointment as Acting Chairman of the Federal Maritime Commission earlier this year.

During my time as Chairman, the FMC navigated the Hanjin bankruptcy, the implementation of the VGM container weight issue, and aggressively advocated for the maritime industry on high-level trade talks, and engaged in rulemaking that protected the American shipping consumer and streamlined rules to promote competition. Importantly, we also investigated and/or monitored port congestion, demurrage and detention, and carrier alliances and consolidation. I thank you for your support throughout my tenure.

I will touch upon four topics today: the current state of the industry, the alliance agreements, the supply chain, and other issues of relevance to U.S. exporters and importers, and the American shipping consumer.

First, the industry. The international shipping community has experienced some dramatic challenges in the last decade. These challenges have been twofold. First, in 2008, the economic global recession and its severe impact on the international maritime transportation carriers, who continue to struggle with unsustainable transportation rates.

Second, what many today regard as a geopolitical recession as a result of the global dialogue on protectionism and isolationism. Today, international trade is an integral part and a critical part of the U.S. economy. More than one-third of our Nation's GDP is tied to global commerce, and this figure is only predicted to become more significant in the coming years.

Ocean transportation of goods and commodities is the backbone of our trading system. Indeed, 90 percent of world trade is transported by shipping lines. Each of us, as consumers or investors, benefit from the competitive marketplace the Commission works to maintain.

In the last decade, we have seen the rise of very large container vessels, that is, vessels that exceed 10,000 TEUs, to more than 398 in the current worldwide fleet as of April 2017, which includes 20,000 TEU vessels. Our investments in maritime infrastructure have slowly tried to match that growth. We must invest in ports to remain competitive, plain and simple.

Although we acknowledge the importance of trade in the American economy, and the obvious imbalance of the export-import question, we still need to realize that our export growth is dependent on the global consumer.

For example, recent reports indicate that U.S. exports of beef, pork, oil, gas, and LNG have grown consistently in the last few years. Within the next 3 years, the U.S. may be the largest exporter of LNG. Overall, containerized exports grew, and the value of exports transported by vessel in 2016 was in excess of \$475 billion.

Perhaps the most significant development in the international shipping industry is carrier consolidation. In 2011, the year I commenced my service here at the FMC, there were approximately 21 major global water transportation carriers. Today, essentially we have 13, and next year, 2018, this may be down to 10, which will account for 70 percent of the containerized global capacity, each belonging to one of the three alliances that commenced in April of

this year: the 2M, the OCEAN, and THE ALLIANCE. Frankly, I am not sure we have seen the end of carrier consolidation.

An alliance agreement between carriers, which requires a filing with the Federal Maritime Commission, essentially is a vessel-sharing agreement. Motivated by economies of scale, the carriers focus on achieving cost savings given the challenge of securing sustainable transportation rates. The vessel-sharing alliance concept is not a new concept. However, the current level of debate and scrutiny within the industry commenced when the three largest carriers—Maersk, Mediterranean Shipping Company, and CMA—CGM—filed the P3 agreement back in October 2013. That filing began what I term as the second generation of alliances.

The P3 agreement was eventually withdrawn by the parties. However, the two largest carriers, Maersk and MSC, subsequently filed and moved forward as the 2M alliance and thus commenced the rush to achieve economies of scale by the major water transportation carriers.

A question for the maritime shipping community and the supply chain is, what will be the impact of these second-generation alliance? I believe it will be in cost savings and efficiencies. For the carriers, cost savings is a paramount concern, especially given the need for investment in cutting-edge technology.

To be clear, I am a supporter of the alliance model. However, legitimate concerns by stakeholders do remain. These second-generation alliances have introduced us to the concept of operation centers, information sharing, and joint contracting. The last two concepts have been raised as serious concerns by some stakeholders in the shipping community because of the potential of anticompetitive behavior.

In addition to the formation of new alliances, we have witnessed generational changes in the shipping industry, including carrier acquisition, consolidations, bankruptcies, and joint ventures. The international shipping industry will continue to evolve, whether as to structure, service delivery, or cost-saving efficiencies.

Finally, I want to discuss industry progress on the incorporation of technology, another way in which our industry partners have tried to save costs. Both Amazon and Alibaba are starting to establish themselves as movers of cross-border freight. Indeed, earlier this year, Amazon announced its intention of becoming an NVOCC. This is not to say that they are going to own or operate vessels, but, rather, they will aim to increase buying power with the ocean common carriers. I note that many ocean common carriers are maintaining close links to cloud-based supply chain specialists like INTTRA, GT Nexus, and CargoSmart, who were all early adapters of e-commerce.

Currently, much of the focus on technology in containerized trade is in tracking logistics, such as real-time information on container movements. I believe this year will see an escalation in the number of digital and e-commerce applications designed to provide more visibility and transparency in the movement of containerized freight and implementing cost-effective solutions in the supply chain.

Earlier this year, the *Journal of Commerce* reported that Maersk and IBM are teaming up to digitize the global container supply

chain using blockchain technology to improve efficiency and cost. This technology will result in enhancing visibility in container transport. In addition, both Maersk and CMA–CGM have moved to partner with e-commerce entity Alibaba to integrate transportation and logistics. Actions such as these can reduce cost and improve the reliability of supply chain systems. In sum, many believe we are on the course of the fourth industrial revolution, which essentially is the acceleration of the implementation of technology and digitalization in a rapidly changing industry.

The supply chain has been a central focus for the Federal Maritime Commission for several years now. More efficient supply chains increase not only the volume of trade by lowering the cost of goods, but it also increases the distances over which these goods can be transported. We noted in our——

The CHAIRMAN. Commissioner, I would ask you to wrap it up, please.

Mr. CORDERO. Yes, Madam Chairman.

So in summation, as we noted in our congestion study in 2015, this industry is rapidly evolving, and there are certainly concerns with regard to congestion and mitigating congestion. And in that regard, I'll be happy to answer any questions that the Committee may have. So thank you so much for your time.

[The prepared statement of Mr. Cordero follows:]

PREPARED STATEMENT OF HON. MARIO CORDERO, COMMISSIONER,
FEDERAL MARITIME COMMISSION

Chairman Fischer, Ranking Member Booker, and Members of the Subcommittee, thank you for providing me with this opportunity to appear before you today.

President Obama designated me to serve as Chairman of the Commission on April 1, 2013. I had the honor to serve in that role for nearly four years. I congratulate my colleague, Michael Khouri, on his appointment as Acting Chairman of the FMC earlier this year. During my time as Chairman, the FMC navigated the Hanjin bankruptcy, the implementation of VGM (the container weight rule), aggressively advocated for the maritime industry in high-level trade talks, and engaged in rulemakings that protected the American shipping consumer and streamlined rules to promote competition. Importantly, we also investigated and/or monitored port congestion, demurrage and detention, and carrier alliances and consolidation. I thank you for your support throughout my tenure.

I will touch upon four topics today: the current state of the industry, alliance agreements, the supply chain, and other issues of relevance to the U.S. exporters, importers, and the American shipping consumer.

First, the industry. The international shipping community has experienced some dramatic challenges in the last decade. These challenges are twofold: first, the 2008 economic global recession and its severe impact on the international maritime transportation carriers who continue to struggle with unsustainable transportation rates; and second, what many today regard as a geopolitical recession, as a result of the global dialogue on protectionism and isolationism. Today, international trade is an integral and critical part of the U.S. economy. More than one-third of our Nation's GDP is tied to global commerce and this figure is only predicted to become more significant in the coming years. Ocean transportation of goods and commodities is the backbone of our trading system. Indeed, 90 percent of world trade is transported by shipping lines. Each of us, as consumers or investors, benefit from the competitive marketplace the Commission works to maintain. In the last decade, we have seen the rise of Very Large Container Ships (VLCS)—vessels of 10,000 TEUs or more—to more than 398 in the current worldwide fleet as of April 2017, which includes 20,000 TEU vessels. Our investments in maritime infrastructure have slowly tried to match that growth. We must invest in ports to remain competitive—plain and simple.

Although we acknowledge the importance of trade to the American economy, and the obvious imbalance on the export-import equation, we still need to realize that our export growth is dependent on a global consumer. For example, recent reports

indicate that U.S. exports of beef, pork, oil, gas, and LNG have grown consistently in the last few years. Within the next three years the U.S. may be the third largest exporter of LNG. Overall, containerized exports grew, and the value of exports transported by vessel in 2016 was in excess of \$475 billion.

Perhaps the most significant development in the international shipping industry is carrier consolidation. In 2011, the year I commenced my service at the FMC, there were 21 major global water transportation carriers. Today, we essentially have 13 carriers accounting for 70 percent of containerized global capacity with each belonging to one of three alliances that commenced in April of this year: 2M, OCEAN, or THE ALLIANCE. Frankly, I am not sure we have seen the end of carrier consolidation.

An alliance agreement between carriers, which requires a filing with the FMC, essentially is a vessel sharing agreement. Motivated by economies of scale, the carriers focus on achieving cost savings given the challenge in securing sustainable transportation rates. The vessel sharing alliance concept is not new. However, the current level of debate and scrutiny within the industry commenced when the three largest carriers—Maersk, Mediterranean Shipping Company (MSC), and CMA-CGM—filed the P3 vessel sharing agreement with the Commission in October 2013. That filing began what I term as the second generation of alliance agreements. The P3 agreement was eventually withdrawn by the parties. However, the two largest carriers, Maersk and MSC, subsequently filed and moved forward as the 2M Alliance and thus commenced the rush to achieve economies of scale by the major global water transportation carriers.

A question for the maritime shipping community and the supply chain is what will be the impact of the second generation of alliances? I believe it will be in cost savings and efficiencies. For the carriers, cost saving is a paramount concern, especially given the need for investment in cutting-edge technology. To be clear, I am supportive of the alliance model. However, legitimate concerns by stakeholders do remain. These second-generation alliances have introduced us to the concepts of operations centers, information sharing, and joint contracting. The last two concepts have been raised as serious concerns by stakeholders in the shipping community because of the potential for anticompetitive behavior.

In addition to the formation of new alliances, we have witnessed generational changes in the shipping industry, including carrier acquisitions, consolidations, bankruptcies, and joint ventures. The international shipping industry will continue to evolve, whether as to structure, service delivery, or cost-saving efficiencies.

Finally, I want to discuss industry progress on the incorporation of technology, another way in which our industry partners have tried to save costs.

Both Amazon and Alibaba are starting to establish themselves as movers of cross-border freight. Indeed, earlier this year, Amazon announced its intention of becoming an NVOCC. That is not to say that they will own or operate vessels, but rather that they will aim to increase buying power with ocean common carriers. I note that many ocean carriers are maintaining close links to cloud-based supply chain specialists like INTTRA, GT Nexus and CargoSmart who were all early adapters to e-commerce.

Currently, much of the focus on technology in containerized trade is in tracking logistics, such as real time information on container movements. I believe this year will see an escalation in the number of digital and e-commerce applications designed to provide more visibility and transparency in the movement of containerized freight and implementing cost-effective solutions in the supply chain. Earlier this year, the JOC reported that Maersk and IBM are teaming up to digitalize the global container supply chain—using block chain technology to improve efficiency and cost. This technology will result in enhancing visibility in container transport. In addition, both Maersk and CMA-CGM have moved to partner with e-commerce entity Alibaba to integrate transportation and logistics. Actions such as these can reduce cost and improve the reliability of supply chain systems. In sum, many believe we are on course to the fourth industrial revolution—the acceleration of the implementation of technology and digitalization in a rapidly-changing industry.

The supply chain has been a central focus of the FMC for several years now. More efficient supply chains increase not only the volume of trade by lowering the cost of goods, but it also increases the distances over which those goods can be transported. We noted in our congestion study in 2015 that in many ways, “the elimination of congestion is today’s most critical and relevant trade-related issue.” As Chairman, I launched an initiative to address congestion in three phases. The first phase, beginning in September 2014, was the port forums which were held on the U.S. West Coast, the mid- and north Atlantic coast, the south Atlantic ports, and the Gulf Coast ports. These one-day listening sessions were each led by at least one Commissioner, and served as an opportunity for the FMC to hear firsthand the

problems that ports, their customers, and other partners in the U.S. intermodal system were facing that were related to port congestion, including detention and demurrage issues. Our takeaway from those forums was that we need to look beyond the docks, at the entire supply chain, and find common ground amongst the various players in the chain. Our second phase was the detention and demurrage study issued in April 2015, and the congestion study issued in July 2015. Finally, with the issue of port metrics on the minds of legislators, we launched the last phase in February 2016: our Supply Chain Innovation Team initiative, led by Commissioner Dye. During that phase, we brought together industry leaders to work on teams to develop process innovations that will improve the reliability, resilience, and competitiveness of America's global supply chain. The teams announced in December 2016 that critical information delivered to supply chain actors via a national portal will improve port performance and increase American economic competitiveness. This national portal will further the goal of collecting data on port metrics.

Finally, more than a year ago, I testified before your House counterpart on the paramount concern of having a well-funded and resourced FMC. I explained then that the Commission's statutory mandate to regulate the international ocean transportation system for the benefit of domestic exporters and importers is ever more important in the second decade of the 21st century. I stand by that testimony today. Further, I believe that the Commission's authorities need to be improved and updated to match the current state of the industry. Our monitoring responsibilities under the Shipping Act are crucial today, and I appreciate that the Committee has taken an interest in the FMC in that regard. I look forward to seeing what is included in the authorization bill, and would be happy to provide you with further insight.

Thank you, again, for inviting me to testify. It has been a pleasure to work with you on matters of mutual concern over these many years, and I want to thank you again for your support. It has been an honor to serve the people of the United States, to advance the stature of the Commission, and to protect the American shipping public. I am grateful for my time at the FMC.

The CHAIRMAN. Thank you very much, sir. Appreciate that.

Chairman Khouri, in your written testimony, you mentioned that the FMC is expanding its team of economic analysis to increase capacity to review and monitor the three major ocean carrier alliances. Can you elaborate on some of the ways that the FMC conducts that continuous monitoring of the agreements?

Chairman KHOURI. Yes, Chairman. In several different ways. First, when the newer agreements are coming in, we have been much more strict, much more aggressive, in tightening the terms of the agreements' various authorities, meaning that if they want to come back and do something different, they have to come back with an amendment. So the terms themselves have become much tighter.

The monitoring is where we would be looking at things like once every 45 days or 3 months, and with a period of time following, that they would report on TEU—or excuse me—container boxes along trade lanes, volumes, rates that have been charged, a number of different operational pieces. It has been brought down to they have to report every 30 days, promptly afterwards so that we can keep a very tight watch on what other exogenous events may be happening in the world economy, what's happening to the rates within each member of each alliance.

We're also very much interested in the decisionmaking as to capacity. So the alliances, there's a part of an alliance operation that has to have some capacity rationalization. In other words, if they're operating at 70 percent load rate, something is going to have to give, they're going to take a ship out. But do you also have each member of the alliance making independent decisions about bringing equipment in outside of the alliance operation or taking it back

out outside of the alliance operation? And is pricing continuing to be clearly independent? These are the type of things that we're monitoring on a very close basis to make sure——

The CHAIRMAN. And as you monitor, what do you do then with all the data you're collecting? Because it's continuous. So do you issue orders? Do you react to it? What do you do with it all then?

Chairman KHOURI. Well, as long as we continue to see every indicia of an open, free, and competitive marketplace, then there is nothing for us to do. It is if we start seeing—for instance, right now, there is overcapacity in all of the trades. If we started seeing a rise in rates that didn't make any sense as to the larger capacity overhang, then we would say something is not right here, we would go in and do more strict investigation——

The CHAIRMAN. You could investigate and ask questions. OK.

Chairman KHOURI. And let me emphasize, we have not seen that.

The CHAIRMAN. Great. Thank you.

Chairman KHOURI. So thank you.

The CHAIRMAN. Commissioner Dye, with few exceptions, the United States has been, I think, pretty slow to adopt autonomous technologies at our port terminals. And this is in contrast to ports such as Rotterdam and also Sydney's Patrick Terminal, which I was fortunate to visit last year. Given your work to enhance supply chain efficiency, do you think that the autonomous infrastructure technologies at our nation's ports would contribute to faster freight flows and have less bottlenecks?

Ms. DYE. Yes. Thank you, Chairman Fischer. Businesses all over the world are moving to digitize their businesses. I just finished a book called "Data-ism," which describes this move. Suddenly technology has caught up with the ability for us to aggregate data. And I was fortunate enough to get a briefing of the new Maersk system using IBM blockchain, and that's just one of the moves by our ocean carriers to move forward in digitizing their supply chain business.

More and more of our ports are moving, as you know, to appointment systems to try to control the supply chain obstacles at the gates. It's expensive. And so, company-by-company, they're making their decisions based upon their ability to invest.

We see our project as being able to hook up to each port's information infrastructure. We wouldn't compete with their technologies, and they would continue to offer those sorts of systems on their own, and compete on those for business. So I think all of this has moved to the maritime industry finally, and it's a very good sign. Thank you.

The CHAIRMAN. Thank you very much.

Senator Booker.

Senator BOOKER. Thank you very much. Appreciate that. I literally just went on my Amazon and pulled up that book. Thank you for the recommendation.

And, Mr. Cordero, just in case I forget, I want to just say publicly how much we appreciate your service to our country. I know this is going to be your last Senate hearing, or at least in this capacity, and I'm very grateful for your service.

Mr. CORDERO. Thank you, Senator.

Senator BOOKER. And Rear Admiral Helis, I'm really—your testimony was very thorough, both written and—so I would like to drill down a little bit deeper obviously on the issues of sexual harassment. I'm grateful for your commitment to dealing with this issue.

Let's just jump right to the issue of culture change that you talked about, which I think is one of the challenges that we have. We still have a problem, not only with the data that you're collecting about the existence of sexual harassment, but even the issue of people feeling comfortable enough to report that. And you've implemented a lot of changes to try to address reporting.

I want to know, what kind of sort of responses are you getting from students? What are the changes that you think that are creating a more open environment? And then ultimately that 2017 report that you mentioned in your testimony, do we need to do anything as a Congress to support the resources you might need for any report issues that need to be implemented?

Admiral HELIS. Senator Booker, thank you for the question. To the last, we're appreciative of the support that the Congress is providing us in dealing with this very important issue.

In terms of the culture change and how people are taking to it, I mentioned we sent a team to the Air Force Academy in February for an all academy conference on culture change to address the problem. That was a staff and faculty event. When they returned, they began organizing into a committee for developing a culture change plan. They received many midshipmen volunteering to step into it. So we have some senior—rising senior midshipmen who are involved. They are involved in socializing the plan and the ideas amongst the regiment, and we're getting good feedback, good participation, from the midshipmen.

The focus of the culture plan I would put into two areas. One is institutional pride and the second is treating everyone with dignity and respect, which would go along with being an institution in which we have pride. The challenge is that the behaviors are in a way tolerated, and that's why you don't see the reporting, you see instances of shunning or ostracism of reporters, of victims who report. The evidence so far, early it's anecdotal, but this year, this academic year, we've seen an uptick in restricted reports, which are the confidential reports, and so that we're able to provide the victims better services and have a better handle on some description of what the events are. We have also had two unrestricted reports this year, which have allowed us to investigate, and I've administered appropriate discipline based upon those reports. And those are the first unrestricted or open reports we've received since 2014.

So I think in terms of reporting, again, early, but the early evidence is in the last several months, the attention we've given to the issue, the attention we've addressed to culture, and about taking care of your classmates, your teammates, your shipmates, when they become victims seems to be taking hold. And, again, two unrestricted reports where the victims felt confident that they could come forward and report and be treated fairly and that we deal with the incident. And I can say from speaking with both of the victims, there are folks around them who are providing them support—

Senator BOOKER. I'm going to have to cut you off there.

Admiral HELIS.—classmates, teammates, coaches, members of their chain of command. So I think, again, early and anecdotal, but positive.

Senator BOOKER. OK. And I obviously look forward to hearing more as it develops. Just real quick on the accreditation challenges that you've had. I know you have a final report coming out in July. Do you anticipate needing more resources from Congress to deal with the accreditation issues?

Admiral HELIS. Senator, at this point, I would say the biggest—and again appreciation to Congress—is the progressive lifting of the financial restrictions that were imposed on the Academy about 10 years ago in lifting some of the continuing resolution, some in the full Fiscal Year 2017 budget, that has restored most of our—the normal financial operations to the Academy, the Federal agencies, and all. And that has been very critical in our dealings with Middle States because one of their concerns was the Academy having sufficient responsibility and control over processes.

I can't say what the official report is going to say. I can say that the Commissioner's visiting team told us that they found significant and substantial progress in all areas for which we were found falling short a year ago, and that those appear sustainable, we're moving in the right direction. So I was confident a year ago that we would meet the full reaccreditation requirements within time, and after the initial visit and the progress that our team at the Academy, working also with the Maritime Administration, DOT, and the support from the Congress, I am extremely confident now that we will make the reaccreditation.

Senator BOOKER. Thank you, sir. I just want to be respectful of Senator Wicker.

Admiral HELIS. Right. I understand, sir.

The CHAIRMAN. Thank you, Senator.

Senator Wicker.

**STATEMENT OF HON. ROGER F. WICKER,
U.S. SENATOR FROM MISSISSIPPI**

Senator WICKER. Superintendent Helis, I have a letter here from Paul Doell, National President of the American Maritime Officers, dated May 8, 2017. I ask unanimous consent that it be admitted into the record at this point.

The CHAIRMAN. Without objection.

[The information referred to follows:]

AMERICAN MARITIME OFFICERS
Dania Beach, FL, May 8, 2017

Hon. DEB FISCHER,
Chairman,
Subcommittee on Surface
Transportation, Merchant Marine,
Infrastructure, Safety and Security,
Washington, DC.

Hon. CORY BOOKER,
Ranking Member,
Subcommittee on Surface
Transportation, Merchant Marine,
Infrastructure, Safety and Security,
Washington, DC.

Dear Senators Fisher and Booker:

On behalf of the private sector U.S. merchant marine officers I am privileged to represent, I welcome this opportunity to comment on the prevention of sexual abuse and sexual harassment at the venerable U.S. Merchant Marine Academy at Kings Point, N.Y. This is an increasingly important issue with extensive implications—

U.S. national security among them—and I am pleased to provide relevant perspective.

Since June 2016, the Maritime Administration has on several public and private occasions discussed its strategy to curb sexual assault, harassment and abuse on the USMMA campus. MARAD has focused heavily on an ongoing reform strategy to assist victims, deter offenses and improve a USMMA “culture” said to encourage inappropriate or even illegal behavior.

We appreciate the intent, and we support completely. We do not abide such conduct within our membership ranks, and we support constructive measures to create safe, comfortable living and learning environments for USMMA cadets.

However, we are troubled by the persistent underlying premise driving this effort. MARAD has for nearly asserted that sexual assault, abuse and harassment are routine at sea in the commercial U.S. merchant fleet, that USMMA Midshipmen are influenced and corrupted by the alleged actions of the career mariners they work with while training aboard ship, and that these students return to USMMA believing that sexual misconduct is accepted and even expected on campus.

This dubious, deficient argument was used by the Department of Transportation in June 2016 to justify suspension of hands-on “Sea Year” training of USMMA Midshipmen in their sophomore and junior years.

In a senseless twist just weeks later, DOT exempted government ships from Sea Year suspension—USMMA Midshipmen were placed in the MARAD, Military Sealift Command and National Oceanic and Atmospheric Administration vessel fleets.

It is difficult to reconcile the official rationale behind Sea Year suspension with the lack of conclusive evidence supporting it.

It is also difficult to align MARAD’s position with our direct experience representing seagoing professionals licensed and vetted by the U.S. Coast Guard, including many USMMA alumni serving on both commercial and government vessels. In American Maritime Officers, there were no known cases of sexual assault and only one documented case of sexual harassment in at least the last 20 years—and, in the latter example, the proven offender was expelled from our union.

Moreover, U.S. shipping companies have strict, longstanding “zero tolerance” sexual assault and harassment policies, which are supported fully by the seagoing unions these companies employ. What makes this specific point especially noteworthy in this context is an industry consensus that the need to invoke these policies is rare.

Nor can the Sea Year suspension exemption carved out for government vessels be squared logically with the fact that many of the mariners employed on these vessels had worked previously in the commercial fleet said by MARAD to provide safe harbor for sexual predators. If a merchant mariner is inclined to sexual misconduct aboard a ship operating in domestic or international trade, is this mariner also inclined to restrain harmful impulse and check personal proclivity at the gangway when he boards a government vessel.

Ironically, the only known current or at least recent case of sexual assault at sea under the U.S. flag involved civil service Military Sealift Command employees on an MSC ship assigned to the Diego Garcia outpost in the Indian Ocean.

Today’s commercial U.S. merchant mariner workforce is comprised typically of decent, hones, responsible, well-trained and hard-working men and women of strong character. Because they live where they work during long rotations at sea, they are essentially “family,” and they treat each other accordingly.

These merchant mariners have no patience for anyone among them whose behavior compromises morale or threatens the safe and efficient operation of the vessel. Each of these mariners is aware that professional misconduct of any kind can cost them not only their credentials and careers, but also their families and friendships. Despite these qualities and the values they reflect, mariners must now endure having been stigmatized unjustly as morally unfit for work at sea.

These merchant mariners are also the first to “turn to” for strategic sealift and other military support services in defense emergencies, both for surge shipping and longer term delivery of combat equipment and day-to-day supplies to U.S. Armed Forces overseas. But their numbers are falling quickly in direct proportion to the unabated decline of the privately owned and operated commercial U.S. merchant fleet, which delivered 95 percent of defense cargoes to the war zones during Operations Enduring Freedom in Afghanistan and Operation Iraqi Freedom under the Maritime Security Program.

USMMA—the only Federal service academy with its own battle standard—is a reliable source of qualified, reliable mariners, and any interruption of training on campus or at sea would seal off this pipeline and aggravate the mariner shortage that jeopardizes U.S. mobilization capabilities.

In our view, the scandal here is not widespread sexual misconduct at sea in the commercial U.S. merchant fleet, but the unfair, fabricated perception of it. Just as there is no specific, verifiable data from within the commercial U.S. merchant fleet to support MARAD's assertions, there is no evidence to support the official argument that government vessels are safer physically and emotionally for USMMA midshipmen. Under these circumstances, we cannot help but be skeptical of official motives.

Nevertheless, we are relieved to know that Sea Year at USMMA has been reinstated at a gradual rate as it applies to the private sector American merchant fleet. But we remain frustrated by the approach taken by MARAD, and by the casual way in which the collective reputation of American merchant mariners was tarnished. Our hope now is that USMMA commencements will not be delayed and that enrollment at the Academy will not decline.

I ask respectfully that you include this letter in the official record of your hearing on Maritime Transportation: Opportunities and Challenges for the Maritime Administration and Federal Maritime Commission.

Thank you for your time and attention.

Sincerely,

PAUL DOELL,
National President,
American Maritime Officers.

Senator WICKER. Mr. Superintendent, following up on the line of questioning about sexual assault and the Sea Year stand-down last year, in this letter here, the officers aboard the commercial vessels object to the suggestion that the stand-down was somehow because a major portion of the sexual assault problem stemmed from the Sea Year program aboard commercial vessels. So I want to point out what they tell us in the letter.

In the commercial vessels, according to this letter, there were no known cases of sexual assault and only one documented case of sexual harassment in at least the last 20 years, and in that case, the proven offender was expelled from the union.

The letter also points out that the only known case of sexual harassment at sea was aboard a government-owned vessel. And so I would like for you to comment about that. And did you mean to suggest last year when you announced the stand-down that the problem in sexual assault was aboard the commercial vessels? Because I have data here that only 4 percent of midshipmen at the Academy indicated they had experienced unwanted sexual contact, and of that 4 percent, 73 percent indicated that the location of that was on Academy grounds.

So what is your response to that, Admiral?

Admiral HELIS. Senator, thank you for the question. My response to that was the intention was not at all to signal in any way that the majority of seafarers and mariners engage in sexual harassment or sexual assault. That was not the message. That never has been the message.

Senator WICKER. Well, that wasn't the allegation. The question is that the majority of the assault was taking place during the Sea Year, and I think the facts are to the contrary.

Admiral HELIS. Senator, I think I would say that whether or not the majority of the assaults occur at sea, one is too many, one is too many. And we say zero tolerance, we mean zero. And what our data told us was that a disproportionate—midshipmen spend a quarter of their time at sea, and our data told us and continues to tell us that a disproportionate number of the events occurs during the Sea Year during maritime duty.

Senator WICKER. So you dispute the preliminary 2015 and 2016 Service Academy Gender Relations Survey, which says that 73 percent occurred on Academy grounds. You dispute that, sir?

Admiral HELIS. Senator, I say that that's accurate, but that still puts over a quarter of the incidents off campus.

Senator WICKER. But isn't that contrary to what you just testified?

Admiral HELIS. Senator, I can also say that the 2016 final data results show that over a third of the incidents were reported by midshipmen to have occurred during maritime duty, and that will be in our final report to Congress, which right now is in the staffing process. But—go ahead, Senator.

Senator WICKER. Well, it seems to me that the facts are coming out at this hearing that most of the problem occurred on Academy grounds, and yet your response was to stop the Sea Year, and that seems disproportionate to me. And so I would associate myself with the comments of these American Maritime Officers. And perhaps you would like to expand further on the record.

But let me, in the 20 seconds I have left, we are told that midshipmen are being threatened with disenrollment because they haven't been able, because of your policies, to do the Sea Year. And so can you guarantee that no midshipmen will be prevented from graduating or be disenrolled or be otherwise negatively affected by their inability to acquire days at sea or complete their Sea Year?

Admiral HELIS. Senator, that's a great question, and it has been of great concern to us. And right now, we are extraordinarily confident that none of our midshipmen in the two class years, the classes of 2018 and 2019, who were affected by the stand-down, will be delayed from graduation due to a lack of sea days.

As far as the projects go, there have been no cases of midshipmen who have been disenrolled or disciplined in any way for failure to complete Sea Year projects due to either shortage of days or the vessels that they were on, for example, not having the equipment they could have to do the project. If there was a case where they were unable to perform the projects due to either days or, again, equipment on the vessel is a common occurrence that occurred before the stand-down, those projects are simply delayed, deferred, until their next sailing.

Senator WICKER. I hope that's correct. Let me ask you just briefly—and I'm imposing on the time—did the accreditation problem catch you by surprise?

Admiral HELIS. Senator, the points that the accreditation team pointed out were not a surprise to us, that we were laboring under restrictions that were imposed on our financial management, on human resources, on procurement, was not a secret to anybody. It was just—

Senator WICKER. You know, I'm on your Board, and I just hadn't heard that. It is interesting to me that this would not have been mentioned to the Board, that we could expect this coming down the pike.

Admiral HELIS. Senator, I think we were surprised that we were found in noncompliance on as many of the standards we were, that was a surprise, but we were not surprised when we looked at the reasons, the factual justification, a lack of controls and governance

being a key part of it. That was not a surprise. We knew we had difficulties with that. That was in our self-study. It had been in advisory board reports in previous years. So that components of it that they highlighted, you know, that we did not have the normal authorities expected of an institution of higher education, did not surprise us.

Senator WICKER. Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Wicker.

Senator Young.

**STATEMENT OF HON. TODD YOUNG,
U.S. SENATOR FROM INDIANA**

Senator YOUNG. Thank you, Madam Chair.

As a graduate of one of our Nation's service academies, I take the issue of sexual assault at the academies quite seriously. And it's clear we have to strive to eradicate instances of sexual assault and harassment from the academies.

Admiral Helis, Director Szabat, I'm pleased you both recognize the gravity of this situation. I'm also thankful to my colleagues, who have given due attention in this hearing, and it's clear they also take this matter very seriously.

In prior years, in the National Defense Authorization Act, Congress worked to enact certain sexual assault provisions. As this committee works on reauthorization bills, I would urge you both to dialogue with us to communicate further authorities you believe necessary to rectify this issue.

Director Szabat, in your testimony, you referenced the independent cultural audit that DOT completed in December of last year proposing six key action steps for the Academy to take. And I would like you to just give us an update on implementation of those recommendations, please.

Mr. SZABAT. Thank you, Senator. With your permission, I'll touch on the recommendation that focused mostly on the Maritime Administration. Admiral Helis will talk about the recommendations that focused on what the Academy's actions have to be.

Senator YOUNG. Certainly. Proceed.

Mr. SZABAT. The single most important recommendation, the overwhelming recommendation, that the LMI made, the department's study, was for the Maritime Administration to create standards for eligibility for commercial companies to be able to participate to employ and to train our midshipmen. This had been a policy that the Maritime Administration had actually proposed before LMI's—the study had started. So we were in a position after the study was finished in December.

In January, then Secretary Foxx told the Maritime Administration to go ahead and implement that recommendation. By February, we had those standards developed, and those standards are actually in my written testimony. I'm happy to talk about any of those in more detail that you would like to talk about.

And since then, so from February until the present, we've now had eight different companies, both some Jones Act companies, some sailing international, representing over 82 percent of our prestand-down capacity, have met those standards.

And I think also from my oral testimony, what I have found most impressive is, to Senator Wicker's point, that there were people in the industry, in fact, I would say a unanimous reaction in the industry, that they did not agree with the decision that Secretary Foxx made, that Secretary Foxx announced, for a Sea Year stand-down. But they all took the opportunity to say, as Superintendent Helis has said, that even one incident is one too many.

And rather than walking away from providing training for our cadets, which was our fear, 14 companies came back to us within 2 weeks and said, "We want to find a way to work together." And that has been the spirit that the companies and the labor unions have adopted in working with us going forward, which is why we've been able to get so much of the industry to be Sea Year eligible so quickly. And we look forward to additional companies that are applying to being accepted in the program as well.

Senator YOUNG. Thank you. In my remaining 2 minutes, Rear Admiral, could you speak to action on those recommendations, please?

Admiral HELIS. Yes, Senator, I'd be happy to. Just taking down some, we published in January an action plan with a substantial number of requirements. I'm not going to go through all of those for the sake of time. I would say broadly, building and aligning a leadership team. We're expanding the SAPRO office. We've brought on a new director of civil rights diversity to focus on those issues on campus.

As I described earlier in my testimony and in my written testimony, that we are working to develop an integrated, long-term cultural change campaign for the Academy that will enhance dignity and respect on the campus. We have, as Mr. Szabat has said, developed a credentialing process for companies for Sea Year for the safety of going out.

And, again, I say we are making—without belaboring and going through the entire list, that we are making progress on all items on the action plan to implement the recommendations from the LMI study.

Senator YOUNG. Well, thank you, Admiral and Mr. Szabat. I would only ask that you keep this committee duly informed of progress moving forward. I have no doubt that you will do so. I know the Chairman and Ranking Member are attentive to this issue as well.

So with that, I yield back.

The CHAIRMAN. Thank you, Senator Young.

We're waiting for a couple members to join us, and I'm going to take advantage of the wait by asking a couple other questions.

Mr. Szabat, in your written testimony, you mentioned that MARAD and TRANSCOM have concerns that there are not enough qualified mariners to sustain the activation of the entire sealift fleet. You also mentioned that MARAD has convened the Maritime Workforce Working Group. How does MARAD hope to address this concern? And do you expect the working group to provide some meaningful solutions?

Mr. SZABAT. Thank you for that vitally important question, Senator Fischer. Your question gets to kind of the reason for the existence of the Maritime Administration, is to ensure that our commer-

cial U.S. merchant marine is large enough, is vibrant enough, to meet all of our national needs, for economic security, for military security.

As you've indicated, both we and our colleagues at the U.S. Transportation Command, one of the component commands of the Department of Defense, are concerned that we no longer have enough mariners to meet those surge sealift needs. In order to activate all of the vessels in the sealift fleet, of which the core sealift is about 147 ships, commercial and military, we estimate a need of a little over 11,000 commercial mariners because commercial mariners crew all those vessels, both military and civilian—I'm sorry, and commercial. And then we need 14,000 mariners if, in fact, we're going to—strike that—13,000 mariners if we're going to sustain an activation and rotate some crews over time.

Currently, we have just over 11,000 mariners, but one of my colleagues in the Transportation Command called, we are at the ragged edge of the ability to activate the fleet, let alone keep the fleet going for a long period of time.

So we have two approaches going forward on this. One is the working that the NDAA required us to do, which frankly we thank you for. One of the issues that we have is a definition of, what is a mariner? What is an available mariner? That working group will provide valuable resource to us because it's pulling all of the involved Federal agencies together so that we can show the walk-down from what the Coast Guard calls 200,000 mariners to what the GAO Report had identified at one point as 57,000 potentially available mariners to meet sealift requirements to the 11,000 mariners who we know currently have unlimited tonnage and unlimited horsepower credentials and are eligible to serve in our fleet.

So that will be important to be able to do that walkthrough so we can identify exactly if, in fact, we're missing any pools of mariners, although I don't think that we are, but it will allow all of the Federal Government agencies to work together and be speaking off the same sheet.

Second, we are also putting together what we're calling "courses of action," which are, what are the options that we have for addressing the mariner shortage? And I'll cut off at this point in case anybody wants to ask that as a subsequent question.

The CHAIRMAN. Why don't you answer it?

[Laughter.]

Mr. SZABAT. I'll take that as a question, Senator. Yes, I will answer it. Thank you for the question.

Broadly speaking, there are three different courses of action that we can take. Currently, both by law and by national security directive, the U.S. Government, the U.S. military, has to rely on the U.S. commercial fleet, both for the vessels and for the mariners it needs for sealift. So if we continue to rely on that, obviously, the solution that we have to employ enough mariners is to increase the size of the U.S.-flag fleet through steps like—so, for example, in the Jones Act, Customs and Border Protection is looking at a letter, a rule through letter, that they've done before, which, if they change, would add, we estimate, about 14 ships under the U.S. flag to the Jones Act.

You look at cargo preference, we used to have a 75 percent requirement for domestic cargos, not military cargos, to go—of civilian cargos, not military cargos, to go on U.S.-flag. That was dropped in 2012 to 50 percent. If that would go back up to 75 or to 100 percent for civilian agencies, we're talking about adding another 10 or 15 vessels to the U.S.-flag fleet.

And then the most blunt force but expensive way of doing it, of course, would be to expand something like the Maritime Security Program, which currently provides stipends to 60 vessels specifically for their military value, that you could expand the number of ships in a program like that and offer stipends to sail under the U.S. flag because of the mariners that they employ and the value of those mariners for our sealift experience.

So that's the way that we can continue to meet what the law requires now and get to what we estimate to be about 45 extra vessels we would need to have sailing under the U.S. flag to meet our sealift requirements.

The CHAIRMAN. Thank you very much.

Ranking Member Booker, do you have questions?

Senator BOOKER. I do. Thank you for the opportunity, Chairperson.

Just again, Honorable Cordero, you're almost done, so I'm going to grill you a little bit if you don't mind, especially because I'm very jealous of your hair, sir.

[Laughter.]

Senator BOOKER. So this consolidation issue, clearly you mentioned it, and I would like to just ask you very bluntly, how do these consolidation alliances impact portions of our freight network? Is this something that you think we should be greatly concerned about? And particularly for me in a port state, what impact does this specifically have on ports and port shippers?

Mr. CORDERO. Well, I think at this point, as I indicated in my testimony, Senator, I support the alliance model. In terms of what impacts down the line they may have that are positive or negative, I think my answer at this point, and has been, the jury is still out. And for that matter, that's why I believe that it's extremely—it's of paramount importance to have a well-funded FMC, as Chairman Khouri has indicated, and Commissioner Dye. Our primary responsibility is to monitor these agreements and these alliances, and I think part of that monitoring is going to have those answers down the line.

So I think my answer is we don't know. I do believe that, again, eventually they will create cost inefficiencies, and I think ports will adjust with regard to what's coming down the line in terms of these three alliances. And I think the major ports that we have, the containerized ports, at this point, part of what we've done as a country is to continue investment in infrastructure in these ports, and we're going to continue to do so.

Senator BOOKER. So on that note, you would say, and I guess the other two commissioners, TIGER grants are urgently important in terms of the quality of our ports?

Mr. CORDERO. In my view, absolutely, absolutely, because TIGER grants not only go in terms of the importance of infrastructure, but, you know, there has been some commentary on security. I think

our port gateways, you're never going to have a safe, a failsafe system. Security is of utmost importance. And in the past, TIGER grants have been relied on by port authorities.

And last, I think the rail system, the rail connectivity, inter-modal connectivity, whether you're on the East Coast or on the West Coast, is very important, and a TIGER grant can go a long way to help mitigate the expense of what that may be incurred by the marine terminal operators and our port authorities.

Senator BOOKER. My last question then would be just on, sort of, the issues of just improving efficiencies. In the last Congress, we gave a lot of attention to congestions at our ports on the labor issues, and I thought that that was a—talk about proportionality, that was a way disproportionate sort of focus. In fact, it could be said to be a lot of, sort of, unintended consequences, let's say, of those proposals that I saw during that time. But you guys have spent a lot of time, the Commission as a whole, looking at relieving this congestion.

My final question would be then, what are some of the challenges? But more importantly, as was said already by Ms. Dye about the data, are there any specific, Mr. Cordero, parting words that you would say about this idea of relieving the congestion, the most important areas that we can focus on? Archimedes said, "Give me the right lever, I can change the world." What's the right lever there in our ports?

Mr. CORDERO. Well, I think the parting words for me would be for people to review our congestion study that we released back in 2015, and I think that outlines the various factors that cause congestion and what we should do to mitigate congestion.

So I think, again, it takes stakeholders to, as Commissioner Dye has indicated in her supply chain innovation project, to get out of their silos, but it also is very important, extremely important, to remember that the more investment in infrastructure is of paramount importance to relieve congestion because, again, infrastructure at the end of the day is going to be what's key to every gateway.

And I think one last thing, we have to also look into, as our congestion study referenced, very specific operational issues. One that I, Senator, think you are familiar with, whether it's New York-New Jersey, or better said, New Jersey-New York—

Senator BOOKER. Thank you, sir.

[Laughter.]

Mr. CORDERO.—or whether it's Long Beach, LA, we have issues with regard to making efficiencies in terms of the equipment. You know, here I'm specifically making reference to chassis. That is one aspect of the congestion that was, outside the industry, little talked about, but it's a major. Within the industry, everybody understands it's a major problem. The good news is I think the FMC has done well to facilitate to some solution in our gateways, again whether you're in the Gulf, in the East, or in the West, I mean, the parties, the stakeholders, are taking this serious, and I see good news ahead in terms of bringing solutions to these equipment problems.

Senator BOOKER. Mr. Cordero, thank you very much.

Madam Chairman, I'm done, but I do want to—just my horrible admission that I did not ask a question to the person with the best name, Mr. Khouri.

[Laughter.]

The CHAIRMAN. You are shameless.

[Laughter.]

The CHAIRMAN. Senator Wicker.

Senator WICKER. Back to education, Mr. Szabat. MARAD funds six ships that are on loan to the State Maritime Academies as training platforms for their students. Five of the six State Maritime Academies have stated that their ships are aging and are in dire need of repair. Is this true? And can you describe the current state of these ships? Do they need to be replaced with a more modern training vessel?

Mr. SZABAT. Senator Wicker, thank you for that question. It's an existential question from in the State Maritime Academies. Frankly, I'm surprised that only five of the six Academies indicated to you that they have a need—that they have an aging training ship. All of the ships that we provide to the State Maritime Academies are ships that we have in the past, the Maritime Administration has pulled out of our national defense reserve fleet and retrofitted for training. They were old when they began, and they were converted for a purpose that they were not originally intended to do. Several of them are already long past their original useful life. The oldest of the vessels and the largest of the vessels, Maritime's Empire State, is now past its 55th birthday.

So these are old ships. They're good ships. But it is time, and through both direction of the Congress, but also through common sense, we in the Maritime Administration, working with the State Maritime Academies, have been looking at, what are the options to replace these training ships going forward? If no action is taken, three of the six State Maritime Academies will need replacement training ships by 2024. I mentioned the SUNY Maritime ship, she ages out in 2019. Mass Maritime loses a ship in 2024. And Texas Maritime is currently borrowing the training spots on the large ships of the other Merchant Marine—of the other Maritime Academies.

Our own Department of Transportation's own Beyond Traffic Study says going forward, there will be a shortage of mariners. And we've also identified that the bottleneck for having more mariner training is not the school size themselves, but the availability of the training ships.

Senator WICKER. When do the ships go out of service?

Mr. SZABAT. The first ship is scheduled to go out of service, if no action is taken, her licensing would expire in December 2019.

Senator WICKER. Might it be unscheduled?

Mr. SZABAT. Yes. It's—

Senator WICKER. Might something occur that would cause it—

Mr. SZABAT. It could happen with any ship of any age, but, yes, the older a ship gets, the more likely it is that an incident would occur that would take her out of service.

Senator WICKER. Thank you.

The CHAIRMAN. Thank you, Senator Wicker.

Senator Baldwin.

**STATEMENT OF HON. TAMMY BALDWIN,
U.S. SENATOR FROM WISCONSIN**

Senator BALDWIN. Thank you. I wanted to start by highlighting the Small Shipyard Grant program. I am glad to report that the omnibus spending bill doubled funding available for assistance to small shipyards and maritime communities in the Fiscal Year 2017 thanks to bipartisan support for the program. And in the next week or two, I plan to introduce a bipartisan bill to reauthorize the program, and I hope that we can move the legislation through this committee.

Across the nation, small shipyards build and maintain commercial workboats, government ships, and ferries in the U.S.-flag fleet. In this way, our small shipyards are essential in maintaining commerce in the U.S. and throughout the world. To support the shipyards, their workers, and their communities, the Small Shipyard Grant program provides incentives for infrastructure improvements, equipment upgrades, and worker training programs.

Mr. Szabat, could you describe the benefit small shipyard assistance provides for workers and communities whose economies are tied to the maritime industry?

Mr. SZABAT. Senator Baldwin, thank you very much for that question, and thank you and the Members of Congress for your efforts for the support for the Small Shipyard Grant program. As you say, the communities that are dependent, that have the small shipyards, and the communities that do work that support the small shipyards are very much dependent on this. It's a very small but vital program.

The Federal Government has very limited roles to do with shipbuilding, and for small shipyards, really this is the only opportunity that they have. The Small Shipyard Grants are normally only \$5 million or \$10 million each year when they are appropriated, and generally they are awarded in buckets of close to \$1 million. So we're only talk about 5 to 10 people—5 to 10 companies will get these each year.

It's a fairly young program. It started in 2008, 2009, and with the Recovery Act. So we've only had roughly little over 200 yards nationwide that are eligible for this program. We've given out 170 grants to 145 different shipyards. And these are competitive grants. People have to earn them.

And one of the key components of them, which we believe makes them useful, is the matching requirement. By law, by the law that you've required, is they have to bring at least a 25 percent match, but the reality is, in order to be competitive, most of them are providing a 50 percent or more match, so bringing in local private funds to meet these needs.

And so these benefits go not just to the workers in these individual shipyards, but as I mentioned also, to other companies that receive the work that goes in these shipyards. So, for example, two companies in Wisconsin that have benefited strongly from this work all over the country: Marine Travel Lift in Sturgeon Bay provides many of the travel lifts for small boats and small shipyards across the country; and Manitowoc Cranes—and I hope I'm pronouncing that correctly—which has manufacturing facilities both

there and Shady Grove, Pennsylvania. So places that are off the water are also benefiting from these programs as well.

Senator BALDWIN. Sticking with you, Mr. Szabat, I want to focus on the Maritime Administration role addressing the need for more skilled workers to support and grow our Nation's domestic maritime industry. It's a critical issue in Wisconsin, where our shipbuilding and Great Lakes shipping interests can make significant contributions to the economy and the security of our state and the entire nation.

Historically, the focus of the Merchant Marine Academy and federally-designated State Maritime Academies has been on training individuals to support international shipping and ocean-going vessels, but not our domestic shipping needs. Our nation's community and technical colleges, like Northeastern Wisconsin Technical College, for example, have stepped in to provide that training, but I think they need greater support from the administration in order to meet the needs of the industry.

So last Congress, I introduced bipartisan legislation that would designate and support centers of excellence for domestic maritime workforce training, and I plan to reintroduce the bill again soon. I wonder if you could describe the value that legislation to support developing our domestic maritime workforce would provide.

Mr. SZABAT. Senator, thank you again both for the question, but also for taking action to address what is a vital concern. I've spoken mostly in my testimony about the military requirements, about the reason for the Federal academy, for having our licensed programs, is to ensure that we have unlimited credentialed-licensed mariners because these are the ones who are available to serve in our military sealift needs. But there's an economic security component that goes along with that, one of the reasons we have the Jones Act and one of the reasons we have programs along the lines of what you are describing here.

I would like to think that we at the Maritime Administration got a jump on this, it was just a couple of years ago. We established out of hide, unfunded, but an Office of Maritime Education and Training, which has the unfortunate but memorable acronym of MEAT, but it is specifically to address the kind of issues that you're talking about.

As always, if you're a Federal program and you're not funded to get grants or other support, so what we can do, though, is we can give guidance, expertise, provide—be a clearinghouse for information and national training requirements, and also help people work with industry to find opportunities for internships and career opportunities. This is something that we found that has actually been, from the work that we've been doing on sexual assault and sexual harassment with the industry's SOCP, which is their training experts, this has been something that kind of fell out as an extra benefit, as we've required that working through them, we also have opportunities to identify these kind of training opportunities for workforce development elsewhere.

The other thing that I would mention is that we have also reached out to many Historically Black Colleges and Universities, but other minority institutions, about ways of recruiting more people into a future maritime workforce and providing this kind of eco-

nomic—this kind of workforce training to them. So I think foremost among them, San Jacinto College in Houston, the Southeast Maritime and Transportation Center at Tidewater College in Norfolk.

And then the last thing I would say finally is on a small scale, as we have surplus equipment that comes out of our national defense reserve fleet from our own schools, we can provide, as we did to the—we provided firefighting equipment to Owens Community College in Toledo, Ohio, as well as the Northwest Regional Fire Training Center in Michigan.

And it would be remiss of me if I didn't give a shout-out to one of our six State Maritime Academies, but the Great Lakes Maritime Academy, which does provide many of the pilots up in the Great Lakes.

Senator BALDWIN. Thank you.

The CHAIRMAN. Senator Blumenthal.

**STATEMENT OF HON. RICHARD BLUMENTHAL,
U.S. SENATOR FROM CONNECTICUT**

Senator BLUMENTHAL. Thanks, Madam Chairman, and thanks to you and Senator Booker for having this hearing. Connecticut has three significant ports—New London, New Haven, and Bridgeport—and I have been committed to improving them and also to improving the kind of service that we see in those ports. And I also want to mention right at the outset that I know you've been asked about the Sea Year, and that the summer program is being restored, correct, Admiral Helis?

Admiral HELIS. Yes, Senator. Starting we established a credentialing program with the Maritime Administration. The first companies were credentialed in late February. We're now up to eight companies and about 82 percent of the pre-stand-down capacity. So midshipmen are now—the majority of midshipmen are now sailing commercial, and we're beginning to, as we transition back into the commercial vessels by this summer, we should be back to pre-stand-down operations.

Senator BLUMENTHAL. Will any of the midshipmen be in any way set back or in effect penalized because of the delay or the stand-down?

Admiral HELIS. No, Senator. We've been carefully monitoring their training records and using all of the platforms we have available, and we're confident that none of the midshipmen affected in the classes of 2018 and 2019 will be delayed from licensing or graduation because of a shortage of sea days. If for some reason, either due to the equipment on the ships or just number of days they have been unable to complete some of their sea projects, we have deferred those until a subsequent sailing period.

Senator BLUMENTHAL. I ask because I have been approached by some of the midshipmen and their families to ask about the consequences to their careers from this issue. And I understand what was done as a result of the reports of sexual harassment and appreciate the steps that you're taking to eliminate sexual harassment at the Academy.

Let me ask you, what—speaking generally, putting aside the major ports of New York and Newark, at ports the size of New London and Bridgeport and New Haven, what do you think are the

major steps that need to be taken? Because these are immense resources for our nation, and they're underutilized, in my view, and I would be interested to give you the platform to just talk about what our nation should be doing.

Mr. SZABAT. Senator, who is the question directed to?

Senator BLUMENTHAL. Any of you who care to answer it.

[Laughter.]

Mr. SZABAT. I'm going to violate my own edict, which is never volunteer to answer a question at a hearing that you don't have to.

Senator BLUMENTHAL. Well, this is directed to you, so—

[Laughter.]

Senator BLUMENTHAL.—you don't have to violate your edict.

Mr. SZABAT. OK. Well, I still stepped into it, but thank you, Senator.

It's a great question, and it's one that we wrestle with. The Maritime Administration, unlike, say, our brother in the Federal Highway Administration, where in the past they had direct control over the roads that were built, and now they have a great involvement in funding the vast majority of the projects, and a great say in how these projects are done, ports, like freight railroads, are primarily privately run, privately operated, and primarily make their own decisions. And yet when you have some seminal incidents, like we just had with the widening, almost simultaneous widening of the Suez Canal and the Panama Canal, that affects the operations of all of the ports.

And the question is, how do they change? Not every port is going to become a recipient of Panamax vessels. Every port would like to. And so they have to work together. And what we've discovered is that first, through our own offices within the Maritime Administration, but also through the actions of Congress, where you were kind enough that since 2009, a couple of key changes in the law have not only allowed, but required us to coordinate together and develop a national freight strategic plan, develop a national multimodal freight highway, that we find ourselves working together in concert with the other agencies within the Department of Transportation and our sister agencies, the Coast Guard, the Army Corps of Engineers. And we give information flows back to the ports about this is where the freight is going, this is what's happening, and this is information that they can use to help inform their own decisions. So information is a key point.

I think the second key point that we have, of course, as always, people like to come to the Federal Government for sources of funding. Before 2009, the Maritime Administration had nothing to offer to ports when it came to funding. But first through the TIGER grant program and then through FASTLANE, we now have ports that will come to us in consortiums of ports, local communities, or consortiums of ports, and say, "Here is what we propose to do. Will you give us the funding to make this work?" And like any competitive grant program, the better proposals tend to be the ones that get funded and move forward.

Senator BLUMENTHAL. And they are likely to be better if they are the result of consortiums, that is, coming together rather than singly or solely.

Mr. SZABAT. Senator, that has been my experience. I was the designated Federal official responsible for the TIGER grant program when that was first established in the Recovery Act. And certainly if you look at the first several years of the TIGER grant program and the FASTLANE program now, if you wanted to look at indicators for success, it was how big the consortium was, and, as importantly, how much matching money were they willing to bring to the project?

It's the old line about "put your money where your mouth is." That has certainly been the point, been shown to be the point, where we've talked about port projects, and especially when we talk about partnerships. When you have private sector operators or railroads or states and local governments who are willing to put their money in as well as the ports, that shows a strong signal for local commitment to the success of the project.

Senator BLUMENTHAL. Thank you.

Thank you very much to the entire panel for your service. And, Mr. Cordero, good luck in the future. I understand you're nearing the end of your service, and a special thank you to you. Thank you.

Mr. CORDERO. Yes, thank you, Senator. And thank you for the Committee for all your support for the maritime community.

Senator BLUMENTHAL. Thank you.

The CHAIRMAN. Thank you, Senator.

I also would like to thank the panel today, and best wishes to you, Commissioner.

The hearing record will remain open for 2 weeks, and during this time, Senators are asked to submit any questions for the record. Upon receipt, the witnesses are requested to submit their written answers to the Committee as soon as possible.

And with that, we are adjourned.

[Whereupon, at 4 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. TODD YOUNG TO JOEL SZABAT

Question. Mr. Szabat, in your written testimony you state, “both the U.S. Transportation Command and MARAD are concerned that there are not enough qualified mariners to sustain an activation of the entire sealift fleet.” I understand from your written testimony that the Maritime Workforce Working Group will release a report on this issue in December 2017. In advance of this report, can you please provide specific recommendations for how MARAD and the Department of Defense can improve collaboration to address the issues confronting our national sealift program?

Answer. MARAD is consulting with the U.S. Transportation Command (USTRANSCOM) in analyzing the mariner shortage and developing options to address it. USTRANSCOM has taken the following steps to better integrate MARAD into their strategic plan:

- One of the USTRANSCOM component commands is Military Sealift Command (MSC). MARAD and MSC will coordinate in matters of common concerns—training, contracting, adequacy of supply, etc.
- MARAD and USTRANSCOM co-chair the Voluntary Intermodal Sealift Agreement Executive Working Group that works with senior representatives from industry (both domestic and international ocean carriers) and maritime labor to understand carriers’ challenges and work to find common solutions that can be proposed by either department to strengthen sealift for national security. This body meets three times a year.
- USTRANSCOM, Navy, and MARAD have been working extensively to develop a sealift recapitalization plan for the Nation’s aging sealift forces.
- MARAD, with USTRANSCOM support, has been taking steps to improve mariner resilience. Such efforts have included the Military-to-Mariner initiative to assist departing/retiring armed service members to earn their U.S. Coast Guard mariner credential to allow a transition to civilian life as a merchant mariner. MARAD has also employed steam engineers during Ready Reserve Force ship activations to increase the available pool of mariners with these specialized skills.

MARAD will continue to look for other opportunities while awaiting the results of the Maritime Workforce Working Group Report; which includes participation by senior USTRANSCOM (Flag-officer level) leadership.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY BALDWIN TO JOEL SZABAT

Since 2012, the number of foreign trading vessels has been dramatically reduced and 60 ships currently fill all Maritime Security Program operating agreements. This diminished pool of well-trained civilian mariners necessary to deploy and sustain sealift during a military conflict poses a threat to national security.

MARAD has testified in recent years about the ability to meet sustained needs. Further, MARAD has testified that cargoes are key to maintain and grow a modern U.S.-flag fleet.

Question 1. What impact has the 2012 reduction in cargo preference requirements had on the U.S.-flag fleet? Further, please describe proposals that could result in realistic mechanisms to grow the fleet.

Answer. Since 2012, the number of foreign trading vessels has been dramatically reduced and 60 ships currently fill all Maritime Security Program operating agreements. This diminished pool of well-trained civilian mariners necessary to deploy and sustain sealift during a military conflict poses a threat to national security. MARAD has testified in recent years about the ability to meet sustained needs. Fur-

ther, MARAD has testified that cargoes are key to maintain and grow a modern U.S.-flag fleet.

Further study would be required before any recommendations could be made. The Administration has not yet taken any position.

Question 2. Please describe MARAD's enforcement of U.S.-flag fleet requirements.

Answer. The responsibility for compliance with requirements to use U.S.-flag vessels (*i.e.*, cargo preference) rests with the Federal programs seeking transportation of preference cargo. The Duncan Hunter National Defense Authorization Act for FY 2009, P.L. 110-417 authorized MARAD to impose remedies for non-compliance by allowing for civil penalties of up to \$25,000 per violation/per day on violators and authorizing MARAD to direct agencies to provide "make up cargoes." MARAD also seeks to educate program managers on the basics of ocean freight—when and how it is used—and also has developed computer-based training to assist various civilian and military agencies' contracting officers with these compliance requirements and what specifically they should require in their prime and subcontracting clauses to improve reporting by their contractors regarding compliance.

MARAD determines compliance based on the regulatory requirement that programs subject to cargo preference provide MARAD with receipt of both U.S. and foreign-flag bills of lading evidencing that the at-least-50-percent threshold has been satisfied. Information derived from these bills of lading forms the basis of the performance metric, which in turn may lead to dialogue with agencies should the subject program be at risk of failing to meet cargo preference requirements.

Question 3. As the Nation's highways and other transportation systems become increasingly congested, ports and waterways provide an alternative for the efficient movement of freight. MARAD's Marine Highway Program is meant to stimulate the development of new regional shipping services. Congress provided \$5 million in FY16 and FY17 appropriations for Marine Highway Program Grants. Is this an adequate level of funding to accomplish the program's goals? If not—what amount can be justified?

Answer. At the current funding level, the Marine Highway Program Grants can alleviate some of the start-up capital risk associated with any new marine highway service venture, including new transportation services such as marine highway services for freight movement. By funding planning efforts, demonstration projects, and infrastructure and equipment to support new services or expand existing services, the Marine Highway Program can attract private marine highway service operators to enter this market who otherwise would not be willing to shoulder the full risk of this unknown market. Through the injection of existing grant funding, we can build new services, which in turn are offering our manufacturing base and distribution new competitive transportation options while at the same time, providing public benefits in the form of reduced congestion and highway maintenance costs. The funds appropriated in FY 2016 have been awarded to six projects that will support new service development in the following areas:

- Virginia, Maryland and the District of Columbia,
- New York and New Jersey;
- Illinois and Missouri; and
- within the State of Louisiana.

MARAD is developing the Notice of Funding Opportunity for FY 2017.



This page intentionally left blank.

