Transportation Trades Department, AFL-CIO

OCEAN SHIPPING REFORMS SHOULD NOT UNDERCUT WORKERS

In March, federal lawmakers introduced the Ocean Shipping Antitrust Enforcement Act of 2023 (H.R. 1696) to repeal the limited antitrust immunity afforded to foreign ocean carriers and dissolve the three major foreign shipping company alliances. This would have serious unintended consequences for dockworkers and other maritime workers that service these foreign ocean carriers at U.S. ports.

Therefore, we oppose the Ocean Shipping Antitrust Enforcement Act of 2023, H.R. 1696, and urge lawmakers to consider the adverse impact that this legislation would have on U.S. maritime workers.

Background on Proposed Legislation & The Shipping Industry

By introducing the Ocean Shipping Antitrust Enforcement Act of 2023, lawmakers are doubling down on last year's failed efforts to overturn more than 100 years of limited antitrust immunity for shipping companies. Since the passage of the Shipping Act of 1916, ocean carriers have enjoyed limited antitrust immunity with respect to agreements concerning shipping rates, vessel sharing, and shipping route allocations, so long as those agreements are first submitted to and approved by the Federal Maritime Commission (FMC), which oversees and regulates industry conduct.

Eliminating this limited antitrust immunity would undermine the ocean carriers' ability to form vessel sharing agreements, which enable carriers to share space on one another's ships. For example, vessel sharing agreements allow Maersk and MSC to transport each other's cargo aboard their respective vessels, while CMA CGM, COSCO, Evergreen, and OOCL can all transport each other's cargo. Shared vessel space benefits both carriers and shippers by ensuring that vessels sail as full as possible, providing customers with more frequent service at more ports at a lower cost.

Effects on Maritime Labor

While ocean carriers are usually not the common law employers of longshore workers, the National Labor Relations Board (NLRB) and federal courts have historically recognized that ocean carriers nonetheless qualify as longshore employers under national labor law. These carriers are members of coastwise multiemployer bargaining associations that negotiate and administer longshore collective bargaining agreements. By operation, this confers employer status on ocean carriers, even though they do not directly employ workers who service their vessels.

In addition, many dockworkers who work at small to medium-sized ports will suffer a decrease in man hours due to the elimination of vessel sharing agreements, as carriers will likely concentrate their services at larger ports because demand in these regions is higher and, in turn, vessel space can be filled more quickly. As a result of fewer sailings to smaller and medium-sized ports, there will be less consistent work at these ports, and a significant percentage of dockworkers will likely experience a decrease in work opportunity.

We stand in solidarity with the ILA and all other maritime labor in opposing the passage of H.R. 1696 and urge lawmakers to consider the adverse impact that this legislation will have on maritime workers.

Policy Statement No. S23-05
Adopted May 17, 2023