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LOGISTICS REPORT

Congress to Toughen Shipping Regulation as Biden, Companies Cite Economic Pain

The first major overhaul of maritime rules in 24 years follows skyrocketing freight rates and severe supply-chain disruptions

President Biden delivered remarks at the Port of Los Angeles on Friday.

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By Paul Berger Follow

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U.S. lawmakers are preparing to toughen oversight of international shipping companies as the White House and American importers and exporters say historically high freight transportation costs are hampering business and contributing to accelerating inflation.

House Democratic leaders say they plan next week to take up a measure already passed by the Senate that would add new regulatory constraints to shipping operations and limit the ability of ocean carriers to levy the special fees that shipping customers say are driving up costs.

The bill would make it tougher for the shipping lines to refuse export cargoes, a practice that has grown over the past two years as carriers have sought to turn around empty containers quickly to return them to Asia and take advantage of high prices for Asian exports. It would also boost the workforce at the Federal Maritime Commission, the main U.S. shipping regulator.

President Biden highlighted the issue this week, calling on Congress to “crack down” on ocean carriers. Mr. Biden, a Democrat, said in a video Thursday that one of the main reasons shipping costs have gone up is because nine ocean carriers control the trans-Pacific market and “have raised their prices by as much as 1,000%.”

Speaking Friday at the Port of Los Angeles, Mr. Biden said it was time to let the ocean shipping lines know that “the rip-off is over.”

“One of the key ways to fight inflation is by lowering the cost of moving goods through the supply chain,” he said.

The high freight rates and tight capacity in the shipping sector tormented American retailers, manufacturers and farmers during the heights of the Covid-19 pandemic, when demand for space on container ships skyrocketed and ocean shipping lines, mostly based in Europe and Asia, made billions of dollars in profits.

Shipping industry and trade officials say the FMC already has the power to impose many of the enforcement tools proposed in the bill, but that getting the details into law will push the regulator to take action and strengthen its position against legal challenges from the shipping industry.

“The commission needs to be told straight out you do have the authority,” said Peter Friedmann, executive director of the Agriculture Transportation Coalition, which represents farmers. “That’s what this shipping act does. You do have the authority, you should use it.”

Agricultural exporters say they missed out on billions of dollars in revenue last year when ocean carriers declined their goods and instead rushed empty containers back to Asia for more lucrative eastbound trade routes. Importers say they were charged hefty penalty fees for failing to pick up and return containers, even on days when congested cargo-handling facilities refused to handle the boxes.

The bill, known as the Ocean Shipping Reform Act, passed the Senate by a voice vote in March. The House passed its own version that includes tougher oversight provisions by a

364-60 vote in 2021, but House leaders decided in recent weeks to take up the Senate version rather than try to reconcile the separate measures.

“The Senate bill accomplishes the same goals,” said Rep. John Garamendi (D., Calif.), a sponsor of the original House bill. “It just does it in a different manner.”

Mr. Biden blames a lack of competition in the ocean shipping industry for the high supply-chain costs that have contributed to inflation hitting a four-decade high. Eleven companies control a majority of the world’s container shipping capacity, according to the FMC. They also cooperate with each other under vessel-sharing agreements similar to those found in the airline industry.

The average world-wide spot market rate to ship a container rose eightfold during the pandemic to a peak of $11,109 in September 2021, according to the FMC. An agency investigation recently concluded that the ocean shipping industry is competitive and that the rapid increase in prices was driven by “an extreme spike of consumer demand in the United States that overwhelmed the supply of ship capacity.”

During the pandemic, many Americans cut back on spending on restaurants and travel and instead splurged on home office equipment, electronics and furniture. Import volumes to the U.S. in 2021 were up 20% over 2019 levels.

Freight rates have tumbled in recent months as U.S. consumer spending has softened and Covid lockdowns in China have weakened export volumes. The average spot rate to ship a container on heavily congested routes from Asia to the U.S. West Coast fell 41% in the past three months to $9,588, according to the Freightos Baltic Index.

A backup of container ships waiting to unload at the nation’s busiest container-handling complex at Los Angeles and Long Beach has also receded. The queue was at 20 ships on Thursday, according to the Marine Exchange of Southern California, down from a record 109 vessels in January and the lowest level since July 19, 2021.

The bill in Congress represents the biggest overhaul of ocean shipping rules since 1998. The World Shipping Council, a Washington-based trade group representing container shipping lines, said it would wait until Congress passes the bill before commenting on it.

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Christine McDaniel, a senior research fellow at the Mercatus Center at George Mason University, who specializes in international trade, said the regulatory overhaul could have unintended consequences on the financial ballast of a shipping industry that until a few years ago was struggling. She said she was concerned, for instance, about the provision aimed at preventing ocean shipping companies from unreasonably declining exports.

"To the extent that the government is going to tell ocean carriers what they can and cannot, or must and must not, ship is concerning," Ms. McDaniel said.

The bill also shifts the burden of proof to ocean carriers to show that penalty fees were properly assessed against shippers for delays picking up and dropping off containers.

The FMC has launched enforcement actions against several ocean carriers in the past year for unfairly imposing penalty fees when supply-chain congestion tied up shipments and left importers unable to reach their containers within specified periods. The regulator on Wednesday reached a $2 million settlement with Germany's Hapag-Lloyd AG for improperly assessing such fees.

FMC Chairman Daniel Maffei said the agency's expanded role will require hiring more attorneys and economists and expanding the agency's workforce by some 25% to about 150 people. The FMC needs to become a "more robust regulatory agency that makes sure everyone plays on a level playing field," he said.

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