NCBFAA Transportation Committee
Meeting Minutes
April 28, 2018 – 7:30am – 10:30am

Master Transportation Committee Attending
Jan Fields Transportation Committee Chairman Yes
Melzie Wilson Vice-Chairman Transportation Committee Yes
William App Past Chairman Transportation Committee Yes
Ed Greenberg General Counsel Yes
Jon Kent NCBFAA Legislative Representative Yes
Travis Hull Area 1 Yes
Rich Roche Area 2 Chair NVOCC Committee Yes
Butch Connor Area 3 Yes
Donna Mullins Area 4 Chair Air Freight Committee Yes
Merit Tremper Area 5 CESAC Liaison Yes
TBN Area 6
Melzie Wilson Area 7 Chair Logistics Committee
Frank Parker Area 8 Yes
Paulette Kolba Area 9 Yes

Guests:
Pam Brown Renee Blizzard Steve Smith Amy Slavko
Andrew Werner Shannon Witt Michele Pluta Len James
Pat Fosberry Myra Reynolds Meloney Norris Paige Morgan
Jill James Leah Ellis Bruce Goodwin Robert Perkins
Roger Clarke Mary Arno Scott Larson Michelle Francis
Mary Jo Muoio Kristi App Thayne Worsley Darrell Sekin
Mary King Anne-Marie Bush Monica DeMars Mike Laher
Tom James Scott Robbins David Meyer Deborah Chn
Jose Gonzalez Angie Quintanilla

1. Call to order and introductions
   The Transportation Committee Meeting was called to order at 7:30am and introductions of all attendees were made.

2. Reminder of our Anti-Trust policy
   The NCBFAA Anti-Trust statement was read.
3. **Approval of the January 20, 2018 meeting minutes**
   
   There being no objections, the minutes of the January 20, 2018 meeting were approved.

4. **Air Freight – Donna Mullins**
   
   - Liz Merritt will be on the annual conference air freight panel. Topics include a review of the data that will have to be transmitted by the airlines.
   - ASAC Committee – new members joining Donna Mullins and Jon Kent will be Thayne Worsley and Paige Morgan from our air freight committee.
   - MSCS – is a sub-working group focusing on modernizing screening requirements.
   - Donna commented that 100 percent screening would seem to negate the reason for continuing to have a Known Shipper program, but it was unlikely TSA would eliminate those requirements.
   - Donna mentioned the unfair practice of forwarders renting dock doors in Atlanta that are empty, while trucks are backed up at other doors.
   - ACAS will be discussed at the air freight conference session.

5. **Legislative Report – Jon Kent**
   
   - There has been a change in course from TSA just telling us what to do – Liz Merritt has taken over the chair of this group and is making a much more aggressive stance toward working with TSA.
     - Liz is addressing a handful of issues. There is a big difference between the number of participants from airlines and those from forwarders, which is why four additional individuals have been added to the committee.

   
   - Tariff filing: In the pending FMC NPRM, our goal is to eliminate NSAs from being filed with the agency and broaden the exemption for NRA requirements.
     - A decision has not yet been made by the FMC. Ed hoped we would have a ruling prior to the conference, but Rebecca Dye indicated at the Conference that the Commission was not yet ready to issue the final rule.
• Demurrage: Ed discussed the Petition filed with the FMC by a coalition of trade associations, including the NCBFAA, to ask Commission to establish a policy statement about what carriers should do when NVOCCs or BCOs are unable to pick-up containers for reasons that are out of their control. There was a hearing held before the FMC concerning the Petition, in which various parties, including Rich Roche, testified about these inappropriate DND assessments. The carriers also testified, but their explanation as to why there was no problem was unpersuasive. That hearing also revealed that the Carriers are marking up demurrage from what they are being charged by the ports. Rich Roche reported carriers have a 90% stake in the demurrage fees (i.e. they keep 90%, terminals 10%). The Commission was surprised to hear this.

The FMC opened Fact Finding 28 that is headed by Rebecca Dye. Ed thinks she will try to get results, but doesn’t believe that they will support anything that looks like a new regulation.

Ed reminded our group that Rebecca Dye will be meeting confidentially with individual companies to hear their issues / stories. She is deeply committed to make things work and encourages the group to talk to her about real world situations. She will be providing information on how to inform the agency of issues if you are not participating in private meetings.

Rich Roche is not looking for a rule making, but more that there should be a process by all relevant parties to work out a more appropriate way to address delay issues.

• Ed Greenberg contacted the FMC to discuss carriers breaking door to door moves because of truck shortages and hiding behind their tariffs. MOL and Hapag Lloyd have both issued recent notices that they will end their responsibilities at the port. The FMC’s Bureau of Enforcement has sent all of the carriers a demand to explain their views and actions on this topic. Ed noted that the problem exists because carriers just put provisions of this nature in their tariffs.
  o Chairman Khoury asked Ed to poll group on where they see the industry going, i.e. will carriers simply be port to port carriers or will they take over operations door to door? Where do we see them going? What do you think it should be?
  o Various comments –
    ▪ Pat Fosberry - carriers are not good at handling local issues. When going gets tough they walk away from it.
- Tom James – thinks tariffs add stability to the market place, doesn’t think they are a bad thing.
- Rich Roche – agrees that there are useful parts of tariffs. Rate tariffs are not good. Rules tariffs are good. Rate structure included in rules tariffs can be problematic.
- Rebecca Fenneman is also speaking at the conference on the role of CADRS. The consensus was that CADRS has some value, even though they don’t come on strong and do not have a legal power to make decisions. They serve essentially as a mediator to help bring the parties together to reach an agreement. If that doesn’t happen, then we are left with the usual processes – suits, etc.
- Jon Kent advises the FMC has become the incredible shrinking man. The number of Commissioners will be reduced to two when Dan Maffei’s terms expires in June unless he gets renewed. Congress hasn’t proposed replacements for those that left. Jon is asking the Florida association to send a letter to Senator Nelson asking to extend Maffei’s term. Jon is also asking the New York association to approach Schumer.

7. NVOCC – Rich Roche
- Chassis Shortage: One result of a chassis-shortage working group was testing with Maersk, MSC, and LA/LB terminals with predictive analytics and predictive availability. Melzie Wilson noted that this is endorsed by Commerce and CBP.
  - Melzie asking – have we ever taken an inventory of available chassis vs. the number of containers moving in and out?
- CBP Decision 18-24 Definition of ISF
  - ISF Importer is the person responsible for filing the ISF. CBP extended the definition of ISF filer for FROB to include NVOCCs. In recent release by CBP, they dismissed all but one comment. If there is FROB cargo the NVOCC is responsible; however, if the carrier diverts the cargo making it become FROB, then the carrier is responsible.
  - Ruling is effective May 4. CESAC is having a conference call with ISF sub-committee because CBP ignored most of their comments.

8. Export Compliance – Paulette Kolba
- Detroit AES Penalties were discussed. Geoff Powell’s communications, after the Customs Committee meeting with CBP and the Northern Border broker meeting with Detroit CBP did have an impact. There will be outreach at least for a while.
• Hold/Release codes in AES. Codes are just there for now. Our conversation with Robert Rawls did not offer much detail, so we are waiting to talk to Jim Swanson in person. The main issues are the responsibility of the AES filer and process, i.e. how will the system send a second response message and how will we know the message was sent.
• PGAs have focused on imports. There is little export PGA data in ACE
• ACE Training – please pass word around to get export people to attend ACE training, available at the conference.

9. Logistics Issues – Melzie Wilson
• Customs Brokers need to know what is going on with the FMC, demurrage and other items being addressed by the Transportation Committee (Logistics Sub-Committee). Melzie proposes some joint sessions with Customs Committee as the issues address import and exports.
• Commissioner Dye will be attending a meeting with forwarders in Memphis in May.
• Jan Fields suggested that the Logistics Committee study issues with shortage of truckers. Melzie will reach out to the Truckers Association. We should also engage the insurance industry as transloading will result in more damaged cargo.
• Commerce wants to find ways to entice individuals to join the trucking industry.
• Drayage trucking is different than the over the road trucker due to the significantly different demands on the driver.
• Tom James said we should engage in setting up trucking relay systems (trucker drops container a few hours from port, and another over the road trucker comes in and picks it up hopefully dropping another.
• Mike Dugan also addressed issues in port like Los Angeles where there are severe shortage challenges.
• Jan Fields brought up the current Pier Pass changes calling for a reduce fee for pier pass which will be charged for both peak and non-peak hours.
  o Rich said the challenge is to transform LA into a 24-hour market. Rich provided an overview of Pier Pass history. The program accomplished what it set out to do (50/50 day vs. night – warehouse hour changes, etc.) Now that the change has occurred, they want to charge everyone a lower fee with the same purpose of funding the night gates. Oakland already doing it. New York argues that there are not enough warehouses open nights and weekends. Pier Pass 2.0 will be part of Rich’s panel on supply chain efficiencies.
o Dan Meylor brought up an important consideration not addressed in Pier Pass. All terminals are working on appointment system and hope to eventually have a uniform system. The large importers that are only moving at night will be impacted the most. We don’t want all the good appointments to go to the large importers.

o New York – part of the reason the appointment system doesn’t work is that truckers don’t feel that they have a safe place to hold the containers if there are issues (i.e. brokers are not available, no paperwork, etc.)

o Melzie asks if there is anything from a legislative perspective and proposes a meeting with Jon to discuss.

o Melzie proposed we combine the trucker/chassis shortage portion of our transportation committee meeting with the customs committee for the future.

10. CESAC update – Merit Tremper
   • The next meeting will held June 26-27 in DC, right after the next board meeting and will cover
     o ISF Definition
     o Export Manifest –trying to get a call with CBP in mid-May
     o Truck factoring
     o In-Bonds (CESAC is engaging with COAC in-bond working group)
     o Canada manifest – CESAC having difficulty engaging Canadian Customs

11. Annual Conference Program review – Jan Fields
   • In addition to the above, we have a global eCommerce panel to discuss who is responsible for export control and license classification / determination.
   • Cindy Allen reported that the platforms maintain that they have no responsibility as they only facilitate the Transportation. They are pushing the responsibility on the forwarder or broker as often there is no buyer at the time it is shipped. We work through COAC to address issues.
   • Paulette emphasized the need to have the government agencies take a stance on responsibilities and inform companies of the process.

12. Old Business
   • None
13. New Business
  - Pier Pass proposed changes – discussed above
  - We talked about the possibility of nominating someone from our industry to be the next FMC Commissioner.

There being no further business the meeting was adjourned