



June 14, 2019

VIA ELECTRONIC SUBMISSION
(<http://www.regulations.gov>)

Mr. Robert Lighthizer
United States Trade Representative
Office of the United States Trade
Representative 600 17th Street NW
Washington, DC 20508

Re: **Intermodal Association of North America Comments Regarding Docket USTR-2019-004**

Dear Mr. Lighthizer:

The Intermodal Association of North America (“IANA”) submits the following comments in opposition to the 25% *ad valorem* tariff on “Containers (including containers for transport of fluids) specially designed and equipped for carriage by one or more modes of transport,” proposed by the Office of the U.S. Trade Representative (the “USTR”) and memorialized in USTR-2019-004 under Subheading 8609.00.00 of the Harmonized Tariff Schedule of the United States (the “Container Tariff”).

Notably, the USTR proposed an identical tariff on containers in 2018 that was similarly opposed by IANA. To its credit, the USTR ultimately removed containers from the list of affected product lines that was published by the USTR on August 8, 2018. Indeed, containers were one of only five products (out of 284 tariff lines) that the USTR withdrew, indicating that the exclusion of containers from the second tranche of tariffs necessarily underwent scrupulous review by the USTR. The USTR’s prudent decision not to impose a tariff on containers helped to ensure that the United States economy continued to thrive and grow.

Naturally, IANA is deeply disappointed that the USTR is once again considering imposition of the Container Tariff. IANA reiterates that the Container Tariff substantially undermines intermodal productivity and, more specifically: (1) the Container Tariff will result in severe economic harm to U.S. interests, (2) the Container Tariff is not strategically important to U.S. goals, and (3) the Container Tariff is not practical or effective in advancing U.S. trade policy. These points are as valid today as they were in 2018.

I. IANA’s Interest in The Container Tariff

IANA is North America’s leading multimodal transportation trade association representing the combined interests of the intermodal freight industry. IANA’s membership roster of over 1,000 corporate members includes intermodal and over-the-road motor carriers, railroads (Class I, short-line and regional), water carriers, stacktrain operators, port authorities, intermodal marketing and logistics companies, and suppliers to the industry such as equipment manufacturers, intermodal leasing companies, and consulting firms. IANA’s associate (non-voting) members include shippers (defined as the beneficial owners of the freight to be shipped), academic institutions, government entities, and non-profit associations.

IANA's mission is to promote the growth of efficient intermodal freight transportation through innovation, education, and dialogue. In furtherance of its mission, IANA administers the Uniform Intermodal Interchange and Facilities Access Agreement (an equipment interchange agreement adopted almost universally throughout the intermodal industry) and offers a wide variety of value-added business services and programs relating to operations, maintenance, risk management, safety, and security. These services are intended to promote intermodal productivity and operating efficiencies through the development and implementation of uniform industry processes and procedures governing the interchange of intermodal equipment (including shipping containers) among ocean carriers, railroads, and motor carriers.

II. Background Regarding the Economic Importance of Containers

Intermodal transportation is the movement of cargo in shipping containers or trailers by more than one mode of transportation. Historically, transportation providers moved cargo in individual bags, boxes, crates, drums, barrels, and on pallets. As this type of cargo is not uniform, each individual piece of cargo had to be separately loaded and secured on ships, trains, and trucks — an extremely laborious, time consuming, and expensive process.

In the 1950's, an innovative trucker, Malcom McLean, set out to improve the efficiencies of transporting cargo. McLean's vision was created on the foundation that it was more efficient to handle one shipping unit — a container — instead of loading and reloading its contents into new conveyances along each step of the cargo's journey to the final customer. He decided to load loose cargo into a standardized truck trailer and then move the entire trailer by truck, train, or ship. The model was a great success, revolutionized the shipping industry, and led to increased global trade at a substantially reduced cost.

In order to ensure the compatibility of equipment worldwide, the International Organization for Standardization ("ISO") unified container dimensions, carrying capacity, and securement point design into a globally accepted standard. The standardization of intermodal equipment was one of the most important steps to broadening the appeal of containerization on a global scale. In particular, the adoption of the twist-lock and the container corner post allowed for nearly universal equipment compatibility.

As container shipments on the railroads increased, the industry introduced new rail cars that accommodated containers to be stacked one on top of each other, providing double-stack rail service. Stack train services have enabled more intermodal freight to be transported on the rails in a more efficient manner, since twice as many containers could be shipped on a train of the same length, further reducing the cost of moving cargo. For North American shippers that wanted to take advantage of the combined efficiencies of truck and rail service but did not require their freight to leave the continent, intermodal piggybacking became a viable option.

These 48-foot and 53-foot domestic containers ("Domestic Containers") are the same size as standard highway trailers and are larger than their ISO cousins. While some international shipments may be trans-loaded into Domestic Containers, Domestic Containers are used almost exclusively to transport goods manufactured in the U.S. to consumers located in the U.S. In other words, Domestic Containers are the lifeblood of a thriving U.S. manufacturing base selling U.S. goods to U.S. consumers.

Currently, in the U.S., over 17 million intermodal loads are moved by rail and 60 million intermodal loads are moved by motor carriers each year. This number has increased over twenty percent (20%) in the last five (5) years. A vast and constantly replenished inventory of shipping containers is necessary to meet

the needs of intermodal shippers and providers. Indeed, IANA created and maintains a Global Intermodal Equipment Registry (“GIER”), a database containing information about approximately 90% of intermodal equipment in use in the U.S. Based on an industry-average ratio of 1.2 Domestic Containers for every chassis registered in GIER, IANA conservatively estimates that approximately 319,000 Domestic Containers are in service at any given time. In other words, Domestic Containers are ubiquitous and are critical to the ability of U.S. manufacturers to be able to move their goods to U.S. consumers.

Intermodal transportation offers a wide range of undisputed benefits to U.S. shippers and, ultimately, to individual U.S. consumers. For instance, due to rail fuel efficiency and the double-stacking of containers, intermodal transportation is the most cost-effective transportation option for containers moving 500 miles or more. Likewise, intermodal transportation provides an environmentally-friendly solution as it requires fewer trucks on the highways and, therefore, results in reduced greenhouse gas emissions. The use of an intermodal transportation solution also materially reduces instances of cargo theft due to the more controlled, closed-loop environment providing for enhanced security. All of the foregoing ultimately reduces the price of goods for businesses and individual consumers.

IANA respectfully requests that the Office of the United States Trade Representative rescind and abandon the Container Tariff because the Container Tariff substantially undermines intermodal productivity and, as stated above: (1) the Container Tariff will result in severe economic harm to U.S. interests, (2) the Container Tariff is not strategically important to U.S. goals, and (3) the Container Tariff is not practical or effective in advancing U.S. trade policy. In addition, notably, the Container Tariff would treat China as the equivalent of North Korea and Cuba, which are the only two countries in the world against which the U.S. currently levies a 25% *ad valorem* tariff on shipping containers.

III. The Container Tariff Will Result in Severe Economic Harm to U.S. Interests

The Container Tariff amounts to a direct tax on U.S. manufacturers who produce and ship freight to U.S. consumers. As noted above, Domestic Containers are used almost exclusively to ship goods manufactured in the U.S. to consumers located in the U.S. Transportation providers who purchase and use Domestic Containers in order to transport such goods will themselves naturally have to recover the costs associated with the Container Tariff by further increasing prices charged to shippers in an environment where transportation rate increases have already been sharp. Those shippers will, in turn, necessarily pass these increased costs on to consumers. In addition, by artificially increasing the cost of intermodal transportation vis-à-vis other transportation solutions, the Container Tariff will function to drive an increased volume of transportation away from an intermodal service to more costly, less environmentally friendly, and less secure over-the-road carriage. Unsurprisingly, a heightened volume of over-the-road transportation also increases highway congestion (leading to inefficiencies and a greater risk of highway accidents) and taxes our already strained and decaying highway infrastructure.

Furthermore, as was the case in 2018, a widespread consensus exists that the U.S. continues to experience challenges in the domestic surface transportation market due to a convergence of many factors including, but not limited to, continued strong demand for manufactured goods and services, an ongoing motor carrier driver shortage, and the impact of new regulations, such as the electronic logging mandate for truck drivers. Various industry resources have corroborated and quantified the significant demands being placed on domestic transportation providers.

For instance, the Cass Freight Index for April 2019 showed shipment volumes down 3.2 % year-over-year, but still up 6.6% from two years ago. Additionally, the Cass Freight Index revealed that shipper expenditures are up 6.2% year-over-year, reflecting the increased prices that shippers need to pay to have

their goods transported (See Exhibit 1). In its Intermodal Market Trends & Statistics 4th Quarter Report, IANA reported that intermodal freight volumes increased 5.6 % in 2018, the strongest full-year result in five years. See “Intermodal Nets Solid Growth in Fourth Quarter,” IANA (Feb. 1, 2019) attached as Exhibit 2. Analysts at DAT Solutions reported in May 2019 that spot rates among the top 100 U.S. spot truckload lanes showed an increase of 3.1% from March to April of 2019 (See Exhibit 3). The Drayage Demand Index created by Gross Transportation Consulting and Drayage.com rose to 194 in the last week of April 2019, up from a reading of 168 at the end of March (See Exhibit 4). In sum, the U.S. economy continues to expand with the first quarter of 2019 GDP growing at a rate of 3.1%.

The Container Tariff will only exacerbate the foregoing economic challenges in the domestic transportation market, particularly because those who purchase Domestic Containers (railroads, trucking companies, and transportation intermediaries) have no domestic sources from which to purchase such containers. For instance, the U.S. Department of Commerce’s International Trade Administration found in 2015 that no U.S. manufacturer produced 53-foot domestic intermodal containers and that, therefore, no U.S. industry suffered any material harm from subsidies provided by the Chinese government to the container industry. IANA remains unaware of any U.S. company engaged in the manufacture of Domestic Containers.

In summary, the intermodal transportation sector (including trucking companies, railroads, and freight intermediaries), commercial shippers of all kinds, and individual consumers will be significantly harmed by the Container Tariff. Moreover, this harm serves no useful purpose in light of the absence of any U.S. manufacturers of Domestic Containers who compete with Chinese manufacturers. U.S. consumers who are trying to “buy American” should not be saddled with the additional and highly detrimental cost imposed by the Container Tariff.

IV. The Container Tariff is not Strategically Important to U.S. Goals

The primary purpose of the various tariffs being imposed upon products imported from China is to address the forced transfer of American technology and intellectual property. However, the Container Tariff wholly fails to meet this important purpose for the simple reason that intermodal containers cannot be deemed to constitute advanced technology. As set forth above, container technology emerged in the 1950’s and, while containers have undergone various improvements, containers remain fundamentally what they have always been: metal boxes with twist locks that permit them to be attached to chassis in order to be transported over the road. While containerization was innovative in the 1950’s, containers themselves cannot be characterized as advanced technology in 2019. The Chinese manufacture of containers does not harm U.S. technology or implicate U.S. intellectual property in any way whatsoever.

In addition, the Container Tariff does not operate as an effective response to China’s “Made in China 2025” policy. The “Made in China 2025” policy focuses on 10 specific sectors that the Chinese government intends to support in order to become an advanced manufacturing power: (1) information technology, (2) high-end machinery and robotics, (3) aerospace, (4) marine equipment and ships, (5) advanced rail transport, (6) new-energy vehicles, (7) electric power, (8) agricultural machinery, (9) new materials, and (10) bio-medical. While ships and rail operators use containers, containers themselves do not constitute the type of “latest generation”, high- tech equipment upon which China is concentrating its efforts. A general-purpose shipping container is qualitatively different than a futuristic rail engine component or some form of critical ocean vessel technology to be used for autonomous navigation at sea. Once again, while variations exist, a basic shipping container is fundamentally nothing more than a large, closed, rectangular box of corrugated metal with a plywood floor and doors at one end. While crucial to trade, containers are hardly the subject of advanced manufacturing practices.

Finally, as noted above, IANA is unaware of any U.S. manufacturer of domestic intermodal containers. Consequently, those who purchase intermodal containers in the U.S. States (railroads, trucking companies, freight intermediaries, etc.), particularly of the 53-foot variety, have no meaningful domestic sourcing alternative for this commodity. Containers are purchased almost exclusively from Chinese manufacturers and from a small handful of other manufacturers located outside of the U.S. The imposition of the Container Tariff is utterly unlikely to give birth to a new Domestic Container manufacturing enterprise or to create new jobs of any kind.

In short, the Container Tariff is not strategically important to achieving U.S. goals as containers do not constitute advanced technology and fall well outside the ambit of China's "Made in China 2025" policy.

V. The Container Tariff is Not Practical or Effective in Advancing U.S. Trade Policy

U.S. trade policy is aimed at ending certain unfair trade practices on the part of China, such as engaging in dumping, imposing discriminatory non-tariff barriers and non-reciprocal tariffs, achieving forced technology transfers, funding industrial subsidies, and the like. However, the Container Tariff indiscriminately and adversely affects all *legitimate* U.S. - China trade. U.S. exporters selling products to China, U.S. importers purchasing approved products from China, and U.S. manufacturers making products in the U.S. for consumption by U.S. consumers all rely on an adequate supply of containers. Forcing transportation providers to pay more for these containers will merely penalize shippers and consumers for engaging in *legitimate* commercial transactions that help spur and grow the U.S. economy. The Container Tariff will have no salutary effect on U.S. trade policy because, among other things, no U.S. manufacturers of Domestic Containers even exist. In other words, even if the Container Tariff was necessary to address some actual economic injustice or unfair trade practice, the proposed cure would manifestly be worse than the illness.

VI. Conclusion

Simply put, the Container Tariff appears to be a solution in search of a problem. IANA, as the voice of the intermodal freight industry, urges you to rescind and abandon the Container Tariff for all of the same compelling reasons that you wisely did so in 2018. The Container Tariff substantially undermines intermodal productivity and, more specifically: (1) the Container Tariff will result in severe economic harm to U.S. interests, (2) the Container Tariff is not strategically important to U.S. goals, and (3) the Container Tariff is not practical or effective in advancing U.S. trade policy.

IANA is pleased to answer any questions you may have. Thank you for your consideration.

Sincerely,



Joanne F. Casey
President and CEO
Intermodal Association of North America

Enclosures

cc: Marc Blubaugh, IANA General Counsel

APRIL 2019

Cass Freight Index® Report



Economic Outlook from Freight's Perspective

Negative Shipment Volume Hits Five Months in a Row

Economic Contraction or Only Retrenchment?

	April 2019	Year-over-year change	2 year stacked change	Month-to-month change
Shipments	1.194	-3.2%	6.6%	-0.3%
Expenditures	2.909	6.2%	19.8%	0.7%

Continued decline in the Cass Freight Shipments Index continues to concern us:

- When the December 2018 Cass Shipments Index was negative for the first time in 24 months, we dismissed the decline as reflective of a tough comparison. When January 2019 was also negative, we again made rationalizations. Then February was down -2.1% and we said, "While we are still not ready to turn completely negative in our outlook, we do think it is prudent to become more alert to each additional incoming data point on freight flow volume, and are more cautious today than we have been since we began predicting the recovery of the U.S. industrial economy and the rebirth of the U.S. consumer economy in the third quarter of 2016."
- When March was down -1.0%, we warned that we were preparing to 'change tack' in our economic outlook.
- With April down -3.2%, we see material and growing downside risk to the economic outlook. We acknowledge that: all of these still relatively small negative percentages are against extremely tough comparisons; the two-year stacked increase was 6.6% for April; and the Cass Shipments Index has gone negative before without being followed by a negative GDP. We also submit that at a minimum, business expansion plans should be moderated or have contingency plans for economic contraction included.
- The initial Q1 '19 GDP report of 3.2% suggests the economy is growing faster than is reflected in the Cass Shipments Index. Our devolvement of GDP explains why the apparent disconnect is not as significant as it first appears.
- The weakness in spot market pricing for many transportation services, especially trucking, is consistent with the negative Cass Shipments Index and, along with airfreight and railroad volume data, heightens our concerns about the economy and the risk of ongoing trade policy disputes.



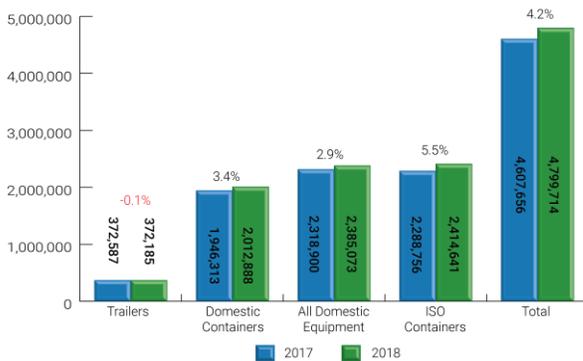
For Immediate Release

Contact: David Garofalo
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dgarofalo@intermodal.org

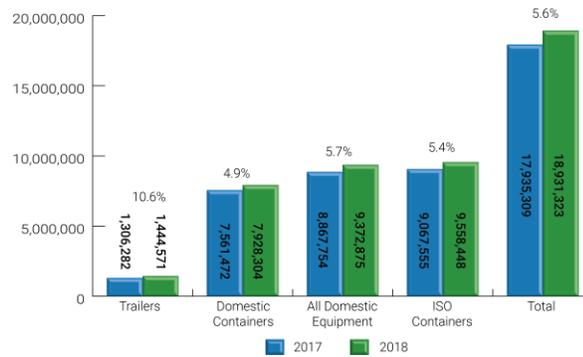
Intermodal Nets Solid Growth in Fourth Quarter Full-Year Results the Strongest in Five Years

CALVERTON, MD, February 1, 2019 – Intermodal freight volumes posted a fourth quarter growth rate of 4.2 percent year-over-year, according to the Intermodal Association of North America's Q4 and year-end *Intermodal Market Trends & Statistics* report. Quarterly international intermodal volume increased by 5.5 percent; domestic containers grew by 3.4 percent; while trailer loads fell 0.1 percent, the first time since 2016.

Fourth Quarter 2018 Intermodal Volume Comparisons



Year-End 2018 Intermodal Volume Comparisons



"All intermodal markets recorded an increase of at least 4.9 percent, and all regions saw traffic climb during 2018," said Joni Casey, president and CEO of IANA. "While we did see some year-end tapering, total volumes increased 5.6 percent for the year."

The seven highest-density trade corridors accounted for 62.6 percent of total volume and were up collectively 5.1 percent for the fourth quarter. Growth ranged from 13.1 percent in Midwest-Northwest corridor to 0.9 percent in the Trans-Canada. The South Central-Southwest lane advanced 9.7 percent, while the Intra-Southeast was close behind with 9.4 percent. The Southeast-Southwest lane booked a 7.0 percent gain, and the Northeast-Midwest corridor saw a 5.7 percent increase.

The Southwest-Midwest managed 1.0 percent.

Following rising growth in the first half of 2018 and then in Q3, IMC volumes fell for the first time since Q1 of 2017. Solid 4.5 percent growth in intermodal loads largely offset the 6.3 percent drop in highway loads.

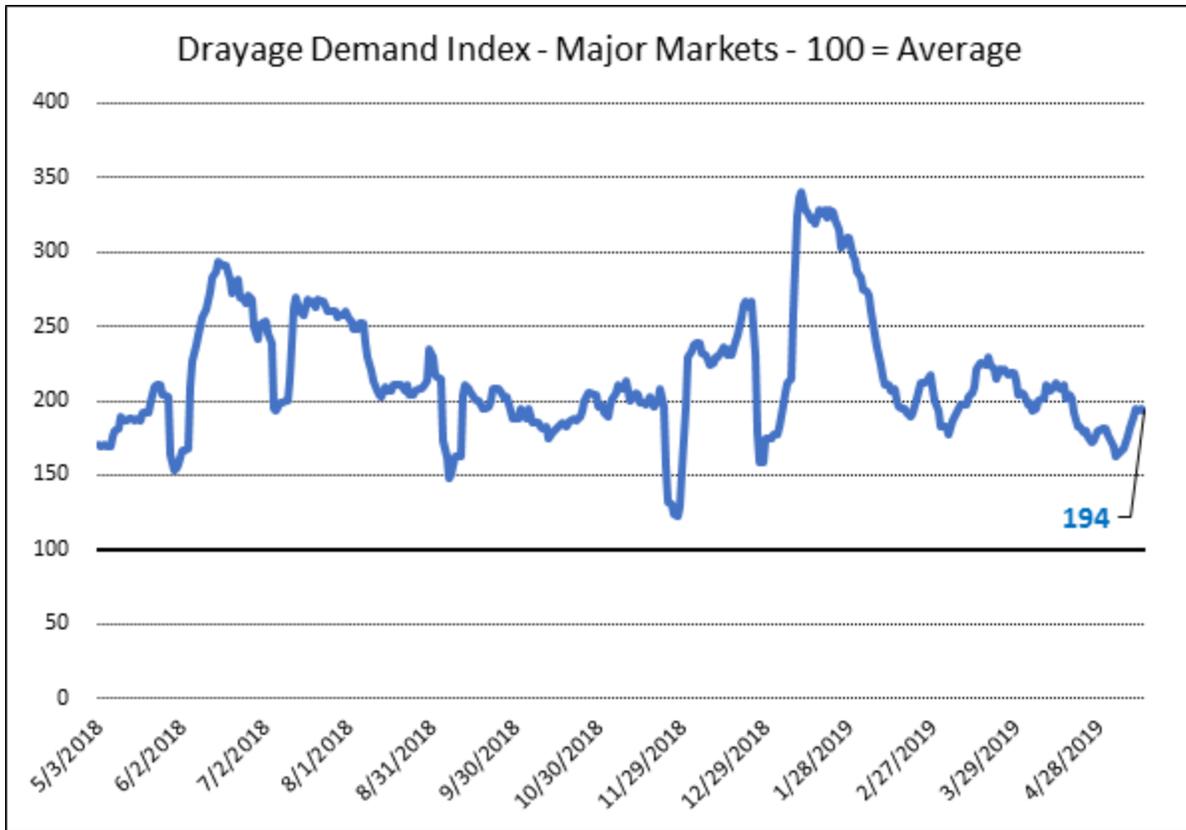
Intermodal Market Trends & Statistics is published quarterly by IANA for its members and is available on a subscription and individual copy basis for non-members. Members of the press may request a sample copy of the third quarter Intermodal Market Trends & Statistics report from Art Cleaver at acleaver@intermodal.org. The report features detailed analyses and reproducible graphical representations of Q4 2018 results.

As North America's only industry trade association representing the combined interests of the intermodal freight industry, IANA connects its members with the resources and opportunities they need to stay informed, aligned and on the path to success. For more information, visit www.intermodal.org.

DAT Trendlines™ May 2019

May 2019 Freight Rates			
	May 20-26 vs May 13-May 19	Apr 2019 vs Mar 2019	Apr 2019 vs Apr 2018
Spot Market Loads	+1.7%	+3.1%	-53.5%
Spot Market Capacity	-1.8%	+9.8%	+42.3%
Van Load-To-Truck	+10.1%	-7.9%	-58.9%
Van Rates (Spot)	+1.9%	-2.7%	-16.1%
Flatbed Load-To-Truck	-6.5%	-2.7%	-16.1%
Flatbed Rates (Spot)	+0.2%	-0.4%	-11.8%
Reefer Load-To-Truck	+12.2%	-12.1%	-60.9%
Reefer Rates (Spot)	+1.6%	-1.1%	-11.6%
Fuel Prices	+0.1%	+1.5%	+0.8%

*source dat.com



Source: Gross Transportation Consulting and Drayage.com