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U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20590

REMARKS PREPARED FOR ALAN S. BOYD, SECRETARY OF TRANSPORTATION, BEFORE THE COMMITTEE ON COMMERCE OF THE SENATE ON "THE TRADE SIMPLIFICATION ACT OF 1968" S. 3235, ROOM 5110 NEW SENATE OFFICE BUILDING ON MONDAY, JUNE 17, 1968, AT 9:30 A.M.

Mr. Chairman, members of the Committee, I am pleased to have the opportunity today to support a legislative proposal which we believe will be an important step in a campaign to remove artificial impediments to international trade. The Trade Simplification Act of 1968 was developed as a fundamental ingredient in the larger effort by the Department of Transportation to simplify and stimulate trade - an activity which we refer to as "facilitation."

This is simply a fancy name for a grouping of activities aimed at systematically unwinding the red tape which, over the years, has accumulated around trade and transportation.

In the simplest terms, the problem is that the institutional framework within which goods move in foreign commerce has not caught up with the technology. We have in this country several modes of transportation which, to be effective, must function as an inter-connected system. Our technology recognizes this, but very often our legal requirements and procedures do not.

Cargo containers, for example, have given us the potential for packaging various kinds of cargoes at inland points in the United States for undisturbed, through shipment to many foreign points, as well as to domestic destinations. This technology has eliminated any requirement for the contents of the container to be handled at any point prior to destination.

The movement of freight in containers reduces sharply the ocean carriers' loading costs. It speeds vessel turn-around. It reduces transit time for shippers and brings additional benefits such as the elimination of handling and handling charges and reductions in pilferage, claims, insurance, and the cost of export packing. Lower freight rates can also be expected.

However, a prospective American shipper is faced with an array of requirements and circumstances seemingly designed to offset the advantages offered by container technology. At the outset, if his traffic must move by more than one domestic transportation mode, he will be unable to find a single-factor through rate from origin to destination. Rather, separate rates will be quoted for each mode of transportation employed.

On a movement from a point in this country to a point in Europe, the shipper will find that the Interstate Commerce Commission believes it cannot accept any rate which incorporates ocean transportation, while the Federal Maritime Commission believes it cannot accept a rate which includes inland movement in the United States.

The potential shipper may also find that his surface tariffs have been constructed on the basis of weight, while the maritime tariff will be based on the measurement of the cargo. The bills of lading which will attest his shipment are complex and voluminous. In fact, the statutes which govern our transportation regulatory agencies dictate that the bill of lading be fragmented.

In addition to these impediments, the shipment will involve perhaps as many different rules of liability as there are carriers involved, further retarding the chances for single bills of lading, and producing uncertain and variable relief for a shipper should his merchandise be lost, damaged, or delayed.

This unpredicatability has a cumulative effect which too frequently has discouraged shippers from entering the export trade. And the more hardy shipper also feels these unnecessary impediments in the form of increased costs. Last year the value of our total export-import trade was estimated at 58 billion dollars. It is estimated that the paperwork and administrative costs associated with this traffic cost 5 billion dollars.

S.3235 is designed basically for the American shipper. It would satisfy a number of basic needs.

First, it would remove the obstacles to publication of through, single-factor tariffs. The bill would put to rest any reservations the regulatory agencies may have about their power to accept intermodal tariffs for filing. We consider this to be of primary importance, since an exact knowledge by the shipper - in advance - of what his transportation costs will be is one of the keys to a flourishing international trade. The ability to predict transportation costs in domestic trade has been an important element in our economic success and our standard of living.

Related to the need for simple and concise tariff quotations is the need to eliminate the present chaos in commodity descriptions. Our bill will, we believe, go a long way toward promoting uniform commodity descriptions in tariffs and would complement activities to this end which are already in progress in the Department.

Next, the bill would make an initial assault on the paperwork problem by permitting all the carriers participating in a through movement to issue a single through bill of lading for the entire trip - door-to-door. Such documents, voluntarily and cooperatively developed by carriers, would satisfy the desire for paper whose negotiability is recognized by the banking community here and abroad, and would make the benefits of financing with such paper available from the beginning of a shipment's inland movement, prior to the customary and traditional issuance of the ocean carrier's bill of lading.

This legislation also would deal indirectly with the serious impediment which stems from the absence of a simple and uniform system of carrier liability. Variations in the substantive rights provided by the numerous domestic and foreign laws, and international conventions, are so wide that a quick, comprehensive legislative overhaul is unrealistic. At the same time, piecemeal improvements might only cause more uncertainty.

Therefore, we have tried to create a mechanism which will allow competitive market forces to work toward uniform liability. The bill will provide the impetus for carriers to assume full responsibility for loss or damage, and to reflect their costs in the joint rate. This is already being done by some Part IV freight forwarders. The possibilities for avoiding the problems posed by the confusion in the laws of liability through the device of privately arranged insurance are most encouraging.

Finally, in view of the high cost of containers and related equipment, maximum utilization of that equipment is a prerequisite to an efficient intermodal transportation system. For that reason, the bill would permit carriers to interchange equipment.

The fundamental approach of the bill is voluntary and permissive. Carriers and shippers would be permitted to establish and to use joint rates and through routes. They would not be <u>required</u> to do so, nor would they be <u>required</u> to devise simplified, through bills of lading. In the same vein, no new type of carrier would be created or certificated by the bill, and all existing types of carriers would be free to enter into joint rates with all other types of carriers.

The inclusion of freight forwarders reflects the view that they are also, in fact, common carriers. However, it is not the intention of the bill to extend or alter the present rights of Part IV freight forwarders to make special contracts with their underlying carriers. A Part IV freight forwarder would merely be authorized to participate as a party to a joint through rate arrangement in providing one leg of a through movement.

We have taken great care to avoid new regulations, and to avoid diminishing or restricting any of the powers now exercised by the regulatory agencies. None of the regulatory agencies would have jurisdiction over the whole of an intermodal rate or inter-carrier agreement, but the proposed arrangements would have to receive the approval of each relevant regulatory agency under the laws, regulations, and interpretations which the agency now applies to rates or practices involving single-mode shipments.

Transporters for hire - that is, carriers operating between points outside the United States - are authorized by the bill to participate in joint rates. But it is not intended that United States policies or standards be directly or indirectly imposed on transporters operating wholly outside the United States.

It would be useful at this point, I think, to describe for you briefly how activities pursuant to the Trade Simplification Act would work.

After receiving the approval of their respective regulatory agencies, a group of carriers who desired to establish joint rates would meet together and come up with a proposal including the joint rate; the division of revenues among the various carriers; the apportionment of liability; procedures for the interchange of equipment; and so on. Each carrier would then file the joint rate tariff with its respective regulatory agency.

Let us assume that a joint rate were agreed to by a trucking company, an ocean carrier and a foreign surface carrier. Suppose further that the door-to-door joint rate were $100 per ton and that the trucking company would receive $30 and the steamship company, $50. The trucker would file the joint rate with the ICC. The Commission might also require the trucking company to identify the $30 division it will receive. The Commission could request that this division be filed for informational purposes or actually shown in the tariff.

The same requirements would apply to the steamship company before the Federal Maritime Commission. Similarly, if the joint rate involved an air carrier, the relationship between that carrier and the CAB would be the same. A joint rate would depend upon the approval of all the regulatory agencies involved, but no agency would be given jurisdiction in the entire rate.

It is not the intention of this bill to require transporters for hire to file divisions of rates with our regulatory agencies either for informational purposes or in tariffs. Each regulatory agency would retain the authority it now has over carriers which operate under its jurisdiction.

There is a need, we feel, to give carriers reasonable assurance that legitimate intercarrier discussions and agreements which are necessary to make joint rates work will not produce a risk of antitrust violation. Each agency would be authorized to treat a joint rate agreement just as it would an agreement entered into by competing carriers, all of whom are under its jurisdiction.

Antitrust immunity would be conferred on joint-rate arrangements when each regulatory agency involved approved such arrangements under the legal standards each agency administers. Without this small but important extension of the powers of the regulatory agencies, we fear that carriers would be reluctant to enter into legitimate discussions and agreements because of the uncertainty of the antitrust implications.

Each agency would have authority to approve or disapprove participation in such discussions by carriers subject to its jurisdiction. Agreements would be permitted between a single carrier or group of carriers in one mode and a single carrier or group of carriers in another mode. The agencies would be expected to cooperate among themselves in issuing any necessary uniform regulations to be observed by carriers entering into joint-rate agreements.

There are certain things which the bill would <u>not</u> do. It would not amend any law other than those specifically amended. For example, the existing law under section 22 of the Interstate Commerce Act, relating to reduced rate transportation for the Federal Government, is unaffected.

We are aware that a related piece of legislation, S.3134, the proposed Equipment Interchange Act, has been introduced in the Senate. That bill deals with the interchange of transportation equipment, principally cargo containers and the like. The objectives of S.3134 are desirable, but that bill should not be viewed as a substitute for the Trade Simplification Act, which is designed to accomplish a great deal more.

The interchange bill would permit carriers of different types and modes to enter voluntarily into agreements covering rates and rules for the interchange of equipment, subject to the approval of a joint board. The joint board would be a new body composed of one member each from the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission. Joint-board approval would exempt from the operation of the antitrust laws those actions taken pursuant to an approved agreement.

We think this type of exemption is important. As I have indicated, the Trade Simplification bill would achieve the same end in international trade. But again, the Trade Simplification Act would do much more.

The Trade Simplification Act is a sound and solid first step toward the kind of transportation service which this nation needs. The barriers and impediments which encumber international transportation have accumulated through many years. It would be unrealistic for us to think we can remove all the impediments in one dramatic move. However, we believe the transportation community can achieve a great deal if it is freed from some of the constraints that may have been appropriate to the era of the clipper ship, but that have no place today in the era of the unit train, the container ship and the jumbo jet.

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