

Terminal Productivity and Operations



PRESENTED TO
THE ASSOCIATION OF AMERICAN PORT
AUTHORITIES
PORT ADMINISTRATION AND LEGAL ISSUES
SEMINAR, *NEW ORLEANS*
APRIL 10, 2015



Disclaimer



**THE OPINIONS REFLECTED IN THIS
PRESENTATION ARE THE AUTHOR'S ALONE
AND DO NOT REPRESENT THE POSITION OF
THE FEDERAL MARITIME COMMISSION**

INFORMATION YOU NEED



WHO?

WHAT?

WHERE?

WHEN?

WHY?

HOW?

Who are your stakeholders?



VESSEL OPERATORS

TERMINAL OPERATORS

LABOR

TRUCKERS

IMPORTERS/EXPORTERS

INTERMEDIARIES

COMMUNITY

What is the cargo?



WHAT TYPE OF CARGO?

HOW MUCH?

DOES IT NEED SPECIAL TREATMENT?

IS IT LIKELY TO BE SUBJECT TO INSPECTION?

WHAT TYPE OF EQUIPMENT IS NEEDED?

WILL EQUIPMENT BE READY AND AVAILABLE?

Where is it coming from or going to?

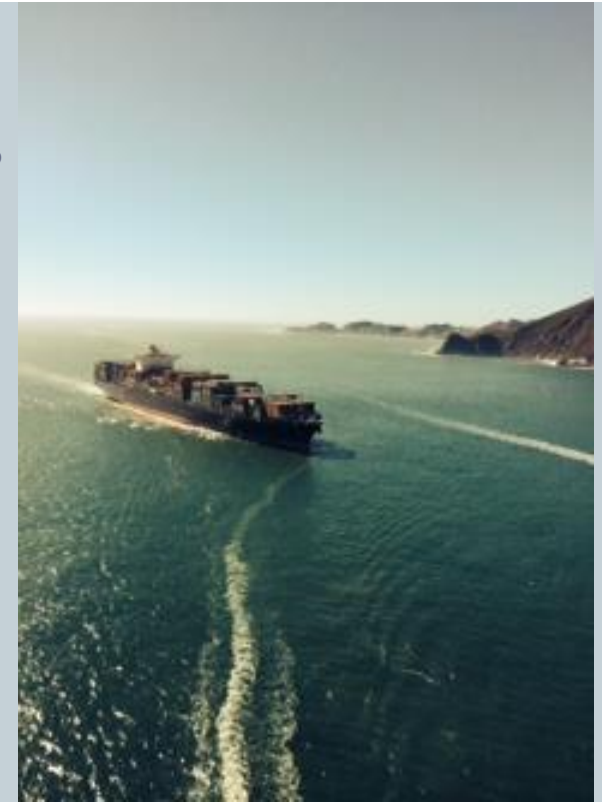


WHERE IS CARGO COMING FROM?

RAIL, TRUCK, BARGE?

WHERE IS IT GOING?

RAIL, TRUCK, BARGE?



When is it coming or going?



SEASONAL PEAKS

MONTHLY PEAKS

WEEKLY PEAKS – VESSEL SCHEDULES, LFD

**DAILY PEAKS – LABOR BREAKS; ON/OFF
PEAK PRICING**

FORECASTS

Why is it using this port?



NATURAL ADVANTAGES

SIZE OF LOCAL MARKET

**SYSTEMS – INFRASTRUCTURE; INTERMODAL
CONNECTIONS**

COSTS: TIME + EXTERNALITIES

How is the cargo moving?



VESSEL OPERATOR

ALLIANCE

TERMINAL

INTERMODAL CARRIER

What is the FMC doing?



REGIONAL PORT FORUMS

CONGESTION STUDY

CADRS

Shipping Act Prohibitions



- **UNDUE PREFERENCE OR PREJUDICE**
- **UNREASONABLE REFUSAL TO DEAL**
- **UNFILED AGREEMENT**

CASES TO WATCH:

K-LINE V. FMC (DC CIR.)

AUCTION BLOCK V. FMC (9TH CIR.)

MAHER V. FMC (DC CIR.)

Office of Consumer Affairs & Dispute Resolution Services (CADRS)



USING ADR TO RESOLVE INTERNATIONAL SHIPPING DISPUTES



Background: CADRS



- CADRS established as an independent office to provide:
 - Neutral and Confidential Forum
 - Practical, Real Time Solutions to Problems
 - Cost Savings
 - Enhanced Business Relationships
 - Experienced Neutrals with Industry Knowledge
- The Commission has encouraged the expansive use of CADRS' services to resolve industry-wide problems and disputes



Services Provided by CADRS



- Education and Outreach
- ADR: Voluntary, informal processes implemented to resolve conflict outside of a courtroom using a third party neutral. CADRS provides the following types of ADR services:
 - Ombuds and Rapid Response
 - Facilitation
 - Mediation
 - Binding Arbitration



Securing Assistance from CADRS



- Request for assistance before or after onset of dispute
 - Ombuds/complaints hotline
 - Mediation in docketed FMC proceedings

- Service Contract Dispute Resolution Clauses:
 - Mediation-Binding Arbitration
 - Mediation-Litigation



Benefits of Using CADRS to Resolve Disputes



- No cost for services provided by CADRS Staff
- Confidential
- Neutral
- Experienced transportation neutrals
- Preserve business relationships
- Control over outcome
- Practical collaborative solutions
- Quick Resolution
- Parties likely to follow through on agreement



EXAMPLES OF CADRS ADR ISSUES



- Disputes related to non-payment (multiple NVOCCs)
- Expenses caused by delays at terminal/vessel bunching/scheduling/CBP
- Maritime liens for past due amounts
- Multiple house bills of lading
- Cargo not allowed entry into export destination; resulting efforts to divert/return/abandon cargo
- Abandonment of cargo to mitigate damages



Examples of Typical Problems Handled By CADRS



- Household Goods – non-delivery; additional charges
- Rates and Surcharges - applicability
- Service Contract Disputes
- Tariff Disputes
- Phantom Bookings and Rolled Cargo/cancelled calls
- Delays – Equipment Unavailability/Gate Congestion
- Cargo Loss or Damage
- Demurrage and Detention
- Fees and Delays Related to Inspections/Exams



Obtaining Assistance from CADRS



- **Helpful Information:**
 - Contact information for all parties to dispute
 - Brief description of the problem or dispute
 - Relevant documentation

- **CADRS Contact Information:**
 - (202) 523-5807 (local)
 - (866) 448-9586 (toll free)
 - (202) 275-0059 (fax)
 - complaints@fmc.gov



Thank You!



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