Statement of Richard Sicotte, Professor of Economics, University of Vermont, before the U.S. House of Representatives, Judiciary Committee, Subcommittee on the Administrative State, Regulatory Reform and Antitrust.

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Chairman Fitzgerald, Ranking Member Nadler, and Members of the Subcommittee, thank you for inviting me to testify today on regulation and competition in ocean shipping. I am a Professor of Economics at the University of Vermont, with areas of specialization in industrial organization and economic history. Drawing on my experience researching the shipping industry and its regulation, my goal is to bring an economic perspective to the matters before the committee today.

The Shipping Act of 1916 authorized the predecessor of the Federal Maritime Commission to approve cartel - "conference" - agreements in ocean shipping, and those agreements so approved would be immune from the antitrust laws. Conference agreements fixed rates, coordinated capacity and sometimes pooled revenues. Subsequent amendments to the Shipping Act effectively prohibited rate-fixing but still permit firms to cooperate intensively in terms of capacity and operations. Shipping agreements must be submitted to the Federal Maritime Commission, which, quoting its 2024 annual report, "analyzes these agreements…for potential anticompetitive effects. For those agreements that are competitively concerning…Commission staff monitors activity on an ongoing basis. Conduct inconsistent with the terms of the agreement is illegal." The FMC reported that at the end of FY 2024, there were 360 agreements, 50 of which were subject to staff monitoring.

From the perspective of US foreign commerce, one could argue that the most important kinds of the agreements are 1) space (slot) charter agreements, 2) vessel sharing agreements (VSAs), and 3) shipping alliances. The first are agreements where one firm "rents" space on another firm's containerships. Vessel sharing agreements are between two or more firms who use space on one another's vessels and coordinate capacity. Alliances are described by the FMC as "large VSAs." These agreements provide the backdrop for the adoption of very large capacity containerships, frequently more than 10,000 TEUs, or twenty-foot equivalent containers. The largest vessels have more than twice that capacity. There has been a clear trend toward adoption of ever larger ships.

According to the FMC, in FY 2024 nearly ninety percent of US transatlantic and transpacific waterborne foreign commerce was carried by the members of three alliances. In 2025

there was some realignment among these firms so that MSC, a former alliance member is no longer in an alliance. The three alliances along with MSC are said to control more than eighty percent of global container capacity.

There are challenging economic questions surrounding these agreements and their effects. First, if firms jointly fix capacity, then they can exercise market power even though they do not explicitly collude on rates. Second, such close cooperation and information sharing can facilitate collusion, tacit or otherwise. Yet a commonly shared view is that alliances and VSAs enable firms to achieve economies of scale and enjoy cost savings that might be passed on, at least in part, to consumers. Measuring the efficiency gains and quantifying the exercise of market power are within the wheelhouse of industrial organization economists. In the context of other industries, they are precisely the types of issues that DOJ and FTC economists address, whether in merger analysis, the analysis of cartels or of vertical restraints.

There is very little in the public record that sheds light on the kinds of analysis being conducted by FMC staff on these agreements. There is an MOU between the DOJ and the FMC, and it is unclear if the FMC staff coordinate with DOJ experts in their analysis. The FMC has access to data, or the authority to collect it, that would enable state of the art economic assessment of the competitive effects of the alliances, and an analysis of whether alternative institutional arrangements short of an alliance could result in similar purported efficiency benefits. The DOJ commented on the OCEAN Alliance agreement in 2016 and the Gemini agreement in 2024. Yet the FMC allowed both to become effective without addressing DOJ's objections. The FMC acknowledges "competitive concerns," but it is unclear what is being done, and what "monitoring" entails. There is no record, to my knowledge, of the FMC seeking to block or enjoin any carrier agreement. A reasonable reform in my view would be that the review of interfirm agreements in ocean shipping be carried out by professionals in DOJ or FTC, and that they are able to access the essential data to carry out their analysis, or agreement reviews become a joint endeavor between DOJ and the FMC where any DOJ objections would be addressed.