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BEFORE THE  
SURFACE TRANSPORTATION BOARD

DOCKET NO. EP 704

REVIEW OF COMMODITY, BOXCAR, AND  
TOFC/COFC EXEMPTIONS

ENTERED  
Office of Proceedings

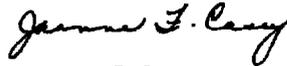
JAN 31 2011

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NOTICE OF INTENT TO PARTICIPATE  
OF  
THE INTERMODAL ASSOCIATION OF NORTH AMERICA, INC.

In response to the Surface Transportation Board's (STB) original Notice published in the October 27, 2010, issue of the Federal Register and revised through a decision issued on November 19, 2010, The Intermodal Association of North America, Inc. (IANA) hereby notifies the STB of its intent to participate at the February 24, 2011, public hearing which will be held at the agency's offices. Its proposed speaker will be Joanne F. Casey, IANA's President and Chief Executive Officer. Five minutes are requested for that presentation, and the speaker will address the trailer-on-flatcar/container-on-flatcar (TOFC/COFC) exemption under 49 CFR part 1090. A copy of IANA's written testimony is resubmitted herewith.

Respectfully submitted,



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Dated: January 31, 2011

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**SURFACE TRANSPORTATION BOARD**

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**TESTIMONY OF JOANNE F. CASEY**  
**PRESIDENT & CEO OF THE**  
**INTERMODAL ASSOCIATION OF NORTH**  
**AMERICA, INC.**  
**IN SUPPORT OF THE TOFC/COFC EXEMPTION**

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My name is Joanne F. Casey and for the past 13 years I have served as the President and Chief Executive Officer of The Intermodal Association of North America, Inc. (IANA). Previously, I held the position of Executive Director at the Intermodal Conference of the American Trucking Associations, Inc., for ten years, prior to becoming the President and Chief Executive Officer of the Transportation Intermediaries Association. I have been authorized by IANA's Board of Directors to offer this testimony in support of the current rail exemption for trailer-on-flatcar/container-on-flatcar (TOFC/COFC) transportation set forth in 49 CFR Part 1090.

IANA is North America's only trade association representing the combined interests of intermodal freight transportation companies and their suppliers. IANA, which has more than 900 members, includes railroads, steamship lines, motor carriers, and intermodal marketing companies. Its rail, water and motor carrier members transport over ninety percent of the Nation's intermodal traffic throughout North America and overseas. That intermodal transportation relies heavily upon the services of the United States railroad system to provide the critical infrastructure and connectivity between the steamship lines and the motor carriers in moving cargo shipments from origination to final destination.

In 1976, Congress, recognizing that regulation was a contributory factor to the problems then encountered by the railroads, enacted the Railroad Revitalization and Regulatory Reform Act, Pub. L. No. 94-210. That legislation included a provision authorizing the former Interstate Commerce Commission (ICC) to exempt rail services when the agency determined that certain statutory conditions were met. In 1980, Congress again addressed the conditions in the rail industry in the Staggers Rail Act of 1980, by reframing the nation's rail transportation policy, and by revising the ICC's authority to facilitate the agency's exercise of that exemption power.

As pertinent regarding rail transportation policy, Congress directed that to the maximum extent possible, competition and the demand for services are to establish reasonable rail rates; and that the need for federal regulatory control over rail transportation is to be minimized. (See 49 U.S.C. Section 10101(a).) Moreover, under the then newly-created Section 10502 of 49 U.S.C. the ICC was required to grant an exemption where it found that the regulation of a person, class of persons, or a transaction or service is not necessary; and the transaction or service is of limited scope, or the application of a provision of the Act is not needed to protect shippers from an abuse of market power. Congress was explicit that it expected that the ICC would implement exemptions reducing its regulation of the railroads which complied with the established standards. (See H.R. No. 96-1035, 96<sup>th</sup> Cong., 2d Sess., at page 60; and H.R. Rep. No. 96-1430, 96<sup>th</sup> cong., 2d Sess. at p.105.) Significantly, in Section 10502(f) of 49 U.S.C., Congress specifically identified transportation provided by a rail as part of a continuous intermodal movement as a transportation service which could be exempted by the agency.

Commencing in 1980, the ICC instituted a series of proceedings in Ex Parte No. 230, Improvement of TOFC/COFC Regulation, in which the exemption of intermodal transportation provided by rail, rail-owned trucks, and pickup and delivery motor carriers was considered and approved. The agency's decisions in those proceedings was upheld in American Trucking Assn.'s v. ICC, 656 F.2d 1115 5th Cir. 1981); and in Central States Motor Freight Bureau, Inc. v. Interstate Commerce Commission, 924 F.2d 1099 (D.C. Cir. 1990). Importantly, in Ex Parte No. 230 (Sub-No. 5), Improvement of TOFC/COFC Regulation, 364 I.C.C. 731-32 (1981), the ICC concluded, as pertinent here, that regulatory restraints impeded the development of intermodal service, and that the exemption from regulation would likely stimulate improvements without threatening any harm to individual shippers. The growth and expansion of the intermodal industry since that exemption was granted has established the verity of those conclusions.

As indicated, IANA includes among its membership all segments of the intermodal industry. Based on the information and data available to it, IANA believes that in the absence of regulation, the domestic intermodal transportation industry has been able to develop and respond to the growing intermodal market. Since 1980, the industry has achieved an average year over year growth rate of 4.9%. This growth is representative of the ever increasing demand for intermodal service from producers, manufacturers, and consumers in the United States and the global marketplace.

## Total Intermodal Loadings

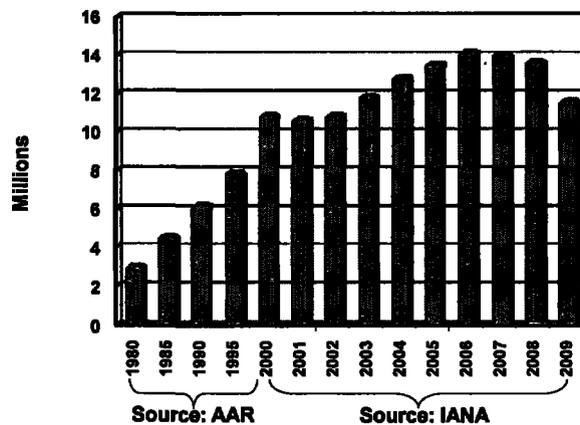


Figure 1

Intermodal transportation has evolved into an integral component of the global supply chain infrastructure that maximizes the benefits of all modes of freight transportation. Steamship lines, Intermodal Marketing Companies, truckload and less than truckload motor carriers, parcel and small package service providers, and the United States Postal Service have embraced rail TOFC/COFC transportation as an integrated service offering within their specific lines of business and are dependent upon this dynamic transportation option to support their respective service portfolios.

Over the last thirty years, import and export traffic utilizing rail intermodal services continues to grow. In 2009, over 28 million twenty foot equivalent units (TEUs) were handled by U. S. ports, with a solid 43 percent of that volume routed over the North American rail intermodal network. Intermodal service, as currently exempted, plays a crucial and critical role in support of the movement of goods within the global supply chain.

The intermodal marketplace has evolved from handling industrial commodities, raw materials and scrap products to a robust and vibrant mix of production materials, agricultural products, finished goods and high end consumer products. Despite the steady growth of intermodal services, there is no evidence that the domestic rail portion of these movements is at the expense of other transportation options. In fact the following table, developed by the US Department of Transportation, shows the service alternatives open to shippers, for multiple products over a variety of lanes.

### Potential Modal Comparative Advantage by Market

		Intercity Distance in Miles				
		0-250	250-500	500-1000	1000-2000	>2000
WEIGHT	Retail Goods/Light	Truck	Truck	Truck Rail Intermodal	Truck Rail Intermodal	Truck Rail Intermodal
	Consumer Durables and Other Manufactured Goods/Moderate	Truck Rail	Truck Rail Rail Intermodal	Truck Rail Rail Intermodal	Truck Rail Rail Intermodal	Truck Rail Rail Intermodal
	Bulk Goods/Heavy	Truck Rail Water	Rail Water Truck	Rail Water	Rail Water	Rail Water

Source: U. S. Department of Transportation Federal Railroad Administration, National Rail Plan Progress Report – September 2010

Figure 2

Under the regulatory exemptions in place, rail TOFC/COFC transportation has proven to be environmentally sound, sustainable and more energy efficient than competitive modes. From the perspective of public benefit, existing rail intermodal services dramatically reduce greenhouse gases and emissions associated with fuel consumption.

Further, intermodal transportation provides relief from wear and tear on the nation's highways and bridges and the associated costs of infrastructure maintenance and repair. This is evidenced by the universally accepted industry metric of a single doublestack train carrying the equivalent of 280 individual trucks on a privately maintained, privately funded and fully integrated infrastructure system. Lastly, a vibrant intermodal system supports economic growth through sustained employment, capital investment and advancement in technology.

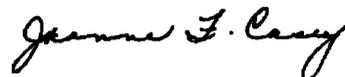
Rail intermodal services are a necessary component to freight transportation in order to enable a measured and strategic response to support the nations expected population growth challenges of an estimated 70 million more people by 2035. By the U.S. DOT and Federal Railroad Administration's own estimates, it is anticipated that this population growth will create the need to move an additional 2.8 billion tons of freight to sustain the related demand.

It is submitted that, as Congress recognized in enacting the exemption provisions in the Staggers Rail Act, the elimination of needless regulatory restrictions has enabled the railroads and the related services provided by the motor carriers to better meet the transportation needs of the domestic and global intermodal markets.

In my some 25 years in the transportation and intermodal industry, I am unaware of any allegations or complaints that the exemption of rail TOFC/COFC services has led to any violations of the rail transportation policy in Section 10101(a) of 49 U.S.C., or created any abuses of market power. In fact, IANA believes that the TOFC/COFC exemptions are achieving the objectives Congress envisioned in enacting Section 10502 of 49 U.S.C., by providing a viable transportation option for shippers. Accordingly, the Association fully supports the continuation of those exemptions.

I wish to thank the Surface Transportation Board for permitting IANA the opportunity to present this testimony.

Respectfully submitted,



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Dated: January 31, 2011