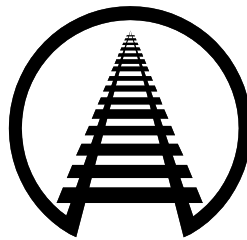


TESTIMONY OF

IAN JEFFERIES

**PRESIDENT AND CHIEF EXECUTIVE OFFICER
ASSOCIATION OF AMERICAN RAILROADS**



**BEFORE THE
U.S. HOUSE COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE**

**HEARING ON “INDUSTRY AND LABOR PERSPECTIVES: A FURTHER
LOOK AT NORTH AMERICAN SUPPLY CHAIN CHALLENGES”**

NOVEMBER 17, 2021

**Association of American Railroads
425 Third Street Southwest
Washington, D.C. 20024
202-639-2100**

Introduction

On behalf of the members of the Association of American Railroads (AAR), thank you for the opportunity to testify. AAR's members account for the vast majority of America's freight railroad mileage, employees, revenue, and traffic. Together with their Mexican and Canadian counterparts, U.S. freight railroads form an integrated, continent-wide network that provides the world's best rail service.

Freight supply chains are complex systems driven by global and domestic stakeholders. While their operations are constantly facing pressures, unprecedented events have arisen in the past 18 months that have led to significant supply chain dislocations. America's freight railroads are doing their part though—through significant investments in their private infrastructure and equipment, development and implementation of innovative technologies, cooperation with their customers and supply chain partners, and operational enhancements—to maintain network fluidity and ensure sufficient capacity to deliver the goods upon which our economy depends.

Railroads' Role in Supply Chains

An international freight shipment involves railroads and other stakeholders taking timely, appropriate actions to keep the system working in a precisely coordinated sequence. Railroads provide a 24/7 critical link in that supply chain, serving as the middle mover from the port to a rail terminal, with our partners in the trucking, warehouse, and port communities at either end.

For example, movement of a container from a manufacturer in Asia to a retailer in the eastern United States will require the efforts of numerous entities, such as steamship lines; truckers; railroads; ports; drayage providers; owners of truck chassis, shipping containers, and warehouses; as well as manufacturers, wholesalers, and retailers of goods. A railroad's role in this supply chain begins after the manufacturer delivers the container to a port in Asia, a 3-to-5-

week trip across the Pacific Ocean on a steamship occurs, and the container is unloaded at a West Coast port and made available for pickup.

Railroads then begin the movement of this freight in one of three ways: loading the container onto a railcar at the port; loading the container onto a railcar at a nearby intermodal rail facility after it has been moved there on a chassis via short-distance truck transportation (drayage); or loading the container onto a railcar at an intermodal rail facility following transport by truck drayage to an inland warehouse where the freight was transferred into a larger “domestic container” and then transported by truck drayage again to that intermodal rail facility. The train carrying the container then heads inland. As no single railroad stretches across the country, the container must be “interchanged” with a second railroad. This exchange could also include another truck drayage between the terminals of those respective railroads.

The rail journey then concludes at a rail intermodal terminal on the East Coast near the container’s final destination where it is lifted off its railcar and either placed directly onto a chassis or on the ground depending on the terminal design and operation (wheeled or grounded). Railroads provide some “free time” to store the container at the intermodal terminal while awaiting pick-up and transportation to a nearby warehouse or directly to a retail outlet for unloading. In normal times, the container is moved out of the intermodal terminal within a matter of hours to a few days. Once transferred to its final destination and unloaded, the empty container is picked up again by drayage trucks and generally either returned to a rail intermodal facility or to a nearby port, where it re-enters the supply chain.

Global Supply Chains Have Seen Huge Dislocations Over the Past 18 Months

The COVID-19 pandemic has impacted global manufacturing capabilities and caused major fluctuations in consumer consumption patterns. At the outset of the pandemic in March

and April 2020, consumer spending plummeted, and retailers’ inventories rose sharply. Soon thereafter the economy recovered, but consumer spending had shifted significantly, resulting in increased demand for goods while service-sector industries—e.g., travel, restaurants—suffered enormously. By June 2020, consumer spending on goods was higher than in January 2020 (Figure 1) and continued trending higher. Few firms saw these spending patterns coming; even fewer were prepared for them. Retailers tried, but were unable, to catch up. In fact, by spring 2021, inventories had fallen to record lows, which they remain close to today (Figure 2).

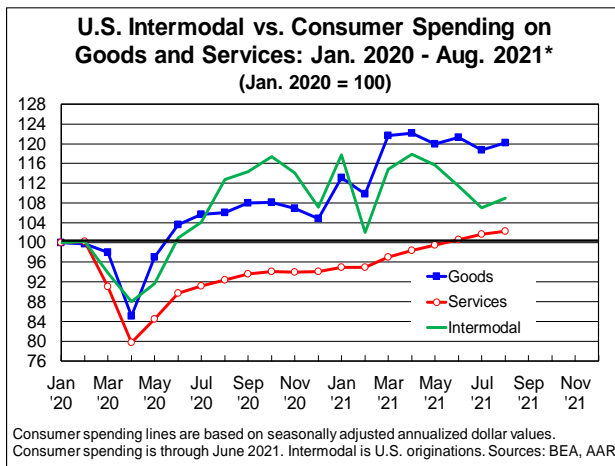


Figure 1

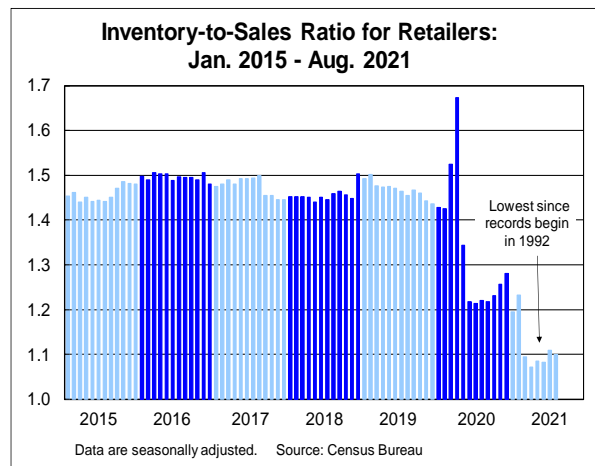


Figure 2

Similarly, rail intermodal volumes fell between 12 and 17 percent on a year-over-year basis between March and May 2020, and volumes were expected to remain low for months.

Instead, intermodal volumes rose sharply in the summer of 2020, surpassing 2019 levels by August and breaking the all-time monthly record for intermodal traffic in November 2020. That record was then broken again in January and April 2021 (Figure 3). In many weeks in late 2020 and the first half of 2021,

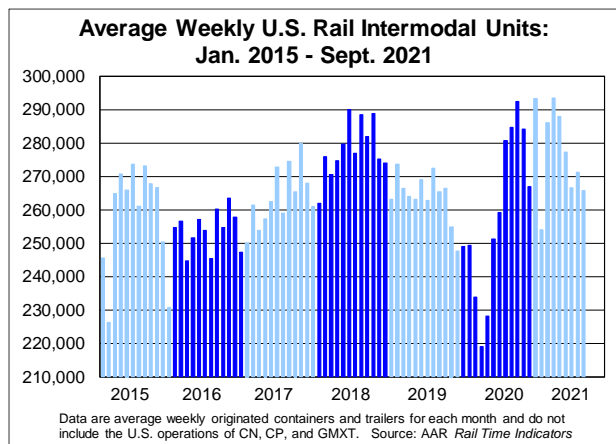


Figure 3

U.S. railroads were handling close to 300,000 containers and trailers, levels that no one expected when the pandemic began. Intermodal volume in the first six months of 2021 was far higher than ever recorded before for the same period, and the rail industry saw a year-over-year increase in intermodal traffic for 12 months.

Roughly half of rail intermodal volume is either imports or exports, and these significant gains in intermodal volumes were paralleled at our nation's ports. To handle these increased volumes and avoid bottlenecks, all stakeholders needed to do their part to maintain a safe, efficient flow of freight. However, when that has not happened in recent months, such as when goods suppliers and receivers make decisions to overextend their capacity by ordering additional freight when warehouses are full or they lack sufficient labor to handle such goods, the supply chain has become dislocated. Some examples of continuing challenges experienced by rail customers and other supply chain participants include:

- Labor shortages at ports, trucking firms, warehouses, manufacturers, and retailers;
- A shortage of drayage and long-haul truck capacity, chassis, and warehouse space; and
- Container and container ship availability concerns that are driving firms to purchase large quantities of goods that may not actually be needed for months.

Additionally, some events have occurred that have exacerbated pandemic-related challenges to the functioning of supply chains, such as:

- Pre-existing trade disputes with other nations;
- Extreme weather events, including wildfires, hurricanes, and severe flooding and storms; and
- A nearly week-long blockage of the Suez Canal in March 2021.

Impacts of Supply Chains Dislocations on the Rail Industry

For railroads, by far the single most problematic supply chain development in recent months has been the inability of many rail customers to effectively process the flow of traffic—

especially intermodal containers—into and out of rail terminals. For example, when a container arrives at a destination rail terminal, it cannot be picked up unless a driver, drayage truck, and chassis are available and a destination warehouse or receiver facility has workers and space. Often appointment times are needed at these warehouses or receiver facilities, and if the driver, chassis, and drayage cannot meet that appointment time, it could take days to arrange another. As a result, containers are remaining at rail facilities for longer periods—referred to as “container dwell.”

That is a significant problem because rail intermodal terminals are focused on throughput and are neither designed for, nor physically capable of, long-term storage of significant numbers of containers. There is some flex within the rail system to absorb and accommodate limited spikes and volatility, but the recent massive imbalances are not sustainable and create severe problems that reverberate throughout the supply chain. For example, traffic on rail mainlines backs up because there is no room at rail terminals for new shipments. This limits the ability of railroads to serve their customers and supplies of containers and chassis then become imbalanced because they are not being moved to high demand areas. Moreover, the physical act of moving containers within a terminal requires railroads to expend resources that would be much better used moving goods to their destination. When these and other related problems become entrenched, as they are today, it becomes extraordinarily difficult to “reset” the system to its normal level of throughput and reliability.

Railroads’ Efforts to Address Challenges and Work with Supply Chain Partners

Railroads have worked diligently to ensure that supply chains remain fluid and that they are able to meet present and future freight transportation demand. First, railroads have and will continue to operate 24 hours per day and 7 days per week and would welcome freight

transportation customers and other supply chain partners to do the same. Substantial supply chain capacity could be generated immediately from this change, and this would permit transportation providers to “catch up” when backups occur. Railroads appreciate that some supply chain participants have recently taken steps in this direction.

Second, railroads are partnering with their customers to find constructive ways to modify their operations and maintain network fluidity. Some of these changes, where possible, include:

- Increasing coordination between railroads to better manage the flow of traffic and with the trucking industry to take shipments as soon as warehousing capacity is available;
- Offering incentives to customers for weekend or off-hour in-gating at facilities near ports and for out-gating a container when they in-gate a container at other facilities;
- Re-routing traffic away from busier terminals to less crowded terminals;
- Reopening closed terminals to create additional storage capacity;
- Increasing available storage capacity and staging space in and outside of terminals;
- Creating additional railroad-to-railroad interchanges to limit demand on truck drayage; and
- Mounting containers onto any chassis brought in to help reduce dead-miles for truckers.

Third, railroads typically make available a variety of online tools, apps, and other technologies that provide their customers with full visibility regarding a shipment’s journey over rail networks. This allows for customers to trace shipments in real time, more efficiently prioritize retrieval of containers, and minimize time spent in rail facilities.

Fourth, railroads can incentivize customers to pick up freight in a timely manner through charging progressively higher storage fees after a reasonable initial period of “free time.” These fees help railroads maintain service reliability, efficient use of rail capacity and assets, and fluidity on the rail network. And ultimately storage fees function to ensure railroads can do what they are in business to do—move goods.

Fifth, AAR publicly releases aggregated data on a weekly basis about the commodities and intermodal volume that move by rail throughout the United States, Canada, and Mexico. This publication includes detailed information at the commodity level, offers year-over-year comparisons for weekly, monthly, and year-to-date durations, and provides needed insight into ongoing rail traffic levels for supply chain partners, rail customers, and governmental entities.

Sixth, freight railroads have invested more than \$740 billion of private capital since 1980—an average of over \$25 billion in recent years—into their infrastructure and equipment to make rail operations safer, more resilient, and more efficient. The American Society of Civil Engineers has recognized the impact of these investments by awarding the rail network its highest grade for any type of infrastructure in its last two report cards.

Finally, railroads rely on and greatly respect the skill and professionalism of their employees as they steadfastly work to address today’s supply chain challenges and keep our economy moving. Railroads are confident that they have the right assets and headcount to manage the network at current and increased traffic levels and are hiring to address attrition and meet needed operational capacity. As is the case with other industries, it can be challenging today to fill open positions, but members are working hard to meet those needs.

Railroads will continue to evaluate business needs and adjust asset levels to ensure there is sufficient capacity to serve their customers and keep supply chains moving. In fact, a report recently released by the Northwestern University Transportation Center found that railroads showed significant agility to respond during rises in intermodal traffic throughout the COVID-19 pandemic. Furthermore, due to recent lower intermodal volumes, railroads currently have additional capacity to meet any short-term increases or shifts in demand for freight transportation and stand ready to serve their customers.

How Congress Can Be Helpful in Alleviating Supply Chain Challenges

Congress should encourage the use of innovative technologies to enhance safety and operational efficiency and focus on performance-based policies that are supported by evidence. Most importantly, policymakers should avoid undermining railroads' ongoing efforts and collaboration with stakeholders to keep the national rail network fluid, especially when supply chains are already facing severe challenges. Discussed below are several legislative and regulatory proposals that could impact the functionality of our nation's supply chains.

H.R. 3684, the Infrastructure Investment and Jobs Act (IIJA)

Railroads thank Congress for enacting *IIJA*. This bipartisan legislation will modernize the nation's public infrastructure and further the efficiency of our freight transportation systems and supply chains. By authorizing and making significant investments through the Infrastructure for Rebuilding America (INFRA), Rebuilding American Infrastructure with Sustainability and Equity (RAISE), Port Infrastructure Development, Consolidated Rail Infrastructure and Safety Improvements (CRISI), and Railroad Crossing Elimination grant programs, projects will be constructed that increase the fluidity of our supply chains, such as improving first and last mile intermodal connections; advancing projects of national and regional significance, including multimodal connection infrastructure projects; and enabling the public sector to partner with industry on mutually beneficial projects, such as the CREATE program in Chicago.

Surface Transportation Board (STB), "Forced Switching," and Cost-Benefit Analysis

Congress should ensure that the STB maintains the balanced economic regulatory system set forth in the Staggers Act. If the STB were permitted to unwisely expand rail regulation, the

quality of rail service would be diminished and the efficiency of the entire supply chain would suffer.

One problematic proposal being considered by the STB is “forced switching,” which would allow the STB to order one railroad to switch traffic with another railroad even without a finding of anti-competitive conduct. As this proposal would force one railroad to provide its infrastructure and other assets for the benefit of another railroad, this would create a disincentive to make new investments in customer-specific infrastructure. Additionally, as switches can add time and complexity to rail movements, the STB’s proposal would disrupt traffic patterns, potentially produce congestion in rail yards, and undermine efficient rail service. While there is no good time for bad regulations, now is the worst time to introduce inefficiencies into the supply chain.

Congress should instead direct the STB to institute a rulemaking based upon AAR’s petition to incorporate cost-benefit analysis into its rulemaking processes. Meaningful cost-benefit analysis requires agencies to be informed by the most up-to-date, reliable information and to evaluate whether additional rules will achieve positive outcomes and at what cost prior to adopting new regulations. A formal cost-benefit analysis would ensure future supply chain fluidity, as impacts on the supply chain would be formally accounted for when the STB considers new regulations.

Federal Railroad Administration (FRA), Automated Track Inspection, and Two-Person Crews

Railroads urge Congress to direct the FRA and other modal administrations at the Department of Transportation (DOT) to be more forward-looking in their rulemaking processes and approaches to the development, testing, and incorporation of new safety technologies.

Achieving maximum benefits from new technologies will require a modern performance-based

regulatory framework that does not hinder innovation, encourages railroads to keep investing in new technologies, and maintains FRA oversight to ensure the protection of rail employees, customers, and the public at large.

As part of these efforts, Congress should ensure that FRA regulations do not “lock in” existing technologies and processes and stifle the incorporation of new safety technologies. A current problematic example of this at the FRA is with automated track inspections (ATI), which are conducted using track geometry technology installed in freight cars or on locomotives that move at-speed in revenue service and without the need to set-aside track time to conduct visual inspections. These automated systems gather massive amounts of data and analyze it for patterns and warning signs, empowering a shift from reactive to preventative track maintenance. During testing, ATI has overwhelmingly shown its safety benefits. Indeed, in some instances, ATI testing of track has resulted in more than a 90 percent reduction in unprotected main track defects. Congress should ensure that the FRA remains a cooperative partner with railroads in either encouraging the further testing of ATI through timely review and approval of waivers and test programs or taking steps to further enable the use of this safety technology, such as by updating half-century-old track inspection regulations. Either way supply chains will benefit from the efficiency gains.

Additionally, Congress should ensure the FRA uses current data to establish the need for any new regulation and validates that safety benefits exceed the cost of its implementation. A problematic proposal being considered by the FRA is a requirement that a minimum of two crew members operate in freight locomotive cabs indefinitely. There are no data showing that a two-person crew mandate would enhance safety. Moreover, this mandate could stifle the adoption of new technologies that would enhance the safety and efficiency of the rail network in the long-

term. In opposing this rule, railroads are not seeking the ability to utilize one-person crews haphazardly, but rather they want to work with rail labor under the existing collective bargaining framework—as they have for decades—to identify when conditions would allow for a reduction in the number of crewmembers without jeopardizing safety.

Environmental Reviews and Permitting

Congress should ensure that environmental regulations do not function to inhibit the expansion, development, or construction of rail facilities that would meet supply chain needs and our customers' freight transportation demand. A primary example is the National Environmental Policy Act (NEPA). Federal agencies should promulgate regulations that allow for careful, thorough consideration of the environmental impacts of proposed projects but in a time-limited manner that does not cause unnecessary delay. Such an approach would expedite projects that enhance supply chain fluidity but would not prevent comprehensive, effective environmental reviews from taking place. Additionally, DOT should ensure that its modal administrations are applying environmental review standards and procedures consistently to ensure equal treatment between the various modes of transportation. Moreover, DOT could more efficiently utilize categorical exclusions which would ensure federal resources are better focused on those actions requiring an Environmental Assessment and Environmental Impact Statements. Further, expressly allowing modal administrations to apply the categorical exclusions of other modal administrations or federal agencies would promote flexibility and efficiency in the environmental review process and consistency within DOT.

Railroads appreciate that Congress included project permitting provisions in *IIJA*, such as One Federal Decision, which consolidates decision-making and expedites deadlines, and the Federal Permitting Reform and Jobs Act, which makes the Federal Permitting Improvement

Steering Council permanent and establishes a goal of two years for reviews. These provisions will ensure that federal dollars and railroads' private investments for infrastructure projects will go farther and that the construction of projects on the rail network to enhance supply chain efficiency and meet the nation's current and future freight transportation demand will not be unnecessarily delayed.

Conclusion

Returning fluidity to rail networks will take time and require enhanced cooperation by all parties to determine which actions are needed to improve supply chain performance. This is not a new way of operating for railroads; they work closely with their customers, transportation partners, policymakers, and others on an ongoing basis to understand and meet expected service needs. Railroads will continue to work with these entities to find ways to solve these problems as quickly as possible.