



FEDERAL MARITIME COMMISSION

[Docket No. FMC-2024-0022; Docket No. 24-30]

Investigation into Conditions Affecting Shipping in the Foreign Trade and Denial of Entry of Vessels into Spanish Ports; Request for Additional Comments

AGENCY: Federal Maritime Commission.

ACTION: Request for additional comments.

SUMMARY: The Federal Maritime Commission (Commission) is investigating reports that the Government of Spain (Spain) is denying port access to certain vessels and seeks further public comment about ongoing restrictions imposed by Spain that appear to create conditions unfavorable to shipping in U.S. foreign trade, as well as measures the Commission could consider to eliminate or counterbalance those restrictions.

DATES: Submit comments on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by Docket No. FMC-2024-0022, by the following method:

Federal eRulemaking Portal: Your comments must be written and in English. You may submit your comments electronically through the Federal Rulemaking Portal at www.regulations.gov. To submit comments on that site, search for Docket No. FMC–2024-0022 and follow the instructions provided.

FOR FURTHER INFORMATION CONTACT: For questions regarding submitting comments or the treatment of any confidential information, contact David Eng, Secretary; Phone: (202) 523-5725; Email: Secretary@fmc.gov.

SUPPLEMENTARY INFORMATION:

I. INTRODUCTION

The Commission initiated this investigation in December 2024 under Title 46 U.S.C. Chapter 421 to determine whether Spain is creating general or special conditions unfavorable to shipping in U.S. foreign trade by barring certain vessels from its ports, including vessels transporting cargo under the United States Maritime Administration's (MARAD) Maritime Security Program (MSP). Docket No. 24-30. Initial reports that prompted this investigation indicated that Spain had refused port access in November 2024 to three vessels operating under the MSP on the grounds that they were carrying cargo bound for or coming from Israel. Spain reportedly cited European Union (EU) regulations as the basis for these port refusals.

The Commission published a notice of investigation and request for comments in the Federal Register on December 6, 2024. *Investigation into Conditions Affecting Shipping in the Foreign Trade and Denial of Entry of Vessels into Spanish Ports*, 89 FR 96973 (Dec. 6, 2024). That request resulted in over 8,000 comments from the public and interested parties. Many comments expressed views about Spain's policy based on views about Israel. That is not part of this investigation, which is focused only on maintaining the reliability and efficiency of the U.S. ocean shipping supply chain, including whether Spain is refusing docking privileges to certain vessels, and if so, how Spain's refusal of docking privileges is affecting shipping in U.S. foreign trade.

Information from multiple sources confirmed the original reports that between November 9 and 14, 2024, Spain refused docking privileges to three U.S. flagged vessels operating under the MSP. Spain refused docking privileges at the APM terminals in Algeciras, Spain on November 9, 2024, for the *Maersk Denver*¹ and *Maersk Nysted* and on November 14, 2024, for the *Maersk Seletar*. Each of these vessels was operating under the U.S. flag and was operated or supplied by Maersk Line Limited. Though not a participant in the MSP, another vessel appears to have been refused docking privileges by Spain in May 2024. "Spain Denies Port of Call to Ship Carrying

¹ "Maersk Line Vessel Diverts to Morocco Due to Allegations in Spain," *The Maritime Executive*, (Nov. 11, 2024), <https://maritime-executive.com/article/maersk-line-vessel-diverts-to-morocco-due-to-allegations-in-spain>.

Arms to Israel,” *The Guardian* (May 16, 2024), <https://www.theguardian.com/world/article/2024/may/16/spain-denies-port-of-call-to-ship-carrying-arms-to-israel>.

The Government of Spain justifies these denials as supported by its right to exercise sovereign authority over its ports and follow its interpretation of Spanish, EU, and international law, which is not disputed by the Commission in conducting this investigation. Evidence from Spain and other sources indicates that Spain maintains the position that it is justified under Spanish, EU, and international law in refusing port access to certain vessels and will continue to do so based on the nature of the cargo and where it originated or is bound for. On September 8, 2025, the Government of Spain announced a multi-faceted policy aimed at halting the flow of certain cargo bound for or coming from Israel through air or marine transport. Measures it announced include banning ships and aircraft carrying weapons bound for Israel or tankers carrying fuel for use by the Israeli military from using Spanish ports and airspace.²

II. CURRENT STATUS AND APPROPRIATE COUNTERMEASURES

Spain’s recent announcement and information from multiple sources indicate that the basic conditions the Commission initiated this investigation to address still exist and are likely creating general or special conditions unfavorable to shipping in U.S. foreign commerce. Section 42101 authorizes the Commission to investigate and take action regarding conditions unfavorable to shipping in foreign trade, “whether in a particular trade or on a particular route or in commerce generally . . . which arise out of or result from laws or regulations of a foreign country.” 46 U.S.C. 42101(a).³ This authority is linked to and supports objectives defined in

² “New Decisions: Spain Bans Arms Exports to Israel,” *Shafaq News*, (Sept. 8, 2025), <https://shafaq.com/en/World/New-decisions-Spain-bans-arms-exports-to-Israel#:~:text=In%20a%20press%20conference%2C%20Sanchez,recognized%20the%20state%20of%20Palestine>.

³ The Commission may also investigate whether a foreign government or ocean common carrier’s practices result in adverse impacts on U.S. carriers or U.S. oceanborne trade or creates conditions that do not exist for foreign carriers in the United States under the laws of the United States. 46 U.S. Code, Chapter 423. The Commission is not investigating Spain’s practices under Chapter 423 at this time but may do so in the future.

46 U.S.C. 50101(a), which include furthering the United States' interest in a merchant marine capable of carrying a "substantial part" of waterborne export and import U.S. foreign commerce and providing "shipping service essential for maintaining the flow of the waterborne domestic and foreign commerce at all times." *Id.* Other objectives defined by section 50101(a) include fostering a merchant marine "capable of serving as a naval and military auxiliary in time of war or national emergency" and "owned and operated as vessels of the United States by citizens of the United States." *Id.*

The Commission is charged with investigating conditions defined in sections 42101 and 50101 and determining whether to take remedial action. *See* 46 U.S.C. 42101(a)-42109. In carrying out a section 42101 investigation, the Commission is authorized to solicit public comments, conduct discovery, and subpoena witnesses and evidence. *Id.*, 42104.

Remedies the Commission can implement to adjust or meet unfavorable conditions to shipping in the foreign trade of the United States include adopting regulations restricting voyages to or from U.S. ports, imposing per voyage fees, limiting amounts or types of cargo, or taking "any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping the foreign trade of the United States." 46 U.S.C. 42101(a) and 42106(1), (4) and (5); *see also* 46 CFR 550.601. The Commission may also request the Secretary of the Department of Homeland Security to refuse entry or clearance to vessels, collect fees imposed by the Commission, or detain a vessel about to depart from a U.S. port. 46 U.S.C. 42107(1) and (2).

As described, the Commission has broad jurisdiction under 46 U.S.C. 42101 to investigate and take action to remediate conditions resulting from the laws or regulations of foreign governments that are unfavorable to shipping in U.S. foreign trade, whether in a particular trade or on a particular route or in commerce generally. *See* 46 U.S.C. 42101(a). Regulatory action is

Under other statutory authority, the Commission can also investigate whether a foreign government is unduly impairing the access of a vessel documented under the laws of the United States to ocean trade between foreign ports and take action it finds appropriate to remedy any such violation. 46 U.S.C. 41108(d); *see also* 46 CFR 560.1-560.9. The Commission is not investigating Spain under this provision at this time but would benefit from hearing any information suggesting that Spain is taking actions that limit U.S. flag vessels of any kind from accessing ocean trade between foreign ports.

appropriate “when the Commission finds . . . that a foreign government has promulgated and enforced or intends to enforce laws, decrees, regulations or the like, or has engaged in or intends to engage in practices which presently have or prospectively could create conditions unfavorable to shipping in the foreign trade of the United States.” 46 CFR 550.102. Laws or policies enforced by a foreign government that refuse entry to vessels documented under the laws of the United States are inconsistent with the Commission’s statutory mission to ensure access to the complex and interdependent system for the common carriage of goods by water in foreign commerce, and the goal of maintaining a healthy U.S. merchant marine.

The Commission now requests further comments on whether Spain is creating general or special conditions unfavorable to shipping in foreign trade, and if so, what remedial actions the Commission should consider. Information about the following would assist in advancing the Commission’s investigation and helping it determine whether remedial action is appropriate: (1) any additional confirmed reports of Spain, including any governmental component and/or any private sector entity, directly or indirectly refusing port access or docking privileges to any vessels, including U.S. flag vessels, transporting cargo on routes bound for or coming from Israel; (2) reasons stated by Spain, including any governmental component and/or any private sector entity, for refusing port access or docking privileges; (3) whether the refusal(s) were conditional or absolute (*i.e.*, whether measures or steps that could be taken to be granted port access were described); (4) whether Spain, including any governmental component and/or any private sector entity, offered any alternatives or options; and (5) factual information about the impact any such refusals or denials had on vessel routes, schedules, transfer of cargo to other vessels or ports other than designated destinations, or on maritime commerce generally.

Information or perspectives about the following would be helpful in the event the Commission determines that remedial action is warranted: (1) information concerning vessels connected to Spain, whether through flagging or some other link, such as incorporation or headquarters location, calling at U.S. ports, including tankers and other types of commercial

vessels; (2) information concerning types or amounts of cargo that could be appropriately limited in trade between the United States and Spain; and (3) suggestions for any other action the Commission might find necessary to adjust or meet the unfavorable shipping conditions Spain appears to have created through its port access restrictions.

By the Commission.

Jennifer Everling,

Assistant Secretary.

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