



The Bottom Line

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COVID CONGESTION-RELATED PORT CHALLENGES

Summary

The container shipping industry is marshaling a response to signs of a building import backlog as some retailers and manufacturers are failing to pick up containers due to warehouses being at capacity or completely closed because they were deemed as not being an essential service. The response is being prepared in anticipation of terminal operators' and steamship lines' aggressive use of demurrage and detention levied on containers that have nowhere to go.

Background

Demurrage refers to the charges assessed after discharge of an import container, after the expiration of free time, and before the container is recovered from the port. For export containers, the charges would apply after the in-gate of the full load, after the expiration of free time, and before the container is loaded on the outbound vessel. Detention, or Per Diem, refers to the charges assessed after a container is recovered from the port, after the expiration of free time, and before the container is returned to the care of the steamship line at the port.

Initially adopted to incentivize cargo owners in the efficient collection and return of containers, these fees have been the target of significant displeasure in recent years. In December 2019, the Federal Maritime Commission adopted an interpretive rule on demurrage and detention under the Shipping Act. The recommendations included:

- Transparent, standardized language for demurrage and detention practices;
- Clear, simplified, and accessible demurrage and detention billing practices and dispute resolution processes;
- Explicit guidance regarding the types of evidence relevant to resolving demurrage and detention disputes; and
- Consistent notice to cargo interests of container availability.

Current Status

Currently, a concern exists for equipment availability, which is a function of both having the equipment on-hand and having it properly positioned at a

global origin or destination in need. The current challenge has grown since the Chinese New Year when the enormous number of blanked sailings from China to the U.S. and other worldwide destinations led to an overabundance of empty containers in China and a shortage everywhere else. Now, import containers that arrive may belong to companies deemed "non-essential" and temporarily closed. With Chinese production gaining momentum, port facilities worldwide experiencing delays due to staff shortages, and increased sanitation procedures, the potential for significant demurrage and detention charges is very real—and growing.

Impact

Reactions worldwide have been varied:

- Almost all shipping lines have imposed port congestion surcharges and reefer congestion surcharges for imports into the Ports of Manila and across the Philippines.
- The Nigerian Ports Authority has directed all terminal operators to suspend all applicable terminal storage fees on consignments (demurrage) for an initial period of 21 days, effective March 23, 2020.
- In India, the Kolkata Port Trust has decided to waive demurrage or rent charges, and not to levy fines on port users for delay in the wake of the coronavirus outbreak as it invoked "force majeure" from March 22, sources said on Tuesday.

The Federal Maritime Commission has issued an order authorizing Commissioner Rebecca Dye to identify operational solutions to cargo delivery system challenges related to COVID-19. The Order notes that "recent global events have only highlighted the economic urgency of responsive port and terminal operations to the effectiveness of the United States international freight delivery system. Given the Commission's mandate to ensure an efficient and economic transportation system for ocean commerce, the Commission has a clear and compelling responsibility to actively respond to current challenges impacting the global supply chain and the American economy. Accordingly, the Commission has determined there is a compelling need to convene new Supply Chain Innovation Teams to address these challenges."

RESOURCES:

- [COVID-19 Impacts on Demurrage and Detention](#) (Maritime Professional)
- [FMC to Address COVID-19 Port Congestion](#) (Thomas Hine)
- [International Ocean Supply Chain Engagement](#) (FMC)
- [Pile Up of Non-Essential Cargo as U.S. Ports Raises Alarms](#) (JOC)