CLIENT ALERTS & INSIGHTS

Port Labor Dispute - Navigating Service Challenges and What to Expect As Labor Negotiations Resume

JANUARY 7, 2025

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Negotiations between the International Longshoremen's Association (ILA) and the United States Maritime Alliance (USMX) are set to resume this week - just days before a January 15, 2025 resolution deadline before the ILA may restart its strike.

The strike previously forced 36 U.S. ports along the East and Gulf Coasts to close in October 2024 with disruptions across domestic and international supply chains. The ILA walked away from negotiations over port automation and it recently threatened to strike again if demands are not met. There will be another strike if parties do not reach a deal. U.S. importers and exporters should prepare contingency plans to account for significant supply-chain disruptions, delays, and additional costs due to the rerouting of cargo to avoid ILA-serviced ports.

Service Considerations: Spot Market Services and Contract Services.

The consequences of another strike will leave stakeholders scrambling to address congestion, cost increases, and widespread cargo delays. A work stoppage will be felt across supply chains with immediate impact on freight rates, surcharges, and operational continuity. Whether operating under service contracts or the spot market, U.S. importers and exporters face distinct challenges that demand careful consideration and proactive planning.

Cargo owners buying service on the spot market will face pronounced vulnerabilities if the ILA strikes again. In the absence of fixed contractual protections, shippers relying on spot market services will experience significant pricing volatility, as vessels reroute to alternative ports. Spot rates would likely surge as available capacity diminishes. Any time-sensitive shipments will face fierce competition with increased volumes. The additional burden of port strike surcharges, as well as delayed or rerouted shipments, will increase financial costs and risks for goods to get to the market. Diversifying service providers offering a wider geographic footprint that service non-ILA ports can create supply chain flexibility to help weather the expected disruption.

Cargo owners with service contracts in place may see calls of force majeure as carriers and NVOs will look to excuse their performance obligations impacted by a strike. Freight rates may increase to implement the sailing on new lanes as demand shifts toward alternative routes and transportation modes, such as inland rail from Canadian or Mexican ports or air freight solutions. Intermodal trucking dray service will add complications and cost as containers are moved greater distances due to calling on alternate ports. Congestion at ports and along adjusted-shipping lanes will also drive costs, as shippers contend with surcharges, including demurrage, detention, per diem, and dwell time fees. Addressing these risks requires a detailed review of contract terms and exploration of contingency strategies. The prime objective is of course the operational interest in receiving cargoes

timely, without damage, and at reasonable cost. Once the “dust settles” cargo owners and other service providers can consider the availability of potential claims to alleviate the financial impact.

It is time to proactively engage with carrier representatives and logistics providers to explore alternative lanes, secure capacity, and identify opportunities to mitigate costs where possible. Since another ILA strike will have far-reaching implications and an unknown duration, those cargo owners who have not begun implementing a strategic approach with service providers will need to do so for managing cargo flows and continuity. All paths forward likely involve some degree of delay and higher cost of service.

Labor Considerations: What to Expect.

The prior three-day strike ended after the parties reached a tentative agreement on a 62% wage increase to be implemented during the new six-year collective bargaining agreement, but that increase is not yet effective as the parties are still negotiating other issues, such as automation at the docks and benefits. The ILA walked away from negotiations in mid-November after USMX stated that automation must be integrated into port operations in some manner.

The potential strike on January 15th could be a rolling strike at certain locations or a global strike impacting all 36 ports and approximately 45,000 workers. The October 2024 strike was global and resulted in 45,000 employees at all 36 ports striking. In contrast, other recent strikes, like the Starbucks strike in late December 2024, have been smaller and limited. The Starbucks strike occurred on a rolling basis over a handful of days and only affected 300 stores and 5,000 employees, or a miniscule percentage of Starbucks’ 10,000+ stores and almost 200,000 workers. Thus, the impact of the Starbucks’ strike was minimal or de minimis. While the ILA strike in October significantly impacted the shipping industry, the much smaller and limited Starbucks strike did not affect Starbucks in that way. Based on its prior actions, the ILA likely recognizes the strength of a larger strike on January 15th.

Due to the potential for the ILA strike to impact national “trade, commerce, transportation, transmission, or communication among several States or with foreign nations,” the President could utilize the Taft-Hartley Act of 1947 to pursue a court-issued injunction to pause the strike and allow for negotiations. George W. Bush invoked Taft-Hartley in response to a 2002 International Longshore & Warehouse Union strike. President Biden already stated he would not interfere with an ILA strike. President Trump, despite being more employer-friendly than President Biden, has similarly signaled support for the ILA and the workers. President Trump stated that he would prefer the companies to spend money on the dock workers than automation and machinery. In making that statement, it is unlikely that President Trump would intervene in a strike under Taft-Hartley.

Additional Resources: Planning Ahead and Responding to Interruption.

Our team's analysis and commentary on the ILA supply chain impact as it unfolded in late 2024 is available here: October 2, October 3, October 7, and November 4.

Benesch's Transportation & Logistics Practice Group and Labor & Employment Group have deep benches of dedicated attorneys experienced in developing pragmatic approaches and advising clients through challenges of another ILA labor strike.

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