CLIENT ALERTS & INSIGHTS

Port Labor Dispute - What to Expect, How to Plan for Your Import and Export Supply Chain

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The International Longshoremen's Association ("ILA") will have no contract if the current terms expire on September 30, 2024, without a new deal. ILA representatives have indicated that a strike is imminent on October 1, 2024. Swift action on the part of domestic U.S. importers and exporters, as well as their service providers, will be essential to reduce supply chain interruption for import and export traffic.

ILA Contract and Current Labor Dispute - The ILA represents approximately 45,000 port workers at 36 locations across the East Coast and Gulf Coast. High-volume U.S. ports from Boston, New York / New Jersey, and Norfolk, to Savannah and Charleston, and down to New Orleans and Houston, will experience shutdowns and resulting congestion. Negotiations for a new 6-year contract between the ILA and the U.S. Maritime Alliance ("USMX") stalled in June 2024 when the parties could not agree on terms concerning wage increases, benefits, container royalties and job security protections. The primary point of friction remains the ILA's strong opposition to any additional automation that may result in the loss of dockworker jobs, while the USMX seeks to implement more technology to increase U.S. port efficiency and competitiveness in global trade. There is no sign the parties will resolve these issues before expiration of the current contract, leaving importing and exporting stakeholders in need of swift contingency planning to reduce the impact that a coast-wide strike will have on cargo traffic, inventories and the cost of services.

National Security and Presidential Authority - The Taft-Hartley Act of 1947 allows the President to seek an end to strikes and lockouts involving "trade, commerce, transportation, transmission, or communication among several States or with foreign nations" that, in the President's "opinion", threaten national security, the domestic economy and other national interests. 29 USC § 178. There is a history for the use of Taft-Hartley in response to port shutdowns. President George W. Bush invoked Taft-Hartley in 2002 to end a West Coast port lockout involving the International Longshore & Warehouse Union ("ILWU"). Doing so requires a court-issued injunction followed by a "cooling off" negotiation period.

Potential Duration of Supply Chain Interruption - What remains to be seen is whether pro-labor President Joe Biden would likewise use Taft-Hartley to end such a labor dispute. President Biden has signaled that he will not interfere. The fact that this is an election year with mixed economic signals leading into the holiday spending season complicates the President's commitment to workers. The 2002 ILWU shutdown, which drew action under the Taft-Hartley Act, lasted only 11 days. This may seem like a contained interruption to the supply chain but its effects today would be significant and widespread. In the absence of Presidential action, the possibility of a protracted supply chain disruption becomes far greater for all market participants.

Immediate Options for Shippers and Logistics Providers - The volume of traffic landed at and calling on ILA-serviced ports is tremendous, as will the disruption that impacts manufacturers, retailers, consumers and service providers. Immediate options for beneficial cargo owners ("BCOs") and their logistics providers will depend on the degree of flexibility available for any shipment's place in the supply chain. Shipments that are not yet laden may benefit from alternative sourcing points or may be routed to West Coast ports, to ports in Canada or Mexico for inland surface transportation by rail or motor carriage, or shifted to the more expensive but efficient air cargo market. Shipments already aboard vessels intending to call on the East Coast ports may have options to call on alternate ports, as was the case during the Francis Scott Key Bridge collapse that impacted cargo flow at the Port of Baltimore. The widespread geography of ports serviced by the ILA, combined with the congestion from diverted traffic, will cause additional challenges, unlike those seen during the Port of Baltimore closure. Other knock-on effects include the potential risk of increased freight rates and costly charges such as demurrage, detention, per diem and dwell time fees on containers that may be slowed due to the congestion.

Benesch's Transportation & Logistics Practice has a deep bench of dedicated transportation attorneys experienced in developing pragmatic approaches and advising clients that may be challenged by the ILA labor strike and similar risks to the domestic supply chain.

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