CLIENT ALERTS & INSIGHTS

Port Strike - Where We Stand and What Is to Come

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The International Longshoremen's Association ("ILA") ended a three-day strike at certain East Coast and Gulf Ports until January 15, 2025. If a new contract is not finalized with the U.S. Maritime Alliance ("USMX") then another strike remains on the table as an option. If there is new disruption then swift action will be required for domestic U.S. importers and exporters, as well as their service providers, 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 also the 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 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 wants to use more technology in order to increase U.S. port efficiency and competitiveness in global trade. After a three-day strike beginning October 1, 2024, the parties reached a tentative deal on wage increases although other significant issues remain including the impact of future port automation. The deadline to resolve these remaining items is January 15, 2025.

National Security and Presidential Authority - The Taft-Hartley Act of 1947 allows a 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" period for negotiations.

Potential Duration of Supply Chain Interruption - In the October 2024 dispute President Biden clearly signaled that he will not interfere. The fact that this is an election year with mixed economic signals going into the holiday spending season complicate the picture. The 2002 ILWU shutdown which drew action under the Taft-Hartley Act lasted only 11 days. Reports of significant supply chain interruption, together with expected economic impact, were widespread following certainty that the ILA would strike. The remaining political and economic challenge is that the President and political party who will be in power come January 2025 remains to be seen. Also to be seen is whether exercising Taft-Hartley will be a viable option to end a protracted dispute.

Immediate Options for Shippers and Logistics Providers

- In this instance the volume of traffic landed at and calling on ILA-serviced ports as tremendous as was the risk of disruption that impacts manufacturers, retailers, consumers, and service providers. When these situations arise the 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 impacted ports will exercise force majeure and explore 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. Here, the widespread geography of ports serviced by the ILA and the congestion that diverted traffic would cause creates additional challenges unlike 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 labor strikes and similar risks to the domestic supply chain.

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