U.S. West Coast Port Congestion & ILWU/PMA Contract Update

Update for: November 20, 2014
Suspension of Port Congestion Surcharges

- November 17-19, 2014

By now, all ocean carriers have announced their decision to postpone/suspend the application of their Port Congestion Surcharge (PCS), with one exception:

- OOCL has suspended the application of the PCS for Transpacific cargo.
- However, OOCL announced that they will proceed with implementation of their congestion surcharge for Transatlantic inbound and outbound cargo routed via U.S. West Coast ports or Canadian Gateway ports on all shipments effective November 24th.
- OOCL Transatlantic PCS will be billed by KWE to customers as a pass-through:

<table>
<thead>
<tr>
<th>Container Size/Type</th>
<th>Transatlantic Inbound/Outbound PCS via USWC (per container)</th>
<th>Effective from (shipment received date)</th>
</tr>
</thead>
<tbody>
<tr>
<td>20-foot, standard dry or reefer (OOCL only)</td>
<td>USD 400</td>
<td></td>
</tr>
<tr>
<td>40-foot, standard/HC dry or reefer (OOCL only)</td>
<td>USD 500</td>
<td>November 24, 2014</td>
</tr>
<tr>
<td>45-foot, dry (OOCL only)</td>
<td>USD 575</td>
<td></td>
</tr>
<tr>
<td>LCL</td>
<td>N/A</td>
<td></td>
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FMC review of PCS

- **FMC review of the situation:**
  - According to the U.S. Federal Maritime Commission’s Nov. 17th public notice which you can view [here](#), the FMC has been reviewing Port Congestion Surcharge rules published in carriers’ tariffs due to numerous inquiries they received since Friday when carriers announced their intent to implement the surcharge this week.

- **Why did carriers announce they would implement the PCS and then retract?**
  - Several months ago, in order to be ready to implement the surcharges at any time, carriers had published in their tariffs an advance or conditional notice of an intention to implement surcharges in the event certain conditions were experienced. Carriers were under the impression that they had met FMC requirements and could implement the surcharges immediately.
  - However, the announcements by most carriers that they were going to suspend implementation of the PCS this week seem to indicate that FMC review of their tariff filings led them to this retraction. This is because according to FMC regulations, carriers’ tariff rules must be clear and definite as to the implementation and termination of the surcharge based upon specific criteria related to "labor unrest".
Q&As regarding PCS

Who pays for the PCS on OOCL Transatlantic shipments today?

- KWE will invoice the PCS on a pass-through basis to the U.S. consignee on imports or the U.S. shipper on exports. However, this is subject to modification based on Incoterms between the buyer and seller. If applicable, please contact your local KWE office to discuss possibility of making different arrangements.

When will PCS be implemented on Transpacific Trade Lane and will other carriers also implement the PCS on the Transatlantic trade lane?

- We are not certain if/when new PCS announcements will be sent by carriers in the weeks ahead. However, it is our understanding that carriers are working with the FMC to ensure full compliance with the agency’s regulations relative to any future PCS announcements. This means that, unless the port situation is normalized, we can expect to see announcements from most carriers in the near future, implementing their previously published PCS on all trade lanes in/out of U.S. West Coast ports.
Will the White House intervene in the negotiations?

- Despite pleas from major shippers earlier this month to encourage the ILWU and PMA to seek federal mediation, the White House stated that they are unwilling at this time to impose their decision on the parties while citing confidence that the two sides would work out their differences. However, many fear that without national intervention the tension may still lead to a shutdown of west coast ports.

- Without an extension of the ILWU-PMA contract, there is no grievance procedure in place to arbitrate work slowdowns. The ILWU denies its members are causing slowdowns while management is claiming they are.

- Nevertheless, it doesn’t appear that the ILWU is ready to strike and it also doesn’t seem likely at this time that the PMA intends to lockout dockworkers as they did for ten days during the 2002 contract negotiations when dockworkers acted to influence negotiations via slowdown of port operations and President Bush invoked the Taft-Hartley Act to end the lockout.

- The Federal Mediation and Conciliation Service, an independent agency, joined 2012-2013 East and Gulf Coast Port negotiations at the request of the International Longshoremen’s Association and United States Maritime Alliance. This led to an agreement between the parties, averting a strike or shutdown of those ports.
Impact of Congestion along West Coast Ports

- **Service Cancellations:**
  - Evergreen is dropping Los Angeles and Oakland port calls from a westbound U.S. East Coast to North Asia service due to berthing delays tied to the congestion at U.S. West Coast ports, the carrier said Friday.

- **Lack of Berthing Space:**
  - Since the end of October, multiple container ships have had to anchor off the ports of Los Angeles and Long Beach awaiting berths. Normally container ships proceed directly to berth with no wait at anchor.

- **Added Costs:**
  - Carriers are being battered financially by the worst U.S. port congestion in years as there are heavy costs tied to the congestion. When ships must wait outside the port for a berth, ship engines will continue to run, burning bunker fuel. Other costs stem from chassis which some carriers must rent and railcars which carries must pay to bring to the port to liberate containers from terminals.
A Teamsters-affiliated organization, Justice for Port Truckers, reported that a strike initiated last Thursday by truck drivers against two drayage companies has been affecting seven marine terminals and two truck yards at the Los Angeles and Long Beach port complex.

According to port officials, longshoremen reported to their jobs and protesters are not interfering with cargo-handling at this time.

Teamster Union picketing has been on-going at off-dock ramps for nearly a week. Rail cargo utilizing the off-dock ramps has been delayed.
Port of Oakland Closure

November 20th, 2014

All terminals at the Port of Oakland were closed this morning and will only reopen Friday at 6 a.m. This closure will obviously have a tremendous impact on scheduled deliveries and pick-ups planned for today which will lead to some delays in the upcoming days.

The closure is due to the death of a dock worker who died after having and unspecified medical emergency on the job in the nearby Port of Benicia last night, which has resulted in a “24-hour stand down” by the ILWU. According to the ILWU spokesman, the stand down procedure has always been followed as a time to gather facts and information that may help protect other workers depending on the circumstances of the death and which also serves as a time of mourning.

The union claims that the safety stand down is not related to ongoing labor issues that have been impacting West Coast ports.

We appreciate your continued patience through these trying times at all ports here on the West Coast. We will provide updates as we get more information.