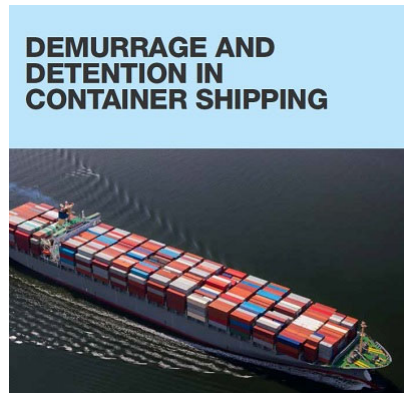


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Demurrage and detention charges in container shipping: Current developments appear unreasonable and contradictory to ensure an efficient and economic maritime supply chain.

Demurrage and detention charges have been widely used in container shipping. Demurrage refers to the charge that the merchant pays for the use of the container within the terminal beyond the free time period. Detention refers to the charge that the merchant pays for the use of the container outside of the terminal or depot, beyond the free time period.

Containers are either owned or are leased by shipping lines who provide them to their customers (shippers or merchants) for the safe and fast door to door transport of their goods. Because the cost for using the container during the door to door transport is included in the freight, it is essential for shipping lines to turn around their containers as fast as possible. As a result and with the objective to encourage merchants to move or return their containers swiftly, shipping lines discourage merchants who exceed the free time by charging demurrage and detention fees.

It is an obligation for shipping lines to provide a reasonable free period during which no demurrage and detention charges apply. This free period is supposed to allow the merchant a realistic period of time for:

- the loading and delivery of the container for an export.
- the pick-up, unloading and return of the empty container for an import.

It should be mentioned that in many cases the delay in returning or picking up containers cannot be attributed to merchant, but to bad weather conditions, labour strikes and terminal congestions that are beyond the control of merchant.

Increase of detention and demurrage charges in recent years

During the last few years, free time periods have been reduced and tariffs for demurrage and detention charges have been increased considerably on a global level. There are indications that shipping lines abuse the charging of demurrage and detention to maximise profits. It is understood that shipping lines have been suffering in a very tough business environment and do everything they can to develop revenue streams that are not necessarily derived from freight.

In this context, the FMC (Federal Maritime Commission of the United States) started an investigation referred to as "Fact Finding 28". This investigation is focused on "the practices of vessel operating common carriers and marine terminal operators related to detention and demurrage charges." The Commission undertook this investigation as a result of a petition and testimony from a coalition of shippers, intermediaries, and container transport interests.

An interim report released by the FMC on September 4, 2018 revealed that the demurrage and detention income of shipping lines in United States increased 90% in 2014 compared to 2013, followed by an additional year-on-year increase of 86% in 2015, dropped 23% in 2016 and then rose again by 30% in 2017. It was also noted that the increase in demurrage and detention charge since 2014 can only be partially explained by weather and labour-related congestion problems, but not fully.

FIATA calls for streamlined practice on detention and demurrage

International Federation of Freight Forwarders Associations (FIATA) works as a non-governmental organisation, with the main object to represent, promote and protect the interests of international logistics and freight forwarding industry. The membership of FIATA currently covers 108 freight forwarding and logistics associations in 97 countries and regions, as well as nearly 6,000 international logistic service providers and freight forwarders around the globe.

FIATA is concerned that the recent development of reduced free time and increased tariffs does not serve its original purpose, but unreasonably increase the transport cost for all stakeholders in the supply chain, shippers and freight forwarders in particular.

In this context, one also has to keep in mind the significance of container shipping for the global supply chain, as reported in the UNCTAD Review of Maritime Transport 2018 container shipping accounts for 24.3% of total dry cargo shipments in 2017.

Also keeping in mind the often inferior infrastructure related terminal and hinterland connections in developing countries and the fact that logistics cost in developing countries have generally a higher ratio of logistics costs in relation to its GDP (Gross Domestic Product), this development is further worsening the situation.

In view of addressing the current situation of demurrage and detention and to ensure an efficient supply chain, FIATA Multimodal Transport Institute Working Group Sea announced the release of its first "Best Practice Guide" focusing on the charging of demurrage and detention on 3rd October 2018. These best practices may help reduce unnecessary supply chain costs and inefficient behaviours that lead to detention and demurrage charges. The document aims to examine the current situation and outline best practices that could be implemented voluntarily by all parties moving cargo through ports.

Advised practice on detention and demurrage of FIATA

In the best practice document, FIATA acknowledges that demurrage and detention charges are a valid and important tool for shipping lines to ensure that their equipment is being returned as fast as possible and users exceeding the contractual duration of use should be charged accordingly. However, FIATA does not believe that merchants should be subjected to unjust and unreasonable charges of this nature, especially as delays often occur through no fault of the forwarder / shipper.

The FIATA Working Group suggests that commercial partners review a series of issues related to demurrage and detention charges and negotiate an agreement to including but not limited to

- limit the demurrage or detention accrued to a maximum amount
- extend the free time period in case the terminal is unable to release / receive a container by the period that is equal to the duration of the inability
- ensure a level playing field for containers in merchant haulage and negotiate terms to reduce unfair differentiation
- support the modal shift towards more environmentally friendly modes of transport by increasing the detention free period.
- Change the calculation of export demurrage to transfer the responsibility of vessel delays to the shipping line.
- Ensure that demurrage and detention charges on import shipments are charged much faster, ideally within a week
- Help relieving terminal congestion as well as land side concentration of pickups and deliveries due to bigger vessels and higher peaks and allow merchants more flexibility by increasing demurrage free periods.

FIATA further encourages more data sharing in the maritime supply chain which would lead to more transparency of information related to these charges.

Working Group Chair, Jens Roemer commented, "Anti-trust and Competition Laws worldwide prohibit representative bodies such as FIATA from any involvement in commercial action so the resolution of disputes regarding demurrage and detention must be between the contracting parties. The Working Group Sea is pleased to provide best practice recommendations that National Associations and freight forwarders can use to argue their case in commercial disputes."

FIATA hopes the guide can provide orientation to its members and all stakeholders as to which conditions are adequate. FIATA also looks forward to closer collaboration with shipping

lines and the various stakeholders throughout the port supply chain. The newly published guide is accessible on FIATA website: <https://fiata.com/media/documents-for-download.html>

<https://www.otmbe.org/infotheek/downloads/informatie/766-pr-1807-fiata-publishes-best-practices-to-enhance-container-shipping-181003>

<https://www.otmbe.org/infotheek/downloads/informatie/765-103736-fiata-d-d-guide-v2>

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