



TOMAX
NEWS

Issue 85
17th June 2022

PLUS:



MARKET SUMMARY

- A big thank you to the clients that attended our training session on Tuesday. It was great to see you at Tomax Clayton and we were very pleased to see you enjoy the session so much and learn a lot during the day. We'll be running more sessions again in the future so stay tuned and register your interest at any time.
- Ocean freight rates on southbound trade-lanes are still maintaining at very high levels for this time of year and analysts believe that from July rates will start spiking again.
- Various terminals are increasing their infrastructure levies again from 1st July to new record highs, further impacting margins for importers and exporters.

GAZETTE TARIFF CONCESSIONS (TC)

Tariff Concession Orders (TCOs) are an Australian Government revenue concession that exists where there are no known Australian manufacturers of goods that are substitutable for imported goods. The weekly Tomax Client Newsletter will contain a link to the latest Gazette document so that you can stay updated.

[CLICK TO VIEW LATEST GAZETTE](#)





KOREAN TRADERS URGE TRUCKERS TO END STRIKE

The Korea International Trade Association (KITA), who represent importers and exporters, have urged striking truckers to cease their industrial action in order to get goods moving again.

Truckers were pushed to consider the long term economic effects of the strike and continue government negotiations, after the strike went past the 8th day mark. The strike has resulted in numerous complaints alleging financial damage due to delays in cargo deliveries. Reportedly, South Korea's steel, automobile and petrochemical sector have reported at least \$1.23bn in damages. As mentioned in last week's article, the truckers are fighting for the extension of the Safe Trucking Freight Rates System, implemented in 2020 to prevent speeding and overwork, beyond the original lapse date in December 2022.

As a result of the strikes, 90 tons of isopropyl alcohol used in the manufacturing of computer chip wafers, were unable to arrive in China last week causing a delay in wafer production. KITA added, "these are key materials that should be supplied to each industry. Export shipments are being cancelled and delivery failures continue to occur."

Furthermore, severe losses are likely to be faced if the shipping and trucking disruptions are prolonged because of cash flow pressures. KITA continued, "we strongly urge the truckers to see the bigger picture and return to work first, put stalled transportation back on track and resume negotiations for a win-win deal."

Li, Martina. (2022). Korean traders urge truckers to end strike as it hits computer chip production. Retrieved from <https://theloadstar.com/korean-trade-body-urges-truckers-to-end-strike-as-computer-chip-production-hit/> on 15th June, 2022.

RAILWORKS BETWEEN MILDURA TO MELBOURNE COMMENCE

The Victorian Government will soon commence upgrading the freight corridor between Mildura and the Port of Melbourne, with the intention of boosting the weight and frequency of the trains operating on the freight-rail route. The works will consist of siding extension works at Merbein near Mildura, trains 1200 metre in length to stable away from the main line, enabling grain trains to run more frequently to Yelta, ahead of predictions for another bumper grain season. Moreover, by crossing loops further down South, the opposing 1200 metre long freight trains will be able to pass each other.

Melissa Horne, Victoria minister for ports and freight, believes the works will provide a big benefit stating that the works will allow “for more frequent and heavier services of fruit, wine, grain and peas to operate on freight trains between Mildura and the Port of Melbourne. We’re keeping the rail freight network moving in Mildura and ensuring we are continuing to support our farmers and

freight operators by making it easier and quicker for them to transport their local produce.”

According to the state government, this would result in an increase to the current Seaway Intermodal service between Mildura to the Port of Melbourne from 3 to 5 days a week. Furthermore, packed citrus products from the Mildura Fruit Company (MFC) forms a major part of Seaway’s Intermodal’s freight business, with an estimated 5000 containers of produce moved by rail from MFC alone annually.

Ackerman, I. (2022). Rail works to increase freight between Mildura and Melbourne. Retrieved from <https://www.thedcn.com.au/news/ports/rail-works-to-increase-freight-between-mildura-and-melbourne/> on 15th June, 2022.



MSC ADOPTS BIOFUEL FOR A GREENER FUTURE

MSC will now be adopting “sustainable biofuel” as a transition fuel in its ocean operations, stating that the “MSC Biofuel Solution” is available at selected world ports. The company said, “[it] offers customers the opportunity to join forces with MSC to decarbonise their supply chains and achieve their climate targets. This solution is our first carbon insetting programme, through which we use biofuel to reduce the carbon footprint of our customers’ supply chains as well as across our own operations, while accelerating the global energy transition and our industry’s decarbonisation.”

MSC said it procures bunkers and low-carbon certified sustainable fuel that is derived from sources such as used cooking oil, claiming, “this responsibly sourced, second-generation biofuel comes as a blend with conventional marine oil and its bio component can reduce carbon dioxide emissions by 90%.”

Dimitri Ruggiero, MSC global accounts vice-president, said by adopting low-carbon fuels, the ocean carrier is playing an “enabling role” in the energy transition while minimising carbon emission in its own operations. He said, “customers can also achieve a reduction in emissions in their supply chains by taking part in our carbon insetting programme, MSC Biofuel Solution. We are continually improving the energy efficiency of our fleet, as well as collaborating with partners across the maritime ecosystem on research, trials and pilots to promote the wider adoption of low- and zero-carbon fuels of the future.”



MAERSK ROLLS OUT CONTAINER DAMAGE COVERAGE

Rolling out its 'container protection solution' across 27 countries within Asia and Europe, Maersk's goal is to simplify long-running disputes regarding import container damage charges. Charges are expected to differ per country. For instance, in Bangladesh, paying \$10 for the Container Protect Essential product, could see importers enjoying up to \$100 in damage repair cost coverage. If the importer opts to pay \$50, they are entitled to unlimited coverage to repair damage.

Maersk Bangladesh noted that, "Container Protect has been designed for hassle-free container damage settlements. It covers all commodities and can be added to your shipment at any time before the release of the delivery order."

The solution comes in two variants, and can be purchased according to the needs of an importer. According to Maersk, the importer does not need to wait for damage recovery invoices if the accrued cost was within the coverage, adding, "if the actual damage charge of a certain container exceeds the coverage limit, you will be billed for the remainder amount."

Previously, when a container had been damaged, both the importer and container owner needed to wait for various survey reports unless the situation was agreed

amicably. "We found this solution convenient, compared to the hassle [of the prior system]."

"Every day we have fights with C&F agents about repair charges. So, Maersk stepped ahead and fixed it to avoid any disputes," said a representative of a mainliner in Dhaka.

Maersk had introduced the solution in 27 countries, including India, Singapore, China, Thailand and in various European states including Italy, Poland and Portugal.

In India, "container protect essential" is included in any shipment bookings by default, 'for ready protection up to INR30,000' (\$385). In Italy, it is also included in shipment bookings by default, providing coverage of up to 200 Euros (\$210). In Singapore, an essential purchase of the S\$20 (\$14) solution gives coverage of up to S\$150.

However, in Bangladesh, the Container Protection is optional but "generally there is very positive feedback from customers. They are appreciating [it] and buying more of this product," said Maersk's spokesperson.

Bangladesh Correspondent. (2022). Maersk rolls out container damage coverage 'to end disputes over box repairs'. Retrieved from <https://theloadstar.com/maersk-launches-container-insurance-to-end-disputes-over-box-damage/> on 15th June, 2022.



CONTAINER DETENTION - A CALL FOR REGULATION

AUSTRALIANS ARE PAYING MORE than one billion dollars a year in unreasonable international shipping fees in addition to record high freight rates and a spate of surcharges. These costs have been identified in formal Freight & Trade Alliance and Australian Peak Shippers Association submissions to a current Productivity Commission review examining Australia's maritime systems. Two areas of focus impacting Australian exporters and importers are:

- terminal access charges – fees paid to shipping lines contracted stevedores and empty container parks for access to container facilities without any ability to influence service or price – and
- container detention fees – spiralling out of control, payable when delays occur in returning empty containers within prescribed periods as set by shipping lines.

CONTAINER DETENTION

The operational environment has worsened because of vessel bunching, limited operating hours of facilities to receive empty containers, extreme supply-chain labour shortages and in many cases, the detention clock starting at a time when cargo is physically unavailable for collection from the wharf. While FTA/APSA is actively engaging with the Department of Agriculture, Water and the Environment to improve efficiency and to meet the increasingly complex biosecurity protection task, excessive delays to booking requests and inspection timings are adding to industry's woes. This is hitting hard – everyone from major retailers through to small businesses. Freight forwarders, customs brokers and transport companies are left with the unenviable task of trying to explain this unbudgeted and unreasonable fee to importers and exporters costing anywhere from hundreds of dollars per consignment up to hundreds of thousands of dollars in some circumstances. What is clearly a

windfall for foreign owned shipping lines contributing to their multi-billion-dollar annual profits is adding to the current cost of living and inflationary pressures being felt across Australia with charges being passed down the supply chain, adversely affecting manufacturers, farmers, rural communities and consumers.

SHIPPING LINES DISREGARD CALLS FOR RELIEF

In response to industry concerns, FTA/APSA wrote to major shipping lines with all refusing a request for a blanket extension of detention free days. While most conceded they will assess the quantum of penalties on a “case-by-case” basis, member feedback has indicated in practice, little (if any) relief has been offered. The unreasonable nature of the administration of penalties was witnessed with the period of weekends and public holidays during April 2022 (including Easter and ANZAC Day) whereby many empty container parks contracted by shipping lines were closed and/or operated limited hours, yet those same shipping lines treated these days as working days in administering container detention penalties.

In addition, the following circumstances are also questionable as to their “reasonableness”:

- the practice by some shipping lines to start the detention clock from the time of discharge of the import container despite the container not being physically available to the importer/transport provider until the container terminal allows this to occur;
- the nominated return location does not have the gate or facility capacity to accept the return in a timely manner;
- redirections of empty de-hires to an alternative facility from that nominated originally by the shipping line (empty container park or container terminal) – this causes a time lag in being able to secure a de- 7

hire timeslot at the alternative facility, which in turn can lead to the container not being returned within the imposed “free time”; or

- in the case of container detention applied to exports, under circumstances where the export container is rolled by the shipping line, yet the shipping line still charges the exporter container detention for the delay in the export of the container.

Further exemplifying the unreasonable application of fees, container detention has been charged to Expeditors, an international freight forwarder who suffered a well-publicised, global cyberattack on 20 February.

In contrast to Australia, whereby supply chain participants have no protections from container detention penalties, the United States Federal Maritime Commissioners Louis Sola and Carl Bentzel put the spotlight on the actions of shipping lines and port operators in response to the Expeditors predicament with a formal statement on 13 April: “While every potential demurrage and detention fee should be assessed based on the facts surrounding the transaction, and in accordance with the FMC’s Interpretive Rule on Demurrage and Detention under the Shipping Act, we believe that given the malicious nature of the attack that caused the transportation events delaying pick-up of cargo, that care should be given in the assessment of fees that resulted from this cyber-attack. Accordingly, we would urge ocean carriers and marine terminal operators to exercise restraint in the assessment of demurrage and detention fees given the nature of the actions causing the commercial operational challenge.”

In its initial Interpretive Rule, the US Federal Maritime Commission neatly set out an overarching Incentive Principle that “In assessing the reasonableness of ... detention practices and regulations, the Commission will consider the extent to which demurrage and detention are serving their intended primary purposes as financial incentives to promote freight fluidity”.

With that overarching Incentive Principle in mind, in relation to empty container return, the US FMC Interpretive Rule states that “absent extenuating circumstances, practices and regulations that provide for imposition

of detention when it does not serve its incentivizing purposes, such as when empty containers cannot be returned, are likely to be found unreasonable”.

INTERNATIONAL PRECEDENT

In November 2021, the FMC issued an order of investigation and hearing to determine whether Hapag-Lloyd was in violation of the Shipping Act by its practice of assessing detention charges when it failed to provide an equipment return location, appointments were unavailable for equipment return during the allocated free time, or shipper-disputed charges related to these issues were not waived. The case involves 11 empty containers that were returned from one to 11 days after free time expired. In her decision, the FMC’s Chief Administrative Law Judge Erin Wirth found that, “on some of the days for which detention was charged, there were not sufficient appointments to return the containers, and Hapag-Lloyd’s policy and practices regarding detention charges were unreasonable”. Along with a cease-and-desist order, Hapag-Lloyd was ordered to pay US\$822,220 as a civil penalty for 14 “wilful and knowing violations of section 41102(c) of the Shipping Act”.

NEED FOR REGULATION FTA/APSA

have been inundated by examples from members of unreasonable practices with a significant sample shared in a supplementary submission to the Productivity Commission. The evidence shows shipping lines blatantly exploiting the situation to gain revenue and not using container detention as designed to incentivise timely return of containers. It is important to note that this cost is on top of record high shipping line surcharges and freight rates that are combining to create inflationary pressures and significantly adversely impacting the Australian economy. In line with this evidence, FTA/ APSA restated its fifth recommendation as outlined in its original submission: “[There is a] need for federal government action and potential regulation, similar to US Federal Maritime Commission, to ensure reasonable container detention policies are administered”.

Zalai, P. (2022). Container detention - a call for regulation. Retrieved from The DCN on 17th June, 2022.



STAFF SPOTLIGHT

WARREN RICHARDS COURIER DRIVER TOMAX TRANSPORT

What do you do at Tomax?

I am a delivery driver.

What are your hobbies/interests?

Unfortunately my wife is unwell so I cannot do much besides work and house work. However, I do have my 3 dogs, 3 birds and plenty of fish (I have lost count) to keep me busy!

If you could live anywhere, where would it be?

Tasmania.

Do you follow any sports?

My favourite sport is NRL and West Tigers is my team.



What makes you laugh the most?

The grandkids - they are definitely good value.

If you can bring one object to a deserted island, what would it be?

Enough VB to see my days out there!

Your biggest pet peeve?

Politicians!



SPOT THE 5 DIFFERENCES

See if you can identify five differences between each of the following images!



ANSWERS In the bottom photo: sun in top right corner, upside down "T" in Tomax, absence of Tomax logo, extra trees on the right, grass is browner.



Australian HQ
19/202 Ferntree Gully Rd
Clayton VIC 3168

tomax.com.au
1300 186 629
03 9544 4227

