



FIATA SECRETARIAT

PRESS RELEASE

FIATA invites shipping lines to adapt their practice on Demurrage and Detention Charges during the COVID-19 Crisis

FIATA recognises the exceptional times that shipping lines are operating in, and the need to ensure that global maritime supply chains remain intact. While it is understandable that there is an inherent need to collect container and terminal storage charges, both to compensate the shipping company and to ensure a quick turnaround, FIATA calls upon shipping lines and terminals to exercise restraint in their demurrage and detention charges and practices, taking into consideration the unprecedented difficulties faced by the freight forwarding industry and other stakeholders amid disruptions to the supply chain.

FIATA therefore invites shipping lines and all supply chain actors to take cognisance of the 'incentive principle', a term utilised by the US Federal Marine Council (FMC) as part of its proposed interpretative approach as to the reasonableness of demurrage and detention practices. FIATA reiterates the two main purposes of demurrage and detention charges as of its previous press release from November 2019, which acts both as: (1) compensation to the shipping line for the use of its container, and (2) an incentive for cargo movement, ensuring that freight forwarders return containers as soon as possible for a fast turnaround.

At the end of last year, in its November Press Release, FIATA already questioned *"the reasonableness of demurrage and detention practices and to what extent the practices were meeting the intended purposes as financial incentives"* to promote freight and the timely movement of containers. This issue rings even truer in today's COVID-19 situation. As FIATA Chair, Working Group Sea, Jens Roemer stated in FIATA's November 2019 Press Release:

"The clock for the determination of a charge of demurrage and detention to incentivise the orderly movement of containers through ports and terminals must be stopped when circumstances arise outside the control of the importer and containers are not able to be moved. There is no logic in enforcing a charge which is supposed to motivate the importer to pick up, or return, a container in a timely manner if the port or terminal is not able to comply with the delivery request."

Under the incentive principle, where circumstances negate one of these core purposes of demurrage and detention, the reasonableness of their application should be questioned.¹ As such, under this principle, the motive for demurrage and detention charges incentivising the quick movement of cargo is clearly not reasonable under the COVID-19 context. The stringent restrictions imposed by governments on the movement of goods and persons to prevent the spread of the virus are causing a significant slowdown in global supply chains, and this may impact on the ability for many merchants to pick up their containers in a timely manner for reasons outside of their control. For this reason, FIATA encourages shipping lines to review their demurrage and detention charges to ensure that they are reasonable under the circumstances. Such a review should consider the possibility of waiving charges based on the second purpose of acting as an incentive. Instead, the focus should be on the more relevant

¹ See Federal Maritime Commission, 'Interpretive Rule on Demurrage and Detention under the Shipping Act', 46 CFR Part 545, 13 September 2019, https://www2.fmc.gov/readingroom/docs/19-05/19-05_NPRM.pdf (accessed 31 March 2020)

FIATA

Schaffhauserstrasse 104, CH-8152 Glattbrugg, Switzerland
Tel. +41 (0)43 211 65 00, info@fiata.com, www.fiata.com



purpose as compensation for the use of the container, noting that shipping lines themselves are trying to smooth the container flow through ports and importers are now unable in many places to arrange container delivery based upon government and regulator movement directions. It may also include consideration of how to provide greater flexibility in the payment of such charges, taking account of the difficulties faced by many of their partners.

As the COVID-19 crisis continues to develop, it will continue to challenge all stakeholders within global supply chains over the weeks to come. FIATA notes that this will involve many difficult commercial considerations for actors along the supply chain. Nevertheless, the global spread of COVID-19, together with lockdowns and governmental restrictions in many nations, will require the global forwarding community to provide practical solutions. This may include, for example, the provision of warehouse space, or temporary solutions to move containers out of terminals or unload containers to limit possible charges as far as possible. In addition, shipping lines may wish to consider certain exemptions on detention and demurrage charges during certain periods – FIATA previously welcomed the decision of ocean carriers to do so in China during the extended Chinese New Year holiday amid the COVID-19 outbreak there.

FIATA stands ready to support the global forwarding community to face these challenges head-on, and to ensure the fluidity of global supply chains. To this end FIATA's Director General will continue to engage closely with leaders from shipping, ports, and other related activities to ensure a coordinated understanding of the issues and to develop sensible, practical, and unified solutions.

Media Contact:

Stéphane Graber – FIATA Director General

Email: graber@fiata.com

www.fiata.com

About FIATA

FIATA, the International Federation of Freight Forwarders Associations, was founded in Vienna, Austria on May 31st 1926. It is a non-governmental organisation that today represents an industry covering approximately 40,000 forwarding and logistics firms, employing around 10 million people in some 160 countries. FIATA has consultative status with the Economic and Social Council (ECOSOC) of the United Nations (inter alia ECE, ESCAP, ESCWA, etc.), the United Nations Conference on Trade and Development (UNCTAD), and the UN Commission on International Trade Law (UNCITRAL) as well as many other UN related bodies, e.g. the World Bank. It is recognised as representing the freight forwarding industry by many other governmental organisations, governmental authorities, private international organisations in the field of transport and logistics, such as the European Commission (through CLECAT), the International Chamber of Commerce (ICC), the International Air Transport Association (IATA), the International Union of Railways (UIC), the International Road Transport Union (IRU), the World Customs Organization (WCO), the World Trade Organization (WTO), etc.

For further information, please go to: www.fiata.com

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