Dear Friends and Colleagues,

We have a mix of good and bad news today. Let's get it over with and start off with the bad and end with some very good news on D&D…

Shipping space – High Space Utilization:

Over the last several weeks we have been seeing a situation develop that is impacting importers of all sizes. The issue is an extremely high utilization of available space in container shipping as the market from Asia to North America remains very strong due to a combination of factors. High import volumes, equipment shortages at key ports (especially North China), weather delays and congestion at major Asian ports, and tight capacity are all impacting the trade, creating a perfect storm resembling the shipping challenges experienced during the pandemic.

Carriers are still working through rollover pools at Asia-origin ports, and vessels are still booked up several weeks in advance. With that said, this is not limited to the US. The problem is affecting cargo from Asia to Europe, Asia to the US and as mentioned, inter-Asia shipping. Much of this is due to the issues in the Red Sea that have had domino effects across virtually all aspects of ocean shipping.

Adding to the pressure is an early peak shipping season which was expected from companies hoping to avoid any issues that might be caused should the ILA go on strike October 1st. But the strength and timing of this surge has taken most industry analysts by surprise. Not surprisingly, it's been announced that spot rates from Asia to the US are scheduled to increase another $1000 per FEU as of June 1.

Here are some important metrics to keep in mind as to the cause of this issue…

Vessel Schedule Reliability/On Time Performance:
Industry Average = 27%
THE Alliance = 21%

Global Port Congestion: Currently is tying up 2 million TEU of vessel capacity which is equal to 7% of the global fleet.

Asia ports are the most congested:
SE Asia ports account for 26% of the global bottlenecks.
NE Asia/China ports account for 23% of the global bottlenecks.

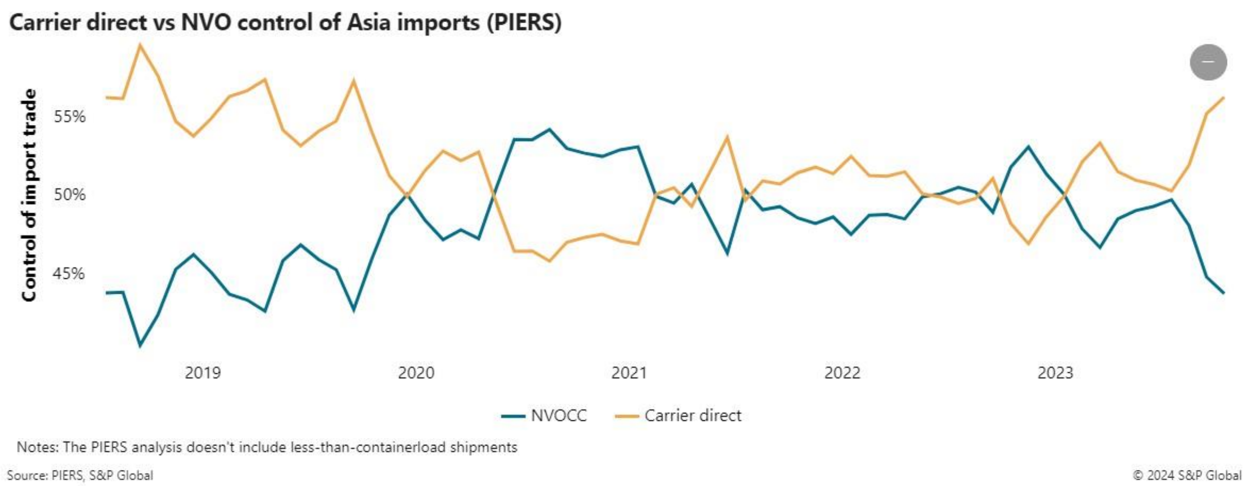
Singapore: There is a 7-day waiting time which is currently trying up 450,000 TEU of vessel capacity.

Spillover Congestion: Some carriers are now being forced to omit Singapore or risk their on-time performance getting even worse. This is resulting in a spillover to other ports that now must handle additional volume spreading the congestion.

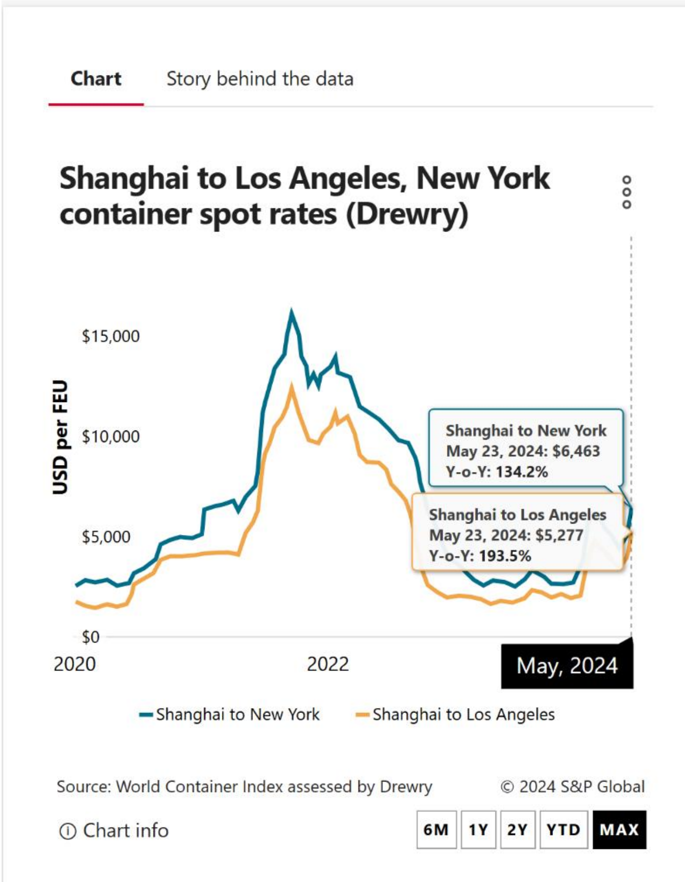
Industry analysts expect this spillover congestion to worsen in June. It would appear there is no quick end in sight.

As if that weren't bad enough, we are seeing the ocean carriers pull back allocations from the NVO's for their "named accounts" and even from some of the largest importers with direct contracts, in favor of selling the space on the spot market.

Per our friends at the **Journal of Commerce**, "Trans-Pacific container carriers are slashing — or in some cases even eliminating — allocations to non-vessel-operating common carriers (NVOs) for fixed-rate bookings. That allows ocean carriers to capitalize more on soaring spot rates. Since early 2024, NVOs' share of the eastbound trans-Pacific trade has been declining." The following graph from **www.joc.com** gives a clear picture of what is going on.



Given the high utilization and issues caused by congestion, spot rates are soaring as demonstrated by the graph below. The below rates do not take into account the upcoming proposed $1,000 GRI…



Given all of the above, there is little to no space available to book for up to 4 weeks out. As such, we highly recommend you *book at least 4-6 weeks ahead* of time to give yourselves the best possible chance of getting loaded on board!

International Supply Chain Update Webinar:

Please join me for an overview of the current international shipping issues that are affecting your supply chain on a webinar hosted by MEMA on June 10th at 11:00am PST/2:00pm EST. It is open to both members and non-members alike. Click **here** to register. Please note, your logistics, purchasing and operations team will all benefit from this overview.

Red Sea/Suez:

As we all know, the situation in the Red Sea and Suez Canal has been impacting global shipping routes, with disruptions causing significant delays and rerouting of cargo. It is a given that the current issues will persist affecting container shipping into the foreseeable future. The geopolitical tensions and security threats continue to grow for shipping companies as the Houthi rebels are now targeting ships as far away as the Mediterranean Sea and the India Ocean. Shippers need to factor in the longer transit times and added costs into their plans until further notice.

Down the road, even if the Israel/Hamas conflict were to end tomorrow, don't count on any dramatic changes in shipping lanes and costs until the Houthi's are brought under control.

Panama:

Good news. It is now the rainy season in Panama. The US National Weather Service is predicting a switch to El Nina that will bring more rain to the region. Fortunately, we are already seeing a loosening of space from recent rains. On May 16 the number of reservations was raised from 27 to 31. And, daily crossings are scheduled to increase to 32 on 6/1. Although this is good news for shipping through the canal, it is still 12% below normal. Hopefully, they will receive more rain in the coming days and week and increase reservations back to the norm of 36-38 per day.

Baltimore:

Good news. The MV Dali, the container ship involved in the collapse of the Francis Scott Key Bridge, was refloated and moved to a local marine terminal last week. This operation is a critical step in the ongoing efforts to clear the channel and restore full operations at the Port of Baltimore. The port was expected to reopen for normal operations by the end of this month, following the establishment of a new, deeper channel to facilitate the passage of commercial ships. However, they are now hoping the channel will be fully clear by June 10th at the latest. Although it will take a while for the port to unwind from this tragedy, it should get back to normal reasonably quickly once the channel is completely cleared.

For those of you that are interested, the NTSB issued a preliminary report that failed electrical breakers were the cause of the accident. For more information, please see the attached report.

Canadian Rail Union:

Heads up! The Canadian rail workers and Canadian Rail operators are in a deadlock over the new contract negotiations. The union has vowed to strike at the earliest opportunity, which could cause widespread chaos across North American supply chains.

Earlier this month, the dispute was referred to the Canadian Industrial Relations Board, To that point, workers were in a position to walk off the job on May 22. But a strike cannot start now until the board issues a decision.

Since the dispute was referred **to the tribunal**, there does not appear to have been any progress made in negotiations between the two sides.

The two parties have until May 31 to make their written submissions. The submissions will primarily outline their current positions in regards to the dispute. Fingers crossed that common sense and cooler heads prevail on both sides.

FMC Demurrage & Detention Final Rule:

What does all of the following mean? There is now a process and accountability for D&D billing….

OSRA-22's new D&D billing requirements go into effect TODAY.

In accordance with the Ocean Shipping Reform Act of 2022, the Federal Maritime Commission (the Commission or FMC) is issuing regulations governing demurrage and detention billing requirements. This final rule requires common carriers and marine terminal operators to include specific minimum information on demurrage and detention invoices, outlines certain detention and demurrage billing practices, such as determination of which parties may appropriately be billed for demurrage or detention charges, and sets timeframes for issuing invoices, disputing charges with the billing party, and resolving such disputes. It adopts with changes the notice of proposed rulemaking published on October 14, 2022. Substantive changes allow consignees to be billed and clarify the timeframe for non-vessel-operating common carriers passing through demurrage and detention charges to issue their own invoices. Non-substantive changes improve clarity and remove drafting errors.

Dates:

This final rule is effective today, May 28, 2024, except for instruction 2 adding § 541.6, and instruction 3 adding § 541.99, which are delayed. The Commission will publish a document in the Federal Register announcing the effective date of these amendments.

OSRA 2022 then lists the minimum information that common carriers must include in a demurrage or detention invoice:

1. date that container is made available;
2. the port of discharge;
3. the container number or numbers;
4. for exported shipments, the earliest return date;

5. the allowed free time in days;
6. the start date of free time;
7. the end date of free time;
8. the applicable detention or demurrage rule on which the daily rate is based;
9. the applicable rate or rates per the applicable rule;
10. the total amount due;
11. the email, telephone number, or other appropriate contact information for questions or requests for mitigation of fees;
12. a statement that the charges are consistent with any of Federal Maritime Commission rules with respect to detention and demurrage; and
13. a statement that the common carrier's performance did not cause or contribute to the underlying invoiced charges.[20]

Failure to include the required information on a demurrage or detention invoice eliminates any obligation of the billed party to pay the applicable charge.[21]

FMC Publishes Final Rule on Detention and Demurrage Billing Practices

Posted February 23, 2024

A **Final Rule issued today** by the Federal Maritime Commission establishes new requirements for how common carriers and marine terminal operators (MTOs) must bill for demurrage and detention charges, providing clarity on who can be billed, within what timeframe, and the process for disputing bills.

A key provision of this rule determines that demurrage or detention invoices can only be issued to either: (1) the person for whose account the billing party provide ocean transportation or storage of cargo and who contracted with the billing party for the ocean transportation or storage of cargo; or (2) the "consignee," defined as "the ultimate recipient of the cargo; the person to whom final delivery of the cargo is to be made". Demurrage and detention bills cannot be issued to multiple parties simultaneously.

The rule also requires vessel-operating-common carriers (VOCCs) and MTOs to issue detention and demurrage invoices within 30 calendar days from when charges were last incurred. Non-vessel-operating common carriers must issue demurrage and detention invoices within 30 calendar days from the issuance date of the invoice they received.

Billed parties have at least 30 calendar days to make fee mitigation, refund, or waiver requests. If a timely filed request is made, the billing party must attempt to resolve the matter within 30 calendar days, unless both parties agree to a longer timeframe.

The new rule will advance the Commission's goal of promoting supply chain fluidity by ensuring a clear connection between the failure to pick-up cargo or return equipment in a timely manner and the appropriate fee. The rule ensures that billed parties understand the demurrage or detention invoices they receive by requiring certain identifiable information be included by the billing party on the invoice. Failing to include any of the required information in a detention or demurrage invoice eliminates any obligation of the billed party to pay the applicable charge. Of course, if an invoice does comply, a charged party does have an obligation to pay charges billed. The new rule will provide relief to parties who should never have received a bill for detention or demurrage.

Most of the rule takes effect on May 28, 2024. The “Contents of Invoice” section 541.6 involves information collection and must be approved by the Office of Management and Budget. The Commission will announce the effective date of section 541.6 once approved.

As usual, I have attached a few articles for background. If you are interested in getting more background information, please don’t hesitate to reach out.

All the best,

Steve Hughes