

**BEFORE THE  
FEDERAL MARITIME COMMISSION**

Petition of LCL Logistix (India) Pvt. Ltd. dba LCL Lines ("LCL") for a Declaratory Order
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Docket No. 14-11

**LCL RESPONSE TO MSC REPLY**

In its Reply to the Petition of LCL Logistics (India) Pvt. LTD dba LCL Lines for a Declaratory Order, Mediterranean Shipping Company SA ("MSC") asserts that LCL should not have filed its action as a Petition and instead, presumably should have filed a Complaint, because the Commission will not be able to provide guidance to LCL regarding its future conduct. LCL respectfully submits that MSC's position is mistaken as resolution of the issues raised in the Petition have important prospective consequences not only for LCL, but for all shippers, non-vessel operating common carriers (NVOCCs) and shipping lines alike. The issues raised in the Petition are of widespread importance because demurrage, and the ability of carriers to recover demurrage charges which far outstrip the value of the containers that are temporarily unavailable for their use, is a subject that frequently arises in the commercial shipping context and is likely to arise even more frequently in the future. If carriers know that they have the right to charge shippers and NVOCCS far in excess of the value of their containers -- for the temporary inability to use them -- carriers will be under no compulsion to seek the return of such containers from customs and port authorities and, instead, will seek to maximize the amount they can recover for such temporary unavailability. In sharp contrast, if LCL, as well as other shippers and NVOCCs know that they can be charged demurrage in perpetuity, and that -- as happened here -- the carrier can simply ignore communications that cargo is being abandoned through no fault of the NVOCC or shipper, those entities will have to radically alter their shipping practices and

procedures. MSC's actions in this case -- which are ongoing -- provide a particularly compelling context in which the Commission can address this issue, given the facts that: (a) MSC is the only party with standing under Indian Law to seek a return of the containers from Indian Customs; (b) it has waited for more than three years while demurrage charges continue to accrue to file suit against LCL; and (c) the amount of the demurrage being sought exceeds the value of the containers by over \$200,000.

LCL is largely indifferent as to whether the guidance the Commission provides to the shipping industry, and to the Court in the Southern District of New York, is in the context of a Petition or pursuant to a Complaint. Given that the issue presented: 1) will guide LCLs' future conduct; 2) has profound implications for the industry as whole; and 3) consists of a legal question, rather than disputed issues of fact, however, LCL submits that the relief sought in its Petition is appropriate and that its Petition should be granted.

Respectfully submitted,

  
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DATED: September 19, 2014

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document was delivered to the following addressees at the addresses stated by depositing same in the United State mail, first class postage prepaid, and/or by electronic transmission, this 19th day of September 2014:

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