

SUNDAY SPOTLIGHT

SEAINTEL MARITIME ANALYSIS

PACIFIC SHIPPERS ASKED TO PAY LIQUIDATED DAMAGES

Non-delivery of MQCs results in 23 million USD claim

In the wake of the drastic rate decline seen on the major container trades, the debate concerning adherence to contractual terms has – once again – heated up.

As late as Mid-April, Federal Maritime Commission (FMC) Chairman Richard A. Lidinsky Jr urged the carriers and shippers to carry on with their efforts on improving service contracts.

Whilst multiple aspects of the service contracts are being discussed, we will here confine ourselves to

taking a look at the MQC – Minimum Quantity

Commitment. The reason for this focus is the claim brought forward by The Containership Company (TCC) which recently ceased operations on the Transpacific trade. TCC has on

meet the targeted aspirations. The new claim put this non-delivery by customers close to 100.000 TEU.

The standard contracts

The MQC in the standard Transpacific service contracts stipulates how much volume the shipper commits to booking with a particular carrier. Often there is no detailed breakdown as to how this is to be split across the year or on individual port-port combinations.

Most carriers implement a pricing policy whereby larger shippers –

i.e. those with high MQCs – enjoy lower freight rates.

THE TCC CLAIM IS CLOSE TO 100.000 TEU

With the MQC the carrier commits to carry the volume stipulated in the contract, and the shipper commits to delivering such volume.

CONTRACTUAL STRINGENCY VERSUS ADHERENCE

Discussions over contract adherence always seem to flare up following drastic changes in market conditions. This time around the discussions seem to center on drawing up a more stringent contractual framework. When considering the Transpacific this is a somewhat interesting approach as the actual contracts already contain a quite stringent framework, including penalties for non-performance. The key therefore seem to be only partly in developing more stringent contracts – and equally important in actually enforcing the

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