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POTENTIAL WEST COAST PORT LABOR DISRUPTIONS LOOM LARGE FOR IMPORTERS AND EXPORTERS, INCLUDING THOSE OF FDA-REGULATED PRODUCTS

On July 1st, the contract between the International Longshore and Warehouse Union (ILWU) and the Pacific Maritime Association (PMA) officially expired, increasing the potential of a work stoppage and cargo disruption at West Coast ports. Two months ago, the parties began contract negotiations to renew their six-year agreement and/or hopefully progress far enough to prevent any form of work stoppage. While ports continue to operate as scheduled, U.S. Customs and Border Protection (CBP) recently issued guidance to help industries prepare for the possible diversion of vessels and cargo.

In the past, negotiations have taken several weeks or even months after the contract expiration date to reach an agreement. In 2002, negotiations failed, and West Coast ports went on a 10-day strike, causing a variety of supply chain issues. More recently, in 2013, similar negotiations took place with workers at East Coast ports. There, a strike did not occur, though at times seemed likely. On the West Coast, the ILWU and PMA have pledged no cargo-handling disruption while negotiations continue. However, the parties did not extend the “no-strike clause” in their now-expired contract, leaving open the possibility of an organized strike.

In June, CBP issued **guidance** for ship and cargo contingency plans to help stakeholders prepare for the possible diversion of vessels and cargo scheduled for discharge at West Coast ports. These guidelines outline procedures for Customs filers when cargo is discharged in a foreign port, transshipped at a foreign port for delivery at the original destination port (e.g., via barge), diverted elsewhere on the U.S. West Coast, diverted to an East or Gulf Coast port, or held in a ship at anchor until it can be discharged at the original destination port. Among other items, the guidance addresses how prior notice submissions to the U.S. Food and Drug Administration (FDA) should be handled in each scenario.

CBP recently issued updated **guidance**, explaining that participants in the **Customs-Trade Partnership Against Terrorism (C-TPAT)** program will receive front-of-the-line benefits and priority processing at the ports. Additionally, the FDA is working with CBP and contributed to its guidance policy, helping to spell out filing and examination procedures for cargo subject to FDA requirements.

If a work slowdown or stoppage does occur, shippers should consider potential re-routing options, either through Canada, Mexico, or East Coast ports. With limited trucking and rail capacity, as well as added congestion fees, shippers could face considerable cost and delays in attempting to move their cargo into and out of the U.S. Please contact Venable’s International Trade Group or Food and Drug Practice Group should you have any questions about how your business might be affected by a potential work stoppage.