

DEMURRAGE

What is Demurrage?

The word “demurrage” originated from the French word “demeurer” which means, “to stay”.

It is used to describe the **time** a ships, barges, rail cars, road tankers etc. **exceeds the time allowed for loading or discharge operations**. By extension, it is an allowance that is applied for delaying the ships over and above the time in the contract. It is not a real penalty, in legal perspective as that infers some wrong doings it is an agreed remedy to compensate the owner when cargo operations take longer than contractually agreed and so the basis of its calculation must be stipulated.

Why is it important for a trading organization to monitor demurrage?

It is typically **the third largest exposure on a trading book**, the primary being the market price for the product followed by the freight cost and then the cost for delaying the vessel.

CONTRACT DEMURRAGE DIFFERS FROM CHARTERPARTY DEMURRAGE:

There is a distinction between contract demurrage and charterparty (CP) demurrage.

Contract demurrage:

Contract demurrage is the obligation of the buyer or the seller to pay for delays in loading/unloading of the cargo outside the agreed time in the contract. Incoterms does not deal with demurrage and laytime therefore the purchase and sales contracts must deal with the time to load or unload a cargo, laytime, the exceptions to laytime and demurrage. Contract demurrage is between the buyer and seller.

C/Ps demurrage:

A **charter party** is a contract between a ship owner and a party wanting to transport a cargo (charterer). For vessels, there are many standardized C/Ps like Asbatankvoy, BPVoy, Shellvoy etc. Many companies will modify and add terms to these standard templates.

When analyzing demurrage you must ensure you have the relevant charterparty and all the amendments.

Laytime:

A C/P states an agreed laytime between the charterer and the ship owner. Laytime is defined as the amount of **time allowed for the loading and discharging of a cargo**, i.e. the vessel ‘lays’ alongside the berth or other places where cargo operations may take place. It is usually expressed in hours, e.g. 72hrs in the oil industry and for bulk

chemicals it is common to see a tonnes per hour rate e.g. 400/350 mtph.

Example of a typical voyage: (c/p allows 72 hours)

Load port time used	42h
Disport time used	<u>42h</u>
C/p total time used	84h
Time allowed	<u>72h</u>
Demurrage incurred	12

This time allowance is generally evened out in contracts so that half is designated to the load port and half to the discharge port. This gets complicated when there are more than two ports. For this reason a charterer has to calculate a pro-rata laytime³:

$$\frac{50\% \text{ laytime} \times \text{quantity of the cargo delivered}}{\text{Bill of Lading quantity/Total cargo on board}}$$

It is necessary to state when laytime commences and finishes in order to ascertain if there has been a delay, i.e. if the time for cargo operations has been greater than that stipulated in the C/P.

Notice of readiness (NOR):

NOR is used to settle the key event in deciding when laytime/demurrage commences. When a ship arrives at port a **Notice of Readiness (NOR)** is tendered to the charterers who usually have a maximum of 6 hours to get the berth ready. These 6 hours are an allowance not a right. It is a Notice to the charterer, the shipper and the receiver or the other person as required by the charter that the ships has arrived at the port or berth as the case may be and is ready to load/discharge. Usually laytime commences at NOR + 6, or from berthing, whichever is the earlier (some contracts may specify commencement of load or discharge instead of berthing).

In the case of an **early arrival**, NOR is deemed as tendered in which case the commencement of laytime is 06:00 hrs on the first day of the agreed date range. Laytime usually ends when the hoses are disconnected.

ALLOWANCES AGAINST DEMURRAGE

Laytime and demurrage exceptions:

Certain events allow the suspension of laytime and if on demurrage, demurrage. These laytime and demurrage exceptions have to be carefully monitored, as each C/P or contract is different. Usually the following can be expected:

- Awaiting daylight (which is allowed only once)
- Awaiting the tide, the pilot or tugs (are the owners responsibilities)
- Shifting from anchorage to berth (as this is part of the inward passage)
- Weather problems, which are semi-accepted as an industry norm are referred to as the CONOCO CLAUSE. The time delay due to bad weather is deducted at a standard 50% without argument. However, at some ports, the ship owners expect a 100% deduction. Additionally, you have to be careful with the wording to include delays even if you are not first in line for the dock

- Time taken to ballast (refers to heavy substances loaded by a vessel to improve stability, trimming, sea-keeping and to increase the immersion at the propeller.) or de-ballast a tanker is usually included in the laytime (i.e. load and discharge time). Although when dealing with older tanks, excess time is deductible against laytime because they need to stop cargo operations to ballast or de-ballast.

Time awaiting cargo or time awaiting berth – for crude this period is seen as being in transit so laytime allowance is not used here but this is not applicable to products.

Detention:

Occasionally the vessel is under detention. This is the case when there is a **paper delay**, which is a liquidating damage and opened to interpretation (usually at the demurrage rate)

Excess pumping:

As the time taken to load or discharge a cargo is partially dependent on the pressure at the pumps it is common to have a clause related to pumping. The standard clause is that the vessel will **discharge the entire cargo within 24 hours** or maintain a **backpressure of 100 psi (7kg)** at the ships manifold. The ship owners, who are against this, are trying to gain acceptance for pro-rata discounts based on Bernoulli's theory of fluid dynamics. The latter has not been accepted to date even though it is recognised that it is unfair to deduct all time in excess of 24 hours as a laytime allowance.

Time bars:

Almost all C/P's have time bars (except ASBATANKVOY – which no one agrees to without amendments. For instance, Vitol uses the ASBATANKVOY C/P with 40 amendments). A time bar states the amount of time the owner has to put in a claim to a charterer for the claim to be valid. It is usually 60 days (in India it is always 90 days). If this deadline is missed and no claim is sent then it is tough luck. The industry adheres strongly to the concept of time bars.

Reversible laytime:

It refers to the adding together of laytime in the load and discharge operations. For the charterer laytime savings at the load port can be transferred to the discharge port. These savings made under the purchase and sales contracts are not available to counterparties of the other unless it is expressly stated in their contract - This is an important point to know in relation to recovering money in contracts. Care has to be used in wording of cargo contracts as it is usual to state in the contract that recovery will be "as per C/P": this means that all the terms that "substantiate" the calculation are the same, i.e. how demurrage should be calculated, what deductions are allowable against laytime, when laytime starts and when it ends. Terms such as time bars do not substantiate the calculation – all they do is impose deadlines as to up till when a claim may be submitted.

Nomination clause:

This is common in most contracts and states the date range that the vessel will be

arriving to berth. This allows the parties to the contract to adjust their berthing schedule, so if the operator gives the nomination late, consequently, demurrage is delayed. The nominated notice refers to full working days (the seller would need working days to prepare his/her berthing schedule).

Letters of credit (LC):

LC's may also delay the commencement of laytime under a contract: if the seller is not satisfied with your credit and requires an LC (a form of financial insurance) before they sell to you, why would they be willing to accept your demurrage.

General Terms and Conditions of sale (GTCs):

All the major oil companies, most of the state oil companies and many of the big trading companies have their own GTCs.

In essence, a company must have a dedicated demurrage team who is focused on these deadlines because one can easily miss them and ensure to send demurrage claims within time bars.

DEMURRAGE RATES

Demurrage rates demanded by owners depends on several factors including such criteria as time charter-in day rate, bunker prices, elements of lost opportunity, prevailing freight market conditions etc. The owners demurrage rate should be fixed at the time of chartering the vessel. For Contracts of Affreightment (CoA) there may be escalation clauses for bunker fuel.

The demurrage rate agreed between the owner and charterer is typically agreed at a fixed value or pro rata and reflects current freight market conditions. The demurrage rates are less volatile, never reaching the lows or highs of the market. Do be careful during low freight rate periods as it may be more beneficial for an owner to sit on demurrage than complete the fixture.

Demurrage – Detention – Despatch What's the difference

Demurrage – time waiting to unload/load a vessel/container in excess of agreed freetime or laytime

Detention - the time waiting for an empty vessel/container to be returned to owner disposal after unloading. More applicable to containers than bulk vessels

Dispatch – the time saved by the charterer in loading and unloading operations maybe claimed as dispatch from the vessel owner. This is common on dry bulk vessels where the charterer can deploy more or less stevedores. It is seen in the reversibility benefit for liquid vessels although not completely analogous.