OUTSOURCE
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THE SOURCE

Are owner operators, within the trucking industry, independent business owners or are they company employees who bring their own truck to work?

In this issue of ***The Source*** we will attempt to present both sides of the question so one will have an informed view. Several states are currently looking at the question with legislation in mind. This past Jan. 1st California instituted a new law governing the relationship, but a temporary court injunction has been issued in regard to container drayage. **Temporary!** There will be big changes coming to the drayage industry to/from the ocean ports and rail heads that will have consequences to the shipping community in several ways, rising costs not the least. New York and New Jersey are looking at the dray company relationship with owner operators very closely too. While legislation is currently not ready there, the Teamsters and labor advocacy groups are pushing for owner operators being re-designated as company employees.

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California Owner Operators vs. Company Drivers

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California drayage companies hedge against AB5 via brokerage

by Bill Mongelluzzo, Senior Editor, 1/6/20

Drayage companies in Southern California are channeling more freight through their brokerage divisions as a hedge against the possibility that state law known as Assembly Bill 5 may ultimately be upheld by the courts, which would make it increasingly difficult to contract with owner-operator drivers. Harbor trucking companies in other states with AB5-type legislation pending, such as New Jersey and New York, are inquiring about the freight brokerage model in case the decades-long practice of contracting with owner-operator drivers is threatened. However, they are not as far along in the process as are drayage operators in California, where AB5 was signed into law in September.

AB5 took effect Wednesday, but a judge carved the trucking sector out of the larger case involving ride-sharing firms and other companies that are based on the independent contract model. US District Court Judge Roger T. Benitez granted the trucking sector a temporary restraining order on New Year's Eve. The next court date is Jan. 13 where the California Trucking Association will seek a preliminary injunction. Regardless of the outcome of AB5 litigation, trucking companies in California, especially drayage companies that contract with dozens of owner-operator drivers, are looking seriously at the freight broker model as an alternative to what they fear will be a relentless push by California and other states to abolish independent contractor operations. States lose millions of dollars in tax revenues each year because those companies avoid paying workers compensation and other taxes

Broker model is straightforward

Two events are necessary to make the freight brokerage model work in harbor drayage. The licensed motor carrier establishes a brokerage operation. Also, dozens of independent contractors (drivers who own their trucks and contract with the drayage companies) secure operating licenses as Licensed Motor Carriers (LMCs). For each of those entities, the process is complex and costs are involved, but with the proper legal advice is considered viable. A drayage company executive in Southern California told JOC.com

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California drayage companies hedge against AB5 via brokerage

(Front page article continued)

the that a number of companies in harbor have had brokerage arms for many years. They usually only operate as brokers when they have to interline with LMCs who have operating authority in regions where they didn't operate. Occasionally, drayage companies funnel freight through their brokerage divisions when they have more freight than they can handle, such as during the peak-shipping season in the fall. "It's like the extra golf club you keep in your bag," said the executive, who did not want to be identified. Brokerage arms had a purely business overtone and were not intended to address the independent contractor vs. employee-driver issue, he said.

Facing an increasing number of lawsuits in recent years by private lawyers, and by Teamsters union lawyers representing owner operators, drayage firms in Southern California have been gradually shifting more freight from their trucking division to their brokerage arm. Passage of AB5 last fall accelerated that trend. DAT Solutions, which operates a load board used by freight brokers, said the cost of obtaining operating authority in California is about $7,000 out of pocket before cargo and liability insurance. By comparison, the cost before insurance in Oregon and Washington is about $6,000. It is about $6,500 in New York and $7,000 to $8,000 in Illinois. Carriers are also required to secure $750,000 in commercial liability insurance and $100,000 in cargo insurance. In most locations, the process takes five to six weeks, but in California it takes seven to nine weeks, according to DAT Solutions. However, Kerry Puff, regulatory consultant at DAT Solutions, said that in order to carry out the process properly while avoiding liability issues, it is "unwise" to connect the brokerage division to the carrier division. She advised motor carriers to set up a separate brokerage arm from the carrier division "so there is no cross-over liability."

A number of owner-operator drivers in Southern California are establishing themselves as LMCs, even if they have only a few trucks, or even just one truck. Those drivers are now receiving their loads from the brokerage divisions of the drayage companies they used to contract with as owner-operators. Another drayage company executive who requested anonymity said he's now dealing with at least 60 such newly formed small trucking companies. This new arrangement is about 30 percent more costly for the freight broker and the small trucker, the trucking company executive said. However, that same executive said that if his company went directly to the employee-driver model, additional costs for taxes and employee benefits would raise his costs by another 30 percent on top of the brokerage model. Because the driver incurs additional costs for incorporating as an LMC, the trucking company will increase the commission it pays to the driver from 70 percent at present to about 80 to 85 percent, the trucking company executive said.

Harbor trucking companies in Los Angeles-Long Beach now see the freight broker model as a viable option to avoid employee-based operations in the event that the traditional independent contractor model is eventually eliminated by AB5. "I know a number of people have looked into it," said Los Angeles attorney Cameron Roberts. However, it could be difficult for the companies to find enough owner-operators that are willing to and capable of setting themselves up as independent businesses. The challenge is for the guy who was a driver to meet the minimum requirements to be a motor carrier," he said. Those requirements include securing the interchange agreements administered by the Intermodal Association of North America, securing the necessary Federal Motor Carrier Safety Administration operating authority, and applying for inclusion on the truck registries of both the ports of Los Angeles and Long Beach", Roberts said. "Unless you have someone to guide you through this, it could be a daunting challenge," he said. When an owner-operator sets themselves up as an LMC, the process of registering with the port "is straightforward and unchanged," said Noel Hacegaba, deputy executive director and chief operating officer at the Port of Long Beach. "As before, we make sure the form is complete and accurate."

Legal complications may arise from brokerage model

Some drayage companies in Los Angeles-Long Beach are taking the lead in helping drivers secure the necessary permits, but Roberts said the danger there is that if challenged, the drayage companies may have difficulty convincing a court that they are not exerting so much control over drivers as to constitute an employee relationship. "The goal of the broker is to tell the customer you will get his load from Point A to Point B on a certain day, but have you established an employer-employee relationship with the driver?" Roberts said. The Teamsters union, which has been using the employer-employee argument for the past decade in driver classification lawsuits, views any move toward a freight broker model as another way to classify drivers as independent contractors and thereby avoid funding employee benefits. "There is a substantial competitive advantage for employers to misclassify their employees, and these schemes are not the first of many unsuccessful schemes to misclassify drivers," said Fred Potter, vice president of the Teamsters union and director of the Teamsters Port Division. Potter added that state and federal governments lose out on significant tax revenues due to the independent contractor model. In fact, a prevailing concern in the trucking community in California is that even if AB5 is found to be illegal under the federal preemption laws governing interstate commerce, the state will seek to attack the freight brokerage model in order to go after the tax revenues that are being lost. They note that trucking is only one segment of an entire economy involving ride-sharing companies and other industries based upon the independent contractor model. The drayage industry and the importers and exporters it serves looks at the issue as another hurdle to overcome in providing sufficient capacity at a reasonable cost in a safe environment to beneficial cargo owners. "What seems to be lost in all of this is you want to retain the best drivers," Roberts said.

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outsourceoperations@outsourcefreight.com John Nickandros, VP Sales Tel # 774 222-0087

California Trucking Association
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FOR IMMEDIATE RELEASE January 16, 2020

U.S. SOUTHERN DISTRICT COURT GRANTS PRELIMINARY INJUNCTION FOR CALIFORNIA TRUCKING ASSOCIATION AND INDEPENDENT TRUCKERS

(SACRAMENTO) — The U.S. Southern District Court today granted a preliminary injunction to enjoin enforcement of California's new employment classification test against motor carriers. This classification test was first set forth in the *Dynamex Operations West, Inc. v. Superior Court* (Dynamex) decision and was subsequently codified by the California Legislature in the form of Assembly Bill 5 (AB 5). The bill was set to take effect on January 1, 2020.

"This ruling is a significant win for California's more than 70,000 independent owner-operators and CTA members who have worked as independent truckers for decades, and who have invested hundreds of thousands of dollars to own their own vehicle and comply with California's strict environmental guidelines and regulations over the years," said Shawn Yadon, chief executive officer for the California Trucking Association (CTA). The CTA filed the motion for a preliminary injunction as part of its November 2019 lawsuit challenging the constitutionality of AB 5, which would prohibit independent drivers from contracting and performing trucking services for licensed motor carriers in California. This preliminary injunction averts any irreparable damage to the 70,000 independent truckers prior to the court hearing on the merits of the case.

"With its decision, the U.S. Southern District Court validates our claim that the implementation of the new classification test could have been detrimental to the long-standing and historical place owner-operators have had in the transportation industry," said Robert R. Roginson, attorney for CTA. In the lawsuit, which seeks declaratory and injunctive relief, plaintiffs argue that the Dynamex ruling should not be enforced because it is preempted under the supremacy clause of the U.S. Constitution, which sets the decision in direct conflict with a federal law passed by Congress in 1994 to prevent states from enacting punitive laws that affect a motor carrier's prices, routes and services of the trucking industry.

Some Factors Considered For Whether a Truck Driver Is an Employee or Independent Contractor

There are many factors involved in making a determination of whether a particular truck driver is an employee or independent contractor of a particular trucking company. These factors have to be applied on a case by case basis, and there are many gray areas where one factor points one way, and another factor points in the opposite direction. That is why hiring experienced trucking accident attorneys can be so important, to help sort this information out. However, here are some factors courts typically look at in making the determination:

- The trucking company's "right to control" the details of the driver's work performance (whether exercised or not)
- Whether driver can set own hours for work or not
- Whether driver can decline certain loads or jobs
- Whether the driver or the company establishes routes
- How the truck driver is paid, whether hourly, weekly, by the mile, percentage of gross revenue, etc.
- Whether the driver can contract with other trucking companies also
- Whether driver must wear a uniform
- Whether driver must adhere to company standards and/or attend safety meetings required by the company
- Whether driver must return the equipment to the company at the end of each day or may keep it at his home or wher ever else he chooses
- Wording in the contracts between the driver and trucking company

Motor Carrier May Be Held Liable for Owner-Operator's Actions When "Under Dispatch" Even Though an Independent Contractor

Even when a truck driver is determined to be an independent contractor there are certain instances where the trucking company may still be liable for his or her actions. This is based on federal regulations which impute liability on a trucking company when a truck driver (owner-operator) is "under dispatch" of and working under the operating authority of the motor carrier (trucking company). There are many gray areas surrounding when a driver is "under dispatch" or not, and an experienced truck accident attorney can help determine whether this exception applies in a particular case.

TRIVIA QUESTIONS

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1) The definition of DEBATE is?
A. Friendly Argument **B.** Organized argument 1 topic **C.** Public argument all topics **D.** important conversation

2) The first TV Presidential debate was between which 2 candidates?
A. Eisenhower/Stevenson **B.** Goldwater/Johnson **C.** Nixon/Kennedy **D.** Nixon/Humphrey

3) What sites are "OFF LIMITS" for a Presidential debate?
A. candidate Alma Mater **B.** A paying University **C.** a Town with less than 3,000 hotel rooms

4) In 1980 which Presidential candidate refused to debate Ronald Reagan and John Anderson?
A. Ted Kennedy **B.** Ronald Reagan **C.** Jimmy Carter **D.** Walter Mondale

5) Which independent candidate debated Bill Clinton and H.W. Bush in 1992?
A. Bernie Sanders **B.** H. Ross Perot **C.** John Anderson **D.** Steve Forbes

6) In 1976 which Presidential candidate stated that there was no Soviet domination of Eastern Europe?
A. Italy **B.** France **C.** Switzerland **D.** United Kingdom

Answers Later In The Newsletter

FUEL REPORT

U.S. On-Highway Diesel Fuel Prices* (dollars per gallon) http://www.eia.gov/petroleum/gasdiesel/

	12/30/19	1/6/20	1/13/20	Change from week ago	Change from year ago
U.S. National Average	$3.069	$3.079	$3.064	-0.015	0.088

Florida ports continue to innovate with use of alternative fuels

By: AJOT | Jan 17 2020

Tallahassee, FL - A report released this week by the Florida Ports Council and the Florida Natural Gas Association shows Florida's seaports and industry partners are investing in innovations to be more efficient and effective, including the implementation of environmentally friendly, less costly, domestically-produced natural gas as an alternative fuel. Florida's 15 ports support more than 900,000 jobs across the state and have a total economic impact of more than $117 billion. Dr. Julia Nesheiwat, Florida's Chief Resilience Officer under Gov. Ron DeSantis, said, "Florida ports are leading the way in moving to cleaner, alternative energy sources, bringing tremendous environmental benefits to our transportation systems and our communities."

As more stringent air quality regulations for port operations and maritime vessels are implemented across the world, there is increased demand for alternative fuels in the national and global transportation industry, according to the Alternative Fuels Study. "The rapid expansion of the natural gas industry and the alternative fuel market provides an exciting opportunity for Florida seaports to expand their use of natural gas, creating economic and environmental benefits for the state," said Doug Wheeler, Florida Ports Council President and CEO. "Our ports are in a unique position to capitalize on their economic strength and are on the leading edge nationally of LNG for cargo and cruise vessels. We must ensure that Florida has the infrastructure and business climate to promote the economic and environmental benefits from these alternative fuels." In shipping and rail industries, liquefied natural gas (LNG) has proven to be the most cost effective and beneficial alternative fuel source. In fleet and cargo handling operations, compressed natural gas (CNG) and LNG are both reliable alternatives, subject to the particular application and task. Dale Calhoun, Executive Director, Florida Natural Gas Association: "The natural gas industry is a proud partner of Florida's port system. Our ports are implementing the use of alternative fuels, including natural gas, which benefits both our environment and our local economies."

Florida seaports are on the leading edge of alternative fuel utilization nationally and have continued the development and deployment of alternative fuels for cargo and cruise vessels. For example, JAXPORT has the largest LNG bunkering operation at a U.S. port, which includes JAX LNG and Eagle LNG facilities with the capability to serve not only the domestic fleet but larger international vessels as well. Other ports around the state including PortMiami, Port Tampa Bay and Port Canaveral that are capable of handling ISO containers without modification are also poised to receive LNG delivered by truck or rail, which can then be loaded onto container ships or roll-on/roll-off oceangoing carriers for export. And according to the Cruise Ship Order Book, 26 new LNG powered cruise ships are to be built and delivered between 2020-2026. As cruise vessels shift toward alternative power sources, Florida's cruise ports such as PortMiami, Port Everglades, and the Port of Palm Beach will invest in infrastructure to accommodate this new type of vessel. Harvey Gulf International Marine will soon take delivery of an LNG bunkering barge to provide fuel to the first fully liquefied natural gas-powered cruise ship in North America, Carnival Cruise Line's Mardi Gras, homeported at Port Canaveral.

For major shipping companies, 2019 ended on a sour note

By THE ASSOCIATED PRESS (Michelle Chapman, AP Business Writer) Jan 17, 2020

In this May 14, 2019 file photo, a Cosco Shipping container ship passes the Golden Gate Bridge in San Francisco bound for the Port of Oakland. (AP Photo/Eric Risberg, File)

For major shipping companies dealing with trade wars and slowing global growth, conditions appear to have deteriorated as 2019 came to a close. Global shipping and logistics provider Expeditors International said Friday that it expects fourth quarter operating income to fall between $177 million and $183 million. CEO Jeffrey Musser cited trade disputes and slowing growth for a number of economies. The report comes a day after the railroad CSX reported a 7% decline in the freight it hauled during the final months of the year. "We've seen impacts throughout the year from these market conditions, but the pace at which these changes occurred accelerated dramatically in the fourth quarter," Musser said. "We know this environment will change over time, as it has always has in the past." Shares of Expeditors International of Washington Inc. slumped 5% at the opening bell.

Transportation companies are the worst performers across the market in trading. Shares in trucking, railroad and ocean shipping companies are selling off. JB Hunt Transport Services Inc., a trucking company, on Friday reported profits that fell well short of what industry analysts had expected, according to a survey by Zacks Investment Research. Shares in that company are down 3%. FedEx reported last month that its profit slid 40%, hurt by higher costs, a shorter holiday season and its move to cut ties with Amazon.com. It too, cut its profit expectations.

MSC announces GRI from USA to Asia/Southeast Asia

By: AJOT | Jan 10 2020

Effective February 10th, 2020 for all export cargo originating from USA & Puerto Rico to Far East as follows:
Applicable to all service contracts, tariff items and exempt commodities
Effective February 10th, 2020:

- USD 120.- per 20' Dry and USD 150.- per 40' Dry for US West Coast, US East Coast (including Gulf) and Puerto Rico cargo to Asia
- USD 150.- per 20' Dry and USD 180.- per 40' Dry for IPI cargo from US inland via US West Coast ports and East Coast (excluding Gulf) to Asia

USD 100.- per 20' Dry and USD 120.- per 40' Dry for Inland cargo routed ex Gulf Ports to Asia
Above GRI does not apply for reefer cargo.

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Jury still out as US China trade war throws up winners, losers

By: Enda Curran | Jan 16, 2020

Donald Trump famously declared that trade wars are easy to win. With the phase one trade agreement between the U.S. and China now inked, observers are hesitant to declare a winner. While most welcomed the truce they also cautioned that the toughest negotiations are yet to come. For now, obvious beneficiaries include America's farmers, refiners, crude and gas exporters who could see Chinese demand soar. U.S. finance firms including investment banks, credit card companies and ratings firms won allowances that will hasten their ambitions to grab a bigger slice of China's $45 trillion financial industry. On the Chinese side, the truce offers relief for a slowing economy and gives breathing space for the government to meet its growth targets.

Potential losers include Brazilian soy bean farmers and Australian suppliers of liquefied natural gas amid stiffer competition for their Chinese order book. The World Trade Organization has been left on the sidelines as globalization gives way to managed trade. Even with the deal, Chinese goods remain levied with stinging U.S tariffs while American firms still face heavily subsidized Chinese competitors. Trump hailed the agreement as "remarkable" and Xi Jinping described it as "good for China, the U.S. and the whole world." Here's a sample of some other reaction:

Steve Schwarzman, chief executive officer of Blackstone Group Inc: "You have to remember that the U.S. and China, other than the WTO deal in 2001, fundamentally haven't had a trade agreement since the 1940s so what has been achieved is very, very significant. It provides a base line for a better world economy."

Charles Freeman, Senior Vice President for Asia, U.S. Chamber of Commerce: "Let's celebrate while we can and then we will regroup and move on. The enforcement tools are there and I believe both sides are sincere. This is one of those agreements where both sides could agree to do these things and get them done. With the best of intentions we can bank this and hope it goes forward and we can begin the hard work of negotiating on subsidies."

Chinese state media: The deal's signing received almost 20 minutes of live airtime on Chinese state television in the middle of the night. CCTV published a commentary on its app arguing the deal has two salient features: balance and equality and is a "win-win".

The People's Daily made a similar argument in an article published via WeChat, a social-media platform.

Hu Xijin, editor-in-chief of the Communist Party-backed Global Times, welcomed the deal in a tweet.

Joerg Wuttke, head of the European Union Chamber of Commerce in China: "The good news is the downward spiral has been stopped for business, that means more predictability but unfortunately for the likes of EU business and others such as Brazil it means that for the next two years $200 billion will be traded between two nations without competition."

Timothy Stratford, managing partner in Covington & Burling LLP and a former Assistant U.S. Trade Representative: "It is a fairly fragile truce. There are going to be a lot of challenges implementing the agreement."

Tom Orlik, Bloomberg Economics: "China—the main loser from the trade war—is the main beneficiary of the truce. Our China team have raised its forecast for the country's 2020 GDP growth to 5.9% from 5.7%. The composition of growth will also be a little more balanced, with less need for state investment to offset weak exports and private-sector capex."

Wendy Cutler, a veteran trade negotiator now at the Asia Society Policy Institute: "It is a solid deal and the administration should get credit for achieving this deal, that said, it falls way below the expectations they set out at the beginning of this negotiation when they were going to address all the issues that are keeping U.S. companies out of the Chinese market. This negotiation proved a lot tougher than they thought."

Andy Rothman, a former U.S. diplomat in Beijing who's now an investment strategist at Matthews Asia: "I have two serious concerns about the deal. First, the targets for increases in China's imports from the U.S. appear to be unrealistically high, which could set up the deal to fail, leading to additional tariffs or even a full-blown trade war. Second, Lighthizer acknowledged today that "This deal will work if China wants it to work." Over the long term, will the Chinese government want it to work if the Trump administration continues to pursue confrontational policies on almost every issue aside from this deal?"

Hubert Tse, partner at Boss & Young law firm in Shanghai, who advises global banks, insurers and financial institutions in China; "The U.S. financial firms are clear winners, it's a major step-forward for them in China. It's unimaginable 10 years ago for Wall Street banks and financial institutions to have majority control in China ventures, let alone outright ownership."

Michael Hirson, New York-based practice head for China and northeast Asia at Eurasia Group: "If serious frictions do arise – we see this as all but inevitable – will Trump once again raise tariffs on Chinese goods? The president will be somewhat cautious about taking actions that derail phase one, especially ahead of elections. However, his restraint has limits: criticism that he is failing to live up to the enforcement provisions of his deal could sting."

Arthur Kroeber, a founding partner and managing director at research firm Gavekal Dragonomics: "Leaving aside the continuing risk to the tech sector, the implausibly high targets for increased U.S. exports to China leave open another source of risk. Under the terms of the deal, if China fails to live up to its commitments, the U.S. is free to reimpose tariffs. If, as is likely, it proves impossible to double U.S. exports to China within the next two years, a renewed trade war could well be a feature of a Trump second term. For the moment, though, it is probably best to enjoy the calm of the storm's eye for as long as it lasts."

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XPO Logistics Explores Strategic Alternatives for Business Units

By Jennifer Smith Updated Jan. 15, 2020

XPO Logistics Inc. is exploring the possible sale or spinoff of one or more of its business units, in a sharp reversal from the company's rapid rise through acquisitions to the top ranks of logistics operators. XPO on Wednesday said its board of directors has authorized a review to examine "strategic alternatives" for its business divisions, which wouldn't involve the company's main trucking business. The company's stock was up 16% in after-hours trading. The Greenwich, Conn.-based company said it has hired Goldman Sachs Group Inc. and JPMorgan Chase & Co. as its financial advisers and Wachtell, Lipton, Rosen & Katz as its legal adviser in the review process. The company said it hasn't set a timetable for completing the review and that there was no assurance "of any specific outcome."

The banks have been "mandated to run four simultaneous auction processes" for XPO's European transportation and supply chain units, its supply chain business in the Americas and the Asia-Pacific regions and the company's North American transportation unit, excluding its less-than-truckload business, XPO Chief Executive Bradley Jacobs said in an interview. "We may not sell all four, we may sell none," said Mr. Jacobs. Should all the businesses end up being sold, he said, "I would still be CEO, but I would be CEO of a fast-growing, pure-play LTL company with a lot of liquidity. The share price has increased more than 10-fold since our investment in 2011," Mr. Jacobs said in an earlier statement. "Still, we continue to trade at well below the sum of our parts and at a significant discount to our pure-play peers. That's why we believe the best way to continue to maximize shareholder value is to explore our options, while remaining intensely committed to the satisfaction of our customers and employees."

The announcement comes more than two years after XPO said it was ready to spend as much $8 billion on new acquisitions that would extend a buying spree Mr. Jacobs executed over several years to build the company into one of the biggest logistics operators in North America. The acquisitions included an array of operations including trucking, freight brokerage, last-mile delivery, warehousing and supply-chain services. Mr. Jacobs closed more than $8 billion in deals between 2011 and 2015, including the $3 billion purchase of U.S. trucker Con-way Inc. XPO sold Con-way's truckload division in 2016 and hasn't bought more companies since.

More recent plans to spend were sidelined by a 2018 short seller report that sent the company's stock tumbling. XPO's financial performance stumbled last year after a large customer, identified as Amazon.com Inc. by a person familiar with the matter, pulled roughly $600 million in business. In October XPO lowered its 2019 revenue outlook, citing "continued softness in the macro environment" and saying it expected a decline of between 2.5% to 4% year over year, down from its earlier forecast of a range of a 1% revenue decline to 1% growth. The company reported $4.15 billion in third-quarter revenue but beat analyst expectations on profit, results it attributes to cost control and use of tech.

Answers to Trivia

Cuomo's LaGuardia air train draws residents' opposition

By: Henry Goldman | Jan 13, 2020

New York Governor Andrew Cuomo's push to build a $2 billion Air Train connecting midtown Manhattan with LaGuardia Airport in Queens has ignited protests from neighborhood residents along the proposed route. Elected officials and community leaders gathered at City Hall on Monday in protest, saying the plan is being rammed through without the local land-use review usually required in projects of this significance. City Councilman Ydanis Rodriguez, chairman of the Transportation Committee, vowed to hold public hearings on the plan, which some transit advocates say is wasteful and ill-considered. "Oversight, oversight, oversight," Rodriguez said, in denouncing the governor and the Port Authority of New York and New Jersey in going ahead with the project, approved by the state legislature in 2018 with a provision that allowed it to bypass traditional local review. Councilman Fernando Cabrera, who leads the government operations committee, said the government owes it to residents to conduct a cost-benefit analysis of this plan and any alternatives.

The same complaints arose last year when Amazon wanted to build a second headquarters in Queens, with the governor and Mayor Bill de Blasio agreeing to a plan that would circumvent local land use review. Amazon wound up pulling out of the deal as opposition built in the City Council and state Senate. "All affected residents, businesses, community boards, the Queens borough president, City Council and the mayor must be engaged," Cabrera said.

U.S. Representative Alexandria Ocasio-Cortez, a Democrat representing parts of Queens and the Bronx who wasn't at Monday's protest, has questioned why four alternatives, including express bus service, were eliminated from consideration. Ocasio-Cortez's vocal opposition to the Amazon project helped lead to its demise. "This decision will have a lasting impact on thousands of people in our community," she said in an emailed statement. "The community must receive answers to their fundamental questions and it's imperative that we understand why further investment and improvement of other transit options have been ruled out."

The Cuomo plan as approved would start at Penn Station or Grand Central Terminal and connect to either the Long Island Rail Road or the east-west Number 7 subway line. It would end at Willets Point, where passengers could take a six-minute shuttle to the airport, operating every four minutes. The plan followed decades of wishful thinking for a "train-to-the-plane" service with LaGuardia, which most travelers now access on traffic-choked roads through for-hire vehicles, buses or private cars. The plan is flawed, said Ben Kabak, a transit advocate, because the subway ride along the 7 Line is one of the city's longest, actually taking passengers several miles south and east of the airport to Willets Point. Kabak said it would be less expensive and more practical to extend the existing N line, would be much shorter and more direct.

Port Authority spokesman Benjamin Branham said Kabak's plan was unrealistic because it would cause more disruption, requiring the shutdown of an Amtrak railroad trestle for as long as three years. It would also force construction of rail or subway stations that would cause unacceptable disruptions to Astoria, a densely populated Queens neighborhood, he said. Frank Taylor, president of the Ditmars Boulevard Neighborhood Association, an area north of Queens near the airport, said residents fear the project "will destroy our neighborhood's quality of life.

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Global shipping trends: What to expect in 2020

Jan 08, 2020 Special to the AJOT Mike Short, president of global forwarding, C.H. Robinson

Now that the fireworks are over and New Year's resolutions are set, it's time to prepare for global shipping in 2020. And that means looking at ongoing trends and changing regulations. One thing's for sure, freight forwarding never has a dull moment.

Recapping 2019's top global shipping disruptors - Before we jump into expectations for this year, let's set the stage by looking at some of the top events in 2019 that may have affected global shipping strategies around the world.

Geopolitical uncertainties - From the ongoing Brexit discussion to the China-U.S. trade war and the trade conflict between Japan and Korea, these and other disruptions caused serious challenges to the transportation industry.

Preparation for International Maritime Organization (IMO) 2020 - While the latest revisions didn't go into effect until January 1, 2020, preparation for the changing IMO requirements was well underway in 2019. The requirement to reduce sulphur oxide emissions from 3.5% to 0.5% was a drastic change that will likely continue to affect shipping costs and capacity availability.

E-commerce expectations - With the growth of ecommerce and high-tech products flooding our markets, air freight is a go-to mode of transportation for many shippers—any time of year.

To best understand how these and other mode-specific changes will affect your 2020 shipping year, let's break them down by service.

Ocean service in 2020 - In the past, ocean shipping followed the basic law of supply and demand. When demand increased, rates went up. When demand decreased, rates dropped. This often occurred regardless of carrier profitability. But that is changing, which could reshape expectations for 2020.

Carriers controlling capacity - Today's ocean carriers are quick to withdraw capacity when demand changes. By adjusting the amount of equipment available, ocean carriers are better able to ensure demand remains tight enough to protect their profits. This is a successful technique because there are fewer ocean carriers than in the past, allowing for a quicker reaction when supply and demand shifts.

Increasing carrier costs - While ocean carriers can control capacity to help ensure rates remain compensatory, we can still expect some level of imbalance due to the IMO 2020 mandate, which increases carrier costs.

Driver and drayage capacity shortages - California Assembly Bill 5 (AB-5) went in effect on January 1, 2020, which limits the use of classifying workers as independent contractors rather than employees by companies in the state. This may affect the availability of the number of dray carriers in the busiest ports. This in turn can drive drayage costs up.

Air service in 2020 - Last July, we posted about ongoing uncertainty in the air freight market. The good news is that air freight service has stabilized a bit since then. While we're predicting a somewhat stable air freight market for the year, this could obviously change if there is some catalyst that changes the speed products need to come to market.

Stable demand expectations - We expect demand for air freight to remain stable for the time being. Many organizations continue to focus on managing expenses and are looking for cost effective, efficient options for delivering on short timelines without breaking the budget.

Capacity to hold steady - Capacity will also likely remain stable. Most new capacity is coming in the form of lower deck. Pure freighter capacity will continue to move based on market yields that make sense from a carrier standpoint. There may be some capacity growth in off-market locations, based on passenger demand.

Customs compliance in 2020 - It's always smart to have a customs compliance program that aligns with your business goals, which is especially true this year. Customs and Border Patrol (CBP) has several customs changes slated to take place in 2020, and now's the time to prepare. If you haven't reviewed your customs program recently, our customs compliance checklist may help.

CBP moving away from ITRAC data - According to CBP, they will be eliminating Importer Trade Activity (ITRAC) reports in favor of the Automated Commercial Environment (ACE) system. If you don't already have an ACE portal account, now is the time to get one to ensure all your customs data is available to you when you need it most.

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CBP's continued focus on compliance and enforcement - CBP will continue to scrutinize tariff classification and valuation in an increasing post-summary environment. As the United States Trade Representative (USTR) continues to provide exclusions, many importers will depend on brokers to submit refund requests via post summary corrections (PSCs) or protests. CBP often requires additional data and/or documentation to ensure that tariff classifications and valuations are correct. It is imperative that you maintain a high degree of confidence in your compliance program and can substantiate any post summary claims with CBP.

Increasing Importer Security Filing (ISF) penalties - Throughout 2019 we saw CBP issuing more ISF penalties for inaccurate and/or untimely submissions. This will likely continue and could become a growing issue in 2020.

Disruptors affecting the industry in 2020 - While certain trends and regulations only directly affect a single mode or service, there are still plenty that affect freight forwarding in general. Looking at 2020, it's probably safe to say that the following disruptors will continue to affect the year ahead.

Broadening of sourcing locations - While there may be an end in sight to some of the trade war uncertainties, the initiative to broaden sourcing locations beyond China will likely continue. Southeast Asia has already seen clear benefits of this and will likely continue to see manufacturing growth in 2020.

Switching sourcing strategies can also bring risks, including capacity availability, infrastructure support, and geopolitical stability. While China will continue to be the largest exporter into the United States, we simply cannot deny the trends that continue to show volume shrinkage from China.

Accelerated evolution of technology - Significant investment in technology and transportation platforms continue to accelerate across the industry. Beyond private equity groups, well-respected and established providers like C.H. Robinson are making investments that will reshape logistics. These growing technological investments will continue to create value across the supply chain.

While this opens new options for shippers and carriers alike, you may likely need to spend more time researching which technology option is the best fit for your own organization. After all, the right technology offers tailored, market-leading solutions that work for supply

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outsourceoperations@outsourcefreight.com John Nickandros, VP Sales Tel # 774 222-0087