

The Strait of Hormuz and “End of Voyage” Declarations: Legal Boundaries on Cargo Diversion and Cost Shifting

Litigation & Dispute Resolution | Transportation and Logistics

9 April 2026

The Strait of Hormuz has once again become a focal point of geopolitical risk. As a narrow but critical maritime chokepoint through which roughly one-fifth of the world's seaborne oil and significant containerized trade passes, disruptions in or around the Strait have immediate commercial consequences. Heightened military activity, threats to navigation, and rapidly changing sanctions and security conditions have prompted ocean carriers to reassess voyage feasibility mid-transit. One increasingly invoked response is the declaration of an “End of Voyage”, followed by discharge of cargo at an alternative port and demands that shippers take custody there. This is often accompanied by diversion charges, demurrage, and onward forwarding costs.

This overview highlights the legal considerations surrounding such declarations under common carrier contracts and international maritime law, including the circumstances in which shippers may be charged additional costs after full freight to the original destination has been prepaid. This is not, however, a one-size-fits-all answer. Each matter turns on its own facts, and the specific language of the governing contract will often be decisive. If you are facing questions about additional charges on a particular shipment, we encourage you to contact our office for advice tailored to your specific situation.

Legal Foundations for Declaring an “End of Voyage”

The right of a carrier to declare an “End of Voyage” is not a free-standing doctrine but rather a contractual and legal construct derived from a combination of bill of lading terms, charterparty clauses (where incorporated), and general maritime law principles. Most modern bills of lading contain liberty clauses permitting deviation, alternative discharge, or suspension of performance where continuation of the voyage would expose the vessel, crew, or cargo to war risks, piracy, or similar perils.

In addition, war risk clauses typically authorize the carrier to refuse to proceed to, enter, or remain at a port deemed unsafe. Where the Strait of Hormuz is characterized as presenting an actual and objectively reasonable risk to navigation, a carrier may have a defensible basis to terminate the contractual voyage short of the named destination.

However, courts have historically required that such decisions be grounded in reasonableness rather than commercial convenience. The carrier bears the burden of demonstrating that the risk was real, not speculative, and that no reasonable alternative existed to complete the voyage as contracted. A generalized increase in insurance premiums or geopolitical tension, without a credible threat to the particular voyage, may be insufficient.

Alternative Discharge and Shippers' Obligation to Take Delivery

When an end of voyage is lawfully declared, carriers commonly discharge cargo at the nearest “safe” port and notify shippers that delivery is complete. The legal effectiveness of this maneuver depends heavily on bill of lading language.

Clauses allowing discharge “at any port or place whatsoever” are not interpreted literally in most jurisdictions. Courts often construe them *contra proferentem* (against the contract drafter) and in light of the fundamental obligation to carry goods to the agreed destination. Where alternative discharge is permitted, it is typically conditioned on necessity and reasonableness, not mere operational preference.

If the carrier lawfully discharges cargo at an alternative port, shippers may indeed be required to take custody there to mitigate losses. However, acceptance of cargo does not necessarily equate to acceptance of cost liability. Shippers can, and frequently should, accept delivery under protest and expressly reserve their rights to challenge diversion charges and downstream costs.

Demurrage, Detention, and “Diversion Charges”

A particularly contentious issue is the proliferation of “diversion” or “contingency” charges imposed following alternative discharge. These charges often include terminal handling fees, storage, demurrage, and administrative surcharges not contemplated at the time of booking.

From a legal standpoint, demurrage and detention are traditionally compensatory, not punitive. They presuppose a breach or delay attributable to the cargo interest. Where congestion, regulatory delay, or forced diversion arises from a carrier’s own decision to terminate the voyage, imposing demurrage on the shipper is legally vulnerable. This is especially so if the shipper had no ability to take delivery earlier or at the contracted destination.

Many bills of lading attempt to contractually allocate these risks to shippers through broad indemnity provisions. Whether such provisions are enforceable depends on the jurisdiction and the governing law. In common law jurisdictions, clauses that effectively shift the carrier’s core performance risk to the shipper may be scrutinized, particularly where they undermine the commercial purpose of prepaid freight.

Prepaid Freight and the Limits of Cost Shifting

The issue of prepaid freight is central to disputes arising from Hormuz-related diversions. Freight prepaid to the original destination generally reflects the agreed consideration for complete carriage. Under long-standing maritime principles, freight is earned upon delivery as contracted unless the contract provides otherwise.

Where a carrier elects (or is compelled) to terminate the voyage early, the legal justification for retaining full freight while also charging shippers for onward forwarding is far from settled. Some bills of lading purport to allow freight to be “fully earned upon shipment,” even if the voyage is incomplete. Courts have upheld such clauses in limited circumstances, but they are not universally enforceable, particularly where performance is frustrated by foreseeable geopolitical risks.

Shippers have stronger arguments where:

- freight was prepaid without clear “freight earned” language;
- the carrier selected the alternative port primarily for its own operational benefit;
- onward carriage costs are disproportionate or exceed the original freight; or
- the shipper had no contractual relationship with the substitute carrier or forwarder.

In such cases, the carrier’s attempt to recover forwarding costs may be viewed as an impermissible double recovery.

Practical Risk Allocation and Dispute Strategy

For shippers, Hormuz-related end-of-voyage scenarios underscore the importance of scrutinizing war risk clauses, freight earned provisions, and indemnity language before booking. Where possible, shippers should negotiate explicit caps or exclusions for diversion-related charges and ensure that prepaid freight terms are clearly defined.

When disputes arise, contemporaneous documentation is critical. Shippers should request the carrier’s risk assessment, basis for declaring the port unsafe, and justification for the chosen alternative discharge location. Silence or boilerplate responses may strengthen a later challenge.

For carriers, transparency and proportionality remain key. Courts and arbitral tribunals are more likely to uphold end-of-voyage declarations where the carrier can demonstrate good-faith decision-making, reasonable cost allocation, and genuine concern for safety rather than revenue preservation.

Conclusion

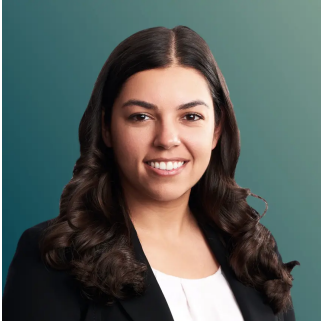
The Strait of Hormuz presents real and evolving risks, but it does not suspend the fundamental legal architecture of carriage of goods by sea. An “End of Voyage” declaration may be justified in exceptional circumstances, yet it does not automatically entitle carriers to shift all resulting costs onto shippers. This is particularly



the case where freight has been prepaid to a specific destination. As geopolitical instability increasingly intersects with global supply chains, the legal boundaries of cargo diversion and cost allocation will remain fertile ground for dispute, and careful contractual drafting will be the first and best line of defense. A PDF version is available for download [here](#).

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