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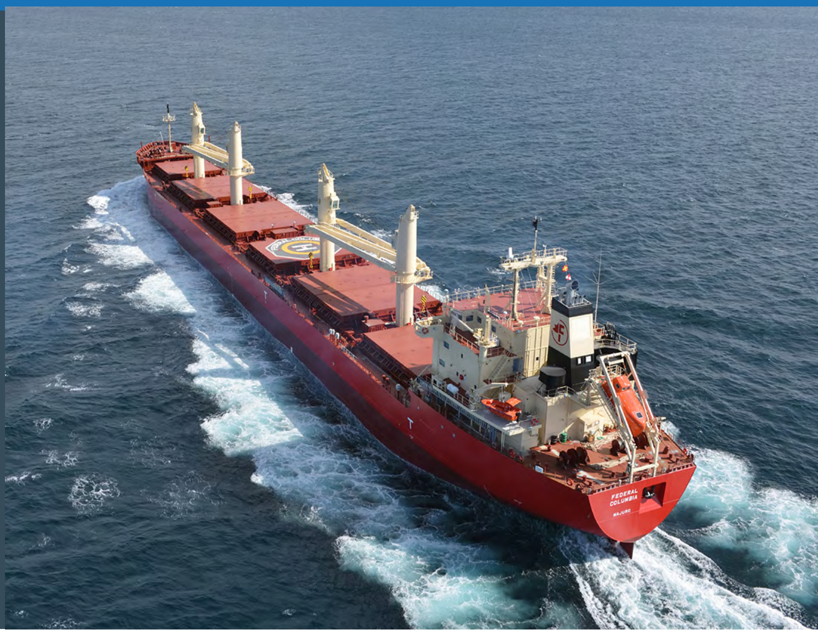
Break Bulk vs. Container Carriage



The present article is written in light of the container crisis that has taken the shipping industry by storm. In an ideal situation container traffic is in constant motion, but with the onset of the Pandemic there has been a shortage of containers affecting the entire supply chain, which has escalated since the Pandemic continues. The scarcity of containers has been heightened by lengthy lead time, mounting freight costs, transportation expenses, extended periods to return the empty containers so on and so forth.

The stalling and shut down of production units triggered by the lockdowns, all over the world also lead to build up of the empty containers at yards and at the ports. To save operational costs, carriers preferred to load up the entire vessel and choose to skip smaller port and cut down on port space. The container shortage does not seem to be easing and the demand is on the rise. This situation has caused some of the major manufacturers to opt for break-bulk shipment; the recent ones to jump onto this band wagon are the coffee traders, who have elected to transport coffee bags via break-bulk, something which hasn't been done since the last 20 years or so.

To give you a brief idea on Break-bulk or sometimes referred to as breakbulk, it is one of the earliest forms of shipping, wherein goods were transported by cargo vessels. In such transportation the ship workers, the loaders and un-loaders played an important role in manually segregating and stacking the goods in their designated areas on the vessel mainly under the deck in the holds of the ship. The cargo is a combination of goods loaded onto pallets, bags, rolls, drums or barrels, crates, strapped, which is mainly referred to as unitized cargo whilst non-unitized cargo is in the form of steel or metal, vehicles, project cargo, industrial machinery, etc, such cargo is either rolled, lifted or pushed onto a vessel. However the Break-bulk methods of

THOUGHT for the MONTH

NEVER GIVE UP ON A DREAM JUST BECAUSE OF THE TIME IT WILL TAKE TO ACCOMPLISH IT. THE TIME WILL PASS ANYWAY

EARL NIGHTINGALE

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shipment changed around the 1960's with the dawn of containerized traffic making its entry. Since then vessels have gotten bigger to accommodate more containers leaving break bulk to be limited to goods that could not be loaded in containers.

Today most traders and even the common man prefer to ship goods via containers because it is a streamlined hassle free process. Containers are of different types like open top or reefer, 20 foot or 40 foot containers, depending on what goods are to be shipped. All you need to do is identify the type and size of the container and approach the line get a quote according to the load port and discharge port option, pick up the empty container, load the container, move it to the dock and onto the vessel, when the vessel arrives at the destination port the container is off loaded and taken to the warehouse for de-stuffing and the empty container is returned back to the line. As we have mentioned before the supply chain works without any hitch during normal situation but the present scenario is far from normal.

Initially breakbulk appealed to shippers with oversized cargo, today with the container crisis ongoing, breakbulk is being sought after as a more viable option in these trying times.

The pros of breakbulk shipping are

1. The ability to ship oversized and overweight cargo which cannot be fitted into containers
2. The option to move oversized cargo without breaking or dismantling them into smaller shipments or parts.
3. Since the cargo in breakbulk is mainly carried without dismantling the time spent to dismantle and pack and unpack and reassemble is saved; hence the cargo can be shipped sooner and is ready for use at destination.
4. Most of the ports around the globe are equip to deal with breakbulk shipments however the same cannot be said for container receipt.
5. The paper work and issuance of bills of lading in relation to breakbulk is easier than container shipments, especial those with less than container load, which require multiple bills of lading for a single container.
6. The method is cost effective and efficient as shippers usually opt to transport the cargo to and from the port using inland transportation services and the cargo no matter the size gets loaded and offloaded from the vessel with cranes or roll on roll off method.

That being said there are also a couple of cons to utilizing the breakbulk mode

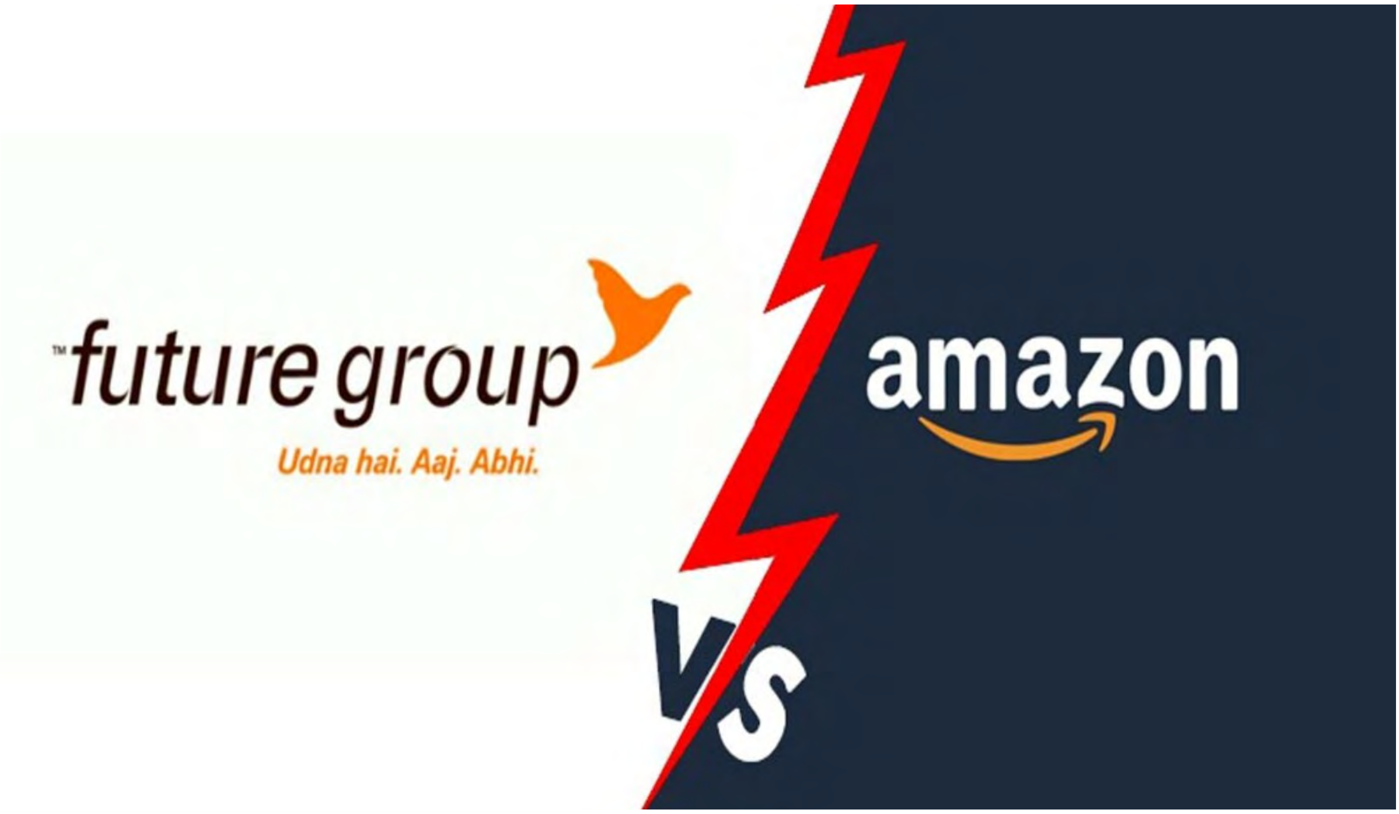
1. Depending on the size and weight of the cargo the overweight or oversized cargo may sometimes take up too much space or be too heavy and this may cause the cost of transportation to go up as unlike containerized cargo they cannot be stacked up over each other.
2. At times special equipment is required to move or shift breakbulk cargo
3. The storage of break bulk cargo both on board and also prior to loading and after unloading at warehouses and ports needs to be looked into for larger cargo which may need special warehousing and packing needs.
4. The loading and unloading of the cargo is labour intensive as more longshoremen and man power is required in comparison to container cargo.
5. The security and safety concerns are also high with regard to breakbulk carriage as the manner of packaging, strapping or stowing the cargo is non-conventional and hence is prone to damage, straps coming loose or even being exposed to theft, physical bodily injury or damage to equipment or property.

All in all given the current scenario traders the world over are contemplating on reviving old-school shipping methods and to refrain from relying completely on containers for their future shipments.

THE AMAZON-FUTURE DISPUTE RECENT DEVELOPMENTS

How did it all start?

Kisore Biyani, the owner of Future Retail Ltd. (FRL) became debt ridden by 2019 and was under huge stress as debts piled up to the tune of Rs. 12, 778 crores for the Future Group. To clear the debts, in August 2019, Biyani stuck a deal with Amazon to sell 49% of Future Group's promoter entity, Future Coupons (FC) for more than Rs. 1500 crore. FC held a 7.3% stake in FRL which gave Amazon an indirect stake of 3.58% in FRL. The long-term business agreement gave Amazon the right to buy FRL after a period between three to ten years by a "call" option. So, Amazon could acquire all or part of FC's stake in FRL within



three to ten years of the agreement.

Subsequently, in December 2019, FC received more than Rs. 1500 crores from Amazon. The Covid lockdown in March 2020 affected FRL's sales and declined by 75% in April 2020. In August 2020, FRL entered into an agreement with Reliance Retail (RR), a wholly-owned subsidiary of Reliance Industries Limited (RIL) to sell its retail, wholesale, logistics and warehousing units to RR. Aggrieved by this Future-Reliance deal, Amazon approached the Singapore International Arbitration Centre (SIAC) to restrain Future from selling their assets to Reliance by citing a non-compete clause and a right-of-first-refusal pact. SIAC favoured Amazon and issued a restraining order putting the Future-Reliance deal on hold until finally decided by it.

The courts view on the case

FRL moved the Delhi High Court in November 2020 against Amazon alleging interference. Though the deal was approved by the Competition Commission of India (CCI), the Single Judge Bench of the Delhi High Court in December 2020 refused to stay and upheld the Future-Reliance deal but at the same time allowed Amazon to write to the regulators. It also suggested that Amazon unnecessarily interfered in the Future-Reliance deal. In January 2021, the Future-Reliance deal was approved by SEBI and other stock exchanges. An emergency award from SIAC in February 2021 stalled the Future-Reliance deal through the Delhi High Court but this was reversed by the Division Bench of the Delhi High Court which held that there was no prima facie reason to stall the Future-Reliance deal.

On appeal by Amazon against the Delhi High Court's order, the Supreme Court delivered its final verdict on 6 August 2021 which ruled that the Future Group is bound by the SIAC' emergency award which was enforceable under Indian Arbitration law.

The Recent developments

Though the battle between Amazon and Reliance still rages on, the CCI on December 2021 surprisingly suspended its nod to Amazon's 2019 investment in Future Coupon and said that Amazon had misled the commission through false statements and material omission by non-disclosure of the shareholder agreement at the time of acquisition. As a consequence, Future moved the Delhi High Court seeking a stay in the main arbitration case of SIAC until its application on termination of the arbitration was not decided. Meanwhile, Amazon moved the NCLAT against the December 2021 order of CCI, the matter which is yet to be heard. As it stands, Senior Advocate Nakul Dewan representing Amazon requested permission for filing written submissions pertaining to consortium of banks' notice to invoke insolvency proceedings against FRL. His request was turned down by the Chief Justice of India NV Ramana on the ground that this luxury litigation couldn't be dragged forever keeping in mind the public interest.

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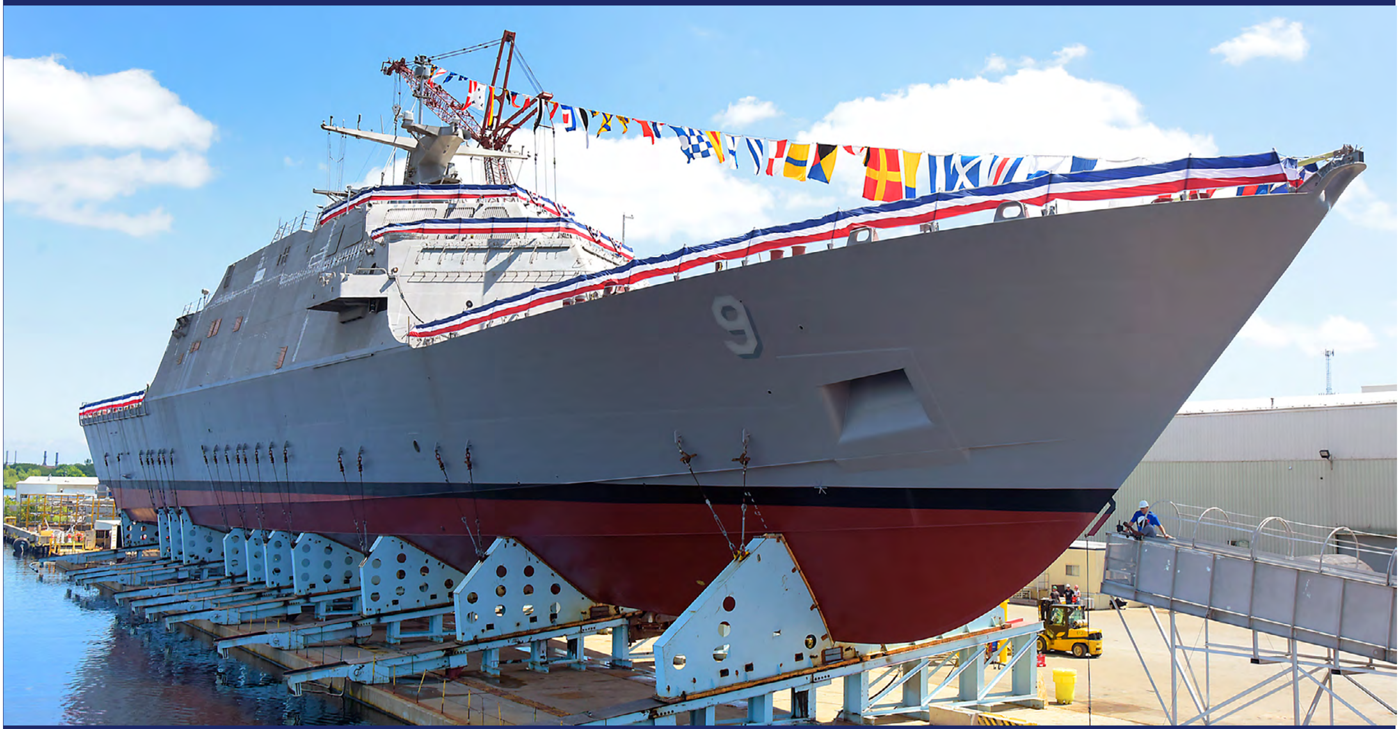
HOT NEWS

BILL ON AMERICAN OFFSHORE WORKER FAIRNESS ACT



On February 17th, 2022, a Bill for "American Offshore Worker Fairness Act" was introduced in the US Senate as well as in the House of Representatives. The Bill is designed to provide a "level playing field" between US Flagged Vessels and Foreign Flagged Vessels working in offshore energy activities in US Waters.

Currently the Law provides an exemption for vessels that are more than 50% foreign –owned to operate in US Waters to be manned by foreign crew; which bypasses general requirements for offshore vessels and structures to be manned by the US citizens or lawful permanent residents.

This Act would:

1. Require mariners on foreign flagged vessels be either US citizens or citizens of the nation where the vessel is flagged.
2. Limit the number of visas that could be issued to crew of each foreign vessel to 2.5 times the number of crew members on that vessel. This would allow for regular crew shift changes.
3. Require foreign vessels to prove their ownership on an annual basis
4. Require the USCG to inspect these vessels annually to ensure compliance with this Law and that the crew members on these vessels secure TWIC cards from the US Department of Homeland Security.

The bill has been drafted so as to ensure that US-flagged vessels and foreign-flagged vessels working in offshore energy activities in US waters will be required to adhere to the same standards and thus allow them to compete more readily for work / projects. It also allows for greater oversight of foreign-flagged vessels and their crews by the USCG to ensure compliance.

Courtesy: www.hellenicshippingnews.com

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