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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**OVERSIGHT HEARING ON DEMURRAGE
AND ACCESSORIAL CHARGES**

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) **Docket No. EP 754**
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**WRITTEN COMMENTS OF
ARCELORMITTAL USA LLC**

By: Pete Georgeon
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Dated: May 8, 2019

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ArcelorMittal USA LLC (“AM”) submits these Written Comments in response to the Surface Transportation Board’s (“Board”) Notice of Public Hearing served on April 8, 2019 (“Notice”).

IDENTITY OF INTEREST AND CONCERN

AM is part of ArcelorMittal, the world’s leading steel and mining company. Guided by a philosophy to produce safe, sustainable steel, AM is a leading supplier of quality steel products in major North American markets including automotive, construction, pipe and tube, appliance, container and machinery.

AM operates 26 facilities in 12 States, employing more than 18,000 people. Our non-industrial presence extends to 14 states and the District of Columbia. In 2017, AM produced more than 15 million tons of raw steel and shipped a broad range of steel products to the automotive, construction, pipe and tube, appliance, container, energy and machinery markets.

AM's operations are made up of facilities owned and operated by various predecessor companies, all joining together as AM following the merger of Arcelor and Mittal in 2006, then the world's largest and second largest steel companies respectively by production volume. The map appended to these Comments details the locations and functions of each of these facilities and offices.

AM appreciates the opportunity to present these Written Comments to the Board. Major rail railroads serving AM's facilities are dramatically increasing demurrage charges under the guise of improving network efficiencies. This is one element of a broader strategy they term "precision railroading." The railroads' stated objective is to limit dwell time on their assets and to improve the overall speed of their networks, thereby optimizing their revenue and in theory providing better service through more efficient railroads.

AM's principal concern with the railroads' new demurrage collection practices is that the railroads are raising demurrage charges (in some cases significantly) even though it is practically impossible in many instances for shippers like AM to comply given the configuration of their current rail facilities. And, even in cases where shippers do have the capital to make necessary changes to their facilities, the carriers are unilaterally imposing these new charges without giving shippers a reasonable period of time to make the necessary facility upgrades.

The new carrier detention charges also lack reciprocity. While carriers propose to use detention charges to incent shippers to speed up shipper loading and

unloading operations, they do not propose any reciprocal charges to incent themselves to provide more efficient line-haul service.

RESPONSES TO SPECIFIC QUESTIONS

In its Notice, the Board asked for shipper responses to three general sets of questions.

A. Recent Experience

The Board's first set of questions asks shippers to comment on their recent experience with demurrage and accessorial charges:

[Comment on your] Recent experience with demurrage and accessorial charges, including (i) the largest drivers of demurrage and accessorial charges; (ii) supply chain visibility; (iii) the availability, effectiveness, and usability of online customer service tools that manage car orders, car supply, and demurrage and accessorial charges, including whether these tools make available adequate data to evaluate whether demurrage is being assessed properly and to dispute the charges when necessary; (iv) bunching, including bunching that occurs upstream; and (v) the ability to address demurrage through commercial arrangements.

(i) Drivers of demurrage

The principal drivers of our demurrage liability are rail congestion to and from our plants; increased train lengths; and our plant facility limitations.

- **Main Line Congestion.** Many of our plants are served over high traffic areas where the number of passing trains is between 50 to 80 per day. This congestion – which occurs outside our plants – slows down rail operations and, as railroad detention rules are currently structured, can result in our incurring detention charges over which we have no control. As examples:

– Our Burns Harbor facility employs 3,300 people and operates two blast furnaces capable of producing five million tons of raw steel annually. The plant is bordered by a national park, Lake Michigan, and busy railroad main lines to/from Chicago.

– Our Indiana Harbor plant complex in East Chicago, Indiana employs 4,000 people and has steelmaking capacity of ~7.4 million tons. The plant is land locked between Lake Michigan and highly developed adjacent urban areas. Adjacent marshland areas are protected and cannot be used for new development, such as additional interchange tracks, scrap yard, *etc.*

● **Increased Train Lengths.** Rail carriers have increased the length of unit trains bringing raw materials into our plants, and shipping steel from the plants, from 75 cars per train to 90, 100, 120, and then 130 cars. The increased train lengths frequently lead to detention charges because the increasing train lengths exceed our plants' capabilities to receive, build and ship unit trains within allocated free time periods. Our current facilities, including interchange tracks and other intra-plant track infrastructure, were not designed to handle these new, longer train lengths.

For example, three internal rail switches are required to unload some unit trains at our Indiana Harbor facility's largest blast furnace. In addition, although longer trains improve railroad economics, AM has received no savings for increasing train sizes as railroad line-haul prices have continued to rise in recent years. Thus, we are paying new detention charges because our facilities were not designed to handle longer trains, and we are receiving no line-haul price reductions from the carriers for the savings they are achieving by using longer trains.

- **Capital Allocation.** The steel business has been a very challenging one over the years and has required companies like AM to allocate scarce capital resources in a manner designed to make our business profitable. For example, during its 100 years of operation, our Indiana Harbor facility has increased consumption of raw materials and steel output but the infrastructure (internal and external) serving the plant has not increased proportionally. In addition, some of the equipment at our plants, such as rail car dumpers, are aging and require substantial maintenance (which causes down time) and can slow unloading operations.

Out of necessity, AM's capital has been directed toward investments in steel production rather than rail infrastructure as the company prioritized its limited capital to projects that improved our long-term sustainability. Thus, while railroads may want to force companies like AM to build new facilities to handle longer trains or otherwise speed up their loading and unloading practices, the simple fact of the matter is that AM, and other companies, may not have the capital resources to do so, and, even if they do, it takes time to locate the capital and to make the necessary changes.

(ii) Effectiveness of Detention Collection Systems

It has been our experience that railroad processes, systems and tools required to manage the demurrage procedures vary widely from carrier to carrier in terms of quality, functionality and use. When improperly implemented, problems arise. For example, in some cases, new detention provisions (containing higher charges) are implemented before the supporting processes, systems and contacts needed to manage the process are clearly

defined. Similarly, while, rules and regulations may be clearly expressed in tariffs, the systems, contacts and processes needed to assimilate the information and to file exceptions are extremely problematic because the necessary due diligence is not done by some carriers to train and educate their customers.

As a large shipper, one particular challenge for us is managing inbound flows using multiple carrier rail systems. An example would be when we have inbound coal trains from the East via Norfolk Southern (“NS”) to our Burns Harbor facility and we also have inbound coal trains coming from the West via another carrier for delivery at the same time to our Burns Harbor facility via a shortline. We lose visibility – *i.e.*, our ability to electronically track where the cars are and when they will be delivered – when trains or cars are on the delivering shortline carrier, for example the Indiana Harbor Belt or Chicago, South Shore & South Bend, which directly serve the plant.

Managing multiple inbound trains in different carrier systems – some with limited visibility – significantly complicates our ability to unload and return trains within 24 hours to avoid demurrage, especially given limited track space at interchanges and within our plants, the variability inherent in transportation, and dealing with mechanical issues that arise with our rotary dumper operations.

(iii) Special Agreements

We have had limited success working with carriers on special demurrage agreements. We have agreements in place with several short lines that serve AM plants. Accessorial charges have increased modestly under these agreements, over time, but are

generally reasonable. We recently were able to negotiate a limited demurrage exception at one location for one commodity with a Class I carrier. Generally, the Class Is refuse to negotiate changes to their detention and accessorial tariff provisions.

B. Impacts

The Board's second set of questions asks shippers to comment on the impact of new carrier detention rules:

[Comment on] Impacts on shippers, receivers, third-party logistics providers, and shortline railroads flowing from recent (i) changes in Class I carrier demurrage and accessorial tariffs; (ii) changes in Class I carriers' enforcement policies for these tariffs; and (iii) operational changes implemented by Class I carriers including, in particular, changes in the frequency and timing of local service and/or shortline interchanges.

(i) Timing

AM has demurrage exposure primarily to NS and Canadian National ("CN") due to the location of our plants. The NS's 3-month notice period for increased charges was too short (October 1, 2018 for changes effective January 1, 2019) to evaluate the impact of the changes and insufficient to make changes in operating practices and/or investments to mitigate the cost of the demurrage changes. We have constraints that in many cases take capital to improve and we cannot just simply load or unload faster.

(ii) Communication

Recent changes in NS local service were not communicated very effectively. In several (but not all) cases, our Sales Representative was not aware of service changes.

In addition, as NS has reduced cars, and locomotives service variability has increased, we are not always advised when our unit trains sit awaiting crews.

(iii) Outside Processor Impacts

In addition, several of our outside processors – who are companies AM contracts with to assist AM in processing finished steel to meet our customers’ specifications – have notified us that their costs have increased significantly due to increases in railroad train sizes and increases in detention/constructive placement charges they are incurring. These processors have asked us to cover their new detention/constructive placement costs, or to reduce the volume they receive on a weekly/monthly basis from AM mills.

C. Perspectives

The Board’s third set of questions asks for comments on perspectives issues:

[Comment on] Perspectives on whether demurrage and accessorial tariffs in effect during the past three years have created balanced and appropriate incentives for both customers and railroads, including views on the extent to which reciprocity should be incorporated into demurrage and accessorial charges.

AM is advantaged in locations where we own short lines that service our plants. Where we are served by Class I carriers, there are provisions such as averaging debits and credits that are beneficial to us, and allowances for variations to the carriers’ service plan. Waivers for frozen loads, certain weather conditions, and strike provisions do provide relief when we experience those conditions. Also, NS has been fair in its assessment of constructive placement charges on unit trains, so far.

However, overall, we feel the carriers allow themselves much more leeway for supplying cars, switching and the like than they allow their customers. Carriers are increasing the penalties when shippers fail to meet tariff free time requirements for switching and the like during specified free times but will accept no corresponding financial responsibility for delays they cause, *e.g.*, no penalties for poor car delivery or service to their customers. Moving our products via rail is a partnership with both the shipper and carrier heavily invested. There should be reasonable reciprocal incentives on both sides to improve the overall efficiency of the network.

We also object to the short notice period (for example 3 months) and the rapid increase in the charges we are incurring. As stated above, the imposition of these new higher charges is often communicated with little to no advance notification and with no consideration for our capability to comply with these new provisions.

Respectfully submitted,

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Dated: May 8, 2019

ArcelorMittal in the United States

