

Circular From CHARTERERS**Date: 21 June 2017****Trade to Qatar****Background**

There has been a major escalation in a long running diplomatic dispute that is impacting some of the GCC countries.

Saudi Arabia, the UAE, Yemen and Egypt severed diplomatic ties with Qatar on 5 June. The immediate impact has been the expulsion of diplomats from some states.

The airline industry has also been hit hard with no direct flights between the countries and entry into airspace impacted. The land border has also been closed by Saudi Arabia which will result in more cargoes having to be moved to Qatar by sea.

Scope of Impact

From a shipping perspective, the largest impact will be in relation to seaborne trade from the UAE and Saudi Arabia as harbour masters and port authorities are not permitting vessels that fly the flag of Qatar, have sailed from Qatar or are intending to sail to Qatar to use their facilities. So far we have seen notices from all major UAE ports including Fujairah and its anchorage.

At the moment, this seems to be based on the last / next port of call. We therefore understand a vessel destined for Kuwait and then Qatar would be permitted to use some facilities. However, this could well be changed in the period to come.

Scale of Impact

This situation is unusually severe in that it's not just restricted to expulsion of diplomats, but has also spilled over to have an immediate and adverse impact on trade. At that this stage it is not technically a trade embargo, although that may follow and Assured's may wish to consider the potential impact an embargo might have on existing trading contracts and financial transactions.

From a shipping perspective Qatar is a major exporter of Gas, Oil and Petrochemicals and their by-products (e.g. Fertilisers) so this situation is impacting both the dry and wet market.

Operational Considerations**Bunkers**

Many ships trading into or out of the Gulf were bunkering in Fujairah which will no longer be permitted if they have called at Qatar. Owners and Charterers will therefore need to ensure that they have sufficient fuel on board to bunker at an intermediate port such as Sri Lanka or that they bunker in Oman, Qatar, Kuwait etc.

Hold Cleaning

Fujairah and the other UAE ports were commonly used to clean holds to make them ready for the carriage of sensitive cargoes such as Fertilisers. This option will no longer be available so cleaning will need to occur in Qatar, which we understand has limited resources, or in other ports such as Sohar.

Legal Issues

Next / Last Port

Presently we believe that the new rules impact only the last and next port of intended call for a vessel. If this is extended e.g. to the last three or five ports or to a specific period such as 90 days, then the availability of vessels will decrease as Owners will not want to potentially deprive themselves of the ability to trade to the PG other than Qatar.

Charterers' Orders

Time charters invariably include trading limits, one of which (such as that in line 17 of the NYPE 1946) is usually that the vessel will be employed on "lawful trades". Illegality under the law of the place of performance of Charterers' orders as to the employment of the vessel therefore has the potential to render Charterers' orders unlawful and invalid. In case of dispute involving orders to proceed to Qatar specific advice should be sought concerning the lawfulness of Charterers' orders. It should further be kept in mind that Owners are likely to be entitled to claim an indemnity from Charterers in respect of the consequences of following Charterers' orders.

Frustration

A charterparty may be frustrated if the law recognizes that without default of either party a contractual obligation has become incapable of being performed because the circumstances in which performance is called for would render it a thing radically different from that which was undertaken by the contract.

Whether a charterparty could be deemed to be frustrated due to recent events will depend upon the specific wording of the contract. If performance has been made impossible, for example if the charterparty specifies a route that is now impossible to follow, then the contract will likely be frustrated. However, if recent events merely impose a heavier financial burden than expected on one party, the contract is unlikely to be frustrated. Again, appropriate advice should be sought if such issues arise.

Force Majeure (F/M)

Some contracts include a specific F/M provision. Whether recent developments can be considered as a F/M event will depend on the term of your contract and specific advice should be sought.

Under common forms of time and voyage contract (e.g. NYPE 46 and Gencon) there is no F/M clause in the printed clauses so Charterers' ability to rely on a F/M provision will be based upon what they have agreed in the riders (if any). A typical clause might read as below:

Charterers shall not be responsible for any delay if the cargo intended for shipment under this Charter Party cannot be delivered, loaded or discharged by reason of riots or lockouts of any class or workmen or stoppage of labour connected in any way with, or essential to the producing, providing, delivery, loading, or discharging of the cargo, or by reason of floods, fire, ice, bad weather and all accidents or hindrances or other cause or causes beyond the control of the Shippers or Receivers which may prevent or delay the delivery, loading or discharging of the cargo, including all accidents to piers, ship loaders and/or piers and port facilities and / or stoppages and hindrances, political disturbances, insurrections or interventions of legal authorities

Using this clause as an example, the current position would not be considered as F/M since the trade can continue but is just harder to plan and execute. A detailed look at the provisions of your clauses would be recommended in case the situation escalates.

Source of Information: The Charterers P&I Club