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COVID-19 on Maritime Industry

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COVID-19 Effects on Maritime Transport

Maxim A. Dulebenets

The Coronavirus Disease 2019 (COVID-19) was first discovered in Asia, and then spread fairly quickly among numerous countries in the world. Along with substantial losses of human lives, COVID-19 caused substantial business interruptions and negatively impacted various forms of transportation. Many countries across the world imposed "lockdowns" by restricting the movements of people and cargoes beyond the country borders, aiming to prevent the spread of COVID-19 in their communities. Such "lockdowns" caused disruptions in the transport of people and goods, passenger terminal operations, freight terminal operations, and impacted their associated stakeholders. According to the Maritime Executive Journal and the Journal of Commerce, maritime transportation and shipping were significantly affected by the COVID-19 outbreak.

As a result of the COVID-19 outbreak, many retailers and manufacturers were not able to take delivery of their containers from marine container terminals due to the fact that their warehouses did not have enough capacity or were completely closed. The containers stayed at ports for an extended period of time, which further caused terminal congestion and inability of terminal operators to adequately serve arriving vessels. A number of ports reduced their workforce during the pandemic, which is another contributing factor to port congestion. Certain marine container terminals (e.g., the Barbours Cut and Bayport container terminals in Houston, Texas) decided to close for a certain period of time in order to prevent potential legal liability issues. According to the Journal of Commerce, some of the Houston container terminals were shut down as one of the part-time truck drivers contracted COVID-19. As a result of terminal shutdowns in Houston, some vessels had to stay at berth and wait until the terminals re-opened. Despite shutdowns of some terminals in Houston, many private terminals, which handle bulk cargoes, oil, and gas shipments, remained fully operational during the COVID-19 outbreak. Nevertheless, port congestion and temporary shutdowns caused major supply chain disruptions and negatively affected importers and exporters.

Effective trucking services are critical for healthy marine container terminal operations and operations of other types of freight terminals as well. Drayage trucks enter marine container terminals to drop off export containers and pick up import containers. Generally, shippers start negotiating their contracts with trucking companies in the first quarter of every year. However, at the beginning of 2020, many of these negotiations had been indefinitely postponed in the United States and other countries due to the COVID-19 outbreak. Certain trucking companies were trying to conduct remote meetings with their customers in order to discuss the current situation with shipping orders and come up with potential solutions, which did not seem to be efficient in many cases. Another challenge, pointed out by trucking companies, consists in the fact that it is difficult to accurately forecast the demand volumes for the existing customers due to the COVID-19 outbreak. Lack of accurate demand forecasting creates additional difficulties in setting the appropriate prices in contracts with existing customers.

As indicated earlier, COVID-19 impacted not only maritime transportation of freight but maritime transportation of passengers as well. In fact, the cruise industry had to deal with many challenging issues, some of which are referred to as "floating nightmares". For example, a cruise passenger from Hong Kong, who embarked in Yokohama, Japan on 20 January 2020 and disembarked in Hong Kong on 25 January 2020, was tested positive for COVID-19 in a Hong Kong hospital after leaving the cruise ship "Diamond Princess". The ship was expected to depart Yokohama on February 4, 2020 for another round trip cruise. However, the Japanese authorities delayed the "Diamond Princess" and decided to screen all the passengers and the entire crew. On February 4, the Japanese authorities announced positive COVID-19 results for at least 10 passengers and put the entire cruise ship in quarantine. The infection had been still spreading across the "Diamond Princess". Although most of the cruise ship guests were disembarked by the end of February 2020, over 700 passengers out of 3,700+ passengers had COVID-19. Many countries banned cruise ships from disembarking passengers, aiming to prevent spreading of the virus through the infected crew members and passengers. For example, Australia started banning cruise ships that arrived from foreign countries in the middle of March 2020. However, some exceptions were made for cruise ships that were already en route to Australia at the time the new regulation took effect.

Thus, the COVID-19 outbreak substantially impacted the maritime transport of not only freight but also passengers. Some industry experts expressed fairly pessimistic opinions, stating that certain freight companies and cruise companies may not be able to survive due to the impact of COVID-19. Hopefully, the lessons learned from the COVID-19 outbreak will assist the relevant stakeholders to develop new policies and strategies which can be further used to overcome the negative externalities from the outbreaks of similar magnitudes in future.

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港澳跨境海上客運的預防措施：新冠肺炎防疫期為例

管潔琦 / 劉銳業

港澳之間的海上客運航線為兩地往來的交通要道。雖然以往受天氣或其他客觀因素影響有零星停航的記錄，但此次因防疫新冠肺炎而長時間全面停航的情況歷史上也實屬罕見。本文於下表整理了 2020 年首季度兩地政府在抗議期間對於港澳跨境海上客運服務所實施的危機處理方式。

日期	疫情	政府措施
2020 年 1 月 6 日	1 月 5 日開始，澳門衛生局提升肺炎預警級別至第 3 級，中度風險，並於同日成立「應對不明原因肺炎跨部門工作小組」	配合衛生風險預警級別提升，加強碼頭清潔衛生
2020 年 1 月 15 日	截至 1 月 23 日港澳各錄得 2 宗確診病例；	協調春節客運部署 加強碼頭衛生及秩序管理
2020 年 1 月 23 日		協調公共供水及海上客運範疇的相關單位採取最高級別的防疫措施。
2020 年 1 月 27 日	截至 1 月 28 日香港錄得 8 宗確診病例；澳門錄得 7 宗確診病例。	呼籲海上各口岸加強防控措施
2020 年 1 月 28 日		宣佈香港九龍、屯門往返澳門海上航班 1 月 30 日起暫停
2020 年 2 月 3 日	截至 2 月 3 日香港錄得 15 宗確診病例；澳門維持 8 宗病例。	客船乘客必須佩戴口罩
		港澳海上客運凌晨起全面暫停服務
2020 年 3 月 18 日	截至 3 月 18 日香港錄得 193 宗確診病例；澳門增至 15 宗確診比例。	澳門客運碼頭商用空間 2 月至 4 月的回報金已獲減免

如上表所示，因應防疫需要，港澳兩地政府逐步收緊海上客運及碼頭相關服務。停航消息發出後，船務公司即出公告指出受影響乘客可辦理退票手續。截至此文完稿日，兩地海上客運仍處於全面停航狀態，兩地人流處於分隔狀態。

停航措施確實有效地減少了兩地人流的往來，對疫情控制起到關鍵的抑制擴散作用。但此舉所帶來的直接和間接的負面影響也不容忽視。例如，緊急停航措施導致大批旅客 / 乘客滯留；由於購票渠道多樣，以致大量已購票人士退改票體驗較差 ; 船務公司不堪重負提出減薪方案等。這些負面情況的出現，已對港澳地區船務公司、旅行社或票務公司的聲譽產生一定影響。由於此次疫情蔓延速度快、傳染性高，政府在整體防疫部署的過程中，資源有限，難免顧此失彼，很難令各方需求都得到滿足。但希望全面停航期間對於各大相關群體所造成的負面影響，兩地政府後序能提出相關扶助或補貼措施，以減輕營運機構、相關行業雇員的損失與負擔。從而，鼓勵營運方對於受影響的顧客，推出相應的優惠措施，以修補港澳海上跨境客運的行業形象。

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Stepping ahead amid the virus crisis

Y.T. CHOW

The instant effect of virus outbreak to the shrinking shipping industry is clear and obvious. Charter rates of tankers is seeing a sharp drop of more than 80%, and container lines are simply sailing their fleets with even higher idle tonnage capacity comparing to the time of global financial crisis (Shields, 2020). Apart from looking at the apparent short term pain, it is perhaps also time to worry about the potential long term disruption of the virus to supply chain.

The concept of an agile supply chain remains visionary in most industries. In an extreme case, Boeing's supplier is expected to take 12–18 months to shut down production for 737 Max parts after Boeing halted production of the jetliner model in 2019 (Dey, 2019). The impact of the virus has already been witnessed across industries, from mobile phones, pharmaceuticals, luxury products, to automobiles. For example, toy dealers are beginning to worry about the availability of stock for demands in the holiday season in summer (Helmore, 2020). Factory workers in China generally return to production after their lunar new year break, but are now staying in their home towns instead. US toy manufacturers stated in late February that they could only wait for another 40 days before it becomes a huge problem for them to settle the demand for the upcoming peak season. Even if they wish to restart production, the availability of production materials and transportation services remain as big concerns.

While truckers are stopped at borders of provinces with lockdown policies, raw materials and work in progress become burdens to storage systems at port cities and terminals (Bradsher & Chokshi, 2020). Some docks in China are clogged with bulk cargos and arriving shipping containers. Perhaps even worse, shippers in other countries are now facing shortage of empty containers, due to the accumulation of unhandled container in the affected areas (Shields, 2020). As mentioned by Brian Wu, the chairman of the Hong Kong Freight Forwarders Association, the trucking capacity could be far from sufficient for the backlog of factory production in a short time when production resumes. To mitigate the trucking capacity issue, Maersk is extending its services along the Yangtze river, where local trucks could get connected to barge or rail services serving Maersk's ocean going vessels (Wallis, 2020). China, home to seven of the world's ten busiest seaports, is certainly in need of a more efficient river transport system.

Among all the emerging technologies, autonomous shipping, enabled by the Internet of things (IoT) and artificial intelligence (AI), together with blockchain, seem to be practical solutions that could ease the supply chain burden for the country. As a key enabling technology, Internet of things (IoT) can grossly be defined as the interaction of physical objects enabled by the embedding sensors and the Industrial Wireless network (IWN). The concept was first coined by researchers on radio-frequency identification (RFID) infrastructures, and later on widely discussed under the heading of Industry 4.0 (Wortmann & Fl?chter, 2015). Rooted in the manufacturing sector, some IoT applications are now found among the transport operators. For example, Hongkong International Terminals Limited (HIT) pioneered a remote control rail-mounted gantry crane at its terminal back in 2012 (HIT, 2018). Now in the Container Terminal 9 North, each rubber-tyred gantry crane (RTGCs) is now equipped with 58 monitoring cameras and sensors to facilitate the fully remotely operated container terminal.

Together with Artificial intelligence (AI), Internet of things architectures bring autonomous ship to life. Last year, NYK has successfully performed her Maritime Autonomous Surface Ship (MASS) trial voyage from China to Japan (Lee, 2019). The self-driving vessel is able to automatically determine her optimal routes, following the recommended course and passing meeting vessel on its portside safely.

The barriers for autonomous shipping is often less in short sea shipping, strongly due to the lower cost to mitigate problems. Stronger mobile network is expected along the coast, not to mention the rapid 5G development in China. An unmanned vessel could easily be operated by remote operators through wireless network in the area. When onsite support is needed, shipping lines can send their emergency crew in a fairly short period of time. This autonomous and IoT approach reduce the needs of mobilizing workforce and human interactions in hard time. Furthermore, only limited manual operators might be needed to standby, at a place which is assumed to be a safe and minimizing the risk of virus spread.

While the IoT supports the physical movement of cargo, blockchain adds value in building a trusted information flow, and hence processing various shipping documents. Grabbing public's attention with its application in cryptocurrency, blockchain is a decentralized database that an identical ledger of all events is executed digitally and shared among all participants. Blockchain is now having its presence in some notable transportation companies for the sake of transparency and

traceability (Yang, 2019). Meanwhile, smart contract as the special and critical feature, allows creditable transactions without third parties' involvement within the blockchain (Saberi et al., 2018), would ease document processes of a typical shipping company greatly. Blockchain-based smart contract share documents digitally while ensuring all required approvals of the transactions are in place. In fact, Maersk and IBM have completed a 12-month trial in developing a jointly developed global trade digitization platform designed for the entire global shipping ecosystem using blockchain technology (IBM, 2018), reporting a 40% decrease of transit time in shipping packaging materials to production line in the United States (Farnsworth, 2019).

Using blockchain as the backbone, the operating procedures relating to billing of lading could be much more efficient than traditional processes. Under the highly secure, traceable, and decentralized ledgers, document fraud is almost impossible. Besides, the smart contract will be able to transfer cargo ownership rights without paper transaction in as short as 20 seconds (CargoX, 2019). Not only does blockchain technology speed up the fragmented courier services across the globe in times of severe supply chain interruption, it also works perfectly in a decentralized workplace. Even if the majority of the supply chain partners adopt a work-from-home practice, the flow of information, and to be specific, the digitalized documents could still be delivered smoothly across the line of business.

While opinion stated that cargo flow in China might soon resume, especially under potential massive stimulus programmes (Miller, 2020), perhaps it is an outright opportunity for the shipping sector to capitalize this experience and streamline the transportation network for potential future interruptions with an optimistic perspective. As suggested by Amara's Law, people often overestimate the effect of technology while underestimating their presence and effect in long run. It could be the shipping operators who embrace innovative technologies now to be the first to drive themselves out of trouble in another interruption of a scale alike.

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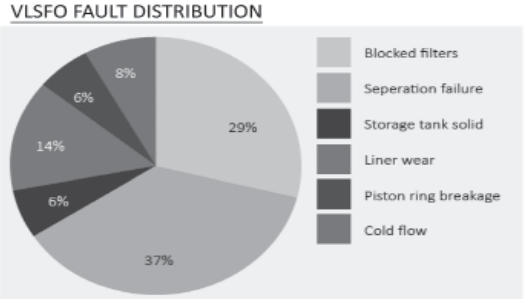


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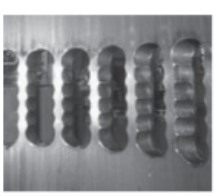
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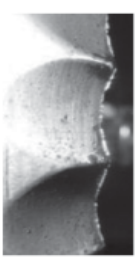
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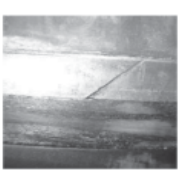
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Charter Party Issues arising from the outbreak of Coronavirus

Rohan Bray

Highlights

- While general guidance can be provided, advice in any given situation will depend heavily on individual circumstances and the terms of the applicable contract.

- As matters currently stand, it is unlikely that a port would be considered "unsafe" due to Covid-19, but that could change in the case of blacklisting, or quarantine resulting in inordinate delays (§1).

- Vessels may be off-hire if there are delays due to actual or suspected crew illness, but probably not otherwise, unless "whatsoever" is added to the off-hire clause. But even if technically off-hire, charterers may have to indemnify owners for losses resulting from following charterers' orders (§2.1).

- Regarding the commencement of laytime, WIFPON clauses might not assist owners as the vessel may still need to clear quarantine before NOR can be tendered. Specific clauses can be used to avoid this problem (§2.2).

- Deviations for the purpose of saving the life of a sick crew member will usually be allowed, but continued payment of hire will depend on the charterparty terms. Where there are restrictions on entry / berthing at a discharge port, unloading of cargo at an alternative place may be allowed in some cases (§4).

- Frustration is unlikely to occur in anything other than extreme cases. Force majeure clauses may be relevant, but this will depend on their precise terms and adherence to legal requirements (§5).

- Bespoke clauses such as the BIMCO Infectious or Contagious Diseases Clauses or Intertanko Covid-19 Clauses are generally recommended.

In January the Club published a website article touching on important aspects of the Covid-19 outbreak in the context of time charterparties. As Covid-19 has subsequently escalated into a global pandemic, a more detailed advice on wider aspects of vessel chartering and the carriage of goods by sea should be helpful for members. For other aspects of the Covid-19 situation, the Covid-19 / Coronavirus page on the Club's website carries links for information on precautions for crew, what to do if a crew member is suspected of contracting the virus, and port and country summaries of various restrictions.

The advice given below assumes contracts subject to English law and

containing basic industry standard wordings. The focus is on charterparties and contracts of carriage, although the basic principles can be extended to other contracts such as shipbuilding and ship sale and purchase. It is, however, not intended to be a comprehensive statement of the law covering all cases: what is appropriate advice depends on individual circumstances and contractual terms and could change frequently as the general situation develops.

1. Loading Ports: Charterers' Orders and Contractual Agreements

The first issue which may confront an owner will be whether they are obliged to accept instructions from a time charterer to proceed to a load port at which there may be an outbreak of Covid-19 and/or where an authority has imposed restrictions on entry. At this point in time a number of ports have said they will impose a quarantine period on vessels arriving from other countries.

The answer will depend largely on whether the port would still be considered legally "unsafe" under English law. If that were the case, the owner could legitimately refuse to follow orders to sail to the port. There is no legal impediment to a port being unsafe because of a contagious disease, but whether it is unsafe will depend on the relevant facts in existence at the time the order is made (including, for example, statistical and medical evidence). At present it seems unlikely that any port would be considered unsafe because of Covid-19, considering the degree of likelihood of crew being infected and the likely consequences if they were.

Another factor when looking at the safety of the port is whether the vessel might be subject to blacklisting, boycotts or quarantine at subsequent ports of call, or could suffer an inordinate delay at the nominated port. Regarding delay, a 14-day period of quarantine, or being required to wait at a place off the port for a similar period, is very unlikely to be considered "inordinate" such that the nominated port could be considered unsafe. Any blacklisting or boycotting (ie. a complete bar on entry or berthing for a considerable period) would also have to extend to a wide range of ports and thereby reduce considerably the vessel's future earning capability.

It should be noted that a port which is prospectively safe when an order is given can subsequently become unsafe if circumstances change. In that case the owner can demand fresh orders from the charterer. If the owner nevertheless decides to proceed to an unsafe port in accordance with the charterer's instructions, they would normally be entitled to an indemnity for any extra costs and expenses incurred as a result of following the order.

Where the load port has been agreed in a voyage charter, there will normally be no choice but to make the approach voyage and wait for a berth unless performance can be excused due to frustration or force majeure (see below at §5).

2. At the Loading or Discharging Port: who pays for lost time?

2.1 Time Charters

In the absence of any breach by the owner, a time charterer is obliged to pay hire unless it can bring itself within the terms of an off-hire clause. The commonly used wording found in clause 15 of the NYPE 46 and clause 17 of the NYPE 93 forms states that the vessel will be off-hire by reason of "deficiency (and/or default) of men" fire, breakdowns or damage to the vessel, drydocking or "any other (similar) cause preventing the full working of the vessel". The English High Court has said (in *The Laconian Confidence* [1997] 1 LLR 139) that legal or administrative restraints on a vessel can qualify as an "other cause" if they relate to the physical efficiency or condition (or suspected condition) of the vessel or crew. On this basis, a vessel which has been delayed by quarantine restrictions due to actual or suspected crew illness is likely to be off-hire, but if the quarantine applies generally to vessels arriving at the port and is not directed at individual cases then it may be arguable that hire should continue to accrue as the physical efficiency or condition of the vessel or crew has not caused the quarantine. On the other hand, if the word "whatsoever" has been added after "any other (similar) cause" charterers would almost certainly be entitled to claim off-hire.

Having said all that, where the quarantine is a natural result of following the charterer's orders, the vessel should remain on hire even if "whatsoever" has been added. Unless an owner has, by implication or express term, agreed to bear a particular risk, it is entitled to be indemnified for losses incurred if the risk becomes manifest as a result of following the charterer's orders. In practice, therefore, vessels are only likely to be off-hire if the employment order which eventually resulted in quarantine was given by a previous charterer (eg. an order given by charterer A to sail to port X, which later leads to the vessel being quarantined at port Y following an order given by charterer B). In such a case the owner's loss of hire might be recoverable from charterer A under the implied indemnity.

2.2 Voyage Charters

Once the vessel arrives at or off the port, the burden of time lost due to entry or berthing restrictions is allocated according to the charterparty terms regarding service of Notice of Readiness ("NOR") and the running of laytime. Although it seems to contradict plain meaning, "Whether in free pratique or not" ("WIFPON") clauses have been held by the courts to be irrelevant to the question of whether a NOR is valid or not (see The Delian Spirit [1971] 1 LLR 64 and [1971] 1 LLR 506). The vessel must still be physically and legally ready to load or discharge the cargo, meaning that any quarantine restrictions preventing the vessel from berthing must be removed before a valid NOR can be tendered allowing laytime to commence. A WIFPON term merely restates the general legal position that a vessel which is otherwise ready and not subject to (or will not be subject

to) any quarantine restrictions can tender a valid NOR, even though the formality of obtaining free pratique has not yet occurred.

The general position can of course be departed from by express charterparty terms. BIMCO and Intertanko have attempted in their bespoke clauses (see below at §6) to alter the balance in owners' favour. The effectiveness of these terms has yet to be tested in the courts and there may be queries about the operation of the BIMCO clause in particular, as it makes no specific reference to the tendering of NORs.

3. At the Loading or Discharging Port: who pays for extra expenses?

A vessel might require disinfection / fumigation if it comes from a designated port or if one or more crew members has fallen ill. Both NYPE forms (46 clause 2, 93 clause 7) provide for "fumigations" relating to crew illness to be for owner's account, and those relating to "ports visited while ... employed under this charter" to be for the charterer. Presumably where the necessity for fumigation arises from a port call under a previous charter, the owner would have an implied right of indemnity against the former charterer.

For voyage charters, these types of expenses would normally be the responsibility of the owner, unless the parties have agreed otherwise in the charter terms (see below §6).

4. On the voyage: Deviation

If a crew member becomes ill on board, then a deviation for the purpose of saving life will almost always be permissible. Commonly used charterparty forms contain liberties to deviate in this situation (eg. NYPE 46 clause 16, NYPE 93 clause 22, Shelltime 4 clause 27(b) and Gencon 94 clause 3), as do the Hague and Hague-Visby Rules (Article IV, Rule 4) and Hamburg Rules Article 5, Rule 6).

During such a deviation, hire should remain payable under NYPE form time charters, unless "whatsoever" has been added in the case of the NYPE 46 form. By contrast, Shelltime 4 contains an express provision stating that the vessel will be off-hire (clause 21(iii)). Many time charters have rider clauses specifically addressing deviations or "putting back" and these would need to be examined closely to see if they give the charterer the right to deduct from hire, notwithstanding the terms of the off-hire clause on a standard form.

In voyage charter cases, while a deviation to save life will generally be permitted the costs of doing so will normally fall on the owner. Unless there is specific provision in the charterparty, the owner will have no right to additional freight.

Deviation from the original voyage may also be permitted where there are significant restrictions on entry to the

discharge port. This may be allowed by an express term of the relevant contract, or because the contract has come to an end due to frustration or the operation of a force majeure clause (see below §5). It should be noted, however, that termination by frustration or force majeure is only likely to occur if the delay is substantial (ie. probably at least several weeks).

Where there are delays cargo interests may advance claims for financial loss, or because the goods have deteriorated. The carrier in such cases should be able to rely on the defences of "[R]estraint of princes" (Hague and Hague-Visby Rules Art IV, Rule 2(g)) or "Quarantine restrictions" (Art IV, Rule 2(h)).

5. Frustration and Force Majeure

5.1 Frustration

Frustration is a common law concept relevant to all contracts under English law. It may occur where, without fault on either side, a contract becomes impossible to perform or its performance would be radically different to what the parties originally contemplated. Where a contract has become frustrated any future performance obligations on the parties come to an end.

It is usually very difficult to prove frustration. The fact that performance may have become substantially more expensive or there will be longer than anticipated delays (unless these delays become so prolonged that performance will become something radically different), will not in itself be frustrating. Furthermore, there will generally not be frustration where the parties have included terms in the contract which are relevant to the situation.

Looking at the Covid-19 position as it currently stands, the kinds of delays being seen would fall some way short of what is required for frustration. If this state of affairs deteriorates it may come about that the performance of some voyage charters, or time charters for a trip or of short duration, becomes radically different on account of inordinate delays. In any event, charterparties which contain clauses dealing with Covid-19, or diseases generally, are unlikely to be frustrated in respect of those types of events, as the parties can look to the express terms of the contract to ascertain their rights and obligations.

5.2 Force Majeure

The force majeure concept also pertains to unexpected situations outside the parties' reasonable control, but unlike frustration it is not a doctrine of the common law. For force majeure to be relevant, it must be a term of the contract and its scope and application will depend on an interpretation of terms according to normal contractual principles. Force majeure clauses will typically list a number of events which may lead to one or both parties having the right to terminate the contract entirely (a so-called "frustration" clause), and/or to suspend performance for a period of time or be excused for what would otherwise have been a breach (an "exceptions" clause).

A force majeure clause may potentially be relevant In the Covid-19 context where it refers to "disease", "plague", "epidemic" and/or "quarantine". The commonly found term "restraint of princes, rulers and people" may also be relevant where mandatory government restrictions are in place. Other points to note regarding force majeure clauses are (subject to any wording to the contrary):

- the burden of showing that the facts fall within a force majeure clause rests with the party seeking to rely on the clause;

- parties are required to use "reasonable endeavours" to avoid, overcome or mitigate a force majeure event, even if this results in additional expense being incurred and/or would benefit the other party;

- if a force majeure clause is construed as an "exceptions" clause, a causal link is required between the force majeure event and the inability of the party to perform (ie. "but for" the event the party would have been able to perform);

- the force majeure event must be the sole effective cause of the non-performance;

- there are often notice requirements in force majeure clauses, and these should be strictly adhered to;
- the mere fact that an authority or some company (eg. a shipper or receiver of cargo) "declares" force majeure is likely to be irrelevant to contracts to which they are not party (eg. charterparties). Whether a particular set of facts gives rise to force majeure and its consequences will depend entirely on the terms of the contract between the parties concerned; and

- where there are contractual clauses dealing specifically with a particular event, these should take precedence over a more general force majeure clause to the extent of any conflict between the two.

6. Special Clauses

Incorporating a clause which deals with diseases generally or the Covid-19 virus itself can assist in avoiding potential disputes where there is loss of time or extra costs are incurred. Of course it may not now be possible to agree such a clause for charters that were fixed before the virus was known about, but discussions along these lines between the parties to any new fixtures are recommended.

BIMCO published two clauses (Infectious or Contagious Diseases Clause for Time / Voyage Charter Parties) in 2015 in response to the Ebola outbreak in Africa. These clauses might in theory cover current issues, but it is an arguable point whether Covid-19 would, as matters stand, be classified as a "Disease" (defined in the clauses as "a highly infectious or contagious disease that is seriously harmful to humans"), which is a precondition for the clause to have effect. Furthermore, the Club

has recently seen cases where charterers have refused to agree to the BIMCO clause, on the grounds that if Covid-19 were to fall within the definition of a "Disease" under the clause, then there could be a multitude of ports around the world which would be "Affected Areas", thereby potentially hindering to a large degree the charterer's ability to trade the vessel.

In February, Intertanko published two clauses ("Covid-19 ('Coronavirus') Clause – Time / Voyage Charterparties") which, as the name suggests, are intended to deal solely with Covid-19. They can be used for any cargo carrying vessel, not only tankers. The clauses are slightly narrower in operation than the BIMCO clauses as the owner's various rights only take effect where there is a reasonable judgment that there is an unacceptable level of risk to the crew or other persons on board. The BIMCO clauses, by contrast, can also operate where there is a risk to the vessel of quarantine or other restrictions.

Both sets of clauses follow a similar scheme. If the owner / master reasonably assesses there to be an unacceptable risk of exposure, they may refuse to follow the charterer's original orders and request alternative orders or, if the vessel comes to be in an affected area, they can depart to a safe place. Any extra costs incurred in respect of quarantine, fumigations, cleaning and the like will be for charterer's account. With time charters, the vessel will remain on hire throughout, while for voyage charters time lost will count as laytime or demurrage (although see above §2.2 in relation to tender of NOR).

If fresh orders are required but not given by the charterer the vessel will simply remain on hire or, in the voyage charter case, owners will have the right to discharge the cargo at a safe port of their choice. With the latter, any extra expenses are recoverable from the charterer, full freight will still be payable and (for the BIMCO clause) additional freight will be payable if the vessel has to sail an extra distance of over 100 miles.

To prevent there being any disjuncture between the BIMCO / Intertanko clauses and any contracts of carriage between owners and cargo interests, it is specified that the clauses must be incorporated into bills of lading or other carriage documents. Finally, the clauses make it clear that their terms are to supersede any other terms of the charter, including force majeure provisions.

While we trust this advice will answer many questions that members currently have about contractual issues relating to Covid-19, the situation is developing and changing rapidly and this could give rise to different challenges. We encourage members to get in touch with their usual contact at the Club if they have any enquiries.

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A Way Forward for Maritime Logistics Industry under COVID-19 Pandemic

Carmen Sum / Yui-yip Lau / Helen Wong

In our Seaview issue number 130, our Editorial Board created a special issue – Effects of COVID-19 on the maritime industry. Comparing with SARS outbreak in 2003, COVID-19 brought a tremendous impact on global maritime logistics operations and economy. We provide the comparison table between SARS in 2003 and COVID-19 in 2020 in Table 1. Due to the different characteristics between the SARS and COVID-19, the former was controlled within six months with 8,000 infected worldwide and 800 deaths, while the latter is still aging across the globe and will be with us for some time yet, until such time as a vaccine is available. Maritime logistics contributed 80% of the global trade, which plays a vital role in confirming a dependable supply of necessities, food, medicine, and supplies from the point of origin to the point of destination. Nevertheless, the vulnerability of supply chain management, a lack of professionals, the political instability, and the uncontrollable spread of disease leads to maritime industry actors implement adaptation strategies and resilience management to sustain the maritime industry. The possible adaptation strategies can be used in different actors in the maritime industry.

1. Under the COVID-19 impact, the maritime logistics firms can develop a healthcare supply chain management in order to catch up with an emerging demand. Currently, the use of respirators, life-saving medical supplies, blood supply chains, disinfectants, and human remains handling and logistics are the urgent demand in the healthcare supply chain management. We expect that the government, policymakers, and international associations can provide a considerable amount in developing such investment projects.

2. The COVID-19 leads to the "social distancing" phenomenon. To this end, the maritime logistics firm can apply some anti-epidemic funds (see Table 2) to develop virtual social interaction and distance business programme in challenging times. Collaboration with different parties along the supply chain members is crucial to optimize the supply chain operations.

3. For researchers, they can conduct interdisciplinary research studies focusing on COVID-19. The research

findings can provide constructive advice and useful guidelines for the maritime logistics firms to implement adaptation strategies. In the meantime, the researchers can apply some external grants to organize the conference, seminars, workshops with different scholars. As such, it provides an open-access platform for industrial leaders, stakeholders, researchers, experts to collaborate and discuss innovative actions and mitigation actions in response to COVID-19.

4. The employment of advanced technologies like VR, AI, and IoT are significant in developing e-logistics. In the context of COVID-19, the responsive, flexible, and reliable supply chain is a critical success factor in the maritime logistics industry. In doing so, the higher education institutions can revamp the curriculum and develop a new programme related to e-logistics in order to train up the professionals in the maritime logistics industry.

Table 1: Comparison between SARS in 2003 and COVID-19

	SARS in 2003	COVID-19
Number of Cases	8,437[1]	1,922,412[2]
Number of Death	813[3]	119,653[4]
No. of Affected Countries/Areas	32[5]	215[6]
Possible Reasons for the Disease	May have spread from wild civet cats to people[7]	No confirmed sources yet
Economic Loss	HK: GDP: $1,256,669 million (2003)8, grew 3.1% as compared to the figure in 2002[9]	HK (Latest Figures): GPD: $2,868,171 million (2019) Forecast GPD Growth Rate in Q1 2020: -0.3%[10]
(Seasonally Adjusted) Unemployment Rate	HK[11 12]: 7.5% in Q1 2003 8.6% in Q2 2003 8.3% in Q3 2003 7.3% in Q4 2003	HK (Latest Figures): 4.2% in Q1 2020[13] 5.2% in Apr 2020[14]

	SARS in 2003	COVID-19
Impact on Business/Trading	***Key Impacted Industries***[15 16]***:*** Aviation Education Entertainment Food and catering Hotel and hospitality Property Retail Telecoms Tourism Trading Transportation	***Key Impacted Industries***[17]***:*** Aviation Education Entertainment Food and catering Hotel and hospitality Retail Supply-chain and logistics Tourism Trading Transportation

	SARS in 2003	COVID-19
HKSAR Government Measures for Market Recovery	***Relief Measures***[18]***:*** $11.8 billion - Waiver of rates payments - Reduction of water and sewage charges - Reduction of trade effluent surcharges - Waiver of licensing fees - Rebate salaries tax - Commercial rent concession - Creation of new jobs and training places - Relief Loan Guarantee Scheme Set aside a provisional sum of $1.5 billion - Include $200 million fund for medical and nursing staff	***Relief Measures***[19]***:*** First round - $30 billion Anti-epidemic Fund (Appendix 1) First round - $120 billion package announced in the Budget[20] - Every Hong Kong permanent resident aged above 18 will receive HK$10,000 in cash - 100 per cent guarantee to Hong Kong companies taking low interest loans - Rebates in salary, property tax, and other government fees - A month of lower public housing rent - Double monthly allowance for low income families - Waive public examination fees (HKDSE) - Lower profit tax for companies

	SARS in 2003	COVID-19
	Set aside $1 billion for measures to revive economy after the syndrome is put under control	- Reduce government rents and rates - Subsidise electricity bills Second round - HK$137.5 billion economic relief package for the following areas[21] - Job retention, job creation, and job advancement - Hard-hit sectors - Easing the cash flow and burden of businesses and individuals - Other relief through government facilitation

Table 2: First-round $30 billion Anti-epidemic Fund[22]

Item	Application details for the 24 measures	Funding Commitments ($million)
1	Enhancing support to the Hospital Authority in combatting the epidemic	4,700
2	Support local mask production	1,500
3	Global procurement of personal protective equipment	1,000
4	Support property management sector in anti-epidemic efforts	1,000
5	Technology applications to enable reusability of masks	800
6	Support construction sector in anti-epidemic efforts	710
7	Support cleansing and security staff engaged by Government and Hong Kong Housing Authority service contractors in anti-epidemic efforts	250
8	Installation of emergency alert system	150
9	Home Quarantine Support	50
10	Ex-gratia payment to households of the two public housing estates designated as quarantine centres	30

Item	Application details for the 24 measures	Funding Commitments ($million)
11	Retail Sector Subsidy Scheme	5,600
12	Food Licence Holders Subsidy Scheme	3,730
13	Subsidy for the Transport Sector	3,230
14	Convention and Exhibition Industry Subsidy Scheme	1,020
15	Special Allowance for Eligible Working Family Allowance and Student Financial Assistance Households	990
16	Additional student study grant for 2019-20 school year	900
17	Rental waivers for tenants at the Science Park, industrial estates and Cyberport	380
18	Subsidies for live marine fish wholesale traders and fishing vessels with Mainland deckhands	270
19	Support to child care centres	220
20	Arts and Culture Sector Subsidy Scheme	150
21	Licensed Guesthouses Subsidy Scheme	150
22	Travel Agents Subsidy Scheme	140
23	Support to training bodies	90
24	Licensed Hawkers Subsidy Scheme	30

1. *https://www.who.int/csr/sars/country/2003_07_11/en/*
2. *https://www.who.int/emergencies/diseases/novel-coronavirus-2019/situation-reports*
3. *https://www.who.int/csr/sars/country/2003_07_11/en/*
4. *https://www.who.int/emergencies/diseases/novel-coronavirus-2019/situation-reports*
5. *https://www.who.int/csr/sars/country/2003_07_11/en/*
6. *https://www.chp.gov.hk/files/pdf/statistics_of_the_cases_novel_coronavirus_infection_en.pdf*
7. *https://www.news.gov.hk/isd/ebulletin/en/category/healthandcommunity/030523/html/030523en05011.htm*
8. *https://www.statistics.gov.hk/pub/B10300022019AN19E0100.pdf*

9. *https://countryeconomy.com/gdp/hong-kong?year=2003*

10. *https://tradingeconomics.com/hong-kong/forecast*

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12. *https://www.hkeconomy.gov.hk/en/pdf/er_03q3.pdf*

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15. *https://hub.hku.hk/bitstream/10722/88855/1/content.pdf*

16. *https://www.fidelity.com.hk/en/articles/investment-spotlight/2020-02-05-coronavirus-sector-impacts-and-lessons-from-sars-1580869343918*

17. *https://www.fidelity.com.hk/en/articles/investment-spotlight/2020-02-05-coronavirus-sector-impacts-and-lessons-from-sars-1580869343918*

18. *https://www.info.gov.hk/gia/general/200304/23/0423227.htm*

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21. *https://gia.info.gov.hk/general/202004/08/P2020040800810_339425_1_1586360416762.pdf*

22. *https://www.coronavirus.gov.hk/eng/anti-epidemic-fund-1.html*

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Investigation of IT technological tools react to logistics operations under COVID-19

YM Tang

1. Background

Recently, a damaging novel coronavirus (COVID-19) has been spread to every province and region in China, Hong Kong, as well as more than 80 countries around the world. The COVID-19 has gained momentum in other parts of the globe, and the signs that the number of confirmed cases continuously increasing and seems unstoppable. Despite the global economy provides greater opportunities from closer connectivity and further economic opening, it is slated for ambitious growth of the world economy that the COVID-19 threats could sink the dreams. The outbreak of the COVID-19 not only damaging to the global economy but also affecting human social activities. To prevent the further spread of the COVID-19, governments in different countries have quickly take caution and make considerations from various aspects to impose a limited quarantine or lockdown in regions. The boundary restriction in these countries and the global social distancing measurements has shut down nearly all logisticss operations and activities. The travel bans in various countries not only forbidden the interaction between human beings, but it also causes fatal damage to logisticss industries due to logisticss operations and activities were suspended.

Despite the COVID-19 has destroyed the logisticss industries over the last few months, the stock quote of Amazon (AMZN) in the United States (US) was raised from nearly US$2000 to over US$2400, which breakthrough record highs in less than a month. Amazon is one of the most influential economic and cultural forces in the world. Logisticss operations and delivery services are an essential part of Amazon as thousands of enterprise customers are using their services every day. It is obvious that the COVID-19 has no impact on its business, in contrast, the demand for their services is substantially increased. It is interesting to investigate how Amazon can handle the explosive worldwide demand and logisticss operations under the outbreak of the COVID-19. One of the major reasons is the application of technology in logisticss operations. It is valuable to investigate in detail how the application of technology can foster the evolution of the logisticss industries. Therefore in this article, we will discuss the applications of emerging technologies for logisticss operations in the following sections.

2. Application of technology for logisticss operations

To minimize the effects on the restrictions to the logisticss operations, the application of the latest technologies is one of the approaches. The application of emergent technologies not only reduce manpower interaction but also minimize the effects of social distancing restriction from the governments. We summarized two major advanced technologies that are potentially changing the future of the logisticss industries.

2.1 Shipment Tracking Systems

Previously, to track the status of the shipment and estimated delivery date, customers are required to make a phone call or contact logistics company personally. Nowadays, due to the advancement of internet technologies and the development of applications in today's mobile devices, customers can access to shipping and tracking systems 24/7. Customers will able to track the delivery status and the location of the packages. The system also allows them to monitor and manage their shipments, and design their shipment notification messages. The shipment tracking systems not only can enhance the user experience, but the self-service does no involves additional manpower. The shipment tracking system can save time and money for the company as well.

2.2 Internet of Things (IoT)

The Internet of Things (IoT) refers to the framework of the system that the physical devices such as mobile phones, machines, computers, and other devices, are interconnected together, exchanging data with one another over the internet. In the logisticss operations and related industries, they can make use of the IoT technologies for shipment tracking, warehouse monitoring, pallet distribution. IoT technologies can also be used to monitor the utilization of warehouses, cranes, vehicles, truck parking spaces, and other types of infrastructure. It can be used to monitor and manage various storage and shipment facilities so ask to pinpoint low usage resources for planning and optimization, help in logisticss flows, and related operations, etc.

The sensors in the IoT system can also be utilized to track the environmental factors such as the humidity and temperature of the storage rooms, and the physical locations of the products and transportation devices. Through the IoT technologies, operators can be controlled remotely in a centralized center to monitor the storage facilities, communicate with the couriers, directing them to a docking station, etc. Thus, it reduces logisticss congestion, enhancing efficiency, and resource optimization. IoT technology can be integrated with cloud computing to enables information and data flow

within the stakeholders in real-time, thus enhancing the efficiency of communication among different parties. The technologies can also be used for stocking taking, low-level inventory alert in different stores and distribution centers locations, etc.

A typical example of adopting IoT and cloud technologies under the outbreak of the COVID-19 is surgical masks logisticss operations. The stocktaking processes can be conducted efficiently without the requirement of additional manpower and eliminating mistakes by using IoT sensors. The cloud computing can be used to forecasting the demand for surgical masks in different locations, discovering the low-level stocks, deciding the masks distriction and delivery strategies, and optimizing logisticss resources.

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Implications of COVID-19 for Canadian ports

Roozbeh Panahi / Adolf K.Y. Ng

Canadian ports handle more than 20% of total imports and exports of the country (valued at more than $100 billion). The proposed Canadian Transport 2030 plan should enhance the evolving marine industry, with reconciliation of Indigenous peoples, local communities, environmental protection and climate change, safety and security and governance issues being among the drivers. However, events like Covid-19 pandemic cannot be overlooked neither at the strategic, nor tactical and operational levels.

The long-term effect of Covid-19 is yet to be evaluated considering the high degree of uncertainties, where a global supply chain revolution is among today's hot topics. However, its short-term footprint is obvious. The situation has affected both export and import operations in Canada. For those ports heavily reliant on transpacific container traffic, mainly along the West Coast, such effects appeared sooner, e.g., Vancouver port container traffic from China decreased by 20% in January 2020 compared to the same month last year. For other ports along the East Coast of the country which have transshipment connections with Asia, this domino effect was experienced later through difficulties finding Asian leg transport and slowed handling capabilities at transshipment ports in Europe. Moreover, national regulations affected all such ports. For example, cruise shipping was suspended on March 18, 2020 for those vessels capable of carrying more than 500 passengers and crew.

However, Canadian ports and the governing body through Transport Canada are practicing different risk controls, e.g., publishing safety brochures for ports and shipping lines as well as active disinfection where longshore workers have tested positive for COVID 19, and shore leave access monitoring by seafarers either for short breaks or crew changes. That said, if designed/practiced inappropriately, such measures could initiate a chain of adverse events. For example, there were discussions on shore leave access and how it has been addressed by the Canadian ports. Therefore, it is inevitable to consider the interaction among factors when devising/implementing new measures.

Canadian ports must monitor the market closely and strictly collaborate with logistics partners to prepare for timely actions to address issues with accumulating empty containers, transportation of perishable commodity and agriculture products as well as rescheduling cruise shipping. Therefore, ports must get prepared for a high season when the tide turns on COVID 19.

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新冠疫情對亞洲郵輪市場的影響與建議

Xiaodong Sun / Xiulian Cao

自 2020 年 2 月 1 日本橫濱港“鑽石公主號”郵輪被爆出現新冠肺炎病毒感染者以來，除了引發了較大範圍的社會關注及恐慌以外，大眾對於郵輪旅遊本身的情感定位也正逐漸由正轉負。由於郵輪本身獨特的空間屬性以及旅遊特殊性，使得多數人將其視為封閉的“病毒培養皿”，在此態勢下，郵輪市場受到很大重創。隨著全球疫情蔓延，郵輪停航範圍從我國及部分東南亞國家擴大到歐美等地區和國家[1]。那麼，對於最先受到波及的亞洲區域而言，其市場所受到的影響則更需要我們深入的思考與探究。由於疫情持續時間受很多因素影響，故疫情結束點很難確定，這一不確定性決定了整個亞洲郵輪市場甚至全球市場前景的預期難度，從而影響到各郵輪公司的戰略部署。

一、疫情對亞洲郵輪市場的影響

疫情爆發之前，亞洲郵輪市場已經成為繼北美和歐洲之後的第三大郵輪主體[2]，雖然亞洲尚且不是郵輪巡航的主要目的地，但已是世界郵輪產業的重要推動力。對於亞洲市場今年的狀況，據國際郵輪協會資料，2020 年全球大約有 10% 的郵輪部署在亞洲[3]。但是，由於疫情衝擊，市場不得不被迫應對，主要體現在以下幾個方面：

市場效益：疫情對郵輪市場的影響最直接體現在市場效益層面，其對整個行業造成的損失難以估量。且正常的運營程式被迫中止，郵輪公司所面臨的運營壓力巨大。一方面，在疫情初期，郵輪公司爭相改變航線，進行跳港操作，以避開疫情區域，直接導致亞洲掛靠港掛靠頻率的減少；另一方面，由於亞洲遊客數量的大幅減少，使得郵輪公司船票收入、船上消費、岸上消費等直接收入下降。比如，嘉年華公司稱如果在四月前中止亞洲的所有業務，其 2020 年的每股收益將削減 55—65 美分。華爾街預計該公司今年每股收益為 4.47 美元。另外，由於航次取消，使得以依賴靠泊費、遊客服務費、郵輪船舶物資供應等為主要收入來源的郵輪港口企業全部停擺，面臨著巨大的經營壓力[4]。

郵輪形象：由於疫情，郵輪形象落差鮮明，負面形象受到較多關注，大大影響了消費者對郵輪的安全認知以及郵輪旅行意願。自日本鑽石公主號被爆出新冠疫情以來，部分線上媒體對郵輪的描述以“豪華監獄”、“病毒溫床”、“恐怖郵輪”字眼見多，這與疫情爆發前郵輪的宣傳形象反差巨大，對郵輪旅遊這一形式本身以及郵輪公司都產生了相對消極的影響。尤其對於亞洲區域，不少郵輪正在“逃離”亞洲。

二、亞洲郵輪市場的建議

（一）對郵輪公司來說，積極調整市場運營，在此“浮沉之勢”下，韜光養晦，靜待利好契機。郵輪公司可在疫情緩衝期間，梳理整合產品結構，合理優化產品佈局，深入挖掘潛在消費需求，不斷充盈市場內涵。而且，郵輪公司可以思考一下當市場解封之時，公司可推出與此時機相契合的產品策略，以迎合消費者的需求，抓住消費者的眼球。

（二）更新安全衛生系統，完善應急設施。各郵輪公司應積極配合全國防控疫情要求，在嚴防疫情的過程中，主動排查評估船上安全衛生設施沒，升級郵輪安全衛生保障。近年製造的新郵輪在安全衛生方面也不斷精進，如星夢郵輪世界夢號、雲頂夢號在設計上，均實現了客房、船員房間和公共空間的新鮮室外空氣循環系統全覆蓋，船上醫療中心也配有隔離室等設施[5]。

（三）宣傳策略助力郵輪形象恢復，多方合作重建市場信心。當前的郵輪市場更多的需要正面宣傳，尤其針對郵輪安全性、保證性方面，利用合適新穎的宣傳推廣方式消除消費者郵輪陰影，修復郵輪形象。同時，各郵輪品牌積極採取前攝性行動，以突出自身的品牌形象，拉近遊客的品牌認知。此外，加強與政府、媒體等的合作交流，盡力爭取郵輪旅遊利好政策的傾斜支持以及宣傳時的流量聚焦。

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