

Ince & Co advises shipping companies to plan for prolonged Qatar disruption

Uncertainty remains over Suez Canal access and transshipment options

Dubai, 12 June, 2016 - Leading international law firm Ince & Co has advised shipping and transportation companies with cargo interests in Qatar to plan for a period of disruption and uncertainty, following the decision by a number of Qatar's neighbours and other nations to cut diplomatic ties and close borders with the Gulf State.

Major concerns have arisen among shipping interests over the unprecedented decision by the UAE, Saudi Arabia, Bahrain and Egypt to suspend land, air and sea transport links with Qatar.

Limited official information is preventing any certainty over the practical implementation of the severing of the maritime links between Qatar and other ports at this time, reports Ince & Co. The Port of Fujairah was the first one to issue a notice prohibiting all Qatari flagged or owned vessels, or vessels sailing to or from Qatari ports, from calling at Fujairah, with similar bans put in place by Saudi Arabia and Bahrain. DP World has applied the same prohibition to its UAE ports and extended this to cover vessels loading or unloading cargo intended for Qatar. Abu Dhabi Ports Company has also issued a similar circular although there were some suggestion that the restrictions would be relaxed.

On 11 June 2017, further to individual circulars being issued by various ports in the UAE, the Director General of the Federal Transport Authority ("FTA") has issued a notice to all UAE Ports and Ship Agents making clear that in order to implement the decision of the Government of the UAE on severing relations with the State of Qatar, all UAE ports must not :

1. Receive any Qatari flagged vessels or Qatari owned vessels;
2. Load or Discharge any cargo of Qatari origin;
3. Load UAE cargo to Qatar.

Following the FTA's notice, the Port of Fujairah has amended its initial circular on 12 June 2017 to reflect the FTA's position.

Rania Tadros, Managing Partner, Ince & Co Dubai, commented:

“The FTA notice differs in substance to notices which have been issued by some of the ports within the UAE during the course of the last week, and it will be interesting to see how the measures are now implemented. Of particular relevance is the fact that there is no reference to vessels not being given port clearance if the last port of call or next port of call is Qatar. As Fujairah Port has now updated its circular, this should mean that Vessels which have loaded in Qatar and wish to bunker in Fujairah may be able to do so as long as they are not Qatari flagged or owned. It is also notable that the measures are now being referred to as “Qatar sanctions”.

The positions of different authorities is evolving and shipping companies do not yet have a complete picture on which to base their contingency planning, but they should all take care to distinguish between official and unofficial news. It is also prudent to review contractual arrangements and whether there is a mechanism in place to deal with these disruptions. Where practical, they should make provision for dealing with such issues as potential payment problems, cargo restrictions, illegality and sanctions.

“It is impossible to confidently predict how the situation will develop, for how long the “Qatar ban” will remain in place and whether any further restrictions will be implemented. At this time, there are no signs that a wider sanctions regime against Qatar is being contemplated by the GCC states, but we recommend that affected parties monitor the situation closely and check for reports from official sources for guidance as to each State's position.”

Suez Canal access

As Rania Tadros explains, there has been no suggestion from the Egyptian

authorities that they will extend their actions to include restricting access to the Suez Canal for Qatari vessels and cargo. There have been recent suggestions that 2 Qatari owned vessels changed course as they were approaching the Suez Canal:

“There has been considerable speculation over access to the Suez Canal. Although Article 1 of the Convention of Constantinople (1888) provides access to the Canal to all vessels, irrespective of flag, Article 10 permits the Egyptian authorities to take measures for the defence of Egypt and the maintenance of public order. Accordingly, it is possible that Egyptian Authorities could use Article 10 as a reason to prevent entry. However, blocking Qatari vessels/vessels carrying Qatari cargo would have a significant impact on trade and trading patterns and there is no current indication from the Egyptian Government that it is adopting such a stance.”

Contractual implications

Ince & Co has highlighted several important contractual considerations for shipping companies facing disruption from the situation in Qatar. According to Rania Tadros:

“There are a number of contractual issues facing the shipping industry as a result of these developments. Charterparty provisions over “blockade” and safe port/berth warranties may be relevant under these circumstances. The concept of “frustration” may also arise if a vessel cannot get close to its nominated port as a result of the measures announced by the UAE, Saudi Arabia and Bahrain. Given these and other issues, those entering into charterparties that might be affected by the closure of ports to Qatari trade should consider incorporating terms that allocate the associated risks.

“It is also possible that the wording of existing clauses may be wide enough to embrace the prohibitions put in place by the UAE and others in relation to Qatari vessels. A party may also be able to rely on a force majeure event if it is expressly entitled to do so under the contract.”

Uncertainty over transshipment and trade

It is uncertain at this time what the consequences will be for transshipment cargo as a result of the disruption to air, sea and land links, although shipping interests are exploring whether this could present a practical alternative for cargo intended for

Qatar, according to Ince & Co. It is understood that Omani ports have already seen some ships diverted and Singapore is reportedly noting an increase in volume of bunker sales. Saudi Arabia has confirmed closure of the land border, across which 40% of food imports into Qatar are brought. Of the countries who have severed ties, the UAE and Egypt are importers of Qatari LNG.

Organisations seeking further information and advice on the developing situation in Qatar should contact Ince & Co.

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Editors Note

Photo Caption

Rania Tadros, Managing Partner, Ince & Co Dubai.

About Ince & Co

Ince & Co is an international commercial law firm. The majority of our work is for organisations in five sectors: aviation, energy, insurance, international trade and shipping. Our clients own, build, sell and purchase, manage, finance and invest in, lease of insure the high value assets that play a fundamental part in today's competitive global markets.

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