

Contract type	Question	Answer
Standard Time Charterparties	Are Owners entitled to refuse to follow orders for the vessel to proceed to a port where there has been a coronavirus outbreak?	<p>No, unless the port is prospectively unsafe or there is a specific clause entitling Owners to refuse to proceed.</p> <p>It is unlikely that an outbreak of coronavirus in the region would make a port unsafe, unless the position is such that the crew cannot be protected against serious illness by proper precautions and the likely delay in waiting for the port to become safe would be sufficient to frustrate the Charterparty. The risk of subsequent trading restrictions being imposed is unlikely to be sufficient to make a port unsafe.</p> <p>Even if the Charterparty contains the BIMCO Infectious or Contagious Diseases Clause for Time Charter Parties 2015, the vessel would still be obliged to proceed unless there is a real risk to the crew and other persons on board or a real risk of quarantine or other restrictions being imposed. The applicability of this clause is likely to be fact sensitive (depending, for example, upon the degree of real risk to crewmembers and the extent to which risk can be minimised). Other clauses may provide for different consequences; for example, clause 14(A) of the Baltime Form excludes from the permitted trading areas “any place where fever or epidemics are prevalent”.</p>
Standard Time Charterparties	If Owners proceed and the vessel is delayed at a port where there is coronavirus, will the vessel remain on-hire?	Yes, unless the issues affect the working of the vessel (due, for example, to sick crewmembers) in which case the position would depend upon the precise wording of the off-hire (and other) provisions in the Charterparty and upon whether the vessel was ordered to the port by Charterers at a time when they should have known that she would be subject to significant coronavirus risks (in which event Charterers may not be entitled to rely on the off-hire clause).

Standard Time Charterparties	If Owners proceed and incur expenses, costs and liabilities as a result of being traded to a port where there is coronavirus, would they be entitled to an indemnity from Charterers?	<p>Yes (even if there is not a specific clause such as the BIMCO clause), subject to issues of causation and subject to any contrary terms of the Charterparty.</p> <p>The indemnity could extend to problems faced by Owners after the port call in question (for example, if the vessel is subject to quarantine at a subsequent port), but there may be specific clauses affecting the position (for example, delays due to quarantine can put the vessel off-hire under the Shelltime 4 Form in limited circumstances).</p>
Standard Time Charterparties	Are Owners obliged to follow Charterers' orders to proceed to another port (in substitution for an affected port)?	<p>Yes, except where a Bill of Lading has been issued for the affected port (unless the Charterparty entitles Charterers to change ports where a Bill has been issued, perhaps against an LOI).</p> <p>It should also be borne generally in mind that proceeding to and discharging cargo at a port, other than that named in the Bill of Lading, can give rise to serious complications and potential (uninsured) liabilities under the Bill, irrespective as to whether this is done at Charterers' request or pursuant to Owners' entitlement under the terms of the Charterparty.</p> <p>An optional cover in case the cargo discharge at a port or place other than that provided for in the contract of carriage, is available for Members and Clients with an underlying P&amp;I entry with Skuld. Please contact your underwriter for further guidance.</p>
Standard Time Charterparties	Are Owners or Charterers responsible for cargo claims for delay or damage caused by delay due to coronavirus issues (for example, soybeans deteriorating only due to lengthy discharge delays at Chinese ports)?	<p>If the ICA is incorporated, Owners and Charterers are each likely to be 50% responsible under the Charterparty for payments made in respect of such cargo claims, unless Charterers were at fault by ordering the vessel to a port where they should have known there would be delay.</p> <p>Although, in principle, there should be no liability for the original cargo claim in these circumstances, there may be jurisdictions (for example, China) where such claims may be difficult to defend.</p>

Standard Time Charterparties	Can either party terminate the Charterparty on the basis of frustration?	No, unless the Charterparty requires a vessel to call at a port where there is a coronavirus outbreak (after the Charterparty was concluded) and the resulting delay and anticipated delay would be so long as to change the nature of the contract (which would normally require a very lengthy delay).
Standard Voyage Charterparties	Are Owners entitled to refuse to follow Charterers' orders for the vessel to proceed to a port where there has been a coronavirus outbreak?	<p>No, unless the port is prospectively unsafe (at the time of nomination) or there is a specific clause entitling Owners to refuse to proceed or the port is closed and is likely to remain closed for such a period as would frustrate the Voyage Charterparty.</p> <p>It is unlikely that an outbreak of coronavirus in the region would make a port unsafe, unless the position is such that the crew cannot be protected against serious illness by proper precautions and the likely delay (before the port becomes safe again) is such as would frustrate the Voyage Charterparty. Even if the Charterparty contains the BIMCO Infectious or Contagious Diseases Clause for Voyage Charter Parties 2015, the vessel would be obliged to proceed unless, there is a real risk of exposure to the disease or quarantine or other restrictions. Again, the applicability of such clauses will be fact sensitive (for example, the BIMCO clause only applies when the port becomes affected after the date of the Charterparty).</p>
Standard Voyage Charterparties	If Owners proceed and the vessel is delayed at the port by coronavirus issues, will time count as laytime or time on demurrage?	<p>Yes, provided that a valid NOR has been tendered, unless there is an applicable laytime/time on demurrage exclusion (in which regard general exception clauses which do not refer to laytime/demurrage will not usually be sufficient).</p> <p>However, if the ship is not allowed to enter the port or is unable to obtain free pratique, there may be an issue as to whether a valid NOR can be tendered: this would depend upon the charter terms. The usual ship operating expenses will not be covered. However, liabilities arising as a result (e.g. cargo delay and damage) may be covered provided the crew acted independently and against the instructions of on shore managers.</p>

Standard Voyage Charterparties	If Owners proceed and incur expenses, costs and liabilities as a result of being traded to a port where there is coronavirus, would they be entitled to an indemnity from Charterers?	No, unless the port was prospectively unsafe at the time it was nominated or there is a specific clause (such as the BIMCO Infectious or Contagious Diseases Clause for Voyage Charter Parties 2015) entitling Owners to an indemnity.
Standard Voyage Charterparties	Are Owners obliged to follow orders to proceed to another port (in substitution for a port where there has been a coronavirus outbreak)?	No, unless the Charterparty entitles Charterers to change their nomination.
Standard Voyage Charterparties	Are Owners or Charterers responsible for cargo claims relating to delay or damage caused by delay due to coronavirus issues?	Neither party (as a general rule) would be responsible to each other under standard terms (in which case the loss would lie where it falls), but much may depend upon the factual circumstances.
Standard Voyage Charterparties	Can either party terminate the Charterparty on the basis of frustration?	<p>No, unless the outbreak occurred after the Charterparty was concluded and the delay and anticipated delay at the nominated port would be so long as to change the nature of the contract (which would require a lengthy delay, unless there is a perishable cargo). Even if the port is closed, that would only entitle a party to terminate if the closure was anticipated to be so long as to change the nature of the contract.</p> <p>However, there may be force majeure provisions in the Charterparty which allow a party to terminate in the event of a specified period of delay or which otherwise exclude responsibility for non-performance. The applicability of these clauses will be fact sensitive, depending on the wording, depending on the nature and extent of the delay and depending on whether the event preventing performance only occurred after the Charterparty was concluded.</p>