

TRADE CIRCULAR No. 1280

Sub: ***Effect of Corona Virus [CoVID-19] on Port Activity and Operations-
Declaration of Force Majeure Clause at Visakhapatnam Port Trust.***

References:

- (i) Office Memorandum No. F.18/4/2020-PPD dated 19-02-2020 of Ministry of Finance, Department of Expenditure, Govt. of India
- (ii) Letter of Ministry of Shipping, Govt. of India to Chairmen, Major Ports vide No. PD-13/33/2020-PPP-e-339106 dated 24-03-2020
- (iii) Letter of Ministry of Shipping, Govt. of India to Chairmen, Major Ports vide No. PD-14033/4/2020-PD VII dated 21-04-2020

Ministry of Finance vide Office Memorandum 1st cited have defined Force Majeure [FM] as an extraordinary event or circumstance beyond human control such as an event described as an act of God (like a natural calamity) or events such as war, strike, riots, crimes (but not including negligence or wrong doing, predictable/seasonal rain and any other events specifically excluded in the clause). An FM clause in the contract frees both parties from contractual liability or obligation when prevented by such events from fulfilling their obligations under the contract. An FM clause does not excuse a party's non-performance entirely, but only suspends it for the duration of the FM. The firm has to give notice of FM as soon as it occurs and it cannot be claimed ex-post facto.

2. The Memorandum further clarifies that, CoVID-19 pandemic should be considered as a case of natural calamity and Force Majeure Clause (FMC) may be invoked, wherever considered appropriate, following the due procedure as above.
3. Ministry of Shipping vide letter 2nd cited, have stated that the Major Port Trusts may consider CoVID-19 pandemic as a valid ground for invoking Force Majeure Clause on port activities and port operations also.
4. Ministry of Shipping vide letter 3rd cited, have further stated that, Ministry of Home Affairs, Government of India had issued order No.40-3/2020-DM-I (A) dt.24.03.2020 and subsequent order dt.14.04.2020 along with its amendments to impose lockdown from 22nd March to 3rd May, 2020 to contain CoVID-19 pandemic in the country.

5. In view of the CoVID-19 pandemic and pursuant to the aforesaid directions of the Government of India, Visakhapatnam Port Trust hereby declares "General Force Majeure in respect of Port activity and operations," for the period from 22nd March to 3rd May, 2020, wherein VPT will not be responsible for any claim, damages, charges etc, whatsoever, arising out of and/or connected to the above Force Majeure period.


CHAIRMAN

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