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The oil price collapse and its effects on P&I cover: change of use and deviation

During the course of 2020, the oil price has fallen dramatically. In consequences to this, a contango situation has arisen: oil is being purchased at rock-bottom prices and held in storage on the expectation that the futures price will drastically improve. However, storage facilities are becoming scarce. As a result, many tanker operators have been instructed by their charterers to change their course, discharge to a storage ship or simply lay idle.

But what practical consequences does this have for international trade and is P&I cover affected?

A typical contract of carriage for oil products by sea will provide for the transportation of oil from Port A to Port B. It is the carriers obligation to proceed without delay and deliver the cargo in accordance with that contract, usually evidenced by the bill of lading. Failure to do so or delivering that cargo to an alternative port or place could mean that the carrier has deviated from the contractually agreed voyage and, therefore, is in breach of contract. This is likely to be the case unless the parties to the contract for carriage have agreed an amendment and re-issued bills of lading.

A deviation is also likely to place the carrier in breach of his P&I cover – mainly because a deviation is likely to deprive the carrier of its right to rely on defences or rights to limit liability. When receiving any such instructions, a ship owner must be aware of his contractual position under both the charterparty and under the contract for carriage. We strongly urge all PL Ferrari clients to notify your PL Ferrari point of contact in such circumstances to review the position and advise whether or not cover is affected.

Furthermore, where a tanker operator has taken the decision to operate its ships as floating storage, this could constitute a substantial change of use of the ship and, subsequently, a disclosable change of risk. Such changes may need to be notified to underwriters to ensure that cover remains in place.

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