

University of Piraeus

MSc in Shipping Management

Claims & Claims Handling

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MORE THAN 30
YEARS



UNIVERSITY OF PIRAEUS
DEPT. OF MARITIME STUDIES

OF MARITIME STUDIES EXCELLENCE

Define Claim

Cambridge : “official request for money after an accident or a bad event, from the person who caused you harm”

▪ When

- Financial damage
- Damage of Interest
- Breach of values
- Breach of rules

▪ Required

- Silent agreement
- Contract
- Common values

▪ Where

- Hotel
- Restaurant
- Rental
- Friendship / Marriage
- Education

▪ Method of resolution

- Agreed method
- Experts
- Mediation / Arbitration
- Legal Proceedings

Shipping has everything?

Common Sense



Approved for service

**ARRIVAL AT THE REQUESTED
DESTINATION WITHOUT ANY DELAY**

**TIME SPENT WAITING FOR THE
CUSTOMER**

CUSTOMER'S REQUEST TO ACCELERATE

FLAT TIRE

**CUSTOMER'S REQUEST TO DEVIATE TO
PICK SOMEONE ELSE**



Arrived & Ready (NOR)

**ARRIVAL AT DISCHARGING PORT WITH UTMOST
DISPATCH**

**LAYTIME / DEMURRAGE
AT LOADPORT**

SPEED UP REQUEST

VESSEL'S BREAKDOWN

REVISED ORDERS - DEVIATION CLAIM

Assumptions and Glossary

Assumptions

- Voyage Charter – Spot
- Main approach from Owners view
- Ideal processes and conditions
- Different opinions between Isidoros and Vangelis

Glossary

- Charter Party terms
- Included paid with Freight
- Demurrage rate
- Counts as laytime/demurrage
- ... for Owners' / Charterers' account
- ... Owners / Charterers responsibility

The 4 Stages Of The Voyage Charterparty*

1. The Preliminary Voyage: From where she is, to the place specified in the c/p as place of loading,
 2. The Loading Operation: The Delivery/Loading of cargo to the vessel at Loadport,
 3. The Carrying Voyage: Towards the place specified in the charterparty as the place of delivery,
 4. The Discharging Operation: Delivery of cargo at the specified place and its receipt by the Charterer,
-
- 1st and 3rd stage involve performance solely by the Shipowner,
 - Claims – T/straits, Heating, Speed-up... (Master's statement...)
 - 2nd and 4th require acts of performance by both the Shipowner and the Charterer
 - Demurrage claims (NOR, SOF, LOP, Pumping log....)
 - that's where most disputes arise

Voyage Financial elements - Freight

1. PORT EXPENSES & EXPENSES FOR THE LADEN PASSAGE

Voyage is performed via the shortest route, at specific speed carrying specific cargo quantity

2. TIME & BUNKERS CONSUMPTIONS FOR A MOST ECONOMICAN ROUTE



3. LAYTIME ALLOWANCE:
FIXED PERIOD AGREED TO BE USED FOR
CARGO OPERATIONS – 72/84/96 hrs

4. SHIP OWNERS PROFIT MARGIN

Synergies

Operations

- Claims to be produced
- Supporting documents
- Info for voyage execution
- Technical support

Legal

- Support – Opinions
- Intervention
- Proceedings

Chartering

- C/party details
- Contract clarifications-support
- CRM – Charterers profile

Finance – Accounting

- Books closing
- Results
- Financial Plan

Type of claims

■ Profit related

- Voyage Duration
- Time at ports
- Extra service time

■ Cost compensation

- Port costs
- Extra service expenses

■ FREIGHT / HIRE

- Transportation of cargo from Loadport to Disch-port
- Hire \$ per day

■ DEMURRAGE

- Time - delays at ports (time days x \$)

■ EXTRA TIME USED - (time days x \$/pay)

- Waiting orders
- Interim port
- T/Straits delays

■ DEVIATION

- Additional steaming time (time x \$)

■ EXTRA COSTS

- Bunkers (qty consumed @ Price)
- Heating expenses –
- Speed – up
- Extra port – Security WAFR
- Towage exps

Main Dimensions

Production

- C/party interpretation
- Prepare Claims
- Billing
- Submission of claim/invoice

Defense

- Protect Owners' interests
- Protect c/party agreement
- Clarify Claim's elements
- Argue against objections
- Negotiate
- Seek for resolution

Legal

- Support
- Legal Opinions
- Intervention
- Proceedings

CRM

- Support business relations with our clients
- Giving feedback and suggestions to Operations and Chartering
- Business trips

Education - Training - Talent



Heating claim

Charterers' instructions:

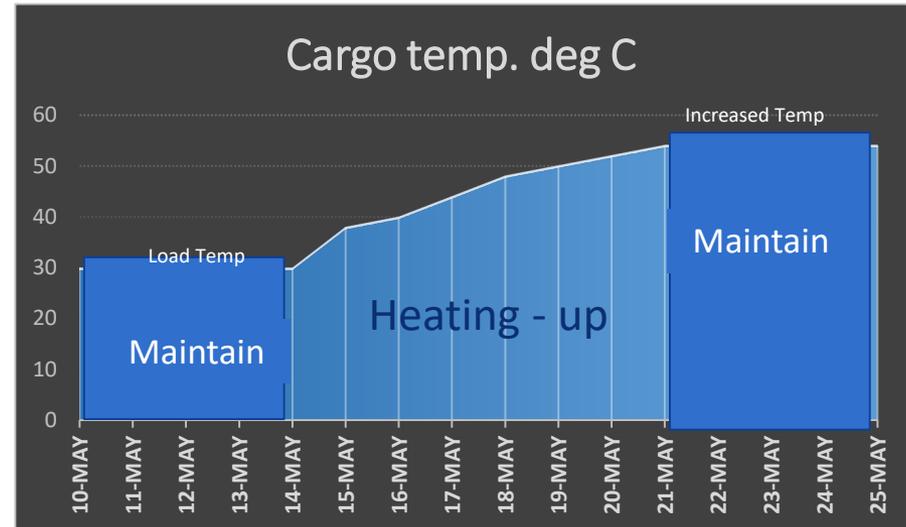
Vessel to Maintain Cargo loading temp at 30 Deg C

Increase cargo Temp to 52 deg C and maintain until discharging operation is commenced

Charter Party Terms

VESSEL TO MAINTAIN LOADED TEMPERATURE UP TO MAX 75 DEG C.

ANY CARGO HEAT-UP TEMP TO BE AS PER CHARTERER'S INSTRUCTIONS ONLY, AND ON CHARTERERS ACCOUNT.



Bunkers consumed QTY (mt) x \$ (per mt)

- IFO 60 mt x \$ 600 pmt = \$36.000

- Invoice
- Vessel Statement - QTY (mt)
- Bunkers invoice (\$ per mt)
- Engine logs
- Charterers' orders

Speed - up claim

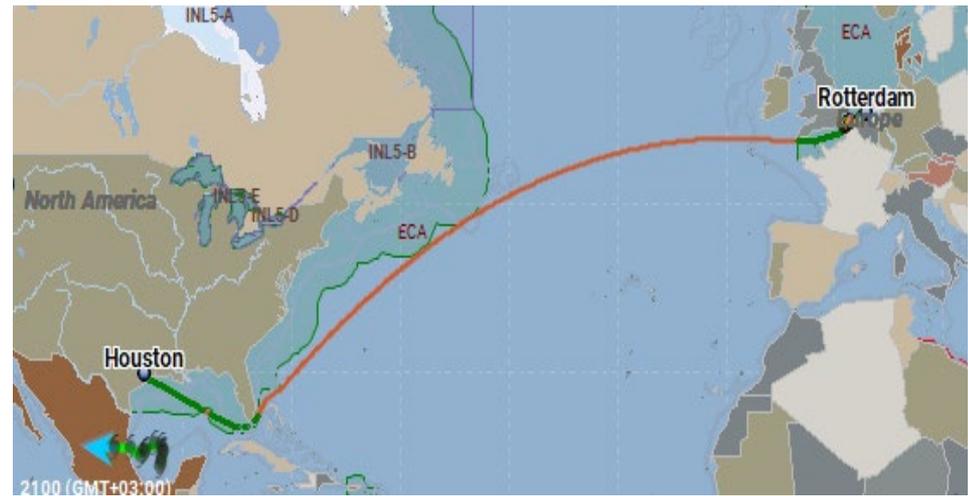
Charterers' instructions:

Vessel to increase speed @ 14 knots with the aim to arrive at Rotterdam before "30 June 24"

Charter Party Terms

Vessel to achieve service speed @ 12.5 knots weather permitted.

Any extra consumption due to speed-up to be for Charterers account



Calculations

Houston – Rotterdam : 5,024 miles

@ 12.5 knots = 16.75 days

- Consumption = 45 mts / day – 753.75 mt

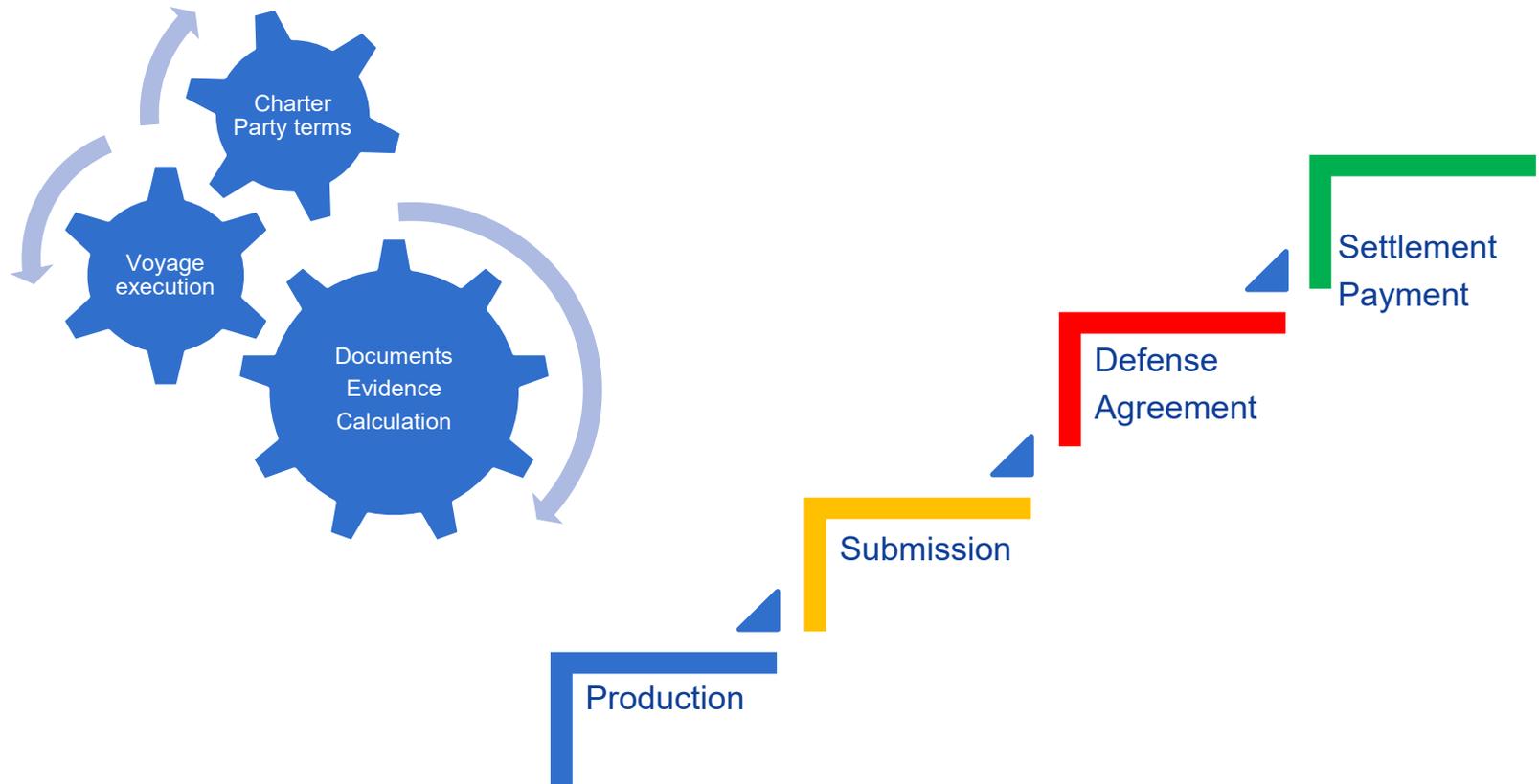
@ 14.0 knots = 15.00 days

Consumption = 55 mts / day – 825.00 mt

Extra consumption

- 71.25 mt x \$ 600 pmt = \$42,750.00
 - Invoice
 - Vessel Statement - QTY (mt)
 - Bunkers invoice (\$ per mt)
 - Charterers' orders

Process



Characteristics of Efficiency

Environment

- Common values to serve
- Common goal
- Strong and structured processes
- Clear task for each stage
- Secure info flow - sharing
- Internal training
- Strong synergies

How to act

- Strong Network
- Brand
- Ability to decode others
- Self – Confident
- Patience
- Well defined Goal and Strategy

Personal profile

- Values to serve and protect
- Education and Knowledge
- Training
- Strong comprehension to understand
- Ability to cooperate with others
- Maths and IT skills
- Act respectfully

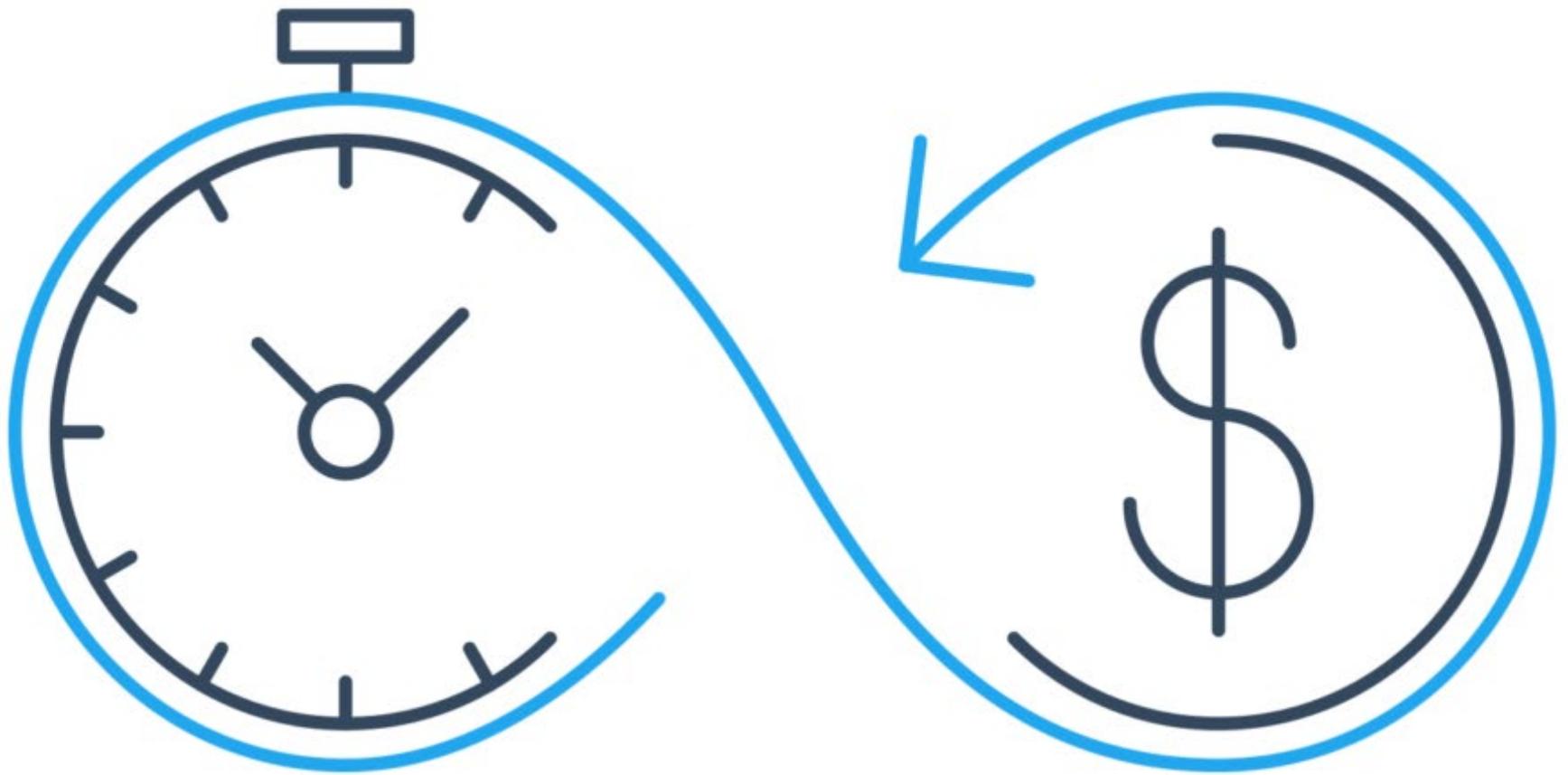
Under English Law

The crucial question is not always ...

...which party is responsible for a delay

Freedom of contract means that the crucial question is ...

*... which party is to bear the risk (pay the cost) of delays
as defined in the charter party*



This is why Demurrage Claims are born

Demurrage = Converting Time to Money...

So is it Laytime or Demurrage?

- **Laytime allowance:**

- The period allowed for cargo operations that Charterers bought when paid freight,
- For tankers is usually 72/84/96 hrs, (but depends on cargo, ports called and vessel size),
- Once it has expired the vessel is deemed to be **on demurrage**,
- Then Charterer has to pay a compensation to the **Owner** at the rate agreed in the charter party,

- **Demurrage:**

- is a predetermined Dollar (\$) amount payable per day pro rata,
- Per court decisions, it is deemed to **include Idle Bunkers & Port Expenses**,
- Is **subject to specific rules** regarding **commencement, ending, interruptions and supporting documentation** (depending on the Charterparty and clauses agreed),

Demurrage in numbers



IF TIME SPENT AT LOADPORT (100 Hours) **+** TIME SPENT AT DISPORT (60 Hours) **>** LAYTIME ALLOWANCE (84 Hours)

THEN DEMURRAGE = 100 + 60 – 84 = 76 Hours or 3.16 days
Demurrage Rate : \$ 30,000 per day

Demurrage Claim : 3.16 days x \$30,000 = \$ 95,000.00

Demurrage as Sole Remedy

- The demurrage rate is intended to liquidate the shipowner's loss of earnings arising from the loss of use of the ship to earn freight (K Line Pte v Priminds Shipping (HK) Co. Ltd [2020] EWHC 2373 (Comm) (*The Eternal Bliss*))
- it is ***the only remedy*** available to the shipowner for delays occurring during loading or discharging and there is no right to recover additional losses (extra bunkers, port costs, future hire etc) unless:
 - the charter party says so: *OR*
 - the shipowner can prove a completely separate breach of contract on the part of the charterers. (*"Luxmar"* (2007) 2 Ll. Rep. 542 C/A, *"Eternal Bliss"* [2022] 1 Lloyd's Rep 22)

When is Demurrage Payable?

- ExxonVoy 2012 Cl 13d:
 - (d) **PAYMENT.** Charterer shall pay demurrage per running day and pro rata for a part thereof for all time by which the allowed laytime specified in Part I (I) is exceeded by the time taken for loading and discharging and for all other Charterer's purposes and which, under this Charter, counts as laytime or as time on demurrage.
- The question is important in the context of a lien for demurrage (a lien can be exercised only for amounts due AND PAYABLE at the time it is being exercised)
- **There is no lien for future debts**
- When demurrage is payable depends on the terms of the charter
 - p.ex. "undisputed demurrage payable every 7 days"*

When is Demurrage Payable?

- In some cases the terms of the charter will provide an answer:

7. Demurrage 122

Demurrage at the loading and discharging port is payable by the Charterers at 123
the rate stated in Box 20 in the manner stated in Box 20 per day or pro rata for 124

any part of a day. Demurrage shall fall due day by day and shall be payable 125
upon receipt of the Owners' invoice. 126

In the event the demurrage is not paid in accordance with the above, the 127
Owners shall give the Charterers 96 running hours written notice to rectify the 128
failure. If the demurrage is not paid at the expiration of this time limit and if the 129
vessel is in or at the loading port, the Owners are entitled at any time to 130
terminate the Charter Party and claim damages for any losses caused thereby. 131

(clause 7 of Gencon 1976)."

- Even when the charter is silent on this issue, there is a presumption that demurrage is payable day by day *(although payment may not usually be demanded on that basis "Lips" (1987) 2 Ll. Rep at 315).*

The Demurrage – Time correlation

- **Time commencement**

- When the laytime clock starts to count

- **How does the time count?**

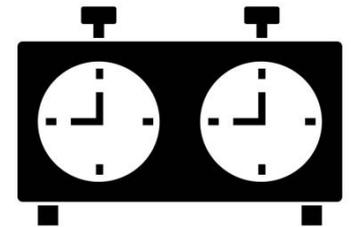
- In Full – Charterers pay for ALL of time
- Does not count - For this period of time the Charterers do not pay
- At a reduced rate (usually 50%) - For this period the Charterers pay half of \$\$ due

- **Time ending**

- When the laytime clock stops to count

When does the Laytime Clock starts to run?

- The ship must have reached the agreed destination (to be an ***arrived ship***),
and
- She must be ready to perform the work required by Charterers,
and
- A valid Notice of Readiness (NOR) must have been given.



So, what is a Notice of Readiness (NOR)?

- A notification that vessel ready to start the charter service (upon a Time Charter delivery) or is ready to load/discharge cargo (on a Voyage charter)
- Why is an NOR served?
 - to inform the charterers that the vessel is at their disposal, and
 - to start the running of hire or laytime
- How is an NOR served?
 - At common law, the notice may be given orally or in writing.
 - An e-mail will not be considered permissible unless expressly provided for in the charterparty (“The PORT RUSSEL” [2013] EWHC 490 (Comm); [2013] 2 Lloyd’s Rep 57).

Valid Vs Invalid NOR

- Laytime will start only in the case of a ***valid NOR***
- A notice of readiness contains several statements of fact.
 - If facts are untrue the notice is invalid and ineffective to start laytime.
 - Facts must relate to the time that they are made and when the notice is given
- If untrue when made, the notice does not subsequently become valid when the circumstances change (The MEXICO I *[1990] 1 Lloyd's Rep. 507 (CA))
- However a notice tendered to the wrong party or at the wrong time of day (*Uncontractual NOR*), may still be regarded as valid (the "PETR SCHMIDT", [1997] 1 Lloyd's Rep 284; (CA) [1998] 2 Lloyd's Rep 1).

Nor Validity: Physical & Legal Readiness

1. The vessel must be **“physically ready”** ,

i.e. Fit in all respects to load or discharge the whole cargo

- Extends to all equipment required for the cargo operations (hatches, cargo gear and equipment etc.)
- The vessel has to be ready and able without delay when charterers give orders to load or discharge - *Tres Flores*” (1973) 2 Ll. Rep. 247.

2. The vessel must be **“legally ready”**

i.e. All papers necessary to commence loading/discharging must be in order. This requirement will normally include:

- Customs clearance or entry;
- ISPS, Immigration and police approval;
- Health or free pratique permit
- Routine formalities will not prevent the ship from being ready - *Tres Flores*” (1973) 2 Ll. Rep. 247.

To Reach The Agreed Place (*being an “Arrived Ship”*)

A **Berth** or a **Port** Charter Party?

- A charter for “**one safe berth London**” is a **Berth** charter party
- A charter for “**London, one safe berth**” is a **Port** charter party.

- In a **Berth** Charter Party, time commences as soon as the ship is at a **specific berth** of a port and a valid NOR is tendered;
 - Time lost while waiting for berth due to congestion, **will not count** as Laytime.

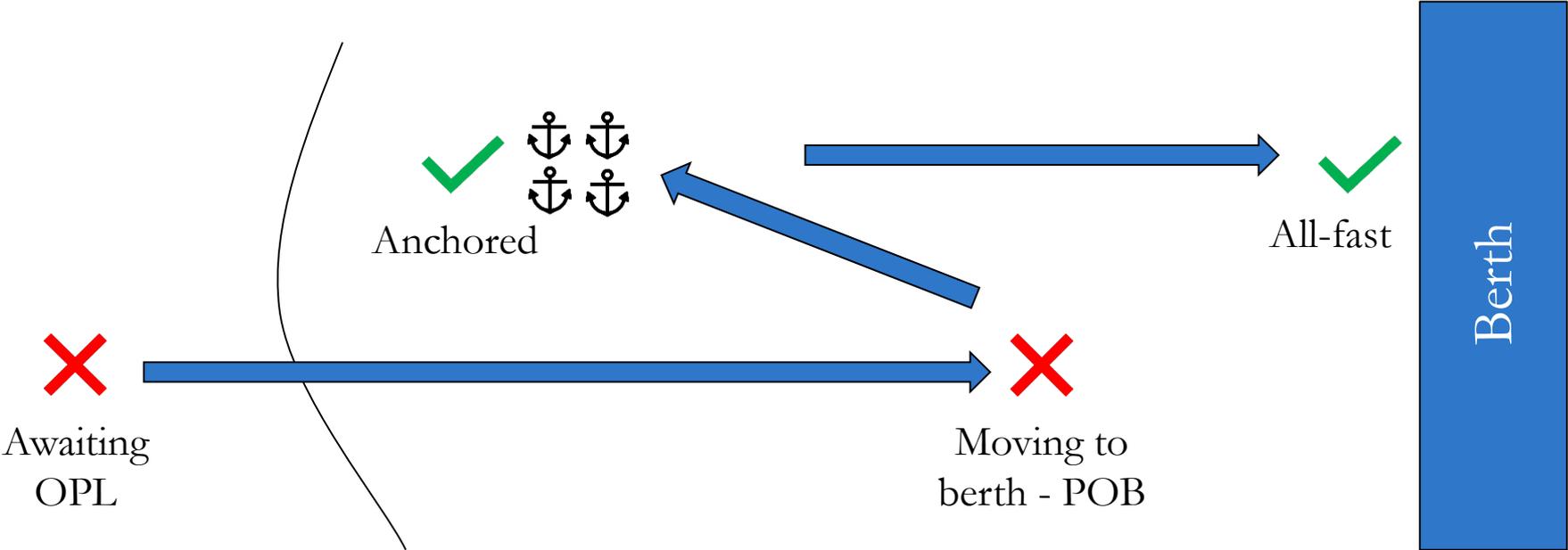
- In a **Port** Charter Party, the ship may tender NOR as soon as she arrives in the usual waiting area of the port.
 - Time lost due to congestion of the port, **will count** as Laytime.

To Reach The Agreed Place (*the “Arrived Ship”*)

The Reid test:

- If the charter is a **port charter** she is an arrived ship when she has reached a position **within the port** where she is at the immediate and effective disposition of the charterer (*E. L. Oldendorff & Co. v Tradax Export S.A. (The Johanna Oldendorff) [1973]*)
 - if no berth is available, the vessel **must reach a position within the port** where waiting ships **usually lie** (the customary waiting area)
 - If the customary waiting area is **outside the limits of the port**, then **No Valid Notice of Readiness** can be served.
- **An invalid NOR cannot become valid** (*The Agamemnon*)

Tendering a valid NOR



How does the time count?

Interruptions Vs Exceptions to Laytime

- Interruptions to laytime
 - a period when time does not count because it is outside the definition of laytime as expressed in the laytime clause (*p.ex. laytime expressed in "Weather Working Days"*)
- Exemptions / Exceptions to laytime
 - a period that is within the definition of laytime, but is excluded by an exceptions' clause (*p.ex. an additional clause excluding time lost due to adverse weather*)

The difference:

- An **Interruption** only requires that the excluded state of affairs **exists** at the place where cargo would have been worked (*bad weather exists*).
- An **Exception** necessitates to show a **causal connection** between what is excepted and the failure to work cargo (*bad weather prohibits loading*)

Issues with Exception Clauses

Laytime Exceptions will be:

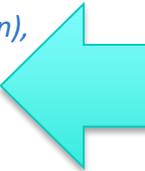
- strictly construed and an ambiguous clause will offer no protection
- construed ***contra proferentum*** i.e. against the party for whose benefit they are included in the charter
- Charterers cannot avail themselves of the exception clause if they could overcome - by reasonable endeavor - the obstacle
 - If a Port Authority orders the suspension of loading at a berth but there is another berth where the cargo can be loaded, although at extra time and expense to the charterer, then the clause will not protect the charterer.

CALCULATIONS – Basic Principles

- **Commencement:**
 - Typically at Valid NOR + 6 hrs or Arrival at berth - *whichever is earlier*, OR Commencement of Loading / Discharging,
- **Ending:**
 - Hoses Off or Completion of Cargo documentation at Loadport,
 - Hoses off at Disport
 - Vessel separation or Full Away at STS,
- **Interruptions & Exclusions**
 - Inward & outward passage / waiting tide/tugs/pilot,
 - Vessel-related reasons (*Breakdown, bunkering, deslopping, Health / COC Inspection*),
 - Labor disputes Involving Tugs/Pilots/Crew members
 - Actions or restrictions by local Authorities
- **Running at reduced rate** (*usually 50%*)
 - Bad weather (*Ordinary Dock Vs not protected berth / STS / sealine*)
 - Terminal breakdown



But check for implications of Free Pratique & Clearance on NOR validity



Unless concurrent with operations or if other factors prevail

In Such case, better collect info on:

- In case of Bad weather:
 - Information on Actual weather conditions as measured on board
 - Vessel line up / violation of vessel's turn for berthing
 - Cargo / Terminal ullage availability
 - Status of berth (full / vacant) and if operations take place
- In case of Breakdown:
 - Nature / location of breakdown
 - Commencement and ending of the event
- In case of Strike
 - Who is participating (tugs/pilots/dock workers/terminal workers)
 - Whether strike was announced (and when) or not

Demurrage – Brains and Bureaucracy

- **Supporting documentation**

- Normally requires all NORs / SOFs & LOPs issued, Vessel COW & Pumping Logs
 - Signed by Master, Agent, Terminal Representative and/or Cargo Surveyor
- Additionally depending on specific Charterer requirements:
 - » ETAS (Mercuria)
 - » Bills of Lading for co-loads (Chevron)
 - » FP request emails (PETRACO)
 - » Terminal Pumping Log (BPCL / BORL / IOC and other Indian Charterers)

- **Claims Clauses:**

Claims ... must be presented ... with all supporting documentation substantiating each and every part of the claim... within 60 days otherwise **Claims will be extinguished & Charterers shall be released from liability to pay...**

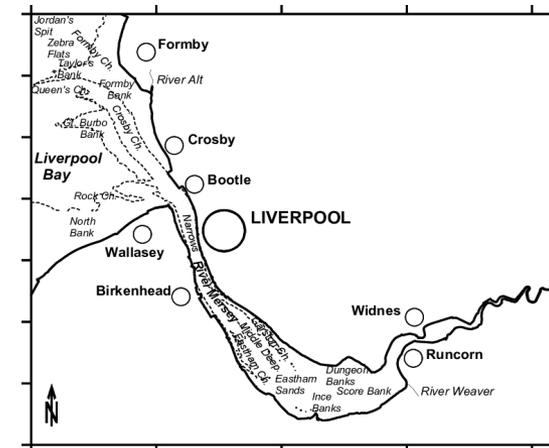
- Babanaft International Co. SA v Avant Petroleum Inc. (the Oltenia) [1982] 1 Lloyd's rep 448
- Lukoil Asia Pacific Pte Limited V Ocean Tankers (Pte) Limited (The Ocean Neptune) [2018] EWHC 163
- National Shipping Company of Saudi Arabia v BP Oil Supply Company (The "Abqaiq") [2010] EWHC 3043 (Comm);[2011] EWCA Civ 1127

Case Studies:

Common Law Vs Common Sense

The Johanna Oldendorff

- Vessel chartered to carry grain from USA to *Liverpool/Birkenhead*
- *NOR Provision: “...Time to count from the first working period on the next day following receipt during ordinary office hours of written notice of readiness to discharge whether in berth or not...”*
- Vessel proceeded to Liverpool/Birkenhead & anchored at Mersey Bar anchorage and next day to Liverpool and clear with customs,
- Ordered by Port Authority to proceed back to anchor at the bar light vessel (17 miles from dock but within the legal/administrative limits of the port)
- NOR was tendered shortly after, but vessel was called after 17 days to discharge
- Owners claimed demurrage – Charterers rejected
- Dispute: whether the vessel was an “arrived ship” at the Mersey Bar (Owners), or whether laytime only began to run 16 days later when she was eventually admitted to a berth (Charterers).



Problems with Demurrage

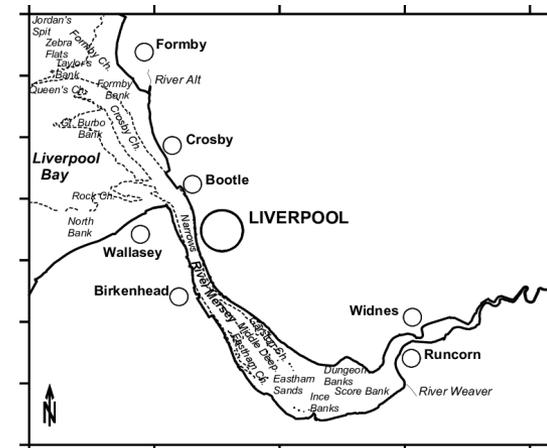
House of Lords held:

As Mersey Bar is within the administrative limits of the port of Liverpool/Birkenhead and as it is normal anchorage for vessels waiting for berth at that port, the “Johanna Oldendorff” was held to be an arrived ship.



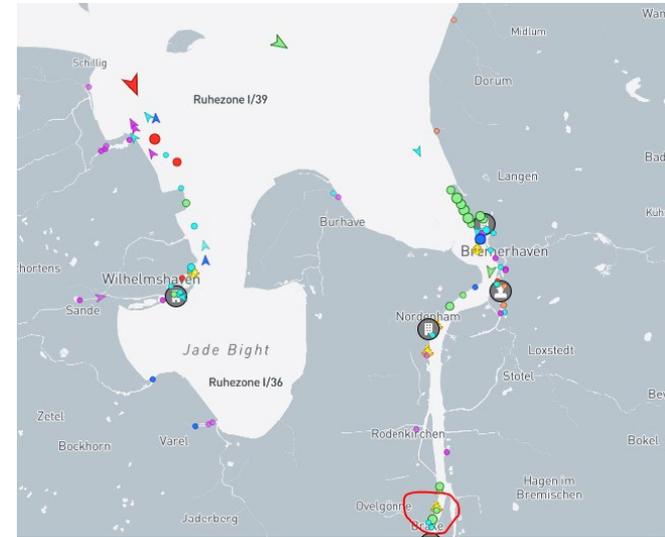
The “Reid test” in the “Johanna Oldendorff” causes problems when the customary anchorage is outside the fiscal and commercial limits of the port.

- e.g. at Rotterdam where the recommended anchorage is off the Hook of Holland and partly outside Dutch territorial waters



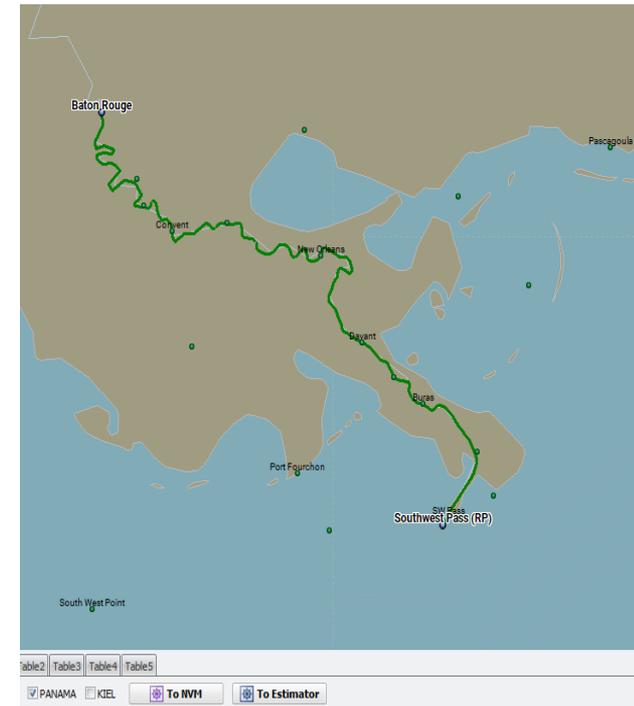
The Maratha Envoy

- Charterers nominated Brake, a river port on the Weser as the port of loading.
- No berths were available upon arrival and vessel was instructed not to proceed upstream but to wait at the Weser light (normal waiting place 25 NM from Brake)
- She conducted a number of voyages upriver to Brake, where she tendered notice of readiness, but then turned and returned back to the anchorage.
- *HELD:* these maneuvers were considered as “voyages of convenience” which did not serve to make the vessel an arrived ship.



The Agamemnon

- Vessel fixed to discharge steel pipes at Baton Rouge
- Per CP ***“if the berth was not available on the vessel’s arrival at the port or so near thereto as she may be permitted to approach, NOR could be tendered on arrival and laytime would then commence as if she were in berth and in all respects ready”***.
- NOR given at the SW Pass (customary waiting area for vessels entering Mississippi to upriver ports),
- She arrived at Baton Rouge general anchorage after 2 days but, due to unavailable berth, loading commenced later the following day.
- Charterers considered the NOR tendered at SW Pass was given *prior vessel’s arrival at a point so near to Baton Rouge as she could approach*



The Agamemnon

- Baton Rouge had its own anchorage about 170 miles from the South West Pass and therefore the vessel was not an “arrived ship”.



Court of Appeal Held:

If there had been no loading berth or river anchorages available when the vessel arrived at the SW Pass, so that she could proceed no further, the NOR would be valid but that was *clearly not the case* and the notice was therefore invalid and could not trigger the commencement of laytime.

The Arundel Castle

- At disport berth unavailable due to congestion
- Directed by Port Authority to a place where she anchored & tendered NOR.
- Per Admiralty Charts, this place was 1.2 NM off port limits
- A dispute arose as to whether the notice of readiness was valid
 - clause 6(c) of GENCON94 referred to the vessel's arrival "at or off the port of loading/discharging,
- Clause 15 of the fixture recap provided that:
 - *"(Notice of Readiness) to be tendered at both ends even by cable/telex/telefax on vessels arrival at load/dish ports within port limits. The [notice of readiness] not to be tendered before commencement of laydays."*
- Arbitrators rejected the demurrage claim bss invalid NOR



The Arundel Castle

Owners appeal:

“port limits” could include places where vessels are customarily asked to wait by the port authorities and/or that are outside the legal, fiscal or administrative area where vessels are ordered to wait for their turn no matter the distance from that area.



High Court held:

“the step to include places outside the legal, fiscal or administrative area where vessels are ordered to wait their turn was ***a large and uncertain once***, especially given the reference to “no matter the distance”. This would make the shift of responsibility uncertain” – ***appeal dismissed***.



The MEXICO I

- Fixed to carry Maize & Beans under 2 separate CPs from South America to Angola
- Owners could load other cargo stowed over maize and beans
- On arrival Luanda, NOR given although the part-cargo was inaccessible due to over-stowage
- The maize became accessible 17 days later & the beans 13 days after
- The charterers or their agents had informal notification of the maize becoming accessible
- Actual discharge of both cargoes commenced when both cargoes became accessible
- **Dispute:** whether laytime commenced when the Maize became available or when actual discharge commenced 13 days later.

High Court Held:

- Laytime commenced when Maize became available to the knowledge of the charterers



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Court of Appeal Held

- NOR was invalid when given and ineffective even if the charterers knew or ought to have known of the vessel's subsequent readiness.
- Charterers had accepted and invalid NOR via their agents on the commencement of discharge **BUT** acceptance of an invalid NOR in cases where Charterers were unaware of the inaccuracy in the notice could not bind them, so Charterers were not prevented from subsequently disputing the effect of the NOR
- NOR serves to crystallize the time when laytime begins - it would be unsatisfactory to make the question of the commencement of laytime depend on a subjective enquiry into the state of mind of the charterers or their agents – ***Owners' appeal rejected***



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The Happy Day

- Under Synacomex CP form to carry wheat from Odessa to Cochin.
 - NOR tendered before the vessel could enter the port due to tidal conditions and no other notice tendered.
 - Synacomex is a berth Charterparty so NOR was invalid
 - Charterers did not reject the NOR and ordered the vessel to load
 - It **took three months** to discharge the cargo at the port due to the unavailability of the original bills of lading.
 - However rejected the demurrage claim stating laytime had not commenced due to the invalid NOR.
-
- Tribunal: Favoured Owners
 - High Court: Favoured Charterers (laytime never commenced – dispatch due)



The Happy Day

Court of Appeal held:

by commencing discharge, the charterers had waived their right to rely on an invalid NOR

Laytime can commence even where no valid NOR has been served when:

- **NOR in the prescribed form is served** upon the charterers/receivers prior to the arrival of the vessel;
- the vessel subsequently does arrive and is, or is expected to be, **ready to discharge to the knowledge of the charterers** and
- discharge commences to the order of the charterers/receivers without either having given any **indication of rejection or reservation in respect of the NOR already served**, or any indication that a further notice of readiness is required before laytime commences.



The PETR SCHMIDT

- Per CP NOR to be tendered to the charterer/agent within 06:00-17:00 hrs LT
- Laytime to commence 6 hours from the receipt of NOR or upon arrival, whichever first occurred.
- An NOR was given at 01:00 hours and another two at 18:00 hours.
- Charterers: since the notices were tendered outside the specified period, they were non-contractual and in breach of the relevant clause and therefore invalid and of no effect (see the "MEXICO I").

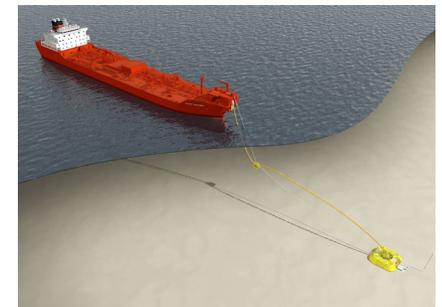
The Court held

- Provided NOR was otherwise correct, it would be **non-contractual** and wrong **but not invalid**
- A non-contractual NOR tendered outside the required time may ***not be effective*** to start the laytime clock running, but ***the defect may be 'cured'*** by the passage of time and laytime will start at that point.



The Afrapearl

- On discharge at Dakar via M'Bao Sealine berth delays (3 weeks) caused by the need to repair leaking hoses
- In previous 12 months there were 3 incidents involving serious leaks from the same part of the pipeline
- The sealine appeared to be leaking oil before the vessel arrived as Master observed when vessel approached berth
- Loading Master admitted the sealine was leaking but nevertheless considered it possible to discharge
- Discharging suspended after only 15 minutes due to the extent of the leak that occurred
- The Afrapearl discharged when the defective part of the line was replaced 3 weeks later



The Afrapearl

- **Cl. 8: DEMURRAGE.**

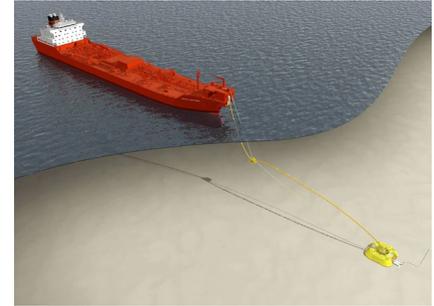
“... If, however, *delays occur and/or demurrage shall be incurred at ports of loading and/or discharge by reason of a breakdown of machinery or equipment in or about the plant of the Charterer, supplier, shipper or consignee of the cargo, such delays shall count as half laytime or, if on demurrage...* “

High Court held:

- Charterers knew, and could direct vessel to discharge elsewhere - Time should count in full.

Court of Appeal held:

- Although pipeline was damaged, it had nevertheless been used and functioned as a pipeline in the 6 months prior The Afrapearl arrival.
- *Sometimes the pipeline worked and sometimes it did not due to unacceptable amount of leakage and pollution.*
- ***On such occasions it broke down*** – time to count at 50%



Indicative Bibliography

- Schofield, John (2021), *Laytime and Demurrage*, Routledge – Informa Law, 8th edition.
- Davies, Donald (2006), *Commencement of Laytime*, Informa- London, 4th edition.
- Baughen, Simon, (2004), *Shipping Law*, Routledge – Cavendish , 4th edition
- Wilson, John, F. (2010), *Carriage of Goods by Sea*, The Cambridge Law Journal, Pearson, 7th edition.
- Misili, S. (2018) , A Discussion Of The History And Development Of The Arrived Ship Doctrine, *Journal of Awareness, Cilt / Volume 4, Sayı / Issue 1, 2019, pp. 111-122*
- List of case studies <https://charterpartycases.com/list-of-case-studies>