



TUESDAY 24th APRIL 2012 – MORNING

LEGAL PRINCIPLES IN SHIPPING BUSINESS

Time allowed – three hours

Answer any FIVE questions – all questions carry equal marks

Please read the questions carefully before answering

1. Answer either a) or b):

a) Critically discuss the shipowner's/carrier's duty to provide a seaworthy ship under both Common Law and the Hague-Visby Rules.

or

b) Critically discuss the effect of deviation under a contract of affreightment.

2. A director of your company has asked you to explain the main differences between the current international conventions applicable to the carriage of goods by sea.

In reply to this request, discuss the differences in the current cargo conventions, putting forward any arguments in support of or against either sets of rules.

3. The vessel *Dimple* is time chartered by *Farout Charterers Ltd.* ('FC'). She arrives at the loading port ready to load her cargo, and is instructed to anchor and wait for an available berth.

Critically discuss the issues arising in the following scenarios:

a) The *Dimple* berths, and whilst she is halfway through loading, without any meteorological warning forecast from the port authority, a strong swell causes the vessel to suffer ranging damage, i.e. the vessel hitting the berth. As a result the *Dimple* has to spend four days in dry dock undergoing repairs.

b) On the second day of the repairs payment of hire is claimed by the owners of the *Dimple*, but FC, the charterers, refuse to pay claiming the ship is off-hire.

c) The *Dimple* arrives at the next port and discharging commences. Her main engines break down and repairs are being carried out, although unloading continues at the normal rate. FC, the charterers, claim that the vessel is off-hire.

PLEASE TURN OVER

4. X Ltd. chartered their vessel *Grim* to Y Ltd. for 12 months. The charter party provides, among other things, that payment of hire is to be made 'in cash' and 'without discount' every 30 days in advance, and in default of payment the shipowners (X Ltd.) have the right to withdraw the vessel from the charterer (Y Ltd.).
Furthermore, the same clause provides for the last month's hire to be estimated and paid in advance less bunker costs and shipowners' disbursements.

Critically discuss the issues arising in each of the following situations, clearly indicating the potential rights and liabilities of the parties by the use of case examples:

- a) A payment arrived at the owners' bank two days later than agreed. The charterers claim that this was because the payment day was a bank holiday at the shipowners' bank.
 - b) A payment was made on time to owners by a banker's draft. The shipowners claim that such payment is not 'cash'.
 - c) A payment was 5% less (under payment) than the agreed hire, but was made to the shipowners' account five days earlier than agreed.
 - d) The charter is now in its last month. The charterers (Y Ltd.) instruct the Master to proceed to a port which the Master calculates cannot be reached within this time span.
5. a) Discuss why parties to a charter party would agree to resolve their disputes by arbitration **and**
b) Explain the requirements that need to be fulfilled for a claim of general average contribution to be made.
6. Marion in London is a shipbroker. Among her principals is a shipowner, G.R. Shipping S.A., a company based in Piraeus, Greece, who has sent her the following instructions in relation to fixing two of their ships, the *Fudge* and the *Sailor*. Marion has confirmed and accepted G.R. Shipping S.A.'s instructions, which contained, among other things, the following:
- Fixing the *Fudge* for 50,000 tonnes of crude oil at any price up to US\$100 per tonne.
 - Fixing the *Sailor* for 50,000 tonnes of fuel oil at any price up to US\$100 per tonne.

On the assumption that any relevant contracts are subject to English law, explain and analyse the decisive events which should be taken into account, in the following circumstances:

- a) With regards to the 50,000 tonnes of crude oil, Marion observes the relevant markets. The fixture requested (US\$100 per tonne) can be immediately obtained on the particular details. However, she decides to wait for a couple of days, since there are rumours that crude oil prices may increase and more profitable fixtures, above the US\$100 per tonne may be obtained. Indeed, after a few days crude oil price has increased, as have fixtures, resulting in Marion fixing the *Fudge's* 50,000 tonnes at US\$150 per tonne, having thereby benefitted G.R. Shipping S.A. (her principal) US\$2.5 million. Indeed, G.R. Shipping S.A. are delighted to hear the news from Marion. Could Marion share in any way the benefit G.R. Shipping Ltd. derived from her excellent handling of the fixture?
- b) With regards to the 50,000 tonnes of fuel oil, Marion observes the relevant markets. The fixture requested (US\$100/tonne) can be immediately obtained on the particular details. However, she decides to wait for a couple of days, since there are rumours that fuel oil prices may increase and more profitable fixtures, above the US\$100 per tonne may be obtained. After a few days, however, fuel oil price has decreased, as have fixtures, over 50%, and she has to fix at US\$50 per tonne, having thereby lost G.R. Shipping S.A. (her principal) US\$2.5 million.
- G.R. Shipping S.A. are now considering whether they should sue Marion for the loss they suffered.

7. Explain how international conventions become established. Select one of the major international conventions brought into being by the IMO and explain its role and function.
8. N.K. Ltd. are sellers/exporters/shippers of English puddings, based in London, U.K. Upon checking their past consignment records, they realise that there is an outstanding matter regarding a shipment of puddings they made from the U.K. to their agent in Sesameland, a newly formed (imaginary) European State.
- N.K. Ltd. recall that the shipment was made 24 months ago under a contract of carriage by sea with a sea carrier, Sesame Shipping Ltd., and N.K. Ltd. just realised that their agent in Sesameland, which has not adopted any of the known international conventions for the carriage of goods, has not received the particular consignment of English puddings.
- In particular, the contract of carriage was subject to English law, and it was evidenced by a Bill of Lading, which showed that the goods were shipped on board in good condition and was dated exactly 24 months ago to date. It was further agreed that the goods (English puddings) should be delivered to N.K. Ltd.'s agent in Sesameland 16 days after loading the goods onboard the vessel in the U.K.

Consequently, N.K. Ltd. write to Sesame Shipping Ltd. claiming for the lost consignment.

Analyse and discuss:

- a) The legal regime applicable to this carriage of goods to Sesameland, and whether N.K. Ltd. are likely to be successful in their claim?
- b) If the U.K. had adopted the Hamburg Rules, would it have made any difference to N.K. Ltd.'s potential claim in the circumstances?