Shipping

January
2014

SHIPPING BULLETIN

Welcome to the January edition of our Shipping Bulletin.

In this first edition of 2014 we start by looking at two newer issues which are likely to be significant for the shipping industry during the course of this year. We firstly examine the increase in piracy incidents in West Africa and look at how these differ from attacks in Somalia, along with what affected companies need to do both to avoid and address the risks. Secondly we look at the Maritime Labour Convention, which has now been in force for over five months. Several vessels have already been detained for alleged violations, including unpaid wages, recruitment fees paid to crewing agents, lack of proper employment contracts with crew, failure to provide medical treatment and poor conditions on board and we set out what owners need to know.

We then turn to look at the lessons learnt from some of the key shipping cases decided at the end of 2013. In the *ALEXANDROS T* case the UK Supreme Court looked at the finality of settlement agreements and we analyse the implications of this decision. A recent unsafe port case where charterers were found liable for losses of over US$137 million has re-emphasised the need for charterers to be cautious in nominating ports. We also look at a decision on dispute resolution clauses in bills of lading which has confirmed that where specific words of incorporation are used to incorporate a law and dispute resolution clause, the court can correct a mistake in those words in order to give effect to the parties' intentions.

Finally, we feature our regular Case Update, which provides a brief summary of the other major recent English court cases relevant to shipping law.

Should you require any further information or assistance on any of the issues dealt with here, please do not hesitate to contact any of the contributors to this Bulletin or your usual contact at HFW.

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hfw West African piracy – still piracy but a different kettle of fish?

Whilst Somali piracy incidents appear to be on the decline, this has been matched by an increase in incidents in West Africa (and in the last few months, Malaysia, where three oil/gas cargoes have been reported stolen). In all locations, the problem is correctly identified as piracy, albeit the issues faced by the victims are in many ways different.

West Africa – a shift in focus

In West Africa piracy falls into two categories:

- Oil cargo theft; and
- Crew kidnap.

Debrief evidence suggests that the pirates operating in West Africa are, like their Somali counterparts, simply criminals, but in contrast, criminals with more maritime and cargo handling equipment, as opposed to fishermen. They are also unfortunately much more aggressive, with apparently less concern for the welfare of the crew, targeting both nationals and foreigners. The focus on oil cargo theft (by means of an STS transfer, often to an old small barge or tanker) also means that, unlike in Somalia, the financial losses are usually felt first by cargo interests as opposed to owners. This is because no ransom is demanded in cargo theft cases, the cargo simply being stolen at sea over the course of a few days.

The pirates hold the crew within the Delta, usually for two to four weeks whilst a ransom is negotiated.

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Avoiding/addressing the risk

Tackling the problem in West Africa in the current environment is not straightforward. Whilst measures can be taken by owners/charterers in protecting their vessels, and in some cases tracing the stolen cargo, there are arguably more obstacles to tackling the issue than in Somalia. For example, much of BMP4 (Best Management Practices 4, the latest industry guidance on appropriate anti-piracy measures in Somalia) is arguably ill-suited to ships at anchor off Gulf of Guinea ports. Specific BMP measures such as razor wire may also prove more of a hazard than a protective measure given the sparking risk during STS transfers and the danger it poses to stevedores/the crew.

Even when suspected vessels can be tracked and steps taken to recover the oil stolen, this can prove a slow and frustrating process, reliant on local authorities and courts. There is the added danger that those complicit in the theft may try to subvert the process, particularly if they control access to the cargo/vessel.

Despite their apparent success in Somalia, recognised PMSCs (Private Military Security Companies) face many more challenges in West Africa, given that Gulf of Guinea States do not usually sanction anyone but national military/police armed guards within their territorial waters. These states are also fiercely protective of their maritime boundaries. The standard competency and training of the available guards is often questionable, leaving many owners concerned. Certain ports have set up "Navy Patrolled Anchorages" but there are many examples of vessels being hijacked even from within these "safe anchorages", where the relevant navy has been unable to respond in time, or there are insufficient resources to provide for effective patrols or deterrent effect.

The "crew kidnappers" do not discriminate between the vessels they target. It is often the officers of offshore supply vessels who are taken, but cargo carriers and container vessels have also been targeted, eight crew members having reportedly been taken last month from Nigerian waters. The pirates hold the crew within the Delta, usually for two to four weeks whilst a ransom is negotiated.

How to respond

Many companies are fortunate not to have been exposed to piracy incidents. The best advice is therefore to seek recommendations and guidance from those who have experience of dealing with the immediate response and the aftermath. In both situations highlighted above, an affected company should of course inform both insurers and flag state as a matter of course, the latter often being able to assist in monitoring the vessel's movements.

In the case of crew kidnaps, the payment of a ransom may be the only means of resolving the incident and ensuring the safe release of the crew. This poses the same regulatory and compliance issues as in Somalia. If a ransom is to be paid, one must ensure that the payment is legal within any relevant countries, and that there is no reasonable cause to suspect terrorist involvement. Whilst difficult, it is important to try to identify the type of kidnappers involved and their motivations. Professional assistance should be sought on this difficult issue.

Lastly, once an agreement is reached with the kidnappers, there remain some real practical and logistical issues that need to be resolved to ensure that the victims are released safely, promptly and legally.

The legal aftermath

As a result of Somali piracy, there are a number of reported High Court and London Arbitration decisions dealing with (i) the legality of paying a ransom, (ii) deviation and (iii) off-hire. Other case authorities, for example on general average and unsafe ports, may also be applied to a piracy context. These may all be relevant as victims seek to recover their losses resulting from West African piracy.

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MLC starts to bite

Over five months on from the entry into force of the Maritime Labour Convention (MLC), ports in member states have started to demonstrate how seriously they regard their responsibilities under the convention. The ILO (the International Labour Organisation – the UN Organisation responsible for overseeing the MLC) advised countries to show leniency in the first 12 months of the MLC's operation, but despite this there have already been a number of reported detentions arising from non-compliance with the MLC, and there may well be more in coming months.

Canada has now detained three vessels for various reasons, including unpaid wages, recruitment fees paid to crewing agents, lack of wage agreements or employment contracts with crew and poor conditions on board. A crew member had also allegedly been refused access to a doctor. Amongst other things, the MLC requires that all seafarers are provided with a seafarers' employment agreement and establishes minimum requirements for pay, including how salaries are administered. Payments by seafarers to crewing agencies are not permitted. The convention also provides for certain standards of accommodation and welfare arrangements.

The most recent detention, of the Panamanian-flagged KOUYOU, arose after ITF officials in Quebec found that the crew were owed more than US$51,000 in unpaid wages, as well as having paid to secure their employment. Following notification by the ITF, Port State Control then detained the vessel until they had received guarantees from the Panamanian flag authority that measures would be put in place to resolve the issues identified, and four crew members are said to have requested that they be repatriated.

Denmark was one of the first states reported to have detained a vessel under the MLC, when the Danish Maritime Authority detained a Liberian-flagged vessel in early September 2013 for non-compliant crew contracts. The crew did have employment contracts, but they were inadequate under the MLC, which seeks to put clear seafarers' employment agreements in place, for the seafarers' own benefit. Detentions have also been reported by the Paris MOU (which aims to harmonise Port State Control in 27 countries in Europe and the North Atlantic) in Russia and Spain, affecting vessels flagged in Cyprus, Liberia, the Marshall Islands, the Netherlands, Panama and Tanzania.

The actions of these port authorities highlight that MLC member states are taking their new obligations seriously, and are not afraid to take firm action to ensure that the "Seafarers' Bill of Rights" is properly enforced. On the other hand, owners are increasingly concerned that maritime unions are using the MLC as a bargaining chip to win wage deals for crews, with the threat of detention adding pressure.

It is clear that the MLC is also having a wider impact. The Gibraltar ship registry recently confirmed that it was financing the repatriation of the crews of three Gibraltar-flagged vessels stranded off Germany following the cancellation of management contracts. It was also looking into issues of unpaid wages and stated that it was acting to fulfil its obligations under the MLC despite the MLC not yet being in force in Gibraltar (it comes into force there at the same time as the UK, on 7 August 2014). In the US, which has not ratified the MLC and has not announced any intention of doing so, the US Coastguard has encouraged US vessels trading internationally to obtain certificates of

voluntary compliance with the MLC, even though the US Coastguard will not be enforcing the MLC on either US- or foreign-flagged ships in US waters.

IMO member states continue to sign up to the MLC, which now has 53 ratifications (with three pending). The most recent ratifications are by the Republic of Korea on 9 January 2014, and Seychelles on 7 January 2014. The MLC will come into force in countries which ratified the MLC after 20 August 2013 twelve months after their ratification. The number of ratifications now represents 80% of the world's gross tonnage. Given that the MLC is still being ratified and still not yet in force in many countries, it may take some time for the application of its requirements to bed in, and for the full impact to be felt. However, it is clear that it is already having a significant impact, and all owners and operators should ensure they comply.

The ILO is keeping the MLC under review, and has just published proposals to require additional financial security to be put in place in respect of crew repatriation at the end of a voyage and for compensation in the event of death or long-term disability. These proposals will be discussed early this year, and the development of the MLC and its enforcement should be followed carefully by all those who could be affected.

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Should settlement agreements be final? – the ALEXANDROS T

If a claimant comprehensively settles English proceedings, should he be allowed to defeat that settlement by starting proceedings elsewhere in the EU and invoking the 2001 Brussels Regulation? This was essentially the question before the Supreme Court in the *ALEXANDROS T* *(6 November 2013)*.

The case arose from the tragic loss 300 miles off Port Elizabeth of the capesize bulker *ALEXANDROS T* and three quarters of her crew in May 2006. The insurance policies were governed by English Law and subject to exclusive English High Court jurisdiction. The owners, Starlight Shipping, therefore claimed against their London insurers, who rejected liability, prompting Starlight to commence proceedings in the English High Court. The proceedings were actively contested, but were eventually stayed following the conclusion of settlement agreements under which *"any and all claims"* under the policies were fully and finally settled. The agreements were governed by English law and subject to exclusive English High Court jurisdiction.

Then, in 2011, Starlight instituted proceedings against the insurers in Greece, claiming some US$150 million in losses. This sent a shock wave through the global insurance market, since it was clear that Starlight were bent on undoing the settlement agreements. In the Greek proceedings, Starlight relied on allegations of skullduggery by the insurers, asserting that they had fabricated evidence and bribed witnesses. Starlight were particularly aggrieved at what they saw as the insurers' deliberate failure to pay promptly under the policies. Part of their claims in Greece were based on this alleged failure (which, importantly, is not actionable under English law).

The insurers responded by reviving the 2006 English proceedings and issuing further proceedings, seeking to hold Starlight to the settlement agreements. They successfully obtained judgment in the English High Court.

Starlight appealed, and in the Court of Appeal, referred to Article 27 of the 2001 Brussels Regulation which provides that only the court *"first seised"* (i.e. the court where proceedings were started first) had jurisdiction. They argued that the English proceedings were *"the same cause of action and between the same parties"* as the Greek proceedings and since the Greek court was first seised, the English court was bound to stay its proceedings. The Court of Appeal issued a judgment in Starlight's favour.

The implications were seismic. If the insurers were denied recourse to the English court, their only option would be to request the Greek court to enforce the English law settlement agreements, to adjudicate the insurers' claims for Starlight's breaches of both the release from *"any and all claims"* and the jurisdiction clause in the settlement agreements, and claim for an indemnity against Starlight.

The insurers appealed to the Supreme Court, where Starlight pursued a further argument, that the Greek and English proceedings were *"related actions"* under Article 28 of the Regulation. If they were correct, the court which was not first seised would have a discretion to stay its proceedings.

The Supreme Court reversed the Court of Appeal judgment. It held that the insurers' claims for: (i) damages for breach of the jurisdiction agreement; (ii) damages for breach of the release in the settlement agreements, and (iii) an



If they were correct, the court which was not first seised would have a discretion to stay its proceedings.

indemnity against the consequences of Starlight bringing foreign proceedings, did not have the same cause or object, and were not *"the same cause of action"*, as the claims brought in the Greek courts. As a result, the English court was not obliged to stay any of those claims under Article 27.

However, if the insurers had not abandoned their separate claim for a declaration that they were not liable in the Greek proceedings, the Supreme Court would have been obliged to order a mandatory stay of that claim under Article 27, since it was a mirror image of and the same cause of action as the claims in Greece.

The insurers' claim for a declaration that the claims in the Greek court fell within the release (and had therefore been settled) was also problematic. By a majority, the Supreme Court decided that a stay would not have to be granted, but since two judges disagreed, this issue was referred to the European Court. The insurers' argument that Starlight were too late to invoke reliance on Article 27 in the Court of Appeal when they had not done so at first instance was also referred to the European Court.

Starlight's argument based on Article 28 was rejected: some parts of the 2006 proceedings had been stayed and some parts had not but in both instances, the English court was first seised, so Article 28 did not apply.

Even if the English court had not been first seised, the Supreme Court was not prepared to exercise its discretion to impose a stay in circumstances where the parties had expressly agreed to refer disputes under the settlement agreements to the exclusive jurisdiction of the English court.

In conclusion, whilst on the face of it, this judgment could be construed as a 'policy decision', the Supreme Court was assiduous in justifying its decisions by reference to highly technical arguments under European law. In doing so, it walked a legal tightrope, drawing a fine distinction between the damages and indemnity claims (which fell outside Article 27) and the ostensibly all-but-identical claims for declarations (which were caught by Article 27, or at least required a determination from the European Court).

Above all, this can be seen as a victory for common sense: what was at stake was no less than the authority of the English courts to police settlement agreements expressly subject to English law and exclusive English jurisdiction. If Starlight's arguments had succeeded, the insurers would have been forced to ask Starlight's home court to enforce those agreements, which Starlight had breached by commencing the Greek proceedings.

The judgment also reinforces the wider principle that settlements ought to bring finality to proceedings. This is plainly in the interests of legal and business certainty and therefore ought to be welcomed by the commercial community at large.

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hfw Unsafe ports – remarkable maritime casualty proves costly for charterers

In the recent English High Court *OCEAN VICTORY* case[1], charterers' attempts to dilute the classic definition of a safe port were rejected. The High Court preserved certainty in the allocation of risks between owners and charterers and this left charterers on the hook for a very significant sum. Both owners and charterers will want to be aware of this owner-friendly case.

Background

Charterers ordered the vessel to load cargo in Saldanha Bay, South Africa and discharge in Kashima, Japan. Following the vessel's arrival in Kashima the weather started to deteriorate. By the morning on the day of departure, the Kashima fairway was exposed to winds of approximately Beaufort scale force 9, a prevailing swell, waves of 1.5 to 6.5 metres in height and "long waves" (small in height but lasting for prolonged periods of time).

On the advice of charterers' representative (although this was disputed by charterers) the vessel, with some cargo still on board, left the port as the mooring lines and tugs were insufficient to restrain her in the prevailing weather conditions. On departure, the vessel encountered gale force winds and heavy seas. She then struck the breakwater, went aground and broke up.

1 [2013] EWHC 2199 (Comm)

Gard, as assignee of the claims of the registered owner and demise charterers, brought proceedings against charterers for breach of the safe port warranty. Relying on the *EVIA NO.2*[2], charterers argued that the port was not unsafe and that the emphasis was on "reasonable safety". Charterers could not, they said, be expected to have systems in place to guard against all conceivable hazards, including those which had previously not arisen – i.e. vessels being "trapped". Alternatively, the casualty was caused by the Master's negligence in leaving the port and/or his negligent navigation.

Decision

The Court held that the casualty was caused by the unsafety of Kashima port.

In applying the classic definition of a safe port in the *EASTERN CITY*[3], it was held that the measure of safety is not absolute, but equally cannot be qualified by what is "reasonable". The Court must be guided by the prospective exposure of the vessel to danger (as opposed to the conduct and any failings of the port authority) and whether the dangers could be avoided by good navigation and seamanship. In short, as long as a vessel can safely depart, in these circumstances, a port will be safe notwithstanding the conditions. Safe departure from Kashima required more than good navigation and seamanship, as good luck was also necessary. Here, there was a real risk that vessels might have to leave the port due to mooring failings and that similar weather conditions could arise again.

In the circumstances, the port did not have a safe system in place ensuring that vessels needing to leave the port could do so. The availability of pilotage did not constitute a safe system. The Court rejected the charterers' argument that Gard was required to identify a system which, had it been in place, would have enabled the vessel to leave safely, and reaffirmed that prospective unsafety was sufficient to establish breach of the safe port warranty.

The Court also clarified that the combination of long waves and the storm, although rare, was not an "abnormal occurrence" – this phrase denotes occurrences unrelated to the prevailing conditions of the port.

On the evidence, the Court was satisfied that the vessel left on the charterers' advice, which was the effective cause of the casualty since it was given by charterers without considering whether it was safe for the vessel to depart. There was no negligent navigation by the Master, but the Court confirmed that, even if there had been, the real and effective cause would have remained the unsafety of the port.

The charterers were accordingly found liable in the considerable sum of US$137.6 million.

Conclusion

Although each safe port case will be determined on its own facts, the *OCEAN VICTORY* case re-emphasises the classic test set out in the *EASTERN CITY* and affirms the burden upon charterers in relation to their duty to nominate a safe port.

There was no negligent navigation by the Master, but the Court confirmed that, even if there had been, the real and effective cause would have remained the unsafety of the port.

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Moreover, the *OCEAN VICTORY* case also demonstrates that the issues of safety and negligent navigation are not mutually exclusive, and that in the event of unsafety, negligence by the Master will not necessarily be sufficient to break the chain of causation so as to relieve charterers of liability.

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2 [1982] 1 Lloyd's Report 334

3 [1958] 2 Lloyd's Report 127 at p.131 – "a port will not be safe unless, in the relevant period of time, the particular ship can reach it, use it and return from it, without, in the absence of some abnormal occurrence, being exposed to danger which cannot be avoided by good navigation and seamanship".



Dispute resolution clauses in bills of lading: the lessons of the CHANNEL RANGER

The English High Court has recently held that, where a bill of lading incorporated the "law and arbitration clause" of an identified charterparty, but the dispute resolution clause in that charterparty provided not for English law and arbitration, but for English law and court jurisdiction, the words "law and arbitration" were effective to incorporate the English law and court jurisdiction clause.

The facts

A cargo of coal carried from the Netherlands to Morocco on the *MV CHANNEL RANGER* was alleged to be damaged on outturn in Morocco. Cargo receivers and their insurers sought to hold the vessel owners responsible for the damage.

The bill of lading under which the cargo was carried was on the CONGEN 1994 form. On the reverse, clause 1 of the conditions of carriage provided that *"all terms and conditions, liberties and exceptions of the Charter Party, dated as overleaf, including the Law and Arbitration Clause, are herewith incorporated"*. A similar provision was typed on the front of the bill of lading.

The charterparty incorporated by reference was a voyage charter on the Americanised Welsh Coal Charter (Amwelsh) form 1979, clause 5 of which provided:

"This Charter Party shall be governed by English law, and any dispute arising out of or in connection with this Charter shall be submitted to the exclusive jurisdiction of the High Court of Justice of England and Wales".

There was no other clause in the incorporated charterparty dealing with applicable law or with dispute resolution.

The Owners commenced proceedings in England in June 2011 for a declaration that they were not liable for any damage to the cargo. In March 2013, cargo insurers commenced proceedings in Morocco against the Owners and stevedores, and issued an application in England challenging the jurisdiction of the English High Court. They argued that the reference in the bill of lading to the "law and arbitration clause" in the charterparty did not incorporate the law and English High Court jurisdiction clause from that charterparty into the bill of lading.

The arguments

Owners relied on two separate jurisdictional gateways as the basis on which the English court should accept jurisdiction. First, that the bill of lading was a contract *"governed by English law"* and, second, that the bill *"contains a term to the effect that the court shall have jurisdiction to determine any claim in respect of the contract"*.

In relation to the choice of English law, the Court held that general words of incorporation were sufficient to incorporate a clause providing for English law. Further, in this case, whatever the effect of the words *"and arbitration"* in the bill of lading, the Court held that the express references to the governing law of the charterparty amounted to an irrefutable case that the parties to the bill of lading intended it to be governed by the same law that governed the charterparty, at any rate so long as the chosen law was usual and proper for the trade.

As for the words *"... and arbitration clause"*, Owners argued that the specific incorporating words of the bill of lading demonstrated an intention to incorporate the charterparty dispute resolution clause, and could only refer to clause 5 of the charterparty which provided for court jurisdiction. Where a bill contains specific words of incorporation, Owners contended, there is no need to interpret those words strictly. Here, it was clear that the parties had made a mistake by referring to *"arbitration"* when they meant *"jurisdiction"*, and the bill of lading should be construed so as to give effect to the parties' intentions[1].

For their part, cargo interests submitted that the longstanding rules about incorporation of charterparty terms into bills of lading establish the need for clarity and certainty, particularly considering that bills of lading may come into the hands of other parties (such as consignees) who are unaware of the terms of the relevant charterparty. There was no reason to suppose that the original parties to the bill of lading made a mistake in referring to arbitration. Instead, cargo interests argued, effect could be given to the words of incorporation by construing them to mean that the charterparty arbitration clause "if any" was incorporated into the bill.

1 Caresse Navigation Ltd v Office National de l'Electricité & Ors [2013] EWHC 3081.

The judgment[2]

The Court held that the charterparty law and English High Court jurisdiction clause was incorporated into the bill of lading. In giving his judgment, Mr Justice Males agreed with Owners that the question was one of construction rather than incorporation, and that the Court had to consider what the parties meant by the words *"law and arbitration clause"* in the bill of lading. In the Court's view, the only clause in the charterparty to which the parties could have intended to refer was clause 5, the law and jurisdiction clause.

Mr Justice Males stressed that none of this offended against the need for clarity and certainty. The consignee would know from the specific words of incorporation that the charterparty terms incorporated were not confined to those germane to the shipment, carriage and delivery of the goods, but extended to ancillary clauses including those concerned with choice of law and dispute resolution. Before commencing any proceedings the consignee would need to see the charterparty to know where the arbitration was to be held, whether the tribunal was to be a sole arbitrator or three arbitrators, and so on. For all of these reasons the Court concluded that consignees are equally bound by a clause in a charterparty which the original parties to the bill of lading clearly had in mind when referring to the charterparty "arbitration" clause, provided that the clause in question is usual in the trade.

Comment

The Court has confirmed that where specific words of incorporation are used to incorporate a law and dispute resolution clause and a mistake has clearly been made in the words of incorporation used, the mistake can be corrected so as to give effect to the parties' intentions. In this case, the result was that the law and jurisdiction clause in the charterparty was incorporated in the bill of lading even though the words of incorporation referred to the charterparty "law and arbitration clause".

The decision is currently being appealed.

HFW's David Morriss and Jenny Salmon acted for the vessel owner, Caresse Navigation Ltd. A version of this article first appeared in the Steamship Mutual publication, Sea Venture.

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News

HFW consultant John Knott has produced three detailed articles dealing with issues related to damages.

"Compensation in Tort for Unrepaired Damage to Ships: a modern view, examining valuation, supervening events and lost profit" appeared in the November Lloyd's Maritime & Commercial Law Quarterly.

"Ship Collisions: partial damage causing loss of profit to vessels under charter" will appear in the February edition of the Lloyd's Maritime & Commercial Law Quarterly.

"Successive and Supervening Events: damage, injury, and loss of profit" is due to appear in the Journal of International Maritime Law.

2 (Chartbrook Ltd v Persimmon Homes Ltd [2009] UKHL 38).



hfw Quarterly Case Update

1. Univeg Direct Fruit Marketing DFM GMBH and others v MSC Mediterranean Shipping Company S.A.[1]
   Deterioration of perishable cargo due to strike at South African Ports. No contractual obligation for carrier to ship on board a particular vessel.

2. Gard Marine & Energy Ltd v China National Chartering Co Ltd (the *OCEAN VICTORY*)[2]
   Unsafe port – key decision

3. Taurus Petroleum Ltd v State Oil Marketing Company of the Ministry of Oil, Republic of Iraq[3]
   Third Party Debts Orders and State Immunity.

4. Alphasteel Ltd v Shirkhani & Anor[4]
   Use of disclosed documents in other proceedings.

5. Baltic Highway Limited v Captain Przemyslaw & others ORD 12/0078 (the *BALTIC ACE*)
   Limitation proceedings – Isle of Man. Domicile of Defendant. Limitation fund can be constituted by LOU.

6. Flame SA v Glory Wealth Shipping Pte Ltd (the *GLORY WEALTH*)[5]
   Charterparty. Repudiation by Charterers. Would Owners have been able to perform? Measure of Damages.

7. Griffon Shipping LLC v Firodi Shipping Ltd (the *GRIFFON*)[6]
   Court of Appeal decision regarding MOA. Where a Buyer fails to pay the deposit the Seller can claim the whole deposit regardless of the Seller's actual loss?

8. Minerva Navigation Inc v Oceana Shipping AG (the *ATHENA*)[7]
   Court of Appeal decision. Nett loss of time under Clause 15 NYPE. The question is whether there is delay to the "service immediately required of the vessel", not to the charter service overall.

9. Caresse Navigation Ltd v Office National De L'Electricite (the CHANNEL RANGER)[8]
   A bill of lading seeking to incorporated the "law and arbitration clause" of the charterparty, effectively incorporated the charterparty jurisdiction clause even though it referred to High Court jurisdiction.

10. Primera Maritime (Hellas) Ltd and Others v Jiangsu Eastern Heavy Industry Co Ltd and Another – QBD (Comm Ct)[9]
    Appeal under s 68 Arbitration Act (Serious irregularity).

11. Rayyan Al Iraq Co Ltd v Trans Victory Marine Inc[10]
    Civil Procedure: Particulars of Claim served two days after the expiry of the 28-day period. Extension of time.

12. The London Steam Ship Owners Mutual Insurance Association Ltd v The Kingdom of Spain (the *PRESTIGE*)[11]
    Whether the Court will allow a party an extension of time to challenge an arbitration award, where that objecting party has not taken part in the arbitral proceedings.

13. The London Steam Ship Owners Mutual Insurance Association Ltd v The Kingdom of Spain and The French State (the *PRESTIGE*)[12]
    State immunity and whether an arbitration award should be enforced pursuant to section 66 Arbitration Act 1996.

14. ED&F Man Sugar Ltd v Unicargo Transportgesellschaft GmbH (the *LADYTRAMP*)[13]
    Court of Appeal decision. Laytime. The meaning of "mechanical breakdown".

15. The Owners of the Ship Panamax Star and Auk[14]
    Strike out for want of prosecution in collision action.

1 [2013] EWHC 2962 (Comm)
2 [2013] EWHC 2199 (Comm)
3 [2013] EWHC 3494 (Comm)
4 [2013] EWCA Civ 1272
5 [2013] EWHC 3153
6 [2013] EWCA Civ 1567
7 [2013] EWCA Civ 1723
8 [2013] EWHC 3081
9 [2013] EWHC 3066
10 [2013] EWHC 2696 (Comm)
11 2013] EWHC 2840 (Comm)
12 [2013] EWHC 3188 (Comm)
13 [2013] EWCA Civ 1449
14 [2013] EWHC 4076


hfw Conferences and events

Chamber of Shipping Dinner
London
3 February 2014
Attending: Andrew Chamberlain, Paul Dean, James Gosling, Craig Neame and Jonathan Webb

Shipping Disputes in West Africa
HFW London
5 February 2014
Presenting: Stanislas Lequette and Xavier McDonald

Black Sea & Caspian Conference
London
20-21 February 2014
Attending: Marcus Bowman and Paul Dean

OSV Chartering Contract Management – North America
Houston
24-25 March 2014
Presenting: Paul Dean

12th Intermodal Africa North 2014
Africa
27-28 March 2014
Presenting: Wole Olufunwa

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