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**THE SIXTH NATIONAL LAW UNIVERSITY ODISHA –  
BOSE & MITRA & CO. INTERNATIONAL MARITIME  
ARBITRATION MOOT, 2019**

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**CLARIFICATIONS**

1. The clarification pertains to the matter of "discharge of goods" at the 2nd port i.e. Finland. In the email conversation dated 15th Jan 2019- 2312 on page no 8-9 between the parties. The said conversation reads as follows:

*From: MT INDIA Sent: 15 January 2019 – 2312*

*To: Phil Jones Subject: MT India / United – CP dd 9 December 2018*

*Dear Phil,*

*We reject your above email.*

*Kindly note that the cargo tanks bottom was found in wax and could not be discharged. Obviously, this was because of the cargo properties and nothing to do with my vessel which had maintained adequate temperature throughout. Contrary to your claim, because of the wax from the cargo, the vessel will need to carry out tank cleaning before it can load any further cargo – this is obviously going to result in time loss to Owners.*

However, to the contrary, the demurrage claim dated 10th March 2019 states that the goods were discharged at the 2nd port on 14th of January, 2019. (Page no: 49)

What is the final position regarding the same?

**Facts / Documents are enough to make a reasonable assessment.**

2. Arbitration has been called for, by the Disponent owners, according to the Notice of Arbitration. But, the entire prop is silent about the relation (contractual) between the owners i.e. City Shipping Company and the Disponent owners i.e. Scorpio MR Pool ltd. Further, the Charterparty has been signed by Vincent and Phil. So this, arouses a doubt that, who are the parties to the Charterparty? City Shipping (Vincent) & United Maritime (Phil) or Scorpio MR Pool ltd & United Maritime (Phil)?

The first line of Notice of Arbitration will read as per below –

*“We write on behalf of City Shipping Company Ltd, the Owners of the above named Vessel.”*

All references to Disponent Owner should be read as Owner.

3. Did Master start heating of the cargo (55 Degree Celsius) after receiving the specific instructions of the cargo following the email on 25th December 2018 at 1011 Hrs?

Yes.

4. The Part 1 of the BPVOY4 Voyage Charter Party has not been filled. Kindly provide the relevant information pertaining to the problem.

Refer to Fixture Recap provided at pg. 8-17.

5. What is the place of incorporation of City Shipping?

Marshall Islands.

6. There are three conflict resolving clauses on Pages 13, 15 and 24 which do not reconcile with one another. Could you please clarify the final position?

**Facts / Documents are enough to make a reasonable assessment.**

7. There is no express acceptance of the additional terms and the amended charterparty in the email thread. Should we proceed with the assumption that the amended charterparty has been accepted or it is itself in dispute?

**Facts / Documents are enough to make a reasonable assessment.**

8. The un-amended Charter Party on Page 44 says that the choice of forum is High Court in London. But Vincent in the email on 18/03/2019 2345 Hrs says that they will approach the courts in India. What is the correct position?

**Facts / Documents are enough to make a reasonable assessment.**

9. According to the calculation, the total demurrage time is 7 Days 13 Hours and 39 Minutes which is making a difference of \$337.5. Please verify.

Consider the outstanding Demurrage to be USD 227,400.

10. The Address of United Maritime Logistics is different on Page 13 and 50. What is the correct address?

Correct address is as per below –

United Maritime Logistics Pte Ltd

Prins Schmeichel,

1218 Kobenhavn,

Denmark

11. Did Owners provide confirmation of receipt for the updated format of voyage orders as per the mail of 9 December?

Yes

12. In the mail sent on 15th Jan by MT India, the captain states that the vessel had maintained "adequate temperature throughout". What is the adequate temperature that they maintained in terms of degree Celsius? Was it below or above the pour point?

Above pour points.

13. Did the owners maintain the pour point?

Yes.

14. What was the purpose for which the bach ho oil was utilized?

No clarification is required.

15. At which port exactly did the solidification occur?

**Facts / Documents are enough to make a reasonable assessment.**

16. Has any freight charges been paid by the charterers before the claim was raised to the claimant?

**Freight was prepaid.**

17. In the mail sent on 25th December, they've stated that the respondent maintained necessary precautions. What do they mean by necessary precautions?

**Depends upon individual's research skills.**

18. Has the freight been paid?

**Yes, it was prepaid.**

19. In the mail sent on 15th January, the email states that the "master's failure to follow has resulted". Follow what exactly?

**Kindly read the email once again. Facts / Documents are enough to make a reasonable assessment.**

20. On December 9, 2018-1930, before proceeding towards Singapore, were MT India's cargo tanks cleared?

**No clarification is required.**

21. On January 13, 2018-1000, how were the cargos emptied? Whether all the cargo tanks were emptied till half of their capacity in Denmark and in Finland, or, were a certain number of cargo tanks were emptied full in Denmark and the remaining ones in Finland?

In order to maintain the balance of the vessel, all the cargo tanks were emptied only till half way in Denmark

22. Clause 49.2 of the Fixture Recap mentions "English law to apply". Does this mean that common law will be applicable, or that law in force in England i.e. Acts passed by British Parliament will be applicable, or both?

Facts / Documents are enough to make a reasonable assessment.

23. Should the 60 days for computing the limitation of the suit be inclusive of holidays?

Yes

24. As the ship has multiple compartments (6 segregations), does the oil discharge from all the compartments takes place simultaneously?

Yes, the hoses from the shore are attached with the cargo tanks and simultaneously discharge may take place.

25. How far is the place of anchorage from the place of discharge/berthing?

Every Port have their own designated anchorage areas and therefore there isn't a fixed distance which can be stated. However, rest depends upon individuals research skills.

26. Are the Rotterdam rules applicable to the Case Study?

No clarification is required.

27. Since both the parties have agreed to and proceeded with the arbitration procedure and there is no dispute whatsoever with regards to the seat or applicable law, appointment of arbitrator etc., whether the Issue 1 - pertaining to the jurisdiction of arbitration tribunal – holds any merit?

**Facts / Documents are enough to make a reasonable assessment.**

28. On page 48, with respect to discharge port of Fredericia, Denmark, According to the 'port activity remark date time', the laytime commenced is from 13/01/2019 1400. Whereas, in the laytime calculations, the 'laytime used' starts at 06/01/19 0601. Kindly confirm which fact is correct.

**Facts / Documents are enough to make a reasonable assessment.**

29. On Page 48, at the load port, Free Pratique was granted at 1730 hours, however the charterer's claim vide mail dated 17th March says that the laytime should commence at 1800 hours, which is the time when hoses connected. What is the actual time when the charterers are claiming laytime commenced?

**Facts / Documents are enough to make a reasonable assessment.**

30. Is there any document verifying cargo temperature that was maintained throughout the voyage?

**Facts / Documents are enough to make a reasonable assessment.**

31. Did the Ship Master send cargo temperature to the charterers daily local noon time pursuant to clause 25 of the BPvoy4 Charterparty?

Please assume for this case study that temperature were provided from 25 December 2018 onwards and they were in compliance.

32. Is there a claim for detention brought forward by the owners? If no, are the owners at the liberty to bring it now.

**Depend upon individual's research skills.**

33. Whether the 'Local agents' used in the mail of 15th January 2019 – 2300 are the nominated agents by the charterers for inspection or not?

Yes

34. In the voyage instructions provided by the Charters, United Maritime Logistics, to the Owners, City Shipping, in the email dated 9 December 2018, the heating clause, i.e., 3.1 under Cargo Instructions on pp. 3, the instructions are stated as “As per standard industry practice”. In light of this particular clause, what constitutes standard industry practice, if it is not a fictitious term created for the purposes of the proposition?

Not a fictitious term.

35. In the voyage instructions provided by the Charters, United Maritime Logistics, to the Owners, City Shipping, in the email dated 9 December 2018, under 4.0 Communications clause, it is required that the voyage number be included in the subject line of any emails regards the C/P and should be addressed to the mails in the following line. In the light of the issues raised, what are the email addresses and voyage number for the purposes of the vessel?

Email address is that of Mr. Phil Jones. Voyage number can also be read as Charterparty date.

36. After the issuance of Notice of Arbitration, the Disponent Owners appointed Mr. Mittal as their arbitrator. In the following email, dated 25 March 2019 by the Charterers, they do not explicitly accept the appointment of Mr. Mittal. In the light of this issue, have the Charterers accepted the appointment of Mr. Mittal?

Yes

37. In the fixture recap, the Owners have provided Approvals as to the seaworthiness of the vessel. On pp. 13, the Owners state that MT India has been approved by AMPOL, STATOIL, PHILLIPS 66. There is no “Approvals Clause” in the C/P or telex Recap. In the light of these facts, is it implied that Owners have got the vessel approved by the respective oil majors, for the purposes of fixing liability?

Yes

38. The proposition remains silent on the issue of ascertaining the nationality of City Shipping Ltd. It doesn't mention the place of business of head offices of the company. In the light of this, where are the head offices of City Shipping Ltd. located?

Marshall Islands.

39. On pp. 51 of the moot proposition, a newspaper clipping of the Nordic Times mentions about the properties of Bach Ho Oil citing Fulham Laboratories. In the light of this, please clarify to what extent can the information and findings of Fulham Laboratories and Dr. Ibrahimovic be relied upon?

Assume Fulham Laboratories as one of the best in the world which excels in research of Bach Ho Oil and Dr. Ibrahimovic to be a renowned figure in his field.

40. Whether there is a distinction between procedural law and substantial law applied (according to Clause 49.2 of the charter parties)?

**Facts / Documents are enough to make a reasonable assessment.**

41. What is the date of drafting of the voyage charter party? (There has been a discrepancy, as in Page 48 the date is given as 10th December whereas in rest of the prop, its 9th)

Parties entered into a voyage Charterparty on 9 December 2018.

42. Whether First Parcel of Cargo under BsL no 1 was checked by any of the parties at Port of Denmark for wax formation?

**Facts / Documents are enough to make a reasonable assessment.**

43. Whether washing statements were provided by the party concerned?

**No clarification is required.**

44. Whether the Charterparty has been signed?

Yes

45. What are the details of part I of the Voyage charter party (as it is completely blank) referred in part II of Voyage charter party agreement? How shall it be construed?

Refer to Fixture Recap provided at pg. 8-17.

46. Whether the cargo temperature was raised in accordance with charterer's instructions after 25 December 2018?

Yes

47. The 'Notice of Arbitration' states that the Deponent Owners (Scorpio MR Pool Ltd) chartered the vessel. No information as such has been provided in the charterparty.

The first line of Notice of Arbitration will read as per below –

“We write on behalf of City Shipping Company Ltd, the Owners of the above named Vessel.”

All references to Disponent Owner should be read as Owner.

48. Whether the 'Costs' mentioned under 4(e) in 'Directions of Tribunal' is same as 'Cost of Arbitration'?

Yes

49. Whether the email conversation provided with the case study is assumed to contain only relevant emails or this should be assumed to be the only conversation happened between the parties through email?

**Relevant Emails.**

50. Whether the Charterers have subsidiary in India? If yes, then where is the regional office located?

**No clarification is required.**

51. Whether the Ship Owners have their holding/subsidiary company in India? Or any other regional office in India?

**No clarification is required.**

52. The voyage instructions, as specified by the Charterers on pp. 3 of the proposition, instruct owners to carry out heating of the cargo. On pp. 6, the mail exchanges so mentioned are silent on the issue of heating. In the light of these issues, a clarification is required whether or not the Master of the Vessel carried out cargo heating as specified by the Charterers.

**Facts / Documents are enough to make a reasonable assessment.**

53. On pp. 8 of the proposition, the first page of the recap, the status of COC/TVEL has been mentioned as reverting. In the light of this, a clarification is required as to the meaning of the term and whether or not it was en route the period on the vessel.

**No clarification is required.**

54. On pp. 5 and pp. 6 of the proposition, the phrase ‘heating of the cargo’ is mentioned in two of the mails sent by Capt. Steve Gerrard. In the light of this, a clarification is required pertaining to meaning of the phrase.]

**Hearing must be read as “Heating”.**

55. On Page 9 of the problem, mail by Vincent Silva on 10th March 2019 – 1302 forwarded the Pumping Logs but this has been rejected by the charterers and in the next mail they have used the word ‘Separately’ on the reply of Discharge Port 2. Does this ‘separately’

means that they had sent the Pumping Logs before on the mail sent on 10th March or they are sending pumping logs on 18th March separately?

**Facts / Documents are enough to make a reasonable assessment.**

56. The date for the last SIRE Inspection of the vessel has been given in both, the fixture recap and the Q88, on pp. 13 (18.11.2016) and 22 (18.11.2017) respectively, of the moot proposition. In light of this, what is the date of the last SIRE Inspection on the ship?

**No clarification is required.**

57. Clause 49.2 of the Fixture Recap mentions "English law to apply". Does this mean that common law will be applicable, or that law in force in England i.e. Acts passed by British Parliament will be applicable, or both?

**Facts / Documents are enough to make a reasonable assessment.**