



London Arbitration 19/21

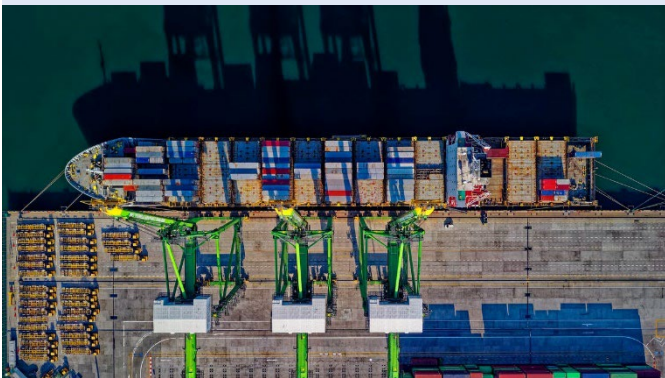
Joe Hunt Jinnah, Trainee Solicitor at CJC's Singapore office, reviews a recent London arbitration which addresses Charterers' obligation to redeliver the Vessel with "about" the contractual quantity.

Background

Owners chartered out their vessel to Charterers on an amended NYPE 1981 form. Disputes arose as a result of Charterers delivering the vessel with a shortfall of bunkers and their alleged failure to remove padeyes. Owners claimed a total of USD23,182.57 on final balance of account - USD21,413.10 being for the shortfall of bunkers on redelivery and costs for removal of padeyes.

Shortfall bunkers

The Vessel was purportedly delivered with 888.56 mt of intermediate fuel oil ("IFO") and redelivered with 686.07 mt, a corresponding shortfall of 184.71 mt. In their defence, Charterers offered argument on various points. In particular, they averred that both parties had been in breach to varying degrees as the Vessel had been delivered with 58.56 mt more than the contractual quantity. The Charter specified that bunkers on delivery were to be "about 830 metric ton". Furthermore, Charterers argued that they had requested the Owners to load more bunkers in Singapore but were told that the Vessel did not have sufficient capacity to do so. As a result, Charterers were not able to load sufficient bunkers to deliver in accordance with the contractual requirement.



The Tribunal held that Owners had indeed delivered the Vessel with more than the contractual quantity. Notwithstanding, this was only held to be about 17 mt more as Owners were entitled to 830 mt +/- 5% (i.e. max of 871.50 mt) which was the figure given to the term "about". The Tribunal also rejected most of Charterers' other arguments. With respect to whether there was a warranty as to the bunker capacity of the Vessel to take more bunkers as required by the Charterers in Singapore, the Tribunal found no such warranty. Charterers were therefore liable for 141.85 mt of IFO representing the shortfall on redelivery. The Tribunal also held that the price applicable was the prevailing price of IFO at the time of redelivery against the Charter price.

Removal of padeyes

With respect to the removal of padeyes, Owners claimed a total of USD5,712 (USD12 per padeye – total of 476 padeyes) for removal costs. Initially, Owners agreed that Charterers had paid USD3,400 to the crew and were willing to give credit against the total amount claimed. However, they then changed their position and claimed the full amount. The Tribunal found that the USD3,400 paid by Charterers to the crew was not gratuitous as Owners contended and was in fact consideration for the removal of padeyes.

The Tribunal stated that it was very arguable that this agreement between the Charterers and the Master had the effect of precluding the contractual provision providing USD12 per padeye from coming into operation. Nonetheless, Charterers conceded liability to pay the remaining USD2,312 and the Tribunal awarded this to the Owners. Owners were awarded a total of USD14,011.67 plus interest.

For further information, please contact:



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