



International Trade, Bills of Lading, Charterparties and Arbitration

Day 7

Charterparties: Introduction

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Charterparties: Introduction

Types of Charterparty

- Demise (or bareboat) charter
 - Master and crew and ship management company under charterer
 - Navigation under charterer
 - **Hire** – usually payable in advance for a period
 - Fuel and Port charges – on charterer
 - Bunkers – payment on delivery and redelivery
 - Bills of Lading – issued by charterer
 - Liability of **Demise** charterer's action **binds** the ship in an in rem action

Charterparties: Introduction

Types of Charterparty

- Time charter
 - Master and crew and ship management company under shipowner
 - **Navigation** under shipowner – charterer makes **orders** as to **employment** of ship
 - Hire – usually payable in advance for a period
 - Fuel and Port charges – on charterer
 - Bunkers – payment on delivery and redelivery
 - Bills of Lading – issued by **shipowner**
 - Usually, terms of charterparty are **not incorporated** into bills of lading
 - Liability of **Time** charterer's action does **not** bind the ship in an rem action
 - Speed warranty, Consumption warranty
 - Off-Hire
- Duty to **prosecute** the voyage with **utmost despatch**

Charterparties: Introduction

Types of Charterparty

- Voyage charter
 - Freight / common law lien on cargo / contractual sub-freight
 - Laytime / loading time
 - Demurrage / Detention
 - Master and crew and ship management company under shipowner
 - **Navigation** under shipowner – charterer does **not** make **orders** as to **employment** of ship
 - Fuel and Port charges – on shipowner
 - Bunkers – on shipowner
 - Bills of Lading – issued by **shipowner**
 - Usually, charterparty bills of lading, i.e. B/L incorporates terms of charterparty
 - Liability of **Voyage** charterer's action does **not** bind the ship in rem action
 - Duty to **prosecute** the voyage with **utmost despatch**

Charterparties: Introduction

Types of Charterparty

- Trip charter
 - Hybrid of Voyage and Time charter
 - Label as “trip” is not conclusive
 - Form used is crucial in determining if it is a time or voyage charter
 - *The Eugenia* (court held the charter in nature of voyage charter in time charter form to be a time charter)
- Slot charter
 - Charter on a shared basis, i.e. a slot in the ship on a **voyage**
 - The character is that of a **voyage charter** but limited to a part of a ship

Charterparties: Introduction

Standard Forms of Charterparty

STANDARD FORMS

- NYPE 2015 (previous versions 1946 and 1993) for time charter
 - ASBA, BIMCO and SMF
- BIMCO BALTIME 1939 (revised 2001) for time charter
- Shelltime 4 for time charter of fuel oil

- BIMCO GENCON 1994 for voyage charter
- ASBATANKVOY / ASBAGASVOY for tanker voyage charter of gas
- Exxonvoy and Beepeevoy for voyage charter of fuel oil

CHARTERPARTY v BILL OF LADING

- Agreement for carriage of goods / hire of ship v Shipping document acknowledging carriage of goods

Charterparties: Introduction

Common Clauses

- Clause paramount
- Incorporation of ICA (Inter-Club Agreement apportioning liability for cargo claims)
- Allocation of risk in deck cargo
 - usually allocated to the charterer where the whole ship is chartered, as it is in the economical interest of the charterer to utilise the deck space to load cargo
- Exception clauses
 - Usually, wide exceptions clause where no clause paramount, eg. BIMCO BALTIME 1939 form (revised 2001)
 - Usually, narrow exceptions clause where there is a clause paramount, eg. NYPE 1946 / 1993 / 2015 forms
- Construction of competing clauses
 - Order of priority:
 - (1) Typed clause, (2) pre-printed clause - *Adamastos Shipping v Anglo-Saxon*
 - (1) ICA Agreement, (2) clause paramount - *The Strathnewton*

Charterparties: Introduction

Cancelling Date

- Applicable to all types of charter
 - In Demise and Time Charters – the final date by which the ship must be **delivered**
 - In Voyage Charter – the final date by which the ship must be **ready to load**
 - If Shipowner fails to perform by Cancelling Date, no automatic cancellation, but a **contractual option to charterer to cancel**
- Notice of Delivery / Notice of Readiness (NOR) once ready to deliver / load
- Can cancel even if charterer not ready to receive / load: *The Tres Flores* (1974) CA
- Can cancel even if no loss / prejudice to charterer: *The Heron II* (1969) HL
- If charterer cancel before right to cancel accrues, anticipatory breach – shipowner can accept (and terminate charterparty and claim damages) or reject (and keep the charterparty alive)

Charterparties: Introduction

Cancelling Date

- NYPE 2015, cl 3:

If required by the Charterers, time on hire shall not commence before ____ ... and should the Vessel not have been delivered on or before ____ ... at the port or place ..., the Charterers shall have the option of cancelling this Charter Party at any time but not later than the day of the Vessel's notice of delivery

- BIMCO BALTIME 1939 (Rev 2001) Box 16: delivery date Box 22: cancelling date
- BIMCO GENCON 1994 Box 9 : expected ready to load Box 21: cancelling date

- Asbatankvoy, cl. 5

- ... Charterer shall have the option of cancelling this Charter by giving Owner notice of such cancellation **within twenty-four (24)** hours after such cancellation date; otherwise this Charter to remain in full force and effect

- If no such time cap, then must exercise the option to cancel within a reasonable time: See *Moel Tryvan Ship Co Ltd v Andrew Weir & Co (1910) CA*

Charterparties: Introduction

Approach Voyage

- Applicable to all types of charter
- BIMCO GENCON 1994 form, cl 1 expressly provides this duty
- NYPE / BALTIME forms don't express this, but always implied at common law – duty to perform approach voyage with reasonable dispatch

Charterparties: Introduction

Approach Voyage

- Two parts to this duty:
 - **Commence approach** voyage timely
 - Duty to commence is an '**absolute**' duty, hence no defence to it: *The Pacific Voyager*
 - It is an innominate term
 - If approach voyage not timely commenced, breach occurs at the time that it should have been commenced, hence the charterer may terminate at this point if the consequences are serious enough: *The Baleares*
 - Once commenced, **prosecute** approach voyage with **reasonable dispatch**
 - Shipowner not responsible if delay happens AFTER the approach voyage commences by factors not attributable to fault of the shipowner
- Target time for the duty is the agreed delivery / ready to load time (if one is specified) rather than the cancelling date

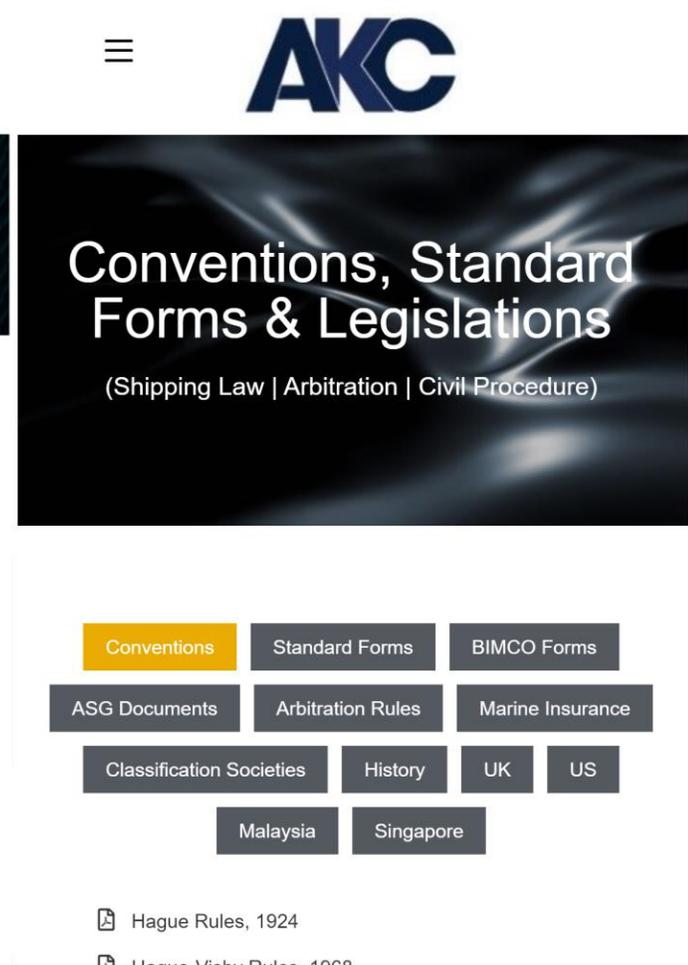
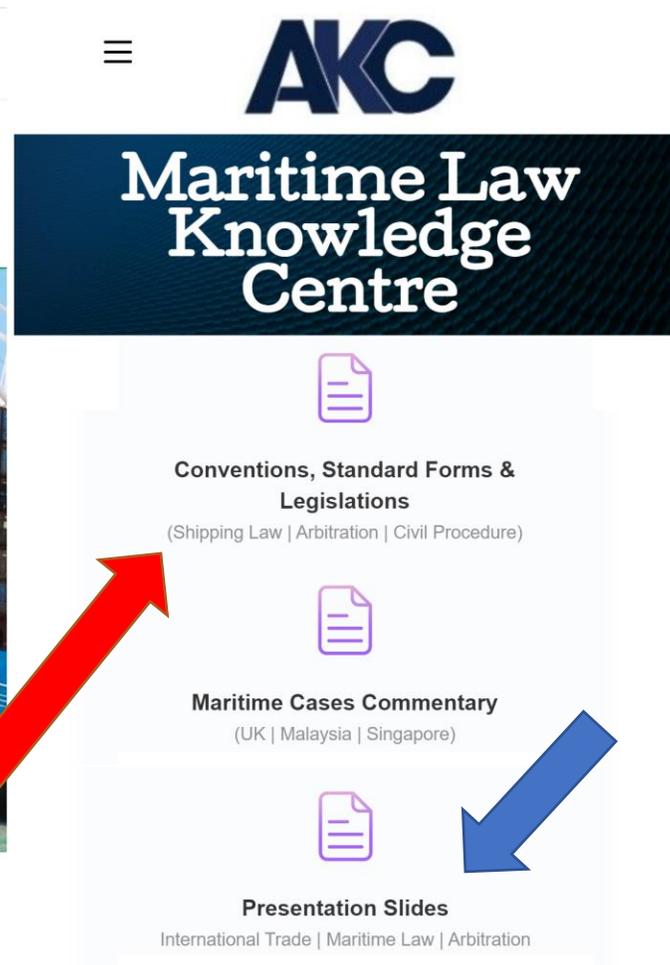
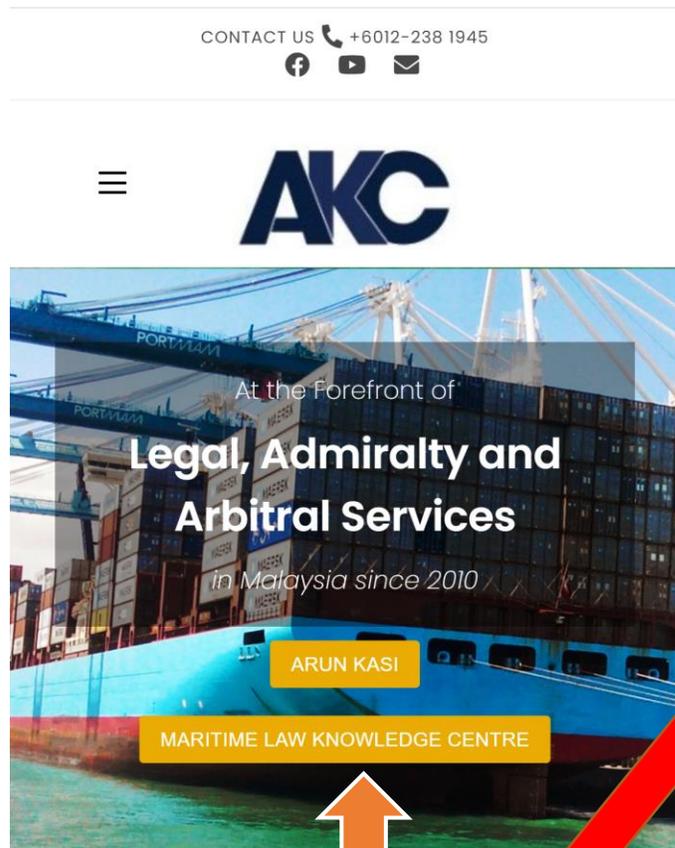
Charterparties: Introduction

Notice of Readiness in Voyage Charterparty

- In a port charter, the ship may give NOR at the port (before reaching any berth) - *Armement v John Robinson*
- In a berth charter, the ship may give NOR only upon reaching the berth
- It may not always be clear whether a particular charter is a port charter or a berth charter – it may look like one, but it may indeed be another
- ‘ready’ means readiness in commercial sense - *J Glynn v Consorzio*: ‘the hatches were not off, but matters of that sort do not prevent a vessel being readily put in order to commence her discharge’

International Trade, Maritime Law and Arbitration Web Reference

arunkasico.com -> [Maritime Law Knowledge Centre](#) -> [Conventions ...](#)



Carriage of Goods by Sea

Further Reading

[Arun Kasi, *The Law of Carriage of Goods by Sea*, Singapore, Springer, 2021](#)

Arun Kasi

The Law of Carriage of Goods by Sea

 Springer

PART I: INTRODUCTION AND INTERNATIONAL TRADE

1. Introduction and Legal Framework
2. Shipping Documents
3. International Trade

PART II: BILLS OF LADING

4. Obligations of Carrier under Rules: Legal Bases
5. Third Parties: Protection and Action for
6. Proof of Damages: Presumptions and Estoppels
7. Implied Terms and Exclusion Clauses.
8. Hague & Hague-Visby Rules: Application
9. Hague & Hague-Visby Rules: Carriers' Obligations and Defences
10. Hague & Hague-Visby Rules: Carriers' Liability and Time Limitations
11. Shippers' Obligation for Dangerous Cargo

PART III: CHARTERPARTIES

12. Charterparty: Introduction
13. Voyage Charter: Freight and Lien
14. Voyage Charter: Laytime and Demurrage
15. Time Charter: Orders and Indemnity
16. Time Charter: Withdrawal, Off-Hire and Redelivery
17. Time Charter: Apportionment of Cargo-Claims Liability

Carriage of Goods by Sea

Further Reading

Arun Kasi

The Law of Carriage of Goods by Sea

 Springer

Availability

Malaysia

- Kinokuniya

UK

- Wildy
- Foyles
- Waterstone
- Blackwells
- John Smith's
- Browns Books

USA

- Barnes & Noble
- Books A Million
- Walmart
- The Last Bookstore
- Schuler Books
- Bookscooter
- Joseph Beth
- Bluemanatee
- Literatibookstore
- Powells
- Bookshop.org
- Kinokuniya

Canada

- Indigo

New Zealand

- Mightyape

Australia

- Dymocks
- Booktopia
- Kinokuniya

Germany

- Hugendubel
- Weltbild
- Thalia
- Langer Blomqvist
- Buchkatalog
- Umbreit
- Stephanus Buchhandlung

France

- Galignani

Brussels

- Standard Boekhandel
- Club

Sweden

- Adlibris
- AkademiBokHandeln
- Bokus

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- Kinokuniya
- Books.com.tw

Thailand

- Kinokuniya

S. Korea

- Aladin

India

- Books Wagon