



International Trade, Bills of Lading, Charterparties and Arbitration

Day 9

Voyage Charter: Laytime & Demurrage

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Charterparties

Voyage Charter: Laytime and Demurrage

LAYTIME AND DEMURRAGE

- Laytime = contractually allowed time for loading / discharge
- Demurrage = contractually agreed rate of compensation when the laytime is exceeded

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Voyage Charter: Laytime and Demurrage

LAYTIME DEFINITIONS

- Laytime may be stated in different ways
 - Number of days, number of hours (common in tanker charters), rate of loading or discharge.
- Laytime stated in days – may be calendar or conventional days
 - Eg. loading starts at 2 pm on Monday and finishes at 1 pm on Tuesday
 - Calendar days used = 2
 - Conventional day used = 1 (because loading finished within 24 hours of starting)
 - If charterparty is silent as to calendar or conventional day, then likely calendar days

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LAYTIME DEFINITIONS

- BIMCO GENCON 1994 form, cl 16(c):
 - Laytime for loading and discharging shall commence at 13.00 hours, if notice of readiness is given up to and including 12.00 hours, and at 06.00 hours next working day if notice given during the office hours after 12.00 hours.
 - *Leonis v Rank* would suggest that this clause means conventional days
- Laytime may be qualified:
 - Weather permitting
 - Weather working day
- Exceptions to Laytime may be provided, eg. port workers' strike

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LAYTIME DEFINITIONS

- BIMCO GENCON 1994 form, cl 6(a) / (b) defines laytime as weather permitting days/hours, Sundays and holidays (unless used) excepted:
 - **(a)* Separate laytime for loading and discharging**
 - The cargo shall be loaded within the number of running days/hours as indicated in ..., weather permitting, Sundays and holidays excepted, unless used, in which event time used shall count. The cargo shall be discharged within the number of running days/hours as indicated in ..., weather permitting, Sundays and holidays excepted, unless used, in which event time used shall count.
 - **(b)* Total laytime for loading and discharging**
 - The cargo shall be loaded and discharged within the number of total running days/hours as indicated in ..., weather permitting, Sundays and holidays excepted, unless used, in which event time used shall count.

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LAYTIME DEFINITIONS

- Laytime may be provided separately or together for loading and discharge
- Charterparties may allow a dispatch, particularly when separate loading / discharge laytime are provided, as reward for early completion of loading / discharge
- Charterer does not have to save any laytime, and may deliberately delay up to last moment of laytime - *The Vrontados* and *Hudson v Ede*

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LAYTIME AND NOR

- Commencement of laytime is tied to Notice of Readiness (NOR)
 - Laytime will start upon NOR or certain hours after NOR
 - Eg. BIMCO GENCON 1994 form, cl 6(c) – Laytime commences after certain time once NOR is given
 - ExxonMobil Voy 2005, cl 13 form provides for laytime to start 6 hours after NOR is given or upon arrival at berth

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NOR

- NOR may be given only when the ship becomes an 'arrived' ship
 - In a port charter, arrive at port – but may give NOR at port only if berth is not available on arrival at port. If berth is available on arrival at port, the ship must proceed to berth and then give NOR - *The Johanna Oldendorff*
 - In a berth charter, arrive at berth
 - Whether it is a port or berth charter may not always be straight forward
 - BIMCO GENCON 1994 form, cl 6(c) allows NOR to be given at port only if a berth is not available upon arrival at the port
- If NOR is given before right to give accrued, the NOR is invalid and does not take effect even when the right has accrued
 - Hence a fresh NOR must then be given
 - But if charterer accepts an invalid NOR, then charterer will be estopped taking challenge

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Voyage Charter: Laytime and Demurrage

ARRIVED SHIP

- Port charter – must arrive within port limits
 - *The Johanna Oldendorff* – Indicative factors
 - As set by law
 - If none:
 - The area within which a port authority exercises its various powers to regulate the movements and conduct of ships.
 - The powers relating to pilotage and other matters may well extend beyond the port limits.
 - Usual waiting place (in this case in 17 nautical miles away from the dock).
 - *The Maratha Envoy*

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WIBON / WIPON / TIME LOST CLAUSES

- wibon - whether in berth or not
 - wibon clause redundant in a port charter
- wipon – whether in port or not
- time lost - time lost in waiting for berth to count as laytime
 - Unlike wibon / wipon, this does not render the ship an arrived one to give NOR but merely deducts the waiting time from laytime, hence expands demurrage time
 - Laytime definitions, qualifications and exceptions apply

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Voyage Charter: Laytime and Demurrage

WIBON / TIME LOST CLAUSES

- Effective only if ship cannot berth due to congestion and not by other causes such as bad weather - *The Kyzikos*

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Voyage Charter: Laytime and Demurrage

REACHABLE ON ARRIVAL / ALWAYS ACCESSIBLE CLAUSES

- Reachable on arrival
 - Charterer to nominate berth upon arrival of the ship at port
 - If charterer fails, for whatsoever reason, the charterer will be liable for detention, though this clause does not allow NOR to be given or laytime to start
 - Laytime definitions, qualifications and exceptions do **not** apply

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REACHABLE ON ARRIVAL / ALWAYS ACCESSIBLE CLAUSES

- Always accessible
 - Wider than 'reachable on arrival' clause
 - Nominated port must be one that the ship can safely reach **and** leave

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LAYTIME EXCEPTIONS (SUSPENSION OF LAYTIME)

- Eg. frost, detention by ice, unavoidable hinderances delaying the discharge of the cargo
- BIMCO 1994 form, cl 6(c) excepts the **shifting time** from laytime where laytime started while waiting for berth
- Loss of laytime attributable to shipowner, irrespective of whether the shipowner is at fault or not
 - *The Fontevivo* - in the midst of discharging, the crew sailed away for fear of war risks and then returned to the port of discharge after three days
 - *The Union Amsterdam* - demurrage because ship was grounded by negligence of the shipowner - Liability for negligent navigation and management of ship was statutorily excluded – Held: the fault (though non-actionable) excepted the charterer's liability for demurrage for the period of delay caused by the grounding

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TERMINATION AND DEMURRAGE

- Exceeding laytime is also a breach of the charterparty – innominate term
- Shipowner may terminate only if consequences are so serious
- BIMCO GENCON 1994, cl 7 form allows the shipowner to terminate if demurrage is not paid after 96 hours notice

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DEMURRAGE AND LAYTIME EXCEPTIONS

- ‘Once on demurrage, always on demurrage’ – *The Dias*
 - Unless delay causing demurrage was fault (whether actionable or not) of shipowner – *The Union Amsterdam*
- Laytime exceptions do **not** apply to demurrage

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CONTRACTUAL TIME LIMITS FOR DEMURRAGE CLAIMS

- Eg. Shellvoy 5
 - Demurrage claim documents to be submitted 'fully and correctly' within 90 days

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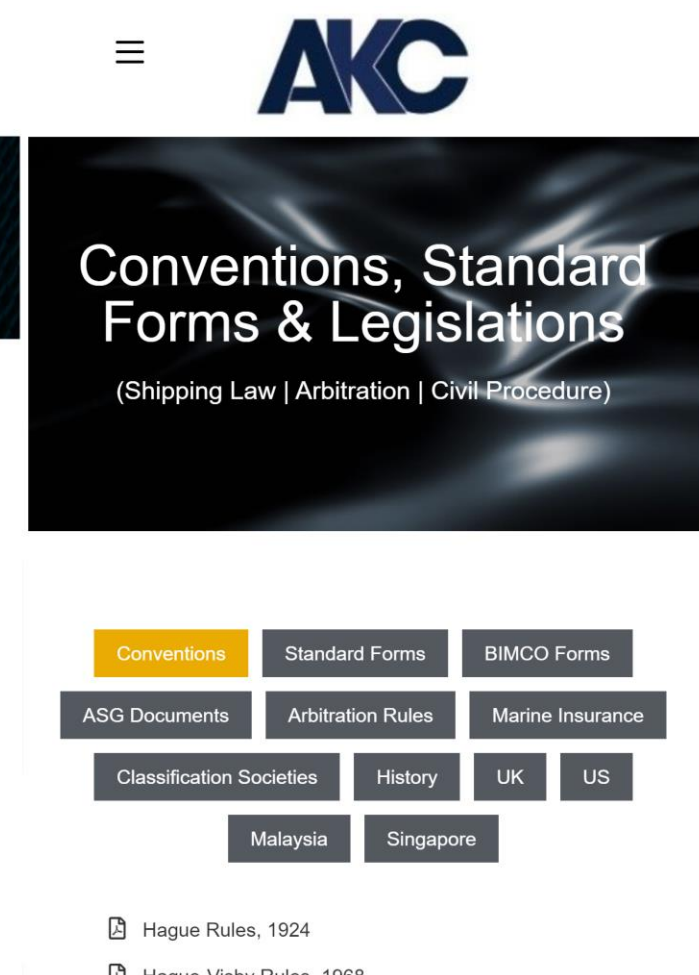
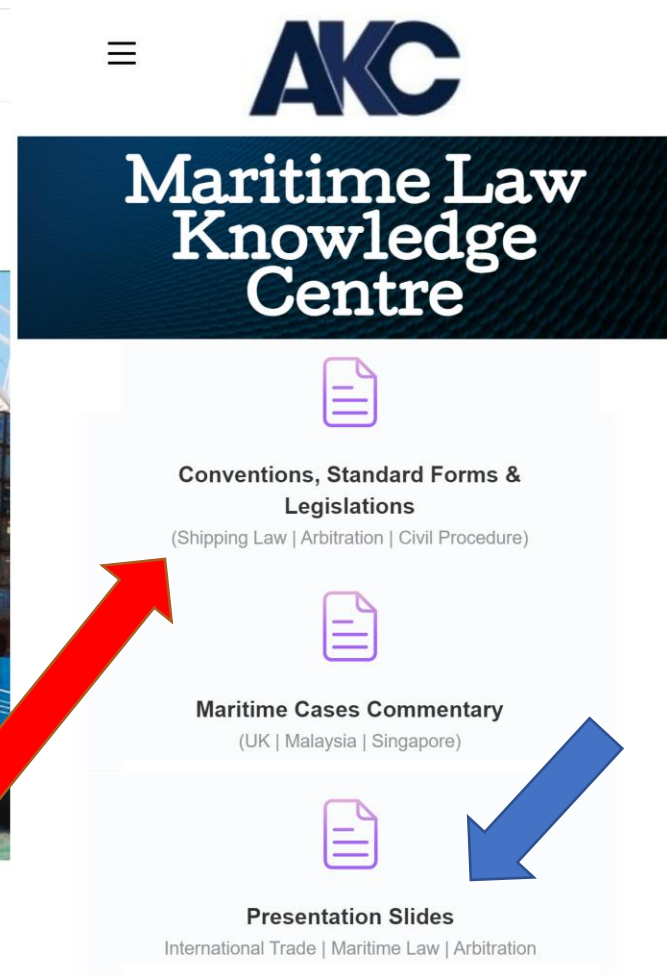
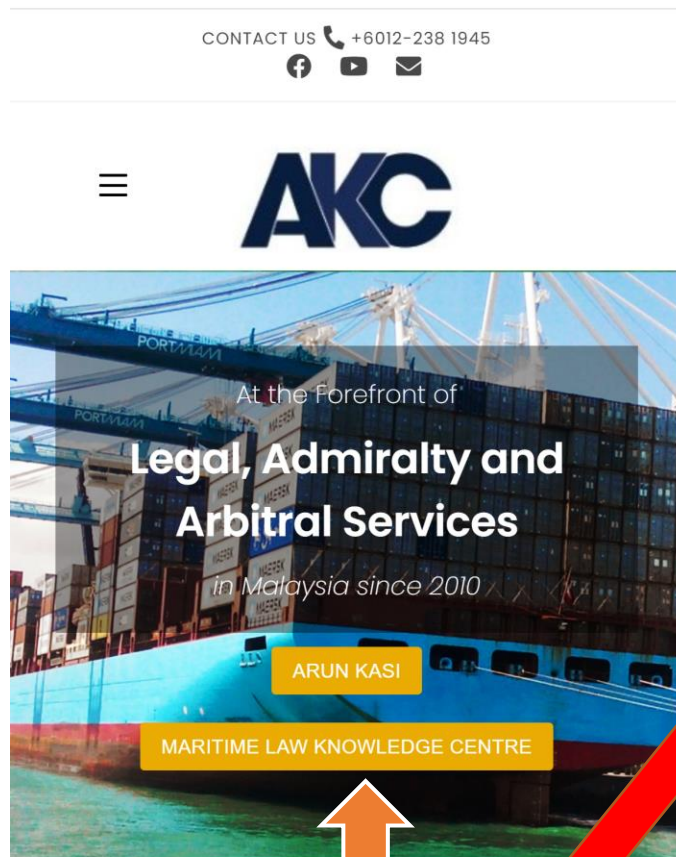
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DEMURRAGE v DETENTION

- Detention payable where
 - Eg. where charterparty provides no laytime / demurrage
 - Obligation to load / discharge within reasonable time
 - If reasonable time exceeded, then detention
 - Eg. where charterer fails to nominate port upon arrival at port, where there is a 'reachable on arrival' clause

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
- Bookscout
- 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

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S. Korea

- Aladin

India

- Books Wagon