



T.C  
YEDİTEPE ÜNİVERSİTESİ  
SOSYAL BİLİMLER ENSTİTÜSÜ

NAVLUN SÖZLEŞMELERİNDE YÜKLEME ve BOŞALTMADA BEKLEME  
SÜRESİ

Hazırlayan  
Nihan Kutur

Sosyal Bilimler Enstitüsü Hukuk Yüksek Lisans Programı  
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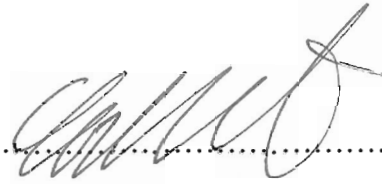
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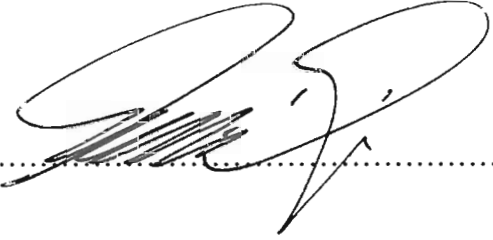
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## KISALTMALAR

Alm	Alman
ařđ	Ařađı
B.K	Borçlar Hukuku
Bkz	Bakınız
Fk	Fıkra
H.D	Hukuk Dairesi
No	Numara
mad.	Madde
M.K	Medeni Kanun
syf	Sayfa
TK	Ticaret Kanunu
vb.	ve benzeri
vd.	ve devamı
YHGK	Yargıtay Hukuk Genel Kurulu
ykr	yukarı

## ÖZET

Dünya ticaret hayatında önemli bir yer alan deniz yoluyla eşya taşınmasında yükleme ve boşaltma aşamalarının ne kadar süreceği uygulamada çok sık rastlanan uyuşmazlıklardan biridir. Özellikle yükleme ve boşaltma süresinin ne zaman başlayacağı, nasıl işleyeceği, ne tür engeller dolayısıyla kesintiye uğrayıp uğramayacağı çözüm için yargının önüne gelen konulardır.

Bu tez çalışmasında yukarıda konu edilen nedenlerden dolayı yükleme ve boşaltmada bekleme sürelerinin Türk hukuk sistemi ve çeşitli hukuk sistemlerindeki ve dünyaca kabul edilmiş kuruluşlarca hazırlanmış standart sözleşmelerdeki düzenlemeleri karşılaştırmalı olarak incelenmiştir. Bu incelemede yükleme ve boşaltmada bekleme süresinin aşamaları şu şekilde belirtilmiştir:

- Yükleme veya boşaltma süresi(Starya)
- Sürastarya Süresi
- Üç günlük ek süre( Yalnız yükleme için)

Bunların yanında Türk Hukuk Sisteminde deniz yoluyla eşya taşıma için kullanılan navlun sözleşmeleri hakkında kısaca bilgi verilmiştir.

2006 yılında Meclis Alt Komisyonu tarafından kabul edilen Türk Ticaret Kanunu Tasarısında yükleme ve boşaltmada bekleme süresi mevcut ticaret kanunuyla karşılaştırmalı olarak incelenmiştir.

En son olarak yükleme ve boşaltmada bekleme süreleri açısından genel bir değerlendirme yapılmıştır.

## ABSTRACT

In removal of goods by sea that is important takes place in world trade life ,loading and discharging term lenght is one of the frequency disagreement in this activity. Especially some questions are brought judgment for solution like; when loading and discharging period starts, how these periods continue, which interruptions affect loading and discharging periods

In this thesis, due to above mentioned reasons, loading and discharging period is analysed comparatively in Turkish Law System, different law systems and standart contracts are drawn up by united organisations. In this resarch loading and discharging waiting term's grade is mentioned that:

- Loading or Discharging Term(Laytime)
- Demurrage
- Three Additional Days( is for only loading)

Furthermore, in Turkish Legal System removal of goods by sea contracts which are called “contract of affreightment” is informed shortly.

Loading and discharging waiting period is resarched comparatively Turkish Commercial Code and Turkish Commercial Code Draft that is accepted by Turkish Grand National Assembly's subcommittee in 2006 .

Finally, loading and discharging waiting period is general explained in this thesis.

## **GİRİŞ**

Yüzyıllardan beri dünya ticaret hayatında önemli bir yer alan deniz yoluyla eşya taşınması günümüzde halen geçerliğini sürdürmektedir. Ancak yük taşımada deniz yolunun kullanılmasında yolculuk safhası teknolojinin gelişmesiyle eskisi kadar uzun zaman almamasına rağmen günler haftalar bazen de aylarca sürmektedir. Yolculuğun bu kadar uzun olmasından dolayı deniz taşımacılığını kullanan kişiler yükleme ve boşaltma aşamasının da uzun olmasını istemezler. Bu nedenle deniz yoluyla taşımacılık yapan tüzel ya da özel kişiler aralarında yapmış oldukları ya da Dünya çapında geçerliliği olan kuruluşlarca hazırlanmış sözleşmelerinde yükleme ve boşaltmada bekleme sürelerini özel hükümlere bağlamaktadırlar. Düzenlenen bu hükümlerle taraflar, yükleme ya da boşaltma yapılacak limanın özelliklerine, hava, deniz gibi doğal şartlara veya beklenmeyen sebeplere göre yükleme ve boşaltma süresinin en kısa ve kendi menfaatlerine en uygun şekilde oluşmasını sağlamaktadırlar.

Tarafların, deniz yoluyla eşya taşımacılığında kullandıkları sözleşmeler Türk Ticaret Kanununda “navlun sözleşmeleri” başlığı altında incelenmektedir. Bu nedenle aşağıda öncelikle navlun sözleşmeleri hakkında genel bilgi verilip daha sonra yükleme ve boşaltma kavramları üzerinde durulacaktır. Diğer bir bölümde dünyada çeşitli hukuk sistemlerinde yükleme ve boşaltmada bekleme süresinde kullanılan sistemler anlatılacak ve bu sistemlerin varlığı halinde değişik hukuk sistemlerinde çeşitli sözleşmelerde ne gibi hüküm farklılıklarının olacağı üzerinde durulacaktır.

Daha sonra yüklemede ve boşaltmada bekleme süresi aşamaları TTK'nunda, standart sözleşmelerde ve İngiliz Hukuk Sistemindeki farklılıklar ayrı ayrı incelenecektir.

Bir sonraki bölümde 2006 yılında Meclis Adalet Alt Komisyonu tarafından kabul edilen ve ne zaman yürürlüğe gireceği belirsiz olan Türk Ticaret Kanunu Tasarısı ve mevcut TTK arasında yükleme ve boşaltma süresi bakımından karşılaştırma yapılarak tasarı hükümleri incelenecektir.

En son olarak sonuç bölümünde yükleme ve boşaltmada bekleme süresi hakkında genel bir değerlendirme yapılacaktır.

## BİRİNCİ BÖLÜM

### NAVLUN SÖZLEŞMELERİ

#### **1.1 Genel Olarak:**

Navlun sözleşmesi; taraflarından birinin (taşıyan) deniz yoluyla eşya taşımayı, diğer tarafın da(taşıtan) bunun karşılığında navlun ücreti ödemeyi taahhüt ettiği sözleşmedir.<sup>1</sup> Bir sözleşmenin navlun sözleşmesi olarak nitelendirilmesi için bir takım unsurları taşıması gerekmektedir. Bu unsurlar şunlardır; ilk olarak bir yük(eşya) taşıma taahhüdünün mutlaka bulunması, taşıma yapılacak eşyanın maddi varlığının olması gerekmektedir. Ticari bir eşya olması şart değildir. Bir müzede sergilenen eşyanın da taşınması ya da cenazenin taşınması da navlun sözleşmesi kapsamına girmektedir.<sup>2</sup> İnsan taşınması navlun sözleşmesi değil, yolcu taşıma sözleşmesidir ve TTK 1119-1132.maddeleri kapsamında değerlendirilir. Bunun yanında yapılan eşya taşıma eylemi mutlaka deniz yoluyla yapılmalıdır. Deniz yoluyla yapılan taşıma kavramının içine iç sularda(nehir, göl) yapılan taşımalar girmez. Bir başka unsur ise navlun sözleşmesi bakımından gemi ile taşımadır. Taşıma işi yapılacak bu geminin navlun sözleşmesinde belirtilmesi zorunlu değildir, ancak belirtilmesi taraflar bakımından bir takım yararlar sağlar. Örnek olarak sigorta bakımından hangi geminin taşıma işinde kullanılacağına belirtilmesi taraflar açısından yararlı olacaktır. Bu nedenle tam çarter sözleşmelerinde çoğu zaman, kısmi çarter sözleşmelerinde ise kural olarak gemi belirtilir.

Navlun sözleşmesinde taşıyan, söz konusu eşyayı teslim aldığı andan gönderilene varma limanında teslim edene kadar taşınan eşyanın zilyetliğini elde eder. Taşıyan, taşınan eşyanın zilyetliğine sahip olması ve navlun sözleşmesinden kaynaklanan edimi nedeniyle eşyanın gönderilene varma limanında teslim edene kadar bakımını ve korunmasını sağlar.<sup>3</sup> TTK 1016. mad.'de hükme bağlandığı üzere navlun sözleşmelerinin en önemli özelliği; taşıyanın, bir yerden başka bir yere yapılan eşya taşıma işini belli bir ücret karşılığında yapmasıdır. Navlun bedelini ödemedede yükümlü olan ise taşıtandır, ancak TTK 1069. mad. uyarınca gönderilen, malın kendisine teslim edilmesini isterse mal kendisine teslim edilirken navlun ve navlun teferruatından olan bir takım masrafları ödemekle yükümlü

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<sup>1</sup> ÇAĞA,T/ KENDER,R :Deniz Ticaret Hukuku, C.II ,8. Bası ,İstanbul, 2006 ; syf 1

<sup>2</sup> AKINCI, S: Deniz Hukuku Navlun Mukaveleleri, İstanbul, 1968, syf 2

<sup>3</sup> ÇAĞA / KENDER ;syf 1-3

olur. Borç nakli meydana gelir.<sup>4</sup> ve TTK 1070. mad. uyarınca da taşıyan navlun ve bu tür masrafları taşıtandan isteyemez.

### ***1.2 Navlun Sözleşmesinin Hukuki Niteliği:***

Navlun Sözleşmesinin hukuki niteliği açısından mevcut ticaret kanununda açık bir düzenleme ve doktrinde de bir görüş birliği yoktur.

Yürürlükte olan ticaret kanunundan önce 1864-1929 tarihleri arasında yürürlükte olan Kanunname-i Hümayun-u Ticareti Bahriye Kanunu ve 1929-1957 tarihleri arasında yürürlükte olan Eski Ticaret Kanunu olarak ifade edilen kanununda bugünkü düzenlemeden farklı olarak navlun sözleşmesinin bir kira akdi olduğunu sonucunu çıkaracak düzenlemeler mevcuttu. Bu sonuca yukarıda belirtilen kanunlarda icar, mucir, müstecir ve kira, kiralayan ve kiracı terimlerinin kullanılmasından ulaşılmaktaydı. Yürürlükte olan ticaret kanununda bu terimlerin yerine taşıyan, taşıtan ve navlun sözleşmesi terimleri kullanılmaktadır. Ancak uygulamada bazen eski düzenlemelerden beri kullanıla gelmiş kiracı, kiralayan gibi terimlere rastlanmaktadır. Bu kullanım yanlıştır. Denizde eşya taşıma sözleşmesi olan navlun sözleşmesi BK kapsamında kabul edilen bir kira sözleşmesi değildir. Borçlar kanunu 248. mad.'de düzenlendiği gibi kira sözleşmesinde kiralayan, bir ücret karşılığında bir şeyin kullanılmasını terk etmeyi borçlanır. Navlun sözleşmesinde ise taraflardan hiçbirisi biri bir şeyin kullanılmasını terk etmeyi borçlanmamaktadır. Borçlar Kanunu'ndaki kira sözleşmesi niteliğinde kabul edilen bir sözleşme türü de bulunmaktadır. Bu sözleşme bare-boat-charter olarak ifade edilmektedir.

Bunun dışında taşıma sözleşmesinin niteliği konusunda doktrinde üç ayrı görüş daha bulunmaktadır. Navlun sözleşmesi denizde eşya taşıma sözleşmesi olduğundan bu görüşlerin navlun sözleşmesinin hukuki niteliği açısından da ileri sürüldüğü kabul edilebilir.

Bu görüşlerden birincisi navlun sözleşmesinin bir istisna akdi olduğunu kabul eden görüştür. Bu görüşe göre; BK.355. maddesinde istisna akdi düzenlenmiştir. İstisna akdi bu hükme göre; iş sahibinin vermeyi taahhüt ettiği bir ücret karşılığında müteahhidin bir şeyin imalini taahhüt etmesidir. Bir şeyin imali ile anlaşılması gereken sadece maddi bir şeyin imali değildir, aynı zamanda maddi olmayan bir şeyin de yapılması taahhüt edilebilir.

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<sup>4</sup> ÇAĞA /KENDER; syf 229



Navlun sözleşmesinde de taşıyan, taşıtanın vereceği bir ücret karşılında yükü bir yerden bir yere taşımayı taahhüt eder.<sup>5</sup>

İkinci görüşe göre ise; navlun sözleşmesi bir vekalet akdidir. Vekalet akdinde vekil vekalet verenin çıkarına ve iradesine uygun olarak bir iş görme borcu yüklenir. Bu görüşe göre; navlun sözleşmesi ticari nitelikte olduğundan ticaret kanunda düzenlenmiştir. Ticaret kanununda böyle bir düzenlemenin olması BK 431-448. maddelerini yürürlükten kaldırmıştır ama navlun sözleşmesinin vekalet akdi olduğu gerçeğini değiştirmemektedir.

Üçüncü görüşe göre ise; navlun sözleşmeleri ne istisna akdidir ne de vekalet akdidir. Navlun sözleşmeleri kendine özgü nitelikleri olan sui generis bir sözleşmedir. Borçlar Kanunu'nda düzenlenen herhangi bir sözleşme içerisinde incelemek navlun sözleşmesi açısından doğru değildir. Navlun sözleşmesi bu sözleşme türleri arasında farklılıklar göstermektedir. Türk Ticaret Kanunu'nda bağımsız bir sözleşme olarak ele alınan ve birçok hükümlerle son derece geniş olarak incelenen navlun sözleşmesinin başka bir sözleşme türü ile özdeşleşiminin doğru olarak kabul edilmeyeceği savunulmaktadır.<sup>6</sup>

Navlun sözleşmesinin istisna akdi olarak değerlendirilmesi gerekmektedir. Çünkü sonuç itibarıyla istisna akdini meydana getiren şartların navlun sözleşmesi açısından olduğu sonucuna varılmaktadır. Taşıtan, navlun ücreti diye nitelenen bir ücret karşılında taşıyana bir iş yaptırmaktadır ki bu iş yükünün yükleme limanından varma limanına kadar taşınmasıdır.

Sözleşmenin hukuki niteliğinin incelenmesi çeşitli açılardan önemlidir. Öncelikle uygulanacak hükümler konusunda önemlidir. Borçlar kanunu kapsamında kira sözleşmesi olarak kabul edilirse borçlar kanununda düzenlenen kira hükümleri uygulanacak ve kiracı işletme müteahhidi sıfatını kazanacak ve üçüncü şahıslarla olan ilişkilerinde donatan sayılacaktır. Vergi hukuku açısından da önemlidir.

Bunların dışında istisna sözleşmesi veya vekalet sözleşmesi mi olduğunun kabul edilmesiyle de uygulamada farklılıklar ortaya çıkabilecektir. Navlun sözleşmesine ait hükümlerin TTK'da düzenlenmesi ile Borçlar Hukuku açısından hüküm ifade eden sözleşme hükümlerinin uygulanabilirliği ortadan kalkmaktadır. Ancak taraflarca yapılan sözleşmede ticaret kanununda açıklığa kavuşturulmayan bir düzenleme nedeniyle

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<sup>5</sup> GÖĞER, E: Deniz Hukukundaki Eşya Taşıma(Navlun) Mukavelelerinden Doğan Kanunlar İhtilafı ,Ankara 1965, syf 18 ;AKINCI,syf 49-51;OKAY,S:Deniz Ticaret Hukuku,C.II,İstanbul 1971 syf 31-33; ÇAĞA /KENDER; syf 12

<sup>6</sup> SUNAL ERGUVAN, S: Deniz Yoluyla Yük Taşıma Ücreti(Navlun),İstanbul 2007;syf 35

uyuşmazlık söz konusu olursa Borçlar Kanununda düzenlenen istisna akdi ile ilgili hükümlere bakılabilecektir.

### **1.3 Navlun Sözleşmesinin Tarafları:**

Navlun sözleşmesinin tarafları; taşıyan ve taşıtandır.

#### **1.3.1 Taşıyan(carrier, Verfrachter):**

TTK 1016. mad.de belirtildiği üzere belli bir ücret karşılığında taşımayı taahhüt eden kişidir. Taşıyan, ayrıca navlun sözleşmesi gereği sözleşmenin konusunu oluşturan eşyayı kabul etmek, yol boyunca kendisi ya da yardımcıları aracılığıyla korumak ve belirtilen limanda teslim etmekle yükümlüdür.<sup>7</sup>

Taşıyan sıfatının kazanılabilmesi için devamlı olarak deniz yoluyla eşya taşıma işini gerçekleştiriyor olmak diğer bir ifade ile deniz yoluyla eşya taşıma faaliyetini meslek edinmiş olmak şart değildir. Bir kere bile bu işi yapmak taşıyan sıfatını kazanmak için yeterlidir. Taşıyan sıfatını kazanabilmek için belli bir ücret karşılığında yük taşımayı taahhüt eden kişinin ayrıca taşıma yapılacak olan geminin maliki olması şartı aranmaz.<sup>8</sup> Üçüncü kişiye ait olan bir gemiyi kira veya navlun sözleşmesi ile tutan ve bu gemiyi başka kişilere ait olan yükleri taşımak için kullanan kişi bile sadece yük taşımayı taahhüt etmiş olmasından dolayı taşıyan sıfatını kazanacaktır.<sup>9</sup>

Taşıyanın donatan olması yük ile ilgili kişilere karşı sorumluluğu açısından önem taşımaktadır. Çünkü donatanın sorumluluğu TTK'da belirli durumlarda sınırlandırılmıştır. Örneğin, TTK 948.mad.'sinde donatanın üçüncü kişi alacağından dolayı sadece gemi ve navlun ile sorumlu olacağı düzenlenmiştir. Ayrıca bu madde hükmü gibi TTK 1252, 1254, 1255 ve 1256. maddelerinde de donatanın üçüncü kişi alacağından dolayı sınırlı sorumlu olduğu hallere rastlanılmaktadır. Söz konusu hükümlerde donatan için öngörölmüş sınırlı ve şahsi sorumluluk donatan olmayan taşıyan için geçerli değildir. Ancak uygulamada sözleşmelere konulan bir klozla donatan için kabul edilmiş olan sorumluluk sınırlamalarından donatan olmayan taşıyan da yaralanabilmektedir. Bu kloz "Identity of carrier clause"(IoC) (Taşıyanın Kimliği Klozu) veya klasik olarak sınıflandırılan "demise clause" dur. Bu klozla beraber geminin donatanı taşıyan sayılmakta ve buna bağlı olarak

<sup>7</sup> İZVEREN,A/FRANKO, N/ÇALIK ,A: Deniz Ticaret Hukuku,Ankara,1994, syf 163

<sup>8</sup> OKAY, syf 10; İZVEREN/vd. syf 163,ÜLGENER, F;Taşıyanın Sorumsuzluk Halleri, İstanbul,1991,syf 22;SUNAL ERGUVAN;syf 26,

<sup>9</sup> AKINCI, syf 34

üçüncü kişiler donatana ancak sınırlı sorumluluk içerisinde başvurabilmektedirler. Bundan dolayı donatan da taşıyana sınırlı sorumluluk içerisinde başvurabilecek ve taşıyan da donatan için öngörülmüş sınırlı sorumluluktan yararlanabilecektir.<sup>10</sup> Söz konusu klot taşıyanın emredici sorumluluğunu düzenleyen TTK 1116. mad.'sine aykırı değildir. Çünkü bu klotun konulmasıyla sorumluluk ortadan kaldırılmamakta taşıyanın yerine donatan ikame edilmektedir.

“Identity of carrier” klotunun geçerli olabilmesi için iki şartın varlığı gereklidir. Öncelikle donatanın taşıyana bu türden bir klotun sözleşmeye konulabilmesi için açıkça yetki vermiş olması gerekmektedir. Çünkü donatan bu klotun sözleşmeye konulmasıyla beraber tarafı olmadığı bir alt taşıma sözleşmesinden dolayı sorumluluk altına girmektedir. Bu nedenle donatanın taşıyana açıkça yetki vermiş olması gerekmektedir. Böyle açık bir yetkinin olmaması halinde klot tamamen geçersiz hale gelecektir ve taşıyan tüm malvarlığı ile sınırsız sorumlu hale gelecektir. Bu klotun geçerli olabilmesi için gereken ikinci şart ise; koniřmentonun kimin adına imza edilmiş olduğunun koniřmentonun içeriğinden anlaşılmasıdır. Bu şart ile kıymetli evrak olan koniřmentonun hamilinin koniřmentodan kaynaklanan taşıma taahhüdünün kim tarafından yerine getirileceğinin bilmesi amaçlanmaktadır.<sup>11</sup>

TTK 1099. mad.'sinde ayrıca kaptan veya donatanın diğeri bir temsilcisi tarafından hazırlanan bir koniřmentoda taşıyanın adı gösterilmemiş olursa donatanın taşıyan sayılacağı ve taşıyanın adı yanlış bildirilmiş ise beyanın doğru olmamasından dolayı doğacak zararlardan gönderilene karşı donatanın sorumlu olacağı düzenlenmiştir. Gerçekte taşıyan olmayan kişi koniřmentoda taşıyan olarak gösterilmiş olması durumunda da taşıyanın adı koniřmentoda gösterilmemiş olarak kabul edilip donatanın taşıyan olarak kabul edilmesi gerekir.<sup>12</sup>

Yukarıda belirtilen IoC klotu konulmayıp TTK 1099. mad.'si dayanak olarak kabul edilirse bu durumda taşıyana ayrıca sınırlı sorumluluk hakkı tanınmadığı için donatanın rücu etmesi halinde tüm mal varlığı ile sorumlu hale gelecektir.<sup>13</sup>

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<sup>10</sup> AKINCI, syf 36;ÇAĞA/KENDER, syf 69; ÜLGNER, F: Çarter Sözleşmeleri, C. I,İstanbul, 1998; syf 99; İZVEREN vd. syf 280

<sup>11</sup> ÇAĞA /KENDER; syf 69- 70;ÜLGNER; Çarter; syf 109-110

<sup>12</sup> ÇAĞA / KENDER; syf 69 dn 12

<sup>13</sup> ÜLGNER; Çarter; syf 111

### **1.3.2 Taşıtan:**

Navlun sözleşmelerinde taşıyanın karşı tarafıdır. Taşıtan, yük sahibi olmak zorunda değildir. Bir deniz ticaret komisyoncusu da başkasının malını taşımak için taşıyanla sözleşme imzalayabilir. Bu durumda taşıtan komisyoncudur.<sup>14</sup>

### **1.4 Navlun Sözleşmesinin İlgilileri:**

Navlun sözleşmelerinde taşıyan ve taşıtanın haricinde de ilgililer vardır. Bunlar; yükleten(shipper) ve gönderilen(consignee) dir.

#### **1.4.1 Yükleten:**

Navlun sözleşmesinde taşınması kararlaştırılan eşyayı gemiye ya da taşıyana teslim eden kişidir.<sup>15</sup> Yükleten, taşıtan da olabilir ya da onun namına hareket eden bağımsız üçüncü kişi de olabilir. Taşıtan dışında yükletenin, taşıtanının bağımlı bir çalışanı değil onun namına hareket eden bağımsız bir temsilcisi olması gerekmektedir. Aksi halde, taşıtan yükleten olarak kabul edilir.<sup>16</sup>

Yükleten yük gemiye yüklenmeden önce taşıtanla hukuki ilişkisi ne olursa olsun taşıyana karşı taşıtanın temsilcisi olarak hareket eder, yükleme yapıncaya kadar şahsen hiçbir hakka sahip değildir.

Yükleten, TTK' nun çeşitli maddelerine göre özellikle gemi, sefere çıktıktan sonra yükle ilgili şahıs haline gelir ve bir takım taleplerde bulunma hakkına sahip olur. Bu sonuca, TTK 973.mad.'sinde düzenlenen kaptanın sorumlu olduğu kişiler arasında yükletenin de sayılmasından, yükleme yapıldıktan sonra yükletenin konişmento düzenlenmesini isteyebilmesinden(TTK 1097.mad.), TTK 1029.mad.'sinde belirtilen yükletenin izni olmadan eşyanın güverteye konulamayacağından, yükün boşaltılmasını ve teslimini(konişmento düzenlenmiş ise ancak bütün nüshalar elinde olmak şartı ile) isteyebilme hakkının olmasından ve navlun sözleşmesinde tespit edilmemiş ise gönderileni tespit edebilmesinden ulaşılmaktadır.

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<sup>14</sup> İZVEREN/vd.; syf 164

<sup>15</sup> Taşıyanın yetkilendirdiği bir üçüncü kişiye de taşınacak eşya teslim edilebilir.

<sup>16</sup> OKAY; syf 16; AKINCI; syf 38

#### **1.4.2 Gönderilen:**

Navlun sözleşmesi ya da düzenlenmişse konşimentoda belirtilen yükü varma limanda teslim almaya yetkili kişidir. Her navlun sözleşmesinde yükü ilgili şahıs olan gönderilen olmayabilir. Ancak uygulamada genellikle taşıtan veya yükleten tarafından bir gönderilen belirlenir. Bazı durumlarda ise tek parti olarak kabul edilen yüklerde birden fazla sayıda gönderileninin olması görülebilir.

Gönderilenin kim olduğu konşimento düzenlenmiş ise konşimentoda veya navlun sözleşmesinde belirtilir.

Gönderilenin malı teslim alıncaya kadar taşıyana herhangi bir yükümlülüğü yoktur, ancak yükü teslim alması ile birlikte bir takım yükümlülükleri doğabilir. TTK 1069.mad.'sinde düzenlenen bu yükümlülükler, navlun ve navlunun teferruatından doğan tüm masraflar ve sürestarya bedelidir.<sup>17</sup> Taşıyan, gönderilene düşen bu yükümlülüklerin yerine getirilmesi halinde gönderilene malı teslim mecbur hale gelir.

TTK 1110/I. mad.'ye göre gönderilen ve taşıyan arasındaki ilişkide konşimento esas tutulur. Fakat uygulamada charter taşımalarında konşimentoya yazılan “*all other conditions as per charterparty*”(bütün diğer şartlar charter partide olduğu gibi) klozuyla navlun sözleşmesi hükümleri geçerli hale gelir.( Özellikle teslim,navlun ödemesi ve sürestarya ücreti hakkında)<sup>18</sup>

#### **1.5 Navlun Sözleşmesinin Türleri:**

Ticaret Kanunumuzun 1016. mad.'sinde de kaynak Alman Hukukunda olduğu gibi iki türlü navlun sözleşmesi hükme bağlanmıştır:

##### **1.5.1 Charter Sözleşmesi:**

TTK 1016 mad.'sinin birinci bendinde düzenlenmiştir. Buna göre; geminin tamamı veya bir kısmı ya da belli bir yeri taşıtana tahsis edilerek eşyanın denizde taşınması taahhüt edilir. Bu şekilde eşya taşıma taahhüt edildiği için charter sözleşmeleri “*gemi tahsis sözleşmesi*” olarak da adlandırılır.<sup>19</sup> Dünya denizciliğinde önemli yer tutan kuruluşlar olan “The Chamber of Shipping of the United Kingdom” ve “The Baltic and International Maritime Conference” tarafından hazırlanmış olan standart(tip) formları uygulamada

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<sup>17</sup> İZVEREN vd. ,syf 166

<sup>18</sup> ÇAĞA / KENDER; syf 6

<sup>19</sup> ÜLGNER, Charter; syf 30

kullanılmaktadır.<sup>20</sup> Çarter sözleşmeleri gemide tahsis olunan yere ve şekline göre türlere ayrılmaktadır. Bu türler;

#### **1.5.1.1 Tam Çarter Sözleşmeleri:**

Bu tür çarter sözleşmesiyle eşya taşımak için geminin tamamı taşıtana tahsis edilmiştir. Günümüzde çarter sözleşmelerinin çoğunluğunu oluşturmaktadır.

#### **1.5.1.2 Kısmi Çarter Sözleşmeleri:**

Çarter sözleşmelerinin bu türünde ise eşya taşımak için geminin belli bir kısmı taşıtana tahsis edilmiştir.

Çarter sözleşmelerinin aynı zamanda geminin tahsis tarzına göre de çeşitleri bulunmaktadır.<sup>21</sup>

#### **1.5.1.3 Yolculuk Çarter Sözleşmeleri(trip-charter):**

Geminin bir veya birkaç yolculuk için tamamının ya da bir kısmının eşya taşımaya tahsis edilmesidir.

Bu sözleşme ile geminin, teknik donanımının kontrolü donatana verilmektedir. Ancak geminin teknik donanımını kontrolü altında bulunduran donatan bu işlemi kendi adına çalışan gemi adamları vasıtasıyla yapmaktadır. Bu nedenle eğer seyahat herhangi bir arıza sebebiyle kesilirse bunun sonuçlarına donatan katlanacaktır. Genellikle donanım, yakıt, liman, gerekirse römorkaj, kılavuzluk, kurtarma ve yardım masrafları da donatanın sorumluluğu altındadır.<sup>22</sup> Yolculuk çarteri hem tam çarter olarak hem de kısmi çarter şeklinde düzenlenebilir.

#### **1.5.1.4 Zaman Çarter Sözleşmeleri(time-charter):**

Geminin yolculuk sayısının önemi olmadan belli bir süreliğine taşıtan tarafından tutulmasıdır. Zaman çarter sözleşmelerinde bu nedenle navlun ücreti de zaman esas alınarak hesaplanır.

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<sup>20</sup> GÖĞER; syf 114

<sup>21</sup> OKAY'a göre çarter sözleşmesinin bu çeşitleri yalnızca tam çarter sözleşmelerinde görülmekte ve bu çeşit çarter sözleşmeleri tam çarter sözleşmelerinin çeşitlerini oluşturmaktadır.

<sup>22</sup> İZVEREN vd.; syf 167

TTK daki hükümler genellikle zaman çarteri değil yolculuk çarteri dikkate alınarak düzenlenmiştir. Zaman çarter sözleşmeleri için öngörülen tip sözleşme hükümlerine göre düzenlemeler yapılmaktadır.<sup>23</sup>

Zaman çarter sözleşmesi ile çıplak gemi kira sözleşmesinden farklıdır. Çıplak gemi kira sözleşmesinde kiralayan gemi personeli olmadan belli bir zaman için gemiyi kiralamaktadır. Aksine zaman çarteri sözleşmesinde geminin kiralınması söz konusu değildir. Bu nedenle çıplak gemi kira sözleşmesi zaman çarter sözleşmesinden farklı olarak TTK hükümlerine değil BK hükümlerine tabi olmaktadır.<sup>24</sup>

İngiliz ve Amerikan Hukuk Sistemlerinde çıplak gemi kirası sözleşmesi de bir çarter parti sözleşmesi olarak kabul edilmektedir. Demise Çarter veya Bareboat Çarter olarak ifade edilir. Bu çarter sözleşmesi türünde sözleşme süresi boyunca geminin vasıtasız zilyetliği, idaresi, seyri tamamen kiracıya( kendi adına gemiyi deniz ticaretinde kullanırsa “gemi işletme müteahhidi” olarak ifade edilir.<sup>25</sup>) geçmektedir. Bareboat çarter sözleşmesinin Demise Çarter Sözleşmesinden bir farkı bulunmaktadır. Bu farka göre bareboat çarter sözleşmesinde kiracı, kaptan ve gemi personeli olmaksızın gemiyi kiralamaktadır.<sup>26</sup> Bareboat çarter sözleşmesine konulan “management agreement-clause” ile demise çarter sözleşmesi yapılmaktadır. Buna göre; gemi maliki(kiraya veren) kiracının(gemi işletme müteahhidi) temsilcisi olarak ve onun hesabına gemiyi donatmak, tamir ettirmek ve gemi adamlarını tutmak yükümlülüğü altına girmek karşılığında “management fee” (işletme ücreti) ye hak kazanır.<sup>27</sup>

### **1.5.2 Kırkambar Sözleşmesi:**

Navlun sözleşmesinin bir başka türü olan bu tür sözleşmelerde, belirli bir malın ücret karşılığında taşınması sözleşmenin konusunu oluşturmaktadır. Bu sözleşmelerde çarter sözleşmesinden farklı olarak; eşya taşımada kullanılacak gemiden çok taşınacak eşya ön plandadır ve çoğu zaman geminin ismi bile sözleşmede belirtilmeyebilir. Navlun sözleşmelerinin bu türü genellikle, düzenli posta seferi yapan gemilerle yapılmaktadır.

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<sup>23</sup> ÇAĞA/ KENDER , syf 8

<sup>24</sup> AYBAY, G /AYBAY, A/AYBAY, A/AYBAY, R;Denizciler, İşletmeciler ve Yöneticiler için Deniz Hukuku, İstanbul,1998,syf 585

<sup>25</sup> ÜLGENER; Çarter ,syf 34

<sup>26</sup> FORCE,Robert/YIANNOPOULOS,A.N/DAVIES,Martin;Washington D.C,2005; Volume 1; syf 121;SCHOENBAUM; Thomas J., Admiralty and Maritime Law;West’s Law School; 2004;Fourth Edition; syf 675;MARAİST; Frank L./GALLIGAN; Thomas C.Jr; MARAİST; Catherine M.; Maritime Law; West’s Law School; 2003; syf 122-123

<sup>27</sup> ÇAĞA /KENDER; syf 13(5 no’lu dipnot)

## İKİNCİ BÖLÜM

### YÜKLEME

#### 2.1 Kavram:

Yükleme, sözleşmede belirtilen yükün taşıtan veya yükleten tarafından yükleme limanında hazır bulunan gemiye getirilmesi ve gemi tarafından teslim alınma safhasıdır.<sup>28</sup> Taşıtanın, yükleme yapılabilmesi için hukuken yükü teslim etmek yükümlülüğü ya da borcu yoktur. Diğer bir ifadeyle yükleme taşıtan için bir borç değildir. Taşıtanın, taşıma faaliyeti yapılabilmesi için taşınacak olan yükün gemiye teslimi bir yükümlülüğün yerine getirilmesi değil taşıyanın borcunu yerine getirebilmesi için önceden yapması gereken bir işlemdir. Taşıyan da taşıtanı taşınacak olan yükü teslim etmeye zorlayamaz. Taşıtanın yüklenecek olan yükün tesliminden kaçınması bir alacaklı temerrüdüdür.

İngiliz hukukunda ise taşıtan tarafından yükün teslimi yerine getirilmesi gereken bir borçtur. Bu borcun yerine getirilmemesi halinde sözleşmeye aykırı davranış nedeniyle tazmin borcunu ortaya çıkar. Taşıyan, daima tam navlunu isteyebilir, ancak navlun teslim edilmeyen yük açısından tazminat niteliğinde olduğundan taşıyan yapmış olduğu masrafları ve elde ettiği ve edebileceği karları bununla karşılamak zorundadır.

#### 2.2 Yüklenecek Eşya:

Yukarıda tanımlandığı gibi yükleme aşamasında yüklenecek olan eşya taraflarca sözleşmede kararlaştırılır. Ancak bazı durumlarda taşıtan tarafından, taraflarca taşınması önceden kararlaştırılan yük(eşya) dışında başka eşyanın da taşınması istenebilir. Bu durumun taşıyan tarafından kabul edilebilmesi için bir takım şartların oluşması gerekmektedir:

- a) Taraflarca sözleşmede kararlaştırılan yükün(eşya) ferdan değil nev'i ve cinsi ile belirlenmiş olması gerekmektedir.
- b) Sözleşmede kararlaştırılan dışında taşınması istenen yükün, donatanın veya taşıyanın işini güçleştirmemesi gerekmektedir.

Taşıtan sözleşmede belirlenen miktardan fazla yük yükleyemez. Ancak daha az yük yükleyebileceği sonucuna TTK 1039. mad.'si hükmünden yola çıkarak varılabilir. Bu madde hükmüne göre; taşıyan, kararlaştırılan yükün tamamı yüklenmemiş olsa bile taşıtanın talebi üzerine yola çıkmaya mecburdur. Taşıyan bu durumda tam navlunu,

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<sup>28</sup> ÇAĞA /KENDER, syf 23



sürastarya ücretinin tamamının ödenmesini ve navlunun eksik yükleme neticesinde teminatsız kalan kısmı için de teminat gösterilmesini isteyebilir.

Bu hükümlerin aksi kararlaştırılabilir. Özellikle tam çarter sözleşmelerine konan kayıtlarla yük teslimi taşıtan için bir borç haline getirilebilir. Bu borç ifa edilmediği takdirde taşıyan,<sup>29</sup> BK. 106. mad. ve 107.mad. gereğince sözleşmeyi fesih etme veya yükleme nedeniyle mahrum kalınan navlunu, yapılan masrafları ve diğer zararların tazmini isteyebilir.

Taşıtan yüklenecek yük hakkında taşıyana doğru bilgiler vermekle ve yükleme sırasında kanun hükümlerine uygun davranmak; yükün zabıta, vergi ve gümrük kurallarına uygun olmasına, harp kaçağı veya ihracı, ithali veya transit olarak geçirilmesi yasak olmamasına dikkat etmekle yükümlüdür. Bunların dışında, gemiye yüklenecek yükün gemiyi ve diğer yükleri tehlikeye atacak nitelikte olmamasına dikkat edilmesi gerekmektedir.

Taşıtan, yukarıda belirtilen ve kanunen öngörülen yükümlülükleri yerine getirmek durumundadır. Bu yükümlülüklerden herhangi birini yerine getirmediği takdirde doğacak zararlardan bazı durumlarda kusuru olmaksızın bazı durumlar da ise kusurlu olması halinde sorumludur. Özellikle iki durumda taşıyanın kusuru aranmaz:

a) TTK 1023.mad.' ne göre; taşıtan ve yükleten, yüklenen eşyanın ölçüsü, sayısı, tartısı ile markaları hakkında doğru bilgi vermemesi halinde taşıyana karşı doğacak zararlardan kusuru olmasa dahi sorumludurlar. Bu halde garanti sorumluluğu söz konusudur. Ancak aynı durumda TTK 973. maddesinde belirtilen diğer ilgili kişilere karşı ( taşıyana, gönderilene, yolcuya, gemi adamlarına, kaptanın zorunlu olarak kredi aldığı kimseler) taşıtan ve yükletenin kusurları mevcut ise meydana gelen zararlardan sorumludurlar. Taşıyan, taşıtan veya yükletenin yük hakkında beyanlarının yanlışlığını biliyor ise bu halde TTK 1023/1 mad.ye dayanarak tazminat isteyemez. Taşıyanın, ayrıca navlun sözleşmesi gereğince taşıtan ve yükletenden başka kişilere karşı olan yükümlülükleri geçerlidir.

b)Kaptanın (taşıyanın veya acentesinin)tehlikeli yükten(patlayıcı, parlayıcı veya yanıcı maddelerin yanı sıra özellikleri nedeniyle gemi veya diğer yükü yok etmeye veya diğer yüke zarar vermeye elverişli olan maddelerdir.<sup>30</sup>) veya yükün tehlikeli vasıf taşıdığından haberi olmaksızın gemiye yüklemesi halinde taşıtan veya yükletenin meydana gelen zarardan yolculukla ilgili bütün şahıslara karşı kusurları aranmaksızın sorumlulukları

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<sup>29</sup> OKAY; syf 101

<sup>30</sup> ÇAĞA /KENDER, syf 29

doğar. TTK 1026/1 mad. de belirtildiği gibi aynı zamanda, kaptan tehlikeli eşyayı gemiden çıkarabilir, denizde imha edebilir veya başka şekilde zararsız hale getirebilir.

Kaptanın bu tehlikeli maddenin yüklenmesinden haberi olması durumunda ise; kaptan ancak tehlikeli maddenin diğer yükleri tehlikeye düşürmesi durumunda TTK 1026/2. mad.'ne göre tehlikeli maddeleri zararsız hale getirebilir. Bu durumda kaptan, taşıyan ve donatan tehlikeli yükün gemiye alınmasından doğan zararlardan sorumludurlar.<sup>31 32</sup>

Yukarıda belirtildiği gibi taşıtan ve yükleten bu iki durumun dışında meydana gelen zararlardan kusurları dahilinde sorumludurlar. TTK'nun 1024. mad.'de eşyanın cins ve mahiyeti hakkında yanlış beyanda bulunmaları, harp kaçağı veya ihracı, ithali veya transit olarak geçirilmesi yasak olan eşyayı yüklemeleri veya yükleme sırasında kanun hükümlerine aykırı hareket etmeleri halinde kusurları varsa maddede belirtilen kişilere karşı sorumlu olacakları belirtilmiştir. Taşıtan ve yükletenin kaptanın izniyle hareket etmiş olmaları da diğer şahıslara karşı sorumluluklarına engel değildir. Aynı maddede bu durumun meydana gelmesi halinde eşyanın müsadere edilmiş olduğu ileri sürülerek navlunun ödenmesinden kaçınmayacakları ve eşya gemiyi ve diğer malları tehlikeye sokarsa kaptanın bu yükü karaya çıkarma veya denize atma yetkisinin olduğu da belirtilmiştir.

### **2.3 Yükleme Yeri:**

TTK 1020. mad.'de "Kaptan, yükü almak için gemiyi taşıtanın ve gemi birden çok kimseye tahsis edilmiş ise hepsinin gösterecekleri yere demirler." ifadesi kullanılmıştır. Bu ifadeden yükleme yerinin taşıtan ve gemi birden fazla kişiye tahsis edilmiş ise o kimselerin gösterecekleri liman olduğu anlamı ortaya çıkmaktadır.

Yükleme yeri, zamanında kaptana bildirilmezse veya taşıtanlar yer konusunda anlaşamazlarsa kaptan olağan yükleme yerine gemiyi demirler. Bunun dışında taraflarca yükleme yeri olarak kararlaştırılan yer, suyun derinliği nedeniyle geminin yanaşıp demirlemesine uygun değilse ya da geminin güvenliğini tehlikeye düşecekse veya mahalli kurallara aykırılık oluşturacaksa kaptan verilen talimata uymayarak gemiyi aynı şekilde olağan yükleme yerine demirler. Kanunda belirtilen bu durum charter sözleşmeleri dikkate alınarak düzenlenmiştir. Çünkü kırkambar sözleşmeleri yapı itibariyle gemi tahsisi

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<sup>31</sup> ÇAĞA /KENDER, syf 30

<sup>32</sup> OKAY, aksi görüş olarak; kaptanın bilgisi ile yüklenen tehlikeli eşya nedeniyle meydana gelen zararlardan dolayı taşıyanın sorumluluğunu kabul etmemektedir.

sözleşmeleri olmadıkları için taşıtan sayıca fazla olacak ve bu nedenle taşıtanların anlaşmaları daha da zor olacaktır. Bu şekilde sefer yapan gemilerde yük deniz işletmesinin ambarına teslim edilir. Düzenli şekilde posta seferi yapan gemiler liman idaresince bu tür gemilere tahsis edilmiş yerlere ya da olağan yükleme yerine demirlerler.<sup>33</sup>

#### **2.4 Yükün Gemiye Yüklenmesi:**

Yükün gemide konacağı yer konusunda da navlun sözleşmesi çeşitleri olan çarter sözleşmeleri ile kırkambar sözleşmelerinde farklılıklar ortaya çıkmaktadır. Çarter sözleşmesinin çeşitleri olan tam ve kısmi çarter arasında da bir ayrıma gidilirse; tam çarter sözleşmelerinde geminin tamamı yük taşımaya tahsis edildiği için yük geminin yük taşımaya ayrılan her yerinde taşınabilir. Ancak TTK 1018. mad.'de belirtildiği gibi kamaralar aksine anlaşma yapılmamışsa taşıtana yük taşımak için tahsis edilmiş kısımdan sayılmamaktadır. Bunun yanında taşıtanın izni olmadıkça da taşıyan kamaralara eşya yükleyemez. Ayrıca gemi adamları için ve yolculuğa yetecek kadar yakıt ve diğer malzeme ve kumanya için de yer bırakılması gerekir.<sup>34</sup> Çarter sözleşmelerinin diğer bir çeşidi olan kısmi çarter sözleşmelerinde sözleşmenin yapısı gereği geminin belli bir kısmı yük taşımaya tahsis edildiği için sözleşmede yük yüklemeye tahsis edilen yere ancak yükleme yapılmaktadır. Kararlaştırılan yer dışına yükleme yapılamaz. Kısmi çarter sözleşmesinde taraflar sözleşmede yükün geminin belli bir kısmında taşınacağı kararlaştırmayıp geminin taşıma kapasitesinin belli bir kısmın kullanılacağını kararlaştırmışlar ise bu halde yine tam çarter sözleşmelerinde olduğu gibi yükün zarar görmeden, özelliklerine göre belirlenecek yerde taşınması sağlanır.

Kırkambar sözleşmeleri ise; gemi tahsis sözleşmeleri olmadıklarından yükün geminin neresinde taşınacağı taraflarca sözleşmede ayrıca kararlaştırılmaz. Bu nedenle taşıyan kendi üzerine düşen sorumluluk gereğince yükün muhafazasını ve emniyetli bir şekilde yükün taşınmasını sağlayacak herhangi bir yere yükü yükleyebilir. Ancak yükletenin veya taşıtanın muvafakati olmadıkça eşya güverteye konulamaz ve küpeşteye asılamaz.(TTK 1029). Çünkü geminin güvertesinde taşınacak yük emniyetli bir şekilde taşınamayacak ve daha fazla tehlikeyle karşılaşabilecektir. Bu nedenle yükletenin izni olmadıkça yük güverte de taşınmaz. Bu şekilde güvertede taşınan mallar -güvertede taşınmaları olağan mallar dışında- ticari teamüle uygun şekilde taşınmadıkları için müşterek avarya durumunda

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<sup>33</sup> ÇAĞA / KENDER, syf 31

<sup>34</sup> OKAY, syf 104

garame payı alamazlar ve taşıyan için sorumluluk hakkında emredici hükümler geçersiz olur, sorumsuzluk şartları geçerli hale gelir.

Taşıyan, geminin dengesini bozmamak ve taşıtanın yükleri için tehlike doğurmamak şartı ile güvertede başkasına ait yükleri taşıyabilir. Bu durumu diğer yüklerin ilgililerine de haber vermek mecburiyetinde değildir.

Yükletenin rızası açık şekilde sözleşmeye veya konşimentoya konulacak bir hükümlerle belirlenebileceği gibi zımni şekilde de ortaya çıkabilir. Taraflarca, geminin ambarının taşınacak yükü alamayacağı biliniyorsa, bu durumda malların belli bir kısmının güvertede taşınmasına zımni olarak izin verilmiş sayılır. Aynı zamanda güverteye yükün yükleneceği hükmünü içeren bir konşimentoyu yükletenin itirazsız kabul etmesi de zımni kabul olarak değerlendirilmektedir.<sup>35</sup> İngiliz hukukunda, Türk hukukundan farklı olarak ilke açık rızadır. Bununla beraber, yükleme limanında güverteye yüklemeye izin veren bir teamül varsa bu durum rızanın varlığı göstermektedir.<sup>36</sup>

Yükletenin zımni muvafakati olsa bile bu durum taşıyanın, TTK 1061. mad.'den kaynaklanan yüke özen gösterme yükümlülüğünü ve bu yükümlülüğe riayetsizlikten doğan sorumluluğu ortadan kaldırmaz.<sup>37</sup>

## 2.5 Yükün İstifi:

Yükleme; yükün gemiye borda edilmesinin yanında geminin ambar ve yük taşınacak diğer yerlere istifini de kapsamaktadır. Yükün gemiye istifi; yükün ve geminin emniyeti açısından da önemli bir husustur. İstif işlemi yükün niteliğine göre değişiklik gösterse de genellikle yükleme limanında uygulanan teamüllere göre yapılmaktadır. İstif faaliyeti genellikle

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<sup>35</sup> OKAY, syf 105

<sup>36</sup> ÇAĞA / KENDER ,syf 53 (124 no.'lu dipnot).

<sup>37</sup> **YHGK 31.1.1991 tarihli, 89/5487 Esas 91/401 Karar Sayılı Kararı** “ I Mahkemece kargo raporunda sadece kerestelerin güvertede taşındığı belirtilmiş olup herhangi bir hasarda söz edilmediği, gemiden tahliye edildikten sonra gümrük ambarındaki yük üzerinde yapılan sigorta ekspertizinde saptanan ıslanma ve değer kaybının deniz taşıması sırasında meydana geldiğinin anlaşamadığı, kaldı ki keresteler yükleme limanlarında teamül veçhile yüklenmiş olup yükletenin buna karşı çıkmamış olması kerestelerin yükletenin rızasıyla güverteye yüklendiğini ortaya koyduğu, bu durumda güvertede taşımadan doğan ıslanmanın sonuçlarından taşıyanın sorumlu tutulamayacağı gerekçeleriyle davanın reddine karar verilmiştir.

II. Kargo raporunda rezerve beyanında bulunmadığı lüzum hissedilerek yükün güvertede taşındığının belirtilmesi, puantaj cetvellerinde havanın yağışlı olduğunun kaydedilmesi, tahliyeyi izleyen üç gün içinde yapılan ekspertizde kerestelerin tuzlu suyla ıslanmış ve bu nedenle doğal rengini kaybetmiş olduğunun saptanması karşısında TTK 1066/son'daki taşıyanın yükü konşimentoda yazılı halde teslim ettiği karinesinin aksi kanıtlanmıştır. Yükün güvertede taşınmasının geminin ve yükün özellikleri icabı mutad sayılması, bu durumda açıkça muhalefetini bildirmeyen yükletenin malın güvertede taşınmasına zımnen muvafakat etmiş addolunması taşıyanın TTK1061'den kaynaklanan yüke ihtimam gösterme yükümlülüğünü ve bu yükümlülüğe riayetsizlikten doğan sorumluluğunu bertaraf etmez....) ([www.kazanci.com.tr](http://www.kazanci.com.tr))

taşıyan tarafından tutulan istifçi diye nitelenen kişiler tarafından yapılmaktadır. Ancak taşıyanın bizzat istif işlemini yapmayıp istifçilere yaptırması yüke özen ve ihtimam borcunu ortadan kaldırmamaktadır. Kaptan da, istif özel istifçilerce yapılsa bile istifin denizcilikte geçerli olan usul ve örlere uygun bir şekilde yapılmasına dikkat etmek zorundadır.(TTK 975/I)Aksi halde bu husustaki kusurundan dolayı TTK 973. mad.'sindeki kişilere(donatan, taşıtan, yükleten, gönderilen, gemi adamlarına... vb. kişiler) karşı sorumlu olacak, taşıyanın da sorumluluğu da devam edecektir.

Yükleme ve istif işlemi kural olarak taşıyan ve onun tarafından belirlenen kişilerce yapılmaktadır. Ancak taraflar aralarında yapacakları sözleşmeye koyacakları FIO(Free in out) ve FIOS(Free in out stowed) klozlarıyla yükleme-boşaltma ve istif işleminin kimin faaliyet sahasında olacağına karar verebilirler. FIO klozuyla gemiden ve gemiye yükleme ya da boşaltma için gereken liman masraflarının taşıyanın yükümlülüğünde olmadığı belirtilmektedir. FIOS klozuyla taşıyanın yükümlülüğünden çıkan masraflara istif masrafları da girmektedir. İstif işlemi taşıtanın faaliyet sahasına giriyorsa; taşıtan istifçi görevlendirebilir. Bu şekilde istifçiler artık taşıtanın yardımcı şahısları haline gelirler. Ancak TTK'nun 1021. mad.de yükleme masrafları düzenlenmiştir. Bu maddeden yola çıkarak taraflar, eğer sözleşmede istif işleminin kimin tarafından yapılacağına karar vermemişlerse veya yükleme limanı kurallarında düzenlenmemişse ya da mahalli teamüllerle aksi kararlaştırılmamışsa eşyanın gemiye kadar taşınması taşıtana daha sonraki işlemlerin ise taşıyana ait olacağı sonucu çıkarılabilir. Diğer bir ifade ile yükün yüklenecek gemiye yüklenmesi için çeşitli taşıma araçlarıyla örneğin tırla, uçakla veya başka bir gemiyle yükleme yapılacak limana getirilmesi ve gemi veya rıhtım vincinin altına kadar getirilmesi taşıtana, yükü buradan alıp vinçlerle gemiye yüklemek hatta onu özel istifçiler ya da gemi adamları vasıtasıyla gemiye ya da ambarlara istiflemek işlemi taşıyana aittir.

## **2.6 Yükleme Masrafları:**

Taraflar aralarında yapmış oldukları sözleşmede yukarıda belirtildiği gibi faaliyet sahalarını belirleyebilirler. Buna göre yükleme işlemi sonucunda doğacak masrafların hangi tarafa ait olacağı belirlenmiş olur. Ancak taraflar sözleşmede yükleme masraflarının kime ait olacağına dair herhangi bir düzenleme yapmamışlarsa veya yükleme limanı kurallarında ya da mahalli teamüllerde aksine bir düzenleme bulunmuyorsa; yükün gemiye kadar taşınması ve masrafları taşıtana, yükleme masrafları ise taşıyana aittir. Bu durum

TTK 1021. mad. de belirtilmiştir. Taşıtana ait olan eşyanın gemiye kadar taşıma masrafları; tren, motorlu araç veya diğer taşıt masrafları ve bunların boşaltılması, liman, antrepo ve buraya giriş ve çıkış ya da gemi açıkta demirlemiş ise gemiye kadar mavna ve diğer araçlarla taşınması gibi işlere ait masraflarla sigorta masraflarını içermektedir.<sup>38</sup>

TTK 1021.mad. de düzenlenen hüküm; denizaşırı satışlardaki gemi yanında teslimi gösteren “FAS”(Free Alongside Ship) şartının karşılığıdır. “FAS” ile yükün gemi yanına veya rıhtıma ya da mavnaya getirilmesiyle taşıtanın yükümlülüğü ortadan kalkmaktadır ve bundan sonraki masraflar taşıyana ait olmaktadır. Çarter sözleşmelerine konulan bir takım hükümlerle bu şartın aksine düzenleme yapılmaktadır.<sup>39</sup> FIO ve FIOS klozlarıyla taşıtan yükleme boşaltma ve istif masraflarını kendi üzerine almaktadır.

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<sup>38</sup> İZVEREN vd.; syf 180

<sup>39</sup> Yükleme süreleri, bekleme süreleri başlığı altında ayrıntılı olarak inceleneceğinden yükleme başlığı altında tekrar incelenmemiştir.

## ÜÇÜNCÜ BÖLÜM

### YÜKLEMEDE BEKLEME SÜRESİ:

#### 3.1 Genel Olarak:

##### 3.1.1 Kanun Hükümlerine Göre:

TTK'da bekleme süresi birkaç süreye ayrılmıştır; yükleme süresi; (starya olarak da adlandırılmaktadır.) olarak adlandırılan ve hazırlık ihbarı ile başlayan, süresini tarafların navlun sözleşmesi ile aralarında kararlaştırabilecekleri ya da süresi bakımından taraflar arasında herhangi bir düzenleme yapılmassa da kanunen taşıyanın gemisini bu süre zarfında taşıtana herhangi bir karşılık beklemeden bıraktığı süre ve yükleme süresi sona ermesine rağmen yüklemenin tamamlanması için taraflarca kararlaştırılan taşıtana verilen ek süre ki sürastarya olarak adlandırılır.(TTK 1030.mad.) Sürastarya süresi için taşıtan tarafından ödenmek üzere bir ücret kararlaştırılır. Bunların dışında üç günlük süre de bekleme süresini oluşturur. Bu süre ise; yükleme süresi veya kararlaştırılmışsa sürastarya süresi bitmeden önce veya yükleme süresi ve sürastarya süresi sona erdikten sonra gemi limandan ayrılacaksa kaptanın sürelerin bitiminden üç gün önce bu durumu taşıtana ihbar etmesiyle ortaya çıkar. Ancak kaptan, sürelerin bitiminden üç gün önce ihbar etmezse bu sürenin bitiminden itibaren üç gün beklemek zorunda kalacaktır.(TTK 1033.mad.)<sup>40 41</sup>

TTK' da 1046.mad.'sinde kırkambar sözleşmeleri için yüklemede bekleme süresi düzenlemesine rastlanmaktadır. Bu düzenleme charter sözleşmelerinden farklı bir düzenlemedir. Buna göre; bu tür sözleşmelerde taraflar, geminin kalkış tarihini daha önceden belirledikleri için, belirlenen tarihte yüklerini teslim etmeleri gerekmektedir. Bu nedenle bu konuyla ilgili olarak kanuni açıdan herhangi bir düzenleme yapılmasına gerek duyulmamıştır.<sup>42</sup> Kanunda belirtilen nokta yükün, taşıtan tarafından kaptanın daveti üzerine gecikmeden gemiye yüklenmesi; taşıyanın, taşıtanın gecikmesi halinde yükün yüklenmesini bekleme mecburiyetinin olmaması ve taşıtanın böyle bir gecikme durumunda yolculuk başlamış olması halinde dahi navlun ücretini tam olarak ödeme mecburiyetinde olmasıdır. Ancak taşıyanın teslim edilmemiş mal yerine yüklediği eşyanın navlunu ödenen navlun ücretinden indirilir. Aynı madde hükmüne göre; taşıyanın, geciken taşıtandan, navlun isteyebilmesi için bunu yola çıkmadan önce taşıtana bildirmesi de gereklidir. Aksi halde taşıyan taşıtandan navlun isteme hakkını kaybeder.

<sup>40</sup> Aşağıda ayrıntıları ile incelenecektir.

<sup>41</sup> ÜLGENER,F.;Sürastarya Süresi ve Ücreti;Ankara;1993,syf 6-7;ÇAĞA ve KENDER; ,syf 39-44

<sup>42</sup> ÜLGENER ,Sürastarya ; syf 7

Ayrıca TTK'da yapılan bekleme süresi ile düzenlemeler yolculuk charter sözleşmeleri dikkate alınarak yapılmıştır. Charter sözleşmesinin bir türünü oluşturan zaman charter sözleşmelerinde sözleşme özellikleri nedeniyle bekleme süreleri düzenlenmemiştir. Zaman charter sözleşmelerinde gemi belli bir süreliğine taşıtana tahsis edildiği için ve sözleşme tamamen zaman üzerine kurulmuş olduğundan dolayı bekleme sürelerine sözleşmelerde yer verilmemiştir. Ancak yolculuk charter sözleşmelerinde gemi taşıtana belli bir sefer yapmak üzere tahsis edildiği için bu sefer ya da seferlerdeki yükleme ve boşaltma sürelerinin ve bu konuda hangi şartlara yer verileceğinin mutlaka düzenlenmesi gerekmektedir.

### ***3.1.2 Sözleşme Hükümlerine Göre:***

Taraflar aralarında yapacakları sözleşme ile yüklemeye bekleme sürelerini kendi yararları doğrultusunda düzenleyebilirler. Günümüzde uygulamada taraflar, çeşitli kuruluşlarca hazırlanıp yayınlanmış standart sözleşmeleri bazen aynen kabul ederek bazen de aralarında yapmış oldukları sözleşmelerde söz konusu standart sözleşmelerin belirli hükümlerine atıf yaparak kullanılmaktadırlar. Standart sözleşmelerin varlığıyla uygulamada zaman kaybı engellenmiş olmaktadır. Çünkü taraflar uzun yıllarca kullanılan ve piyasanın gerekliliğine göre eksiklikleri giderilen standart sözleşmelerde belirlenen hükümlerin güvenilirliğine inanmakta ve üzerinde uzun uzun düşünmeye gerek duymamaktadırlar.

### ***3.2 Yükleme süresi(Starya):***

Yük taşıyacak geminin, yükleme limanında sözleşmede kararlaştırılan yükün yüklenmesi için (kanunen ücretsiz ancak sözleşmede ücretli olarak kararlaştırılabilen) beklediği süreye yükleme süresi(starya) denir.

### **3.2.1 Yükleme Süresinin Belirlenmesi:**

#### **3.2.1.1 Kanun Hükümlerine Göre:**

TTK 1031. mad.'de düzenlenmiştir. Kanunun söz konusu hükmüne göre yükleme süresinin tarafların aralarında yapacakları sözleşme ile kararlaştırabilecekleri belirtilmiştir. Sözleşmede kararlaştırılmaması halinde yükleme süresinin yükleme yapılacak limanın kurallarına veya orada geçerli olan adetlere göre belirleneceği, yükleme limanında



yükleme süresi için geçerli olacak kural ya da adeti yoksa o halde somut olaydaki durum ve şartlara göre tespit edileceği hüküm altına alınmıştır.

### 3.2.1.2 Sözleşme Hükümlerine Göre:

Uygulamada taraflar TTK' da düzenlendiği şekilde yükleme süresini sözleşme ile kararlaştırmaktadırlar. Taraflar yapmış oldukları sözleşmede yukarıda bahsedilen, İngiliz Hukukunda da kabul edilen sabit olan ve sabit olmayan yükleme süresi(starya) gibi sistemlerden yola çıkarak düzenlemeler yapmaktadırlar.

#### **\*Sabit olarak belirlenen starya sistemi(Fixed Laytime):**

Taraflar, bu sistemde ya sözleşmeye belirli bir gün ve saat koymaktadırlar<sup>43</sup> veya gün başına ya da saat başına yükleme yapılacak olan miktarı belirtmektedirler.<sup>44</sup>

Gencon 76 ve Gencon 94<sup>45</sup> charter sözleşmelerinde 6 numaralı klozlarında sabit olarak bir yükleme(starya) süresi belirli bir gün ve saat olarak düzenlenmiştir. İki sözleşme arasındaki fark Gencon 76 charter sözleşmesinde yükleme süresi belirli bir saat olarak kararlaştırılabilecek iken Gencon 94 charter sözleşmesinde ise belirli gün veya saat olarak kararlaştırılabilecektir. Her iki sözleşmede de taraflara üç seçimlik hak tanınmıştır. Bu seçimlik hakka göre; yükleme süresinin belirlenmesinde yükleme süresi için müstakil bir süre, ya da boşaltma süresi ile beraber müşterek bir süre veya boşaltma için müstakil bir süre kararlaştırabilirler.

Intertankvoy 76, Norgrain 89, Hydrocharter charter sözleşmelerinde de yükleme süresi belirli bir gün ve/veya saat olarak düzenlenmiştir.<sup>46</sup>

Bazı charter sözleşmelerinde de sabit bir yükleme süresi belirlenmesinin yanı sıra gün başına ortalama yüklenecek yük miktarı belirlenerek yükleme süresi hüküm altına alınmıştır. Bu şekilde düzenleme yapılan charter sözleşmelerine Amwelsh 93 ve Graincon( Bimco Voyage Charter Party 2003) charter sözleşmeleri örnek olarak gösterilebilir. Amwelsh 93 charter sözleşmesinde; yükleme limanında gemiye yükün günlük ortalama

<sup>43</sup> “Yükleme 5 günde gerçekleştirilecektir.”/ “Yükleme 24 saatte yapılacaktır.”

<sup>44</sup> “Gemi gün başına 5000 m/ton esası ile yüklenecektir.”

<sup>45</sup> [http://www.infomarine.gr/bulletins/chartering\\_forms/gencon94.pdf](http://www.infomarine.gr/bulletins/chartering_forms/gencon94.pdf)

<sup>46</sup> **Intertanvoy 76-9.Kloz:** “ The running hours specified in part (1)..... ”

([http://www.maritimelife.com/English/Know-How/Charter\\_parties/C-P\\_Docs/intertankvoy\\_76.pdf](http://www.maritimelife.com/English/Know-How/Charter_parties/C-P_Docs/intertankvoy_76.pdf))

**Norgrain 89-19.KLoz:** “Vessel is to be loaded and discharged within..... working days.....”

([http://www.infomarine.gr/bulletins/chartering\\_forms/norgrain89.pdf](http://www.infomarine.gr/bulletins/chartering_forms/norgrain89.pdf))

**Hydrocharter-D.Klozu:** “The Cargo shall be loaded and discharged within the number of running days/hours as indicated in Box 20....”

olarak 1000 kilo yüklenebileceği belirtilmiştir. Bu düzenlemenin yanı sıra sabit gün olarak yükleme süresinin kararlaştırılabileceği de düzenlenmiştir.<sup>47</sup> Aynı doğrultuda Graincon charter sözleşmesinde de günlük belli miktarda yükün yükleneceği hüküm altına alınmıştır.<sup>48</sup>

Bu şekilde yapılan düzenlemeyle de yükleme süresi sabit olarak belirlenmektedir. Bu sonucun çıkarılmasında en büyük etken bu tür düzenlemenin mevcut olduğu charter sözleşmelerinde yükleme süresinin sabit gün olarak ve gün başına yüklenecek yük miktarının belirtilerek yükleme süresinin tespitinin seçimsel olarak aynı madde içinde sözleşmenin taraflarına sunulmasıdır.

***\*Sabit olarak belirlenmeyen starya sistemi(Unfixed Laytime):***

Sabit olmayan starya sisteminde ise; sürenin belirlenmesinde yükün miktarı, özellikleri, geminin tonajı, özellikleri, yükleme yapılacak limanın şartları, yükleme yapılacak araç gerecin durumu, hava durumu gibi çevresel faktörler rol oynamaktadır. Yükleme yapılabilmesi için “makul” bir sürenin varlığı aranmaktadır. “Makul” süre (reasonable time) yükleme limanını şartlarına, yükün çeşidine, taşıma yapacak geminin özelliklerine, yaşına, donanımına, modern olup olmasına, personel durumuna göre farklılık göstermektedir. Aynı zamanda yükleme yapılacak olan yükün niteliği, ambalajı, yükün niteliği gereği farklı şekillerde yükleme yapılması da etkilidir. Yükleme limanı şartları burada büyük rol oynamaktadır. Örnek olarak; yükleme limanının özelliğinden dolayı yükün ancak mavnalarla yükleme yapılacak olan gemiye aktarılabiliniyor olması dolayısıyla yüklemenin gecikmesi verilebilir.

Sabit olmayan starya sisteminin geçerli olduğu sözleşmelerde bir takım klotların varlığına rastlanmaktadır. Bunlar; “Liner terms”, “FAC( Fast as can= mümkün olduğu kadar çabuk), “CQD”( Customary Quick Dispatch= mutad bir hızla), “COP”( Custom of the Port= liman teammülleri) dur.

“FAC” klotunun konulmasıyla taşıtanın mümkün olduğu kadar çabuk şekilde yüklemeyi gerçekleştirmesi anlatılmaya çalışılmaktadır.“CQD” klotuyla ise yükle ilgili kişinin mutad bir hızla hareket etmesiyle en kısa zaman aralığında yüklemeyi yapması sağlanmaktadır.

<sup>47</sup> “The vessel shall be loaded at the average rate of..... tons of 1000 kilos per day, or pro-rata for any part of a day, or within.....running days,...”

<sup>48</sup> “The vessel shall be loaded at the average rate of .....metric tons per day,...”

(<https://www.bimco.org/Corporate%20Area/idea/~media/Documents/Document%20Samples/Voyage%20Charter%20Parties/HYDROCHARTER.aspx>)

Mutad hızla, kişinin aynı liman, benzer yük ve benzer şartlarda yapabilme hızı kastedilmektedir. “COP” klozu da; liman teamüllerinin yükün yükleme süresinin hesaplanmasında dikkate alınmasıdır.<sup>49</sup>

Sabit olmayan starya sisteminin geçerli olduğu sözleşmede yukarıda ifade edilen “CQD” “FAC”, “COP” gibi kayıtların varlığı halinde taşıyan, herhangi bir gecikme durumunda gecikmeden kaynaklanan zararlarının karşılığında tazminat talep edebilmektedir.<sup>50</sup>

Sabit süreli ve sabit olmayan süreli sistemlerin dışında da uygulama da daha az uygulanan başka şekillerde bulunmaktadır. Bu sistemler;

**Transportable starya sistemi;** olarak adlandırılan, geminin yükleme veya boşaltma yapmak için birden fazla limana uğraması halinde bu sürelerin hepsinin bir bütün olarak tespit edildiği sistem,<sup>51 52</sup> Bu tür düzenlemeye Graincon, Beizai 91, Gencon 76 ve Gencon 94 charter sözleşmelerinde rastlanmaktadır. Bu iki tür charter sözleşmesinde de yükleme ve boşaltma süreleri için toplam bir süre öngörülmüştür.

**Reversible starya sistemi;** olarak adlandırılan; ya yükleme ve boşaltma süresini ayrı ayrı olarak ya da yükleme ve boşaltma için öngörülen süreleri birbirine ekleyerek hesapladığı sistem,<sup>53 54 55</sup> Bu sistemde taşıtana seçimlik hak tanınmıştır. Yükleme boşaltma sürelerini ayrı ayrı olarak hesaplanmasını seçecek ya da yükleme ve boşaltma için öngörülen süreleri birbirine ekleyerek hesaplayacaktır ki bu yukarıda açıklanan transportable starya sistemidir. Taşıtan bu seçimlik hakkını hiç kullanmaz ya da geç kullanırsa ne olacaktır? Bu konuda iki görüş bulunmaktadır. Birinci<sup>56</sup> görüşe göre; birinci seçenek genel kuralı, ikinci seçenek özel kuralı göstermektedir. Bu nedenle genel kural

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<sup>49</sup> ÜLGNER; Makale I; syf 35

<sup>50</sup> ÜLGNER; F; “Starya ve Sürastarya Sürelerinin Hesaplanması”(Makale II); Deniz Hukuku Dergisi; Sayı:2-3; Yıl:2; İSTANBUL; syf 7-8

<sup>51</sup> ÜLGNER; Sürastarya; syf 70

<sup>52</sup> “Yükleme ve boşaltma toplam 20 günde gerçekleştirilecektir.” “Yükleme A limanı ile B limanında toplam 30 günde gerçekleştirilecektir.

<sup>53</sup> ÜLGNER; Charter; syf 394-395

<sup>54</sup> Sözleşmede yükleme için 5 gün, boşaltma için 4 gün öngörülmüş. Ancak gemi yükleme için yükleme limanında 6 gün harcamıştır. Toplam olarak hesaplanan süreden 3 gün kalmıştır. Bu durumda taşıtan seçimlik hakkını kullanarak ya yükleme süresini aştığı için sürastarya süresine geçip sürastarya ücreti ödeyecek ya da yükleme ve boşaltma süresini toplam olarak kabul edip 3 gün içinde boşaltma yapmaya çalışacak, aksi halde sürastarya süresi bu aşamada başlayacak ve sürastarya ücreti ödeyecektir.”

<sup>55</sup> İZVEREN vd. Sözleşmede yükleme ve boşaltma sürelerinin toplam olarak belirtildiği durumlarda bu sürenin yarısının yükleme yarısının boşaltma süresi olduğunun kabul edilmesi gerektiği görüşündedirler.

<sup>56</sup> ÜLGNER; Charter; syf 126

olan yükleme ve boşaltma için ayrı ayrı sürelerin hesaplanması doğru olacaktır. Yargıtay<sup>57</sup> tarafından da kabul edilen ikinci görüşe göre ise ikinci seçenek geçerli olacak ve yükleme ve boşaltma için belirlenen sürelerin birbirinden mahsup edilmesinin uygun olacağı kabul edilmektedir.

Taşıtan tarafından bu seçimlik hakkının kullanılmadığı ya da geç kullanıldığı durumda ilk görüş doğrultusunda her liman için süre hesabının ayrı ayrı yapılması daha uygun olacaktır. Çünkü taşıtana böyle bir seçimlik hak tanınmamış olsa idi süreler ayrı ayrı hesaplanacaktı. Bu nedenle böyle bir durumda seçimlik bir hakkın tanınmamış olduğu kabul edilmelidir.

**Averaging stary a sistemi;** yükleme ve boşaltma sürelerinin ayrı olarak belirtildiği fakat bir süredeki fazla kullanmanın diğer süreden mahsup edildiği sistemdir.<sup>58</sup>

### **3.2.2 Yükleme Süresinin Başlaması:**

Yükleme süresinin başlayabilmesi için ilk şart geminin yükleme limanına varmış olmasıdır. Yükleme limanına varması çeşitli hukuk sistemlerinde farklı şekillerde düzenlenmektedir. Ayrıca taraflar aralarında yapmış oldukları sözleşme ile de geminin hangi andan itibaren yükleme limanına varmış olduğunu kararlaştırabilirler. Geminin yükleme limanına varmasının yanında yükleme süresinin başlayabilmesi için geminin yüklemeye de hazır olması gerekmektedir. Daha sonra yükleme süresinin başlayabilmesi için gereken en önemli şart ise hazırlık ihbarının yapılmasıdır.<sup>59</sup> Geminin yükleme limanına varmasının yanı sıra yükleme süresinin başlayabilmesi için gereken diğer iki şart için de uygulamada çeşitli hukuk sistemlerinde ve taraflarca yapılacak sözleşmelerde farklı şekilde düzenlemeler yapılmaktadır.

#### **3.2.2.1 Kanun Hükümlerine Göre:**

TTK 1030. mad.'sinde yükleme müddetinin ihbarın yapıldığı günün ertesi günü başlayacağı hükme bağlanmıştır. Buna göre kaptan, taşıtana gemi yükü almaya hazır olduğunda ihbarda bulunacaktır ve bu şekilde TTK 1030. mad.'sinde herhangi bir şekil

<sup>57</sup> Yargıtay E. 1974/4656, K.1975/120, T.13.1.1975

<sup>58</sup> ÜLGENER;Çarter; syf 396

<sup>59</sup> SCHOFIELD;J,Laytime and Demurrage,London;1990; syf 65

şartına bağlanmamış olan ihbarın yapılmasının ertesi günü yükleme süresi işlemeye başlayacaktır.

Kanunen sadece geminin yükü almaya hazır olduğunun ihbarının yapılmasının ertesi günü başlayacağı hükme bağlanan yükleme süresinin, geminin yükü almaya hazır olması için yükleme limanına varmış olması ve yüklemeye diğer şartlar bakımından da hazır olması gerekmektedir.

Yukarıda da ifade edildiği gibi gemi taraflarca sözleşmede kararlaştırılan yükleme limanına varmış olması gerekir(Arrived Ship). Sözleşmede yükleme limanı kararlaştırılmamış ise bunun tespiti taşıtana aittir. Birden fazla taşıtan varsa hepsinin birlikte kararlaştıracakları yerdir. Taşıtanlar veya taşıtan geminin farklı yerlere yanaşmasını isteyemezler. Tek liman göstermek zorundadırlar. Yükleme limanı sonradan taşıtan ya da yükleten tarafından belirleneceği kararlaştırılmış ancak taşıtan ya da yükleten yükleme limanını tespit etmemişler ise bu halde taşıyan onlara ihtar eder ve belirlenen süre içerisinde yükleme limanı belirlenmez ise taşıyan sözleşmeyi feshedebilir.<sup>60</sup>

Yükleme yeri taşıtan tarafından belirlenir. Taşıtan birden çok ise kaptan, gemiyi hepsinin belirleyecekleri yere demirler. Ancak yükleme yerinin taşıtan tarafından belirlenmesi durumunun iki istisnası vardır. Bunlardan ilki; tehlikeli yük söz konusuysa ortaya çıkar. Bu halde tehlikeli yük, liman yetkililerince belirlenecek yerde gemiye yüklenir. Diğer istisna durumunda ise; yükleme yeri navlun sözleşmesinde taraflarca kararlaştırılır.<sup>61</sup> Bu kararlaştırma başlıca iki şekilde yapılmaktadır. Belirli bir limanın adı sözleşmede belirtilebilir ya da belirli bir liman adı belirtilmekle yetinilmez, belli liman adı belirtildikten sonra iskele, rıhtım, dok(iskele) belirtilebilir.<sup>62 63</sup>

Yer zamanında gösterilmemiş veya birden çok taşıtan varsa taşıtanlar yer göstermede anlaşılamamışlar ise veya gösterilen yerde suyun derinliği, geminin güvenliği, mahalli kurallar veya tesisler gösterilen yere demirlemeye engel olacak ise kaptan olağan yükleme yerine demirler.(TTK 1020)

Geminin yükleme limanına varmış olmasının yanında bekleme sürelerinin başlayabilmesi için yüklemeye hazır olması da gereklidir. Geminin yüklemeye hazır olması dar ve geniş

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<sup>60</sup> OKAY; syf 96-97

<sup>61</sup> ÜLGENER,F; Bekleme Sürelerinin Başlangıcına Dair Bazı Hukuki Sorunlar; Banka ve Ticaret Hukuku Dergisi; C. XVI ; Sayı:2; 1991, ANKARA; syf 106(Makale III)

<sup>62</sup> Örnek;1) “Yükleme limanı İzmir’dir.” 2) Yükleme Trabzon Limanı Akçaabat İskelesi 4 numaradan yapılacaktır.”

<sup>63</sup> AYBAY vd.; syf 681

anlamda değerlendirilirse; geniş anlamda hazır olma, yükleme limanına yanaşmış olması şart olmayıp oraya zamanında ulaşabilecek ve birinci vardiya başında derhal yüklemeye başlayacak olmasıdır. Dar anlamda yüklemeye hazır olma ise, geminin fiilen yükleme yerine yanaşmış, yükleme faaliyeti başladığı anda yükleme yapılacak ambarlarının temiz ve boş, gerekli safraların gemiye alınmış, gerekli resmi işlemlerin yapılmış, belgeler alınmış olması, yükleme sırasında vinç ve çeşitli alet, donanımın kullanılacak ise bunların hazır, yükün niteliği gereği taşınmasında özel bir donanıma ihtiyaç duyuluyorsa örneğin, ambar sıcaklığının belli seviyede tutulması gerekiyorsa bu sıcaklığın ayarlanması için gerekli ortamın hazır edilmesidir.<sup>64</sup>

Geminin yüklemeye hazır edilme zamanını taraflar aralarında yapacakları sözleşmede belirleyebilirler. Ancak uygulamada taraflar tek bir tarih belirtmekten kaçınarak sözleşmeye belli bir tarih aralığı koymayı kendi menfaatlerine daha uygun görmektedirler. Belirtilen bu tarihler arasında gemi yükleme limanında hazır bulunmazsa taşıtan sözleşmeyi feshedebilir.<sup>65</sup> Bu şarta Türkiye’de uygulamada “kançelo” adı verilmektedir. Bu bir fesih şartıdır. Bununla ifade edilmek istenen belirlenen sürede taşıyan yükleme yerinde hazır olmazsa taşıtanın, taşıyana herhangi bir bildirimde bulunmadan ve taşıyana herhangi bir süre vermeksizin ve taşıyanın kusuru aranmaksızın sözleşmeyi feshedebilmesidir.<sup>66</sup>

Taşıtan, bu fesih hakkını derhal ve gecikmeden kullanmak durumundadır aksi halde bu hakkını kaybedecektir. Ancak taşıyan gemiyi yükleme yerinde hazır etmede çok az geç kalmış ise taşıtanın MK.2 uyarınca fesih hakkı yoktur.

Taşıyan, yükleme limanına ya da yükleme için kararlaştırılan yere zamanında varamayacağını anlayınca taşıtanın, bu gecikmeden dolayı fesih hakkını kullanıp kullanmayacağını önceden bilmek isteyebilir. Bu durumda taşıtanın belli bir süre öncesinde fesih hakkını kullanıp kullanmayacağını bildirmesini düzenleyen bir hüküm charter sözleşmesinde varsa bir problem oluşturmamaktadır. Ancak eğer sözleşmede bu durum kararlaştırılmamışsa öncelikle taşıtanın cayma hakkı doğmuş olmalıdır. Eğer cayma hakkı doğmamışsa taşıyan, taşıtanın böyle bir beyanda bulunmasını isteyemez. Taşıtan, charter sözleşmesinde belirlenen fesih tarihi gelmişse ve taşıyanın temerrüdü ile cayma

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<sup>64</sup> ÇAĞA /KENDER; syf 35

<sup>65</sup> “Yükleme 10-20 Nisan 2009 tarihinde yapılacaktır.”

<sup>66</sup> OKAY, syf 94; ÇAĞA /KENDER, syf 33; İZVEREN vd, syf 178; TEKİL, syf 167, ÜLGENER, Charter; syf 488

hakkı doğmuşsa BK.106/2. mad. de hükme bağlandığı şekilde taşıyanın bir süre vermesine gerek kalmadan fesih hakkını derhal kullanabilir. Taşıtan, cayma hakkını kullandıktan sonra müspet zararlarının tazminini isteyemez ancak menfi zararlarının tazminini taşıyandan isteyebilir. Taşıyan, temerrüde düşmesinde kusuru olmadığını ispat ederek bu sorumluluktan kurtulabilir.

Taşıtan, taşıyanın kararlaştırılan zamanda gemiyi yükleme yapılacak yere getirmesinden dolayı sadece cayma hakkını kullanmayabilir. Bunun yanında BK. mad. 106'nın kendisine tanıdığı diğer haklar olan akdin ifasını ve gecikme sebebiyle maruz kaldığı zararın tazminini, ayrıca sözleşmenin icrasından ve gecikme nedeniyle oluşan zararların tazmininden vazgeçtiğini belirterek sözleşmenin yerine getirilmemesinden dolayı meydana gelen müspet zararın tazminini de isteyebilir. Taşıyan, bu sorumluluktan gecikmenin kendi kusuru ile olmadığını ispat ederek kurtulabilir.<sup>67</sup>

Taşıyan, geminin sözleşmede kararlaştırılan yükleme gününde yükleme yerinde olamayacağını anladığında taşıtandan uzatma da isteyebilir. Taşıtanın ek süreyi vermesi kendi inisiyatifindedir. İngiliz hukukunda bu durumda taşıtan taşıyana böyle bir uzatma vermiş olmasa bile taşıyan yükleme yapılacak yere gitmek durumundadır. Taşıyan, taşıtandan cayma hakkını kullanıp kullanmayacağını bildirmesi için beyana davet ettiğinde ise taşıtan cevap vermek yükümlülüğünde değildir.<sup>68</sup>

Geminin yükleme limanında hazır olacağı gün, sözleşmede ne açıkça ne de belirli bir tarih aralığı olarak belirtilmemiş ise bu durumda geminin yükleme limanında hazır edileceği gün denizcilik adetlerine göre belirlenir. Bu konuda herhangi bir adet yoksa o zaman yükleme işlemi makul bir sürede yerine getirilmelidir.<sup>69</sup>

Geminin yüklemeye hazır edilmesi bir takım tesadüfi nedenler dolayısıyla gecikebilir. Bu durumda gemi yüklemeye hazır edilmez ise yükleme süresinin başlaması açısından ne gibi sonuçlar doğuracağını TTK 1036.mad.'sinde bekleme süresinin hesabına için hükmedilen sonuçların kıyasen bu konu için de ele alınması ile çözüme kavuşturulabilir.

Buna göre geminin yüklemeye hazır olmasını geciktiren sebep taşıtan veya taşıyanın faaliyet sahasında oluşmasına göre farklı sonuçlar ortaya çıkarmaktadır. Buna göre; yüklemeyi geciktiren neden taşıtanın faaliyet sahasında meydana gelmiş ise yükleme süresi hazırlık ihbarı ile ne zaman başlayacak ise o sırada işlemeye başlar. Gecikme taşıyanın

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<sup>67</sup> ÇAĞA /KENDER; syf 34; ÜLGENER; Çarter ; syf 489; 9 no'lu dipnot

<sup>68</sup> AYBAY vd.; syf 681

<sup>69</sup> OKAY; syf 95

faaliyet sahasında meydana gelmiş ise bu halde yükleme süresi işlemeye başlamaz. Yükleme hazır olmayı engelleyen neden her iki tarafında faaliyette sahasında meydana gelmiş ise gemi yükleme hazır duruma geçmiş kabul edilmez ve yükleme süresi de işlemeye başlamaz.

Taşıtan veya taşıtanların yükleme yerini tespit etmelerinde gecikmeleri ya da uygun olmayan bir yer belirlemeleri halinde bu durum yükleme süresinin başlamasına engel olmaz.

Denizin çekilmesi ya da yükselmesi, buz istilası, sis fırtına, kötü hava şartları, yangın gibi doğal engeller nedeniyle gemi yükleme yerine yanaşamıyor ve dolayısıyla yükleme hazır olamıyor ise bu durumda gemi yükleme hazır duruma gelmez ve yükleme süresi işlemeye başlamaz. Aynı şekilde gemi taşıtan tarafından belirlenmiş yükleme yerine doğru giderken bir sorunla karşılaşır ise yine bu durum taşıyanın faaliyette sahasında kabul edileceğinden gemi yükleme hazır olarak kabul edilmez ve yükleme süresi işlemeye başlamaz.

TTK 1020.mad.'sine göre kaptan bu durumların oluşması halinde olağan yükleme yerine demirler ancak bu olağan yükleme yerine demirleme işini derhal yapmak durumundadır. Aksi halde taşıyan aleyhine sonuç doğurur.

Limanın veya yükleme yerinin dolu olması halinde; bütün liman eğer dolu ise bu durum taşıyan aleyhine olacaktır. Yükleme yeri taşıtan tarafından belirlenmiş ise; ve yükleme yeri olarak belirlenen yerin meşgul olması nedeniyle yüklemede gecikme oluyorsa bu durum taşıtan aleyhine sonuç doğurmaktadır.<sup>70</sup> Gemi ne zaman yükleme yerine yanaşabilecek ise o zaman süre işlemeye başlar. Ayrıca geminin yükleme yerine yanaşamamasına taşıtan neden olmuş ise ve limanın dolu olması nedeniyle liman makamlarınca gösterilen yere yükün hazır olmaması nedeniyle yükleme yapılamıyorsa bu durumlarda da yine sonuçlarına taşıtan katlanacaktır.<sup>71</sup>

Yükleme limanının dolu olması nedeniyle yükleme yapılacak olan gemiler liman dışında bekletilirler. Buradan belirli bir sıra ile limana yükleme yapılmak üzere alınırlar. Bu sıra limana varış, liman makamlarına başvurma veya yükün teslimi göze alınarak yapılmaktadır. Sıra esaslı "regular turn" olarak adlandırılır. "In regular turn" klozunun sözleşmede olması halinde geminin yükleme için liman dışında bekletildiği süre yükleme

<sup>70</sup> ÇAĞA /KENDER; syf 35-38; ÜLGENER; Sürastarya; syf 47-48

<sup>71</sup> Sözleşmeye konulacak klozlarla aksi düzenlenebilir.



süresinden sayılmamaktadır.<sup>72</sup> Geminin sırada beklemesi taşıyanın aleyhinedir. Çünkü gemi yüklemeye hazır olmamaktadır. Ancak gemi sıra beklemeden başka bir yerde yükleme yapabilecekse ve taşıtan bu yerde yükleme yapılmasını istemez ise veya taşıtanın davranışı nedeniyle gemi sırasını kaybederse bu durum taşıtan aleyhine sonuç doğurur. Bu durumda gemiye sıra geldiği anda süre işlemeye başlar. Ayrıca geminin sırası geldiği halde yükün teslim edilmemesi hali de taşıtan aleyhine olacaktır.<sup>73</sup>

“Regular Turn”klozunu tersine çeviren kloz “Free of turn” klozudur. Bu kloz ile geminin sırada beklemesinden yükle ilgili şahıs sorumlu olacaktır ve gemi liman sahasına girdiği anda hazırlık ihbarını verebilecektir. Bu nedenle de sıra beklerken geçen süre yükleme süresine dahil edilmektedir.

Yükleme süresinin başlayabilmesi için kanuna göre geminin yükleme limanına ulaşmış ya da yükleme limanına zamanında ulaşabilecek ve birinci vardiya başında derhal yüklemeye başlayabilecek durumda ve yüklemeye hazır bir şekilde olduğunun kaptan(veya taşıyan ya da onun acentesi) tarafından taşıtan veya onun acentesine ya da belli olan yükletene ihbar edilmesi gerekmektedir. Kanunda bu ihbar herhangi bir şekilde bağlanmamıştır. Ancak ihbarın geçerli olabilmesi için muhatabına ulaşmış olması gerekmektedir. Ulaşmak ile kastedilen muhatabın bunu kabul etmesi değildir. Muhatap kabul etmese dahi ulaşmış olduğunun ispatı yeterlidir. Muhatabına ulaşıp ulaşmadığı konusunda herhangi bir ihtilaf halinde bu durumu taşıyan ispat etmek durumundadır.

Uygulamada hazırlık ihbarının şeklini taraflar aralarında yapacakları sözleşme ile kararlaştırmaktadırlar. Buna göre yazılı şekilde yapılacağı ya da telefon, faks, telsiz vb. teknolojik aletlerle yapılacağı kararlaştırılabilir. Taraflar sözleşmede ihbarın yazılı olarak yapılacağını kararlaştırmışlar ise uygulamada genelde matbu olarak hazırlanmış formların somut olaya göre doldurulması ve bu formları yükün ilgisine verilmesiyle hazırlık ihbarı yapılmaktadır.<sup>74</sup>

Hazırlık ihbarının hangi gün ve saatler içerisinde yapılacağına dair TTK’da herhangi bir düzenleme yoktur. Bu nedenle taraflar aralarındaki sözleşmeye çalışma saatleri dışında da ihbar verilebileceğine dair hükümler koyabilirler. Bu şekilde, ihbarın çalışma saatleri dışında da verilmesine imkan tanınabilir, ancak doktrinde kabul edilen baskın görüşe göre;

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<sup>72</sup> KARAKADILAR; N, Deniz Ticaret Hukukunda Yükleme ve Boşaltmada Bekleme Müddeti; Yayınlanmamış Yüksek Lisans Tezi,1984,İstanbul, syf 17

<sup>73</sup> ÇAĞA / KENDER; syf 38-39; ÜLGENER; Sürastarya; syf 51-52

<sup>74</sup> ÜLGENER;Çarter; syf ;380,386

hazırlık ihbarı taşıtana hazırlık imkanı tanımak için çalışma saatleri içerisinde verilmesi gerekmektedir. Çalışma saatleri dışında ihbar verilmiş ise bu durumda ihbarın yapılmasını takip eden ilk iş gününde ihbarın yapılmış olduğu kabul edilir.<sup>75</sup>

İngiliz hukuk sisteminde de genellikle kabul gören görüş; hazırlık ihbarının iş saatleri içerisinde verilmesini kabul etmektedir. Ancak bunun yanında bazı hakem kararlarında yükleme yapılacak yerin yerel kurallarının ve taraflar arasında kabul edilen sözleşme hükümlerinin de dikkate alınması gerektiği ifade edilmiştir. Ayrıca başka bir kararda da tarafların aralarında akdettikleri sözleşmede “at or before 4 p.m” ve “or at or before 12 noon if on Saturday” ifadeleri ile hazırlık ihbarının zamanı ve aynı zamanda cumartesi öğle vaktine kadar da hazırlık ihbarının verilebileceği düzenlenmiş, hazırlık ihbarı cumartesi öğleden önce yapılmış ve karşı tarafça kabul edilmiş olmasına rağmen cumartesi gününün ayrıca bir resmi tatil günü olmasının hazırlık ihbarının kabul edilmemesi ve yükleme süresinin başlamasına bir engeli olmadığı karara bağlanmıştır.<sup>76</sup>

Verilen hazırlık ihbarının ertesi günü yükleme süresi başlar.(TTK 1030/2) Burada gün ile kastedilen gece yarısından gece yarısına kadar geçen 24 saatlik zamandır. İhbar süresi de bu ifadeden yola çıkılarak ihbarın ulaştığı günün gece yarısından itibaren işlemeye başlayacaktır ve gemi ertesi gün iş saatinde hazır olacaktır. Ancak gemi ertesi gün iş saatinde hazır olmazsa ya da kaptan geç bir saatte yüklemeye hazır olacağını bildirirse o zaman yükleme süresi o gün işlemeye başlamaz.<sup>77</sup>

Yukarıda da belirtildiği gibi yükleme süresi ihbar ile başlamaz, ihbarın ertesi günü başlar. Yapılan ihbar ile yükleme süresinin başlaması arasında belli bir zaman geçer. Bu süreye “serbest zaman(free time)” adı verilmektedir. Bu süre zarfında taraflara yükleme için son hazırlıklarını yapmaları için imkan tanınmaktadır. İhbar süresi, yukarıda da ifade edildiği gibi ihbarın verildiği günden itibaren bir iş günüdür.

Gemi aynı sözleşme kapsamında aynı taşıtan için birden fazla yerde yükleme yapacaksa bu durumda hazırlık ihbarı her limanda ayrı ayrı mı yapılacak yoksa tek bir ihbar yeterli olacak mıdır? Bu konuda uygulamada farklı görüşler vardır:

İlk görüşe göre; limanlar tekrar hazırlık ihbarı yapılmasına gerek olacak kadar uzaksa ihbar tekrarlanmalıdır.<sup>78</sup>

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<sup>75</sup> ÇAĞA /KENDER; syf 41

<sup>76</sup> SCHOFIELD; syf 110-111

<sup>77</sup> ÇAĞA / KENDER; syf 42

<sup>78</sup> ÇAĞA / KENDER; syf 41; ÜLGENER; Çarter ; syf 380

Diğer görüş ise; (genellikle İngiliz hukukunda kabul edilen görüş) hazırlık ihbarının ilk limanda yapılmasının yeterli olup, tekrarlanmasının gerekli olmayacağını, yükle ilgilinin ihbara gerek olmadan sonraki limanlara varış süresini hesaplayabileceğini savunmaktadır.<sup>79</sup>

Hazırlık ihbarının hukuki olarak amacına uygun olan görüş ilk görüştür. Çünkü hazırlık ihbarı ile geminin; yüklemeye ya da boşaltmaya hazır olduğu belirtilmekte ve yükleme veya boşaltma süresi hazırlık ihbarının ertesi günü başlamaktadır. Geminin her yükleme-boşaltma yapılacak limana varması ve hazır olması şartlara göre değişiklik göstermektedir.

### **3.2.2.2 Sözleşme Hükümlerine Göre:**

TTK hükümlerinin emredicilik vasfı olmadığı için taraflar aralarında yapacakları sözleşmelere çeşitli hükümler koymak suretiyle düzenlemeler yapmaktadırlar. Yukarıda ifade edildiği gibi kural olarak yükleme süresinin işlemeye başlaması için geminin yükleme limanına varmış ve yüklemeye hazır olması ve bu durumun hazırlık ihbarıyla taşıtana bildirilmesi gerekmektedir.

Geminin yükleme yapacağı liman ve rıhtımının seçimi uygulamada çeşitli şekillerde yapılmaktadır. Buna göre bazen taraflar yapacakları sözleşmede yükleme yapılacak olan limanın ismini belirlemekte bazen de yükleme limanının isminin daha sonra tayin edileceğini ve yükleme limanının zamanı gelince belirleneceğini kararlaştırmaktadır. Bu durumda taşıtan sözleşmede belirlenen coğrafi sınırlar içerisinde bir limanı veya bu coğrafi sınırlar içerisinde bulunan birden fazla limandan birini tercih etmektedir. Uygulamadaki diğer bir tercih edilen yöntem ise; yükleme limanının bir kısmının sözleşmede bir kısmının da daha sonraki aşamalarda kararlaştırılmasıdır. Bazen uygulamada bunların dışında sözleşmede bir yükleme limanı ismi verilmekte bunun yanında bir başka seçenek sunulup bunlardan birinin seçilebileceğine de rastlanmaktadır.

Taraflar sözleşmede aksini kararlaştırmamışlar ise yükleme limanı ve rıhtımı taşıtan tarafından belirlenir. Taşıtan tarafından sözleşmede yükleme limanı ve yerinin belirlenmesi daha sonraki bir zamana bırakılmış ise bu durumda taşıtanın, geminin yükleme limanına ulaşmasını geciktirecek şekilde yükleme limanını ya da yerini tespit etmemesi gerekir. Aynı zamanda taşıtanın belirleyeceği yükleme limanının güvenli bir liman olması da gerekmektedir. Charter sözleşmelerinde yer alan “safe port” kavramı ile limanın güvenli

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<sup>79</sup> ÜLGNER; Charter ;syf 381; ÜLGNER; Makale I; syf 15-16; SCHOFIELD, syf 108

olması belirtilmek istenmektedir. Bu kavram ile sadece limanın fiziksel olarak değil siyasi olarak da güvenliği dikkate alınmaktadır. Fiziksel olarak güvenli bir limanda dikkat edilmesi gereken noktalar limanın derinliği, manevra yapılacak sahasının genişliği, gel-git hareketlerinin etkisi, limanda geminin yanaşmasını ya da herhangi bir sorun ortaya çıktığında bu sorunun halledilmesini sağlayacak ekip ve donanımın olması gibi etkenlerdir. Siyasi olarak güvenli liman ise; liman ve çevresinde savaş ya da isyan veya salgın hastalık gibi sorunların olmadığı limandır.

1980 Tarihli Bekleme Süreleri Tarifinde ise “safe port”(güvenli liman) şu şekilde ifade edilmektedir:

“...uygun bir zaman boyunca geminin, iyi denizcilik ve seyir bilgisiyle tehlike atlatmadan anormal bir durum olmadığında ulaşabildiği, girebildiği, durabildiği ve çıkabildiği liman....” (“..... a port which, during the relevant period of time, the ship can reach, enter, remain at and depart from, without, in the absence of some abnormal occurrence, being exposed to danger, which cannot be avoided by good navigation and seamanship....”)

Yukarıda da belirtildiği gibi uygulamada taraflar charter sözleşmelerine koyacakları klotlarla geminin sözleşmede belirlenen yükleme limanında ne zaman hazır edileceğine karar verebilirler. Bunun için charter sözleşmelerine iki klot koymaktadırlar. Buna göre sözleşmeye konulan “expected ready to load” (yüklemeye hazır olacağı beklenen zaman) klotuyla geminin tahmini olarak yüklemeye ne zaman hazır edileceği belirlenmektedir.<sup>80</sup> Bunun yanında taraflar sözleşmeye “cancelling clause” denilen geminin haklı bir sebep olmadan yukarıda belirtilen yüklemeye hazır edileceği tarihte yükleme limanında olmaması halinde taşıtana sözleşmeyi fesih hakkı veren bir kloza da yer vermektedirler. Bazı sözleşmelerde ise “cancelling date” şeklinde geminin yükleme limanında hazır olarak olması gereken en son gün belirtilerek bu tarihte olmaması halinde sözleşmenin feshedileceği düzenlenmektedir.<sup>81</sup>

Uygulamada bu şekilde sözleşmelerde yer alan zaman dilimine “laydays cancelling” adı verilmektedir. Sözleşmelerde özellikle “laycan” ya da “lay/can” olarak kısaltılmış haline de rastlanmaktadır.

<sup>80</sup> **Gencon 94 1. Klot :** “...and expected ready to load under this Charter Party about the date indicated in Box 9....”(Bu charter partide 9. kutuda gösterilen tarihte tahminen yüklemeye hazır olacağı...)

<sup>81</sup> **Gasvoy 2005 5.Klot:** “(b) If the Vessel is not ready to load, in accordance with Clause 6, by midnight on the cancelling date specified in the Part 1, the Charterers shall have the option of cancelling this Charter Party within 24 hours after such cancelling date.”(Gemi, klot 6 ya göre Bölüm 1 de belirtilen fesih gününün gece yarısı yüklemeye hazır olmazsa, taşıtan Charter Parti’de belirtilen fesih hakkını fesih tarihinden itibaren 24 saat içerisinde kullanır.)( <https://www.bimco.org/~media/71291474E7D548F1AAE8AC868C0223C8.ashx>)

Sözleşmede sadece “expected ready to load” klozunun varlığı halinde bu kloza dayanarak geminin yüklemeye belirlenen tarihte hazır olmaması durumunda taşıtan sözleşmeyi feshedemez. Ancak charter sözleşmeleri doktrinde çoğunluk tarafından kabul edilen görüşe göre hukuki niteliği itibariyle Borçlar Kanununun 358/I. mad.’sinde düzenlenen istisna akdi olarak kabul edildikleri için bu maddede düzenlenen meydana gelen gecikmenin müteahhidin işini zamanında yapmasını engelleyip engellemeyeceği hükmüne bakılarak taşıtana feshetme hakkı tanınmaktadır. Burada önemli olan geminin yüklemeye geç hazır edilmesine rağmen yükleme işinin zamanında yapılmasıdır. Yükleme iş zamanında yapılıyor ise taşıtana feshetme hakkı tanınmamalıdır.<sup>82</sup>

Taraflar, aralarında akdettikleri sözleşmede geminin, yükleme yapılacak yerde yüklemeye hazır halde bulunacağı sürede hazır olmaması halinde sözleşmeye “cancelling clause”(fesih şartı) koymanın yanı sıra sözleşmede “carrying charge” olarak ifade edilen bir maktu bir ücret de ödenmesini de kararlaştırabilirler. Bu maktu ücret, yükü taşıyacak olan geminin yükü almaya hazır olmaması halinde bu tarihten konşimentonun hazırlanması tarihine kadar işleyecek sürede yapılacak olan masraflar için ödenmesi kararlaştırılan bir meblağdır ve tazminat ve cezai şart niteliğinde değildir. Bu ücretin taşıtanın, geminin zamanında yükleme için hazır olmamasından dolayı yapmak zorunda kaldığı munzam masraflara karşılık taşıyan tarafından ödenmesi gerekir. Bu meblağ, gün başına ve yükün tonajına göre belirli bir yüzde olarak kararlaştırılır ayrıca taşıtanın yaptığı munzam masrafları ispat etmesine gerek yoktur.<sup>83</sup>

Yukarıda ifade edildiği gibi kural olarak yükleme süresinin başlayabilmesi için gereken şartlardan bir tanesi de geminin yükleme limanına varmış olmasıdır. Ancak taraflar yapacakları sözleşmelerde yükleme yapılacak limanın adını(port charters=liman charteri) belirtmelerinin yanında yükleme yapılacak rıhtımın(berth charters=rıhtım charteri)<sup>84</sup> veya iskelenin(dock charters=iskele, dok charteri) adına da yer vermektedirler. Bu şekilde yükleme yapılacak rıhtımın ve iskelenin adının belirtildiği sözleşmelerde gemi, sözleşmede belirtilen rıhtıma veya iskeleye vardığında “arrived ship” olarak kabul edilecektir ve gemi

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<sup>82</sup> ÜLGENER;Çarter;syf 191

<sup>83</sup> KARAYALÇIN;Y, Özel Hukukta Meseleler ve Görüşler “Hukuki Mütalaalar” IV; 1988-1991; Ankara; syf 174

<sup>84</sup> En eski charter türüdür.

ancak sözleşmede belirtilen yere varınca, teknik ve hukuki olarak yüklemeye hazır olunca hazırlık ihbarı verebilecektir.<sup>85</sup>

TTK da düzenlendiğinin aksine doktrinde ve uygulamada gemi, yükleme işlemine hazır bir şekilde zamanında yükleme limanında olacak ise, yükleme yerine varması şart değildir.<sup>86</sup>

Ancak gemi, yükleme limanı sınırlarına girdikten sonra sözleşmede kararlaştırılan yükleme yerine varmadan verilecek hazırlık ihbarı tam olarak nerede verilecektir? Bu durumda gemi ne zaman yükleme limanı sınırları içerisinde kabul edilecektir? Bu soruların cevapları İngiliz Hukuk Sisteminde iki kıstas belirtilerek aşılmaya çalışılmıştır. Buna göre;

\* Geminin, İngiliz Hukuku'nda ticari saha(commercial area) olarak kabul edilen, gemilerin fiilen yüklerini alıp ya da boşalttıkları bölgeye, normal olarak gemilerin sıra bekledikleri demirleme bölgesine ulaşıp ulaşamaması ve

\* Geminin, taşıtanın<sup>87</sup> tasarruf ve kontrolüne girmesi dikkate alınmalıdır.(at the immediate and effective disposition of the charterer). Bu kıstas yükle ilgili şahsın talimatlarını doğrudan doğruya ulaştırabilmesi, gerekli ve yeterli haberleşmeyi sağlayabilmesi ve gemiye kolaylıkla ulaşabilmesini de içermektedir.

Bu konuda geliştirilmiş olan Reid testine göre, gemi, limanın ticari sınırları içerisine ve diğer gemilerin sıra bekledikleri yere varmış ise arrived ship olarak kabul edilir. Ancak gemi bu yerlere varmamış ise geminin yükle ilgili şahsın tasarruf ve kontrolüne girmiş olduğu kabul edilmez ve yükleme süresi işlemeye başlamaz. Yükleme süresinin başlayabilmesi için taşıyanın bunun aksini ispat etmesi gerekir. Bu test günümüzde pek geçerliliğini koruyamamıştır. İlk olarak geminin limanın ticari sahasına girmesi şartı aranmaktadır. Bu şartın varlığının belirlenmesi uygulamada bazen zor olabilmektedir çünkü ticari saha her liman için farklı kabul edilir ve bu saha çoğu zaman çok geniş bir alanı kaplamaktadır. Bu nedenle bu sahanın belirlenmesi çoğu zaman anlaşmazlıklara yol açabilmektedir.<sup>88</sup>

Bir görüşe<sup>89</sup> göre; bu sorunun aşılabilmesi için iki yol vardır. Bunlardan ilki Alman doktrini tarafından kabul edilmiş olan görüştür. Bu görüşe göre, limanın ticari sahasının

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<sup>85</sup> ÜLGENER ;Sürastarya;syf 42-47,ÜLGENER;Bekleme Süreleri Makale III;syf 110; SCHOFIELD; syf 70-74

<sup>86</sup> ÜLGENER, Çarter; syf 358; ÇAĞA /KENDER; syf 35;

<sup>87</sup> Boşaltmada taşıtan yerine gönderilendir.

<sup>88</sup> ÜLGENER; Bekleme Süreleri Makale III;syf 112; SCHOFIELD; syf 76-89

<sup>89</sup> ÜLGENER;Çarter;syf 358

belirlenmesinin bir anlamı yoktur. Çünkü teknolojinin gelişmesi ile beraber ticari sahanın önemi ortadan kalkmaktadır. Önemli olan geminin yükle ilgili şahsın kontrolüne girip girmemesidir. Yükle ilgili şahsın kontrolüne girmiş olursa gemi limanın ticari sahasına girmiş olarak kabul edilir. İkinci yolla da aynı görüşe ulaşılmaktadır. 1980 tarihli Bekleme Süreleri Tariflerine(kısacası LayDef) göre liman kavramı şu şekilde açıklanmıştır. Buna göre; *“Liman, gemilerin ne kadar uzakta olursa olsun kendilerine sıra gelmesi için bekledikleri, talimat aldıkları veya buna mecbur oldukları saha dahil olmak üzere yükleme ve/veya boşaltma faaliyetlerinin gerçekleştirildikleri bölgedir. Eğer liman kelimesi kullanılmamış, ancak burası ismiyle belirtilmişse, bu tarifin geçerliliği devam edecektir.”* Bu tarifte de geminin beklemekte olduğu yerin yükleme/boşaltma limanına olan uzaklığı bir önem taşımamakta, önemli olan noktanın gemilerin normal olarak bekledikleri, yükle ilgili şahıstan talimat alabildikleri ya da liman yetkililerince demir atmak durumunda bırakıldıkları yerdir. Gemi bu noktalardan birine geldiğinde limana varmış sayılacaktır. Yükleme süresinin başlayabilmesi için yapılması gereken hazırlık ihbarının yapılabilmesi için geminin bizzat yükleme yerinde olmasına gerek yoktur. Önemli olan nokta geminin, yükleme limanı sınırları dahilinde yükle ilgili şahıs tarafından derhal ve etkili şekilde müdahale edebilir bir noktada olmasıdır. Bu durumda da yükle ilgili şahsın kontrolünde olması da somut olayın şartlarına göre değerlendirilmelidir. Uygulamada ayrıca geminin hangi andan itibaren hazırlık ihbarı verebileceği konusuna sözleşmelere konulan klozlarla da çözüm getirilmektedir. Bu klozlar<sup>90</sup>:

***\*WIPON Klozu (whether in port or not):***

Bu kayıttın sözleşmeye konulmasıyla gemi yükleme limanına ulaşmış olmasına rağmen, limanın faaliyet sahası içine girmeden liman makamlarınca belirlenen bekleme sahasında hazırlık ihbarı verebilmektedir. Bu kayıttın konulması genellikle limanın meşgul olması halinde ortaya çıkacak bir takım yükümlülüklerin taşıtan tarafından karşılanmasını amaçlamaktadır.

Bu kloza Synacomex 2000 charter sözleşmesinin 8.klozunun metni şöyledir.

*“Yükleme ve boşaltma limanı müsait olmadığında; kaptan, geminin bütün açılardan hazır olduğunu garanti edebilir ve olağan bekleme yerinden yükleme ve/veya boşaltma*

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<sup>90</sup> Bu klozlar boşaltma için de geçerlidir.

yapılabilmesi için (limanda ya da dışında, serbest pratikada olsun olmasın, gümrük masrafları ödenmiş ya da ödenmemiş olsun) hazırlık ihbarı verebilir.”<sup>91</sup>

Bazı çarter partilerde de “whether in port or not” klozunun yerine aynı anlamda “at or off port” klozu da kullanılmaktadır. Kullanım açısından iki kloz açısından herhangi bir fark bulunmamaktadır. Ancak aşağıda incelenen “Time lost” klozundan önemli farkı bulunmaktadır; “time lost” klozunda gemi, sözleşmede belirlenen liman sahasına ya da rıhtıma gelmeden hazırlık ihbarı verebileceği ana kadar geçen süre starya(yükleme-boşaltma süresi) süresine dahil edilmesidir. Ancak WIPON klozunda bu süre yükleme süresinden sayılmamaktadır. Söz konusu klozla aynı zamanda gemi rıhtıma yanaşmış gibi kabul edilmekte ve bu şekilde hazırlık ihbarı verilmektedir.<sup>92</sup> Gencon 94 ve Intertankvoy çarter sözleşmelerinde rastlanmaktadır.

Gencon 94 çarter sözleşmesinin 6. klozunda; yükleme/boşaltma limanına ya da limanın yakına vardığında yükleme/boşaltma yapılacak olan rıhtım meşgul ise; geminin, mesai saatleri içerisinde, serbest pratikada olsun ya da olmasın, gümrük masrafları ödensin ya da ödenmesin hazırlık ihbarı verebileceği düzenlenmiştir.<sup>93</sup>

Intertankvoy 76 çarter sözleşmesinin 8. klozunda ise; geminin, donatanın kontrolünde olduğunda yükleme/boşaltma limanına ya da yükleme/boşaltma yapılacak yere veya liman dışında olağan bekleme yerine vardığında, gemi, yükleme veya boşaltmaya hazır olması durumunda taşıyan ya da onun yetkili temsilcisi tarafından yılın herhangi bir günü hazırlık ihbarı verilebileceği hükme bağlanmıştır.<sup>94</sup>

**\*WIBON Klozu (whether in berth or not):**

Bu kayıt yukarıdaki WIPON Klozundan farklı olarak geminin liman faaliyet sahasına girip ancak sözleşmede kararlaştırılan rıhtıma varmadan önce hazırlık ihbarında bulunmasını

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<sup>91</sup> “Only when the loading and/or discharging berth is unavaliabile, Master may warrant that the Vessel is ain all respects ready and may tender notice of readiness to load and/or discharge from any usual waiting place, whether in port or not,whether in freepratique or not,whether customs cleared or not.” (<http://www.hellenicshippingnews.com/downloads/files/chmfmp968.pdf>)

<sup>92</sup> ÜLGENER; Bekleme Süreleri Makale I,syf 28-30

<sup>93</sup> “If the loading/discharging berth is not avaliabile on the Vessel’sarrival at or off the port of loading/discharging,the Vessel shall be entitled to give notice of readiness within ordinary office hours on arrival there,whether in free pratique or not,whether customs cleared or not.” ([http://www.infomarine.gr/bulletins/chartering\\_forms/gencon94.pdf](http://www.infomarine.gr/bulletins/chartering_forms/gencon94.pdf))

<sup>94</sup> “When the vessel has arrived at a loading or discharging port or place, or at a usual waiting place of such porto r place if vessel cannot enter or berth by reason of any cause beyond the control of Owners, and the vessel is ready to load or discharge, a notice of readiness, which may be tenderd at any time on any day of the year,shall be given to Charterers or their agent.” ([http://www.maritimeknowhow.com/English/Know-How/Charter\\_parties/C-P\\_Docs/intertankvoy\\_76.pdf](http://www.maritimeknowhow.com/English/Know-How/Charter_parties/C-P_Docs/intertankvoy_76.pdf))



sağlamak amaçlı konulmaktadır. Bu klozun konulması daha çok İngiliz Hukuku açısından kaynaklanan anlaşmazlıkların çözülmesinde etkili olmaktadır. Limana girip da rıhtıma yanaşamayan geminin de hazırlık ihbarı verilebileceği kabul edilen Türk-Alman Hukuk sistemlerinde de az da olsa uygulanmaktadır.<sup>95</sup>

WIBON Klotunda üzerinde durulması gereken diğerk bir nokta da Türk-Alman Hukuk Sistemlerinde kabul edilen faaliyet sahaları prensibini ortadan kaldırıp kaldırmadığıdır. Buna göre; geminin yükleme yerine yanaşması meşgul olmasından dolayı değil de farklı nedenlerden dolayı meydana geliyorsa bu durumda WIBON klozu işlerlik kazanmayacak ve faaliyet sahaları prensibi geçerli olacaktır. Ancak taraflar sözleşmeye koyacakları klotlarla geminin yerine yanaşamamasını herhangi bir nedene dayandırabilirler. Bu halde WIBON klozu faaliyet sahaları prensibini ortadan kaldırmaktadır. Çünkü bu klozun varlığıyla rıhtımda olsun olmasın hazırlık ihbarı verilmekte ve geminin yükleme yerine yanaşamamasından kaynaklanan sonuçlar yükle ilgili şahıslara devredilmektedir.<sup>96</sup>

Uygulamada WIBON klotuna, WIPON klotundan daha çok çarter sözleşmelerinde rastlanmaktadır: Polcoalvoy, Beizai, Fertivoy 88, Nuvoy 89 ,Nubaltwood vb.

Polcoalvoy Çarter Sözleşmesinde;

*“Hazırlık ihbarı, gemi tüm açılardan yükün yüklenmesine hazır ve gümrük işlemleri açısından tamam olduğunda olağan mesai saatleri içerisinde( İş günü 8:00- 16:00 saatleri arasında) rıhtıma yanaşmış olsun olmasın verilebilir.”*<sup>97</sup>

Diğerk çarter sözleşmelerinde de buna benzer düzenlemeler yapılmıştır.

### **\*”So Near As” Klotu:**

Sözleşmeler de bu klot genellikle boşaltma için kullanılıyor olsa da yükleme için de kullanılmaktadır. Sözleşmelerde “so near thereto as she may safely get=güvenli olarak gidebildiği en yakın nokta” şeklinde kullanılmaktadır. Geminin varma ya da yükleme limanı belirtildikten sonra “veya kaydı” ile en yakın bir yere yükü boşaltabileceği ya da en yakın yerden yükü alabileceği düzenlenmektedir. Gemi yükleme/boşaltma limanı olarak belirtilen limana yanaşamaması halinde en yakın limana gidip buradan hazırlık ihbarı

<sup>95</sup> ÜLGENER;Çarter; syf 365-366

<sup>96</sup> ÜLGENER; Bekleme Süreleri Makale III; syf 124-127

<sup>97</sup> “The notice shall be tendered with in ordinary Office hours(i.e. between 08:00 hours and 16:00 hours on a working day) when the Vessel is in all respects ready to receive the entire cargo and is cleared at Custom House ,whether in bert or not.”

(<https://www.bimco.org/~media/81991116015F461D8BEAF28413C87FAF.ashx>)

verebilmektedir. Bu durumda başka limana ulaşmasının belirli kıstaslar altında olması gerekmektedir. Buna göre; engelin belli bir süre devam etmesi, limana girmek için beklenen sürenin uzunluğu, ertelemenin süresi, sözleşme yapılırken riskin bilinme derecesi, diğer limanın sözleşmede kararlaştırılan limana yakınlığı, girilemeyen limanda yüklenecek veya boşaltılacak yükün miktarı dikkate alınacaktır.<sup>98 99</sup> Bu durumlar somut olayın şartlarına göre değerlendirilecektir.

Engelin niteliği politik, yasal ya da fiziksel olabilir. Politik engel olarak yükleme yapılacak olan limanın bağlı bulunduğu ülkenin geminin bağlı olduğu ülkenin gemilerini karasularına sokmaya izin vermemesi gösterilebilir. Bu nedenle gemi yükleme için en yakın limana yanaşabilir.

Yükleme limanına bir engel nedeniyle yanaşamayan geminin en yakın limana gidebilmesi için makul bir süre beklemesi gerekmektedir.

Taraflar, sözleşme yapım aşamasında yükleme limanına girişteki engeli biliyorlar ise, bu durumda bu kloz işlerliğini kaybeder ve taşıyanın, yükü en yakın limana boşaltması ya da yükün en yakın limandan alınmasıyla üzerine düşen borcu yerine getirmiş olarak nitelendirilmeyecek ve sorumluluğu devam edecektir.<sup>100</sup>

Sözleşmede kararlaştırılan limanın diğer limana yakınlığı belirlenirken somut olayın şartları dahilinde geminin ulaşabileceği en yakın liman olması göz önüne alınır.<sup>101</sup>

En yakın limana yanaşıldığında yüklenecek yükün miktarı ile asıl yükleme yapılacak limandaki engelin kalkması beklendikten sonra yüklenecek yükün miktarı arasında bir değerlendirme yapılır. Engelin kalkması için bekleme yapılmadan yakın limanda aynı sürede daha fazla miktarda yük yükleniyor ise o zaman en yakın limana yanaşmak her iki taraf açısından da daha yararlı olacaktır ve en yakın limana yanaşmak tercih edilmelidir. Eğer tam tersi bir durum ortaya çıkarsa o zaman engelin kalkması beklenip sözleşmede kararlaştırılan limanda yükleme yapılmalıdır.

Alman Hukukunda ise bu kloz iki durumun oluşması halinde uygulanabilirlik kazanmaktadır. Geminin limana hiçbir şekilde girememesi ve layterlerle taşımanın taşıtan açısından masraflı olmaması hallerinde uygulanmaktadır. Hollanda hukukunda ise; deniz seviyesi de değerlendirmeye alınmaktadır.<sup>102</sup>

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<sup>98</sup> SCHOFIELD;syf 147

<sup>99</sup> ÜLGNER, Bekleme Süreleri Makale I, syf 26

<sup>100</sup> ÜLGNER;Bekleme Süreleri Makale III; syf 117

<sup>101</sup> ÜLGNER;Bekleme Süreleri Makale III;syf 117;SCHOFIELD;syf 150-151

<sup>102</sup> KARAKADILAR, syf 18

**\* “Time lost” Klozu:**

Bu kloza Gencon 76 Çarter Partisi ve buna benzer birkaç çarter parti türünde rastlamak mümkündür.<sup>103</sup> Bu kloz adından da anlaşılacağı üzere; kayıp sürenin starya(yükleme veya boşaltma süresi) süresinden sayılması için uygulamada kullanılmaktadır. Bu kayıp süre geminin yükleme ya da boşaltma yapacağı limana ya da rıhtıma varamaması halinde beklediği süredir. Yukarıda açıklanmış olan WIPON ve WIBON Klozlarına benzer özellik taşımasına rağmen aralarında farklılık bulunmaktadır. Yukarıda açıklanan klozların konulmasının amacı; geminin liman faaliyet sahasına girmesi ancak belirlenen rıhtıma yanaşamaması halinde ya da hiçbir şekilde liman faaliyet sahasına girememesi halinde geminin hazırlık ihbarı verebilmesidir. Söz konusu klozla ise herhangi bir nedenden geminin rıhtıma yanaşamaması ya da liman faaliyet sahasına girememesi halinde hazırlık ihbarına gerek kalmadan bekleme sürelerinin başlayacağı belirtilmek istenmektedir. Ancak bu klozun konulmasıyla hazırlık ihbarının verilmesi zorunluluğu ortadan kalkmamaktadır. Taşıyan veya kaptan gemi kararlaştırılan rıhtıma ya da liman faaliyet sahasına girdikten sonra yüklemeye ya da boşaltmaya hazır olduğu andan itibaren hazırlık ihbarında bulunmak zorundadır. Çünkü bekleme süreleri kural olarak hazırlık ihbarıyla başlamaktadır. Bu klozla beraber “freetime” olarak nitelenen süre hazırlık ihbarıyla başlamakta ve bu süreye kadar geminin yükleme ya da boşaltma yapacağı liman ya da rıhtıma en yakın olduğu zamanla hazırlık ihbarının yapıldığı ana kadar geçen süre starya süresi olarak kabul edilmektedir.<sup>104</sup>

Bu klozla beraber ayrıca rıhtımın meşgul olmasından dolayı geminin yanaşamaması hali dikkate alınmakta, kötü hava şartları gibi faktörler dikkate alınmamaktadır. Bu durum WIBON klozundan ayıran diğer bir husustur.

“Time lost” klozunda uygulamada ortaya çıkan bir sorun ise; bu klozun varlığıyla yükleme süresinden sayılan bu sürelerle yükleme süresinin hesaplanmasında geçerli olan hükümlerin uygulanıp uygulanmayacağıdır. Örnek olarak; yükleme süresinin işlemlerini kesen Pazar ve tatil günleri yükleme süresinden sayılan bu sürelerin işlemlerini de kesip kesmeyeceği verilebilir.

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<sup>103</sup> “Time lost in waiting for berth to as loading or discharging time, as the case may be.” “Rıhtım beklerken kaybedilen zaman sayıma katılacaktır.”

<sup>104</sup> ÜLGENER; Çarter; syf 371-373

İngiliz Hukuk Sisteminde öncelikle yükleme süresiyle yükleme süresi geçerli kabul edilen sürelerin ayrı nitelikte olduğu kabul edilmiş ancak daha sonra verilen mahkeme kararlarıyla yükleme süresiyle yükleme süresi gibi kabul edilen sürelerin aynı olduğu sonucuna varılmıştır.

Alman Hukuk Sisteminde yükleme ve yükleme gibi kabul edilen sürelerin birbirinden farklı olduğu ve bu nedenle yükleme süresini kesen nedenlerin yükleme süresi gibi kabul edilen sürelerde uygulanmayacağı kabul edilmektedir.<sup>105</sup>

Sözleşmeye söz konusu klotun konulmasıyla yükleme süresi gibi kabul edilecek sürelerin yükleme süresi vasfında kabul edilmesi ve yükleme süresini kesen sebeplerin burada uygulanması doğru değildir. Çünkü süre farklı niteliklere sahiptir. Beklenen süre zarfında fiilen yükleme yapılmamaktadır, ayrıca klotun konulmasındaki amaç yükleme yapılmadan limanda beklenen sürenin de yükleme süresine dahil edilmesi sağlanarak yükleme süresini hemen başlatmaktır. Yükleme süresini kesen kesintilerin bu süreye de uygulanmasıyla bu klotun konulma amacı ortadan kalkmaktadır.

Yükleme süresi kural olarak verilen hazırlık ihbarının ertesi günü başlar. İhbarla yükleme süresi arasındaki serbest zaman olarak ifade edilen sürede yükleme süresi işlemez. Ancak sözleşmelere konulan bazı klotlarla serbest zaman ortadan kaldırılırken bazı klotlarla da sabit süreye bağlanmaktadır. Bazen de bazı yüklemeye serbest zamanda fiilen başlanması halinde yükleme süresinin başlayacağı veya fiilen çalışılsa bile yükleme süresinden kabul edilmeyeceği düzenlenmektedir. Uygulamada aşağıdaki klotlara rastlanmaktadır:

“...kullanılmadıkça serbest zaman”

(“...free time unless used...”)

“...serbest zaman, kullanıldığı takdirde nazarı itibara alınmaz.”

(“free time, if not used not to count..”)<sup>106</sup>

“...gemi yüklemeye veya boşaltmaya hazır olunca...”

(“...when ship is ready to load and discharge...”; “...time to count when ship is ready to discharge...”)

“...gemi ulaşınca...”

(“...on arrival...”)

“...ulaştıktan sonra belirli bir süre geçince...”

(“...after...hours on arrival...”)

<sup>105</sup> ÜLGENER;Bekleme Süreleri Makale III;syf 132-133

<sup>106</sup> TEKİL,F;Deniz Hukuku; İstanbul, 2001,syf 172

“...ihbar verildikten sonra belirli bir süre geçince...”

(“...hours after notice, that the ship is ready to receive or deliver...”)<sup>107</sup>

Sözleşmelerde yukarıda ifade edildiği şekilde gibi herhangi bir klozla aksi kararlaştırılmamış ise taşıtandan yükleme veya boşaltma işlemini yapması beklenemez ve buna zorlanamaz. Ancak sözleşmeye “unless the work be sooner commenced”(çalışmaya başlamadıkça başlamaz) klozu konulursa o zaman taraflar ne zaman yükleme veya boşaltmaya hazır olurlarsa yükleme veya boşaltmaya o zaman başlanması mümkün hale gelmekte ve yükleme süresi de işlemeye başlamaktadır. Aksine herhangi bir kloz olmamasına rağmen yükleme veya boşaltma işlemleri yapılırsa da süre işlemeye başlamayacaktır.<sup>108</sup>

Bazı charter sözleşmelerinde de hazırlık ihbarının yanı sıra yükleme limanında yapılması gereken bir takım işlemlerin yapılması veya gerekli izinlerin alınması, gerekli belgelerin yerine getirilmesini de zorunlu olduğu düzenlenmiştir. Bu şekilde düzenlenen hükümlerle yükleme süresi yalnız hazırlı ihbarının verilmesiyle başlamamakta diğer prosedürlerin de yerine getirilmesi gerekmektedir.

İngiliz Hukukunda da bu durumda taşıyanın kusurunun varlığı sözleşmenin feshedilebilmesi için bir şart olarak aranmamaktadır.<sup>109</sup>

### **3.2.3 Yükleme Süresinin İşlemesi:**

#### **3.2.3.1 Kanun Hükümlerine Göre:**

TTK 1036. mad. de günlerin iş günü olarak hesaplanacağı hükme bağlanmıştır. Gün ile ifade edilen ise yukarıda ifade edildiği gibi gece yarısından diğer gece yarısına kadar geçen süredir(24 saat).<sup>110</sup> Yükleme işleminin mesai saatleri içerisinde olma zorunluluğu yoktur. Yükleme yapılacak limanın adetlerine göre belirlenecektir. Gece vardiyasında yükleme yapılabilmesi için de tarafların aralarında yapmış oldukları sözleşmede bu hususu belirtmeleri gerekmektedir. Taraflar aralarında yapmış oldukları sözleşme ile ayrıca yükleme süresini saat veya dakika olarak da belirtebilmektedirler.<sup>111</sup>

<sup>107</sup> ÜLGENER;Çarter ; syf 387-388

<sup>108</sup> ÇAĞA /KENDER; syf 42; ÜLGENER; Çarter ; syf 388

<sup>109</sup> ÜLGENER;Çarter ; syf 489; 8 no’lu dipnot

<sup>110</sup> ÇAĞA /KENDER; syf 42; ÜLGENER; Makale II;syf 10; ÜLGENER;Çarter; syf 396;ÜLGENER;Sürastarya; syf 73;AKINCI; syf 124

<sup>111</sup> ÜLGENER; Makale II; syf 10; ÜLGENER;F, “Stary Süresinin Hesaplanmasında Running Days-Working Days Klozları”;Deniz Ticareti Dergisi;Yıl:8(1991); Sayı:1;İstanbul; syf 53-54

Yukarıda da ifade edildiği üzere; TTK da yükleme süresi iş günü üzerinden hesaplanır ve resmi tatil günleri ve Pazar günleri yükleme süresinden sayılmaz.<sup>112</sup> Taraflar aralarında yapmış oldukları sözleşmeye koydukları hükümlerle bunun aksini kararlaştırabilirler. İngiliz ve Alman Hukukunda ise Pazar ve Resmi tatil günleri de yükleme süresinden sayılarak kesintisiz olarak yükleme süresi hesaplanır.<sup>113</sup>

Yükleme süresi kötü hava şartları ve diğer bazı beklenmeyen sebepler nedeniyle kesintiye uğrayabilir. Kesintiye uğraması halinde bu kesintilerin yükleme süresinin hesaplanmasındaki etkileri Türk- Alman Hukuk Sistemlerinde faaliyet sahası prensibine göre ifade edilmektedir. Faaliyet sahaları prensibine bakılırsa; taraflar aralarında yapılan sözleşme ile aksine kararlaştırmamışlar ise; yükü gemiye kadar getirmek taşıtana, oradan gemiye yüklemek taşıyana aittir.(TTK 1021.mad.) Ancak charter sözleşmelerine bir takım hükümlerin konulmasıyla taraflar faaliyet sahalarını daraltıp genişletebilirler. Bu prensibe göre; yüklemeyi engelleyen nedenler hangi tarafın faaliyet sahasında gerçekleşmiş ise bunun sonucuna da o taraf katlanacaktır. TTK 1036.mad.'sinde faaliyet sahaları prensibi dikkate alınarak yükleme süresinin işlemesi ele alınmıştır. Buna göre; taşıtanın faaliyet sahasında meydana gelen tesadüfi sebeplerden ötürü(taşıtanın kusuru olsun ya da olmasın) yükleme yapılamıyorsa gemi yüklemeye hazır sayılır ve yükleme süresi hazırlık ihbarı ile ne zaman başlayacak ise başlar ve işlemeye devam eder. Yükün gemiye alınmasına engel olan sebep taşıyanın faaliyet sahasında meydana gelmiş ise bu durumda yükleme süresi işlemez.<sup>114</sup>

Yükleme tarafların her ikisinin faaliyet sahasına giren fırtına, buz istilası veya seferberlik gibi nedenlerden dolayı yapılamıyorsa engel ortadan kalkıncaya kadar yükleme süresi işlemeye başlamaz; ancak taşıtan, taşıyana sürastarya ücretini öder. Deniz tehlikeleri olan denizin yükselmesi, çekilmesi, yükleme yerine gidilen yolda buz kütesinin fazlalığı, sis, fırtına gibi nedenlerden dolayı yükleme yapılamıyorsa bu durum da faaliyet sahaları prensibi açısından taşıyan ya da taşıtan tarafından yükleme yerinin belirlenmesi durumlarında sonuç değişmektedir. Gemi, bir deniz tehlikesi nedeniyle taşıyan tarafından belirlenen yükleme yerine zamanında gidememiş ise ya da söz konusu yükleme yerinde yükleme yapılamamış ise bu gecikmenin faaliyet sahası prensibine göre sonucu taşıyan aleyhine olacaktır. Aksine yükleme yeri taşıtan tarafından belirlenmiş ise ve gecikme

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<sup>112</sup> Sürastarya süresi ve üç günlük ihbar süresi aralıksız olarak hesaplanır.

<sup>113</sup> ÜLGNER;Çarter;syf 399

<sup>114</sup> ÇAĞA /KENDER; syf 35-36; ÜLGNER, Sürastarya, syf 55; OKAY, syf 123;AKINCI, syf 125

meydana gelmiş ise bu durumda, taşıtanın kusuru olsun olmasın kendisi sorumlu olacaktır. Taşıtan, böyle bir durumda kendi kusuru olmadan gecikme meydana gelmiş ise tazminat vermez ancak yükleme süresi işlemeye başlar ve eğer süre başlamışsa devam eder.<sup>115</sup>

### **3.2.3.2 Sözleşme Hükümlerine Göre:**

TTK hükümleri emredici nitelikte olmadığından taraflar, ayrıca sözleşmeye koyacakları klozla çalışma saatlerinin 24 saat olacağını kararlaştırabilirler. Ancak sözleşmede 24 saatin kesintisiz olarak hesaplanacağını özellikle belirtmeleri gerekmektedir. Aksi halde herhangi bir nedenden dolayı kesilen sürelerin toplamının 24 saat olacağı sonucu çıkmaktadır. Yükleme yapılacak olan liman sınırları içerisinde günlük çalışma saati dikkate alınarak süre hesaplanacaktır.<sup>116</sup>

Taraflar aralarındaki sözleşmeye koyacakları klozlarla TTK da kabul edilen düzenin aksine tatil ve Cumartesi-Pazar günlerini yükleme süresinden saymaktadırlar ya da kesintisiz olarak tatil ve Cumartesi-Pazar günlerini yükleme süresi dâhilinde kabul etmektedirler. Bu klozlar:

#### **\*“Working Days”(İş günü) Klozu:**

Bu klozun sözleşmeye konulmasıyla TTK daki yükleme süresinin hesabındaki düzenlemeye paralel bir düzenleme yapılmaktadır. Buna göre; yükleme süresinin hesabında Pazar ve tatil günleri hesaba katılmamaktadır. Bu kloz “SHEX”(“Sundays and Holidays Excluded”) klozu ile aynı anlama gelmektedir. Bu klozun Türk Hukuk Sisteminde yükleme süresinin hesabında sözleşmeye konulmasının pek bir önemi bulunmamaktadır. Çünkü kanuni olarak Cumartesi-Pazar ve tatil günleri<sup>117</sup> yükleme süresinin haricinde tutulmaktadır. Ancak sürastarya süresinin hesaplaması için farklı bir sistem oluşturduğu için önemlidir. Bu doğrultuda kabul edilen diğer bir kloz da “SASHEX”(“Saturdays,Sundays and Holidays Excluded”)’dir. Bu klozun konulmasıyla Cumartesi günü de yükleme süresinin hesabı dışında tutulmaktadır.

Bazı klozların konulmasıyla da Pazar ve tatil günlerinin ancak bu günlerde fiilen çalışılmış olduğu takdirde yükleme süresinin hesaplanmasına katılacakları düzenlenmektedir.

<sup>115</sup> ÇAĞA / KENDER; syf 37

<sup>116</sup> ÜLGENER;Makale II; syf 14; SCHOFIELD; syf 32

<sup>117</sup> Tatil Günü ile kastedilen yükleme yapılacak olan limanda kabul edilen tatil günleridir.

(“SHEX Unless used”(“Pazar ve diğer tatil günleri KULLANILMADIĞA hesaba katılmaz”)

”SHEX Unless used,if used actual time used to count”(“Pazar ve diğer tatil günleri KULLANILMADIĞA sürelerin hesabına katılmaz. KULLANILDIKLARI TAKDİRDE FİİLEN ÇALIŞILAN SÜRE HESABA KATILIR”)<sup>118</sup> )

Polcoalvoy charter sözleşmesinde Pazar, resmi tatillerde ve yılbaşı ve Noel arifesinde de saat 15:00 dan sonra yükleme süresinden sayılmayacağı belirtilmiştir. Ancak bu sözleşmeye ve birçok charter sözleşmesine konulan bir başka hükümle Pazar ve tatil günlerinin yükleme süresi hesabına katılmamasına rağmen eğer fiilen çalışılırsa hesaba katılabileceği kararlaştırılabilir.<sup>119</sup>

Bazı charter sözleşmelerinde de tatil günlerinde belli saat aralıkları içerisinde yükleme süresinin işleyeceği düzenlenmiştir. Buna göre; Synacomex 2000 charter sözleşmesinde yükleme süresinin; cumartesi 12:00’ dan sonra, tatil gününden önceki gün 17:00’den takip eden iş günü 8:00’e kadar işleyemeyeceği belirtilmiştir. Söz konusu charter sözleşmesinde aynı zamanda bu sürelerde fiilen çalışma yapılırsa sürenin yarısının yükleme süresinin hesabında dikkate alınacağı hükme bağlanmıştır.

**\* “Running Days”(Kesintisiz Gün) Klozu:**

Bu kloz yukarıda ifade edilen “Working Days” klozunun ve TTK da yapılan düzenlemenin aksine tatil ve Cumartesi- Pazar günlerini de yükleme süresine dahil etmektedir. Adından da anlaşılacağı gibi kesintisiz şekilde hesaplama yapılacaktır. “SHINC”(Sundays and Holidays Included= Pazar ve tatil günleri dahil) klozu da sözleşmelere konulduğunda “Running Days” klozuyla benzer hükümler ifade etmektedir.

Biscoilvoy 86 charter sözleşmesinde “SHINC” klozu ve “SHEX” klozu seçimlik olarak verilmiş ve yükleme süresinin işleminde tatil günlerinin hesaba katılıp katılmayacağı tarafların tercihinin bırakılmış ancak herhangi bir tercih belirtilmemiş olması durumunda da yükleme süresinin hesaplanmasında tatil günlerinin de dikkate alınacağı belirtilmiştir.

Bu klozların yanında bir de sözleşmelerde “even if not used”(kullanılmasa da) klozu varsa bu durumda çeşitli nedenler sebebiyle fiilen yükleme yapılmasa dahi Cumartesi-Pazar veya

<sup>118</sup> ÜLGENER,Çarter ;syf 402(naklen)

<sup>119</sup> 4.Kloz: “Excepted periods.(Not applicable if SHINC terms- Sundays and holidays included-have been agreed in Box18) Sundays, legal holidays,the 4th December and time from 15:00 hours on Christmas Eve and New Year’s Eve excepted unless used.”

( <https://www.bimco.org/~media/81991116015F461D8BEAF28413C87FAF.ashx>)



diğer tatil günleri yükleme süresinin hesabında dikkate alınacaktır.<sup>120</sup> Yukarıda ifade edildiği şekilde İngiliz Hukukunda Cumartesi günleri öğlene kadar yükleme yapılabilmektedir ve ayrıca bazen tatil günü olarak kabul edilen gün sözleşme ile iş günü olarak kabul edilmektedir.

TTK'daki düzenlemenin aksine yüklemeyi engelleyen sebeplerin sürenin işlemindeki etkisi İngiliz Hukuk Sisteminde farklıdır. Bu hukuk sisteminde geçerli olan yükleme süresinde sabit(fixed laytime) ve sabit olmayan (unfixed laytime) süre sistemi nedeniyle meydana gelen gecikmelerde farklı sonuçlar ortaya çıkmaktadır. Taraflar arasındaki anlaşmada süre sabit olarak kabul edilmemişse; sürenin ne kadar olacağı “mümkün olduğu kadar çabuk”(FAC = fast as can) veya “mutad bir hızla”(with all customary dispatch) hükümlerinin konulmasıyla belirlenmektedir. Bu durumda taşıtan, kendi kusuru ile meydana gelen gecikmelerden dolayı sorumlu olacaktır. Tesadüfi şekilde meydana gelen gecikmelerden ve taşıtanın faaliyet sahasında taşıtanın görevlendirdiği kişilerin kusurlarından ileri gelen gecikmelerden sorumlu olmayacaktır, ancak taşıtan, yükün yükleme yerine zamanında getirilmemesinden dolayı sorumlu olacaktır.<sup>121</sup>

Süre sabit olarak kabul edilmiş ise; bu durumda süre kesin olarak belirlendiği için, meydana gelen her tür gecikmeden dolayı taşıtan, meydana gelen gecikme taşıyanın faaliyet sahasında bile meydana gelse( yer bulunamaması, buz tutma, kötü hava şartları, taşıyanın istifçilerinin grevi, resmi makamların emri üzerine geminin yükleme yerini veya limanı geçici olarak terke mecbur kalması vb.) taşıtan aleyhine sonuç doğmaktadır, ancak eğer taşıyan veya taşıyanın adamları kusurlu ise bu durumda taşıyan aleyhine sonuç doğmaktadır.<sup>122</sup>

Çarter sözleşmelerinde kötü hava şartları gibi engeller nedeniyle bu sürenin yükleme süresinin işleminde dahil edilip edilmeyeceğiyle ilgili klozlar konulmaktadır:

*“...working days of 24 hours(weather permitting)...(24 saat....iş günleri(hava şartlarına göre)”<sup>123</sup>*

*“no laytime shall be deducted during such period for reasons of weather, unless the vessel occupying the loading or discharging berth in questions is actually prevented from working due to weather conditions, in which case laytime so lost shall not count unless the*

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<sup>120</sup> ÜLGNER, Çarter ; syf 401

<sup>121</sup> ÇAĞA / KENDER ; syf 36; ÜLGNER, Sürastarya, syf 56

<sup>122</sup> ÇAĞA / KENDER; syf 36

<sup>123</sup> Norgrain çarter sözleşmesinde görülmektedir. “Vessel is to be loaded within ..... working days of twenty-four(24) consecutive hours each (**weather permitting**)”

*vessel is already on demurrage.”( Gemi, hava şartları nedeniyle yükleme ya da boşaltma limanına yanaşamıyor ise hava şartları ile ilgili engelden dolayı yanaşamamasından kaynaklanan süre yükleme süresinden sayılmaz. Gemi zaten sürastarya süresinde değilse yükleme süresi işlemez.)*<sup>124</sup>

Kötü hava şartlarının yükleme süresi üzerinde etkili olabilmesi için belirli bir nitelikte olması gerekmektedir. Buna göre kötü hava şartı yükün gemiye alınmasını ve boşaltılmasını engelleyecek şiddette olması ve ayrıca kötü havanın yükleme işlemi yapılması sırasında devam etmesi gerekmektedir. Fırtına gelecek veya hava kötüleşecek diye yükleme faaliyetinin önceden durdurulması yükleme süresini kesmemektedir. Kötü hava şartlarının doğrudan doğruya hüküm sürdüğü anda yapılan yükleme faaliyetindeki kesintiler süreye dahil edilmemektedir. Bu şartlar somut olayın şartlarına göre incelenecektir.<sup>125</sup>

Türk ve Alman Hukuk Sistemlerinde kabul edilen görüşe göre bu iki kloz aynı anlama gelmektedir. Ancak İngiliz Hukukunda bu klozların farklı anlamlar taşıdığı kabul edilmektedir. Türk ve Alman Hukuk Sistemlerinde kabul edilen görüş yükleme süresinin hesabında kötü hava şartları nedeniyle kesilmesinde kaybedilen sürenin dikkate alınmamasının ancak kötü hava nedeniyle yüklemenin kesilmesi halinde söz konusu olacağını savunmaktadır. Bu klozların varlığı halinde kanunda düzenlenen durum taşıyan aleyhine değişmektedir. Çünkü kanunen kötü hava şartları nedeniyle yükleme süresinde kesinti olması halinde taşıyan sürastarya ücretine hak kazanır ancak bu klozların varlığı halinde taşıyan sürastarya ücreti talep edememektedir.

İngiliz Hukukunda bu klozların arasında tek bir fark vardır. Buna göre; “...weather working days of 24 hours...” klozunun sözleşmeye konulmasıyla kötü hava şartları nedeniyle meydana gelen kayıp süre çalışılmayan saatlerin tam bir çalışma gününe oranlanmasıyla hesaplanır. “...working days of 24 hours (weather permitting)...” klozuyla da somut olarak çalışılmayan saatler yükleme süresi hesabına dahil edilmemektedir.

İngiliz Hukukunda bu klozların konulmasıyla günler yükleme süresi dışında bırakılmaktadır. Bu klozların sözleşmeye konulmasıyla beraber kötü hava şartları nedeniyle yükleme işleminin kesintiye uğraması arasında bir illiyet bağının varlığına gerek kalmamakta diğer bir ifade ile kesintinin kötü hava nedeniyle olup olmadığına bakılmadan yükleme süresinin hesabında kesinti yapılan süreler dikkate alınmamaktadır. Önemli olan o

<sup>124</sup> Worldfood 99 Çarter sözleşmesi 9.Kloz

<sup>125</sup> ÜLGNER;Çarter; syf 405

anda aynı türden geminin kötü havadan etkilenip etkilenmemesidir. Bundan çıkarılan sonuca göre yükleme işlemi başka bir nedenden dolayı dahi kesilse, kesinti yapılan süre yükleme süresinden sayılmayacaktır.<sup>126</sup>

Sözleşmelerde bu klozlarla beraber “running” veya “consecutive” klozlarının varlığı halinde hem İngiliz hem de Türk-Alman Hukuk Sistemlerinde kötü hava nedeniyle meydana gelen yükleme süresindeki kesintilerin yükleme süresi hesabına katılmamaktadır. Kötü hava çalışma saatleri dışında hüküm sürmüş ise bu durumda yükleme süresinin hesaplanması kesintiye uğramayacaktır.

### **3.2.4 Yükleme Süresinin Sona Ermesi:**

TTK’da yükleme süresinin ne zaman sona ereceğine dair açık bir düzenleme mevcut değildir. Ancak yükleme süresi taraflarca sözleşmede kesin bir zaman dilimi olarak kararlaştırılmış ise bu sürenin dolmasıyla; sözleşmesel, kanunen ya da yükleme limanı yerel kurallarına göre belirlenen nedenler yükleme süresinin işlemesine engel oluyorsa ise bu sürelerin kesin yükleme süresine eklenmesiyle de sona erer. Söz konusu sona erme olağan şekilde sona ermez. Olağan şekilde sona ermesinin yanında yükleme süresi farklı nedenlerden dolayı da sona erebilir. Bu sona erme nedenlerinin başında yükleme işleminin vaktinden önce sona ermesi gelir. Taraflarca kararlaştırılan ya da yükleme liman adetlerine göre belirlenen sürenin bitmesinden önce sözleşmeye konu olan yükün gemiye yüklenmesi halinde yükleme süresi sona erer.

Taşıtanın, yüklenecek olan yükün tamamı ya da bir kısmını yüklemekten kaçınması halinde de taşıyan taşıtanı beklemek zorunda olmayıp yükleme limanını terk edebilir. Bu durumda da yükleme süresi sona erer. Diğer bir yükleme süresinin sona erdiren neden mücbir sebepler nedeniyle geminin yükleme limanından ayrılmak zorunda kalmasıdır. Bu durum çeşitli çarter sözleşmelerinde düzenlenmiş ve yükleme süresi bitmeden geminin yükleme limanından ayrılabilmesi hükme bağlanmıştır.<sup>127</sup>

Taraflar, anlaşarak yükleme süresini vaktinden önce sona erdirebilirler. TTK 1039. mad.’sinde taşıyanın, yüklenecek yük tamamen yüklenmemiş olsa dahi taşıtanın talebi üzerine yola çıkmaya mecbur olduğu ve taşıyanın navlunun tamamına hak kazanacağı düzenlenmiştir.

<sup>126</sup> ÜLGENER;Çarter; Syf 406;SCHOFIELD;syf 188-192

<sup>127</sup> Gencon 94,Graincon, Worldfood 99,Polcoavoy vb. çarter sözleşmelerinde rastlanmaktadır.

Yükleme süresi, taşıyan tarafından hiçbir ihbara gerek kalmadan sona erebilir. Çarter sözleşmesinde geminin hiçbir ihbara gerek kalmadan yola çıkabileceği kararlaştırılabilir.

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### **3.3 Sürastarya Süresi:**

Tarafların, kararlaştırmaları halinde yükleme süresi içinde yükleme işlemi tamamlanamıyorsa taşıyan, yükleme süresi sonunda bir süre daha beklemek durumunda kalır. Beklediği süre kadar belli bir ücrete de hak kazanır. Bu süreye sürastarya süresi, fazla beklemeden dolayı taşıyanın almaya hak kazandığı ücrete de sürastarya ücreti denir.(TTK 1030. mad./3 fk)

Sürastarya süresini tarafların aralarında sözleşme ile kararlaştırmış olmaları gerekmektedir.

#### **3.3.1 Sürastarya Süresinin Belirlenmesi:**

##### **3.3.1.1 Kanun Hükümlerine Göre:**

Sürastarya süresinden bahsedebilmek için tarafların sözleşmede “sürastarya” ifadesine yer vermeleri gerekmektedir. Sözleşmede sürastaryadan bahsedilmemiş ise taraflar, yükleme süresinden sonra bekleme süresi kararlaştırmamışlar ve bekleme süresini sona erdirmişlerdir. Sözleşmede, sürastarya süresi belirtilmemiş ancak sözleşmede sürastaryadan veya sürastarya ücretinden bahsedilmiş ise bu durumda sürastarya süresi yükleme süresinin yarısıdır.(TTK 1031mad/fk 2)<sup>129</sup> <sup>130</sup>

Sözleşmede sürastarya süresinden veya ücretinden hiçbir şekilde bahsedilmemiş ancak belirlenen yükleme süresi sona ermiş ve yükleme tamamlanmamış ise bu durumda taşıyan fazla beklemeden kaynaklanan zararlarını talep etme hakkına sahiptir. Talep edeceği miktar sürastarya ücreti gibi sabit bir miktar olmayacaktır. Taşıyan, gecikmeden kaynaklanan zararlarını ispat edecek ve miktar buna göre belirlenecektir.

Sürastarya süresi kararlaştırılmadığında taşıyanın, asgari olarak belirlenen yükleme süresi sona erdiğinde gemiyi limanda tutma zorunluluğu yoktur. Gemiyi limanda tutup tutmama kararını taşıyan verecektir. Ancak TTK 1033 mad. de belirtilen üç günlük ihbar süresi dahilinde sözleşmede aksi belirtilmemiş ise taşıyan yükleme limanında zorunlu bekleme süresinin tamamlanması halinde limanı terk edebilmesi için üç gün önceden taşıyana bu

<sup>128</sup> ÇAĞA /KENDER; syf 54

<sup>129</sup> Alman Kanununa göre; böyle bir durumda sürastarya süresi ondört gündür.

<sup>130</sup> ÜLGENER; Sürastarya, syf 162

durumu bildirmesi gerekmektedir. Bildirmez ise yükleme ve sürastarya süresi bittikten sonraki üç gün geçtikten sonra sona erecektir. Burada dikkat edilecek nokta üç günün kesintisiz olarak hesaplanacağıdır. ÜLGENER'e göre kanunda belirtilen bu hükümlerin dışında; bu durumda yükleme tamamlanmışsa, ancak ihbarın geç yapılması nedeniyle uzama olmuş ise bu uzamadan dolayı ayrıca sürastarya ücreti istenemez. Ama yükleme tamamlanmamış ise bu durumda üç günlük ek sürede sürastarya ücreti işlemeye devam eder.<sup>131</sup> Ancak yükleme için hazırlık ihbarı verilmesine rağmen yükleme ve sürastarya süresi sona ermiş fakat gemiye bu süreler zarfında hiç yükleme yapılmamış ise ve gemi zorunlu bekleme süresi sona ermesine rağmen yükleme limanında uzun bir süre ayrılmayıp, bu durum beklenen süre zarfında taşıtana hiçbir şekilde ihbar edilmeyip, uzun bir süre geçtikten sonra taşıtana bildirirse ve bu ihbar üzerine taşıtan, geminin yükleme limanından ayrılmasını isterse bu halde taşıyan, beklediği uzun süre için sürastarya ücretinin tamamına hak kazanamaz. Burada beklediği sürenin mutad, münasip bir süre olması gerekir. Sürenin münasip bir süre olduğuna da yükleme limanında geçerli olan kurallara göre karar verilecektir. Sürastarya ücretinin miktarına bu şartlar gözden geçirildikten sonra hükmedilecektir.<sup>132</sup>

### 3.3.1.2 Sözleşme Hükümlerine Göre:

Sürastarya süresi, uygulamada kullanılan tip çarter sözleşmelerinde sabit bir süre olarak belirlenebilir ya da yükleme işlemi sona erene kadar devam edeceği kararlaştırılabilir. Sürastarya süresinin sabit olarak belirlendiği ve günümüzde uygulamada pek fazla rastlanmayan sisteme göre; belli bir süre üzerinde anlaşılır ya da belli bir sürastarya süresi geçtikten sonra uygulanacak olan ücretin belli bir miktarda arttırılacağı belirtilebilir. Taşıyan, bu durumda yükleme belirlenen sürastarya süresinin sonuna kadar yapılamaz ise

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<sup>131</sup> ÜLGENER; Çarter , syf 423

<sup>132</sup> "Dava konusu olayda davacı taşıyan tarafından, davalı taşıtanın acentesine hazırlık mektubu verdikten ve sözleşmedeki starya süresi de bittikten sonra gemiye hiçbir yükleme yapılmadığı halde, iki ayı aşan bir süre limanda beklemiş ve bu süre için sürastarya talep edilmiş bulunmaktadır. Yine dosya kapsamından, bu süre içinde taraflar arasında hiçbir haberleşme yapılmadığı ancak, iki ayı aşan süre sonunda taşıyan, taşıtanın acentesine değil de bu defa bizzat kendisine ihtarname çekmesi ve bunu müteakip taşıtanın cevabı üzerine limandan yükleme yapılmadan ayrılmış bulunduğu anlaşılmaktadır. Bu konuda bilirkişi raporunda sözleşmede kararlaştırılan günlük 1500 dolar sürastarya ücreti mutad ve normal bir ücret olduğu düşüncesinden hareketle, davacı taşıyanın kötü niyetli olmayacağından 62 günlük sürastarya ücretine hak kazandığı belirtilmişse de, buradaki ölçü iyi veya kötü niyet olmayıp, TTK'nun 20.maddesi uyarınca basiretli bir tacir gibi davranılıp davranılmadığı hususu olmalıdır." **Yargıtay 11.HD. 30.1.1987T.-87/114E-87/399K**(Yargıtay Kararları Dergisi;C:XIII;S:5 Mayıs 1987,syf 732-735)

oluşan zararlarını ispat etmek şartıyla gecikmeden dolayı meydana gelen zararlarının tazminini isteyebilir. Gencon 76 charter sözleşmesinin 7.klozunda görülmektedir:

*“18.kutudaki birim üzerinden gün ya da günün herhangi kesri için hesaplanarak günlük ödenecek olan ücret karşılığında, yükle ilgililere sürastarya süresi olarak yükleme ve boşaltma limanlarında toplam 10 kesintisiz gün tanınacaktır.”<sup>133</sup> <sup>134</sup>*

Uygulamada sürastarya süresinin tip sözleşmelerde sabit bir süre olarak belirtilmesine az rastlanmaktadır. Böyle düzenlemede taraflar sadece sürastarya ücretinin miktarını koymaktadırlar.<sup>135</sup> Söz konusu düzenlemeyle yükleme ne zaman son bulursa sürastarya süresi o zaman sona ermektedir. Bu şekilde düzenleme içeren charter sözleşmelerine Graincon 2003 charter sözleşmesi ve Ferticon 2007 örnek verilebilir. Buna göre;

*“Yükleme süresi sona erdiğinde yükleme ve/veya boşaltma limanında sürastarya, gün başına veya bir günün belli kısmı için ..... oranda taşıtan tarafından ödenir.”<sup>136</sup> <sup>137</sup>*

*“Gemi, eğer yükleme ve/veya boşaltma için belirlenen süreden daha uzun süre hazır edilmez ise taşıtan tarafından ya günlük ya da günün belli kısmı için kutu 22 de belirtilen oranda sürastarya ücreti gemi malikine ödenir.”<sup>138</sup>*

### **3.3.2 Sürastarya Süresinin Başlaması:**

#### **3.3.2.1 Kanun Hükümlerine Göre:**

Sürastarya süresi, yükleme süresi sözleşme ile kararlaştırılmış ise yükleme süresinin bitmesiyle başlar.(TTK 1032/I) Yükleme süresi, gün olarak belirlenmiş ise bu süresinin bittiği günü takip eden gün; saat olarak belirlenmiş ise de bittiği saati takip eden saatte herhangi bir ihbara gerek kalmadan kendiliğinden işlemeye başlar.

Yükleme süresi (sabit ya da matematiksel olarak) sözleşmede belirlenmemiş ise; bu durumda taşıyanın (veya kaptan ya da acentesinin) taşıtana veya yükletene yapacağı ihbar ile başlar. TTK 1034 mad.’ne göre taşıyanın yapacağı ihbar hiçbir şekle tabi değildir.

<sup>133</sup> ÜLGENER; Charter , syf 419(naklen)

<sup>134</sup> “Ten running days on demurrage at the rate stated in Box 18 per day or pro rata for any part of a day, payable day by day, to be allowed Merchants altogether at ports of loading and discharging.” (<https://www.bimco.org/~media/62947E8C5C7F4773BB73D7D8875EDE20.ashx>)

<sup>135</sup> ÜLGENER; Charter , syf 418-422;SCHOFIELD; syf 290;

<sup>136</sup> **20.Kloz:** “On expiry of laytime ,demurrage at loading and/or discharging ports is to be paid at the rate of..... per day or pro-rata for part of a day and shall be paid by Charterers.”

<sup>137</sup> Aynı doğrultuda Polcoalvoy,Amwelsh93,Beizai91,Biscoilvoy86 vb.

<sup>138</sup> **11.Kloz:** “If the Vessel is detained longer than the time allowed for loading and/or discharging,demurrage shall be paid by the Charterers to the Owners at the rate stated in Box 22 per day or pro rata any part of a day.”( [www.bimco.org/~media/D5F29CD59D874E859D77B399CB84905B.ashx](http://www.bimco.org/~media/D5F29CD59D874E859D77B399CB84905B.ashx))

Yapılan söz konusu ihbar ile yükleme süresinin bittiği veya belirtilen bir tarihte biteceği taşıyan tarafından tek taraflı olarak taşıtana veya yükletene bildirilir. Hüküm ifade edebilmesi için taşıyan veya yükletene bu ihbarın ulaşması gerekmektedir. Sürastarya süresi; yapılan ihbarın yükleme süresinin bitim tarihi olarak bildirilen günü takip eden gün işlemeye başlar. Fakat taşıyan, yükleme süresi devam ederken bu sırada yükleme süresinin ne zaman bitmiş sayılacağını taşıtana bildirebilir. Bu durumda taşıyanın, yükleme süresinin sona erdiği ve sürastarya süresinin başlayacağını tekrar ihbar etmesine gerek kalmaz.(TTK 1032/II)

Taşıyan, yükleme süresi bitiminde bir ihbar göndermiş ise bu ihbar yukarıda da belirtildiği gibi ihbarın ertesi günü hüküm ifade edecektir. Ancak taşıyan yaptığı bu ihbarla yükleme süresinin ihbardan daha önce bittiğini bildiremez. Böyle bir kayıt içeren ihbar hukuki olarak hiçbir anlam ifade etmeyecektir. Yükleme süresinin bitimi konusunda herhangi bir uyuşmazlık ortaya çıkarsa taşıyan bunu ispat etmek durumundadır.<sup>139</sup>

İhbar yapılması gereken hallerde taşıyan yapacağı ihbar ile yükleme süresini istediği zaman sona erdiremez; yükleme süresinin gerçekten kanunda da öngörüldüğü şekilde sona ermiş olması gerekir, aksi halde ihbar hükümsüz hale gelir ve sürastarya süresi işlemeye başlamaz.<sup>140</sup>

### **3.3.2.2 Sözleşme Hükümlerine Göre:**

TTK da düzenlenen ve Türk Hukuk sisteminde kabul edilen yükleme süresinin sözleşmede belirlenmemesi halinde sürastarya süresinin başlaması için yapılacak olan ihbar İngiliz Hukukunda yoktur.<sup>141</sup> İngiliz hukukunda ne “sabit yükleme süresi” ne de “sabit olmayan yükleme süresi” sistemlerinde taşıyanın taşıtana yükleme süresinin sona erdiğini ihbar etmesine gerek yoktur. “Sabit yükleme süresi” sisteminde yükleme süresi belirli olduğu için herhangi bir sorun oluşmaz. “Sabit olmayan yükleme süresi” sisteminde sabit bir süre olmadığı için yükleme süresinin ne zaman biteceği ve sürastarya süresinin ne zaman başlayacağı sorun oluşturmaktadır. Sürastarya süresinin ne zaman başlayacağını belirleyebilmek için yükleme süresinin ne zaman sona ereceğinin belirlenmesi gerekir. Burada yükleme süresinin uzunluğu somut olayın özelliklerine göre mahkeme ve tahkim

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<sup>139</sup> ÜLGNER; Sürastarya; syf 170

<sup>140</sup> ÇAĞA /KENDER;syf 43

<sup>141</sup> SCHOFIELD; syf 321

kurulu tarafından yapılacak hesaplamalar belirleyecektir. Bu şekilde makul süre ortaya çıkacaktır.<sup>142</sup>

### **3.3.3 Sürastarya Süresinin İşlemesi:**

#### **3.3.3.1 Kanun Hükümlerine Göre:**

Yukarıda yükleme süresinin hesaplanmasında geçerli olan sistemler yükleme süresinin bir devamı olan sürastarya süresinin, hesaplanmasında da kullanılmaktadırlar. Ancak TTK 1036. mad./T'e göre; sürastarya süresinin hesaplanmasında yükleme süresinin hesabından farklı olarak günler aralıksız olarak hesaplanır. Diğer bir ifade ile Cumartesi ve Pazar günleri sürastarya süresi hesaplanırken hesaba katılır.

Kötü hava şartları gibi etkenlerin sürastarya süresinin hesaplanmasında etkisi incelenirse; sürastarya süresinin hesaplanmasında da yükleme süresinin hesaplanmasında dikkate alınan faaliyet sahaları prensibi göz önüne alınacaktır. Buna göre; yükün gemiye kadar getirilmesi taşıtanın faaliyet sahası içerisinde kabul edildiğinden, yükün kötü hava nedeniyle gemiye ya da yükleme limanına getirilememesi sürastarya süresinin işlemlerini etkilemeyecektir.

Taraflarca sözleşmede aksi kararlaştırılmamış ise<sup>143</sup>; yükün gemiye kadar getirilememesi taşıtanın faaliyet sahasına girmekte daha sonra yapılan işlemler ise taşıyanın faaliyet sahası dahilinde kabul edilmektedir. Bu nedenle kötü hava nedeniyle taşıyanın faaliyet sahasında meydana gelen gecikmeler sürastarya süresinin hesaplanmasında dikkate alınmayacaktır ve bu günler için sürastarya ücreti de istenmeyecektir.

Her iki tarafın faaliyet sahası oluşan kötü hava şartları nedeniyle meydana gelen gecikmeler bekleme süresini etkilemeyecektir ve bu günler yükleme süresi dahilinde meydana gelse bile sürastarya ücreti taşıyana ödenecektir. TTK 1036/4 mad. de düzenlenen hükme göre kötü hava şartları nedeniyle yüklemede meydana gelen gecikmeler yalnızca yükleme süresi dahilinde olursa yükleme süresinin hesabına katılmayacaktır. Çünkü gecikmeler için sürastarya ücreti ödenecektir. Burada çıkan sonuca göre; sürastarya süresi kötü hava şartları nedeniyle herhangi bir kesintiye uğramayacaktır.<sup>144</sup>

<sup>142</sup> ÜLGENER, Çarter ;syf 425; SCHOFIELD; syf 291-293

<sup>143</sup> "FIOST" kaydı gibi kayıtlar ile faaliyet sahası prensibini taşıtan(yükle ilgili) aleyhine değiştirir.

<sup>144</sup> ÜLGENER; Çarter ; syf 428



### 3.3.3.2 Sözleşme Hükümlerin Göre:

İngiliz hukukunda da Türk Hukuk Sisteminde kabul edildiği şekilde sürastarya süresi kesintisiz olarak hesaplanır.<sup>145</sup> “Once on demurrage, always on demurrage” prensibi de sözleşmede aksi kararlaştırılmamış ise bunu desteklemektedir. Bu klozun anlamı; yükleme faaliyeti sırasında sürastarya süresine geçildiği andan itibaren sürastarya süresi hiçbir kesintiye uğramayacaktır. Sözleşmede yer alan yükleme süresine ilişkin olan kötü hava şartları, Pazar ve diğer tatil günlerinin istisna edildiği klozların sadece yükleme süresinde hüküm ifade etmekte, sürastarya süresi için geçerlilikleri olmamaktadır. Bu kloz İngiliz Hukukunda sözleşmede yer almasa da aynı sonuç ortaya çıkacak ve sürastarya süresi kesintisiz hesaplanacaktır.

Yukarıda da bahsedilen “SHEX”(Sundays and Holidays Excluded/Pazar ve Tatil günleri dışında) kaydının sözleşmeye konulmasıyla sürastarya süresinin hesabında herhangi bir değişiklik olup olmayacağı tartışmalı bir konudur. Bir görüşe<sup>146</sup> göre; “SHEX” gibi kayıtların taraflarca sözleşmeye konulmasının bir amacı vardır. Çünkü diğer şekilde düşünülürse bu klozun sözleşmede yer alması ile almaması ile arasında fark olmayacak ve taraflar kanunen kabul edilen durumu tekrar belirtmekten öteye gidemeyeceklerdir. ÜNAN “SHEX” klozu gibi “SHEX uu”(Sundays and Holidays excluded unless used= Pazar ve tatil günleri çalışılmadıkça zamandan sayılmaz)ve “SHEX uu iu atut”(Sundays and holidays excluded unless used if used actual time used to count = Pazar ve tatil günleri çalışmadıkça zamandan sayılmaz, çalışılmışsa fiilen çalışılan süre zamandan sayılır.) klozlarının da sürastarya açısından starya ile birlikte kanuni düzenlemeden farklı bir

<sup>145</sup> Uygulamada bazı çarter sözleşmeleri bunu destekler nitelikte klozlar içermektedir. Buna Intertankvoy 76 çarter sözleşmesindeki düzenleme örnek verilebilir. Bu sözleşmenin 9.Klozunda bu tür bir düzenlemeye rastlanmaktadır. **9.Kloz:** “Gemi zaten sürastarya süresi içinde bulursa da aşağıda belirtilen sebeplerden dolayı meydana gelen zaman kayıpları starya veya sürastarya süresinden sayılmazlar:

- (a) Kılavuz, römorkör için bekleme veya demirleme yerinden yükleme veya boşaltma yerine gidiş süresi;
- (b) Tankların temizlenmesi, safra suyunun veya artıkların boşaltılması veya yıkanması süresi;
- (c) Gemiye verilen emirlerdeki kesintiler veya geminin hareket edememesi veya yetersizliği veya taşıyanın veya acentesinin tarafındaki kusurlar ile taşıyanın tarafındaki kusurlar ile taşıyanın tarafındaki görevler.”

(“ Time lost by any of the following causes shall not count for laytime or demurrage even if vessel is already on demurrage:

- (a) Waiting for pilot or tugs or while moving from anchorage to place of loading or discharge;
- (b) Cleaning of tanks, discharging of balast water, residues or washings;
- (c) Stoppages on the vessels orders or breakdown or insufficiency of the vessel or neglect or default on the part of the owners or their agents or a strike of owner.”)

([http://www.maritimeknowhow.com/English/Know-How/Charter\\_parties/C-P\\_Docs/intertankvoy\\_76.pdf](http://www.maritimeknowhow.com/English/Know-How/Charter_parties/C-P_Docs/intertankvoy_76.pdf))

<sup>146</sup> ÜNAN,S; “Bekleme Sürelerinin Hesabı ile İlgili Bazı Sorunlar”;Deniz Hukuku Dergisi; Sayı:1;Yıl:1; İstanbul,syf 25-29

düzenleme getirdiğinin kabul edilmesi gerektiğini savunmuştur. Çünkü bu klozlarla fiilen çalışılan Pazar ve tatil günleri hesaplama dahil edilecektir.

Diğer bir görüşe göre <sup>147</sup> ise “SHEX” klozunun sürastarya süresi bakımından da etkili olacağını kabul etmemek gerekir. Şöyle ki; bu şekilde kabul edilirse kanunda nitelik bakımından farklı kabul edilen starya (yükleme veya boşaltma süresi) ve sürastarya süreleri aynı olarak değerlendirilecektir. Oysa ki birisi yükleme süresidir ve bu süre zarfında herhangi bir ücrete hak kazanılamamaktadır. Diğer bekleme süresi olan sürastarya süresi ise ek bir süredir ve bu süre boyunca taşıyan sürestarya ücretine hak kazanır. Uygulamada taraflar, genellikle starya (yükleme veya boşaltma süresi) süresini kesin veya matematiksel olarak belirleyip ayrıca SHEX kaydını sözleşmeye koyarlar. Sözleşmede ayrıca sürastarya da belirtilebilir. Sürastarya süresinin ayrıca belirtilmesi nedeniyle “SHEX” klozunun sürastarya bakımından da aynı zamanda hüküm ifade ettiğini kabul etmek doğru olmaz. Ancak sürastarya süresi için de geçerli olduğunun sözleşmede açıkça belirtildiği hallerde “SHEX” kaydının sürastarya süresi için geçerli hale gelebileceği kabul edilebilir.<sup>148</sup>

İki görüş dikkate alınır; ikinci görüşün ilk görüşe göre daha kabul edilebilir olduğu görülmektedir. Çünkü kanuni açıdan farklı bir düzenlemeyle farklı özellikler yüklenerek düzenlenmiş olan bekleme sürelerinin aynı şekilde hesaplanacağını kabul etmek mümkün değildir. Ancak kanunun bu hükümlerinin emredici nitelikte olmaması ve sözleşme serbestisinin geçerli olması nedeniyle taraflar, aralarında yapacakları sözleşmelerde “SHEX” gibi kayıtların sürastarya için de geçerli olacak şekilde düzenleme yapabilirler. Fakat bu düzenlemenin sürastarya süresi için geçerli olabilmesi açıkça bu kayıtların sürastarya süresi için de geçerli olduğunun belirtilmesi ile mümkün hale gelmektedir. Aksi halde sözleşmeye konulan “SHEX” kayıtlarının sadece starya (yükleme veya boşaltma süresi) süresi için geçerli olacağı kabul edilir. 1980 tarihli bekleme süreleri tarifinde de “On demurrage” kavramıyla da sözleşmede aksine bir hüküm yoksa starya(yükleme/boşaltma süresi) ile ilgili istisna klozlarının sürastarya için kullanılmayacağı belirtilmiştir.<sup>149</sup> Ancak Yargıtay 1997 yılında ve 2002 yılında vermiş

<sup>147</sup> ÜLGENER; Çarter, syf 433-436, ÜLGENER; Sürastarya; syf 172-180 ; ÜLGENER; Makale II; syf 30-34

<sup>148</sup> Örn.”Aşağıdaki sebeplerden dolayı kayıp zaman staryadan ve sürastaryadan sayılmaz...” “50.000 m/ton kömür, gün başına 5000 m/ton yükleme/boşaltma ,WWW,aaaa,gün başına 5000 USD sürastarya ücreti,SHEX” “Pazar ve diğer tatil günleri starya ve sürastarya süresinden sayılmayacaktır.”(Naklen Ülgener;Çarter;435-436)

<sup>149</sup> ÜLGENER;Çarter; syf 426( 17 no’lu dipnot); SCHOFIELD; syf 320;

olduğu kararlarında yukarıda anlatılan ilk görüşü kabul eden yönde fikrini açıklamıştır ve “SHEX” kaydının bir sözleşmede yer almasının hem sürastarya hem de starya için hüküm ifade edeceğine hükmetmiştir ve 2002 yılında vermiş olduğu kararında doktrinde tartışmalı olan konunun sadece “SHEX” kaydının nerede olduğuna yönelik olduğunu belirtmiştir.<sup>150</sup>

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<sup>150</sup> “... aksine bir düzenleme getirilmediği sürece, TTK.nun 1036 ve 1055 maddeleri hükmü gereğince sürastarya süresi zarfında zaman aralıksız hesaplanır. Yasadaki bu açık düzenlemeye rağmen, "shex" ( pazar ve tatil günleri zaman sayımından hariçtir ) klozu sözleşmeye dercolunmuş ise, artık bu klozun sürastarya süresi itibariyle de hüküm ifade ettiğinin, bir başka anlatım ile, şayet sözleşmede "shex" kaydı varsa, sürastarya süresince Pazar ve tatil günlerinin zaman sayımından hariç tutulacağıın kabulü zorunludur. Aksi halde, bunu sözleşmeye yazmanın bir anlamı olmayacaktır. Bu durumda, mahkemece, anılan ilke ve değerlendirme çerçevesinde yapılan hesaplama itibar edilmesi gerekirken, aksine yorum ile yazılı şekilde hüküm tesisi doğru görülmemiştir.”(Yargıtay 11.Hukuk Dairesi-E.1996/6925-K.1997/112-T.22.1.1997)(www.kazanci.com.tr)

<sup>151</sup> “... Türk Ticaret Kanunu'nda yükleme ve boşaltma sürastarya sürelerinin hesabına yönelik 1036 ve 1055 nci maddeleri hükümlerine göre, aynı hükümlerde gösterilen istisnalar dışında, sürastarya süresinin, işgünü dikkate alınmaksızın, aralıksız olarak hesap edilmesi gerektiği hükme bağlanmış bulunmaktadır. Ancak, anılan hükümlerin emredici nitelikte olmadığı da gerek uygulamada, gerekse öğretilerde tartışmasız bir şekilde kabul gören bir olgudur. O halde, taşıma ( navlun ) sözleşmesine konulabilecek hükümlerle, anılan yasa hükümlerinde belirlenen kesintisizlik ilkesinin aksinin kararlaştırılabileceğinin kabulü gerekir.

Nitekim, yukarıda da değinildiği gibi, dava konusu deniz taşıma işinde de davalı taşıyıcı, sözleşmeye SHEX kaydının konulmak suretiyle bu ilkenin aksinin kararlaştırıldığını ileri sürmektedir.

Sundays and holidays excluded ( Pazar ve tatil günler zamandan sayılmaz ) klozunun kısaltılmış adını içeren SHEX kaydı, taraflar arasındaki navlun sözleşmesine her iki limanda da Cumartesi ve Pazar günlerinin zamandan sayılamayacağına ilişkin kayıt olarak derc edilmiştir. SHEX klozunun bir navlun sözleşmesine derc edilmesi halinde, sonuçlarını doğurup, doğurmayacağı yönünde bir doktrin tartışması yoktur. Birlikçilerin raporlarında değinilen doktrin tartışması, bu kaydın sözleşmedeki konulmuş yerine göre sonuç doğurup, doğrulamayacağına ilişkindir. Nitekim, öğretilerde bir görüşe göre, bu kaydın navlun sözleşmesinin herhangi bir yerine konulmuş olması doğuracağı sonuçlara etkili olmamasını savunurken, ( Bkz. Dr.S.Ünan, Bekleme Sürelerinin Hesabıyla İlgili Bazı Sorunlar, Deniz Hukuku Dergisi, Yıl 1, Sayı 1, Sh. 25 vd. ) diğer görüşe göre ise, bu kaydın sözleşmede açıkça sürastaryaya ilişkin bölümünde yer alması halinde sonuç doğurabileceğine ilişkindir. ( Bkz. Dr.M.Fehmi Ülgener, Çarter Sözleşmeleri, I, Genel Hükümler, Sh.432 vd. )

Dairemizce ise, yasada emredici olmayan bir hükümle belirlenen bir ilkenin aksinin sözleşmede yer alması halinde, bu sözleşme hükmüyle ilkenin aksinin kararlaştırılmış olması sebebiyle, sözleşmede konulduğu yer dikkate alınmaksızın, geçerli olacağı kabul edilmektedir. ( Bkz. 11.HD. 22.01.1997 gün ve 1996/6925 Esas,

Yukarıda da anlatılan nedenlerden dolayı Yargıtay'ın vermiş olduğu iki karara da katılmak mümkün değildir.

Kötü hava şartları da sürastarya süresinin devamında etkilidir. Yukarıda da incelendiği üzere TTK'nunda tarafların faaliyet sahaları doğrultusunda sürastarya süresinin işleminin belirleneceğine hükmedilmiştir. Sözleşmelere konulan “*weather working day*” ve “*weather permitting*” klozları genelde sadece yükleme süresi için hüküm ifade etmektedir. Bu klozların sürastarya süresi için de hüküm ifade edebilmesi için sözleşmede açıkça sürastarya için de hüküm ifade edeceğinin belirtilmesi gerekmektedir.

Uygulamada bazı charter partilerde de kötü hava şartlarının sadece yükleme süresini keseceğinin belirtildiği düzenlemelere de rastlanmaktadır. Orevo charter partisindeki düzenleme bu yöndedir. Buna göre:

“ *Gemi, sürastarya süresinde ise geminin yükleme, boşaltmasını engelleyen kötü hava veya deniz şartları süresince yükleme süresi işlemez*”<sup>152</sup>

### 3.3.4 Sürastarya Süresinin Sona Ermesi:

Sürastarya süresinin sona ermesi TTK'da açıkça bir maddeyle düzenlenmemiştir. Uygulamada sürastarya süresinin sona ermesi farklı şekillerde olmaktadır. Buna göre; taraflar, sürastarya süresini sözleşmede sabit bir süre olarak belirlemişler ise sabit olarak belirlenen sürenin ya da sabit olarak belirlememişler ise kanunen yükleme süresinin yarısı olarak kabul edilen sürenin tükenmesi ile sona erer.

Sürastarya süresi, sözleşmede belli bir süre belirlenmiş olmasına rağmen yükleme işleminin belirlenen süreden daha önce tamamlanması ile, yükleme tamamlanmamış olsa

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*1997/112 Karar sayılı kararı, Deniz Hukuku Dergisi, Yıl. 4, Sayı 3-4, Sh.141 vd. yayınlanmıştır. ) Aksi halde, böyle bir kaydın sözleşmede yer almış olmasına rağmen, hiçbir hüküm doğurmayacağı sonucu çıkacaktır ki, böyle bir yorum tarzı sözleşme hukuku ilkelerine ters düşeceğinden benimsenmesi uygun olmamıştır. O halde, mahkemece yukarıdaki açıklamalar dikkate alınarak, son bilirkişi raporundaki SHEX kaydı dikkate alınarak yapılan sürastarya hesabı alacağına hükmedilmesi gerekirken, karar gerekçe yerinde bu husus hiçbir şekilde tartışılmaksızın, yazılı şekilde hüküm kurulması doğru görülmemiştir.”(Yargıtay 11.Hukuk Dairesi-E.2001/8811-K.2002/755-T.29.1.2002)(www.kazanci.com.tr)*

<sup>152</sup> **8.3.1 Kloz:** “ *Unless the vessel is on demurrage laytime shall not count...for the duration of bad weather or sea conditions which actually prevent the vessel's loading, discharging,....*”

dahi taşıtan veya yükletenin daha fazla yük yükleyemeyeceğini belirtmesi bu beyanın taşıyana(kaptan veya başka temsilcisine) ulaşması, geminin bir mücbir sebep dolayısıyla yükleme limanından ayrılması, sözleşmede belli durumlarda geminin limandan ayrılabilmesinin kararlaştırılması ve sözleşmede kararlaştırılan bu durumların oluşması, yükletenin bulunmaması veya yüklemenin gerçekleştirilememesi ile de sona erebilir.<sup>153</sup>

Sürastarya süresinin sona erdiren bir başka neden ise; taraflar sürastarya süresini sabit olarak sözleşmede kararlaştırmışlar ve yukarıda da belirtildiği gibi istisna kayıtlarının sürastarya için de geçerli olacağı sözleşmede açıkça belirtilmişse bu durumda meydana gelen taşıyanın faaliyet sahasında değerlendirilen engeller sebebiyle kaybedilen sürenin belirli sürastarya süresine eklenmesi sonucunda ortaya çıkan zaman parçasının tükenmesi ile de sona ermesidir. Bunların yanında sözleşmede sürastarya süresi sabit olarak belirlenmemiş ise yükün tedarik edilmesinde taşıtan açısından bir sorun var ise taşıtan tarafından sözleşme feshedilmesi ile de süresi sona erer.

### **3.4 Üç Günlük Ek Süre:**

#### **3.4.1 Kanun Hükümlerine Göre:**

Yükleme ve sürastarya süresi bittikten sonra gemi hemen yükleme limanından hemen hareket etmez. Kaptan, bu sürelerin bitmesinden sonra fazladan beklemek zorunda değildir. Kaptan, bu sürelerin bitiminden hemen sonra yükleme limanından ayrılmak istiyorsa o zaman bu durumu sürelerin bitiminden veya bitmeden üç gün önce taşıtana bildirmek zorundadır. Aksi halde yükleme ve sürastarya süresi ihbardan sonra üç gün daha uzar. Üç günlük bu süre aralıksız hesaplanır.(TTK 1033.mad.)

Üç günlük sürenin söz konusu olabilmesi için sözleşmede aksi kararlaştırılmamış olması gerekmektedir, ayrıca yükleme ve sürastarya sürelerinin sözleşmede sabit olarak belirlenmeleri de ihbarın yapılma zorunluluğunu ortadan kaldırmamaktadır.

Söz konusu süre, taşıtanın yükleme ve sürastarya süresi içinde yükleme yapmaması, daha fazla yükleme yapmayacağını bildirmesi veya yükün üçüncü kişi yükletenin bulunmaması ya da yükletenin yükleme yapmaması nedeniyle sürenin sona ermesi hallerinde uygulanmayacaktır.<sup>154</sup>

<sup>153</sup> ÇAĞA /KENDER; syf 44-45;OKAY; syf 120; AKINCI; syf 131

<sup>154</sup> İZVEREN vd.; syf 191-192, OKAY; syf 121

Sürastarya kararlaştırılmış ise taşıyan üç gün için sürastarya ücreti isteyebilir. Tazminat talep edemez.<sup>155</sup>

### **3.4.2 Sözleşme Hükümlerine Göre:**

İngiliz hukukunda sözleşmelerde Türk Hukukunda düzenlendiği şekilde sürastaryadan sonra üç günlük ek süre gibi bir düzenleme söz konusu değildir. Ancak taraflar aralarında yapacakları sözleşmeye buna benzer hükümler koyabilirler. Bunun dışında standart sözleşmelerde de bu şekilde bir ek süre söz konusu değildir. Ancak bazı sözleşmelerde sürastarya süresi sonuna kadar yükleme işleminin çeşitli nedenlerden dolayı bitmemesi halinde sürastarya ücretinin günlük miktarında artış olacağı belirtilerek bu şekilde sürastarya süresi sona erdikten sonra da geminin yükleme limanında bekleyeceği düzenlenmiştir.<sup>156</sup>

### **3.4 Bekleme Zorunluluğu Olmayan Haller:**

TTK'da 1037 -1039. mad.'ler arasında düzenlenen hükümlerle taşıyanın beklemesi zorunlu olan sürelerin sona ermesinden sonra yukarıda ifade edilen üç günlük bekleme süresinin dolmasını ya da beklenmeyen nedenlerden dolayı geciken yüklemenin tamamlanmasını beklemeden yükleme limanından ayrılabilmesi ifade edilmiştir. Bu madde hükümlerine göre ancak belli şartların gerçekleşmesi halinde taşıyan beklemek zorunda değildir. Bu şartlar şunlardır;

#### **\*Kesin Vade:**

TTK 1037. mad.'de düzenlenen bu duruma göre taşıyan, yüklemenin her ne olursa olsun belirli bir günde bitmesini şart koşmuş ise bu durumda fazla beklemek zorunda değildir. Yükleme beklenmeyen nedenlerden dolayı tamamlanmamış olsa bile yükleme limanında bekleme zorunda değildir.

#### **\*Yükletenin Bulunmaması:**

Taşıyanın, yükü üçüncü bir kişi olan yükletenden alacağı kararlaştırılmış olması durumunda taşıyan, yükleme limanında mahalli adetlere göre uygun şekilde yükü alabileceğini ihbar etmesine rağmen yükleten ortaya çıkmaz ise ya da yükleten yükü teslim

<sup>155</sup> ÇAĞA /KENDER; syf 44; OKAY; syf 121

<sup>156</sup> Welcon Çarter Sözleşmesi

etmekten kaçınırsa bu halde taşıyan bu durumu taşıtana en kısa zamanda bildirmek zorundadır. Ancak sözleşmede sürastarya süresi kararlaştırılmış olsa bile sürastarya süresi boyunca beklemek zorunda değildir. Taşıyan, yükleme süresinin sonuna kadar beklemek zorundadır. Bu sürenin bitiminde yükleme limanından ayrılabilir. Taşıtan, yükleme süresi içerisinde vereceği talimatla yükleme süresinin bitiminde taşıyanın yükleme limanından ayrılmamasını sağlayabilir.(TTK 1038. mad.)

***\*Yükleme Tamamlanmadan Yola Çıkma:***

Taşıyan, yükleme tamamlanmamış olsa dahi taşıtanın isteği üzerine yola çıkmak zorundadır. Bunun sonucunda taşıyan, navlunun tamamını ve ayrıca kararlaştırılmış ise sürastarya ücretini ve navlunun eksik kalan kısmı için de teminat gösterilmesini isteyebilir. Taşıyanın, bunların dışında eksik yükleme nedeniyle meydana gelen zararlarını da taşıtan ödemekle mükelleftir. Taşıyan, taşıtan tarafından yükleme süresi içerisinde yükleme tamamlanmamış ve taşıtan sözleşmeden caymamış ise yükleme limanında ayrılıp, yukarıda belirtilen hakları taşıtandan talep etme hakkına sahip olur.(TTK 1039.mad.)

***\*Yüklemenin Önce Bitmesi:***

Yükleme süresi bitmeden yükleme işlemi tamamlanmış ya da mücbir sebep ve sözleşmede belirlenmiş belli durumların oluşmuş ise bu halde taşıyan, yükleme süresinin bitmesini beklemeden yükleme limanından ayrılabilir. Sürenin bitmesini beklemek zorunda değildir.<sup>157</sup>

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<sup>157</sup> İZVEREN vd.; syf 192

## **DÖRDÜNCÜ BÖLÜM**

### **BOŞALTMADA BEKLEME SÜRESİ:**

#### ***4.1 Genel Olarak:***

Boşaltmada bekleme süresini incelemeyen önce genel olarak boşaltma kavramı üzerinde durmakta yarar vardır. Bu kavramın içinde boşaltma limanı, yeri ve masrafları ele alınacaktır. Boşaltma; yüklemenin karşılığı olarak kullanılan, boşaltma limanına kadar taşınan yükün, gönderilene teslim edilmesi için limana ya da layterlere (boşaltma limanı sahası içerisinde) çıkarılmasıdır.<sup>158</sup> TTK da yükleme ile ilgili yapılan düzenlemelerin benzeri boşaltma için de yapılmıştır, fakat boşaltma için yüklemeden farklı olarak “gönderilen” yükle ilgili şahıslara eklenmiş ve bekleme süreleri içinde üç günlük ek süre düzenlenmemiştir. TTK’nun 1050-1059. mad.’lerinde düzenlenmiştir.

Boşaltma limanı sözleşmede açıkça veya iki liman ismi verilip boşaltma anı şartlarına göre hangi limanda işlemin yapılacağı belirtilebilir ya da sonradan karar verileceği düzenlenebilir. Eğer seçimlik şekilde daha sonradan belirlenebileceği kararlaştırılmış ise ve gönderilen boşaltma limanının neresi olduğunu zamanında karar vermezse taşıyan, gönderilene durumu ihbar etmek şartıyla belirtilen limanlardan herhangi birinde boşaltma faaliyetini gerçekleştirir.<sup>159</sup>

Sözleşmede boşaltma limanı seçimlik olarak düzenlenmiş ise ve seçimlik limanlardan herhangi birine taraflardan kaynaklanmayan bir nedenden dolayı yanaşılması mümkün değilse; taşıtan, yanaşılması mümkün olmayan limanı boşaltma limanı seçerek sözleşmenin ifasını imkansızlaştıramaz ve sözleşmesinin feshine gidemez. Çünkü bu durum iyiniyet kurallarına aykırılık oluşturacaktır. Ancak taşıtan, söz konusu limanı yanaşma engeli çıkmadan önce seçmiş ise ve bu durumu taşıyana bildirmiş ve TTK 1083.mad.’sinde belirtilen nedenlerden dolayı seçilen limana yanaşmak mümkün değilse o zaman herhangi bir tazminat söz konusu olmadan taşıtan akdin imkansızlığı nedeniyle sözleşmenin feshine gidebilir. Ancak TTK 1083.mad.’sinde belirtilen sebepler dışında başka engeller dolayısıyla limana yanaşamıyorsa bu durumda tarafları hak ve yükümlülükleri değişmez ve sözleşme devam eder. Taşıtan sözleşmeyi feshedemez.

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<sup>158</sup> ÇAĞA /KENDER; syf 57

<sup>159</sup> OKAY, syf 140



Sözleşmede boşaltma limanı kararlaştırılmamış, yolda boşaltma limanının taşıtan tarafından bildirileceği düzenlenmiş, ancak zamanında boşaltma limanı bildirilmemiş ise taşıyan akde aykırılık nedeniyle BK. 106 ve devamı maddelerine dayanarak uğradığı zararların tazminini isteyebilir.<sup>160</sup>

Boşaltma yeri, TTK'nun 1050. mad.'sinde düzenlenmiştir. Yükleme yeriyle ilgili olan düzenlemeye paralel düzenleme yapılmıştır. Buna göre; kaptan yükü teslim alacak olan kimsenin(gönderilen)veya kimselerin (gönderilen birden fazla ise) gösterecekleri yere demirler. Ancak gönderilen ya da gönderilenler zamanında boşaltma için yer göstermemişler ise veya birden fazla gönderilen boşaltma yeri konusunda bir birliktelik sağlayamamışlar ise ya da yerel adetler, suyun derinliği gibi nedenler dolayısıyla gemi belirlenen yere boşaltma yapamıyor ise kaptan mutad yere demirler.

Boşaltma yeri belirlenirken özellikle taraflar belirledikleri yerin boşaltmaya elverişli olmasına dikkat etmeleri gerekmektedir. Burada amaçlanan yükün hiçbir sıkıntıyla karşılaşmadan sağlam bir şekilde boşaltma yerine yanaşmasıdır. Çarter sözleşmelerinde taraflar bunu sağlamak için “always afloat(daima yüzer halde)” terimini kullanmaktadırlar. Bu klozla gemi belirlenen boşaltma yerine giderek ve boşaltma yerinin daima yüzer halde bulunmaması nedeniyle oluşan zararları taşıtan, karşılayacaktır. Amaç gemiyi karaya oturma tehlikelerinden uzak tutmaktır.<sup>161</sup>

Boşaltma yeri olarak belirlenen yerde gemi boşaltma sırasını beklemek zorunda kalırsa bu durumda “free of turn” kaydı yok ise taşıyan başka bir yere demirleyemez. Demirler ise o zaman meydana gelen zararlardan taşıyan sorumlu olacaktır.<sup>162</sup>

Yükleme masrafları gibi boşaltma masraflarında da taraflar aralarında yapacakları sözleşme ile faaliyet sahaları prensibine göre hangi masrafın hangi tarafa ait olacağına karar verebilirler. Ancak taraflar, yapacakları sözleşmede bu hususu belirtmemişler, boşaltma limanı kurallarında ve yerel adetlerde de bu konu düzenlenmemiş ise, yükün gemiden çıkarılması masrafı taşıyana, geri kalan boşaltma masrafları gönderilene aittir.

Geminin boşaltma yapılacak yere demirlemeyip başka yere demirlemesinden dolayı kaynaklanan masraflar taşıyana ait olacaktır.

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<sup>160</sup> OKAY; syf 141-142

<sup>161</sup> TEKİL;Deniz; syf 170

<sup>162</sup> OKAY; syf 142

Taraflar sözleşmeye koyacakları “free out” klozuyla faaliyet sahaları prensibini değiştirmekte ve boşaltma işleminin gönderilenin sorumluluğu altında olduğunu düzenlemektedirler. Kloza göre istif edilmiş yükü indirerek ambarlardan çıkarma gönderilen hesabına taşıyan tarafından yapılır ve boşaltma araç ve gereçlerini, boşaltma işçilerini özel bir düzenleme yoksa taşıyan temin etmez. Boşaltma sırasında sözleşmede bu klozun varlığı halinde meydana gelen hasardan taşıyıcı sorumlu tutulmamaktadır.<sup>163</sup> “Liner out” klozu da “free out” klozuyla aynı doğrultudadır. Ancak aralarındaki fark boşaltma giderleri ve riskinin gemi bordosundan veya gemi ambarından olup olmadığına ilişkindir. Aynı görüşte Yargıtay 11. Hukuk Dairesinin 13.6.1994 tarihli 1993/6121 E,1994/4975 K sayılı kararı bulunmaktadır.

#### **4.1.1 Kanun Hükümlerine Göre:**

Boşaltmada bekleme süresi, yüklemede bekleme sürelerine paralel düzenlemeler içermektedir. Boşaltmada da bekleme süreleri; boşaltma süresi ve sürastaryadan oluşmaktadır. Yüklemedeki bekleme süresinden farklı olarak boşaltmada üç günlük ek süre söz konusu değildir. TTK 1052-1056.mad.’lerde düzenlenmiştir. Boşaltmada bekleme süresi de charter sözleşmeleri dikkate alınarak hazırlanmıştır. Kırkambar sözleşmeleri için TTK 1059. mad.’de yapılan düzenlemeyle boşaltmada bekleme süresi hükme bağlanmıştır. Bu maddeye göre; gönderilen, kaptanın yapmış olduğu davet üzerine gecikmeden yükü teslim almak zorundadır. Ancak kaptan, gönderilene tanımiyorsa boşaltma için yapmış olduğu daveti mahalli adet üzere ilanla yapar. Gönderilen, kaptanın daveti üzerine yükü teslim almaya hazır olduğunu bildirmesine rağmen yükü teslim almakta gecikirse veya malı teslim almaktan kaçınırsa, malı teslim almaya hazır olduğunu bildirmez ya da bulunamazsa kaptan, gönderilene haber verdikten sonra yükü genel bir ambara veya emniyetli herhangi bir yere bırakır ve taşıtana haber verir. Bu haber ilan suretiyle olur. Gönderilenin gecikmesi veya tevdi işlemi nedeniyle boşaltma süresi geçmiş olursa taşıyan, sürastarya ücreti isteyebilir, bunun yanında taşıyanın daha fazla tazminat isteme hakkı da saklıdır.

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<sup>163</sup> Aynı görüşte Yargıtay 11. Hukuk Dairesi 7.4.1983T,83/1594E,83/1772K sayılı kararı  
“...Konişmentodaki “Free Out” kaydının ,yukarıda açıklandığı gibi, boşaltmanın gönderilenin sorumluluğu altında yapılacağı niteliğinde bir kloz olmasına göre,boşaltma sırasında oluştuğu anlaşılan hasardan taşıyıcı davalının sorumlu tutulması mümkün olamaz...”(Yargıtay Kararları Dergisi C.IX S:7, Temmuz 1983;syf 1024-1025))

#### **4.1.2 Sözleşmeye Şartlarına Göre:**

Yüklemede bekleme süresi gibi boşaltmada bekleme süresini de taraflar aralarında yapacakları sözleşmede kararlaştırabilirler. Taraflar, kendi hazırladıkları veya standart sözleşmelerdeki düzenlemeyi benimseyerek oluşturulan sözleşmelerde boşaltmada bekleme süresini yüklemede bekleme süresiyle aynı hüküm içerisinde müstakil ya da müşterek veya farklı maddelerde düzenleyebilmektedirler.

#### **4.2 Boşaltma Süresi:**

Yükün boşaltılması için geminin sözleşmede aksi kararlaştırılmış olmadıkça ücretsiz olarak beklediği süredir.

#### **4.2.1 Boşaltma Süresinin Belirlenmesi:**

##### **4.2.1.1 Kanun Hükümlerine Göre:**

TTK'da 1053. mad.'sinde yükleme süresinin düzenlendiği 1031.mad.'siyle aynı düzenleme yapılmıştır. Buna göre; boşaltma süresinin taraflarca sözleşmede kararlaştırılabileceği, bu şekilde belirlenmemiş ise boşaltma limanı kurallarına göre yoksa oradaki adetlere göre, o da yoksa somut olaya göre belirleneceği düzenlenmiştir. Boşaltma süresi için sözleşmede bir ücret kararlaştırılmamışsa herhangi bir ücret istenemez.(TTK 1052/II)

##### **4.2.1.2 Sözleşme Hükümlerine Göre:**

TTK hükümlerinin emredici vasıfta olmamasında dolayı taraflar bu konuda sözleşmelere farklı şekilde düzenlemeler koyabilmektedirler. Yukarıda yükleme süresinin belirlenmesinde de ifade edildiği gibi boşaltma süresinin belirlenmesinde taraflar sabit bir boşaltma süresi belirleyebilecekleri gibi sabit olmayan çeşitli şartlara göre değişebilecek boşaltma süresi de kararlaştırabilmektedirler. Bunların yanında boşaltma süresinin boşaltma miktarına göre tespit edildiği (matematiksel olarak belirlenen) ve transportable (yükleme ve boşaltma limanları için ortak olarak starya süresinin belirlendiği ve yükleme limanından artan sürenin boşaltma süresinde kullanılmasının kabul edildiği), reversible(taraflara seçimlik hak tanınarak ayrı tespit edilmiş olan yükleme ve boşaltma sürelerini ya ayrı ayrı ya da her iki süreyi birbirine ekleyerek kullanılabileceği sistem), averaging( Bir limanda kullanılan sürenin diğer limandan mahsup edildiği sistem) şeklinde adlandırılan gibi sistemler de taraflarca tercih edilmektedir.

Uygulamada charter sözleşmelerinde genellikle yükleme ve boşaltma süreleri için ortak düzenlemeler yapılmaktadır. Bu şekilde yükleme ve boşaltma süreleri bir tek madde altında düzenlenmektedir.<sup>164</sup>

#### **4.1.2 Boşaltma Süresinin Başlaması:**

##### **4.1.2.1 Kanun Hükümlerine Göre:**

Boşaltma süresi de kaptanın boşaltmaya hazır olduğunu gönderene ihbar etmesinin ertesi günü başlar. Yükleme süresinde olduğu gibi hazırlık ihbarı herhangi bir şekil şartına bağlı değildir. Ayrıca kaptanın, hazırlık ihbarını yapabilmesi için geminin boşaltma yerine yanaşması da şart değildir. Ancak geminin ihbarın yapıldığı anda yüklemeye olduğu gibi boşaltma limanına ulaşmış ya da boşaltma süresi başlayana kadar boşaltma yerine yanaşacak ve birinci vardiyaya kadar boşaltma işlemini yapacak durumda olması gerekmektedir.

Bunun yanında geminin, boşaltmaya teknik, hukuki formaliteleri yerine getirmiş ve her açıdan boşaltma için herhangi bir engelinin bulunmaması gerekmektedir. Teknik ve hukuki olarak boşaltmaya hazır olunmasına örnek olarak; boşaltma için vinçlerin hazır, ambar kapaklarının açık olması ve gemide boşaltma yapılacak olan limanı tehdit eden cinsten yükün olmaması ve gerekli izinlerin resmi yerlerden alınmış olması verilebilir.

Boşaltma herhangi bir nedenden dolayı gecikirse bunun sonuçları yüklemeye olduğu gibi faaliyet sahası prensibine göre çözülecektir. TTK 1055.mad.'sinde belirtilen hükümler burada da geçerli olacaktır.

Boşaltma süresinin başlayabilmesi için gereken hazırlık ihbarı; kaptan, taşıyan veya acentesi tarafından gönderilene, gönderilen birden fazla ise gönderilenlerin hepsine yapılır.<sup>165</sup> Kaptan, gönderilene tanımayan ise boşaltmaya hazır olduğunu yerel adetlere göre ilan yoluyla yapar.(TTK 1052/I)

##### **4.1.2.2 Sözleşme Hükümlerine Göre:**

Boşaltma süresi ile ilgili olarak da taraflar aralarında yapacakları sözleşmelere çeşitli, hükümler koyarak düzenlemelere gitmektedirler. Ancak çoğunlukla uygulamada taraflar boşaltma süresinin başlayabilmesi için ihbar şartını kabul etmektedirler. İngiliz hukukunda geminin ihbar şartını gerçekleştirebilmesi açısından ihbarın nerede verileceği standart

<sup>164</sup> Ayrıntı için bkz ykr syf 30-40

<sup>165</sup> ÇAĞA /KENDER, syf 59

sözleşmelere göre değişmektedir. Buna göre bir kısım standart sözleşmede boşaltma yeri rıhtım olarak belirlenmekte, bir kısım standart sözleşmede ise boşaltma için liman adı belirtilmektedir. Bir diğer standart sözleşmelerdeki düzenlemede ise limanın belli bir bölümü(dok-iskele) belirtilmektedir. Bu kayıtlara göre gemi boşaltma için belirlenen yere ulaşınca hazırlık ihbarı verilebileceği kabul edilmektedir.<sup>166</sup>

Bazı standart sözleşmelerde de gemi boşaltma limanına gelince ya da boşaltma limanı dışında hazırlık ihbarı verilebileceği ve bunun yanında geminin sözleşmede kararlaştırılan boşaltma limanına ya da belirlenen rıhtıma yanaşmadan veya her türlü gümrük işlemini yapmadan da hazırlık ihbarı verilebileceği düzenlenmiştir.<sup>167</sup>

Standart sözleşmelerde yukarıda yükleme süresi için kabul edilen klozlar aynı zamanda boşaltma süresi için de kabul edilmektedir.<sup>168</sup> Ancak “so near as” klozu çoğunlukla boşaltma için kullanılmaktadır.

#### **4.1.3 Boşaltma Süresinin İşlemesi:**

##### **4.1.3.1 Kanun Hükümlerine Göre:**

Boşaltma süresinin hesabında da günler iş günü olarak hesaplanır. Bu hükme göre Pazar ve diğer tatil günleri boşaltma süresinin hesabında dikkate alınmamaktadır.

Yükleme süresinin hesaplanmasında olduğu gibi burada da faaliyet sahaları prensibi kabul edilmiştir. Buna göre; boşaltma işlemine engel olan sebep kimin faaliyet sahasında meydana geldiyse o taraf sorumlu olacaktır.<sup>169</sup> Gönderilenin faaliyet sahasında meydana gelen sebeplerden dolayı boşaltma işlemi gerçekleştirilemiyor ise bu süre zarfında geçen günler boşaltma süresinin hesaplanmasında dikkate alınacaktır.

Taşıyanın faaliyet sahasında meydana gelen sebeplerden dolayı boşaltma yapılamıyor ise; bu geçen günler boşaltma süresinin hesabına katılmayacaktır.

Fırtına, buz istilası veya seferberlik gibi her iki tarafın faaliyet sahasında meydana gelen engeller nedeniyle yükün boşaltılması mümkün değilse; bu günler bekleme süresine eklenir. Bu günler için gönderilen taşıyana sürastarya ücreti öder.

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<sup>166</sup> ÜLGENER; Çarter ; syf 355

<sup>167</sup> Nubaltwood 9.1.kloz:Notice of Readiness: “Written notice of readiness to discharge cargo to be given by the Master or Vessel’s agent to Notify Port named in Box 24 after the Vessel is in all respects ready to discharge cargo whether carried under this Charter Party or any other Charter Party when the provisions of Clause 3(b) apply,whether in port or not,whether in berth or not, whether cleared at Customs or not Whether in free pratique or not.”

<sup>168</sup> Ayrıntı için bkz ykr syf 31-40

<sup>169</sup> Faaliyet sahaları prensibi yukarıda incelendiğinden burada tekrar değinilmemiştir.

Gemilerin boşaltma limanındaki doluluk sebebiyle boşaltma yapamaması halinde gemilerin sıra beklediği süre (regular turn), sözleşmede çeşitli klozların konulmasıyla (free of turn) aksi düzenlenmemiş ise; boşaltma süresinden sayılmaz ve taşıyanın faaliyet sahası içerisinde kabul edilir. Bu nedenle yukarıda da belirtildiği gibi taşıyanın faaliyet sahasında meydana gelen nedenlerden sayıldığı için taşıyan, sırada beklediği süre için herhangi bir ücret isteyemez. Ancak bu durum liman sahasına girip, limanın meşgul olması nedeniyle hazırlık ihbarı vermemesi halinde geçerli olacaktır. Liman sahasına girdikten sonra hazırlık ihbarı verip daha sonra boşaltma yerinin meşgul olmasında dolayı sıra beklemiş ise hazırlık ihbarının verildiği günün ertesi günü bekleme süreleri işlemeye başlayacaktır. Yargıtay, vermiş olduğu bir kararında aksi yönde görüş belirtmiştir.<sup>170</sup>

Bu karara göre; somut olayda hazırlık ihbarı verilmiş olmasına rağmen boşaltma limanın dolu olması nedeniyle beklenen zamanın bekleme sürelerinin hesabında dikkate

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<sup>170</sup> “Taraflar arasındaki bu davayı çözüme götürecek olan husus; davacı taşıyanın boşaltma konusunda ( hazırlık mektubunu ) verdikten sonra liman idaresinde rıhtıma yanaştırılmayarak, boşaltma yapan diğer gemilerin tahliye işlemlerinin bitirilmesi için limanda sıra bekletilmesi olayının, ( taşıyanın ) mı yoksa ( gönderilenin ) mi faaliyet sahalarında ortaya çıktığının saptanmasından ibaret bulunmaktadır. Dosya içerisinde mevcut 12.9.1976 günlü ( time sheet ) başlıklı belge ile Denizcilik Bankası Trabzon liman işletmesi müdürlüğünün 23.10.1976 ve 9.3.1978 günlü yazı kapsamına göre, davacı taşıyana ait ( Mustafa Alkan ) isimli geminin 31.8.1976 tarihinde Trabzon limanına geldiği, ancak, o tarihlerde rıhtımda boşaltma yapan başka gemiler sırada bulunmaları nedeniyle, davacı gemisine sıra bekletildiği, nihayet rıhtımın boşalması üzerine Cumartesi ve Pazar günlerini müteakip ( 6.9.1976 ) Pazartesi günü saat 08.00 de boşaltma işlemine başlandığı ve boşaltma işleminin ( 12.9.1976 ) tarihinde ancak tamamlandığı anlaşılmaktadır. Şu duruma göre; davacı gemisi liman işletmesi tarafından ( 31.8.1976 ) günü ile rıhtıma yanaştırıldığı tarih olan 4.9.1976 tarihleri arasında boşaltma için sıra bekletilmiş bulunmaktadır. Yapılan bu sıra bekletme işleminde ( gönderilen ) olan davalının hiçbir kusuru veya iştiraki bulunmamaktadır. Bu nedenle boşaltma için sıra bekleme süresi olarak geçen ( 31.8.1976 ile 4.9.1976 ) tarihleri arasındaki müddet, TTK.nun 1055/2. maddesinde belirtilen ( gönderilenin faaliyet sahası ) ile ilgili olmayıp, bilirkişi mütalasının aksine, TTK.nun 1055/3. maddesine göre taşıyanın faaliyet sahasını ilgilendiren bir durumdur ve bu nedenle de bu süreler ne starya ne de sürastarya sürelerine dahil edilemez. diğer bir deyişle sıra bekleme hususu henüz boşaltma işlemi başlamadan önce ortaya çıktığına göre TTK.nun 1055. maddesinde belirtilen sürelerin hiç birisi işlemeye başlamaz. Bu husus uyulamada olduğu gibi, doktrinde de bu şekilde kabul edilmektedir (Dr. S. Okay Deniz Ticaret Hukuku, 3. Bası Cilt I İstanbul 1970 sh. 146 ).”(Yargıtay 11.Hukuk Dairesi;1980/215 E-1980/536K;7.2.1980T) (www.kazanci.com.tr)

alınmayarak taşıyanın aleyhine sonuç doğuracağı kabul edilmiştir. Aksine gemi liman sahasına girmiş ve hazırlık ihbarı vermiştir. Bu nedenden bekleme süresi başlamıştır. Bu nedenlerden yüksek mahkemenin vermiş olduğu karar yerinde değildir. Bu hükümler ancak yerel adetlere aykırı olmadıkça uygulanır.(TTK 1055.mad.)

#### 4.1.3.2 Sözleşme Hükümlerine Göre:

İngiliz Hukukunda da boşaltma süresinin hesabı ondokuzuncu yüzyılın ikinci yarısında uygulanmaya başlanan ve Türk Hukukunda olduğu gibi “gün” esas alınarak yapılmaktadır. Birçok mahkeme kararında görüldüğü gibi günün belirli bir kısmında boşaltma işlemi yapılsa dahi sözleşmede özellikle orantılı olarak hesaplanacağı belirtilmemiş ise gün tam gün olarak kabul edilmekte ve boşaltma süresinin hesabında bu şekilde dikkate alınmaktadır.<sup>171</sup> Sözleşmede taraflar, bunun aksini kararlaştırabilirler.<sup>172</sup> Ayrıca günler iş günü değil takvim günü(calendar day) olarak kabul edilmektedir. Cumartesi-Pazar ve diğer tatil günleri boşaltma süresinin hesabında dikkate alınmaktadır. Sözleşmelere konulan “Running days<sup>173</sup>” klozuyla da gece, gündüz, herhangi bir kesintiye uğramadan, boşaltma limanı adetlerinde aykırı bir hüküm bulunması dışında, boşaltma süresinin hesabı yapılmaktadır. “Working days” klozu da boşaltma süresi hesabında yalnızca iş günlerin dikkate alınacağını belirtmek için kullanılmaktadır. Bu iş günleri de belirlenirken boşaltma limanın yerel kuralları geçerlidir.<sup>174</sup> Bu klozla İngiliz Hukukunda geçerli olan “calender day” kuralının tam tersi kararlaştırılmış olmaktadır. “Working days” klozuyla aynı doğrultuda kullanılan “SHEX(Sundays and Holidays Excluded=Pazar ve tatil günleri hariç) klozuyla da Pazar ve diğer tatil günleri boşaltma süresinin sayımı dışında tutulmaktadır.<sup>175</sup>

Bu klozların dışında “weather working days” ve “whether permitting” klozuna sözleşmelerde rastlanmaktadır. Bu iki kloz Türk ve Alman Hukuk Sistemlerinde aynı anlamda kabul edilmekte ve boşaltma faaliyetinin yapılmasının kötü hava nedeniyle kesilmesi halinde bu sürenin boşaltma süresinin sayımında hesaba katılmasına engel

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<sup>171</sup> SCHOFIELD;syf 8

<sup>172</sup> Yukarıda yüklenme süresinde belirtildiği gibi birçok standart sözleşmede yüklenme ve boşaltma süreleri saat üzerinden hesaplanabilmektedir.

<sup>173</sup> Ayrıntı için bkz ykr syf 43-46

<sup>174</sup> SCHOFIELD;syf 9

<sup>175</sup> Ayrıntı için bkz ykr syf 52-55

olmaktadır.<sup>176</sup> İngiliz hukuk sisteminde ise bu iki klozun varlığı halinde kötü hava şartının boşaltmaya engel olması şartını aranmamakta ve fiilen boşaltma yapılamayan günlerin boşaltma süresinden sayılmasını engellemektedir.<sup>177</sup> İngiliz mahkemesinin vermiş olduğu “The Vorras” kararıyla bir geminin kötü havadan dolayı diğer bir gemiyi beklemesi nedeniyle rıhtıma yanaşamamasıyla geçen sürenin dikkate alınmayacağı belirtilmiştir.<sup>178</sup> “Weather working days” ve “Weather permitting” klozları arasında fark olduğu kabul edilmektedir. Bu farka göre; “weather working days” ile boşaltma süresinin hesaplanmasında kötü hava nedeniyle çalışılmayan süre bütün bir çalışma gününe oranlanır ve ortaya çıkan sonuç istisna edilir. “Weather permitting” le ise kötü hava nedeniyle çalışılmayan süre tamamen hesap dışında bırakılır.<sup>179</sup>

Standart sözleşmelerde ayrıca belirtilen boşaltma süresi dışında tutulan süreler de vardır. Bunlar; kötü hava şartları, grev, buzlanma gibi nedenlerdir. Bu sürelerde boşaltma süresi haricinde tutulurlar.

#### **4.1.4 Boşaltma Süresinin Sona Ermesi:**

Boşaltma süresinin sona ermesi de yukarıda açıklanan yükleme süresinin sona ermesi gibidir. Olağan şekilde ve olağanüstü hallerde boşaltma işlemi sona erebilir. Olağan şekilde, boşaltma işleminde sabit bir süre kararlaştırılması halinde bu sürenin sona ermesiyle ya da sabit sürenin sözleşmesel, kanunen ya da yükleme limanı yerel kurallarına göre belirlenen nedenlerden dolayı kesintiye uğramasıyla bu sürelerin kesin boşaltma süresine eklenmesiyle sona erer. Bunun dışında boşaltma işlemi olağanüstü nedenlerde de sona erebilir. Belirlenen süreden erken biterse, boşaltma yapılacak limanda oluşan nedenlerden dolayı boşaltma işlemi çok uzun bir süre gerçekleştirilemeyecek ise (örneğin uzun yıllar süren bir savaş nedeniyle) boşaltma süresi sona erer.

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<sup>176</sup> ÜLGENER;Çarter Sözleşmeleri; syf 406

<sup>177</sup> Amerikan Hukuku, İngiliz Hukukunun tersine boşaltma süresinin hesaplanmasında Türk-Alman Hukuk Sistemlerinde olduğu gibi kötü hava ve boşaltma yapılamaması arasında nedensellik bağıntı aramaktadır.(SCHOFIELD;syf 15)

<sup>178</sup> COOKE,Julian;YOUNG,Timothy;TAYLOR,Andrew et al.;Voyage Charters;Second Edition;London 2001; syf 339

<sup>179</sup> ÜLGENER;Çarter;syf 406;COOKE et al, syf 339,



## **4.2 Sürastarya Süresi:<sup>180</sup>**

### **4.2.1 Sürastarya Süresinin Belirlenmesi:**

#### **4.2.1.1 Kanun Hükümlerine Göre:**

Taşıyanın, boşaltma süresi sona erdiğinde tarafların sözleşmede kararlaştırmaları halinde yükün teslimi için fazla beklemekle yükümlü olduğu süredir. Yüklemede sürastarya süresi gibi tarafların mutlaka sözleşmede kararlaştırmış olmaları gerekmektedir. Tarafların sözleşmede sürastarya süresinden bahsetmeseler bile en azından ücretinden bahsetmeleri gerekmektedir.

#### **4.2.1.2 Sözleşme Hükümlerine Göre:**

Sürastarya, sözleşmede sabit bir süre olarak belirlenebileceği gibi, uygulamada daha çok rastlandığı şekilde sürastarya için belirli bir süre kararlaştırılmamaktadır ve sürastarya süresi boşaltma faaliyeti bitimine kadar sürmektedir. Bu şekilde belli bir süre belirlenmemesinin nedeni sürastarya süresi içerisinde boşaltma faaliyeti çeşitli nedenlerden dolayı uzar ise sözleşme ihlal edilmiş olacak ve gönderilen, taşıyanın sürastarya ücreti yanı sıra oluşan zararlarını da tazmin etmek durumunda kalacaktır. Bu zararlar önceden kestirilemeyeceği için sürastarya ücretinin çok üstünde olabilecektir ve bu durum gönderilene daha ağır bir yükümlülüğe neden olacaktır.

### **4.2.2 Sürastarya Süresinin Başlaması:**

#### **4.2.2.1 Kanun Hükümlerine Göre:**

Boşaltma faaliyetinin ne kadar süreceği ve hangi gün biteceğini taraflar aralarında yapmış oldukları sözleşme ile kararlaştırmışlar ise sürastarya süresi boşaltma süresinin bitmesiyle başlar. Boşaltma süresi, bu şekilde kararlaştırılmamış ise; taşıyanın, boşaltma süresinin bittiğini gönderilene bildirmesiyle başlar. Taşıyan, boşaltma süresi içerisinde gönderilene bu sürenin ne zaman biteceğini gönderilene bildirir ise bu durumda tekrardan taşıyanın gönderilene boşaltma süresinin sona erdiğini bildirmesine gerek yoktur. Sürastarya süresi kendiliğinden işlemeye başlar.

Sürastarya süresinin başlayabilmesi için ihbara ihtiyaç duyulan durumlarda ihbarın yapılması herhangi bir şekle tabi değildir.

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<sup>180</sup> Yüklemedeki sürastarya süresiyle aynıdır.

#### 4.2.2.2 Sözleşme Hükümlerine Göre:

İngiliz Hukukunda sözleşmeyle aksi kararlaştırılmamış ise; boşaltmada sürastarya süresinin başlaması için herhangi bir ihbara gerek yoktur. Boşaltma süresi sona erdiği andan itibaren sürastarya süresi başlayacaktır. Bu durum boşaltma süresinin sabit ya da sabit olmayan boşaltma süresi olarak kararlaştırılmasında değişmemektedir. Türk- Alman Hukuk sistemlerinde sözleşmede sabit olarak boşaltma süresi belirlenmemiş ve boşaltma süresi çeşitli klotlarla “en hızlı şekilde”(FAC=Fast as can) veya “ne kadar az zamanda yapılırsa bunun için ücret ödeneceği(CQD=Quick Dispatch Money)” ya da “liman kurallarına göre(COP=Custom of Port) ” düzenlenmiş ise bu durumda sürastarya süresinin başlaması için ihbar yapılması şarttır. Bu ihbarla boşaltma süresinin belli bir sürede bitirileceğinin karşı tarafa bildirilmesi gerekmektedir.<sup>181</sup>

Gemi boşaltma limanına sürastarya süresi içerisinde vardığında ya da birden çok limanda boşaltma yapacak ise ikinci ya ilkinden sonraki boşaltma limanlarında geminin limana varması ile sürastarya süresi işlemeye başlar. Herhangi bir ihbara gerek yoktur.

#### 4.2.3 Sürastarya Süresinin İşlemesi:

##### 4.2.3.1 Kanun Hükümlerine Göre:

Sürastarya süresinde günler aralıksız olarak hesaplanır.(TTK 1055) Yükleme süresinde olduğu gibi boşaltma süresinde de bekleme süresi hesabında gönderilenin ve taşıyanın faaliyet sahalarında meydana gelen sebepler nedeniyle boşaltma faaliyetinin yerine getirilememesiyle sürastarya süresinin işlemesi farklı sonuçlara bağlanmıştır. Gönderilenin faaliyet sahasında meydana gelen bir neden dolayı boşaltma faaliyeti gerçekleştirilemiyor ise faaliyette bulunamayan süreler sürastarya süresinin işlemesinde dikkate alınır. Gönderilenin faaliyet sahasında meydana gelen tesadüfi nedenlere; gönderilen tarafından gemi boşaltma limanına yanaşmadan alınması gereken izinlerin alınmaması, limanda boşaltma işlemini yapacak işçilerin grevi örnek gösterilebilir.

Geminin vincinde meydana gelen bir arıza nedeniyle boşaltma yapılamaması gibi taşıyanın faaliyet sahasında kabul edilen sebepler yüzünden boşaltma işlemi gerçekleştirilemiyor ise sürastarya süresi hesabına bu günler katılmaz. Boşaltmada sürastarya süresi bu engelden

<sup>181</sup> “CQD klotu söz konusu olduğu zaman boşaltma süresinin bitiş tarihi kesin olarak tayin edilmediğinden, boşaltma süresinin bitmesi ve sürastarya başlaması taşıyanın TTK1054/II’ye uygun bir bildirimde bulunmasına bağlıdır. Bildirim şartının yerine gelmesi için boşaltmanın belirli bir zaman bitirilmiş olması gerektiğinin karşı tarafa beyan edilmesi yeterlidir.”( *Yargıtay 11 HD. 1.12.1994T.-94/5243E.-94/9177*)(www.kazanci.com.tr)

önce başlamış ise sürastarya süresi işlemeye başlamaz. Bu süreler için sürastarya ücreti istenemez.

Fırtına, buz istilası, seferberlik gibi her iki tarafın faaliyet sahasında kabul edilen nedenden dolayı boşaltma işlemi yapılamıyorsa sürastarya süresi işlemez.

#### **4.2.3.2 Sözleşme Hükümlerine Göre:**

İngiliz Hukukunda boşaltmada sürastarya süresinde de aynen yüklemde sürastarya süresinde olduğu gibi günler aralıksız hesaplanır. Kötü hava şartları dışında Pazar ve tatil günleri gibi nedenlerden meydana gelen kesintilerin sözleşmede açıkça sürastarya süresinin hesaplanmasında dikkate alınmayacağı belirtilmiş ise sürastarya süresi herhangi bir kesintiye uğramadan işlemeye devam eder.

Yukarıda da belirtilen ve İngiliz Hukukunda kullanım alanı olan “Once on demurrage, always on demurrage” prensibiyle sözleşmede aksine herhangi bir hüküm olmadıkça sürastarya süresinin işlemesinde herhangi bir kesinti olmayacaktır. Meydana gelen kesintiler boşaltma süresi için geçerli olacaktır. Bu prensip bir klotz olarak sözleşmede yer almasa bile İngiliz Hukukunda her zaman geçerli olduğu kabul edilmektedir. Böylelikle uygulamada sözleşmeye konulan bu klotz nedeniyle Türk Hukuk sisteminde kabul edilen ve TTK’da düzenlenen bekleme sürelerinin işlemesiyle ilgili olan düzenlemenin temeli olan faaliyet sahaları prensibi ortadan kalkmakta ve her zaman sürastarya süresinin işlemesinin devam edeceği ve taşıyana sürastarya ücreti ödeneceği kabul edilmektedir.<sup>182</sup>

Kötü hava şartları ve Pazar ve tatil günlerinin boşaltmada sürastarya süresini işlemesindeki etkisi yüklemde sürastarya süresinin hesaplanmasına etkisinin aynısıdır. Sözleşmelere konulan klotzlarla beraber boşaltmada sürastarya süresinin hesaplanmasında değişiklikler göstermektedir.

#### **4.2.4 Sürastarya Süresinin Sona Ermesi:**

Boşaltmada sürastarya süresi de aynen yüklemde sürastarya süresi gibi sona ermektedir. Buna göre; sözleşmede sabit bir sürastarya süresi belirlenmiş ise bu sürenin veya taraflar sabit bir sürastarya süresi kararlaştırmamışlar ise yüklem süresinin yarısı kabul edilen sürenin tükenmesi ile sona erer.

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<sup>182</sup> ÜLGENER; Çarter ; syf 427-428

Bunun dışında belirli bir süre olsun ya da olmasın sürastarya süresinin işleminin çeşitli nedenlerle durduğu sürelerin bu süreye eklenmesi ile de sona erer.

Taşıtan tarafından sözleşmenin feshedilmesi de sürastarya süresini sona erdiren bir nedendir.<sup>183</sup>

#### **4.3 Boşaltmada Bekleme Süresinin Sona Ermesi:**

Boşaltmada bekleme süresinde yüklemeye bekleme süresi gibi üç günlük ek süre yoktur. Taşıyan tarafından boşaltma işleminin belirli bir günde bitmesi sözleşmede kararlaştırılmış ise, taşıyan bu süre bittikten sonra fazla beklemek zorunda değildir. Bundan dolayı taşıyan ya gönderilene haber verdikten sonra malı bir ambara ya da güvenli bir yere bırakır ya da boşaltma süresini uzatarak gönderilenden tazminat talep eder.<sup>184</sup>

“Time Sheet”(Uygulamada statement of facts olarak adlandırılır) olarak adlandırılan belgede yükleme ve boşaltma aşamaları, bu işlemlerin ne zaman yapıldığı, sürelerin ne zaman işlemeye başlayacağı, yükleme ve boşaltmanın ne zaman başladığı ve bittiği, hazırlık ihbarının yapıldığı zaman, yükleme ve boşaltma sürelerinde kesilme oldu ise bu kesintiler belirtilir, kaptan veya taşıtanın acentesi tarafından imzalanır. İleri de taraflar arasında meydana gelen anlaşmazlık dolayısıyla açılan davalarda bu belgeye dayanılarak sorunlar çözüme kavuşturulmaya çalışılmaktadır.

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<sup>183</sup> Ayrıntı için bkz ykr syf 55-56

<sup>184</sup> İZVEREN vd.;syf 207

## BEŞİNCİ BÖLÜM

### TİCARET KANUNU TASARISINA GÖRE YÜKLEME ve BOŞALTMADA BEKLEME SÜRESİ:

#### 5.1 Genel Olarak:

Bu bölümde 14/6/2006 tarihinde Meclis Adalet Alt Komisyonu tarafından kabul edilen ve ne zaman yasalaşacağı belirsiz olan Türk Ticaret Kanunu tasarısı<sup>185</sup> ve şu anda yürürlükte olan 6762 sayılı Türk Ticaret Kanunu hükümlerinin karşılaştırmalı olarak değerlendirilmesi yapılacaktır. Söz konusu tasarıda yükleme ve boşaltma 1142 ve 1177. mad.'ler arasında düzenlenmiştir. Yükleme ve boşaltma süresi 1152. mad.'den itibaren "Süreler" başlığı altında düzenlenmiştir. Genellikle tasarıda düzenleme yapılırken uygulamada kullanılan standart charter partilerden esinlendiği görülmektedir.

#### 5.2 Yüklemede Bekleme Süresi:

Tasarıda mevcut ticaret kanununda olduğu gibi yükleme süresi navlun sözleşmesinin çeşitleri olan yolculuk charter sözleşmesi ve kırkambar sözleşmesi kapsamında incelenmiştir. Yüklemede bekleme süresi tasarıda yükleme ve sürastarya süresi olarak iki bölümde düzenlenmiştir. Mevcut kanunda bulunan üç günlük ek süreye tasarıda yer verilmemiştir.

Mevcut kanundan farklı olarak tasarıda ayrıca uygulamada standart sözleşmelerde rastlanan ve "dispatch money" olarak bilinen yüklemenin sözleşmede kararlaştırılan yükleme süresinden önce bitmesi halinde taşıyanın taşıtana kullanılmayan süre için ödediği para "hızlandırma primi" olarak 1157. mad.'de düzenlenmiştir.

Bunun yanında mevcut kanunda olan pişmanlık navlunu olarak ifade edilen taşıtanın yolculuk başlamadan önce sözleşmeden cayması halinde kararlaştırılmış navlunun yarısını ödediği durum tasarıda kaldırılmıştır. Ancak bunun yerine tasarıda taşıyanın, fesih tazminatı adı altında sözleşmenin feshedilmesinden dolayı yoksun kaldığı kazanç ve o zamana kadar doğmuş olan alacaklarını isteyebileceği düzenlenmiştir. Tereddüt halinde ise kararlaştırılan navlunun yarısı değil yüzde otuzu yoksun kalınan kazanç olarak sayılacaktır.

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<sup>185</sup> Tam metni için bkz ek-2

Feshedilen sözleşmenin ifası için gereken süre içinde, taşıyan yeni navlun sözleşmesi yaparsa bu durumda elde ettiği kazanç tazminat tutarından indirilir.

Tasarıda kırkambar sözleşmeleri için yapılan düzenleme mevcut kanundan pek fazla bir değişiklik içermemektedir. Birkaç noktada eklemeler yapılmıştır. Mevcut kanunda taşıtanın, kaptanın daveti üzerine gecikmeden eşyayı yüklemeye mecbur olduğuna hükmedilirken tasarıda taşıtana yükleme davetinde taşıyanın ve onun yetkili temsilcisinin bulunacağı düzenlenmiştir. Bunun dışında taşıyanın, taşıtanın gecikmesi halinde taşıtandan tam navlunu isteyebilmesi için yola çıkmadan bildirimde bulunması mevcut kanunda düzenlenmiş ancak bu bildirim herhangi bir şekil şartına bağlanmamıştır. Tasarıda getirilen düzenleme ile bu bildirim taşıtana faks mesajı, elektronik mektup veya benzeri teknik araçlarla da mümkün olmak üzere yazılı şekilde yapılması gerektiği belirtilmiştir.

### **5.2.1 Yükleme Süresi:**

Yükleme süresi, geminin sözleşmede belli bir gün kararlaştırılmış ise o gün başlayan, sözleşmede belli bir günde başlayacağı kararlaştırılmamış ise sözleşmede kararlaştırılan yükleme yerine veya sözleşmede yalnızca yükleme yapacağı liman veya bölge kararlaştırılmış ise bu liman ya da bölge için tahsis edilmiş bekleme alanına varması üzerine taşıyan veya yetkili temsilcisi tarafından yapılan hazırlık bildirimının muhatabına ulaşmasını izleyen ilk takvim günü ve eğer yüklemeye fiilen başlanmış ise o andan itibaren işlemeye başlayan taraflarca aksi kararlaştırılmamış ise ücretsiz olarak beklenen süredir.

#### **5.2.1.1 Yükleme Süresinin Başlaması:**

Yukarıda belirtildiği gibi mevcut ticaret kanunu kapsamında yükleme süresinin başlayabilmesi için geminin yükleme limanına varmış ve yükü almaya hazır bir halde olması ve bu durumun taşıtana ihbar edilmesi gerekmektedir. Tasarı mevcut kanundan bu yönde çok farklı bir düzenleme içermemektedir. Ancak aşağıda incelenecek birkaç noktayla mevcut düzenden farklı düzenlemeler getirmiştir. Buna göre taraflar yükleme süresinin belirli bir günde başlayacağını kararlaştırabileceklerdir. Burada belirtilmesi gereken bir nokta vardır. Tasarının 1152. mad.'sinde "*belirli bir gün*" ifadesi kullanılmış olmasına rağmen tasarının bu madde ile ilgili olan gerekçesinde "*yüklemeye başlanacak gün taraflarca kesin olarak kararlaştırılmışsa hazırlık ihbarında bulunmaya gerek olmayacaktır, kararlaştırılan günde hem gemi kararlaştırılan yerde bulunacak, hem de*

*yükleten, yüklemeye hazır olacaktır, yani kesin vadeli bir işlem den söz edilmesi gerekecektir.*” denilmek suretiyle madde metnindeki düzenlemeyle çelişen bir düzenleme getirilmektedir. Çünkü yüklemenin kesin olarak kararlaştırıldığı günde başlaması ile belirli bir günde başlamasının kararlaştırılması farklı ifadelerdir. Yükleme kesin olarak kararlaştırılan günde başlamaz ise tarafların yüklemenin gecikme ile başlaması nedeniyle sözleşmenin ifasını yani yüklemeyi reddetme imkanları ortaya çıkacaktır. Ancak yüklemenin belirli bir günde başlayacağı kararlaştırılmış ise bu durumda yüklemenin gecikmesi halinde ilk durumdaki tarafların ifayı reddetme hakkı ortaya çıkmayacak ve geç ifa mümkün olacaktır. Bu nedenle madde gerekçesinde belirtilen kesin vadeli işlem den bahsedilebilmesi için maddede kesinliğin açıkça belirtilmesi gerekmektedir. Bunun yanında taraflar yüklemenin belirli bir günde başlayacağını kararlaştırmışlar ise hazırlık ihbarına gerek olmayacağı belirtilmiştir fakat hazırlık ihbarının yapılması gerekmektedir. Yükleme süresinin ne zaman başladığı aksi halde belirlenemeyecektir. Kesin vadeli bir işlem olarak kabul edilse dahi taraflar gecikme halinde sözleşmeyi sona erdirmeyebilirler. Sözleşmenin sona erdirilmediği durumlarda yüklemenin ne zaman başladığı sorunu yaşanacaktır. Taşıyan yükleme süresinin başlangıcının kararlaştırılan günde başlamasının, taşıtan ise mümkün olduğunca geç en azından fiilen yüklemenin yapıldığı tarihte itibaren başlamasının kendi yararları doğrultusunda kabul edilmesini isteyeceklerdir. Bu durumda tasarıda hazırlık ihbarı gerekmiyor ise bu durumda böyle bir uyuşmazlık anında ya da fiili yükleme halinde hangi andan itibaren başlayacağını belirtmesi gerekmektedir.<sup>186</sup>

Taraflar yüklemenin belirli bir günde başlayacağını kararlaştırmamışlar ise taşıyan ya da yetkili temsilcisi tarafından taşıtana yapılan hazırlık bildirimini izleyen ilk takvim gününde ve eğer fiilen yükleme başlamış ise o anda yükleme süresi başlar. Tasarıda yapılan yükleme süresinin hazırlık bildirimini takip eden ilk takvim gününde başlayacağı düzenlemesiyle mevcut kanunda belirtilmeyen husus belirtilmiş ve yükleme süresinin hazırlık bildirimini takip eden iş gününde mi yoksa takvim gününde mi olacağına dair bazı zamanlar uygulamada ortaya çıkan problemin halledilmesine çalışılmıştır.

Hazırlık ihbarı nerede verilecektir? Yükleme yeri neresidir? Bu sorulara cevap tasarının 1142. mad.’sinde verilmeye çalışılmıştır. Buna göre, hazırlık ihbarı ancak sözleşmede kararlaştırılan yükleme yerine varınca verilebilecektir. Sözleşmede belirtilen rıhtıma veya yere yanaşması zorunludur. Buraya varmadan hazırlık bildiriminde bulunulamayacaktır.

<sup>186</sup> Deniz Hukuku Dergisi Türk Ticaret Kanunu Tasarısı Hakkında Değerlendirmeler, Özel Sayı; Ocak 2006; İSTANBUL

Ancak sözleşmede yükleme yeri değil de sadece yükleme limanından veya bir bölgeden bahsedilmiş ise bu durumda taşıtan tarafından yükleme yeri tayin edilecektir. Hazırlık ihbarı açısından bakıldığında tasarının gerekçesinde açıkça “...yüklemenin yapılacağı liman için belirlenmiş olan bekleme yeri neresiyse, geminin de o bekleme yerine varmış ve gösterilebilecek bir yükleme yerine hareket edebilir duruma gelmiş olması gerekli ve yeterlidir.” ve ayrıca ““Bekleme yeri”nin en geniş manada yorumlanması gerekir; bu yerin, limanın “coğrafi, idari veya hukuki sınırları” içinde bulunması şart değildir.” şeklinde ifade edilmektedir. Buna göre bu ifadeden yukarıda da incelenen sözleşmelere dayalı bir düzenlemeye gidildiği ortaya çıkmaktadır.

Yükleme yeri hazırlık ihbarı yapılmış olmasına rağmen taşıtan tarafından gösterilmez veya suyun derinliği, geminin selameti, yerel düzenlemeler veya tesisler, verilen talimata göre hareket etmeye engel olursa gemi kaptan tarafından mevcut kanundan farklı olarak mutad(olağan) yükleme yerine demirlenmez. Gemi bekleme alanında kalmaya devam eder. Bu düzenlemenin getirilmesindeki amaç günümüzde limanlarda olağan demirleme yerinin geçerli olmaması olarak gösterilmektedir. Ayrıca yükleme yerinin belirlenmesinde liman yönetiminin talimatının taşıtanın talimatı hükmünde olacağı düzenlenmiştir. Gerekçede bu hükümlerle de uygulamada liman idareleri tarafından verilen talimat nedeniyle meydana gelen gecikmenin kime yükleneceği tartışmasının halledileceği ve böyle bir gecikmede taşıtanın yükümlü olacağı ifade edilmektedir.

Mevcut kanuna getirilen ek bir düzenleme ise yolculuk charter sözleşmesine veya taşıtanın sonradan verdiği geçerli bir talimata göre taşıtandan başka bir kişiye de hazırlık bildiriminde bulunulabilmesidir. Bilidirim muhatabı bulunmaz ise veya muhatap bildirim almaktan kaçınırsa bu durum derhal taşıtana bildirilir. Bu durumda hazırlık bildirim bildirim girişiminde bulunulan tarihte yapılmış kabul edilir. Bu düzenleme ile hazırlık bildiriminin ne zaman yapılacağına dair anlaşmazlık halinde hazırlık bildirim girişiminin yapıldığı anda yapılmış kabul edileceği hüküm altına alınmıştır.

Hazırlık bildirim yolculuk charter sözleşmesinde veya taşıtanın sonradan verdiği geçerli bir talimata göre eşya aynı limanda birden çok kişiden alınacak ise bu durumda hazırlık bildiriminin taşıtana<sup>187</sup> yapılacağı, diğer yükletenlere yapılan ihbarın geçersiz olacağı da tasarının 1161. mad.’sinde düzenlenmiştir. Ayrıca bu maddede 1152 ve 1160. madde hükümlerinin birden çok yükleten bulunması dikkate alınmaksızın uygulanacağı

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<sup>187</sup> Birden çok taşıtan varsa hepsi için ayrı ayrı geçerli olacaktır.



belirtilmiştir. Ancak tasarının 1152. mad.'sinde yukarıda da ifade edildiği gibi yolculuk charter sözleşmesinde veya sonradan taşıtanın talimatıyla hazırlık bildirim taşıtandan başka kişiye de yapılabileceği düzenlenmiştir. bu durumda birden çok yükletenin olduğu bir durumda sözleşmede veya taşıtanın talimatıyla başka kişiye yapılan hazırlık bildirim geçersiz mi olacaktır? Ya da zorunlu olarak bu durumda da taşıtana mı ihbar yapılması gerekecektir? Bu düzenleme ile bu soruların cevabı tam olarak cevaplanamamaktadır. Mevcut kanunda olduğu gibi hazırlık bildirim herhangi bir şekilde tabi değildir. Önemli olan geçerli olabilmesi için muhatabına ulaşmasıdır.

#### **5.2.2.2 Yükleme Süresinin Belirlenmesi:**

Mevcut kanunda olduğu gibi yükleme süresinin taraflarca sözleşmede belirlenebileceği, belirlenmemesi halinde ise mevcut kanunda 1031. maddesinde düzenlenen hükmün biraz genişletilerek yüklemenin, yükleme yapılacak limanın, taşımayı yapacak geminin, yükleme tesis ve araçlarının, yükün niteliği, yükleme limanı düzenlemelerinin, yerel teamüllerin dikkate alınarak yirmidört saatlik kesintisiz çalışma ile yapılması halinde ihtiyaç duyulacak süre olduğu hüküm altına alınmıştır. Burada süre belirlenirken somut şartlar dikkate alınacaktır.

#### **5.2.2.3 Yükleme Süresinin İşlemesi:**

Mevcut ticaret kanunundan farklı olarak tasarıda yükleme süresinin hesaplanmasında günlerin iş günü değil takvim günü(aralıksız) olarak hesaplanacağı düzenlenmiştir. Buna göre yükleme süresinin hesaplanmasında Cumartesi-Pazar ve diğer tatil günleri hesaba katılacaktır.

Bu hükmün düzenlendiği tasarının 1156. maddesinin iki,üç ve dördüncü fıkralarında mevcut kanunun 1036. mad.'sindeki düzenleme dilinde güncelleme yapılarak aynen alınmıştır. Bu düzenlemeye göre; taşıtanın faaliyet sahasında gerçekleşen tesadüfi nedenler dolayısıyla eşyanın gemiye teslimi mümkün olmayan günler yükleme süresinin hesabında dikkate alınacaktır. Taşıyanın faaliyet sahasında meydana gelen tesadüfi nedenler dolayısıyla eşyanın gemiye alınması mümkün olmayan günler ise yükleme süresinin hesabında dikkate alınmayacaktır. Fırtına, buz istilası veya seferberlik gibi her iki tarafın faaliyet sahasını ilgilendiren tesadüfi sebepler dolayısıyla eşyanın gemiye teslim edilmesi

ve alınması imkanı bulunmayan günler yükleme süresine eklenir. Yükleme süresi içinde dahi olsa taşıtan bu günler için taşıyana sürastarya ücreti öder.

Tasarının 1156. maddesinin son fıkrasında kanundan farklı olarak yeni bir düzenleme getirilmiş ve taşıyanın faaliyet sahasında meydana gelen ve taşıtan-taşıyanın her ikisinin faaliyet sahasını ilgilendiren tesadüfi nedenler dolayısıyla yükleme süresinin işlemesi durduğunda yüklemeye fiilen devam edildiği anda sürelerin durduğu yerden işlemeye başlayacağı belirtilmiştir. Bu düzenlemeyle süreler durduğunda hangi andan itibaren işleyip işlemeyeceği tartışmasına çözüm getirilmeye çalışılmış ancak yukarıda incelenen madde hükümlerinde sürelerin işlemesi ve durmasının gün esas alınarak yapıldığı belirtilirken son fıkrada an ifadesi ile çelişki giderilememiştir. Diğer bir ifade ile tesadüfi nedenler dolayısıyla duran sürelerin nasıl hesaplanacağı tam olarak netlik kazanmamıştır.

#### **5.2.2.4 Yükleme Süresinin Sona Ermesi:**

Tasarıda da yükleme süresinin sona erme nedenleri açıkça maddeler halinde sayılmamıştır ancak kanatimizce çıkarılan sonuca göre taraflar sözleşmede yükleme için belli bir süre kararlaştırmışlar ise bu sürenin sona ermesi ile; kanunda belirtilen tesadüfi sebepler dolayısıyla ya da sözleşmede taraflarca yükleme süresinin işlemesine engel olacak nedenlerin ortaya çıkmasıyla yükleme süresinde durma meydana geldiyse bu sürelerin kesin yükleme süresine eklenmesiyle sona ermesi; sözleşmede bir süre kararlaştırılmamış ise yükleme limanının ve somut olayın şartlarına göre yüklemenin yirmidört saatlik kesintisiz çalışması halinde belirlene sürenin sona ermesi; taşıtan tarafından yükleme tamamlanmadan sözleşmenin feshedilmesi ile yükleme süresi sona erer.

Bunların dışında yükleme süresi kararlaştırılmış ise ve taşıtan bu sürenin sonuna kadar yükleme yapmamış ya da eksik yükleme yapmış ise bu halde taşıyan sözleşmeyi feshedilmiş sayabilir. Bu şekilde de yükleme süresi sona ermiş sayılır.

#### **5.2.3 Sürastarya Süresi:**

Sözleşmede kararlaştırılmış ise taşıyanın eşyanın yüklenmesi yükleme süresi içerisinde tamamlanmaması halinde eşyanın yükletilmesi için fazladan beklediği süreye sürastarya süresi denir. Taşıyan, beklediği bu süre için kendisine sürastarya parası ödenmesini ister. Tasarının 1154.mad.'sinde sürastarya adı altında düzenlenmiştir. Bu düzenleme mevcut ticaret kanununun 1030. ve 1032. mad.'lerinden değiştirilerek alınmıştır.

Sürastarya süresi boyunca taşıyanın almaya hak kazandığı sürastarya parası da tasarının 1155. mad.'sinde düzenlenmiştir. Mevcut kanundan farklı olarak sürastarya ücreti yerine sürastarya parası ifadesi kullanılmıştır.

#### **5.2.3.1 Sürastarya Süresinin Başlaması:**

Sürastarya süresi mevcut ticaret kanunundaki düzenlemeye göre sözleşmede taraflar belli bir yükleme süresi kararlaştırmışlar ise bu sürenin bitmesiyle herhangi bir ihbara gerek kalmadan başlar. Ancak taraflar belli bir yükleme süresi kararlaştırmamışlar ise bu durumda taşıyan tarafından taşıtana yükleme süresinin bittiği ihbarının yapılması ile başlar. Tasarıda taraflarca yükleme süresinin sözleşmede kararlaştırılmamış olması halinde sürastarya süresinin başlaması için yapılması gereken ihbar kaldırılmış ve her durumda sürastarya süresinin herhangi bir bildirim veya ihbara gerek kalmadan başlayacağı düzenlenmiştir.

#### **5.2.3.2 Sürastarya Süresinin Belirlenmesi:**

Sürastarya süresini taraflar aralarında yapacakları sözleşmede belirleyebilmektedirler. Sözleşmede sürastaryadan veya sürastarya parasından söz edilmiş olup sürastarya süresi belirlenmemiş ise mevcut kanundan farklı olarak tasarıda sürastarya süresinin bu durumda on gün olacağı düzenlenmiştir. Oysa ki mevcut ticaret kanununda belirli bir süre verilmesinden kaçınılmış, bu durumda sürastarya süresinin yükleme süresinin yarısı olacağı hükme bağlanmıştır.

#### **5.2.3.3 Sürastarya Süresinin İşlemesi:**

Tasarıda yükleme süresi gibi sürastarya süresinin de aralıksız hesaplanacağı şeklinde bir düzenleme yapılmıştır. Bu şekilde bir düzenleme mevcut kanuna paralel bir düzenlemedir. Buna göre sürastarya süresinin hesaplanmasında da yükleme süresinin hesabındaki gibi Cumartesi-Pazar ve diğer tatil günleri sürastarya süresinin hesabında dikkate alınacak ve bu günlerde süre kesintisiz işleyecektir.

Yükleme ve sürastarya sürelerinin hesabının düzenlendiği tasarının 1156. mad.'sine göre taşıtanın faaliyet alanında meydana gelen tesadüfi sebepler nedeniyle eşyanın gemiye teslimi mümkün değilse, bu günler sürastarya süresinin işlemlerini durdurmaz. Bu günler sürastarya süresinin hesabında dikkate alınır.

Taşıyanın faaliyet alanında meydana gelen tesadüfi sebepler dolayısıyla eşyanın gemiye alınması mümkün olmayan günler ise sürastarya süresinin hesabında dikkate alınmaz. Bu süreler sürastarya süresi için de dahi olsa sürastarya parası istenemez.

Fırtına, buz istilasası veya seferberlik gibi her iki tarafın faaliyet alanını ilgilendiren tesadüfi sebepler dolayısıyla eşyanın gemiye teslim edilmesi ve alınması imkanı bulunmayan günler sürastarya süresine dahil edilir. Diğer bir ifade ile sürastarya süresi hesabında dikkate alınır.

Yukarıda yükleme süresinin hesabında belirtildiği gibi sürelerin işlemlerini durduran taşıyanın ve taşıtan-taşıyanın her ikisinin faaliyet sahasını ilgilendiren tesadüfi nedenler sona erdikten ve yüklemeye fiilen başlanıldığı andan itibaren süreler durdukları yerden işlemeye devam ederler.

#### **5.2.3.4 Sürastarya Süresinin Sona Ermesi:**

Tasarıda da mevcut kanundaki gibi sürastarya süresinin sona ermesi açıkça düzenlenmemiştir. Fakat tasarıdaki sürastarya süresi hakkındaki düzenlemelerden yola çıkılarak sürastarya süresinin hangi hallerde sona ereceği sonucu çıkarılabilmektedir. Buna göre; sözleşmede taraflar belirli bir sürastarya süresi kararlaştırmışlar ise bu sürenin kesintisiz bir şekilde sona ermesiyle, ya da taraflarca yolculuk charter sözleşmesiyle belirli bir sürastarya süresi kararlaştırılmamış ancak sürastarya veya sürastarya parasından bahsedilmiş ise on günlük sürenin tükenmesi ile sona erecektir. Bunun yanında sözleşmede belirlenen veya kanuni olarak belirlenen on günlük sürenin sürastarya süresini kesen nedenlerin bu süre sonunda sürastarya süresine eklenmesi ile de sona erecektir.

Sürastarya süresi taşıtan tarafından yolculuk charter sözleşmesi feshedilince de sona erecektir.

Yukarıda da belirtildiği gibi tasarıda üç günlük ek yükleme süresi düzenlenmemiştir. Bu nedenle kaptan, yükleme ya da kararlaştırılmış ise sürastarya süresi sona erdiğinde beklemeden yükleme limanından hemen hareket eder.

### **5.3 Boşaltmada Bekleme Süresi:**

Mevcut ticaret kanununda olduğu gibi tasarıda da yüklemde bekleme süresi ile boşaltmada bekleme süresi paralel düzenlemeler içermektedir. Tasarıda mevcut kanundan farklı olarak üç günlük ek bekleme süresi ne yükleme ne de boşaltmada bekleme süresi için düzenlenmemiştir.

Boşaltmada bekleme süresi boşaltma ve sürastarya süresi olmak üzere iki kısımda incelenmiştir. Ayrıca tasarıda boşaltmada bekleme süresi düzenlenirken navlun sözleşmesinin çeşitleri olan çarter sözleşmesi-özellikle yolculuk çarter sözleşmesi-ve kırkambar sözleşmesi dikkate alınmıştır.

Kırkambar sözleşmesinde boşaltma işleri tasarının 1176. ve 1177. mad.'de düzenlenmiştir. 1176.mad.'si ile mevcut kanunu 1059. mad.'si değiştirilerek bir düzenlemeye gidilmiştir. Kırkambar sözleşmesinde gönderilenin taşıyanın veya yetkili bir temsilcisinin bildirim üzerine gecikmeden eşyayı teslim almakla yükümlü olduğu ve gönderilen tanınmıyor ise bildirim yerel teamül üzerine ilanla yapılacağı belirtilmiştir. Mevcut düzenlemeden farklı olarak kaptan yerine bildirim taşıyan veya onun yetkili temsilcisi aracılığıyla yapılmasıdır.

Tasarıda mevcut kanunun 1059. mad.'sinin ikinci ve üçüncü fıkrası kaldırılmış onu yerine tasarının 1174. mad.'si hükmünün geçerli olacağı belirtilmiştir. 1174. mad.'sinin getirilmesi ile mevcut düzenden belirli hususlarda ayrılık olmuştur. Bu ayrılıklardan bir tanesi; tasarıda gönderilenin eşyayı almaya hazır olduğunu bildirip de boşaltma süresini ve kararlaştırılmış ise sürastarya süresi içinde teslim alamamış olduğu durumda taşıyanın gönderilene haber verdikten sonra Borçlar Kanununun 91 ila 93. maddelerinde öngörülen haklarını kullanabileceği belirtilirken mevcut kanunda kaptanın gönderilene haber verdikten sonra malı bir umumi ambara veya emniyetli herhangi bir yere tevdi edebileceğinin belirtilmesidir. Tasarıdaki düzenlemede belirtilen Borçlar Kanununun 91 ila 93. maddelerinde hüküm altına alınan taşıyanın hakları; alacaklının(burada gönderilenin) mütemerrit olması halinde taşıyanın,alacaklıya ait olan şeyi(burada yükü) bir ardiyeye tevdi ederek borcundan kurtulması, taşıyanın malın niteliği gereği bozulacak ya da muhafazası masraflı olması halinde hakimin izniyle önce alacaklıya(burada gönderilene)ihbarda bulunmak şartıyla eşyayı satması, taşıyanın tevdi edilen eşyayı geri almasıdır.

Bunların yanında 1174. mad.'sinde yapılan düzenleme mevcut kanunun 1057. mad.'sinde yapılan düzenleme doğrultusundadır.

Tasarının 1177. mad.'sinde düzenlenen taşıtanın üçüncü kişilerle yaptığı kırkambar sözleşmeleri mevcut kanunda yapılan düzenlemeden farklı değildir. Geminin tamamı veya bir kısmı yahut belli bir yeri taşıtana tahsis edilmiş ise taşıtan üçüncü şahıslarla kırkambar sözleşmesi yapmış bulunursa yolculuk çarter sözleşmesini yapmış olan taşıyanın hak ve yükümlülükleri 1168 ila 1174. maddeler hükümlerine tabi olacaktır.

### **5.3.1 Boşaltma Süresi:**

#### **5.3.1.1 Boşaltma Süresinin Başlaması:**

Taraflar, sözleşmede boşaltmanın belirli bir günde başlayacağını kararlaştırmış olabilirler. Ancak taraflar boşaltmanın belirli bir günde başlayacağını kararlaştırmamışlar ise taşıyan ya da yetkili temsilcisi tarafından taşıtana yapılan hazırlık bildirimiminin<sup>188</sup> izleyen ilk takvim gününde(tatil günü dahi olsa bu gün boşaltma süresi başlayacaktır.) ve eğer fiilen boşaltma başlamış ise o anda yükleme süresi başlar. Boşaltma süresinin başlaması için hazırlık bildirimini de boşaltma süresinde olduğu gibi gemi, sözleşmede kararlaştırılan demirleme yerine gelince veya sözleşmede boşaltma yapacağı liman veya bölge kararlaştırılmış ise bu liman veya bölge için tahsis edilmiş bekleme alanına geldiğinde hazırlık bildiriminde bulunabilecektir.

Boşaltma yeri, sözleşmede yalnızca geminin boşaltma yapacağı liman veya bölge olarak belirtilmiş ise bu durumda hazırlık bildiriminde bulunulması üzerine gemiye boşaltma yeri gösterilmez veya suyun derinliği, geminin selameti, yerel düzenlemeler veya tesisler, verilen talimata göre hareket etmeye engel olursa, gemi bekleme alanında kalır. Burada yukarıda boşaltma süresinde belirtilen mevcut kanundan farklı olarak bir düzenlemeye gidilmiş ve mevcut kanunda belirtilen geminin böyle bir durumda mutad bir yere demirlenmesi düzenlemesinden ayrılmıştır.

Mevcut kanundan farklı olarak boşaltma süresinde yolculuk çarter sözleşmesine, konişmentoya veya taşıtanın sonradan verdiği geçerli bir talimata göre gönderilenden başka bir kişiye de hazırlık bildiriminde bulunulabilmektedir. Bilidirim muhatabı bulunmaz ise veya muhatap bildirimini almaktan kaçınırsa bu durum derhal taşıtana bildirilir. Bu durumda hazırlık bildirimini bildirim girişiminde bulunulan tarihte yapılmış

<sup>188</sup> Hazırlık bildirimini mevcut kanunda olduğu gibi herhangi bir şekil şartına bağlanmamış yalnızca muhatabına ulaşması şart koşulmuştur.

kabul edilir. Bu düzenlemeye ayrıca hazırlık bildirimimin kaçınılan veya muhatabı bulunmayan bildirim yapıldığı tarihte bildirim geçerli olacağı hükmünde eklenmiştir.

### **5.3.1.2 Boşaltma Süresinin Belirlenmesi:**

Boşaltma süresini taraflar aralarında yapmış oldukları sözleşme ile tespit edebilirler. Boşaltma süresi taraflarca sözleşmede kararlaştırılmamış ise bu durumda boşaltmanın yirmidört saatlik kesintisiz çalışma ile yapılması halinde ihtiyaç duyulacak süre olarak boşaltma süresi olarak kabul edilir. Ancak burada süre belirlenirken boşaltmanın yapılacağı liman, taşımayı yapan gemi, boşaltma tesis ve araçları ve eşyanın niteliği ile birlikte, boşaltma limanı düzenlemeleri ve yerel adetler göz önünde bulundurulur. Bu düzenleme mevcut kanundaki düzenlemeye paralel bir düzenlemedir. Mevcut duruma birkaç ek yapılmıştır. Bu hükümden bir başka sonuç da çıkarılmaktadır. Boşaltma işleminin mesai saatleri dışında da devam edeceği sonucuna yirmidört saatlik kesintisiz çalışma kriteri göz önünde bulundurulmasından varılmaktadır.

### **5.3.1.3 Boşaltma Süresinin İşlemesi:**

Boşaltma süresinin hesabında da mevcut ticaret kanunundan farklı olarak günler iş günü değil takvim günü(aralıksız) esas alınır.

Tasarının 1172. mad.'sinde yüklem süresinde olduğu gibi boşaltma süresinin hesaplanmasında da faaliyet sahaları prensibinden yararlanılmıştır. Mevcut kanundan farklılık bulunmamaktadır.

Gönderilenin faaliyet sahasında gerçekleşen tesadüfi nedenler dolayısıyla eşyanın gemiden karaya çıkarılması mümkün olmayan günler boşaltma süresinin hesabında da dikkate alınır. Taşıyanın faaliyet alanında meydana gelen tesadüfi nedenler dolayısıyla eşyanın gemiden çıkarılması mümkün olmayan günler ise boşaltma süresinin hesabında dikkate alınmaz. Fırtına, buz istilası veya seferberlik gibi her iki tarafın faaliyet sahasını ilgilendiren tesadüfi sebepler dolayısıyla eşyanın gemiden çıkarılması ve karaya götürülmesi mümkün bulunmayan günler bekleme süresine eklenir. Boşaltma süresi içinde dahi olsa gönderilen bu günler için taşıyana sürastarya parası öder.

Taşıyanın ve gönderilen-taşıyanın faaliyet sahasını ilgilendiren tesadüfi sebepler nedeniyle boşaltma süresinde kesinti meydana gelmiş ise yükleme süresinde olduğu gibi engeller ortadan kalktığında süreler durduğu yerden işlemeye başlar.

#### **5.3.1.4 Boşaltma Süresinin Sona Ermesi:**

Tasarıda da mevcut ticaret kanunudaki gibi boşaltma süresinin nasıl sona ereceği açıkça düzenlenmemiştir. Boşaltma süresi de yukarıda açıklandığı gibi yükleme süresindeki gibi sona ermektedir.

Sözleşmede belirlenen sabit bir boşaltma süresi var ise bu sürenin tükenmesi, veya sabit bir süre belirlenmemiş ise kanunda öngörülen somut olayın şartlarına göre yirmidört saatlik kesintisiz çalışma ile yapılması halinde ihtiyaç duyulacak sürenin sonuna gelinmesi ile sona ermektedir.

Bunların dışında sözleşmede belirlenen boşaltma süresinden önce boşaltma faaliyetinin sona ermesi ile veya sözleşmede belirli bir süre kararlaştırılmış ise bu süreye boşaltma süresini durduran nedenlerden dolayı eklenen sürelerin tükenmesi ile de sona erer.

#### **5.3.2 Sürastarya Süresi:<sup>189</sup>**

Yüklemede sürastarya süresiyle aynı düzenleme yapılmıştır. Buna göre sözleşmede boşaltma süresi kararlaştırılmış ise bu sürenin sona ermesi ile veya boşaltma süresi bitince herhangi bir ihbara gerek kalmaksızın başlar. Bu süre boyunca taşıtan tarafından taşıyana sürastarya parası adı altında bir ücret ödenir.

Sürastarya süresini taraflar aralarında yapacakları sözleşmede belirleyebilirler. Ancak taraflar aralarında yapacakları sözleşmeye sadece sürastaryadan ya da sürastarya parasından sözetmişler ise bu durumda sürastarya süresi on gündür.

Sürastarya süresinin hesabında da günler aralıksız olarak hesaplanır. Bunun yanında faaliyet sahaları prensibi boşaltmada sürastarya süresinin hesaplanmasında da dikkate alınır. Gönderilenin faaliyet sahasında gerçekleşen tesadüfi nedenler dolayısıyla eşyanın gemiden karaya çıkarılması mümkün olmayan günler boşaltmada sürastaryanın hesabına katılır. Taşıyanın faaliyet alanında meydana gelen tesadüfi nedenler dolayısıyla eşyanın gemiden çıkarılması mümkün olmayan günler ise boşaltmada sürastarya süresinin hesabında dikkate alınmaz. Fırtına, buz istilası veya seferberlik gibi her iki tarafın faaliyet sahasını ilgilendiren tesadüfi sebepler dolayısıyla eşyanın gemiden çıkarılması ve karaya götürülmesi mümkün bulunmayan günler bekleme süresine eklenir. Taşıyanın ve gönderilen-taşıyanın faaliyet sahasını ilgilendiren tesadüfi sebepler nedeniyle boşaltmada

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<sup>189</sup> Tasarıda yüklemede sürastarya süresinde olduğu gibi mevcut düzenden farklılıklar getirilmiştir. Ayrıntı için bkz ykr syf



sürastarya süresinde kesinti meydana gelmiş ise yükleme süresinde olduğu gibi engeller ortadan kalktığında süreler durduğu yerden işlemeye başlar.

## **SONUÇ:**

Yükleme ve boşaltma safhasındaki bekleme süresinin, deniz taşımacılığında kullanılan navlun sözleşmeleri ve onun bir çeşidi olan ve günümüzde daha çok kullanılan charter sözleşmelerinde özel düzenlemeler yapılarak önemi vurgulanmaktadır. Bunun yanında uygulamada deniz taşımacılığı yapan özel ve tüzel kişilerin çoğunlukla dünyaca kabul edilen kuruluşlarca hazırlanan standart tipte sözleşmelerin bazen tamamının bazen de belli hükümlerini aralarında akdettikleri sözleşmelerde kullandıkları gözden kaçmamaktadır. Bu şekilde standart sözleşmelerin ve standart klozların kullanılması tarafları farklı hukuk sistemlerinden gelen sözleşmelerden kaynaklanan uyuşmazlıkların mahkeme veya tahkim yoluyla çözümünü kolaylaştırmaktadır.

Sözleşmede taraflarca yükleme ve boşaltma süresi sabit olarak belirlenirse yükleme ve boşaltma süresi bakımından daha az uyuşmazlık çıkacaktır. Çünkü yükleme veya boşaltma süresi herhangi bir nedenden kesintiye uğrar ise bu halde kesin bir süre kararlaştırıldığı ve tarafların sözleşme yapım aşamasında yükleme ve boşaltma limanı şartlarını bildikleri bu süreyi de o şekilde tespit ettikleri kabul edildiği için gün başına karşılaştıkları zarar ve yükleme veya boşaltma süresi için bir ücret kararlaştırılmış ise ödenecek olan ücret belirli hale gelir.

Yükleme ve boşaltma süresi incelenirken dikkatle üzerinde durulacak bir diğer konu da geminin yükleme veya boşaltma limanına yanaşıp yanaşamamasıdır. Bu durum bekleme süresinin başlangıç anını etkilemektedir. Yukarıda yapılan incelemelerden sonra bu durumda geminin yükleme veya boşaltma süresinin başlangıcının tespit edildiği hazırlık ihbarının gemi limana yanaşmadan da verebilmesi günümüz şartları bakımında da uygun olacaktır. Çünkü günümüzde teknolojinin ilerlemesiyle beraber yolculuk safhasında geminin ne kadar süre sonra limana varacağı hava tahminleri de dikkate alınarak tespit edilebilmektedir. Ayrıca haberleşme şartlarının da gelişmesi ile de yolculuğun herhangi bir aşamasında yükleme veya boşaltma limanı ile her türlü bilgi alışverişi sağlanabilmektedir. Bu durum yükleme veya boşaltma limanının gemi limana yanaşmadan önce hazırlanması için de kolaylık sağlamaktadır. Yükleme limanında taşıtan, boşaltma limanında gönderilen yüklemeye veya boşaltma limanına gemi gelmeden yolculuk aşamasında gemiyle irtibat kurarak limanda her türlü hazırlığı yapmalıdır.

Günümüzde ayrıca faaliyet sahaları prensibinden de yapılan düzenlemelerle uzaklaştığı görülmektedir. Böylelikle yükleme ve boşaltmada bekleme sürelerinin çeşitli nedenlerle kesintiye uğraması halinde bu engelin hangi tarafın faaliyet sahasında olduğuna tarafların aralarında düzenledikleri sözleşmede belirledikleri şekilde karar verilecektir.

Yukarıda en son olarak incelenen Türk Ticaret Kanunu Tasarısında yükleme ve boşaltmada bekleme süresi mevcut ticaret kanunundan daha ayrıntılı incelenmesine rağmen en son haliyle yürürlüğe girmesi halinde uygulamada birçok problemi de beraberinde getireceği açıktır. Mevcut ticaret kanunundaki hükümler ve uygulamada kullanıla gelmiş birçok düzenlemeyi sil baştan değiştirmektedir. Karışıklığa neden olacak en basit düzenleme kavramlarda görülmektedir. Hazırlık ihbarı yerine hazırlık bildirimini ifadesi kullanılmıştır.

Sonuç olarak; deniz taşımacılığının en önemli safhasını oluşturan yükleme ve boşaltmada bekleme sürelerinde ülkelerin yasama organlarıncı yapılan düzenlemelerde ve taraflarca hazırlanan sözleşmelerde daha fazla önem verilip uygulamada en az anlaşmazlığa neden olacak şekilde düzenlemeler içermesi gerekir.

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[www.hukuki.net/topic.asp?TOPIC\\_ID=8775](http://www.hukuki.net/topic.asp?TOPIC_ID=8775)

## ÖZGEÇMİŞ

**Nihan KUTUR**

### **Kişisel Bilgiler:**

Doğum Tarihi : 20.04.1983  
Doğum Yeri: Bayburt  
Medeni Durumu: Bekar

### **Eğitim:**

İlkokul: 1989- 1993 Bayburt İlköğretim Okulu  
Ortaokul-Lise: 1997- 2000 Bayburt Anadolu Lisesi  
Lisans: 2000- 2005 Başkent Üniversitesi(Burslu)  
Yüksek Lisans: 2006-2010 Yeditepe Üniversitesi

### **Çalıştığı Kurumlar:**

Şubat- Nisan 2008 Topaloğlu-Gündüz Hukuk Bürosu(ANKARA)  
Eylül-Aralık 2007 Macit Koçer- Bahri Sert Avukatlık Bürosu(İSTANBUL)  
2005-2006 Akıncı- Masarifoğlu Hukuk Bürosu(Staj)(ANKARA)

**EK-1**

Issued by the Documentary Committee of  
The Japan Shipping Exchange, Inc., Tokyo  
26/8/1983.

Adopted by the Documentary Council of The Baltic and  
the Documentary Maritime Conference (BIMCO), Copenhagen.

1. Place and date		THE DOCUMENTARY COMMITTEE OF THE JAPAN SHIPPING EXCHANGE, INC. <b>COAL CHARTER PARTY</b> CODE NAME: "NIPPONCOAL"	
2. Owners/Chartered Owners/Disponent Owners		3. Charterers	
4. Vessel's name and type (also state kind of engine, and geared or gearless)		5. Flag	6. Class
7. When built	8. GRT/NRT	9. Length overall	10. Breadth moulded
11. Depth moulded	12. Total d.w. (about)	13. Summer draft	14. Present position
15. Expected date of arr. (load)	16. Laydays date (Cl. 4)	17. Cancelling date (Cl. 4)	
18. Loading port(s)/berth(s) and permissible draft (Cl. 1)		19. Discharging port(s)/berth(s) and permissible draft (Cl. 1)	
		Number of days for final nomination of destination (Cl. 1)	
20. Sailing telgr., advance notices and final notice of 24 hours prior to e.t.a. (load.) (also indicate when and to whom to be given) (Cl. 3)		21. Advance notices prior to e.t.a. (disch.) (also indicate when and to whom to be given) (Cl. 3)	
22. Notice of readiness (load.) (indicate when and to whom to be given), (state whether SHEX or SHINC), (indicate (a) or (b) regarding waiting for berth) (Cl. 5)		23. Notice of readiness (disch.) (indicate when and to whom to be given), (state whether SHEX or SHINC), (indicate (a) or (b) regarding waiting for berth) (Cl. 5)	
24. Number of hours' notice time (load.) (Cl. 5)		25. Number of hours' notice time (disch.) (Cl. 5)	
26. Loading rate per day of 24 run. hours (state whether SHEX unless used -- SHINC) (Cl. 5)		27. Discharging rate per day of 24 run. hours (state whether SHEX unless used -- SHINC) (Cl. 5)	
28. Demurrage rate (load.) (Cl. 7 & 24)	29. Despatch Money (load.) (Cl. 7)	30. Demurrage rate (disch.) (Cl. 7)	31. Despatch Money (disch.) (Cl. 7)
32. Demurrage and/or Despatch Money to be settled at (time and place) & in (currency) (load.) (Cl. 7)		33. Demurrage and/or Despatch Money to be settled at (time and place) & in (currency) (disch.) (Cl. 7)	
34. Agents (load.) (Cl. 11)		35. Agents (disch.) (Cl. 11)	
36. Description and quantity of cargo in bulk; also state margin percentage more or less in Owners' option (Cl. 1)			
37. Freight rate per metric ton or long ton (Cl. 2)		38. Mode of freight payment (Cl. 2)	
39. State the means by which B/L weight to be decided, if other than draft is agreed (Cl. 2)		40. Maximum amount of extra insurance (Cl. 17)	
41. General Average to be adjusted and settled at & in (currency) (Cl. 20)		42. War cancellation (state countries if Cl. 26 (a) applicable)	
43. Brokerage Commission and to whom payable (Cl. 27)		44. Place of Arbitration (optional) (Cl. 28)	
		45. Numbers of additional clauses attached, if any	

PREAMBLE. It is this day mutually agreed between the Owners/Chartered Owners/Disponent Owners indicated in Box 2 above (in any case hereinafter referred to as the Owners) of the Vessel with particulars indicated above, now in a position as indicated in Box 14 and expected ready to load under this charterparty on the expected date of arrival indicated in Box 15 at the (first) loading port and the party mentioned as Charterers in Box 3 that the carriage under this charterparty shall be performed in accordance with the terms and conditions contained in the "Nipponcoal" Charter Party which shall include Page 1 with boxes filled in as above including possible additional clauses attached as indicated in Box 45 and Pages 2 and following with clauses 1 to 28 (including arbitration clause), and that typewritten provisions of Page 1 hereof shall prevail over the printed provisions of Pages 2 and following to the extent of any conflict between them.

For the Owners	For the Charterers
----------------	--------------------



**"Nipponcoal" Charter Party**

- 1. Port of Loading, Cargo, Port of Discharge.** 1  
The said Vessel, being suitable for mechanical loading and grab 2  
discharge, shall with all convenient speed sail and proceed to the 3  
loading port or ports inserted in Box 18, and there load, always 4  
safe and afloat provided that the Vessel's draft does not exceed 5  
the permissible draft as indicated in Box 18, in the customary 6  
manner, as and where ordered by the Agents of the Charterers a 7  
full and complete cargo as described in Box 36. Being so loaded 8  
the Vessel shall therewith proceed with all convenient speed to 9  
the discharging port or ports inserted in Box 19 as ordered on 10  
signing Bills of Lading, but the Charterers shall latest number of 11  
days as indicated in Box 19 before the Vessel's expected arrival 12  
at the port of discharge have liberty to require the Owners to 13  
order the Vessel to another port named herein or within the 14  
range specified herein by telegram or radio, and there discharge 15  
the cargo always safe and afloat provided that the Vessel's draft 16  
does not exceed the permissible draft as indicated in Box 19, as 17  
customary alongside any wharf and/or craft as directed by the 18  
Charterers. 19
- 2. Freight.** 20  
Freight shall be prepaid on Bill of Lading weight as per Boxes 37 21  
and 38. 22  
Unless otherwise stated in Box 39, Bill of Lading weight shall be 23  
decided by means of the Vessel's draft survey by a licensed 24  
marine surveyor at the port or ports of loading appointed by the 25  
Charterers and such fees are free to the Owners. 26  
Freight to be considered as earned and non-returnable upon 27  
completion of loading, the Vessel and/or the cargo lost or not 28  
lost. 29
- 3. Sailing Telegrams.** 30  
On sailing from the last port for the port of loading the Owners 31  
or the Master shall telegraph to the party as indicated in Box 20 32  
stating expected date of arrival and approximate holdwise load- 33  
able quantity of the cargo. 34  
*Notice of expected arrival.* The Master shall also give radio 35  
notices prior to the Vessel's expected time of arrival at the port 36  
or ports of loading as per Box 20. 37  
The Owners or the Master shall telegraph prior to the Vessel's 38  
expected time of arrival at the port or ports of discharge as per 39  
Box 21. 40
- 4. Laydays and Cancelling Date.** 41  
Laydays not to commence before the date as indicated in Box 42  
16. 43  
The Charterers shall have the option of cancelling this charter- 44  
party if the Vessel be not ready to load on or before the 45  
cancelling date as indicated in Box 17. If it appears that the 46  
Vessel will be delayed beyond the cancelling date, the Owners 47  
may ask the Charterers by telegram whether they will exercise 48  
their option of cancelling this charterparty. Such option shall be 49  
declared at least 48 hours before the Vessel's expected time of 50  
arrival at the port of loading. 51
- 5. Loading and Discharge.** 52  
*Notice of readiness, Commencement of laytime.* Laytime for 53  
loading or discharge to commence at the elapse of number of 54  
hours as indicated in Box 24 or 25 after the Vessel is in all 55  
respects ready to load or discharge and notice of readiness to 56  
load or discharge is given as per Box 22 or 23. 57  
(a) If loading or discharging berth be occupied and the Vessel be 58  
compelled to wait for berth on the Vessel's arrival at or off 59  
the port of loading or discharge or so near thereto as she may 60  
be permitted to approach, the Vessel shall be entitled to give 61  
notice of readiness after arrival there provided that free 62  
pratique has been granted. But, if the Vessel be compelled to 63  
wait for berth outside the quarantine area by an order of port 64  
authorities, the Vessel shall be entitled to give notice of 65  
readiness after arrival at the waiting place subject to free 66  
pratique being granted prior to or on arrival at berth. Actual 67  
time occupied in moving from place of waiting to loading or 68  
discharging berth not to count as laytime. 69  
(b) If loading or discharging berth is not available on the Vessel's 70  
arrival at or off the port of loading or discharge or so near 71  
thereto as she may be permitted to approach, the Vessel shall 72  
be entitled to give notice of readiness on arrival there with the 73  
effect that laytime counts as if she were in berth and in all 74  
respects ready for loading or discharging provided that the 75  
Master warrants that she is in fact ready in all respects. 76  
Actual time occupied in moving from place of waiting to 77  
loading or discharging berth not to count as laytime. If after 78  
berthing the Vessel is found not to be ready in all respects to 79  
load or discharge, the actual time lost from the discovery 80  
thereof until she is in fact ready to load or discharge shall not 81  
count as laytime. 82
- Indicate either (a) or (b) in Box 22 and Box 23.*  
*If no indication is made, (a) is to apply.*
- If the loading or discharge be commenced earlier, laytime shall 83  
count from actual commencement. 84  
*Time for loading or discharge.* Cargo to be loaded and 85  
discharged, respectively, at the average rate as stated in Box 26 86  
or 27, weather permitting. Laytime for loading and discharge, 87  
respectively, to be calculated on the basis of Bill of Lading 88  
weight decided as per clause 2 at the port or ports of loading. 89  
Laytime for loading and discharge to be non-reversible. 90
- 6. Time and Expense for Opening and Closing Hatches.** 91  
The operation of first opening and last closing of hatches at each 92  
loading and discharging port or berth always to be done at the 93  
Owners' time, risks and expenses. 94
- 7. Demurrage and Despatch Money.** 95  
Demurrage to be paid to the Owners at the rate as stated in Box 96  
28 as to loading and in Box 30 as to discharging per day of 24 97  
running hours or pro rata for any part thereof for all time used 98  
in excess of laytime at the port or ports of loading and/or 99  
discharge. 100  
Despatch Money to be paid to the Charterers at the rate as stated 101  
in Box 29 as to loading and in Box 31 as to discharging per day 102  
of 24 running hours or pro rata for any part thereof for laytime 103  
saved at the port or ports of loading and/or discharge. 104  
Demurrage and/or Despatch Money at the port or ports of 105  
loading to be settled as per Box 32 and at the port or ports of 106  
discharge as per Box 33. 107
- 8. Free In and Out.** 108  
The Charterers to load, dump, spout-trim to the Master's 109  
satisfaction and discharge the cargo free of risks and expenses to 110  
the Owners. The Charterers to have the liberty of working all 111  
available hatches as determined by the Master. The Vessel, if 112  
required, to supply light for night work on board free of 113  
expenses to the Charterers. 114
- 9. Overtime.** 115  
Overtime for loading and discharging to be for account of the 116  
party ordering the same. If overtime be ordered by Port 117  
Authorities or any Governmental Agencies, the Charterers 118  
to pay extra expenses incurred. Officers' and crew's overtime 119

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charges always to be paid by the Owners.	120		
<b>10. Dues and Charges.</b>	121	<b>17. Extra Insurance.</b>	179
Dues and other charges levied against the cargo shall be paid by the Charterers, and dues and other charges levied against the Vessel shall be paid by the Owners.	122 123 124	Any extra insurance on cargo on account of the Vessel's age and/or flag and/or class shall be for the Owners' account. Unless a maximum amount has been agreed in Box 40, such extra insurance shall not exceed the lowest extra premium which would be charged for the Vessel and voyage in the London insurance market.	180 181 182 183 184 185
<b>11. Agency.</b>	125	<b>18. Sublet.</b>	186
At the port or ports of loading the Vessel to be consigned to the Agents as stated in Box 34 and at the port or ports of discharge to the Agents as stated in Box 35.	126 127 128	The Charterers shall have the option of subletting whole or part of the Vessel, they remaining responsible for due fulfilment of this charterparty.	187 188 189
<b>12. Stevedore Damage.</b>	129	<b>19. Substitution.</b>	190
Any damage (beyond ordinary wear and tear) to any part of the Vessel caused by stevedores at both ends shall be settled directly between the Owners and stevedores, and the Charterers shall cooperate for early settlement of the damage.	130 131 132 133	The Owners shall have liberty to substitute a vessel, provided that such substituted vessel's main particulars and position shall be subject to the Charterers' prior approval, which is not to be unreasonably withheld.	191 192 193 194
<b>13. Deviation.</b>	134	<b>20. General Average.</b>	195
The Vessel shall have liberty to call at any ports en route, to sail with or without pilots, to tow and to be towed, to assist vessels in distress, and to deviate for the purpose of saving life and/or property or for bunkering purposes or to make any reasonable deviation.	135 136 137 138 139	General average to be adjusted and settled according to York-Antwerp Rules, 1974 as per Box 41.	196 197
<b>14. Bills of Lading.</b>	140	<b>21. Strike.</b>	198
The Master shall sign Bills of Lading as presented without prejudice to this charterparty. The Charterers shall indemnify the Owners if the Owners are held liable under the Bills of Lading in respect of any claim for which the Owners are not liable towards the Charterers under this charterparty.	141 142 143 144 145	If there is a strike or lock-out affecting the loading of the cargo, or any part of it, when the Vessel is ready to proceed from her last port or at any time during the voyage to the port or ports of loading or after her arrival there, the Master or the Owners may ask the Charterers to declare, that they agree to reckon the laytime as if there were no strike or lock-out. Unless the Charterers have given such declaration in writing (by telegram, if necessary) within the next business day after receipt of the request, the Owners shall have the option of cancelling this charterparty. If part cargo has already been loaded and the Charterers have not given such declaration, the Owners must proceed with same, (freight payable on loaded quantity only) having liberty to complete with other cargo on the way for their own account in which case separation, if required for avoiding contamination, to be at the Owners' risks and expenses. In any event, however, the Owners are entitled to keep the Vessel waiting at the loading port without time counting.	199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215
<b>15. Responsibilities and Exceptions.</b>	146	If there is a strike or lock-out affecting the discharge of the cargo on or after the Vessel's arrival at or off the port of discharge, the Charterers shall have the option of (a) keeping the Vessel waiting against paying half demurrage without time counting until the moment when such strike or lock-out is at an end (unless the Vessel is already on demurrage in which event full demurrage remains payable), or (b) ordering the Vessel to a safe port where she can safely discharge without risk of being detained by strike or lock-out. On delivery of the cargo at such ports, all conditions of this charterparty shall apply and the Vessel shall receive the same freight as if she had discharged at the original port of destination, except that if the distance of the substituted port exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port to be increased in proportion. Shifting time between ports not to count even if the Vessel is already on demurrage.	216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231
The Hague Rules contained in the International Convention for the Unification of certain rules relating to Bills of Lading, dated Brussels the 25th August 1924 as enacted in the country of shipment shall apply to this charterparty and to any Bill of Lading issued hereunder.	147 148 149 150 151		
When no such enactment is in force in the country of shipment, the corresponding legislation of the country of destination shall apply, but in respect of shipments to which no such enactments are compulsorily applicable, the terms of the said Convention shall apply.	152 153 154 155 156		
In trades where the International Brussels Convention 1924 as amended by the Protocol signed at Brussels on February 23rd, 1968 - The Hague-Visby Rules - apply compulsorily, the provisions of the respective legislation shall apply.	157 158 159 160		
The Owners shall in no case be responsible for loss of or damage to cargo howsoever arising prior to loading into and after discharge from the Vessel or while the goods are in the charge of another owner nor in respect of deck cargo and live animals.	161 162 163 164		
Save to the extent otherwise in this charterparty expressly provided, neither party shall be responsible for any loss or damage or delay or failure in performance hereunder resulting from Act of God, war, civil commotion, quarantine, strikes, lockouts, arrest or restraint of princes, rulers and peoples or any other event whatsoever which cannot be avoided or guarded against.	165 166 167 168 169 170 171		
<b>16. Owners' Lien.</b>	172	<b>22. Both-to-Blame Collision Clause.</b>	232
The Owners shall have a lien on the cargo for freight, dead-freight, demurrage and damages for detention. The Charterers shall remain responsible for dead-freight and demurrage (including damages for detention), incurred at port of loading and shall also remain responsible for freight and demurrage (including damages for detention) incurred at port of discharge.	173 174 175 176 177 178	If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the Master, Mariner, Pilot or the servants of the Owners in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Owners against all	233 234 235 236 237

**"Nipponcoal" Charter Party**

loss or liability to the other or non-carrying ship or her owners in 238  
 so far as such loss or liability represents loss of, or damage 239  
 to, or any claim whatsoever of the owners of said cargo, 240  
 paid or payable by the other or non-carrying ship or her 241  
 owners to the owners of said cargo and set-off, recouped or 242  
 recovered by the other or non-carrying ship or her owners as part 243  
 of their claim against the carrying Vessel or the Owners. The 244  
 foregoing provisions shall also apply where the Owners, opera- 245  
 tors or those in charge of any ship or ships or objects other than, 246  
 or in addition to, the colliding ships or objects are at fault in 247  
 respect of a collision or contact. Charterers shall procure that all 248  
 Bills of Lading issued under this charterparty shall contain this 249  
 clause. 250

**23. New Jason Clause.**

251  
 In the event of accident, danger, damage, or disaster before or 252  
 after commencement of the voyage resulting from any cause 253  
 whatsoever, whether due to negligence or not, for which or for 254  
 the consequence of which the Owners are not responsible by 255  
 statute, contract or otherwise, the cargo, shippers, consignees, or 256  
 owners of the cargo shall contribute with the Owners in general 257  
 average to the payment of any sacrifices, losses or expenses of a 258  
 general average nature that may be made or incurred, and shall 259  
 pay salvage and special charges incurred in respect of the cargo. 260  
 If a salving ship is owned or operated by the Owners, salvage 261  
 shall be paid for as fully as if the salving ship or ships belonged to 262  
 strangers. Such deposit as the Owners or their agents may deem 263  
 sufficient to cover the estimated contribution of the cargo and 264  
 any salvage and special charges thereon shall, if required, be 265  
 made by the cargo, shippers, consignees, or owners of the cargo 266  
 to the Owners before delivery. Charterers shall procure that all 267  
 Bills of Lading issued under this charterparty shall contain this 268  
 clause. 269

**24. Ice.**

270  
 In the event of the loading port being inaccessible by reason of 271  
 ice when the Vessel is ready to proceed from her last port or at 272  
 any time during the voyage or on the Vessel's arrival or in case 273  
 frost sets in after the Vessel's arrival, the Master, for fear of the 274  
 Vessel being frozen in, shall proceed to the nearest safe and 275  
 ice-free position and at the same time request the Charterers by 276  
 radio for revised orders. Unless the Charterers have given such 277  
 orders within the next business day after receipt of request, this 278  
 charterparty shall become null and void. Where loading is made 279  
 at any port or ports or place or places in accordance with the 280  
 revised orders, freight shall be increased or decreased in 281  
 proportion and in addition any period by which the time taken 282  
 to reach such port or ports or place or places exceeds the time 283  
 which would have been taken had the Vessel proceeded there 284  
 direct shall be paid for by the Charterers at the rate of 285  
 demurrage as specified in Box 28 per day of 24 running hours or 286  
 pro rata for any part thereof, plus the cost of any additional 287  
 bunkers consumed, all other conditions as per this charterparty. 288  
 If during loading the Master, for fear of the Vessel being frozen 289  
 in, deems it advisable to leave, he has the liberty to leave the 290  
 port with whatever quantity of cargo he has on board, and must 291  
 proceed to the destination with the said cargo on board, (freight 292  
 payable on loaded quantity only), having liberty to complete 293  
 with other cargo on the way for the Owners' account, in which 294  
 case separation, if required for avoiding contamination, to be at 295  
 the Owners' risks and expenses. 296  
 In case of ice preventing the Vessel from reaching or entering the 297  
 port of discharge, the Charterers shall have the option of keeping 298  
 the Vessel waiting until the reopening of navigation paying 299  
 demurrage, or of ordering the Vessel to safe and immediately 300  
 accessible nearby port or ports where she can safely discharge 301

without risk of detention on account of ice. Such orders to be 302  
 sent within 48 hours after receipt of the Master's telegraphic 303  
 information to the Charterers of the impossibility of reaching 304  
 the port or ports of destination. On delivery of the cargo at such 305  
 port or ports, all conditions of this charterparty shall apply 306  
 and the Vessel shall receive the same freight as if she had 307  
 discharged at the original port or ports of destination, except 308  
 that if the additional sailing distance exceeds 100 nautical miles, 309  
 the freight on the cargo delivered at the substituted port or ports 310  
 to be increased in proportion. 311

**25. War Risks.**

312  
 1. The Master shall not be required or bound to sign Bills of 313  
 Lading for any blockaded port or for any port which the Master 314  
 or the Owners in his or their discretion consider dangerous or im- 315  
 possible to enter or reach. 316  
 2. (a) If any port of loading or of discharge named in this 317  
 charterparty or to which the Vessel may properly be ordered 318  
 pursuant to the terms of the Bills of Lading be blockaded, or 319  
 (b) if owing to any war, hostilities, warlike operations, civil war, 320  
 civil commotions, revolutions, or the operation of international 321  
 law **i**) entry to any such port of loading or of discharge or the 322  
 loading or discharge of cargo at any such port be considered by 323  
 the Master or the Owners in his or their discretion dangerous or 324  
 prohibited or **ii**) it be considered by the Master or the Owners in 325  
 his or their discretion dangerous or impossible for the Vessel to 326  
 reach any such port of loading or of discharge — the Charterers 327  
 shall have the right to order the Vessel or the cargo or such part 328  
 of it as may be affected to be loaded or discharged at any other 329  
 safe port of loading or of discharge within the range of loading 330  
 or discharging ports respectively established under the provision 331  
 of this charterparty (provided such other port is not blockaded 332  
 or that entry thereto or loading or discharge of cargo thereat is 333  
 not in the Master's or the Owners' discretion dangerous or 334  
 prohibited). If there is no range of loading ports agreed this 335  
 charterparty to be considered cancelled for the voyage in 336  
 question. 337  
 If part cargo has already been loaded and no range of loading 338  
 ports being agreed, the Owners must proceed with same, (freight 339  
 payable on loaded quantity only) having liberty to complete 340  
 with other cargo on the way for their own account in which case 341  
 separation, if required for avoiding contamination, to be at the 342  
 Owners' risks and expenses. 343  
 If in respect of a port of discharge no orders be received from 344  
 the Charterers within 48 hours after they or their Agents have 345  
 received from the Owners a request for the nomination of a 346  
 substitute port, the Owners shall then be at liberty to discharge 347  
 the cargo at any safe port which they or the Master may in their 348  
 or his discretion decide on (whether within the range of 349  
 discharging ports established under the provisions of this 350  
 charterparty or not) and such discharge shall be deemed to be 351  
 due fulfilment of this charterparty so far as cargo so discharged 352  
 is concerned. 353  
 In the event of the cargo being loaded or discharged at any such 354  
 other port within the respective range of loading or discharging 355  
 ports established under the provisions of this charterparty, this 356  
 charterparty shall be read in respect of freight and all other con- 357  
 ditions whatsoever as if the voyage performed were that original- 358  
 ly designated. 359  
 In the event, however, that the Vessel discharges the cargo at a 360  
 port outside the range of discharging ports established under the 361  
 provisions of this charterparty, freight shall be paid as for the 362  
 voyage originally designated and all extra expenses involved in 363  
 reaching the actual port of discharge and/or discharging the 364  
 cargo thereat shall be paid by the Charterers or cargo owners. In 365

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this latter event the Owners shall have a lien on the cargo for all such extra expenses.

3. The Vessel shall have liberty to comply with any directions or recommendations as to departure, arrival, routes, ports of call, stoppages, destinations, zones, waters, delivery or in any other-wise whatsoever given by the government of the nation under whose flag the Vessel sails or any other government or local authority including any de facto government or local authority or by any person or body acting or purporting to act as or with the authority of any such government or authority or by any committee or person having under the terms of the war risks insurance on the Vessel the right to give any such directions or recommendations. If by reason of or in compliance with any such directions or recommendations, anything is done or is not done such shall not be deemed a deviation.

If by reason of or in compliance with any such direction or recommendation the Vessel does not proceed to the port or ports of discharge originally designated or to which she may have been ordered pursuant to the terms of the Bills of Lading, the Vessel may proceed to any safe port of discharge which the Master or the Owners in his or their discretion may decide on and there discharge the cargo. Such discharge shall be deemed to be due fulfilment of this charterparty and the Owners shall be entitled to freight as if discharge has been effected at the port or ports originally designated or to which the Vessel may have been ordered pursuant to the terms of the Bills of Lading. All extra expenses involved in reaching and discharging the cargo at any such other port of discharge shall be paid by the Charterers and/ or cargo owners and the Owners shall have a lien on the cargo for freight and all such expenses.

- 26. War Clause.**  
*(Section (a) and (b) are optional but section (b) to apply if section (a) not specifically agreed in Box 42.)*  
**(a)** In the event of war involving two or more of the countries as indicated in Box 42, either party to have the right to cancel this charterparty.  
**(b)** If a world war breaks out or a situation arises that is similar to a world war, either party shall have the right to cancel this charterparty.

- 27. Brokerage.**  
 A commission of the number of percentage as stated in Box on the earned amount of freight, dead-freight and demurrage is payable by the Owners as per Box 43.

- 28. Arbitration.**  
 Unless otherwise indicated in Box 44, any dispute arising from this charterparty shall be submitted to arbitration held in Tokyo by the Japan Shipping Exchange, Inc., in accordance with the provisions of the Maritime Arbitration Rules of the Japan Shipping Exchange, Inc., and the award given by the arbitrators shall be final and binding on both parties.  
 If any place other than Tokyo is indicated in Box 44, any dispute arising from this charterparty shall be referred to Arbitration at the place or before the arbitration tribunal indicated in Box 44, subject to the law and procedures applicable there.

Code Name: **Norghain 89**

RECOMMENDED BY:  
THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO)  
THE FEDERATION OF NATIONAL ASSOCIATIONS OF SHIP BROKERS AND  
AGENTS (FONASBA)

AMENDED MAY 1989

## NORTH AMERICAN GRAIN CHARTERPARTY 1973

ISSUED BY THE ASSOCIATION OF SHIP BROKERS AND AGENTS (U.S.A.) INC.

Owners	IT IS THIS DAY MUTUALLY AGREED, between	19	1
Owners/Disponent Owners/Time-chartered Owners/Chartered Owners of the	(SS/M.V.) (Self/Non Self Trimming Bulk Carrier/Tween Decker/Tanker)	Call Sign	2
	<i>(Line 2: Delete as appropriate)</i>		
Description of Vessel	Built at of tons of 2,240 lbs. deadweight all told, or thereabouts, and with a grain cubic capacity available for cargo of cubic feet (including self-bleeding wing spaces) cubic feet in		3 4 5 6
Classification	Classed in now		7 8 9 10
	<i>(Lines 7-10: Insert vessel's Itinerary.)</i>		
Charterers	and of Charterers.		11
Loading Port(s)	1. That the said vessel, being tight, staunch strong and in every way fit for the voyage, shall with all convenient speed proceed to at safe loading berth(s) in Charterers' option.	and there load	12 13 14
Description of Cargo	always a float, a full and complete*/part* cargo in bulk of at Charterers' option tons of 2,240 lbs.*1,000 kilos.* % more or less, quantity at Owners' option.		15 16 17 18
Notice and Loading Port	2. Owners are to give Charterers (or their Agents) (telegraphic address " " telex number: 15 and 7 days notice of vessel's expected readiness to load date, and approximate quantity of cargo required with the 15 days' notice, such quantity to be based on a cargo of Heavy Grain, unless the * Delete as appropriate.		19 20

<b>Orders</b>	21
cargo composition has been declared or indicated.	
The Charterers are to be kept continuously advised by telegram/telex of any alteration in vessel's readiness to load date.	22
Master to apply to (telegraphic address " ")	23
for first or sole loading port orders 144 hours before vessel's expected readiness to load date but not sooner than 144 hours before the laydays in Clause 4 and Charterers or their Agents are to give	24
orders for first or sole loading port within 72 hours of receipt of Master's application, unless given earlier.	25
Orders for second port of loading, if used, to be given to the Master not later than	26
	27
Master is to give Charterers (or their Agents) 72 and 12 hours notice of vessel's estimated time of arrival at first or sole loading port together with vessel's estimated readiness to load date.	28
<b>Vessel</b>	29
<b>Inspection</b>	30
3. Vessel is to load under inspection of National Cargo Bureau, Inc in U.S.A. ports or of the Port Warden in Canadian ports. Vessel is also to load under inspection of a Grain Inspector licensed/authorised	31
by the United States Department of Agriculture pursuant to the U.S. Grain Standards Act and/or of a Grain Inspector employed by the Canada Department of Agriculture as required by the appropriate	32
authorities.	33
If vessel loads at other than U.S. or Canadian ports, she is to load under inspection of such national and/or regulatory bodies as may be required.	34
Vessel is to comply with the rules of such authorities, and shall load cargo not exceeding what she can reasonably stow and carry over and above her Cabin, Tackle, Apparel, Provisions, Fuel, Furniture	35
and Water. Cost of such inspections shall be borne by Owners.	36
<b>Laydays/</b>	37
<b>Cancelling</b>	38
4. Laytime for loading, if required by Charterers, not to commence before 0800 on the day of 19	39
Should the vessel's notice of readiness not be tendered and accepted as per Clause 18 before 1200 on the day of 19	40
the Charterers have the option of cancelling this Charterparty any time thereafter, but not later than one hour after the tender of notice of readiness as per Clause 18.	41
<b>Destination</b>	42
5. On being so loaded, the vessel shall proceed to	43
as ordered by Charterers/Receivers*, and deliver the cargo, according to Bills of Lading at	44
safe discharging berths in Charterers' option, vessel being always afloat, on being*/having been* paid freight as per Clauses 8 and 9.	
Master to apply by radio to (telegraphic address " ")	
for first or sole discharging port orders 96 hours before vessel is due off/at* and they are to give first or sole discharging port orders by radio within 48 hours of	
receipt of Master's application unless given earlier. If Master's application is received on a Saturday, the time allowed shall be 52 hours instead of 48 hours.	

\* Delete as appropriate.

Orders for second and/or third port(s) of discharge are to be given to the Master not later than vessel's arrival at first or subsequent port. 45

Master to radio Charterers/Receivers (or their Agents) 72 and 24 hours notice of vessel's estimated time of arrival at first or sole discharging port. Charterers/Receivers (or their Agents) are to be kept 46  
continuously advised by radio/telegram/telex of any alterations in such estimated time of arrival. 47

6. The Master is to sign Bills of Lading as presented on the North American Grain Bill of Lading form without prejudice to the terms, conditions and exceptions of this Charterparty. If the Master elects 48  
to delegate the signing of Bills of Lading to his Agents he shall give them authority to do so in writing, copy of which is to be furnished to Charterers if so required. 49

**Rotation of** 50  
**Ports**

7. Rotation of loading ports is to be in Owners\*/Charterers\* option.

Rotation of discharging ports is to be in Owners\*/Charterers\* option, but if more than two (2) ports of discharge are used rotation is to be geographic to 51

**Freight** 52

8. Freight to be paid as follows: 53

per ton of 2,240 lbs./1,000 Kilos\* 54

Charterers have the option of ordering the vessel to load at 55

in which case the rate of freight to be 56

per ton of 2,240 lbs./1,000 Kilos.\* 57

Charterers/Receivers have the option of ordering the vessel to discharge at 58

in which case the rate of freight to be 59

per ton of 2,240 lbs./1,000 Kilos\* 60

Charterers/Receivers have the option of ordering the vessel to discharge at 61

in which case the rate of freight to be 62

per ton of 2,240 lbs./1,000 Kilos\* 63

Charterers/Receivers have the option of ordering the vessel to discharge at 64

in which case the rate of freight to be 65

per ton of 2,240 lbs./1,000 Kilos\* 66

Charterers/Receivers have the option of ordering the vessel to discharge at 67

in which case the rate of freight to be 68

per ton of 2,240 lbs./1,000 Kilos\* 69

\* Delete as appropriate.

	If more than one port of loading and/or discharging is used, the rate of freight shall be increased by	70
	per ton of 2,240 lbs./1,000 Kilos* for each additional loading and/or discharging port on the entire cargo.	71
		72
<b>Freight Payment</b>	9. (a) Freight shall be fully prepaid on surrender of signed Bills of Lading in _____ in _____ currency to	73
		74
		75
	on Bill of Lading weight, discountless, not returnable, vessel and/or cargo lost or not lost. Freight shall be deemed earned as cargo is loaded on board.	76
	Once the Bills of Lading have been signed, and Charterers call for surrender of Original Bills of Lading against freight payment above, it will be incumbent upon Owners or their Agents to comply	77
	immediately with such call for surrender during office hours, Mondays to Fridays inclusive.	78
<b>(Other)</b>	(b)	79
		80
		81
<b>Cost of Loading and Discharging</b>	10. (a)* Cargo is to be loaded and spout trimmed (to Master's satisfaction in respect of seaworthiness) free of expense to the vessel.	82
	Cargo is to be discharged free of expense to the vessel (to Master's satisfaction in respect of seaworthiness).	83
	(b)* Cargo is to be loaded and trimmed at Owners' expense.	84
	Cargo is to be discharged free of expense to the vessel (to Master's satisfaction in respect of seaworthiness).	85
<b>Stevedores at Loading Port(s) and Discharging Port(s)</b>	11. Stevedores at loading Port(s) are to be appointed by Charterers*/Owners* and paid by Charterers*/Owners*	86
	If stevedores are appointed by Owners, they are to be approved by Charterers at loading port(s), and such approval is not to be unreasonably withheld.	87
	Stevedores at discharging port(s) are to be appointed and paid for by Charterers/Receivers*.	88
<b>Bulk Carrier and Wing Spaces</b>	In all cases, stevedores shall be deemed to be the servants of the Owners and shall work under the supervision of the Master.	89
	12. (a) The vessel is warranted to be a self-trimming bulk carrier.*/non-self-trimming bulk carrier.*	90

\* Delete as appropriate.



	(b) Cargo may be loaded into wing spaces if the cargo can bleed into centerholds. Wing spaces are to be spout trimmed; any further trimming in wing spaces and any additional expenses in discharging are to be for Owners' account, and additional time so used is not to count as laytime or time on demurrage.	91 92
<b>Overtime</b>		
13.	(a) <b>Expenses</b> (i) All overtime expenses at loading and discharging ports shall be for account of the party ordering same. (ii) If overtime is ordered by port authorities or the party controlling the loading and/or discharging terminal or facility all overtime expenses are to be equally shared between the Owners and Charterers*/Receivers* (iii) Overtime expenses for vessel's officers and crew shall always be for Owner's account.	93 94 95 96 97
	(b) <b>Time Counting</b>	98
	If overtime ordered by Owners be worked during periods excepted from laytime the actual time used shall count; if ordered by Charterers/Receivers, the actual time used shall not count; if ordered by port authorities or the party controlling the loading and/or discharging terminal or facility half the actual time used shall count.	99 100
<b>Separations</b>	14. Cost of cargo separations, including labor used for laying same, to be for Charterers' account unless required by Owners, in which case all resultant expenses shall be borne by the Owners. Separations ordered by Charterers shall be made to Master's satisfaction (but not exceeding the requirements of the competent authorities).	101 102
<b>Securing</b>	15. (a) <b>For Owners' account</b> Any securing required by Master, National Cargo Bureau or Port Warden for safe trim/stowage to be supplied by and paid for by Owners, and time so used not to count as laytime or time on demurrage. Bleeding of bags, if any, at discharge port(s) to be at Owners' expense, and time actually lost is not to count.  (b) <b>For Charterers' account</b> Any securing required by Master, National Cargo Bureau or Port Warden for safe trim/stowage to be supplied by and paid for by Charterers, and time so used to count as laytime or time on demurrage. Bleeding of bags, if any, at discharge port(s) to be at Charterers/Receivers' expense. <i>(Delete para (a) or (b) as appropriate)</i>	103 104 105 106 107 108
<b>Fumigation</b>	16. If after loading has commenced, and at any time thereafter until completion of discharge, the cargo is required to be fumigated in vessel's holds, the Owners are to permit same to take place at Charterers' risk and expense, including necessary expenses for accommodating and victualing vessel's personnel ashore.  The Charterers warrant that the fumigants used will not expose the vessel's personnel to any health hazards whatsoever, and will comply with current IMO regulations.  Time lost to the vessel is to count at the demurrage rate.	109 110 111 112

\* Delete as appropriate.

<b>Opening/ Closing Hatches</b>	17. At each loading and discharging port, cost of first opening and last closing of hatches and removal and replacing of beams, if any, shall be for Owners' account. Cost of all other opening and closing of hatches, removal and replacing of beams shall be for Charterers/Receivers' account.	113 114
	18. (a) Notice of Readiness Notification of vessel's readiness to load and discharge at the first or sole loading and discharging port shall be delivered in writing at the office of Charterers/Receivers between 0900 and 1700 on all days except Sundays and holidays, and between 0900 and 1200 on Saturdays. Such notice of readiness shall be delivered when the vessel is in the loading or discharging berth if vacant, failing which from a lay berth or anchorage within limits of the port, or otherwise as provided in Clause 18 (b) hereunder.	115 116 117 118
<b>Time Counting</b>	(b) Waiting for Berth Outside Port Limits If the vessel is prevented from entering the limits of the loading/discharging port(s) because the first or sole loading/discharging berth or a lay berth or anchorage is not available within the port limits or on the order of the Charterers/Receivers or any competent official body or authority, and the Master warrants that the vessel is physically ready in all respects to load or discharge, the Master may tender vessel's notice of readiness, by radio if desired, from the usual anchorage outside the limits of the port, whether in free pratique or not. If after entering the limits of the loading port, vessel fails to pass inspections as per Clause 18 (e) any time so lost shall not count as laytime or time on demurrage from the time vessel fails inspections until she is passed, but if this delay in obtaining said passes exceeds 24 running hours she shall count as laytime.	119 120 121 122 123 124
	(c) Commencement of Laytime Following receipt of notice of readiness laytime will commence at 0800 on the next day not excepted from laytime. Time (not excepted from laytime) actually used before commencement of laytime shall count.	125 126 127
	(d) Subsequent Ports At second or subsequent port(s) of loading and/or discharging, laytime or time on demurrage shall resume counting from vessel's arrival within the limits of the port or as provided in Clause 18 (b) if applicable.	128 129 130
	(e) Inspection Unless the conditions of Clause 18 (b) apply, at first or sole loading port Master's notice of readiness shall be accompanied by pass of the National Cargo Bureau/Port Warden and Grain Inspector's certificate of vessel's readiness in all compartments to be loaded, for the entire cargo covered by the Charterparty as per Clause 3. In the event that vessel loads in subsequent port(s) and is required to re-pass inspections in these ports, any time lost thereat in securing the required certificates shall not count as laytime or time on demurrage.	131 132 133 134
<b>Laytime</b>	(a) Vessel is to be loaded and discharged within working days of twenty-four (24) consecutive hours each (weather permitting). Sundays and Holidays excepted.	135 136
	(b) Vessel is to be loaded within working days of twenty-four (24) consecutive hours each (weather permitting). Sundays and Holidays excepted.	137 138
	(c) Vessel is to be discharged at the average rate of _____ tons of 2,240 lbs.*/1,000 kilos.* per working day of twenty-four (24) consecutive hours	139

\* Delete as appropriate.

(weather permitting). Sundays and Holidays excepted on the basis of the Bill of Lading weight. 140  
*(Delete para (a), (b) or (c) as appropriate)*

(d) Notwithstanding any custom of the port to the contrary, Saturdays shall not count as laytime at loading and discharging port or ports where stevedoring labor and/or grain handling facilities are unavailable on Saturdays or available only at overtime and/or premium rates. 141  
142

In ports where only part of Saturdays is affected by such conditions, as described above, laytime shall count until the expiration of the last straight time period. 143

Where six or more hours of work are performed at normal rates, Saturday shall count as a full lay day. 144

(e) In the event that the vessel is waiting for loading or discharging berth, no laytime is to be deducted during such period for reasons of weather unless the vessel occupying the loading or discharging berth in question is actually prevented from working grain due to weather conditions in which case time so lost is not to count. 145  
146

**Demurrage/** 20. Demurrage at loading and/or discharging ports is to be paid at the rate of \_\_\_\_\_ per day or pro rata for part of a 147  
**Despatch** day and shall be paid by Charterers in respect of loading port(s) and by Charterers/Receivers\* in respect of discharging port(s). Despatch money to be paid by Owners at half the demurrage rate for all 148  
**Money** laytime saved at loading and/or discharging ports. 149

Any time lost for which Charterers/Receivers are responsible, which is not excepted under this Charterparty, shall count as laytime, until same has expired, hence time on demurrage. 150

**Shifting** 21. (a) **Shifting expenses and time** 151  
(i) Cost of shifting between loading berths and cost of shifting between discharging berths, including bunker fuel used, to be for Owners\* /Charterers/Receivers\* account, time counting. 152  
153  
(ii) If vessel is required to shift from one loading or discharging berth to a lay berth or anchorage due to subsequent loading or discharging berth(s) not being available, all such shifting expenses, as defined above shall be for Owners\*/Charterers/Receivers\* account, time counting. 154  
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(iii) If the vessel shifts from the anchorage or waiting place outside the port limits either directly to the first loading or discharging berth or to a lay berth or anchorage within the port limits the cost of that shifting shall be for Owners' account and time so used shall not count even if vessel is on demurrage. 156  
157

(iv) Cost of shifting from lay berth or anchorage within the port limits to first loading or first discharging berth to be for Owners' account, time counting. 158

(b) **Shifting in and out of the same berth** 159  
If vessel is required by Charterers/Receivers\* to shift out of the loading berth or the discharging berth and back to the same berth, one berth shall be deemed to have been used, but shifting expenses from and back to the loading or discharging berth so incurred shall be for Charterers'/Receivers\*' account and laytime or time on demurrage shall count. 160  
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(c) Overtime expenses for vessel's officers and crew shall always be for Owners' account. 162

\* Delete as appropriate.

<b>Gear and lights</b>	22. If required, the Master is to give free use of vessel's cargo gear, including runners, ropes and slings as on board, and power to operate the same.	163
	Vessel's personnel is to operate the gear if permitted to do so by shore regulations, failing which shore operators are to be used.	164
	Such shore operators are to be for Owners' account at loading port(s) if the provisions of Clause 10 (b) apply, otherwise for Charterers*/Receivers* account at discharging port(s).	165 166
	Time lost on account of breakdowns of vessel's gear essential to the loading or discharging of this cargo is not to count as laytime or time on demurrage, and if Clause 10 (a) applies any stowed or standby time charges incurred thereby shall be for Owners' account.	167 168
	If required, Master shall give free use of the vessel's lighting as on board for night work.	169
<b>Seaworthy Trim</b>	23. If ordered to be loaded or discharged at two or more ports, the vessel is to be left in seaworthy trim to Master's satisfaction (not exceeding the requirements of the Safety of Life at Sea Convention as applied in the country in which such ports are situated) for the passage between ports at Charterers' expense at loading and at Charterers'/Receivers' expense at discharging ports, and time used for placing vessel in seaworthy trim shall count as laytime or time on demurrage.	170 171 172
<b>Draft/Lightage</b>	24. Owners warrant the vessel's deepest salt water draft shall not exceed _____ feet _____ inches on completion of loading and _____ feet _____ inches on arrival at first or sole discharging port.	173 174
	Should the vessel be ordered to discharge at a place in which there is not sufficient water for her to get the first tide after arrival without lightening, and lie always afloat, laytime is to count as per Clause 18 at a safe anchorage for similar vessels bound for such a place and any lightage expenses incurred to enable her to reach the place of discharge is to be at the expense and risk of the cargo, any custom of the port or place to the contrary notwithstanding, but time occupied in proceeding from the anchorage to the discharging berth is not to count as laytime or time on demurrage.	175 176 177
	Unless loading and/or discharging ports are named in this Charterparty, the responsibility for providing safe port of loading and/or discharging lies with the Charterers/Receivers* provided Owners have complied with the maximum draft limitations in lines 173/174.	178 179
<b>Car Decks, etc.</b>	25. It is understood that if this vessel is fitted with car decks, container fittings and/or any other special fittings not connected with the carriage of grain in bulk, any extra expenses incurred in loading and/or discharging as a result of the presence of such car decks, container fittings and/or special fittings are to be for Owners' account. Time so lost shall not count as laytime or time on demurrage.	180 181
<b>Dues and/or Taxes</b>	26.	182 183 184
<b>Seaway Tolls</b>	27. All St. Lawrence Seaway and/or Welland Canal tolls on vessel and/or cargo assessed by Canadian and United States Authorities are to be paid and borne by Owners.	185

\* Delete as appropriate.

**WaterPollution** 28. Any time lost on account of vessel's non-compliance with Government and/or State and/or Provincial regulations pertaining to water pollution shall not count as laytime or time on demurrage. 186

**Agents** 29. Owners\*/Charterers\* are to appoint agents at loading port(s) and Owners\*/Charterers\* are to appoint agents at discharging port(s). 187

In all instances, agency fees shall be for Owners' account but are not to exceed customary applicable fees. 188

**Strikes, Stoppages, etc.** 30. If the cargo cannot be loaded by reason of Riots, Civil Commotions or of a Strike or Lock-out of any class of workmen essential to the loading of the cargo, or by reason of obstructions or stoppages beyond the control of the Charterers caused by Riots, Civil Commotions or a Strike or Lock-out on the Railways or in the Docks or other loading places, or if the cargo cannot be discharged by reason of Riots, Civil Commotions, or of a Strike or Lock-out of any class of workmen essential to the discharge, the time for loading or discharging, as the case may be, shall not count during the continuance of such causes, provided that a Strike or Lock-out of Shippers' and/or Receivers' men shall not prevent demurrage accruing if by the use of reasonable diligence they could have obtained other suitable labor at rates current before the Strike or Lock-out. In case of any delay by reason of the before mentioned causes, no claim for damages or demurrage shall be made by the Charterers/Receivers of the cargo or Owners of the vessel. For the purpose, however, of settling despatch rebate accounts, any time lost by the vessel through any of the above causes shall be counted as time used in loading, or discharging, as the case may be. 189  
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**Ice** 31. **Loading Port** 196  
(a) If the Vessel cannot reach the loading port by reason of ice when she is ready to proceed from her last port, or at any time during the voyage, or on her arrival, or if frost sets in after her arrival, the Master - for fear of the Vessel being frozen in - is at liberty to leave without cargo; in such cases this Charterparty shall be null and void. 197  
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(b) If during loading, the Master, for fear of Vessel being frozen in, deems it advisable to leave, he has the liberty to do so with what cargo he has on board and to proceed to any other port with option of completing cargo for Owners' own account to any port or ports including the port of discharge. Any part cargo thus loaded under this Charterparty to be forwarded to destination at Vessel's expense against payment of the agreed freight, provided that no extra expenses be thereby caused to the Consignees, freight being paid on quantity delivered (in proportion if lump sum), all other conditions as per Charterparty. 199  
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(c) In case of more than one loading port, and if one or more of the ports are closed by ice, the Master or Owners to be at liberty either to load the part cargo at the open port and fill up elsewhere for the Owners' own account as under sub-clause (b) or to declare the Charterparty null and void unless the Charterers agree to load full cargo at the open port. 203  
204

**Voyage and Discharging Port** 205  
(d) Should ice prevent the Vessel from reaching the port of discharge, the Charterers/Receivers shall have the option of keeping the Vessel waiting until the re-opening of navigation and paying demurrage or of ordering the vessel to a safe and immediately accessible port where she can safely discharge without risk of detention by ice. Such orders to be given within 48 hours after the Owners or Master have given notice to the Charterers/Receivers of impossibility of reaching port of destination. 206  
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(e) If during discharging, the Master, for fear of Vessel being frozen in, deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to the nearest safe and accessible port. Such port to be nominated by Charterers/Receivers as soon as possible, but not later than 24 running hours, Sundays and holidays excluded, of receipt of Owners' request for nomination of a substitute discharging port, failing which the Master will himself choose such port. 209  
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\* Delete as appropriate.

(f) On delivery of the cargo at such port, all conditions of the Bill of Lading shall apply and the Owners shall receive the same freight as if the Vessel had discharged at the original port of destination, except that if the distance to the substitute port exceeds 100 nautical miles the freight on the cargo delivered at that port to be increased in proportion.

**Extra Insurance** 32. Any extra insurance on cargo incurred owing to vessel's age, class, flag or ownership to be for Owners' account up to a maximum of and may be deducted from the freight, in Charterers' option. The Charterers shall furnish evidence of payment supporting such deduction. 214 215

**P. & I. Bunker Clause** 33. The vessel shall have the liberty as part of the contract voyage to proceed to any port or ports at which bunker oil is available for the purpose of bunkering at any stage of the voyage whatsoever and whether such ports are on or off the direct and/or customary route or routes between any of the ports of loading or discharge named in this Charterparty and may there take oil bunkers in any quantity in the discretion of Owners even to the full capacity of bunker tanks and deep tanks and any other compartment in which oil can be carried whether such amount is or is not required for the chartered voyage. 216 217 218 219

**Deviation** 34. Any deviation in saving or attempting to save life or property at sea or any reasonable deviation shall not be deemed to be an infringement or breach of this Charterparty and the Owners shall not be liable for any loss or damage resulting therefrom; provided, however, that if the deviation is for the purpose of loading or unloading cargo or passengers it shall, prima facie, be regarded as unreasonable. 220 221

**Lien and Cesser Clause** 35. The Owners shall have a lien on the cargo for freight, deadfreight, demurrage, and average contribution due to them under this Charterparty. 222

**Exceptions** Charterers' liability under this Charterparty is to cease on cargo being shipped except for payment of freight, deadfreight, and demurrage at loading, and except for all other matters provided for in this Charterparty where the Charterers' responsibility is specified. 223 224

36. Owners shall be bound before and at the beginning of the voyage to exercise due diligence to make the vessel seaworthy and to have her properly manned, equipped and supplied and neither the vessel nor the Master or Owners shall be or shall be held liable for any loss of or damage or delay to the cargo for causes excepted by the U.S. Carriage of Goods by Sea Act, 1936 or the Canadian Carriage of Goods by Water Act, 1970, or any statutory re-enactment thereof. 225 226 227

And neither the vessel, her Master or Owners, nor the Charterers or Receivers shall, unless otherwise in this Charterparty expressly provided, be responsible for loss of or damage or delay to or failure to supply, load, discharge or deliver the cargo arising or resulting from: - Act of God, act of war, act of public enemies, pirates or assailing thieves; arrest or restraint of princes, rulers or people; seizure under legal process, provided bond is promptly furnished to release the vessel or cargo; floods; fires; blockades; riots; insurrections; Civil Commotions; earthquakes; explosions. No exception afforded the Charterers or Receivers under this clause shall relieve the Charterers or Receivers of or diminish their obligations for payment of any sums due to the Owners under provisions of this Charterparty. 228 229 230 231

**U.S.A. Clause Paramount** 37. If the vessel loads in the U.S.A. the U.S.A. Clause Paramount shall be incorporated in all Bills of Lading and shall read as follows: 232

"This Bill of Lading, shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States, approved April 16, 1936, or any statutory re-enactment thereof, which shall be deemed to be incorporated herein, and nothing herein contained shall be deemed a surrender by the carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. If any term of this Bill of Lading be repugnant to said Act to any extent, such terms shall be void to that extent but no further."

\* Delete as appropriate.

<b>Canadian Clause Paramount</b>	236
38. If the vessel loads in Canada the Canadian Clause Paramount shall be incorporated in all Bills of Lading and shall read as follows:	
"This Bill of Lading, so far as it relates to the carriage of goods by water, shall have effect, subject to the provisions of the Carriage of Goods by Water Act, 1970, Revised Statutes of Canada, 237 Chapter C-15, enacted by the Parliament of the Dominion of Canada, or any statutory re-enactment thereof, which shall be deemed to be incorporated herein, and nothing herein contained shall be deemed a surrender by the carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under the said Act. If any term of this Bill of Lading be repugnant to said Act to any extent, such term shall be void to that extent, but no further."	238 239 240
<b>Both-to-Blame Collision Clause</b>	241
39. If the liability for any collision in which the vessel is involved while performing this Charterparty falls to be determined in accordance with the laws of the United States of America, the following clause shall apply:	241 242
"If the vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the master, mariner, pilot or the servants of the Carrier in the navigation or in the management of the vessel, the owners of the goods carried hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying vessel or her owners in so far as such loss or liability represents loss of or damage to or any claim whatsoever of the owners of the said goods, paid or payable by the other or non-carrying vessel or her owners to the owners of the said goods and set off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying vessel or Carrier."	243 244 245 246
The foregoing provisions shall also apply where the Owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect to a collision or contact."	247 248
The Charterers shall procure that all Bills of Lading issued under this Charterparty shall contain the same clause.	249
<b>General Average/New Jason</b>	250
40. General Average shall be adjusted according to the York/Antwerp Rules 1974 and shall be settled in	
Where the adjustment is made in accordance with the law and practice of the United States of America, the following clause shall apply:	251
"In the event of accident, danger, damage or disaster before or after commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for the consequences of which, the Carrier is not responsible, by Statute, contract or otherwise, the goods, shippers, consignees or owners of the goods shall contribute with the Carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods."	252 253 254
If a salving vessel is owned or operated by the Carrier, salvage shall be paid for as fully as if the said salving vessel or vessels belonged to strangers. Such deposit as the Carrier or his agents may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to the Carrier before delivery."	255 256 257
The Charterers shall procure that all Bills of Lading issued under this Charterparty shall contain the same clause.	258
<b>War risks</b>	
41. 1. The Master shall not be required or bound to sign Bills of Lading for any blockaded port or for any port which the Master or Owners in his or their discretion consider dangerous or impossible	259

\* Delete as appropriate.

to enter or reach.

260

2. (A) If any port of loading or of discharge named in this Charterparty or to which the vessel may properly be ordered pursuant to the terms of the Bills of Lading be blockaded, or 261  
(B) if owing to any war, hostilities, warlike operations, civil war, civil commotions, revolutions, or the operation of international law (a) entry to any such port of loading or of discharge 262  
or the loading or discharge of cargo at any such port be considered by the Master or Owners in his or their discretion dangerous or (b) it be considered by the Master or Owners in his or their discretion 263  
dangerous or impossible for the vessel to reach any such port of loading or of discharge - the Charterers shall have the right to order the cargo or such part of it as may be affected to be loaded or 264  
discharged at any other safe port of loading or of discharge within the range of loading or discharging ports respectively established under the provisions of the Charterparty (provided such other port 265  
is not blockaded or that entry thereto or loading or discharge of cargo thereat is not in the Master's or Owners' discretion dangerous or prohibited). If in respect of a port of discharge no orders be 266  
received from the Charterers within 48 hours after they or their agents have received from the Owners a request for the nomination of a substitute port, the Owners shall then be at liberty to discharge 267  
the cargo at any safe port which they or the Master may in their or his discretion decide on (whether within the range of discharging ports established under the provisions of the Charterparty or not) 268  
and such discharge shall be deemed to be due fulfilment of the contract or contracts of affreightment so far as cargo so discharged is concerned. In the event of the cargo being loaded or discharged at 269  
any such other port within the respective range of loading or discharging ports established under the provisions of the Charterparty, the Charterparty shall be read in respect of the freight and all other 270  
conditions whatsoever as if the voyage performed were that originally designated. In the event, however, that the vessel discharges the cargo at a port outside the range of discharging ports established 271  
under the provisions of the Charterparty, freight shall be paid as for the voyage originally designated and all extra expenses involved in reaching the actual port of discharge and/or discharging the cargo 272  
thereat shall be paid by the Charterers or Cargo Owners. In this latter event the Owners shall have a lien on the cargo for all such extra expenses. 273

3. The vessel shall have liberty to comply with any directions or recommendations as to departure, arrival, routes, ports of call, stoppages, destinations, zones, waters, delivery or in any other 274  
wise whatsoever given by the government of the nation under whose flag the vessel sails or any other government or local authority including any de facto government or local authority or by any 275  
person or body acting or purporting to act as or with the authority of any such government or authority or by any committee or person having under the terms of the war risks insurance on the vessel 276  
the right to give any such directions or recommendations. If by reason of or in compliance with any such directions or recommendations, anything is done or is not done such shall not be deemed a 277  
deviation. 278

If by reason of or in compliance with any such directions or recommendations the vessel does not proceed to the port or ports of discharge originally designated or to which she may have been ordered 279  
pursuant to the terms of the Bills of Lading, the vessel may proceed to any safe port of discharge which the Master or Owners in his or their discretion may decide on and there discharge the cargo. Such 280  
discharge shall be deemed to be due fulfilment of the contract or contracts of affreightment and the Owners shall be entitled to freight as if discharge has been effected at the port or ports originally 281  
designated or to which the vessel may have been ordered pursuant to the terms of the Bills of Lading. All extra expenses involved in reaching and discharging the cargo at any such other port of discharge 282  
shall be paid by the Charterers and/or Cargo Owners and the Owners shall have a lien on the cargo for freight and all such expenses. 283

**Address** 42. An address commission of % on gross freight, deadfreight and demurrage is due to Charterers at time freight and/or demurrage is paid, 284  
**Commission** vessel lost or not lost, Charterers having the right to deduct such commission from payment of freight and/or demurrage. 285

**Brokerage** 43. A brokerage commission of % on gross freight, deadfreight, and demurrage is payable by Owners to 286  
**Commission** at time of receiving freight payment and/or demurrage payments(s), vessel lost or not lost. 287  
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\* Delete as appropriate.



**Assignment** 44. Charterers have the privilege of transferring/assigning/reletting all or part of this Charterparty to others (guaranteeing to the Owners the due fulfilment of this Charterparty). 289

**Arbitration** 45. (a) **New York.** All disputes arising out of this contract shall be arbitrated at New York in the following manner, and be subject to U.S. Law: 290  
One Arbitrator is to be appointed by each of the parties hereto and a third by the two so chosen. Their decision or that of any two of them shall be final, and for the purpose of enforcing any award, this 291  
agreement may be made a rule of the court. The Arbitrators shall be commercial men, conversant with shipping matters. Such Arbitration is to be conducted in accordance with the rules of the Society 292  
of Maritime Arbitrators Inc. 293

For disputes where the total amount claimed by either party does not exceed U.S.\$ \*\* the arbitration shall be conducted in accordance with the 294  
Shortened Arbitration Procedure of the Society of Maritime Arbitrators Inc. 295

(b) **London.** All disputes arising out of this contract shall be arbitrated at London and, unless the parties agree forthwith on a single Arbitrator, be referred to the final arbitrament of two 296  
Arbitrators carrying on business in London who shall be members of the Baltic Mercantile & Shipping Exchange and engaged in the Shipping and/or Grain Trades, one to be appointed by each of the 297  
parties, with power to such Arbitrators to appoint an Umpire. No award shall be questioned or invalidated on the ground that any of the Arbitrators is not qualified as above, unless objection to his 298  
action be taken before the award is made. Any dispute arising hereunder shall be governed by English Law. 299

For disputes where the total amount claimed by either party does not exceed U.S. \$ \*\* the arbitration shall be conducted in accordance with the 300  
Small Claims Procedure of the London Maritime Arbitrators Association. 301

*(Delete para (a) or (b) as appropriate)*

\*\* Where no figure is supplied in the blank space this provision only shall be void but the other provisions of this clause shall have full force and remain in effect.

\* Delete as appropriate.



# HYDROCHARTER

Part I

Voyage Charter Party.

Recommended by The Baltic and International Maritime Council (BIMCO), Copenhagen. Issued 1st January 1923. Last amended July 1997.

Printed by BIMCO's idea

1. Shipbroker.		2. Place and Date.	
3. Owners.		4. Charterers.	
5. Vessel's name/type.		6. Cargo carrying capacity (about in mtons).	
7. Cubic capacity (grain/bale).	8. Owners' P&I Club.	9. Built - Class - Flag - GT - NT.	
10. Present position.		11. ETA Loadport.	
12. Laytime not to commence before.		13. Cancelling date.	
14. Sailing telex/telegram to sent to: when the vessel leaves her last port before loading.			
15. Loading Port(s).		16. Discharging Port(s).	
17. Cargo description - Quantity in mtons.			
18. Freight rate.  per mton.		19. Freight payment (prepaid/payable on right and true delivery.)	
20. Laytime for loading and discharging. Fill in a) and b) or for total laytime loading and discharging c)			
a) Laytime for loading.  non reversible.		21. Demurrage/despatch rate.	
b) Laytime for discharging.  non reversible.			
c) Total laytime for loading and discharging.  reversible.			
22. Brokerage.		% of the amount of freight and deadweight shall be paid by the Owners. In	
23. Agents at loading port(s).		24. Agents at discharging port(s).	
25. Special Provisions:			
It is mutually agreed that this Contract shall be performed subject to the conditions contained in this Charter Party which shall include Part I as well as Part II. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict.			
Signature (Owners).		Signature (Charterers).	

**A. Voyage.**

it is agreed between the party mentioned in Box 3 as Owners of the vessel named in Box 5 and the party mentioned as Charterers in Box 4 that, the vessel, being tight, staunch and strong, and in every way fitted for the voyage, shall with all convenient speed proceed to the port(s) as specified in Box 15 and there load as customary at any available quay, wharf or dock as ordered by Charterers or their Agents, or so near thereto as she may safely get and lie, always afloat, a cargo as described in Box 17, and being so loaded the vessel shall therewith proceed with utmost despatch to the port(s) as specified in Box 16 and there deliver the said cargo at any dock or alongside any quay or wharf as ordered on arrival or so near thereto as she may safely get without lightening and lie, always afloat. Unless otherwise specifically agreed in Box 17, this Charter Party is for a full and complete cargo under deck.

**B. Payment of Freight.**

1. The freight at the rate stated in Box 18 shall be paid in cash calculated on the intaken quantity of cargo.

**2. Prepaid.**

If according to Box 19 freight is to be paid on shipment, it shall be deemed earned and non-returnable, vessel and/or cargo lost or not lost. Neither Owners nor their Agents shall be required to sign or endorse Bills of Lading showing freight prepaid unless the freight due to Owners has actually been paid.

**3. On delivery.**

If according to Box 19 freight, or part thereof, is payable on delivery it shall not be deemed earned until right and true delivery has taken place. Notwithstanding the provisions under 1, if freight or part thereof is payable on delivery of the cargo Charterers shall have the option of paying the freight on delivered weight/quantity provided such option is declared before breaking bulk and the weight/quantity can be ascertained by official weighing machine, joint draft survey or tally.

**C. Notice of Readiness, Commencement of Laytime.**

Notice of Readiness at loading port(s) to be given to the Shippers, or if not named, to Charterers or their Agents. Notice of Readiness at discharging port(s) to be given to the Receivers or, if not known, to Charterers or their Agents.

The laytime for loading and discharging shall commence at 13.00 hours if written Notice of Readiness is given up to and including 10.00 hours and at 07.00 hours next working day if notice is given during office hours after 10.00 hours. If at loading/discharging port(s) the work be commenced earlier, half such time actually used shall count from such commencement.

**D. Laytime.**

- The cargo shall be loaded and discharged within the number of running days/hours as indicated in Box 20, weather permitting.
- Unless otherwise agreed time from Friday 17.00 hours till Monday 07.00 hours and time from 17.00 hours on a day preceding a legal or local holiday till 07.00 hours next working day not to count, unless used, in which event only half time actually used to count, unless vessel is already on demurrage.
- Time lost in waiting for berth to count as laytime. Time that would have been lost under the terms of this Charter Party if berth had been available, shall not count.
- Time used from anchorage/waiting berth to loading/discharging berth not to count, even if vessel is already on demurrage.

**E. Loading/Discharging.**

The cargo shall be loaded and stowed/trimmed and discharged by Charterers at their risk and expense, under Master's supervision.

**F. Cancelling.**

Should the vessel not be ready to load (whether in berth or not) latest by noon on the cancelling date specified in Box 13 Charterers to have the option of cancelling this Contract. Such option to be declared latest once Notice of Readiness has been given. If it appears that the vessel will be delayed beyond such cancelling date Owners shall as soon as they are in a position to state with reasonable certainty the day within which the vessel will be ready as above, give notice thereof to Charterers asking whether they will exercise their option of cancelling. Such option must be declared within 36 running hours (Saturdays, Sundays and holidays excepted) after the receipt of Owners notice. If Charterers do not then exercise their option of cancelling, unless otherwise agreed, the third day after the date stated in Owners' notice shall be regarded as a new cancelling date under this clause. Charterers exercise or non-exercise of their option to cancel shall not prejudice any claims which they may otherwise have against Owners.

**G. Lien.**

Owners shall have a lien on the cargo for freight, deadfreight and demurrage.

**H. Owners' Responsibility.**

The provisions of the international convention on Bills of Lading 1924 as amended by protocols 1968 and 1979 (the "Hague-Visby Rules") shall apply to this Contract, and Owners and Charterers are entitled to the benefit of all privileges and immunities contained therein.

In trades where the responsibility provisions of the Norwegian Maritime Code are compulsorily applicable, they shall apply to the contract. In trades where the responsibility provisions of the law of any other country are compulsorily applicable to this Contract, such provision shall apply.

In all trades cargo carried on deck and cargo in Owners' custody prior to loading and after unloading shall be subject to the same terms as above provided for cargo under deck and for the carriage itself.

**I. Deviation.**

Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation, shall not be deemed to be an infringement of this Charter Party, and Owners shall not be liable for any loss or damage resulting therefrom.

**J. Misrepresentation.**

If any misrepresentation has been made regarding the description of the vessel in this Charter Party and/or her position, Charterers have the right to claim compensation for any loss or damage resulting therefrom. Should there be any change in the vessel's ETA as stated in Box 11, Owners to notify Charterers and Shippers (if known) thereof by telex/telegram as soon as such change becomes known to them. If such notification is not given, Charterers have the right to claim compensation for any loss or damage resulting therefrom.

**K. Strikes.**

1. Neither Charterers nor Owners are responsible for the consequences of any strike or lock-out preventing or delaying the fulfilment of any obligations under this Contract.

2. If there is a strike or lock-out affecting or preventing the actual loading of the cargo, or any part of it, when the vessel is ready to proceed from her last port to the port of loading or at any time during the voyage to the port of loading or after her arrival there, Charterers shall have the option of cancelling this Charter Party. If there is such strike or lock-out when the vessel is ready to proceed from her last port, or if such strike or lock-out occurs at

any time thereafter, Owners may ask Charterers whether they will exercise their option of cancelling or declare that they agree to count the laytime as if there were no strike or lock-out. Unless Charterers have thereafter given notice of cancelling or such declaration in writing (by telex/telegram, if necessary) within 24 hours after the Master or Owners have given notice to Charterers of the strike or lock-out, Owners shall have the option of cancelling this Charter Party. If part of the cargo has already been loaded when the strike or lock-out starts, Owners must proceed with same if requested by Charterers, Owners being at liberty to complete with other cargo on the way for their own account. The completing cargo must be stowed safely and in such a way that it does not endanger the packing or contents of any part of the cargo shipped under this Charter Party.	123 124 125 126 127 128 129 130 131 132 133 134 135 136	Charter Party. Port of discharge.	188 189
3. If there is a strike or lock-out affecting or preventing the actual discharging of the cargo at the time the vessel arrives at port of discharge, or breaking out after the vessel's arrival, Charterers shall have the option of keeping the vessel waiting until such strike or lock-out is at an end against paying half demurrage after expiration of the time provided for discharging until the strike or lock-out terminates, and thereafter full demurrage shall be payable until the completion of discharging, or of ordering the vessel to a safe port where she can safely discharge her cargo without risk of being detained by strike or lock-out. Such orders to be given within 48 hours after Charterers' receipt of Master's or Owners' notice of the strike or lock-out. On delivery of the cargo at such port, all conditions of the Bill of Lading shall apply and the vessel shall receive the same freight as if she had discharged at the original port of destination, except that if the distance to the substituted port exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port to be increased in proportion.	137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153	1. Should ice prevent the vessel from reaching port of discharge, Charterers shall have the option of keeping the vessel waiting until the reopening of navigation and paying demurrage, or of ordering the vessel to a safe and immediately accessible port where she can safely discharge without risk of detention by ice. Such orders to be given within 48 hours after Charterers' receipt of Master's or Owners' notice of the impossibility of reaching port of destination.  2. If during discharging the Master, for fear of the vessel being frozen in, deems it advisable to leave, he has liberty to leave the area being ice-bound after having notified Charterers thereof. Charterers shall have the option of keeping the vessel waiting against paying demurrage (vessel to be anchored in open water) until the port of discharge is again accessible, or of ordering the vessel to an accessible adjacent port where she can safely discharge without risk of detention by ice. Such orders to be given 48 hours after Charterers' receipt of Master's notice of leaving the area being ice-bound.  3. On delivery of the cargo at such port, all conditions of the Bill of Lading shall apply and the vessel shall receive the same freight as if she had discharged at the original port of destination, except that if the distance to the substituted port exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port to be increased in proportion.	190 191 192 193 194 195 196 197  198 199 200 201 202 203 204 205 206 207  208 209 210 211 212 213
<b>L. Ice.</b> Port of loading. 1. In the event of the loading port being inaccessible by reason of ice when the vessel is ready to proceed from her last port or at any time during the voyage or on the vessel's arrival, Charterers shall have the option of cancelling this Charter Party, or of ordering the vessel to an adjacent accessible port where she can safely load the cargo under this Charter Party. In the event of the loading port being inaccessible by reason of ice when the vessel is ready to proceed from her last port, or if such inaccessibility should occur at any time during the voyage or on the vessel's arrival, Owners may ask Charterers whether they will exercise their option of cancelling or of ordering the vessel to a safe, adjacent accessible port, unless Charterers have thereafter given notice of cancellation or ordered such alternative port in writing (by telex/telegram, if necessary) within 24 hours, Owners shall have the option of cancelling this Charter Party. Should this Charter Party not be cancelled by either party, Charterers shall keep the vessel waiting against paying demurrage until the port is again accessible. 2. If during loading the Master, for fear of the vessel being frozen in, deems it advisable to leave, he has liberty to leave the area being ice-bound after having notified Charterers thereof. Charterers shall have the option of keeping the vessel waiting against paying demurrage (vessel to be anchored in open water) until the port of loading is again accessible, or of ordering the vessel to proceed with what cargo she has on board, Owners being at liberty to complete with other cargo on the way for their own account. Such orders to be given within 48 hours after Charterers' receipt of Master's notice of leaving the area being ice-bound. If the vessel is ordered to proceed, any cargo thus loaded under this Charter Party to be forwarded to destination at the vessel's expense, but against payment of freight, provided that no extra expenses be thereby caused to Charterers, freight being paid on quantity delivered (in proportion if lumpsum), all other conditions as per this	154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187	<b>M. War Risks ("Voywar 1993").</b> 1. For the purpose of this Clause, the words: (a) "Owners" shall include the shipowners, bareboat charterers, disponent owners, managers or other operators who are charged with the management of the vessel, and the Master; and (b) "War Risks" shall include any war (whether actual or threatened), act of war, civil war, hostilities, revolution, rebellion, civil commotion, warlike operations, the laying of mines (whether actual or reported), acts of piracy, acts of terrorists, acts of hostility or malicious damage, blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever), by any person, body, terrorist or political group, or the Government of any state whatsoever, which, in the reasonable judgement of the Master and/or Owners, may be dangerous or are likely to be or to become dangerous to the vessel, her cargo, crew or other persons on board the vessel.  2. If at any time before the vessel commences loading, it appears that, in the reasonable judgement of the Master and/or Owners, performance of the Contract of Carriage, or any part of it, may expose, or is likely to expose, the vessel, her cargo, crew or other persons on board the vessel to War Risks, Owners may give notice to Charterers cancelling this Contract of Carriage, or may refuse to perform such part of it as may expose, or may be likely to expose, the vessel, her cargo, crew or other persons on board the vessel to War Risks; provided always that if this Contract of Carriage provides that loading or discharging is to take place within a range of ports and at the port or ports nominated by Charterers the vessel, her cargo, crew, or other persons on board the vessel may be exposed, or may be likely to be exposed, to War Risks, Owners shall first require Charterers to nominate any other safe port which lies within the range for loading or discharging, and may only cancel this Contract of Carriage if Charterers shall not have nominated such safe port or ports within 48 hours of receipt of notice of such requirement.	214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248

3. Owners shall not be required to continue to load cargo for any voyage, or to sign Bills of Lading for any port or place, or to proceed or continue on any voyage, or on any part thereof, or to proceed through any canal or waterway, or to proceed to or remain at any port or place whatsoever, where it appears, either after the loading of the cargo commences, or at any stage of the voyage thereafter before the discharge of the cargo is completed, that, in the reasonable judgement of the Master and/or Owners, the vessel, her cargo (or any part thereof), crew or other persons on board the vessel (or any one or more of them) may be, or are likely to be, exposed to War Risks. If it should so appear, Owners may by notice request Charterers to nominate a safe port for the discharge of the cargo or any part thereof, and if within 48 hours of the receipt of such notice, Charterers shall not have nominated such a port, Owners may discharge the cargo at any safe port of their choice (including the port of loading) in complete fulfilment of the Contract of Carriage. Owners shall be entitled to recover from Charterers the extra expenses of such discharge and, if the discharge takes place at any port other than the loading port, to receive the full freight as though the cargo had been carried to the discharging port and if the extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route, Owners having a lien on the cargo for such expenses and freight.	249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273	(c) to comply with the terms of any resolution of the Security Council of the United Nations, any directives of the European Community, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which Owners are subject, and to obey the orders and directions of those who are charged with their enforcement;	299 300 301 302 303 304 305
		(d) to discharge at any other port any cargo or part thereof which may render the vessel liable to confiscation as a contraband carrier;	306 307 308
		(e) to call at any other port to change the crew or any part thereof or other persons on board the vessel when there is reason to believe that they may be subject to internment, imprisonment or other sanctions;	309 310 311 312
		(f) where cargo has not been loaded or has been discharged by Owners under any provisions of this Clause, to load other cargo for Owners' own benefit and carry it to any other port or ports whatsoever, whether backwards or forwards or in a contrary direction to the ordinary or customary route.	313 314 315 316 317
4. If at any stage of the voyage after the loading of the cargo commences, it appears that, in the reasonable judgement of the Master and/or Owners, the vessel, her cargo, crew or other persons on board the vessel may be, or are likely to be, exposed to War Risks on any part of the route (including any canal or waterway) which is normally and customarily used in a voyage of the nature contracted for, and there is another longer route to the discharging port, Owners shall give notice to Charterers that this route will be taken. In this event Owners shall be entitled, if the total extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route.	274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295	6. If in compliance with any of the provisions of sub-clauses 2 to 5 of this Clause anything is done or not done, such shall not be deemed to be a deviation, but shall be considered as due fulfilment of the Contract of Carriage.	318 319 320 321
5. The vessel shall have liberty: -		<b>N. Agency.</b>	322
(a) to comply with all orders, directions, recommendations or advice as to departure, arrival, routes, sailing in convoy, ports of call, stoppages, destinations, discharge of cargo, delivery or in any way whatsoever which are given by the Government of the Nation under whose flag the vessel sails, or other Government to whose laws Owners are subject, or any other Government which so requires, or any body or group acting with the power to compel compliance with their orders or directions;		Unless otherwise agreed Owners shall appoint Agents suggested by Charterers, provided they render services at a competitive rate.	323 324
(b) to comply with the orders, directions or recommendations of any war risks underwriters who have the authority to give the same under the terms of the war risks insurance;	296 297 298	<b>O. General Average, New Jason Clause, Both-to-Blame Collision Clause.</b>	325 326
		In case of General Average same to be settled in Oslo according to the York-Antwerp Rules 1994.	327 328
		If the adjustment of General Average or the liability for any collision in which the vessel is involved while performing the carriage under the terms of this Charter Party, fails to be determined in accordance with the law and practice of the United States of America, the New Jason Clause and the Both-to-Blame Collision Clause as printed in the Hydro Bill of Lading form shall be deemed to be incorporated in this Charter Party.	329 330 331 332 333 334 335
		<b>P. Law and Jurisdiction.</b>	336
		If not otherwise provided for in this Charter Party, any disputes to be brought before the City Court of Oslo and Norwegian Law to be applied.	337 338 339
		<b>Q. Bills of Lading.</b>	340
		Bills of Lading shall be signed by the Master as per the Hydro Bill of Lading form edition 1997, without prejudice to this Charter Party.	341 342 343



PART I

THE BALTIC AND INTERNATIONAL MARITIME CONFERENCE  
STANDARD ORE CHARTER PARTY  
CODE NAME: "OREVOY"

1. Shipbroker	2. Place and date of Charter Party	
3. Owners/Disponent Owners/Time-Chartered Owners (indicate name, address & telex number)	4. Charterers (indicate name, address & telex number)	
5. Vessel's name and flag	6. Rate in tons per hour (load.) (Cl. 1.4.)	
7. Vessel's particulars, if required (Cl. 1)	8. Present position and prior commitments, if known (Cl. 2.2.)	
9. Laydays date (Cl. 2.1.)	10. Expected readiness to load (Cl. 2.2.)	
11. Cancelling date (also state if other period of declaration of cancelling agreed) (Cl. 2.3.)	12. Substitution (state "no" if not agreed) (Cl. 4)	
13. Cargo (5 per cent. more or less in Owners' option unless other margin agreed) in tons of 1000 kilos (if full and complete cargo not agreed indicate "part cargo" (Cl. 5.1.)		
14. Advance notices (load. and disch.) (State number of running days' notice to be given and to whom) (Cl. 6)		
15. Loading port(s)/berth(s) (Cl. 7.1.)	16. Discharging port(s)/berth(s) (Cl. 7.2.)	
17. Reduced voyage speed (state "no" if not agreed) (Cl. 7.2.)	18. Notice time in running hours (load. and disch.) (only to be filled in if agreed) (Cl. 8.2.1.)	
19. Laytime (if separate laytime for load. and disch. is agreed, fill in a) and b); if total laytime for load. and disch., fill in c) only) (Cl. 8.2.5. &	20. Laytime exceptions (loading) (Cl. 8.3.1.)	
a) Laytime for loading		
b) Laytime for discharging	21. Laytime exceptions (discharging) (Cl. 8.3.1.)	
c) Total laytime for loading and discharging		
22. Demurrage rate (loading) (Cl. 8.5.2.)	23. Demurrage rate (discharging) (Cl. 8.5.2.)	
24. Despatch money (load. and/or disch.) (Optional; if agreed indicate rate of despatch money) (Cl. 8.5.3.)	25. Freight tax (state whether for Owners' or Charterers' account) (Cl. 11.3.)	
26. Agents at loading port(s) (Cl. 12)	27. Agents at discharging port(s) (Cl. 12)	
28. Freight rate per metric ton (state whether fully or partly prepaid) (Cl. 13)	29. Freight payment (currency and when/where payable; also state beneficiary and bank account) (Cl. 13)	
30. General average shall be adjusted/settled at (Cl. 20)	31. Law and Arbitration (state 23.1., 23.2. or 23.3. of Cl 23, as agreed; if 23.3. agreed state place of arbitration) (if not filled in 23.1. shall apply) (Cl. 23)	
32. Brokerage commission and to whom payable (Cl. 24)	33. Numbers of additional clauses covering special provisions, if agreed	

It is mutually agreed that this Contract shall be performed subject to the conditions contained in the Charter consisting of PART I including additional clauses, if any agreed and stated in Box 33 and PART II. In the event of a conflict of conditions, the provisions of PART I shall prevail over those of PART II to the extent of such conflict but no further.

Signature (Owners)	Signature (Charterers)
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Agreed with MALMEXPORT AB, Stockholm and ROHSTOFFHANDEL G.m.b.H., Düsseldorf

Adopted by the Documentary Committee of the General Council of British Shipping, London and The Federation of National Associations of Ship Brokers and Agents (FONASBA), London

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**PART II**  
**"OREVOY" Charter Party**

<b>1. Vessel</b>	1		
The Owners shall	2	5.1. The Charterers warrant that unless otherwise specified in Part 1, the cargo referred to in Box 13 is non-hazardous and non-dangerous for carriage according to applicable safety regulations including IMCO Code(s).	67 68 69 70
1.1. before and at the beginning of the loaded voyage exercise due diligence to make the Vessel seaworthy and in every way fit for the voyage, with a full complement of Master, officers and crew for a vessel of her type, tonnage and flag;	3 4 5 6	5.2. The Charterers shall have the right to ship parcels of different qualities and/or for different receivers in separate holds within the Vessel's natural segregation and suitable for her trim provided that such parcels can be loaded, carried and discharged in accordance with the Vessel's seaworthiness. Other means of separation of different parcels may be specified in Part 1.	71 72 73 74 75 76
1.2. ensure that the Vessel and her Master and crew will comply with all safety and health regulations and other statutory rules or regulations and internationally recognized requirements necessary to secure safe and unhindered loading of the cargo, performance of the voyage and discharge of the cargo.	7 8 9 10 11	5.3. Unless otherwise agreed in Part 1, all quantities shall be expressed in tons of 1,000 kilograms.	77 78
The Vessel shall	12		
1.3. be classed Lloyd's 100 A1 or equivalent unless otherwise agreed in Box 7, the Owners exercising due diligence to maintain that class during the currency of this Charter Party;	13 14 15	<b>6. Advance Notices</b>	79
1.4. be suitable for mechanical loading of the cargo and capable of receiving the cargo at the rate (if any) specified in Box 6 and be suitable for grab discharge, failing which Clause 8.3.3. shall apply and the Owners shall reimburse the Charterers any actual extra discharge costs;	16 17 18 19 20	The Owners or the Master shall give notices of expected readiness to load/discharge as specified in Box 14 to the parties named therein and shall keep those parties advised of any alteration in expected readiness.	80 81 82 83
1.5. be equipped to meet the technical requirements if and as specified in Box 7.	21 22	<b>7. Port of Loading, Voyage, Port of Discharge</b>	84
<b>2. Laydays Date, Expected Time of Arrival (E.T.A.) and Cancelling</b>	23	7.1. After completion of prior commitments as may be stated in Box 8, the Vessel shall proceed to the loading port(s)/berth(s) as stated in Box 15.	85 86 87
2.1. Laydays shall not commence before 00.00 hours on the date stated in Box 9. However, notice of readiness may be given before that date and notice time, if provided for in Box 18, shall run forthwith.	24 25 26 27	7.2. The Vessel shall carry the cargo with all possible despatch to the port(s)/berth(s) of discharge stated in Box 16. However, unless "No" is inserted in Box 17, the Owners may order the Vessel to proceed at reduced speed solely to conserve fuel. If the Charterers have the right to order the Vessel to discharge at one or more ports out of several ports named or within a specific range, the Charterers shall declare the actual port(s) of discharge to be inserted in the Bills of Lading prior to the arrival of the Vessel at the port of loading.	88 89 90 91 92 93 94 95 96
2.2. Present position of Vessel as per Box 8. Commitments prior to commencement of this Charter as per Box 8. Expected readiness to load as per Box 10.	28 29 30	7.3. Only when the loading/discharging port(s)/berth(s) are not specifically mentioned herein, the Charterers warrant the safety of port(s)/berth(s) nominated and that the Vessel will be loaded and discharged always afloat.	97 98 99 100
2.3. The Charterers shall have the option of cancelling the Charter Party if the Vessel be not ready to load on or before twelve midnight (24.00 hours) on the cancelling date stated in Box 11. If it appears that the Vessel will be delayed beyond the cancelling date stated in Box 11 the Owners shall, as soon as they are in a position to state with reasonable certainty the day on which the Vessel should be ready, give notice thereof to the Charterers asking whether they will exercise their option of cancelling the Charter Party. The option must then be declared within five (5) running days (unless otherwise agreed in Box 11) of the receipt by the Charterers of such notice, but not earlier than twenty (20) running days before the revised date of loadreadiness. If the Charterers do not then exercise their option of cancelling, the seventh (7th) day after the readiness date stated in the Owners' notice shall be regarded as a new cancelling date. This provision shall operate only once, and should the Vessel not be ready to load on the new cancelling date the Charterers shall have the option of cancelling the Charter Party. The Charterers shall in any event declare whether they exercise any option of cancelling under sub-clause 2.3. no later than the time of the Vessel's readiness to load.	31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	7.4. The Vessel shall be left in seaworthy trim for shifting between berths and ports.	101 102
<b>3. Subletting, Assigning</b>	51	7.5. Unless otherwise agreed, loading and/or discharging at two or more ports shall be effected in geographical rotation.	103 104
The Charterers shall have the liberty of subletting or assigning this Charter Party to any individual or company, but the Charterers shall always remain responsible for the due fulfilment of all the terms and conditions of this Charter Party and shall warrant that any such sublet or assignment will not result in the Vessel being restricted in her future trading.	52 53 54 55 56 57	<b>8. Notices of Readiness, Laytime, Demurrage/Despatch Money</b>	105
<b>4. Substitution</b>	58	8.1. <u>Notice of Readiness</u>	106
The Owners shall have liberty to substitute a Vessel, provided that such substitute Vessel's main particulars and position shall be subject to the Charterers' prior approval, which is not to be unreasonably withheld, but the Owners under this Charter Party shall remain responsible to the Charterers for the due fulfilment of this Charter Party. This Clause shall not apply if "No" inserted in Box 12.	59 60 61 62 63 64 65	8.1.1. At each port of loading and discharging notice of readiness shall be given to the Charterers or their Agents when the Vessel is in all respects ready to load/discharge at the loading/discharging berth.	107 108 109 110
<b>5. Cargo</b>	66	8.1.2. If a loading/discharging berth is not designated or if such designated berth is not available upon the Vessel's arrival at or off the port, notice of readiness may be given upon arrival at the waiting place at or off the port. However, if the Vessel is at that time prevented from proceeding to the loading/discharging berth due to her inefficiency, weather, tidal conditions, strikes of tugs or pilots or mandatory regulations, notice of readiness may be given only when such hindrance(s) has (have) ceased.	111 112 113 114 115 116 117 118 119
		8.1.3. Notice of readiness may be given on any day at any time.	120
		8.2. <u>Laytime</u>	121
		8.2.1. The laytime shall commence when notice of readiness has been given and after expiration of notice time, if any, provided for in Box 18. Should the Vessel arrive at the (first) loading port and be ready to load before the date stated in Box 9, the Charterers shall have the right to start loading. The Charterers shall also have the right to load/discharge before the expiration of notice time. In either event, during such periods only time actually used shall count as laytime or as time on demurrage.	122 123 124 125 126 127 128 129 130
		8.2.2. The notice time shall run continuously.	131
		8.2.3. The notice time, if any, shall only apply at first or sole loading	132



**PART II**  
**"OREVOY" Charter Party**

and discharging port, respectively.	133	charging berth on the Vessel's arrival off the port, or if such berth	206
8.2.4. If total time for loading and discharging has been agreed in	134	should not be available, the Vessel is to wait at a suitable place	207
Box 19 notice time, if any, at port of discharge shall be applied	135	at or off the port.	208
whether the Vessel be on demurrage or not on sailing from the (last)	136	The Charterers shall have the right to designate a safe waiting	209
loading port.	137	place, otherwise the Master shall choose a waiting place using due	210
8.2.5. <u>Separate laytime</u> . - The cargo shall be loaded within the number	138	diligence to minimize extra shifting costs provided for in sub-	211
of hours/days of 24 consecutive hours or at the average loading rate	139	clause 9.4.	212
per day of 24 consecutive hours as stated in Box 19a).	140		
The cargo shall be discharged within the number of hours/days of	141	9.3. The Charterers shall have the right to load and/or discharge at	213
24 consecutive hours or at the average discharging rate per day of	142	two berths at each port or place subject to sub-clause 9.4.	214
24 consecutive hours as stated in Box 19b).	143		
8.2.6. <u>Total laytime</u> . -The cargo shall be loaded and discharged within	144	9.4. <u>Shifting</u> . - Costs of moving the Vessel, including bunkers, in	215
the number of hours/days of 24 consecutive hours stated in Box 19c).	145	excess of those which would have been incurred if the Charterers	216
8.2.7. In the case of loading and/or discharging at more than one	146	had nominated a free loading or discharging berth on arrival, pro-	217
berth, laytime shall run continuously as if loading/discharging had been	147	vided the Vessel arrives on or after the date stated in Box 9, and/or	218
effected at one berth only but without prejudice to sub-clause 8.3.	148	if all cargo had been loaded or discharged during one operation at	219
		the first berth only other than a lightening place off the port, shall be	220
		for the Charterers' account unless caused by the Vessel's default.	221
		Other costs on board the Vessel including wages and officers' and	222
		crew's overtime charges to be for the Owners' account.	223
8.3. <u>Suspension of Laytime</u>	149		
		9.5. The Owners or the Master shall in due time prior to commence-	224
8.3.1. Unless the Vessel is on demurrage, laytime shall not count	150	ment of loading submit to the Charterers (or their nominees) at the	225
(i) during periods excepted as per Boxes 20 and 21, unless used,	151	loading port a loading plan which shall be based on a reasonable	226
in which case only time actually used shall count;	152	number of shiftings between hatches and also meet applicable rules	227
(ii) for the duration of bad weather or sea conditions which actually	153	and regulations, including IMCO Code(s). The Charterers shall inform	228
prevent the Vessel's loading, discharging or the shifting between	154	the Owners/Master of any special composition of cargo required in	229
loading/discharging berths of the Vessel;	155	sufficient time to permit the Owners/Master to work out and submit	230
(iii) if so provided for in Clause 14.	156	such loading plan.	231
8.3.2. Time shall not count as laytime or as time on demurrage whilst	157		
Vessel actually moving from waiting place whether at or off the port	158	9.6. Prior to loading, the Vessel's holds shall be adequately cleaned	232
or from a lightening place off the port, until the Vessel is securely	159	for loading the contracted cargo.	233
moored at the designated loading/discharging berth.	160		
8.3.3. Time lost due to inefficiency or any other cause attributable	161	9.7. The Charterers shall, always within the capacity of the loading	234
to the Vessel, her Master, her crew or the Owners shall not count	162	installations, load and trim the cargo as per the loading plan, free	235
as notice time or as laytime or as time on demurrage to the extent	163	of any risk, liability and expense to the Vessel. Any extra trimming	236
that loading or discharging or the matters covered by sub-clause	164	and/or levelling required by the Master or Owners shall be per-	237
8.4.1. are thereby affected.	165	formed at the Owners' expense and any time lost thereby shall not	238
8.3.4. If pursuant to Clause 9.13. the Vessel has to vacate the loading/	166	count as laytime/demurrage. Discharging, including shovel cleaning,	239
discharging berth, notice time or laytime or time on demurrage	167	shall be effected by the Charterers free of any risk, liability and	240
shall not count from that time until she be in all respects ready to	168	expense to the Vessel.	241
load/discharge and notification has been given to the Charterers	169		
accordingly.	170	9.8. The Vessel shall move along any one berth, as reasonably	242
8.3.5. If due to the matters referred to in sub-clauses 8.3.3. or 8.3.4.,	171	required by the Charterers, solely for the purpose of making any	243
the Vessel loses her turn, time shall count again only as from 24	172	hatch or hatches available to the loading/discharging appliances at	244
hours after notification of the Vessel's new readiness has been given	173	that berth, and costs on board the Vessel including bunkers, wages	245
to the Charterers or when loading/discharging resumes whichever	174	and officers' and crew's overtime charges shall be for the Owners'	246
may be the sooner.	175	account. However, the costs of any necessary outside services shall	247
		be for the Charterers' account. Laytime or time on demurrage shall	248
		not be interrupted thereby.	249
8.4. <u>Termination of Laytime</u>	176		
		9.9. The Vessel shall work day and night and during any time as may	250
8.4.1. Laytime/Demurrage shall stop counting on completion of:	177	be excepted as per Box 20 and Box 21, as required by the Charterers.	251
(a) loading/discharging at the relevant port, (b) cargo documentation	178		
and/or draft survey for determination of cargo weight, (c) repairs to	179	9.10. The Vessel shall, at her own risk and expense, open and close	252
stevedore damage under Clause 10.2., whichever may be the later.	180	hatches prior to and after loading/discharging and also during load-	253
8.4.2. If required, the Vessel shall leave the berth as soon as possi-	181	ing/discharging as may be required by the Charterers to protect the	254
ble within her control on completion of loading/discharging, failing	182	cargo, provided local shore regulations permit. If same, however, is	255
which the Charterers shall be entitled to proved damages provided	183	not permitted by local shore labour regulations, shore labour is to	256
that if she then has to wait for reasons (b) and/or (c) above, there	184	be employed by the Charterers at their risk, liability and expense.	257
must be a place available at which she can safely wait, and any	185	The Vessel shall furnish and give free use of sufficient light for deck	258
extra expenses shall be for the Charterers' account.	186	and holds, as on board.	259
8.5. <u>Demurrage/Despatch Money</u>	187		
		9.11. The Charterers shall have the right to order the Vessel to leave	260
8.5.1. Demurrage accrued under this Charter Party shall be con-	188	without having loaded a full cargo, always provided that the Vessel	261
sidered as constituting liquidated damages for exceeding the laytime	189	be in seaworthy condition and that the Charterers pay deadfreight	262
provided for herein. However, if the Vessel has been on demurrage	190	according to Clause 13.7.	263
for 15 days or more and no cargo has been loaded, the Owners shall	191		
have the option of cancelling this Charter Party. No claim which the	192	9.12. Overtime for loading and discharging to be for the account of	264
Owners may otherwise have against the Charterers shall be pre-	193	the party ordering the same. If overtime be ordered by Port Author-	265
judiced by the Owners exercising their option of cancelling.	194	ities or any other Governmental Agencies, the Charterers to pay any	266
8.5.2. Demurrage shall be due and payable by the Charterers day by	195	extra expenses incurred. Officers' and crew's overtime charges	267
day at the rate specified in Boxes 22 and 23 and in the manner pro-	196	vided for in Box 29.	268
vided for in Box 29.	197		
8.5.3. Despatch money, if agreed upon in Box 24, shall be paid	198	9.13. In the event of loading/discharging being impossible due to	269
promptly by the Owners to the Charterers at half the demurrage rate	199	inefficiency or any other cause attributable to the Vessel, her Master,	270
or as otherwise agreed upon in Box 24 for laytime saved in loading	200	her crew or the Owners and such impossibility continuing for more	271
and/or discharging.	201	than three consecutive hours, the Charterers shall have the right to	272
		order the Vessel to vacate the berth and shifting from and back to	273
9. <b>Loading and Discharging</b>	202	berth shall be at the Owners' expense and time.	274
9.1. The Vessel shall be loaded and discharged as and where ordered	203		
by the Charterers.	204		
9.2. If the Charterers have not nominated a suitable loading or dis-	205	10. <b>Stevedore Damage</b>	275



**PART II**  
**"OREVOY" Charter Party**

10.1. The Charterers shall be responsible for damage (beyond ordinary wear and tear) to any part of the Vessel caused by Stevedores at both ends. Such damage, as soon as apparent, shall be notified immediately by the Master to the Charterers or their port agents and to their Stevedores. The Owners/Master shall endeavour to obtain the Stevedores' written acknowledgment of liability and to settle stevedore damage claims direct with the Stevedores.	276 277 278 279 280 281 282	entitled to deduct from the freight any freight advances made as per sub-clause 13.6., despatch money and extra insurance, provided properly documented, as per Clause 11.4.	341 342 343
10.2. The Charterers have the right to perform any repairs of stevedore damage at any moment prior to or before the completion of the voyage, but must repair stevedore damage affecting the Vessel's seaworthiness before the Vessel sails from the port where such damage was caused.	283 284 285 286 287	13.6. <u>Freight Advances</u> . - The Owners shall put the Agents at the loading port(s) in funds to cover the Vessel's ordinary disbursements for Owners' account, prior to the Vessel's sailing from the port(s) of loading. Otherwise the amount shall be advanced by Charterers and be endorsed upon Bills of Lading as advance freight, with the addition of 3 per cent. to cover interest, commission and the cost of insurance.	344 345 346 347 348 349 350
<b>11. Dues, Taxes and Charges, Extra Insurance</b>	288	13.7. <u>Deadfreight</u> . - If the Charterers fail to supply a cargo as specified in Box 13, deadfreight shall be payable but the Charterers shall not be bound to supply cargo in excess of any quantity stated by the Owners as the Vessel's capacity made available to the Charterers. The laytime shall be calculated on that quantity. The Owners/Master shall be entitled to clause Bills of Lading for any deadfreight due. If the Shippers/Suppliers state in writing that no more cargo will be shipped, the Owners shall not need to have any such statement confirmed by the Charterers.	351 352 353 354 355 356 357 358 359 360
11.1. <u>On the Vessel</u> . - The Owners shall pay all dues, duties, taxes and other charges customarily levied on the Vessel, howsoever the amount thereof may be assessed.	289 290 291	<b>14. Strikes and Other Hindrances</b>	361
11.2. <u>On the cargo</u> . - The Charterers shall pay all dues, duties, taxes and charges levied on the cargo at the port of loading/discharging, howsoever the amount thereof may be assessed.	292 293 294	In the event of any of the causes referred to in Clause 21.2. either preventing or delaying or, being already in existence, threatening to prevent or delay the loading of the cargo intended for the Vessel, or its discharging, the following provisions shall apply:	362 363 364 365
11.3. <u>On the freight</u> . - Taxes levied on the freight shall be paid by the Owners or the Charterers as agreed in Box 25.	295 296	14.1. <u>Loading Port</u> . - When the Vessel is ready to proceed from her last port or at any time during the voyage to the port or ports of loading or after her arrival there, the Owners may ask the Charterers to declare that they agree to count the laytime as if there were to be no such hindrance. Unless the Charterers have given such declaration in writing (by telegram or telex if necessary) on the second business day after receipt of the request, the Owners shall have the option of cancelling this Charter Party. If part cargo has already been loaded the Vessel must carry it to the port of discharge (freight payable on loaded quantity only) having liberty to complete with other cargo on the way for the Owners' own account, but the Owners are entitled to keep the Vessel waiting at the loading port without time counting. In case of more than one loading port and if the causes referred to above do not prevent the loading in all ports, the Charterers are entitled to order the Vessel to proceed to the second or subsequent port and there to load a full cargo; in such event, the Owners are not entitled to cancel the Charter Party as hereabove stipulated.	366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383
11.4. <u>Extra Insurance</u> . - Any extra insurance on cargo actually paid by the Charterers owing to Vessel's age, class, flag or ownership shall be for the Owners' account and may be deducted from the freight. The Charterers shall furnish evidence of payment supporting any such deduction. Unless a maximum amount has been agreed in Part 1, such extra insurance shall not exceed the lowest extra premium which would be charged for the Vessel and voyage in the London insurance market.	297 298 299 300 301 302 303 304	14.2. <u>Discharging Port</u> . - On or after the Vessel's arrival at or off the port of discharge, the Vessel shall wait until any such hindrance is at an end, the Charterers paying half demurrage after expiration of the laytime (unless the Vessel is already on demurrage in which event full demurrage remains payable) full demurrage being payable from the moment when the hindrance is at an end. The Charterers shall have the option at any time of ordering the Vessel to another safe port within 600 nautical miles' distance where she can safely discharge without being detained by any cause enumerated above. Shifting time shall count as laytime or as full demurrage time as the case may be. The Charterers shall reimburse the Owners additional port charges including pilotage and canal dues, if any, incurred thereby; however, the Owners shall bear the costs of bunkers consumed. All conditions of this Charter Party and/or of the Bills of Lading issued hereunder shall apply to the delivery of the cargo at the substituted port and the Owners shall receive the same freight as if the cargo had been discharged at the original destination.	384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401
<b>12. Agents</b>	305	<b>15. Ice</b>	402
At the port(s) of loading the Vessel shall be consigned to the Agents as stated in Box 26 and at the port(s) of discharge to the Agents as stipulated in Box 27, the Owners always paying the customary fees.	306 307 308	<u>Loading Port</u>	403
<b>13. Freight</b>	309	15.1. If the Vessel cannot reach the loading port by reason of ice when she is ready to proceed from her last port, or at any time during the voyage, or on her arrival, or if frost sets in after her arrival, the Master - for fear of the Vessel being frozen in - is at liberty to leave without cargo; in such cases this Charter Party shall become null and void.	404 405 406 407 408 409
The freight at the rate stated in Box 28 shall be calculated on intaken quantity.	310 311	15.2. If during the loading the Master, for fear of the Vessel being frozen in, deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to any other port with option of completing with cargo for the Owners' own account to any	410 411 412 413
13.1. <u>Prepaid</u> . - If according to Boxes 28 or 29 freight is to be paid on shipment, it shall be deemed earned and non-returnable Vessel and/or cargo lost or not lost. Bills of Lading showing "Freight prepaid" or the like shall not be released until the freight has been duly paid.	312 313 314 315 316		
13.2. <u>After shipment</u> . - If according to Box 29 freight shall be payable within a number of days after shipment, the freight shall be deemed earned as per sub-clause 13.1. In such case Bills of Lading shall not be endorsed "Freight prepaid" or the like, unless the freight has been paid.	317 318 319 320 321		
13.3. <u>Partly on Delivery</u> . - If according to Boxes 28 or 29 a percentage of the freight shall be payable as per sub-clauses 13.1. or 13.2. the balance shall be paid as per sub-clause 13.4. However, in such case the total freight shall be deemed earned as per sub-clause 13.1. and the Charterers shall not have the option referred to in sub-clause 13.4.1.	322 323 324 325 326 327		
13.4. <u>On Delivery</u> . - If according to Boxes 28 or 29 freight is payable at destination or on right and true delivery of the cargo, it shall not be deemed earned until the cargo is thus delivered.	328 329 330		
13.4.1. <u>On Delivered Weight</u> . - When the freight is payable on delivery of cargo the Charterers shall have the option of paying freight on delivered weight, provided such option be declared in writing before breaking bulk and the weight be ascertained by official weighing machine, otherwise by joint draught survey. The Charterers shall pay all costs incurred in connection with weighing or draught survey. The Owners shall be at liberty to appoint check clerks at their own expense.	331 332 333 334 335 336 337 338		
13.5. <u>Deductions</u> . - The freight shall be paid in cash without discount in the manner described in Box 29. The Charterers shall only be	339 340		

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port or ports including the port of discharge. Any part cargo thus loaded under this Charter Party is to be forwarded to destination at the Vessel's expense against payment of the agreed freight, provided that no extra expenses be thereby caused to the Charterers, freight being paid on the quantity delivered (in proportion if lump sum), all other conditions as per Charter Party.	414 415 416 417 418 419	filment of the Charter Party. In the event of cargo being discharged at any such other port, the Owners shall be entitled to freight as if the discharge had been effected at the port or ports named in the Bill(s) of Lading, or to which the Vessel may have been ordered pursuant thereto.	487 488 489 490 491
15.3. In the case of more than one loading port, and if one or more of the ports are closed by ice, the Master or Owners are to be at liberty either to load the part cargo at the open port and fill up elsewhere for the Owners' own account as under sub-clause 15.2. or to declare the Charter Party null and void, unless the Charterers agree to load full cargo at the open port.	420 421 422 423 424 425	16.5. (a) The Vessel shall have liberty to comply with any directions or recommendations as to loading, departure, arrival, routes, ports of call, stoppages, destination, zones, waters, discharges, delivery or in any other wise whatsoever (including any direction or recommendation not to go to the port of destination or to delay proceeding thereto or to proceed to some other port) given by any Government or by any belligerent or by any organized body engaged in civil war, hostilities or warlike operations or by any person or body acting or purporting to act as or with the authority of any Government or belligerent or of any such organized body or by any committee or person having under the terms of the war risks insurance on the Vessel, the right to give any such directions or recommendations. If, by reason of or in compliance with any such direction or recommendation, anything is done or is not done, such shall not be deemed a deviation.	492 493 494 495 496 497 498 499 500 501 502 503 504 505
<i>Voyage and Discharging Port</i>	426	(b) If, by reason of or in compliance with any such directions or recommendations, the Vessel does not proceed to the port or ports named in the Bill(s) of Lading or to which she may have been ordered pursuant thereto, the Vessel may proceed to any port as directed or recommended or to any safe port which the Owners in their discretion may decide on and there discharge the cargo. Such discharge shall be deemed to be due fulfilment of the Charter Party and the Owners shall be entitled to freight as if discharge had been effected at the port or ports named in the Bill(s) of Lading or to which the Vessel may have been ordered pursuant thereto.	506 507 508 509 510 511 512 513 514 515
15.4. Should ice prevent the Vessel from reaching the port of discharge, the Charterers shall have the option of keeping the Vessel waiting until the re-opening of navigation and paying demurrage, or of ordering the Vessel to a safe and immediately accessible port where she can safely discharge without risk of detention by ice. Such orders are to be given within 48 hours after the Owners or Master have given notice to the Charterers of the impossibility of reaching the port of destination.	427 428 429 430 431 432 433 434	16.6. All extra expenses (including insurance costs) involved in discharging cargo at the loading port or in reaching or discharging the cargo at any port as provided in Clauses 16.4. and 16.5.(b) hereof shall be paid by the Charterers and/or cargo owners, and the Owners shall have a lien on the cargo for all moneys due under these Clauses.	516 517 518 519 520 521
15.5. If during discharging the Master, for fear of the Vessel being frozen in, deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to the nearest safe and accessible port. Such port to be nominated by the Charterers as soon as possible, but not later than 24 running hours, Sundays and holidays excluded, of receipt of the Owners' request for nomination of a substitute discharging port, failing which the Master will himself choose such port.	435 436 437 438 439 440 441 442	<b>17. Lien</b>	522
15.6. On delivery of the cargo at such port, all conditions of the Bill of Lading shall apply and the Owners shall receive the same freight as if the Vessel had discharged at the original port of destination except that if the distance to the substitute port exceeds 100 nautical miles, the freight on the cargo delivered at that port is to be increased in proportion.	443 444 445 446 447 448	The Owners shall have a lien on the cargo for freight, deadfreight, demurrage and damages for detention. The Charterers shall remain responsible for deadfreight and demurrage (including damages for detention), incurred at port of loading. The Charterers shall also remain responsible for freight and demurrage (including damages for detention) incurred at port of discharge, but only to such extent as the Owners have been unable to obtain payment thereof by exercising the lien on the cargo.	523 524 525 526 527 528 529 530
<b>16. War Risks ("Voywar 1950")</b>	449	<b>18. Liberty</b>	531
16.1. In these Clauses "war risks" shall include any blockade or any action which is announced as a blockade by any Government or by any belligerent or by any organized body, sabotage, piracy, and any actual or threatened war, hostilities, warlike operations, civil war, civil commotion, or revolution.	450 451 452 453 454	The Vessel shall have liberty to sail with or without pilots, to tow or go to the assistance of vessels in distress, to call at any port or place for oil fuel supplies, and to deviate for the purpose of saving life or property, or for any other reasonable purpose whatsoever.	532 533 534 535
16.2. If at any time before the Vessel commences loading, it appears that performance of the contract will subject the Vessel or her Master and crew or her cargo to war risks at any stage of the adventure, the Owners shall be entitled by letter or telegram despatched to the Charterers, to cancel this Charter Party.	455 456 457 458 459	<b>19. Both-to-Blame Collision Clause</b>	536
16.3. The Master shall not be required to load cargo or to continue loading or to proceed on or to sign Bill(s) of Lading for any adventure on which or any port at which it appears that the Vessel, her Master and crew or her cargo will be subjected to war risks. In the event of the exercise by the Master of his right under this Clause after part or full cargo has been loaded, the Master shall be at liberty either to discharge such cargo at the loading port or to proceed therewith. In the latter case the Vessel shall have liberty to carry other cargo for Owners' benefit and accordingly to proceed to and load or discharge such other cargo at any other port or ports whatsoever, backwards or forwards, although in a contrary direction to or out of or beyond the ordinary route. In the event of the Master electing to proceed with part cargo under this Clause freight shall in any case be payable on the quantity delivered.	460 461 462 463 464 465 466 467 468 469 470 471 472 473	If the Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, mariner, pilot or the servants of the Owners in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify Owners against all loss or liability to the other or non-carrying vessel or her Owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or non-carrying vessel or her Owners to the owners of said cargo and set-off, recouped or recovered by the other or non-carrying vessel or her Owners as part of their claim against the carrying vessel or Owners. The foregoing provisions shall also apply where the owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.	537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552
16.4. If at the time the Master elects to proceed with part or full cargo under Clause 16.3. or after the Vessel has left the loading port, or the last of the loading ports if more than one, it appears that further performance of the Charter Party will subject the Vessel, her Master and crew or her cargo, to war risks, the cargo shall be discharged, or if the discharge has been commenced shall be completed, at any safe port in vicinity of the port of discharge as may be ordered by the Charterers. If no such orders shall be received from the Charterers within 48 hours after the Owners have despatched a request by telegram or telex to the Charterers for the nomination of a substitute discharging port, the Owners shall be at liberty to discharge the cargo at any safe port which they may, in their discretion, decide on and such discharge shall be deemed to be due fulfilment	474 475 476 477 478 479 480 481 482 483 484 485 486	<b>20. General Average and New Jason Clause</b>	553
		General Average shall be adjusted and settled at the place indicated in Box 30 according to the York/Antwerp Rules, 1974, or any modification thereof, but if, notwithstanding the provisions specified in Box 30, the adjustment is made in accordance with the law and	554 555 556 557

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practice of the United States of America, the following clause shall apply:	558		
"In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, Owners are not responsible, by statute, contract or otherwise, the goods, shippers, consignees or owners of the goods shall contribute with Owners in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods. If a salving Vessel is owned or operated by Owners, salvage shall be paid for as fully as if the said salving Vessel or vessels belonged to strangers. Such deposit as Owners, or their agents, may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to Owners before delivery".	559		
<b>21. Responsibilities and Immunities</b>	575		
21.1.1. The Hague Rules contained in the International Convention for the Unification of certain rules relating to Bills of Lading, dated Brussels the 25th August 1924 as enacted in the country of shipment shall apply to this Contract and to any Bill of Lading issued hereunder.	576		
When no such enactment is in force in the country of shipment, the corresponding legislation of the country of destination shall apply, but in respect of shipments to which no such enactments are compulsorily applicable, the terms of the said Convention shall apply.	577		
21.1.2. In trades where the International Brussels Convention 1924 as amended by the Protocol signed at Brussels on February 23rd, 1968 - The Hague-Visby Rules - apply compulsorily, the provisions of the respective legislation shall apply.	578		
21.1.3. The Owners shall in no case be responsible for loss of or damage to cargo howsoever arising prior to loading into and after discharge from the Vessel or while the goods are in the charge of another owner nor in respect of deck cargo and live animals. This sub-clause shall not detract from the Owners' obligations under Clause 4.	579		
21.2. Save to the extent otherwise in this Charter Party expressly provided, neither party shall be responsible for any loss or damage or delay or failure in performance hereunder resulting from Act of God, war, civil commotion, quarantine, strikes, lockouts, arrest or restraint of princes, rulers and peoples or any other event whatsoever which cannot be avoided or guarded against.	580		
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<b>22. Bills of Lading</b>	601		
22.1. Bills of Lading are to be signed as per the "Orevoybill" Bill of Lading without prejudice to this Charter Party, and the Charterers hereby indemnify the Owners against all liabilities that may arise from the signing of Bills of Lading as presented to the extent that the terms of such Bills of Lading impose more onerous liabilities upon the Owners than those assumed by the Owners under the terms of this Charter Party.	602		
Neither the Owners nor their Servants shall be required to sign or endorse Bills of Lading showing freight prepaid unless and until the freight due to the Owners has actually been paid.	603		
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22.2. The Master may be required to sign separate Bills of Lading for cargo in different holds or for parcels properly separated upon shipment by the Charterers or their Agents, the Owners not being answerable for separate delivery, nor for the cost of cargo short-delivered (if any) provided all the cargo taken on board is delivered.	612		
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<b>23. Law and Arbitration</b>	617		
23.1. Unless otherwise agreed in Box 31, this Charter Party shall be governed by English Law and any dispute arising out of this Charter Party or any Bill of Lading issued thereunder shall be referred to arbitration in London, one arbitrator being appointed by each party, in accordance with the Arbitration Acts 1950 and 1979 or any statutory modification or re-enactment thereof for the time being in force.	618		
On the receipt by one party of the notification in writing of the appointment of the other party's arbitrator, that party shall appoint their arbitrator within fourteen days failing which the decision of the single arbitrator appointed shall apply. If two arbitrators properly appointed shall not agree they shall appoint an umpire whose decision shall be final.	619		
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23.2. If agreed and stated in Box 31, this Charter Party shall be governed by U.S. Law and all disputes arising out of this Charter Party or any Bill of Lading issued thereunder shall be arbitrated at New York in the following manner:	630		
One arbitrator is to be appointed by each of the parties hereto and a third by the two so chosen. Their decision or that of any two of them shall be final, and for the purpose of enforcing any award, this agreement may be made a rule of the court. The arbitrators shall be commercial men. Such arbitration is to be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc.	631		
For disputes where the total amount claimed by either party does not exceed U.S.\$ 3,500.00, or an amount as mutually agreed, the arbitration may be conducted in accordance with the Simplified Arbitration Procedure of the Society of Maritime Arbitrators Inc. if so desired by both parties.	632		
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23.3. If agreed and stated in Box 31, any disputes arising out of this Charter Party or any Bill of Lading issued thereunder shall be referred to arbitration at the place or before the arbitration tribunal indicated in Box 31, subject to the law and procedures applicable there.	645		
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<b>24. Brokerage</b>	650		
24.1. The brokerage as stated in Box 32 on freight and deadfreight shall be paid by the Owners and is deemed to be earned by the Brokers upon shipment of cargo.	651		
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24.2. In case of cancellation pursuant to Clause 2.3., at least one third of the brokerage on the estimated amount of freight shall be paid by the Owners as indemnity to the Brokers.	654		
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1. Place and date		NORTH AMERICAN FERTILIZER CHARTER PARTY 1978/88 CODE NAME: "FERTIVOY 88"			<b>Part I</b>
2. Owners/Disponent Owners/Timecharter-Owners (indicate name, address and telex number) (Cl. 1)		3. Charterers (indicate name, address and telex number) (Cl. 1)			
4. Vessel's name (Cl. 1)		5. Call sign (Cl. 1)	6. Year built (Cl. 1)	7. Flag (Cl. 1)	
8. Class (Cl. 1)	9. GRT/NRT (Cl. 1)		10. DW-cargo capacity and draught on summer load line (Cl. 1)		
11. Type of vessel (also state cargo gear and grain cubic capacity of each hold) (Cl. 1 & 7(b))					
12. Present position (Cl. 1)		13. ETA loading port (Cl. 1)		14. Laydays date (Cl. 5)	
15. Cancelling date (Cl. 6)					
16. Advance notices (loading) and ETA messages to (state teleg. address(es)) (Cl. 2 & 4)		17. Sailing teleg. and ETA's (discharging) to (state teleg. address(es)) (Cl. 3 & 4)			
18. Cargo (5 per cent more or less in Owners' option unless other margin agreed) in tons of 1000 kilos (if full and complete cargo not agreed, indicate "part cargo") (indicate whether in bulk, or bags and if deck cargo agreed) (Cl. 1 & 18)					
19. Loading port(s) (also state if two or more berths agreed) (Cl. 1 & 18)		20. Daily load. rate (Cl. 14)		21. Draught on sailing not to exceed (Cl. 18)	
				22. Demurrage rate (load.) (Cl. 15)	
				23. Despatch Money (load.) (Cl. 16)	
24. Discharging port(s) (also state if two or more berths agreed) (Cl. 1 & 18)		25. Daily discharge rate (Cl. 14)		26. Draught on arrival not to exceed (Cl. 18)	
				27. Demurrage rate (disch.) (Cl. 15)	
				28. Despatch Money (disch.) (Cl. 16)	
29. Freight rate (indicate whether payable per metric or long ton) (state whether fully or partly prepaid) (Cl. 1 & 20)		30. Freight payment (currency and where payable; also state beneficiary and account) (Cl. 20)			
31. At loading port(s) vessel to be consigned to agents nominated by (Cl. 21)		32. At discharging port(s) vessel to be consigned to agents nominated by (Cl. 21)			
33. Brokerage commission and to whom payable (Cl. 22)		34. Law and arbitration (state 37.1., 37.2. or 37.3. of Cl. 37, as agreed; if 37.3. agreed also state place of arbitration) (if Box 34 not filled in 37.1. shall apply) (Cl. 37)			
35. Number of additional clauses covering special provisions if agreed					

It is mutually agreed that this Contract shall be performed subject to the conditions in the Charter Party consisting of PART I including additional clauses, if any agree and stated in Box 35, and PART II. In the event of a conflict of conditions, the provisions of PART I shall prevail over those of PART II to the extent of such conflict but no further.

Signature (Owners)	Signature (Charterers)
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**PART II**  
**"Fertivo 88" Charter Party**

**1. Preamble**

It is this date mutually agreed between the Owners, Disponent Owners or Timecharter-Owners indicated in Box 2 (hereinafter referred to as Owners) of the Vessel named in Box 4 with particulars as indicated in Boxes 5 through 11, now in the position stated in Box 12 and expected ready to load under this Charter Party on about the date indicated in Box 13, and the party indicated as Charterers in Box 3, that the said Vessel being classed in the highest class of Lloyd's Register of Shipping or equivalent and warranted tight, staunch, and strong and in every way fitted for the voyage, so far as due diligence can make her so, shall with all convenient speed proceed to the loading port or ports indicated in Box 19 and there load the cargo stated in Box 18, which the Charterers bind themselves to supply, and being so loaded shall proceed to the discharge port or ports indicated in Box 24, and there deliver the cargo on being paid freight on intaken weight at the rate stated in Box 29.

**2. Advance Notices (Loading)**

(a) *Approximate date.* - At least fifteen (15) calendar days before the Vessel's readiness to load, the Master or Owners shall telegraph Charterers and/or Shippers as indicated in Box 16 stating the approximate date of the Vessel's readiness to load, the approximate quantity of cargo, and the Vessel's name.

(b) *Definite date.* - Unless otherwise agreed in Box 16 at least seven (7) calendar days before the Vessel's readiness to load the Master or Owners shall telegraph Charterers and/or Shippers as indicated in Box 16 stating the definite date of the Vessel's readiness to load, the exact quantity of cargo, and the Vessel's name.

Shippers shall load the quantity of cargo required by this Charter Party or so near thereto as Shippers can arrange without splitting contents of railroad cars.

The definite date of the Vessel's readiness to load shall not be earlier than the approximate date, unless otherwise agreed.

If the Vessel is ready at the loading port prior to the notified definite date of readiness to load, the laytime shall not commence earlier than 0800 hours on the notified definite date of Vessel's readiness to load.

(c) *Misrepresentation.* - If the Owners or the Master have misrepresented the size of the holds and/or the quantity of cargo the Owners shall be responsible for additional hire and/or demurrage on trucks, railcars and lighters proved to be incurred thereby.

If the Vessel is delayed for any reason whatsoever, with the exception of delays being the direct consequences of causes excused by Clause 35 and/or Clause 36 and unknown at the time when definite notice was given, for more than forty-eight (48) hours after 0800 hours on the definite date of Vessel's readiness to load declared according to Clause 2(b), the Owners shall pay the Shippers an amount of U.S.\$ 0.15 per ton of 1000 kilos on the Bill of Lading quantity for each commenced day after the expiration of the said forty-eight (48) hours but for a maximum of five (5) days. The amount payable to Shippers shall be in lieu of any and all extra expenses caused by the delay of the Vessel. The Shippers are entitled to ask and the Owners and/or the Master are obliged to give the reasons for the delay to be confirmed by certified extracts from Vessel's logbook.

No compensation according to this Clause shall be payable if the Charter Party (or if the Charter Party is for more than one voyage, the voyage so affected) is cancelled according to Clause 6, but the Shippers shall in that case maintain their right to claim damages for possible misrepresentation of the Vessel's position.

(d) *E.T.A.* - Seventy-two (72), forty-eight (48), and twenty-four (24) hours prior to Vessel's arrival at the loading port Vessel shall telegraph Charterers and/or Shippers as indicated in Box 16 stating Vessel's E(stimated) T(ime) of A(rrival) at the loading port pilot station, or if already at port of loading discharging inward cargo or for other reason, Vessel shall give corresponding notices when Vessel is expected to be ready to load the cargo under this Charter Party.

(e) If Box 4 calls for Vessel(s) to be nominated Owners to nominate performing Vessel(s) at least fifteen (15) calendar days before the Vessel's readiness to load.

**3. Advance Notices (Discharging)**

(a) *Sailing telegram.* - On completion of loading the Master, Owners or Agents shall telegraph to Receivers or their Agents as indicated in Box 17, stating date and time of sailing from last loading port, quantity of cargo, expected time of arrival and anticipated draught on arrival at the first discharging port.

(b) *E.T.A.* - 15 and 7 running days as well as seventy-two (72), forty-eight (48), and twenty-four (24) hours prior to Vessel's expected arrival at the discharging port(s) the Vessel shall telegraph to Receivers or their Agents as indicated in Box 17 stating the Vessel's E(stimated) T(ime) of A(rrival) at the discharging port(s), or if already at the discharging port(s) discharging other cargo or for other reason, the Vessel shall give corresponding notices when the Vessel is expected to be ready to discharge the cargo under this Charter Party.

**4. Alteration in Readiness**

The Master or Owners are to keep Charterers and/or Shippers as indicated in Box 16 and Receivers and/or their Agents as indicated in Box 17 continuously advised of any alteration in Vessel's readiness to load respectively discharge.

**5. Laydays**

Laydays are not to commence before 0800 hours on the date stated in Box 14 unless otherwise agreed.

**6. Cancelling**

(a) Should the Vessel not arrive at the loading port stated in Box 19 and be in all respects ready to load under this Charter Party by 1700 hours on the cancelling date stated in Box 15, the Charterers are to have the option of cancelling this Charter Party (or if the Charter Party is for more than one voyage, the voyage so affected), to be declared no later than the time of the Vessel's readiness to load.

(b) If it appears that the Vessel will be delayed beyond the cancelling date stated in Box 15, Owners shall, as soon as they are in a position to state with reasonable certainty the day on which the Vessel should be ready, give notice thereof to Charterers asking whether they will exercise their option of cancelling the Charter Party (or if the Charter Party is for more than one voyage, the voyage so affected). The option must then be declared within five (5) running days of the receipt by Charterers of such notice, but not earlier than fifteen (15) days before the revised date of loadreadiness. If Charterers do not then exercise their option of cancelling, the seventh (7th) day after the readiness date stated in Owners' notice shall be regarded as a new cancelling date. This provision shall operate only once, and should the Vessel not arrive at the loading port stated in Box 19 and be in all respects ready to load under this Charter Party by 1700 hours on the new cancelling date, the Charterers are to have the option of cancelling the Charter Party (or if the Charter Party is for more than one voyage, the voyage so affected), to be declared no later than the time of Vessel's readiness to load.

**7. Loading and Discharging**

(a) *Cost.* - Cargo to be loaded, spout trimmed and discharged, free of risk and expense to the Vessel. The Master shall remain responsible for proper trimming with regard to the Vessel's seaworthiness. Trimming and/or leveling and/or filling required by the Master or Owners, except that which can be accomplished with the loading spout, shall be at Owners' expense and time.

(b) *Gear and Lights.* - Owners shall give free use, throughout the duration of loading and discharging of sufficient light (as onboard), and, unless Vessel is described in Box 11 as gearless, of all Vessel's winches, derricks, cranes, running gear and of sufficient motive power to operate all winches simultaneously. All such equipment to be in good working order up to tested capacity. In any event time lost on account of breakdowns of Vessel's gear essential to or affecting the loading or discharging of this cargo is not to count as laytime or time on demurrage, and any stevedore standby time charges shall be for Owners' account. Charterers and/or Receivers shall employ winchmen and/or crane drivers at their risk and expense.

(c) *Opening and Closing Hatches.* - At each loading and discharging port the Vessel's crew shall, for Owners' account, open and close hatches, remove and replace beams, if any, at all times before, after and during loading and discharging operations when and where required, provided local shore labour regulations permit. If same, however, is not permitted by local shore labour regulations, shore labour is to be employed for Charterers/Shippers' or Receivers' account.

(d) Cargo requiring separate stowage of different grades is to be loaded into separate holds, and quantities are to be suitable to the capacity of holds and Vessel's trim. Separations other than by holds or the Vessel's other natural compartments, if required by Charterers, are to be for Charterers' account. If the Vessel has the option of completing with other cargo, such cargo is to be effectively separated at Owners' expense.

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**"Fertivoy 88" Charter Party**

(e) <i>Seaworthy Trim</i> . - Vessel is to be left in seaworthy trim for shifting between berths and ports.	141 142	suitable and otherwise ready to receive the intended cargo.	209
(f) <i>Stevedores</i> . - At each loading and discharging port stevedores are to be appointed by Charterers, Shippers and/or Receivers.	143 144	If the loading/discharging berth is not available on Vessel's arrival at or off the port of loading/discharging or so near thereunto as the Vessel may be permitted to approach, the Vessel shall be entitled to give notice of readiness on arrival there with the effect that laytime counts as if she were in berth and in all respects ready for loading/discharging provided that the Master warrants that she is in fact ready in all respects. Actual time occupied in moving from place of waiting to loading/discharging berth not to count as laytime.	210 211 212 213 214 215 216 217
(g) <i>Grab discharge</i> . - The Vessel to be suitable for grab discharge and no cargo to be loaded into spaces inaccessible to grabs, namely, deep tanks, bunker spaces, wings and ends of 'tween-decks. However, the Master has liberty of loading into such places for the purpose of stability of the Vessel and any expense over and above the costs of normal loading, spout trimming and grab discharge to be for Owners' account. Extra time used for loading and/or discharging into and/or from such places not to count.	145 146 147 148 149 150 151	If after berthing the Vessel is found not to be ready in all respects to load/dischARGE and/or fails to pass inspection as per Clause 12, lines 207 through 209 the actual time lost from the discovery thereof until the Vessel is in fact ready to load/dischARGE shall not count as laytime.	218 219 220 221
<b>8. Weight Determination</b>	152	If the Vessel requires more than twenty-four (24) running hours to be ready in all respects and/or to pass inspection, counting from the time of the initial failure to be ready and/or pass, the time spent waiting shall not count and a new notice of readiness is to be tendered as soon as the Vessel is effectively ready to load/dischARGE. In such case the Charterers may order the Vessel to vacate the loading or discharging berth, all time thereby lost and any expense thereby incurred shall be for Owners' account.	222 223 224 225 226 227 228
(a) Quantity of cargo loaded on board the Vessel shall, as customary at the loading port, be determined by railroad weight certificates, and/or belt scale weight certificates, and/or draught surveys carried out by a qualified independent surveyor appointed by Charterers at their expense. Any time used by the independent surveyor for weight determination after completion of loading shall count as laytime or, if the Vessel is on demurrage, as time on demurrage.	153 154 155 156 157 158 159	In any case Owners shall be responsible for stevedore detention and/or dead time and/or stand-by charges, if any, incurred by Charterers and/or Shippers and/or Receivers as a result of the particular Vessel's initial failure to be ready in all respects to load/dischARGE and/or pass inspection as per Clause 12, lines 207 through 209.	229 230 231 232 233
(b) The Vessel is to be presented for loading in such a trim and condition as to permit calculation of the Vessel's light displacement. Vessel is to furnish calibration scales for all tanks including fore and aft peak, double bottom tanks and deep tanks. Vessel is to furnish capacity plans, displacement scales, deadweight scales and hydrostatic information all certified by the Master as to correctness at the time of loading. Plimsoll marks amidships and draught marks at port and starboard sides bow and stern are to be clearly cut and marked on shell plating. Additional cost and time lost caused by Vessel's failure to comply shall be for Owners' account.	160 161 162 163 164 165 166 167 168	<b>13. Time Counting</b>	234
<b>9. Bills of Lading</b>	169	At each port laytime for loading and discharging shall commence to count twelve (12) hours after receipt of notice of readiness to load or discharge as per Clause 12. If loading or discharging is commenced before commencement of laytime, one half the time actually used shall count.	235 236 237 238
The Master is to sign Bills of Lading as presented without prejudice to the terms, conditions and exceptions of this Charter Party. If the Master elects to delegate the signing of Bills of Lading to his Agents, he shall give them such power of attorney in writing, copy of which is to be furnished to Charterers. All Bills of Lading issued under this Charter Party shall provide that they are subject to terms, conditions and exceptions whatsoever of this Charter Party.	170 171 172 173 174 175 176	<b>14. Laytime</b>	239
<b>10. Claims</b>	177	(a) The laytime allowed for loading shall be computed at the rate stipulated in Box 20 on Bills of Lading quantity. The laytime allowed for discharging shall be computed at the rate stipulated in Box 25 on the cargo quantity discharged at the discharge port(s) indicated in Box 24.	240 241 242 243
(a) Any claim of the Owners upon the Charterers, Shippers and/or Receivers arising at port(s) of loading and/or discharge shall be notified in writing by the Master to the Shippers or the Receivers before sailing from the port at which the claim arose; a reservation in general terms will suffice.	178 179 180 181	(b) All laytime to be based on weather working days of 24 consecutive hours.	244 245
(b) No claim for deadfreight will be entertained unless proper notice has been given to and acknowledged by Shippers before sailing. In case of dispute a claim for deadfreight to be supported by an independent surveyor's report.	182 183 184 185	(c) In the event that the Vessel is waiting for loading or discharging berth, no laytime is to be deducted during such period for reasons of weather unless the Vessel occupying the loading or discharging berth in question is actually prevented from working due to weather conditions in which case time so lost not to count.	246 247 248 249 250
<b>11. Bagged and Deck Cargo</b>	186	(d) The agreed rates of loading and discharging as stated in Boxes 20 and 25 respectively, apply on condition that the Vessel can receive/deliver at such rates.	251 252 253
(a) <i>Tallying</i> . - If shipment of cargo in bags, bales, cases and/or drums is agreed according to Box 18 Vessel shall be responsible for the number of packages shipped and the Bills of Lading shall be evidence of quantity of cargo shipped.	187 188 189 190	(e) Time sheets or Statements of Facts at loading and discharging port(s) to be signed by Agents of the Vessel, by the Master or his Agents and by the Charterers respectively Receivers or their Agents.	254 255 256
(b) <i>Dunnage</i> . - If shipment of cargo in bags, bales, cases and/or drums is agreed, Charterers shall provide and pay for all dunnage material required for the proper stowage and protection of the cargo, however, Owners to supply free of charge all suitable dunnage for such purposes, as on board. The Vessel to have cargo battens fitted except for bulk cargo.	191 192 193 194 195	(f) Unless otherwise indicated the rates indicated in Boxes 20 and 25 respectively, shall be deemed to be stated in metric tons of 1000 kilograms.	257 258
(c) <i>Deck Cargo</i> . - If shipment of deck cargo is agreed according to Box 18, same to be at Charterers' risk. Owners to supply free of charge all suitable cover-material for such purposes, as on board.	196 197 198	(g) Except where SHINC (Sundays and Holidays included) terms have been agreed to and stipulated for loading in Box 20 and/or for discharging in Box 25, Sundays and local and/or legal holidays shall not count as laytime. Laytime not to count from Saturdays 1200 hours to Sundays 2400 hours nor from 1700 hours on a day preceding a holiday even if used (subject to Clause 17 - Overtime). On Mondays or days following a holiday time to count from 0001 hours.	259 260 261 262 263 264 265
<b>12. Notice of Readiness</b>	199	(h) Unless otherwise stated laytime shall be non-reversible.	266
The Master or Vessel's Agents shall give to the Shippers, respectively Receivers or their Agents a written notice of Vessel's readiness to load respectively discharge. The notice shall be given within ordinary office hours (between 0900 to 1700 hours on all days except Saturdays, Sundays and holidays), whether the Vessel is in berth or not. The notice shall not be given before the Vessel is in all respects ready to receive respectively discharge the cargo under this Charter Party. At loading port(s) when tendering notice, the Vessel is to provide certification by a competent independent surveyor that cargo holds are clean, dry,	200 201 202 203 204 205 206 207 208	<b>15. Demurrage</b>	267
		(a) <i>Loading</i> . - In the event that the Vessel is detained at the loading port(s) by Charterers or their Agents in excess of the allowed laytime, Charterers shall pay Owners demurrage at the rate stated in Box 22 for every running day the Vessel is so detained and proportionately for any part of a day.	268 269 270 271
		(b) <i>Discharging</i> . - In the event that the Vessel is detained at the discharging port(s) by Receivers or their Agents in excess of the allowed laytime, Receivers shall pay Owners demurrage at the rate stated in Box 27 for every running day the Vessel is so detained and proportionately for any part of a day.	272 273 274 275 276
		(c) In case Owners cannot obtain settlement from Receivers, the Charterers shall be responsible for the payment of any demurrage incurred.	277 278



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<b>16. Despatch Money</b>	279	<b>19. Dues, Taxes and Charges</b>	349
Owners shall pay Charterers despatch money at the rate stated in Box 23 for all laytime saved in loading and at the rate stated in Box 28 for all laytime saved in discharging, portions of days to count proportionately.	280 281 282 283	(a) <i>On the cargo</i> . - The Charterers/Shippers shall pay all dues, taxes and charges on the cargo at the port(s) of loading, and the Receivers at the port(s) of discharge.	350 351 352
<b>17. Overtime</b>	284	(b) <i>On the Vessel</i> . - Owners shall pay all port dues, pilotage, towage, and other charges and/or taxes customarily charged to the Vessel.	353 354
(a) <i>Expenses</i>	285	(c) Owners to make their own financial arrangements for payment of disbursements at ports of loading and discharging.	355 356
(i) All overtime expenses at loading and discharging port(s) shall be for account of the party ordering same.	286 287	(d) <i>St. Lawrence Seaway Tolls</i> . - All St. Lawrence Seaway and/or Welland Canal tolls on Vessel and/or cargo assessed by Canadian and United States Authorities are to be paid and borne by Owners.	357 358 359
(ii) If overtime is ordered by port authorities or the party (not being the Charterers, Shippers or Receivers) controlling the loading and/or discharging terminal or facility, all overtime expenses are to be equally shared between the Owners and Charterers respectively Receivers.	288 289 290 291	<b>20. Payment of Freight</b>	360
(iii) Overtime expenses for Vessel's officers and crew shall always be for Owners' account.	292 293	(a) The freight to be paid at the rate indicated in Box 29 without discount (except as specifically allowed under this Charter Party) seventy-two (72) hours after completion of loading and release of Bills of Lading on Bills of Lading weight and in the manner prescribed in Box 30. If according to Box 29 only part of the freight is to be paid within 72 hours after completion of loading, the balance shall be paid within 15 days after completion of discharging. The full freight shall be deemed earned on shipment, ship and/or cargo lost or not lost.	361 362 363 364 365 366 367 368
(b) <i>Time Counting</i> . - If overtime be worked during excepted periods ordered by Owners the actual time used shall count.	294 295	(b) Charterers have the option to deduct commission as per Box 33 and undisputed despatch money earned at loading port(s) on payment of freight and undisputed despatch money earned at discharging port(s) from any balance of freight.	369 370 371 372
If overtime be worked during excepted periods ordered by Charterers respectively Receivers the actual time used shall not count.	296 297	<b>21. Agents</b>	373
If overtime be worked during excepted periods ordered by port authorities or the party controlling the loading and/or discharging terminal or facility half the actual time used shall count.	298 299 300	At loading and discharging ports Vessel to be consigned to Agents nominated by Charterers or Owners as indicated in Boxes 31 and 32, respectively.	374 375
(c) SHINC (Sundays and Holidays included). - Section (b) shall not apply if SHINC has been agreed and indicated in Boxes 20 and 25, respectively.	301 302	In all instances, customary agency fees shall be for Owners' account.	376
<b>18. Berthing and Shifting</b>	303	<b>22. Brokerage</b>	377
(a) Vessel shall go to the loading/discharging berth(s) as ordered by Charterers/Shippers/Receivers or so near thereunto as she may safely get and lie always afloat, unless one or more specifically named berths have been mutually agreed.	304 305 306 307	The brokerage at the rate stated in Box 33 upon the freight and deadfreight and demurrage (if incurred), is due by the Owners to the Brokers named in Box 33 upon shipment of cargo.	378 379 380
(b) If the Charterers/Receivers have the option of loading/discharging the Vessel at two or more berths according to Boxes 19 and 24, respectively, the cost of shifting from one berth to another shall be borne by the Owners but time shall count, provided the Owners render all co-operation possible.	308 309 310 311	In case of non-performance one-third of the brokerage on the estimated amount of freight and deadfreight to be paid by the Owners to the Brokers as indemnity for the latter's expense and work. In case of more voyages the amount of indemnity to be mutually agreed.	381 382 383 384
(c) If Vessel is required by Charterers/Shippers/Receivers to shift out of the loading or discharging berth(s) and back to the same berth(s), one berth shall be deemed to have been used, but shifting expenses from and back to the loading or discharging berth(s) so incurred shall be for Charterers/Shippers/Receivers' account and laytime or time on demurrage shall count.	312 313 314 315 316	<b>23. Re-Chartering</b>	385
(d) <i>Warping</i> . - The Vessel shall be moved to and from the loading/discharging appliances, as required, at Owners' risk and expense, but time to count.	317 318	The Charterers may re-charter whole or part of the Vessel without prejudice to this Charter Party, but the Charterers shall always remain responsible to the Owners for due fulfilment of this Charter Party.	386 387 388
(e) <i>Waiting Berth</i> . - If Vessel moors at a waiting berth shifting expenses shall be for Owner's account and time shifting from the waiting berth to the loading/discharging berth shall not count. This stipulation applies in respect of each port of loading and discharging.	319 320 321 322	<b>24. Extra Insurance</b>	389
(f) If Vessel on completion of loading/discharging remains at the loading/discharging berth(s) for an unreasonable length of time, any expenses incurred by the Charterers thereby shall be for Owners' account.	323 324 325	Any extra insurance on cargo incurred owing to Vessel's age, class, flag or ownership to be for Owners' account and may be deducted from the freight, in Charterers' option. The Charterers shall furnish evidence of payment supporting such deduction. Unless a maximum amount has been agreed, such extra insurance shall not exceed the lowest extra premium which will be charged for the Vessel and voyage in the New York insurance market.	390 391 392 393 394 395
(g) <i>Draught and Lighterage</i> . - Owners warrant that Vessel's deepest draught shall not exceed the maximum limitation stated in Box 21 on completion of loading and the maximum limitation stated in Box 26 on arrival at discharging port(s) stated in Box 24. Should the Vessel's deepest draught exceed these maximum limitations, any expenses, including lighterage, incurred to enable the Vessel to leave the place of loading and/or reach the place(s) of discharging, are to be at the expense and risk of the Owners, any custom of the port to the contrary notwithstanding, and time used not to count as laytime or time on demurrage.	326 327 328 329 330 331 332 333 334	<b>25. Deviation</b>	396
Should the Vessel be ordered to discharge at a place in which there is not sufficient water for her to get the first tide after arrival without lightening, and lie always afloat, and provided Owners have complied with the maximum arrival limitation, laytime is to count as per Box 25 at a safe anchorage for similar Vessels bound for such a place, any lighterage expenses incurred to enable her to reach the place of discharging are to be at the expense and risk of Receivers, any custom of the port to the contrary notwithstanding, but time occupied in proceeding from the anchorage to the discharging berth(s) is not to count as laytime or time on demurrage.	335 336 337 338 339 340 341 342 343	The Vessel shall have the liberty to tow and to be towed and to assist Vessels in distress and to deviate for the purpose of saving life or property at sea and to call at any ports in any order for repairs, or to make trial trips after notice, or adjust compasses and/or radio equipment and reasonable exercises of any of these liberties shall not be deemed to be a departure from the contractual route.	397 398 399 400 401 402
Unless loading and/or discharging port(s) and/or berth(s) are named in this Charter Party, the responsibility for providing safe port(s) and/or berth(s) of loading and/or discharging lies with the Charterers respectively Receivers provided always that Owners have complied with the maximum draught limitations as per Boxes 21 and 26, respectively.	344 345 346 347 348	<b>26. Bunker Clause</b>	403
		The Vessel shall have the liberty as part of the contract voyage to proceed to any port(s) at which bunker oil is available for the purpose of bunkering at any stage of the voyage whatsoever and whether such port(s) is on or off the direct and/or customary routes between any of the ports of loading or discharging named in this Charter Party and may there take oil bunkers in any quantity in the discretion of Owners even to the full capacity of fuel tanks and deep tanks and any other compartment in which oil can be carried, whether such amount is or is not required for the chartered voyage.	404 405 406 407 408 409 410 411
		<b>27. Lien and Cesser</b>	412

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The Owners shall have a lien on the cargo for freight, deadfreight, demurrage, and average contribution due to them under this Charter Party.	413	sel being frozen in - is at liberty to leave without cargo; in such cases this Charter Party shall be null and void.	482
Charterers' liability under this Charter Party is to cease on cargo being shipped except for payment of freight, deadfreight and demurrage.	414	(b) If during loading, the Master, for fear of Vessel being frozen in, deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to any other port with option of completing cargo for Owners' own account to any port or ports including the port of discharge. Any part cargo thus loaded under this Charter Party to be forwarded to destination at Vessel's expense against payment of the agreed freight, provided that no extra expenses be thereby caused to the Consignees, freight being paid on quantity delivered (in proportion if lump sum), all other conditions as per Charter Party.	483
<b>28. General Average</b>	415	(c) In case of more than one loading port, and if one or more of the ports are closed by ice, the Master or Owners to be at liberty either to load the part cargo at the open port and fill up else where for the Owners' own account as under sub-clause (b) or to declare the Charter Party null and void unless the Charterers agree to load full cargo at the open port.	484
General average shall be adjusted, stated and settled in New York, N.Y., U.S.A., according to York-Antwerp Rules 1974.	416	<i>Voyage and Discharging Port</i>	485
<b>29. New Jason and Both-to-Blame Collision Clauses</b>	417	(d) Should ice prevent the Vessel from reaching the port of discharge, the Charterers/Receivers shall have the option of keeping the Vessel waiting until the re-opening of navigation and paying demurrage or of ordering the Vessel to a safe and immediately accessible port where she can safely discharge without risk of detention by ice. Such orders to be given within 48 hours after the Owners or Master have given notice to the Charterers/Receivers of impossibility of reaching port of destination.	486
The New Jason Clause and the Both-to-Blame Collision Clause as printed below, to be considered incorporated in this Charter Party and any Bill of Lading issued hereunder.	418	(e) If during discharging, the Master, for fear of Vessel being frozen in, deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to the nearest safe and accessible port. Such port to be nominated by Charterers/Receivers as soon as possible, but not later than 24 running hours, Sundays and holidays excluded, of receipt of Owners' request for nomination of a substitute discharging port, failing which the Master will himself choose such port.	487
<i>New Jason Clause.</i> In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Carrier is not responsible, by statute, contract or otherwise, the goods, Shippers, Consignees or owners of the goods shall contribute with the Carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods.	419	(f) On delivery of the cargo at such port, all conditions of the Bill of Lading shall apply and the Owners shall receive the same freight as if the Vessel had discharged at the original port of destination, except that if the distance to the substitute port exceeds 100 nautical miles the freight on the cargo delivered at that port to be increased in proportion.	488
If a salving ship is owned or operated by the Carrier, salvage shall be paid for as fully as if the said salving ship or ships belonged to strangers. Such deposit as the Carrier or his Agents may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, Shippers, Consignees or owners of the goods to the Carrier before delivery.	420	<b>32. Canadian Clause Paramount</b>	489
<i>Both-to-Blame Collision Clause.</i> If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the Master, Mariner, Pilot or the servants of the Carrier in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying ship or her Owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or non-carrying ship or her Owners to the owners of said cargo and set-off, recouped or recovered by the other or non-carrying ship or her Owners as part of their claim against the carrying Vessel or Carrier. The foregoing provisions shall also apply where the Owners, operators or those in charge of any ship or ships or objects other than, or in addition to, the colliding ships or objects are at fault in respect of a collision or contact.	421	If the Vessel loads in Canada, the Canadian Clause Paramount shall be incorporated in all Bills of Lading and shall read as follows:	490
<b>30. War Risks</b>	422	This Bill of Lading, so far as it relates to the carriage of goods by water, shall have effect, subject to the provisions of the Carriage of Goods by Water Act, 1970, Revised Statutes of Canada, Chapter C-15, enacted by the Parliament of the Dominion of Canada, or any statutory re-enactment thereof, which shall be deemed to be incorporated herein, and nothing herein contained shall be deemed a surrender by the carrier of any of its rights or immunities, or an increase of any of its responsibilities or liabilities under the said Act. If any term of this Bill of Lading be repugnant to said Act to any extent, such term shall be void to that extent, but no further.	491
(a) No Bills of Lading to be signed for any blockaded port and if the port of discharge be declared blockaded after Bills of Lading have been signed, or if the port to which the Vessel has been ordered to discharge, either on signing Bills of Lading or thereafter, be one to which the Vessel is or shall be prohibited from going by the Government of the Nation under whose flag the Vessel sails or by any other Government, the Owner shall discharge the cargo at any other port covered by this Charter Party as ordered by the Charterers (provided such other port is not a blockaded or prohibited port as above mentioned) and shall be entitled to freight as if the Vessel had discharged at the port or ports of discharge to which she was originally ordered.	423	<b>33. U.S.A. Clause Paramount</b>	492
(b) The Vessel shall have liberty to comply with any orders or directions as to departure, arrival, routes, ports of call, stoppages, destination, delivery or otherwise howsoever given by the Government of the Nation under whose flag the Vessel sails or any department thereof, or by any other Government or any department thereof, or any person acting or purporting to act with the authority of such Government, or any department thereof, or by any committee or person having, under the terms of the War Risks Insurance on the Vessel, the right to give such orders or directions and if by reason of and in compliance with any such orders or directions anything is done or is not done, the same shall not be deemed a deviation, and delivery in accordance with such orders or directions shall be a fulfilment of the contract voyage and the freight shall be payable accordingly.	424	If the Vessel loads in the U.S.A., the U.S.A. Clause Paramount shall be incorporated in all Bills of Lading and shall read as follows:	493
<b>31. Ice</b>	425	This Bill of Lading shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States, approved April 16, 1936, which shall be deemed to be incorporated herein, and nothing herein contained shall be deemed a surrender by the carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. If any term of this Bill of Lading be repugnant to said Act to any extent, such term shall be void to that extent, but no further.	494
<i>Loading Port</i>	426	<b>34. Water Pollution Clause</b>	495
(a) If the Vessel cannot reach the loading port by reason of ice when she is ready to proceed from her last port, or at any time during the voyage, or on her arrival, or if frost sets in after her arrival, the Master - for fear of the Vessel	427	Any time lost on account of Vessel's non-compliance with Government and/or State and/or Provincial regulations pertaining to water pollution shall not count as laytime or time on demurrage.	496
	428	<b>35. Strikes, Stoppages, etc.</b>	497
	429	(a) <i>Port of Loading</i>	498
	430	(i) The parties hereto mutually exempt each other from all liability (except as hereinafter provided) arising from or for time lost through riots, strikes, lock-outs of workmen, or disputes between masters and men at the mines, on railroads or at loading port(s) or by reason of accidents to mines, railroads or machinery, obstructions in harbours (not including congestion of ship-	499
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**PART II**  
**"Fertivoy 88" Charter Party**

ping or shore traffic unless resulting from a cause exempted by this Clause), 551  
interruption (wholly or partly) of the fuel supply of shippers or the suppliers 552  
of cargo, or by reason of epidemic, frost, fire, floods, fogs, storms, earth- 553  
quakes, landslides, avalanches, restraints of established authorities, and 554  
any unavoidable accidents and hindrances, beyond their control, either 555  
preventing or delaying the mining, supplying, working or loading of the 556  
cargo for which the Vessel is stemmed taking place on or after the date of 557  
the Charter Party. 558

(ii) In the event of any stoppages arising from any of the aforesaid causes af- 559  
fecting the loading of the cargo or any part of it when the Vessel is ready to 560  
proceed from her last port or at any time during the voyage to the port or 561  
ports of loading or after her arrival there, the Master or Owners may ask the 562  
Charterers to declare that they agree to reckon the laydays as if there were 563  
no such stoppage(s) or, alternatively, to declare an alternative loading port. 564  
Unless Charterers have given such declaration in writing (by telegram, if ne- 565  
cessary) within twenty-four (24) hours, Owners shall have the option of can- 566  
celling the Charter Party (or if the Charter Party is for more than one voyage, 567  
the voyage so affected), such option to be declared within 5 working days. 568  
In the event that the Charterers direct the Vessel to an alternative loading port, 569  
any additional charges or expenses including compensation for Vessel's 570  
time incurred by reason of the change in loading port, to be for Charterers' 571  
account. If part cargo has already been loaded, the Vessel may proceed 572  
with same (freight payable on loaded quantity only) having liberty to com- 573  
plete with other cargo on the way, for her own account. 574

(iii) In the event of any stoppage or stoppages arising from any of the afore- 575  
said causes - other than riots, strikes, lock-outs of workmen, disputes be- 576  
tween masters and men at the mines, on railroads or at loading port(s), in- 577  
terruption of the fuel supply of shippers or suppliers of cargo, frost and fogs 578  
- affecting the loading of the cargo or any part of it and the Vessel is already 579  
on demurrage when such stoppage or stoppages occur and provided no 580  
cargo shall have been loaded on board, the Charterers may give not less 581  
than forty-eight (48) hours telegraphic notice, expiring not earlier than five 582  
(5) days after the Vessel has been on demurrage, that they wish to cancel 583  
the Charter Party (or if the Charter Party is for more than one voyage, the 584  
voyage so affected) unless Owners agree to maintain the Charter Party with 585  
no demurrage being incurred for the remainder of the time lost through said 586  
stoppage or stoppages. In either case demurrage shall be payable until ex- 587  
piration of the aforesaid notice. If part cargo has already been loaded, Char- 588  
terers may order the Vessel to proceed with the quantity loaded paying 589  
freight on the quantity loaded subject to a minimum of 2/3rds of the quantity 590  
declared in accordance with Clause 2(b), in which case demurrage is to be 591  
paid until such time as the Vessel has been given orders to proceed, or 592  
Charterers may discharge such part cargo at the loading port and notify 593  
Owners of their wish to cancel in the same manner as stated above in the 594  
case where no cargo has been loaded, in which case demurrage shall be 595  
payable to the expiration of the notice period or, if the part cargo is to be dis- 596  
charged, to the completion of discharge, whichever shall last occur. In the 597  
event that the Vessel is ordered to proceed with less than 2/3rds of the 598  
quantity declared in accordance with Clause 2(b), Charterers are to have 599  
the right to complete with other lawful cargoes for their own account, Char- 600  
terers paying any additional charges or expenses including compensation 601  
for any additional time used by the Vessel by reason of taking the comple- 602  
tion cargo at the rate of demurrage specified in Box 22. 603

(b) *Port of Discharge* 604

(i) In the event of riots, civil commotion, accidents or any other causes di- 605  
rectly connected with the discharging, receiving or warehousing (in the 606  
port) of the cargo, beyond the control of the Consignees, any time lost there- 607  
by shall not count unless the Vessel is already on demurrage. If the Vessel is 608  
already on demurrage, Charterers may keep the Vessel at the discharging 609  
port against payment of full demurrage with liberty at any time of ordering 610  
the Vessel to an alternative discharge port where she can safely discharge 611  
without risk of being detained by the said stoppage or stoppages. 612

(ii) In the event of strikes or lock-outs affecting the discharging of the cargo 613  
on or after Vessel's arrival at or off the port of discharge, the Consignees 614  
shall have the option of keeping the Vessel waiting until such strike or lock- 615  
out is at an end against paying half demurrage after expiration of the time 616  
provided for discharging, or of ordering the Vessel to a safe port where she 617  
can safely discharge without risk of being detained by such strike or lock- 618  
out. Such orders to be given within forty-eight (48) hours after the Owners 619  
have given notice to the Consignees of Vessel's readiness to discharge or of 620  
the Owners' request for orders. 621

(iii) In the event the Vessel is ordered to an alternative discharge port as pro- 622  
vided for in aforesaid (i) or (ii) all conditions of this Charter Party and the Bill 623

of Lading issued hereunder shall apply to the delivery of the cargo at such 624  
substitute port, and the Owners shall receive the same freight as if the cargo 625  
had been discharged at the original port of destination, except that if the 626  
distance to the substitute port exceeds 100 nautical miles, the freight on the 627  
cargo delivered at the substitute port to be increased in proportion. 628

**36. Exceptions** 629

Owners shall be bound before and at the beginning of the voyage to exer- 630  
cise due diligence to make the Vessel seaworthy and to have her properly 631  
manned, equipped and supplied and neither the Vessel nor her Master or 632  
Owners shall be or shall be held liable for any loss or damage or delay to the 633  
cargo for causes excepted by the Canadian Carriage of Goods by Water 634  
Act, 1970 or the U. S. Carriage of Goods by Sea Act, 1936. 635  
Neither the Vessel, her Master or Owners, nor the Charterers or Receivers 636  
shall, unless otherwise in this Charter Party expressly provided, be respon- 637  
sible for loss of or damage or delay to or failure to supply, load, discharge or 638  
deliver the cargo arising or resulting from: - The acts of God, public ene- 639  
mies, wars, the restraints of rulers, princes and people, strike or lock-out of 640  
crew, pirates, robbers and arrests, fires on land or sea, floods, blockades, 641  
riots, insurrections, Civil Commotions, earthquakes, explosions, barratry of 642  
Master or crew, stranding, collision and every danger and accident of the 643  
sea, river, machinery, boilers, navigation and latent defects in the hull or 644  
machinery of whatever nature or kind; but nothing in the Charter Party shall 645  
exempt the Owners from liability for failure to perform any of the duties im- 646  
posed on carriers by the Canadian Carriage of Goods by Water Act, 1970 or 647  
the U.S. Carriage of Goods by Sea Act, 1936. 648

**37. Law and Arbitration** 649

Any dispute of law or fact arising under this Charter Party shall be referred to 650  
arbitration at the place agreed according to sub-clause 37.1., 37.2. or 37.3. 651  
of this Clause and so stated in Box 34. Such arbitration must commence 652  
within one (1) year of final discharge or from the date of cancellation if the 653  
voyage is not performed. 654

\*) 37.1. This Charter Party shall be governed by English law and any 655  
dispute arising out of this Charter Party shall be referred to arbitration in 656  
London, one arbitrator being appointed by each party, in accordance with 657  
the Arbitration Acts 1950 and 1979 or any statutory modification or re-enact- 658  
ment thereof for the time being in force. On the receipt by one party of the 659  
nomination in writing of the other party's arbitrator, that party shall appoint 660  
their arbitrator within fourteen days, failing which the decision of the single 661  
Arbitrator appointed shall apply. If two Arbitrators properly appointed shall 662  
not agree they shall appoint an umpire whose decision shall be final. 663

\*) 37.2. Should any dispute arise out of this Charter Party, the matter in 664  
dispute shall be referred to three persons at New York, one to be appointed 665  
by each of the parties hereto, and the third by the two so chosen; their deci- 666  
sion or that of any two of them shall be final, and for purpose of enforcing any 667  
award, this agreement may be made a rule of the Court. The arbitrators shall 668  
be members of the Society of Maritime Arbitrators, Inc. of New York and the 669  
proceedings shall be conducted in accordance with the rules of the 670  
Society. 671

\*) 37.3. Any dispute arising out of this Charter Party shall be referred to 672  
arbitration at the place indicated in Box 34 subject to the law and proce- 673  
dures applicable there. 674

37.4. If Box 34 in Part I is not filled in, sub-clause 37.1. of this Clause shall 675  
apply. 676

\*) 37.1., 37.2. and 37.3. are alternatives; indicate alternative agreed in Box 34. 677



# BIMCO

## FERTICON 2007

FERTILISER VOYAGE CHARTER PARTY

**PART I**

<p><b>1. Shipbroker</b></p>	<p><b>2. Place and Date</b></p>
<p><b>3. Owners / Disponent owners / Place of business (Cl. 1)</b></p>	<p><b>4. Charterers / Place of business (Cl. 1)</b></p>
<p><b>5. Vessel (Cl. 1)</b></p>	<p><b>6. GT / NT (Cl. 1)</b></p>
<p><b>7. DWT (all told on summer load line in metric tons (about)) (Cl. 1)</b></p>	<p><b>8. Present position (Cl. 1)</b></p>
<p><b>9. Loading port(s) or place(s) (Cl. 1, 2 and 15)</b></p>	<p><b>10. Discharging port(s) or place(s) and maximum permissible draft (m) (Cl. 1, 2, 15 and 18)</b></p>
<p><b>11. Cargo (also state quantity and margin in Owners' option, if agreed) (Cl. 4)</b></p>	<p><b>12. Advance Notices (Cl. 2)</b> State number of days notice of:</p> <ul style="list-style-type: none"> <li>(i) ETA Loading port(s) or place(s):</li> <li>(ii) Definite date of arrival:</li> <li>(iii) Declaration of cargo quantity &amp; stowage plan:</li> <li>(iv) ETA Discharging port(s) or place(s):</li> </ul>
<p><b>13. Freight (Cl. 3)</b></p> <ul style="list-style-type: none"> <li>(i) Freight rate and currency:</li> <li>(ii) When payable: (state Sub-clause 3(a) or (b))</li> <li>(iii) Beneficiary and bank account:</li> </ul>	<p><b>14. Freight payable on shipment (Cl. 3(a)) (applies unless "3(b)" is stated in Box 13)</b></p> <ul style="list-style-type: none"> <li>(i) Percentage of freight payable:</li> <li>(ii) No. of banking days for payment:</li> <li>(iii) No. of days for payment of balance of freight/demurrage/despatch:</li> </ul> <p><b>15. Freight payable on arrival (Cl. 3(b)) (only applies if "3(b)" stated in Box 13)</b></p> <ul style="list-style-type: none"> <li>(i) Percentage of freight payable on arrival:</li> <li>(ii) No. of days for payment of balance of freight/demurrage/despatch:</li> </ul>
<p><b>16. Type and capacity of vessel's cargo handling gear (Cl 5(c)):</b></p>	<p><b>19. Notice of readiness (Cl. 9) (indicate whether Cl. 9(a) (SHINC) or (b) (SHEX) applies for loading and whether Cl. 9(c) (SHINC) or (d) (SHEX) applies for discharging. If left blank, Cl. 9(a) and (c) will apply)</b></p> <ul style="list-style-type: none"> <li>(i) Loading ( ✓ tick applicable box) SHINC (state times if not ATDN): <input type="checkbox"/> 9 (a) SHEX: <input type="checkbox"/> 9 (b)</li> <li>(ii) Discharging ( ✓ tick applicable box) SHINC (state times if not ATDN): <input type="checkbox"/> 9 (c) SHEX: <input type="checkbox"/> 9 (d)</li> </ul>
<p><b>17. Laydays / Cancelling (Cl. 8)</b></p>	
<p><b>18. Notice of Readiness to be tendered to: (Cl 9)</b></p> <ul style="list-style-type: none"> <li>(i) Loading:</li> <li>(ii) Discharging:</li> </ul>	

**FERTICON 2007**  
**Fertiliser Voyage Charter Party**

**PART I**

(continued)

<p><b>20. Laytime</b> (if separate laytime for loading and discharging is agreed, fill in (a) and (b). If total laytime for loading and discharging, fill in (c) only) (Cl. 5)                  Provide for following options: SHINC/SHEX and tons/day or running days/hours</p> <p>(a) Laytime for loading                  _____</p> <p>(b) Laytime for discharging                  _____</p> <p>(c) Total laytime for loading and discharging                  _____</p>	<p><b>21. Commencement of Laytime</b> (Cl. 10)</p> <p>(i) Loading port - 6 hours after tendering NOR to apply unless otherwise stated.</p> <p>(ii) Discharging port - 24 hours after tendering NOR to apply unless otherwise stated.</p>
<p><b>22. Demurrage</b> (Cl. 11) (state rate per day)</p> <p>Despatch rate: one half the demurrage rate unless otherwise stated</p>	<p><b>23. General Average to be adjusted at</b> (Cl. 26(c)) (state place if other than London)</p>
<p><b>24. Freight tax</b> (state for which party's account) (Cl. 22(c))</p>	<p><b>25. Commission</b> (Cl. 24)</p> <p>(i) Address commission and to whom payable                  _____</p> <p>(ii) Brokerage commission and to whom payable                  _____</p>
<p><b>26. Dispute Resolution</b> (state 30(a), 30(b) or 30(c); if 30(c) agreed also state Place of Arbitration) (if not filled in 30(a) shall apply)</p>	<p><b>27. Agents</b> (Cl. 23)</p> <p>(i) Loading                  _____</p> <p>(ii) Discharging                  _____</p>
<p><b>28. Numbers of additional clauses covering special provisions, if agreed</b></p>	

It is mutually agreed that this Contract shall be performed subject to the conditions contained in this Charter Party which shall include Part I as well as Part II. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict.

<p><b>Signature (Owners)</b></p>     	<p><b>Signature (Charterers)</b></p>     
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**PART II**  
**FERTICON 2007 - Fertiliser Voyage Charter Party**

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**PART II**  
**FERTICON 2007 - Fertiliser Voyage Charter Party**

<b>1. Preamble</b>	1
It is agreed between the party stated in <b>Box 3</b> as owners/disponent owners (the "Owners") of the vessel named in <b>Box 5</b> ("the Vessel"), of the GT/NT indicated in <b>Box 6</b> and of deadweight capacity all told on summer loadline stated in <b>Box 7</b> , now in position as stated in <b>Box 8</b> and the party stated in <b>Box 4</b> as charterers ("the Charterers") that:	2 3 4 5
The Vessel shall, as soon as its prior commitments have been completed, proceed to the loading port(s) or place(s) stated in <b>Box 9</b> (the "Loading Port") or so near thereto as it may safely get and lie, always afloat or safely aground and there load a full and complete cargo as stated in <b>Box 11</b> , which the Charterers bind themselves to ship. Being so loaded the Vessel shall proceed with due dispatch to the discharging port(s) or place(s) stated in <b>Box 10</b> (the "Discharging Port") as ordered on signing Bills of Lading, or so near thereto as it may safely get and lie, always afloat or safely aground, and there deliver the cargo.	6 7 8 9 10 11
<b>2. Advance Notices</b>	12
<b>(a) Loading</b>	13
The Owners shall give the Charterers and/or their nominees and/or their agents at the Loading Port the following notices and information:	14 15
(i) the number of days' notice of Estimated Time of Arrival ("ETA") as stated in <b>Box 12(i)</b> ;	16
(ii) 7 days' notice of ETA together with approximate quantity of cargo required;	17
(iii) the number of days' notice of definite date of arrival as stated in <b>Box 12(ii)</b> ; and	18
(iv) the Master shall declare the quantity of cargo and a stowage plan as soon as practically possible but no later than the number of days stated in <b>Box 12(iii)</b> prior to the arrival at the Loading Port.	19 20
<b>(b) Discharge</b>	21
The Owners/Master shall give the Charterers and/or their nominees and/or their agents at the Discharging Port the following notices and information:	22 23
(i) Upon sailing from the sole or final Loading Port, the name of the Vessel, the name of the Loading Port, the quantity and description of the cargo loaded, the stowage plan and ETA, weather permitting, at the first port or place stated in <b>Box 10</b> ;	24 25 26
(ii) other notices of ETA stated in <b>Box 12(iv)</b> .	27
<b>3. Freight</b>	28
Freight at the rate and in the currency stated in <b>Box 13(i)</b> shall be calculated on the quantity of cargo stated on the Bill of Lading.	29 30
<b>(a) On Shipment.</b> The percentage of freight stated in <b>Box 14(i)</b> shall be paid to the beneficiary in the account and in the currency stated in <b>Box 13</b> within the number of banking days stated in <b>Box 14(ii)</b> after releasing Bills of Lading marked "freight payable as per Charter Party", but in any event always before breaking bulk. The balance of the freight together with loading/discharging port demurrage, if any, or less despatch, if any, is payable by the Charterers within the number of days stated in <b>Box 14(iii)</b> counting from the date of submission of the Owners' final freight account in writing, in accordance with the provisions of Clause 31 herein.	31 32 33 34 35 36
Freight shall be deemed earned in full on shipment and non-returnable, Vessel and/or cargo lost or not lost. Neither the Owners nor their agents shall be required to sign or endorse bills of lading showing freight prepaid unless the full freight has actually been paid.	37 38 39
<b>(b) On Arrival.</b> The percentage of freight stated in <b>Box 15(i)</b> shall be paid to the beneficiary in the account and in the currency stated in <b>Box 13</b> on arrival at or off the first Discharging Port. The balance of the freight together with loading/discharging port demurrage, if any, or less despatch, if any, is payable by the Charterers within the number of days stated in <b>Box 15(ii)</b> counting from the date of submission of the Owners' final freight account in writing, in accordance with the provisions of Clause 31 herein.	40 41 42 43 44
Full freight shall be deemed earned on arrival of the Vessel and the cargo at or off the first or sole Discharging Port.	45 46
<b>(c)</b> The final freight account shall include the Owners' invoice for demurrage, if any, and/or credit for despatch, if any, and shall be accompanied, in support thereof, (i) by the Notices of Readiness tendered at the Loading Port and Discharging Port, (ii) the Statement of Facts prepared by the agents at the Loading	47 48 49

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Port and Discharging Port, duly countersigned by the shippers/receivers or their nominees and (iii) laytime statements prepared by the Owners for the Loading Port and Discharging Port.	50 51
Sub-clauses (a) and (b) are alternatives. Indicate alternative agreed in <b>Box 13(ii)</b> . If no indication is made, Sub-clause (a) shall apply.	52 53
<b>4. Cleanliness of Vessel</b>	54
At Loading Port before tendering Notice of Readiness, the Owners and the Master shall ensure that the Vessel's holds are clean swept and dry, free of all loose rust scale and residues of previous cargoes, and in all respects suitable to load the intended cargo.	55 56 57
If, after tendering Notice of Readiness, the Vessel is nevertheless found by the Charterers' Surveyor not to be suitable for loading the intended cargo, the holds shall be further cleaned and dried at the Owners' expense and laytime or time on demurrage, as the case may be, shall cease to count from the time the Vessel is rejected until it is passed suitable for loading.	58 59 60 61
If, in the Owners' opinion, acceptance of the Vessel's holds has been unreasonably withheld, either initially or after additional cleaning, the parties shall, within twelve (12) running hours, jointly appoint an Independent Surveyor to re-inspect the holds and whose decision on the suitability of the holds for loading shall be final.	62 63 64
(a) If the Independent Surveyor determines that the holds are unsuitable for loading, his fees and expenses shall be borne by the Owners.	65 66
(b) If the Independent Surveyor determines that the holds are suitable for loading, his fees and expenses shall be borne by the Charterers.	67 68
(c) Time shall continue to count either in accordance with the initial Notice of Readiness or, if additional cleaning was performed, from the time of acceptance of the holds by the Independent Surveyor.	69 70
<b>5. Loading/Discharging</b>	71
(a) <i>Costs/Risks</i>	72
(i) <i>Bulk Cargo</i>	73
The cargo shall be brought into the holds, loaded, stowed, spout-trimmed and taken from the holds and discharged by the Charterers in their time at the average rates per day of twenty-four (24) consecutive hours stated in <b>Box 20(a)</b> and <b>Box 20(b)</b> or within the total days of twenty-four (24) consecutive hours stated in <b>Box 20(c)</b> , free of any risk, liability and expense whatsoever to the Owners. Additional trimming, if required, shall be for the Owners' account.	74 75 76 77 78
(ii) <i>Bagged Cargo</i>	79
The cargo shall be brought into the holds, loaded, tallied, stowed, lashed and/or secured and taken from the holds and discharged by the Charterers in their time at the average rates per day of twenty-four (24) consecutive hours stated in <b>Box 20(a)</b> and <b>Box 20(b)</b> or within the total days of twenty-four (24) consecutive hours stated in <b>Box 20(c)</b> , free of any risk, liability and expense whatsoever to the Owners.	80 81 82 83
The Charterers shall provide and lay all dunnage material and/or Kraft paper and/or other suitable substitute material as required for the proper stowage and protection of the cargo on board; the Owners to allow the use of any dunnage available on board. The Charterers shall be responsible for and pay the cost of the removal and disposal of the dunnage, lashings and other protective materials after discharge of the cargo and time to count without interruption until the dunnage, lashings and protective materials have been removed.	84 85 86 87 88
(b) <i>Cargo Segregation</i>	89
Different cargo commodities/qualities shall be loaded only within the natural segregation of the Vessel's holds.	90 91
(c) <i>Cargo Handling Gear</i>	92
Unless it has been agreed between the parties that the Vessel's gear shall not be used and stated as such in <b>Box 16</b> , the Owners shall throughout the duration of loading/discharging give free use of the Vessel's cargo handling gear and of sufficient motive power to operate all such cargo handling gear but never exceeding their ordinary capacity, also lights for night work, as on board. All such equipment shall be in good working order. The Vessel shall have on board a Test Certificate covering the Vessel's gear in accordance with the International Dock Safety Convention, valid for the duration of this Charter Party.	93 94 95 96 97 98

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Unless caused by negligence of the stevedores, time lost by breakdown of the Vessel's cargo handling gear or motive power - pro rata the total number of cranes/winchmen required at that time for the loading/discharging of cargo under this Charter Party - shall not count as laytime or time on demurrage. The Owners shall have the option to hire shore cargo handling equipment of similar or better capacity in lieu thereof at their risk, responsibility and expense, in which case laytime or time on demurrage shall not be affected for the time such cargo handling equipment is made available by the Owners.	99 100 101 102 103 104
The Charterers shall provide and pay for shore labour to operate the Vessel's cargo handling gear at their risk and under their responsibility. Stevedores shall be deemed servants of the Charterers but shall always work under the supervision of the Master. Where the Vessel's cargo handling gear is to be used, the Owners shall have the option to provide cranemen/winchmen to operate the Vessel's cargo handling gear, provided local regulations permit.	105 106 107 108 109
<b>6. Draft Survey and Tallying</b>	110
(a) <i>Bulk Cargo</i> - The weight of bulk cargo taken on board shall be determined for bill of lading purposes by draft survey at the Loading Port.	111 112
(b) <i>Bagged Cargo</i> - At each Loading Port the Charterers shall appoint and pay for independent tallymen to act jointly on behalf of the Owners and the Charterers. Such joint tally shall be binding on both parties provided that such tally is kept throughout the loading process.	113 114 115
At each Discharging Port a declaration by the Master or Chief Officer that all bagged cargo consigned to that port has been discharged shall be conclusive evidence of that fact, unless the receivers, before the commencement of the discharge, notify the Master in writing of their intention to tally the cargo, and provided such tally is in fact taken at the Vessel's hatchways.	116 117 118 119
<b>7. Stevedore Damage</b>	120
(a) The Charterers shall be responsible for damage (beyond ordinary wear and tear) to any part of the Vessel caused by Stevedores at both ends. Such damage, as soon as apparent, shall be notified immediately by the Master to the Charterers or their port agents and to their Stevedores. The Owners/Master shall endeavour to obtain the Stevedores' written acknowledgment of the damage caused.	121 122 123 124
(b) Stevedore damage affecting seaworthiness or the proper working of the Vessel and/or her equipment shall be repaired without delay before the Vessel sails from the port where such damage was caused or discovered and shall be paid for by the Charterers. Other repairs shall be effected before the completion of the voyage where practicable, or otherwise at a place mutually agreed between the parties. The cost of all such repairs shall also be for the Charterers' account and any time lost shall be for the account of and shall be paid to the Owners by the Charterers at a rate equivalent to the demurrage rate.	125 126 127 128 129 130
<b>8. Laydays/Cancelling Date</b>	131
(a) Laydays shall not commence before the date stated in <b>Box 17</b> , save in accordance with Clause 10 (Laytime).	132 133
(b) Should the Vessel not have tendered Notice of Readiness to load in accordance with Clause 9 (Notice of Readiness), by the cancelling date agreed in <b>Box 17</b> , the Charterers shall have the option of cancelling this Charter Party.	134 135 136
(c) Should Owners anticipate that, despite the exercise of due diligence, the Vessel will not be ready to load by the cancelling date, they shall notify the Charterers thereof without delay, stating the probable date of the Vessel's readiness to load and asking whether the Charterers will exercise their option of cancelling the Charter Party, or agree to a new cancelling date.	137 138 139 140
(d) The Charterers' option shall be declared within two (2) working days of receipt of such notification. If the Charterers do not then exercise their option of cancelling, the second day after the new date of readiness indicated in the Owners' notification shall be regarded as the new cancelling date.	141 142 143
<b>9. Notice of Readiness</b>	144
<i>Loading Ports</i>	145
(a) *Notice of Readiness shall be tendered at the first or sole Loading Port and shall be delivered to the Charterers or their agents stated in <b>Box 18(i)</b> at any time of the day or night (ATDN), unless otherwise agreed and stated in <b>Box 19(i)</b> , Sundays (or local equivalent) and holidays included ("SHINC" option).	146 147 148

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(b) *Notice of Readiness shall be tendered at first or sole Loading Port and shall be delivered to the Charterers or their agents stated in <b>Box 18(i)</b> during local office hours, Sundays (or local equivalent) and holidays excluded ("SHEX" option).	149 150 151
<i>Discharging Ports</i>	152
(c) *Notice of Readiness shall be tendered at the first or sole Discharging Port and shall be delivered to the Charterers or their agents stated in <b>Box 18(ii)</b> at any time of the day or night (ATDN), unless otherwise agreed and stated in <b>Box 19(ii)</b> , Sundays (or local equivalent) and holidays included ("SHINC" option).	153 154 155
(d) *Notice of Readiness shall be tendered at the first or sole Discharging Port and shall be delivered to the Charterers or their agents stated in <b>Box 18(ii)</b> during local office hours, Sundays (or local equivalent) and holidays excluded ("SHEX" option).	156 157 158
In all instances the Notice of Readiness shall be tendered once the Vessel is within the commercial area of the port. If the loading/discharging berth is not available on the Vessel's arrival at or off the port of loading/discharging, the Vessel shall be entitled to give Notice of Readiness on arrival at the customary waiting area, whether in free pratique or not, whether customs cleared or not.	159 160 161 162
* Indicate choice of (a) or (b) for loading ports and (c) or (d) for discharging ports as agreed in <b>Box 19</b> . If no alternatives are stated in <b>Box 19</b> then sub-clauses (a) and (c) shall apply.	163 164
<b>10. Laytime</b>	165
(a) In the event the Charterers agree in writing to load prior to the commencement of laydays, half time actually used before the commencement of laydays shall be counted as laytime.	166 167
(b) Laytime at the first or sole Loading Port shall commence six (6) hours after tendering Notice of Readiness unless otherwise provided in <b>Box 21(i)</b> .	168 169
(c) Laytime at the first or sole Discharging Port shall commence twenty-four (24) hours after tendering Notice of Readiness unless otherwise provided in <b>Box 21(ii)</b> .	170 171
Laytime or time on demurrage at second or subsequent Loading/Discharging Ports shall commence on arrival at the port or as near thereto as the Vessel can safely get.	172 173
(d) At Loading and Discharging Ports actual time used before commencement of laytime and during excepted periods subject to Clause 20 (Overtime) herein shall count.	174 175
(e) Laytime shall not count when the loading or discharging of cargo into or from the Vessel is actually prevented by weather conditions including sun days officially declared by a Port Authority.	176 177
(f) Time used in moving from the place of waiting to the loading/discharging berth shall not count as laytime.	178
<b>11. Demurrage/Despatch</b>	179
If the Vessel is detained longer than the time allowed for loading and/or discharging, demurrage shall be paid by the Charterers to the Owners at the rate stated in <b>Box 22</b> per day or pro rata for any part of a day.	180 181
The Owners shall pay the Charterers despatch money at, unless otherwise stated in <b>Box 22</b> , one half the demurrage rate daily or pro rata on working time saved both ends.	182 183
<b>12. Undue Delay</b>	184
If the Vessel has been on demurrage for fifteen (15) days or more and no cargo has been loaded, the Owners shall have the option of cancelling this Charter Party. No claim which the Owners may otherwise have against the Charterers shall be prejudiced by the Owners exercising their option of cancelling.	185 186 187
<b>13. Lien</b>	188
The Owners shall have a lien on the cargo and on all sub-freights payable in respect of the cargo, for freight, deadfreight, demurrage, claims for damages and for all other amounts due under this Charter Party and all costs of recovering same, including legal fees.	189 190 191
<b>14. Bills of Lading</b>	192
Bills of Lading shall be issued in accordance with Mate's Receipts and signed by the Master as per the	193



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FERTICONBILL 2007 Bill of Lading, without prejudice to this Charter Party, or by the Owners' agents provided written authority has been given by the Owners to the agents, a copy of which is to be furnished to the Charterers. The Charterers shall indemnify the Owners against all consequences or liabilities that may arise from signing bills of lading other than the FERTICONBILL 2007 to the extent that the printed terms of such bills of lading impose or result in the imposition of more onerous liabilities upon the Owners than those assumed by the Owners under this Charter Party.	194 195 196 197 198 199
<b>15. Shifting</b>	200
If <b>Box 9</b> and/or <b>Box 10</b> provide for the use of more than one berth/place, the cost of shifting to such specified second or subsequent berth/place, including fuel, to be for the Owners' account and the time used to count as laytime or time on demurrage. In the event subsequent berth(s)/place(s) are required by the Charterers, all costs, including fuel, to be for the Charterers' account and the time used to count as laytime or time on demurrage.	201 202 203 204 205
<b>16. Warping</b>	206
To facilitate the loading or discharging operation, the Vessel may be moved alongside the loading/discharging berth as reasonably required at Owners' risk and expense, but time so used shall count as laytime or time on demurrage. Linesmen, if required, shall always be for the Charterers' account.	207 208 209
<b>17. Seaworthy Trim</b>	210
The Charterers shall leave the Vessel in seaworthy trim and with cargo on board safely stowed to the Master's satisfaction between loading berths/ports and between discharging berths/ports, respectively; any expense resulting therefrom shall be for the Charterers' account and any time used shall count as laytime or time on demurrage.	211 212 213
<b>18. Lighterage</b>	214
(a) Should orders be given to discharge at a place where, despite the Vessel being compliant with the draft stated in <b>Box 10</b> , there is insufficient water for the Vessel to reach it, laytime shall count in accordance with Clauses 9 (Notice of Readiness) and 10 (Laytime) upon arrival at a safe anchorage or lightening place, any custom of the port notwithstanding. Any lighterage operations shall be conducted by the Charterers in their time and at their risk and expense to enable the Vessel to reach the place of discharge. Time spent in proceeding from the lightening place to the discharging berth or place shall count as laytime or time on demurrage.	215 216 217 218 219 220
(b) Should the Vessel arrive at the Discharging Port with a draft in excess of that stated in <b>Box 10</b> , any lighterage expenses incurred to reduce the draft to that stated in <b>Box 10</b> before Notice of Readiness can be tendered shall be for the Owners' account. Lighterage operations shall be conducted by the Charterers in the Owners' time and at their risk and expense. Unless the draft available at the Discharging Port is less than that stated in <b>Box 10</b> time spent in proceeding from the lightening place to the discharging berth or place shall not count as laytime or time on demurrage.	221 222 223 224 225 226
(c) Delivery of the cargo over side into lighters shall constitute right and true delivery.	227
<b>19. Liberty</b>	228
The Vessel shall have liberty to sail with or without pilots, to tow or go to the assistance of vessels in distress, to call for bunkers at any port or place, whether or not on or off the customary route or contracted voyage, and to deviate for the purpose of saving life or property, or for any other reasonable purpose whatsoever.	229 230 231
<b>20. Overtime</b>	232
(a) <i>Expenses</i>	233
(i) All overtime expenses at the Loading and Discharging Port shall be for account of the party ordering same.	234 235
(ii) If overtime is ordered by the Port Authorities all overtime expenses shall be equally shared between the Owners and the Charterers.	236 237
(iii) If overtime is ordered by the party controlling the loading and/or discharging terminal or facility, all overtime expenses shall be for the Charterers' account.	238 239
(iv) Overtime expenses for the Vessel's Master, Officers and crew shall always be for the Owners' account.	240
(b) <i>Time Counting.</i> If overtime ordered by the Owners is worked during periods excepted from laytime the actual time used shall count.	241 242
If ordered by the Charterers or by the party controlling the loading and/or discharging terminal or facility, the actual time used shall not count unless the Vessel is already on demurrage; if ordered by the Port Authorities	243 244

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half the actual time used shall count as laytime unless the Vessel is already on demurrage.	245
<b>21. Trading History</b>	246
The Owners warrant that the Vessel may trade to the ports and places stated in <b>Box 9</b> and <b>Box 10</b> without restriction.	247 248
<b>22. Taxes and Dues</b>	249
(a) <i>On Vessel</i> - The Owners shall pay all dues, charges and taxes customarily levied on the Vessel howsoever the amount thereof may be assessed.	250 251
(b) <i>On Cargo</i> - The Charterers shall pay all dues, charges, duties and taxes customarily levied on the cargo howsoever the amount thereof may be assessed.	252 253
(c) <i>On Freight</i> – Income tax levied on the freight shall be for the account of the party stated in <b>Box 24</b> .	254
(d) <i>Other Taxes</i> – all other taxes and dues, including port utilisation taxes, shall be for the Charterers' account.	255 256
<b>23. Agency</b>	257
Unless otherwise agreed in <b>Box 27</b> , the Vessel shall be consigned to agents at the loading and discharging ports appointed by the Owners.	258 259
Where <b>Box 27</b> provides for Charterers' agents, the Owners shall appoint agents nominated by the Charterers to act for the Vessel for port and customs clearance purposes and shall pay the agents no more than the customary agency fee.	260 261 262
<b>24. Address Commission/Brokerage</b>	263
An address commission at the rate stated in <b>Box 25(i)</b> on the freight, deadfreight and demurrage earned is due to the party(ies) stated in <b>Box 25(i)</b> and payable by the Owners upon receipt of the above amounts.	264 265
A brokerage commission at the rate stated in <b>Box 25(ii)</b> on the freight, deadfreight and demurrage earned is due to the party(ies) stated in <b>Box 25(ii)</b> and payable by the Owners upon receipt of the above amounts.	266 267
<b>25. BIMCO AMS Clause for Voyage Charter Parties</b>	268
(a) If the Vessel loads or carries cargo destined for the US or passing through US ports in transit, the Owners shall comply with the current US Customs Regulations (19 CFR 4.7) or any subsequent amendments thereto and shall undertake the role of carrier for the purposes of such Regulations and shall, in their own name, time and expense:	269 270 271 272
(i) Have in place a SCAC (Standard Carrier Alpha Code);	273
(ii) Have in place an ICB (International Carrier Bond); and	274
(iii) Submit a cargo declaration by AMS (Automated Manifest System) to the US Customs.	275
(b) The Charterers shall provide all necessary information to the Owners and/or their agents to enable the Owners to submit a timely and accurate cargo declaration.	276 277
The Charterers shall assume liability for and shall indemnify, defend and hold harmless the Owners against any loss and/or damage whatsoever (including consequential loss and/or damage) and/or any expenses, fines, penalties and all other claims of whatsoever nature, including but not limited to legal costs, arising from the Charterers' failure to comply with any of the provisions of this sub-clause. Should such failure result in any delay then, notwithstanding any provision in this Charter Party to the contrary, all time used or lost shall count as laytime or, if the Vessel is already on demurrage, time on demurrage.	278 279 280 281 282 283
(c) The Owners shall assume liability for and shall indemnify, defend and hold harmless the Charterers against any loss and/or damage whatsoever (including consequential loss and/or damage) and any expenses, fines, penalties and all other claims of whatsoever nature, including but not limited to legal costs, arising from the Owners' failure to comply with any of the provisions of sub-clause (a). Should such failure result in any delay then, notwithstanding any provision in this Charter Party to the contrary, all time used or lost shall not count as laytime or, if the Vessel is already on demurrage, time on demurrage.	284 285 286 287 288 289
(d) The assumption of the role of carrier by the Owners pursuant to this Clause and for the purpose of the	290

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US Customs Regulations (19 CFR 4.7) shall be without prejudice to the identity of carrier under any bill of lading, other contract, law or regulation.	291 292
<b>26. Protective Clauses</b>	293
The following clauses shall be incorporated into all Bills of Lading issued under this Charter Party and apply to this Charter Party:	294 295
<b>(a) BIMCO General Clause Paramount</b>	296
The International Convention for the Unification of Certain Rules of Law relating to Bills of Lading signed at Brussels on 25 August 1924 ("the Hague Rules") as amended by the Protocol signed at Brussels on 23 February 1968 ("the Hague-Visby Rules") and as enacted in the country of shipment shall apply to this Contract. When the Hague-Visby Rules are not enacted in the country of shipment, the corresponding legislation of the country of destination shall apply, irrespective of whether such legislation may only regulate outbound shipments.	297 298 299 300 301 302
When there is no enactment of the Hague-Visby Rules in either the country of shipment or in the country of destination, the Hague-Visby Rules shall apply to this Contract save where the Hague Rules as enacted in the country of shipment or if no such enactment is in place, the Hague Rules as enacted in the country of destination, compulsorily applicable to shipments, in which case the provisions of such Rules shall apply.	303 304 305 306
The Protocol signed at Brussels on 21 December 1979 ("the SDR Protocol 1979") shall apply where the Hague-Visby Rules apply, whether mandatorily or by this Contract.	307 308
The Carrier shall in no case be responsible for loss of or damage to cargo arising prior to loading, after discharging, or while the cargo is in the charge of another carrier, or with respect to deck cargo and live animals.	309 310 311
<b>(b) Both-to-Blame Collision Clause</b>	312
If the liability for any collision in which the Vessel is involved while performing this Contract falls to be determined in accordance with the laws of the United States of America, the following clause shall apply:	313 314
"If the Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, mariner, pilot or the servants of the Owners in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Owners against all loss or liability to the other or non-carrying vessel or her owners in so far as such loss or liability represents the loss of, or damage to, or any claim whatsoever of the owners of the said cargo, paid or payable by the other or non-carrying vessel, or her owners, to the owners of said cargo and set-off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying Vessel or Owners.	315 316 317 318 319 320 321
The foregoing provisions shall also apply where the owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.	322 323 324
<b>(c) General Average and New Jason Clause</b>	325
General average shall be adjusted and settled in London unless otherwise agreed and stated in Box 23 according to the York/Antwerp Rules, 1994.	326 327
If General average is to be adjusted in accordance with the law and practice of the United States of America, the following clause shall apply:	328 329
"In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Owners are not responsible, by statute, contract or otherwise, the goods, shippers, consignees or owners of the goods shall contribute with the Owners in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods. If a salving vessel is owned or operated by the Owners, salvage shall be paid for as fully as if the said salving vessel or vessels belonged to strangers.	330 331 332 333 334 335 336
Such deposit as the Owners, or their agents, may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to the Owners before delivery."	337 338 339

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<b>(d) War Risks (Voywar 2004)</b>	340
(i) For the purpose of this Clause, the words:	341
1. "Owners" shall include the shipowners, bareboat charterers, disponent owners, managers or other operators who are charged with the management of the Vessel, and the Master; and	342 343
2. "War Risks" shall include any actual, threatened or reported:	344
War; act of war; civil war; hostilities; revolution; rebellion; civil commotion; warlike operations; laying of mines; acts of piracy; acts of terrorists; acts of hostility or malicious damage; blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever); by any person, body, terrorist or political group, or the Government of any state whatsoever, which, in the reasonable judgement of the Master and/or the Owners, may be dangerous or are likely to be or to become dangerous to the Vessel, her cargo, crew or other persons on board the Vessel.	345 346 347 348 349 350 351
(ii) If at any time before the Vessel commences loading, it appears that, in the reasonable judgement of the Master and/or the Owners, performance of the Contract of Carriage, or any part of it, may expose, or is likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks, the Owners may give notice to the Charterers cancelling this Contract of Carriage, or may refuse to perform such part of it as may expose, or may be likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks; provided always that if this Contract of Carriage provides that loading or discharging is to take place within a range of ports, and at the port or ports nominated by the Charterers the Vessel, her cargo, crew, or other persons onboard the Vessel may be exposed, or may be likely to be exposed, to War Risks, the Owners shall first require the Charterers to nominate any other safe port which lies within the range for loading or discharging, and may only cancel this Contract of Carriage if the Charterers shall not have nominated such safe port or ports within 48 hours of receipt of notice of such requirement.	352 353 354 355 356 357 358 359 360 361 362 363
(iii) The Owners shall not be required to continue to load cargo for any voyage, or to sign Bills of Lading for any port or place, or to proceed or continue on any voyage, or on any part thereof, or to proceed through any canal or waterway, or to proceed to or remain at any port or place whatsoever, where it appears, either after the loading of the cargo commences, or at any stage of the voyage thereafter before the discharge of the cargo is completed, that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo (or any part thereof), crew or other persons on board the Vessel (or any one or more of them) may be, or are likely to be, exposed to War Risks. If it should so appear, the Owners may by notice request the Charterers to nominate a safe port for the discharge of the cargo or any part thereof, and if within 48 hours of the receipt of such notice, the Charterers shall not have nominated such a port, the Owners may discharge the cargo at any safe port of their choice (including the port of loading) in complete fulfilment of the Contract of Carriage. The Owners shall be entitled to recover from the Charterers the extra expenses of such discharge and, if the discharge takes place at any port other than the loading port, to receive the full freight as though the cargo had been carried to the discharging port and if the extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route, the Owners having a lien on the cargo for such expenses and freight.	364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379
(iv) If at any stage of the voyage after the loading of the cargo commences, it appears that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo, crew or other persons on board the Vessel may be, or are likely to be, exposed to War Risks on any part of the route (including any canal or waterway) which is normally and customarily used in a voyage of the nature contracted for, and there is another longer route to the discharging port, the Owners shall give notice to the Charterers that this route will be taken. In this event the Owners shall be entitled, if the total extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route.	380 381 382 383 384 385 386 387
(v)	388
1. The Owners may effect war risks insurance in respect of the Hull and Machinery of the Vessel and their other interests (including, but not limited to, loss of earnings and detention, the crew and their Protection and Indemnity Risks), and the premiums and/or calls therefor shall be for their account.	389 390 391
2. If the Underwriters of such insurance should require payment of premiums and/or calls because, pursuant to the Charterers' orders, or in order to fulfil the Owners' obligation under this Contract, the Vessel is within, or is due to enter and remain within, or pass through any area or areas which are specified by such Underwriters as being subject to additional premiums because of War Risks, then the actual premiums and/or calls paid shall be reimbursed by the Charterers to the Owners within	392 393 394 395 396

**PART II**  
**FERTICON 2007 - Fertiliser Voyage Charter Party**

14 days after receipt of the Owners' invoice. If the Vessel discharges all of her cargo within an area subject to additional premiums as herein set forth, the Charterers shall reimburse the Owners for the actual additional premiums paid which may accrue from completion of discharge until the Vessel leaves such area or areas referred to above. The Owners shall leave the area as soon as possible after completion of discharge.	397 398 399 400 401
(vi) The Vessel shall have liberty:-	402
1. to comply with all orders, directions, recommendations or advice as to departure, arrival, routes, sailing in convoy, ports of call, stoppages, destinations, discharge of cargo, delivery or in any way whatsoever which are given by the Government of the Nation under whose flag the Vessel sails, or other Government to whose laws the Owners are subject, or any other Government which so requires, or any body or group acting with the power to compel compliance with their orders or directions;	403 404 405 406 407
2. to comply with the orders, directions or recommendations of any war risks underwriters who have the authority to give the same under the terms of the war risks insurance;	408 409
3. to comply with the terms of any resolution of the Security Council of the United Nations, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement;	410 411 412 413
4. to discharge at any other port any cargo or part thereof which may render the Vessel liable to confiscation as a contraband carrier;	414 415
5. to call at any other port to change the crew or any part thereof or other persons on board the Vessel when there is reason to believe that they may be subject to internment, imprisonment or other sanctions;	416 417 418
6. where cargo has not been loaded or has been discharged by the Owners under any provisions of this Clause, to load other cargo for the Owners' own benefit and carry it to any other port or ports whatsoever, whether backwards or forwards or in a contrary direction to the ordinary or customary route.	419 420 421 422
(vii) If in compliance with any of the provisions of sub-clauses (ii) to (vi) of this Clause anything is done or not done, such shall not be deemed to be a deviation, but shall be considered as due fulfilment of the Contract of Carriage.	423 424 425
<b>27. Strike Clause</b>	426
(a) If there is a strike or lock-out affecting or preventing the actual loading of the cargo, or any part of it, when the Vessel is ready to proceed from her last port or at any time during the voyage to the port or ports of loading or after her arrival there, the Master or the Owners may ask the Charterers to declare that they agree to reckon the laydays as if there were no strike or lock-out. Unless the Charterers have given such declaration in writing within twenty-four (24) hours, the Owners shall have the option of cancelling this Charter Party. If part cargo has already been loaded, the Owners must proceed with same, (freight payable on loaded quantity only) having liberty to complete with other cargo on the way for their own account.	427 428 429 430 431 432 433
(b) If there is a strike or lock-out affecting or preventing the actual discharging of the cargo on or after the Vessel's arrival at or off the port of discharge and same has not been settled within 48 hours, the Charterers shall have the option of keeping the Vessel waiting until such strike or lock-out is at an end against paying half demurrage after expiration of the time provided for discharging until the strike or lock-out terminates and thereafter full demurrage shall be payable until the completion of discharging, or of ordering the Vessel to a safe port where the Vessel can safely discharge without risk of being detained by strike or lock-out. Such orders to be given within 48 hours after the Master or the Owners have given notice to the Charterers of the strike or lock-out affecting the discharge. On delivery of the cargo at such port, all conditions of this Charter Party and of the Bill of Lading shall apply and the Vessel shall receive the same freight as if the Vessel had discharged at the original port of destination, except that if the distance to the substituted port exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port to be increased in proportion.	434 435 436 437 438 439 440 441 442 443 444
Except for the obligations described above, neither the Charterers nor the Owners shall be responsible for the consequences of any strikes or lock-outs preventing or affecting the actual loading or discharging of the cargo.	445 446 447
<b>28. BIMCO General Ice Clause for Voyage Charter Parties</b>	448
The Vessel shall not be obliged to force ice but, subject to the Owners' approval having due regard to its size, construction and class, may follow ice-breakers.	449 450



**PART II**  
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<b>(a) Port of Loading</b>	451
(i) If at any time after setting out on the approach voyage the Vessel's passage is impeded by ice, or if on arrival the loading port is inaccessible by reason of ice, the Master or Owners shall notify the Charterers thereof and request them to nominate a safe and accessible alternative port.	452 453 454
If the Charterers fail within 48 running hours, Sundays and holidays included, to make such nomination or agree to reckon laytime as if the port named in the contract were accessible or declare that they cancel the Charter Party, the Owners shall have the option of cancelling the Charter Party. In the event of cancellation by either party, the Charterers shall compensate the Owners for all proven loss of earnings under this Charter Party.	455 456 457 458 459
(ii) If at any loading port the Master considers that there is a danger of the Vessel being frozen in, and provided that the Master or Owners immediately notify the Charterers thereof, the Vessel may leave with cargo loaded on board and proceed to the nearest safe and ice free place and there await the Charterers' nomination of a safe and accessible alternative port within 24 running hours, Sundays and holidays excluded, of the Master's or Owners' notification. If the Charterers fail to nominate such alternative port, the vessel may proceed to any port(s), whether or not on the customary route for the chartered voyage, to complete with cargo for the Owners' account.	460 461 462 463 464 465 466
<b>(b) Port of Discharge</b>	467
(i) If the voyage to the discharging port is impeded by ice, or if on arrival the discharging port is inaccessible by reason of ice, the Master or Owners shall notify the Charterers thereof. In such case, the Charterers shall have the option of keeping the Vessel waiting until the port is accessible against paying compensation in an amount equivalent to the rate of demurrage or of ordering the Vessel to a safe and accessible alternative port.	468 469 470 471 472
If the Charterers fail to make such declaration within 48 running hours, Sundays and holidays included, of the Master or Owners having given notice to the Charterers, the Master may proceed without further notice to the nearest safe and accessible port and there discharge the cargo.	473 474 475
(ii) If at any discharging port the Master considers that there is a danger of the Vessel being frozen in, and provided that the Master or Owners immediately notify the Charterers thereof, the Vessel may leave with cargo remaining on board and proceed to the nearest safe and ice free place and there await the Charterers' nomination of a safe and accessible alternative port within 24 running hours, Sundays and holidays excluded, of the Master's or Owners' notification. If the Charterers fail to nominate such alternative port, the vessel may proceed to the nearest safe and accessible port and there discharge the remaining cargo.	476 477 478 479 480 481 482
On delivery of the cargo other than at the port(s) named in the contract, all conditions of the Bill of Lading shall apply and the Vessel shall receive the same freight as if discharge had been at the original port(s) of destination, except that if the distance of the substituted port(s) exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port(s) shall be increased proportionately.	483 484 485 486
<b>29. ISPS/MTSA Clause for Voyage Charter Parties 2005</b>	487
<b>(a)</b>	488
(i) The Owners shall comply with the requirements of the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS (ISPS Code) relating to the Vessel and "the Company" (as defined by the ISPS Code). If trading to or from the United States or passing through United States waters, the Owners shall also comply with the requirements of the US Maritime Transportation Security Act 2002 (MTSA) relating to the Vessel and the "Owner" (as defined by the MTSA).	489 490 491 492 493 494
(ii) Upon request the Owners shall provide the Charterers with a copy of the relevant International Ship Security Certificate (or the Interim International Ship Security Certificate) and the full style contact details of the Company Security Officer (CSO).	495 496 497
(iii) Loss, damages, expense or delay (excluding consequential loss, damages, expense or delay) caused by failure on the part of the Owners or "the Company"/"Owner" to comply with the requirements of the ISPS Code/MTSA or this Clause shall be for the Owners' account, except as otherwise provided in this Charter Party.	498 499 500 501
<b>(b)</b>	502
(i) The Charterers shall provide the Owners and the Master with their full style contact details and, upon request, any other information the Owners require to comply with the ISPS Code/MTSA.	503 504
(ii) Loss, damages or expense (excluding consequential loss, damages or expense) caused by failure on the part of the Charterers to comply with this Clause shall be for the Charterers' account, except as otherwise provided in this Charter Party, and any delay caused by such failure shall count as laytime or time on demurrage.	505 506 507 508

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(c) Provided that the delay is not caused by the Owners' failure to comply with their obligations under the ISPS Code/MTSA, the following shall apply:	509
(i) Notwithstanding anything to the contrary provided in this Charter Party, the Vessel shall be entitled to tender Notice of Readiness even if not cleared due to applicable security regulations or measures imposed by a port facility or any relevant authority under the ISPS Code/MTSA.	510 511 512 513
(ii) Any delay resulting from measures imposed by a port facility or by any relevant authority under the ISPS Code/MTSA shall count as laytime or time on demurrage, unless such measures result solely from the negligence of the Owners, Master or crew or the previous trading of the Vessel, the nationality of the crew or the identity of the Owners' managers.	514 515 516 517
(d) Notwithstanding anything to the contrary provided in this Charter Party, any costs or expenses whatsoever solely arising out of or related to security regulations or measures required by the port facility or any relevant authority in accordance with the ISPS Code/MTSA including, but not limited to, security guards, launch services, vessel escorts, security fees or taxes and inspections, shall be for the Charterers' account, unless such costs or expenses result solely from the negligence of the Owners, Master or crew or the previous trading of the Vessel, the nationality of the crew or the identity of the Owners' managers. All measures required by the Owners to comply with the Ship Security Plan shall be for the Owners' account.	518 519 520 521 522 523 524
If either party makes any payment which is for the other party's account according to this Clause, the other party shall indemnify the paying party.	525 526
<b>30. BIMCO Dispute Resolution Clause</b>	527
(a) *This Charter Party shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this Charter Party shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause. The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced. The reference shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator within 14 calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the 14 days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the 14 days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be binding on both parties as if he had been appointed by agreement.	528 529 530 531 532 533 534 535 536 537 538 539 540 541
Nothing herein shall prevent the parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.	542 543
In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.	544 545 546
(b) *This Charter Party shall be governed by and construed in accordance with Title 9 of the United States Code and the Maritime Law of the United States and any dispute arising out of or in connection with this Charter Party shall be referred to three persons at New York, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be final, and for the purposes of enforcing any award, judgment may be entered on an award by any court of competent jurisdiction. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc.	547 548 549 550 551 552
In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, Inc. current at the time when the arbitration proceedings are commenced.	553 554 555 556
(c) *This Charter Party shall be governed by and construed in accordance with the laws of the place mutually agreed by the parties and any dispute arising out of or in connection with this Charter Party shall be referred to arbitration at a mutually agreed place, subject to the procedures applicable there.	557 558 559

**PART II**  
**FERTICON 2007 - Fertiliser Voyage Charter Party**

(d) Notwithstanding (a), (b) or (c) above, the parties may agree at any time to refer to mediation any difference and/or dispute arising out of or in connection with this Charter Party. 560  
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In the case of a dispute in respect of which arbitration has been commenced under (a), (b) or (c) above, the following shall apply:- 562  
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- (i) Either party may at any time and from time to time elect to refer the dispute or part of the dispute to mediation by service on the other party of a written notice (the "Mediation Notice") calling on the other party to agree to mediation. 564  
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- (ii) The other party shall thereupon within 14 calendar days of receipt of the Mediation Notice confirm that they agree to mediation, in which case the parties shall thereafter agree a mediator within a further 14 calendar days, failing which on the application of either party a mediator will be appointed promptly by the Arbitration Tribunal ("the Tribunal") or such person as the Tribunal may designate for that purpose. The mediation shall be conducted in such place and in accordance with such procedure and on such terms as the parties may agree or, in the event of disagreement, as may be set by the mediator. 567  
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- (iii) If the other party does not agree to mediate, that fact may be brought to the attention of the Tribunal and may be taken into account by the Tribunal when allocating the costs of the arbitration as between the parties. 573  
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- (iv) The mediation shall not affect the right of either party to seek such relief or take such steps as it considers necessary to protect its interest. 576  
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- (v) Either party may advise the Tribunal that they have agreed to mediation. The arbitration procedure shall continue during the conduct of the mediation but the Tribunal may take the mediation timetable into account when setting the timetable for steps in the arbitration. 578  
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- (vi) Unless otherwise agreed or specified in the mediation terms, each party shall bear its own costs incurred in the mediation and the parties shall share equally the mediator's costs and expenses. 581  
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- (vii) The mediation process shall be without prejudice and confidential and no information or documents disclosed during it shall be revealed to the Tribunal except to the extent that they are disclosable under the law and procedure governing the arbitration. 583  
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*(Note: The parties should be aware that the mediation process may not necessarily interrupt time limits.)* 586

(e) If **Box 26** is not appropriately filled in, sub-clause (a) of this Clause shall apply. Sub-clause (d) shall apply in all cases. 587  
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\* Note: Sub-clauses (a), (b) and (c) are alternatives; indicate alternative agreed in **Box 26**. 589

**31. BIMCO Notices Clause** 590

(a) All notices given by either party or their agents to the other party or their agents in accordance with the provisions of this Charter Party shall be in writing. 591  
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(b) For the purposes of this Charter Party, "in writing" shall mean any method of legible communication. A notice may be given by any effective means including, but not limited to, cable, telex, fax, e-mail, registered or recorded mail, or by personal service. 593  
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1. Shipbroker	<b>RECOMMENDED</b> <b>THE BALTIC AND INTERNATIONAL MARITIME COUNCIL</b> <b>UNIFORM GENERAL CHARTER (AS REVISED 1922, 1976 and 1994)</b> (To be used for trades for which no specially approved form is in force) <b>CODE NAME: "GENCON"</b>		Part I
3. Owners/Place of business (Cl. 1)	2. Place and date		
5. Vessel's name (Cl. 1)	4. Charterers/Place of business (Cl. 1)		
7. DWT all told on summer load line in metric tons (abt.) (Cl. 1)	6. GT/NT (Cl. 1)		
9. Expected ready to load (abt.) (Cl. 1)	8. Present position (Cl. 1)		
10. Loading port or place (Cl. 1)	11. Discharging port or place (Cl. 1)		
12. Cargo (also state quantity and margin in Owners' option, if agreed; if full and complete cargo not agreed state "part cargo") (Cl. 1)			
13. Freight rate (also state whether freight prepaid or payable on delivery) (Cl. 4)	14. Freight payment (state currency and method of payment; also beneficiary and bank account) (Cl. 4)		
15. State if vessel's cargo handling gear shall not be used (Cl. 5)	16. Laytime (if separate laytime for load. and disch. is agreed, fill in a) and b). If total laytime for load. and disch., fill in c) only) (Cl. 6)		
17. Shippers/Place of business (Cl. 6)	a) Laytime for loading		
18. Agents (loading) (Cl. 6)	b) Laytime for discharging		
19. Agents (discharging) (Cl. 6)	c) Total laytime for loading and discharging		
20. Demurrage rate and manner payable (loading and discharging) (Cl. 7)	21. Cancelling date (Cl. 9)		
23. Freight Tax (state if for the Owners' account) (Cl. 13 (c))	22. General Average to be adjusted at (Cl. 12)		
25. Law and Arbitration (state 19 (a), 19 (b) or 19 (c) of Cl. 19; if 19 (c) agreed also state Place of Arbitration) (if not filled in 19 (a) shall apply) (Cl. 19)	24. Brokerage commission and to whom payable (Cl. 15)		
(a) State maximum amount for small claims/shortened arbitration (Cl. 19)	26. Additional clauses covering special provisions, if agreed		

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It is mutually agreed that this Contract shall be performed subject to the conditions contained in this Charter Party which shall include Part I as well as Part II. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict.

Signature (Owners)	Signature (Charterers)
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## PART II

### "Gencon" Charter (As Revised 1922, 1976 and 1994)

1. It is agreed between the party mentioned in Box 3 as the Owners of the Vessel named in Box 5, of the GT/NT indicated in Box 6 and carrying about the number of metric tons of deadweight capacity all told on summer loadline stated in Box 7, now in position as stated in Box 8 and expected ready to load under this Charter Party about the date indicated in Box 9, and the party mentioned as the Charterers in Box 4 that:  
The said Vessel shall, as soon as her prior commitments have been completed, proceed to the loading port(s) or place(s) stated in Box 10 or so near thereto as she may safely get and lie always afloat, and there load a full and complete cargo (if shipment of deck cargo agreed same to be at the Charterers' risk and responsibility) as stated in Box 12, which the Charterers bind themselves to ship, and being so loaded the Vessel shall proceed to the discharging port(s) or place(s) stated in Box 11 as ordered on signing Bills of Lading, or so near thereto as she may safely get and lie always afloat, and there deliver the cargo.
2. **Owners' Responsibility Clause**  
The Owners are to be responsible for loss of or damage to the goods or for delay in delivery of the goods only in case the loss, damage or delay has been caused by personal want of due diligence on the part of the Owners or their Manager to make the Vessel in all respects seaworthy and to secure that she is properly manned, equipped and supplied, or by the personal act or default of the Owners or their Manager.  
And the Owners are not responsible for loss, damage or delay arising from any other cause whatsoever, even from the neglect or default of the Master or crew or some other person employed by the Owners on board or ashore for whose acts they would, but for this Clause, be responsible, or from unseaworthiness of the Vessel on loading or commencement of the voyage or at any time whatsoever.
3. **Deviation Clause**  
The Vessel has liberty to call at any port or ports in any order, for any purpose, to sail without pilots, to tow and/or assist Vessels in all situations, and also to deviate for the purpose of saving life and/or property.
4. **Payment of Freight**  
(a) The freight at the rate stated in Box 13 shall be paid in cash calculated on the intaken quantity of cargo.  
(b) *Prepaid.* If according to Box 13 freight is to be paid on shipment, it shall be deemed earned and non-returnable, Vessel and/or cargo lost or not lost. Neither the Owners nor their agents shall be required to sign or endorse bills of lading showing freight prepaid unless the freight due to the Owners has actually been paid.  
(c) *On delivery.* If according to Box 13 freight, or part thereof, is payable at destination it shall not be deemed earned until the cargo is thus delivered. Notwithstanding the provisions under (a), if freight or part thereof is payable on delivery of the cargo the Charterers shall have the option of paying the freight on delivered weight/quantity provided such option is declared before breaking bulk and the weight/quantity can be ascertained by official weighing machine, joint draft survey or tally.  
Cash for Vessel's ordinary disbursements at the port of loading to be advanced by the Charterers, if required, at highest current rate of exchange, subject to two (2) per cent to cover insurance and other expenses.
5. **Loading/Discharging**  
(a) *Costs/Risks*  
The cargo shall be brought into the holds, loaded, stowed and/or trimmed, tallied, lashed and/or secured and taken from the holds and discharged by the Charterers, free of any risk, liability and expense whatsoever to the Owners. The Charterers shall provide and lay all dunnage material as required for the proper stowage and protection of the cargo on board, the Owners allowing the use of all dunnage available on board. The Charterers shall be responsible for and pay the cost of removing their dunnage after discharge of the cargo under this Charter Party and time to count until dunnage has been removed.  
(b) *Cargo Handling Gear*  
Unless the Vessel is gearless or unless it has been agreed between the parties that the Vessel's gear shall not be used and stated as such in Box 15, the Owners shall throughout the duration of loading/discharging give free use of the Vessel's cargo handling gear and of sufficient motive power to operate all such cargo handling gear. All such equipment to be in good working order. Unless caused by negligence of the stevedores, time lost by breakdown of the Vessel's cargo handling gear or motive power - pro rata the total number of cranes/winchmen required at that time for the loading/discharging of cargo under this Charter Party - shall not count as laytime or time on demurrage. On request the Owners shall provide free of charge cranesmen/winchmen from the crew to operate the Vessel's cargo handling gear, unless local regulations prohibit this, in which latter event shore labourers shall be for the account of the Charterers. Cranesmen/winchmen shall be under the Charterers' risk and responsibility and as stevedores to be deemed as their servants but shall
- always work under the supervision of the Master.  
(c) *Stevedore Damage*  
The Charterers shall be responsible for damage (beyond ordinary wear and tear) to any part of the Vessel caused by Stevedores. Such damage shall be notified as soon as reasonably possible by the Master to the Charterers or their agents and to their Stevedores, failing which the Charterers shall not be held responsible. The Master shall endeavour to obtain the Stevedores' written acknowledgement of liability.  
The Charterers are obliged to repair any stevedore damage prior to completion of the voyage, but must repair stevedore damage affecting the Vessel's seaworthiness or class before the Vessel sails from the port where such damage was caused or found. All additional expenses incurred shall be for the account of the Charterers and any time lost shall be for the account of and shall be paid to the Owners by the Charterers at the demurrage rate.
6. **Laytime**  
(a) *Separate laytime for loading and discharging*  
The cargo shall be loaded within the number of running days/hours as indicated in Box 16, 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 Box 16, 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 Box 16, weather permitting, Sundays and holidays excepted, unless used, in which event time used shall count.  
(c) *Commencement of laytime (loading and discharging)*  
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 office hours after 12.00 hours. Notice of readiness at loading port to be given to the Shippers named in Box 17 or if not named, to the Charterers or their agents named in Box 18. Notice of readiness at the discharging port to be given to the Receivers or, if not known, to the Charterers or their agents named in Box 19.  
If the loading/discharging berth is not available on the Vessel's arrival at or off the port of loading/discharging, the Vessel shall be entitled to give notice of readiness within ordinary office hours on arrival there, whether in free pratique or not, whether customs cleared or not. Laytime or time on demurrage shall then count as if she were in berth and in all respects ready for loading/discharging provided that the Master warrants that she is in fact ready in all respects. Time used in moving from the place of waiting to the loading/discharging berth shall not count as laytime.  
If, after inspection, the Vessel is found not to be ready in all respects to load/discharging time lost after the discovery thereof until the Vessel is again ready to load/discharging shall not count as laytime.  
Time used before commencement of laytime shall count.  
\* *Indicate alternative (a) or (b) as agreed, in Box 16.*
7. **Demurrage**  
Demurrage at the loading and discharging port is payable by the Charterers at the rate stated in Box 20 in the manner stated in Box 20 per day or pro rata for any part of a day. Demurrage shall fall due day by day and shall be payable upon receipt of the Owners' invoice.  
In the event the demurrage is not paid in accordance with the above, the Owners shall give the Charterers 96 running hours written notice to rectify the failure. If the demurrage is not paid at the expiration of this time limit and if the vessel is in or at the loading port, the Owners are entitled at any time to terminate the Charter Party and claim damages for any losses caused thereby.
8. **Lien Clause**  
The Owners shall have a lien on the cargo and on all sub-freights payable in respect of the cargo, for freight, deadfreight, demurrage, claims for damages and for all other amounts due under this Charter Party including costs of recovering same.
9. **Cancelling Clause**  
(a) Should the Vessel not be ready to load (whether in berth or not) on the cancelling date indicated in Box 21, the Charterers shall have the option of cancelling this Charter Party.  
(b) Should the Owners anticipate that, despite the exercise of due diligence, the Vessel will not be ready to load by the cancelling date, they shall notify the Charterers thereof without delay stating the expected date of the Vessel's readiness to load and asking whether the Charterers will exercise their option of cancelling the Charter Party, or agree to a new cancelling date.  
Such option must be declared by the Charterers within 48 running hours after the receipt of the Owners' notice. If the Charterers do not exercise their option of cancelling, then this Charter Party shall be deemed to be amended such that

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the seventh day after the new readiness date stated in the Owners' notification to the Charterers shall be the new cancelling date.	149 150	at any time during the voyage to the port or ports of loading or after her arrival there, the Master or the Owners may ask the Charterers to declare, that they agree to reckon the laydays as if there were no strike or lock-out. Unless the Charterers have given such declaration in writing (by telegram, if necessary) within 24 hours, the Owners shall have the option of cancelling this Charter Party. If part cargo has already been loaded, the Owners must proceed with same, (freight payable on loaded quantity only) having liberty to complete with other cargo on the way for their own account.	220 221 222 223 224 225 226 227
<b>10. Bills of Lading</b>	154	(b) If there is a strike or lock-out affecting or preventing the actual discharging of the cargo on or after the Vessel's arrival at or off port of discharge and same has not been settled within 48 hours, the Charterers shall have the option of keeping the Vessel waiting until such strike or lock-out is at an end against paying half demurrage after expiration of the time provided for discharging until the strike or lock-out terminates and thereafter full demurrage shall be payable until the completion of discharging, or of ordering the Vessel to a safe port where she can safely discharge without risk of being detained by strike or lock-out. Such orders to be given within 48 hours after the Master or the Owners have given notice to the Charterers of the strike or lock-out affecting the discharge. On delivery of the cargo at such port, all conditions of this Charter Party and of the Bill of Lading shall apply and the Vessel shall receive the same freight as if she had discharged at the original port of destination, except that if the distance to the substituted port exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port to be increased in proportion.	228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243
Bills of Lading shall be presented and signed by the Master as per the "Congenbill" Bill of Lading form, Edition 1994, without prejudice to this Charter Party, or by the Owners' agents provided written authority has been given by Owners to the agents, a copy of which is to be furnished to the Charterers. The Charterers shall indemnify the Owners against all consequences or liabilities that may arise from the signing of bills of lading as presented to the extent that the terms or contents of such bills of lading impose or result in the imposition of more onerous liabilities upon the Owners than those assumed by the Owners under this Charter Party.	155 156 157 158 159 160 161 162 163	(c) Except for the obligations described above, neither the Charterers nor the Owners shall be responsible for the consequences of any strikes or lock-outs preventing or affecting the actual loading or discharging of the cargo.	244 245 246
<b>11. Both-to-Blame Collision Clause</b>	164	<b>17. War Risks ("Voywar 1993")</b>	247
If the Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, Mariner, Pilot or the servants of the Owners in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Owners against all loss or liability to the other or non-carrying vessel or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or non-carrying vessel or her owners to the owners of said cargo and set-off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying Vessel or the Owners. The foregoing provisions shall also apply where the owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.	165 166 167 168 169 170 171 172 173 174 175 176 177	(1) For the purpose of this Clause, the words: (a) The "Owners" shall include the shipowners, bareboat charterers, disponent owners, managers or other operators who are charged with the management of the Vessel, and the Master; and (b) "War Risks" shall include any war (whether actual or threatened), act of war, civil war, hostilities, revolution, rebellion, civil commotion, warlike operations, the laying of mines (whether actual or reported), acts of piracy, acts of terrorists, acts of hostility or malicious damage, blockades (whether imposed against all Vessels or imposed selectively against Vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever), by any person, body, terrorist or political group, or the Government of any state whatsoever, which, in the reasonable judgement of the Master and/or the Owners, may be dangerous or are likely to be or to become dangerous to the Vessel, her cargo, crew or other persons on board the Vessel.	248 249 250 251 252 253 254 255 256 257 258 259 260 261 262
<b>12. General Average and New Jason Clause</b>	178	(2) If at any time before the Vessel commences loading, it appears that, in the reasonable judgement of the Master and/or the Owners, performance of the Contract of Carriage, or any part of it, may expose, or is likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks, the Owners may give notice to the Charterers cancelling this Contract of Carriage, or may refuse to perform such part of it as may expose, or may be likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks; provided always that if this Contract of Carriage provides that loading or discharging is to take place within a range of ports, and at the port or ports nominated by the Charterers the Vessel, her cargo, crew, or other persons onboard the Vessel may be exposed, or may be likely to be exposed, to War Risks, the Owners shall first require the Charterers to nominate any other safe port which lies within the range for loading or discharging, and may only cancel this Contract of Carriage if the Charterers shall not have nominated such safe port or ports within 48 hours of receipt of notice of such requirement.	263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278
General Average shall be adjusted in London unless otherwise agreed in Box 22 according to York-Antwerp Rules 1994 and any subsequent modification thereof. Proprietors of cargo to pay the cargo's share in the general expenses even if same have been necessitated through neglect or default of the Owners' servants (see Clause 2). If General Average is to be adjusted in accordance with the law and practice of the United States of America, the following Clause shall apply: "In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Owners are not responsible, by statute, contract or otherwise, the cargo shippers, consignees or the owners of the cargo shall contribute with the Owners in General Average to the payment of any sacrifices, losses or expenses of a General Average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the cargo. If a salving vessel is owned or operated by the Owners, salvage shall be paid for as fully as if the said salving vessel or vessels belonged to strangers. Such deposit as the Owners, or their agents, may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the cargo, shippers, consignees or owners of the goods to the Owners before delivery."	179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198	(3) The Owners shall not be required to continue to load cargo for any voyage, or to sign Bills of Lading for any port or place, or to proceed or continue on any voyage, or on any part thereof, or to proceed through any canal or waterway, or to proceed to or remain at any port or place whatsoever, where it appears, either after the loading of the cargo commences, or at any stage of the voyage thereafter before the discharge of the cargo is completed, that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo (or any part thereof), crew or other persons on board the Vessel (or any one or more of them) may be, or are likely to be, exposed to War Risks. If it should so appear, the Owners may by notice request the Charterers to nominate a safe port for the discharge of the cargo or any part thereof, and if within 48 hours of the receipt of such notice, the Charterers shall not have nominated such a port, the Owners may discharge the cargo at any safe port of their choice (including the port of loading) in complete fulfilment of the Contract of Carriage. The Owners shall be entitled to recover from the Charterers the extra expenses of such discharge and, if the discharge takes place at any port other than the loading port, to receive the full freight as though the cargo had been	279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296
<b>13. Taxes and Dues Clause</b>	199		
(a) <u>On Vessel</u> -The Owners shall pay all dues, charges and taxes customarily levied on the Vessel, howsoever the amount thereof may be assessed.	200 201		
(b) <u>On cargo</u> -The Charterers shall pay all dues, charges, duties and taxes customarily levied on the cargo, howsoever the amount thereof may be assessed.	202 203 204		
(c) <u>On freight</u> -Unless otherwise agreed in Box 23, taxes levied on the freight shall be for the Charterers' account.	205 206		
<b>14. Agency</b>	207		
In every case the Owners shall appoint their own Agent both at the port of loading and the port of discharge.	208 209		
<b>15. Brokerage</b>	210		
A brokerage commission at the rate stated in Box 24 on the freight, dead-freight and demurrage earned is due to the party mentioned in Box 24. In case of non-execution 1/3 of the brokerage on the estimated amount of freight to be paid by the party responsible for such non-execution to the Brokers as indemnity for the latter's expenses and work. In case of more voyages the amount of indemnity to be agreed.	211 212 213 214 215 216		
<b>16. General Strike Clause</b>	217		
(a) If there is a strike or lock-out affecting or preventing the actual loading of the cargo, or any part of it, when the Vessel is ready to proceed from her last port or	218 219		

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carried to the discharging port and if the extra distance exceeds 100 miles, 297	of destination.	373
to additional freight which shall be the same percentage of the freight 298	(b) If during discharging the Master for fear of the Vessel being frozen in deems 374	
contracted for as the percentage which the extra distance represents to 299	it advisable to leave, he has liberty to do so with what cargo he has on board and 375	
the distance of the normal and customary route, the Owners having a lien 300	to proceed to the nearest accessible port where she can safely discharge. 376	
on the cargo for such expenses and freight. 301	(c) On delivery of the cargo at such port, all conditions of the Bill of Lading shall 377	
(4) If at any stage of the voyage after the loading of the cargo commences, it 302	apply and the Vessel shall receive the same freight as if she had discharged at 378	
appears that, in the reasonable judgement of the Master and/or the 303	the original port of destination, except that if the distance of the substituted port 379	
Owners, the Vessel, her cargo, crew or other persons on board the Vessel 304	exceeds 100 nautical miles, the freight on the cargo delivered at the substituted 380	
may be, or are likely to be, exposed to War Risks on any part of the route 305	port to be increased in proportion. 381	
(including any canal or waterway) which is normally and customarily used 306		
in a voyage of the nature contracted for, and there is another longer route 307		
to the discharging port, the Owners shall give notice to the Charterers that 308		
this route will be taken. In this event the Owners shall be entitled, if the total 309		
extra distance exceeds 100 miles, to additional freight which shall be the 310		
same percentage of the freight contracted for as the percentage which the 311		
extra distance represents to the distance of the normal and customary 312		
route. 313		
(5) The Vessel shall have liberty:- 314		
(a) to comply with all orders, directions, recommendations or advice as to 315		
departure, arrival, routes, sailing in convoy, ports of call, stoppages, 316		
destinations, discharge of cargo, delivery or in any way whatsoever which 317		
are given by the Government of the Nation under whose flag the Vessel 318		
sails, or other Government to whose laws the Owners are subject, or any 319		
other Government which so requires, or any body or group acting with the 320		
power to compel compliance with their orders or directions; 321		
(b) to comply with the orders, directions or recommendations of any war 322		
risks underwriters who have the authority to give the same under the terms 323		
of the war risks insurance; 324		
(c) to comply with the terms of any resolution of the Security Council of the 325		
United Nations, any directives of the European Community, the effective 326		
orders of any other Supranational body which has the right to issue and 327		
give the same, and with national laws aimed at enforcing the same to which 328		
the Owners are subject, and to obey the orders and directions of those who 329		
are charged with their enforcement; 330		
(d) to discharge at any other port any cargo or part thereof which may 331		
render the Vessel liable to confiscation as a contraband carrier; 332		
(e) to call at any other port to change the crew or any part thereof or other 333		
persons on board the Vessel when there is reason to believe that they may 334		
be subject to internment, imprisonment or other sanctions; 335		
(f) where cargo has not been loaded or has been discharged by the 336		
Owners under any provisions of this Clause, to load other cargo for the 337		
Owners' own benefit and carry it to any other port or ports whatsoever, 338		
whether backwards or forwards or in a contrary direction to the ordinary or 339		
customary route. 340		
(6) If in compliance with any of the provisions of sub-clauses (2) to (5) of this 341		
Clause anything is done or not done, such shall not be deemed to be a 342		
deviation, but shall be considered as due fulfilment of the Contract of 343		
Carriage. 344		
<b>18. General Ice Clause</b> 345		
<i>Port of loading</i> 346		
(a) In the event of the loading port being inaccessible by reason of ice when the 347		
Vessel is ready to proceed from her last port or at any time during the voyage or 348		
on the Vessel's arrival or in case frost sets in after the Vessel's arrival, the 349		
Master for fear of being frozen in is at liberty to leave without cargo, and this 350		
Charter Party shall be null and void. 351		
(b) If during loading the Master, for fear of the Vessel being frozen in, deems it 352		
advisable to leave, he has liberty to do so with what cargo he has on board and 353		
to proceed to any other port or ports with option of completing cargo for the 354		
Owners' benefit for any port or ports including port of discharge. Any part 355		
cargo thus loaded under this Charter Party to be forwarded to destination at the 356		
Vessel's expense but against payment of freight, provided that no extra 357		
expenses be thereby caused to the Charterers, freight being paid on quantity 358		
delivered (in proportion if lumpsum), all other conditions as per this Charter 359		
Party. 360		
(c) In case of more than one loading port, and if one or more of the ports are 361		
closed by ice, the Master or the Owners to be at liberty either to load the part 362		
cargo at the open port and fill up elsewhere for their own account as under 363		
section (b) or to declare the Charter Party null and void unless the Charterers 364		
agree to load full cargo at the open port. 365		
<i>Port of discharge</i> 366		
(a) Should ice prevent the Vessel from reaching port of discharge the 367		
Charterers shall have the option of keeping the Vessel waiting until the re- 368		
opening of navigation and paying demurrage or of ordering the Vessel to a safe 369		
and immediately accessible port where she can safely discharge without risk of 370		
detention by ice. Such orders to be given within 48 hours after the Master or the 371		
Owners have given notice to the Charterers of the impossibility of reaching port 372		
	<b>19. Law and Arbitration</b> 382	
	* (a) This Charter Party shall be governed by and construed in accordance with 383	
	English law and any dispute arising out of this Charter Party shall be referred to 384	
	arbitration in London in accordance with the Arbitration Acts 1950 and 1979 or 385	
	any statutory modification or re-enactment thereof for the time being in force. 386	
	Unless the parties agree upon a sole arbitrator, one arbitrator shall be 387	
	appointed by each party and the arbitrators so appointed shall appoint a third 388	
	arbitrator, the decision of the three-man tribunal thus constituted or any two of 389	
	them, shall be final. On the receipt by one party of the nomination in writing of 390	
	the other party's arbitrator, that party shall appoint their arbitrator within 391	
	fourteen days, failing which the decision of the single arbitrator appointed shall 392	
	be final. 393	
	For disputes where the total amount claimed by either party does not exceed 394	
	the amount stated in Box 25** the arbitration shall be conducted in accordance 395	
	with the Small Claims Procedure of the London Maritime Arbitrators 396	
	Association. 397	
	* (b) This Charter Party shall be governed by and construed in accordance with 398	
	Title 9 of the United States Code and the Maritime Law of the United States and 399	
	should any dispute arise out of this Charter Party, the matter in dispute shall be 400	
	referred to three persons at New York, one to be appointed by each of the 401	
	parties hereto, and the third by the two so chosen; their decision or that of any 402	
	two of them shall be final, and for purpose of enforcing any award, this 403	
	agreement may be made a rule of the Court. The proceedings shall be 404	
	conducted in accordance with the rules of the Society of Maritime Arbitrators, 405	
	Inc.. 406	
	For disputes where the total amount claimed by either party does not exceed 407	
	the amount stated in Box 25** the arbitration shall be conducted in accordance 408	
	with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, 409	
	Inc.. 410	
	* (c) Any dispute arising out of this Charter Party shall be referred to arbitration at 411	
	the place indicated in Box 25, subject to the procedures applicable there. The 412	
	laws of the place indicated in Box 25 shall govern this Charter Party. 413	
	(d) If Box 25 in Part 1 is not filled in, sub-clause (a) of this Clause shall apply. 414	
	* (a), (b) and (c) are alternatives; indicate alternative agreed in Box 25. 415	
	** Where no figure is supplied in Box 25 in Part 1, this provision only shall be void but 416	
	the other provisions of this Clause shall have full force and remain in effect. 417	

# **INTERTANKVOY 76**

## TANKER VOYAGE CHARTER PARTY

Adopted by



The Baltic and International Maritime Conference (BIMCO). Distribution address: 19 Kristianlegade, DK-2100 COPENHAGEN



Federation of National Associations of Ship Brokers and Agents (FONASBA). Distribution address: Baltic Exchange Chambers, 25 Bury Street, LONDON EC3A 5BM



The Documentary Committee of the Japan Shipping Exchange, Inc. with "Japanese Terms". Distribution address: Mitsui Bussan Kaisha, Ltd. Muramachi 2-chome, Nihonbashi, Chuo-ku, TOKYO

It is this day ....., 19 ..... mutually agreed between ..... 1  
 ..... of ..... 2  
 ..... of ..... 3  
**OWNERS/CHARTERED OWNERS/DISPONENT OWNERS** (hereinafter called "Owners") of the 4  
 motor/turbine tank vessel called ..... (hereinafter called "the vessel") flying 5  
 the ..... flag and ..... 6  
 ..... 7  
 of ..... 8  
 (hereinafter called "Charterers") that the transportation(s) herein provided for will be performed 9  
 subject to the terms and conditions of this Charter Party which includes Part I and Part II. 10

### PART I

(a) Description of the vessel: 11  
 Classed ..... 12  
 Deadweight ..... metric/long tons (of 2,240 lbs) on a saltwater draft on summer 13  
 marks of ..... 14  
 Length overall ..... m/ft Beam extreme ..... m/ft 15  
 Capacity available for cargo ..... metric/long tons, ..... per cent more or less at Owners' 16  
 option. 17  
 Cubic capacity for cargo ..... m<sup>3</sup>/cu.ft (at 100 %) including ..... 18  
 slop tank(s) with a cubic capacity of ..... m<sup>3</sup>/cu.ft (at 100 %) 19  
 Last cargo before commencement of this Charter Party: 20  
 ..... 21  
 Penultimate cargo: ..... 22  
 Owners undertake that the vessel is: 23  
 Fitted with heating coils in good working order in ..... cargo tanks and capable of 24  
 maintaining a temperature of the cargo when loaded not in excess of ..... degrees 25  
 Fahrenheit/Centigrade. 26  
 Equipped with ..... cargo pumps with an aggregate maximum capacity of 27  
 ..... m<sup>3</sup>/tons fresh water per hour against a back-pressure of ..... 28  
 ..... at ship's rail. 29  
 Equipped with ..... derricks with a maximum safe working load of 30  
 ..... tons each for lifting submarine hoses to the vessel's port and starboard 31  
 manifolds. 32  
 Internal tank coating as follows ..... 33  
 ..... 34  
 (b) Present position of the vessel ..... 35  
 Expected readiness to load ..... 36  
 Commitments prior to commencement of this Charter Party ..... 37  
 ..... 38  
 ..... 39  
 Owners undertake to keep Charterers currently informed as to the vessel's position and any 40  
 change of the vessel's expected readiness to load. 41



(c) Description of cargo: .....	42
.....	43
.....	44
Unless otherwise stated above this Charter Party is for a full and complete cargo having regard	45
to the permissible freeboard for the voyage in accordance with the International Loadline	46
regulations currently in force and to the limitations provided in (a) above.	47
No cargo shall be shipped which is injurious to the vessel.	48
No cargo shall be shipped having a Vapour Pressure at 100 degrees Fahrenheit in excess of	49
13.5/ ..... lbs/sq.in. as determined by the current A.S.T.M. Method (Reid) D. 323.	50
(d) Loading range .....	51
.....	52
.....	53
Discharging range .....	54
.....	55
.....	56
(e) Laydays shall not commence before ..... unless with Charterers' consent.	57
(f) Cancelling date .....	58
(g) Laytime ..... running hours Sundays and holidays included.	59
(h) Freight rate shall be ..... per cent of the applicable rate of Worldscale in force at the date of	60
commencement of loading.	61
(i) Freight shall be due and payable:	62
(at the time of) .....	63
(place) .....	64
(payee).....	65
.....	66
(j) Demurrage rate based on the vessel's summer deadweight shall be ..... per cent of the	67
Worldscale rate in force at the date of commencement of loading	68
(k) All other terms and conditions of Worldscale in force at the date of commencement of loading	69
shall apply.	70
(l) General average shall be adjusted in .....	71
(m) Arbitration shall take place in London in accordance with Part II, Clause 32 and this Charter	72
Party shall be governed by English Law.	73
(n) Special provisions:	74
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# "INTERTANKVOY 76"

## Part II

<b>1.—Condition of Vessel:</b>	201
The vessel's class as specified in Part I shall be maintained during the currency of this Charter Party.	202
The Owners shall	203
(a) before and at the beginning of the loaded voyage exercise due diligence to make the vessel seaworthy and in every way fit for the voyage, with her tanks, valves, pumps and pipelines tight, staunch, strong and in good order and condition and with a full and efficient complement of master, officers and crew for a vessel of her type, tonnage and flag;	204 205 206 207
(b) throughout the voyage have the responsibilities and immunities of the Hague Rules as incorporated in Clause 25 hereof.	208 209
<b>2.—Nomination/renomination:</b>	210
The necessary loading orders shall be given by Charterers before the vessel sails from her previous port or place of call (or concurrently with the fixture of this Charter Party if the vessel has already sailed) but Charterers shall have the option of ordering the vessel to a safe port or place en route to loading or discharging ranges for orders.	211 212 213
If Charterers exercise such option they shall nominate actual loading or discharging port or place in sufficient time to avoid delay to or deviation of the vessel.	214 215
If after loading or discharging port or place have been nominated, Charterers desire to vary them, Owners agree to issue such revised instructions as are necessary to give effect to Charterers' revised orders.	216 217
Charterers shall reimburse Owners for any expenses resulting from any such revision of orders including additional bunkers consumed at cost price where and when bunkers are next taken. Charterers shall pay for loss of time caused by such revision at the rate of demurrage stipulated in Part I (j) less the value of the vessel's daily bunkers consumption in port at cost price. Charterers shall indemnify Owners for any claim brought against Owners by reason of such deviation, including all legal costs and expenses.	218 219 220 221 222
Charterers shall not be liable for any other loss resulting from Charterers revising their orders, unless upon receiving the new orders Owners promptly notify Charterers that such other loss may occur. Unless Charterers then give new orders which will avoid such other loss it shall when proved be recoverable from Charterers.	223 224 225
<b>3.—Voyage:</b>	226
The vessel shall proceed with all convenient despatch as soon as her prior commitments, as specified in Part I (b) are completed, to a berth, dock, anchorage, submarine line, alongside a lighter or lighters or any other place as ordered by Charterers within the limits specified in Part I (d), or so near thereto as she may safely get, lie and depart from, and there load, always afloat, the cargo as described in Part I (c) and being so loaded shall proceed as ordered on signing bills of lading direct to a berth, dock, anchorage, submarine line, alongside a lighter or lighters or any other place as ordered by Charterers within the limits specified in Part I (d) or so near thereto as she may safely get and lie, and there deliver the cargo always afloat. Should it appear that the aforesaid conditions for ship and cargo are not fulfilled, the ship shall not be obliged to proceed.	227 228 229 230 231 232 233
Charterers shall exercise due diligence to ascertain that any places to which they order the vessel are safe for the vessel and that she will lie there always afloat. Charterers shall, however, not be deemed to warrant the safety of any place and shall be under no liability in respect thereof except for loss or damage caused by their failure to exercise due diligence as aforesaid.	234 235 236
Transfer of oil from and to the vessel to and from another ocean-going ship made fast alongside or while under way shall be allowed in accordance with the ICS/OCIMF Ship to Ship Transfer Guide and under the conditions for lightering in Clause 18, provided Owners have been given reasonable notice in advance and only to the extent such operation is safe. All extra equipment required for such transfer operation shall be provided by Charterers who undertake to reimburse Owners any additional insurance premiums.	237 238 239 240 241
<b>4.—Disposal of Residues:</b>	242
Owners shall ensure that the vessel's personnel will:	243
(a) During the ballast passage and before presenting for loading hereunder, retain on board all oil residues remaining in the vessel from her previous cargo;	244 245
(b) during tank washing collect the washings into a separate compartment and, after maximum separation of free water, discharge such water overboard;	246 247
(c) thereafter notify Charterers as soon as possible through Owners of the amounts of oil and water in the segregated tank washings.	248 249
On the vessel's arrival at or off loading port or place, Charterers shall provide facilities for the reception of any such tank washings, the cost of such facilities and the ultimate disposal of the tank washings being for Charterers' account. Any delay in the provision of the necessary facilities shall count as laytime.	250 251 252
Should Charterers fail to provide facilities for the reception of part or all of the tank washings remaining on board, freight shall be payable thereon as specified in Part I (h) up to a maximum tonnage equivalent to 1 % (one per cent) of the vessel's deadweight on tropical marks, the water contained in such tank washings not to exceed 0.15 % of such deadweight.	253 254 255
Should Charterers require segregation of the cargo to be loaded from the tank washings remaining on board they shall pay any deadfreight so incurred.	256 257
<b>5.—Cleaning:</b>	258
The Master is bound to keep the tanks, pipes and pumps of the vessel suitable for the cargo specified in Part I (c). For clean cargoes, cleaning shall be effected to Charterers' inspector's satisfaction.	259 260
The vessel shall not be responsible for any admixture if more than one quality of oil is shipped, nor for leakage, contamination or deterioration in quality of the cargo unless the admixture, leakage, contamination or deterioration results from (a) unseaworthiness existing at the time of loading or at the inception of the voyage which was discoverable by the exercise of due diligence, or (b) error or fault of the servants of Owners in the loading, care or discharge of the cargo.	261 262 263 264
<b>6.—Charterers' Option of Cancelling:</b>	265
If the vessel has not given a valid notice of readiness as provided in Clause 8 by 12 midnight (2400 hours) local time on the cancelling date specified in Part I (f), Charterers shall have the option of cancelling this Charter Party, unless the vessel has been delayed due to ice risks as mentioned in Clauses 21 and 22 or to Charterers' revision of orders under Clause 2, in which cases the cancelling date shall be extended by any time so lost. Whether or not Charterers exercise their option of cancelling no claim they may have on Owners shall be prejudiced thereby.	266 267 268 269 270
Nevertheless, if it clearly appears that despite due diligence on the part of Owners the vessel will be delayed beyond the cancelling date Owners may, at the earliest 72 hours before the vessel is to sail for the loading port or place and as soon as they are in a position to state — with reasonable certainty — a new readiness date, ask Charterers whether or not they will exercise their option of cancelling. The option must then be declared within 7 days thereafter but not later than one day after the cancelling date. If Charterers do not cancel the Charter Party within such time limit, the seventh day after the new readiness date stated shall be the new cancelling date unless otherwise agreed.	271 272 273 274 275 276



<b>7.—Owners' Option of Cancelling:</b>	277
If for reasons not attributable to the vessel and/or Owners	278
(a) Charterers fail in their duty to furnish voyage instructions or loading orders in accordance with Clause 2, and such failure has lasted for not less than 10 days,	279
or	280
(b) loading has not commenced and 20 days have passed after valid notice of readiness has been tendered,	281
Owners shall have the option of cancelling this Charter Party.	282
If such option is exercised and the delay is attributable to Charterers, they shall be liable for loss of charter. Whether or not Owners exercise this option no claim they may have on Charterers for loss of time or otherwise shall be prejudiced thereby.	283
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<b>8.—Notice of Readiness:</b>	286
When the vessel has arrived at a loading or discharging port or place, or at a usual waiting place off such port or place if vessel cannot enter or berth by reason of any cause beyond the control of Owners, and the vessel is ready to load or discharge, a notice of readiness, which may be tendered at any time on any day of the year, shall be given to Charterers or their agent. The vessel shall be deemed ready within the meaning of this clause whether or not she has ballast water or residues or washings in her tanks.	287
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Subject to Part I (e) laytime shall commence at the first loading and discharging port or place at the expiration of six running hours after tendering such notice or upon connection of hoses, whichever first occurs.	292
At subsequent port or place laytime shall resume when notice of readiness is tendered.	293
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<b>9.—Laytime:</b>	295
The running hours specified in Part I (g) shall be allowed Charterers for the loading and discharging of the cargo and other Charterers' purposes connected therewith.	296
If Charterers, suppliers, consignees or the regulations of the port authorities prohibit loading or discharging at night, time so lost shall count as laytime.	297
Laytime shall count until the hoses have been disconnected or until Charterers or their agents have fulfilled their obligation to produce any necessary documents, whichever is the later.	298
Time lost by any of the following causes shall not count for laytime or for demurrage even if the vessel is already on demurrage:	299
(a) waiting for pilot or tugs, or while moving from anchorage to place of loading or discharging;	300
(b) cleaning of tanks, discharging of ballast water, residues or washings;	301
(c) stoppages on the vessel's orders or breakdown or inefficiency of the vessel, or negligence or default on the part of Owners or their servants or agents or a strike of the crew.	302
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<b>10.—Demurrage:</b>	308
Charterers shall pay demurrage at the rate specified in Part I (j).	309
If, however, demurrage is incurred due to any of the events set out below which commences or occurs before the expiry of the allowed laytime, the rate of demurrage shall be reduced to one-half until the said event ceases:	310
(a) fire, explosion or breakdown of machinery at shore installation not caused by negligence on the part of Charterers or the shippers or their servants or agents;	311
(b) or any of the exceptions set out in the last sentence of Clause 25 (save for quarantine as provided in Clause 23).	312
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<b>11.—Loading and Discharging:</b>	315
(a) The cargo shall be loaded into the vessel at the expense of and at the risk and peril of Charterers as far as the vessel's permanent hose connections only, and shall be pumped out of the vessel at the expense of and at the risk and peril of the vessel as far as the vessel's permanent hose connections only.	316
Hoses for loading and discharging shall be furnished by Charterers and shall be connected and disconnected by Charterers or, at the option of Charterers, by Owners at Charterers' risk and expense.	317
The vessel shall provide her pumps and the necessary motive power for discharging in all ports where regulations so permit, as well as the necessary personnel, but if shore regulations do not permit fire on board and steam is necessary for discharging purposes, Charterers shall supply such steam at their expense.	318
(b) Overtime: Loading and discharging may be carried out at any time on any day of the year, Charterers paying all extra expenses, including overtime, incurred ashore only.	319
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<b>12.—Freight Payment:</b>	326
Freight shall be paid at the rate specified in Part I (h), and calculated on the intaken quantity of cargo, plus any residues or washings remaining on board as specified in Clause 4, no deduction being made for water and/or sediment contained in the cargo.	327
Payment of freight as specified in Part I (i) shall be made by Charterers in cash without discount.	328
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<b>13.—Deadfreight:</b>	330
Should Charterers or their agents fail to supply a cargo as specified in Part I (c), deadfreight shall be payable, but in no event shall Charterers be required to furnish cargo in excess of the quantity stated in Part I (a) as the vessel's capacity for cargo.	331
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<b>14.—Slack Tanks:</b>	333
The vessel shall not be required to proceed to sea until such of her tanks are filled as will place her in a seaworthy condition.	334
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<b>15.—Lien:</b>	336
Owners shall have a lien on the cargo for all claims under this Charter Party and costs of recovering same.	337
<b>16.—Dues and other Charges:</b>	338
Dues, taxes and other charges upon the vessel, including those assessed with reference to the quantity of cargo loaded or discharged shall be paid by Owners, and dues and other charges upon the cargo and taxes on the freight shall be paid by Charterers. However, irrespective of the foregoing, where under a provision of Worldscale any such dues and charges are expressly for the account of Owners or Charterers, then they shall be payable in accordance therewith.	339
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<b>17.—Shifting:</b>	343
Charterers shall have the right to load and/or discharge at more than one berth at each port or place on payment of all expenses incurred in moving the vessel from the first to the second and any subsequent berth or place, including any extra bunkers consumed whilst shifting and any dues incurred in excess of those which would have been incurred if all the cargo had been loaded or discharged at the first berth or place only. Time used in shifting between berths or places shall count as laytime.	344 345 346 347
<b>18.—Lighterage:</b>	348
Any lighterage shall be at the expense, risk and peril of Charterers and any time lost to the vessel on account of lighterage shall count as laytime. Lighterage shall be effected only in port or place where the vessel can continuously lie safely always afloat, and Charterers shall indemnify Owners against the consequences of any spillage of cargo not due to the negligence of officers, master or crew of the vessel.	349 350 351 352
<b>19.—Heating:</b>	353
When heating of cargo is required by Charterers in accordance with Part I (a), Owners shall exercise due diligence to maintain the temperature requested on passage to and whilst at the discharging port or place.	354 355
<b>20.—Liberty:</b>	356
The vessel shall have liberty to sail with or without pilots to tow or go to the assistance of vessels in distress, to call at any port or place for oil fuel supplies, and to deviate for the purpose of saving life or property, or for any other reasonable purpose whatsoever.	357 358 359
<b>21.—Ice on Voyage:</b>	360
In case port or place of loading or discharge should be inaccessible owing to ice, the vessel shall direct her course according to Master's judgment, notifying by telegraph or radio, if available, Charterers, the shipper or consignee, who is bound to telegraph or radio orders for another port, which is free from ice and where there are facilities for the loading or reception of the cargo in bulk. The whole of the time occupied from the time the vessel is diverted by reason of the ice until her arrival at an ice-free port of loading or discharge, as the case may be, shall be paid for by Charterers at the demurrage rate stipulated in Part I (j) plus the cost of actual consumption of bunkers less normal bunker consumption in port.	361 362 363 364 365 366
<b>22.— Ice at Loading/Discharge Port or Place.</b>	367
If, on account of ice the Master considers it dangerous to enter or remain at any loading or discharging port or place for fear of the vessel being frozen in or damaged, the Master shall communicate by telegraph or radio, if available, with Charterers, the shipper or consignee of the cargo, who shall telegraph or radio him in reply, giving orders to proceed to another port or place as per Clause 21 where there is no danger of ice and where there are the necessary facilities for the loading or reception of the cargo in bulk, or to remain at the original port or place at their risk, and in either case Charterers to pay for the time that the vessel may be delayed, at the demurrage rate stipulated in Part I (j) plus the cost of actual consumption of bunkers less normal bunker consumption in port.	368 369 370 371 372 373 374
<b>23.—Quarantine:</b>	375
If at the time of nomination quarantine is in force at the nominated port or place of loading or discharging any time thereby lost by the vessel to count as laytime. If, however, quarantine comes into force at such port or place after nomination only half the time thereby lost by the vessel shall count as laytime except that full time shall count for demurrage after the expiry of the laytime.	376 377 378 379
<b>24.—Agency:</b>	380
The vessel shall be addressed to Owners' agents at port(s) or place(s) of loading and discharging.	381
<b>25.— Responsibility and Immunities:</b>	382
The provisions of Articles III (other than Rule 8), IV, VIII and IX of the Carriage of Goods by Sea Act, 1924 of the United Kingdom shall apply to this Charter Party and shall be deemed to be inserted in extenso herein. This Charter Party shall be deemed to be a contract for the carriage of cargo by sea to which the said articles apply and Owners shall be entitled to the protection of the said articles in respect of any claim made hereunder. Charterers shall not, save to the extent otherwise in this Charter Party expressly provided, be responsible for any loss or damage or delay or failure in performance hereunder arising or resulting from Act of God; act of war; seizure under legal process; quarantine restrictions; strikes; boycotts; lockouts; riots; civil commotions; and arrest or restraint of princes, rulers or peoples.	383 384 385 386 387 388 389
<b>26.—Both to Blame Clause:</b>	390
If the liability for any collision in which the vessel is involved while performing this Charter Party fails to be determined in accordance with the laws of the United States of America, the following clause shall apply:	391 392
"If the vessel comes into collision with another vessel as a result of the negligence of the other vessel and/or any act, neglect or default of the Master, mariner, pilot or the servants of Owners in the navigation or in the management of the vessel, the owners of the cargo carried hereunder will indemnify Owners against all loss or liability to the other or non-carrying vessel or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of the said cargo, paid or payable by the other or non-carrying vessel or her owners to the owners of the said cargo and set off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying vessels or Owners.	393 394 395 396 397 398 399
The foregoing provisions shall also apply where the owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect to a collision or contact."	400 401
and Charterers shall procure that all bills of lading issued under this Charter Party shall contain this clause.	402
<b>27.—General Average: New Jason Clause:</b>	403
General average shall be payable according to the York/Antwerp Rules, 1974, but if, notwithstanding the provisions specified in Part I (l), the adjustment is made in accordance with the law and practice of the United States of America, the following clause shall apply:	404 405 406
"In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, Owners are not responsible, by statute, contract or otherwise, the cargo, shippers, consignees or owners of the cargo shall contribute with Owners in general average to the payment of any sacrifices, loss or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the cargo.	407 408 409 410 411
If a salving vessel is owned or operated by Owners, salvage shall be paid for as fully as if the said salving vessel or vessels belonged to strangers. Such deposit as Owners, or their agents, may seem sufficient to cover the estimated contribution of the cargo and any salvage and special charges thereon shall, if required, be made by the cargo, shippers, consignees or owners of the cargo to Owners before delivery."	412 413 414 415
and Charterers shall procure that all bills of lading issued under this Charter Party shall contain this clause.	416

<b>28.—Paramount Clause:</b>	417
Charterers shall procure that all bills of lading issued pursuant to this Charter Party shall contain the following Paramount Clause:	418
"This bill of lading shall:	419
(a) in relation to the carriage of any cargo from any port in Great Britain or Northern Ireland to any other port whether in or outside Great Britain or Northern Ireland have effect subject to the provisions of the Carriage of Goods by Sea Act, 1924, of the United Kingdom (or any statutory modification or re-enactment thereof), and to the Rules contained in the Schedule thereto as applied by that Act and nothing herein contained shall be deemed a surrender by Owners of any of their rights or immunities or an increase of any of their responsibilities or liabilities under the said Act;	420
(b) in relation to the carriage of any cargo from any port of shipment in territory in which legislation similar in effect to the Carriage of Goods by Sea Act, 1924, of the United Kingdom (or any statutory modification or re-enactment thereof), is in force have effect subject to such legislation and to the Rules contained in the Schedule thereto as applied by such legislation and nothing herein contained shall be deemed to be a surrender by Owners of any of their rights or immunities under the said legislation or an increase of any of their responsibilities or liabilities under the said legislation; and	421
(c) in any other case have effect as if the contract of carriage herein contained were a contract of carriage to which the provisions of the Carriage of Goods by Sea Act, 1924, of the United Kingdom (or any statutory modification or re-enactment thereof) applied and Owners shall be entitled to the benefit of the privileges, rights and immunities conferred by the said Act and the Rules contained in the Schedule thereto as if the same were herein specifically set out.	422
If any terms of this bill of lading be repugnant to the provisions of the said Act or to the said legislation to any extent, such term shall be void to that extent but no further."	423
<b>29.—War Risks:</b>	424
(a) The Master shall not be required or bound to sign bills of lading for any blockaded port or for any port which the Master or Owners in his or their discretion consider dangerous or impossible to enter or reach.	425
(b) If any port of loading or of discharge named in this Charter Party or to which the vessel may properly be ordered pursuant to the terms of the bills of lading be blockaded, or	426
if owing to any war, hostilities, warlike operations, civil war, civil commotions, revolutions, or the operation of international law (1) entry to any such port of loading or of discharge or the loading or discharge of cargo at any such port be considered by the Master or Owners in his or their discretion dangerous or prohibited, or (2) it be considered by the Master or Owners in his or their discretion dangerous or impossible for the vessel to reach any such port of loading or of discharge Charterers shall have the right to order the cargo or such part of it as may be affected to be loaded or discharged at any other safe port of loading or of discharge within the range of loading or discharging ports respectively established under the provisions of the Charter Party (provided such other port is not blockaded or that entry thereto or loading or discharge of cargo thereat is not in the Master's or Owners' discretion dangerous or prohibited). If in respect of a port of discharge no orders be received from Charterers within 48 hours after they or their agents have received from Owners a request for the nomination of a substitute port, Owners shall then be at liberty to discharge the cargo at any safe port which they or the Master may in their or his discretion decide on (whether within the range of discharging ports established under the provisions of the Charter Party or not) and such discharge shall be deemed to be due fulfilment of the contract or contracts of affreightment so far as cargo so discharged is concerned. In the event of the cargo being loaded or discharged at any such other port within the respective range of loading or discharging ports established under the provisions of the Charter Party, the Charter Party shall be read in respect of freight and all other conditions whatsoever as if the voyage performed were that originally designated. In the event, however, that the vessel discharges the cargo at a port outside the range of discharging ports established under the provisions of the Charter Party, freight shall be paid as for the voyage originally designated and all extra expenses involved in reaching the actual port of discharge and/or discharging the cargo thereat shall be paid by Charterers or cargo owners. In this latter event Owners shall have a lien on the cargo for all such extra expenses.	427
(c) The vessel shall have liberty to comply with any directions or recommendations as to departure, arrival, routes, ports of call, stoppages, destinations, zones, waters, delivery or in any other wise whatsoever given by the government of the nation under whose flag the vessel sails or any other government or local authority including any de facto government or local authority or by any person or body acting or purporting to act as or with the authority of any such government or authority or by any committee or person having under the terms of the war risks insurance on the vessel the right to give any such directions or recommendations. If by reason of or in compliance with any such directions or recommendations, anything is done or is not done such shall not be deemed a deviation.	428
If by reason of or in compliance with any such direction or recommendation the vessel does not proceed to the port or ports of discharge originally designated or to which she may have been ordered pursuant to the terms of the bills of lading, the vessel may proceed to any safe port of discharge which the Master or Owners in his or their discretion may decide on and there discharge the cargo. Such discharge shall be deemed to be due fulfilment of the contract or contracts of affreightment and Owners shall be entitled to freight as if discharge has been effected at the port or ports originally designated or to which the vessel may have been ordered pursuant to the terms of the bills of lading. All extra expenses involved in reaching and discharging the cargo at any such other port of discharge shall be paid by Charterers and/or cargo owners and Owners shall have a lien on the cargo for freight and all such expenses.	429
Charterers are to procure that all bills of lading issued under this Charter Party shall contain this clause.	430
<b>30.—TOVALOP:</b>	431
The vessel to be entered into TOVALOP and the current P & I Clubs' Recommended TOVALOP Clause shall be deemed to be incorporated unless any other TOVALOP clause is attached hereto.	432
<b>31.—Bills of Lading:</b>	433
Bills of lading are to be signed as presented without prejudice to this Charter Party, and Charterers hereby indemnify Owners against all liabilities and expenses including legal costs that may arise from the signing of bills of lading as presented to the extent that the terms of such bills of lading are more onerous to Owners than are the terms of this Charter Party.	434
Neither Owners nor their servants shall be required to sign or endorse bills of lading showing freight prepaid until the freight due to Owners has actually been paid.	435
<b>32.—Arbitration:</b>	436
Any dispute or difference arising out of this Charter Party shall be referred to arbitration in London to the arbitrament of three persons, one to be appointed by each of the parties hereto and the third by the two so appointed; their decision, or that of any two of them, shall be final and binding upon the parties, and for the purpose of enforcing any award this agreement and any such award may be made a rule or order or judgment of the Court without the merits of the dispute or difference being re-opened.	437
<b>33.—Subletting/Assigning:</b>	438
Charterers shall have the liberty of subletting or assigning this Charter Party to any individual or company, but Charterers shall always remain responsible for the due fulfilment of all the terms and conditions of this Charter Party and shall warrant that any such sublet or assignment will not result in the vessel being restricted in her future trading.	439



1. Shipbroker	<b>BIMCO</b> <b>STANDARD COAL AND ORE CHARTER PARTY</b> <b>CODE NAME: COAL-OREVOY</b>	
3. Owners (full style and address)	2. Place and date of Charter Party	
5. Vessel's name and flag	4. Charterers (full style and address)	
7. Vessel's particulars (Cl. 1(b)(v))	6. Rate in tons per hour (load.) (Cl. 1(b)(iv))	
9. First layday (Cl. 2(a))	8. Present position and prior commitments, if known (Cl. 2(b))	
11. Cancelling date (also state if other period of declaration of cancelling agreed) (Cl. 3(a))	10. Expected load readiness date (Cl. 2(b))	
13. Cargo / margin / lts or mts (Cl. 6)		
14. Advance notices (load and discharging) (State number of running days' notice to be given and to whom) (Cl. 7)		
15. Loading port(s) / berth(s) (Cl. 8(a))	12. Substitution (state "no" if not agreed) (Cl. 5)	
16. Discharging port(s) / berth(s) (Cl. 8(b))		
17. Notice time in running hours (load and discharging) (only to be filled in if agreed) (Cl. 9(b)(i))		
18. Laytime (if separate laytime for load <input type="checkbox"/> _____ a) Laytime for loading _____ b) Laytime for discharging _____ c) Total laytime for loading and discharging		

19. Laytime exceptions (loading) (Cl. 9(c)(i))	20. Laytime exceptions (discharging) (Cl. 9(c)(i))
21. Demurrage rate (loading) (Cl. 9(e)(ii))	22. Demurrage rate (discharging) (Cl. 9(e)(ii))
23. Despatch money (load &/or discharging) (Optional; if agreed indicate rate of despatch money) (Cl. 9(e)(iii))	24. Freight tax (state whether for Owners' or Charterers' account) (Cl. 13(c))
25. Agents at loading port(s) (Cl. 14)	26. Agents at discharging port(s) (Cl. 14)
27. Freight rate per metric ton (state whether fully or partly prepaid) (Cl. 15)	28. Freight payment (currency and when/where payable; also state beneficiary and bank account) (Cl. 15)
29. General average shall be adjusted/settled at (Cl. 22)	30. Dispute Resolution (state 26(a), 26(b) or 26(c) of Cl. 26, as agreed; if 26(c) agreed state place of arbitration) (if not filled in 26(a) shall apply) (Cl. 26)
31. Brokerage commission and to whom payable (Cl. 27)	32. Numbers of additional clauses covering special provisions, if agreed

It is mutually agreed that this Charter Party shall be performed subject to the conditions contained herein consisting of PART I including additional clauses, if any agreed and stated in Box 32, and PART II. In the event of a conflict of conditions, the provisions of PART I shall prevail over those of PART II to the extent of such conflict but no further.

Signature (Owners)	Signature (Charterers)
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**PART II**  
**"COAL-OREVOY" Standard Coal and Ore Charter Party**

<p><b>1. Vessel</b></p> <p>(a) The Owners shall exercise due diligence:</p> <p>(i) before and at the beginning of the loaded voyage to make the Vessel seaworthy and in every way fit for the voyage and for the trade for which the Vessel is employed;</p> <p>(ii) throughout the currency of this Charter Party to ensure that the Vessel and her Master and crew comply with all safety, health and other applicable laws and regulations of the Vessel's flag State and of the places where she trades necessary to secure the safe and unhindered loading of the cargo, performance of the voyage and discharging of the cargo.</p> <p>(b) The Vessel shall be:</p> <p>(i) classed as stated in Box 7 and the Owners warrant that this class shall be maintained throughout the currency of this Charter Party;</p> <p>(ii) fully insured in respect of loss of or damage to the cargo by a Protection and Indemnity Club or liability underwriter and the Owners shall provide, on request, evidence of such insurance;</p> <p>(iii) insured for Hull and Machinery and basic War Risks purposes;</p> <p>(iv) suitable for mechanical loading of the cargo and capable of receiving the cargo at the rate (if any) specified in Box 6 and be suitable for grab discharge, failing which Clause (c) (iii) shall apply and the Owners shall reimburse the Charterers any actual extra discharge costs;</p> <p>(v) equipped to meet the technical requirements if and as specified in Box 7.</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p>	<p>of readiness to load on or before 23.59 hours on the new cancelling date.</p> <p>(c) The Charterers shall in any event declare whether they exercise any option of cancelling under this Clause no later than the time of the Vessel's readiness to load.</p>	<p>67</p> <p>68</p> <p>69</p> <p>70</p> <p>71</p>
<p><b>2. First Layday, Present Position and Expected Load Readiness</b></p> <p>(a) Laydays shall not commence before 00.00 hours on the date stated in Box 9. However, notice of readiness may be given before that date and notice time, if provided for in Box 17, shall run forthwith.</p> <p>(b) Present position of Vessel as per Box 8. Commitments prior to commencement of this Charter are as per Box 8. Expected load readiness as per Box 10.</p>	<p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p>	<p><b>4. Subletting, Assigning</b></p> <p>The Charterers shall have the liberty of subletting or assigning this Charter Party to any individual or company, but the Charterers shall always remain responsible for the due fulfilment of all the terms and conditions of this Charter Party and shall warrant that any such sublet or assignment to another party will not result in the Vessel being restricted in her future trading.</p>	<p>72</p> <p>73</p> <p>74</p> <p>75</p> <p>76</p> <p>77</p> <p>78</p> <p>79</p> <p>80</p>
<p><b>3. Cancelling</b></p> <p>(a) The Charterers shall have the option of cancelling the Charter Party if the Vessel has not tendered notice of readiness to load on or before 23.59 hours on the cancelling date stated in Box 11.</p> <p>(b) Should the Owners anticipate that, despite the exercise of due diligence, the Vessel will not be ready to load by the cancelling date, they shall notify the Charterers thereof without delay stating the expected date of the Vessel's readiness to load and asking whether the Charterers will exercise their option of cancelling the Charter Party, or agree to a new cancelling date. The Charterers must declare such option within 2 working days as applied at the Charterers' place of business after the receipt of the Owners' notice. If the Charterers do not exercise their option of cancelling, then this Charter Party shall be deemed to be amended such that the seventh day after the new readiness date stated in the Owners' notification to the Charterers shall be the new cancelling date. The provisions of sub-clause (b) shall operate only once, and in case of the Vessel's further delay, the Charterers shall have the option of cancelling the Charter Party if the Vessel has not tendered notice</p>	<p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52</p> <p>53</p> <p>54</p> <p>55</p> <p>56</p> <p>57</p> <p>58</p> <p>59</p> <p>60</p> <p>61</p> <p>62</p> <p>63</p> <p>64</p> <p>65</p> <p>66</p>	<p><b>5. Substitution</b></p> <p>The Owners shall have liberty to substitute a Vessel, provided that such substitute Vessel's main particulars and position shall be subject to the Charterers' prior approval, which is not to be unreasonably withheld, but the Owners under this Charter Party shall remain responsible to the Charterers for the due fulfilment of this Charter Party. This Clause shall not apply if "No" inserted in Box 12.</p> <p><b>6. Cargo</b></p> <p>(a) The Charterers warrant that unless otherwise specified in Part I, the cargo referred to in Box 13 is non-hazardous and non-dangerous for carriage according to applicable safety regulations including, but not limited to, IMO Code(s).</p> <p>(b) The Charterers shall have the right to ship parcels of different qualities and/or for different receivers in separate holds within the Vessel's natural segregation and suitable for her trim provided that such parcels can be loaded, carried and discharged without effecting the Vessel's seaworthiness. Other means of separation of different parcels may be specified in Part I.</p>	<p>81</p> <p>82</p> <p>83</p> <p>84</p> <p>85</p> <p>86</p> <p>87</p> <p>88</p> <p>89</p> <p>90</p> <p>91</p> <p>92</p> <p>93</p> <p>94</p> <p>95</p> <p>96</p> <p>97</p> <p>98</p> <p>99</p> <p>100</p> <p>101</p> <p>102</p>
<p><b>7. Advance Notices</b></p> <p>The Owners or the Master shall give notices of expected readiness to load/discharge as specified in Box 14 to the parties named therein and shall keep those parties advised of any alteration in expected load/discharge readiness.</p>	<p>103</p> <p>104</p> <p>105</p> <p>106</p> <p>107</p> <p>108</p>	<p><b>8. Port of Loading, Voyage, Port of Discharge</b></p> <p>(a) After completion of prior commitments as may be stated in Box 8, the Vessel shall proceed to the loading port(s)/berth(s) as stated in Box 15.</p> <p>(b) The Vessel shall carry the cargo with due despatch to the port(s)/berth(s) of discharge stated in Box 16. If the Charterers have the right to order the Vessel to discharge at one or more ports out of several ports named or within a specific range, the Charterers shall declare the actual port(s) of discharge to be inserted in the Bills of Lading prior to the arrival of the Vessel at the first port of loading.</p> <p>(c) Unless the loading/discharging port(s)/berth(s) are specifically mentioned herein, the Charterers warrant the safety of port(s)/ berth(s) nominated and that the Vessel will be loaded and discharged always afloat.</p> <p>(d) The Vessel shall be left in seaworthy trim for shifting between berths and ports.</p> <p>(e) Unless otherwise agreed, loading and/or discharging at two or more ports shall be effected in geographical rotation.</p>	<p>103</p> <p>104</p> <p>105</p> <p>106</p> <p>107</p> <p>108</p> <p>109</p> <p>110</p> <p>111</p> <p>112</p> <p>113</p> <p>114</p> <p>115</p> <p>116</p> <p>117</p> <p>118</p> <p>119</p> <p>120</p> <p>121</p> <p>122</p> <p>123</p> <p>124</p> <p>125</p> <p>126</p> <p>127</p> <p>128</p> <p>129</p>

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**"COAL-OREVOY" Standard Coal and Ore Charter Party**

9.	<b>Notices of Readiness, Laytime, Demurrage/Despatch Money</b>	130			
	<b>(a) Notice of Readiness</b>	132			
	(i) At each port of loading and discharging notice of readiness shall be given to the Charterers or their Agents when the Vessel is in all respects ready to load/discharge at the loading/discharging berth. If the Vessel is a combination carrier, and has carried liquid cargo on its previous voyage, the Vessel shall possess a valid gas free certificate on tendering notice of readiness.	133-140	(ii)	Time shall not count as laytime or as time on demurrage whilst Vessel actually moving from waiting place whether at or off the port or from a lightening place off the port, until the Vessel is securely moored at the designated loading/discharging berth.	201-206
	(ii) If a loading/discharging berth is not designated or if such designated berth is not available upon the Vessel's arrival at or off the port, notice of readiness may be given upon arrival at the waiting place at or off the port. However, if at the time the loading/discharging berth becomes available, the Vessel is prevented from proceeding to the berth due to her inefficiency, weather, tidal conditions, strikes of tugs or pilots or mandatory regulations applicable to the Vessel, time shall not count from that time until such hindrance(s) has (have) ceased.	141-151	(iii)	Time lost due to inefficiency or any other cause attributable to the Vessel, her Master, her crew or the Owners shall not count as notice time or as laytime or as time on demurrage to the extent that loading or discharging or the matters covered by sub-clause (d)(i) are thereby affected.	207-212
	(iii) Notice of readiness may be given on any day at any time.	152-153	(iv)	If pursuant to Clause 10 (m) the Vessel has to vacate the loading/ discharging berth, notice time or laytime or time on demurrage shall not count from that time until she be in all respects ready to load/dischARGE and notification has been given to the Charterers accordingly.	213-218
	<b>(b) Laytime</b>	154	(v)	If due to the matters referred to in sub-clauses (c)(iii) or (c)(iv), the Vessel loses her turn, such time shall count again only as from 24 hours after notification of the Vessel's new readiness has been given to the Charterers or when loading/discharging resumes whichever may be the sooner.	219-224
	(i) The laytime shall commence when notice of readiness has been given and after expiration of notice time, if any, provided for in Box 17. Should the Vessel arrive at the (first) loading port and be ready to load before the date stated in Box 9, the Charterers shall have the right to start loading. The Charterers shall also have the right to load/dischARGE before the expiration of notice time. In either event, during such periods only time actually used shall count as laytime or as time on demurrage.	155-165	(d)	<b>Termination of Laytime</b>	226
	(ii) The notice time, if any, shall only apply at first or sole loading and discharging port, respectively.	166-167	(i)	Laytime/Demurrage shall stop counting on completion of: (a) loading/discharging at the relevant port, (b) cargo documentation and/or draft survey for determination of cargo weight, (c) repairs to stevedore damage under Clause 12(b), whichever may be the later.	227-232
	(iii) If total laytime for loading and discharging has been agreed in Box 18 notice time, if any, at port of discharge shall be applied unless the Vessel is already on demurrage.	168-171	(ii)	If required, the Vessel shall leave the berth as soon as possible within her control on completion of loading/discharging, failing which the Charterers shall be entitled to proved damages. However, if the Vessel then has to wait for reasons (b) and/or (c) as per sub-clause (d)(i), there must be a place available at which she can safely wait, and any extra expenses shall be for the Charterers' account.	233-241
*	(iv) <u>Separate laytime</u> . - The cargo shall be loaded within the number of hours/days of 24 consecutive hours or at the average loading rate per day of 24 consecutive hours as stated in Box 18a). The cargo shall be discharged within the number of hours/days of 24 consecutive hours or at the average discharging rate per day of 24 consecutive hours as stated in Box 18b).	172-179	(e)	<b>Demurrage/Despatch Money</b>	242
	(v) <u>Total laytime</u> . - The cargo shall be loaded and discharged within the number of hours/days of 24 consecutive hours stated in Box 18c).	180-182	(i)	Demurrage accrued under this Charter Party shall be considered as constituting liquidated damages for exceeding the laytime provided for herein. However, if the Vessel has been on demurrage for 15 days or more and no cargo has been loaded, the Owners shall have the option of cancelling this Charter Party. No claim which the Owners may otherwise have against the Charterers shall be prejudiced by the Owners exercising their option of cancelling.	243-252
	(vi) In the case of loading and/or discharging at more than one berth, laytime shall run continuously as if loading/discharging had been effected at one berth only but without prejudice to sub-clause (c).	183-186	(ii)	Demurrage shall be due and payable by the Charterers day by day at the rate specified in Boxes 21 and 22 and in the manner provided for in Box 28.	253-256
	(vii) Notwithstanding any other terms of this Charter Party, in any event laytime will start counting at the latest upon commencement of loading or discharging of the cargo from the Vessel.	187-190	(iii)	Despatch money, if agreed upon in Box 23, shall be paid promptly by the Owners to the Charterers at half the demurrage rate or as otherwise agreed upon in Box 23 for laytime saved in loading and/or discharging.	257-261
*	<i>Indicate alternative agreed in Box 18.</i>	191			
	<b>(c) Suspension of Laytime</b>	192			
	(i) Unless the Vessel is on demurrage, laytime shall not count (1) during periods excepted as per Boxes 19 and 20, unless used, in which case only time actually used shall count; (2) for the duration of bad weather or sea conditions which actually	193-197	10.	<b>Loading and Discharging</b>	262
			(a)	The Vessel shall be loaded and discharged as and where ordered by the Charterers.	263-264
				prevent the Vessel's loading, discharging or the shifting between loading/discharging berths of the Vessel; (3) if so provided for in Clause 16.	198-200



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(b) If the Charterers have not nominated a suitable loading or discharging berth on the Vessel's arrival off the port, or if such berth should not be available, the Vessel is to wait at a suitable place at or off the port. The Charterers shall have the right to designate a safe waiting place, otherwise the Master shall choose a waiting place using due diligence to minimize extra shifting costs provided for in sub-clause (d).	265 266 267 268 269 270 271 272	ordered by Port Authorities or any other Governmental Agencies, the Charterers to pay any extra expenses incurred. Officers' and crew's overtime charges always to be paid by the Owners.	333 334 335 336
(c) The Charterers shall have the right to load and/or discharge at two berths at each port or place subject to sub-clause (d).	273 274 275	(m) In the event of loading/discharging being impossible due to inefficiency or any other cause attributable to the Vessel, her Master, her crew or the Owners and such impossibility continuing for more than three consecutive hours, the Charterers shall have the right to order the Vessel to vacate the berth and shifting from and back to berth shall be at the Owners' expense and time.	337 338 339 340 341 342 343 344
(d) <u>Shifting</u> . - Costs of shifting the Vessel between berths at port(s) of loading and port(s) of discharge, including bunkers, shall be for the Charterers' account. Other costs on board the Vessel including wages and officers' and crew's overtime charges to be for the Owners' account.	276 277 278 279 280 281	<b>11. Bulk Carrier Safety Clause</b>	345
(e) The Owners or the Master shall in due time prior to commencement of loading submit to the Charterers (or their nominees) at the loading port a loading plan which shall be based on a reasonable number of shiftings between hatches and also meet applicable rules and regulations, including IMO Code(s). The Charterers shall inform the Owners/Master of any special composition of cargo required in sufficient time to permit the Owners/Master to work out and submit such loading plan.	282 283 284 285 286 287 288 289 290 291	(a) The Charterers shall instruct the terminal operators or their representatives to co-operate with the Master in completing the IMO SHIP/SHORE SAFETY CHECKLIST (IMO Resolution A.862(20) – Code of Practice for the Safe Loading and Unloading of Bulk Carriers (BLU Code) Appendix 3) and shall arrange all cargo operations strictly in accordance with the guidelines set out therein.	346 347 348 349 350 351 352 353
(f) Prior to loading, the Vessel's holds shall be adequately cleaned for loading the contracted cargo.	292	(b) In addition to the above and notwithstanding any provision in this Charter Party in respect of loading/discharging rates, the Charterers shall instruct the terminal operators to load/discharge the Vessel in accordance with the loading/discharging plan, which shall be approved by the Master with due regard to the Vessel's draught, trim, stability, stress or any other factor which may affect the safety of the Vessel.	354 355 356 357 358 359 360 361
(g) The Charterers shall load and spout/trim the cargo as per the loading plan, free of any risk, liability and expense to the Vessel. Any extra trimming and/or levelling required by the Master or Owners shall be performed at the Owners' expense and any time lost thereby shall not count as laytime/demurrage. Discharging, including shovel cleaning, shall be effected by the Charterers free of any risk, liability and expense to the Vessel.	293 294 295 296 297 298 299 300 301 302	(c) At any time during cargo operations the Master may, if he deems it necessary for reasons of safety of the Vessel, instruct the terminal operators or their representatives to slow down or stop the loading or discharging.	362 363 364 365 366
(h) <u>Warping</u> . - The Vessel shall warp, as reasonably required by the Charterers, solely for the purpose of making any hatch or hatches available to the loading/discharging appliances at that berth, and costs on board the Vessel including bunkers, wages and officers' and crew's overtime charges shall be for the Owners' account. However, the costs of any necessary outside services shall be for the Charterers' account. Laytime or time on demurrage shall not be interrupted thereby.	303 304 305 306 307 308 309 310 311 312	(d) Compliance with the provisions of this Clause shall not affect the counting of laytime.	367 368
(i) The Vessel shall work day and night and during any time as may be excepted as per Box 19 and Box 20, as required by the Charterers.	313 314 315	<b>12. Stevedore Damage</b>	369
(j) The Vessel shall, at her own risk and expense, open and close hatches prior to and after loading/discharging and also during loading/discharging as may be required by the Charterers to protect the cargo, provided local shore regulations permit. If same, however, is not permitted by local shore labour regulations, shore labour is to be employed by the Charterers at their risk, liability and expense. The Vessel shall furnish and give free use of sufficient light for deck and holds, as on board.	316 317 318 319 320 321 322 323 324 325	(a) The Charterers shall be responsible for damage (beyond ordinary wear and tear) to any part of the Vessel caused by Stevedores at both ends. Such damage, as soon as apparent, shall be notified immediately by the Master to the Charterers or their port agents and to their Stevedores. The Owners/Master shall endeavour to obtain the Stevedores' written acknowledgment of the damage caused.	370 371 372 373 374 375 376 377
(k) The Charterers shall have the right to order the Vessel to leave without having loaded a full cargo, always provided that the Vessel be in seaworthy condition and that the Charterers pay deadfreight according to Clause 15(f).	326 327 328 329 330	(b) Stevedore damage affecting seaworthiness or the proper working of the Vessel and/or her equipment shall be repaired without delay before the Vessel sails from the port where such damage was caused and shall be paid for by the Charterers. Other repairs shall be done before the completion of the voyage where practicable, or otherwise at a place mutually agreed between the parties. All costs of such repairs shall also be for the Charterers' account and any time lost shall be for the account of and shall be paid to the Owners by the Charterers at the demurrage rate.	378 379 380 381 382 383 384 385 386 387 388
(l) Overtime for loading and discharging to be for the account of the party ordering the same. If overtime be	331 332	<b>13. Dues, Taxes and Charges, Extra Insurance</b>	389
		(a) <u>On the Vessel</u> . - The Owners shall pay all dues, duties, taxes and other charges customarily levied on the Vessel, howsoever the amount thereof may be assessed.	390 391 392 393
		(b) <u>On the cargo</u> . - The Charterers shall pay all dues, duties, taxes and charges levied on the cargo at the port of loading/discharging, howsoever the amount thereof may be assessed.	394 395 396 397

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<p>(c) <u>On the freight.</u> - Taxes levied on the freight shall be paid by the Owners or the Charterers as agreed in Box 24. 398  399  400</p> <p>(d) <u>Extra Insurance.</u> - Any extra insurance on cargo actually paid by the Charterers owing to Vessel's age, class, flag or ownership shall be for the Owners' account and may be deducted from the freight. The Charterers shall furnish evidence of payment supporting any such deduction. Unless a maximum amount has been agreed in Part I, such extra insurance shall not exceed the lowest extra premium which would be charged for the Vessel and voyage in the London insurance market. 401  402  403  404  405  406  407  408  409  410</p> <p>14. <b>Agents</b> 411  At the port(s) of loading the Vessel shall be consigned to the Agents as stated in Box 25 and at the port(s) of discharge to the Agents as stipulated in Box 26, the Owners always paying the customary fees. 412  413  414  415</p> <p>15. <b>Freight</b> 416  The freight at the rate stated in Box 27 shall be calculated on intaken quantity. 417  418</p> <p>(a) <u>Prepaid.</u> - If according to Boxes 27 or 28 freight is to be paid on shipment, it shall be deemed earned and non-returnable Vessel and/or cargo lost or not lost. Bills of Lading showing "Freight prepaid" or the like shall not be released until the freight has been duly paid. 419  420  421  422  423  424</p> <p>(b) <u>After shipment.</u> - If according to Box 28 freight shall be payable within a number of days after shipment, the freight shall be deemed earned as per sub-clause (a). In such case Bills of Lading shall not be endorsed "Freight prepaid" or the like, unless the freight has been paid. 425  426  427  428  429  430</p> <p>(c) <u>Partly on Delivery.</u> - If according to Boxes 27 or 28 a percentage of the freight shall be payable as per sub-clauses (a) or (b) the balance shall be paid as per sub-clause (c). However, in such case the total freight shall be deemed earned as per sub-clause (a) and the Charterers shall not have the option referred to in sub-clause (e). 431  432  433  434  435  436  437</p> <p>(d) <u>On Delivery.</u> - If according to Boxes 27 or 28 freight is payable at destination or on tight and true delivery of the cargo, it shall not be deemed earned until the cargo is thus delivered. 438  439  440  441</p> <p>(e) <u>On Delivered Weight.</u> - When the freight is payable on delivery of cargo the Charterers shall have the option of paying freight on delivered weight, provided such option be declared in writing before breaking bulk and the weight be ascertained by official weighing machine, otherwise by joint draught survey. The Charterers shall pay all costs incurred in connection with weighing or draught survey. The Owners shall be at liberty to appoint check clerks at their own expense. 442  443  444  445  446  447  448  449  450</p> <p>(f) <u>Deductions.</u> - The freight shall be paid in cash without discount in the manner described in Box 28. The Charterers shall only be entitled to deduct from the freight undisputed despatch money and extra insurance, provided properly documented, as per Clause 13(d). 451  452  453  454  455  456</p> <p>(g) <u>Deadfreight.</u> - If the Charterers fail to supply a cargo as specified in Box 13, deadfreight shall be payable but the Charterers shall not be bound to supply cargo in excess of any quantity stated by the Owners as the Vessel's capacity made available to the Charterers. The laytime shall be calculated on that quantity. The Owners/Master shall be entitled to clause 457  458  459  460  461  462  463</p>	<p>Bills of Lading for any deadfreight due. If the Shippers/ Suppliers state in writing that no more cargo will be shipped, the Owners shall not need to have any such statement confirmed by the Charterers. 464  465  466  467</p> <p>16. <b>Strike and Other Hindrances</b> 468  (a) If there is a strike or lock-out or any other cause referred to in Clause 24 (hereinafter the "hindrance") affecting or preventing the actual loading of the cargo, or any part of it, when the Vessel is ready to proceed from her last port or at any time during the voyage to the port or ports of loading or after her arrival there, the Master or the Owners may ask the Charterers to declare, that they agree to reckon the laydays as if there were no hindrance. Unless the Charterers have given such declaration in writing (by telegram, if necessary) within 24 hours, the Owners shall have the option of cancelling this Charter Party. If part cargo has already been loaded, the Owners must proceed with same, (freight payable on loaded quantity only) having liberty to complete with other cargo on the way for their own account. 469  470  471  472  473  474  475  476  477  478  479  480  481  482  483  484</p> <p>(b) If there is a hindrance affecting or preventing the actual discharging of the cargo on or after the Vessel's arrival at or off port of discharge and same has not been settled within 48 hours, the Charterers shall have the option of keeping the Vessel waiting until such hindrance is at an end against paying half demurrage after expiration of the time provided for discharging until the hindrance has come to an end and thereafter full demurrage shall be payable until the completion of discharging, or of ordering the Vessel to a safe port where she can safely discharge without risk of being detained by a hindrance. Such orders to be given within 48 hours after the Master or the Owners have given notice to the Charterers of the hindrance affecting the discharge. On delivery of the cargo at such port, all conditions of this Charter Party and of the Bill of Lading shall apply and the Vessel shall receive the same freight as if she had discharged at the original port of destination, except that if the distance to the substituted port exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port to be increased in proportion. 485  486  487  488  489  490  491  492  493  494  495  496  497  498  499  500  501  502  503  504  505  506</p> <p>(c) Except for the obligations described above, neither the Charterers nor the Owners shall be responsible for the consequences of hindrances preventing or affecting the actual loading or discharging of the cargo. 507  508  509  510  511</p> <p>17. <b>General Ice Clause</b> 512  The Vessel shall not be obliged to force ice but, subject to the Owners' approval and having due regard to its size, construction and class, may follow ice-breakers when reasonably required. 513  514  515  516</p> <p>(a) <u>Port of Loading</u> 517  (i) If at any time after setting out on the approach voyage the Vessel's passage is impeded by ice, or if on arrival the loading port is inaccessible by reason of ice, the Master or Owners shall notify the Charterers thereof and request them to nominate a safe and accessible alternative port. If the Charterers fail within 48 running hours, Sundays and holidays included, to make such nomination or agree to reckon laytime as if the port named in the Charter Party were accessible or declare that they cancel the Charter Party, the Owners shall have the option of cancelling the 518  519  520  521  522  523  524  525  526  527  528  529</p>
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<p>Charter Party. In the event of cancellation by either party, the Charterers shall compensate the Owners for all proven loss of earnings under this Charter Party.</p> <p>(ii) If at any loading port the Master considers that there is a danger of the Vessel being frozen in, and provided that the Master or Owners immediately notify the Charterers thereof, the Vessel may leave with cargo loaded on board and proceed to the nearest safe and ice free place and there await the Charterers' nomination of a safe and accessible alternative port within 24 running hours, Sundays and holidays excluded, of the Master's or Owners' notification. If the Charterers fail to nominate such alternative port, the Vessel may proceed to any port(s), whether or not on the customary route for the chartered voyage, to complete with cargo for the Owners' account.</p> <p><b>(b) Port of Discharge</b></p> <p>(i) If the voyage to the discharging port is impeded by ice, or if on arrival the discharging port is inaccessible by reason of ice, the Master or Owners shall notify the Charterers thereof. In such case, the Charterers shall have the option of keeping the Vessel waiting until the port is accessible against paying compensation in an amount equivalent to the rate of demurrage or ordering the Vessel to a safe and accessible alternative port. If the Charterers fail to make such declaration within 48 running hours, Sundays and holidays included, of the Master or Owners having given notice to the Charterers, the Master may proceed without further notice to the nearest safe and accessible port and there discharge the cargo.</p> <p>(ii) If at any discharging port the Master considers that there is a danger of the Vessel being frozen in, and provided that the Master or Owners immediately notify the Charterers thereof, the Vessel may leave with cargo remaining on board and proceed to the nearest safe and ice free place and there await the Charterers' nomination of a safe and accessible alternative port within 24 running hours, Sundays and holidays excluded, of the Master's or Owners' notification. If the Charterers fail to nominate such alternative port, the Vessel may proceed to the nearest safe and accessible port and there discharge the remaining cargo.</p> <p>(iii) On delivery of the cargo other than at the port(s) named in the Charter Party, all conditions of the Bill of Lading shall apply and the Vessel shall receive the same freight as if discharge had been at the original port(s) of destination, except that if the distance of the substituted port(s) exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port(s) shall be increased proportionately.</p> <p><b>18. War Risks (“Voywar 1993”)</b></p> <p><b>(a)</b> For the purpose of this Clause, the words:</p> <p>(i) “Owners” shall include the shipowners, bareboat charterers, disponent owners, managers or other operators who are charged with the management of the Vessel, and the Master; and</p> <p>(ii) “War Risks” shall include any war (whether actual or threatened), act of war, civil war, hostilities,</p>	<p>530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664</p>	<p>revolution, rebellion, civil commotion, warlike operations, the laying of mines (whether actual or reported), acts of piracy, acts of terrorists, acts of hostility or malicious damage, blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever), by any person, body, terrorist or political group, or the Government of any state whatsoever, which, in the reasonable judgement of the Master and/or the Owners, may be dangerous or are likely to be or to become dangerous to the Vessel, her cargo, crew or other persons on board the Vessel.</p> <p><b>(b)</b> If at any time before the Vessel commences loading, it appears that, in the reasonable judgement of the Master and/or the Owners, performance of the Charter Party, or any part of it, may expose, or is likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks, the Owners may give notice to the Charterers cancelling this Charter Party, or may refuse to perform such part of it as may expose, or may be likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks, provided always that if this Charter Party provides that loading or discharging is to take place within a range of ports, and at the port or ports nominated by the Charterers the Vessel, her cargo, crew, or other persons on board the Vessel may be exposed, or may be likely to be exposed, to War Risks, the Owners shall first require the Charterers to nominate any other safe port which lies within the range for loading or discharging, and may only cancel this Charter Party if the Charterers shall not have nominated such safe port or ports within 48 hours of receipt of notice of such requirement.</p> <p><b>(c)</b> The Owners shall not be required to continue to load cargo for any voyage, or to sign Bills of Lading for any port or place, or to proceed or continue on any voyage, or on any part thereof, or to proceed through any canal or waterway, or to proceed to or remain at any port or place whatsoever, where it appears, either after the loading of the cargo commences, or at any stage of the voyage thereafter before the discharge of the cargo is completed, that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo (or any part thereof), crew or other persons on board the Vessel (or any one or more of them) may be, or are likely to be, exposed to War Risks. If it should so appear, the Owners may by notice request the Charterers to nominate a safe port for the discharge of the cargo or any part thereof, and if within 48 hours of the receipt of such notice, the Charterers shall not have nominated such a port, the Owners may discharge the cargo at any safe port of their choice (including the port of loading) in complete fulfilment of the Charter Party. The Owners shall be entitled to recover from the Charterers the extra expenses of such discharge and, if the discharge takes place at any port other than the loading port, to receive the full freight as though the cargo had been carried to the discharging port and if the extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route, the Owners having a lien on the cargo for such expenses and freight.</p> <p><b>(d)</b> If at any stage of the voyage after the loading of</p>
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**PART II**  
**"COAL-OREVOY" Standard Coal and Ore Charter Party**

the cargo commences, it appears that, in the	665	discharge.	732
reasonable judgement of the Master and/or the	666		
Owners, the Vessel, her cargo, crew or other persons	667	<b>20. Liberty</b>	733
on board the Vessel may be, or are likely to be, exposed	668	The Vessel shall have liberty to sail with or without	734
to War Risks on any part of the route (including any	669	pilots, to tow or go to the assistance of vessels in	735
canal or waterway) which is normally and customarily	670	distress, to call at any port or place for oil fuel supplies,	736
used in a voyage of the nature contracted for, and there	671	and to deviate for the purpose of saving life or property,	737
is another longer route to the discharging port, the	672	or for any other reasonable purpose whatsoever.	738
Owners shall give notice to the Charterers that this	673		
route will be taken. In this event the Owners shall be	674	<b>21. Both-to-Blame Collision Clause</b>	739
entitled, if the total extra distance exceeds 100 miles,	675	If the Vessel comes into collision with another vessel	740
to additional freight which shall be the same percentage	676	as a result of the negligence of the other vessel and	741
of the freight contracted for as the percentage which	677	any act, neglect or default of the Master, mariner, pilot	742
the extra distance represents to the distance of the	678	or the servants of the Owners in the navigation or in	743
normal and customary route.	679	the management of the Vessel, the owners of the cargo	744
<b>(e)</b> The Vessel shall have liberty:-	680	carried hereunder will indemnify Owners against all	745
<b>(i)</b> to comply with all orders, directions, recommen-	681	loss or liability to the other or non-carrying vessel or	746
dations or advice as to departure, arrival, routes,	682	her owners in so far as such loss or liability represents	747
sailing in convoy, ports of call, stoppages,	683	loss of, or damage to, or any claim whatsoever of the	748
destinations, discharge of cargo, delivery or in any	684	owners of said cargo, paid or payable by the other or	749
way whatsoever which are given by the Govern-	685	non-carrying vessel or her owners to the owners of	750
ment of the Nation under whose flag the Vessel	686	said cargo and set-off, recouped or recovered by the	751
sails, or other Government to whose laws the	687	other or non-carrying vessel or her owners as part of	752
Owners are subject, or any other Government	688	their claim against the carrying vessel or owners. The	753
which so requires, or any body or group acting	689	foregoing provisions shall also apply where the owners,	754
with the power to compel compliance with their	690	operators or those in charge of any vessel or vessels	755
orders or directions;	691	or objects other than, or in addition to, the colliding	756
<b>(ii)</b> to comply with the orders, directions or recom-	692	vessels or objects are at fault in respect of a collision	757
mendations of any war risks underwriters who	693	or contact.	758
have the authority to give the same under the	694		
terms of the war risks insurance;	695	<b>22. General Average and New Jason Clause</b>	759
<b>(iii)</b> to comply with the terms of any resolution of the	696	General Average shall be adjusted and settled at the	760
Security Council of the United Nations, any	697	place indicated in Box 29 according to the York/Antwerp	761
directives of the European Community, the	698	Rules, 1994, or any modification thereof, but if,	762
effective orders of any other Supranational body	699	notwithstanding the provisions specified in Box 29, the	763
which has the right to issue and give the same,	700	adjustment is made in accordance with the law and	764
and with national laws aimed at enforcing the	701	practice of the United States of America, the following	765
same to which the Owners are subject, and to	702	clause shall apply: "In the event of accident, danger,	766
obey the orders and directions of those who are	703	damage or disaster before or after the commencement	767
charged with their enforcement.	704	of the voyage, resulting from any cause whatsoever,	768
<b>(iv)</b> to discharge at any other port any cargo or part	705	whether due to negligence or not, for which, or for the	769
thereof which may render the Vessel liable to	706	consequence of which, Owners are not responsible,	770
confiscation as a contraband carrier;	707	by statute, contract or otherwise, the goods, shippers,	771
<b>(v)</b> to call at any other port to change the crew or any	708	consignees or owners of the goods shall contribute	772
part thereof or other persons on board the Vessel	709	with Owners in general average to the payment of any	773
when there is reason to believe that they may be	710	sacrifices, losses or expenses of a general average	774
subject to internment, imprisonment or other	711	nature that may be made or incurred and shall pay	775
sanctions;	712	salvage and special charges incurred in respect of the	776
<b>(vi)</b> where cargo has not been loaded or has been	713	goods. If a salvaging Vessel is owned or operated by	777
discharged by the Owners under any provisions	714	Owners, salvage shall be paid for as fully as if the said	778
of this Clause, to load other cargo for the Owners'	715	salvaging Vessel or vessels belonged to strangers. Such	779
own benefit and carry it to any other port or ports	716	deposit as Owners, or their agents, may deem sufficient	780
whatsoever, whether backwards or forwards or	717	to cover the estimated contribution of the goods and	781
in a contrary direction to the ordinary or customary	718	any salvage and special charges thereon shall, if	782
route.	719	required, be made by the goods, shippers, consignees	783
<b>(f)</b> If in compliance with any of the provisions of sub-	720	or owners of the goods to Owners before delivery".	784
clauses (b) to (e) of this Clause anything is done or	721		
not done, such shall not be deemed to be a deviation,	722	<b>23. Responsibilities</b>	785
but shall be considered as due fulfilment of the Charter	723	<b>(a)</b> The International Convention for the Unification	786
Party.	724	of Certain Rules of Law relating to Bills of Lading signed	787
		at Brussels on 25 August 1924 ("the Hague Rules") as	788
<b>19. Lien</b>	725	amended by the Protocol signed at Brussels on 23	789
<b>(a)</b> The Owners shall have a lien on the cargo for	726	February 1968 ("the Hague-Visby Rules") and as	790
freight, deadfreight, demurrage and general average	727	enacted in the country of shipment shall apply to this	791
contribution due to them under this Charter Party.	728	Charter Party. When the Hague-Visby Rules are not	792
<b>(b)</b> The Charterers shall remain responsible for	729	enacted in the country of shipment, the corresponding	793
deadfreight and demurrage, incurred at port of loading	730	legislation of the country of destination shall apply,	794
and for freight and demurrage incurred at port of	731	irrespective of whether such legislation may only	795

**PART II**  
**“COAL-OREVOY” Standard Coal and Ore Charter Party**

	regulate outbound shipments.	796		referring a dispute to arbitration may, without the	861
	(b) When there is no enactment of the Hague-Visby	797		requirement of any further prior notice to the other	862
	Rules in either the country of shipment or in the country	798		party, appoint its arbitrator as sole arbitrator and shall	863
	of destination, the Hague-Visby Rules shall apply to	799		advise the other party accordingly. The award of a sole	864
	this Charter Party save where the Hague Rules as	800		arbitrator shall be binding on both parties as if he had	865
	enacted in the country of shipment or if no such	801		been appointed by agreement.	866
	enactment is in place, the Hague Rules as enacted in	802		Nothing herein shall prevent the parties agreeing in	867
	the country of destination, compulsorily applicable to	803		writing to vary these provisions to provide for the	868
	shipments, in which case the provisions of such Rules	804		appointment of a sole arbitrator.	869
	shall apply.	805		In cases where neither the claim nor any counterclaim	870
	(c) The Protocol signed at Brussels on 21 December	806		exceeds the sum of US\$50,000 (or such other sum as	871
	1979 (“the SDR Protocol 1979”) shall apply where the	807		the parties may agree) the arbitration shall be	872
	Hague-Visby Rules apply, whether mandatorily or by	808		conducted in accordance with the LMAA Small Claims	873
	this Charter Party.	809		Procedure current at the time when the arbitration	874
	(d) The Owners shall in no case be responsible for	810		proceedings are commenced.	875
	loss of or damage to cargo arising prior to loading,	811	*)	(b) This Charter Party shall be governed by and	876
	after discharging, or while the cargo is in the charge	812		construed in accordance with Title 9 of the United	877
	of another carrier, or with respect to deck cargo and	813		States Code and the Maritime Law of the United States	878
	live animals.	814		and any dispute arising out of or in connection with	879
				this Contract shall be referred to three persons at New	880
24.	<b>Force Majeure</b>	815		York, one to be appointed by each of the parties hereto,	881
	Save to the extent otherwise in this Charter Party	816		and the third by the two so chosen; their decision or	882
	expressly provided, neither party shall be responsible	817		that of any two of them shall be final, and for the	883
	for any loss or damage or delay or failure in	818		purposes of enforcing any award, judgement may be	884
	performance hereunder resulting from Act of God, war,	819		entered on an award by any court of competent	885
	terrorism, civil commotion, quarantine, strikes,	820		jurisdiction. The proceedings shall be conducted in	886
	lockouts, arrest or restraint of princes, rulers and	821		accordance with the rules of the Society of Maritime	887
	peoples or any other event whatsoever which cannot	822		Arbitrators, Inc.	888
	be avoided or guarded against.	823		In cases where neither the claim nor any counterclaim	889
25.	<b>Bills of Lading</b>	824		exceeds the sum of US\$50,000 (or such other sum as	890
	Bills of Lading shall be presented and signed by the	825		the parties may agree) the arbitration shall be	891
	Master as per the “COAL-OREVOYBILL” Bill of Lading	826		conducted in accordance with the Shortened Arbitration	892
	form, always in accordance with Mate’s Receipts and	827		Procedure of the Society of Maritime Arbitrators, Inc.	893
	without prejudice to this Charter Party, or by the Agents	828		current at the time when the arbitration proceedings	894
	provided written authority has been given by Owners	829	*)	are commenced.	895
	to the Agents, a copy of which is to be furnished to the	830		(c) This Charter Party shall be governed by and	896
	Charterers. The Charterers shall indemnify the Owners	831		construed in accordance with the laws of the place	897
	against all consequences or liabilities that may arise	832		mutually agreed by the parties and any dispute arising	898
	from the signing of bills of lading as presented to the	833		out of or in connection with this Charter Party shall be	899
	extent that the terms or contents of such bills of lading	834		referred to arbitration at a mutually agreed place, subject	900
	impose or result in the imposition of more onerous	835		to the procedures applicable there.	901
	liabilities upon the Owners than those assumed by the	836		(d) Notwithstanding (a), (b) or (c) above, the parties	902
	Owners under this Charter Party.	837		may agree at any time to refer to mediation any	903
26.	<b>Dispute Resolution</b>	838		difference and/or dispute arising out of or in connection	904
*)	(a) This Charter Party shall be governed by and	839		with this Charter Party.	905
	construed in accordance with English law and any	840		In the case of a dispute in respect of which arbitration	906
	dispute arising out of or in connection with this Charter	841		has been commenced under (a), (b) or (c) above, the	907
	Party shall be referred to arbitration in London in	842		following shall apply:-	908
	accordance with the Arbitration Act 1996 or any statutory	843		(i) Either party may at any time and from time to time	909
	modification or re-enactment thereof save to the extent	844		elect to refer the dispute or part of the dispute to	910
	necessary to give effect to the provisions of this Clause.	845		mediation by service on the other party of a written	911
	The arbitration shall be conducted in accordance with	846		notice (the “Mediation Notice”) calling on the other	912
	the London Maritime Arbitrators Association (LMAA)	847		party to agree to mediation.	913
	Terms current at the time when the arbitration	848		(ii) The other party shall thereupon within 14 calendar	914
	proceedings are commenced.	849		days of receipt of the Mediation Notice confirm that	915
	The reference shall be to three arbitrators. A party	850		they agree to mediation, in which case the parties	916
	wishing to refer a dispute to arbitration shall appoint	851		shall thereafter agree a mediator within a further	917
	its arbitrator and send notice of such appointment in	852		14 calendar days, failing which on the application	918
	writing to the other party requiring the other party to	853		of either party a mediator will be appointed promptly	919
	appoint its own arbitrator within 14 calendar days of	854		by the Arbitration Tribunal (“the Tribunal”) or such	920
	that notice and stating that it will appoint its arbitrator	855		person as the Tribunal may designate for that	921
	as sole arbitrator unless the other party appoints its	856		purpose. The mediation shall be conducted in such	922
	own arbitrator and gives notice that it has done so	857		place and in accordance with such procedure and	923
	within the 14 days specified. If the other party does	858		on such terms as the parties may agree or, in the	924
	not appoint its own arbitrator and give notice that it	859		event of disagreement, as may be set by the	925
	has done so within the 14 days specified, the party	860		mediator.	926
				(iii) If the other party does not agree to mediate, that	927
				fact may be brought to the attention of the Tribunal	928

**PART II**  
**“COAL-OREVOY” Standard Coal and Ore Charter Party**

and may be taken into account by the Tribunal	929	sub-clause (a) of this Clause shall apply. Sub-clause	955
when allocating the costs of the arbitration as	930	(d) shall apply in all cases.	956
between the parties.	931	<i>Sub-clauses (a), (b) and (c) are alternatives; indicate</i>	957
(iv) The mediation shall not affect the right of either	932	<i>alternative agreed in Box 30:</i>	958
party to seek such relief or take such steps as it	933		
considers necessary to protect its interest.	934	<b>27. Brokerage</b>	959
(v) Either party may advise the Tribunal that they have	935	A brokerage commission at the rate stated in Box 31	960
agreed to mediation. The arbitration procedure	936	on the freight, dead-freight and demurrage earned is	961
shall continue during the conduct of the mediation	937	due to the party mentioned in Box 31.	962
but the Tribunal may take the mediation timetable	938	In case of non-execution 1/3 of the brokerage on the	963
into account when setting the timetable for steps	939	estimated amount of freight to be paid by the party	964
in the arbitration.	940	responsible for such non-execution to the Brokers as	965
(vi) Unless otherwise agreed or specified in the	941	indemnity for the latter's expenses and work. In case	966
mediation terms, each party shall bear its own	942	of more voyages the amount of indemnity to be	967
costs incurred in the mediation and the parties	943	agreed.	968
shall share equally the mediator's costs and	944		
expenses.	945	<b>28. Notices</b>	969
(vii) The mediation process shall be without prejudice	946	(a) All notices given by either party or their agents	970
and confidential and no information or documents	947	to the other party or their agents in accordance with	971
disclosed during it shall be revealed to the Tribunal	948	the provisions of this Charter Party shall be in writing.	972
except to the extent that they are disclosable	949	(b) For the purposes of this Charter Party, "in writing"	973
under the law and procedure governing the	950	shall mean any method of legible communication. A	974
arbitration.	951	notice may be given by any effective means including,	975
(Note: The parties should be aware that the mediation	952	but not limited to, cable, telex, fax, e-mail, registered	976
process may not necessarily interrupt time limits.)	953	or recorded mail, or by personal service.	977
(e) If Box 30 in PART I is not appropriately filled in,	954		

SAMPLE



1. Place and date of Contract	THE BALTIC AND INTERNATIONAL MARITIME COUNCIL STANDARD TRANSPORTATION CONTRACT FOR HEAVY AND VOLUMINOUS CARGOES CODE NAME: "HEAVYCON"	
2. Owners/Place of business (Cl. 2.1.)	3. Charterers/Place of business (Cl. 2.1.)	
4. Vessel (name, type and other particulars; also description of Owners' equipment) (Cl. 2.1. & 4.2.)		
5. Cargo (full description of cargo; indicate whether full and complete cargo or part cargo; also state minimum/maximum weight of cargo) (Cl. 2.1. & 10.5.)		
6. Loading port(s) (Cl. 2.1.)	7. Discharging port(s) and intended route from loading port to discharging port (Cl. 2.1. & 3.2.)	
8. Loading method(s) (indicate alternative(s): (a), (b) or (c), as agreed) (Cl. 4.3.)	9. Discharging method(s) (indicate alternative(s): (a), (b) or (c), as agreed) (Cl. 4.6)	
10. First layday (Cl. 8.1.)	11. Cancelling date (Cl. 8.1.)	
12. Notices for loading to be given to (Cl. 9.1. & 9.2.)	13. Notices for discharging (state interval periods and to whom to be given) (Cl. 9.2. & 9.3.)	
14. Marine Surveyor(s) and date for transportation approval (Cl. 10.1. & 10.4.)		
15. Freight (Cl.11)	16. Freight and demurrage, etc. payment (currency and where payable; also state owners' bank account) (Cl. 11)	
17. Free time for loading/discharging and canal transit (if applicable) (state total number of running hours) (Cl. 12.1. & 14.1.)	18. Demurrage rate per day (Cl. 12.2.)	
19. Mobilisation charge (if agreed, state lump sum amount) (Cl. 13.1.)	20. Demobilisation charge (if agreed, state lump sum amount) (Cl. 13.2.)	
21. Canal transit costs (if any) limited to (Cl.14.2.)	22. Price per ton of bunker oil (Cl. 15)	
23. Termination Fee(s) (state amount(s) if agreed) (Cl. 20.1. & 20.2.)	24. Liability for cargo (state whether Bill of Lading or Cargo Receipt) (Cl. 21.4. or Cl. 21.5.)	
	25. General average shall be adjusted/settled at (Cl. 25)	
26. Brokerage and to whom payable (Cl. 31)	27. Law and arbitration (state 32.1., 32.2., 32.3. of Cl. 32, as agreed; if 32.3. agreed state place of arbitration) (if Box 27 not filled in 32.1. shall apply) (Cl.32)	
28. Numbers of additional clauses covering special provisions, if agreed		

It is mutually agreed that this Contract shall be performed subject to the conditions contained in the Contract consisting of PART I including additional clauses, if any agreed and stated in Box 28 and PART II. In the event of a conflict of conditions, the provisions of PART I and any additional clauses shall prevail over those of PART II to the extent of such conflict but no further.

Signature (Owners)	Signature (Charterers)
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**PART II**  
**"HEAVYCON" Standard Transportation Contract**

1. Definitions	1	lations shall be for the Charterers' account.	77
In this Contract the following words and expressions shall have the meanings hereby assigned to them.	2	*) (b) If agreed in Box 8 that the Charterers shall perform the loading, the cargo shall be placed on board and positioned by the Charterers to the full satisfaction of the Master. The Charterers shall procure and pay for all labour and all necessary equipment other than that stated in Box 4.	78 79 80 81
1.1. "The Owners" shall mean the party identified in Box 2.	3		
1.2. "The Charterers" shall mean the party identified in Box 3.	4		
1.3. "The Vessel" shall mean the transportation unit(s) described in Box 4.	5		
1.4. "Loading port" shall mean the port(s) or area(s) specified in Box 6.	6	*) (c) If agreed in Box 8 that the cargo shall be loaded by means of float-on method, the Charterers shall position the cargo prior to loading at 50 metres or at an agreed distance from the Vessel's submerged deck to the full satisfaction of the Master. The Owners shall attach lines to the cargo and shall position and secure the cargo over the submerged deck by using winches and/or tugs. The Owners shall procure and pay the necessary labour and winchmen either from the crew or from shore except that any shore labour forced upon the Vessel by local or union regulations shall be for the Charterers' account.	82 83 84 85 86 87 88 89 90
1.5. "Discharging port" shall mean the port(s) or area(s) specified in Box 7.	7		
1.6. "The Cargo" shall mean any goods or equipment or other items described in Box 5.	8		
1.7. "The Transportation" shall mean the carriage of the cargo and, as the case may be, the loading, discharge and all other operations connected therewith.	9		
2. Voyage	10	The Charterers shall procure and pay for workboats and tugs required for the positioning of the cargo. The Owners shall have the right to use such workboats and tugs for the loading operation reimbursing the Charterers for the actual costs for the use thereof from the time the Vessel's first line is attached to the cargo until the time when the last line is released from the cargo and the workboats and tugs are dismissed by the Owners.	91 92 93 94 95 96
2.1. It is agreed between the Owners mentioned in Box 2 and the Charterers mentioned in Box 3 that, subject to the terms and conditions of this Contract the cargo described in Box 5 shall be transported by the Owners from the loading port(s) mentioned in Box 6, or so near thereunto as she may safely get and lie always safe and afloat, to the discharging port(s) mentioned in Box 7, or so near thereunto as she may safely get and lie always safe and afloat, by means of the Vessel named and described in Box 4 or in an appendix.	11	*) Indicate alternative(s) (a), (b) or (c), as agreed, in Box 8.	97
2.2. At the commencement of the voyage the Owners shall exercise due diligence in making the Vessel seaworthy. The Owners shall perform the voyage with due despatch unless otherwise agreed.	12	4.4. The precise discharging area or place within the discharging port and which shall be always safe and accessible and suitable for the discharging operation, shall be named by the Charterers well in advance of the Vessel's arrival, always subject to the approval of the Owners. Such approval shall not be unreasonably withheld.	98 99 100 101 102
3. Deviation/Delays/Part Cargo	13	At the discharging port the Charterers shall take delivery of the cargo without delay in accordance with Clause 4.6. at any time during day or night, Saturdays, Sundays and holidays included.	103 104 105
3.1. The Vessel has the liberty to sail without pilots, to tow and/or assist vessels in all situations, to deviate for the purpose of saving life, to replenish bunkers and/or to deviate for the purpose of safety of the cargo, crew, Vessel and for any other reasonable purpose.	14	4.5. Prior to actual discharge the Owners shall, unless otherwise agreed, remove all seafastening and/or lashing and prepare the Vessel for the discharge operation. The entire discharge operation always to be done to the full satisfaction of the Master.	106 107 108 109
3.2. Without prejudice to the provisions of Clause 25, should the Master decide, for the purpose of the safety of the cargo, to deviate from the normal route which is stipulated in Box 7, the Charterers shall pay for all time lost as a consequence of the deviation at the demurrage rate stipulated in Box 18. The time lost shall include all time used until the Vessel reaches the same or equidistant position to that where the deviation commenced and the Charterers shall also pay all additional expenses incurred by such deviation including bunkers, port charges, pilotage, tug boats, agency fees and any other expenses whatsoever incurred.	15	4.6. The cargo shall be discharged by one or more of the following methods stated in Box 9:	110 111
3.3. If the Vessel for reasons beyond the Owners' control is being delayed at loading port(s) or place(s) and/or discharging port(s) or place(s), including obtaining free pratique, customs, port clearance or other formalities, such delays shall be paid for by the Charterers at the demurrage rate stipulated in Box 18.	16	*) (a) If agreed in Box 9 that the Owners shall discharge the cargo with their own gear or tackle, the Charterers shall take delivery of the cargo upon discharge and within reach of said gear or tackle. The Owners shall procure and pay for necessary winchmen and labour to perform the discharge except that any shore labour forced upon the Vessel by local or union regulations shall be for the Charterers' account.	112 113 114 115 116 117
3.4. Unless the cargo is described as a full and complete cargo in Box 5, the Owners shall have the liberty of restowing the cargo and of loading and of discharging other part cargo(es) for the account of others than the Charterers from places enroute or not enroute to places enroute or not enroute. The rotation of loading and discharging places shall be at the Owners' option. When the Owners exercise such option(s) this shall in no way constitute a deviation, notwithstanding anything else contained in this Contract.	17	*) (b) If agreed in Box 9 that the Charterers shall discharge the cargo, the Charterers shall procure and pay for the necessary equipment and labour for the discharge of the cargo.	118 119 120
4. Loading and Discharging	18	*) (c) If agreed in Box 9 that the cargo shall be discharged by means of float-off method, the Owners shall submerge the Vessel and float-off the cargo. The Owners shall procure and pay the necessary labour and winchmen either from the crew or from shore except that any shore labour forced upon the Vessel by local or union regulations shall be for the Charterers' account. The Charterers shall procure and pay for workboats and tugs required for discharging the cargo. The Owners shall have the right to use such workboats and tugs for the discharging operations reimbursing the Charterers the actual cost for the use thereof from the time when the first line is attached to the cargo until the time when the last part of the cargo passes the side of the Vessel at which time the Charterers shall take custody of the cargo.	121 122 123 124 125 126 127 128 129 130 131 132
4.1. The Charterers shall have the cargo in all respects ready for the said voyage at the loading port(s) on the date for which notice of expected load-readiness is given by the Owners as per Clause 9, but not before the date stated in Box 10 as first layday. The precise loading area or place within the agreed loading port, which shall be always safe and accessible and suitable for the loading operation, shall be nominated by the Charterers upon receipt of the first notice given by the Owners pursuant to Clause 9, always subject to the approval of the Owners and the Master. Such approval shall not be unreasonably withheld.	19	*) Indicate alternative(s) (a), (b) or (c), as agreed, in Box 9.	133
4.2. The Owners shall provide the equipment stated in Box 4 or in an appendix and shall in their own time and at their own expense prepare such equipment for the loading. All other equipment shall be provided by the Charterers. When the cargo has been loaded and positioned, it shall be seafastened and/or lashed by the Owners at their expense to the satisfaction of the Master.	20	4.7. All expenses associated with the Vessel such as harbour dues, pilotages, local tug assistance, if required, agency fees, fuel and lubricants shall be paid for by the Owners except as otherwise provided for in this Contract.	134 135 136
4.3. At the loading port, the cargo shall be delivered by the Charterers without delay in the sequence required by the Master at any time during day or night, Saturdays, Sundays and holidays included and shall be loaded by one or more of the following methods stated in Box 8:	21	5. Permits/Licences	137
*) (a) If agreed in Box 8 that the Owners shall load the cargo with their own gear or tackle, the Charterers shall bring the cargo alongside within reach of such loading equipment. The Owners shall procure the necessary labour and winchmen, either from the crew or from ashore and shall pay for same except that any shore labour forced upon the Vessel by local or union regulations shall be for the Charterers' account.	22	5.1. All necessary permits and/or licences pertaining to the loading and/or discharging operations shall be provided and paid for by the Charterers. The same applies to permits and/or licences pertaining to the carriage of cargo. If required, the Owners shall assist the Charterers in obtaining such permits and/or licences.	138 139 140 141 142
*) (b) If agreed in Box 8 that the Charterers shall perform the loading, the cargo shall be placed on board and positioned by the Charterers to the full satisfaction of the Master. The Charterers shall procure and pay for all labour and all necessary equipment other than that stated in Box 4.	23	5.2. Any delay by the Charterers in obtaining the permits and/or licences related to sub-clause 5.1. shall be at the Charterers' time and any time lost shall be paid for at the demurrage rate stipulated in Box 18.	143 144 145
*) (c) If agreed in Box 8 that the cargo shall be loaded by means of float-on method, the Charterers shall position the cargo prior to loading at 50 metres or at an agreed distance from the Vessel's submerged deck to the full satisfaction of the Master. The Owners shall attach lines to the cargo and shall position and secure the cargo over the submerged deck by using winches and/or tugs. The Owners shall procure and pay the necessary labour and winchmen either from the crew or from shore except that any shore labour forced upon the Vessel by local or union regulations shall be for the Charterers' account.	24	6. Taxes, Charges, etc.	146
The Charterers shall procure and pay for workboats and tugs required for the positioning of the cargo. The Owners shall have the right to use such workboats and tugs for the loading operation reimbursing the Charterers for the actual costs for the use thereof from the time the Vessel's first line is attached to the cargo until the time when the last line is released from the cargo and the workboats and tugs are dismissed by the Owners.	25	The Charterers shall pay all duties, taxes and charges whatsoever levied on the cargo and/or the freight at the loading port and/or discharging port irrespective of how the amount thereof may be assessed, including agency commission assessed on the basis of the freight.	147 148 149 150
*) Indicate alternative(s) (a), (b) or (c), as agreed, in Box 8.			
4.4. The precise discharging area or place within the discharging port and which shall be always safe and accessible and suitable for the discharging operation, shall be named by the Charterers well in advance of the Vessel's arrival, always subject to the approval of the Owners. Such approval shall not be unreasonably withheld.			
At the discharging port the Charterers shall take delivery of the cargo without delay in accordance with Clause 4.6. at any time during day or night, Saturdays, Sundays and holidays included.			
4.5. Prior to actual discharge the Owners shall, unless otherwise agreed, remove all seafastening and/or lashing and prepare the Vessel for the discharge operation. The entire discharge operation always to be done to the full satisfaction of the Master.			
4.6. The cargo shall be discharged by one or more of the following methods stated in Box 9:			
*) (a) If agreed in Box 9 that the Owners shall discharge the cargo with their own gear or tackle, the Charterers shall take delivery of the cargo upon discharge and within reach of said gear or tackle. The Owners shall procure and pay for necessary winchmen and labour to perform the discharge except that any shore labour forced upon the Vessel by local or union regulations shall be for the Charterers' account.			
*) (b) If agreed in Box 9 that the Charterers shall discharge the cargo, the Charterers shall procure and pay for the necessary equipment and labour for the discharge of the cargo.			
*) (c) If agreed in Box 9 that the cargo shall be discharged by means of float-off method, the Owners shall submerge the Vessel and float-off the cargo. The Owners shall procure and pay the necessary labour and winchmen either from the crew or from shore except that any shore labour forced upon the Vessel by local or union regulations shall be for the Charterers' account. The Charterers shall procure and pay for workboats and tugs required for discharging the cargo. The Owners shall have the right to use such workboats and tugs for the discharging operations reimbursing the Charterers the actual cost for the use thereof from the time when the first line is attached to the cargo until the time when the last part of the cargo passes the side of the Vessel at which time the Charterers shall take custody of the cargo.			
*) Indicate alternative(s) (a), (b) or (c), as agreed, in Box 9.			
4.7. All expenses associated with the Vessel such as harbour dues, pilotages, local tug assistance, if required, agency fees, fuel and lubricants shall be paid for by the Owners except as otherwise provided for in this Contract.			
5. Permits/Licences			
5.1. All necessary permits and/or licences pertaining to the loading and/or discharging operations shall be provided and paid for by the Charterers. The same applies to permits and/or licences pertaining to the carriage of cargo. If required, the Owners shall assist the Charterers in obtaining such permits and/or licences.			
5.2. Any delay by the Charterers in obtaining the permits and/or licences related to sub-clause 5.1. shall be at the Charterers' time and any time lost shall be paid for at the demurrage rate stipulated in Box 18.			
6. Taxes, Charges, etc.			
The Charterers shall pay all duties, taxes and charges whatsoever levied on the cargo and/or the freight at the loading port and/or discharging port irrespective of how the amount thereof may be assessed, including agency commission assessed on the basis of the freight.			
7. Quarantine			
Unless due to health conditions on board the Vessel, any time lost as a re-			

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sult of quarantine formalities and/or health restrictions imposed or incurred at any stage of the voyage, including any such loss of time at the loading port and/or the discharging port, shall be paid for by the Charterers at the demurrage rate specified in Box 18. The Charterers shall also pay for all other expenses which may be incurred as a result thereof.	153 154 155 156 157	staunch, strong and in every way fit for the transportation.	229
		Should the cargo and/or its description not be in compliance with the aforesaid then the Owners shall have the option to cancel this Contract.	230 231
		If the Owners exercise their option to cancel the Contract in accordance with this Clause the Charterers shall pay to the Owners the applicable termination fee according to the provisions of Clause 20.	232 233 234
<b>8. Commencement of Loading/Canceling Date</b>	158		
8.1. The date of commencement of the loading shall be at any time on or between the first layday stated in Box 10 and the cancelling date stated in Box 11, both dates inclusive, in the Owners' option. Should the Owners give notice of readiness prior to the first layday, the Charterers may, at their option, accept such an earlier loading date and the time used shall count against the free time as per Clause 12.	159 160 161 162 163 164	<b>11. Freight</b>	235
8.2. Should it clearly appear that the Vessel will not be ready to commence the loading latest on the cancelling date the Owners shall immediately notify the Charterers hereof and state a new cancelling date as soon as they are in a position to state with reasonable certainty such new cancelling date. Within 72 running hours after receipt of the Owners' notice as aforesaid and latest when the Vessel is ready for loading, whichever is the earlier, the Charterers shall advise the Owners whether they elect to cancel this Contract, failing such advice the new cancelling date as notified by the Owners shall apply.	165 166 167 168 169 170 171 172 173	The freight stipulated in Box 15 shall be paid in instalments as follows: 10% upon signing of this Contract and the balance shall be fully prepaid upon completion of loading against surrender of the Cargo Receipt or Bills of Lading whichever the case may be. The freight shall be considered earned upon completion of loading and shall be non-returnable whether the Vessel and/or cargo is lost or not lost and whether lost due to perils of the sea or howsoever. The freight instalments shall be paid discountless and be telegraphically remitted in the currency and paid into the Owners' bank account stipulated in Box 16.	236 237 238 239 240 241 242 243 244
8.3. Should the Charterers cancel the Contract according to sub-clause 8.2., any amount paid to the Owners in advance and not earned shall be returned to the Charterers by the Owners.	174 175 176	<b>12. Free Time/Demurrage</b>	245
8.4. The Owners shall not be responsible for any loss or damages whatsoever incurred by the Charterers as a result of the Charterers cancelling this Contract as per sub-clause 8.2. nor shall the Owners be responsible for any loss or damages whatsoever suffered by the Charterers as a result of the failure of the Vessel to be ready for loading latest on the cancelling date agreed in Box 11 in the case that a new cancelling date has been agreed.	177 178 179 180 181 182	12.1. The Charterers are allowed the free time stipulated in Box 17 in the loading and discharging port(s) and for canal transit if applicable, Fridays, Saturdays, Sundays and holidays included.	246 247 248
8.5. Should the cargo for reasons beyond the Owners' control not be loaded within 14 days from tendering of notice of readiness, the Owners shall have the option to cancel this Contract.	183 184 185	The free time at the loading port(s) shall start counting 6 running hours after notice of readiness has been tendered, in accordance with Clause 9.2., whether in berth or not, unless loading has commenced earlier and shall count until the cargo is in all respects fully seafastened on board the Vessel and approved by the Marine Surveyor(s).	249 250 251 252 253
If the Owners exercise their option to cancel the Contract in accordance with this sub-clause, the Charterers shall pay to the Owners the applicable termination fee according to the provisions of Clause 20 in addition to any demurrage incurred.	186 187 188 189	The free time at the discharging port(s) shall start counting 6 running hours after notice of readiness has been tendered in accordance with Clause 9.2., whether in berth or not, unless discharge has commenced earlier and shall count until the cargo is in all respects removed from the Vessel.	254 255 256 257
		If the Owners are to load and discharge the cargo in accordance with Clauses 4.3. (a) or (c) and 4.6. (a) or (c) free time or time on demurrage shall not count for time used for the actual loading and discharge operation in excess of the fixed hours stipulated in Box 17 of Part 1, unless such time used in excess of the fixed time is due to reason beyond the Owners' control.	258 259 260 261 262
		12.2. Demurrage shall be payable for all time used in excess of the free time. The demurrage rate for the Vessel is the amount stipulated in Box 18 calculated per day or pro rata for part of a day.	263 264 265
<b>9. Notices</b>	190	12.3. Free time shall not count and if the Vessel is on demurrage, demurrage shall not accrue for time lost by reason of strike or lockout of the Master, officers or crew or by reason of breakdown of the Vessel or the Owners' equipment.	266 267 268 269
9.1. <i>Advance Notices of Expected Loadreadiness</i>	191	12.4. The demurrage and other amounts which are calculated at the demurrage rate fall due and are payable by the Charterers immediately upon presentation of the Owners' invoice to the Owners' bank account stipulated in Box 16.	270 271 272 273
The Owners shall give notices as per Box 12 of the expected day of the Vessel's readiness to load 14 (fourteen) days, 7 (seven) days and 3 (three) days in advance. Furthermore, the Owners shall give 24 (twenty-four) hours approximate notice of the expected hour of the Vessel's readiness to load.	192 193 194 195	Should more than 14 days of demurrage have accrued, the Owners are entitled to demurrage on account. The Owners may demand payment against presentation of invoices covering the first 14 days and thereafter for every 7 days.	274 275 276 277
9.2. <i>Notice of Readiness</i>	196		
The Owners shall give notice of readiness by letter, cable, telex or telephone as per Box 12 advising when the Vessel is ready to commence loading at the loading port and when the Vessel is ready to commence discharge at the discharging port as per Box 13. All notices may be given at any time of the day, Fridays, Saturdays, Sundays and holidays included and notwithstanding hindrances as referred to in Clause 3.3.	197 198 199 200 201 202	<b>13. Mobilisation/Demobilisation</b>	278
9.3. During the voyage the Owners shall give notice of expected time of arrival at discharging port(s) with intervals of the number of days stipulated in Box 13.	203 204 205	13.1. <i>Mobilisation</i>	279
		If agreed upon in Box 19 the Charterers shall pay the lump sum stipulated therein in respect of mobilisation, which amount shall be earned and non-returnable upon the Vessel's arrival in the loading port.	280 281 282
<b>10. Marine Surveyor/Condition of the Vessel and Cargo</b>	206	13.2. <i>Demobilisation</i>	283
10.1. The Marine Surveyor(s) stated in Box 14 will be appointed for this transportation. If Box 14 has not been filled in the Charterers and the Owners shall agree on the appointment of Marine Surveyor(s) acceptable to the cargo underwriters.	207 208 209 210	If agreed upon in Box 20 the Charterers shall pay the lump sum stipulated therein in respect of demobilisation, which amount shall be earned and non-returnable upon the Vessel's arrival in the discharging port.	284 285 286
10.2. All relevant documentation required by the Marine Surveyor(s) for their approval of the transportation shall be submitted to the Marine Surveyor at the earliest possible stage after this Contract is made, if not already submitted earlier. As soon as possible after submission of the relevant documentation, transportation approval shall be given by the Marine Surveyor. The Charterers shall pay all expenses relating to the production of documentation related to the cargo and/or the Charterers' equipment. The Owners shall pay all expenses relating to documentation related to the Vessel and all other equipment being provided by the Owners in the performance of the transportation.	211 212 213 214 215 216 217 218 219 220	13.3. The mobilisation and demobilisation amounts shall be payable against the Owners' invoice.	287 288
10.3. The Charterers shall arrange and pay for all the Marine Surveyor(s) services, including their approval of the transportation.	221 222		
10.4. Should the Marine Surveyor(s) not give transportation approval by the date stipulated in Box 14, both the Charterers and the Owners may elect to terminate this Contract and all freight paid or advanced by the Charterers to the Owners shall be promptly refunded.	223 224 225 226	<b>14. Canal Transit</b>	289
10.5. The Charterers warrant that the full description of the cargo mentioned in Box 5 is correct and further warrant that the cargo is in all respects tight,	227 228	14.1. If the transportation is scheduled to pass through a canal according to Box 7, the Charterers are granted free time for any such transit, and such free time shall count against the number of hours stipulated in Box 17. If the transportation is delayed beyond the free time stipulated therein, the Charterers shall pay for such extra transit time at the rate of demurrage stipulated in Box 18 and shall, in addition, pay for all other documented extra expenses thereby incurred. Canal transit time is defined as from arrival at pilot station or customary waiting place or anchorage, whichever is the earlier, and until dropping last outbound pilot when leaving for the open sea.	290 291 292 293 294 295 296 297 298
		14.2. The freight rate stipulated in Box 15 is based upon the Owners paying canal tolls limited to the amount stipulated in Box 21. Any increase in the canal tolls and/or any additional expenses imposed on the transportation for the canal transit actually paid by the Owners shall be reimbursed by the Charterers to the Owners upon presentation of the Owners' invoice.	299 300 301 302 303

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14.3. Should the transit of a canal be made impossible for reasons beyond the Owners' control, the Charterers shall pay for all extra time by which the voyage is thereby prolonged at the rate of demurrage stipulated in Box 18. The Charterers shall also pay all other expenses, including for bunkers, in addition to those which would normally have been incurred had the Vessel been standing-by in port less the amount of canal tolls being refunded to the Owners for not having transitted the canal.	304 305 306 307 308 309 310	lity and capacity, provided such substitute vessel is approved by the Marine Surveyor. Nothing herein shall be construed as imposing on the Owners an obligation to make such substitution.	378 379 380
14.4. Notwithstanding the provisions of sub-clause 14.3. the Owners may, at their sole discretion, instruct the Master to discharge the cargo at the nearest safe and reachable port or place and such discharge shall be deemed due fulfilment of the Contract. All provisions of this Contract regarding freight, discharge of the cargo, free time and demurrage as agreed for the original discharging port shall also apply to the discharge at the substitute port.	311 312 313 314 315 316 317	20. Termination	381
15. Bunker Escalation	318	20.1. Notwithstanding anything else provided herein, the Charterers shall have the right to terminate this Contract prior to the Vessel's arrival at the first loading port against payment of the applicable amount stipulated in Box 23 less any prepaid freight.	382 383 384 385
This Contract is concluded on the basis of the price per ton for bunker oil stated in Box 22 in force on the date of this Contract.	319	20.2. Furthermore, the Charterers shall have the right to terminate this Contract after the Vessel's arrival at the first loading port but not later than upon commencement of loading against payment of the applicable amount stipulated in Box 23 plus compensation for all time spent at the first loading port at the demurrage rate stipulated in Box 18 less any prepaid freight together with the actual expenses incurred by the Owners in preparation for the loading.	386 387 388 389 390 391 392
If the price actually paid by the Owners for the quantity of bunker oil consumed during the transportation should be higher, the difference shall be paid by the Charterers to the Owners.	320 321 322	20.3. If Box 23 is not filled in, this Clause shall not apply.	393
If the price actually paid by the Owners for the quantity of bunker oil consumed during the transportation should be lower, the difference shall be paid by the Owners to the Charterers.	323 324 325 326	21. Liability for Cargo - Bill of Lading or Cargo Receipt	394
16. Ice	327	21.1. Notwithstanding anything else contained herein, the Owners shall be liable for all loss or damage of whatsoever nature to or sustained by the Vessel, any liability in respect of wreck removal and the expense of moving, lighting or buoying the Vessel, and any liability in respect of death or injury of any of the Owners' employees, servants, agents or sub-contractors' personnel, and any liability in respect of other cargo on board not the subject of this Contract, all of which shall be for the sole account of the Owners without recourse to the Charterers, their servants or agents, and the Owners shall indemnify, defend and hold the Charterers harmless from and against any and all claims, losses, costs, damages and expenses of every kind and nature including legal expenses arising from the foregoing.	395 396 397 398 399 400 401 402 403 404 405
16.1. If on passage to the loading port or discharging port the Master finds that the port cannot be safely reached owing to ice, the Owners shall request the Charterers to immediately nominate an alternative safe, ice-free and accessible port where there are facilities for loading or discharging the cargo. In this event, freight shall be paid at the rate applicable under this Contract to such alternative loading or discharging port and, in addition, any period by which the time taken to reach either or both such alternative ports exceeds the time which would have been taken had the Vessel proceeded thither direct shall be paid for by the Charterers at the rate of demurrage specified in Box 18 per running day and pro rata for part of a running day as well as the costs of any additional bunkers consumed. If no rate of freight is specified in Box 15 for the selected alternative port, then freight shall be paid at the rate applicable for the voyage first nominated adjusted by allowance at the demurrage rate specified in Box 18 for the difference in the time taken for the actual voyage and the estimated time required to perform the first nominated voyage, the costs of the difference in bunker oil consumption and the difference, if any, in port charges at the respective ports.	328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344	21.2. Notwithstanding anything else contained herein, the Charterers shall be liable for all loss or damage or delay of whatsoever nature and howsoever caused to or sustained by the cargo, including any property operated, owned, hired and/or leased by the Charterers on board, and any liability in respect of wreck removal and the expense of moving, lighting or buoying the cargo, and any liability in respect of death or injury of any of the Charterers' employees, servants, agents or sub-contractors' personnel, or the Marine Surveyor(s) personnel, and all liabilities consequent upon loss, damage or delay to the cargo, all of which shall be for the sole account of the Charterers without recourse to the Owners, their servants or agents or insurers and the Charterers shall indemnify, defend and hold all these harmless from and against any and all claims, losses, costs, damages and expenses of every kind and nature including legal expenses arising from the foregoing.	406 407 408 409 410 411 412 413 414 415 416 417 418
16.2. If on or after the Vessel's arrival at or off the nominated loading port or discharging port there is a danger of the Vessel being frozen in, the Master shall be at liberty to proceed to the nearest safe and ice-free position and shall, at the same time, request the Charterers by radio for revised orders. Immediately upon receipt of such request, the Charterers shall give orders for the Vessel to proceed to an alternative safe, ice-free and accessible port where there is no danger of Vessel being frozen in and where there are facilities for loading or discharging the cargo.	345 346 347 348 349 350 351 352	21.3. The Owners and the Charterers shall agree and state in Box 24 whether a Bill of Lading or a non-negotiable Cargo Receipt will be issued by Owners upon loading of the cargo.	419 420 421
If the Vessel is ordered to proceed to an alternative port, the sum in respect of freight and delay to be paid by the Charterers shall be as specified in sub-clause 16.1., but if the Vessel loads or discharges at the nominated port then the whole of the time occupied from the time the Master's request for revised orders has been received by the Charterers until completion of loading or discharging shall count against free time or, if the Vessel is on demurrage, for demurrage. Any delay caused by reasons of the Vessel being ordered to a port where there is danger of being frozen in shall count against free time or, if the Vessel is on demurrage, for demurrage.	353 354 355 356 357 358 359 360 361	* 21.4. Bill of Lading	422
16.3. The Vessel not to be obliged to force ice nor to follow icebreakers.	362	(a) If, as stated in Box 24, the Owners have agreed to issue a Bill of Lading, same shall be as per the "Heavyconbill" form which shall incorporate all terms, conditions, liberties, clauses and exceptions of this Contract, including the Arbitration Clause.	423 424 425 426
17. Dangerous Cargo	363	(b) The Owners shall not be liable for any loss, damage or delay to cargo in the period before loading and after discharge.	427 428
If part of the cargo is of an inflammable, explosive or dangerous nature or condition or at any stage may develop into such nature or condition it must be packed and stored or stowed in accordance with IMO Dangerous Goods Code and/or other applicable regulations always to the full satisfaction of the Master. Any delay to the transportation in this respect shall be paid for by the Charterers at the demurrage rate stipulated in Box 18.	364 365 366 367 368 369	(c) Unless otherwise agreed, the cargo shall be shipped on deck at Shipper's risk and the Owners not to be responsible for any loss or damage or delay to the cargo whatsoever and whether due to negligence of whosoever or howsoever arising and by whosoever caused, and the Bill of Lading issued hereunder shall be so clausd.	429 430 431 432 433
18. Lien	370	(d) If the cargo is shipped under deck,	434
The Owners shall have a lien on the cargo and any Charterers' equipment for all freight and all other expenses in relation to the transportation, dead-freight, advances, demurrage, damages for detention, general average and salvage including costs for recovering same.	371 372 373 374	(i) The Hague Rules contained in the International Convention for the Unification of Certain Rules relating to Bills of Lading, dated Brussels 25th August 1924, as enacted in the country of shipment shall apply to the Bills of Lading issued hereunder provided that when no such enactment is in force in the country of shipment, the corresponding legislation of the country of destination shall apply, but in respect of shipments to which no such enactments are compulsorily applicable the terms of the said Convention shall apply.	435 436 437 438 439 440 441 442
19. Substitution	375	(ii) Trades where Hague-Visby Rules apply:	443
The Owners shall, at any time before the cancelling date, be entitled to substitute the Vessel named in Box 4 with another vessel of equivalent capability and capacity, provided such substitute vessel is approved by the Marine Surveyor. Nothing herein shall be construed as imposing on the Owners an obligation to make such substitution.	376 377	Notwithstanding the provisions of sub-paragraph (i), in trades where the International Brussels Convention 1924 as amended by the Protocol signed at Brussels on 23rd February 1968 - the Hague-Visby Rules - apply compulsorily, the provisions of the respective legislation shall be considered incorporated in the Bills of Lading issued hereunder.	444 445 446 447 448
		(iii) Trades where US COGSA apply:	449
		Notwithstanding the provisions of sub-paragraph (i), in trades where the US COGSA 1936 applies compulsorily, the provisions of the Act shall be incorporated in the Bills of Lading issued hereunder and shall, subject to sub-clause (b) above, apply to the period prior to loading and after discharging when the cargo is in the custody of the Owners.	450 451 452 453 454



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(iv) The Owners' liability for delay during the transportation shall be limited in accordance with the applicable Hague or Hague-Visby Rules or US COGSA 1936 to the same extent as for cargo damage.	455 456 457	nify the Owners against all loss or liability to the other or non-carrying vessel or her Owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of the said cargo, paid or payable by the other or non-carrying vessel or her Owners to the owners of said cargo and set-off, recouped or recovered by the other or non-carrying vessel or her Owners as part of their claim against the carrying vessel or Owners.	531 532 533 534 535 536 537
*1) 21.5. Cargo Receipt	458	The foregoing provisions shall also apply where the owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.	538 539 540 541
(a) If, as stated in Box 24, the Owners have agreed to issue a non-negotiable Cargo Receipt, same shall be as per the "Heavyconreceipt" form incorporating all terms, conditions, liberties, clauses and exceptions of this Contract, including the Arbitration Clause.	459 460 461 462		
(b) It is expressly agreed that neither the Hague Rules nor the Hague-Visby Rules nor any statutory enactment thereof shall apply to this Contract and to the Cargo Receipt, unless compulsorily applicable, in which case the Owners take all reservations possible under such applicable legislation, relating to the period before loading and after discharging and while the goods are in the charge of another carrier, and to deck cargo.	463 464 465 466 467 468		
(c) Unless otherwise agreed, the cargo shall be shipped on deck at the Charterers' risk and the Owners not to be responsible for any loss or damage or delay to the cargo whatsoever and whether due to negligence of whosoever or howsoever arising and by whosoever caused, and the Cargo Receipt issued hereunder shall be so clausd.	469 470 471 472 473		
(d) If the cargo is shipped under deck, the Cargo Receipt shall be clausd as per sub-clause (b) above.	474 475		
(e) The Cargo Receipt shall always be clausd "All Risks Insurance has been placed for the full value of this cargo by the Charterers and in the name of the Charterers and the Owners."	476 477 478		
*1) Indicate alternative 21.4. (Bill of Lading) or 21.5. (Cargo Receipt), as agreed, in Box 24.	479 480	25. General Average and New Jason Clause	542
22. Insurance	481	General Average shall be adjusted and settled at the place indicated in Box 25 according to the York/Antwerp Rules, 1974, or any modification thereof, but if, notwithstanding the provisions specified in Box 25, the adjustment is made in accordance with the law and practice of the United States of America, the following clause shall apply:	543 544 545 546 547
22.1. Without prejudice to the Charterers' obligations and liabilities under this Contract, the Charterers shall take out and, in their name and at their expense, maintain at all material times and throughout the duration of this Contract a policy or policies of insurance in respect of all loss or damage to the cargo up to the full value of the cargo including but not limited to a policy or policies comprising All Risks cargo cover and cover against liabilities to third parties (including liability in respect of death and injury and claims for consequential loss), and wreck removal of the cargo. The Charterers shall arrange at their expense that the Owners shall be named as co-insured under the said policy or policies of insurance and arrange that the underwriters waive the right of subrogation. The Charterers hereby agree to produce the original certificates of insurance maintained hereunder to the Owners or their appointed representatives when requested so to do.	482 483 484 485 486 487 488 489 490 491 492 493 494	"In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, Owners are not responsible, by statute, contract or otherwise, the goods, shippers, consignees or owners of the goods shall contribute with Owners in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods. If a salving Vessel is owned or operated by Owners, salvage shall be paid for as fully as if the said salving Vessel or vessels belonged to strangers. Such deposit as Owners, or their agents, may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to Owners before delivery."	548 549 550 551 552 553 554 555 556 557 558 559 560 561
22.2. The Owners shall arrange at their expense such insurance(s) as required to protect the Charterers against the Owners' liabilities under Clause 21.1.	495 496 497		
The Owners hereby agree to produce the original certificate(s) of insurance maintained hereunder to the Charterers or their appointed representatives when requested to do so.	498 499 500	26. Strike	562
23. Himalaya Cargo Clause	501	26.1. Responsibility. Neither the Charterers nor the Owners shall be responsible for the consequences of strike or lock-out preventing or delaying the fulfilment of any obligation under this Contract.	563 564 565
It is hereby expressly agreed that no servant or agent of the Owners (including every independent contractor from time to time employed by the Owners) shall in any circumstances whatsoever be under any liability whatsoever to the Shipper, Consignee or owner of the cargo or to any Holder of the Bill of Lading for any loss, damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect or default on their part while acting in the course of or in connection with their employment and, but without prejudice to the generality of the foregoing provisions in this Clause, every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the Owners or to which the Owners are entitled hereunder shall also be available and shall extend to protect every such servant or agent of the Owners acting as aforesaid and for the purpose of all the foregoing provisions of this Clause the Owners are or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all persons who are or might be their servants or agents from time to time (including independent contractors as aforesaid) and all such persons shall to this extent be or be deemed to be parties to this Contract.	502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519	26.2. Loading port. In the event of strike or lock-out affecting the loading of the cargo, or any part of it, when the Vessel is ready to proceed from her last port or at any time during the voyage to the port or ports of loading or after her arrival there, the Owners may ask the Charterers to declare that they agree to count the time as if there were no such hindrance. Unless the Charterers have given such declaration in writing (by telegram, if necessary) within 24 hours, the Owners shall have the option of cancelling this Contract. If part cargo has already been loaded, the Vessel must carry it to the port of discharge, freight payable in full. Any savings or net profit in completing with other cargo shall be credited to the Charterers.	566 567 568 569 570 571 572 573 574 575
The Owners shall be entitled to be paid by the Shipper, Consignee, owner of the cargo and/or Holder of the Bill of Lading (who shall be jointly and severally liable to the Owners therefor) on demand any sum recovered or recoverable by either such Shipper, Consignee, owner of the cargo and/or Holder of the Bill of Lading or any other from such servant or agent of the Owners for any such loss, damage, delay or otherwise.	520 521 522 523 524 525	26.3. Expected strike. In the event of strike or lock-out which can reasonably be expected - before the loading has commenced - to affect the discharge of cargo, the Owners are at liberty to cancel this Contract unless the Charterers declare (within 24 hours of receipt of Owners' notification of intended cancellation) that they agree to count the time at port of discharge as if there were no such hindrance, without prejudice to the Charterers' right of ordering the Vessel to a substitute port of discharge in accordance with sub-clause 26.4. Time for loading does not count in the said 24 hours.	576 577 578 579 580 581 582 583
24. Both-to-Blame Collision Clause	526	26.4. Discharging port. In the event of strike or lock-out affecting the discharging of the cargo on or after Vessel's arrival at or off the port of discharge, the Charterers shall have the option of keeping the Vessel waiting up to maximum 7 days against paying demurrage after the expiration of the time provided for discharging or of ordering the Vessel to a safe port where she can safely discharge without risk of being detained by strike or lock-out. Such orders to be given within 48 hours after the Owners have given notice to the Charterers of Vessel's readiness to discharge or of the Owners' request for orders. After waiting 7 running days, the Owners shall be at liberty to discharge the cargo at any safe port which they may, in their discretion, decide on and such discharge shall be deemed to be due fulfilment of the Contract. In the event of cargo being discharged at any such other port, the Owners shall be entitled to freight as if the discharge had been effected at the port or ports named in the Bill(s) of Lading or to which the Vessel may have been ordered pursuant thereto.	584 585 586 587 588 589 590 591 592 593 594 595 596 597 598
If the Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, mariner, pilot or the servants of the Owners in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Owners against all loss or liability to the other or non-carrying vessel or her Owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of the said cargo, paid or payable by the other or non-carrying vessel or her Owners to the owners of said cargo and set-off, recouped or recovered by the other or non-carrying vessel or her Owners as part of their claim against the carrying vessel or Owners.	527 528 529 530	26.5. Notification. The party who first learns about the occurrence of strike or lock-out shall immediately notify thereof the other party.	599 600
		27. War Risks	601
		27.1. In these clauses "War Risks" shall include any blockade or any action which is announced as a blockade by any Government or by any belligerent or by any organized body, sabotage, piracy, and any actual or threatened war, hostilities, warlike operations, civil war, civil commotion, or revolution.	602 603 604 605
		27.2. If at any time before the Vessel commences loading, it appears that	606

**PART II**  
**"HEAVYCON" Standard Transportation Contract**

performance of the Contract will subject the Vessel or her Master and crew 607  
 or her cargo to war risks at any stage of the adventure, the Owners shall be 608  
 entitled by letter or telegram despatched to the Charterers, to cancel this 609  
 Contract. 610

27.3. The Master shall not be required to load cargo or to continue loading 611  
 or to proceed on or to sign Bill(s) of Lading for any adventure on which or 612  
 any port at which it appears that the Vessel, her Master and crew or her 613  
 cargo will be subjected to war risks. In the event of the exercise by the Master 614  
 of his right under this Clause after part or full cargo has been loaded, the 615  
 Master shall be at liberty either to discharge such cargo at the loading port 616  
 or to proceed therewith. In the latter case the Vessel shall have liberty to 617  
 carry other cargo for Owners' benefit and accordingly to proceed to and 618  
 load or discharge such other cargo at any other port or ports whatsoever, 619  
 backwards or forwards, although in a contrary direction to or out of or 620  
 beyond the ordinary route. In the event of the Master electing to proceed 621  
 with part cargo under this Clause freight shall in any case be payable on the 622  
 quantity delivered. 623

27.4. If at the time the Master elects to proceed with part of full cargo under 624  
 sub-clause 27.3., or after the Vessel has left the loading port, or the last of 625  
 the loading ports, if more than one, it appears that further performance of the 626  
 Contract will subject the Vessel, her Master and crew or her cargo, to war 627  
 risks, the cargo shall be discharged, or if the discharge has been commenced 628  
 shall be completed, at any safe port in vicinity of the port of discharge 629  
 as may be ordered by the Charterers. If no such orders shall be received 630  
 from the Charterers within 48 hours after the Owners have despatched a 631  
 request by telegram to the Charterers for the nomination of a substitute 632  
 discharging port, the Owners shall be at liberty to discharge the cargo 633  
 at any safe port which they may, in their discretion, decide on and such 634  
 discharge shall be deemed to be due fulfilment of the Contract. In the 635  
 event of cargo being discharged at any such other port, the Owners shall be 636  
 entitled to freight as if the discharge had been effected at the port or ports 637  
 named in the Bill(s) of Lading or to which the Vessel may have been ordered 638  
 pursuant thereto. 639

27.5.(a) The Vessel shall have liberty to comply with any directions or recommendations 640  
 as to loading, departure, arrival, routes, ports of call, stoppages, destination, 641  
 zones, waters, discharge, delivery or in any other wise whatsoever (including 642  
 any direction or recommendation not to go to the port of destination or to 643  
 delay proceeding thereto or to proceed to some other port) given by any 644  
 Government or by any belligerent or by any organized body engaged in civil 645  
 war, hostilities or warlike operations or by any person or body acting or 646  
 purporting to act as or with the authority of any Government or belligerent 647  
 or of any such organized body or by any committee or person having under 648  
 the terms of the war risks insurance on the Vessel, the right to give any 649  
 such directions or recommendations. If, by reason of or in compliance with 650  
 any such direction or recommendation, anything is done or is not done, such 651  
 shall not be deemed a deviation. 652

(b) If, by reason of or in compliance with any such directions or recommendations 653  
 the Vessel does not proceed to the port or ports named in the Bill(s) of 654  
 Lading or to which she may have been ordered pursuant thereto, the Vessel 655  
 may proceed to any port as directed or recommended or to any safe port 656  
 which the Owners in their discretion may decide on and there discharge the 657  
 cargo. Such discharge shall be deemed to be due fulfilment of the Contract 658  
 and the Owners shall be entitled to freight as if discharge had been effected 659  
 at the port or ports named in the Bill(s) of Lading or to which the Vessel may 660  
 have been ordered pursuant thereto. 661

27.6. All extra expenses including extra war risks insurance costs incurred 662  
 in performance of the transportation and discharging of the cargo at the 663  
 loading port or in reaching or discharging the cargo at any port as provided 664  
 in sub-clauses 27.4. and 27.5.(b) of this Clause shall be paid by the Charterers, 665  
 and the Owners shall have a lien on the cargo for all sums due under 666  
 this Clause. 667

28. Limitation of Liability 668  
 Any provisions of this Contract to the contrary notwithstanding, the Owners 669  
 shall have the benefit of all limitations of, and exemptions from, liability 670  
 accorded to the Owners or chartered Owners of vessels by any applicable 671  
 statute or rule of law for the time being in force, and the same benefits to 672  
 apply regardless of the form of signatures given to this Contract. 673

29. Interests 674  
 If any amounts due under this Contract are not paid when due, then interest 675  
 at the rate of 1,5% per month or pro rata for part of a month shall be paid on 676  
 all such amounts until payment is received. 677

30. Agency 678  
 Vessel shall be addressed to Owners' agents at port(s) of loading and dis- 679  
 charging. 680

31. Brokerage 681

The Owners shall pay a brokerage at the rate stated in Box 26 to the Broker(s) 682  
 mentioned in Box 26 on any freight, demurrage, mobilisation fee, demobilisation 683  
 fee and/or termination fee paid under this Contract. 684

If the full amounts as aforesaid are not paid owing to breach of this Contract 685  
 by either of the parties, the party liable therefor shall indemnify the Broker(s) 686  
 against his or their loss of brokerage. 687

32. Law and Arbitration 688  
 \*) 32.1. If agreed and stated in Box 27, this Contract shall be governed by English 689  
 law and any dispute arising out of this Contract or any Bill of Lading issued 690  
 thereunder shall be referred to arbitration in London, one arbitrator being 691  
 appointed by each party, in accordance with the Arbitration Acts 1950 and 1979 692  
 or any statutory modification or re-enactment thereof for the time being in 693  
 force. On the receipt by one party of the nomination in writing of the other party's 694  
 arbitrator, that party shall appoint their arbitrator within fourteen days, failing 695  
 which the decision of the single Arbitrator appointed shall apply. If two Arbitrators 696  
 properly appointed shall not agree they shall appoint an umpire whose decision 697  
 shall be final. 698  
 \*) 32.2. If agreed and stated in Box 27, this Contract shall be governed by U.S. 699  
 Law and all disputes arising out of this Contract or any Bill of Lading issued 700  
 thereunder shall be arbitrated at New York in the following manner: 701  
 One arbitrator is to be appointed by each of the parties herein and a third by 702  
 the two so chosen. Their decision or that of any two of them shall be final, 703  
 and for the purpose of enforcing any award, this agreement may be made a rule 704  
 of the court. The Arbitrators shall be commercial men. Such Arbitration is 705  
 to be conducted in accordance with the rules of the Society of Maritime Arbitrators, 706  
 Inc., New York, as currently amended. 707  
 A sole arbitrator may be appointed, if so desired by both parties. 708  
 Either party may call for arbitration by service of notice upon the other. If 709  
 the other party does not appoint its arbitrator within fourteen days of such written 710  
 notice, then the first moving party shall have the right, without further notice, 711  
 to appoint a second arbitrator, with the same force and effect as if said second 712  
 arbitrator had been appointed by the other party. 713  
 \*) 32.3. If agreed and stated in Box 27, any disputes arising out of this Contract 714  
 or any Bill of Lading issued thereunder shall be referred to arbitration at the 715  
 place indicated in Box 27, subject to the law and procedures applicable there. 716  
 32.4. If Box 27 is not filled in, sub-clause 32.1. of this Clause shall apply. 717  
 \*) Indicate alternative 32.1., 32.2. or 32.3., as agreed in Box 27. 718  
 719

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# CONTINENT GRAIN CHARTERPARTY

Code name: "SYNACOMEX 2000"

Adopted PARIS 1957 by SYNDICAT NATIONAL DU COMMERCE EXTÉRIEUR DES CÉREALES  
amended 1960, 1974, 1990 and 2000 in agreement with COMITÉ CENTRAL DES ARMATEURS DE FRANCE  
in cooperation with Chambre Arbitrale Maritime de Paris and the French Chartering and S. & P. Brokers' Association

PART I

1. Shipbroker(s)	2. Place and date of Charter Party
3. Owners and place of business (state full style and address) (Cl. 1)	4. Charterers and place of business (state full style and address) (Cl. 1)
5. Vessel's name (Cl. 1) flag / built / class: NT / GT: summer DWT:	6. First layday date (Cl. 6)  Cancelling date (Cl. 6)
8. Loading port(s) (Cl. 2)  a) Always afloat (*) b) "safely aground" (*)	7. Present position / expected ready to load (Cl. 7)
10. Discharging port(s) (Cl. 3)  a) Always afloat (*) b) "safely aground" (*)	9. Advance notices (Cl. 7)  - at load port to:  - at discharging port: number of days / to:
11. Cargo nature and quantities (Cl. 2)  a) No bags (*) b) Maximum in bags for stowage (*)	12. Freight rate (Cl. 4)
13. Freight rate payment (state currency and method of payment, beneficiary and bank account) (Cl. 4)	14. Loading rate (Cl. 5)
	15. Discharging rate (Cl. 5)
	16. Demurrage / Despatch money (Cl. 9)
17. Agents at loading port(s) (Cl. 13)	18. Agents at discharging port(s) (Cl. 13)
19. Extra insurance, maximum (Cl. 14)	20. Brokerage commission and to whom payable (Cl. 15)
21. Address Commission (Cl. 16)	a) Deductible (*) b) Non-deductible (*)
22. Numbers of the additional clauses covering special provisions, if any agreed	

It is mutually agreed that this Charter Party shall be performed subject to the conditions contained herein consisting of PART I and PART II including additional clauses if any agreed and stated in Box 22. In the event of a conflict of conditions, the provisions of PART I shall prevail over those of PART II to the extent of such conflict but no further.

For the Owners	For the Charterers
----------------	--------------------

(\*) Delete as appropriate; if no deletion, alternative a) to apply.

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SAMPLE DOCUMENT

**PART II**  
**"SYNACOMEX 2000" Continent Grain Charterparty**

<b>1. Owners, Charterers</b>	1	to work overtime, such expenses shall be for account of	69
It is this day agreed between the party designated in <u>Box 3</u> ,	2	the party ordering same. If ordered by Port Authorities,	70
Owners of the Vessel named and described in <u>Box 5</u> , being	3	overtime shall be for Charterers' account. Overtime services	71
now in position and expected ready to load as mentioned in	4	rendered by ship's crew shall be in all cases for Owners'	72
<u>Box 7</u> , and the party designated in <u>Box 4</u> as Charterers, THAT	5	account.	73
<b>2. Loading Port(s) and Cargo</b>	6	<b>6. Laydays, Cancelling</b>	74
The said Vessel being tight, staunch and in every way fit for	7	At port of loading laytime shall not count before 08.00 hours	75
the voyage, shall with all convenient speed proceed to the	8	on the layday date stated in <u>Box 6</u> and in any case not	76
place designated in <u>Box 8</u> , which in case of named port(s)	9	before the date notified by the 10 days notice as per <u>Clause 7</u> .	77
Owners acknowledge as safe and suitable for this Vessel	10	Should the Vessel's notice of readiness not be validly	78
and there load always afloat, unless "safely aground" has	11	tendered as per <u>Clause 8</u> before 09.00 hours on the	79
been specifically agreed in <u>Box 8</u> , in such safe berth, dock,	12	cancelling date stated in <u>Box 6</u> , Charterers shall have the	80
wharf or anchorage as Charterers or their Agents or	13	option of cancelling this charter at any time thereafter, but	81
Shippers may direct a full and complete cargo of wheat	14	not later than one hour after the notice is validly tendered.	82
and/or maize and/or rye and/or barley as described in <u>Box</u>	15		
<u>11</u> , in metric tons (5 % more or less in Owners' option) in bulk.	16	<b>7. Vessel's Positions , Notices</b>	83
Shippers have the option of using a second safe berth. The	17	Master and/or Owners shall give 10 days and thereafter 5	84
time for shifting between the two berths shall count as	18	days notice of Vessel's expected readiness to load to the	85
laytime, but shifting expenses shall be for Vessel's account.	19	party designated in <u>Box 9</u> .	86
Owners shall provide and install at their risk and expense	20	Master and/or Owners shall give notice of Vessel's	87
and on their time all that is required for safe stowage of	21	Expected Time of Arrival (ETA) at discharging port as	88
grain according to local and international regulations.	22	specified in <u>Box 9</u> .	89
The cargo shall not exceed what the Vessel can reasonably	23	Master and/or Owners shall give the relevant parties prompt	90
stow and carry over and above her bunkers, apparel, stores,	24	advice of any substantial change in Vessel's ETA at loading	91
provisions and accommodation. The whole cargo shall be	25	and at discharging ports.	92
carried and stowed under deck in unobstructed main holds.	26		
All cargo on board to be delivered.	27	<b>8. Laytime</b>	93
Furthermore, if stowage bags have been specifically agreed,	28	Vessel's written notice of readiness to load and/or discharge	94
the following shall apply:	29	shall be tendered by hand or by any means of tele-	95
Charterers shall supply for stowage purposes a quantity of	30	communication at the offices of Shippers/Charterers/	96
bagged cargo not exceeding the quantity specified in <u>Box</u>	31	Receivers or their Agents between 08.00 and 17.00 hours	97
<u>11</u> , which shall be stowed at their risk and expense. The	32	on all days except Saturdays, Sundays and Holidays and	98
number of bags signed for on Bills of Lading to be binding	33	between 08.00 hours and 12.00 hours on Saturdays unless	99
on Vessel and Owners, unless error or fraud be proved.	34	a Holiday. Such notice of readiness shall be delivered when	100
		Vessel is in the loading or discharging berth and in all	101
<b>3. Discharging Port(s)</b>	35	respects ready to load/discharge. At loading port Shippers/	102
Being so loaded, the Vessel shall proceed with all convenient	36	Charterers or their Agents have the privilege to inspect	103
speed direct to the place designated in <u>Box 10</u> , which in	37	Vessel's holds and reject the notice when holds are not	104
case of named port(s) Owners acknowledge as safe and	38	clean, dry, odourless and in all respects ready to receive	105
suitable for this Vessel, and there discharge the cargo	39	the cargo.	106
always afloat, unless "safely aground" has been specifically	40	In case of dispute, an independent surveyor shall decide	107
agreed in <u>Box 10</u> , in such safe berth, dock, wharf or	41	about Vessel's readiness to load, the party in the wrong	108
anchorage as Charterers or their Agents or Receivers may	42	bearing the costs. If the rejection of notice of readiness is	109
direct. Receivers have the option of using a second safe	43	undisputed or confirmed by surveyor the laytime will only	110
berth. The time for shifting between the two berths shall	44	start to count after the Vessel has validly tendered again	111
count as laytime, but shifting expenses shall be for Vessel's	45	when ready.	112
account.	46	Only when the loading and/or discharging berth is	113
		unavailable, Master may warrant that the Vessel is in all	114
<b>4. Freight</b>	47	respects ready and may tender notice of readiness to load	115
The freight agreed under this Charter Party shall be as	48	and/or discharge from any usual waiting place, whether in	116
stated in <u>Box 12</u> , per metric ton on nett Bill of Lading weight	49	port or not, whether in free pratique or not, whether customs	117
and shall be deemed earned as cargo is loaded on board,	50	cleared or not.	118
prepaid discountless and non-returnable, Vessel and/or	51	Laytime shall commence at 14.00 hours if notice of	119
cargo lost or not lost.	52	readiness to load and/or discharge is validly tendered at or	120
The freight shall be paid as specified in <u>Box 13</u> .	53	before 12.00 hours and at 08.00 hours on the next working	121
All charges and dues levied on the cargo shall be for	54	day if notice of readiness is validly tendered after 12.00	122
Charterers' account and those levied on the Vessel	55	hours. Time used before commencement of laytime shall	123
howsoever assessed shall be for Owners' account.	56	not count. Laytime shall not count between 12.00 hours on	124
		Saturdays or 17.00 hours on days preceding a Holiday and	125
<b>5. Loading and Discharging</b>	57	08.00 hours on the following working day, unless used in	126
Cargo shall be loaded, spout-trimmed and/or stowed at the	58	which case half time actually used shall count.	127
risk and expense of Shippers/Charterers at the average	59	Any delays caused by ice, floods, quarantine, or by cases	128
rate stated in <u>Box 14</u> , weather permitting.	60	of "force majeure" shall not count as laytime unless the	129
Cargo shall be discharged at the risk and expense of	61	Vessel is already on demurrage.	130
Receivers/Charterers at the average rate stated in <u>Box 15</u> ,	62	When Master has tendered notice of readiness to load or	131
weather permitting.	63	discharge from a waiting place and Vessel is subsequently	132
Stowage shall be under Master's direction and res-	64	found unready in application of the above provisions, laytime	133
ponsibility. Shippers' and/or Charterers' representatives	65	or time on demurrage shall not count from the time the Vessel	134
have the right to be on board the Vessel during loading,	66	is rejected until the time she is accepted. Additionally, any	135
discharging or lightering for the purpose of inspecting the	67	actual time lost on account of Vessel's obtaining free pratique	136
cargo and/or weighing. Charterers and Owners are allowed	68	or customs clearance shall not count as laytime or time on	137

**PART II**  
**"SYNACOMEX 2000" Continent Grain Charterparty**

demurrage.	138	agreed.	201
At second or subsequent port(s) of loading or discharging, laytime or time on demurrage shall resume counting from Vessel's arrival at loading or discharging berth, if available, or from Vessel's arrival at a usual waiting place, if berth is unavailable.	139 140 141 142 143		
At all ports any time lost shifting from waiting place to berth shall not count as laytime or as time on demurrage.	144 145		
<b>9. Demurrage, Despatch Money</b>	146	<b>16. Address Commission</b>	202
Demurrage is payable by Charterers at the rate stated in <u>Box 16</u> per day of 24 consecutive hours or pro rata.	147	An address commission as stated in <u>Box 21</u> on the gross amount of freight, deadfreight and demurrage earned is due to Charterers and is deductible from freight, deadfreight and demurrage.	203 204 205 206
Owners shall pay to Charterers despatch money for laytime saved in loading/discharging at the rate stated in <u>Box 16</u> per day of 24 consecutive hours or pro rata.	148 149 150 151		
<b>10. Seaworthy Trim</b>	152	<b>17. ISM Clause</b>	207
If ordered to be loaded or discharged at more than one berth and/or port, the Vessel is to be left in seaworthy trim to Master's reasonable satisfaction for the passage between berths and/or ports at Shippers'/Charterers'/Receivers' expense, and time used for placing Vessel in seaworthy trim shall count as laytime or time on demurrage.	153 154 155 156 157 158	From the date of coming into force of the International Safety Management (ISM) Code in relation to the Vessel and thereafter during the currency of this Charter Party, the Owners shall procure that both the Vessel and "the Company" (as defined by the ISM Code) shall comply with the requirements of the ISM Code. Upon request the Owners shall provide a copy of the relevant Document of Compliance (DOC) and Safety Management Certificate (SMC) to the Charterers.	208 209 210 211 212 213 214 215 216
		Except as otherwise provided in this Charter Party, loss, damage, expense or delay caused by failure on the part of the Owners or "the Company" to comply with the ISM Code shall be for the Owners' account.	217 218 219 220
<b>11. Fumigation</b>	159	<b>18. Bills of Lading</b>	221
Charterers have the liberty to fumigate the cargo on board at loading and discharging port(s) or places en route at their risk and expense. Charterers are responsible for ensuring that Officers and Crew as well as all other persons on board the Vessel during and after the fumigation are not exposed to any health hazards whatsoever. Charterers undertake to pay Owners all necessary expenses incurred because of the fumigation and time lost thereby shall count as laytime or time on demurrage. When fumigation has been effected at loading port and has been certified by proper survey or by a competent authority, Bills of Lading shall not be claused by Master for reason of insects having been detected in the cargo prior to such fumigation.	160 161 162 163 164 165 166 167 168 169 170 171 172	The Master is to sign Bills of Lading as presented without prejudice to the terms, conditions and exceptions of this Charter Party. If the Master delegates the signing of Bills of Lading to his Agents, he shall give them authority to do so in writing, copy of which is to be furnished to Charterers. When Bills of Lading marked "Freight prepaid" are required, same shall be released by Owners immediately upon receipt of a telex from Charterers' Bank confirming that freight payable has been irrevocably transferred.	222 223 224 225 226 227 228 229 230
		<b>19. Relet</b>	231
		Charterers have the right to relet all or part of this Charter Party, they remaining responsible for its due fulfilment.	232 233
<b>12. Lights and Gear</b>	173	<b>20. Deviation</b>	234
Whenever required, Vessel shall supply free use of lights as on board but sufficient to carry on night work. Provided described as geared, Vessel, whenever required, shall supply free use of all cargo handling gear on board, in good working order, with the necessary power, and of runners, ropes and slings as on board. Shore hands shall be used to drive the gear, at Shippers'/Charterers'/Receivers' account. Any time actually lost on account of breakdown of Vessel's gear shall not count as laytime or time on demurrage and any stevedore standby time charges incurred thereby shall be for Owners' account.	174 175 176 177 178 179 180 181 182 183 184	Deviation in saving or attempting to save life or property at sea or for bunkering purposes or any other reasonable deviation shall not be deemed an infringement of this Charter Party and the Owners shall not be liable for any loss or damage resulting therefrom.	235 236 237 238 239
<b>13. Agencies</b>	185	<b>21. Lien Clause</b>	240
At loading port, Vessel shall be consigned to the Agents designated in <u>Box 17</u> .	186	The Owners shall have a lien on the cargo for freight, deadfreight, demurrage, and average contribution due to them under this Charter Party.	241 242 243
At discharging port, Vessel shall be consigned to the Agents designated in <u>Box 18</u> .	187 188 189		
<b>14. Extra Insurance</b>	190	<b>22. Responsibilities and Immunities</b>	244
Extra insurance on cargo due to Vessel's age and/or flag and/or class shall be for Owners' account but limited to the amount specified in <u>Box 19</u> ; such extra insurance shall be covered by Charterers for Owners' account and shall be deducted from settlement of freight.	191 192 193 194 195	Except as otherwise provided and stipulated in this Charter Party, it is hereby expressly agreed that this Charter Party shall have effect subject to the provisions of the Hague Rules contained in the International Convention for the Unification of certain rules relating to Bills of Lading, dated Brussels the 25th August 1924, as enacted in the country of shipment. These rules shall apply to any Bill of Lading issued under this Charter Party.	245 246 247 248 249 250 251 252
		When no such enactment is in force in the country of destination shall apply, but in respect of shipments to which no such enactments are compulsorily applicable, the terms of the said Convention shall apply.	253 254 255 256 257
<b>15. Brokerage</b>	196	In trades where the International Brussels Convention 1924 as amended by the Protocol signed at Brussels on February 23rd, 1968 - The Hague - Visby Rules - apply compulsorily, the provisions of the respective legislation shall apply.	258 259 260 261
A brokerage commission as stated in <u>Box 20</u> on the gross amount of freight, deadfreight and demurrage earned, is due to the party(ies) designated in <u>Box 20</u> and is deductible from same unless "non-deductible" has been specifically	197 198 199 200	The Owners shall in no case be responsible for loss of or damage to cargo howsoever arising prior to loading into and after discharge from the Vessel.	262 263 264



**PART II**  
**"SYNACOMEX 2000" Continent Grain Charterparty**

Save to the extent otherwise in this Charter Party expressly provided, neither party shall be responsible for any loss or damage or delay or failure in performance hereunder resulting from Act of God, war, civil commotion, quarantine, strikes, lockouts, arrest or restraint of princes, rulers and peoples or any other event whatsoever which cannot be avoided or guarded against.	265 266 267 268 269 270 271	Strike or Lock-out of the Shippers' and/or Receivers' men shall not prevent demurrage accruing if by the use of reasonable diligence they could have obtained other suitable labour at rates current before the Strike or Lock-out. In case of any delay by reason of the before-mentioned causes, no claim for damages or demurrage, shall be made by the Charterers / Receivers of the cargo, or Owners of the Vessel. For the purpose, however, of settling despatch money accounts, any time lost by the Vessel through any of the above causes shall be counted as time used in loading or discharging, as the case may be.	330 331 332 333 334 335 336 337 338 339 340
<b>23. Amended General Ice Clause</b>	272	<b>25. General Average and New Jason Clause</b>	341
<u>Port of Loading</u>	273	General average shall be adjusted according to the York-Antwerp Rules 1994 or any subsequent modification thereof, but where the adjustment is made in accordance with the law and practice of the United States of America, the following Clause shall apply:	342 343 344 345 346
a) In the event of the loading port being inaccessible by reason of ice when Vessel is ready to proceed from her last port or at any time during the voyage or on Vessel's arrival or in case frost sets in after Vessel's arrival, the Master for fear of being frozen in is at liberty to leave without cargo, and this Charter Party shall be null and void.	274 275 276 277 278 279	"In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the carrier is not responsible, by statute, contract or otherwise, the goods, shippers, consignees, or owners of the goods shall contribute with the carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods.	347 348 349 350 351 352 353 354 355 356 357
b) If during the loading the Master, for fear of Vessel being frozen in, deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to any other port or ports with option of completing cargo for Owner's benefit to any port or ports including port of discharge. Any part cargo thus loaded under this Charter Party to be forwarded to destination at Vessel's expense but against payment of freight, provided that no extra expenses be thereby caused to the Receivers, freight being paid on quantity delivered (in proportion if lumpsum), all other conditions as per Charter Party.	280 281 282 283 284 285 286 287 288 289 290	If a salving ship is owned or operated by the carrier, salvage shall be paid for as fully as if the said salving ship or ships belonged to strangers. Such deposit as the carrier or his Agents may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to the carrier before delivery"	358 359 360 361 362 363 364 365
c) In case of more than one loading port, and if one or more of the ports are closed by ice, the Master or Owners to be at liberty either to load the part cargo at the open port and fill up elsewhere for their own account as under section b) or to declare this Charter Party null and void unless Charterers agree to load full cargo at the open port.	291 292 293 294 295 296 297	and the Charterers shall procure that all Bills of Lading issued under this Charter Party shall contain the same Clause.	366 367
<u>Port of Discharge</u>	297	<b>26. Both-to-Blame Collision Clause</b>	368
a) Should ice prevent Vessel from reaching port of discharge, Receivers shall have the option of keeping Vessel waiting until the reopening of navigation and paying demurrage, or of ordering the Vessel to a safe and immediately accessible port where she can safely discharge without risk of detention by ice. Such orders to be given within 48 hours after Master or Owners have given notice to Charterers of the impossibility of reaching port of destination.	298 299 300 301 302 303 304 305 306	If the liability for any collision in which the Vessel is involved while performing this Charter Party falls to be determined in accordance with the laws of the United States of America, the following Clause shall apply:	369 370 371 372 373
b) If during discharging the Master for fear of Vessel being frozen in deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to the nearest accessible port where she can safely discharge.	307 308 309 310	"If the ship comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the master, mariner, pilot or the servants of the carrier in the navigation or in the management of the ship, the owners of the goods carried hereunder will indemnify the carrier against all loss or liability to the other or non-carrying ship or her owners in so far as such loss or liability represents loss of or damage to or any claim whatsoever of the owners of the said goods, paid or payable by the other or non-carrying ship or her owners to the owners of the said goods and set off, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or carrier.	374 375 376 377 378 379 380 381 382 383 384 385
c) On delivery of the cargo at such port, all conditions of the Bill of Lading shall apply and Vessel shall receive the same freight as if she had discharged at the original port of destination, except that if the distance of the substituted port exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port to be increased in proportion.	311 312 313 314 315 316 317	The foregoing provisions shall also apply where the Owners, Operators or those in charge of any ship or ships or objects other than, or in addition to, the colliding ships or objects are at fault in respect to a collision or contact"	386 387 388 389
<b>24. Amended Centrocon Strike Clause</b>	318	and the Charterers shall procure that all Bills of Lading issued under this Charter Party shall contain the same Clause.	390 391
If the cargo cannot be loaded by reason of Riots, Civil Commotions or of a Strike or Lock-out of any class of workmen essential to the loading of the cargo, or by reason of obstructions or stoppages beyond the control of the Charterers caused by Riots, Civil Commotions or a Strike or Lock-out on the Railways, or in the Docks, or other loading places, or if the cargo cannot be discharged by reason of Riots, Civil Commotions or of a Strike or Lockout of any class of workmen essential to the discharge, the time for loading or discharging, as the case may be, shall not count during the continuance of such causes, provided that a	319 320 321 322 323 324 325 326 327 328 329	<b>27. War risks ("Voywar 1993")</b>	392
		a) For the purpose of this Clause, the words:	393
		(i) "Owners" shall include the shipowners, bareboat charterers, disponent-owners, managers or other operators who are charged with the management of the Vessel, and	394 395 396

**PART II**  
**“SYNACOMEX 2000” Continent Grain Charterparty**

the Master; and	397	be, or are likely to be, exposed to War Risks on any part of	464
(ii) "War Risks" shall include any war (whether actual or threatened), act of war, civil war, hostilities, revolution, rebellion, civil commotion, warlike operations, the laying of mines (whether actual or reported), acts of piracy, acts of terrorists, acts of hostility or malicious damage, blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever), by any person, body, terrorist or political group, or the Government of any state whatsoever, which, in the reasonable judgement of the Master and/or the Owners, may be dangerous or are likely to be or to become dangerous to the Vessel, her cargo, crew or other persons on board the Vessel.	398 399 400 401 402 403 404 405 406 407 408 409 410	the route (including any canal or waterway) which is normally and customarily used in a voyage of the nature contracted for, and there is another longer route to the discharging port, the Owners shall give notice to the Charterers that this route will be taken. In this event the Owners shall be entitled, if the total extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route.	465 466 467 468 469 470 471 472 473 474
b) If at any time before the Vessel commences loading, it appears that, in the reasonable judgement of the Master and/or the Owners, performance of the Charter Party, or any part of it, may expose, or is likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks, the Owners may give notice to the Charterers cancelling this Charter Party, or may refuse to perform such part of it as may expose, or may be likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks; provided always that if this Charter Party provides that loading or discharging is to take place within a range of ports, and at the port or ports nominated by the Charterers the Vessel, her cargo, crew, or other persons onboard the Vessel may be exposed; or may be likely to be exposed, to War Risks, the Owners shall first require the Charterers to nominate any other safe port which lies within the range for loading or discharging, and may only cancel this Charter Party if the Charterers shall not have nominated such safe port or ports within 48 hours of receipt of notice of such requirement.	411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430	e) The Vessel shall have liberty:- (i) to comply with all orders, directions, recommendations or advice as to departure, arrival, routes, sailing in convoy, ports of call, stoppages, destinations, discharge of cargo, delivery or in any way whatsoever which are given by the Government of the Nation under whose flag the Vessel sails, or other Government to whose laws the Owners are subject, or any other Government which so requires, or any body or group acting with the power to compel compliance with their orders or directions; (ii) to comply with the orders, directions or recommendations of anywar risks underwriters who have the authority to give the same under the terms of the war risks insurance; (iii) to comply with the terms of any resolution of the Security Council of the United Nations, any directives of the European Community, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement; (iv) o discharge at any other port any cargo or part thereof which may render the Vessel liable to confiscation as a contraband carrier;	475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498
c) The Owners shall not be required to continue to load cargo for any voyage, or to sign Bills of Lading for any port or place, or to proceed or continue on any voyage, or on any part thereof, or to proceed through any canal or waterway, or to proceed to or remain at any port or place whatsoever, where it appears, either after the loading of the cargo commences, or at any stage of the voyage thereafter before the discharge of the cargo is completed, that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo (or any part thereof), crew or other persons on board the Vessel (or any one or more of them) may be, or are likely to be, exposed to War Risks. If it should so appear, the Owners may by notice request the Charterers to nominate a safe port for the discharge of the cargo or any part thereof, and if within 48 hours of the receipt of such notice, the Charterers shall not have nominated such a port, the Owners may discharge the cargo at any safe port of their choice (including the port of loading) in complete fulfilment of the Charter Party. The Owners shall be entitled to recover from the Charterers the extra expenses of such discharge and, if the discharge takes place at any port other than the loading port, to receive the full freight as though the cargo had been carried to the discharging port and if the extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route, the Owners having a lien on the cargo for such expenses and freight	431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460	(v) to call at any other port to change the crew or any part thereof or other persons on board the Vessel when there is reason to believe that they may be subject to internment, imprisonment or other sanctions; (vi) where cargo has not been loaded or has been discharged by the Owners under any provisions of this Clause, to load other cargo for the Owners' own benefit and carry it to any other port or ports whatsoever, whether backwards or forwards or in a contrary direction to the ordinary or customary route.	499 500 501 502 503 504 505 506 507 508
d) If at any stage of the voyage after the loading of the cargo commences, it appears that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo, crew or other persons on board the Vessel may	461 462 463	f) If in compliance with any of the provisions of sub-clauses b) to e) of this Clause anything is done or not done, such shall not be deemed to be a deviation, but shall be considered as due fulfilment of the Charter Party.	509 510 511 512
		<b>28. Arbitration</b>	513
		Any dispute arising out of the present contract shall be referred to Arbitration of "Chambre Arbitrale Maritime de Paris - 16 rue Daunou - 75002 Paris".	514 515 516
		The decision rendered according to the rules of Chambre Arbitrale and according to French Law shall be final and binding upon both parties. The right of both parties to refer any disputes to arbitration ceases twelve months after date of completion of discharge or, in case of cancellation or non-performance, twelve months after the cancelling date as per Clause 6 or after the actual date of cancellation whichever is the later. Where this provision is not complied with, the claim shall be deemed to be waived and absolutely barred.	517 518 519 520 521 522 523 524 525



1. Shipbroker		2. Place and date	
3. Owners/Chartered Owners/Diponent Owners		4. Charterers	
5. Vessel's name/type	6. Flag	7. Class (Cl. 1)	
8. Total dw. (abt.) in tons of 2,240 lbs. at s.w. draft on summer marks		9. Cargo capacity in cubic metres (Cl. 14)	
10. Capacity of pumps (t.w.h.) serving contracted cargo at a backpressure of (Cl. 10)		11. Present position	
12. Laydays (Cl. 5)	13. Cancelling date (Cl. 5)	14. Notice time in running hours (Cl. 7)	
15. Total laytime for load. and disch. in running hours, SHINC (a) or SHEX (b) (Cl. 9)		16. Demurrage rate per running day or pro rata (Cl. 15)	
17. Loading range or place(s) (Cl. 3)		18. Discharging range or place(s) (Cl. 3)	
19. Quantity and description of cargo (Cl. 3) (If full and complete cargo not agreed, indicate "part cargo")			
Quantity (in metric tons)			
Commodity			
Maximum F.F.A. percentage on loading			
20. Heating of cargo (unless otherwise specified below, Heating instructions to be supplied by Charterers at time of loading) (Cl. 20)			
21. Freight rate (state whether per metric ton or lumpsum) (Cl. 13)		22. Freight payment (state currency, mode and place of payment; also state beneficiary and bank account) (Cl. 13)	
23. Transhipment (agreed/not agreed) (Cl. 27)	24. General average shall be adjusted in (Cl. 29)	25. Nos. of additional clauses attached, if agreed	

It is mutually agreed that this Contract shall be performed subject to the conditions in the Charter consisting of PART I, including additional clauses, if any agreed and stated in Box 25 and PART II. In the event of a conflict of conditions, the provisions of PART I shall prevail over those of PART II.

Signature (Owners)	Signature (Charterers)
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**PART II**  
**"BISCOILVOY 86" Charter Party**

<b>PREAMBLE</b>	1	agent by the Master or the Vessel's agent by letter, telegram, telex, radio or telephone. Vessel shall be deemed ready within the meaning of this Clause whether in free pratique or not and whether she is in or out of berth.	91
It is agreed between the party mentioned in Box 3 as Owners/Chartered Owners/Disponent Owners (hereinafter referred to as Owners) of the good Vessel named in Box 5 and with particulars as specified in Part I and the party mentioned in Box 4 as Charterers (hereinafter referred to as Charterers) that, unless otherwise stated in Part I, this Charter Party is for a full and complete cargo, namely the quantity Vessel can carry when loaded to her minimum permissible freeboard for the voyage, not exceeding what she can reasonably stow and carry and that Charterers warrant that the cargo shipped shall be within the specification declared in Part I.	2 3 4 5 6 7 8 9 10	Laytime shall commence at the first loading and discharging port or place either at the expiration of the notice time as specified in Box 14 (except that time used in reaching her berth shall not count) or immediately upon commencement of loading or discharge whichever first occurs. At subsequent port(s) or place(s) laytime shall commence when notice of readiness is tendered.	92 93 94 95 96 97 98 99
<b>1. Warranty</b>	11	<b>8. Cleaning etc.</b>	100
Vessel's class as specified in Box 7 shall be maintained during the currency of this Charter Party, and Owners shall before and at the beginning of the loaded voyage exercise due diligence to make Vessel seaworthy and in every way fit for the voyage, with her tanks, valves, pumps and pipelines clean, tight, staunch, strong and in good order and condition for the intended cargo and with a full and efficient complement of Master, officers and crew for a vessel of her type, tonnage and flag.	12 13 14 15 16 17 18	Owners shall clean Vessel's tanks, pipes and pumps at their expense and in their time and, unless the Master certifies that Vessel's coils are tight, shall test tightness of coils at their expense and in their time to the written satisfaction of Charterers'/Shippers' Inspector which, in addition to his acceptance of the cleanliness of the Vessel's tanks, pipes and pumps, shall not be unreasonably withheld. In any event, Charterers'/Shippers' Inspector shall be entitled to test tightness of coils at Charterers' expense and in their time. If the tanks are not accepted on the first inspection of the Vessel, an Independent Inspector is to be appointed jointly by Charterers and Owners. If, in the opinion of the Independent Inspector, the tanks are insufficiently clean for the reception of the cargo, then the tanks shall be further cleaned at Owners' expense to the satisfaction of the Independent Inspector whose fees and expenses shall be borne by Owners. However, if in the opinion of the Independent Inspector, the tanks are sufficiently clean for the reception of the cargo, the Independent Inspector's fees and expenses shall be borne by Charterers.	101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117
Owners may present stainless steel or coated tank(s) and shall ensure that any coating(s) of the tank(s) nominated shall be resistant to the cargo to be loaded. Owners may present uncoated mild steel tank(s) subject to Charterers' prior approval.	19 20 21 22		
<b>2. Last Cargo</b>	23	<b>9. Laytime</b>	118
Owners warrant that the three cargoes last carried by the Vessel prior to the commencement of loading of the cargo shall have been clean, unleaded products.	24 25 26	*) (a) SHINC (Sundays and Holidays included)	119
Owners shall, prior to the commencement of loading, inform Charterers of the nature of the said last three cargoes and of the nature of any other cargo to be carried (in the case of a part-charter) at the same time as the cargo.	27 28 29	The running hours SHINC specified in Box 15 shall be allowed Charterers for the loading and discharging of the cargo and other Charterers' purposes connected therewith.	120 121 122
<b>3. Voyage</b>	30	*) (b) SHEX (Sundays and Holidays excepted)	123
Vessel shall proceed with all convenient despatch to a safe port, berth, dock, anchorage, submarine line, alongside a vessel or vessels or lighter or lighters or any other safe place whatsoever usual for loading the cargo in question, as ordered by Charterers within the limits specified in Box 17 or so near thereto as she may safely get, lie at and depart from, always afloat, and there load from the suppliers the cargo as described in Box 19 and being so loaded shall proceed as ordered on signing Bills of Lading with all convenient despatch to a safe port, berth, dock, anchorage, submarine line, alongside a vessel or vessels or lighter or lighters or any other safe place whatsoever usual for discharging the cargo in question as ordered by Charterers within the limits specified in Box 18 or so near thereto as she may safely get and lie, always afloat, and there deliver the cargo.	31 32 33 34 35 36 37 38 39 40 41 42	The running hours SHEX specified in Box 15 shall be allowed Charterers for the loading and discharging of the cargo and other Charterers' purposes connected therewith. Charterers have the right of loading or discharging during excepted periods provided they give notice to the Owners by 12.00 noon on the preceding working day and provided the Charterers pay all extra expenses incurred ashore. Actual time used during excepted periods shall count as laytime. If the port authorities prohibit or if Charterers, shippers or receivers are unable to arrange loading or discharging at night, the time so lost shall not count as laytime. (c) Time shall continue until the hoses and/or connections have been disconnected.	124 125 126 127 128 129 130 131 132
Owners shall give Charterers at least 14 days prior written notice of the date the Vessel is expected to be ready to load and Charterers shall give loading orders to Owners within 48 hours thereafter. Owners shall give Charterers at least 96 hours prior notice of the Vessel's expected time of arrival at its (first) port of loading.	43 44 45 46 47	*) NOTE: State "(a)" or "(b)" in Box 15 as agreed. If "(b)" is not inserted, "(a)" applies.	133 134 135 136
<b>4. Commingling</b>	48	<b>10. Loading and Discharging</b>	137
Commingling of similar oils will only be permitted by written agreement with all the shippers concerned.	49 50	The cargo shall be pumped into the Vessel at the expense of and at the risk of Charterers as far as Vessel's permanent connections only, and shall be pumped out of the Vessel at the expense of and at the risk of Vessel as far as Vessel's permanent connections only. Hoses and/or connections for loading and discharging shall be furnished by Charterers and shall be connected and disconnected by Charterers or, at the option of Owners, by Owners at Charterers' risk and expense. The Vessel shall provide her pumps and the necessary motive power for discharging in all ports where regulations so permit, as well as the necessary personnel, but if shore regulations do not permit use of Vessel's pumping installations, Charterers shall supply shore facilities at their risk and expense. Charterers to provide loading and discharging installations and/or lighters always with suitable and adequate facilities allowing, unless otherwise stated, the loading and discharging of the cargo specified in Box 19 without prejudice to Vessel's capacity of discharging. In regard to the laytime agreed, if the back-pressure exceeds the limit stated in Box 10.	138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154
<b>5. Charterers' Option of Cancelling</b>	51	<b>11. Sweeping (Puddling/Squeeging)</b>	155
Unless Charterers so consent, laydays shall not commence before the date indicated in Box 12.	52 53	Sweeping (Puddling/Squeeging), if any, of the tanks during discharge to be for Owners' account provided Receivers do not impede the normal discharging. Time so used shall count as laytime unless discharging is impeded through Vessel's fault.	156 157 158 159
If the Vessel has not given a notice of readiness as provided in Clause 7 by 12 midnight (2400 hours) local time on the cancelling date specified in Box 13 Charterers shall have the option of cancelling this Charter Party, unless the Vessel has been delayed due to ice risks as mentioned in Clause 23, in which case the cancelling date shall be extended by any time so lost. Whether or not Charterers exercise their option of cancelling no claim they may have on Owners shall be prejudiced thereby.	54 55 56 57 58 59 60		
Nevertheless, if it clearly appears that despite due diligence on the part of Owners the Vessel will be delayed beyond the cancelling date, Owners shall, as soon as is reasonably practicable (but in any event before the Vessel is to sail for the loading port or place), notify Charterers of the delay and, as soon as they are in a position to state with reasonable certainty when the Vessel should be ready, Owners may give notice thereof to Charterers asking whether they will exercise their option of cancelling. The option must be exercised within seven days after receipt of such notice (but not later than one day after the cancelling date). If Charterers do not cancel the Charter Party within such time limit, the seventh day after the readiness date stated in such notice shall be the new cancelling date unless otherwise agreed.	61 62 63 64 65 66 67 68 69 70 71 72		
<b>6. Owners' Option of Cancelling</b>	73	<b>12. Empty Tank Certificate</b>	160
If for reasons not attributable to the Vessel and/or Owners, Charterers fail to:	74	Charterers or Receivers to provide the Vessel with an empty tank certificate immediately upon completion of discharging.	161 162
(a) furnish orders in accordance with Clause 3 and such failure has exceeded 48 hours	75		
or	76		
(b) commence loading and 5 days have passed after notice of readiness has been tendered or the amount of demurrage incurred exceeds the amount of freight corresponding to the quantity of cargo called for by the Master, the Owners shall have the option of cancelling this Charter Party or to limit such cancellation to the parcel not available for loading. If such option is exercised it does not prejudice any claim which Owners may have on Charterers for deadfreight, loss of time or otherwise.	77 78 79 80 81 82 83 84	<b>13. Freight Payment</b>	163
		Freight shall be paid at the rate specified in Box 21 and calculated on the intaken quantity of cargo, or at the lumpsum freight stated in Box 21.	164 165
		Freight shall be due and payable by Charterers on completion of loading and shall be paid as specified in Box 22 in cash, without discount, and be deemed earned Vessel and/or cargo lost from any cause whatsoever or not lost.	166 167 168 169
<b>7. Notice of Readiness</b>	85	<b>14. Deadfreight</b>	170
When Vessel has arrived at a loading or discharging port or place, or off such port or place if Vessel cannot berth by reason of the berth being occupied or by reason of port congestion and is ready to load or discharge, a notice of readiness, which may be given during or outside usual business hours or on a Sunday or holiday, shall be tendered to Charterers or their	86 87 88 89 90	Should Charterers or their agents fail to supply a cargo as specified in Box 19, deadfreight shall be payable in the manner specified for payment of freight in Box 22 on the difference between the quantity loaded and a cargo as specified in Box 19, but in no event shall Charterers be required to furnish cargo in excess of the quantity stated in Box 9 as the Vessel's capacity for cargo.	171 172 173 174 175 176

**PART II**  
**"BISCOILVOY 86" Charter Party**

<b>15. Demurrage</b>	177	(b) If on or after Vessel's arrival at or off the nominated port or place of loading or discharging there is a danger of the Vessel being frozen in, the Master shall proceed to the nearest safe and ice-free position and at the same time request Charterers by radio for revised orders. Immediately upon receipt of such request, Charterers shall give orders for Vessel either to proceed to an alternative safe, ice-free and accessible port or place where there is no danger of Vessel being frozen in and where there are facilities for delivering or receiving the cargo in bulk or to return to and load or discharge at the first nominated loading or discharging port or place.	265 266 267 268 269 270 271 272 273
Charterers shall pay demurrage at the rate specified in Box 16 after the expiry of the laytime specified in Box 15 for all time by which the loading and discharging time and used laytime exceeds the allowed laytime as specified in Box 15.	178 179 180 181	If Vessel is ordered to proceed to an alternative port, the sum in respect of freight and delay to be paid by Charterers shall be as specified in paragraph (a) in this Clause, but if Vessel loads or discharges at the nominated port or place then the whole of the time occupied from the time the Master's request for revised orders has been received by the Charterers until shore hoses and/or connections are disconnected after completion of loading or discharging shall count against laytime or, if Vessel is on demurrage, for demurrage. Any risk of physical damage to Vessel by reason of her returning to a port or place where there is a danger of her being frozen in shall be for Charterers' account and any delay caused thereby shall count against laytime or, if Vessel is on demurrage, for demurrage.	274 275 276 277 278 279 280 281 282 283 284
If, however, demurrage accrues at port(s) or place(s) of loading or discharging by reason of strike or lockout preventing or delaying Vessel from entering the port or place of loading or discharging or from loading or discharging the cargo, or by reason of fire or explosion or breakdown of the shore machinery of the Charterers or their agents not resulting from negligence on their part or on the part of their servants or agents, the rate of demurrage shall be reduced to one-half for any demurrage thereby incurred.	182 183 184 185 186 187 188 189	The Vessel not to force ice but to follow icebreaker to the same extent as similar vessels.	285 286
However, in case of delay to Vessel caused by any such strike, lockout, fire, explosion or breakdown, commencing or occurring after expiry of the laytime, the demurrage rate shall be halved during such delay.	190 191 192	<b>24. Quarantine</b>	287
Charterers shall not be liable for demurrage during any delay caused by strike or lockout of the Master, officers or crew.	193 194	If at time of nomination quarantine is in force at the nominated port or place of loading or discharging, or if quarantine comes into force whilst Vessel is on demurrage, any time thereby lost by the Vessel shall be paid for by Charterers at the demurrage rate specified in Box 16. If, however, quarantine comes into force at such port or place after nomination but before expiry of the laytime, half the time thereby lost by the Vessel shall count as laytime but after the expiration of laytime, all time lost on account of quarantine shall be paid for by Charterers at the demurrage rate specified in Box 16.	288 289 290 291 292 293 294 295
<b>16. Lien</b>	195	<b>25. Agency</b>	296
Owners shall have a lien on the cargo and the right to sell same by public auction or otherwise for freight, deadfreight, demurrage, damages for detention and for all other of their claims whatsoever that arise out of this Charter Party, including expenses incurred in enforcing such lien and of such sale.	196 197 198 199 200	Unless otherwise agreed Vessel shall be addressed to Owners' agents at port(s) or place(s) of loading and discharging.	297 298
<b>17. Dues, Wharfage, Taxes</b>	201	<b>26. Exception Clause</b>	299
Save for those herein after mentioned, dues and other charges levied against Vessel shall be paid by Owners, and dues and other charges levied against the cargo shall be paid by Charterers. Without prejudice to the foregoing, unless otherwise provided for under the terms of any Rate Schedule which may be specified in Box 21 as the basis of the freight rate, Vessel will be free of any wharfage, dock dues, quay dues, habilitation taxes or other taxes, assessments or charges calculated on the basis of the quantity of the cargo loaded or discharged and free also of Customs' overtime on cargo, taxes on freight and any unusual taxes, assessments or governmental charges in force at the date of this Charter Party or becoming effective prior to its completion, either on the Vessel or on the freight, or whether or not measured by the quantity or volume of the cargo.	202 203 204 205 206 207 208 209 210 211 212 213	The provisions of Articles III (other than Rule 8), IV and VIII as scheduled to the Carriage of Goods by Sea Act, 1924, of the United Kingdom shall apply to this Charter Party and shall be deemed to be inserted in extenso herein. This Charter Party shall be deemed to be a contract for the carriage of cargo by sea to which the said Articles apply and Owners shall be entitled to the protection of the said Articles in respect of any claim made hereunder. Neither Owners nor Charterers shall, except as otherwise expressly provided in this Charter Party, be responsible for any loss, damage, delay or failure in performance hereunder arising or resulting from Act of God; Act of War; seizure under legal process; quarantine restrictions; strikes; boycotts; lockouts; riots; civil commotions and arrest or restraint of princes, rulers or peoples.	300 301 302 303 304 305 306 307 308 309 310 311
<b>18. Shifting</b>	214	Notwithstanding anything contained in this Charter Party the Vessel is not to be responsible for any other loss or shortage except to the extent, if any, that such loss or shortage exceeds the customary allowance.	312 313 314
Charterers shall have the right to load and/or discharge at more than one safe berth or anchorage at each port or place they paying the costs of moving the Vessel in excess of those which would have been incurred if all the cargo had been loaded or discharged at the first berth only. Time used in shifting between berths and anchorages shall count as laytime unless if performed during excepted periods if SHEX agreed as per Clause 9 (b).	215 216 217 218 219 220	If Charterers ship more than one type or quality of cargo then the Vessel is not to be responsible for any admixture or for leakage, contamination, or deterioration in quality of the cargo unless the admixture, leakage, contamination, or deterioration results from (a) unseaworthiness existing at the time of loading or at the inception of the voyage which was discoverable by the exercise of due diligence, or (b) error or fault of the servants of Owners in the loading, care or discharge of the cargo.	315 316 317 318 319 320 321
<b>19. Lightening</b>	221	<b>27. Transhipment</b>	322
Any lightening shall be at the expense and risk of Charterers. Any time lost to Vessel, including shifting, on account of lightening shall count as used laytime. Lightening shall be effected only in a place or places where Vessel can continuously lie safely and always afloat.	222 223 224 225	Unless specifically agreed in Box 23, Owners shall have no right to tranship the cargo.	323 324
<b>20. Cargo Temperature</b>	226	If transhipment has been expressly agreed in Box 23, such transhipment shall be at the risk and expense of Owners and the provisions of Clause 2 shall apply in relation to the transhipment vessel.	325 326 327
Heating instructions to be supplied by Charterers according to the IASC current Handbook.	227 228	Owners shall promptly notify Charterers of the time and place of transhipment.	328 329
<b>21. Liberty</b>	229	Demurrage in respect of any transhipment vessel shall only be payable by Charterers at the rate appropriate to a vessel of that type and size but not exceeding the rate payable in respect of the original Vessel.	330 331 332
The Vessel shall have the liberty to call at any port or ports whatsoever in order in the route, to sail with or without pilots, to tow or go to the assistance of vessels in distress, to call at any port or place for oil fuel supplies, and to deviate for the purpose of saving life or property, or for any other reasonable purpose.	230 231 232 233 234	<b>28. Both-to-Blame Collision Clause</b>	333
<b>22. Segregation/Rotation</b>	235	If Vessel comes into collision with another vessel as a result of the negligence of the other vessel and/or any act, neglect or default of the Master, mariner, pilot or the servants of Owners in the navigation or in the management of Vessel, the owners of the cargo carried hereunder will indemnify Owners against all loss or liability to the other or non-carrying vessel or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of the said cargo, paid or payable by the other or non-carrying vessel or her owners to the owners of the said cargo and set-off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying Vessel or Owners.	334 335 336 337 338 339 340 341 342 343 344
If the Vessel is carrying different parcels same always to be safely segregated. If part cargo fixed, Owners shall have, at their expense, the option of loading other cargo(es) for account of other Charterers from port or port(s) en route to port or port(s) en route.	236 237 238 239	The foregoing provisions shall also apply where the owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.	345 346 347 348
Rotation of loading/discharging ports to be at the Owners' option.	240	<b>29. General Average and New Jason Clause</b>	349
<b>23. Ice</b>	241	General Average shall be payable according to the York/Antwerp Rules, 1974, or any modification thereof, but if, notwithstanding the provisions specified in Box 24 the adjustment is made in accordance with the law and practice of the United States of America, the following clause shall apply:	350 351 352 353
(a) If on passage to a nominated port or place of loading or discharging the Master finds that the port or place cannot be safely reached owing to ice, he shall immediately request Charterers by radio for revised orders and remain outside the area of icebound waters. Upon receipt of such request, Charterers shall give orders for the Vessel to proceed to an alternative safe, ice-free and accessible port or place where there are facilities for delivering or receiving the cargo in bulk. In this event, freight shall be paid at the rate applicable under this Charter Party to such alternative loading or discharging port or place and in addition any period by which the time taken to reach either or both such alternative ports or places exceeds the time which would have been taken had the Vessel proceeded thither direct shall be paid for by Charterers at the rate of demurrage as specified in Box 16 per running day and pro rata for part of a running day, plus the cost of any additional bunkers consumed.	242 243 244 245 246 247 248 249 250 251 252 253 254 255	"In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of	354 355 356
If no rate of freight is specified in Box 21 for the selected alternative port or place, then freight shall be paid at the rate applicable for the voyage first nominated adjusted by allowance, at the demurrage rate specified in Box 16, for the difference in the time taken for the actual voyage and the estimated time required to perform the first nominated voyage, the cost of the difference in bunker oil consumption and the difference, if any, in port charges at the respective ports.	256 257 258 259 260 261 262		
The Vessel not to force ice but to follow icebreaker to the same extent as similar vessels.	263 264		

**PART II**  
**"BISCOILVOY 86" Charter Party**

<p>which, Owners are not responsible, by statute, contract or otherwise, the cargo, shippers, consignees or owners of the cargo shall contribute with Owners in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the cargo.</p> <p>If a salving vessel is owned or operated by Owners, salvage shall be paid for as fully as if the said salving vessel or vessels belonged to strangers. Such deposit as Owners, or their agents, may deem sufficient to cover the estimated contribution of the cargo and any salvage and special charges thereon shall, if required, be made by the cargo, shippers, consignees or owners of the cargo to Owners before delivery".</p> <p><b>30. War Risks</b></p> <p>(1) The Master shall not be required or bound to sign Bills of Lading for any blockaded port or for any port which the Master or Owners in his or their discretion consider dangerous or impossible to enter or reach.</p> <p>(2) (A) If any port of loading or of discharge named in this Charter Party or to which the Vessel may properly be ordered pursuant to the terms of the Bills of Lading be blockaded, or (B) if owing to any war, hostilities, warlike operations, civil war, civil commotions, revolutions, or the operation of international law (a) entry to a port of discharge or of discharge or the loading or discharge of cargo at any such port be considered by the Master or Owners in his or their discretion dangerous or prohibited, or (b) it be considered by the Master or Owners in his or their discretion dangerous or impossible for the Vessel to reach any such port of loading or of discharge - the Charterers shall have the right to order the cargo or such part of it as may be affected to be loaded or discharged at any other safe port of loading or of discharge within the range of loading or discharging ports respectively established under the provisions of the Charter Party (provided such other port is not blockaded or that entry thereto or loading or discharge of cargo thereat is not in the Master's or Owners' discretion dangerous or prohibited). If in respect of a port of discharge no orders be received from the Charterers within 48 hours after they or their agents have received from the Owners a request for the nomination of a substitute port, the Owners shall then be at liberty to discharge the cargo at any safe port which they or the Master may in their or his discretion decide on (whether within the range of discharging ports established under the provisions of the Charter Party or not) and such discharge shall be deemed to be due fulfillment of the contract or contracts of affreightment so far as cargo so discharged is concerned. In the event of the cargo being loaded or discharged at any such other port within the respective range of loading or discharging ports established under the provisions of the Charter Party, the Charter Party shall be read in respect of freight and all other conditions whatsoever as if the voyage performed were that originally designated. In the event, however, that the Vessel discharges the cargo at a port outside the range of discharging ports established under the provisions of the Charter Party, freight shall be paid as for the voyage originally designated and all extra expenses involved in reaching the actual port of discharge and/or discharging the cargo thereat shall be paid by the Charterers or cargo owners. In this latter event the Owners shall have a lien on the cargo for all such extra expenses.</p> <p>(3) The Vessel shall have liberty to comply with any directions or recommendations as to departure, arrival, routes, ports of call, stoppages, destinations, zones, waters, delivery or in any other wise whatsoever given by the government of the nation under whose flag the Vessel sails or any other government or local authority including any <i>de facto</i> government or local authority or by any person or body acting or purporting to act as or with the authority of any such government or authority or by any committee or person having under the terms of the war risks insurance on the Vessel the right to give any such directions or recommendations. If by reason of or in compliance with any such directions or recommendations, anything is done or is not done such shall not be deemed a deviation.</p>	<p>357</p> <p>358</p> <p>359</p> <p>360</p> <p>361</p> <p>362</p> <p>363</p> <p>364</p> <p>365</p> <p>366</p> <p>367</p> <p>368</p> <p>369</p> <p>370</p> <p>371</p> <p>372</p> <p>373</p> <p>374</p> <p>375</p> <p>376</p> <p>377</p> <p>378</p> <p>379</p> <p>380</p> <p>381</p> <p>382</p> <p>383</p> <p>384</p> <p>385</p> <p>386</p> <p>387</p> <p>388</p> <p>389</p> <p>390</p> <p>391</p> <p>392</p> <p>393</p> <p>394</p> <p>395</p> <p>396</p> <p>397</p> <p>398</p> <p>399</p> <p>400</p> <p>401</p> <p>402</p> <p>403</p> <p>404</p> <p>405</p> <p>406</p> <p>407</p> <p>408</p> <p>409</p> <p>410</p> <p>411</p> <p>412</p> <p>413</p> <p>414</p> <p>415</p> <p>416</p> <p>417</p> <p>418</p>	<p>If by reason of or in compliance with any such direction or recommendation the Vessel does not proceed to the port or ports of discharge originally designated or to which she may have been ordered pursuant to the terms of the Bills of Lading, the Vessel may proceed to any safe port of discharge which the Master or Owners in his or their discretion may decide on and there discharge the cargo. Such discharge shall be deemed to be due fulfillment of the contract or contracts of affreightment and the Owners shall be entitled to freight as if discharge has been effected at the port or ports originally designated or to which the Vessel may have been ordered pursuant to the terms of the Bills of Lading. All extra expenses involved in reaching and discharging the cargo at any such other port of discharge shall be paid by the Charterers and/or cargo owners and the Owners shall have a lien on the cargo for freight and all such expenses.</p> <p><b>31. Bills of Lading</b></p> <p>Bills of Lading are to be signed as presented without prejudice to this Charter Party, and Charterers hereby indemnify Owners against all liabilities that may arise from the signing of Bills of Lading as presented to the extent that the terms of such Bills of Lading impose more onerous liabilities upon Owners than those assumed by Owners under the terms of this Charter Party.</p> <p>Neither the Owners nor their Servants shall be required to sign or endorse Bills of Lading showing freight prepaid unless and until the freight due to Owners has actually been paid.</p> <p>Charterers are to procure that all Bills of Lading issued under this Charter Party shall contain the Both-to-Blame Collision Clause, the General Average and New Jason Clause, and the War Risks Clause in the form prescribed in this Charter Party and that in addition all Bills of Lading shall contain the following Paramount Clause:</p> <p>"Paramount Clause</p> <p>This Bill of Lading shall have effect subject to the provisions of any legislation relating to the carriage of goods by sea which incorporates therein the Hague Rules contained in the International Convention for the Unification of certain rules relating to Bills of Lading, dated Brussels 25th August, 1924, or any modification thereof, which is compulsorily applicable to the contract of carriage herein contained. When no such enactment is in force in the country of shipment the corresponding legislation of the country of destination shall apply, but in respect of shipments to which no such enactments are compulsorily applicable, the terms of the said Convention shall apply."</p> <p><b>32. Subletting/Assigning</b></p> <p>Subject to Owners' approval, which shall not be unreasonably withheld, Charterers shall have the liberty of subletting or assigning this Charter Party to any individual or Company, but Charterers shall always remain responsible for the due fulfillment of all terms and conditions of this Charter Party.</p> <p><b>33. Law and Arbitration</b></p> <p>This Charter Party shall be governed by English Law and any dispute arising out of this Charter Party or any Bill of Lading issued thereunder shall be referred to arbitration in London, one arbitrator being appointed by each party, in accordance with the Arbitration Acts 1950-1979 or any statutory modification or re-enactment thereof for the time being in force. On the receipt by one party of the nomination in writing of the other party's arbitrator, that party shall appoint their arbitrator within fourteen days, failing which the decision of the single Arbitrator appointed shall apply. If two Arbitrators properly appointed shall not agree they shall appoint an umpire whose decision shall be final.</p>	<p>419</p> <p>420</p> <p>421</p> <p>422</p> <p>423</p> <p>424</p> <p>425</p> <p>426</p> <p>427</p> <p>428</p> <p>429</p> <p>430</p> <p>431</p> <p>432</p> <p>433</p> <p>434</p> <p>435</p> <p>436</p> <p>437</p> <p>438</p> <p>439</p> <p>440</p> <p>441</p> <p>442</p> <p>443</p> <p>444</p> <p>445</p> <p>446</p> <p>447</p> <p>448</p> <p>449</p> <p>450</p> <p>451</p> <p>452</p> <p>453</p> <p>454</p> <p>455</p> <p>456</p> <p>457</p> <p>458</p> <p>459</p> <p>460</p> <p>461</p> <p>462</p> <p>463</p> <p>464</p> <p>465</p> <p>466</p> <p>467</p> <p>468</p> <p>469</p> <p>470</p> <p>471</p> <p>472</p> <p>473</p> <p>474</p>
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Otherwise see  
Part II Cl. No.:

**1. Preamble**  
 (a) *Subject of Contract.* - It is hereby agreed between the Owners and the Charterers that the Vessel shall be presented at the loading port or so near thereunto as she may safely get and lie always afloat, and there - being in every respect fitted for carriage of the agreed cargo - shall load the cargo, which the Charterers bind themselves to supply, and carry it with all possible despatch (unless economic speed to conserve fuel expressly agreed) to the port of discharge or so near thereunto as she may safely get and lie always afloat, and deliver it there. Carriage under this Charter shall be performed against payment of freight and in accordance with the terms contained herein.  
 (b) *Identity of Parties.* - Parties described in Cl. 2 as Owners or (Time-)Chartered Owners or Disponents Owners or Disponents (hereinafter called 'Owners') and in Cl. 3 as Charterers - shall each be deemed to be a Party to this Charter, and no evidence shall be admissible to show that they have contracted merely as agents.  
 (c) *Construction of the Charter.* - This charter consists of PART I and PART II. Typewritten provisions of PART I (and of the Rider, if any) shall prevail over printed provisions of this Preamble and of PART II to the extent of any conflict between them.

<b>2. Owners</b>		tlx. No.	11
<b>3. Charterers</b>		tlx. No.	13
<b>4. Vessel name</b>		flag	15
GRT-NRT	DWAT*/DWCC*	built	16
UMS: GT-NT		now	17
<i>Further particulars</i>			
...go battens: not required*/required*			18
<b>5. Cargo</b> full*/part* cargo of			19
% more			20
less at Owner's option, exact quantity being declarable (when)			
43(c)	of which	may be carried on deck	21
19(b)	completion cargo: allowed*/not allowed*		22
-/39	<b>6. Laydays</b> not to commence before	CANCELLING DATE	23
-/32	<b>7. Loading</b> (a) port(s)/berth(s)		25
	(b) Vsl's max draught loaded	sw*/bw*/fw*	26
27	(c) daily rate*/total laytime*		27
29(c)/23	(d) shore winch/cranemen for account	(e) dunnage for	28
	(f) Shippers		29
-/21		(g) cost load	30
24/32	<b>8. Discharge</b> (a) port(s)/berth(s)	(f) cost discharge	31
	(b) Vsl's max arrival draught	sw*/bw*/fw*	32
27	(c) daily rate*/total laytime*		33
-/29(c)	(e) Consignees	(d) shore winch/cranemen	34

Recommended by  
 the Documentary Council of the Baltic and  
 International Maritime Conference, Copenhagen and  
 the Documentary Committee of the General  
 Council of British Shipping, London

\* delete the inapplicable



**UNIVERSAL VOYAGE CHARTER PARTY 1984  
(Revised Voyage Charter Party 1964)  
Code Name: NUVOY-84**

**PART II**

Remark	134
Actual agreements that are at variance with the printed text of PART II -to be entered by typing in PART I or in the Rider (not in the printed text of PART II). Sub-clauses marked with an asterisk (*) are optional alternatives. The heading of the Sub-clause actually agreed - to be entered by typing in the relevant Clause of PART I, whereby all other alternatives in PART II shall become inapplicable.	135
<b>18. Vessel</b>	<b>64</b>
(a) <i>Prerequisites</i> . - Owners shall ensure that:	65
(aa) (class) the Vessel be classed Lloyd's Register 100 A 1 or equivalent, and Owners shall exercise due diligence to maintain that class throughout the performance of this Charter,	66
(ab) (technical requirements) the Vessel be equipped to meet the technical requirements as specified in Cl. 4,	67
(ac) (compliance with regulations etc.) the Vessel and her Master and crew will comply with all safety, health and other statutory rules, regulations and internationally recognized requirements as are necessary to secure safe and unhindered loading, performance of the voyage and discharge of the cargo.	68
(b) <i>Substitution</i> . - If in Cl. 4 Owners have expressly been given liberty to provide a substitute vessel, such substitute shall be in all respects equivalent to the Vessel named in this Charter.	69
<b>19. Cargo</b>	<b>80</b>
(a) <i>Warranty</i> . Charterers warrant that - unless otherwise specified in Part I - the cargo referred to in Cl. 5 is non-dangerous for carriage according to applicable safety regulations including IMO Code(s).	81
(b) <i>Completion</i> . - If in Cl. 5 Owners have been given an option of completing with other cargo, the latter must in no way be detrimental to cargo under this Charter and is to be effectively separated therefrom at Owners' expense.	82
<b>20. Advance notices</b>	<b>87</b>
(a) <i>Approximate date</i> . - Shippers are to receive from Owners a written notice stating the approximate date of Vessel's readiness to load, containing also Vessel's name and the approximate quantity of cargo required.	88
(b) <i>Definite date</i> . - Shippers are to receive from Owners a written notice of the definite date of Vessel's readiness to load, containing also Vessel's name and the approximate quantity of cargo required.	89
The definite date of Vessel's readiness to load shall not be earlier than the approximate date.	90
In the event of Owners giving a too short notice of the definite loading date, commencement of the laytime shall be postponed by the number of days by which the notice has fallen short of the period agreed in Cl. 9.	91
See also Cl. 27 'd' (Earlier commencement).	92
(c) <i>ETA</i> . - The Master shall despatch to Shippers an E(xpected) T(ime of) A(rival) message as per Cl. 9, or - if Vessel lying at the port of loading - shall give to Shippers a 48-hours notice of Vessel's expected readiness to load the cargo under this Charter.	93
(d) <i>Alteration in readiness</i> . - Shippers are to be kept advised of any alteration in Vessel's expected readiness to load.	94
<b>21. Cost</b> (always subject to Cl. 33: Overtime)	<b>107</b>
(a) <i>Free in and stowed/trimmed</i> . - Charterers shall load and stow/trim the cargo on board the Vessel free of expense to Owners.	108
Stowage includes the lashing and/or securing of the cargo.	109
(b) <i>Free in and spout/grab trimmed</i> . - Charterers shall load/dump the cargo into Vessel's holds and trim it mechanically with shore spout, or (at Charterers' option) with shore grabs, at their expense. Any extra trimming and/or levelling as required by Master shall be for Owners' account and time so used not to count as laytime or demurrage.	110
(c) <i>Gross terms</i> . - Charterers shall bring the cargo alongside the Vessel under hook unslung, or under grab, at their expense, and Owners shall sling, hook up, load and stow/trim the cargo at their expense.	111
<b>22. Cargo battens</b>	<b>119</b>
(a) <i>Required</i> . - Before tendering Master's notice of readiness, the Vessel to have cargo battens fitted.	120
(b) <i>Not required</i> . - Before tendering Master's notice of readiness, the Vessel to have cargo battens removed, failing which Charterers or their agents shall not be held responsible for any damage to battens during loading/discharge.	121
<b>23. Dunnage</b>	<b>126</b>
(a) <i>For Charterers' account</i> . Charterers shall provide and lay all dunnage material as required by Master for proper stowage and protection of the cargo, Owners allowing the use of all dunnage available on board. Dunnage shall be laid in accordance with Master's instructions.	127
In the absence of disposal instructions from Charterers, Master shall have liberty to dispose of the dunnage upon discharge. Any proved cost incurred thereby to be refunded by Charterers.	128
(b) <i>For Owners' account</i> . - Owners shall provide and lay all dunnage material required for proper stowage and protection of the cargo.	129
<b>24. Separation</b> (see also Cl. 40 'b': Bs/L - Separate delivery)	<b>136</b>
Charterers have the right to ship parcels of different description and/or for different Consignees in separate compartments within Vessel's natural segregation provided that such stowage, carriage and discharge are compatible with Vessel's seaworthiness, and provided that such separation does not affect Owners' right to receive the quantity of cargo as per Cl. 5.	137
Charterers shall provide and lay all material as required by Master for proper separation of various parcels within Vessel's compartments, Owners allowing the use of all separation material available on board. Separation shall be laid in accordance with Master's instructions.	138
<b>25. Cost</b> (always subject to Cl. 33: Overtime)	<b>147</b>
(a) <i>Free out (or: Free discharge)</i> . - Charterers shall discharge the cargo from Vessel's holds, including shovel-cleaning, free of expense to Owners.	148
(b) <i>Gross terms</i> . - Owners shall discharge the cargo from Vessel's holds, and place it unhooked and unslung, or dumped by grab, alongside the Vessel at their expense, and Charterers shall take the cargo from there at their expense.	149
<b>DISCHARGE</b>	<b>146</b>
<b>LOADING and DISCHARGE</b>	<b>154</b>
<b>26. Notice of readiness (NOR)</b>	<b>155</b>
(a) <i>In port</i> . - When the Vessel - on arrival at the port - is in all respects ready (whether in loading/discharging berth or not) to load/discharge the cargo under this Charter, at each port of loading/discharge the Master shall tender to Shippers/Consignees a written notice of Vessel's readiness to load/discharge, stating at loading port(s) the quantity of cargo required.	156
Such notice to be tendered:	157
(aa) <i>24 hrs SHINC</i> : at any time, day or night, Sundays (or their local equivalents) and holidays included,	158
(ab) <i>24 hrs SHEX</i> : at any time, day or night, Sundays (or their local equivalents) and holidays excepted,	159
(ac) <i>within office hrs SHEX</i> : within ordinary office hours, Sundays (or their local equivalents) and holidays excepted.	160
(b) <i>Off port</i> (not applicable in 'berth' charters). - If - on Vessel's arrival off the port of loading/discharge - Charterers or their agents have not indicated a readily accessible loading/discharging berth, the Master shall be entitled to tender a written notice of readiness (as per 'a' hereabove) from such place of arrival, whether cleared at customs or not, whether in free pratique or not.	161
However, if at that time the Vessel should be prevented from entering the port by reason of Vessel's inefficiency or of other hindrances which constitute Owners' usual hazards - notice of readiness may not be tendered until such hindrances have ceased to exist.	162
<b>27. Time counting</b>	<b>178</b>
(a) <i>Commencement</i> . - Laytime for loading/discharge shall commence to count:	179
(aa) <i>upon NOR</i> : on tendering Master's notice of readiness to Shippers/Consignees or their agents	180
(ab) <i>from 13.00 or 08.00 hrs</i> : at 13.00 hrs if Master's notice of readiness tendered to Shippers/Consignees or their agents before noon, or at 08.00 hrs next working day if notice tendered within office hours after noon.	181
Such notice time not to apply to second/subsequent port(s) of loading/discharge, where laytime always to count upon tendering Master's notice of readiness.	182
Unless with Charterers' consent, laytime at loading port not to commence counting earlier than on the day of the definite loading date given as per Cl. 20 'b'.	183
(b) <i>Excepted periods</i> (not applicable if SHINC terms agreed). - Sundays (or their local equivalents) and legal holidays to be excepted unless used, in which event actual time used shall count.	184
Periods indicated in Cl. 10 'c' (Loading: intervals) and in Cl. 11 'c' (Discharge: intervals) to be treated as Sunday or holiday time.	185
(c) <i>Weather hindrances</i> . - Laytime shall not count when the loading/discharge of cargo into/from the Vessel under this Charter is actually prevented by adverse weather conditions.	186
(d) <i>Earlier commencement</i> . - Notwithstanding provisions of Cl. 20'b (Definite date) and of Cl. 27 'a', if the loading/discharge has started before the commencement of laytime, actual time used shall count in this period.	187
(e) <i>Waiting off port</i> . - If the notice of readiness as per Cl. 26 'b' (Off port) has been tendered while the Vessel was off the port, the laytime shall commence counting and shall count as if she were in berth.	188
The time of shifting to the loading/discharging berth or to a waiting berth in port shall not count.	189
After berthing, the actual time lost until the Vessel is in fact ready in all respects to load/discharge (incl. customs clearance, and free pratique if applicable) shall not count as laytime or time on demurrage.	190
(f) <i>Termination</i> . - Laytime/demurrage shall cease counting on completion of loading (incl. trimming/stowage/lashing/securing) respectively discharge (incl. shovel-cleaning and/or discharge of Charterers' dunnage), or draught survey, or repairs of stevedore damage as per Cl. 34'c' whichever may be	191



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later.	215	stevedores' written acknowledgement of liability and to settle stevedore	293
(g) <i>Inefficiency etc.</i> - Time lost due to inefficiency or any other cause attri-	216	damage claims direct with the stevedores. Failing such settlement, Owners	294
butable to the Vessel, her Master, her crew or the Owners, which affects the	217	shall immediately lodge their claim in writing with Shippers at loading port	295
working of the Vessel - shall not count as laytime or as time on demurrage.	218	and/or with Consignees at port of discharge, and shall endeavour to settle	296
		their claim with the latter parties.	297
<b>28. Hatches</b> - opening/closing	219	(b) <i>Charters' responsibility.</i> - If not settled as under 'a', Charterers shall be	298
At each port of loading/discharge, the first opening and the last closing of	220	ultimately responsible for stevedore damage. Owners to notify such dama-	299
hatches, including removal and replacement of beams, shall be effected at	221	ge to them by telex/telegram immediately after occurrence, or as soon as	300
Owners' expense and time shall not count, while	222	noticed, possibly before Vessel's departure from the port where damage	301
- (if free in and/or free out terms agreed) any other opening/closing as re-	223	has occurred, but latest by completion of discharge.	302
quired by Master shall be effected by shore labour at Charterers' expense	224	(c) <i>Repairs.</i> - Stevedores or cargo interests concerned may perform the re-	303
and time to count, or	225	pairs at any time before Vessel's departure from the port where damage has	304
- (if gross terms loading and/or discharge agreed) any other opening/clo-	226	occurred. The time of repairs to count as laytime or time on demurrage.	305
sing shall be effected at Owners' expense and time not to count.	227	(d) <i>Minor damage.</i> - Minor damage, not affecting Vessel's seaworthiness	306
		and/or cargoworthiness, to be mutually agreed as to value, which amount to	307
<b>29. Vessel's cargo gear</b> (not applicable if in Cl. 4 Vessel described as gearless)	228	be promptly paid without Vessel being detained. In such case no further	308
(a) <i>Cargo handling gear.</i> - Owners shall always give free use, throughout the	229	compensation for time of repairs shall be due to Owners.	309
duration of loading/discharge, of all Vessel's cargo handling gear and of	230		
sufficient motive power to operate all cargo handling gear simultaneously.	231	<b>35. Shore tally</b>	310
(b) <i>Breakdowns.</i> - All such equipment to be in good working order up to te-	232	If shore tally has been ordered by Owners, it shall be arranged and paid for	311
sted capacity. Unless caused by negligence of Charterers' stevedores, time	233	by Owners. If shore tally has been ordered by any other party, or if it is com-	312
lost by breakdown of Vessel's cargo handling gear - pro rata the total num-	234	pulsory, it shall be paid for by Charterers or their agents.	313
ber of cranes/winches required at that time for loading/discharging cargo	235		
under this Charter - shall not count as laytime or as time on demurrage.	236		
(c) <i>Cranemen/winchemen.</i> - Owners shall provide free of charge cranemen/	237		
winchemen from crew unless local regulations prohibit this, in which latter	238	<b>36. Freight</b>	314
event shore labourers shall be for account of the party indicated in Cl. 7	239	(a) <i>When payable.</i> - Freight shall be paid by Charterers as per agreement in	315
(Loading) and Cl. 8 (Discharge).	240	Cl. 12.	317
Shore cranemen/winchemen shall always work under supervision of the	241	(b) <i>When deemed earned.</i> - Unless payable on/after right and true delivery	318
Master.	242	of cargo, freight shall be deemed earned on shipment of cargo and shall	319
		be non-returnable, Vessel and/or cargo lost or not lost. The same rule shall	320
<b>30. Grab Loading/discharge</b> (applicable to cargoes in bulk only)	243	apply pro rata to the pre-payable portion of the freight.	321
(a) <i>Vessel's technical suitability.</i> - The Vessel to be suitable for grab loading	244	(c) <i>On delivered weight/quantity.</i> - If freight or part thereof is payable on de-	322
and discharge.	245	livery of cargo, Charterers shall have the option of paying freight on delive-	323
(b) <i>Sheathing.</i> - Inside Vessel's holds, all vulnerable structural parts and	246	weight/quantity provided such option be declared in writing before	324
equipment of the Vessel to be protected by Owners against possible dama-	247	breaking bulk and the weight/quantity be ascertained by official weighing	325
ge by grab loading/discharge, failing which Charterers or their agents shall	248	machine, otherwise by joint draught survey or by tally. Charterers shall pay	326
not be held responsible for the damage.	249	all costs incurred in connection with weighing, draught survey or tally. Ow-	327
(c) <i>Extra cost and time.</i> - If on Master's request cargo has been placed in	250	ners shall be at liberty to appoint check clerks at their own expense.	328
compartments inaccessible to grabs (including deeptanks, wings and ends	251	(d) <i>Rate of exchange.</i> - If freight is payable in other currency than that in	329
of 'tweendeck spaces) Owners shall bear the extra cost and extra time of	252	which the freight rate is expressed, the payment shall be effected at the	330
loading, trimming and discharge above the cost and time of normal loading,	253	mean rate of exchange ruling at the place of payment on the day when	331
trimming and grab discharge.	254	freight falls due.	332
<b>31. Light</b>	255	<b>37. Dues, charges, taxes</b>	333
Whenever required, Owners shall provide free of charge, throughout the du-	256	(a) <i>On Vessel.</i> - Owners shall pay all dues, charges and taxes customarily	334
ration of loading/discharge, light (as on board) for work on and under deck,	257	levied on the vessel, howsoever the amount thereof may be assessed.	335
and, (if necessary) alongside Vessel.	258	(b) <i>On cargo.</i> - Charterers shall pay all dues, charges, duties and taxes cu-	336
		stomarily levied on the cargo, howsoever the amount thereof may be assess-	337
<b>32. Shifting, Warping - Seaworthy trim</b>	259	ed.	338
(a) <i>Shifting.</i> - If Charterers have an option of loading/discharging the Vessel	260	(c) <i>On freight.</i> - Taxes levied on the freight shall be paid by the party named	339
at more than one berth, the cost of shifting from one berth to another shall be	261	in Cl. 14.	340
borne by Owners, but time shall count.	262	<b>38. Extra Insurance</b>	341
(b) <i>Waiting berth.</i> - If, for Owners' convenience, the Vessel has moored at a	263	Extra insurance on cargo - if incurred by reason of Vessel's age, class, flag	342
waiting berth (lay berth) in port, all shifting expenses thereto, and also from	264	or ownership - to be for Owners' account and may be deducted from freight.	343
waiting berth to loading/discharging berth - shall be borne by Owners and	265	Unless a maximum amount has been agreed, such extra insurance shall not	344
time shall not count.	266	exceed the lowest extra premium which would be charged for the vessel	345
(c) <i>Warping.</i> - The Vessel shall be warped along the quay, without outside	267	and voyage in the London insurance market. Owners may require substan-	346
assistance except line runners, to and from the loading/discharging ap- pliances as reasonably required by Charterers, at Owners' risk and expen- se, but time shall count.	268	tiation of the amount.	347
(d) <i>Seaworthy trim.</i> - For moving between berths and ports the Vessel shall	270		
be left in a seaworthy trim in accordance with Master's instructions.	272	<b>GENERAL</b>	348
			349
<b>33. Overtime</b>	273	<b>39. Cancelling</b>	350
(a) <i>Right to order.</i> - Irrespective of the division of loading/discharging cost	274	(a) <i>Missing the cancelling date.</i> - Should the Vessel not have given notice of	351
as per Cl. 7 (Loading) and Cl. 8 (Discharge), Charterers or their agents and	275	readiness to load as per Cl. 26 by the cancelling date, Charterers shall have	352
Owners have an option to order that the loading/discharge/shifting/warping	276	the option of cancelling this Charter.	353
be carried out beyond ordinary working hours and during excepted periods,	277	(b) <i>Interpellation.</i> - Should Owners anticipate with reasonable certainty that	354
(b) <i>Shore labour.</i> - Extra cost of stevedores and all extra expenses incurred	278	the Vessel will not be ready to load by the cancelling date, they shall notify	355
on shore to be for account of the party ordering the overtime.	279	Charterers thereof without delay, stating the probable date of Vessel's rea-	356
(c) <i>Ordered by authorities etc.</i> - Where overtime is ordered by authorities or	280	di-ness to load and asking whether Charterers will exercise their option of cancelling the	357
any other governmental agencies or persons/bodies empowered by autho- rities, or by the party (not being Charterers, Shippers or Consignees) con- trolling the loading/discharging terminal or facility - the extra cost and expen- ses incurred thereby shall be borne by the parties in conformity with the division of loading/discharging cost as per Cl. 7 'g' (Loading) and Cl. 8 'f' (Discharge).	281	Charter, or agree to a new cancelling date.	358
	282	Charterers' option to be declared within 4 running days of receipt of such	359
	283	notice. If Charterers do not then exercise their option of cancelling, the	360
	284	fourth day after the new date of readiness indicated in Owners' notice shall	361
	285	be regarded as a new cancelling date. Provisions under this Sub-clause	362
	286	shall operate only once, and - in case of Vessel's further delay - Charterers	363
	287	shall have the option of cancelling the Charter as per Sub-clause 'a'.	364
(d) <i>Crew.</i> - Overtime expenses for Vessel's officers and crew shall always	288		
be for Owners' account.		<b>40. Bills of Lading - Separate delivery</b>	365
		(a) <i>Presentation and signature.</i> - Upon completion of loading Shippers to	366
<b>34. Stevedore damage</b> (not applicable when stevedores appointed by Owners)	289	present and Master to sign Bills of Lading. The "Nuvoymill-84" form to be	367
(a) <i>Procedure of claiming.</i> - Whenever the Vessel has sustained damage	290	used whenever possible.	368
(beyond ordinary wear and tear, and except Owners' failure under Cl. 30 'b': Sheathing) caused by stevedores, Owners shall endeavour to obtain the	291	(b) <i>Separate delivery.</i> - If so declared by Shippers before commencement	369
	292	of loading and if cargo delivered to the Vessel separately, a separate set of	370
		Bills of Lading shall be signed for each parcel.	371
		Cargo under each Bill of Lading shall be delivered to Consignees separa-	

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tely.	372	of the time provided for discharging, or of ordering the Vessel to a safe port where she can safely discharge without risk of being detained by strike or lock-out. Such orders to be given within 48 hours after Owners have given notice to Consignees of Vessel's readiness to discharge or of Owners' request for orders. All conditions of this Charter and of the Bill of Lading issued hereunder shall apply to the delivery of cargo at such substitute port, and Owners shall receive the same freight as if the cargo had been discharged at the original port of destination, except that if the distance of the substitute port exceeds 100 nautical miles, freight on the cargo delivered at the substitute port to be increased in proportion.	451 452 453 454 455 456 457 458 459 460
<b>41. Deviation</b>	373	(e) <i>Notification.</i> - The party who first learns about the occurrence of strike or lock-out shall immediately notify thereof the other party.	461 462
The Vessel shall have liberty to deviate for the purpose of saving life or property at sea, or in order to call at any port or place en route for fuel supplies as necessary for completion of the voyage under this Charter, or for any other reasonable purpose. Any such deviation to be reported to Charterers by radiogram as soon as possible.	374 375 376 377 378		
<b>42. Lien on cargo</b>	379	<b>47. Ice</b>	463
(a) <i>Lien.</i> - Owners shall have a lien on cargo for freight, deadfreight and demurrage (including damages for detention, if any) due to them under this Charter, including necessary cost of recovering same. Charterers to remain responsible for payment of these items, but Owners shall take all reasonable steps to obtain satisfaction of their claim by exercising the lien.	380 381 382 383 384	<b>Loading Port</b>	464
(b) <i>Security.</i> - In case of disputes over items payable by Charterers/Ship- pers/Consignees, the interested party shall have an option of providing a letter of guarantee issued by a first class bank, in which event Owners not to exercise lien on cargo for such items.	385 386 387 388	(a) <i>Before Vessel's arrival.</i> - If the Vessel cannot reach the loading port by reason of ice when she is ready to proceed from her last port, or at any time during the voyage, or on her arrival, or if frost sets in after her arrival, the Master - for fear of Vessel being frozen in - is at liberty to leave without cargo; in such cases this Charter shall be null and void.	465 466 467 468 469
<b>43. Responsibilities and immunities</b>	389	(b) <i>During loading.</i> - If during loading the Master - for fear of Vessel being frozen in - deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to any other port with option of completing cargo for Owners' own account to any port or ports including the port of discharge. Any part cargo thus loaded under this Charter to be forwarded to destination at Vessel's expense against payment of the agreed freight, provided that no extra expenses be thereby caused to Consignees, freight being paid on quantity delivered (in proportion if lump sum), all other conditions as per Charter.	470 471 472 473 474 475 476 477 478
(a) <i>International Rules.</i> - Provisions of the International Convention for the Unification of certain Rules relating to Bills of Lading signed at Brussels on 25th August 1924 (the 'Hague Rules'), shall apply to this Charter and to any Bill of Lading issued hereunder, the term 'Carrier', as used in these Rules, being taken to mean 'Owners' as party to this Charter. In respect of shipments to which national enactments of the said Rules are compulsorily applicable, provisions of such enactments shall prevail.	390 391 392 393 394 395 396	(c) <i>Loading at more than one port.</i> - In case of more than one loading port, and if one or more of the ports are closed by ice, the Master or Owners to be at liberty either to load a part cargo at the open port and fill up elsewhere for Owners' own account as under Sub-clause (b) or to declare the Charter null and void unless Charterers agree to load full cargo at the open port.	479 480 481 482 483
In trades where the above Convention as amended by the Protocol dated Brussels, 23rd February 1968 (the 'Hague-Visby Rules'), is compulsorily applicable, provisions of the Hague-Visby Rules shall apply.	397 398 399	<b>Voyage and Discharging Port</b>	484
(b) <i>Period of responsibility.</i> - Owners shall not be liable for loss of or damage to the cargo, howsoever arising, prior to loading into and after discharge from the Vessel.	400 401 402	(d) <i>Before Vessel's arrival.</i> - Should ice prevent the Vessel from reaching the port of discharge, Consignees shall have the option of keeping the Vessel waiting until the reopening of navigation and paying demurrage, or of ordering the Vessel to a safe and immediately accessible port where she can safely discharge without risk of detention by ice. Such orders to be given within 48 hours after Owners or Master have given notice to Charterers of impossibility of reaching port of destination.	485 486 487 488 489 490 491
(c) <i>Deck cargo and live animals.</i> - If shipment of deck cargo and/or live animals agreed, same to be carried at Charterers' risk. Deck cargo shall be secured under supervision of the Master.	403 404 405	(e) <i>During discharge.</i> - If during discharging the Master - for fear of Vessel being frozen in - deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to the nearest safe and accessible port. Such port to be nominated by Charterers/Consignees as soon as possible, but not later than 24 running hours, Sundays and holidays excluded, of receipt of Owners' request for nomination of a substitute discharging port, failing which the Master will himself choose such port.	492 493 494 495 496 497 498
(d) <i>General exemptions.</i> - Unless otherwise expressly provided in this Charter, neither party shall be responsible for any loss or damage or delay or failure in performance hereunder resulting from elements of nature; or from war, civil commotion, riot; or from act of state or of any ruling power; or from any unforeseeable event which cannot be avoided or guarded against, whether on land or at sea.	406 407 408 409 410 411	(f) <i>Discharge at substitute port.</i> - On delivery of the cargo at such port, all conditions of the Bill of Lading shall apply and Owners shall receive the same freight as if the Vessel had discharged at the original port of destination except that if the distance to the substitute port exceeds 100 nautical miles, freight on the cargo delivered at that port to be increased in proportion.	499 500 501 502 503 504
<b>44. Charterers' stevedores</b>	412	<b>48. War risks (Voywar 1950)</b>	505
Where handling of the cargo is performed by stevedores appointed by Charterers or their agents, Master is to supervise the work performed by stevedores and to instruct them properly.	413 414 415	(1) In these Clauses "war risks" shall include any blockade or any action which is announced as a blockade by any Government or by any belligerent or by any organized body, sabotage, piracy, and any actual or threatened war, hostilities, warlike operations, civil war, civil commotion, or revolution.	506 507 508 509
Should the stevedores refuse to follow his instructions, Master to protest to them in writing and to advise Charterers immediately thereof, disclaiming Owners' responsibility for safety of the cargo so mishandled.	416 417 418	(2) If at any time before the Vessel commences loading, it appears that performance of the contract will subject the Vessel or her Master and crew or her cargo to war risks at any stage of the adventure, the Owners shall be entitled by letter or telegram despatched to the Charterers, to cancel this Charter.	510 511 512 513 514
<b>45. Sub-chartering</b>	419	(3) The Master shall not be required to load cargo or to continue loading or to proceed on or to sign Bill(s) of Lading for any adventure on which or any port at which it appears that the Vessel, her Master and crew or her cargo will be subjected to war risks. In the event of the exercise by the Master of his right under this Clause after part or full cargo has been loaded, the Master shall be at liberty either to discharge such cargo at the loading port or to proceed therewith. In the latter case the Vessel shall have liberty to carry other cargo for Owners' benefit and accordingly to proceed to and load or discharge such other cargo at any other port or ports whatsoever, backwards or forwards, although in a contrary direction to or out of or beyond the ordinary route. In the event of the Master electing to proceed with part cargo under this Clause freight shall in any case be payable on the quantity delivered.	515 516 517 518 519 520 521 522 523 524 525 526 527
Charterers may, under advice to Owners, sub-charter the Vessel, but shall always remain responsible to Owners for due fulfillment of this Charter and shall warrant that such sub-chartering will not restrict the Vessel in her future trading.	420 421 422 423	(4) If at the time the Master elects to proceed with part or full cargo under Clause 3, or after the Vessel has left the loading port, or the last of the loading ports if more than one, it appears that further performance of the contract will subject the Vessel, her Master and crew or her cargo, to war risks, the cargo shall be discharged, or if the discharge has been commenced shall be completed, at any safe port in vicinity of the port of discharge as	528 529 530 531 532 533
<b>46. Strike etc.</b>	424		
(a) <i>General principle.</i> - Neither Charterers nor Owners shall be responsible for the consequences of strike or lock-out preventing or delaying the fulfillment of any obligation under this contract.	425 426 427		
(b) <i>Loading port.</i> - In the event of strike or lock-out affecting the loading of cargo, or any part of it, when the Vessel is ready to proceed from her last port or at any time during the voyage to the port or ports of loading or after her arrival there, Owners may ask Charterers to declare that they agree to count the laytime as if there were no such hindrance. Unless Charterers have given such declaration in writing (by telegram, if necessary) within 24 hours, Owners shall have the option of cancelling this Charter. If part cargo has already been loaded, the Vessel must carry it to the port of discharge (freight payable on loaded quantity only) having liberty to complete with other cargo on the way for Owners' own account.	428 429 430 431 432 433 434 435 436 437		
(c) <i>Anticipated strike etc.</i> - In the event of strike or lock-out which can reasonably be expected - before the loading has commenced - to affect the discharge of cargo, Owners are at liberty to cancel this Charter unless Charterers declare (within 24 hours of receipt of Owners' notification of intended cancellation) that they agree to count the laytime at port of discharge as if there were no such hindrance, without prejudice to the Consignees' right of ordering the Vessel to a substitute port of discharge in accordance with Sub-clause (d). In the said 24 hours time for loading does not count.	438 439 440 441 442 443 444 445 446		
(d) <i>Discharging port.</i> - In the event of strike or lock-out affecting the discharge of cargo on or after Vessel's arrival at or off the port of discharge, Consignees shall have the option of keeping the Vessel waiting until such strike or lock-out is at an end against paying half demurrage after expiration	447 448 449 450		



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may be ordered by the Charterers. If no such orders shall be received from the Charterers within 48 hours after the Owners have despatched a request by telegram to the Charterers for the nomination of a substitute discharging port, the Owners shall be at liberty to discharge the cargo at any safe port which they may, in their discretion, decide on and such discharge shall be deemed to be due fulfilment of the contract of affreightment. In the event of cargo being discharged at any such other port, the Owners shall be entitled to freight as if the discharge had been effected at the port or ports named in the Bill(s) of Lading, or to which the Vessel may have been ordered pursuant thereto.	534 535 536 537 538 539 540 541 542 543	prevailing there.	615
<b>51. Brokerage</b>	616		
Brokerage upon the freight and deadfreight shall be paid by Owners and shall be deemed to be earned by Brokers upon shipment of cargo.	617 618		
(5) (a) The Vessel shall have liberty to comply with any directions or recommendations as to loading, departure, arrival, routes, ports of call, stoppages, destination, zones, waters, discharges, delivery or in any other wise whatsoever (including any direction or recommendation not to go to the port of destination or to delay proceeding thereto or to proceed to some other port) given by any Government or by any belligerent or by any organized body engaged in civil war, hostilities or warlike operations or by any person or body acting or purporting to act as or with the authority of any Government or belligerent or of any such organized body or by any committee or person having under the terms of the war risks insurance on the Vessel, the right to give any such directions or recommendations. If, by reason of or in compliance with any such direction or recommendation, anything is done or is not done, such shall not be deemed a deviation.	544 545 546 547 548 549 550 551 552 553 554 555 556		
(b) If, by reason of or in compliance with any such directions or recommendations, the Vessel does not proceed to the port or ports named in the Bill(s) of Lading or to which she may have been ordered pursuant thereto, the Vessel may proceed to any port as directed or recommended or to any safe port which the Owners in their discretion may decide on and there discharge the cargo. Such discharge shall be deemed to be due fulfilment of the contract of affreightment and the Owners shall be entitled to freight as if discharge had been effected at the port or ports named in the Bill(s) of Lading or to which the Vessel may have been ordered pursuant thereto.	557 558 559 560 561 562 563 564 565		
(6) All extra expenses (including insurance costs) involved in discharging cargo at the loading port or in reaching or discharging the cargo at any port as provided in Clauses 4 and 5 (b) hereof shall be paid by the Charterers and/or cargo owners, and the Owners shall have a lien on the cargo for all moneys due under these Clauses.	566 567 568 569 570		
<b>49. General average, New Jason and Both-to-Blame Collision Clauses</b>	571		
General average shall be adjusted in accordance with the York- Antwerp Rules 1974, or any subsequent modification thereof, and as to matters not provided for by these Rules - in accordance with the law and practice prevailing at the place where the adjustment is drawn up.	572 573 574 575		
Owners shall have the right to decide the place where the adjustment will be drawn up and to appoint the average adjuster.	576 577		
If the adjustment of the General Average or the liability for any collision in which the vessel is involved while performing the voyage under this Charter Party falls to be determined in accordance with the law and practice of the United States of America, the following clauses shall apply:	578 579 580 581		
<b>New Jason Clause</b>	582		
In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Carrier is not responsible, by statute, contract or otherwise, the goods, Shippers, Consignees or owners of the goods shall contribute with the Carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods.	583 584 585 586 587 588 589 590		
If a salvaging ship is owned or operated by the Carrier, salvage shall be paid for as fully as if the said salvaging ship or ships belonged to strangers. Such deposit as the Carrier or his agents may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, Shippers, Consignees or owners of the goods to the Carrier before delivery.	591 592 593 594 595 596		
<b>Both-to-Blame Collision Clause</b>	597		
If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the Master, Mariner, Pilot or the servants of the Carrier in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying ship or her Owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or non-carrying ship or her Owners to the owners of said cargo and set-off, recouped or recovered by the other or non-carrying ship or her Owners as part of their claim against the carrying Vessel or Carrier. The foregoing provisions shall also apply where the Owners, operators or those in charge of any ship or ships or objects other than, or in addition to, the colliding ships or objects are at fault in respect of a collision or contact.	598 599 600 601 602 603 604 605 606 607 608 609 610		
<b>50. Arbitration</b>	611		
Any dispute arising under this Charter shall be referred to arbitration at the place and before the arbitration tribunal indicated in Cl. 15 in accordance with the procedure and (unless otherwise agreed) with the substantive law	612 613 614		

Issued Nov. 5, 1964  
 Amended Jul. 13, 1971  
 Amended Jul. 18, 1974  
 Amended Dec. 11, 1991  
 Amended Mar. 1, 1995

The Documentary Committee of The Japan Shipping Exchange, Inc.  
**BEIZAI (AMERICAN LOGS/LUMBER) CHARTER PARTY**

1. Place and Date		Code Name "BEIZAI 1991" PART I	
2.1 Owners/Chartered Owners/Disponent Owners		2.2 Charterers	
3.1 Vessel's name		3.5 GRT/NRT	
3.2 Flag		3.6 DWT on Summer load line (abt.)	
3.3 When built	3.4 Class	3.7 Bale/Grain capacity (abt.)	
4. Present position	5. Expected ready to load	6. Laydays/Cancelling date (Cl.18)	
7. Port(s) or Place(s) of loading (Cl.1)			
8. Port(s) or Place(s) of discharging (Cl.1)			
9.1 Notice of Readiness (load.)(Cl.5)		9.2 Notice of Readiness (disch.)(Cl.5)	
10. Cargo and quantity (Cl.1)			
11. Freight rate and method of payment, currency, etc. (Cl.3)			
12.1 Total laytime for load. and disch. (Cl.4)		12.2 Separate laytime for (Cl.4) i) load. ii) disch.	
13. Demurrage rate (Cl.8)	14. Despatch money (Cl.8)	15. Days on demurrage (Cl.17)	
16. General Average (Cl.26)		17. Place of Arbitration (optional)(Cl.31)	
18. Shipbroker and brokerage (Cl.28)			
19. Numbers of additional clauses attached , if any		20. Original Charter Party (ies) being made, mutually signed and possessed by	

It is mutually agreed that this Contract shall be performed subject to the conditions in this Charter Party which shall include Part I as well as Part II. In the event of conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict but no further.

Signature (Owners)

Signature (Charterers)

<b>1. Preamble</b>	<b>1</b>	stanchions, lashing wire, chains and any other usual materials	<b>89</b>
It is agreed between the party mentioned in Box 2.1 as Owners, Chartered Owners or Disponent Owners (hereinafter referred to as “the Owners”) of the Vessel named in Box 3.1 with particulars stated in Boxes 3.2 - 3.7, now in position as stated in Box 4 and expected ready to load under this Charter about the date as described in Box 5, and the party mentioned in Box 2.2 as Charterers (hereinafter referred to as “the Charterers”) that the Vessel shall, with all convenient speed, sail and proceed to the loading port or place indicated in Box 7 or so near thereto as she may safely get and lie always afloat, and there load, with her own tackle, a full and complete or part cargo, inclusive of deck load, of Logs and/or Lumber as described in Box 10, which the Charterers bind themselves to load, and being so loaded the Vessel shall, with all convenient speed, proceed to the discharging port or place indicated in Box 8 or so near thereto as she may safely get and lie always afloat and there deliver the said cargo in the customary manner, as ordered.	<b>2</b> <b>3</b> <b>4</b> <b>5</b> <b>6</b> <b>7</b> <b>8</b> <b>9</b> <b>10</b> <b>11</b> <b>12</b> <b>13</b> <b>14</b> <b>15</b> <b>16</b> <b>17</b> <b>18</b>	for deck cargo loading at all times and, if required, supply light for night work on board free of expenses to the Charterers.	<b>90</b> <b>91</b>
<b>2. Rotation</b>	<b>19</b>	<b>10. Seaworthy trim</b>	<b>92</b>
The loading or discharging ports shall be in geographical rotation.	<b>20</b>	The Vessel shall be always kept in seaworthy trim at the Master’s discretion during her sailing and/or shifting between port and port or from berth to berth at both ends. Time and expenses incurred thereby shall be for the Charterers’ account.	<b>93</b> <b>94</b> <b>95</b> <b>96</b>
<b>3. Freight</b>	<b>21</b>	<b>11. Overtime</b>	<b>97</b>
Freight shall be prepaid by the Charterers as specified in Box 11 in cash, without discount and non-returnable. Freight shall be deemed earned upon completion of loading, the Vessel and/or cargo lost or not lost.	<b>22</b> <b>23</b> <b>24</b> <b>25</b>	Overtime for loading and discharging shall be for account of the party ordering the same. If overtime shall be ordered by Port Authorities or any other Governmental Agencies, the Charterers shall pay extra expenses incurred. The officers’ and crew’s overtime charges shall be always paid by the Owners.	<b>98</b> <b>99</b> <b>100</b> <b>101</b> <b>102</b>
<b>4. Laytime</b>	<b>26</b>	<b>12. Charges</b>	<b>103</b>
(a) <i>Total laytime for loading and discharging</i>	<b>27</b>	Lighterage, towage for raft, terminal service charges, handling charges, and such wharfages and other dues and taxes as are charged against cargo, if any, shall be for the Charterers’ account.	<b>104</b> <b>105</b> <b>106</b> <b>107</b>
The cargo shall be loaded, stowed, lashed, unlash, trimmed and discharged within weather working days of 24 consecutive hours as stated in Box 12.1. Sundays and Holidays excepted, even if used at the loading port(s), and at the discharging port(s) Sundays and Holidays excepted unless used, if used, actual working time shall count as laytime. Setting up and down stanchions and catwalk, and putting dunnage shall count as laytime.	<b>28</b> <b>29</b> <b>30</b> <b>31</b> <b>32</b> <b>33</b> <b>34</b> <b>35</b>	<b>13. Deck Cargo</b>	<b>108</b>
(b) <i>Separate laytime for loading and discharging</i>	<b>36</b>	The Owners shall load cargo on deck at the Charterers’ risk within the limit of the Vessel’s seaworthiness, in which case the Owners shall not be responsible for wash away and/or any other damage to deck cargo.	<b>109</b> <b>110</b> <b>111</b> <b>112</b>
1) The cargo shall be loaded, stowed, trimmed and lashed at the average rate as indicated in Box 12.2 i), per weather working day of 24 consecutive hours, Sundays and Holidays excepted, even if used.	<b>37</b> <b>38</b> <b>39</b> <b>40</b> <b>41</b>	<b>14. Supercargo</b>	<b>113</b>
2) The cargo shall be unlash and discharged at the average rate as indicated in Box 12.2 ii), per weather working day of 24 consecutive hours, Sundays and Holidays excepted unless used, if used, actual working time shall count as laytime.	<b>42</b> <b>43</b> <b>44</b> <b>45</b>	Supercargo, if necessary, shall be appointed by the Charterers at their risks and expenses.	<b>114</b> <b>115</b>
3) Setting up and down stanchions and catwalk, and putting dunnage shall count as laytime.	<b>46</b> <b>47</b>	<b>15. Separation</b>	<b>116</b>
4) Laytime for loading and discharging shall be non-reversible.	<b>48</b> <b>49</b>	Separation of the cargo at the port of loading, if required by the Charterers or their agents, shall be for the Charterers’ account, and time used thereby shall count as laytime.	<b>117</b> <b>118</b> <b>119</b>
<b>5. Commencement of laytime</b>	<b>50</b>	<b>16. Fumigation of logs</b>	<b>120</b>
1) Notice of Readiness at the loading or discharging port shall be given to the Charterers or their nominees stated in Box 9.1 or Box 9.2 respectively.	<b>51</b> <b>52</b> <b>53</b>	The Owners agree to fumigate logs in holds if so required by the Charterers, provided weather conditions and the Vessel’s seaworthiness allow. The time so used shall count as laytime and the expenses including shifting charge, landing, lodging and boarding expenses of the Vessel’s officers and crew and risks incurred thereby shall be for the Charterers’ account.	<b>121</b> <b>122</b> <b>123</b> <b>124</b> <b>125</b> <b>126</b>
2) Laytime shall commence at 1 p.m. if notice of readiness to load or discharge is given at or before noon and at 8 a.m. next working day if notice given at or before 5 p.m., whether in berth or not.	<b>54</b> <b>55</b> <b>56</b> <b>57</b>	<b>17. Days on Demurrage</b>	<b>127</b>
3) Laytime shall commence at 1 p.m. next working day, if notice of readiness to load or discharge is given on Sunday or Holiday, and after 5 p.m. on Saturday, whether in berth or not.	<b>58</b> <b>59</b> <b>60</b> <b>61</b>	Days of 24 running hours on demurrage as agreed in Box 15 for loading shall be allowed the Charterers at loading port(s). Should the Charterers be unable to load within the period, the Vessel shall have liberty to sail with the cargo then on board, the Charterers paying the dead freight and demurrage incurred.	<b>128</b> <b>129</b> <b>130</b> <b>131</b> <b>132</b>
4) If loading or discharging commences earlier, time shall count from actual commencement.	<b>62</b>	<b>18. Laytime and Cancelling Date</b>	<b>133</b>
<b>6. Time lost in waiting for berth</b>	<b>63</b>	Laytime shall not commence before the laydays date as stated in Box 6.	<b>134</b>
Time lost in waiting for berth, whether in or off port, shall count as laytime, the Vessel being in free pratique and ready in every respect to load or discharge.	<b>64</b> <b>65</b> <b>66</b>	Should the Vessel not be ready to load (whether in berth or not) by noon on the cancelling date as stated in Box 6, the Charterers shall have the option of cancelling this Charter, such option shall be declared, if demanded, at least 48 hours before the Vessel’s expected arrival at port of loading.	<b>135</b> <b>136</b> <b>137</b> <b>138</b> <b>139</b> <b>140</b>
<b>7. Commencement of Laytime at second and subsequent ports</b>	<b>67</b>	<b>19. The Owners’ Responsibility and Exemption</b>	<b>141</b>
Laytime at second and subsequent loading or discharging ports shall commence upon the Vessel’s arrival at port or usual waiting place. If the Vessel arrives at port or usual waiting place after 5 p.m., laytime shall commence at 8 a.m. on next working day unless sooner commenced.	<b>68</b> <b>69</b> <b>70</b> <b>71</b> <b>72</b>	The Owners shall, before and at the beginning of the voyage, exercise due diligence to make the Vessel seaworthy and properly manned, equipped and supplied and to make the holds and all other parts of the Vessel in which cargo is carried fit and safe for its reception, carriage and preservation. The Owners shall properly and carefully handle, carry, keep and care for the cargo. The Owners shall not be liable for loss of or damage to the cargo arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the Owners to make the Vessel seaworthy, and to secure that the Vessel is properly manned, equipped, and supplied, and to make the holds and all other parts of the Vessel in which cargo is carried fit and safe for its reception, carriage and preservation.	<b>142</b> <b>143</b> <b>144</b> <b>145</b> <b>146</b> <b>147</b> <b>148</b> <b>149</b> <b>150</b> <b>151</b> <b>152</b> <b>153</b> <b>154</b> <b>155</b> <b>156</b> <b>157</b> <b>158</b> <b>159</b> <b>160</b> <b>161</b> <b>162</b> <b>163</b> <b>164</b> <b>165</b> <b>166</b> <b>167</b> <b>168</b> <b>169</b> <b>170</b> <b>171</b> <b>172</b> <b>173</b> <b>174</b> <b>175</b>
<b>8. Demurrage, Despatch Money</b>	<b>73</b>	The Owners shall not be responsible for loss of or damage to the cargo arising or resulting from: act, neglect, or default of the Master, crew, pilot, or the servants of the Owners in the navigation or in the management of the Vessel; fire, unless caused by the actual fault or privity of the Owners; perils, dangers and accidents of the sea or other navigable waters; act of God; act of war; act of public enemies; arrest or restraint of princes, rulers or people, or seizure under legal process; quarantine restrictions; act or omission of the Charterers or of the shippers or owners of the cargo, their agents or representatives; strikes or lock-outs or stoppage or restraint of labor from whatever cause, whether partial or general (provided, that nothing herein contained shall be construed to relieve the Owners from responsibility for their own acts); riots and civil commotions; saving or attempting to save life or property at sea; wastage in bulk or weight or any other loss or damage arising from inherent defect, quality or vice of the cargo; insufficiency of packing; insufficiency or inadequacy or mixture of marks; latent defects not discoverable by due diligence; any other cause arising without the actual fault or privity of the Owners, or without the fault of the agents or servants of the Owners. The Owners shall not be	<b>173</b> <b>174</b> <b>175</b>
Demurrage shall be paid to the Owners at the rate as agreed in Box 13 per day of 24 running hours or pro rata for any part thereof, payable day by day, for all time used in excess of laytime at loading or discharging port(s). Despatch Money shall be paid to the Charterers at the rate as agreed in Box 14 per day of 24 running hours or pro rata for any part thereof for laytime saved at loading or discharging port (s).	<b>74</b> <b>75</b> <b>76</b> <b>77</b> <b>78</b> <b>79</b> <b>80</b> <b>81</b>		
<b>9. Free In and Out</b>	<b>82</b>		
The Charterers shall load, stow, lash, unlash, trim and discharge the cargo, and set up and down stanchions and catwalk, and put dunnage, free of risks and expenses to the Owners. The Charterers shall have the liberty of working all available hatches. The Vessel shall provide motive power, winches, gins and falls,	<b>83</b> <b>84</b> <b>85</b> <b>86</b> <b>87</b> <b>88</b>		

responsible for split, chafing and/or any damage unless caused by the negligence or default of the Master or crew.	176 177	account.	256
<b>20. Stevedore Damage</b>	<b>178</b>	If there is a strike or lock-out interfering with the discharge of the cargo at the time of the Vessel's arrival at or off the port(s) of discharge, or occurring after the Vessel's arrival, the Charterers shall have the option of keeping the Vessel waiting until such strike or lock-out is at an end against paying half demurrage for the time the Vessel has been delayed, or of ordering the Vessel to nearby safe port(s) where she can safely discharge her cargo without risk of being detained by strike or lock-out: such option shall be declared within 36 hours after the arrival at or off the port(s) of discharge or the subsequent occurrence of the strike or lock-out. On delivery of the cargo at such port(s), all conditions of this Charter Party and of the Bill of Lading shall apply and the Vessel shall receive the same freight as if she had discharged at the original port(s) of destination, except that if the additional sailing distance exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port(s) shall be increased in proportion.	257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273
<b>21. Deviation</b>	<b>184</b>	<b>31. Arbitration</b>	<b>274</b>
The Vessel shall have liberty to sail without pilots, to tow and to be towed and to assist vessels in all situations, to deviate for the purpose of saving life and/or property, and also to call at any port(s) in any order for any other reasonable purpose.	185 186 187 188	Unless otherwise indicated in Box 17, any dispute arising from this Charter shall be submitted to arbitration held in Tokyo by the Tokyo Maritime Arbitration Commission (TOMAC) of The Japan Shipping Exchange, Inc., in accordance with the Rules of TOMAC and any amendment thereto, and the award given by the arbitrators shall be final and binding on both parties.	275 276 277 278 279 280
<b>22. P&amp;I Bunker Deviation Clause</b>	<b>189</b>	<b>32. War Clause</b>	<b>281</b>
The Vessel shall have the liberty as part of the contract voyage to proceed to any port(s) at which bunker oil is available for the purpose of bunkering at any stage of the voyage whatsoever and whether such ports are on or off the direct and/or customary route(s) between any of the ports of loading or discharge named in this Charter Party and may there take oil bunkers in any quantity in the discretion of the Owners even to the full capacity of bunker tanks and deep tanks and any other compartment in which oil can be carried, whether such amount is or is not required for the chartered voyage.	190 191 192 193 194 195 196 197 198 199	If the nation under whose flag the Vessel sails should be engaged in war and the safe navigation of the Vessel should thereby be endangered either party shall have the option of cancelling this Charter, and if so cancelled, cargo already shipped shall be discharged either at the port(s) of loading or at the nearest safe place at the risks and expenses of the Charterers. If owing to outbreak of hostilities the cargo loaded or to be loaded under this Charter or part thereof become contraband of war whether absolute or conditional or liable to confiscation or detention according to international law or the proclamation of any of the belligerent powers, each party shall have the option of cancelling this Contract as far as such cargo is concerned, and contraband cargo already loaded shall be then discharged either at the port(s) of loading or at the nearest safe place at the expenses of the Charterers. The Owners shall have the right to fill up with other cargo instead of the contraband. Should any port(s) where the Vessel has to load under this Charter be blockaded the Charter shall be null and void with regard to the cargo to be shipped at such port(s). No Bills of Lading shall be signed for any blockaded port, and if the port(s) of destination be declared blockaded after Bills of Lading have been signed, the Owners shall discharge the cargo either at the port(s) of loading, against payment of the expenses of discharge, if the Vessel has not sailed thence or, if she sailed, at any safe port(s) on the way as ordered by the Charterers or if no order is given at the nearest safe place against payment of full freight.	282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308
<b>23. Lien</b>	<b>200</b>	<b>33. Both-to-Blame Collision Clause</b>	<b>309</b>
The Owners shall have a lien on the cargo for all freight and all other expenses in relation to the transport, deadfreight, demurrage, damages for detention, general average, and salvage. The Charterers shall remain responsible for above items to such extent only as the Owners have been unable to obtain payment thereof by exercising the lien on the cargo.	201 202 203 204 205 206	If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the Master, mariner, pilot or the servants of the Owners in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Owners against all loss or liability to the other or non-carrying ship or her owners insofar as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of the said cargo, paid or payable by the other or non-carrying ship or her owners to the owners of said cargo and set off, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying Vessel or the Owners. The foregoing provisions shall also apply where the owners, operators or those in charge of any ship(s) or objects other than, or in addition to, the colliding ships or objects are at fault in respect to a collision or contact.	310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325
<b>24. Measurement and Bills of Lading quantity</b>	<b>207</b>	<b>34. New Jason Clause</b>	<b>326</b>
The cargo shall be measured by measurers arranged by the Charterers at their risks and expenses before loading. The Owners shall not employ tally clerks and not let the Vessel's crew tally at both ends. The Owners shall not be responsible for either the loaded quantity or the number of pieces stated in Bills of Lading.	208 209 210 211 212 213	In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the carrier is not responsible, by statute, contract or otherwise, the goods, shippers, consignees or owners of the goods shall contribute with the carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods. If a salving ship is owned or operated by the carrier, salvage shall be paid for as fully as if said salving ship or ships belonged to strangers. Such deposit as the carrier or his agents may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to the carrier before delivery.	327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342
<b>25. Bills of Lading</b>	<b>214</b>		
The Captain or any other person authorized by the Owners shall sign and issue Bills of Lading as presented without prejudice to this Charter Party.	215 216 217		
<b>26. General Average</b>	<b>218</b>		
General Average shall be adjusted and settled at the place indicated in Box 16, according to York-Antwerp Rules, 1994 or any modification thereof.	219 220 221		
<b>27. Agency</b>	<b>222</b>		
The Vessel shall be consigned to the Owners' agents both at loading and discharging ports.	223 224		
<b>28. Brokerage</b>	<b>225</b>		
A brokerage commission at the rate stated in Box 18 on the freight earned is due to the brokers mentioned in Box 18, by the Owners.	226 227 228		
<b>29. Sublet</b>	<b>229</b>		
The Charterers have the option to sublet the Vessel's cargo space to others. In this case, the Charterers are responsible for any and all consequences resulting therefrom and the Charterers shall notify the Owners of the sublessee as soon as possible.	230 231 232 233 234		
<b>30. Strike</b>	<b>235</b>		
Neither the Charterers nor the Owners shall be responsible for the consequences of any strikes or lock-outs preventing or delaying the fulfilment of any obligations under this Contract. If there is a strike or lock-out interfering with the loading of the cargo or any part of it at the time when the Vessel is ready to proceed or during her voyage to the port(s) of loading, the Master or the Owners may ask the Charterers to declare that they agree to reckon the laytime as if there were no strike or lock-out. Unless the Charterers have given such declaration within 24 hours after receipt of the request, the Owners shall have the option of cancelling this Contract. If such strike or lock-out is going on at or occurs after the Vessel's arrival at port(s) of loading, the Charterers have the right either to keep the Vessel waiting paying full demurrage or to cancel this Contract. Such cancellation shall be declared within 24 hours after the Vessel's arrival or 24 hours after the subsequent occurrence of such strike or lock-out. If part of the cargo has then already been loaded, the Owners must proceed with same if requested by the Charterers, (freight payable on loaded quantity only), having liberty to complete with other cargo on the way for their	236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255		

Issued Nov. 5, 1964  
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The Documentary Committee of The Japan Shipping Exchange, Inc.  
**BEIZAI (AMERICAN LOGS/LUMBER) CHARTER PARTY**

1. Place and Date		Code Name "BEIZAI 1991" PART I	
2.1 Owners/Chartered Owners/Disponent Owners		2.2 Charterers	
3.1 Vessel's name		3.5 GRT/NRT	
3.2 Flag		3.6 DWT on Summer load line (abt.)	
3.3 When built	3.4 Class	3.7 Bale/Grain capacity (abt.)	
4. Present position	5. Expected ready to load	6. Laydays/Cancelling date (Cl.18)	
7. Port(s) or Place(s) of loading (Cl.1)			
8. Port(s) or Place(s) of discharging (Cl.1)			
9.1 Notice of Readiness (load.)(Cl.5)		9.2 Notice of Readiness (disch.)(Cl.5)	
10. Cargo and quantity (Cl.1)			
11. Freight rate and method of payment, currency, etc. (Cl.3)			
12.1 Total laytime for load. and disch. (Cl.4)		12.2 Separate laytime for (Cl.4) i) load. _____ ii) disch. _____	
13. Demurrage rate (Cl.8)	14. Despatch money (Cl.8)	15. Days on demurrage (Cl.17)	
16. General Average (Cl.26)		17. Place of Arbitration (optional)(Cl.31)	
18. Shipbroker and brokerage (Cl.28)			
19. Numbers of additional clauses attached, if any		20. Original Charter Party (ies) being made, mutually signed and possessed by	

It is mutually agreed that this Contract shall be performed subject to the conditions in this Charter Party which shall include Part I as well as Part II. In the event of conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict but no further.

Signature (Owners)

Signature (Charterers)

<b>1. Preamble</b>	<b>1</b>	stanchions, lashing wire, chains and any other usual materials	<b>89</b>
It is agreed between the party mentioned in Box 2.1 as Owners, Chartered Owners or Disponent Owners (hereinafter referred to as "the Owners") of the Vessel named in Box 3.1 with particulars stated in Boxes 3.2 - 3.7, now in position as stated in Box 4 and expected ready to load under this Charter about the date as described in Box 5, and the party mentioned in Box 2.2 as Charterers (hereinafter referred to as "the Charterers") that the Vessel shall, with all convenient speed, sail and proceed to the loading port or place indicated in Box 7 or so near thereto as she may safely get and lie always afloat, and there load, with her own tackle, a full and complete or part cargo, inclusive of deck load, of Logs and/or Lumber as described in Box 10, which the Charterers bind themselves to load, and being so loaded the Vessel shall, with all convenient speed, proceed to the discharging port or place indicated in Box 8 or so near thereto as she may safely get and lie always afloat and there deliver the said cargo in the customary manner, as ordered.	<b>2</b> <b>3</b> <b>4</b> <b>5</b> <b>6</b> <b>7</b> <b>8</b> <b>9</b> <b>10</b> <b>11</b> <b>12</b> <b>13</b> <b>14</b> <b>15</b> <b>16</b> <b>17</b> <b>18</b>	for deck cargo loading at all times and, if required, supply light for night work on board free of expenses to the Charterers.	<b>90</b> <b>91</b>
<b>2. Rotation</b>	<b>19</b>	<b>10. Seaworthy trim</b>	<b>92</b>
The loading or discharging ports shall be in geographical rotation.	<b>20</b>	The Vessel shall be always kept in seaworthy trim at the Master's discretion during her sailing and/or shifting between port and port or from berth to berth at both ends. Time and expenses incurred thereby shall be for the Charterers' account.	<b>93</b> <b>94</b> <b>95</b> <b>96</b>
<b>3. Freight</b>	<b>21</b>	<b>11. Overtime</b>	<b>97</b>
Freight shall be prepaid by the Charterers as specified in Box 11 in cash, without discount and non-returnable. Freight shall be deemed earned upon completion of loading, the Vessel and/or cargo lost or not lost.	<b>22</b> <b>23</b> <b>24</b> <b>25</b>	Overtime for loading and discharging shall be for account of the party ordering the same. If overtime shall be ordered by Port Authorities or any other Governmental Agencies, the Charterers shall pay extra expenses incurred. The officers' and crew's overtime charges shall be always paid by the Owners.	<b>98</b> <b>99</b> <b>100</b> <b>101</b> <b>102</b>
<b>4. Laytime</b>	<b>26</b>	<b>12. Charges</b>	<b>103</b>
(a) <i>Total laytime for loading and discharging</i>	<b>27</b>	Lighterage, towage for raft, terminal service charges, handling charges, and such wharfages and other dues and taxes as are charged against cargo, if any, shall be for the Charterers' account.	<b>104</b> <b>105</b> <b>106</b> <b>107</b>
The cargo shall be loaded, stowed, lashed, unlash, trimmed and discharged within weather working days of 24 consecutive hours as stated in Box 12.1. Sundays and Holidays excepted, even if used at the loading port(s), and at the discharging port(s) Sundays and Holidays excepted unless used, if used, actual working time shall count as laytime. Setting up and down stanchions and catwalk, and putting dunnage shall count as laytime.	<b>28</b> <b>29</b> <b>30</b> <b>31</b> <b>32</b> <b>33</b> <b>34</b> <b>35</b>	<b>13. Deck Cargo</b>	<b>108</b>
(b) <i>Separate laytime for loading and discharging</i>	<b>36</b>	The Owners shall load cargo on deck at the Charterers' risk within the limit of the Vessel's seaworthiness, in which case the Owners shall not be responsible for wash away and/or any other damage to deck cargo.	<b>109</b> <b>110</b> <b>111</b> <b>112</b>
1) The cargo shall be loaded, stowed, trimmed and lashed at the average rate as indicated in Box 12.2 i), per weather working day of 24 consecutive hours, Sundays and Holidays excepted, even if used.	<b>37</b> <b>38</b> <b>39</b> <b>40</b>	<b>14. Supercargo</b>	<b>113</b>
2) The cargo shall be unlash and discharged at the average rate as indicated in Box 12.2 ii), per weather working day of 24 consecutive hours, Sundays and Holidays excepted unless used, if used, actual working time shall count as laytime.	<b>41</b> <b>42</b> <b>43</b> <b>44</b> <b>45</b>	Supercargo, if necessary, shall be appointed by the Charterers at their risks and expenses.	<b>114</b> <b>115</b>
3) Setting up and down stanchions and catwalk, and putting dunnage shall count as laytime.	<b>46</b> <b>47</b>	<b>15. Separation</b>	<b>116</b>
4) Laytime for loading and discharging shall be non-reversible.	<b>48</b> <b>49</b>	Separation of the cargo at the port of loading, if required by the Charterers or their agents, shall be for the Charterers' account, and time used thereby shall count as laytime.	<b>117</b> <b>118</b> <b>119</b>
<b>5. Commencement of laytime</b>	<b>50</b>	<b>16. Fumigation of logs</b>	<b>120</b>
1) Notice of Readiness at the loading or discharging port shall be given to the Charterers or their nominees stated in Box 9.1 or Box 9.2 respectively.	<b>51</b> <b>52</b> <b>53</b>	The Owners agree to fumigate logs in holds if so required by the Charterers, provided weather conditions and the Vessel's seaworthiness allow. The time so used shall count as laytime and the expenses including shifting charge, landing, lodging and boarding expenses of the Vessel's officers and crew and risks incurred thereby shall be for the Charterers' account.	<b>121</b> <b>122</b> <b>123</b> <b>124</b> <b>125</b> <b>126</b>
2) Laytime shall commence at 1 p.m. if notice of readiness to load or discharge is given at or before noon and at 8 a.m. next working day if notice given at or before 5 p.m., whether in berth or not.	<b>54</b> <b>55</b> <b>56</b> <b>57</b>	<b>17. Days on Demurrage</b>	<b>127</b>
3) Laytime shall commence at 1 p.m. next working day, if notice of readiness to load or discharge is given on Sunday or Holiday, and after 5 p.m. on Saturday, whether in berth or not.	<b>58</b> <b>59</b> <b>60</b>	Days of 24 running hours on demurrage as agreed in Box 15 for loading shall be allowed the Charterers at loading port(s). Should the Charterers be unable to load within the period, the Vessel shall have liberty to sail with the cargo then on board, the Charterers paying the dead freight and demurrage incurred.	<b>128</b> <b>129</b> <b>130</b> <b>131</b> <b>132</b>
4) If loading or discharging commences earlier, time shall count from actual commencement.	<b>61</b> <b>62</b>	<b>18. Laytime and Cancelling Date</b>	<b>133</b>
<b>6. Time lost in waiting for berth</b>	<b>63</b>	Laytime shall not commence before the laydays date as stated in Box 6.	<b>134</b>
Time lost in waiting for berth, whether in or off port, shall count as laytime, the Vessel being in free pratique and ready in every respect to load or discharge.	<b>64</b> <b>65</b> <b>66</b>	Should the Vessel not be ready to load (whether in berth or not) by noon on the cancelling date as stated in Box 6, the Charterers shall have the option of cancelling this Charter, such option shall be declared, if demanded, at least 48 hours before the Vessel's expected arrival at port of loading.	<b>135</b> <b>136</b> <b>137</b> <b>138</b> <b>139</b> <b>140</b>
<b>7. Commencement of Laytime at second and subsequent ports</b>	<b>67</b>	<b>19. The Owners' Responsibility and Exemption</b>	<b>141</b>
Laytime at second and subsequent loading or discharging ports shall commence upon the Vessel's arrival at port or usual waiting place. If the Vessel arrives at port or usual waiting place after 5 p.m., laytime shall commence at 8 a.m. on next working day unless sooner commenced.	<b>68</b> <b>69</b> <b>70</b> <b>71</b> <b>72</b>	The Owners shall, before and at the beginning of the voyage, exercise due diligence to make the Vessel seaworthy and properly manned, equipped and supplied and to make the holds and all other parts of the Vessel in which cargo is carried fit and safe for its reception, carriage and preservation. The Owners shall properly and carefully handle, carry, keep and care for the cargo. The Owners shall not be liable for loss of or damage to the cargo arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the Owners to make the Vessel seaworthy, and to secure that the Vessel is properly manned, equipped, and supplied, and to make the holds and all other parts of the Vessel in which cargo is carried fit and safe for its reception, carriage and preservation.	<b>142</b> <b>143</b> <b>144</b> <b>145</b> <b>146</b> <b>147</b> <b>148</b> <b>149</b> <b>150</b> <b>151</b> <b>152</b> <b>153</b> <b>154</b> <b>155</b> <b>156</b> <b>157</b> <b>158</b> <b>159</b> <b>160</b> <b>161</b> <b>162</b> <b>163</b> <b>164</b> <b>165</b> <b>166</b> <b>167</b> <b>168</b> <b>169</b> <b>170</b> <b>171</b> <b>172</b> <b>173</b> <b>174</b> <b>175</b>
<b>8. Demurrage, Despatch Money</b>	<b>73</b>	Demurrage shall be paid to the Owners at the rate as agreed in Box 13 per day of 24 running hours or pro rata for any part thereof, payable day by day, for all time used in excess of laytime at loading or discharging port(s). Despatch Money shall be paid to the Charterers at the rate as agreed in Box 14 per day of 24 running hours or pro rata for any part thereof for laytime saved at loading or discharging port (s).	<b>176</b> <b>177</b> <b>178</b> <b>179</b> <b>180</b> <b>181</b>
<b>9. Free In and Out</b>	<b>82</b>	The Charterers shall load, stow, lash, unlash, trim and discharge the cargo, and set up and down stanchions and catwalk, and put dunnage, free of risks and expenses to the Owners. The Charterers shall have the liberty of working all available hatches. The Vessel shall provide motive power, winches, gins and falls,	<b>182</b> <b>183</b> <b>184</b> <b>185</b> <b>186</b> <b>187</b> <b>188</b>



responsible for split, chafing and/or any damage unless caused by the negligence or default of the Master or crew.	176 177	account.	256
<b>20. Stevedore Damage</b>	178	If there is a strike or lock-out interfering with the discharge of the cargo at the time of the Vessel's arrival at or off the port(s) of discharge, or occurring after the Vessel's arrival, the Charterers shall have the option of keeping the Vessel waiting until such strike or lock-out is at an end against paying half demurrage for the time the Vessel has been delayed, or of ordering the Vessel to nearby safe port(s) where she can safely discharge her cargo without risk of being detained by strike or lock-out: such option shall be declared within 36 hours after the arrival at or off the port(s) of discharge or the subsequent occurrence of the strike or lock-out. On delivery of the cargo at such port(s), all conditions of this Charter Party and of the Bill of Lading shall apply and the Vessel shall receive the same freight as if she had discharged at the original port(s) of destination, except that if the additional sailing distance exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port(s) shall be increased in proportion.	257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273
<b>21. Deviation</b>	184	<b>31. Arbitration</b>	274
The Vessel shall have liberty to sail without pilots, to tow and to be towed and to assist vessels in all situations, to deviate for the purpose of saving life and/or property, and also to call at any port(s) in any order for any other reasonable purpose.	185 186 187 188	Unless otherwise indicated in Box 17, any dispute arising from this Charter shall be submitted to arbitration held in Tokyo by the Tokyo Maritime Arbitration Commission (TOMAC) of The Japan Shipping Exchange, Inc., in accordance with the Rules of TOMAC and any amendment thereto, and the award given by the arbitrators shall be final and binding on both parties.	275 276 277 278 279 280
<b>22. P&amp;I Bunker Deviation Clause</b>	189	<b>32. War Clause</b>	281
The Vessel shall have the liberty as part of the contract voyage to proceed to any port(s) at which bunker oil is available for the purpose of bunkering at any stage of the voyage whatsoever and whether such ports are on or off the direct and/or customary route(s) between any of the ports of loading or discharge named in this Charter Party and may there take oil bunkers in any quantity in the discretion of the Owners even to the full capacity of bunker tanks and deep tanks and any other compartment in which oil can be carried, whether such amount is or is not required for the chartered voyage.	190 191 192 193 194 195 196 197 198 199	If the nation under whose flag the Vessel sails should be engaged in war and the safe navigation of the Vessel should thereby be endangered either party shall have the option of cancelling this Charter, and if so cancelled, cargo already shipped shall be discharged either at the port(s) of loading or at the nearest safe place at the risks and expenses of the Charterers. If owing to outbreak of hostilities the cargo loaded or to be loaded under this Charter or part thereof become contraband of war whether absolute or conditional or liable to confiscation or detention according to international law or the proclamation of any of the belligerent powers, each party shall have the option of cancelling this Contract as far as such cargo is concerned, and contraband cargo already loaded shall be then discharged either at the port(s) of loading or at the nearest safe place at the expenses of the Charterers. The Owners shall have the right to fill up with other cargo instead of the contraband. Should any port(s) where the Vessel has to load under this Charter be blockaded the Charter shall be null and void with regard to the cargo to be shipped at such port(s). No Bills of Lading shall be signed for any blockaded port, and if the port(s) of destination be declared blockaded after Bills of Lading have been signed, the Owners shall discharge the cargo either at the port(s) of loading, against payment of the expenses of discharge, if the Vessel has not sailed thence or, if she sailed, at any safe port(s) on the way as ordered by the Charterers or if no order is given at the nearest safe place against payment of full freight.	282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308
<b>23. Lien</b>	200	<b>33. Both-to-Blame Collision Clause</b>	309
The Owners shall have a lien on the cargo for all freight and all other expenses in relation to the transport, deadfreight, demurrage, damages for detention, general average, and salvage. The Charterers shall remain responsible for above items to such extent only as the Owners have been unable to obtain payment thereof by exercising the lien on the cargo.	201 202 203 204 205 206	If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the Master, mariner, pilot or the servants of the Owners in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Owners against all loss or liability to the other or non-carrying ship or her owners insofar as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of the said cargo, paid or payable by the other or non-carrying ship or her owners to the owners of said cargo and set off, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying Vessel or the Owners. The foregoing provisions shall also apply where the owners, operators or those in charge of any ship(s) or objects other than, or in addition to, the colliding ships or objects are at fault in respect to a collision or contact.	310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325
<b>24. Measurement and Bills of Lading quantity</b>	207	<b>34. New Jason Clause</b>	326
The cargo shall be measured by measurers arranged by the Charterers at their risks and expenses before loading. The Owners shall not employ tally clerks and not let the Vessel's crew tally at both ends. The Owners shall not be responsible for either the loaded quantity or the number of pieces stated in Bills of Lading.	208 209 210 211 212 213	In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the carrier is not responsible, by statute, contract or otherwise, the goods, shippers, consignees or owners of the goods shall contribute with the carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods. If a salving ship is owned or operated by the carrier, salvage shall be paid for as fully as if said salving ship or ships belonged to strangers. Such deposit as the carrier or his agents may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to the carrier before delivery.	327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342
<b>25. Bills of Lading</b>	214		
The Captain or any other person authorized by the Owners shall sign and issue Bills of Lading as presented without prejudice to this Charter Party.	215 216 217		
<b>26. General Average</b>	218		
General Average shall be adjusted and settled at the place indicated in Box 16, according to York-Antwerp Rules, 1994 or any modification thereof.	219 220 221		
<b>27. Agency</b>	222		
The Vessel shall be consigned to the Owners' agents both at loading and discharging ports.	223 224		
<b>28. Brokerage</b>	225		
A brokerage commission at the rate stated in Box 18 on the freight earned is due to the brokers mentioned in Box 18, by the Owners.	226 227 228		
<b>29. Sublet</b>	229		
The Charterers have the option to sublet the Vessel's cargo space to others. In this case, the Charterers are responsible for any and all consequences resulting therefrom and the Charterers shall notify the Owners of the sublessee as soon as possible.	230 231 232 233 234		
<b>30. Strike</b>	235		
Neither the Charterers nor the Owners shall be responsible for the consequences of any strikes or lock-outs preventing or delaying the fulfilment of any obligations under this Contract. If there is a strike or lock-out interfering with the loading of the cargo or any part of it at the time when the Vessel is ready to proceed or during her voyage to the port(s) of loading, the Master or the Owners may ask the Charterers to declare that they agree to reckon the laytime as if there were no strike or lock-out. Unless the Charterers have given such declaration within 24 hours after receipt of the request, the Owners shall have the option of cancelling this Contract. If such strike or lock-out is going on at or occurs after the Vessel's arrival at port(s) of loading, the Charterers have the right either to keep the Vessel waiting paying full demurrage or to cancel this Contract. Such cancellation shall be declared within 24 hours after the Vessel's arrival or 24 hours after the subsequent occurrence of such strike or lock-out. If part of the cargo has then already been loaded, the Owners must proceed with same if requested by the Charterers, (freight payable on loaded quantity only), having liberty to complete with other cargo on the way for their	236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255		

Code Name: "AMWELSH 93"

Recommended by:  
The Baltic and International Maritime Council (BIMCO)  
The Federation of National Associations of  
Ship Brokers and Agents (FONASBA)



## AMERICANIZED WELSH COAL CHARTER<sup>©</sup>

Issued by the Association of Ship Brokers and Agents (U.S.A.), Inc.

New York - 1953; Amended 1979; Revised 1993

THIS CHARTER PARTY, made and concluded in	1
this day of 19	2
Between	3
	4
<u>Owners</u> of the (flag) Vessel	5
of , built (year) at (where)	6
of tons of 1000 kilos total deadweight on summer freeboard, inclusive of bunkers,	7
classed in and registered	8
at under No The Vessel's length overall is	9
freeboard is and beam is The Vessel's fully laden draft on summer	10
now and	11
	12
<u>Charterers</u>	13
of the city of	14
<b>1. <u>Loading Port(s)/Discharging Port(s)</u></b>	15
That the said Vessel being tight, staunch and strong, and in every way fit for the voyage, shall, with all	16
convenient speed, proceed to	17
	18
and there load, always afloat, and in the	19
customary manner from the Charterers, in such safe berth as they shall direct, a full and complete cargo	20
of coal tons of 2240 lbs/1000 kilos* % more or less in the Owners'	21
option; and being so loaded, shall therefrom proceed, with all convenient speed, to	22
or so near thereunto as she can safely get, and there deliver her cargo, as ordered	23
by the Charterers, where she can safely deliver it, always afloat, on having been paid freight at the rate of	24
US \$ per ton of 2240 lbs/1000 kilos* on bill of lading quantity.	25
*) Delete as appropriate	26
<b>2. <u>Freight Payment</u></b>	27
The FREIGHT shall be paid in	28
	29
	30



**3. Notices & Loading Port Order** 31

The Master shall give the Charterers (telegraphic address " ", 32  
Telex No , Fax No ) and days notice of the date of the 33  
Vessel's expected readiness to load, and approximate quantity of cargo required with the 34  
day notice. The Charterers shall be kept advised by any form of telecommunication of any alterations in 35  
that date, as and when known. The Charterers shall declare first or sole loading port on receipt of the 36  
Master's day notice, unless declared earlier. 37

**4. Discharging Port Orders** 38

The Master shall apply to the Charterers by any form of telecommunication for declaration of the first or 39  
sole discharging port 96 hours before the Vessel is due off/at 40  
and they are to declare same to the Master not later than 48 hours following 41  
receipt of the Master's application. 42

**5. Laydays/Cancelling** 43

Laytime for loading shall not commence before 0800 on the day of 44  
Should the Vessel's notice of readiness not have been tendered in accordance with Clause 6, before 1700 45  
on the day of , the Charterers shall have the option of cancelling this 46  
Charter Party, not later than one hour after the said notice has been tendered. The said cancelling date shall 47  
be extended by as many days (rounded to the nearest day) as the Charterers shall have failed to give load- 48  
ing port orders as provided in Clause 3 hereabove, without prejudice to the Owners' claim for detention. 49

If the Owners warrant that, despite the exercise of due diligence by the Owners, the Vessel will not be 50  
ready to tender notice of readiness by the cancelling date, and provided the Owners are able to state with 51  
reasonable certainty the date on which the Vessel will be ready, they may, at the earliest seven days before 52  
the Vessel is expected to sail for the port or place of loading, require the Charterers to declare whether or 53  
not they will cancel the Charter. Should the Charterers elect not to cancel, or should they fail to reply with- 54  
in seven days or by the cancelling date, whichever shall first occur, then the seventh day after the expected 55  
date of readiness for loading as notified by the Owners shall replace the original cancelling date. Should 56  
the Vessel be further delayed, the Owners shall be entitled to require further declarations of the Charterers 57  
in accordance with this Clause. 58

**6. Time Counting** 59

(a) Notice of the Vessel's readiness to load and discharge at the first or sole port shall be tendered in 60  
writing to the Charterers between 0800 and 1700 on Mondays to Fridays and between 0800 and 61  
1200 on Saturdays. Following tender of notice of readiness, laytime shall commence 12 hours 62  
thereafter, unless the Vessel's loading or discharging has sooner commenced. 63

Such notice of readiness shall be tendered when the Vessel is in the loading or discharging berth, 64  
if available, and is in all respects ready to load or discharge the cargo, unless the berth is not 65  
available on the Vessel's arrival, whereupon the Master may tender the said notice from a lay berth 66  
or anchorage within the port limits. 67

(b) If the Vessel is prevented from entering the port limits because the first or sole loading or 68  
discharging berth, or a lay berth or anchorage is not available, or on the order of the Charterers or 69

any competent official body or authority, and the Master warrants that the Vessel is physically ready in all respects to load or discharge, he may tender notice, by radio, if desired, from the usual anchorage outside the port limits, whether in free pratique or not, and/or whether customs cleared or not. If after entering the port limits the Vessel is found not to be ready, the time lost from the discovery thereof, until she is ready, shall not count as laytime, or time on demurrage.	70 71 72 73 74
(c) Once the loading or discharging berth becomes available laytime or time on demurrage shall cease until the Vessel is in the berth, and shifting expenses shall be for the Owners' account.	75 76
(d) <i>Subsequent Ports</i> - At second or subsequent ports of loading and/or discharging, laytime or time on demurrage shall resume counting from the Vessel's arrival in loading or discharging berth, if available, or if unavailable, from the arrival time within or outside the port limits, as provided in paragraph (a) supra.	77 78 79 80
<b>7. <u>Laytime</u></b>	81
(a) The Vessel shall be loaded at the average rate of _____ tons of 1000 kilos per day, or pro-rata for any part of a day, or within _____ running days, both of twenty-four consecutive hours, weather permitting, Sundays and Holidays excepted/included*, and discharged at the average rate of _____ tons of 1000 kilos per day, or pro-rata for any part of a day, or within _____ running days, both of twenty four consecutive hours, weather permitting, Sundays and Holidays excepted/included*.	82 83 84 85 86 87
<u>Days Purposes</u>	88
(b) Vessel shall be loaded and discharged within _____ days of twenty-four consecutive hours, weather permitting, Sundays and Holidays excepted/included* at loading, and excepted/included* at discharge.	89 90 91
(c) Time used in loading and discharging during excepted periods, if any, shall count as laytime.	92
<u>Non-reversible laytime</u>	93
(d) In cases of separate laytime for loading and discharging, laytime shall be non-reversible.	94
*) <i>Delete as appropriate</i>	95
<b>8. <u>Exceptions</u></b>	96
The Owners shall be bound before and at the beginning of the voyage to exercise due diligence to make the Vessel seaworthy, and to have her properly manned, equipped and supplied, and neither the Vessel, nor the Master, or Owners shall be, or shall be held liable for any loss of, or damage, or delay to the cargo for causes excepted by the Hague Rules, or the Hague-Visby Rules, where applicable.	97 98 99 100
Neither the Vessel, her Master or Owners, nor the Charterers shall, unless otherwise expressly provided in this Charter Party, be responsible for loss or damage to, or failure to supply, load, discharge or deliver the cargo resulting from: Act of God, act of war, act of public enemies, pirates or assailing thieves; arrest or restraint of princes, rulers or people; embargoes; seizure under legal process; provided bond is promptly furnished to release vessel or cargo; floods; frosts; fogs; fires; blockades; riots; insurrections; civil commotions; earthquakes; explosions; collisions; strandings and accidents of navigation; accidents at the mines or to machinery or to loading equipment; or any other causes beyond the Owners' or the	101 102 103 104 105 106 107

Charterers' control; always provided that such events directly affect the loading and/or discharging process of the Vessel, and its performance under this Charter Party.

**9. Strikes** 110

In the event of loss of time to the Vessel directly affecting the loading or discharging of this cargo, caused by a strike or lockout of any personnel connected with the production, mining, or any essential inland transport of the cargo to be loaded or discharged into/from this Vessel from point of origin, up to, and including the actual loading and discharging operations, or by any personnel essential to the actual loading and discharging of the cargo, half the laytime shall count during such periods, provided always that none of the aforementioned events did exist at the date of the charter party. If at any time during the continuance of such strikes or lockouts the Vessel goes on demurrage, said demurrage shall be paid at half the rate specified in Clause 10, hereunder, until such time as the strike or lockout terminates; thence full demurrage unless the Vessel was already on demurrage before the strike broke out, in which case full demurrage shall be paid for its entire period.

**10. Demurrage/Despatch** 121

Demurrage, if incurred, at loading and/or discharging port(s), shall be paid by the Charterers to the Owners at the rate of per day, or pro-rata for part of a day. Despatch money shall be paid by the Owners to the Charterers at half the demurrage rate for all laytime saved.

**11. Cost of Loading and Discharging** 125

The cargo shall be loaded, dumped, spout trimmed, and discharged by Charterers\*/Receivers\* stevedores free of risk and expense to the Vessel, under the supervision of the Master. Should the stevedores refuse to follow his instructions, the Master shall protest to them in writing and shall advise the Charterers immediately thereof.

**12. Overtime** 130

(a) Expenses 131

(i) All overtime expenses at loading and discharging ports shall be for account of the party ordering same. 132  
133

(ii) If overtime is ordered by port authorities or the party controlling the loading and/or discharging terminal or facility all overtime expenses shall be equally shared between the Owners and the Charterers\*/Receivers\*. 134  
135  
136

(iii) Overtime expenses for the Vessel's officers and crew shall always be for the Owners' account. 137  
138

(b) Time Counting 139

If overtime work ordered by the Owners be performed during periods excepted from laytime the actual time used shall count; if ordered by the Charterers/Receivers, the actual time used shall not count; if ordered by port authorities or the party controlling the loading and/or discharging terminal or facility half the actual time used shall count. 140  
141  
142  
143

*) <i>Delete as appropriate</i>	144
<b>13. <u>Opening &amp; Closing Hatches</u></b>	145
Opening and closing of hatches at commencement and completion of loading and discharging shall be for the Owners' account and time so used is not to count. All other opening and closing of hatches shall be for the Charterers' account and time so used shall count.	146 147 148
<b>14. <u>Seaworthy Trim</u></b>	149
Charterers shall leave the Vessel in seaworthy trim and with cargo on board safely stowed to Master's satisfaction between loading berths/ports and between discharging berths/ports, respectively; any expenses resulting therefrom shall be for Charterers' account and any time used shall count.	150 151 152
<b>15. <u>Shifting</u></b>	153
If more than one berth of loading and discharging has been agreed, and used, costs of shifting, including cost of bunkers used, shall be for the Charterers' account, time counting.	154 155
<b>16. <u>Lighterage</u></b>	156
Should the Vessel be ordered to discharge at a place where there is insufficient water for the Vessel to reach it in the first tide after her arrival there, without lightening and lie always afloat, laytime shall count as per Clause 6 at a safe anchorage or lightening place for similar size vessels bound for such a place, and any lighterage expenses incurred to enable her to reach the place of discharge shall be for the Charterers' account, any custom of the port to the contrary notwithstanding. Time occupied in proceeding from the lightening place to the discharging berth shall not count as laytime or time on demurrage.	157 158 159 160 161 162 163
<b>17. <u>Agents</u></b>	164
The Vessel shall be consigned to _____ agents at port(s) of loading, and to _____ agents at port(s) of discharge.	165 166
<b>18. <u>Extra Insurance on Cargo</u></b>	167
Any extra insurance on cargo, incurred owing to Vessel's age, class, flag, or ownership to be for Owners' account up to a maximum of _____ and may be deducted from the freight in the Charterers' option. The Charterers shall furnish evidence of payment supporting such deduction.	168 169 170
<b>19. <u>Stevedore Damage</u></b>	171
(a) Any damage caused by stevedores shall be settled directly between the Owners and the stevedores.	172 173

(b) \*In case the Owners are unsuccessful in obtaining compensation from the stevedores for damage 174  
for which they are legally liable, then the Charterers shall indemnify the Owners for any sums so 175  
due and unpaid. 176

\*) Sub-clause (b) is optional and shall apply unless deleted. 177

**20. Deviation** 178

Should the Vessel deviate to save or attempt to save life or property at sea, or make any reasonable 179  
deviation, the said deviation shall not be deemed to be an infringement or breach of this Charter Party, 180  
and the Owners shall not be liable for any loss or damage resulting therefrom provided, however, that if 181  
the deviation is for the purpose of loading or unloading cargo or passengers, it shall "prima facie", be 182  
regarded as unreasonable. 183

**21. Lien and Cesser** 184

The Charterers' liability under this Charter Party shall cease on cargo being shipped, except for payment 185  
of freight, deadfreight and demurrage, and except for all other matters provided for in this Charter Party 186  
where the Charterers' responsibility is specified. The Owners shall have a lien on the cargo for freight, 187  
deadfreight, demurrage and general average contribution due to them under this Charter Party. 188

**22. Bills of Lading** 189

The bills of lading shall be prepared in accordance with the dock or railway weight and shall be endorsed 190  
by the Master, agent or Owners, weight unknown, freight and all conditions as per this Charter, such bills 191  
of lading to be signed at the Charterers' or shippers' office within twenty four hours after the Vessel is 192  
loaded. The Master shall sign a certificate stating that the weight of the cargo loaded is in accordance 193  
with railway weight certificate. The Charterers are to hold the Owners harmless should any shortage 194  
occur. 195

**23. Grab Discharge** 196

No cargo shall be loaded in any cargo compartment inaccessible to reach by grabs. 197

**24. Protective clauses** 198

This Charter Party is subject to the following clauses all of which are also to be included in all bills of 199  
lading issued hereunder: 200

(a) "CLAUSE PARAMOUNT: This bill of lading shall have effect subject to the provisions of the 201  
Carriage of Goods by Sea Act of the United States, the Hague Rules, or the Hague-Visby Rules, 202  
as applicable, or such other similar national legislation as may mandatorily apply by virtue of origin 203  
or destination of the bills of lading, which shall be deemed to be incorporated herein and nothing 204  
herein contained shall be deemed a surrender by the carrier of any of its rights or immunities or 205  
an increase of any of its responsibilities or liabilities under said applicable Act. If any term of this 206  
bill of lading be repugnant to said applicable Act to any extent, such term shall be void to that 207  
extent, but no further." 208

and	209
(b) "NEW BOTH-TO-BLAME COLLISION CLAUSE: If the ship comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the master, mariner, pilot or the servants of the carrier in the navigation or in the management of the ship, the owners of the goods carried hereunder will indemnify the carrier against all loss or liability to the other or non-carrying ship or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said goods, paid or payable by the other or non-carrying ship or her owners to the owners of said goods and set off, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or carrier.	210 211 212 213 214 215 216 217 218
The foregoing provisions shall also apply where the owners, operators or those in charge of any ship or ships or objects other than, or in addition to, the colliding ships or objects are at fault in respect to a collision or contact".	219 220 221
and	222
(c) "NEW JASON CLAUSE: In the event of accident, danger, damage or disaster before or after commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequences of which, the carrier is not responsible, by statute, contract or otherwise, the goods, shippers, consignees or owners of the goods shall contribute with the carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred, and shall pay salvage and special charges incurred in respect of the goods.	223 224 225 226 227 228 229
If a salving ship is owned or operated by the carrier, salvage shall be paid for as fully as if such salving ship or ships belonged to strangers. Such deposit as the carrier or his agents may deem sufficient to cover the estimated contribution of the goods, and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to the carrier before delivery".	230 231 232 233 234
and	235
(d) "PROTECTION AND INDEMNITY BUNKERING CLAUSE: The Vessel in addition to all other liberties shall have liberty as part of the contract voyage and at any stage thereof to proceed to any port or ports whatsoever whether such ports are on or off the direct and/or customary route or routes to the ports of loading or discharge named in this Charter and there take oil bunkers in any quantity in the discretion of the Owners even to the full capacity of fuel tanks, deep tanks and any other compartment in which oil can be carried whether such amount is or is not required for the chartered voyage".	236 237 238 239 240 241 242
<b>25. <u>Ice Clause</u></b>	243
<i>Loading Port</i>	244
(a) If the Vessel cannot reach the loading port by reason of ice when she is ready to proceed from her last port, or at any time during the voyage, or on her arrival, or if frost sets in after her arrival, the Master - for fear of the Vessel being frozen in - is at liberty to leave without cargo; in such cases this Charter Party shall be null and void.	245 246 247 248

(b) If during loading, the Master, for fear of the Vessel being frozen in, deems it advisable to leave, 249  
he has the liberty to do so with what cargo he has on board and to proceed to any other port with 250  
option of completing cargo for the Owners' own account to any port or ports including the port 251  
of discharge. Any part cargo thus loaded under this Charter Party to be forwarded to destination 252  
at the Vessel's expense against payment of the agreed freight, provided that no extra expenses 253  
be thereby caused to the Consignees, freight being paid on quantity delivered (in proportion if 254  
lump sum), all other conditions as per Charter Party. 255

(c) In case of more than one loading port, and if one or more of the ports are closed by ice, the 256  
Master or Owners to be at liberty either to load the part cargo at the open port and fill up 257  
elsewhere for the Owners' own account as under sub-clause (b) or to declare the Charter Party 258  
null and void unless the Charterers agree to load full cargo at the open port. 259

Voyage and Discharging Port 260

(d) Should ice prevent the Vessel from reaching the port of discharge, the Charterers/Receivers shall 261  
have the option of keeping the Vessel waiting until the re-opening of navigation and paying 262  
demurrage or of ordering the Vessel to a safe and immediately accessible port where she can 263  
safely discharge without risk of detention by ice. Such orders to be given within 48 hours after 264  
the Owners or Master have given notice to the Charterers/Receivers of impossibility of reaching 265  
port of destination. 266

(e) If during discharging, the Master, for fear of the Vessel being frozen in, deems it advisable to 267  
leave, he has liberty to do so with what cargo he has on board and to proceed to the nearest safe 268  
and accessible port. Such port to be nominated by the Charterers/Receivers as soon as possible, 269  
but not later than 24 running hours, Sundays and holidays excluded, of receipt of the Owners' 270  
request for nomination of a substitute discharging port, failing which the Master will himself 271  
choose such port. 272

(f) On delivery of the cargo at such port, all conditions of the Bill of Lading shall apply and the 273  
Owners shall receive the same freight as if the Vessel had discharged at the original port of 274  
destination, except that if the distance to the substitute port exceeds 100 nautical miles the 275  
freight on the cargo delivered at that port to be increased in proportion. 276

**26. General Average** 277

General average shall be adjusted according to York-Antwerp Rules 1974, as amended 1990, or any 278  
subsequent modification thereof, in , and settled in 279  
currency. 280

**27. War Risks** 281

1. The Master shall not be required or bound to sign Bills of Lading for any blockaded port or for any 282  
port which the Master or Owners in his or their discretion consider dangerous or impossible to 283  
enter or reach. 284

2. (A) If any port of loading or of discharge named in this Charter Party or to which the Vessel 285  
may properly be ordered pursuant to the terms of the Bills of Lading be blockaded, or 286

(B) If owing to any war, hostilities, warlike operations, civil war, civil commotions, revolutions, 287  
or the operation of international law (a) entry to any such port of loading or of discharge or the 288  
loading or discharge of cargo at any such port be considered by the Master or Owners in his or 289

their discretion dangerous or (b) it be considered by the Master or Owners in his or their discretion 290  
dangerous or impossible for the Vessel to reach any such port of loading or of discharge - the 291  
Charterers shall have the right to order the cargo or such part of it as may be affected to be 292  
loaded or discharged at any other safe port of loading or of discharge within the range of loading 293  
or discharging ports respectively established under the provisions of the Charter Party (provided 294  
such other port is not blockaded or that entry thereto or loading or discharge of cargo thereat is 295  
not in the Master's or Owners' discretion dangerous or prohibited). If in respect of a port of 296  
discharge no orders be received from the Charterers within 48 hours after they or their agents 297  
have received from the Owners a request for the nomination of a substitute port, the Owners shall 298  
then be at liberty to discharge the cargo at any safe port which they or the Master may in their 299  
or his discretion decide on (whether within the range of discharging ports established under the 300  
provisions of the Charter Party or not) and such discharge shall be deemed to be due fulfilment 301  
of the contract or contracts of affreightment so far as cargo so discharged is concerned. In the 302  
event of the cargo being loaded or discharged at any such other port within the respective range 303  
of loading or discharging ports established under the provisions of the Charter Party, the Charter 304  
Party shall be read in respect of the freight and all other conditions whatsoever as if the voyage 305  
performed were that originally designated. In the event, however, that the Vessel discharges the 306  
cargo at a port outside the range of discharging ports established under the provisions of the 307  
Charter Party, freight shall be paid for as for the voyage originally designated and all extra 308  
expenses involved in reaching the actual port of discharge and/or discharging the cargo thereat 309  
shall be paid by the Charterers or cargo owners. In this latter event the Owners shall have a lien 310  
on the cargo for all such extra expenses. 311

3. The Vessel shall have liberty to comply with any directions or recommendations as to departure, 312  
arrival, routes, ports of call, stoppages, destinations, zones, waters, delivery or in any other wise 313  
whatsoever given by the government of the nation under whose flag the Vessel sails or any other 314  
government or local authority including any de facto government or local authority or by any 315  
person or body acting or purporting to act as or with the authority of any such government or 316  
authority or by any committee or person having under the terms of the war risks insurance on the 317  
Vessel the right to give any such directions or recommendations. If by reason of or in compliance 318  
with any such directions or recommendations, anything is done or is not done such shall not be 319  
deemed a deviation. 320

If by reason of or in compliance with any such directions or recommendations the Vessel does 321  
not proceed to the port or ports of discharge originally designated or to which she may have been 322  
ordered pursuant to the terms of the Bills of Lading, the Vessel may proceed to any safe port of 323  
discharge which the Master or Owners in his or their discretion may decide on and there discharge 324  
the cargo. Such discharge shall be deemed to be due fulfilment of the contract or contracts of 325  
affreightment and the Owners shall be entitled to freight as if discharge has been effected at the 326  
port or ports originally designated or to which the Vessel may have been ordered pursuant to the 327  
terms of the Bill of Lading. All extra expenses involved in reaching and discharging the cargo at 328  
any such other port of discharge shall be paid by the Charterers and/or cargo owners and the 329  
Owners shall have a lien on the cargo for freight and all such expenses. 330

**28. Dues and/or Taxes** 331  
332  
333  
334

**29. Transfer** 335



The Charterers shall have the privilege of transferring part or whole of the Charter Party to others, 336  
guaranteeing to the Owners due fulfillment of this Charter Party. 337

**30. Address Commission** 338

An address commission of % on gross freight, deadfreight, and demurrage is due to the 339  
Charterers at the time these are paid, Vessel lost or not lost. The Charterers shall have the right to 340  
deduct such commissions from such payments. 341

**31. Brokerage Commission** 342

A brokerage commission of % on gross freight, deadfreight and demurrage is payable by the 343  
Owners to 344  
345  
at the time of the Owners receiving these payments. 346

**32. Arbitration** 347

(a) \*NEW YORK 348

All disputes arising out of this contract shall be arbitrated at New York in the following manner, 349  
and subject to U.S. Law: 350

One Arbitrator is to be appointed by each of the parties hereto and a third by the two so chosen. 351  
Their decision or that of any two of them shall be final, and for the purpose of enforcing any 352  
award, this agreement may be made a rule of court. The Arbitrators shall be commercial men, 353  
conversant with shipping matters. Such Arbitration is to be conducted in accordance with the 354  
rules of the Society of Maritime Arbitrators Inc. 355

For disputes where the total amount claimed by either party does not exceed US 356  
\$ \*\* the arbitration shall be conducted in accordance with the Shortened 357  
Arbitration Procedure of the Society of Maritime Arbitrators Inc. 358


(b) \*LONDON 359

All disputes arising out of this contract shall be arbitrated at London and, unless the parties agree 360  
forthwith on a single Arbitrator, be referred to the final arbitrament of two Arbitrators carrying on 361  
business in London who shall be members of the Baltic Mercantile & Shipping Exchange and 362  
engaged in Shipping, one to be appointed by each of the parties, with power to such Arbitrators 363  
to appoint an Umpire. No award shall be questioned or invalidated on the ground that any of the 364  
Arbitrators is not qualified as above, unless objection to his action be taken before the award is 365  
made. Any dispute arising hereunder shall be governed by English Law. 366

For disputes where the total amount claimed by either party does not exceed US \$ 367  
\*\* the arbitration shall be conducted in accordance with the Small Claims Procedure of 368  
the London Maritime Arbitrators Association. 369

\* Delete (a) or (b) as appropriate 370

\*\* Where no figure is supplied in the blank space this provision only shall be void but the other provisions 371  
of this clause shall have full force and remain in effect. 372

1. Shipbroker		<b>UNITED NATIONS WORLD FOOD PROGRAMME</b> <b>VOYAGE CHARTER PARTY</b> <b>CODE NAME: "WORLDFOOD 99"</b>		 <b>PART I</b>
2. Vessel's name		3. Place and date		
4. Owners and place of business (state full style and address)		5. Charterers and place of business  <b>World Food Programme of the United Nations</b> Via Cesare Giulio Viola, 68/70 00148 Parco De' Medici - ROME Tel: +39-06-6513-2988 Fax: +39-06-6513-2844		
6. Loading port(s) or place(s). If applicable, also state number of days prior declaration of actual load port(s) or place(s) (Cl. 2)		7. Discharging port(s) or place(s). If applicable, also state number of days prior declaration of actual discharge port(s) or place(s) (Cl.2)		
Draft Copy				
8. Cargo (also state quantity, if full and complete cargo not agreed state "part cargo") (Cl. 3)		9. Vessel's description (see also SCHEDULE A)		
10. Laydays date (Cl. 4)	11. Cancelling date (Cl. 5)	12. Present position/ETA first load port (Cl. 4)		
13. Advance notices (loading) (Cl. 6) to be given to:  <b>World Food Programme of the United Nations</b> Fax: +39-06-6513-2844 & other parties:		14. Advance notices (discharging) (Cl.7) to be given to:  <b>World Food Programme of the United Nations</b> Fax: +39-06-6513-2844 & other parties:		
15. Laytime for loading (Cl. 10)		16. Laytime for discharging (Cl. 10)		
17. Demurrage (loading and discharging) (Cl. 11)		18. Freight rate (Cl. 22)		
19. Freight payment (state currency and method of payment, beneficiary and bank account) (Cl. 22)		20. Brokerage commission and to whom payable (Cl. 38)		
Draft Copy				
21. Numbers of additional clauses covering special provisions, if agreed				

It is mutually agreed that this Charter Party shall be performed subject to the conditions contained herein consisting of PART I and PART II. The provisions of PART I shall prevail over the terms of PART II to the extent of any conflict between them.

Signature (Owners)	Signature (Charterers)
--------------------	------------------------

Approved by  
The Documentary Committee of  
THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO)  
Copenhagen



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**"WORLDFOOD 99"  
SCHEDULE A**



Vessel's name
---------------

*Owner's Details*

A. Owner's name	The name of the registered Owner if the party identified in Box A is not the registered Owner
Address	Address
Telex	Telex
Phone	Phone
Contact	Contact
Owner's P&I Club	Registered Owner's P&I Club
Owner's Hull & Machinery Insurers/Hull & Machinery value	Registered Owner's Hull & Machinery Insurers/Hull & Machinery value
Certificates attached YES/NO	Certificates attached YES/NO

*Vessel's Description*

Flag	Year built
Call sign Fax/telex	Class
NT	GT
DWT	Draft
TPC	Speed
Gear	LOA
Beam	Twin hatch
Number of hatches	Hatch dimensions
Number of holds	
Grain cubic	Bale cubic

*Supplementary Information*

Last special survey	Last dry dock
Last 2 cargoes	
Details of General Average in last 2 years	Previous names in last 12 months



**PART II**  
**"Worldfood 99" Charter Party**

on demurrage.	161	bunkers consumed shall be for the Owners' account.	242
(e) If, after tendering notice of readiness and provided the Charterers have appointed and paid for an independent surveyor to inspect the Vessel's holds as soon as possible, the Vessel is nevertheless found not to be in all respects ready to load/discharge, the actual time lost until the Vessel is in fact ready to load/discharge (including customs clearance and free pratique, if applicable) shall not count as laytime or, if the Vessel is already on demurrage, as time on demurrage.	162	(c) <i>Seaworthy Trim</i> - The Charterers shall leave the Vessel in a seaworthy trim and with cargo on board safely stowed to the Master's satisfaction between loading berths/ports and between discharging berths/ports, respectively. Any expenses resulting therefrom shall be for the Charterers' account and any time used shall count as laytime.	243 244 245 246 247
(f) Time lost as a result of inefficiency or any other cause, including strike by officers and crew, attributable to the Vessel, her Master, her crew or the Owners which affects the working of the Vessel, shall not count as laytime or as time on demurrage.	163 164 165 166 167		
(g) In the event that the Vessel is waiting for a loading or discharging berth and notice of readiness has been tendered according to Clause 9(c), no laytime shall be deducted during such period for reasons of weather, unless the vessel occupying the loading or discharging berth in question is actually prevented from working due to weather conditions, in which case laytime so lost shall not count unless the Vessel is already on demurrage.	168 169 170 171 172 173 174 175 176 177	<b>13. Dunnage/Separation</b>	248
(h) <i>Excepted Periods.</i>	178	(a) <i>Dunnage</i> - The Owners shall provide, lay and erect all dunnage material (including paper, plastic, etc.) required for the proper stowage and protection of the cargo.	249 250 251
(i) In those countries in which Sunday is the recognised day of rest, laytime shall not run from either 12.00 hours on Saturday or, where Saturday is a day on which stevedores work only at overtime rates, from the time on Friday at which stevedores cease to be paid at the normal rate, until 07.00 hours on Monday.	179 180 181 182 183 184	(b) <i>Separation</i> - The Charterers shall have the right to ship parcels of different qualities or parcels for different receivers in separate holds within the Vessel's natural segregation and suitable for her trim provided that such parcels can be loaded, carried and discharged without affecting the Vessel's seaworthiness. No separation other than natural separation will be required for cargoes carried under this Charter Party.	252 253 254 255 256 257
(ii) In those countries in which Friday is the recognised day of rest, laytime shall not run from either 12.00 hours on Thursday or, where Thursday is a day on which stevedores work only at overtime rates, from the time on Wednesday at which stevedores cease to be paid at the normal rate, until 07.00 hours on Saturday.	185 186 187 188 189	<b>14. Opening and Closing of Hatches</b>	258
(iii) Laytime shall not run from 17.00 hours on a day preceding a national or local holiday until 07.00 hours on the next working day.	190	Opening and closing of hatches at loading and discharging ports shall be performed by the Vessel's crew at the Owners' expense. Such operations shall, if required by Charterers, also be performed outside usual stevedore working hours. If use of the Vessel's crew is not permitted by local authorities or local union regulations, shore labour (stevedores) shall be provided and paid for by the Charterers.	259 260 261 262 263 264
(iv) If work is actually carried out during any of the excepted periods specified in sub-paragraphs (i) to (iii) hereof, only half of such time actually used shall count as laytime.	191 192 193 194	The Master has the responsibility of taking action for closing of hatches in the event of inclement weather or the presence of substances harmful to the cargo during loading and discharging.	265 266 267
<b>10. Loading and Discharging</b>	195	<b>15. Vessel's Cargo Gear</b>	268
(a) <i>Bulk Cargo</i> - If loading bulk cargo, the cargo shall be loaded and spout-trimmed by the Charterers at their expense, but under the supervision of the Master, at the rate stated in Box 15 per weather working day of 24 consecutive hours (subject to excepted periods according to Clause 9).	196 197 198 199 200	(a) <i>Cargo handling gear</i> - The Owners shall always give free use, throughout the duration of loading and discharging, of all Vessel's cargo handling gear and the Vessel shall have sufficient motive power to operate all cargo handling gear simultaneously. The Owners also to make available all slings as on board.	269 270 271 272 273
<i>Other than Bulk Cargo</i> - If loading other than bulk cargo, the cargo shall be loaded and stowed by the Charterers at their expense, but under the supervision of the Master, at the rate stated in Box 15 per weather working day of 24 consecutive hours (subject to excepted periods according to Clause 9).	201 202 203 204 205	(b) <i>Breakdowns</i> - All equipment referred to in (a) above shall be maintained in good working order up to tested capacity and with valid certificates throughout the currency of this Charter Party. Unless caused by negligence of the Charterers' stevedores, time lost by breakdown of Vessel's cargo handling gear - pro rata the total number of cranes/winchmen required at that time for loading/discharging cargo under this Charter Party - shall not count as laytime or as time on demurrage, and cost of labour standing-by as a result shall be for the Owners' account.	274 275 276 277 278 279 280 281
(b) The cargo shall be discharged by the Charterers at their expense, but under the supervision of the Master, at the rate stated in Box 16 per weather working day of 24 consecutive hours (subject to excepted periods according to Clause 9).	206 207 208 209	(c) <i>Cranemen/winchmen</i> - On request, the Owners shall provide, free of charge, cranemen/winchmen from the crew to operate the Vessel's cargo handling gear, unless the crew's employment conditions or local union or port regulations prohibit this, in which event shore labourers shall be provided and paid for by the Charterers. Cranemen/winchmen, whether crew or shore labourers, shall be deemed the Charterers' servants and shall always work under supervision of the Master, but at the Charterers' risk and responsibility.	282 283 284 285 286 287 288 289
(c) At each loading and discharging port stevedores shall be appointed and paid by the Charterers.	210 211	This Clause shall not apply if Vessel is gearless and stated as such in Schedule A.	290 291
(d) <i>Cargo Handling</i> - During the loading and discharging operations, the Master shall supervise the work performed by the stevedores and shall instruct them properly in regard to handling, loading, stowage and discharging of the cargo.	212 213 214 215 216 217 218	<b>16. Light</b>	292
Should the stevedores refuse to follow his instructions, the Master shall protest to them in writing and shall advise the Charterers immediately thereof.		Whenever required, the Owners shall provide free of charge, throughout the duration of loading/discharging, light (as on board) for work on and under deck.	293 294 295
<b>11. Demurrage/Despatch Money</b>	219	<b>17. Loading/Stowing/Trimming and Discharging</b>	296
(a) Demurrage in loading and discharging shall be paid by the Charterers at the rate as stated in Box 17 per running day or pro rata.	220 221	(a) <i>Bulk cargo</i> - The Vessel shall be suitable for grab discharge and no cargo shall be loaded into spaces inaccessible to grabs. However, the Master has the right to load cargo into such places for the purposes of stability of the Vessel. Any extra expense is to be for the Owners' account. Time used in loading and/or discharging into or from these places shall not count, even if the Vessel is on demurrage.	297 298 299 300 301 302
(b) Despatch money at half the demurrage rate shall be paid by the Owners on laytime saved in loading and/or discharging.	222 223	(b) The Owners warrant that the Vessel is approved by the Vessel's classification society or an organisation acceptable thereto for the carriage of bulk grain under the applicable SOLAS regulations. The Owners further warrant that approved information relating to dispensation from trimming end of filled holds will be on board the Vessel on arrival at the loading port. Any trimming other than spout trimming (whether spout trimming head is moveable or fixed) shall be for the Owners' expense and time so used shall not count as laytime or demurrage. Any bagging, strapping or securing which may be required is to be supplied and paid for by the Owners and time used shall not count as laytime or demurrage. Bleeding of bags, if any, at discharging port shall be for Owners' time, risk and expense.	303 304 305 306 307 308 309 310 311 312
(c) Demurrage and Despatch accounts shall be settled when finalizing accounts as per Clause 22.	224 225	(c) <i>Bagged, cartoned and palletised cargo</i> - In the case of bagged, cartoned and palletised cargo, any cargo space into which such cargo is loaded must be accessible to customary loading and discharging equipment.	313 314 315 316 317
(d) Laytime between ports of loading and discharging shall be non-reversible. If the Vessel has to load at two or more ports, the ports shall be regarded as a single one for the purpose of laytime computation and the same principle applies to discharging ports. For the purposes of computing laytime, twin/double hatches shall count as one hatch only.	226 227 228 229 230	<b>18. Stevedore Damage</b>	318
<b>12. Shifting and Warping</b>	231	The Charterers shall be responsible for damage (beyond ordinary wear	319
(a) <i>Shifting</i> - The Charterers shall have the option of ordering the Vessel to load and/or discharge at a second safe berth if required. The costs of shifting from first to second berth shall be for the Owners' account. Time used for shifting shall count as laytime unless shifting is performed during excepted periods according to Clause 9.	232 233 234 235 236		
(b) <i>Warping</i> - The Vessel shall be warped alongside the loading/discharging appliances, as reasonably required, at the Owners' risk and expense, but time shall count as laytime unless warping is performed during excepted periods according to Clause 9.	237 238 239 240		
Overtime expenses for the Vessel's officers and crew and costs for	241		

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and tear) caused by stevedores to any part of the Vessel. Such damage shall be notified as soon as reasonably possible, but latest when the Vessel is sailing from her last discharge port, by the Master to the Charterers or their agents and to their stevedores, failing which the Charterers shall not be held responsible. The Master shall endeavour to obtain the stevedores' written acknowledgment of the damage caused.	320 321 322 323 324 325	shall also particularise the alleged claims as above and shall indicate the total amount of the security required.	400 401
The Charterers have the right to repair any stevedore damage at any time prior to completion of the voyage where practicable, or otherwise at a place mutually agreed between the parties, but must repair stevedore damage affecting the Vessel's seaworthiness or class before the Vessel sails from the port where such damage was caused or found. All additional expenses incurred shall be for the account of the Charterers and any time lost shall be for the account of and shall be paid to the Owners by the Charterers at the demurrage rate.	326 327 328 329 330 331 332 333	(f) The freight and other sums due to the Owners shall be paid in the currency and in the manner stated in Box 19.	402 403
<b>19. Overtime</b>	334	<b>23. Dues, Taxes and Charges</b>	404
(a) Expenses - All overtime expenses at loading and discharging port(s) shall be for the account of the party ordering same.	335 336	(a) <i>On the Vessel</i> - The Owners shall pay all dues, duties, taxes and other charges customarily levied on the Vessel, howsoever the amount thereof may be assessed.	405 406 407
If overtime is ordered by port authorities or the party (not being the Charterers) controlling the loading and/or discharging terminal or facility, all overtime expenses are to be paid by the Charterers. Overtime expenses for the Vessel's officers and crew shall always be for the Owners' account.	337 338 339 340 341	(b) <i>On the cargo</i> - The Charterers shall pay all dues, duties, taxes and charges levied on the cargo at the port of loading/discharging, howsoever the amount thereof may be assessed.	408 409 410
(b) Time Counting - If overtime ordered by the Owners is worked during excepted periods the actual time used shall count as laytime. If overtime ordered by the Charterers is worked during excepted periods half the actual time used shall count as laytime.	342 343 344 345	(c) <i>On the freight</i> - Taxes levied on the freight shall be paid by the Owners.	411 412
<b>20. Cargo Receipt</b>	346	<b>24. Extra Insurance</b>	413
(a) No bills of lading will be issued for shipments under this Charter Party.	347	Any extra insurance on cargo owing to Vessel's age, class, flag or ownership shall be for the Owners' account and may be deducted from the freight. The Charterers shall furnish evidence of payment supporting any such deduction. Unless a maximum amount has been agreed, such extra insurance shall not exceed the lowest extra premium which would be charged for the Vessel and voyage in the London insurance market.	414 415 416 417 418 419
(b) The Owners agree to issue a Cargo Receipt as per the "Worldfoodreceipt 99" Cargo Receipt Form attached hereto incorporating all terms, conditions, liberties, clauses and exceptions of this Charter Party. In the event of a conflict of conditions between the Cargo Receipt and this Charter Party, the provisions of this Charter Party shall prevail to the extent of such conflict but no further.	348 349 350 351 352 353	<b>25. Lien</b>	420
<b>21. Tally</b>	354	The Owners shall have a lien on the cargo for freight. The Charterers shall remain responsible for freight, dead freight and demurrage incurred at port(s) of loading and/or discharging.	421 422 423
(a) The Cargo Receipt shall be conclusive evidence of the quantity of cargo loaded.	355 356	<b>26. Liberty</b>	424
(b) If the cargo consists of bags, bales, cases and/or drums, the Vessel shall be responsible for the number of packages shipped and the provisions of sub-clause (a) also to apply.	357 358 359	The Vessel shall have liberty to sail with or without pilots, to tow or go to the assistance of vessels in distress, to call at any port or place for oil fuel supplies, and to deviate for the purpose of saving life or property, or for any other reasonable purpose whatsoever.	425 426 427 428
(c) At each discharging port, the Charterers shall appoint recognised tallymen to act jointly on behalf of the Owners and the Charterers. Such joint tally shall be binding upon both parties provided that such tally is kept during discharging and all costs shall be for the Charterers' account.	360 361 362 363	<b>27. United Nations Emergency Clause</b>	429
(d) At each loading port the Owners and the Charterers shall accept the standard loading terminal procedures for weighing, control/checking and tally of cargo at the Charterers' expense.	364 365 366	The Charterers have the right in case of an emergency situation arising to change the Vessel's destination, subject only to the Owners' consent, which shall not be unreasonably withheld. In this event, the Owners and the Charterers shall agree on any necessary adjustment in freight rates in consequence of the change of destination. Failing such agreement, the new rate shall be determined by a shipbroker appointed, at the request of either party, by the Institute of Chartered Shipbrokers, London, acting as valuer and not as arbitrator.	430 431 432 433 434 435 436 437
<b>22. Freight Payment</b>	367	<b>28. General Clause Paramount</b>	438
(a) The freight at the rate indicated in Box 18 shall be calculated on the gross intaken weight/quantity stated in the Cargo Receipt.	368 369	The International Convention for the Unification of Certain Rules of Law relating to Bills of Lading signed at Brussels on 25 August 1924 ("the Hague Rules") as amended by the Protocol signed at Brussels on 23 February 1968 ("the Hague-Visby Rules") and as enacted in the country of shipment shall apply to this Charter Party. When the Hague-Visby Rules are not enacted in the country of shipment, the corresponding legislation of the country of destination shall apply, irrespective of whether such legislation may only regulate outbound shipments.	439 440 441 442 443 444 445 446
(b) 90 (ninety) per cent of the freight is due and payable by the Charterers within 5 (five) working days after release of signed Cargo Receipt.	370 371	When there is no enactment of the Hague-Visby Rules in either the country of shipment or in the country of destination, the Hague-Visby Rules shall apply to this Charter Party save where the Hague Rules as enacted in the country of shipment or if no such enactment is in place, the Hague Rules as enacted in the country of destination, compulsorily applicable to shipments, in which case the provisions of such Rules shall apply.	447 448 449 450 451 452
(c) The Charterers shall, if the Owners so request, pay any demurrage which is due, every 14 days in arrears.	372 373	The Protocol signed at Brussels on 21 December 1979 ("the SDR Protocol 1979") shall apply where the Hague-Visby Rules apply, whether mandatorily or by this Charter Party.	453 454 455
(d) The balance of freight with any adjustment for demurrage, despatch money, dead freight and/or any other sums payable to the Owners under this Charter Party and any Cargo Receipt issued hereunder shall be paid promptly by the Charterers upon receipt of the Owners' invoice in duplicate giving details of freight due, despatch/demurrage incurred at loading and discharging ports and supported by all the following documents in duplicate:	374 375 376 377 378 379 380	The Carrier shall in no case be responsible for loss of or damage to cargo arising prior to loading, after discharging, or while the cargo is in the charge of another carrier, or with respect to deck cargo and live animals.	456 457 458
(i) Statement of Facts signed by the Master and the Charterers' agent and/or representatives at both ends;	381 382	<b>29. P &amp; I Charter Party Pollution Clause</b>	459
(ii) Laytime statements (time sheets);	383	(a) The Owners warrant that throughout the currency of this Charter Party they will provide the Vessel with certificates issued pursuant to Section 1016 (a) of the Oil Pollution Act 1990, and Section 108 (a) of the Comprehensive Environmental Response, Compensation and Liability Act 1980, as amended, in accordance with Part 138 of Coast Guard Regulations 33 CFR.	460 461 462 463 464 465
(iii) Receipted commission invoices from all brokers mentioned in the Charter Party;	384 385	(b) Notwithstanding anything whether printed or typed herein to the contrary,	466 467
(iv) A comprehensive Stowage Plan showing gross cargo quantities loaded hold by hold;	386 387	(i) save as required for compliance with paragraph (a) hereof, the Owners shall not be required to establish or maintain financial security or responsibility in respect of oil or other pollution damage to enable the Vessel lawfully to enter, remain in or leave any port, place, territorial or contiguous waters of any country, state or territory in performance of this Charter Party.	468 469 470 471 472 473
(v) Surveyor's report on draft and cubic survey in respect of any dead freight claim which shall also be supported by a voucher approved by the Master and the Charterers'/Shippers' representatives at loading port.	388 389 390 391	(ii) The Charterers shall indemnify the Owners and hold them harmless in respect of any loss, damage, liability or expense (including but not limited to the costs of any delay incurred by the Vessel as a result of	474 475 476
(vi) A fully executed copy of the Charter Party.	392		
(e) The Charterers may deduct from any balance payable under (d) above a sufficient amount as security for duly particularised claims against the Owners for loss of or damage to cargo which shall have been established on discharge, but only insofar as the P & I Club stated in Schedule A shall have failed to provide a Letter of Undertaking to meet any proper liability of the Owners for such claims within 48 hours of a request from the Charterers for such Club Letter of Undertaking, which request	393 394 395 396 397 398 399		

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any failure by the Charterers promptly to give alternative voyage orders) whatsoever and howsoever arising which Owners may sustain by reason of any requirement to establish or maintain financial security or responsibility in order to enter, remain in or leave any port, place or waters, other than to the extent provided in paragraph (a) hereof.	477 478 479 480 481 482		
(iii) the Owners shall not be liable for any loss, damage, liability or expense whatsoever and howsoever arising which the Charterers and/or the holders of any cargo receipt(s) issued pursuant to this Charter Party may sustain by reason of any requirement to establish or maintain financial security or responsibility in order to enter, remain in or leave any port, place or waters, other than to the extent provided in paragraph (a) hereof.	483 484 485 486 487 488 489		
<b>30. ISM Clause</b>	490		
From the date of coming into force of the International Safety Management (ISM) Code in relation to the Vessel and thereafter during the currency of this Charter Party, the Owners shall procure that both the Vessel and "the Company" (as defined by the ISM Code) shall comply with the requirements of the ISM Code. Upon request the Owners shall provide a copy of the relevant Document of Compliance (DOC) and Safety Management Certificate (SMC) to the Charterers.	491 492 493 494 495 496 497		
Except as otherwise provided in this Charter Party, loss, damage, expense or delay caused by failure on the part of the Owners or "the Company" to comply with the ISM Code shall be for the Owners' account.	498 499 500		
<b>31. Both to Blame Collision Clause</b>	501		
If the Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, mariner, pilot, or the servants of the Owners in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Owners against all loss or liability to the other or non-carrying vessel or her owners insofar as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of the said cargo, paid or payable by the other or non-carrying vessel or her owners to the owners of said cargo and set-off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying Vessel or Owners.	502 503 504 505 506 507 508 509 510 511 512		
The foregoing provisions shall also apply where the owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.	513 514 515 516		
<b>32. General Average and New Jason Clause</b>	517		
General average shall be adjusted in London according to York-Antwerp Rules 1994 and any subsequent modification thereof.	518 519		
If general average is to be adjusted in accordance with the law and practice of the United States of America, the following clause shall apply: "In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Owners are not responsible, by statute, contract or otherwise, the cargo, shippers, consignees or the owners of the cargo shall contribute with the Owners in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of cargo. If a salvaging vessel is owned or operated by the Owners, salvage shall be paid for as fully as if the said salvaging vessel or vessels belonged to strangers. Such deposit as the Owners, or their agents, may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the cargo, shippers, consignees or owners of the goods to the Owners before delivery".	520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536		
<b>33. Strike</b>	537		
(a) If there is a strike or lock-out affecting or preventing the actual loading of the cargo, or any part of it, when the Vessel is ready to proceed from her last port or at any time during the voyage to the port or ports of loading or after her arrival there, the Master or the Owners may ask the Charterers to declare, that they agree to reckon the laydays as if there were no strike or lock-out. Unless the Charterers have given such declaration in writing (by telegram, if necessary) within 24 hours, the Owners shall have the option of cancelling this Charter Party. If part cargo has already been loaded, the Owners must proceed with same, (freight payable on loaded quantity only) having liberty to complete with other cargo on the way for their own account.	538 539 540 541 542 543 544 545 546 547 548		
(b) If there is a strike or lock-out affecting or preventing the actual discharging of the cargo on or after the Vessel's arrival at or off port of discharge and same has not been settled within 48 hours, the Charterers shall have the option of keeping the Vessel waiting until such strike or lock-out is at an end against paying half demurrage after expiration of the time provided for discharging until the strike or lock-out terminates and thereafter full demurrage shall be payable until the completion of discharging, or of ordering the Vessel to a safe port where she can safely	549 550 551 552 553 554 555 556		
discharge without risk of being detained by strike or lock-out. Such orders to be given within 48 hours after the Master or the Owners have given notice to the Charterers of the strike or lock-out affecting the discharge. On delivery of the cargo at such port, all conditions of this Charter Party and of the Cargo Receipt shall apply and the Vessel shall receive the same freight as if she had discharged at the original port of destination, except that if the distance to the substituted port exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port to be increased in proportion.	557 558 559 560 561 562 563 564 565		
(c) Except for the obligations described above, neither the Charterers nor the Owners shall be responsible for the consequences of any strikes or lock-outs preventing or affecting the actual loading or discharging of the cargo.	566 567 568 569		
<b>34. Ice</b>	570		
<b>Loading Port</b>	571		
(a) <i>Before Vessel's arrival</i> - If the Vessel cannot reach the loading port by reason of ice when she is ready to proceed from her last port, or at any time during the voyage, or on her arrival, or if frost sets in after her arrival, the Master - for fear of the Vessel being frozen in - is at liberty to leave without cargo; in such cases this Charter Party shall be null and void.	572 573 574 575 576		
(b) <i>During loading</i> - If during loading the Master, for fear of Vessel being frozen in, deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to any other port with option of completing cargo for the Owners' own account to any port or ports including the port of discharge. Any part cargo thus loaded under this Charter Party to be forwarded to its destination at Vessel's expense against payment of the freight at the rate agreed in Box 18, on quantity delivered (in proportion if lump sum), all other conditions as per the Charter Party.	577 578 579 580 581 582 583 584 585		
(c) <i>Loading at more than one port</i> - In case of more than one loading port, and if one or more of the ports are closed by ice, the Master or the Owners to be at liberty either to load the part cargo at the open port and fill up elsewhere for the Owners' own account as under sub-clause (b) or to declare the Charter Party null and void unless the Charterers agree to load full cargo at the open port.	586 587 588 589 590 591		
<b>Voyage and Discharging Port</b>	592		
(d) <i>Before Vessel's arrival</i> - Should ice prevent the Vessel from reaching the port of discharge, the Charterers shall have the option of keeping the Vessel waiting until the re-opening of navigation and paying demurrage, or of ordering the Vessel to a safe and immediately accessible port where she can safely discharge without risk of detention by ice. Such orders to be given within 48 hours after the Owners or Master have given notice to the Charterers of impossibility of reaching port of destination.	593 594 595 596 597 598 599		
(e) <i>During discharging</i> - If during discharging the Master, for fear of Vessel being frozen in, deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to the nearest safe and accessible port. Such port to be nominated by Charterers as soon as possible, but not later than 24 running hours, Sundays and holidays excluded, of receipt of Owners' request for nomination of a substitute discharging port, failing which the Master will himself choose such port.	600 601 602 603 604 605 606		
(f) <i>Discharging at substitute port</i> - On delivery of the cargo at such port, all conditions of this Charter Party and of the Cargo Receipt shall apply and the Owners shall receive the same freight as if the Vessel had discharged at the original port of destination except that if the distance to the substitute port exceeds 100 nautical miles, the freight on the cargo delivered at that port to be increased in proportion.	607 608 609 610 611 612		
<b>35. War Risks</b>	613		
(a) For the purpose of this Clause, the words:	614		
(i) "Owners" shall include the shipowners, bareboat charterers, disponent owners, managers or other operators who are charged with the management of the Vessel, and the Master; and	615 616 617		
(ii) "War Risks" shall include any war (whether actual or threatened), act of war, civil war, hostilities, revolution, rebellion, civil commotion, warlike operations, the laying of mines (whether actual or reported), acts of piracy, acts of terrorists, acts of hostility or malicious damage, blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever), by any person, body, terrorist or political group, or the Government of any state whatsoever, which, in the reasonable judgement of the Master and/or the Owners, may be dangerous or are likely to be or to become dangerous to the Vessel, her cargo, crew or other persons on board the Vessel.	618 619 620 621 622 623 624 625 626 627 628 629		
(b) If at any time before the Vessel commences loading, it appears that, in the reasonable judgement of the Master and/or the Owners, performance of the Charter Party, or any part of it, may expose, or is likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks, the Owners may give notice to the Charterers cancelling this Charter Party, or may refuse to perform such part of it as may expose, or may be likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks; provided always that if this Charter Party provides that loading or discharging is to take place	630 631 632 633 634 635 636 637 638		



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within a range of ports, and at the port or ports nominated by the Charterers the Vessel, her cargo, crew, or other persons onboard the Vessel may be exposed, or may be likely to be exposed, to War Risks, the Owners shall first require the Charterers to nominate any other safe port which lies within the range for loading or discharging, and may only cancel this Charter Party if the Charterers shall not have nominated such safe port or ports within 48 hours of receipt of notice of such requirement.	639 640 641 642 643 644	companies are the only licenced agents. In the latter case, agents are to be nominated and appointed by the Owners. This additional provision will apply in all countries where applicable, except in China, Vietnam, Cambodia, DPRK and Burma where the Charterers shall nominate agents as above.	721 722 723 724 725
(c) The Owners shall not be required to continue to load cargo for any voyage, or to sign Bills of Lading for any port or place, or to proceed or continue on any voyage, or on any part thereof, or to proceed through any canal or waterway, or to proceed to or remain at any port or place whatsoever, where it appears, either after the loading of the cargo commences, or at any stage of the voyage thereafter before the discharge of the cargo is completed, that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo (or any one or more of them) may be, or are likely to be, exposed to War Risks. If it should so appear, the Owners may by notice request the Charterers to nominate a safe port for the discharge of the cargo or any part thereof, and if within 48 hours of the receipt of such notice, the Charterers shall not have nominated such a port, the Owners may discharge the cargo at any safe port of their choice (including the port of loading) in complete fulfilment of the Charter Party. The Owners shall be entitled to recover from the Charterers the extra expenses of such discharge and, if the discharge takes place at any port other than the loading port, to receive the full freight as though the cargo had been carried to the discharging port and if the extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route, the Owners having a lien on the cargo for such expenses and freight.	645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681	<b>38. Brokerage</b> A brokerage commission at the rate stated in Box 20 on the freight, dead freight and demurrage earned and paid is due to the party or parties mentioned in Box 20. In case of non-execution at least 1/3 of the brokerage on the estimated amount of freight and dead freight to be paid by the party responsible for such non-execution to the Brokers as indemnity for the latter's expenses and work. In case of more voyages the amount of indemnity to be mutually agreed.	726 727 728 729 730 731 732 733 734
(d) If at any stage of the voyage after the loading of the cargo commences, it appears that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo, crew or other persons on board the Vessel may be, or are likely to be, exposed to War Risks on any part of the route (including any canal or waterway) which is normally and customarily used in a voyage of the nature contracted for, and there is another longer route to the discharging port, the Owners shall give notice to the Charterers that this route will be taken. In this event the Owners shall be entitled, if the total extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route.	682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711	<b>39. Force Majeure</b> Neither the Owners nor the Charterers shall, except as otherwise provided in this Charter Party, be responsible for any loss, damage, delay or failure in performance hereunder arising or resulting from act of God, act of war, seizure under legal process; quarantine restrictions; strikes; boycotts; lockouts; riots, civil commotions and arrest or restraint of princes, rulers or people.	735 736 737 738 739 740 741
(e) The Vessel shall have liberty:	712	<b>40. Carriage of Unlawful Substances or Merchandise</b> (a) The Owners warrant that they will exercise due diligence in preventing unmanifested narcotic drugs, similar substances or unlawful merchandise to be loaded or concealed on board the Vessel. (b) Non-compliance with the provisions of sub-clause (a) above shall amount to breach of warranty for the consequences of which the Owners shall be liable for all time lost and all expenses incurred and shall keep the Charterers indemnified against all claims whatsoever which may arise and be made against them as a consequence thereof. (c) The Owners shall also be liable for all time lost and all expenses incurred in the event unmanifested drugs, similar substances or unlawful merchandise are found in the possession, or among the effects, of the Vessel's personnel. (d) If at any time before the Vessel is loaded, the Vessel is detained as a result of unmanifested narcotic drugs, similar substances or unlawful merchandise being detected on board the Vessel, the Charterers, if such detention lasts for more than seventy two running hours, shall have the right to cancel this Charter Party provided such right is exercised latest 24 hours after the expiry of the seventy two running hours. The Charterers' right to cancel this Charter Party in accordance with this sub-clause (d) shall not affect their right to claim damages.	742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762
(i) to comply with all orders, directions, recommendations or advice as to departure, arrival, routes, sailing in convoy, ports of call, stoppages, destinations, discharge of cargo, delivery or in any way whatsoever which are given by the Government of the Nation under whose flag the Vessel sails, or other Government to whose laws the Owners are subject, or any other Government which so requires, or any body or group acting with the power to compel compliance with their orders or directions;	713 714 715 716 717	<b>41. Title to Cargo Clause</b> It is mutually accepted and agreed that this Charter Party is made between the Vessel's Owners as specified in Part I of this Charter Party (Box 4) and the United Nations World Food Programme as Charterers and that the latter have full rights to claim and receive substantial and not merely nominal damages for any damage to and/or loss of cargo carried under this Charter Party and/or under any Cargo Receipt(s) issued pursuant to this Charter Party and/or any claim arising out of this Charter Party and/or any non-negotiable Cargo Receipt(s) issued pursuant to this Charter Party.	763 764 765 766 767 768 769 770 771 772
(ii) to comply with the orders, directions or recommendations of any war risks underwriters who have the authority to give the same under the terms of the war risks insurance;	718	<b>42. Fumigation</b> The Charterers shall have the right to fumigate cargo on board after completion of loading, prior to or during discharging at Charterers' time, risk and expense. Costs of crew accommodation ashore, if required by local authorities, shall be paid by the Charterers.	773 774 775 776 777 778
(iii) to comply with the terms of any resolution of the Security Council of the United Nations, any directives of the European Community, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement;	719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820	<b>43. Law and Arbitration</b> This Charter Party shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this Charter Party shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause. The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) terms current at the time when the arbitration proceedings are commenced. The reference shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator within 14 calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the 14 days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the 14 days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be	779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820
(iv) to discharge at any other port any cargo or part thereof which may render the Vessel liable to confiscation as a contraband carrier;	713 714 715 716 717	<b>36. War Risk Premium</b> War Risk premium for the Vessel and/or crew shall be paid by the Owners. Any increase or decrease in the premium after the date of fixture shall be for the Charterers' account or benefit, whichever the case may be. In any case, the increase shall not be any more, or the decrease any less, than that obtainable at the relevant time on the London market.	712 713 714 715 716 717
(v) to call at any other port to change the crew or any part thereof or other persons on board the Vessel when there is reason to believe that they may be subject to internment, imprisonment or other sanctions;	718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820	<b>37. Agency</b> The Owners are to appoint the Charterers' nominated agent(s) with the Owners paying the customary fee except in ports where national agency	718 719 720
(vi) where cargo has not been loaded or has been discharged by the Owners under any provisions of this Clause, to load other cargo for the Owners' own benefit and carry it to any other port or ports whatsoever, whether backwards or forwards or in a contrary direction to the ordinary or customary route.	713 714 715 716 717		
(f) If in compliance with any of the provisions of sub-clauses (b) to (e) of this Clause anything is done or not done, such shall not be deemed to be a deviation, but shall be considered as due fulfilment of the Charter Party.	718 719 720		



**PART II**  
**"Worldfood 99" Charter Party**

binding on both parties as if he had been appointed by agreement.	799
Nothing herein shall prevent the parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.	800
In cases where neither the claim nor any counterclaim exceeds the sum of USD50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the LMAA small claims procedure current at the time when the arbitration proceedings are commenced.	801
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Draft Copy

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1. Shipbroker		2. Place and date		3. Stem No.	
4. Owners (Disponents)/Place of business		5. Charterers			
6. Vessel's name		7. When built		8. Class	
9. Flag	10. GT/NT	11. DWT cargo on summer load line		12. Present position	
13. Type of vessel (draught fully loaded; other details)					
14. No. of holds and grain cubic capacity of each hold (Cl. 2)			15. Laydays (07.00 hrs.)/cancelling date (17.00 hrs.) (Cl. 25)		
16. Cargo (5 per cent. more or less in Owners' option unless other margin agreed) in tons of 1,000 kilos					
17. Port of loading or loading range (Cl. 1, 5 and 22) (for permissible draught see overleaf)		18. Daily load. rate (Cl. 6 and 17)		19. Dumping/trimming costs (Cl. 7, state (a) or (b))	
		20. Demurrage (load.) (Cl. 24)		21. Desp. Money, load. (Opt.) (Cl. 24)	
22. Port of discharge or discharging range (Cl. 1, 11 (c) and 22) (also state Vessel's maximum draught allowed on arrival)		23. Daily disch. rate (Cl. 17)		24. Shore winchmen, disch. (Cl. 18(b))	
		25. Demurrage (disch.) (Cl. 24)		26. Desp. Money, disch. (Opt.) (Cl. 24)	
27. Commencement of laytime at disch. port (Cl. 13). State whether (a) or (b) and number of hours of notice time agreed, if any				28. Disch. costs (indicate alternative of Cl. 14)	
				29. Lighterage (indicate alternative of Cl. 15)	
30. Advance notice(s) disch. port (Cl. 11(b)) (see also overleaf)					
31. Freight rate per 1,000 kilos; also insert currency, mode of payment, beneficiary and bank account (Cl. 23)					
32. Consignees (or agents) (Cl. 11(a)) (telex no. or telegr. address)			33. Brokerage (Cl. 35)		
34. General Average at (Cl. 31)			35. Arbitration at (Cl. 33(b))		
36. Extra insurance, if agreed, limited to (Cl. 21(c))			37. Appointment of Agents (indicate alternative of Cl. 34)		
38. Additional clauses covering special provisions, if agreed					

It is mutually agreed that this Contract shall be performed subject to the conditions in the Charter consisting of Part I including additional clauses, if any agreed and stated in Box 38, and Part II. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II.

For the Owners	For the Charterers
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## REMINDER TO THE OWNERS/MASTER

### DRAUGHTS AT LOADING PORTS:

Vessel's max. Draught not to exceed:

Gdansk	33'	fresh water
Gdansk-Northern Port	49'	brackish water
Gdynia	33'	brackish water
Szczecin	28'	fresh water
Swinoujscie	42'	fresh water

### LENGTH OVERALL

Owners of bulk carriers should in each case consult agents at loading ports as to the maximum length overall

### NOTICES (EXCEPT FOR MASTER'S NOTICE OF READINESS) TO BE COMMUNICATED AS FOLLOWS:

#### **LOADING (Cl. 2)**

10 running days notice to the Shippers (Address as follows):

"Weglokoks", Gdansk, ul. Piwna 1/2	)	if loading port
Telegraphic Address: "POLCOAL" GDANSK	)	GDANSK or
Telex no: 512303	)	GDYNIA
Telephone/Fax Nos: +58 316281 or + 58 312509	)	
"Weglokoks", Szczecin, ul. Gdanska 20k	)	if loading port
Telegraphic Address: "POLCOAL" SZCZECIN	)	SZCZECIN or
Telex no: 422116 Fax No: +91 623053	)	SWINOUJSCIE
Telephone Nos: +91 623384 or +91 623439	)	

the Owners or the Master stating approximate date of Vessel's readiness to load, also the grain cubic capacity of each hold (unless already indicated in Box 14 or given to the Shippers otherwise) and the stem number as indicated in Box 3,

and also

5 clear running days' notice to the Shippers (address as above - whichever applicable) of the definite date of the Vessel's readiness to load stating the approximate quantity of cargo required in tons of 1,000 kilos and the stem number as indicated in Box 3.

If loading port is to be declared after receipt of the Owner's or Master's 5 days notice of the definite loading date as per Clause 5(a), the Owners or the Master to give 10 days' approximate notice and 5 days' definite notice according to Clause 2 to the Shippers at Gdansk (address as above).

Moreover, the Owners or the Master shall telegraph to the Shippers (address as above - whichever applicable) 24 hours' notice of expected time of arrival unless the Vessel is discharging inward cargo or otherwise lying at the port of loading in which event the relevant stipulation in Clause 2(c) applies.

The Owners or the Master shall keep the Shippers (address as above - whichever applicable) continuously advised of any alteration of the date of the Vessel's expected readiness to load.

#### **DISCHARGING (Cl. 11)**

On the Vessel's departure from the final loading port the Master shall telegraph to the Consignees or their Agents (as indicated in Box 32) stating the quantity of cargo loaded, expected time of arrival at the discharging port and expected draught on arrival, as well as the Vessel's call sign.

If Clause 11(b) applies, the period(s) of the Master's advance notice of arrival shall be indicated in Box 30.

**POLISH COAL CHARTER PARTY**  
(CODE NAME: "Polcoalvoy", Revised May, 1997)

Part II

PREAMBLE	1	Eve excepted unless used.	64
1. Subject of Contract	2	(c) <i>Non-working Saturdays.</i> On non-working Saturdays time from 00.01	65
It is mutually agreed between the Owners and the Charterers that the Vessel - being in every respect fit for the carriage of the cargo - shall proceed to the loading port or loading range named in Box 17 or so near thereto as she may safely get and lie always afloat and there load the cargo. Should the cargo consist of Coke the Owners shall, if agreed, have liberty to load coke on deck at the Charterers' risk. Being so loaded the Vessel shall carry the cargo with all possible despatch to the port of discharge or discharging range named in Box 22 or so near thereto as she may safely get and lie always afloat, and there deliver the cargo.	3	hours to 24.00 hours shall not count, unless used, in which event actual time used shall count. However, notice of readiness as per Clause 3(a) may be tendered on such days.	66
	4	(d) <i>Waiting off port.</i> If the Vessel arrives off the port or so near thereto as she may be permitted by local authorities to approach on a working day and is prevented from entering the port of loading (not due to weather or any other causes excepted in the Charter Party), notice of readiness (Master's notice as per Clause 3) shall be regarded as handed in on the same working day and time shall commence to count as above, provided that the Shippers are informed of the Vessel's arrival by the Master or his Agents before 16.00 hours. The time occupied in moving to the loading berth shall not count, unless the Vessel is already on demurrage.	67
	5	(e) <i>Cumulative hours.</i> If the Vessel is not ready to load within 48 hours of the definite loading date (at 07.00 hours), 24 hours more shall be allowed for loading, but no despatch money shall be paid on any part of the additional laytime possibly saved.	68
	6	(f) <i>Earlier commencement and work in excepted periods.</i> If loading is commenced before the commencement of laytime or effected during excepted periods, time actually used in these periods shall count.	69
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**POLISH COAL CHARTER PARTY**  
(CODE NAME: "Polcoalvoy", Revised May, 1997)

Part II

(a) For Charterers' account. The Charterers shall pay for any separation required by them of different parcels under this Charter Party, also for leveling and extra trimming (if any) not arising from the character or construction of the Vessel. The Owners to allow the use of all separation material available on board.	129 130 131 132 133	hours next working day if Master's notice has been given within ordinary office hours after noon.	191 192
The separation material paid for by the Charterers remains their property and shall be disposed of upon discharge in accordance with their instructions. In the absence of proper instructions from the Charterers, the Master shall have liberty to dispose of the separation material. The Owners shall not be responsible for possible damage to or loss of the separation material supplied by the Charterers.	134 135 136 137 138 139	(b) Other Ports: upon Master's notice (as per Clause 12) being given, or if agreed in Box 27 on expiry of the number of hours as stated in Box 27 (Sundays and holidays excepted) after the Vessel is ready to deliver the cargo and Master's notice (as per Clause 12) has been given.	193 194 195 196
(b) For Owners' account. (If agreed in Box 16). The Owners shall pay for proper separation of various parcels under this Charter Party and shall provide all material required for that purpose.	140 141 142	(c) Berth not available. If a berth in port is not available on the Vessel's arrival off the port, the Master will be entitled to tender notice of readiness during ordinary office hours in compliance with Clause 12 after arrival off the port or so near thereto as she may be permitted by local authorities to approach, with the effect that laytime counts as if in berth.	197 198 199 200 201
<b>9. Misrepresentation</b>	143	The time occupied in moving from place of stoppage to the discharging berth shall not count unless the Vessel is already on demurrage.	202 203
(a) If the Owners or the Master have misrepresented the size of the holds or the quantity of cargo the Owners shall be responsible for truck hire or demurrage on lighters proved to be incurred thereby.	144 145 146	If the Vessel after berthing is not found ready in all respects, the actual time lost until she is in fact ready shall not count as laytime.	204 205
(b) If the Vessel is delayed for any reason whatsoever with the exception of force majeure (including delays in the navigation of the Vessel and delays in port operations being the direct consequences of riots, strikes, lock-outs of workmen or disputes between masters and men unknown at the time when definite notice was given) for more than 48 hours after 07.00 hours on the definite date of the Vessel's readiness to load declared according to Clause 2 (b), the Owners shall pay to the Shippers an amount of US\$ 0.20, or the equivalent in the currency as stated in Box 31, per ton of 1,000 kilos of the Bill of Lading quantity for each commenced day after the expiration of the said 48 hours, but for maximum five days. The amount payable shall represent compensation to Shippers for any extra expenses caused by the delay of the Vessel, including possible truck hire or demurrage on lighters. The Shippers are entitled to ask for the reason for the delay to be confirmed by certified extracts from the Vessel's logbook.	147 148 149 150 151 152 153 154 155 156 157 158 159 160	(d) Excepted periods. Time actually lost through weather hindrances not to count.	206 207
(c) No compensation according to paragraph (b) of this clause shall be payable if the Charter Party is cancelled according to Clause 25 but the Shippers shall in that case maintain their right to claim damages for possible misrepresentation of the Vessel's position.	161 162 163 164	Unless SHINC terms (Sundays and holidays included) have been agreed and stated in Boxes 23 and 27, Saturdays after noon (12.00 hours), Sundays and legal holidays to be excepted unless used, in which event time actually used shall count.	208 209 210 211
<b>10. Bills of Lading</b>	165	(e) Earlier commencement. If discharging is commenced before the commencement of laytime, time actually used shall count in this period.	212 213
Bills of Lading shall be signed as per "POLCOALBILL" form. The Master may be required to sign separate Bills of Lading for cargo in different holds, or for parcels properly separated upon shipment by the Charterers/Ship- pers, the Owners not being answerable for separate delivery, nor for cost of cargo short delivered (if any) provided all cargo taken on board is delivered.	166 167 168 169 170	(f) Two or more discharging ports. If the Vessel is to discharge at more than one port, laytime at subsequent port(s) shall count immediately after the Vessel has arrived at or off such port(s) or so near thereto as she may be permitted by local authorities to approach, and notice of readiness has been given at any time during a working day.	214 215 216 217 218
<b>DISCHARGE</b>	171	<b>14. Cost</b>	219
<b>11. Advance Notices and Declaration of Discharging Port</b>	172	(a) Free out. (If agreed in Box 28). The Consignees shall discharge the cargo in the customary manner from the Vessel's holds, free of any risk and expense whatsoever to the Owners (subject to Clause 20 - Overtime).	220 221 222
(a) Sailing telegram. The Master to notify the Consignees or their Agents (name and address indicated in Box 32) giving the details enumerated on the reverse of Part I.	173 174 175	(b) Fixed rates. (If agreed in Box 28). The Consignees shall discharge the cargo in customary manner from the Vessel's holds, the Owners paying a fixed price per unit as mentioned in Box 28, covering all expenses whatsoever in connection with the discharge (subject to Clause 20 - Overtime) on the quantity for which freight is paid or payable.	223 224 225 226 227
(b) Additional advance notice. If further advance notice is required (see Box 30) such notice to be given by the Master.	176 177	<b>15. Lighterage</b>	228
(c) Declaration of discharging port. If the discharging port is not specified in this Charter Party the discharging port range and the procedure of declaration (when and by whom to be declared) will be stated in Box 22.	178 179 180	(Section (a) to apply unless section (b) is specifically agreed in Box 29).	229
<b>12. Master's Notice of Readiness</b>	181	(a) For Consignees' account. Lighterage, if any, shall be at Consignees' risk and expense and time used shall count as laytime.	230 231
Written notice of readiness to discharge to be given by the Master or the Vessel's Agents to the Consignees or their Agents (as named in Box 32) on a working day within ordinary office hours, the Vessel being in all respects ready (whether in berth or not) to deliver the cargo.	182 183 184 185	(b) For Owners' account. (If agreed in Box 29). Lighterage to attain the draught provided in Box 22, if any, shall be for the Owners' account and time used shall count as laytime. The Owners shall provide lighters, but lighterage shall be performed at Consignees' risk. The time allowed for discharging in port to be calculated on the quantity remaining on board after lightening.	232 233 234 235 236 237
<b>13. Time Counting</b>	186	<b>16. Option of Weighing</b>	238
Laytime shall commence to count (notwithstanding any law or custom of the port of discharge):	187 188	The Consignees have the option of weighing the cargo at the port(s) of discharge, such option to be declared by them in writing to the Master before bulk is broken. The cargo shall be weighed by official weighers alongside the Vessel simultaneously with the discharge, the Consignees paying all expenses but the Owners or their Agents having the liberty to provide check clerk at the Owners' expense.	239 240 241 242 243 244
(a) Baltic and Scandinavian Ports: from 14.00 hours if Master's notice (as per Clause 12) has been given latest by noon (12.00 hours), or from 07.00	189 190	<b>LOADING AND DISCHARGE</b>	245
		<b>17. Vessel's Handling Ability</b>	246
		The agreed rates of loading and discharge (as indicated in Boxes 18 and 23) apply on condition that the Vessel can receive/deliver at such rates.	247 248
		<b>18. Winches, Winchmen/Cranemen &amp; Light</b>	249
		(a), (b) and (c) not to apply if the Vessel is gearless, as stated in Box 13.	250
		(a) Handling gear. Irrespective of the division of the loading/discharge cost, the Owners shall give free use throughout the duration of the	251 252

**POLISH COAL CHARTER PARTY**  
(CODE NAME: "Polcoalvoy", Revised May, 1997)

Part II

loading/discharge, of all the Vessel's winches or cranes which are to be in good working order, of running gear and of sufficient motive power to operate all winches or cranes simultaneously. The Vessel shall supply at least the number of winches/cranes per hatch as indicated in Box 13, each winch/crane capable of lifting at least the number of tons indicated in Box 13.	253 254 255 256 257 258	If according to Box 31 only part of the freight is prepaid, the balance shall be paid within 7 days of receipt of telegraphic advice from Consignees that right and true delivery of the cargo has taken place. The freight shall be considered earned on shipment of the cargo and shall be non-returnable, ship and/or cargo lost or not lost.	315 316 317 318 319
(b) <i>Winchmen/Cranemen</i> . The Owners shall provide free of charge winchmen/cranemen from crew unless local law, port or Trade Union regulations prohibit this in which event shore winchmen/cranemen are for account of the party indicated in Box 24. Shore winchmen/cranemen, irrespective of the party paying for them, shall work under supervision of the Master.	259 260 261 262 263	(b) <i>Payment on unloading</i> . The freight as per Box 31 shall be paid by the Charterers on Bill of Lading quantity on unloading and right and true delivery of the cargo. The Charterers have the option of paying freight on delivered weight if Consignees' declaration to weigh the cargo as per Clause 16 has been given to the Owners in writing before breaking bulk.	320 321 322 323 324
(c) <i>Breakdown of winches/cranes</i> . Any time lost by breakdown of winches/ship's cranes and/or gear not caused by carelessness of shore labourers not to count as laytime, such time lost being calculated pro rata according to the total number of winches/cranes required at the time for loading/discharge of the cargo under this Charter Party.	264 265 266 267 268	(c) <i>Rate of exchange</i> . If freight is payable in a currency other than that stated in Box 31, the payment shall be effected at the mean rate of exchange ruling on the day of payment.	325 326 327
(d) <i>Light</i> . The Owners shall give free use of light (as on board) throughout the duration of loading/discharge.	269 270	(d) <i>Loading port disbursements</i> . The Owners shall put the Agents at loading port in funds to cover the Vessel's ordinary disbursements, including trimming charges (if for the Owners' account), and bunkers, if any, prior to the Vessel's sailing from port of loading, otherwise an approximate amount shall be advanced by the Charterers and endorsed in the Bills of Lading as advance freight increased by 2% commission.	328 329 330 331 332 333
<b>19. Deep tanks, etc. Loading &amp; Discharge with Grabs</b>	271	(e) <i>Deduction from freight</i> . The Charterers are entitled to deduct from the freight only the amounts covering the items stated in Box 31 as well as brokerage (unless otherwise agreed) computed on Bill of Lading quantity.	334 335 336
The Vessel to be suitable for grab discharge and no cargo to be loaded into spaces inaccessible to grabs, namely, deep tanks, bunker spaces, wings and ends of 'tweendecks. However, the Master has liberty of loading into such places for the purpose of stability of the Vessel, and any expenses over and above the costs of normal loading, trimming and grab discharge to be for the Owners' account. Extra time used for loading and/or discharge into and/or from such places not to count.	272 273 274 275 276 277 278	<b>24. Demurrage/Despatch Money</b>	337
<b>20. Overtime</b>	279	(a) <i>Demurrage</i> in loading shall be paid by the Shippers/Charterers at scale rate in force on the date of the Charter Party or at the rate as stated in Box 20 per running day or pro rata. Demurrage in discharging shall be paid by Consignees at the rate as stated in Box 25 per running day or pro rata.	338 339 340 341
Irrespective of the division of loading/discharge cost, the Charterers/Shippers/Consignees/Master have the option to request that the loading/discharge be carried out beyond ordinary working hours and during excepted periods, the Owners providing free of charge all the Vessel's facilities inclusive of service of officers and crew. Extra cost of stevedores and all extra expenses incurred on shore to be for account of the party requesting the overtime.	280 281 282 283 284 285 286	(b) <i>Despatch money</i> *) at half the demurrage rate shall be paid by the Owners on laytime saved in loading and/or discharging, as the case may be.	342 343
<b>21. Dues, Taxes &amp; Charges. Extra Insurance</b>	287	(c) <i>Demurrage/despatch money</i> at discharging port to be settled directly between the Owners and the Consignees without prejudice to the terms of Clause 27.	344 345 346
(a) <i>On the Vessel</i> . The Owners shall pay all port dues, pilotage, towage and other charges customarily levied on the Vessel, howsoever the amount thereof may be assessed.	288 289 290	*) <i>Optional. (Applicable only if agreed in Boxes 21 and/or 26 respectively).</i>	347
(b) <i>On the cargo</i> . The Charterers shall pay all dues, duties, taxes and charges levied on the cargo at the port of loading, and the Consignees/Charterers at the port of discharge, howsoever the amount thereof may be assessed.	291 292 293 294	<b>GENERAL</b>	348
(c) <i>Extra insurance</i> .) The Owners to bear extra insurance premium on cargo owing to the Vessel's age, class, and/or flag up to the maximum amount indicated in Box 36. The amount of extra insurance to be deducted from freight.	295 296 297 298	<b>25. Cancelling</b>	349
*) <i>(Only applicable if Box 36 filled in).</i>	299	(a) <i>Missing of cancelling date</i> . Should the Vessel not be ready to load, whether in berth or not, by the cancelling hour and date as indicated in Box 15, the Charterers have the option of cancelling this Charter Party.	350 351 352
<b>22. Shifting &amp; Warping</b>	300	(b) <i>Anticipated missing</i> . Should the Owners anticipate with reasonable certainty that the Vessel will not be ready to load by the cancelling date, they shall notify the Charterers thereof without delay, stating the probable date of the Vessel's readiness to load. If the Vessel is to proceed to the loading port from Scandinavia, the Baltic, the United Kingdom and Eire or the Continent not south of Bordeaux the Charterers shall declare at least 72 hours, and in all other cases at least 14 days, before the Vessel's expected arrival at the port of loading whether they maintain the Charter Party, or not.	353 354 355 356 357 358 359 360
(a) <i>Shifting between berths</i> . If the Charterers/Shippers/Consignees have the option of loading/discharging the Vessel at two or more berths, the cost of shifting from one berth to another shall be borne by the Owners, but time shall count provided the Owners render all co-operation possible.	301 302 303 304	(c) <i>New cancelling date</i> . If the Charter Party is maintained, a new cancelling date shall be agreed upon.	361 362
(b) <i>Warping</i> . The Vessel shall be moved from and to the loading/ discharging appliances as reasonably required, at the Owners' risk and expense, but time shall count.	305 306 307	<b>26. Deviation</b>	363
<b>PAYMENTS</b>	308	Deviation in saving or attempting to save life or property at sea, or for bunkering purposes, or any other reasonable deviation shall not be deemed to be an infringement of this Charter Party and the Owners shall not be liable for any loss or damage resulting therefrom. The Vessel shall be at liberty to take over ship's mail and stores at sea and to land and/or embark crew members and/or repair gangs. The Owners shall inform the Charterers of any deviation.	364 365 366 367 368 369 370
<b>23. Freight</b>	309	<b>27. Lien and Cesser</b>	371
(Sections (a) and (b) are optional but section (a) to apply if section (b) not specifically agreed in Box 31).	310 311	(a) The Owners shall have an absolute lien on the cargo for freight, dead-freight, demurrage, damages for detention, if any, and average contribution due to the Owners under this Charter Party, including necessary cost of recovering the same. In respect of the Owners' claims protected by lien on the cargo the Charterers' liability under this Charter Party shall cease on the cargo being loaded, provided that the Owners have been able to obtain	372 373 374 375 376 377
(a) <i>Prepaid</i> . The freight as per Box 31 to be calculated on Bill of Lading quantity and prepaid by the Charterers within the period agreed in Box 31 but in any case not later than when breaking bulk at the port of discharge.	312 313 314		



**POLISH COAL CHARTER PARTY**  
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in satisfaction of these claims by exercising the lien.	378	<b>30. Re-Chartering</b>	444
(b) <i>Security</i> . In case of disputes over items payable by the Charterers/Ship-	379	The Charterers shall have the liberty to re-charter or sub-let (wholly or part-	445
pers/Consignees, the interested party shall have the option of providing the	380	ly) the Vessel at any rate of freight without prejudice to this Charter Party	446
Owners with an acceptable letter of guarantee in which event the Owners	381	but the Charterers shall always remain responsible to the Owners for due	447
not to exercise lien on the cargo for such items. The letter of guarantee may	382	fulfilment of this Charter Party.	448
provide that the undertaking contained therein becomes invalid if - within	383		
two years of its date of issue - the dispute has neither been settled ami-	384	<b>31. General Average</b>	449
cably, nor submitted to court or arbitration.	385	General Average, if any, shall be adjusted and settled at the place indicated	450
		in Box 34 according to the York-Antwerp Rules, 1994 or any subsequent	451
		amendment thereof.	452
<b>28. Owners' Responsibilities and Immunities</b>	386		
(a) <i>Immunities</i> . The Rules contained in the International Convention for the	387	<b>32. New Jason and Both-to-Blame Collision Clauses</b>	453
Unification of Certain Rules relating to Bills of Lading, dated Brussels the	388	The New Jason Clause and the Both-to-Blame Collision Clause as printed	454
25th August 1924 as amended by the Protocol dated Brussels, 23rd Febru-	389	below and in the "POLCOALBILL" Bill of Lading form, to be considered	455
ary 1968 (the Hague-Visby Rules) and as enacted in the country of ship-	390	incorporated in this Charter Party and any Bill of Lading issued hereunder.	456
ment shall apply to this Charter Party and to any Bill of Lading issued there-	391	<i>New Jason Clause</i> . In the event of accident, danger, damage or disaster	457
under.	392	before or after the commencement of the voyage, resulting from any cause	458
(b) <i>Period of responsibility</i> . The Owners shall not be liable for loss of, or	393	whatsoever, whether due to negligence or not, for which, or for the con-	459
damage to the cargo during the period before loading and after discharge	394	sequence of which, the Carrier is not responsible, by statute, contract or	460
from the Vessel, howsoever such loss or damage arises.	395	otherwise, the goods, Shippers, Consignees or owners of the goods shall	461
(c) <i>Responsibility for performance</i> . Subject to the above, the Owners shall	396	contribute with the Carrier in general average to the payment of any sacri-	462
not be liable for any loss suffered by the Charterers through delay or non-	397	fices, losses or expenses of a general average nature that may be made or	463
performance or improper performance of this Charter Party if occasioned	398	incurred and shall pay salvage and special charges incurred in respect of	464
by causes beyond the Owners' control or by any act, neglect or default of	399	the goods.	465
the Master, pilot or servants of the Owners in the navigation or manage-	400	If a salving ship is owned or operated by the Carrier, salvage shall be paid	466
ment of the Vessel, provided that the Owners have exercised due diligence	401	for as fully as if the said salving ship or ships belonged to strangers. Such	467
in performing the Charter Party.	402	deposit as the Carrier or his Agents may deem sufficient to cover the esti-	468
In the event of the Owners' responsibility under this item, the indemnity	403	ated contribution of the goods and any salvage and special charges there-	469
shall not exceed the estimated amount of freight.	404	on shall, if required, be made by the goods, Shippers, Consignees or	470
(d) <i>Deck cargo</i> . If carriage of cargo on deck has been agreed, such cargo	405	owners of the goods to the Carrier before delivery.	471
shall be secured under supervision of the Master, but it shall be carried at	406	<i>Both-to-Blame Collision Clause</i> . If the Vessel comes into collision with ano-	472
the Charterers' risk.	407	ther ship as a result of the negligence of the other ship and any act, neg-	473
		lect or default of the Master, Mariner, Pilot or the servants of the Carrier	474
<b>29. Exemptions</b>	408	in the navigation or in the management of the Vessel, the owners of the cargo	475
Notwithstanding anything contained in this Charter Party:	409	carried hereunder will indemnify the Carrier against all loss or liability to the	476
(a) <i>Port of Loading</i> . The parties hereto mutually exempt each other from all	410	other or non-carrying ship or her owners in so far as such loss or liability	477
liability (except as under Clause 37) arising from or for time actually lost	411	represents loss of, or damage to, or any claim whatsoever of the owners of	478
through riots, strikes, lock-outs of workmen, or disputes between masters	412	said cargo, paid or payable by the other or non-carrying ship or her owners	479
and men, or by reason of accidents to mines, railways or machinery, ob-	413	to the owners of said cargo and set-off, recouped or recovered by the other	480
structions in harbours (not including congestion of shipping or shore traffic)	414	or non-carrying ship or her owners as part of their claim against the carrying	481
or by reason of frost, floods, fogs, storms, and any unavoidable accidents	415	Vessel or Carrier. The foregoing provisions shall also apply where the	482
and hindrances beyond their control, either preventing or delaying the work-	416	Owners, operators or those in charge of any ship or ships or objects other	483
ing or loading of the cargo for which the Vessel is stemmed taking place on	417	than, or in addition to, the colliding ships or objects are at fault in respect of	484
or after the date of the Charter Party until the expiration of the loading time.	418	a collision or contact.	485
But no detention shall be allowed for the time lost through any such causes	419		
unless due notice of such loss and the causes thereof be given immedi-	420	<b>33. Arbitration</b>	486
ately to the Master or the Owners.	421	(a) <i>Settlement of claims</i> . Any claim under this Charter Party or any Bill of	487
In the event of any stoppage or stoppages arising from any of these causes	422	Lading issued thereunder shall be notified in writing. Claims under the	488
(other than a "strike" as defined under Clause 37), continuing for the	423	Charter Party shall be referred to arbitration within two years and claims	489
period of 4 running days from the time of the Vessel being ready to load	424	under any Bill of Lading within one year of completion of discharge, other-	490
coal or coke or patent fuel for which she is stemmed, the Charter Party shall	425	wise the claim shall be deemed waived and absolutely barred.	491
become null and void, provided that no cargo shall have been shipped on	426	(b) <i>Place and procedure of arbitration</i> .	492
board the Vessel. Should part cargo have been shipped, the Owners may	427	(1) Any dispute arising under this Charter Party and any Bill of Lading issued	493
give not less than 24 hours' notice (expiring at any time not earlier than the	428	thereunder shall be referred to arbitration at the place indicated in Box	494
expiration of the said 4 days) that they will purchase the same at the cur-	429	35, subject to the procedures applicable there. The laws of the place indi-	495
rent f.o.b. price on the date of giving such notice; but, if the quantity ship-	430	cated in Box 35 shall govern this Charter Party and any Bill of Lading issued	496
ped exceeds fifty percent of the Vessel's deadweight capacity exclusive of	431	thereunder.	497
bunkers as inserted in Box 11, the Charterers may require the Vessel to per-	432	(2) If arbitration in London is agreed this Charter Party and any Bill of	498
form the voyage, paying full freight on cargo shipped and half freight on the	433	Lading issued thereunder shall be governed by and construed in accor-	499
balance up to the said deadweight capacity.	434	dance with English law and any dispute arising out of this Charter Party or	500
In case the Vessel be not ready to complete her loading when she has once	435	any Bill of Lading issued thereunder shall be referred to arbitration in Lon-	501
begun, any time occupied in partial loading only shall count, but at least one	436	don in accordance with the Arbitration Act 1996 or any statutory modificati-	502
half of the total loading hours shall be allowed the Charterers for complet-	437	on or re-enactment thereof for the time being in force. Unless the parties	503
ing the loading. This clause shall not apply to bunkering operations or shift-	438	agree upon a sole arbitrator, one arbitrator shall be appointed by each party	504
ing for the purpose of loading bunkers.	439	and the arbitrators so appointed shall appoint a third arbitrator, the deci-	505
(b) <i>Port of Discharge</i> . In case of civil commotions, accidents or any other	440	sion of the three-man tribunal thus constituted or any two of them, shall be	506
causes directly connected with the discharge of the Vessel and beyond the	441	final. On the receipt by one party of the nomination in writing of the other	507
control of the Consignees, which prevent or delay the discharging, any time	442	party's arbitrator, that party shall appoint their arbitrator within fourteen	508
lost thereby shall not count unless the Vessel is already on demurrage.	443	days, failing which the decision of the single arbitrator appointed shall be	509

**POLISH COAL CHARTER PARTY**  
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Part II

final.	510	portion.	575
For disputes where the total amount claimed by either party does not exceed the amount stated in Box 35, the arbitration shall be conducted in accordance with the Small Claims Procedure of the London Maritime Arbitrators Association. Where no figure is supplied in Box 35 in Part I, this provision only shall be void but the other provisions of this Clause shall have full force and remain in effect.	511 512 513 514 515 516		
<b>34. Agency</b>	517	<b>37. Strike</b>	576
(Section (a) to apply if section (b) not specifically agreed in Box 37).	518	(a) <i>Responsibility.</i> Neither the Charterers nor the Owners shall be responsible for the consequences of strike or lock-out affecting or preventing the actual loading or discharging of the cargo.	577 578 579
(a) <i>Owners' Agents.</i> The Owners shall appoint their own Agents both at the port of loading and at the port of discharge.	519 520	(b) <i>Loading port.</i> In the event of strike or lock-out affecting the loading of the cargo, or any part of it, when the Vessel is ready to proceed from her last port or at any time during the voyage to the port or ports of loading or after her arrival there, the Owners may ask the Charterers to declare that they agree to count the laytime as if there were no such hindrance. Unless the Charterers have given such declaration in writing (by telegram, if necessary) within 24 hours, the Owners shall have the option of cancelling this Charter Party. If part cargo has already been loaded, the Vessel must carry it to the port of discharge (freight payable on loaded quantity only) having liberty to complete with other cargo on the way for the Owners' own account.	580 581 582 583 584 585 586 587 588 589 590
(b) <i>Charterers/Receivers' Agents.</i> If agreed, the Owners shall appoint the Agents at the port of loading and/or discharge named by the Charterers or Receivers as stated in Box 37 but such Agents shall at all times be the servants of the Owners and the Owners to pay customary agency fee.	521 522 523 524	(c) <i>Expected strike.</i> In the event of strike or lock-out which can reasonably be expected - before the loading has commenced - to affect the discharge of cargo, the Owners are at liberty to cancel this Charter Party unless the Charterers declare (within 24 hours of receipt of the Owners' notification of intended cancellation) that they agree to count the laytime at port of discharge as if there were no such hindrance, without prejudice to the Consignees' right of ordering the Vessel to a substitute port of discharge in accordance with sub-clause (d). Time for loading does not count in the said 24 hours.	591 592 593 594 595 596 597 598 599
<b>35. Brokerage</b>	525	(d) <i>Discharging port.</i> In the event of strike or lock-out affecting the discharging of the cargo on or after Vessel's arrival at or off the port of discharge, the Consignees shall have the option of keeping the Vessel waiting until such strike or lock-out is at an end against paying half demurrage after expiration of the time provided for discharging, or of ordering the Vessel to a safe port where she can safely discharge without risk of being detained by strike or lock-out. Such orders to be given within 48 hours after the Owners have given notice to the Consignees of the Vessel's readiness to discharge or of the Owners' request for orders. All conditions of this Charter Party and of the Bill of Lading issued hereunder shall apply to the delivery of the cargo at such substitute port, and the Owners shall receive the same freight as if the cargo had been discharged at the original port of destination, except that if the distance to the substitute port exceeds 100 nautical miles, the freight on the cargo delivered at the substitute port to be increased in proportion.	600 601 602 603 604 605 606 607 608 609 610 611 612 613 614
The brokerage as stated in Box 33 on freight and deadfreight is due by the Owners to the Brokers upon shipment of cargo.	526 527	(e) <i>Notification.</i> The party who first learns about the occurrence of strike or lock-out shall immediately notify thereof the other party.	615 616
In case of non-performance at least 1/4th of the brokerage on the estimated amount of freight and deadfreight to be paid by the Owners to the Brokers as indemnity for the latter's expense and work. In case of more voyages the amount of indemnity to be mutually agreed.	528 529 530 531		
<b>36. Ice</b>	532	<b>38. War Risks</b>	617
<u>Loading Port</u>	533	(1) For the purpose of this Clause, the words:	618
(a) <i>Before the Vessel's arrival.</i> If the Vessel cannot reach the loading port by reason of ice when she is ready to proceed from her last port, or at any time during the voyage, or on her arrival, or if frost sets in after her arrival, the Master - for fear of the Vessel being frozen in - is at liberty to leave without cargo; in such cases this Charter Party shall be null and void.	534 535 536 537 538	(a) "Owners" shall include the shipowners, bareboat charterers, disponent owners, managers or other operators who are charged with the management of the Vessel, and the Master; and	619 620 621
(b) <i>During loading.</i> If during loading the Master, for fear of the Vessel being frozen in, deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to any other port with option of completing cargo for the Owners' own account to any port or ports including the port of discharge. Any part cargo thus loaded under this Charter Party to be forwarded to destination at the Vessel's expense against payment of the agreed freight, provided that no extra expenses be thereby caused to the Consignees, freight being paid on quantity delivered (in proportion if lump sum), all other conditions as per Charter Party.	539 540 541 542 543 544 545 546 547	(b) "War Risks" shall include any war (whether actual or threatened), act of war, civil war, hostilities, revolution, rebellion, civil commotion, warlike operations, the laying of mines (whether actual or reported), acts of piracy, acts of terrorists, acts of hostility or malicious damage, blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever), by any person, body, terrorist or political group, or the Government of any state whatsoever, which, in the reasonable judgement of the Master and/or the Owners, may be dangerous or are likely to be or to become dangerous to the Vessel, her cargo, crew or other persons on board the Vessel.	622 623 624 625 626 627 628 629 630 631 632
(c) <i>Loading at more than one port.</i> In case of more than one loading port, and if one or more of the ports are closed by ice, the Master or the Owners to be at liberty either to load the part cargo at the open port and fill up elsewhere for the Owners' own account as under sub-clause (b) or to declare the Charter Party null and void unless the Charterers agree to load full cargo at the open port.	548 549 550 551 552 553	(2) If at any time before the Vessel commences loading, it appears that, in the reasonable judgement of the Master and/or the Owners, performance of the Charter Party, or any part of it, may expose, or is likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks, the Owners may give notice to the Charterers cancelling this Charter Party, or may refuse to perform such part of it as may expose, or may be likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks; provided always that if this Charter Party provides that loading or discharging is to take place within a range of ports, and at the	633 634 635 636 637 638 639 640 641
<u>Voyage and Discharging Port</u>	554		
(d) <i>Before the Vessel's arrival.</i> Should ice prevent the Vessel from reaching the port of discharge, the Consignees shall have the option of keeping the Vessel waiting until the re-opening of navigation and paying demurrage, or of ordering the Vessel to a safe and immediately accessible port where she can safely discharge without risk of detention by ice. Such orders to be given within 48 hours after the Owners or Master have given notice to the Charterers of impossibility of reaching port of destination.	555 556 557 558 559 560 561		
(e) <i>During discharging.</i> If during discharging the Master, for fear of the Vessel being frozen in, deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to the nearest safe and accessible port. Such port to be nominated by the Charterers/ Consignees as soon as possible, but not later than 24 running hours, Sundays and holidays excluded, of receipt of the Owners' request for nomination of a substitute discharging port, failing which the Master will himself choose such port.	562 563 564 565 566 567 568 569		
(f) <i>Discharging at substitute port.</i> On delivery of the cargo at such port, all conditions of the Bill of Lading shall apply and the Owners shall receive the same freight as if the Vessel had discharged at the original port of destination except that if the distance to the substitute port exceeds 100 nautical miles, the freight on the cargo delivered at that port to be increased in pro-	570 571 572 573 574		



**POLISH COAL CHARTER PARTY**  
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Part II

port or ports nominated by the Charterers the Vessel, her cargo, crew, or other persons on board the Vessel may be exposed, or may be likely to be exposed, to War Risks, the Owners shall first require the Charterers to nominate any other safe port which lies within the range for loading or discharging, and may only cancel this Charter Party if the Charterers shall not have nominated such safe port or ports within 48 hours of receipt of notice of such requirement.	642 643 644 645 646 647	backwards or forwards or in a contrary direction to the ordinary or customary route.	711 712
(3) The Owners shall not be required to continue to load cargo for any voyage, or to sign Bills of Lading for any port or place, or to proceed or continue on any voyage, or on any part thereof, or to proceed through any canal or waterway, or to proceed to or remain at any port or place whatsoever, where it appears, either after the loading of the cargo commences, or at any stage of the voyage thereafter before the discharge of the cargo is completed, that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo (or any part thereof), crew or other persons on board the Vessel (or any one or more of them) may be, or are likely to be, exposed to War Risks. If it should so appear, the Owners may by notice request the Charterers to nominate a safe port for the discharge of the cargo or any part thereof, and if within 48 hours of the receipt of such notice, the Charterers shall not have nominated such a port, the Owners may discharge the cargo at any safe port of their choice (including the port of loading) in complete fulfilment of the Charter Party. The Owners shall be entitled to recover from the Charterers the extra expenses of such discharge and, if the discharge takes place at any port other than the loading port, to receive the full freight as though the cargo had been carried to the discharging port and if the extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route, the Owners having a lien on the cargo for such expenses and freight.	648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670	(6) If in compliance with any of the provisions of sub-clauses (2) to (5) of this Clause anything is done or not done, such shall not be deemed to be a deviation, but shall be considered as due fulfilment of the Charter Party.	713 714 715
(4) If at any stage of the voyage after the loading of the cargo commences, it appears that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo, crew or other persons on board the Vessel may be, or are likely to be, exposed to War Risks on any part of the route (including any canal or waterway) which is normally and customarily used in a voyage of the nature contracted for, and there is another longer route to the discharging port, the Owners shall give notice to the Charterers that this route will be taken. In this event the Owners shall be entitled, if the total extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route.	671 672 673 674 675 676 677 678 679 680 681 682	<b>39. Written Notices</b>	716
(5) The Vessel shall have liberty: -	683	Any reference in this Charter Party to "written notices" or to "notices in writing" shall include telex, telefax, telegram and other comparable methods of electronic communication.	717 718 719
(a) to comply with all orders, directions, recommendations or advice as to departure, arrival, routes, sailing in convoy, ports of call, stoppages, destinations, discharge of cargo, delivery or in any way whatsoever which are given by the Government of the Nation under whose flag the Vessel sails, or other Government to whose laws the Owners are subject, or any other Government which so requires, or any body or group acting with the power to compel compliance with their orders or directions;	684 685 686 687 688 689 690		
(b) to comply with the orders, directions or recommendations of any war risks underwriters who have the authority to give the same under the terms of the war risks insurance;	691 692 693		
(c) to comply with the terms of any resolution of the Security Council of the United Nations, any directives of the European Community, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement;	694 695 696 697 698 699		
(d) to discharge at any other port any cargo or part thereof which may render the Vessel liable to confiscation as a contraband carrier. Prior to discharge in such cases and wherever possible the Owners shall consult the Charterers, who shall give their immediate nomination of an alternative safe port;	700 701 702 703 704		
(e) to call at any other port to change the crew or any part thereof or other persons on board the Vessel when there is reason to believe that they may be subject to internment, imprisonment or other sanctions;	705 706 707		
(f) where cargo has not been loaded or has been discharged by the Owners under any provisions of this Clause, to load other cargo for the Owners' own benefit and carry it to any other port or ports whatsoever, whether	708 709 710		

Copy

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THE BALTIC AND INTERNATIONAL MARITIME COUNCIL  
 BALTIC WOOD CHARTER PARTY 1973 (Revised 1997)  
 (Baltic and North Sea - with the exception of Russian ports - to  
 the United Kingdom and the Republic of Ireland)  
 CODE NAME: "NUBALTWOOD"

Part I

1. Shipbroker		2. Place and date	
3. Owners/Disponent Owners (Cl. 1)		4. Charterers (Cl. 1)	
5. Shippers (state full address) (Cl. 7.1, 7.2)		6. Vessel's name	
		7. Class (Cl. 1)	8. GT/NT (Cl. 1)
9. Hatch Dimensions (Cl. 1)		10. Vessel geared/gearless (Cl. 1) (delete as appropriate)	
		11. Vessel's cargo capacity in m <sup>3</sup> (Cl. 1)	
		12. Present position (Cl. 1)	
		13. First layday (Cl. 1)	14. Cancelling date (Cl. 1)
		15. Loading port(s) (Cl. 2)	
16. Discharging port(s) (Cl. 4)		17. Discharging port(s) where Vessel may lie safe aground (Cl. 4)	
18. Cargo (Cl. 3) (Insert any limit on deck load)			
19. Freight rate and currency (Cl. 5.1) State freight per ton or per m <sup>3</sup> or lump sum		20. Owners' bank account (Cl. 5.1)	
21. Percentage of freight payable at commencement of discharge (Cl. 5.1)			
22. Loading expenses (state whether alternative (a) or (b)) (Cl. 7.4)	23. Discharging expenses (state whether alternative (a), (b) or (c)) (Cl. 9.2)	24. Notify party (Cl. 9.1)	
25. General average to be settled at (Cl. 24)			
26. Brokerage rate and to whom payable (Cl. 25)		28. Alternative place of arbitration (Cl. 28.2)	29. Number of additional clauses, if agreed
27. Party paying freight taxes (Cl. 27c)			

It is mutually agreed that this Contract shall be performed subject to the conditions in the Charter Party consisting of Part I including additional clauses if any agreed and stated in Box 29 and Part II. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict, but no further.

Signature (Owners)	Signature (Charterers)

NOTICE: THE ATTENTION OF OWNERS IS DRAWN TO THE NECESSITY OF REPORTING THIS FIXTURE BY SENDING A COPY OF THIS SHEET TO THE UNITED KINGDOM TIMBER TRADE SHIPOWNERS' MUTUAL ASSOCIATION LTD., SEE NEXT PAGE.

To be sent to:

The United Kingdom Timber Trade Shipowners' Mutual Association Ltd.

12 Carthusian Street  
London EC1M 6EB

Fax: +44 171 600 1534

E-Mail: timber@uktsma.co.uk

Draft Copy

CONTRIBUTION RECEIVED FROM	CARGO	AMOUNT	DATE RECEIVED	

Draft Copy

**BALTIC WOOD CHARTER PARTY**  
Codename: "NUBALTWOOD"

Part II

<b>1. Preamble</b>	1	with the provisions of Clauses 14, 20 and 21, only part of the cargo	70
It is hereby agreed between the Owners/Disponent Owners named in Box 3 (hereinafter referred to as Owners) of the good Vessel named in Box 6 and with particulars as set out in Boxes 7 and 8 and with cargo hatches of dimensions as named in Box 9 each with at least one workable crane or winch, unless the Vessel is described in Box 10 as gearless, and of carrying capacity, inclusive of deck cargo, expressed in cubic metres as stated in Box 11, now in position as stated in Box 12 and expected ready to load under this Charter Party earliest on the layday stated in Box 13 but latest on the cancelling date stated in Box 14 and the party named as Charterers in Box 4 that:	2 3 4 5 6 7 8 9 10 11	has been loaded, the amount of freight payable shall be proportional to the actual quantity of cargo delivered.	71 72
<b>2. Loading Port(s)</b>	12	<b>5.2 <u>Freight Advance</u></b>	73
The said Vessel being tight, staunch and strong and in every way fitted for the voyage, shall with all convenient speed (having liberty to take cargo for Owners' benefit, either direct or to any port or ports on the way, and discharging the same) proceed to one safe berth at the loading port(s) stated in Box 15 or so near thereunto as she may safely get, and there load, always afloat in the customary manner as and where ordered by the Charterers or their agents.	13 14 15 16 17 18 19	If required by the Master, Charterers shall advance cash for Vessel's ordinary disbursements in the loading port at the closing rate of exchange at the loading port(s) on the day the advance is taken, endorsed upon the relevant Bill(s) of Lading subject to a charge of 2 % to be deducted by the Charterers. Such advance shall not exceed one-third of the freight applicable to any one Bill of Lading and not more than one-third of the freight on all or any Bill(s) of Lading.	74 75 76 77 78 79
<b>3. Cargo and Deck Load</b>	20	<b>5.3 <u>Interest</u></b>	80
(a) The Charterers shall provide a full or part cargo of sawn/further prepared softwood and/or hardwood and/or telegraph poles and/or panel products, palletised and/or length packaged and/or truck bundled as described in Box 18.	21 22 23 24	Interest on any outstanding freight or charges under Clause 8 or refund due shall accrue at the base rate plus 3%, of the currency of payment.	81 82
(b) If a part cargo is carried the Owners shall have the liberty of loading and/or discharging other part cargoes for the account of other Charterers, under >>Nubaltwood<< terms and conditions, at port(s) en route or not en route. The rotation of the loading and discharging port(s) or berth(s) shall in that case be at the Owners' option.	25 26 27 28 29	<b>6. The UK Timber Trade Shipowners' Mutual Association Limited</b>	83
(c) The Vessel shall be provided with a full deck load unless limited in Box 18, to be carried at full freight as for under-deck cargo at the Charterers' risk and responsibility, not exceeding what the Vessel can reasonably stow and carry over and above her tackle, apparel and furniture. If deck cargo is carried, the Owners, if required and for their account, shall provide and erect uprights (but not from the cargo), shall provide tarpaulins and cover deck cargo therewith and shall provide and secure lashings for deck cargo; the Owners shall also provide slings if required and agreed.	30 31 32 33 34 35 36 37 38	6.1 If not already Members, the Owners undertake to become Members of the United Kingdom Timber Trade Shipowners' Mutual Association Limited (hereinafter referred to as >>the Association<<) and for the purpose of this Charter Party shall be deemed to be Members. On signing this Charter Party the Owners and the Charterers shall ensure that the Association is forthwith notified of the date hereof, the name of the Owners and the Vessel, or if no Vessel is named or there is a substitution under Clause 12 hereof or if the Charter Party is cancelled, then the Owners and the Charterers shall immediately notify the Association of the Vessel nominated or substituted or of the cancellation of the Charter Party.	84 85 86 87 88 89 90 91 92 93 94
(d) Unless otherwise agreed and stated in Box 18:	39	6.2 The Owners also undertake to pay the voyage subscription required by the Association at the rate current at the time of signing this Charter Party. The said subscription shall be based on the Bill of Lading quantity. The said voyage subscription shall be remitted to the Association by the Owners' agent at the discharging port together with the payment due from the Bill of Lading holder under Clause 9.4(b) hereof, when the first instalment of freight is received.	95 96 97 98 99 100 101
(i) the cargo shall be seasoned and/or kiln dried.	40	6.3 In the event of Clause 9.2(b) applying the Owners shall pay to the Association, at the time prescribed in sub-clause 6.2 above, a Timber Discharging Equalisation Charge as provided under Clause 6.5(iv). In consideration of such payment the Association shall pay to the Receivers any incentive money due on receipt of a claim from the said Receivers.	102 103 104 105 106 107
(ii) the Owners shall have a margin of 2.5% upwards or 6% downwards on the quantity of cargo to be provided.	41 42	6.4 No demurrage or incentive money shall be payable under this Charter Party unless the Association's Rules have been complied with.	108 109
<b>4. Discharging Port(s)</b>	43	6.5 The Schedule of the Association current at the time of signing Bills of Lading under this Charter Party shall apply to:	110 111
Being so loaded the Vessel shall proceed therewith to the safe discharging port(s) stated in Box 16 as ordered by the Charterers on signing Bill(s) of Lading, thence to such safe berth or place within the port as may be ordered by the Charterers on arrival unless its name is inserted in Bill(s) of Lading, or so near thereunto as she may safely get, and there deliver the cargo, always afloat or, if specifically agreed and stated in Box 17, not always afloat but safe aground upon being paid freight in accordance with Clause 5.	44 45 46 47 48 49 50 51	(i) Rates for loading under Clause 7.5 and for discharging under Clause 9.4 at the appropriate loading and discharging ports.	112 113
<b>5. Payment</b>	52	(ii) Calculation of laytime under Clauses 7.5 and 9.3.	114
<b>5.1 <u>Freight</u></b>	53	(iii) Voyage subscription under Clause 6.2.	115
(a) The total freight calculated on the quantity delivered at the rates stated in Box 19 per cubic metre/metric ton or the lump sum stated in Box 19 and any charges payable by the Charterers/Receivers under Clause 9 shall be paid in cash into the Owners' bank account as stated in Box 20, less any freight advance. Where cargoes of softwood comprise both length packaged and truck bundled goods the total freight for such cargoes shall be charged at the rates stated in Box 19. Unless another percentage is agreed and stated in Box 21, then 90% of the total freight less any freight advance, as calculated upon each Bill of Lading quantity of cargo on board the Vessel upon arrival at destination, shall be paid upon the vessel commencing discharge. Any balance of freight or refund shall be paid when the final outturn has been ascertained. At the completion of discharge the party responsible for undertaking discharge shall provide at their own expense an outturn tally to the other party.	54 55 56 57 58 59 60 61 62 63 64 65 66 67 68	(iv) The Timber Discharging Equalisation Charge under Clause 6.3.	116
(b) If freight has been agreed on a lump sum basis but, in accordance	69	(v) Demurrage Rates under Clauses 7.6 and 9.4(a).	117
		(vi) Incentive Money under Clause 9.2(b).	118
		(vii) Demurrage Contribution under Clause 9.4 (b).	119
		<b>7. Loading</b>	120
		<b>7.1 <u>Notice of Arrival</u></b>	121
		(a) The Master or the Owners shall telex the Charterers and the Shippers named by the Charterers or as already identified in Box 5 at loading port(s) giving at least 10 clear working days notice, stating the Vessel's and the Charterers' name, date of this Charter Party (if known), quantity and kind of cargo according to the Charter Party, the date of the Vessel's expected arrival at the loading port as well as the names of loading and discharging ports.	122 123 124 125 126 127 128
		(b) If the Vessel cannot arrive within 2 days after the date so notified, the Owners shall inform the Charterers and the Shippers as above by telex as early as practicable stating the Vessel's estimated time of arrival. Default under this clause other than wilful misrepresentation shall not be considered a breach of the Charter Party but the Owners shall be responsible to the Charterers for proven extra costs due to non-arrival by the stated date or dates, if due care has not been exercised in giving notice of probable date of Vessel's arrival.	129 130 131 132 133 134 135 136
		(c) If the Owners fail to give the required notice 1 clear working day shall be added to the laytime for loading for each clear working day the	137 138

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notice falls short of the period stipulated, but if the Charterers should	139		
commence loading before the expiration of such additional time then	140		
laytime shall count from the actual commencement of loading.	141		
<b>7.2 Notice of readiness</b>	142		
Written notice of readiness to receive the cargo stating the approximate quantities of the cargo required on and under deck shall be given by the Master or the Vessel's agents on his behalf to the Shippers named in Box 5 at the loading port(s) after the Vessel's arrival at or off the loading port(s), provided the Vessel is in all respects ready to load, whether in berth or not, whether cleared at customs or not, whether in free pratique or not. If notice of readiness is given outside official office hours at the loading port(s), such notice shall not take effect until the start of office hours on the following day.	143 144 145 146 147 148 149 150		
<b>7.3 Loading instructions and cargo presentation</b>	151		
(a) The Charterers shall supply the Owners or their agents with a copy of their >>loading instructions to shippers<< as soon as reasonably possible prior to loading.	152 153 154		
(b) The cargo shall be presented in such a manner as to enable the Master to keep separate the cargo under each Bill of Lading. Each package shall be marked on the upper half of one side with the Bill of Lading number, pack number, size and lengths corresponding with the specifications for the package and, unless otherwise agreed, with the Bill of Lading number on the top surface.	155 156 157 158 159 160		
<b>7.4 Loading port expenses</b>	161		
<i>Loading expenses</i>	162		
(a) <b>Free in and Stowed</b>	163		
The stevedores shall be appointed by and shall be the servants of the Charterers or the Shippers but shall be under the direction of the Master. The cargo shall be brought alongside the Vessel in the customary manner and loaded and stowed at the Charterers' expense, risk and liability.	164 165 166 167		
(b) <b>Liner Terms (Quay Terms)</b>	168		
The stevedores shall be appointed by and shall be the servants of the Owners. The cargo shall be brought alongside the Vessel in the customary manner at the Charterers' expense, risk and liability and shall be loaded and stowed by the Owners at their expense. The Owners' liability shall commence on attaching the cargo to the Vessel's or shore crane tackle.	169 170 171 172 173		
<i>Note: (a) and (b) are alternatives; state alternative in Box 22, failing which (a) will apply.</i>	174 175		
<b>7.5 Counting of laytime</b>	176		
Laytime shall be calculated in accordance with the Schedule referred to in Clause 6.5.	177 178		
Time for loading shall commence at 14.00 on the same day if the Vessel is ready to load, whether in berth or not, and written notice of readiness to load has been given to the Shippers or their agents at or before 11.00 and at the commencement of the next working day if notice of readiness is given during official office hours after 11.00 but if work is commenced earlier, time shall count from such commencement. After berthing, actual time lost (if any) in the Vessel obtaining customs clearance and free pratique, shall not count as laytime. Subject to the provisions of Clause 21, should the Vessel be prevented from entering the port and/or berthing and/or loading for any reason other than weather or inefficiency of the Vessel, the Vessel shall be regarded as if ready in berth after arrival at or off the port, or so near thereunto as she may be permitted to approach and the time shall count as above. The time occupied in moving to loading berth shall not count as laytime.	179 180 181 182 183 184 185 186 187 188 189 190 191		
The laytime shall not commence before the first layday or the notified date of arrival whichever is the later. However, if loading commences earlier, time shall count from such commencement.	192 193 194		
In accordance with the Schedule referred to in Clause 6.5, Saturday afternoons, Sundays, general and local holidays and periods of bad weather affecting loading shall not count, unless used.	195 196 197		
If two or more loading ports or places are used then, unless work is commenced earlier when time shall count from such commencement, laytime at the second and subsequent loading port(s) or place(s) shall resume in the next working period after the Vessel's berthing or anchoring if the berth is occupied, provided the Vessel is in all respects ready to load. The time occupied in moving to the loading berth shall not count unless the Vessel is already on demurrage.	198 199 200 201 202 203		
<b>7.6 Loading rates and demurrage</b>	204		
		<i>Loading Rates</i>	205
		The Vessel shall be loaded at the average rate provided for in the Schedule referred to in Clause 6.5.	206 207
		<i>Demurrage</i>	208
		If the Vessel is not so loaded and in consequence detained beyond her laytime, the Owners shall be entitled to claim demurrage from the Association at the rate provided for in the Schedule referred to in Clause 6.5.	209 210 211
		The Owners expressly waive any right to claim demurrage in respect of the loading port otherwise than as provided in the preceding paragraph of this clause and undertake that neither they nor the Master will endorse or clause any Bill of Lading with a claim for loading port demurrage.	212 213 214 215
		<b>7.7 Disputes</b>	216
		Any dispute(s), other than in respect of demurrage, arising at the loading port(s) shall be settled before signing the Bill(s) of Lading. Otherwise a written notice of claim shall be handed to the Charterers or the Shippers or their nominated representatives before signing the Bill(s) of Lading. If such notice has not been given before signing the Bill(s) of Lading the Owners shall not be entitled to exercise any lien on the cargo in respect of such claim of the Owners arising at the loading port(s).	217 218 219 220 221 222 223
		<b>8. Bills of Lading</b>	224
		The Charterers or their nominated representative shall provide the information necessary to prepare the Bills of Lading and other documents relating to the cargo for presentation to the Master for signature in time to enable the Vessel to sail without delay after completion of loading. The Master shall be obliged to sign as many sets of Bills of Lading as the Charterers shall require; each set shall comprise a maximum of 3 originals. Each Bill of Lading shall be prepared in accordance with the >>Nubaltwoodbill<< form of Bill of Lading and signed by the Master and shall be dated showing the date on which the goods the subject matter of the Bill of Lading were loaded on board, quality, condition, measure, weight, value and description of the contents of the packages unknown, freight and all terms, conditions, including Arbitration Clause (Clause 28), and exceptions as per this Charter Party. The Owners shall be responsible for the number of standard full and/or half and/or quarter packages of the approximate sizes stated in the Bill(s) of Lading signed for by the Master or his duly authorised agent, but the Owners shall not be responsible for any cargo which is lost or destroyed while lying alongside the Vessel in lighters or on the quay or in warehouse waiting shipment. In case of any such loss or destruction the Master shall furnish proof thereof. The Owners shall only be responsible for broken packages in the event that they fail to take due care either in loading and/or discharging. Packages shall not be broken for the Vessel's benefit and Owners shall pay extra expenses, if any, for reforming and re-packing packages if caused by the Vessel. If loaded packages are broken or re-packed after signing Bills of Lading, the Owners are responsible for the number of pieces in every broken or re-packed package. All goods loaded for discharge at a particular port, whether covered by the Bill(s) of Lading or not, shall be delivered thereat, against presentation and surrender of the original Bill(s) of Lading relating to that port. Any proven overages shall be notified to the Charterers.	225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252
		<b>9. Discharging</b>	253
		<b>9.1 Notice of Readiness</b>	254
		Written notice of readiness to discharge cargo to be given by the Master or the Vessel's agents to the Notify Party named in Box 24 after the Vessel's arrival at or off the discharging port(s), provided that the Vessel is in all respects ready to discharge cargo whether carried under this Charter Party or any other Charter Party when the provisions of Clause 3(b) apply, whether in port or not, whether in berth or not, whether cleared at Customs or not and whether in free pratique or not.	255 256 257 258 259 260 261
		<b>9.2 Discharging port expenses</b>	262
		(a) <b>Free Discharge</b>	263
		The stevedores shall be appointed by, and shall be the servants of the Consignees but shall follow the reasonable instructions of the Master. The Consignees have liberty to work on excepted days and outside official working hours. The Consignees shall effect the discharging free of any risk, liability and expense whatsoever to the Vessel.	264 265 266 267 268
		(b) <b>Free Discharge with Incentive Money</b>	269

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The stevedores shall be appointed by, and shall be the servants of the	270	time at the discharging port(s) or not, the sum as provided by the	339
Consignees but shall follow the reasonable instructions of the Master.	271	Schedule referred to in Clause 6.5 hereof per cubic metre on the total	340
The Consignees have liberty to work on excepted days and outside	272	number of cubic metres delivered. The said payment shall be made by	341
official working hours. The Consignees shall effect the discharging	273	each Bill of Lading holder to the Owners' agents with the first	342
free of any risk, liability and expense whatsoever to the Vessel.	274	instalment of freight or upon commencement of discharge whichever	343
Incentive Money shall be payable to the Receivers in accordance with	275	is the earlier, by cheque in favour of the Association. Such payment	344
the Schedule referred to in Clause 6.5.	276	shall be based on the Bill of Lading quantity but shall be subject to	345
		adjustment when final outturn is ascertained on the same basis as the	346
(c) <u>Shared Costs</u>	277	final instalment for freight is payable under Clause 5 hereof.	347
The stevedores shall be appointed by, and shall be the servants of the	278	(c) Should it appear to the Owners or their agent at the discharging	348
Owners.	279	port(s) that for reasons within the control of any Receiver the Vessel	349
The Owners' liability shall cease at the discharging port(s) on release	280	may not be discharged within the laytime, the agents shall forthwith	350
from the Vessel's or shore crane tackle on quay or vehicle when	281	send to such Receiver a Notice of Warning to the effect that the agent	351
discharging direct to vehicle is the agreed method of discharge.	282	considers that demurrage may be incurred because of his conduct	352
For any work done by the Vessel at the discharging port(s) beyond	283	and the agent shall send a copy of such Notice of Warning to the	353
release from the Vessel's or shore crane tackle on quay the costs shall	284	Association. Failure by the Owners' agent to send Notices of Warning	354
be paid by the Consignees and in the event of the discharge being	285	shall not in any way prejudice the Owners' right or affect the	355
direct to vehicle and the costs are greater than the costs of dischar-	286	Receivers' liabilities under this Charter Party. Where Bill of Lading hol-	356
ging to quay, the Consignees shall pay the extra costs.	287	ders, through any reason within their control, cause demurrage in	357
In the execution of any work done beyond release from the Vessel's or	288	excess of the total contribution payable by them under sub-clause (b)	358
shore crane tackle on quay or direct on to vehicle, the Owners shall	289	of this clause they shall also pay to the Association half the cost of	359
act as stevedores with the liability only of such and not further or other-	290	such excess demurrage.	360
wise, but the Owners shall not be liable for damage by fire even	291		
though caused by the act or neglect of the Owners or their servants or	292		
of any person for whom they are responsible.	293	<u>9.5 Claims</u>	361
Note: (a), (b) and (c) are alternatives; state alternative in Box 23 failing	294	In accordance with the provisions of Clause 8, counting of packages or	362
which, (a) will apply.	295	pieces in broken packages shall take place alongside the Vessel.	363
		Save as provided in Clause 9.4 all accounts and/or claims relating to the	364
<u>9.3 Counting of laytime</u>	296	discharging port(s) including shortage of packages or pieces in broken	365
Laytime shall be calculated in accordance with the Schedule referred to in	297	packages or damage to the goods, if any, shall be settled between the	366
Clause 6.5.	298	Consignees and the Owners direct.	367
Time for discharging shall commence at 14.00 on the same day if the	299	<u>10. Overtime, Vessel's Cranes and Lights</u>	368
Vessel is ready to discharge cargo carried under this Charter Party or any	300	(a) If work is done outside official working hours or on excepted days all	369
other Charter Party when the provisions of Clause 3 (b) apply, whether in	301	extra expenses shall be for the account of the party ordering same.	370
berth or not and written notice of readiness to discharge has been given to	302	However if such work is undertaken on the orders of the Port Authority	371
the Receivers or their agents at or before 11.00 and at the commencement	303	or any similar body empowered to order the Vessel to work after official	372
of the next working day if notice of readiness is given during ordinary office	304	working hours or on excepted days then the Owners and the	373
hours after 11.00. After berthing, actual time lost (if any) in the Vessel	305	Charterers shall bear and pay such extra expenses incurred by them	374
obtaining Customs clearance and free pratique, shall not count as laytime.	306	in complying with any such orders or directions. In all cases overtime	375
Subject to the provisions of Clause 21 should the Vessel be prevented from	307	expenses for the Vessel's Officers and Crew shall be for the Owners'	376
entering the port and/or berthing, and/or discharging for any reason other	308	account.	377
than weather, tidal conditions or inefficiency of the Vessel, the Vessel shall	309	(b) If the Vessel is geared and described as such in Box 10 the Owners	378
be regarded as if ready in berth after arrival at or off the port, or so near	310	shall, if required, give free use of the Vessel's cranes/winches, which	379
thereunto as she may be permitted to approach and the time shall count as	311	are to be in good working order, and shall provide sufficient motive	380
above. The time occupied in moving to discharging berth shall not count	312	power to operate all cranes/winches simultaneously.	381
as laytime.	313	(c) The Vessel shall supply lights as on board free of charge for work	382
In accordance with the Schedule referred to in Clause 6.5, Saturday after-	314	during periods of darkness.	383
noons, Sundays, general and local holidays and periods of bad weather	315		
affecting discharge shall not count, unless used.	316	<u>11. Agency</u>	384
If two or more discharging ports or places are used then, unless work is	317	At the loading port(s) and discharging port(s) the Vessel shall be consigned	385
commenced earlier, when time shall count from such commencement,	318	to the Owners' agents.	386
laytime at the second and subsequent discharging port(s) or place(s) shall	319		
resume in the next working period after the Vessel's berthing or anchoring	320	<u>12. Substitution</u>	387
if the berth is occupied, provided the Vessel is in all respects ready to	321	(a) The Owners have the liberty to substitute a Vessel of similar size,	388
discharge cargo carried under this Charter Party or any other Charter	322	draught, class and position and on the same terms of the Charter	389
Party when the provisions of Clause 3 (b) apply. The time occupied in	323	Party provided they give telex notice to the Charterers not less than 2	390
moving to discharging berth shall not count unless the Vessel is already on	324	clear working days prior to the probable date of the Vessel's arrival at	391
demurrage.	325	the first loading port.	392
		(b) Extra insurance, if any, on the cargo owing to the substituted Vessel's	393
<u>9.4 Discharging rates and demurrage</u>	326	age, class and flag shall be for the Owners' account.	394
<u>Discharging Rates</u>	327	<u>13. Cancelling</u>	395
The Vessel shall be discharged at the average rate provided in the	328	If at any time prior to the cancelling date the Owners consider that the	396
Schedule referred to in Clause 6.5.	329	Vessel cannot reach the (first) loading port before the cancelling date	397
		named in the Charter Party, then the Owners must give immediate telex	398
<u>Demurrage</u>	330	notice to the Charterers also stating the day on which the Vessel is	399
(a) If the Vessel is not so discharged and in consequence is delayed bey-	331	expected to arrive and the Charterers shall declare by telex within 2	400
ond her laytime, the Owners shall be entitled to claim demurrage from	332	working days from their receipt of such notice whether or not they cancel	401
the Association at the rate provided in the Schedule referred to in	333	the Charter Party. If the Charterers do not exercise their option of can-	402
Clause 6.5.	334	cancelling, the 4th calendar day after the readiness date stated in the Owners'	403
(b) In consideration of the Owners waiving any rights they may have to	335	notification shall be regarded as the new cancelling date.	404
claim demurrage under the preceding paragraph of this clause, the	336		
holder of each Bill of Lading shall severally pay to the Association or	337	<u>14. Fire</u>	405
for its account, whether the Vessel has been detained beyond her lay-	338	If the goods intended for shipment under this Charter Party by the	406



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- Shippers are destroyed by fire, or if fire at the mill(s) prevents their being provided, the Charterers shall have the right of cancelling this Charter Party, immediate notice thereof being given by telex to the Owners. In the event of part cargo having been shipped and the remainder of the goods intended for shipment being destroyed by fire, or if fire at the mill(s) prevents their being provided, Charterers' liability to ship the balance of the cargo shall thereupon cease and the Vessel shall proceed with the cargo then on board, having liberty to fill up for Owners' benefit at the same or at any other port or ports either for the same destination or for any other port or ports whether any of such ports are in the course of the chartered voyage or not.
- 15. Force Majeure**  
If floods and/or ice conditions and/or any other circumstances beyond the control of the Shipper prevent the manufacture of the goods or their transit to the port of shipment, the Charterers, provided they give notice of such prevention to the Owners before the Vessel leaves the last outward port for the (first) loading port, shall have the right to cancel this Charter Party without liability for damages.
- 16. Clause Paramount**  
The Hague Rules contained in the International Convention for the Unification of certain rules relating to Bills of Lading, dated Brussels the 25th August 1924 as enacted in the country of shipment shall apply to this Charter Party. When no such enactment is in force in the country of shipment, the corresponding legislation in the country of destination shall apply, but in respect of shipments to which no such enactments are compulsorily applicable, the terms of the said Convention shall apply. In trades where the International Brussels Convention 1924 as amended by the Protocol signed at Brussels on February 23rd 1968 (the Hague-Visby Rules) apply compulsorily, the provisions of the respective legislation shall be considered incorporated in this Charter Party. The Carrier takes all reservations possible under such applicable legislation, relating to the period before loading and after discharging and while the goods are in the charge of another contractor, and to deck cargo and live animals.
- 17. Deviation**  
The Vessel shall have the liberty to tow and to be towed and to assist vessels in distress and to deviate for the purpose of saving life or property, to sail without pilot and to call at any ports in any order, for bunkering or other purposes, or to make trial trips after notice, or adjust compasses and/or radio equipment and reasonable exercise of any of these liberties shall not be deemed to be departure from the contractual route.
- 18. Re-chartering**  
The Charterers shall have permission to re-charter or sub-let (wholly or partly) the Vessel at any rate of freight without prejudice to the Charter Party, and the Bill(s) of Lading shall be signed at any rate of freight without prejudice to the Charter Party, but the Charterers shall always remain responsible to the Owners for due fulfillment of this Charter Party.
- 19. War Clause**  
19.1. For the purpose of this Clause, the words:  
(a) >>Owners<< shall include the shipowners, bareboat charterers, disponent owners, managers or other operators who are charged with the management of the Vessel, and the Master; and  
(b) >>War Risks<< shall include any war (whether actual or threatened), act of war, civil war, hostilities, revolution, rebellion, civil commotion, war-like operations, the laying of mines (whether actual or reported), acts of piracy, acts of terrorists, acts of hostility or malicious damage, blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever), by any person, body, terrorist or political group, or the Government of any state whatsoever, which in the reasonable judgement of the Master and/or the Owners, may be dangerous or are likely to be or to become dangerous to the Vessel, her cargo, crew or other persons on board the Vessel.  
19.2 If at any time before the Vessel commences loading, it appears that in the reasonable judgement of the Master and/or the Owners, performance of the Charter Party, or any part of it, may expose, or is likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks, the Owners may give notice to the Charterers cancelling this Charter Party, or may refuse to perform such part of it as may expose, or may be likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks; provided always that if this Charter Party provides that loading or discharging is to take place within a range of ports, and at the port or ports nominated by the Charterers the Vessel, her cargo, crew, or other persons on board the Vessel may be exposed, or may be likely to be exposed, to War Risks, the Owners shall first require the Charterers to nominate any other safe port which lies within the range for loading or discharging, and may only cancel this Charter Party if the Charterers shall not have nominated such safe port or ports within 48 hours of receipt of notice of such requirement.  
19.3 The Owners shall not be required to continue to load cargo for any voyage, or to sign Bills of Lading for any port or place, or to proceed or continue on any voyage or on any part thereof, or to proceed through any canal or waterway, or to proceed to or remain at any port or place whatsoever, where it appears, either after the loading of the cargo commences, or at any stage of the voyage thereafter before the discharge of the cargo is completed, that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo (or any part thereof), crew or other persons on board the Vessel (or any one or more of them) may be, or are likely to be, exposed to War Risks. If it should so appear, the Owners may by notice request the Charterers to nominate a safe port for the discharge of the cargo or any part thereof, and if within 48 hours of the receipt of such notice, the Charterers shall not have nominated such a port, the Owners may discharge the cargo at any safe port of their choice (including the loading port) in complete fulfillment of the Charter Party. The Owners shall be entitled to recover from the Charterers the extra expenses of such discharge and, if the discharge takes place at any port other than the loading port, to receive the full freight as though the cargo had been carried to the discharging port and if the extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route, the Owners having a lien on the cargo for such expenses and freight.  
19.4 If at any stage of the voyage after the loading of the cargo commences, it appears that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo, crew or other persons on board the Vessel may be, or are likely to be, exposed to War Risks on any part of the route (including any canal or waterway) which is normally and customarily used in a voyage of the nature contracted for and there is another longer route to the discharging port, the Owners shall give notice to the Charterers that this route will be taken. In this event the Owners shall be entitled, if the total extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route.  
19.5 The Vessel shall have liberty:-  
(a) to comply with all orders, directions, recommendations or advice as to departure, arrival, routes, sailing in convoy, ports of call, stoppages, destinations, discharge of cargo, delivery or in any way whatsoever which are given by the Government of the Nation under whose flag the Vessel sails, or other Government to whose laws the Owners are subject, or any other Government which so requires, or any body or group acting with the power to compel compliance with their orders or directions;  
(b) to comply with the orders, directions or recommendations of any war risks underwriters who have the authority to give the same under the terms of the war risks insurance;  
(c) to comply with the terms of any resolution of the Security Council of the United Nations, any directives of the European Community, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement;  
(d) to discharge at any other port any cargo or part thereof which may render the Vessel liable to confiscation as a contraband carrier. Prior to discharge in such cases and wherever possible Owners shall consult Charterers, who shall give their immediate nomination of an alternative safe port;  
(e) to call at any other port to change the crew or any part thereof or

**BALTIC WOOD CHARTER PARTY**  
Codename: "NUBALTWOOD"

Part II

- other persons on board the Vessel when there is reason to believe 550  
that they may be subject to internment, imprisonment or other 551  
sanctions; 552
- (f) where cargo has not been loaded or has been discharged by the 553  
Owners under any provisions of this Clause, to load other cargo for 554  
the Owners' own benefit and carry it to any other port or ports what- 555  
soever, whether backwards or forwards or in a contrary direction to 556  
the ordinary or customary route. 557
- 19.6 If in compliance with any of the provisions of sub-clauses (2) to (5) of 558  
this Clause anything is done or not done, such shall not be deemed 559  
to be a deviation, but shall be considered as due fulfillment of the 560  
Charter Party. 561
- 20. Ice Clause** 562
- 20.1 Where the Charter Party provides for one loading port only, if when 563  
the Vessel is ready to proceed from her last port of call (whether a 564  
discharging port or not) or at any time during the voyage to the load- 565  
ing port the Owners be informed by the Shippers or their authorised 566  
agents and the Owners' agents at loading port that in their opinion 567  
the port is not accessible and/or the shipment of the goods is not 568  
practicable by reason of ice, the Owners shall have the right to 569  
cancel the Charter Party and shall forthwith inform the Charterers 570  
accordingly. 571
- 20.2 Where the Charter Party provides for one loading port only, if upon 572  
Vessel's arrival off the port or so near thereunto as she can get, ice, 573  
in the opinion of the Master, prevents the Vessel from reaching or 574  
entering the loading port, the Charter Party shall be cancelled 575  
forthwith and the Owners shall advise the Charterers by telex. If after 576  
arrival, the Master, for fear of the Vessel being frozen in, deems it 577  
advisable to sail he shall be at liberty to leave either without cargo, in 578  
which case the Charter Party shall be cancelled forthwith and the 579  
Master or the Owners shall notify the Charterers by telex accord- 580  
ingly, or with part cargo and to fill up for the Vessel's benefit at any port 581  
for any port or ports whether such ports be in the course of the 582  
chartered voyage or not; but in case of leaving with part cargo the 583  
Vessel shall deliver such part cargo at its port of delivery or shall, 584  
without undue delay, forward it thereto and there deliver it in accor- 585  
dance with this Charter Party. 586
- 20.3 Where the Charter Party provides for more than one loading port, if, 587  
in the opinion of the Master, the first loading port be inaccessible, or, 588  
if after arrival at any loading port the Master for fear of the Vessel 589  
being frozen in, deems it advisable to sail without cargo or with a part 590  
cargo, the Vessel shall proceed in rotation to the next loading port 591  
named in the Charter Party which in the opinion of the Master is 592  
accessible. On arrival at such loading port the Charterers shall 593  
declare forthwith, in writing, to the Master or Owners' agents, at such 594  
ports, either to cancel the Charter Party to the extent to which it is 595  
unfulfilled or to load a full and complete cargo at the loading ports 596  
named in the Charter Party, which, in the opinion of the Master, are 597  
accessible, completing, if necessary, at any other safe open port on 598  
the same coast and in the same country. In the event of the Charter- 599  
ers declaring to cancel the Charter Party to the extent to which it is 600  
unfulfilled the Vessel shall nevertheless have the right to fill up for 601  
Vessel's benefit at any port for any port or ports, whether in the 602  
course of the chartered voyage or not, but shall without undue delay 603  
deliver any part cargo which had previously been loaded under this 604  
Charter Party at its port of delivery or forward it thereto and there 605  
deliver it in accordance with this Charter Party. If all ports be in the 606  
opinion of the Master inaccessible the Charter Party shall forthwith 607  
be cancelled and the Owners shall advise the Charterers by telex. 608
- 20.4 The Charterers' liability to supply cargo and to load shall not com- 609  
mence earlier than 48 hours after the navigation of lighters between 610  
the Shippers' wharf and/or quay and the Vessel is unimpeded by ice. 611
- 21. Strike Clause** 612
- 21.1 Wherever used in Clauses 21.1 to 21.8 the words >>relevant party<< 613  
shall mean the Charterers in respect of loading port(s), the Char- 614  
terers where discharge is in accordance with Clause 9.2(c) and the 615  
Consignees where discharge is in accordance with Clause 9.2(a) 616  
and 9.2(b). The word >>strike<< when used in Clauses 21.1 to 21.9 617  
shall include lockout, riot and civil commotion preventing the Vessel 618  
from being loaded or discharged. Laytime shall not count during the 619  
period of any strike preventing loading or discharging of the cargo. If 620  
the Vessel is carrying cargo for discharge at the loading port(s) such 621
- 21.2 In the event of strike(s) preventing or delaying the production or trans- 622  
port of the goods to the loading port(s) or affecting the loading of the 623  
cargo or any part of it at the time when the Vessel must start on or 624  
during her voyage to the loading port(s), the Owners may give the 625  
Charterers telex notification of their intention to cancel the Charter 626  
Party or to proceed to the loading port subject to the Charterers agree- 627  
ing to the provisions of Clause 21.5. The Charterers shall, within one 628  
clear working day after receipt of such notification, declare by telex 629  
whether they are prepared as from the time of arrival of the Vessel to 630  
accept the provisions of Clause 21.5, failing which the Owners shall 631  
have the right to cancel the Charter Party without further notification. 632  
633
- 21.3 In the event of strike(s) preventing or delaying the production or 634  
transport of the goods to a loading port, on or after arrival of the 635  
Vessel at the loading port, the Charterers shall have the right to keep 636  
the Vessel waiting, in accordance with the provisions of Clause 21.5. 637  
Subject to provision of telex notice from Owners in accordance with 638  
Clause 21.1, if such right is not exercised within one clear working 639  
day after the Vessel's arrival, or one clear working day after the sub- 640  
sequent occurrence of such strike(s), then the Owners shall have the 641  
option, by giving telex notice to the Charterers, to cancel the Charter 642  
Party to the extent of the cargo to be lifted at the loading port and the 643  
cargo to be lifted at other loading port(s), if they are affected by such 644  
strike(s). If, when exercising such option, part of the cargo has then 645  
already been loaded the Vessel must carry it to the discharging 646  
port(s) (freight payable on the loaded quantity only), having liberty to 647  
complete with other cargo on the way for Owners' account. 648  
649
- 21.4 In the event of strike(s) at a discharging port preventing the discharge 650  
of cargo destined thereto, the relevant party shall on receipt of notice 651  
from the Owners requesting a liberty to divert, have the option at any 652  
time before the Vessel arrives at or off the discharging port to order 653  
the Vessel to a safe port where the cargo for the strike(s) affected port 654  
can be discharged. Cargo destined for discharging port(s) unaffected 655  
by strike(s) shall be discharged thereat and without liability. In the 656  
event of strike(s) at a discharging port preventing the discharge of 657  
cargo at the time the Vessel arrives or thereafter, the relevant party 658  
shall have the option, to be declared within one clear working day of 659  
receipt of telex notice from the Owners of their wish to divert, of keep- 660  
ing the Vessel waiting in accordance with the provisions of Clause 661  
21.5 or of ordering the Vessel to a named safe port where the cargo 662  
can be discharged. Where the cargo has been delivered at a substit- 663  
uted port, all conditions of this Charter Party and Bill(s) of Lading 664  
issued pursuant hereto shall apply and the Vessel shall receive the 665  
same freight as if the discharge had been at the original discharging 666  
port. However, if the additional distance the Vessel has to travel to 667  
reach the substituted port after being ordered to divert, exceeds 100 668  
nautical miles (calculated from the point where the Vessel is located 669  
to the substitute port, less the distance from where the Vessel is 670  
located to the original discharging port), then the freight (minus any 671  
loading and discharging costs included in the freight) on the cargo 672  
delivered thereat shall be increased in the same ratio as the excess 673  
distance is in proportion to the original voyage distance. 674
- 21.5 If the Vessel is ordered to be kept waiting by the relevant party, in 675  
compliance with Clause 21.2 or Clause 21.3 or Clause 21.4 then, 676  
unless the Vessel is already on demurrage, which shall continue to 677  
be due in full in accordance with the provisions of Clause 7.6 or 678  
Clause 9.4 as appropriate, the following provisions shall separately 679  
apply at each loading and discharging port: 680
- (i) On arrival at the port no liability for compensation shall accrue for the 681  
first 6 running days after the expiry of one clear working day from the 682  
receipt of required notice from the Owners to the relevant party. 683
- (ii) Thereafter and for a period of up to 7 running days the relevant party 684  
shall pay to the Owners on the quantity stated in Box 18 compen- 685  
sation per running day or pro rata, equal to half the applicable 686  
demurrage rate. 687
- (iii) Thereafter the relevant party shall pay to the Owners on the quantity 688  
stated in Box 18 compensation per running day or pro rata, equal to 689  
the applicable demurrage rate. 690
- 21.6 The liability for compensation under Clause 21.5 shall not apply 691  
where the Vessel completes loading at the loading port or discharg- 692  
ing at the discharging port within the time under Clause 21.5 (i) and 693  
within the laytime. 694
- 21.7 The relevant party shall have the right at any time while the provi- 695



sions of Clause 21.5 apply to nevertheless order the Vessel to depart to a substitute loading or discharging port, subject to the provisions of Clauses 21.3 and 21.4, but in any case the relevant party shall be bound to pay the accrued liability under Clause 21.5 at the time such an order is given.	696 697 698 699 700		
21.8 If strike conditions cease and delivery by or to the relevant party is commenced before the expiry of the periods in Clauses 21.5(i) and 21.5(ii) but is subsequently prevented by further strike(s), the provisions of Clause 21.5 shall be reactivated but the time remaining under Clause 21.5(i) and then Clause 21.5(ii) shall be reduced by the cumulative period the previous strike(s) prevented delivery by or to the relevant party This provision shall continue to apply where the Vessel is subsequently ordered to a substitute port while the provisions of Clause 21.5 are in operation, but the time moving to the substituted port shall not count.	701 702 703 704 705 706 707 708 709 710		
21.9 In the event of strike(s) by officers or crew of the Vessel and/or other employees of the Owners or any strike(s) caused by them, delay to the Vessel shall be for the Owners' account.	711 712 713		
<b>22. Lien</b>	714		
22.1 The Owners shall have an absolute lien on the cargo for freight, deadfreight, any charges arising under Clause 9.2(c), demurrage contribution payable under Clause 9.4(b), compensation under Clause 21 and average contribution due to them under this Charter Party, including the necessary cost of recovering same.	715 716 717 718 719		
22.2 In case of disputes over items payable by the Charterers/Shipper/Consignees, the interested party shall have the option of providing the Owners with an acceptable letter of guarantee, in which event the Owners not to exercise lien on the cargo for such items. The letter of guarantee may provide that the undertaking contained therein becomes invalid if - within one year of its date of issue - the dispute has neither been settled amicably, nor submitted to court or arbitration.	720 721 722 723 724 725 726 727		
<b>23. Both to Blame Collision Clause</b>	728		
If the Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, mariner, pilot or the servants of the Owners in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Owners against all loss or liability to the other or non-carrying vessel or her Owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or non-carrying vessel or her Owners to the owners of said cargo and set off, recouped or recovered by the other or non-carrying vessel or her Owners as part of their claim against the carrying vessel or Owners. The foregoing provisions shall also apply where the Owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.	729 730 731 732 733 734 735 736 737 738 739 740 741 742		
<b>24. General Average and New Jason Clause</b>	743		
General Average shall be adjusted, stated and settled at the place as indicated in Box 25 according to the York-Antwerp Rules, 1994 or any modifications thereof, but if, notwithstanding the provisions specified in Box 25, the adjustment is made in accordance with the law and practice of the United States of America, the following clause shall apply: >>In the event of accident, danger, damage or disaster before or after commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Owners are not responsible, by statute, contract or otherwise, the goods, shippers, consignees or owners of the goods shall contribute with the Owners in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods. If a salving vessel is owned or operated by the Owners, salvage shall be paid for as fully as if the salving vessel or vessels belonged to strangers. Such deposit as the Owners, or their agents, may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to the Owners before delivery.<<	744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762		
<b>25. Brokerage</b>	763		
Brokerage on the freight and deadfreight as stated in Box 26 is due by the Owners to the party named in Box 26.	764 765		
<b>26. Claims</b>	766		
Details of any claim under this Charter Party must be given within 18 months of the date of final discharge otherwise such claim shall be deemed to be waived.	767 768 769		
<b>27. Taxes and Dues</b>	770		
(a) <u>On Vessel</u> - The Owners shall pay all dues, charges and taxes customarily levied on the Vessel, howsoever the amount thereof may be assessed.	771 772 773		
(b) <u>On cargo</u> - The Charterers shall pay all dues, charges, duties and taxes customarily levied on the cargo, howsoever the amount thereof may be assessed.	774 775 776		
(c) <u>On freight</u> - Unless otherwise agreed in Box 27 taxes levied on the freight shall be for the Charterers' account.	777 778		
<b>28. Law and Arbitration</b>	779		
28.1 This Charter Party shall be governed by and construed in accordance with English law and any dispute arising out of this Charter Party or Bill of Lading issued hereunder shall be referred to Arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactments thereof for the time being in force, one arbitrator being appointed by each party unless it is agreed to appoint a jointly nominated sole Arbitrator. In the absence of agreement to appoint a jointly nominated sole Arbitrator then, on the receipt by one party of the nomination in writing of the other party's Arbitrator, that party shall appoint their Arbitrator within 14 days, failing which the decision of the sole Arbitrator shall apply. If two Arbitrators properly appointed shall not agree they shall appoint an Umpire whose decision shall be final. For disputes where the total amount claimed by either party does not exceed the amount of 20,000 ECUs, the arbitration shall be conducted in accordance with the Small Claims Procedure of the London Maritime Arbitrators Association.	780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796		
28.2 If a place other than London is stated in Box 28 any dispute arising under this Charter Party shall be referred to arbitration at the place indicated in Box 28, subject to the law and procedure applicable there. The law of the place indicated in Box 28 shall govern this Charter Party.	797 798 799 800 801		
<b>29. Telex</b>	802		
Wherever the word >>telex<< appears in the Charter Party it shall be deemed to include telefax, telegram and other comparable methods of electronic communication.	803 804 805		

**BIMCO Standard Grain Voyage Charter Party**  
**Code Name: GRAINCON**  
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Date and place .....	1
It is this day mutually agreed, between .....	2
..... Owners* / Disponent Owners* of the m.v.	3
..... Self / Non-Self Trimming Bulk Carrier* / Tween Decker*,	4
Call Sign ....., Built ....., at .....	5
..... metric tons deadweight, all ....., hereabouts, and with grain stow capacity available for cargo of	6
..... cubic metres (including ....., cubic metres in self-bled in wing spaces classed .....	7
in .....	8
.....	9
(insert Vessel's itinerary) and .....	10
of .....	11
*Delete as appropriate	12
<b>1. Loading Port(s)</b>	13
That the said Vessel, being tight, staunch, strong and in every way fit for the voyage, shall with all due despatch proceed to	14
the port(s) of .....	15
alternatively safe port(s) within the range .....	16
at .....	17
safe loading berth(s) and/or safe anchorage(s) in the Charterers' option,	18
always afloat, a full and complete cargo*/part cargo*/quantity* of .....	19
(commodity) in bulk of .....	20
metric tons .....	21
percent more or less, quantity at the Owners' option.	22
*Delete as appropriate.	23
<b>2. Notice and Loading Port Orders</b>	24
The Master or the Owners shall give the Charterers or their Agents in writing at .....	25
.....(contact address)	26
15 and 7 days notice of the Vessel's expected readiness to load date, and approximate quantity of cargo required with	27
the 15 days notice, such quantity to be based on a cargo of Heavy Grain, unless the cargo composition has been	28
declared or indicated.	29
The Charterers are to be kept continuously advised by telex/fax of any alteration in the Vessel's readiness to load date.	30
Master to apply to the contact address for first or sole loading port orders 6 days before Vessel's expected readiness to load	31
date but not sooner than 6 days before the laydays in Clause 4 and Charterers or their Agents are to give orders for first or sole	32
loading port within three days of receipt of Master's application. If the Charterers fail to give such first or sole loading port	33
orders within said three days then any time lost and/or additional bunkers used shall be for the Charterers' account. Orders for	34
the second or subsequent port of loading if used to be given to the Master not later than upon the Vessel's arrival at the first	35
loading port, unless already in the port of loading, in which case to be given to the Master not later than upon completion of	36
her previous employment or works. Master to give Charterers or their Agents 72 and 24 hours notice in writing of Vessel's	37
estimated time of arrival at the first or sole loading port together with the Vessel's estimated date of readiness to load.	38
In all instances the Vessel's expected date of readiness to load is based on all going well, unforeseen circumstances	39
always excepted.	40
<b>3. Vessel Inspection</b>	41
The Vessel shall pass the inspections of the relevant Port, State or National Authority and/or Grain Inspection Bureau at the	42
first or sole port or place of loading, certifying the Vessel's readiness in all compartments to be loaded with the cargo covered	43
by this Charter Party. If the Vessel completes loading at a port in a different country than the first loading port, she shall pass	44
the inspections of such subsequent national and/or regulatory bodies as may be required. The cost of such inspections shall	45
be borne by the Owner and should the Vessel fail to pass inspection, the time from such failure until the Vessel has been	46
passed shall not count as laytime in computing demurrage. Unless the conditions of Clause 18 apply the Master's notice of	47
readiness at the first or sole loading port shall be accompanied by the certificate issued in accordance with this Clause.	48
<b>4. Laydays/Cancelling</b>	49
(a) Laydays for loading shall not commence before .....	50
(time) on .....	51
(date).	52
(b) Should the Vessel's notice of readiness not be validly tendered as per Clause 18 (Time Counting) before 1600 on	53
.....	54
(date) the Charterers have the option of cancelling this Charter Party any time	55
thereafter, but not later than one hour after the tender of notice of readiness as per Clause 18 (Time Counting).	56
* (c) If, prior to tendering notice of readiness, the Vessel's cancelling date has already passed or the Vessel is ready to begin	57
her voyage to the loading port (whichever first occurs) and in the ordinary course of events would be unable to tender	58
notice before the cancelling date, the Owners having given a revised date of expected readiness to load, may require the	59
Charterers to declare whether they elect to cancel the Charter Party and the Charterers shall be given up to 48 running	60
hours to make this declaration. Should the Charterers elect not to cancel, the cancelling date shall be extended by three	61
running days, Sundays and holidays excluded, from the Vessel's revised date of expected readiness to load. This provision	62
shall be without prejudice to any claim the Charterers may have as to the Owners' possible misrepresentations of the	63
expected date of readiness to load and/or laydays/cancelling dates contained herein.	64
*Sub-clause 4(c) is optional and shall not apply unless agreed to by the parties and so indicated by marking the following	65
box <input type="checkbox"/>	66

**BIMCO Standard Grain Voyage Charter Party**  
Code Name: **GRAINCON**

<b>5. Destination</b>	61
On being so loaded, the Vessel shall proceed with all due despatch to the following port(s) .....	62
.....as ordered by the Charterers, and deliver the cargo, according to Bills	63
of Lading at .....	64
anchorage(s) in Charterers' option, the Vessel being always afloat on having been paid freight as per Clauses 8 (Freight)	65
and 9 (Freight Payment).	66
<i>Discharging Port Orders</i>	67
The Master shall apply in writing to .....	68
sole discharging port orders 96 hours before the Vessel is due off/at .....	69
and they are to give first or sole discharging port orders in writing within 48 hours of receipt of the Master's application	70
unless given earlier. If such first or sole discharging port orders are not given within said 48 hours then any time lost and/	71
or additional bunkers used shall be for the Charterers' account.	72
The Charterers or their Agents shall give the Master/Owners orders for second and/or subsequent port(s) of discharge not	73
later than the Vessel's arrival at first port.	74
The Master/Owners shall give the Charterers or their Agents 48 and 24 hours notice in writing of the Vessel's estimated	75
time of arrival at first or sole discharging port. The Charterers or their Agents are to be kept continuously advised of any	76
alterations in such estimated time of arrival.	77
<b>6. Rotation of Ports</b>	78
Rotation of loading ports is to be in Owners'*/Charterers'* option.	79
Rotation of discharging ports is to be in Owners'*/Charterers'* option, but if more than two (2) ports of discharge are used	80
rotation is to be geographic .....	81
<i>*Delete as appropriate.</i>	82
<b>7. Bills of Lading</b>	83
The Master shall sign Bills of Lading as presented on the GRAINCONBILL Bill of Lading form, in accordance with mate's	84
receipts, without prejudice to the terms, conditions and exceptions of this Charter Party. If the Master elects to delegate the	85
signing of Bills of Lading to the Vessel's agents he shall give them authority to do so in writing, copy of which is to be	86
furnished to the Charterers if so required.	87
<b>8. Freight</b>	88
Freight shall be paid in US Dollars per ton of 1,000 Kilos.	89
Charterers shall bear all bank charges incurred in paying freight to the account stated in Clause 9.	90
The freight rate shall be USD .....	91
Charterers have the option of ordering the Vessel to load at .....	92
in which case the freight rate shall be USD .....	93
Charterers have the option of ordering the Vessel to discharge at .....	94
in which case the freight rate shall be USD .....	95
If more than one port of loading and/or discharging is used, the freight rate shall be increased by USD .....	96
for each additional loading and/or discharging port on the entire cargo.	97
<b>9. Freight Payment</b>	98
Freight shall be deemed earned as cargo is loaded on board, without discount and non-returnable, Vessel and/or cargo	99
lost or not lost.	100
*(a) Freight shall be fully paid on release of signed Bills of Lading marked "freight payable as per Charter Party" at	101
..... (state place)	102
to the bank account .....	103
..... (state bank account details) on Bill of Lading weight.	104
If required by the Charterers, the Owners undertake to endorse Bills of Lading "freight paid" immediately upon receipt of	105
advice from the Owners' bank that freight has been paid.	106
Once the Bills of Lading have been signed, and the Charterers call for release of Original Bills of Lading against receipt of	107
freight, it will be incumbent upon the Owners or their Agents to comply immediately with such call for release during office	108
hours, Mondays to Fridays inclusive.	109
*(b) ..... per cent. of freight shall be paid on Bills of Lading weight within ..... banking days on release	110
of Bills of Lading marked "freight payable as per Charter Party" at .....	111
..... (state place) to the bank account .....	112
..... (state bank account details).	113
Balance of freight is to be paid upon right and true delivery of the cargo after receipt by Charterers of copies of relevant	114
Statements of Fact and Notices of Readiness along with settlement of demurrage/despatch accounts at loading/discharging	115
ports or within 30 days after completion of discharging, whichever is earlier.	116
<i>*Delete as appropriate.</i>	117
<b>10. Cost of Loading and Discharging</b>	118
Cargo is to be loaded and spout trimmed to the Master's satisfaction in respect of seaworthiness, free of risk and expense	119
to the Vessel. Any manual or mechanical trimming over and above spout trimming required by the Vessel shall be for the	120
Owners' account. Cargo is to be discharged to the Master's satisfaction in respect of seaworthiness, free of risk and	121
expense to the Vessel.	122

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<b>11. Stevedores at Loading Port(s) and Discharging Port(s)</b>	123
Stevedores (including crane-drivers/winch-men) at loading and discharging port(s) shall be appointed and paid for by the Charterers.	124
In all cases, stevedores shall be deemed to be the servants of the Owners*/Charterers* and shall work under the supervision of the Master.	125
<i>*Delete as appropriate.</i>	126
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	128
<b>12. Cargo Spaces</b>	129
Cargo shall be loaded in unobstructed main holds only, unless the Owners require, solely for trim and stability purposes, cargo to be loaded into wing spaces, always provided the cargo can bleed into centre holds. Wing spaces are to be spout trimmed; any further trimming in wing spaces and any additional expenses in loading or discharging to be for the Owners' account and additional time so used is not to count as laytime or time on demurrage.	130
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	133
<b>13. Overtime</b>	134
<i>(a) Expenses</i>	135
(i) All overtime expenses at loading and discharging ports shall be for account of the party ordering same.	136
(ii) If overtime is ordered by port authorities or the operators of the loading and/or discharging terminal or facility, all overtime expenses are to be equally shared between the Owners and the Charterers.	137
(iii) Overtime expenses for the Vessel's officers and crew shall always be for the Owners' account.	138
<i>(b) Time Counting</i>	139
If overtime ordered by the Owners be worked during periods excepted from laytime the actual time used shall count; if ordered by the Charterers, the actual time used shall not count; if ordered by port authorities or the operators of the loading and/or discharging terminal or facility half the actual time used shall count.	140
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<b>14. Separations</b>	144
<i>*(a) The laying of cargo separations, including their removal from the Vessel and their proper disposal ashore, shall be for the Charterers' account and risk and all time used shall count as laytime or time on demurrage. Separations ordered by the Charterers shall be made to the Master's satisfaction and must comply with the requirements of the competent authorities. Any claims arising out of or in connection with the commingling and/or admixing and/or contamination of the cargoes shall be the Charterers' responsibility.</i>	145
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	149
<i>*(b) The laying of cargo separations required by the Owners shall be for the Owners' account and risk and time lost shall not count as laytime or time on demurrage. Any claims arising out of or in connection with the commingling and/or admixing and/or contamination of the cargoes shall be the Owners' responsibility.</i>	150
	151
	152
<i>*Delete as appropriate.</i>	153
	154
<b>15. Securing</b>	154
<i>*(a) For the Owners' account</i>	155
Any securing required for safe trim/stowage to be supplied by and paid for by the Owners, and time so used shall not count as laytime or time on demurrage. Bleeding of bags, if any, at discharge port(s) shall be at the Owners' expense, and time actually lost shall not count.	156
	157
	158
<i>*(b) For the Charterers' account</i>	159
Any securing required for safe trim/stowage to be supplied by and paid for by the Charterers, and time so used shall count as laytime or time on demurrage. Bleeding of bags, if any, at discharge port(s) shall be at the Charterers' expense, and time actually lost shall count.	160
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<i>*Delete as appropriate.</i>	163
	164
<b>16. Fumigation</b>	164
If after loading has commenced, and at any time thereafter until completion of discharge, the cargo is required to be fumigated in the Vessel's holds, the Owners are to permit same to take place at the Charterers' risk and expense. If local authorities require the crew to be accommodated ashore as a result of fumigation, all associated expenses shall be for the Charterers' account.	165
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The Charterers warrant that the fumigants used will not expose the Vessel's personnel to any known health hazards, and will comply with current IMO regulations.	169
	170
Time lost to the Vessel shall count as laytime or time on demurrage.	171
	172
<b>17. Opening/Closing Hatches</b>	172
At each loading and discharging port, the first opening and last closing of hatches shall be performed by the crew, provided shore regulations permit, otherwise shore labour shall be employed at Charterers' risk and expense. Cost of all other opening and closing of hatches shall be for the Charterers' account.	173
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	175
<b>18. Time Counting</b>	176
<i>(a) Notice of Readiness</i>	177
Notification of the Vessel's readiness to load and discharge at the first or sole loading and discharging port shall be tendered in writing at the office of Charterers or their Agents between 0900 and 1700 on all days except Sundays (or the local equivalent) and holidays, and between 0900 and 1200 on Saturdays (or the local equivalent). Such notice of readiness shall be tendered when the Vessel is in the loading or discharging berth, if vacant, failing which from a lay-by berth or customary anchorage or waiting place within limits of the port, or otherwise as provided in Clause 18 (b) hereunder.	178
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<i>(b) Waiting for Berth Outside Port Limits</i>	183
If the Vessel is prevented from entering the limits of the loading/discharging port(s) because the first or sole loading/discharging berth or a lay-by berth or anchorage or waiting place is not available within the port limits, or as a result of waiting for the Charterers' orders, or pursuant to the orders of the Charterers or any competent official body or authority, and the Master warrants that the Vessel is physically ready in all respects to load or discharge, he may tender Vessel's notice of readiness in writing from the customary anchorage or waiting place outside the limits of the port, whether in free pratique or not, whether customs cleared or not. If after entering the limits of the loading port, the Vessel fails to pass inspections as per Clause 3 any time so lost shall not count as laytime or time on demurrage from the time the Vessel fails inspections until she is passed.	184 185 186 187 188 189 190 191
<i>(c) Commencement of Laytime</i>	192
Following receipt of notice of readiness laytime will commence at 0800 on the next day not excepted from laytime. Time actually used before commencement of laytime shall count.	193 194
Regardless of whether a valid notice of readiness has been tendered laytime or time on demurrage shall begin at 0800 on the next day not excepted from laytime following the commencement of loading or discharging of the cargo.	195 196
<i>(d) Subsequent Ports</i>	197
At second or subsequent port(s) of loading and/or discharging, laytime or time on demurrage shall resume counting from the Vessel's arrival within the limits of the port or as provided in Clause 18 (b) if applicable.	198 199
<b>19. Laytime</b>	<b>200</b>
<i>*(a) Total laytime for loading and discharging</i>	201
The Vessel shall be loaded and discharged within ..... working days of twenty-four (24) consecutive hours each, weather permitting, Sundays (or the local equivalent) and holidays excepted, unless used, in which event time used shall count.	202 203 204
<i>*(b) Separate laytime for loading and discharging</i>	205
(i) The Vessel shall be loaded at the average rate of ..... metric tons per day*/within ..... working days of twenty-four (24) consecutive hours each*, weather permitting, Sundays (or the local equivalent) and holidays excepted, unless used, in which event time used shall count.	206 207 208
(ii) The Vessel shall be discharged at the average rate of ..... metric tons per working day of twenty-four (24) consecutive hours, calculated on the basis of the Bill of Lading weight, weather permitting, Sundays (or the local equivalent) and holidays excepted, unless used, in which event time used shall count.	209 210 211
(c) Notwithstanding any custom of the port to the contrary, Saturdays (or the local equivalent) shall not count as laytime at loading and discharging port or ports where stevedoring labour and/or grain handling facilities are unavailable on Saturdays (or the local equivalent) or available only at overtime and/or premium rates.	212 213 214
In ports where only part of Saturdays (or the local equivalent) is affected by such conditions, as described above, laytime shall count until the expiration of the last straight time period. Where six or more hours of work are performed at normal rates, Saturday (or the local equivalent) shall count as a full layday.	215 216 217
(d) In the event that the Vessel is waiting for a loading or discharging berth, no time is to be deducted during such period for reasons of weather unless the vessel occupying the loading or discharging berth in question is actually prevented from working due to weather conditions in which case time so lost is not to count.	218 219 220
<i>*Delete as appropriate.</i>	221
<b>20. Demurrage/Despatch</b>	<b>222</b>
On expiry of laytime, demurrage at loading and/or discharging ports is to be paid at the rate of ..... per day or pro rata for part of a day and shall be paid by the Charterers. Despatch shall be paid by the Owners at half the demurrage rate for all laytime saved at loading and/or discharging ports.	223 224 225
Any time lost for which the Owners are not responsible, shall count as laytime, until same has expired, thereafter as time on demurrage.	226 227
<b>21. Shifting</b>	<b>228</b>
<i>(a) Shifting expenses and time</i>	229
(i) The cost of shifting between loading berths and the cost of shifting between discharging berths and/or anchorages, including bunker fuel used, shall be for the Owners'*/Charterers' account. Laytime or time on demurrage used in shifting shall count.	230 231 232
(ii) If the Vessel is required to shift from one loading or discharging berth and/or anchorage to a lay-by berth or anchorage due to subsequent loading or discharging berth(s) not being available, all such shifting expenses, as defined above shall be for the Owners'*/Charterers' account. Laytime or time on demurrage used in shifting shall count.	233 234 235
(iii) If the Vessel shifts from the anchorage or waiting place outside the port limits either directly to the first loading or discharging berth and/or anchorage or to a lay-by berth or anchorage within the port limits, the cost of that shifting shall be for the Owners' account and time so used shall not count even if the Vessel is on demurrage.	236 237 238
(iv) The cost of shifting from lay-by berth or anchorage within the port limits to first loading or first discharging berth and/or anchorage shall be for the Owners' account, and time so used shall count as laytime or time on demurrage.	239 240
(v) Warping, if required, to facilitate loading and discharging operations shall be performed by crew, provided shore labour permits, at the Owners' expense, otherwise shore labour to be used at the Charterers' expense. Laytime or time on demurrage used in warping shall count, but not to be considered as shifting.	241 242 243
<i>(b) Shifting in and out of the same berth</i>	244
Unless required by the Owners, should the Vessel be ordered to shift out of the loading berth and/or anchorage or the discharging berth and/or anchorage and back to the same berth, one berth shall be deemed to have been used. All shifting expenses incurred shall be for the account of the Charterers and time used in shifting shall count as laytime or	245 246 247



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time on demurrage. In the event such shifting was caused by any act, neglect, default or omission on the part of the Vessel	248
or her Owners the shifting expenses shall be for the Owners' account. Time used shall not count as laytime but it shall count	249
as time on demurrage.	250
(c) Overtime expenses for the Vessel's officers and crew shall always be for the Owners' account.	251
<i>*Delete as appropriate.</i>	252
<b>22. Gear and Lights</b>	253
If required, the Master shall give free use of the Vessel's cargo gear, including runners, ropes and slings as on board, and	254
power to operate the same.	255
Unless caused by stevedores' negligence, time lost by breakdown of the Vessel's cargo handling gear or motive power	256
essential to the loading or discharging of this cargo – pro rata to the total number of cranes/winches available for the	257
loading/discharging of cargo under this Charter Party – shall not count as laytime or time on demurrage. Any stevedore	258
standby time charges incurred as a consequence thereof shall be for Owners' account.	259
If required by the Charterers or in Owners' option, shore equipment may be hired in lieu of faulty cargo handling gear or	260
motive power, the cost of which to be for the Owners' account, but in such case time to count as laytime or time on	261
demurrage.	262
If required, the Master shall give free use of the Vessel's lighting as on board for night work.	263
<b>23. Seaworthy Condition</b>	264
If loaded or discharged at two or more berths and/or anchorages and/or ports, the Vessel shall at the Charterers' expense	265
be left in seaworthy condition, to the Master's satisfaction (not exceeding the requirements of the Safety of Life at Sea	266
Convention) for the passage between such berths and/or ports, and time used for placing the Vessel in seaworthy condition	267
shall count as laytime or time on demurrage.	268
<b>24. Draft/Lightering</b>	269
The Owners warrant that the Vessel's deepest Salt Water*/Brackish Water*/Fresh Water* draft on completion of loading	270
shall not exceed ..... metres and ..... metres at first or sole discharging port.	271
Should the Vessel be ordered to discharge at a place where there is insufficient water for the Vessel to get the first tide after	272
arrival without lightening and lie always afloat at a safe anchorage for similar vessels bound for such a place, time shall	273
count as per Clause 18 and any lighterage expenses incurred to enable the Vessel to reach the place of discharge shall be	274
at the expense and risk of the Charterers, notwithstanding any custom of the port or place to the contrary, but time used	275
actually proceeding from the anchorage to the discharging berth shall not count as laytime or time on demurrage.	276
Unless loading and/or discharging ports are named in this Charter Party, the Charterers shall be responsible for providing	277
a safe port/safe berths/safe anchorage of loading and/or discharging, the Owners having complied with the maximum draft	278
limitations in accordance with lines 270/271. In all instances the Charterers shall be responsible for providing a safe berth	279
or anchorage for loading and discharging.	280
<i>*Delete as appropriate.</i>	281
<b>25. Port Costs and/or Taxes</b>	282
(a) The Owners shall pay all port costs, dues, charges and taxes customarily levied on the Vessel, howsoever the amount	283
thereof may be assessed.	284
(b) The Charterers shall pay all port costs, dues, charges, duties and taxes customarily levied on the cargo, howsoever the	285
amount thereof may be assessed.	286
(c) Taxes levied on the freight, if applicable, shall be for the Owners' account.	287
<b>26. Certificates</b>	288
The Vessel shall have valid certificates evidencing compliance with all safety-, health-, environmental- and other statutory	289
rules, regulations and internationally recognised requirements as are necessary to ensure safe and unhindered loading,	290
performance of the voyage and discharge of the cargo.	291
Any time lost on account of the Vessel's non-compliance with Government and/or State regulations shall not count as	292
laytime or time on demurrage.	293
<b>27. Agents</b>	294
The Owners*/Charterers* shall nominate agents at loading port(s) and the Owners*/Charterers* shall nominate agents at	295
discharging port(s).	296
The Owners shall appoint agents as nominated above. In all instances, agency fees shall be for the Owners' account but	297
shall not exceed customary applicable fees.	298
<i>*Delete as appropriate.</i>	299
<b>28. Strikes, Stoppages, etc.</b>	300
If the cargo cannot be loaded or discharged by reason of riots, civil commotions or of a strike or lock-out of any class of	301
workmen essential to the loading or discharging of the cargo, or by reason of obstructions or stoppages beyond the	302
control of the Charterers caused by riots, civil commotions or a strike or lock-out on the railway or in the docks or other	303
loading or discharging places, the time for loading or discharging, as the case may be, shall not count during the	304
continuance of such causes, provided that a strike or lock-out of shippers' and/or receivers' men shall not interrupt	305
laytime if by the use of reasonable diligence they could have obtained other suitable labour at rates current before the	306
strike or lock-out. In case of any delay by reason of the before mentioned causes, no claim for damages or demurrage	307
shall be made by the Charterers or the Owners of the Vessel. For the purpose, however, of settling despatch rebate	308

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accounts, any time lost by the Vessel through any of the above causes shall be counted as time used in loading, or	309
discharging, as the case may be.	310
<b>29. Ice</b>	<b>311</b>
The Vessel shall not be obliged to force ice but, subject to the Owners' approval and having due regard to its size, construction	312
and class, may follow ice-breakers when reasonably required.	313
<i>Port of Loading</i>	314
(a) If at any time after setting out on the approach voyage the Vessel's passage is impeded by ice, or if on arrival the loading	315
port is inaccessible by reason of ice, the Master or Owners shall notify the Charterers thereof and request them to nominate	316
a safe and accessible alternative port.	317
If the Charterers fail within 48 running hours, Sundays and holidays included, to make such nomination or agree to reckon	318
laytime as if the port named in the Charter Party were accessible or declare that they cancel the Charter Party, the Owners	319
shall have the option of cancelling the Charter Party. In the event of cancellation by either party, the Charterers shall	320
compensate the Owners for all proven loss of earnings under this Charter Party.	321
(b) If at any loading port the Master considers that there is a danger of the Vessel being frozen in, and provided that the	322
Master or Owners immediately notify the Charterers thereof, the Vessel may leave with cargo loaded on board and proceed	323
to the nearest safe and ice free place and there await the Charterers' nomination of a safe and accessible alternative port	324
within 24 running hours, Sundays and holidays excluded, of the Master's or Owners' notification. If the Charterers fail to	325
nominate such alternative port, the Vessel may proceed to any port(s), whether or not on the customary route for the	326
chartered voyage, to complete with cargo for the Owners' account.	327
<i>Port of Discharge</i>	328
(a) If the voyage to the discharging port is impeded by ice, or if on arrival the discharging port is inaccessible by reason of	329
ice, the Master or Owners shall notify the Charterers thereof. In such case, the Charterers shall have the option of keeping	330
the Vessel waiting until the port is accessible against paying compensation in an amount equivalent to the rate of demurrage	331
or of ordering the Vessel to a safe and accessible alternative port.	332
If the Charterers fail to make such declaration within 48 running hours, Sundays and holidays included, of the Master or	333
Owners having given notice to the Charterers, the Master may proceed without further notice to the nearest safe and	334
accessible port and there discharge the cargo.	335
(b) If at any discharging port the Master considers that there is a danger of the Vessel being frozen in, and provided that the	336
Master or Owners immediately notify the Charterers thereof, the Vessel may leave with cargo remaining on board and	337
proceed to the nearest safe and ice free place and there await the Charterers' nomination of a safe and accessible	338
alternative port within 24 running hours, Sundays and holidays excluded, of the Master's or Owners' notification. If the	339
Charterers fail to nominate such alternative port, the Vessel may proceed to the nearest safe and accessible port and there	340
discharge the remaining cargo.	341
(c) On delivery of the cargo other than at the port(s) named in the Charter Party, all conditions of the Bill of Lading shall	342
apply and the Vessel shall receive the same freight as if discharge had been at the original port(s) of destination, except	343
that if the distance of the substituted port(s) exceeds 100 nautical miles, the freight on the cargo delivered at the substituted	344
port(s) shall be increased proportionately.	345
<b>30. Extra Insurance</b>	<b>346</b>
Any extra insurance on cargo actually paid by the Charterers owing to Vessel's age, class or flag shall be for the Owners'	347
account up to a maximum of ..... but the rates and terms shall not exceed the minimum quoted	348
in the current advisory schedules of basic additional premiums payable as a result of any of the above reasons for shipments	349
by vessels held covered in London in the Institute Classification Clause. Any such premium may be deducted from the	350
freight. The Charterers shall provide evidence of payment supporting such deduction.	351
<b>31. P&amp;I Bunker Clause</b>	<b>352</b>
The Vessel shall have the liberty as part of the contract voyage to proceed to any port or ports at which bunker oil is	353
available for the purpose of bunkering at any stage of the voyage whatsoever and whether such ports are on or off the	354
direct and/or customary route or routes between any of the ports of loading or discharge named in this Charter Party and	355
may there take oil bunkers in any quantity in the discretion of the Owners even to the full capacity of bunker tanks and deep	356
tanks and any other compartment in which oil can be carried whether such amount is or is not required for the chartered	357
voyage.	358
<b>32. Deviation</b>	<b>359</b>
Any deviation in saving or attempting to save life or property at sea or any reasonable deviation shall not be deemed an	360
infringement or breach of this Charter Party and the Owners shall not be liable for any loss or damage resulting therefrom.	361
<b>33. Lien and Cesser</b>	<b>362</b>
The Owners shall have a lien on the cargo and on all sub-freights payable in respect of the cargo for freight, deadfreight,	363
demurrage, general average contributions and for all other amounts due under this Charter Party including costs of recovering	364
same.	365
The Charterers' liability under this Charter Party is to cease on cargo being shipped except for payment of freight, deadfreight,	366
and demurrage, and except for all other matters provided for in this Charter Party where the Charterers' responsibility is	367
specified.	368
<b>34. General Clause Paramount</b>	<b>369</b>
The International Convention for the Unification of certain Rules of Law relating to Bills of Lading signed at Brussels on 24	370

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August 1924 ("the Hague Rules") as amended by the Protocol signed at Brussels on 23 February 1968 ("the Hague-Visby Rules") and as enacted in the country of shipment shall apply to this Charter Party. When the Hague-Visby Rules are not enacted in the country of shipment, the corresponding legislation of the country of destination shall apply, irrespective of whether such legislation may only regulate outbound shipments.	371 372 373 374
When there is no enactment of the Hague-Visby Rules in either the country of shipment or in the country of destination, the Hague-Visby Rules shall apply to this Charter Party save where the Hague Rules as enacted in the country of shipment or if no such enactment is in place, the Hague Rules as enacted in the country of destination, compulsorily applicable to shipments, in which case the provisions of such Rules shall apply.	375 376 377 378
The Protocol signed at Brussels on 21 December 1979 ("the SDR Protocol 1979") shall apply where the Hague-Visby Rules apply, whether mandatorily or by this Charter Party.	379 380
The Owner shall in no case be responsible for loss of or damage to cargo arising prior to loading, after discharging or while the cargo is in the charge of another carrier, or with respect to deck cargo and live animals.	381 382
<b>35. Mutual Exceptions</b>	<b>383</b>
Save to the extent otherwise in this Charter Party expressly provided, neither party shall be responsible for any loss or damage or delay or failure in performance hereunder resulting from Act of God, war, civil commotion, quarantine, arrest or restraint of princes, rulers and peoples or any other events whatsoever which cannot be avoided or guarded against.	384 385 386
<b>36. Both-to-Blame Collision Clause</b>	<b>387</b>
If the liability for any collision in which the Vessel is involved while performing this Charter Party falls to be determined in accordance with the laws of the United States of America, the following clause shall apply:	388 389
"If the Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the master, mariner, pilot or the servants of the Owners in the navigation or in the management of the Vessel, the owners of the goods carried hereunder will indemnify the Owners against all loss or liability to the other or non-carrying vessel or her owners in so far as such loss or liability represents loss of or damage to or any claim whatsoever of the owners of the said goods, paid or payable by the other or non-carrying vessel or her owners to the owners of the said goods and set off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying Vessel or Owners.	390 391 392 393 394 395 396
The foregoing provisions shall also apply where the Owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect to a collision or contact."	397 398
The Charterers shall procure that all Bills of Lading issued under this Charter Party shall contain the same clause.	399
<b>37. General Average/New Jason Clause</b>	<b>400</b>
General Average shall be adjusted according to the York/Antwerp Rules 1994 and any subsequent modification thereof and shall be settled in ..... Where the adjustment is made in accordance with the law and practice of the United States of America, the following clause shall apply:	401 402 403
"In the event of accident, danger, damage or disaster before or after commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for the consequences of which, the Owners are not responsible, by Statute, contract or otherwise, the goods, shippers, consignees or owners of the goods shall contribute with the Owners in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods.	404 405 406 407 408
If a salving vessel is owned or operated by the Owners, salvage shall be paid for as fully as if the said salving vessel or vessels belonged to strangers. Such deposit as the Owners or their agents may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, shippers, consignees or owners of the goods to the Owners before delivery."	409 410 411 412
The Charterers shall procure that all Bills of Lading issued under this Charter Party shall contain the same clause.	413
<b>38. War Risks ("Voywar 1993")</b>	<b>414</b>
(a) For the purpose of this Clause, the words:	415
(i) "Owners" shall include the shipowners, bareboat charterers, disponent owners, managers or other operators who are charged with the management of the Vessel, and the Master; and	416 417
(ii) "War Risks" shall include any war (whether actual or threatened), act of war, civil war, hostilities, revolution, rebellion, civil commotion, warlike operations, the laying of mines (whether actual or reported), acts of piracy, acts of terrorists, acts of hostility or malicious damage, blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever), by any person, body, terrorist or political group, or the Government of any state whatsoever, which, in the reasonable judgement of the Master and/or the Owners, may be dangerous or are likely to be or to become dangerous to the Vessel, her cargo, crew or other persons on board the Vessel.	418 419 420 421 422 423 424
(b) If at any time before the Vessel commences loading, it appears that, in the reasonable judgement of the Master and/or the Owners, performance of the Charter Party, or any part of it, may expose, or is likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks, the Owners may give notice to the Charterers cancelling this Charter Party, or may refuse to perform such part of it as may expose, or may be likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks; provided always that if this Charter Party provides that loading or discharging is to take place within a range of ports, and at the port or ports nominated by the Charterers the Vessel, her cargo, crew, or other persons on board the Vessel may be exposed, or may be likely to be exposed, to War Risks, the Owners shall first require the Charterers to nominate any other safe port which lies within the range for loading or discharging, and may only cancel this Charter Party if the Charterers shall not have nominated such safe port or ports within 48 hours of receipt of notice of such requirement.	425 426 427 428 429 430 431 432 433 434



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(c) The Owners shall not be required to continue to load cargo for any voyage, or to sign Bills of Lading for any port or place, or to proceed or continue on any voyage, or on any part thereof, or to proceed through any canal or waterway, or to proceed to or remain at any port or place whatsoever, where it appears, either after the loading of the cargo commences, or at any stage of the voyage thereafter before the discharge of the cargo is completed, that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo (or any part thereof), crew or other persons on board the Vessel (or any one or more of them) may be, or are likely to be, exposed to War Risks. If it should so appear, the Owners may by notice request the Charterers to nominate a safe port for the discharge of the cargo or any part thereof, and if within 48 hours of the receipt of such notice, the Charterers shall not have nominated such a port, the Owners may discharge the cargo at any safe port of their choice (including the port of loading) in complete fulfilment of the Charter Party. The Owners shall be entitled to recover from the Charterers the extra expenses of such discharge and, if the discharge takes place at any port other than the loading port, to receive the full freight as though the cargo had been carried to the discharging port and if the extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route, the Owners having a lien on the cargo for such expenses and freight.

(d) If at any stage of the voyage after the loading of the cargo commences, it appears that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo, crew or other persons on board the Vessel may be, or are likely to be, exposed to War Risks on any part of the route (including any canal or waterway) which is normally and customarily used in a voyage of the nature contracted for, and there is another longer route to the discharging port, the Owners shall give notice to the Charterers that this route will be taken. In this event the Owners shall be entitled, if the total extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route.

(e) The Vessel shall have liberty:-

- (i) to comply with all orders, directions, recommendations or advice as to departure, arrival, routes, sailing in convoy, ports of call, stoppages, destinations, discharge of cargo, delivery or in any way whatsoever which are given by the Government of the Nation under whose flag the Vessel sails, or other Government to whose laws the Owners are subject, or any other Government which so requires, or any body or group acting with the power to compel compliance with their orders or directions;
- (ii) to comply with the orders, directions or recommendations of any war risks underwriters who have the authority to give the same under the terms of the war risks insurance;
- (iii) to comply with the terms of any resolution of the Security Council of the United Nations, any directives of the European Community, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement;
- (iv) to discharge at any other port any cargo or part thereof which may render the Vessel liable to confiscation as a contraband carrier;
- (v) to call at any other port to change the crew or any part thereof or other persons on board the Vessel when there is reason to believe that they may be subject to internment, imprisonment or other sanctions;
- (vi) where cargo has not been loaded or has been discharged by the Owners under any provisions of this Clause, to load other cargo for the Owners' own benefit and carry it to any other port or ports whatsoever, whether backwards or forwards or in a contrary direction to the ordinary or customary route.

(f) If in compliance with any of the provisions of sub-clauses (b) to (e) of this Clause anything is done or not done, such shall not be deemed to be a deviation, but shall be considered as due fulfilment of the Charter Party.

**39. Address Commission** 477  
An address commission of ..... per cent. on gross freight, deadfreight and demurrage is due to Charterers at the time freight and/or demurrage is paid, Vessel lost or not lost, Charterers having the right to deduct such commission from payment of freight and/or demurrage. 478  
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**40. Brokerage** 481  
A brokerage of ..... per cent. on gross freight, deadfreight, and demurrage is payable by the Owners to ..... (broker(s) name) at the time of receiving freight payment and/or demurrage payment(s), Vessel lost or not lost. In case of non-execution, one third of the brokerage on the estimated amount of freight to be paid by the party responsible for such non-execution to the Brokers as indemnity for the latter's expenses and work. In case of more voyages the amount of indemnity to be agreed. 482  
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**41. Notices** 487  
(a) All notices given by either party or their agents to the other party or their agents in accordance with the provisions of this Charter Party shall be in writing. 488  
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(b) For the purposes of this Charter Party, "in writing" shall mean any method of legible communication. A notice may be given by any effective means including, but not limited to, cable, telex, fax, e-mail, registered or recorded mail, or by personal service. 490  
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**42. Dispute Resolution Clause** 493  
\*(a) This Charter Party shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this Charter Party shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause. 494  
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The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced. 496  
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The reference shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator within 14 calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the 14 days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the 14 days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be binding on both parties as if he had been appointed by agreement.

Nothing herein shall prevent the parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.

In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.

\* (b) This Charter Party shall be governed by and construed in accordance with Title 9 of the United States Code and the Maritime Law of the United States and any dispute arising out of or in connection with this Charter Party shall be referred to three persons at New York, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be final, and for the purposes of enforcing any award, judgement may be entered on an award by any court of competent jurisdiction. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc.

In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, Inc. current at the time when the arbitration proceedings are commenced.

\* (c) This Charter Party shall be governed by and construed in accordance with the laws of the place mutually agreed by the parties and any dispute arising out of or in connection with this Charter Party shall be referred to arbitration at a mutually agreed place, subject to the procedures applicable there.

(d) Notwithstanding 42(a), 42(b) or 42(c) above, the parties may agree at any time to refer to mediation any difference and/or dispute arising out of or in connection with this Charter Party.

In the case of a dispute in respect of which arbitration has been commenced under 42(a), 42(b) or 42(c) above, the following shall apply:-

- (i) Either party may at any time and from time to time elect to refer the dispute or part of the dispute to mediation by service on the other party of a written notice (the "Mediation Notice") calling on the other party to agree to mediation.
- (ii) The other party shall thereupon within 14 calendar days of receipt of the Mediation Notice confirm that they agree to mediation, in which case the parties shall thereafter agree a mediator within a further 14 calendar days, failing which on the application of either party a mediator will be appointed promptly by the Arbitration Tribunal ("the Tribunal") or such person as the Tribunal may designate for that purpose. The mediation shall be conducted in such place and in accordance with such procedure and on such terms as the parties may agree or, in the event of disagreement, as may be set by the mediator.
- (iii) If the other party does not agree to mediate, that fact may be brought to the attention of the Tribunal and may be taken into account by the Tribunal when allocating the costs of the arbitration as between the parties.
- (iv) The mediation shall not affect the right of either party to seek such relief or take such steps as it considers necessary to protect its interest.
- (v) Either party may advise the Tribunal that they have agreed to mediation. The arbitration procedure shall continue during the conduct of the mediation but the Tribunal may take the mediation timetable into account when setting the timetable for steps in the arbitration.
- (vi) Unless otherwise agreed or specified in the mediation terms, each party shall bear its own costs incurred in the mediation and the parties shall share equally the mediator's costs and expenses.
- (vii) The mediation process shall be without prejudice and confidential and no information or documents disclosed during it shall be revealed to the Tribunal except to the extent that they are disclosable under the law and procedure governing the arbitration.

*(Note: The parties should be aware that the mediation process may not necessarily interrupt time limits.)*

*\* Sub-clauses 42(a), 42(b) and 42(c) are alternatives; delete as appropriate, failing which sub-clause 42(a) shall apply. Sub-clause 42(d) shall apply in all cases.*

.....  
Signature (Owners)

.....  
Signature (Charterers)

**EK-2**

**14/06/2006 Tarihinde Meclis Alt Komisyonu Tarafından Kabul Edilen Türk Ticaret Kanunu Tasarısı:**

**Yükleme ve Boşaltma**

**A) Yükleme**

**I- Demirleme yeri**

Madde 1142 - (1) Kaptan, eşyayı almak için gemiyi sözleşmede kararlaştırılan yere demirler.

(2) Sözleşmede yalnızca geminin yükleme yapacağı liman veya bölge kararlaştırılmışsa, gemi, bu liman veya bölge için tahsis edilmiş bekleme alanında yükleme yerinin belirlenmesini bekler.

**II- Yüklemeye giderleri**

Madde 1143 - (1) Sözleşme, yüklemeye limanı düzenlemeleri ve bunlar yoksa yerel teamül ile aksi öngörülmüş olmadıkça, eşyanın gemiye kadar taşıma gideri taşıtana, yüklemeye gideri ise taşıyana aittir.

**III- Yüklenecek eşya**

**1. Kararlaştırılandan başka eşya**

Madde 1144 - (1) Kararlaştırılan eşya yerine, aynı varma limanı için, taşıtan tarafından gemiye başka eşya yükletilmek istenilirse taşıyan, bu yüzden durumu güçleşmedikçe bunu kabul ile yükümlüdür. Sözleşmede, eşya ferdin belirlenmiş ise bu hüküm uygulanmaz.

**2. Doğru bildirimde bulunma yükümlülüğü**

**a) Eşya hakkında**

Madde 1145 - (1) Taşıtan ile yükleten, eşya hakkında taşıyana tam ve doğru beyanda bulunmakla yükümlüdürler. Bunlardan her biri, beyanlarının doğru olmamasından doğan zarardan taşıyana karşı sorumludur; bu yüzden zarar gören diğer kişilere karşı ise ancak kusurları varsa sorumlu olurlar.

(2) Taşıyanın navlun sözleşmesi gereğince taşıtan ve yükleten dışındaki kişilere karşı olan yükümlülükleri ve sorumluluğu saklıdır.

**b) Caiz olmayan eşya ve yüklemeye hakkında**

Madde 1146 - (1) Taşıtan ve yükleten, harp kaçağı veya ihracı, ithali veya transit olarak geçirilmesi menedilmiş olan eşyayı yükler yahut yüklemeye sırasında mevzuata, özellikle

kolluk, vergi ve gümrük kurullarına aykırı hareket ederlerse, taşıyana karşı sorumludur; bu yüzden zarar gören diğer kişilere karşı ise ancak kusurları varsa sorumlu olurlar.

(2) Kaptanın onayıyla hareket etmiş olmaları, taşıtan ve yükleteni diğer kişilere karşı sorumluluktan kurtarmaz. Bunlar eşyanın el konulmuş olduğunu ileri sürerek navlunu ödemekten kaçınamazlar.

(3) Eşya, gemiyi veya içindeki diğer eşyayı tehlikeye sokarsa, kaptan, bunu karaya çıkarmaya veya zorunluluk hâllerinde denize atmaya yetkilidir.

c) Gizlice yüklenen eşya hakkında

Madde 1147 - (1) Kaptanın bilgisi olmaksızın gizlice gemiye eşya yükleyen kişi de 1145 inci maddeye göre bu yüzden doğacak zararı tazmin etmekle yükümlüdür. Kaptan bu gibi eşyayı tekrar karaya çıkarmaya ve gemiyi veya diğer eşyayı tehlikeye düşürürse gerektiğinde denize atmaya yetkilidir. Kaptan eşyayı gemide tutarsa, yükleme yerinde ve yükleme sırasında bu gibi yolculuk ve eşya için alınan en yüksek navlunun ödenmesi gerekir.

d) Tehlikeli eşya hakkında

Madde 1148 - (1) Denizde can ve mal koruma hakkındaki mevzuata göre tehlikeli sayılan eşya kaptanın bunlardan veya bunların tehlikeli cins veya niteliklerinden bilgisi olmaksızın gemiye getirilirse, taşıtan veya yükleten, kendilerine bir kusur isnat edilmese dahi, 1145 inci maddeye göre sorumludur. Bu hâlde kaptan eşyayı her zaman ve herhangi bir yerde gemiden çıkarmaya, imha etmeye veya başka suretle zararsız hâle getirmeye yetkilidir.

(2) Kaptan, eşyanın tehlikeli cins veya niteliğini bildiği hâlde, yüklemeye onay vermişse, eşya gemiyi veya diğer eşyayı tehlikeye soktuğu takdirde aynı şekilde hareket etmeye yetkilidir. Bu hâlde de taşıyan veya kaptan, zararı tazmin etmekle yükümlü değildirler. Müşterek avarya hâlinde zararın paylaşılmasına ilişkin hükümler saklıdır.

3. Bilgi

Madde 1149 - (1) Taşıyanın veya acentesinin bilgisi 1146 ilâ 1148 inci maddelerdeki hâllerde kaptanın bilgisi hükmündedir.

IV- Başka gemiye yükleme ve aktarma

Madde 1150 - (1) Taşıyan, taşıtanın iznini almadan eşyayı başka gemiye yükleyemez, yüklerse bundan doğacak zarardan sorumlu olur; meğerki, eşyanın kararlaştırılan gemiye

yükletilmiş olması hâlinde de zararın meydana gelmesi kesin ve zarar dahi taşıtana ait olsun.

(2) Tehlike hâlinde ve yolculuk başladıktan sonra yapılacak aktarmalar hakkında birinci fıkra hükmü uygulanmaz.

V- Güverteye konacak eşya

Madde 1151 - (1) Taşıyan, eşyayı güvertede taşıyamaz ve küpeşteye asamaz.

(2) Taşıyan eşyayı ancak yükleten ile arasındaki anlaşmaya veya ticar teamüle uygunsu ya da mevzuat gereği zorunluysa güvertede taşıyabilir.

(3) Taşıyan eşyanın güvertede taşınması veya taşınabileceği hususunda yükleten ile anlaşığı takdirde denizde taşıma senedine bu yolda yazılı bir kaydı düşmesi gerekir. Böyle bir kaydın düşülmemesi hâlinde, güvertede taşıma hususunda bir anlaşmanın varlığını ispat yükü taşıyana aittir; şu kadar ki, taşıyan, denizde taşıma senedini iyiniyetle iktisap eden gönderilen dâhil üçüncü kişilere karşı böyle bir anlaşmayı ileri sürmek hakkına sahip değildir.

(4) Eşyanın güvertede taşınmış olması birinci veya ikinci fıkraya aykırı ise, taşıyan, güvertede taşımadan ileri gelen zıya, hasar veya geç teslimden 1178 ve 1179 uncu maddelere göre sorumlu olur. Taşıyanın sorumluluğunun sınırları hakkında, yerine göre, 1186 veya 1187 nci maddeler uygulanır.

(5) Eşyanın ambarda taşınması hakkındaki açık anlaşmaya aykırı olarak güvertede taşınması, taşıyanın, 1187 nci madde anlamında bir fiili veya ihmâli sayılır.

VI- Süreler

1. Hazırlık bildirimini

Madde 1152 - (1) Yüklemenin belli bir günde başlayacağı kararlaştırılmamışsa, taşıyan veya yetkili bir temsilcisi, ikinci ilâ beşinci fıkra hükümlerine uygun olarak taşıtana bir hazırlık bildiriminde bulunur.

(2) Hazırlık bildirimini, gemi, 1142 nci maddede öngörülen demirleme yerine varınca yapılır.

(3) 1142 nci maddenin ikinci fıkrasında yazılı hâllerde, hazırlık bildiriminde bulunulması üzerine gemiye yükleme yeri gösterilmez veya suyun derinliği, geminin selâmeti, yerel düzenlemeler veya tesisler, verilen talimata göre hareket etmeye engel

olursa, gemi, bekleme alanında kalır. Bu hükmün uygulanmasında, liman yönetiminin talimatı, taşıtanın talimatı hükmündedir.

(4) Yolculuk çarteri sözleşmesine veya taşıtanın sonradan verdiği geçerli bir talimata göre, taşıtandan başka bir kişiye bildirimde bulunulması gerekiyorsa, bildirim bu kişiye yapılır. Bildirimin muhatabı bulunamazsa veya muhatap bildirimini almaktan kaçınırsa, bu durum derhal taşıtana bildirilir. Bu takdirde, hazırlık bildirimini, bildirim girişiminde bulunulduğu tarihte yapılmış sayılır.

(5) Hazırlık bildiriminin geçerliği, herhangi bir şekilde bağlı değildir. Hazırlık bildiriminin hüküm doğurması için, muhatabına ulaşması zorunludur.

## 2. Yükleme süresi

Madde 1153 - (1) Yükleme süresi, hazırlık bildirimini, muhatabına ulaşmasını izleyen ilk takvim günü ve eğer yüklemeye fiilen başlanmışsa, o andan itibaren işlemeye başlar. Sürenin işlemeye başladığı anda, yüklemeye fiilen başlanamaması hâlinde de 1156 ncı madde uygulanır.

(2) Yükleme süresi sözleşme ile belirlenmemişse, yüklemenin yirmidört saatlik kesintisiz çalışma ile yapılması hâlinde ihtiyaç duyulacak süre, yükleme süresi olarak kabul edilir. Bu süre hesaplanırken, yüklemenin yapılacağı liman, taşımayı yapan gemi, yükleme tesis ve araçları ve yükün niteliği ile birlikte yükleme limanı düzenlemeleri ve yerel teamül göz önünde bulundurulur.

(3) Taraflar, yükleme süresi için ücret ödenmesini kararlaştırabilirler.

## 3. Sürastarya süresi

Madde 1154 - (1) Sözleşmede kararlaştırılmışsa taşıyan, eşyanın yükletilmesi için yükleme süresinden fazla beklemek zorundadır. Fazladan beklenen bu süreye “sürastarya süresi” denir.

(2) Sözleşmede sürastaryadan veya sadece sürastarya parasından sözedilmiş olup da, sürastarya süresi belirtilmemişse, bu süre on gündür.

(3) Sürastarya süresi, yükleme süresi bitince, herhangi bir bildirim gerek kalmaksızın başlar.

## 4. Sürastarya parası

Madde 1155 - (1) Sürastarya süresi için taşıyana “sürastarya parası” ödenir.

(2) Sürastarya parasının miktarı sözleşme ile kararlaştırılmışsa, taşıyan, sözleşmede belirlenen miktarı aşan bir istemde bulunamaz.

(3) Sözleşmede miktarı kararlaştırılmamışsa, sürastarya parası olarak yükleme süresini aşan bekleme nedeniyle, taşıyanın yaptığı zorunlu ve yararlı giderler istenebilir.

(4) Yükleme limanında doğan sürastarya parasının borçlusu, taşıtan olup, sürastarya parası ödenmeden veya yeterli teminat verilmeden, taşıyan gemiyi yola çıkarmak zorunda değildir. Bu sebeple fazladan beklediği süre için taşıyan, uğradığı zararın tamamını taşıtandan isteyebilir.

(5) Yükleme limanında doğan sürastarya parası, sürastarya süresinin hesabında esas alınan zaman biriminin sonunda muaccel olur. Kullanılmayan zaman birimi için sürastarya parası istenemez.

(6) Navluna ilişkin hükümler, yükleme limanında doğan sürastarya parasına kıyas yoluyla bile uygulanamaz.

#### 5. Yükleme ve sürastarya sürelerinin hesabı

Madde 1156 - (1) Yükleme ve sürastarya süreleri takvime göre aralıksız hesaplanır.

(2) Taşıtanın faaliyet alanında gerçekleşen tesadüfi sebepler dolayısıyla eşyanın gemiye teslimi mümkün olmayan günler de yükleme ve sürastarya sürelerinin hesabında dikkate alınır.

(3) Taşıyanın faaliyet alanında gerçekleşen tesadüfi sebepler dolayısıyla eşyanın gemiye alınması mümkün olmayan günler ise bu sürelerin hesabında dikkate alınmaz; sürastarya süresi içinde olsa bile bu günler için sürastarya parası istenemez.

(4) Fırtına, buz istilâsı veya seferberlik gibi her iki tarafın faaliyet alanını ilgilendiren tesadüfi sebepler dolayısıyla eşyanın gemiye teslim edilmesi ve alınması imkânı bulunmayan günler yükleme veya sürastarya sürelerine eklenir; şu kadar ki, yükleme süresi içinde olsa bile taşıtan bu günler için taşıyana sürastarya parası ödemekle yükümlüdür.

(5) Üçüncü ve dördüncü fıkralarda yazılı hâllerde, yüklemeye fiilen devam edildiği anda, süreler durduğu yerden işlemeye başlar.

#### 6. Hızlandırma primi

Madde 1157 - (1) Yüklemenin, sözleşmede kararlaştırılan yükleme süresinden önce bitirilmesi hâlinde, taşıyanın, kullanılmayan süre için taşıtana bir para ödemesini öngören



anlaşmalar geçerlidir. Bu paraya ilişkin sürenin hesaplanmasında, yükleme süresinin hesabına ilişkin kurallar uygulanır.

(2) Yapılan sözleşme, navlunun belirlenmesine ilişkin olarak yükleme veya boşaltma limanında geçerli olan idarî, malî veya cezaî hükümleri dolanmak amacına yönelikse, birinci fıkra uygulanmaz.

#### VII- Yolculuk başlamadan önce sözleşmenin feshi

Madde 1158 - (1) Taşıtan, yolculuk charteri sözleşmesini, gemi o sözleşme uyarınca yüklemesini tamamlayıp yolculuğa çıkıncaya kadar feshedebilir.

(2) Fesih tazminatı olarak, taşıyan sözleşmenin feshedilmesinden dolayı yoksun kaldığı kazanç ve o zamana kadar doğmuş olan alacaklarını isteyebilir. Tereddüt hâlinde, kararlaştırılan toplam navlunun yüzde otuzu, yoksun kalınan kazanç sayılır. Feshedilen sözleşmenin ifası için gereken süre içinde, taşıyanın, yeni navlun sözleşmeleri yapmak suretiyle elde ettiği kazanç, tazminat tutarından indirilir.

(3) Fesih hakkının, gemiye eşya alındıktan sonra kullanılması hâlinde, taşıyan, eşyanın boşaltılması için gereken süreyi beklemek zorundadır. Bu süre, yükleme veya sürastarya süresinden sayılmaz. Taşıtan, eşyanın gemiden çıkarılması nedeniyle taşıyanın yapmak zorunda kaldığı bütün giderleri ve uğradığı zararı tazmin etmek zorundadır.

(4) Sözleşme uyarınca birden fazla yolculuk yapılacaksa, fesih hakkı, henüz başlamış olmayan yolculuklardan her biri için ayrı ayrı veya hepsi için birlikte kullanılabilir.

#### VIII- Yüklemenin hiç veya süresinde yapılmaması

##### 1. Yüklemenin hiç yapılmaması

Madde 1159 - (1) Yükleme süresi ve kararlaştırılmışsa sürastarya süresi bittiği hâlde yükleme henüz başlamamışsa taşıyan;

a) Sözleşmeyi feshedilmiş sayabilir veya

b) Yüklemenin yapılması için beklemeye devam edebilir.

(2) Taşıyanın, sözleşmenin feshedildiğini kabul edip 1158 inci maddenin ikinci fıkrası uyarınca tazminat isteyebilmesi için beklemekle yükümlü olduğu süre dolduğunda, taşıtana faks mesajı, elektronik mektup veya benzeri teknik araçlarla da mümkün olmak üzere, yazılı bildirimde bulunması zorunludur.

(3) Taşıyan, yüklemenin yapılmasını beklemeye devam ederse, bu fazla bekleme sebebiyle uğradığı zararın tamamını taşıtandan isteyebilir.

## 2. Eksik yükleme

Madde 1160 - (1) Yükleme süresi ve kararlaştırılmış ise sürastarya süresi bittikten sonra, taşıyan, yüklemenin tamamlanması için daha fazla beklemek zorunda değildir. Taşıyan, taşıtanın talimatına dayanarak yükleme ve varsa sürastarya süresinden sonra beklemeye devam ederse, bu süre için yaptığı giderlerle bu yüzden uğradığı zarara karşılık tazminat isteyebilir.

(2) Yükleme süresi ve kararlaştırılmış ise sürastarya süresi bittikten sonra, taşıyan, taşıması kararlaştırılan eşyanın tamamı yüklenmiş olmasa bile, taşıtanın istemi üzerine yola çıkmak zorundadır. Bu durumda taşıyan,

a) Sözleşmede kararlaştırılmış olan navlunun tamamını,

b) Doğmuş sürastarya ücretini,

c) Eksik yükleme sebebiyle yapmak zorunda kaldığı giderleri ve uğradığı zararı,

d) Alacakları, eksik yükleme sebebiyle kısmen veya tamamen teminatsız kalmışsa, kendisine ek teminat gösterilmesini,

isteyebilir. Şu kadar ki, kısmen yüklenmeyen eşyanın yerine başka bir sözleşme uyarınca eşya taşınmışsa, bu eşya için alınacak navlun, (a) bendine göre istenecek navlundan düşülür.

(3) Yükleme süresinin ve kararlaştırılmışsa sürastarya süresinin sonunda, kararlaştırılan eşyanın tamamı yüklenmemiş ve birinci ile ikinci fıkralara göre talimat da verilmemiş ise, taşıyan, taşıtana faks mesajı, elektronik mektup veya benzeri teknik araçlarla da mümkün olmak üzere yazılı bildirimde bulunup, belli süre içinde talimat verilmesini isteyebilir. Sürenin sonuna kadar talimat verilmezse, taşıyan sözleşmeyi feshedilmiş sayarak 1158 inci maddeden doğan haklarını kullanabilir.

### IX- Birden çok yükleyen veya taşıtanın bulunması

#### 1. Birden çok yükleyen

Madde 1161 - (1) Yolculuk çarteri sözleşmesine veya taşıtanın sonradan verdiği geçerli bir talimata göre eşya, aynı limanda birden çok kişiden teslim alınacaksa, hazırlık bildiriminin taşıtana yapılması gereklidir. 1152 ilâ 1160 ıncı madde hükümleri, birden çok yükleyen bulunması dikkate alınmaksızın uygulanır. Yükleyenler, her bir eşya için, geminin yükleme yerinin değiştirilmesini isteyebilir; şu kadar ki, yer değiştirmenin, manevrası da

dâhil olmak üzere bütün giderleri taşıtana aittir ve yükleme ile sürastarya süreleri yer deęiřtirme manevrası sırasında işlemeye devam eder.

## 2. Birden çok taşıtan

Madde 1162 - (1) Geminin belli kısımları veya yerleri için birden çok taşıtan ile bağımsız yolculuk çarteri sözleşmeleri yapılmıřsa, 1152 ilâ 1157 nci maddeler hükümleri her sözleşme için ayrı ayrı uygulanır; řu kadar ki, 1158 inci maddede düzenlenen hâller gerçekteřiğinde, gemiye alınmıř olan eřyanın boşaltılması, yolculuęun gecikmesine veya aktarmaya sebep olabilecek ise, dięer bütün taşıtanların onayı alınmıř olmadıkça taşıtan, eřyanın boşaltılmasını isteyemez.

## X- Kırkambar sözleşmesi

### 1. Yükleme anı

Madde 1163 - (1) Kırkambar sözleşmesinde taşıtan, taşıyanın veya yetkili temsilcisinin çağırısı üzerine, gecikmeden eřyayı yüklemek zorundadır.

(2) Taşıtan gecikirse taşıyan, eřyanın teslimini beklemekle yükümlü deęildir. Yolculuk, eřya teslim alınmadan başlamıř olsa bile, taşıtan tam navlunu ödemekle yükümlüdür; řu kadar ki, taşıyanın teslim edilmiř olmayan eřya yerine yükledięi eřyanın navlunu, tam navlundan indirilir.

(3) Taşıyanın, geciken taşıtandan navlun isteyebilmesi için bunu yola çıkmadan önce taşıtana faks mesajı, elektronik mektup veya benzeri teknik araçlarla da mümkün olmak üzere yazılı řekilde bildirmesi gerekir; aksi hâlde istem hakkını kaybeder.

### 2. Taşıtanın sözleşmeyi feshetmesi

Madde 1164 - (1) Yüklemeden sonra taşıtan, tam navlunu ve 1201 inci madde uyarınca teminat altına alınmıř dięer alacakları ödeyerek veya 1202 nci madde uyarınca teminat vererek sözleşmeyi feshedebilir; řu kadar ki, gemiye alınmıř olan eřyanın boşaltılması, yolculuęun gecikmesine veya aktarmaya sebep olabilecek ise, dięer bütün taşıtanların onayını almıř olmadıkça taşıtan, eřyanın boşaltılmasını isteyemez. Taşıyan eřyanın gemiden çıkarılması için rotayı deęiřtirmek veya bir limana uğramak zorunda deęildir.

## XI- Belgeleri verme yükümlülüęü

Madde 1165 - (1) Her türlü navlun sözleşmesinde, taşıtan ve yükleten, eřyanın teslim alınacaęı süre içinde o eřyanın taşınması için gerekli belgeleri taşıyana vermek zorundadır.

(2) Bu belgelerdeki bütün yolsuzluklardan ve özellikle bunların gerçeğe uymayan beyanları içermelerinden doğan zararlardan taşıtan ve yükleten taşıyana ve yükle ilgili diğer kişilere karşı 1145 inci madde gereğince sorumludur.

## B) Boşaltma

### I- Demirleme yeri

Madde 1166 - (1) Kaptan, eşyayı boşaltmak için gemiyi sözleşmede kararlaştırılan yere demirler.

(2) Sözleşmede yalnızca, geminin boşaltma yapacağı liman veya bölge kararlaştırılmamışsa, gemi, bu liman veya bölge için tahsis edilmiş bekleme alanında boşaltma yerinin belirlenmesini bekler.

### II- Boşaltma giderleri

Madde 1167 - (1) Sözleşme, boşaltma limanı düzenlemeleri ve bunlar yoksa yerel teamül ile aksi öngörülmüş olmadıkça, eşyanın gemiden çıkartılması gideri taşıyana, geri kalan boşaltma giderleri ise, gönderilene aittir.

### III- Süreler

#### 1. Hazırlık bildirim

Madde 1168 - (1) Boşaltmanın belli bir günde başlayacağı kararlaştırılmamışsa, taşıyan veya yetkili bir temsilcisi, ikinci ilâ beşinci fıkra hükümlerine uygun olarak gönderilene hazırlık bildiriminde bulunur.

(2) Hazırlık bildirim, gemi, 1166 ncı maddede öngörülen demirleme yerine varınca yapılır.

(3) 1166 ncı maddenin ikinci fıkrasında yazılı hâllerde, hazırlık bildiriminde bulunulması üzerine gemiye boşaltma yeri gösterilmez veya suyun derinliği, geminin selâmeti, yerel düzenlemeler veya tesisler, verilen talimata göre hareket etmeye engel olursa, gemi, bekleme alanında kalır. Bu hükmün uygulanmasında, liman yönetiminin talimatı, gönderilenin talimatı hükmündedir.

(4) Yolculuk çarteri sözleşmesine, konişmentoya veya taşıtanın sonradan verdiği geçerli bir talimata göre, gönderilenden başka bir kişiye bildirimde bulunulması gerekiyorsa, bildirim bu kişiye yapılır. Bildirimin muhatabı bulunamazsa veya bildirim almaktan kaçınırsa, bu durum derhal taşıtana bildirilir. Bu takdirde hazırlık bildirim, bildirim girişiminde bulunulduğu tarihte yapılmış sayılır.

(5) Hazırlık bildirimının geçerliliği herhangi bir şekilde bağılı değildir. Hazırlık bildiriminin hüküm doğurması için, muhatabına ulaşması zorunludur.

## 2. Boşaltma süresi

Madde 1169 - (1) Hazırlık bildiriminin muhatabına ulaşmasını izleyen ilk takvim günü ve eğer boşaltmaya fiilen başlanmış ise, o andan itibaren boşaltma süresi işlemeye başlar. Sürenin işlemeye başladığı anda, boşaltmaya fiilen başlanamaması hâlinde de, 1172 nci madde uygulanır.

(2) Boşaltma süresi sözleşme ile belirlenmemişse, boşaltmanın yirmidört saatlik kesintisiz çalışma ile yapılması hâlinde ihtiyaç duyulacak süre, boşaltma süresi olarak kabul edilir. Bu süre hesaplanırken, boşaltmanın yapılacağı liman, taşımayı yapan gemi, boşaltma tesis ve araçları ve eşyanın niteliği ile birlikte, boşaltma limanı düzenlemeleri ve yerel teamül göz önünde bulundurulur.

(3) Taraflar, boşaltma süresi için ücret ödenmesini kararlaştırabilirler.

## 3. Sürastarya süresi

Madde 1170 - (1) Sözleşmede kararlaştırılmışsa taşıyan, boşaltma süresinden fazla beklemek zorundadır. Fazladan beklenen bu süreye “sürastarya süresi” denir.

(2) Sözleşmede sürastaryadan veya sadece sürastarya parasından sözedilmiş olup da sürastarya süresi belirtilmemişse, bu süre on gündür.

(3) Sürastarya süresi, boşaltma süresi bitince herhangi bir bildirim gerek kalmaksızın işlemeye başlar.

## 4. Sürastarya parası

Madde 1171 - (1) Sürastarya süresi için taşıyana “sürastarya parası” ödenir.

(2) Sürastarya parasının miktarı sözleşme ile kararlaştırılmışsa taşıyan, sözleşmede belirtilen miktarı aşan bir istemde bulunamaz.

(3) Sözleşmede miktarı kararlaştırılmamışsa, sürastarya parası olarak, boşaltma süresini aşan bekleme nedeniyle taşıyanın yaptığı zorunlu ve yararlı giderler istenebilir.

(4) Boşaltma limanında doğan sürastarya parasının borçlusu taşıyandır.

(5) Boşaltma limanında doğan sürastarya parası, sürastarya süresinin hesabında esas alınan zaman biriminin sonunda muaccel olur. Kullanılmayan zaman birimi için sürastarya parası istenemez.

(6) Navluna ilişkin hükümler, boşaltma limanında doğan sürastarya parasına kıyas yoluyla bile uygulanamaz.

#### 5. Boşaltma ve sürastarya sürelerinin hesabı

Madde 1172 - (1) Boşaltma ve sürastarya süreleri takvime göre aralıksız hesaplanır.

(2) Gönderilenin faaliyet alanında gerçekleşen tesadüfi sebepler dolayısıyla eşyanın gemiden karaya çıkarılması mümkün olmayan günler de boşaltma ve sürastarya sürelerinin hesabında dikkate alınır.

(3) Taşıyanın faaliyet alanında gerçekleşen tesadüfi sebepler dolayısıyla eşyanın gemiden çıkarılması mümkün olmayan günler ise, bu sürenin hesabında dikkate alınmaz; sürastarya süresi içinde olsa bile bu günler için sürastarya parası istenemez.

(4) Fırtına, buz istilâsı veya seferberlik gibi, her iki tarafın faaliyet alanını ilgilendiren tesadüfi sebepler dolayısıyla eşyanın gemiden çıkarılması ve karaya götürülmesi mümkün olmayan günler bekleme süresine eklenir; şu kadar ki, boşaltma süresi içinde olsa bile gönderilen, bu günler için taşıyana sürastarya parası ödemekle yükümlüdür.

(5) Üçüncü ve dördüncü fıkralarda yazılı hâllerde, boşaltmaya fiilen devam edildiği anda, süreler durduğu yerden işlemeye başlar.

#### 6. Hızlandırma primi

Madde 1173 - (1) Boşaltmanın, sözleşmede kararlaştırılan boşaltma süresinden önce bitirilmesi hâlinde, taşıyanın, kullanılmayan süre için taşıtana bir para ödemesini öngören anlaşmalar geçerlidir. Bu paraya ilişkin sürenin hesaplanmasında, boşaltma süresinin hesabına ilişkin kurallar uygulanır.

(2) Yapılan sözleşme, navlunun belirlenmesine ilişkin olarak yükleme veya boşaltma limanında geçerli olan idarî, malî veya cezaî hükümleri dolanmak amacına yönelikse, birinci fıkra uygulanmaz.

#### IV- Boşaltmanın hiç veya süresinde yapılmaması

Madde 1174 - (1) Gönderilen, eşyayı almaya hazır olduğunu bildirip de boşaltma süresini ve kararlaştırılmış ise sürastarya süresi içinde eşyanın tamamını teslim almamışsa, taşıyan, gönderilene haber verdikten sonra, Borçlar Kanununun 91 ilâ 93 üncü maddelerinde öngörülen hakları kullanabilir.

(2) Gönderilen, eşyayı teslim almaktan kaçınır veya 1168 inci maddede yazılı bildirim üzerine eşyayı teslim almaya hazır olup olmadığını bildirmez yahut bulunamazsa taşıyan,

birinci fıkrada gösterilen tarzda hareket etmek ve aynı zamanda durumu taşıtana bildirmek zorundadır.

(3) Önceki fıkralarda düzenlenen hâllerde, gönderilenin gecikmesi veya tevdi işlemi yüzünden boşaltma süresi geçmiş ise, taşıyan, sürastarya parası isteyebilir. Sürastarya süresi dolduktan sonraki gecikmeler nedeniyle taşıyan, uğradığı bütün zararın tazminini isteyebilir.

#### V- Kısmî çarter sözleşmelerinde

Madde 1175 - (1) Geminin kısımları veya belli yerleri için birden çok taşıtan ile bağımsız yolculuk çarteri sözleşmeleri yapılmışsa, 1168 ilâ 1174 üncü maddeler her sözleşme için ayrı ayrı uygulanır.

#### VI- Kırkambar sözleşmesi

##### 1. Boşaltma işleri

Madde 1176 - (1) Kırkambar sözleşmesinde gönderilen, taşıyanın veya yetkili bir temsilcisinin bildirim üzerine gecikmeden eşyayı teslim almakla yükümlüdür. Gönderilen tanınmıyorsa bildirim, yerel teamül üzere ilân yoluyla yapılır.

(2) 1174 üncü madde hükmü kırkambar sözleşmelerine de uygulanır. Bu maddeye göre taşıtana yapılması gereken bildirim yerel âdete göre ilân yoluyla olur.

##### 2. Taşıtanın üçüncü şahıslarla yaptığı kırkambar sözleşmeleri

Madde 1177 - (1) Geminin tamamı veya bir kısmı yahut belli bir yeri taşıtana tahsis edilmiş olup da taşıtan üçüncü şahıslarla kırkambar sözleşmeleri yapmış bulunursa, yolculuk çarteri sözleşmesini yapmış olan taşıyanın hak ve yükümlülükleri 1168 ilâ 1174 üncü maddeler hükümlerine tâbi olmakta devam eder.