# CHARTER PARTY CONTRACTS

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# Charter Party Contracts

- A charter party is  document recording a contract where a shipowner agrees to lease and the charterer agrees to hire a vessel or part of the cargo space within the vessel on terms and condition set out in the charter party.
- A charterparty contract is negotiated in a free market, subject only to the laws of supply and demand.
- There are standard charter party forms for all types of chartering produced by Baltic and International Maritime Council (BIMCO) such as the Gencon, Baltime

# Chartering

- Chartering therefore refers to where a shipowner agrees to make available the entire carrying capacity or part of the carrying capacity of his vessel for either a particular voyage or for a specified period of time.

**Types of chartering arrangements**

- Voyage charter party
- Time charter party
- Bareboat charter party

# Voyage Charter party

- A voyage charter party can be defined as a contract for carriage of goods by sea based on a specific single voyage(s) where the consideration of freight is paid to the owner depending on the quantity of cargo carried and the distance of transit.
- The owner lets the ship out to the charterer for a voyage with an agreed cargo from one port to another or a range of ports.
- The charterer pays freight to the owner for the use of the ship which can be either a lumpsum or per tonne of cargo carried.

# Contract of affreightment and consecutive voyages

- Sometimes a charterer will fix a series of the same voyage with a particular owner. This is known as "consecutive voyages". The owner will provide a ship to perform the same voyage a number of times.

Contract of affreightment- COA

- Here the charterer has a number of shipment of cargo to make over a period of time such as six months or a year and chooses to fix a shipment per month or every two weeks.
- The number of shipments, the agreed dates for each shipment and other relevant terms are agreed with the shipowner.

# Freight

- Freight can be defined as the amount payable to the carrier/ owner for the carriage of goods by sea under a voyage charter party.
- Freight is usually payable on delivery of the goods and is calculated on the amount actually delivered under common law.
- However the charter party may provide that freight is payable before the commencement of the voyage.
- In voyage chartering freight is paid per lumpsum or per tonne of cargo supplied.

# Deadfreight

- Deadfreight is freight payable for cargo not delivered in an agreed charter party where freight is payable per tonne of cargo.
- Once the charterer defaults in supplying the quantity of freight agreed, the owner is entitled to dead freight which is the freight due for the missing quantity.
- Paying dead freight means the charterer is paying for the cargo capacity not used on the voyage.
- Paying of freight in lumpsum usually helps to avoid the payment of Deadfreight as it's not dependent on cargo supplied.

# Laycan

- Laycan - The owner and the charterer also agrees on a number of terms including the range of dates beginning when the ship is due to arrive ready to load the cargo and ending at the date when the charterer may cancel the contract if the vessel  has not arrived by then (Laycan).

# Laytime

- Laytime is that period of time allowed to the charterer to load or discharge the vessel free of any further expense beyond the freight charged for actual carriage of the goods.
- Time allowed is dependent on terms in the charter party contract which may include;
- FHEX- Fridays and Holidays excepted
- FHINC- Fridays and Holidays Included
- SHEX- Sundays and Holidays excepted
- SHINC – Sundays and Holidays Included
- WIBON – whether in berth or not
- WP - weather permitting
- RD- Running days

# Notice Of Readiness

- The commencement of Laytime depends on whether a ship has arrived and the issuing of notice of readiness (NOR)
- An arrived ship means the carrying stage of the voyage must have ended.
- This depends on the type of chartering arrangement whether it is a port or berth charter.

# Berth And Port Charter

- A berth charter party is one under the terms of which the vessel is consigned to a designated berth within the chosen port. Until the ship is berthed at the particular place, notice of readiness cannot be issued.
- A port charter on the other hand only indicates the port or ports to which is ship is to call.
- To test an arrived ship under a port charter the ‘Reid test’ which is as a result of the ‘Johanna Oldendorff’ (1973) case is used to determined an arrived ship.

# Test For An Arrived Ship

- To determine whether the ship has arrived:
- The vessel must be within the geographical and legal area of the port.
- Is the vessel at this point immediately and effectively at the disposal of the charterer?
- The vessel is presumed to be effectively at the charterer's disposal when anchored at a place where ships usually lie while waiting for a berth at that port

# Demurrage

- Demurrage is the penalty payable at a fixed rate imposed by agreement in the charter party upon the charterer for failing to complete his duty of loading and discharging within the agreed period specified in the Charter party. (laytime)
- Demurrage unlike laytime is a continuous process.
- Once laytime has expired and the vessel is on demurrage the period runs without interruptions until the charterer finally completes loading or discharging.

# Demurrage

- Hence the statement “once on demurrage, always on demurrage”

- The only exception to this rule is when the fault of delay can be attributable to the shipowner or there was a prior agreement in the charter party that the periods excluded in Laytime should also be excluded in demurrage

# Dispatch

- Dispatch is a reward to the charterer for saving time allowed for loading and discharging.
- Dispatch is therefore the reverse of demurrage as this is payable by the owner to the charterer when the ship completes loading or discharging in less than the Laytime agreed in the charter party.
- Dispatch is usually agreed at half the demurrage rate.

# Time Charter Party

# Time Charter Party

- Time charter party is a chartering arrangement where the owner leases a vessel to a charterer over a period of time for payment of hire with agreed terms and conditions on how the ship should be used.
- Time charter party has certain clauses and conditions which make it different from a voyage charter party.
- The period of the charter will be agreed on between the charterer and the owner with a period agreed for options to be exercised.

# Speed And Fuel Consumption

- The charterer is usually interested in the speed and fuel consumption of the vessel.
- This entitles the charterer to receives compensation and damages should there be a breach .

- **Bunkers**- The quantity of bunkers on delivery and redelivery are determined when the vessel goes on hire to the charterer.
- Charterers take over and pay owners for bunkers remaining on board a vessel upon delivery of the time charterer and owners act same upon redelivery of the vessel.

# Trading Limits/ Excluded Ports

- The area of the world in which the vessel is to be employed is agreed between the owner and the charterer. Trading limits could be worldwide but always within the Institute Warranty Limits (IWL) or International Navigation Limits (INL) as they are now called.
- It would also include a list of those countries and parts of the world specifically excluded from the charter agreement.
- This could be for political or physical reasons e.g. war, ice etc.. Unlawful trading limits are therefore disallowed. It is the charterer's responsibility to ensure that the vessel is traded only in safe ports.

# Owners And Charterers Responsibilities

**Owner provides and pays for:**

- ❑ **Master and crew wages**
- ❑Insurance
- ❑Maintenance
- ❑Engine room, stores
- ❑Provisions etc..
- ❑Basically, all operational cost

**Charterers to provide**

- ❑Bunkers – fuel
- ❑Port charges, other loading and discharging expenses
- ❑Overtime if any
- ❑Permits, Vessel clearance in and out of port etc.
- ❑All voyage related cost.

# Delivery Of The Vessel

- The vessel must be seaworthy by all standards at the time of delivery. Line 22 of the NYPE form incorporates the words “tight, staunch and true and in every way fitted for service”

- Delivery must be at the right place and at the right time and in the right condition at the place agreed in the charter party.

# Redelivery Of The Vessel

- There is an absolute obligation laid down in the charter party (CP) that charterer redeliver the vessel on a fixed date at an agreed location in the right condition.

- Failure to redeliver the vessel in accordance with the provisions in the CP leads to a breach of contract which entitles the owner to claim damages unless the delay was due to owner's fault.

# Charter Hire

- Hire is the amount when, where and to whom hire is payable.
- The frequency and mode of payment is also agreed upon. Payment must be regular and punctual.
- Owners right to accept late payment. Accepted late payment cancels the right to withdrawal. Should charterers fail to pay for hire, Owners have a right of withdrawal of the vessel by giving appropriate notice of withdrawal to the charterer.

# Off Hire Clause

- Clearly defines the circumstances a vessel engaged under a time charter party can be ‘off hire’ thus charterer is deprived of the use of the vessel due to an owners fault.
- The delay in use must relate to the efficiency of the ship and prevent the full working of her i.e. engine breakdown.
- ‘Efficiency’ relates to efficiency in  perform the service which the charterer wants the ship for at that time.
- For example if the vessel is on a voyage and the crane breaks down it is irrelevant at that stage to put the vessel off hire since the charterer does not want to discharge or load cargo at that point.

# Off Hire Clause

- When the vessel goes off hire payment of hire ceases until the vessel is once again in a suitable state to resume her services.

- The right of off hire does not affect a charterer's right to damages for breach of contract. The two rights are separate and unrelated.

# Assignment And Substitute Vessel

**Assignment clause:**

- An assignment of the vessel gives the charterer the right to sublet the vessel to another charterer for use. This is usually done with owners concern.

**Substitute Vessel:**

- A substitute vessel clause is usually inserted in the charter party to enable the charterer substitute the vessel in case of major breakdown, during periods of drydocking and for other situations which renders the vessel unusable by the charterer.

# Masters And Officers

- The duties of a ship’s Master are defined. The master is the owner's legal servant and he must act under the orders of the charterer as far as the vessels employment is concerned

# Arbitration Clause

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- Disputes are usually settled by arbitration in London, New York, Singapore etc..

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- A typical clause in Gencon Clause 19(a) for instance reads; This charter party shall be governed by and construed in accordance with English law and any dispute arising out of this charter party shall be referred to arbitration in London in accordance with the Arbitration Acts 1950 and 1979 or any statutory modification or re-enactment thereof for the time being in force.

# Arbitration Clause Cont.

- Unless the parties agree upon a sole arbitrator, one arbitrator shall be appointed by each party and the arbitrators so appointed shall appoint a third arbitrator, the decision of the three-man tribunal thus constituted or any two of them shall be final. On 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 single arbitrator appointed shall be final.