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Voyage Chartering Masterclass

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VANCOUVER, NOV 2024



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Bills of Lading & Letters of Indemnity

Mate's Receipt

Simply a receipt for the cargo

Today, usually in shipper's form

Not a negotiable instrument

Very important nonetheless

Bills of Lading - **RED**

Transport document that functions as a receipt of goods, evidence of a contract of carriage & a document of title

Rceipt for the carrier of the goods for the cargo

Evidence of Contract of Carriage

Document of Title to the cargo

B/L as a Receipt for the Cargo

Quantity and description of the cargo loaded

“Weight, Measurement, Quality and contents unknown”

Implications for Owners and Charterers and Banks!

Apparent Good Order and Condition

Date of Shipment and Place of Shipment

Name of the Shipper, Notify Party and Consignee

Ship Owner’s role as a Bailee of Goods - An individual who temporarily gains possession, but not ownership, of a good or other property under a bailment.

B/L as a Evidence of the Contract

Most B/L incorporate the CP Date

B/L has its own terms and conditions, but the CP is evidenced through the B/L

In case of conflict, the B/L terms will prevail

Protective Clauses usually printed in the B/L

A bona fide purchaser (BFP) for value without notice refers to an innocent party who purchases property without notice of any other party's claim to the title of that property.

B/L as a Document of Title

Ownership Document

Most important document in the L/C Process

High Seas Sales and multiple endorsements

Bank's role in the process

L/C Number in the B/L ??

A Document of "Title" (Title: *a just or recognized claim*)

Enables consignee to claim his goods

Negotiable document – Transferable

Security for payment (Freight Prepaid/ Collect)

B/L as a Document of Title

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Categories of Bills of Lading

Liner Bill of Lading

Sets out the contract between the B/L holder and the carrier



Liner Shipping

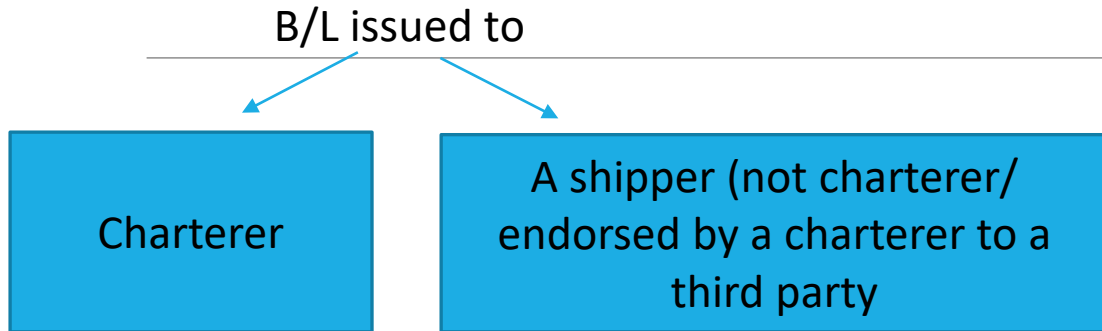
Charter party Bill of Lading

C/P contract of carriage and B/L acts as a receipt and incorporates the C/P terms



Tramp Shipping

Charter Party Bills of Lading



C/P: Governing contract

B/L: Mere receipt

- If B/L is endorsed to the charterer, contract between owners & charterers is the charter party

B/L: Governing contract

Evidence of the contract of carriage

1. C/P between Charterer & Owners
2. Cargo loaded on board by Shipper – B/L issued by Owners to Shipper



Owners

Shipper



4. Consider when Shipper / Consignee is the Charterer

3. Consignee surrenders B/L to Owners for delivery

B/L – Main Elements

Quantity of the Cargo

Accurate cargo description and condition

Date of B/L

Shippers, Consignee and Notify Party

Load and Discharge Port(s)

Name of the Vessel

Terms and Conditions of Carriage

Payment of Freight and CP Date

B/L – The Journey

Issuance of B/L – Role of Mate's Receipt

Releasing of B/L

Letter of Credit – Role of B/L

Bank's interest in B/L

B/L presentation to release the cargo

B/L – Issuance of B/L

Mate's receipt issued by the Vessel

Signing the B/L – Authority issued by the master

L/C Terms

Date of B/L – Pre-Dated B/L

Carrying an original B/L on board

Multiple Original B/Ls

B/L – Releasing of B/L

Freight Prepaid v Freight Payable as per CP

Ship's Agents – Shippers – Banks

Cargo Quantity and Description

Condition of Cargo loaded

B/L – Letter of Credit and Role of B/L

Clean Bills of Lading

Incorporating the L/C Terms

Document of Title

Discrepancies in B/L vis-à-vis L/C

Bank's interest in B/L

Switching of B/Ls

B/L – Presentation at Discharge Port

General Rule: B/L is exchanged for delivery order i.e. no delivery without B/L

Endorsed/Accomplished B/L

Commercial Reality: Discharge and Release against Letter of Indemnity

What are Letters of Indemnity? Role of P+I Clubs

Discharge into Port/Custom's custody or secure warehouse

Key risks involved in LOIs: Mis-delivery of the cargo!

What about Electronic Bills of Lading? How will it change the need for LOIs?

Cargo Claims

Covered by Protection & Indemnity Clubs

Claims made by Consignee of B/L

Claims for loss and/or damage to the cargo

Liability Regime

- Hague Rules 1921 – Carriage of Goods by Sea Act (COGSA) 1924
- Hague Visby Rules – COGSA 1971
- Hamburg Rules

Incorporation into Bills of Lading by General Clause Paramount

When does COGSA apply

Apply in case of B/L or a document of title for carriage of goods by sea providing:

- B/L issued in contracting state
- Carriage is from a port in the contracting state
- The BL incorporates the General Clause Paramount irrespective of the nationality of shipper, vessel, the carrier or consignee

Coastal Trades – COGSA '24 does NOT apply but COGSA '71 applies

Live Animals – COGSA '24 does NOT apply but COGSA '71 applies

Deck Cargo – the carrier is excluded from all liability under the B/L

COGSA and the carrier

Seaworthiness

- Pre-COGSA – Common Law – Strict Liability – Every Stage of Voyage
- COGSA – No absolute warranty – due diligence required at commencement

Obligation to issue B/L

Obligation of Shipper to provide all required details

COGSA only applies during actual voyage period

General Average – Parties free to decide

Deviation – COGSA also allows saving life, property or reasonable deviation

Dangerous Cargo – Carrier has full right to dispose off in case of safety concerns

Himalaya Clause – Servants and/or agents of the carrier have the same rights as the carrier.

COGSA and Limitation of Liability

The **Hague Rules** contain a limit per package or shipping unit. In the UK, this was set at £100 sterling.

The **Hague-Visby Rules** introduced alternatives of a per package or unit limit or a per kilo limit. The shipper is entitled to rely on the higher of the two limits in any particular case. In 1979 an SDR basis was agreed and the limits are presently set at 2 Special Drawing Rights per kilo or 666.67 SDR per package or unit. (Exch Rate on 16 Oct 2015, 1 SDR = 1.41 USD). The Hague-Visby Rules sought to put an end to ambiguities by stating that if the bill of lading enumerates the number of packages or units stuffed into the container, that number shall be operative, but if not the container itself shall be taken to be the sole package.

The **Hamburg Rules** also adopt a package or weight approach to limitation, the compensation per package or unit being limited to 835 SDR and the weight based compensation to 2.5 SDR per kilo.

The convention limits may be exceeded by application of the law, in the case of the Hague-Visby and Hamburg Rules only where the carrier has been guilty of wilful misconduct, which is notoriously difficult to establish.

However, it should be noted that under Hague, Hague-Visby and Hamburg Rules, the limits of liability may be increased by contract.

Exemptions for the Carrier – Rights & Immunities

- Navigational or Management Error on part of Carrier or his servants
- Fire, unless due to carrier
- Perils, Dangers and Accidents of Sea or other navigable waters
- Act of God
- Act of War
- Act of Public Enemies
- Arrest or restraint of princes, rulers...
- Quarantine
- Shippers or their agents' mistakes
- Strikes, Riots
- Saving Life or Property at Sea
- Inherent Vice
- Insufficient Packing
- Latent defects not discoverable
- Catch All Clause

Time Charters and Cargo Claims

Time CPs include General Clause Paramount

Also stipulates that same to be incorporated in the B/L

NYPE Interclub Agreement to apportion cargo claims

Time Bars

- Common Law – 1 year
- NYPE Interclub Agreement – 2 years



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Risk Management & Financial Aspects



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Identifying & Mitigating Voyage Risks

Common Risks in Voyage Charters

Market Risks: Fluctuations in freight rates can impact profitability. External factors such as geopolitical events, economic shifts, and seasonal changes affect the demand and supply balance, leading to volatility in the market.

Operational Risks: Delays due to port congestion, mechanical breakdowns, and unforeseen weather conditions can lead to increased costs and potential charter party disputes.

Cargo Risks: Issues with cargo quality, contamination, or damage can result in disputes between charterers and shipowners. Mis-declared or hazardous cargo poses safety risks and legal liabilities.

Laytime and Demurrage: Miscalculations or misunderstandings regarding laytime allowances can lead to disputes over demurrage charges, affecting profitability and relationships between parties.

Common Risks in Voyage Charters

Legal and Regulatory Risks: Non-compliance with international maritime laws and local regulations can result in fines, detentions, and reputational damage.

Counterparty Risks: Financial instability or unreliability of the charterer or cargo interests can lead to non-payment or contract breaches.

Vessel Performance and Condition: Poorly maintained vessels may not perform as expected, leading to delays, increased operational costs, and potential contract cancellations.

Environmental Risks: Pollution incidents or failure to comply with environmental regulations can result in significant fines, clean-up costs, and reputational damage.

Strategies for Risk Mitigation

Comprehensive Contractual Clauses: Ensure that the charter party agreement includes clear terms regarding responsibilities, performance standards, and risk allocation. This includes detailed laytime and demurrage clauses, cancellation provisions, and force majeure clauses.

Thorough Vetting and Inspection: Vet vessels rigorously to ensure they meet the required standards for safety, maintenance, and operational capability. This minimizes risks related to vessel performance and operational reliability.

Diversification of Routes and Ports: When feasible, avoid routes known for geopolitical instability or adverse weather. Diversifying routes and selecting ports with efficient infrastructure can reduce exposure to delays and risks.

Strategies for Risk Mitigation

Insurance Coverage: Adequate insurance policies (e.g., hull and machinery insurance, protection and indemnity (P&I) coverage, cargo insurance) are essential to safeguard against potential financial losses.

Due Diligence on Counterparties: Assess the financial stability and reliability of charterers, brokers, and cargo interests to mitigate risks of non-payment and contract breaches.

Real-Time Monitoring and Communication: Use advanced technology for real-time monitoring of vessel positions, weather conditions, and port statuses. This enables proactive decision-making to mitigate delays and operational risks.

Performance Bonds and Guarantees: For high-value contracts, consider performance bonds or bank guarantees to secure payment and performance obligations from counterparties.

Best Practices for Risk Management

Regular Audits and Inspections: Schedule periodic audits of vessel performance, safety protocols, and maintenance standards.

Updated Documentation: Keep all certifications, inspection records, and compliance documents current to avoid port detentions and legal complications.

Market Intelligence: Stay informed about market trends, geopolitical developments, and emerging regulatory changes to anticipate and adapt to potential risks.

Flexible Charter Terms: When possible, negotiate flexible charter terms that can be adjusted for unexpected delays or disruptions.

Conclusion: Risk Management

Effective risk management in voyage chartering requires a proactive and multifaceted approach. By identifying potential risks early and implementing comprehensive mitigation strategies, shipowners and charterers can ensure smoother operations, reduce disputes, and safeguard profitability. Careful contract drafting, regular vessel vetting, robust insurance coverage, and vigilant monitoring all contribute to a well-managed voyage chartering process.



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Insurance Considerations (Hull and P+I)

Hull & Machinery Insurance

Definition: Hull and machinery insurance covers the ship itself and its machinery against damage or loss due to risks encountered during operations.

Scope of Coverage:

Physical Damage: Protects the vessel from perils such as collisions, grounding, fires, and weather-related incidents.

Total Loss: Coverage includes both partial and total loss, providing compensation if the ship is declared a total constructive loss.

Hull & Machinery Insurance

Key Considerations:

Policy Limits: Ensure that the coverage limit is sufficient to cover the replacement cost or market value of the vessel.

Deductibles: Understand the deductible structure of the policy to anticipate out-of-pocket costs in the event of a claim.

Additional Coverage Options: Consider adding war risk insurance and protection against piracy in areas known for high geopolitical tensions.

Who Takes Out H&M Insurance?: Typically, the shipowner is responsible for obtaining hull and machinery insurance as it protects their financial investment in the vessel.

Protection & Indemnity Insurance

Definition: P&I insurance is a form of mutual insurance that covers shipowners and operators for third-party liabilities arising from the operation of a vessel.

Scope of Coverage:

Crew Claims: Covers medical expenses, injury compensation, and repatriation costs for crew members.

Pollution Liability: Provides coverage for oil spills or other environmental damage, including cleanup and fines.

Cargo Liabilities: Protects against claims related to cargo damage or loss that may not be covered under cargo insurance.

Collision Liability: Includes third-party claims resulting from a collision involving the insured vessel.

Wreck Removal: Covers the cost of removing a shipwreck if required by authorities.

Protection & Indemnity Insurance

Who Takes Out P&I Insurance?: P&I insurance is generally obtained by shipowners and charterers through P&I clubs, which are mutual associations that pool their members' premiums to cover claims.

Key Considerations:

Club Rules and Coverage Scope: Each P&I club has specific rules regarding coverage. It is crucial to understand these rules and how they align with the vessel's operational profile.

Indemnity Limits: Ensure that the policy provides adequate coverage limits to address potential high-value claims, especially in areas prone to stringent environmental laws.

Entry Requirements: Membership in a P&I club often requires a thorough vetting process to ensure the vessel meets safety and operational standards.

Best Practices in Insurance Management

Regular Policy Reviews: Periodically review insurance policies to ensure they reflect current vessel conditions, cargo types, and operational routes.

Compliance with Charter Party Requirements: Verify that insurance coverage aligns with the charter party terms and any additional requirements stipulated by the charterer.

Coordination with Stakeholders: Maintain open communication with brokers, underwriters, and P&I clubs to address any changes in operational scope or emerging risks.

Risk Assessment: Conduct regular risk assessments to identify gaps in coverage and take necessary measures to mitigate uncovered risks.

Claims Procedures: Familiarize the crew and relevant personnel with insurance claim procedures to expedite response times in case of incidents.

Conclusion: Insurance Management

Understanding and securing comprehensive insurance coverage is essential for managing the various risks associated with voyage chartering. Cargo, hull and machinery, and P&I insurance each play distinct roles in protecting the financial interests of shipowners, charterers, and cargo interests. By carefully evaluating coverage needs and maintaining proactive insurance management, stakeholders can reduce exposure to significant financial and legal liabilities, ensuring smoother and more secure voyage operations.



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Fuel Cost Management

Fuel Cost Management: Procurement

Bulk Purchasing: Leveraging bulk purchases and contracts with fuel suppliers can lead to more competitive prices.

Bunker Price Monitoring: Regularly track market trends and oil prices to secure fuel at favorable rates.

Bunker Brokers: Employ the services of bunker brokers or procurement specialists to identify optimal pricing and negotiate better deals.

Fuel Cost Management: Voyage Optimization

Speed and Route Adjustments: Manage vessel speeds and routes to optimize fuel consumption. Slow steaming can reduce fuel usage significantly, while weather routing can help avoid adverse conditions that increase fuel burn.

Advanced Planning: Ensure proper planning to optimize fuel loading at ports where prices are lower, balancing operational needs with cost savings.

Fuel Cost Management: Technology Updates

Fuel Management Systems: Invest in onboard fuel management systems that monitor fuel consumption and optimize engine performance.

Energy-Efficient Modifications: Implement energy-saving technologies, such as hull modifications, propeller enhancements, and scrubbers, which help reduce overall fuel consumption and compliance costs.

Fuel Cost Management: Cleaner Fuels

Dual-Fuel Engines: Consider ships equipped with dual-fuel engines capable of running on traditional fuels and alternative fuels such as LNG, reducing exposure to price volatility.

Biofuels and Sustainable Alternatives: Explore sustainable fuel options that can lower carbon emissions and potentially benefit from regulatory incentives.

Legal Considerations and Compliance

Adherence to MARPOL Regulations: Ensure the type of fuel used meets the International Maritime Organization (IMO) regulations, such as the sulfur cap and emissions limits.

Contractual Compliance: Make sure that the bunker clause aligns with the charter party's terms to avoid disputes. Specify testing procedures and compliance with international fuel standards (e.g., ISO 8217).

Claims and Dispute Resolution: Include clear procedures for handling disputes related to fuel quality or quantity, as well as acceptable testing protocols and laboratories.

Impact on Profitability and Operations

Direct Cost Impact: Fuel is often the most significant operational expense, and changes in bunker prices can greatly affect the bottom line.

Charter Rate Negotiations: Ensure that charter rates reflect current or anticipated fuel prices, particularly in long-term agreements.

Risk Management: Utilize fuel hedging strategies to mitigate the financial impact of volatile bunker prices.

Conclusion: Fuel Cost Management

Effective fuel cost management involves strategic procurement, operational efficiency, and the adoption of technology, supported by clear legal frameworks. By proactively managing these aspects, shipowners and charterers can optimize their expenses, reduce operational risks, and maintain compliance with international regulations.



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Financial Instruments & Hedging

Forward Freight Agreement (FFAs)

Definition: FFAs are financial contracts used to hedge against freight rate volatility in the spot market. They are based on future shipping rates for specific routes and periods, allowing stakeholders to lock in rates in advance.

Usage: Shipowners use FFAs to secure future earnings, while charterers use them to predict freight costs.

Benefits: Provides a hedge against unexpected changes in freight rates, helping manage profitability.

Execution: Traded over-the-counter (OTC) or through clearinghouses, with settlements based on indices like the Baltic Exchange.

Bunker Fuel Derivatives

Definition: Financial contracts tied to the price of bunker fuel (marine fuel) to hedge against fuel price fluctuations.

Types: Include swaps and options, which allow stakeholders to lock in fuel prices or set a price cap.

Advantages: Protects against sudden surges in fuel prices, ensuring budget stability.

Implementation: Used by shipowners and charterers looking to secure predictable operating costs.

Interest Rate Swaps

Definition: A financial instrument that allows the exchange of a floating interest rate for a fixed rate to manage the cost of debt.

Application: Used by shipping companies with variable-rate loans to manage exposure to interest rate fluctuations, providing stability in loan repayments.

Example: A company with a floating-rate mortgage on a vessel may use an interest rate swap to convert it into a fixed rate.

Currency Hedging

Definition: Techniques used to mitigate foreign exchange (FX) risk associated with revenues or expenses in different currencies.

Common Tools: Forward contracts, currency swaps, and options.

Benefit: Protects earnings from adverse currency movements, especially when dealing with international clients and costs in multiple currencies.

Benefits of Financial Hedging

Stabilized Cash Flow: Helps create predictability in financial planning and budgeting, essential for high-capital industries like shipping.

Reduced Volatility: Protects against market fluctuations in freight rates, fuel costs, and exchange rates, enhancing the company's financial resilience.

Strategic Flexibility: Provides shipowners and operators with the ability to make informed, long-term operational decisions without the immediate pressures of market changes.

Enhanced Creditworthiness: Companies with managed risk profiles and stable cash flow are viewed more favorably by lenders and investors, potentially securing better financing terms.

Risks of Financial Hedging

Complexity: Hedging instruments can be complex, requiring expertise to execute effectively. Improper use may lead to financial losses.

Cost of Hedging: There is an associated cost for entering into financial contracts, which needs to be weighed against the potential benefit.

Counterparty Risk: The risk that the other party in a contract may default. This is why working with reputable clearinghouses and brokers is crucial.

Market Limitations: In certain market conditions, liquidity for specific hedging products might be limited.

Conclusion: Financial Hedging

Mastering financial instruments and hedging strategies is vital for participants in the shipping industry. Whether safeguarding against freight rate volatility, fuel price increases, or currency fluctuations, these tools provide a pathway to manage risk and secure financial stability. By applying the right hedging measures, shipping companies can enhance their resilience, optimize profitability, and navigate the uncertainties inherent in maritime operations.

Using the Institute of Chartered Shipbrokers

Educational Programs: Offer specialized courses focusing on financial instruments and hedging strategies to equip members with the knowledge to manage risks effectively.

Workshops and Case Studies: Facilitate hands-on workshops that simulate real-world hedging scenarios, helping participants develop practical skills.

Expert Panels: Host seminars and webinars featuring financial analysts and experienced shipowners to discuss best practices in risk management.

Networking Opportunities: Foster partnerships with financial institutions and trading platforms to help members access tools and support for their hedging needs.