

THE INSTITUTE OF CHARTERED SHIPBROKERS

APRIL 2007 EXAMINATIONS

MONDAY 16 APRIL – AFTERNOON

LEGAL PRINCIPLES IN SHIPPING BUSINESS

Time allowed – Three hours

Answer any FIVE questions – All questions carry equal marks

1. A charter-party would usually contain a warranty on the part of the charterer that the vessel will only be traded between safe ports.
 - a) Explain how such a warranty operates in practice.
 - b) Identify and critically discuss any practical difficulties that arise from the application of such a warranty.

2. Answer ANY THREE of the following questions:
 - a) Explain, giving an example, the meaning of “lump sum freight” and “dead freight”.
 - b) Discuss the use of the so-called “anti-technicality clause” in time charter-parties.
 - c) Explain the term “once on demurrage always on demurrage” as compared to laytime.
 - d) Explain what are “Sea Waybills” and consider how they differ from bills of lading.

3. Following the grounding of the vessel ‘Fudge’, and in order to refloat her, her Master decides to use her machinery and to jettison some of her cargo. Some damage is caused to her machinery in attempting the refloating operation. She is then towed to a nearby port where the vessel effects repairs necessary for her to complete the contracted voyage. It became necessary to restow, discharge and warehouse the cargo whilst repairs are carried out.
 - a) Identify and consider the potential claim(s) arising from the above scenario.
 - b) Would your answer be different if, following the ship’s repairs and cargo re-loading, she was lost with all her cargo?

4. Explain how international conventions become established. Select one of the major international conventions brought into being by the IMO and explain its role and function.

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5. You are a bill of lading holder whose goods have been delivered to you badly damaged. Discuss, giving reasons, whether you would try to have your claim against the carrier for the damage to your goods held in a jurisdiction signatory to the Hague-Visby or Hamburg Rules.

6. In a telephone conversation, John, a shipbroker, offers to Jim, a charterer, a particularly good fixture. Consider and discuss the legal and practical position of the parties in the following situations:
 - a) Jim says that he will consider it and get back to John. Later in the day Jim puts in the post a letter accepting John's offer. Next day John assuming that Jim is no longer interested, he offers it to someone else who immediately accepts it. Later in the day Jim's letter of acceptance arrives in John's office.

 - b) Jim asks John whether he (John) would not offer it to anyone else until the next day when his boss will be back. John states that Jim's request is very unusual in the trade as offers normally lapse/expire by 3:00 p.m. of the same day, but he agrees to extend it. Next day Jim telephones John only to find out that John offered it to another charterer.

7. Does the doctrine of vicarious liability transfer liability from the tortfeasor?
Discuss and *use your own* examples in answering the above.

8. John in London (U.K.) despatches a number of packages of fresh fish by a sea carrier, Tinships Ltd., to customers in Kobe (Japan). Clean bills of lading are issued by Tinships Ltd. in London. On route to Japan, Tinships Ltd.'s vessel is grounded and suffers damage. Consequently, the ship calls at Singapore, as it would be dangerous to continue with the voyage without effecting some repairs. Engineers and surveyors advise that the necessary repairs to the ship will take a week to complete. It is also found that the grounding occurred due to the out-of-date charts carried by the ship.
Tinships Ltd. try to reach John but he is unobtainable. The fish have passed their best and Tinships Ltd. decide to sell the fish to the local (Singapore) fish market. A few days later John learns that the consignment, which had a value of £100,000, has been sold by Tinships Ltd. for £20,000.
Discuss the legal position of the parties.