

# THE INSTITUTE OF CHARTERED SHIPBROKERS

APRIL 2006 EXAMINATIONS

MONDAY 10 APRIL 2006 – MORNING

## SHIPPING LAW

**Time allowed – Three hours**

**Answer any FIVE questions – All questions carry equal marks**

1. How has increasing world concern for the environment over the last 20 years affected the evolution of the laws, rules and regulations regarding salvage operations? Please discuss
2. A shipowner is drafting the terms of a Charterparty that he intends to use in his business. He wants to incorporate a jurisdiction clause providing for dispute resolution in London, England. He asks for your advice on the various different methods of dispute resolution available and the advantages and disadvantages they hold. He asks if the jurisdiction clause should include various alternative methods of dispute resolution or whether it should simply provide for one form of dispute resolution. He asks whether there are any particular laws or dispute resolution rules which he should be aware of as capable of assisting him or which may be mandatory. Please advise the shipowner.
3. The M/V “Buoyant as a Rock”, owned by the Liberian company “Quality Shipping Services”, sinks just off the English coast in heavy weather due to its unseaworthy condition taking its entire cargo of MDF Fiber Boards with it. The Charterer who is also the owner of the lost cargo is concerned that even if he wins in litigation he will not recover any funds because he believes that the Owners of the vessel have no other assets and in any event the vessel, which was carrying his cargo, was also lost. The Cargo Owner then discovers that the company “Quality Shipping Services” in fact owned and recently sold 3 bulk carriers to another Liberian company called “Hide & Seek”. “Quality Shipping Services” continues to own and operate a small tanker vessel. Further, since the incident, “Quality Shipping Services” has purchased a new gas carrier. All of these vessels regularly trade in and out of English ports. Advise the Cargo Owner
4. Article 4 of the 1976 (London) Convention on Limitation of Liability provides:  
  
“A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.”

Please advise as to the meaning of article 4 and its significance with reference to case law.

5. The M/T “Sneaky” has just finished loading its cargo in England for delivery to South Africa. The cargo owners are also the Time Charterers under a NYPE 1993 Form providing for arbitration in London. As the master was preparing his documentation for departure and while the vessel was stationery he spotted the high-speed ferry “Dumbo” approaching the wooden pier at very high speed. The Master and the look outs of the “Dumbo” were all improperly not in position because they were dealing with an unruly passenger and within two minutes the “Dumbo” had hit the wooden pier bringing it crushing down. As the pier collapsed it pulled down on the “Sneaky” which thus listed heavily and dangerously for the crew on board. Also a shore crane fell on the “Sneaky” piercing its hull and flooding its holds thereby damaging its entire cargo and effectively sinking the vessel. Please answer the following questions:

- (i) Briefly outline what legal courses of action are available to the cargo Owners so as to recover damages for their lost cargo.
- (ii) Briefly outline what legal courses of action are available to the Owners of the “Sneaky” so as to obtain compensation for their losses. What conventions and/or statutes and/or legal principles and/or case law do you consider to be relevant in the Owners’ quest for compensation and also the amount of damages that they are likely to recover.

6. The M/V “Chocolates” is owned by company “Alpha” who had time chartered the vessel to company “Beta”.

“Beta” entered a part cargo voyage charter with company “Gamma” and a second part cargo voyage charter with company “Omega”. Both fixtures for cocoa beans from Brazil to Europe on M/V. “Chocolates”.

Bills of Lading were issued to “Gamma” signed by the Master of the M/V “Chocolates”. The consignee on the Bill of Lading was specifically named to be a company called “Hungry”. The Bills of Lading were transferred by “Gamma” to “Hungry” and they subsequently transferred them to another company called “Awaiting”.

Bills of Lading were also issued to company “Omega” signed by Beta’s local agent and marked as signed on behalf of company “Beta”. The Bill of Lading provided that the consignee was “Candy & Co or order”. These Bills of Lading were transferred by “Omega” to “Candy & Co” who in turn upon endorsing them passed them on to a company called “Premium”.

En route to Europe the vessel caught fire due to the fault of the vessel’s crew and both parcels of cargo were damaged. Assuming that all the parties concerned have agreed to resolve their disputes in the High Court of Justice and by applying English law, please answer all of the following questions:

- (i) Who are the actual and legal carrier(s) under each group of Bills of Lading?
- (ii) Can the company “Awaiting” and the company “Premium” claim either against the “Alpha” or the “Beta” company by reason of the Bills of Lading that have been transferred to them and why?

- (iii) Regardless of whether the company “Awaiting” and the company “Premium” can claim against the “Alpha” or the “Beta” company by reason of the Bills of Lading that have been transferred to them, can they claim against “Alpha” or “Beta” on some other basis and please identify.
  - (iv) Where does one find the terms of the contracts of carriage between “Gamma” and “Beta” on the one hand and “Omega” and “Beta” on the other.
7. Compare and contrast the Shipowners’ duty to provide a seaworthy vessel under the common law and the Hague-Visby rules. What consequences are there for a ship-owner under the Hague-Visby rules if he fails to provide a seaworthy ship and there is damage due to an accidental fire?
8. Explain and discuss the concepts of Notice of Readiness, laytime, demurrage, despatch and detention and discuss the interrelation between them. In your opinion, is the payment of demurrage to a shipowner adequate compensation to him for the delay to his vessel?