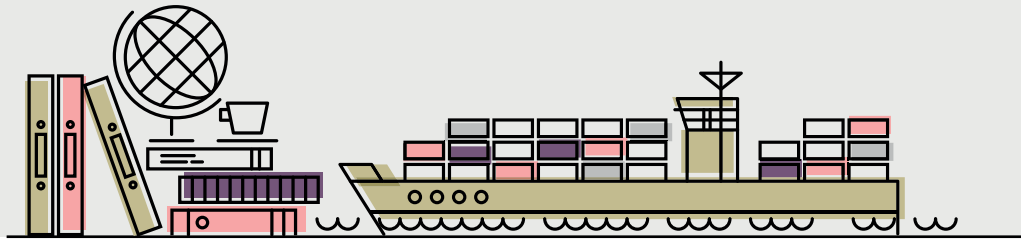


Point 45



Commercial, maritime and arbitration law bullet points from 4-5 Gray's Inn Square

CHARTERERS MUST GIVE SECURITY TO RELEASE VESSEL DESPITE NO LOI

- A charterparty clause requiring release of the cargo without production of the bill of lading, on Charterers' written request referring to the clause, and "in consideration" of Owners receiving an LOI, in itself gave rise to an indemnity of Owners.
- Also, Charterers had waived any requirement that they should have given a separate LOI.
- The clause's requirement that Owners provide their P&I Club's LOI wording prior to lifting of "subs", was not a sine qua non, and compliance was waived by Charterers later asking for and receiving suitable LOI wording from Owners, and then giving discharge instructions. Also, there was probably an estoppel by convention that the indemnity was on the terms of the clause, read with the provided wording.
- Owners were granted an interim mandatory injunction requiring Charterers to provide security (in accordance with the provided wording), conditional upon Owners fortifying their undertaking in damages, with a guarantee from their ultimate parent company.

TRAFIGURA MARITIME LOGISTICS PTE LTD V CLEARLAKE SHIPPING PTE LTD [2020] EWHC 726 (Comm), Henshaw J, 23 March 2020

Claimant Owners voyage chartered the "MIRACLE HOPE" to C, the charter later being amended so as to agree that she was let to the defendant Charterers. Clause 33(6) obliged Owners, on Charterers' written request referring to the clause, to discharge the cargo without original bills of lading and / or at a place other than that named therein and / or in a different quantity than that stated therein, "*in consideration of receiving an LOI as per Owners' P&I Club wording to be submitted to Charterers before lifting the 'subs'.*" This last was not done, but after shipment Charterers asked Owners by email for their LOI wordings for discharge without presentation of original bills of lading; and for discharge without bills of lading and change of destination. Owners provided the IG standard "C" LOI wording (for a port other than that named in the bill of lading and without production of the original). Owners discharged the cargo at Singapore without production of the original bill of lading, on Charterers' emailed instructions expressly invoking clause 33. The vessel was later arrested in Singapore by the financiers of a relevant sale transaction who claimed to be lawful holders of the bill of lading. Henshaw J granted Owners' urgent application for a mandatory injunction requiring Charterers to provide security to secure the release of the vessel from the arrest.