



## CHARTERPARTIES

### KEYWORDS

Charterparty, Lay time, Demurrage, dispatch, notice.

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**ABSTRACT** A chartering broker may be described as an intermediary between the ship owner and the merchant or the cargo owner. His knowledge must be extensive in order that he may cope with all requirements of his business; he must have a sound knowledge of shipping law, geography, and port information, such port charges throughout the world, facilities at different ports, distances between ports, and countless other matters. It also stands to reason that he must be of the highest character.

He acts between a ship owner who has tonnage idle, and a cargo owner who has a cargo which he wishes to be transported. He engages space for cargo and arranges the whole of the business details between the principals receiving for his services the commission agreed under such arrangement.

### STATEMENT OF PROBLEM

When he fixes a contract of this nature it is known as a charter-party, of which there are three classes: voyage charter, time charter, and demise charter. The charter-party is a contract of affreightment, and for voyage charters it is an agreement for the carriage of goods from one specific port to another, the owner of the vessel receiving freight for the cargo carried. In the case of time and demise charters, both of these contain a contract whereby the vessel is actually hired for a specific period of time, during which period the charterer has the freedom, within the stipulations of the charter-party conditions, of using the vessel for whatever purposes he may wish. In a demise charter the ownership of the ship to all intents and purposes changes hands for the period of the contract. The payment in this case is for the hire of the vessel, and an agreed amount is paid per month or per day for the use of the vessel.

A charter party is the contract between the owner of a vessel and the charterer for the use of a vessel. The charterer takes over the vessel for either a certain amount of time (a time charter) or for a certain point-to-point voyage (a voyage charter), giving rise to these two main types of charter agreement. There is a subtype of time charter called the demise or bareboat charter.

### TYPES OF CHARTERPARTIES-

The following are the types of charterparties:

A **voyage charter** is the hiring of a vessel and crew for a voyage between a load port and a discharge port. The charterer pays the vessel owner on a per-ton or lump-sum basis. The owner pays the port costs (excluding stevedoring), fuel costs and crew costs.

A **time charter** is the hiring of a vessel for a specific period of time; the owner still manages the vessel but the charterer selects the ports and directs the vessel where to go. The charterer pays for all fuel the vessel consumes, port charges, and a daily 'hire' to the owner of the vessel.

A **bareboat charter** is an arrangement for the hiring of a vessel whereby no administration or technical maintenance is included as part of the agreement. The charterer pays for all operating expenses, including fuel, crew, port expenses and hull insurance. Usually, the charter period

(normally years) ends with the charterer obtaining title (ownership) in the hull. Effectively, the owners finance the purchase of the vessel.

A **demise charter** shifts the control and possession of the vessel; the charterer takes full control of the vessel along with the legal and financial responsibility for it. Crews are also appointed by charterer.

### CLAUSES IN THE CHARTERPARTIES-

Having regards to all kinds of charterparties, the following clauses are common for all. These clauses may be distinct from time charterparty. (1) Definitions; (2) Charter period; (3) Delivery; (4) Time for delivery ; (5) Canceling; (6) Trading Restrictions; (7) Surveys and Delivery and Redelivery; (8) Inspection ; (9) Invention, Oil and Stores; (10) Maintenance and Operation; (11) Hire; (12) Mortgage; (13) Insurance and Repairs; (14) Insurance, Repairs and Classification; (15) Redelivery; (16) Non-lien; (17) Indemnity; (18) Lien; (19) Salvage; (20) Wreck Removal; (21) General Average; (22) Assignment, Sub-charter and Sale; (23) Contracts of Carriage; (24) Bank Guarantee; (25) Requisition/ Acquisition; (26) War; (27) Commission; (28) Termination; (30) Re-possession; (31) Dispute resolution;(32) Notices, etc.

The above captioned article refers apart from its definition the claims, which arise out of any agreement for the use or hire of the vessel. In marine trade such an agreement is termed as 'charterparty.' One of the most common claims, which arise out of the Charterparty Contract, is the claim for demurrage or dispatch. The claim for demurrage arises, when the laytime mentioned in the contract of Affreightment (Charterparty) is exceeded. As opposed to demurrage, the claim for dispatch arises when the loading or discharging operation is completed before the expiry of the agreed laytime in the charterparty. Therefore, the charterparty interalia provides the time span within which, after the vessel arrives at the agreed port it is to be loaded or discharged and accordingly this article deals with the concept of Charterparty, laytime, demurrage and dispatch.

### LAYTIME-

The adventure contemplated by a Voyage Charter involves four successive stages. They are: the approach voyage, the loading process, the carrying or loaded voyage and the discharging process:

- (1) The approach voyage, viz. the voyage of the chartered vessel from wherever she is at the date of the charterparty to the place specified in it as the place of loading.
- (2) The loading operation, viz. the delivery of the cargo to the vessel at the place of loading and its stowage on board.
- (3) The carrying voyage, viz. the voyage of the vessel to the place specified in the charterparty as the place of delivery at an agreed voyage speed.
- (4) The discharging operation, viz. the delivery of the cargo from the vessel at the place specified in the charterparty as the place of discharge and its receipt there by the charterer or other consignee.

In all four of these stages, acts of performance by the shipowner are called for; in the two voyage stages acts of performance by him alone..... So until the vessel has reached the specified port of loading on the loading voyage or the specified place of discharge on the carrying voyage, the contractual obligation to bring the vessel there lies on the shipowner alone; and any loss occasioned by delay in doing so falls upon him...."

The loading or discharging operations take a certain time for which a provision is made and are known as 'laytime' or 'laydays'. However, after the vessel arrives at the loading port/discharge port and is ready to receive/ discharge the cargo, the risk of any delays in loading/discharging are generally agreed to be on the charterer in the absence of any provision to the contrary. This is done by agreeing to the period of "Lay Time" or "Lay Days" within which the cargo must be loaded or discharged without any payment other than the agreed freight to the vessel owner. Consequently in case of Time charters a clause called 'off-hire' is incorporated which provides that in the event of time being lost in certain specified circumstances like breakdown of ship's equipment, hull damage, dry-docking etc., which prevents the Vessel from working beyond the time stipulated in the Charter Party, payment of hire shall cease until the vessel is again efficient to resume the services required of her. If the time lost exceeds the time stipulated as above, hire is not payable even in respect of that stipulated time of break down also.

Lay time is the time during which a ship is lying for the purpose of loading or discharging, as distinct from moving with the object of carrying her cargo from one place to another.

Laytime means the period of time agreed between the parties during which the owner will make and keep the ship available for loading/discharging without payment additional to the freight.

Similar definitions are quoted by John Schofield in Laytime and Demurrage, fourth edition, published by LLP, London. The Laytime allowed to the charterer is not indefinite. The time is either "fixed" or "calculable".

In commercial shipping, laytime is the amount of time allowed (in hours or days) in the Contract of Affreightment or Charter Party for the loading and unloading of cargo. If the laytime is exceeded, **demurrage** is incurred. If not,

### **despatch.**

#### **DEMURRAGE-**

The standard definition of the term "demurrage" as set out in the Voylayrules 1993 (Voyage CharterpartyLaytime Interpretation Rules, 1993) lays down:

"DEMURRAGE' shall mean an agreed amount payable to the Owners in respect of delay to the vessel beyond the laytime for which the Owner is not responsible. Demurrage shall not be subject to laytime exceptions."

It follows from this that liability for demurrage is attributable to delay to the vessel.

- (i) before the conclusion of laytime (which causes the time taken in loading or discharge to extend beyond laytime), and
- (ii) to delay after the conclusion of laytime.

It must follow from the above that an event that causes delay in the first of the above categories can give rise to demurrage; an event that cause delay in the second category will aggravate demurrage. Strictly speaking therefore, demurrage can only be said to have been "incurred" by reason of an event that causes delay in the first category since an event causing delay in the second category would only (strictly speaking) aggravate demurrage that has already been incurred.

#### **DISPATCH**

Dispatch money is money due from the ship-owners to the charterers if the charterers complete the loading or the discharging before the laytime ends. It becomes due in return for the early release of the ship. It is opposite to the demurrage charges. If demurrage can be looked upon as a surcharge on freight, rather than as damages, then dispatch money can be regarded as a discount on freight or a "rebate of freight". Alternatively, it may be seen as a reward to the charterers for performing more than their duty, or, as it were, a work of supererogation (performance beyond call of duty). The amount due will depend on the wording of the dispatch clause and the rate stipulated.

The following are examples of dispatch clauses found in charterparties:

"Despatch money (which is to be paid to Charterers before steamer sails) shall be payable for all time saved in loading (including Sundays and Holidays saved) at the rate of £10 sterling per day for Steamers up to 4,000 tons Bill of Lading weight, and £15 sterling per day for Steamers of over 4,000 tons Bill of Lading weight..."

"If sooner dispatched Owners to pay Charterers dispatch at ..... per day or *pro rata* for part of a day for all laytime saved."

#### **CONCLUSION-**

Having regards to shipping and maritime laws, the knowledge of charterparty, laytime, demurrage and dispatch is must for those who are in trading business. The said article is in concise and precise form so that reader can understand the basic features of the chartering.

#### **REFERENCE**

EDWARD F STEVENS/C S J BUTTERFIELD, "SHIPPING PRACTICE", 11TH EDN., STERLING BOOK HOUSE, MUMBAI ,2004, P. 38. | BY LLOYD DIPLOCK IN THE JOHANNAOOLDENDORFF (E.L.) & CO. G.M.B.H VS. TRADEX EXPORT S.A. (1973) 2 LLOYD'S REPORT 285 (H.L.) AT PAGE 304 AND 305 AND 305. | MICHAEL SUMMERSKILL, "LAY TIME", 3RD EDN., STEVENS AND SONS, LONDON, 1982, P. 01. | CHARTERPARTYLAYTIME DEFINITIONS, 1980. 6 | EN.WIKIPEDIA.ORG/WIKI/LAYTIME | JOHN SCHOFIELD, M.A., "LAYTIME AND DEMURRAGE", 4TH EDN., LLP, LONDON, HONG KONG, 2000, P 317. | THE ABSTRACT ON DISPATCH IS PREPARED FROM 'LAYTIME' BY MICHAEL SUMMERSKILL, 3RD EDITION STEVENS AND SONS, LONDON, 1982 | RIVER PLATE CHARTER-PARTY 1914 (CENTOCON). | MICHAEL SUMMERSKILL, "LAY TIME", 3RD EDN., STEVENS AND SONS, LONDON, 1982, PARA 11-01, P. 287 |