





Welcome to London 2023



Sanctions

Over 80% of Global Trade is Transported by Sea





Sanctions: Examples of Due Diligence

Know Your Customer

Company's Normal Business

Company Website / Social Media

Suspicious Country Locations

Suspicious Company Names

Check Company Address: Google Maps & Street View

Fraudulent Flag Use

Ships Offloading / Switching Off AIS / Location





Containers & Cargo Risks

Hull – Cargo – P&I

Shipwreck

Stack Collapse

Natural Disasters

Cargo / Container Loss

Piracy

Death

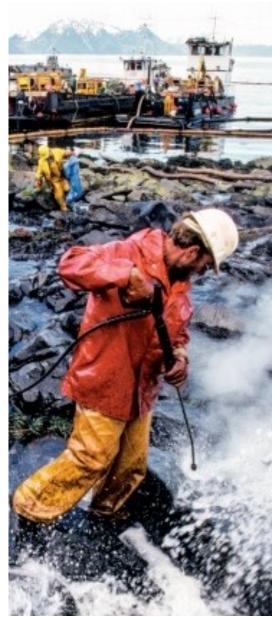
Fire

Theft

Damage: Other Ships / Docks & Terminals











Pre-Judgment Security & Post-Judgment Enforcement



















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VAN STEENDEREN MAINPORT*LAWYERS*

IMLS London 2023





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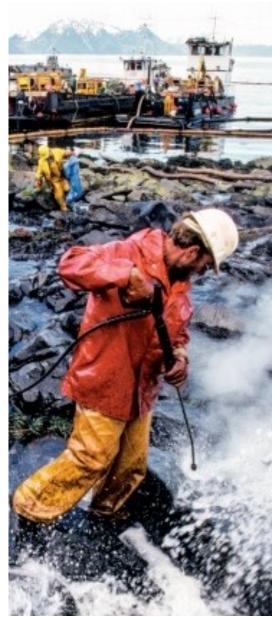
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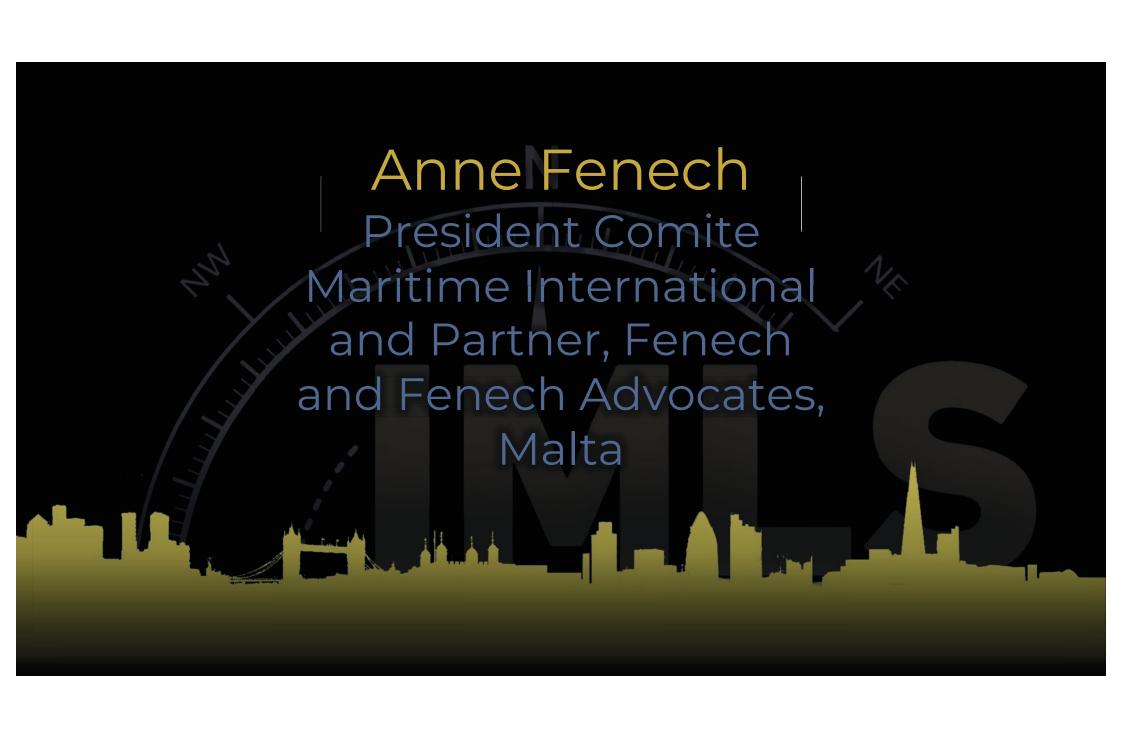
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Moderated by **Tristan Harwood**Thomas Miller Law, England

Charlotte Van Steenderen

Van Steenderen Mainport Lawyers, The Netherlands

Henrik Hagberg

Thommessen, Norway

Jean-Philippe Maslin

Richemont Delviso, France

Johannes Grove Nielsen

Bech-Bruun, Denmark

IMLS

Sanctions Panel Discussion



Meet the Presenters



Johannes Grove Nielsen

Partner Bech-Bruun

Jean Philippe Maslin

Associé / Partner Richemont Delviso

Charlotte van Steenderen

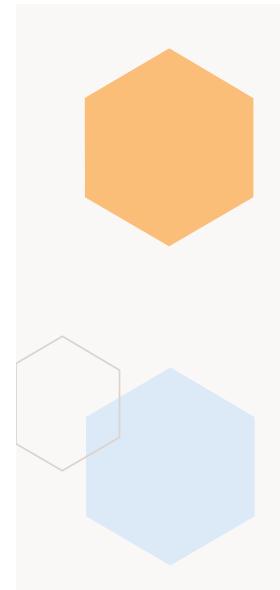
Partner Mainport Lawyers

Henrik Hagberg

Partner / Advokat Thommessen

Tristan Harwood

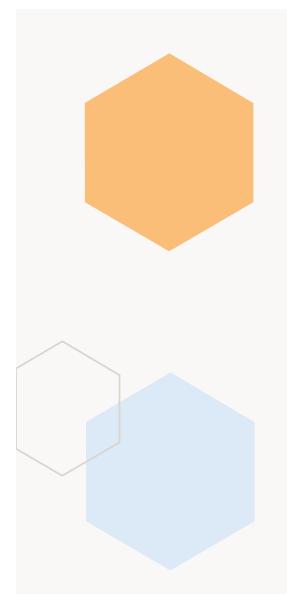
Barrister
Thomas Miller Law



Johannes Grove Nielsen

Partner - Bech-Bruun Shipping & Maritime

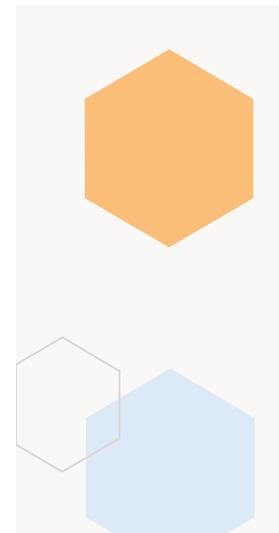




Jean Philippe Maslin

Associé / Partner - Richemont Delviso Shipping & Maritime

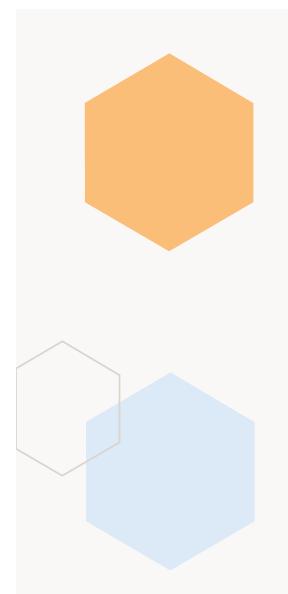




Charlotte van Steenderen

Partner - Mainport Lawyers Shipping & Maritime

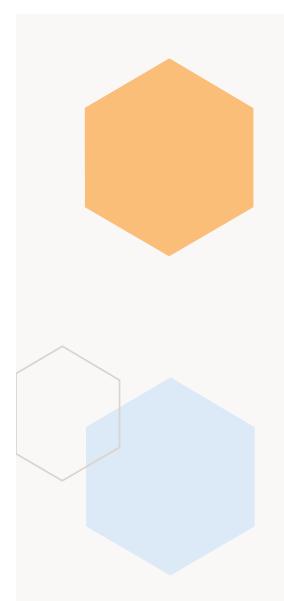




Henrik Hagberg

Partner / Advokat – Thommessen Shipping & Maritime

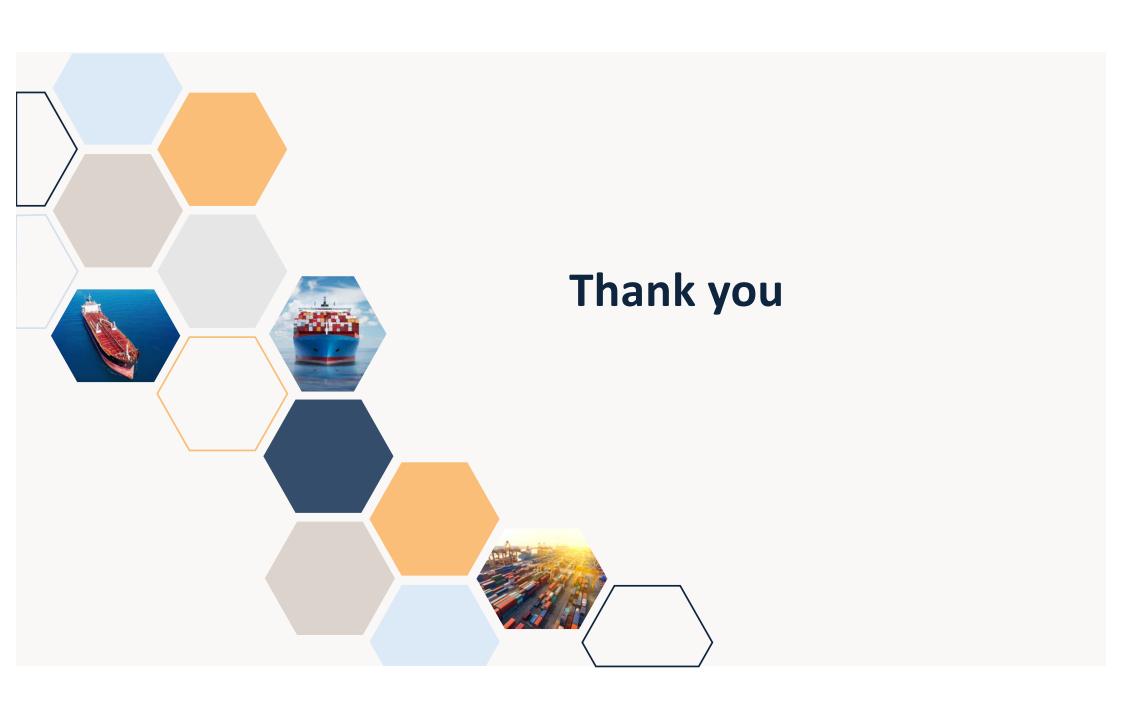


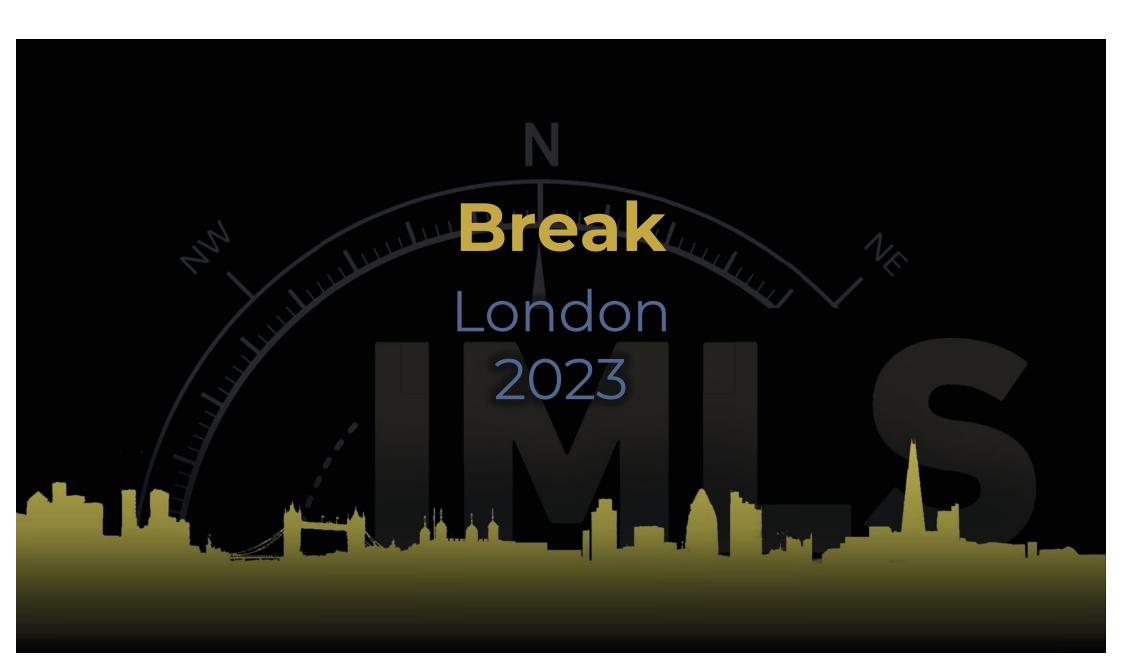


Tristan Harwood

Barrister - Thomas Miller Law Shipping & Maritime







Second Panel – Containers and Cargo Risks

Moderated by Francesca Cappa

President, Young Maritime Professionals

Piotr Porzycki

CMW Legal, Poland

Lynn Krieger

Cox Wootton Lerner Griffin & Hansen, USA, CA

Pietro Mordiglia.

Studio Legale Mordiglia, Italy

Bobby O'Connor

Montgomery McCracken Walker & Rhoads LLP, USA NYC

Julia Brennecke

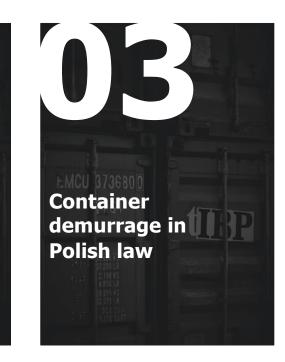
Arnecke Sibeth Dabelstein, Germany



Contents



Can the governing law clauses be replaced directly by Polish law?







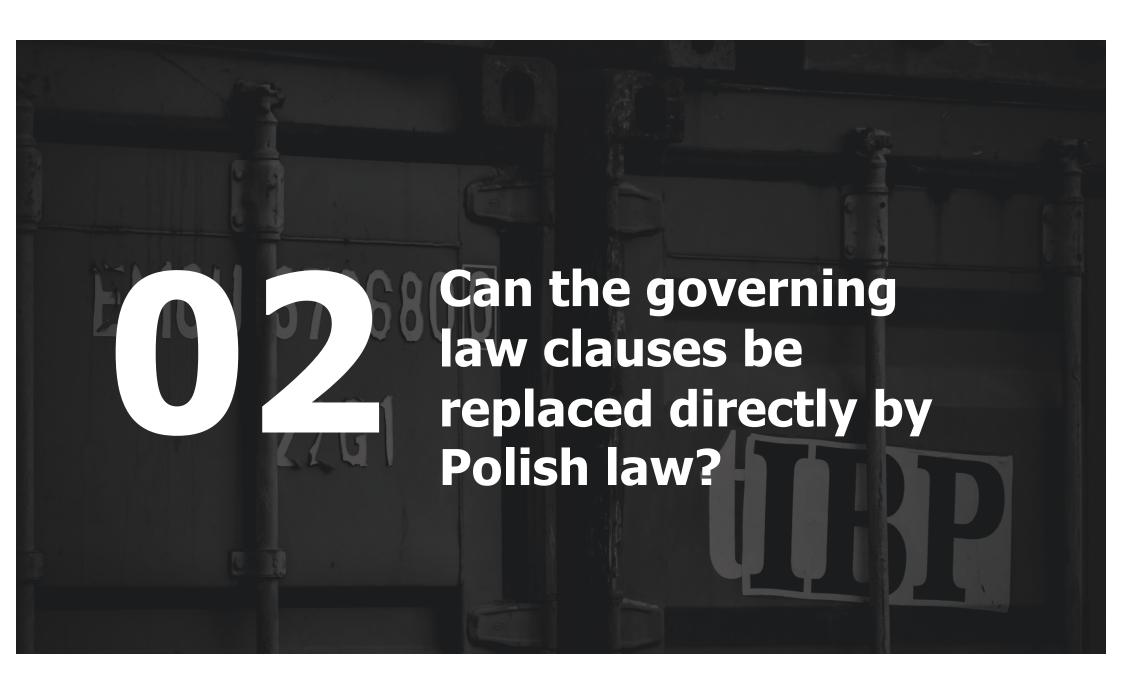


COMMON THREAD

Each of these clauses includes a unilateral power for the carrier to choose the law applicable to the contract of carriage "The Carrier shall be entitled, at its sole option, to bring any claim against the Merchant in any jurisdiction of competent court in the Place of Receipt, the Port of Loading, the Port of Discharging, the Place of Delivery, or any other place related to the carriage, or where the Merchant has a place of business or has assets and the applicable laws or regulations of that jurisdiction shall apply to any claims of the Carrier against the Merchant"

"The Carrier shall have the right to may bring a claim against the Merchant in any competent court in which case the law of such court shall apply"

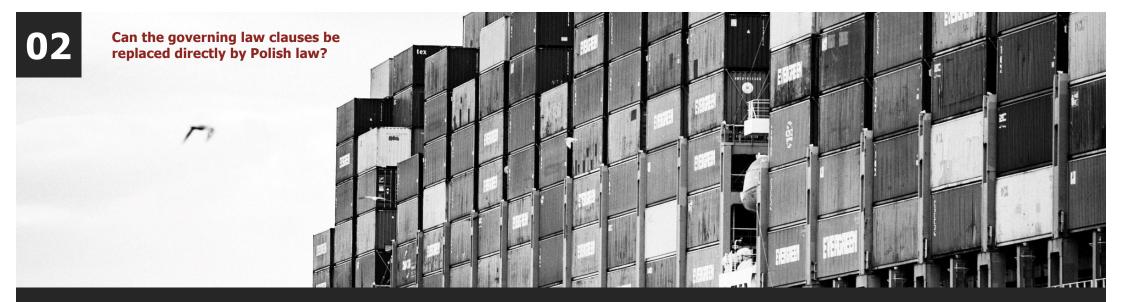
"The Merchant agrees that the Carrier may commence proceedings against the Merchant before the courts of the Merchant's place of business, the Port of Loading, the Port of Discharging, or any other competent jurisdiction, and under the laws of that jurisdiction"





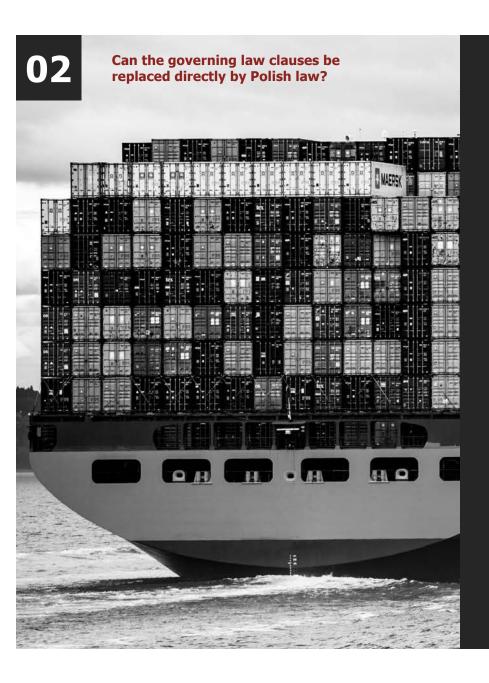
- It may happen that demurrage disputes between carriers and merchants will be submitted to Polish courts
- If so, Polish courts will examine the validity of the governing law clauses included in the bill of lading conditions from the perspective of the Polish Private International Law Act





- It may happen that demurrage disputes between carriers and merchants will be submitted to Polish courts
- If so, Polish courts will examine the validity of the governing law clauses included in the bill of lading conditions from the perspective of the Polish Private International Law Act
- When dealing with the law applicable to contractual obligations, Polish Private International Law Act refers to the Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I)

Rome I, Article 3 section 1: "A contract shall be governed by the law chosen by the parties. The choice shall be made expressly or clearly demonstrated by the terms of the contract or the circumstances of the case. By their choice the parties can select the law applicable to the whole or to part only of the contract"



Polish courts understand the wording of Article 3 section 1 of the Rome I in such a way that:

- the choice of the applicable law should be agreed by both parties
- the parties must know already at the stage of concluding the contract what law they are agreeing on
- the choice of law in the contract shall not raise any doubts as to the law the parties agree to govern the contract
- contractual provision entitling only one party to choose the law governing the contract is invalid



INVALIDITY OF GOVERNING LAW CLAUSES

The contractual clauses like that on the right are invalid from the perspective of Polish law

"The Carrier shall be entitled, at its sole option, to bring any claim against the Merchant in any jurisdiction of competent court in the Place of Receipt, the Port of Loading, the Port of Discharging, the Place of Delivery, or any other place related to the carriage, or where the Merchant has a place of business or has assets and the applicable laws or regulations of that jurisdiction shall apply to any claims of the Carrier against the Merchant"

"The Carrier shall have the right to may bring a claim against the Merchant in any competent court in which case the law of such court shall apply"

"The Merchant agrees that the Carrier may commence proceedings against the Merchant before the courts of the Merchant's place of business, the Port of Loading, the Port of Discharging, or any other competent jurisdiction, and under the laws of that jurisdiction"

Rome I, Article 5 section 1:

"To the extent that the law applicable to a contract for the carriage of goods has not been chosen in accordance with Article 3, the law applicable shall be the law of the country of habitual residence of the carrier, provided that the place of receipt or the place of delivery or the habitual residence of the consignor is also situated in that country. If those requirements are not met, the law of the country where the place of delivery as agreed by the parties is situated shall apply"



Act of September 18, 2001 the Maritime Code, Article 104: "A contract of carriage of cargo may provide that the carrier will provide all or a specified part of the cargo space of the ship for cargo for one or more voyages (charter agreement) or cover the carriage of individual items or cargo specified by type, quantity, measure or weight (booking agreement)"

BASIC ISSUE: TYPES OF CONTRACTS OF CARRIAGE

Two types of contract of carriage the goods by the sea under the Polish law: the charter agreement and the booking agreement



Charter agreement

agreement

Booking MAIN

MAIN OBJECT:

To provide the cargo space of the vessel or its part

MAIN OBJECT:

Transportation effect in relation to the particular cargo





While interpreting provisions of Maritime Code with respect to demurrage, can we extend this institution to the booking agreement?

While interpreting provisions of Maritime Code with respect to demurrage, can we extend this institution to the container demurrage?



NO, WE CAN'T





?

Is container demurrage allowed under the Polish law?



?

What is the container demurrage under the Polish law?











?

Is container demurrage allowed under the Polish law?



?

What is the container demurrage under the Polish law?





Different views of the maritime law doctrine



THREE WAYS OF DOCTRINAL APPROACH:

I.

Container demurrage constitutes a rental fee

II.

Container demurrage is a liquidated damages

III.

Container demurrage is a fee for the services

Judgement of District Court in Łódź [2016], X GC 519/15

"Container demurrage, which means container retention, is a charge applied by container shipowners for retaining the carrier's sea containers beyond the free time"

Judgement of the Supreme Administrative Court [2011], I FSK 1355/10

"Demurrage is the service of retaining containers beyond the agreed free time"

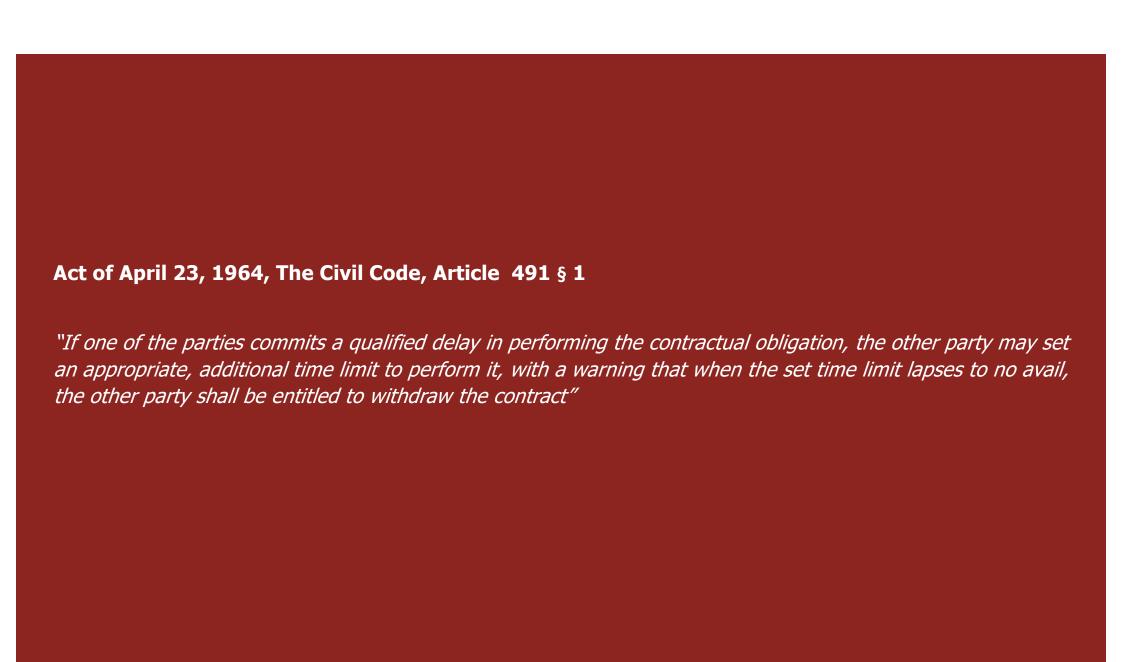


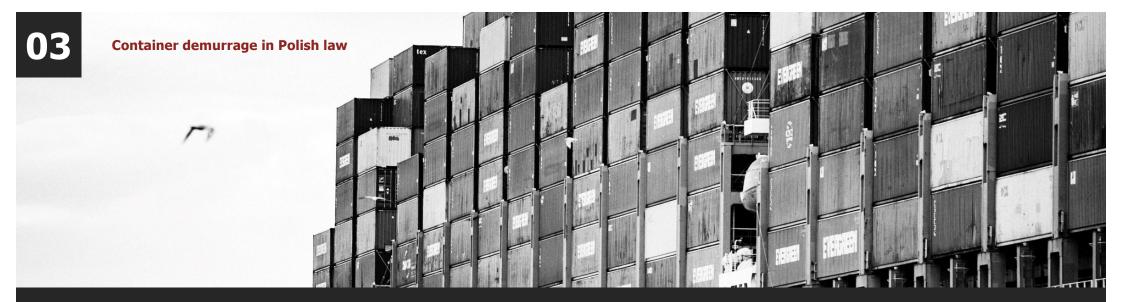


The agreement constituing the container retention service is not violated by the merchant as long as demurrage charges are paid.



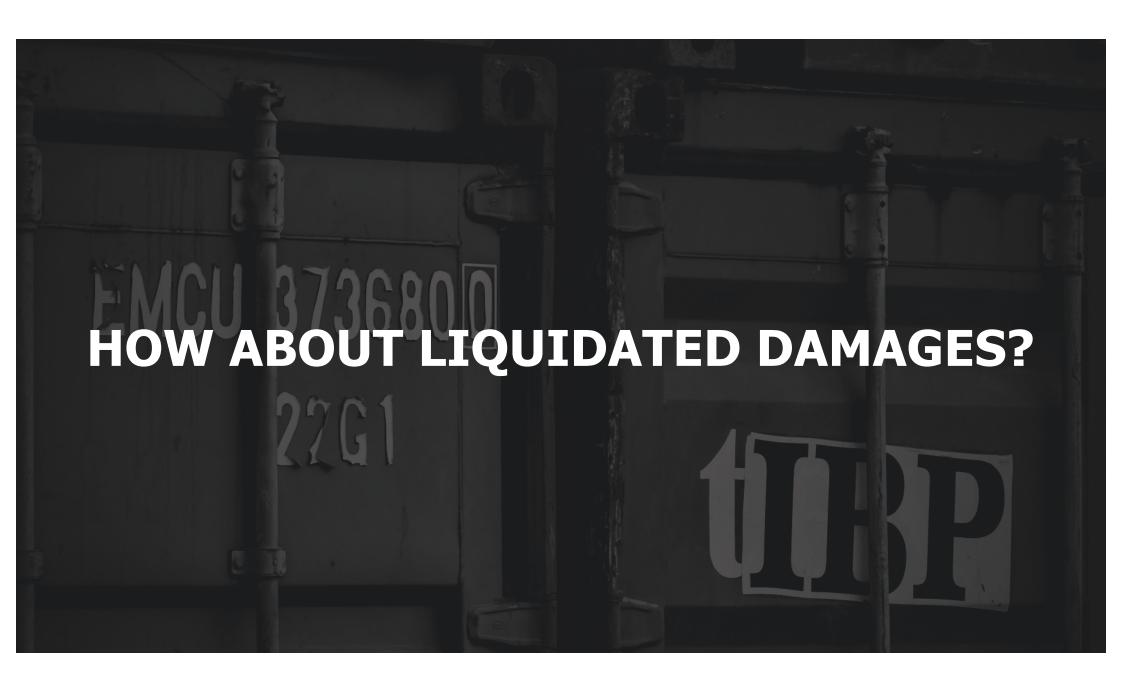
What happens when a merchant stops paying demurrage before returning a container?





In my view wording of modern bill of lading conditions for containerized cargoes does not impose an obligation on merchants to return the container before the expiry of the free time and only stipulates that demurrage is not charged during the free time period.

CONTAINER DEMURRAGE, AS A FEE FOR THE SERVICES, IS NOT SUBJECT TO MITIGATION



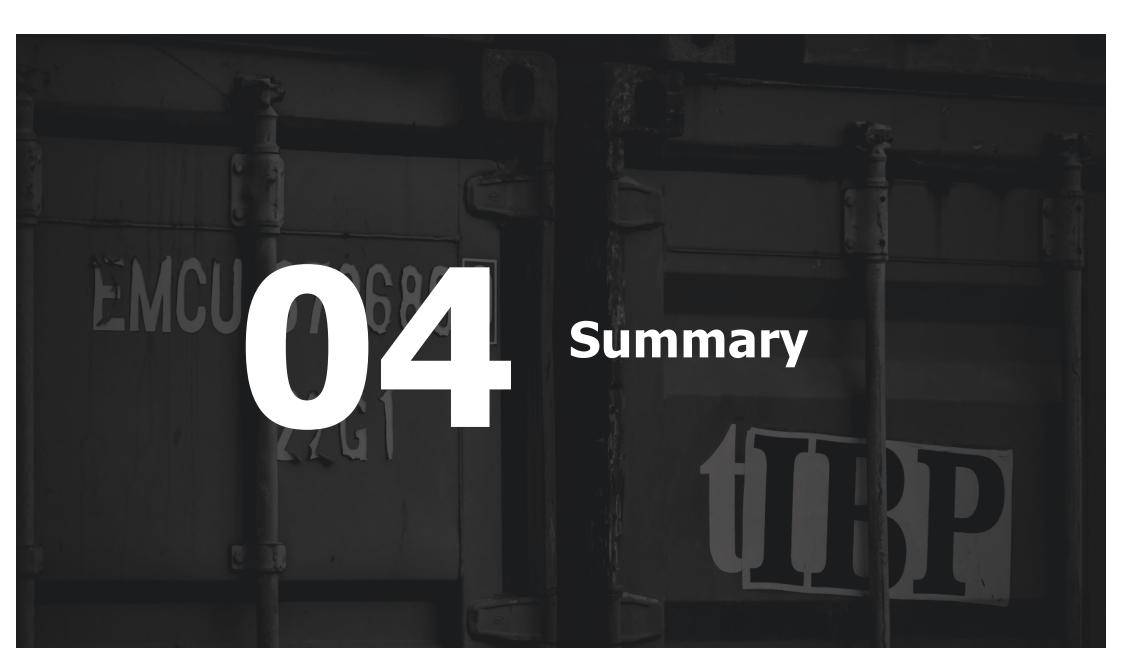
Act of April 23, 1964, The Civil Code, Article 483 § 1

"It may be reserved in the contract that the damage resulting from the non-performance or from an improper performance of a non-pecuniary obligation shall be redressed by the payment of a specified amount (liquidated damages)"

Act of April 23, 1964, The Civil Code, Article 484 § 2

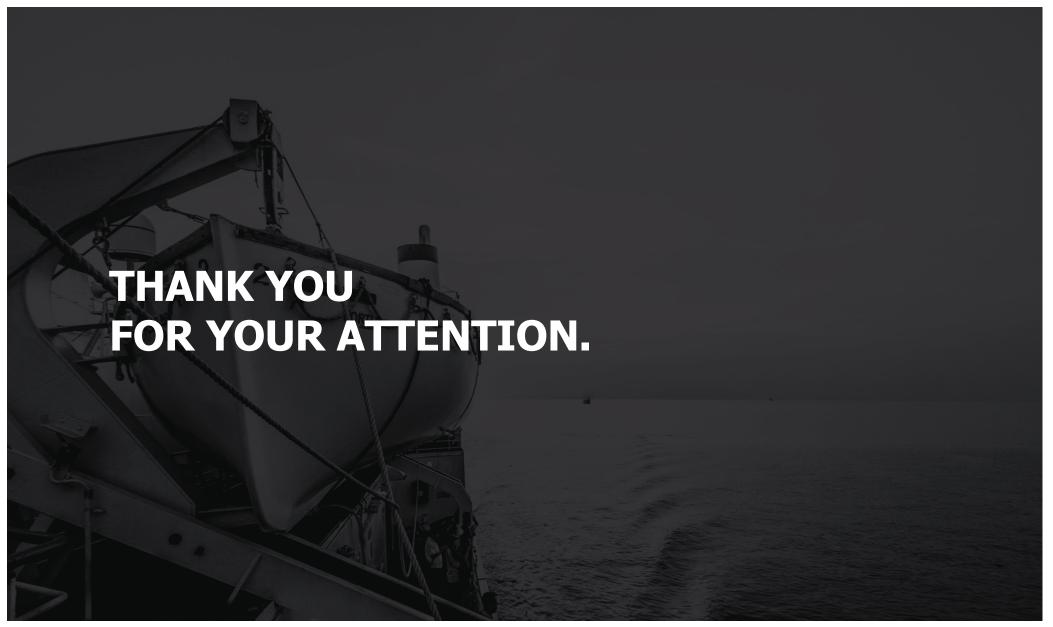
"If the obligation has been performed in a significant part, the debtor may demand a reduction in liquidated damages; the same shall apply in the case where liquidated damages are grossly excessive"

MSC Mediterranean Shipping Co SA v Cottonex Anstalt [2016] EWCA Civ 789	
"A bill of lading claim for demurrage for containers is the same as a claim for liquidated dan charterparty for the detention of a carrying vessel beyond the laydays at the port of loading or dis	
"Any proposition that demurrage charges can continue indefinitely until containers are redelivered into account the commercial purpose of the adventure"	d does not take



- Those of contractual clauses of the bill of lading's terms of carriage which incorporate the unilateral power of the container carrier to chose the law governing the contract are invalid from the perspective of Polish norms of competence and the provisions of Rome I on the law applicable to contracts of carriage will apply instead.
- Rome I provides that in certain cases, the governing law is the law country of the place of delivery of the cargo. This means that in case of invalidity of contractual governing law clause, for import shipments to Polish ports, the applicable law will be Polish law.
- If Polish law in certain cases applies to the contract of carriage of containerized cargo by the sea, then claims for demurrage in container shipping in such cases have to also be considered from the perspective of Polish law. As container demurrage is not directly regulated in Polish law and therefore the issue is subject to legal interpretation.
- Wording of modern bill of lading conditions for containerized cargoes does not impose an obligation on merchants to return the container before the expiry of the free time and only stipulates that demurrage is not charged during the free time period. This means that failure to return the container before the expiry of the free time does not constitute either non-performance or improper performance of merchant's obligation arising out of the contract of carriage.

- As a result, in my opinion container demurrage in the Polish legal system, in contrary to English law, doesn't constitute a liquidated damages.
- In my view, under the Polish law, container demurrage is a fee for the carrier's service of granting the consent for retaining the container by the merchant for the purpose of moving cargo to its inland destination. What is important, as opposed to liquidated damages, such fee is not subject to mitigation.
- The source of this service is the agreement, which is not violated as long as the merchant pays demurrage. Failure to pay demurrage, however, constitutes a breach of this agreement, entitling the carrier to terminate the contract and demand the return of the container.





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- International Marine Law Seminar
- London
- ► November 7, 2023

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Continuing Developments: U.S. Federal Maritime Commission Involvement in the International Supply Chain



How is the FMC affecting international shipping?

Recap of the Ocean Shipping Reform Act



Regulations and Procedures in Flux

- Charge complaint process
- Supplemental Notice of Proposed Rulemaking (June 2023)



Regulations and Procedures in Flux

Supplemental Notice of Proposed Rulemaking (June 2023)



Regulations and Procedures in Flux

- Supplemental Notice of Proposed Rulemaking (June 2023)
 - Clarification of "unreasonable refusal to deal"
 - Proposes requirement that vessel carriers publish their "export policy"



Notable Proceedings

- Evergreen Shipping Agency (America) Corp. v. FMC, Case No. 23-1052 (D.C. Circuit Court of Appeals) "TCW drayage case"
- SOFi charge complaint against Mediterranean Shipping Company (Docket No. CC-001, September 29, 2023)



Notable Proceedings

- Evergreen Shipping Agency (America) Corp. v. FMC, Case No. 23-1052 (D.C. Circuit Court of Appeals) "TCW drayage case"
- SOFi charge complaint against Mediterranean Shipping Company (Docket No. CC-001, September 29, 2023)
- Ocean Network Express Ptd. Ltd. (ONE) (Docket No. 21-17)

Notable Proceedings

 BAL Container Line Co. Ltd. v. SSA Marine Terminal, FMC Docket No. 23-11



Takeaways

- Pushback against FMC?
- Attempts to clarify / acknowledgment of ambiguities?
- Recognition of effect on industry?



Takeaways

Effect of potentially rising freight rates?





StudioLegale | Mordiglia

Definitions:

Demurrage: the time the container spends *inside* the terminal beyond the free time period

Detention: the time the container spends *outside* the terminal/port area beyond the free time period



D&D most frequent cases:



Authorities' order of confiscation



Conservative arrest



Receivers' delay in taking delivery



Receivers' failure to take delivery



Contractual qualification of the containers provision



Italian case-law *minor* trend

UK case-law

Autonomous lease contract

Italian case-law *prevailing* trend



Containers provision as an autonomous lease contract



Legal effects



Liability/title to be sued

Time-bar



Containers provision as an autonomous lease contract

Liability/title to be sued

Merchant: the Shipper, the Receiver, the Holder of the Bill of Lading and ... any person acting on behalf of any of the afore mentioned people



Freight forwarder



Containers provision as an autonomous lease contract

Liability/title to be sued

Obligations of the freight forwarder under Italian law



Conclusion of the contract of carriage on behalf of its Principal



Perfomance of the ancillary operations to the contract of carriage

The freight forwarder can spend the name of its Principal - As agent only



Containers provision as an autonomous lease contract

Liability/title to be sued

UK case-law: the freight forwarder (Merchant) is liable/has title to be sued

Italian case-law: the freight — Shipper/Consignee in the B/L - liable forwarder is liable/has title — As agent only in the B/L - not liable

to be sued at certain ———— Not named in B/L nor in B.N. - **not liable**

to be such at certain

conditions:

Lease contract is not an ancillary operation to

the contract of carriage



Containers provision as an autonomous lease contract

Time-bar

Ancillary service to the contract of carriage



1 year

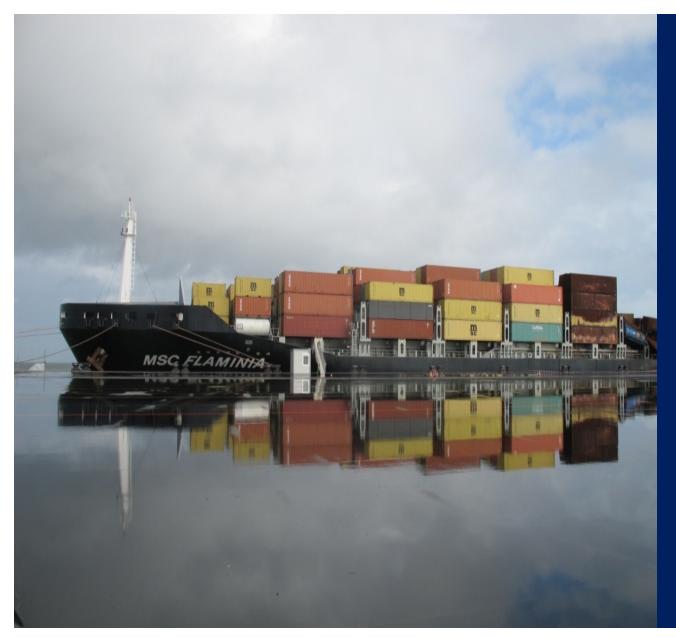
Autonomous lease contract



5 years







A Decade in Court:

Reflecting on the MSC FLAMINIA Container Ship Fire Legal Battle

Bobby O'Connor



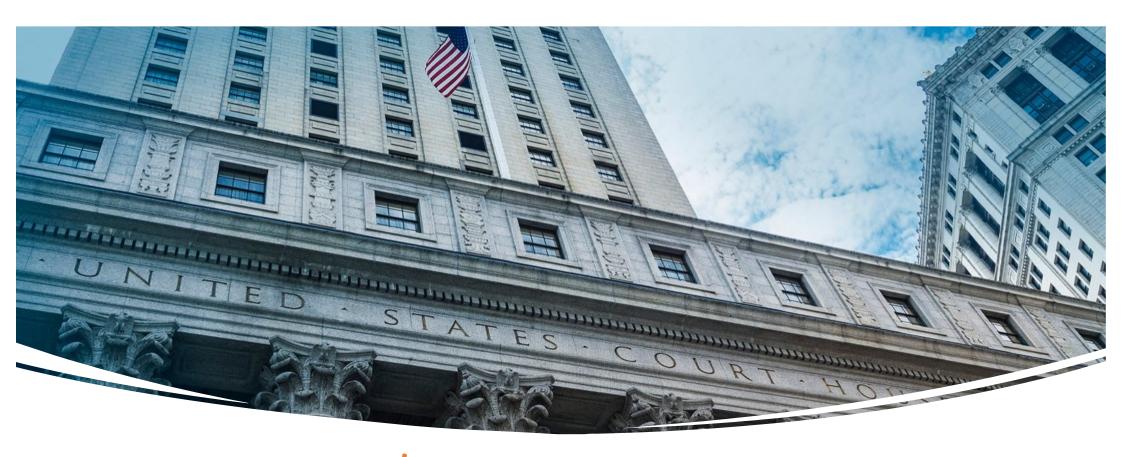




The Court of Appeal
September 1, 2023

"MSC is not entitled to limit its liability"





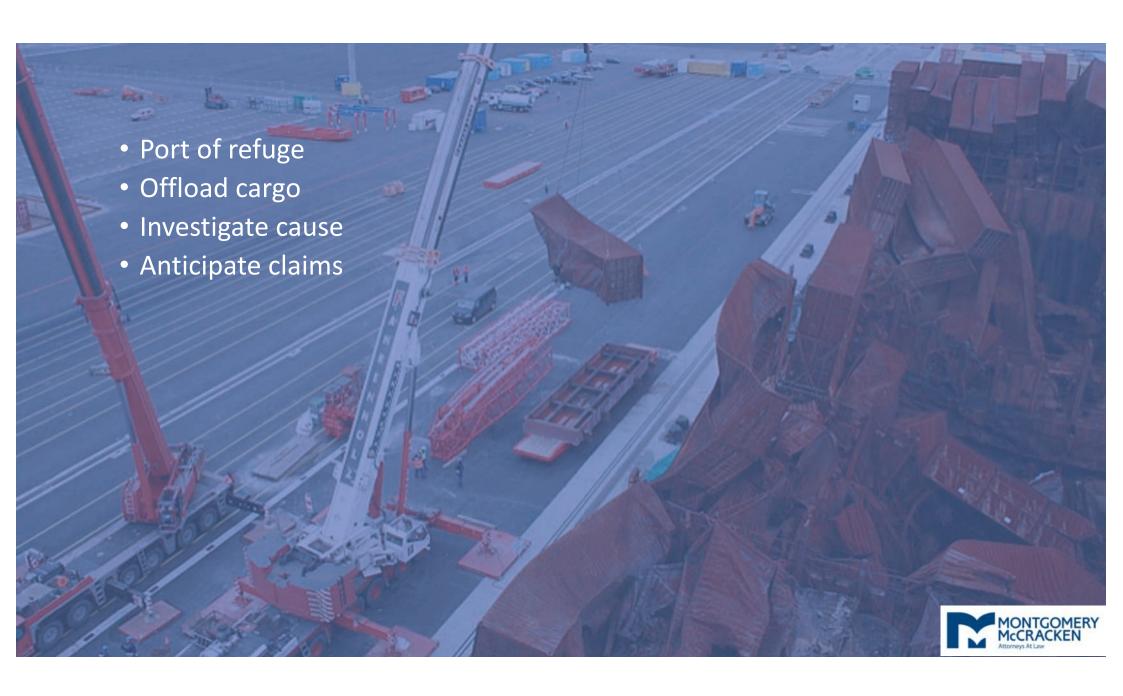
United States Court of Appeals for the Second Circuit

June 30, 2023

"NSB and Conti were not negligent"

"Stolt and Deltech were liable under a failure-to-warn theory"





The Shipowner's Limitation of Liability Act of 1851

- Limitation fund of zero
- Monition and concursus
 - Claims bar deadline

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

12 CV 8892

IN THE MATTER OF THE COMPLAINT OF CONTI 11. CONTAINER SCHIFFAHRTS-GMBH & CO. KG MS "MSC FLAMINIA," AS OWNER, AND NSB NIEDERELBE SCHIFFAHRTSGESELLSCHAFT MBH & CO. KG, AS OPERATOR, OF THE MSC FLAMINIA FOR EXONERATION FROM OR LIMITATION OF LIABILITY

Plaintiffs.

Civil Action No.:

COMPLAINT
FOR EXONERATION
FROM OR LIMITATION
OF LIABILITY

U.S.D.C. S.D. N.

Plaintiffs CONTI 11. CONTAINER SCHIFFAHRTS-GMBH & CO. KG MS "MSC

FLAMINIA" (hereinafter "Conti"), as owner, and NSB NIEDERELBE

SCHIFFAHRTSGESELLSCHAFT MBH & CO. KG (hereinafter "NSB"), as operator, of the



Limitation Act's Fire Statute

"The owner of a vessel is not liable for loss or damage to merchandise on the vessel caused by a fire on the vessel unless the fire resulted from the design or neglect of the owner."

46 U.S.C. § 30522

COGSA's Fire Defense

"Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from ... Fire, unless caused by the actual fault or privity of the carrier"

46 U.S.C. § 30701



Divinylbenzene ("DVB")







Deltech & Stolt:

- Violated shipping protocols
- Booked through New Orleans during the summer
- Loaded ISO tank containers too early
- Delivered to terminal too early
- Heated in the sun
- Failed to warn about enhanced danger
- Breached dangerous goods clause





	IMO DAN	GEROUS GOODS DECL	ARATION	
Shipper Stolt Tank Containers on behalf of: - STOLT-NIELSEN %		Reference 038VW779633		er's Name ie Reg. No.
DELTECH CORPORATION 15635 JACINTOPORT BLVD HOUSTON, TX 77015		1831-42331-12	Driver Date	n Signature
Consignee STOLT-NIELSEN % ADPO ANTIMERS NV NAVEN 1111		Name of Carrier (or his. MSC LINE	agent)	
STEENLANDLAAN 3 B-9130 KALLO Pm Cardage	BELGIUM	On Carriage		
				11,497,711111111
Name/Means of transport MSC FLAMINIA	/1225R	PortPlace of Departure NEW CRLEANS, LA		stPlace of Desination NTWERPEN, VAN
tarks & Numbers Number & kind edicate: Hazzard classifiv.;un nun 1				
		LLY MAZARDOUS SUBSTI	ANCES, LIQUID,	NOS,
Hazard class:	9	Flashpo	int: 77 C	
Packing Group:	III			
EMS:	F-A,S-F			
DIVINYLBENZENE				
* 24 hour emergency	contact * DEI	LTECH - 225-775-015	0	20,47
UICU 4733	73-7	Next West	nt (if neq) 3 Kig n	Gross Weight (if req) 22223 Kgs
*Cornect technical name: propriet Additional information	tary names alone are not a	efficient		
I hereby declare that the	e contents of this con	signment are fully and	Name/status of signar	
accurately described above with the Proper Shipping Name, and are classified, packaged, marked and labelled/placarded, and are in all			AIMEE MORTON Place and date of lause	
respects in proper condition for transport according to applicable international and governmental regulation.			HOUSTON, TX Signature on behalf of Shipper JILL MEADOWS	
RECEIVING ORGANIS Received the above nui hereon: Received orga	mber of containers/pe	ackages/trailers in appare		

The Dangerous Goods Declaration

• "[T]he cargo shipping industry used DGDs as the central repository of information relating to safe handling and transport of dangerous cargo. This was widely known through the cargo shipping industry. It would have been impractical for carriers to have had multiple pieces of paper relating to handling dangerous goods, the primary use of which was different (e.g., the Booking Confirmation, Master Bill of Lading Instructions, and Sea Waybills) and then to have had to compare them to each other and/or to a DGD."



Conti & NSB

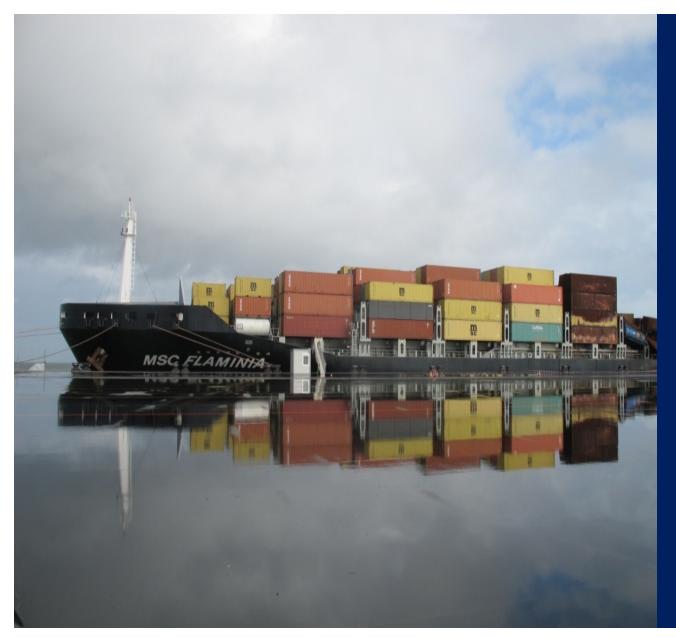
- The ship was seaworthy
- CO2 was released
- The crew was competent
- Their response was reasonable
- Exonerated from liability
- Entitled to indemnity and contribution



Failure to Warn

- Reversed strict liability:
 - "MSC's experience with DVB-80 and its management's general knowledge of the chemical's heat sensitivity surpasses the low threshold that precludes a recovery in strict liability."
- Affirmed Deltech & Stolt's negligence:
 - "Deltech and Stolt failed to notify MSC, Conti, and NSB that originating the shipment at New Orleans in June ran contrary to Deltech's safety protocols and risked DVB-8o's stability by lengthening the summertime voyage The tanks thus posed a 'specific type and degree of danger' that was not adequately reflected in Stolt's and Deltech's warnings."
- Affirmed Conti & NSB's exoneration
- Phase 3 ... Damages





A Decade in Court:

Reflecting on the MSC FLAMINIA Container Ship Fire Legal Battle

Bobby O'Connor







ARNECKE SIBETH DABELSTEIN

Structure

- ı. Facts
- II. Liability
- III. Safety Improvement Initiative

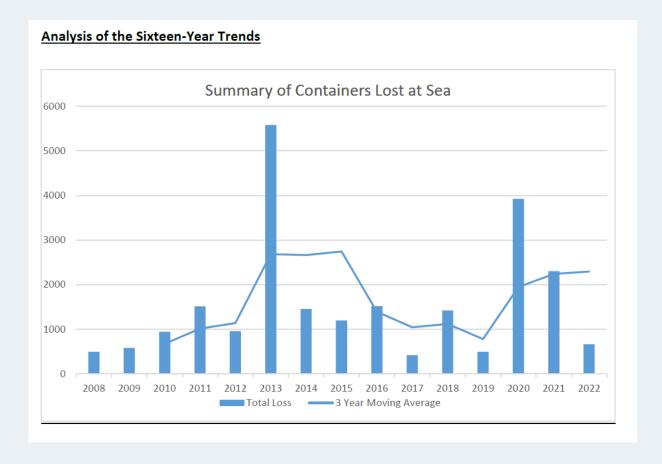


• The size of container vessels has increased dramatically over the past decades

 Over 7,000 container vessels continuously operating on the world's seas and waterways linking continents and providing vital supplies to communities around the globe

 An average of 250 million packed and empty containers currently shipped each year, with cargo transported valued at more than \$7 trillion





.



• 2008-2010: Total losses averaged 675 per year

➤ No significant individual losses

• 2011-2013: Total losses averaged 2,683 per year

≻Two significant individual losses

.



- 2011-2013
 - ➤ M/V Rena (2011): Loss of 900 containers





• 2011-2013

➤MOL Comfort (2013): Loss of 4,293 containers





• 2014-2016: Total losses averaged 1,390 per year

➤One significant individual loss: SS El Faro (2015): Loss of 517 containers and tragic death of 33 crew members





- 2017-2019: Total losses averaged 779 per year
 - No individual losses as significant as those noted in the previous periods
- 2020-2021: Total losses averaged 3,113 per year
 - > Two significant individual losses



- 2020-2021
- ➤ One Apus (2020): Loss of more than 1,800 containers





- 2020-2021
 - ➤ Maersk Essen (2021): Loss of some 750 containers





- 2022: Total loss of 661 containers
 - ightharpoonup No individual losses as significant as those noted in the previous periods



Basis: § 498 of the German Commercial Code (HGB): Occurrence of loss or damage on the sea leg in the custody of the carrier.

- The shipper must prove that the goods were received by the carrier complete and undamaged.
- **Proof in case of FCL-Containers**: BGH case law: prima facie assumption of correctness of packing list and commercial invoice, unless justified objections are raised.
- If the shipper can prove that the goods were handed over complete and undamaged, it is up to the carrier to show that he was not responsible for the loss.



Exclusions of liability in favour of the carrier: § 499 HGB

• Burden of proof: Carrier

• Ex 1: § 499 par. 1 s. 1 no. 1: Perils or accidents of the sea:

> Must be extraordinary perils which could not have been foreseen by a diligent master in the specific case.

➤It is sufficient that it is **probable** that the damage is due to the peril of the sea (§ 499 para. 2 s. 1 HGB) - unless the vessel was **unseaworthy** or unfit for **loading** (s. 2)

,



Exclusions of liability in favour of the carrier: § 499 HGB

MOL Comfort:

- ➤ No application of § 499 para. 1 s. 1 no. 1 because:
 - ➤ For a vessel of the size of the "MOL Comfort", the weather conditions at the time of the damage should not have posed any danger
 - > The cause was the failure of the hull
 - > The MOL Comfort was unseaworthy.

.



Exclusion of liability for error in navigation of the vessel's crew?

- Since the reform of maritime law came into force (2013), the exclusion of liability for error in navigation **no longer exists by law**.
- However, according to § 512 HGB an exclusion of liability for error in navigation may be agreed in general terms and conditions, particularly those of the carrier.

MOL Comfort:

The exclusion of liability for error in navigation could have played a role here.

The decision to start the voyage in spite of the given circumstances may constitute an error in navigation.



- Legal consequence: Compensation for the value of the lost goods (§ 502 HGB).
- Maximum liability according to § 504 par. 1 s. 1 HGB:
 - ➤ Either 666.67 SDR per piece or unit or of 2 SDR per kilogram of gross weight of the goods. Normally, the **container** is considered a piece or unit.
 - ➤ § 504 par. 1 s. 2 HGB: If a container is used to transport individual packages, each package which is **indicated in a transport document** as being contained in the container shall be deemed to be a piece or unit.
 - ➤ BUT: The unit of cargo must be specified in a bill of lading or sea waybill issued by the carrier. Information contained in a bill of lading issued by the vessel-operator as the contractual carriers sub-carrier shall not be attributed to the contractual carrier.



Is there a carve-out for the limitation of liability?

- \bullet The limitation of the carrier's liability in accordance with \S 507 No. 1 HGB shall not apply if the carrier itself can be accused of recklessness.
- Recklessness on the part of his vicarious agents (§ 501 HGB) and in particular his crew, is not attributed to the carrier.



III. Safety Improvement Initiatives

- At least 12,000 containers are believed to be drifting in the ocean
- Containers lost can pose a serious hazard to navigation and safety at sea in general, and in particular to recreational yachts, fishing vessels and other small craft, as well as to the marine environment





III. Safety Improvement Initiatives

- To reduce these risks, in September 2022, the IMO's Sub-Committee on Carriage of Cargoes and Containers (CCC8) agreed draft amendments to the SOLAS and MARPOL Convention
- The amendments include provisions requiring a vessel that loses containers on the high seas to report the loss



III. Safety Improvement Initiatives

- The amendments adds new paragraph to SOLAS chapter V Regulation 31 on Danger messages
- Chapter V:
 - > Safety of navigation
 - > Applicable to all ships on all voyages
 - ➤ Regulation 31: contains the obligation of any ship encountering dangerous ice, a dangerous derelict, or any other direct danger to navigation, or a tropical storm, or encounters sub-freezing air temperatures associated with gale force winds causing severe ice accretion on superstructures, or winds of force 10 or above on the Beaufort scale for which no storm warning has been received, to communicate the information by all means at its disposal to ships in the vicinity, and also to the competent authorities
 - >No reference to container losses (yet)



III. Safety Improvement Initiatives

- The amendment:
- In case of the loss of containers, the master is required,
 - > to communicate the particulars of such an incident without delay and to the fullest extent possible to
 - » ships in the vicinity
 - » to the nearest coastal State,
 - » and also to the flag State
- The flag State will be required to report the loss of freight containers to IMO

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III. Safety Improvement Initiatives

- The draft amendments also adds new paragraph to SOLAS chapter V Regulation 32 on information required in danger messages
 - >Specifies the information to be reported, including, where available, position, number of containers, etc.
- The draft amendment furthermore adds new paragraph to article V of protocol I of the MARPOL Convention, which says, that:
 - ➤ in case of the loss of freight container(s), the report required by article II (1) (b) shall be made in accordance with the provisions of SOLAS regulations V/31 and V/32
- The draft amendments are expected to enter into force on January 1, 2026



Thank you for your attention!

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Third Panel – Prejudgment Security and Post Judgment Enforcement

Moderator **George Eddings**Maritime Arbitrator

Amitava (Raja) Majumdar

Bose & Mitra & Co, India

Mercedes Duch

San Simon & Duch, Spain

Ricardo Rozas

JJR Abogados, Chile

Lucas Leite Marques

Kincaid | Mendes Vianna Advogados, Brazil

Luis Raven

Morgan & Morgan, Panama









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Company's Normal Business

Company Website / Social Media

Suspicious Country Locations

Suspicious Company Names

Check Company Address: Google Maps & Street View

Fraudulent Flag Use

Ships Offloading / Switching Off AIS / Location





Containers & Cargo Risks

Hull – Cargo – P&I

Shipwreck

Stack Collapse

Natural Disasters

Theft

Cargo / Container Loss

Piracy

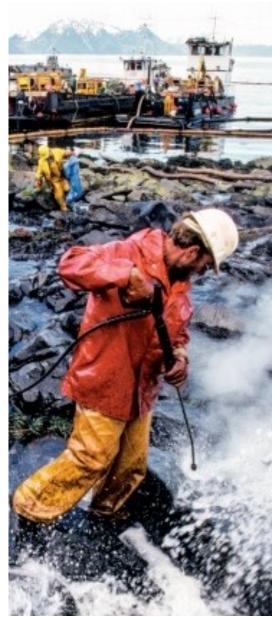
Death

Fire

Damage: Other Ships / Docks & Terminals











Pre-Judgment Security & Post-Judgment Enforcement



















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