LMAA and Gafta/Fosfa Arbitration: A Brief Comparison

IAOM Conference Nairobi 2018

Davies Battersby Solicitors

Congen Bill of Lading 1994

CODE NAME "CONGRIBIL" EDITION 1994 Shipper Consignes	BILL OF LADING TO BE USED WITH CHARTER-PARTIES BIL No. Reference No.	Page 2	BILL OF LADING TO BE USED WITH CHARTER PARTIES CODE NAME: COGENBUL: EDITION 1994 ADOPTED BY THE BALTIC AND INTERNATIONAL MARITIME COUNCL (BIMCO)	Page 1
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"All terms and conditions, liberties and exceptions of the Charter Party, dated as overleaf, including the Law and Arbitration Cause, are herewith incorporated."

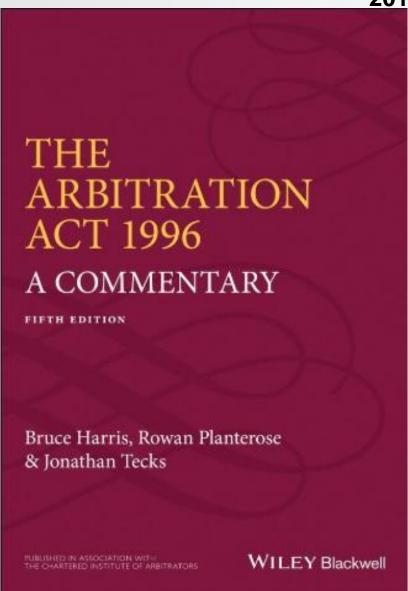
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Gencon Charter Party 1994

1. Shipbroker	RECOMMENDED THE BALTIC AND INTERNATIONAL MARHTIME COUNCIL UNIFORM GENERAL CHARTER (AS REVISED 1922, 1976 and 1994) (To be used for trades for which no specially approved form is in force) CODE NAME: "GENEON"
	2. Place and date
3. Owners Place of business (Cl. 1)	4. Charterers Place of business (Cl. 1)
S. Vessef's name (Cl. 1)	6. GTINT (CL.1)
7. DWT all told on summer load line in metric tons (abt.) (DL 1)	8. Present position (Cl. 1)
Expected ready to load (abt.) (Cl. 1)	
10. Loading port or place (CL.1)	11. Discharging port or place (Cl. 1)
12. Cargo (also state quantity and margin in Owners' option, if agneed; if full and complete	e cargo not agreed state "part cargo") (Cl. 1)
 Freight rate (also state whether freight prepaid or payable on delivery) (O. 4) 	14. Freight playment (state currency: and method of payment; also beneficials bank a
15. State if vessef's cargo handling gear shall not be used (Cl. 5)	16. Laytime (if separate laytime for load, and disch, is agreed, fill in a) an total laytime for load, and disch, fill in c
17. Shippers/Place of business (Cl. 6)	a) Laytime for loading
18. Agents (loading) (Cl. 6)	b) Laytime for discharging
19. Agents (discharging) (Cl. 6)	c) Total laytime for loading and discharging
to regard (accordingly (or o)	
20. Demurrage rate and manner payable (loading and discharging) (Cl. 7)	21. Cancelling date (Cl. 9)
20. Demurrage rate and manner payable (loading and discharging) (Cl. 7)	22. General Average to be adjusted at (Cl. 12)
Demurage rate and manner payable (basing and discharging) (Cl. 7) Teight Tax (state if for the Owners' account) (Cl. 13 (cl))	1 ST. ACC COLON SECTION SECTION
20. Demurrage rate and manner payable (loading and discharging) (Cl. 7)	22. General Average to be adjusted at (Cl. 12)
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20. Demunsger gets and manner payable (bading and discharging) (Cl. 7) 23. Frejorit Tax (state if for the Owner's account) (Cl. 13 (cl) 25. Law and Architector (attas 19 (s), 19 (s) or 19 (c) of Cl. 19; if 19 (c) agreed also state. Place of Architector) of not filted in 19 (s) shall apply (Cl. 19) (a) State maximum amount to small claims broatened arbitration (Cl. 19) 1s mutually agreed that this Contract shall be performed arbitration (Cl. 19)	22. General: Average to be adjusted at (Cl. 12) 24. Brokerage commission and its whom payable (Cl. 15) 25. Additional disuses covering special provisions, if agreed 26. Additional disuses covering special provisions, if agreed 26. In this Chaeter Planty which shall include Plant I as well as Plant II, in the event

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19.	Law and Arbitration	382
*	(a) This Charter Party shall be governed by and construed in accordance with	383
	English law and any dispute arising out of this Charter Party shall be referred to	384
	arbitration in London in accordance with the Arbitration Acts 1950 and 1979 or	385
	any statutory modification or re-enactment thereof for the time being in force.	386
	Unless the parties agree upon a sole arbitrator, one arbitrator shall be	387
	appointed by each party and the arbitrators so appointed shall appoint a third	388
	arbitrator, the decision of the three-man tribunal thus constituted or any two of	389
	them, shall be final. On the receipt by one party of the nomination in writing of	390
	the other party's arbitrator, that party shall appoint their arbitrator within	391
	fourteen days, failing which the decision of the single arbitrator appointed shall	392
	be final.	393
	For disputes where the total amount claimed by either party does not exceed	
	the amount stated in Box 25** the arbitration shall be conducted in accordance	
	with the Small Claims Procedure of the London Maritime Arbitrators	
	Association.	397
*	(b) This Charter Party shall be governed by and construed in accordance with	
	Title 9 of the United States Code and the Maritime Law of the United States and	
	should any dispute arise out of this Charter Party, the matter in dispute shall be	
	referred to three persons at New York, one to be appointed by each of the	
	parties hereto, and the third by the two so chosen; their decision or that of any	
	two of them shall be final, and for purpose of enforcing any award, this	
	agreement may be made a rule of the Court. The proceedings shall be	
	conducted in accordance with the rules of the Society of Maritime Arbitrators,	
	Inc	406
	For disputes where the total amount claimed by either party does not exceed	
	the amount stated in Box 25** the arbitration shall be conducted in accordance	
	with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators,	
*	Inc	410
	(c) Any dispute arising out of this Charter Party shall be referred to arbitration at the place indicated in Box 25, subject to the procedures applicable there. The	
	laws of the place indicated in Box 25, subject to the procedures applicable there. The	413
	(d) If Box 25 in Part 1 is not filled in, sub-clause (a) of this Clause shall apply.	
*	(a), (b) and (c) are alternatives; indicate alternative agreed in Box 25.	414
**	Where no figure is supplied in Box 25 in Part 1, this provision only shall be void but	
	the other provisions of this Clause shall have full force and remain in effect.	417
	the other provisions of this olause shall have full force and remain in effect.	717



LMAA Full Member Arbitrators

- Allen, Michael
- Ambrose, Clare
- Aston, Clive
- Baker-Harber, Michael
- 5. Birch, Elizabeth
- Christofides, A
- Evans, The Rt Hon Sir Anthony 18. Kinnell, Ian
- 8. Farrington, David
- Gaisford, Robert
- 10. Gault, Simon
- 11. Gaunt, Ian

- 12. Gordon, Lindsay
- 13. Green, lan
- 14. Hamsher, Mark
- 15. Harris, Bruce
- 16. Harrison, Trevor
- 17. Kay, Sarra
- 19. Marshall, Tim
- 20. Martin-Clark, David
- 21. Mocatta, Edward
- 22. Moss, Christopher

- 23. Oakley, Alan
- 24. O'Donovan, Patrick
- 25. Owen, David
- 26. Rayfield, Richard
- 27. Rayment, Timothy
- 28. Schofield, John
- 29. Tsatsas, John
- 30. Williamson, Brian

LMAA TERMS AND PROCEDURES: The Second Schedule

THE SECOND SCHEDULE

ARRITRATION PROCEDURE

- The normal procedure requires service of submissions by each party as set out below. Whether the submissions are informal or are framed more formally as statements of case, they must:
 - (a) set out the position of the parties in respect of the issues that have arisen between them as clearly, concisely and comprehensively as possible:
 - (b) be contained in numbered paragraphs;
 - (c) be accompanied by paginated supporting documentation relevant to the issues between the parties, other than documents which accompanied previous submissions. Such documentation shall be served on all other parties.

A party intending to serve supporting documentation upon the tribunal must check with the tribunal whether it wishes to receive copies of all or some of the documentation at that stage. The aim should be for a tribunal to see enough documentation to be able to identify the issues in the case but not to be burdened with, for instance, copy invoices at the commencement of a reference.

- An allegation that relevant documentation has not been disclosed with any submissions will not normally be a reason for allowing additional time for service of submissions in response. However, a failure at the appropriate stage to disclose relevant documentation may be penalised in costs.
- Claim submissions are normally to be served within 28 days after appointment of a sole arbitrator
 or, if the tribunal is to consist of more than one arbitrator, within 28 days after appointment of the
 second arbitrator.
- 4. Save in exceptional cases (e.g. applications for interim or partial final awards for sums which are said to be indisputably due and owing) defence and, if applicable, counterclaim submissions are to be served within 28 days after service of the claim submissions.
- 5. Submissions in reply are to be served within 14 days after service of defence submissions unless there is also a counterclaim, in which case 28 days shall be allowed for submissions in reply and defence to counterclaim. Any submissions in reply to the defence to counterclaim are to be served within 14 days thereafter. If a party withes to serve any further submissions, it should apply to the tribunal for permission to do so, explaining why such further submissions are necessary.
- Bare denials in defence and subsequent submissions in response to an allegation will not be acceptable. If an allegation is denied, reasons must be given and if appropriate a positive contrary case put forward.

- 7. Applications for security for costs will not normally be considered until after service of defence submission. Any application must be accompanied by a subfillation for it and a breakdown of the costs which it is reasonably anticipated will be incurred up to the stage of the reference for which security is ousling, in the light of paragraph (E) of the First Schedule it will not be appropriated for security for costs to include any provision for the costs of a tribunal, except in relation to costs already paid to a tribunal for any member of a tribunal by the party seeking security for costs, or in relation to costs of a tribunal in respect of which the party seeking security for costs has already provided security.
- 8. If a party wishes to obtain disclosure of certain documents prior to service of submissions, it must seek the agreement of the other party, failing which it should make an appropriate written application to the tribunal, explaining the rival positions of the parties in question.
- 9. Subject to any specific agreement between the parties or ruling from the tribunal, the parties are entitled at any stage to ask each other for any documentation that they consider to be relevant which has not previously been disclosed. Parties will not generally be required to provide broader disclosure than is required by the courts. Generally, a party will only be required to disclose the documents on which it relies or which adversely affect its own case, as well as documents which either support or affect the other arrafy case.
- 10. In appropriate cases the tribunal may order the service of a statement of truth signed by an officer or by the legal representative of a party confirming the accuracy of any submissions or of any declarations that a reasonable search for relevant documentation has been carried out.

11.

- (a) Unless the parties agree that the reference is ready to proceed to an award on the exclusive shars of the written submissions that have already been served, both parties must complete the Questionnaire set out in the Third Schedule within 14 days of the service of the final submissions as set our in paragraph 5 above. Every such Questionnaire must contain the declaration set out at the end thereof, which shall be signed by a properly authorised officer of the party on whose behalf it is served. Completed Questionnaires must be served on the tribunal and all other parties. Unless the parties agree, the tribunal will then establish the future procedural course of the reference, either on the basis of the Questionnaires and any other applications made to it in writing or, if apporting a the parties and any other applications made to it in writing or, if apporting a three applications.
- (b) In order to avoid uncertainty and minimise deby following an exchange of Questionnaires, a tribinal will normally allow the parties 21 days from the date of such exchange to agree future procedural directions, or to make submissions regarding such directions, following witch point of a tribinal will make such directions, or the such action regarding the future conduct of the proceedings, as it considers appropriate on the basis of the marketable before it. Including the Questionnaire.

- 12. Subject to contrary agreement of the parties or an appropriate nulling by the tribunal, the parties will be required to exchange statements of evidence of fact (whether to be adduced in evidence under the Civil Evidence Acts or to stand as evidence in chief) as well as expert evidence covering areas agreed by the parties or ordered by the tribunal statement of evidence of fact or expert evidence that have not been exchanged in accordance with these provisions will not be admissible at a hearing without permission of the robunal.
- 13. Parties and tribunals should actively consider ways in which to make the arbitral process as cost-effective and efficient as possible. In doing so, they should take account of the guidelines set out in the Checklist set out in the Fourth Schedule, in relation to matters such as: the preparation of factual and expert evidence: the use of documents; skeleton arguments, and transcripts.
- 14. Any application to a tribunal for directions as to procedural or evidential matters should, seve in exceptional Currustances, be made only after the other parties have been afforded an opportunity to agree, within 3 working days, the terms of the directions proposed. Any application that has not previously been discussed with the representatives of such other parties and that does not fully record the most positions of the parties will normally simply be rejected by a ribunal. It a party has been requested by another party to discuss and agree any application, but has falled to respond within 3 working days for such other time as may be allowed by the tribunal, the tribunal will not seek to elicit the comments of that party or make orders conditional on objections not being received.
- Parties should not routinely copy to the tribunal exchanges between them unless and until a ruling is required or there is other good reason to keep it informed.
- 16. Communications regarding procedural matters should be made expeditiously
- Tribunals will not acknowledge receipt of correspondence despite any request to that effect unless there is particular reason to do so.
- 18. Only in the most exceptional circumstances can it be appropriate for a party to question the terms of any procedural order made or seek a review of it by the tribunal.

19.

(a) If a tribunal considers that unnecessary costs have been incurred at any stage of a reference, it may on the application of a party or, after giving the parties the opportunity to comment, of its own volition make rulings as to the lability for the relevant discrete costs. Unnecessary costs may be incurred by, e.g., inappropriate applications or appropriate applications impayropirately resisted, unnecessary communications, excessive photocopying or displicated communications. Tribunals may order such costs to be assessed and paid immediately. (b) A tribunal will be entitled, in exercising its discretion as to liability for costs, and in assessing costs, to take account of unreasonable or inefficient conduct by a party, including a failure to comply with the Checklist at the Fourth Schedule, and to take account of offers made without prejudice save as to costs. A tribunal may also take into account the costs estimates provided by both parties in the LMAA Questionnaire.

(For the avoidance of doubt, the English High Court procedure as to Part 36 offers is not applicable to arbitrations conducted under these Terms, and paragraph (b) above is not intended to limit the matters which may be considered by a tribunal in the exercise of its

- 20. A party should give prompt notice to other parties and to a tribunal of its instruction of lawyers or other representatives to represent it in an arbitration, and of any change in its representation. In the absence of exceptional circumstrances, late instruction of legal or other representatives, or a change in representation, will not be considered as a valid ground for delaying the progress of an arbitration, not as a valid ground for the adocumment of a hearine.
- 21. Where parties agree that an order or direction which is agreed between them shall be deemed to be an order of the tribunal, they must notify the tribunal of such agreement, and, unless otherwise directed by the tribunal, the agreed order or direction shall take effect as an order or direction of the tribunal, and shall be an order or direction of the tribunal for the purpose of section 41 of the Act (which deals with the powers of a tribunal in the case of a party's default.)
- 22. Parties are at liberty to apply to a tribunal for directions which differ from those contemplated above, but any such application should clearly explain why it is appropriate for some different course to be followed.

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LMAA TERMS AND PROCEDURES: The Third Schedule

THE THIRD SCHEDULE

QUESTIONNAIR

(Information to be provided as required in paragraph 11 of the Second Schedule to the LMAA Terms)

Note: The Questionnaire is an important document in the arbitration process. It provides an opportunity to consider the issues that have been raised in the submissions, and the most appropriate way of progressing an arbitration.

The following requirements regarding the Questionnaire should be observed: (a) where more than one question is raised in a section of the Questionnaire, separate answers should be provided for each question; (b) when responding to Question 13 (as to witnesses of fact and experts), parties should state whether it is considered necessary for all factual witnesses and experts to give evidence in person, or whether it would be necessary or desirable for some witnesses to give evidence by video link or similar means; (c) when responding to Question 15(a) (as to the estimated costs of each party), a breakdown of the figures should be provided, identifying separately, amongst other things the actual or estimated fees of: solicitors/consultants (and the number anticipated to be required), Counsel (and specifying whether senior or junior Counsel will be involved), and experts, including relevant charge out rates.

As many as possible of the procedural issues should be agreed by the parties. If agreement has been possible, then please make that clear in the answers to the Questionnaire.

- 1. What, briefly, is the nature of the claim (e.g. "unsafe port" or "balance of accounts dispute")?
- 2. What is the approximate quantum of the claim?
- 3. What is the approximate quantum of any counterclaim?
- 4. What are the principal outstanding issues requiring determination raised by the claim and any counterclaim?
- 5. Are any amendments to the submissions required?
- 6. Are any of the issues in the reference suitable for determination as a preliminary issue?
- 7. Are there any areas of disclosure that remain to be dealt with?
- 8. Would a preliminary meeting be useful, and if so at what stage?
- What statement evidence is it intended to adduce, from whom and when? Which issues will be addressed by statement evidence? Is it possible to limit the length of statements or to avoid duplication of evidence? If there is to be a hearing what oral evidence will be adduced?
- 10. What expert evidence is it intended to adduce by way of reports and/or oral testimony and by when will experts' reports be exchanged? Which issues will be addressed by expert evidence? Can the

length of experts' reports be limited? Unless the parties agree or the tribunal rules that a meeting between experts would not be appropriate, when should the meeting take place and when should a record of that meeting be provided?

- 11. What is the suggested timetable for the close of submissions if the case is to go ahead on documents alone or for a hearing if that is appropriate?
- 12. What is the estimated length of the hearing, if any?
- 13. Which witnesses of fact and experts is it anticipated will be called at the hearing, if there is to be one? Will interpreters be required at the hearing for any witnesses?
- 14. Is it appropriate for a hearing date to be fixed now? (Save in exceptional circumstances, a hearing date will not be fixed until the preparation of the case is sufficiently advanced to enable the duration of the hearing to be properly estimated; this will normally be after disclosure of documents has been substantially completed.)
- 15. (a) What are the estimated costs of each party
 - (i) up to completion of this Questionnaire; and
 - (ii) through to the end of the reference?

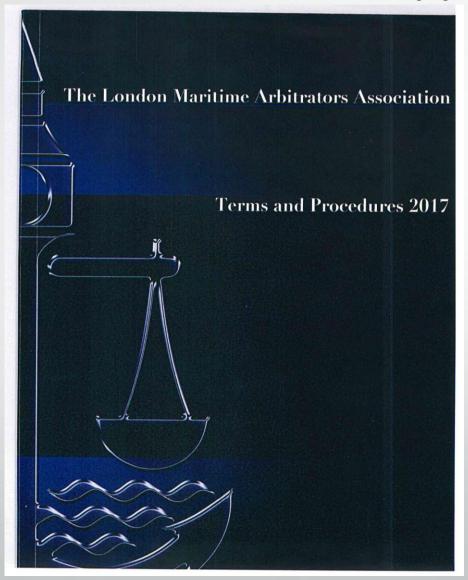
(b) Is this an appropriate case for the tribunal to cap costs, and if so why and at what level?

- 16. Does any party consider that it is entitled to security for costs and, if so, in what amount?
- 17. Are there any orders which are now sought?
- 18. Have the parties considered whether mediation might be worthwhile?

DECLARATION (TO BE SIGNED BY A PROPERLY AUTHORISED OFFICER OF THE PARTY COMPLETING THE QUESTIONNAIRE: SEE SECOND SCHEDULE, PARA. 11):

On behalf of the [claimant/respondent] I, the undersigned [name] being [state position in organization] and being fully authorised to make this declaration, confirm that I have read and understood, and agree to, the answers given above. I also understand that in the event of the arbitration settling or being otherwise terminated, I will immediately notify the tribunal.

Signed Dated



Daniella Horton

Honorary Secretary of the LMAA



Some other good lawyers...



Mark Seward Partner, MFB **Solicitors**



Brian Perrott Partner, HFW



Nigel Kushner



Michael Swangard CEO, W Legal Partner, Clyde & Co

Gafta Arbitration Rules No. 125

ARBITRATION RULES NO. 125

Any dispute arising out of a contract or arbitration agreement, which incorporates or refers to these Rules, shall be referred to arbitration, and arbitrator(s) or board of appeal, as the case may be, will proceed to determine all issues put before them, in accordance with the following provisions: -

1. PRELIMINARY

- 1.1 The provisions of the Arbitration Act 1996, and of any statutory amendment, modification or re-enactment thereof for the time being in force, shall apply to every arbitration and/or appeal under these Rules save insofar as such provisions are expressly modified by, or are inconsistent with, these Rules
- 1.2 The juridical seat of the arbitration shall be, and is hereby designated pursuant to section 4 of the Arbitration Act 1996 as, England.
- 1.3 Any oral hearing fixed in an arbitration shall take place at a place designated by The Grain and Feed Trade Association (Gaffa), London, or (but without prejudice to Rules 1.1 and 1.2 above), elsewhere if agreed by the parties in writing.

PROCEDURE AND TIME LIMITS FOR CLAIMINGARBITRATION

The claimant shall serve on the respondent a notice stating his intention to refer a dispute to arbitration within the following time limits. (The appointment of arbitrators shall be in accordance with Rule 3).

2.1 When Samples are to be Examined by Arbitrators

- In respect of disputes arising out of the "Rye Terms" clause not later than the 10th consecutive day after the date of completion of final discharge. (See Rule6).
- (b) In other cases where samples are to be examined by the arbitrators, not later than the 21st consecutive day after completion of loading or of delivery or of discharge or of unstuffing of the container, as the case may be.

2.2 Other Disputes

In respect of all other disputes relating to the sale of goods: -

- (a) arising out of CIF, CIFFO, C. & F. C&FFO and similar shipment contract terms, not later than one year after (i) the expiry of the contract period of shipment, including extension if any, or (ii) the date of completion of final discharge of the ship at port of destination, whichever period shall last expire,
- arising out of FOB terms, not later than one year after (i) the date of the last bill of lading or (ii) the expiry of the contract period of delivery, including extension if any, whichever period shall first expire,
- (c) on any other terms, not later than one year after the last day of the contractual delivery, collection or arrival period, as the case may be.

2.3 Amounts Payabl

Irrespective of the time limits in Rule 2.2 (a), (b) and (c) above, in the event of non-payment of amounts payable, either parry may notify the other that a dispute has arisen and, within 60 consecutive days from the date of that notice, appoint an arbitrator or apply to Gaffa for an appointment of an arbitrator.

Fosfa Arbitration Rules

PREAMBLE

Any dispute arising out of a contract or contracts subject to these Rules, including any questions of law arising in connection therewith, shall be referred to arbitration in London (or without prejudice to the jurialical seat elsewhere if so agreed) in accordance with the Arbitration Act 1996 and any statutory modification or re-enactment thereof for the time being in force.

The puridical seat of the arbitrations shall be, and is hereby designated pursuant to Section 3 of the Arbitration Act 1996 as, England. Each party engaging in an arbitration or an appeal pursuant to these flucks, whether on the Arbitration for the Federation, is deemed to abide by these Rulies and to agree with the Federation to be label on the Federation and as everally with the other parties to the arbitration or appeal) for all fees and expenses incurred in connection with the arbitration or panel, which said fees and expenses shall, upon notification by the Federation under the provision of Relack 26(d, 6)(a, 6)(b) and per lear become a de-the due to the Federation.

1. PROCEDURE FOR CLAIMING ARBITRATION AND TIME LIMITS

- (a) The party claiming arbitration (the claimant) in respect of claims for quality and/or condition shall despute the notice of claim together with the name of its appointed arbitrative to the other party the respondent and in the Federation to not later than 90 consecutive days from completion of discharge of the goods on CIF, CIFFO, CAF and similar contract terms, or not later than 90 consecutive days from the date of completion of delivery on FDD, E-stank, E-small and E-state terms are considered to the conference of the consecutive days from that despute a warder sample of the other consecutive days from the date of the conference of the consecutive days from that despute a warder sample of the other consecutive days from the consecutive days from the consecutive days from the consecutive days for the consecutive days for the consecutive days for the consecutive days from the consecutive days for the
- (b) The party claiming arthration in respect of claims other than quality and/or condition shall despute the notice of claims together with the same of its appointed arbitration to the other party and to the Federation not later than 120 connecutive days after the expiry of the contract period of shipment or of the date of completion of final discharge of the goods whichever period shall late expire on CE: UFFO, CEF and similar contract terms on later than 120 consecutive days after the expiry of the contract period of delivery or delivery of the goods on FOB, Es-tank, Es-mill and Es-store contract terms and not later than 120 consecutive days after the last day of the contractual delivery period on any other terms.
- (c) For claims under Rule 1(a) and 1(b) the other party shall nominate an arbitrator and notify the name to the claimant and to the
- Ecderation within 30 consecutive days from recept of the notice of claim.

 (I) Claims for abstration shall be made by any means of rapid written communication to the other party, with copy to the Federation. All notices shall be under reserve for errors in transmission. Notices shall be passed on with due desputch by intermediates Buyers and Sellers. Any notice received and the 1600 boars on a business day shall be deemed to have been received on the following business day. Notice from a broker shall be a valid notice under these Rules. A copy of the contracts out of which the disputs arous is to be sent to the Federation.
- (e) Should the time limit for doing any act or giving any notice expire on a Saunday. Sunday or any public holiday in the country where the party required to do the act or givin the notice resides or carries on business or in the country where the act has to be todone or the notice has to be received the time so limited shall be extended until the first business day thereafter. All business days shall be deemed to end at 600 hours Mondays to Firldays inclusive.
- (f) The claimant shall pay to the Federation a deposit as prescribed by the Council of the Federation on account of the fees, costs and expenses of the arbitration, which is to be received by the Federation not later than 30 consecutive days after the appointment of a sole arbitrator or the third arbitrator in accordance with the provisions of Role 2(a) and 2(c). No interest.

2. APPOINTMENT OF ARBITRATORS

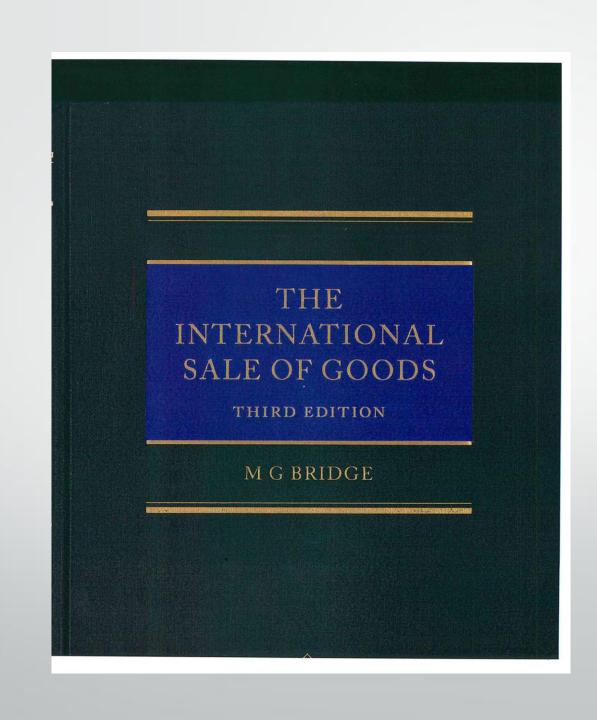
- (a) Each party shall appoint an arbitrator who shall have accepted the appointment. However the two parties may by agreement appoint a sole arbitrator who shall have accepted the appointment.
- (b) Only Trading, Full Broker and Full Non-Trading Members or their nominated representatively to the Federation shall have the right to act as arbitrates subject to retirement at age 75, if still active in the trade, or two years after retirement, whichever comes first. No person wholly or principally engaged in private legal practice shall be eligible to act as an arbitrator. No person shall be eligible to act who, or whose company or firm has any direct or indirect interest in the transaction in the disquare.
- (c) If the claimant has notified the respondent and the Federation in accordance with Rule 1(a) or 1(b) and the respondent fails to appoint an arbitrator refuses to earl, become incapable of categories are considered to the control of the control that an arbitrator refuses to earl, become incapable of earlier or incligable to tract or delay undruly, and the party who made the appointment outsis to appoint a substitute, then the other party may apply to the Federation in accordance with Rule 2(d) for the appointment of an arbitrator to act on behalf of the party who failed to appoint an arbitrator or substitute as the case may be.
- who failed to appoint an arbitrator or substitute as the case may be.

 (d) The Federation or receiving a application to appoint under Rule 2(c) shall charge the appropriate fee fixed by the Council.

 The Federation will notify the party who has failed to make an appointment or a substitution of its arbitrator, as the case may be, that the Federation intends to make such an appointment unless that party makes its own appointment within 14 consecutive days of notice being dispatched to it by the Federation. In the absence of an appointment being notified to the Federation within the stipulated period the Federation shall make such an appointment.
- e) In cases where each party appoints an arbitrator or where the Federation makes an official appointment under Rule 2(d), the Federation will appoint a third arbitrator who will act as the claim of the tribunal. So the appointment to be notified by the Federation to the parties after receipt of the name of the respondent's arbitrator, or at the same time as the official appointment of respondent's arbitrator is declared, as the case may be.
- Paiture to notify the Federation as required by Rule 1(a), 1(b), 1(c), 2(a) or 2(c) shall not in itself debar a claim for arbitration nor prevent an arbitration proceeding but shall be taken into account by arbitrators in exercising discretion under Rule 11(a).

3. LAPSE OF CLAIM

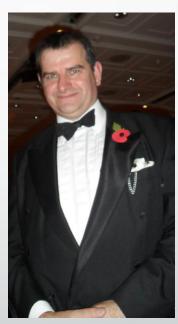
If neither the claimant nor the respondent submits any documentary evidence or submissions to the arbitrators with the copy to the other party within the period of one year from the date of claim, then the claim for arbitration shall be deemed to have lapsed on expiry of the said period of one year unless before that date the claim is renewed by a further claim for arbitration to be made by



Gafta/Fosfa 'Engine room'



Beth Jameson, **Arbitration Manager**



Stuart Logan,
Chief Executive,
FOSFA

Gafta Arbitrators





Roger Rookes, **Arbitrator**



Liz Thomas, **Arbitrator**



Jane Libre, **Arbitrator**



Arbitrator



David Barnett, Bert Clements, **Arbitrator**



Sarah Bell, **Arbitrator**



Swithun Still, **Arbitrator**

Summary: good reasons to use London/LMAA/Gafta/Fosfa arbitration

- Familiarity within the international maritime community
- Certainty and commerciality
- Confidentiality
- Enforcement of awards
- Court and legislative support (The Arbitration Acts)
- Limited right of appeal LMAA/Gafta take different approaches (one is internal, one is external

- Quality and experience of arbitrators
- Quality and experience of Commercial court judges
- UK's Maritime Cluster local availability of arbitrators, counsel and experts
- Impartiality
- Cost
- Speed and efficiency