



BUNKERS' ARREST

A success story

MALAGA

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Facts

- Vessel en route to discharge port
- Charterers have failed to pay hire
- No bunkering schedule provided
- Vessel needed to divert for bunkering in South Africa
- Lots of Charterers' creditors in the market
- Imminent risk of having the bunkers arrested
- Local lawyers confirmed that various creditors were already making inquiries regarding vessel's arrival.





- Look into the contractual position regarding bunkers' ownership .
- Requirement for bunkers' arrest
- Check ownership of bunkers- they must be with the party against which the claim lies.
- Prima facie evidence used by creditors

NYPE 93 Charter Form



Clause 7 Charterers to provide:

The Charterers, while the vessel is on hire, shall provide and pay for all the bunkers except as otherwise agreed.....

Clause 9 bunkers:

The Charterers on delivery , and the Owners on redelivery, shall take over and pay for all fuel and diesel oil remaining on board the vessel as hereunder.

RESCUE PLAN



Owners should try to purchase the remaining bunkers on board before reaching SA in order to avert bunkers' arrest

Sale had to be arranged in accordance with the terms of the c/p pursuant to the principles of English law .

- fair market value

- written commercial arms length agreement between Owners and Charterers

LEGITIMATE TRANSFER OF BUNKERS' OWNERSHIP

Proposal to Charterers



- Owners to take over ownership of bunkers before vessel's arrival at port
- Charterers agree to off set bunkers' value from outstanding hire
- Addendum drafted and executed.

More action needed

Executed addendum could only assist in a quick release of the vessel once arrested but vessel's delay could still be an issue.



-- Local lawyers' assistance was critical—

Suggestion to circulate a letter to all major local law firms drawing their attention to the sale of the bunkers and put them on notice that the bunkers on board as well as the bunkers to be stemmed in port were not owned by Charterers.

Hence , any arrest or attachment of bunkers would be wrongful and a claim for damages due to vessel's delay would be raised against the arresting party.



SUCCESS STORY

**Loss preventive measures were successful:
Vessel arrived and departed the SA port without
any incident**

**Feedback received that the letter had indeed
deterred specific creditors from applying for
bunkers' arrest during vessel's call in the South
African Port .**



THANK YOU

