



The “about” provisions in redelivery bunker clauses and bunker prices on a shortfall

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A recent decision from London arbitrators has provided some useful guidance on the "about" margins on redelivery bunkers, when looking at different scenarios. In addition, it clarifies the bunker prices to be used by an owner calculating its loss when faced with a short redelivery of bunkers.

The clause the arbitration tribunal looked at was as follows:

“bunkers on dely abt 700 mt IFO and abt 45 mt MGO. No bunker payment with first hire. Chtrts to redeliver the vessel with IFO abt same qties as on delivery and MGO as on board provided consumption is not more than 10 metric ton. Owise chrtrs to replenish same as on delivery. Any discrepancies to be settled with prefinal hire statement on redelivery. Bunker prices – same bends-us dollars 380 /550 for IFO/MGO resp.”

- The vessel had been delivered with about 510.48 mts of IFO and 20.227 mt MGO. The vessel was redelivered with 680.88 mts of IFO and 33.2 mts of MGO. The charterers accepted that they had failed to redeliver the vessel with the correct redelivery quantities. The difference of opinion between the parties centred about the interpretation of the “abt” description. Initially the owners of the vessel had accepted that the “abt” margin was 5%, but conceded that the about provision provided a 5% margin but in the arbitration they changed their position and reduced the margin down to 2%.
- The arbitration tribunal agreed with the charterers, that the usual rule of thumb was the about provision allowed for a 5% allowance. That rule of thumb applied unless there were any special circumstances which warranted a departure. The arbitration tribunal did not give an example of the type of special circumstances, but, they did not exist in this particular matter from that understanding it should apply.
- A further disagreement centred around the prices to be applied on the short bunkers. This is not an unusual situation in bunker disputes and the arbitration tribunal’s findings on the area are useful. The owners argued that they should be paid for the shortage on bunkers, at market price at the place of redelivery. The charterers took a different view. They argued that the owners had not actually stemmed any bunkers at the re delivery port. Using that theoretical price, would result in the owners receiving a windfall in their favour, if that price was used. The charterers were happy to pay the actual market cost of bunkers which were stemmed to replace the shortfall, but it did not seem right that they should have to

pay the higher figure. As it was the Owners had not given the arbitration tribunal details of the actual price which was paid after redelivery to stem the bunker shortfall.

- On this occasion, the arbitration tribunal agreed with the owners, even though it gave them a significant windfall. They were prepared to take the view that the correct measure of damages was in fact the price at the redelivery port at the time of redelivery, notwithstanding the fact that no bunkers had been stemmed.