

Commercial Aspects of Shipping Part -6 Chartering Practice - The Anatomy of Charter Parties

By Jagmeet S Makkar, F.I.Mar.E., F.I.C.S.

Time Charters.

Before the days of containerisation, the most prolific time charterers were the liner companies - many of them UK based - which used time chartering to supplement their fleets of ships when demand in the general cargo market exceeded their own resources. In those days the BIMCO adopted 'Balttime' charter was most popular. That sector of the market has long gone and for a variety of reasons the most popular time charter form now is probably the New York Produce Exchange Form, commonly known as either the NYPE or 'Produce 46'. The number incidentally refers to the fact that this form has not been revised since 1946, but such is the conservatism of the chartering market that charterers still prefer to stay with it. This despite the fact that in 1981 an updated version was compiled and called the 'Asbatime'. The compilers were the Association of Ship Brokers and Agents (USA) Inc and the text of an 'Asbatime'.

Without the benefit of reproducing a complete time charter party in this article, we will look at the generalities and importance aspects of a time charter party. Readers wishing to study a time charter party (highly recommended) can check for a sample copy on the net, at the BIMCO website. In the text below, you will find a comparison being made to the voyage charter party as described in the previous article (March 2005 issue of the MER (I)).

The names of the parties and the ship are similar to a voyage form but the first difference is the **inclusion in the ship's particulars of a speed and fuel consumption**. As the cost of fuel is the charterers' largest item of expenditure after the hire itself, this is a vital component of the agreement. Considering the importance of the speed and fuel consumption part of a time charter party, a future article will be devoted to understanding this clause.

The duration of the charter comes next. This can be set out in months (even years) or may be for a 'trip' when the areas of starting and finishing will be entered with an approximation of the time likely to be involved.

Then instead of a loading port there is a place of **delivery** (where the ship is handed over to the charterers for the commercial control) with again the stipulation that the ship be '...tight, staunch, strong and in every way etc....' (With an implicit reference to "fit for purpose"). While the intention is to pass the commercial control of the ship to the charterers there may well be some dangerous or otherwise unpleasant commodities, which the owner does not want, put into his ship. Just as there may be places which (usually for political reasons) the owner does not want his ship to visit and provision is made to prohibit these. An example is trading to places which may reduce or compromise the tradability of the vessel, such as the Arab boycott once a ship has traded to an Israeli port.

In a time charter party, distinction is clearly drawn in items, which the owner will continue to provide, and those things which are for the charterers to furnish.

In this charter party, it is the charterer who pays for the **bunker fuel and thus it is a major item**. Hence it is essential for the charterers to pay for the fuel they take over on delivery and for the owners to do the same on redelivery. The quality of the fuel is an important aspect. In a charter party reference is made to the ISO 8217. This is a matter of serious discussion and in view of the hanging environment subsequent to the MARPOL Annex VI ratification, I will prefer to devote a full article to this extremely important operational area of "yet to be experienced but inevitable" difficulties.

Then there is the all-important clause stating the daily rate of hire with the stipulation that it shall be paid semi-monthly in advance. One harsh



condition relating to hire payment gives the owner the right to withdraw his ship from the charterers' service if the hire payment is not punctually made. In the past, owners have been known to whip their ships away to take advantage of an improved market when the hire has been delayed by no more than a day due to a hold-up in the banking system. It is usual, nowadays, to include a 'technicality' clause so that the charterers is given a little time to rectify such a situation.

Like the voyage charter there is a clause stipulating when time shall commence to count. Not such a problem-prone area as it is in the voyage world but still important to give the charterers a few hours to take over the reins, so to speak. Again like a voyage charter, there is a laydays/cancelling clause. For those who would like to would like to comprehend the difference between "laydays/cancelling (laycan)" and "laytime", I would try to explain as follows:

Laydays/cancelling (laycan) – While the shipping (except the container shipping where the schedules have been tightly met) is not a world of mechanical "clockwork", the vessel still must present itself within a period of time, called the "laydays" to cater to the needs of the shippers.. Further there has to be a limit of these days and beyond which if the vessel still can not present itself, the owner risks the cancelling of the chartering contract (charter party). This last date is called "cancelling date". In general chartering parlance, the laydays along with the cancelling is called "laycan".

Laytime: This is a term you have come across in the March 2005 article and

refers to the time allowed for loading and discharging.

In a time charter party, an important point that has to be covered is that of suspending hire payments for any time the vessel is not available to the charterers; the 'off-hire' clause. The usual reason for a ship to go off-hire is some temporary technical break down. On a long period charter, however, the ship may have to go off-hire in order to keep up to date with routine maintenance such as the off-hire resulting from routine dry docking/special surveys or lay up for modifications/installations to comply with any new rules/regulations such as for installation of water ingress alarms, dewatering systems, compliance with URS 19/22/26/27/30 etc. It is recommended that we marine engineers keep ourselves upto date with the latest regulations. IACS website is an excellent place to access and acquire knowledge. The off-hire clause covers all of this including the consumption of bunker fuel reverting to owner's account while the ship is off-hire.

The other clauses are fairly straight forward ranging as they do from what happens in the event of a war down to the charterers' right to paint his own colours on the funnel so long as he repaints it at the end of the charter.

It is recommended that the Chief Engineers and Second Engineers read the entire wordings of the executed time charterparty (a copy is normally available with the Master minus the charterhire or other commercially sensitive information, if any, carefully and pay particular attention to those clauses, which clearly describe the manner in which the Master of the vessel has to comply with the instruction

of the charterers. It is quite a balancing act for a Master on a time charter. He has to co-operate fully with the charterers without ever losing sight of his primary loyalty to his owners and for doing this duty diligently, he looks for support from his Chief Engineer for the matters technical and related to vessel performance, both in terms of speed, fuel consumption and avoidance of any breakdowns that may lead to off-hire or long drawn disputes and claims.

To summarise, the basic elements of a time charter include:

- Date
- Names of the parties
- Ship's name and particulars
- Speed and fuel consumption
- Duration
- Places of delivery and redelivery
- Trading area/limitations
- Rate of hire
- Laydays/Cancelling
- Commissions.

Tutorship Copyright Material: Adapted for Marine Engineers' Review (I), Institute of Marine Engineers (I) with permission from the Director General, ICS, UK.

Courtesy: Jagmeet Makkar, Education Officer, Institute of Chartered Shipbrokers – Hong Kong Branch. ■
