

3<sup>RD</sup> NATIONAL LAW UNIVERSITY ODISHA  
INTERNATIONAL MARITIME ARBITRATION MOOT, 2016

1<sup>ST</sup> TO 3<sup>RD</sup> APRIL, 2016



MOOT PROPOSITION\*

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\* *The moot proposition has been drafted by **Mr. Siddharth Ranka** from Scorpio Marine Management (I) Pvt. Ltd, and assisted by **Mr. Anil Vishnoi** from Bose & Mitra & Co. The participants or their affiliates are barred from approaching “Scorpio Marine Management (I) Pvt. Ltd” and/or “Bose & Mitra & Co.” for any kind of assistance regarding this competition. Any contact shall lead to immediate disqualification of the concerned team.*

**FIXTURE NOTE**

VESSEL CONTACT DTSL

Capt Mishra  
M.V. EMJOS  
E-mail: emjos@laf.net  
Inmarsat-C:774405368

CONFIRM HAVE FIXED CLEAN AS FOLLOW

CP DD 12/9/2012

P & C

=====

NEGOS AND FIXTURE IF ANY TO BE KEPT STRICTLY PRIVATE AND  
CONFIDENTIAL

- PLS ADV FULL STYLE OF PARTY APPEARING AS OWS IN THIS CP AND CHAIN

-OWNERS : Lafayette Company Limited, Embassy Towers, 4<sup>th</sup> Floor, Nariman Point, Mumbai-  
400 021, India.

-OWNERS FULL STYLE APPEARING AS OWS IN THIS CP:

Lafayette Company Limited

REGISTERED ADDRESS: Same as above.

ACCOUNT

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-ACC Radani Pvt. Ltd., Oxford Avenue, Income Tax Circle, Opposite C U Shah College,  
Ahmedabad, Gujarat 380014

DELIVERY

=====

DLOSP Panjim, India ATDNSHINC

TRIP/PERIOD

=====

36 months plus Chopt MOL 3 months

LAYCAN

=====

10/20 Oct 0001/2400HRS

REDELIVERY

=====  
DLOSP 1 SP India

TRADING LIMITS  
=====

Indian Sub-Continent / East Asia Only always between safe places, ports and berths

North Korea prohibited.

HIRE / HIRE PAYMENT  
=====

USD 10,000 PDPR INCLOT - payable every 15 days in advance hire and all monies due to the owners under this c/p will be paid to owners bank to be provided separately.

ILOHC  
=====

USD 5000 lump sum inclusive DEBRIS/DUNNAGE REMOVAL/DISPOSAL  
Intermediate hold cleaning - USD 600 per hold

BUNKER CLAUSE  
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BUNKER ON DELIVERY TO BE ABT HSFO 1000-1200MT/LSFO 200-300MT/MGO 20-25MT/MDO5-10MT

BUNKER ON REDELIVERY TO BE ABT SAME AS ON DELIVERY EXCEPT HSFO TO BE ABT 500 MTS

BUNKER PRICE BENDS: USD600PMT FOR HSFO/640MT FOR LSFO/ USD1000PMT FOR MGO/950MT FOR MDO

ARBITRATION  
=====

GA/Arbitration in London as per The Arbitration Act 1996. Unless otherwise agreed, Arbitral Tribunal to have 3 members.

COMMISSION  
=====

3.75 PCT ADDCOM DUE TO CHRYS + 1.25 PCT MAVEGA

CHARTER PARTY  
=====

OTHERWISE ALL OTHER TERMS AND CONDITIONS AS PER OWNERS EXECUTED CP ATTACHED & RIDERS WITH THE LOGICAL AMENDMENTS AS PER MAIN TERMS AGREED

MAIN BODY

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Cl 11, Insert at the start of line 162 “3” and line 163 after within those “3”  
Cl 45 delete

END RECAP

PLS CONFIRM ABOVE IN ORDER WITH YR NOTES

BEST REGARDS

ATUL  
MORE INC Delhi  
**Email** – [atul@moreinc.com](mailto:atul@moreinc.com)

**15 October 2012**

To,  
Radani Pvt. Ltd.,

Good Day,

Please be advised that M.V. EMJOS has arrived at customary anchorage at port of Panjim on 15 October, 2012 at 0400 LT and she is in all respects ready to commence her obligations under the CP dated 12/9/15.

Hereby NOR tendered at 0400 on 15 October 2012.

Best Regards  
Master,  
M.V. EJMOS

**15 October 2012**

To,  
Master of M.V. EMJOS,  
&  
Lafayette Company Limited

Good Day,

We confirm receipt of the NOR and confirm that the M.V. EMJOS is on hire as from [x] hours from 15 October 2012.

For voyage no. 1, we will be loading 20,000 MT of iron ore at Panjim. Discharge port details to be provided in due course. Kindly request

Kind Regards,  
Radani Pvt. Ltd.

**8 February 2013**

Good Day  
Master, M.V. EJMOS

For the 7<sup>th</sup> voyage, vessel is ordered to proceed to load cargo of Nickle ore from TawiTawi, Philippines for discharge and delivery at Mumbai, India. Cargo quantity 35,000 +/- 10% CHOPT.

Please provide ETA so that arrangements can be made at load port. Further details of shipment to be provided in due course.

Kind Regards,  
Radani Pvt. Ltd.

**27 February 2013**

To,  
Radani Pvt. Ltd.

Good Day,

**Re: Voyage No. 7 – Cargo of Nickel Ore**

Please be advised that M.V. EMJOS has arrived at customary anchorage at TawiTawi on 27 February, 2013 at 0800 LT and she is in all respects ready to load cargo.

Hereby NOR tendered at 0800 on 27 February 2013.

Best Regards,  
Master  
M.V. EJMOS



**1 March 2013**

To,  
Radani Pvt. Ltd.

Good Day,

**Re: Voyage No. 7 – Cargo of Nickel Ore**

FYI this morning the vessel's cranes had a malfunction due to certain technical problems. Accordingly, I immediately called the local crane experts to check the issue which had arisen. The experts have rectified the technical problem and have confirmed that the cranes are good to be used.

We are informed by the agents that vessel is scheduled to berth by afternoon and load cargo.

Best Regards,  
Master  
M.V. EJMOS

**1 March 2013**

To,  
Radani Pvt. Ltd.

Good Day

**Re: Voyage No. 7 – Cargo of Nickel Ore**

This is to report that the vessel commenced loading cargo as per Charterer instructions in hold no.1, 2, 5 & 6 using Crane No. 1 & 3. However, just when cargo operations using the crane No.3 were about to commence, the jib of the crane broke and fell on hatch no.4 making it inaccessible.

As a result, cargo cannot be loaded in hold no. 3 & 4. Owners are no responsible for the said incident.

All rights remain reserved.

Best Regards  
Master  
M.V. EJMOS

**3 March 2013**

To,  
The Master, M.V. EMJOS  
&  
Lafayette Company Limited

Good Day,

Charterers note message of Master advising that only 20,000 MT can be loaded. Clearly all spaces on the ships are not accessible to Charterers. The vessel was voyage chartered at freight rate of USD 7.50 PMT. As a consequence of the said incident which is clearly due to Owners fault, we are unable to earn freight. Furthermore, we are also exposed to claims from our sub charterers for which you are solely liable or responsible

All our rights remain fully reserved including taking steps permissible under the CP and/or right to arrest vessels in the same/associated ownership.

Best Regards  
Radani Pvt. Ltd.

**15 March 2013**

To,  
Radani Pvt. Ltd.

We note that you have not paid full hire in advance as required under the CP. We dispute that Charterers can make the deductions as sought. Owners call upon Charterers to rectify their default and remit by COB on 18 March 2013 the balance hire wrongfully deducted on account of alleged loss of freight (which claim is denied) failing which Owners will consider failure by Charterers as a repudiatory breach entitling Owners to withdraw the vessel from service and terminate the CP.

All our rights remain fully reserved.

Best Regards  
Lafayette Company Limited

**18 March 2013**

To  
Lafayette Company Limited

Good Day,

We are in receipt of Owners message which in denied entirely.

Charterer's deductions are valid & if Owners take steps to withdraw and terminate the vessel the same will be treated as a repudiatory breach entitling Charterers to damages.

All our rights remain reserved.

Kind Regards,  
Radani Pvt. Ltd.

**LAFFAYETTE COMPANY BOARD MEETING**

**18 November 2013**

This board meeting has been convened to discuss amongst other issues the trends in the bulk market and the performance of counterparties/

It has come to light that the bulk market is on an upward trend and it is expected that the hire rates could reach US\$ 13,000-15,000 per day. This is predominantly perceived by the expectations of India having announced massive infrastructure projects.

Having considered the payment records, it has come to light to Radani has over the past few months continuous delayed making hire payments. This first delay started when there was an incident with the cranes at TawiTawi when they unreasonably withheld hire. This fact however was overlooked considering the business relationship, the market hire rate and the CP hire rate which was significantly higher.

The management is getting impatient and feels like Radani are taking Owners for granted. In light of the expected market trends we should aggressively dispute Radani's actions and if there is a default take steps as permissible under the CP.

Meeting is concluded and minutes will be circulated by email.

Yours Faithfully,

**Company Secretary**

**24 November 2013**

To,  
Master,

Good Day,

We note that cargo of Sulphur will be discharged completely today in Shanghai, China. After completion of discharge, please proceed towards West Coast India for loading cargo of Iron Ore. Further details to be provided once vessel passes Sri Lanka.

Best Regards  
Radani Pvt. Ltd.

**24 November 2013**

To,  
Radani Pvt. Ltd.

Good Day,

Noted Charterers instructions. However, Vessel will not be sailing direct to WC India but instead deviating to Chinese Yard for carrying out hold cleaning. You will note that the holds of the cargo have been damaged as a consequence of Charterers having loaded back to back cargoes of:

Iron Ore  
Nickle Ore  
Cement Clinker  
Cement Clinker  
Sulphur.

An independent expert has inspected the cargo holds and is of the view that the carriage of these cargoes has caused structural defects to the vessel which will impact its navigability and commercial usability. It has been recommended that sandblasting be carried out immediately.

Clearly the damage has been caused due to the instructions of the Charterers and extra ordinary cleaning is required to be carried out. Charterers are solely liable for the costs of sandblasting and vessel to be treated as on hire and/or hire to paid whilst sandblasting is being carried out.

Best Regards  
Lafayette Company Limited



**12 December 2013**

To  
Radani Pvt. Ltd.,

Good Day,

You will have received our daily updates. Sandblasting has been completed and the vessel is scheduled to sail out in the next hour from the Yard. Please provide your instructions for next employment.

FYI, vessel will be treated as on hire for the period whilst vessel was at the yard. Further, the cost of sandblasting is US\$ 1.13 million for which Charterers are solely liable.

All our rights remain reserved.

Best Regards  
Lafayette Company Limited

**16 December 2013**

To  
Lafayette Company Limited

Good Day,

We are in receipt of Owners message which is entirely rejected.

We deny and dispute that the vessel will be on hire for the period mentioned by you or that you are entitled to claim the hire for said amount as damages. Furthermore, we are not liable for the alleged sandblasting cost (which is not admitted) for the reasons stated below:-

- All cargo carried was within the permissible limits of the CP.
- All cargo was accepted by the Master without any objection.
- The crew onboard was provided with all cleaning material and should have maintained the vessel.
- Sandblasting was an extreme step taken in the circumstances. Ordinary cleaning would have sufficed.

As a consequence of you taking the vessel out of our service we lost out on charter for which you are solely responsible.

All our rights remain fully reserved.

Kind Regards,  
Radani Pvt. Ltd.

**31 December 2013**

To  
Radani Pvt. Ltd.,

**WITHOUT PREJUDICE**

We hereby call upon you to clear all your dues and make payments of the advance hire at the earliest. We hope that you do the needful and enable us to continuing to develop to this already long standing relationship between our Companies.

Best Regards,  
Lafayette Company Limited

**2 January 2014**

To  
Radani Pvt. Ltd.,

**WITHOUT PREJUDICE**

You are hereby called upon to rectify your default in non-payment of hire within [x] days failing which we shall terminate the CP in accordance with Clause 11 of CP.

Best Regards  
Lafayette Company Limited

**9 January 2014**

To  
Lafayette Company Limited

**WITHOUT PREJUDICE**

We disagree with the position of Owners and reiterate that we have the right to withhold hire. The facts are undisputed- the vessel was taken out our service. We maintain our position that hire can be deducted. Furthermore, we will also be taking steps to deduct subsequent hire payments since we have losses incurred due to your actions of taking the vessel out of our services.

Best Regards,  
Radani Pvt. Ltd.

**11 January 2014**

**WITHOUT PREJUDICE**

To  
Master,

Please proceed towards West Coast India. Further orders to be given in due course.

Best Regards,  
Radani

**12 January 2014**

**WITHOUT PREJUDICE**

To  
Radani Pvt. Ltd.,

The Vessel will not proceed towards West Coast India. Please contact Owners for further information.

Best regards,  
Master

**12 January 2014**

**WITHOUT PREJUDICE**

To  
Radani Pvt. Ltd.,

We note that you have instructed the vessel to sail to West Coast India. You will note that we are yet to receive the hire as demanded. Failure to remit this is a breach of the terms of the CP entitling us to terminate the CP. Hence, Charterers instructions are rejected and vessel is withdrawn from the CP.

Best Regards,  
Lafayette Company Limited



**NEWS FLASH**

***SHIPPING NEWS – 13 January 2014***

**REPORTS SUGGEST THAT CHINA ON A SLOW DOWN. AS PER REPORTS IT IS BELIEVED THAT CHINA WILL REDUCE IMPORT BY APPROX. 50% OVER THE NEXT THREE MONTHS.**

***GUIDE ON IMPORT IN INDIA – 15 January 2014***

**INDIAN GOVT. LOOKS TO REDUCE CARBON EMISSIONS. FROM SOURCES IN THE GOVT. IT IS BELIEVED THAT FROM THE NEXT MONTH THE GOVT. INTENDS TO IMPOSE RESTRICTIONS ON COAL IMPORTS INTO INDIA - INDONESIAN SUPPLIERS WILL BE MOST IMPACTED BY THIS DECISION**

**INTERNAL NOTE OF RADANI PVT. LTD.**

**17 January 2014**

Urgent meeting convened to discuss the market trends & the actions of Laffayette under the CP dated 12 September 2012.

There is a sudden drop in the market - If we accept Laffayette's actions as a breach and accept withdrawal from the services we will be able to go out in the market and charter a similar ship at 40% less than the CP rate.

Decision taken to exit the CP with Owners and charter a new vessel.

**Company Secretary**

**17 January 2014**

**WITHOUT PREJUDICE**

To  
Radani Pvt. Ltd.,

Refer to various correspondences between the parties in relation to off hire deductions towards alleged claims for loss of profit and period whilst vessel was in drydock. Though we do not agree that such deductions are permissible this can be sorted out either by amicable discussions or in arbitration.

Also, we have as per your request instructed the Master to sail the vessel to West Coast. Await further instructions from Charterers.

Best Regards,  
Lafayette Company Limited

**21 January 2014**

**WITHOUT PREJUDICE**

To  
Radani Pvt. Ltd.,

Vessel has arrived West Coast India and await further orders.

Best Regards,  
Master

**23 January 2014**

**WITHOUT PREJUDICE**

To  
Lafayette Company Limited,

We accept Owners actions of withdrawing the vessel from our services. Owners are called upon to immediately remit/refund the following:-

- a. Advance hire paid
- b. Value of Bunkers ROB which as per Master's message is IFO 100 MT & HSFO 450 MT.
- c. Loss of Fixture.

We reserve our right to claim further damages for withdrawal of the vessel from CP.

Best Regards,  
Radani Pvt. Ltd.

**23 January 2014**

**WITHOUT PREJUDICE**

To  
Radani Pvt. Ltd.,

We reject Charterers message in entirety. The Vessel has arrived at West Coast India and is awaiting instructions from Charterers. Kindly advise ASAP.

Best Regards,  
Lafayette Company Limited

**23 January 2014**

**WITHOUT PREJUDICE**

To  
Radani Pvt. Ltd.,

We have not received any instructions to our message, Charterers please provide instructions.

Best Regards,  
Lafayette Company Limited

**24 January 2014**

**WITHOUT PREJUDICE**

To  
Lafayette Company Limited,

We do not understand messages from Owns. Vsl had been withdrawn and this was accepted by us. Hence, there is no question of giving any instructions.

Best Regards,  
Radani Pvt. Ltd.



**24 January 2014**

To  
Radani Pvt. Ltd.,

**WITHOUT PREJUDICE**

Refer to your message & all contents therein are rejected.

Vessel is at Charterers disposal & withdrawal of the same was in terms of the CP. Owners note Charterers have no intention to perform the CP. Clearly actions of Charterers is to take advantage of the falling market.

Having refused to give orders and expressed their intention not to perform the CP, Owners accept Charterers actions as a repudiatory breach and terminate the CP.

To mitigate the losses we have lined up the Vessel for a charter at USD 6,500 with delivery on 10 February 2015. Had the vessel remained in charter, she would have earned hire of USD 10,000 per day as opposed to what she is earning now.

In addition to the above, Charterers are also liable to pay hire for the period whilst vessel was undergoing hold cleaning at the yard.

Accordingly, we call upon Charterers to remit by COB on 10 February 2014.

Best Regards,  
Lafayette Company Limited

**25 January 2014**

To  
Lafayette Company Limited

Your message is rejected & we reiterate that the withdrawal of the vessel from service is a repudiatory breach which entitled us to terminate the CP. We hereby accept your repudiatory breach and reiterate that we are entitled to damages as set out in our earlier message.

All rights remain fully reserved.

Best Regards,  
Radani Pvt. Ltd.

**27 January 2014**

To  
Radani Pvt. Ltd.,

Charterers message is rejected entirely. CP has been terminated by Owns so there is no question of Charterers now terminating the CP. We are not liable to Charterers for any damages & hereby give Charterers last chance to remit sums payable to Owns under the CP.

Best Regards,  
Lafayette Company Limited

**23 December 2015**

To  
Radani Pvt. Ltd.,

The Charterers have failed to remit the amount due and payable under the CP and damages as consequence of the breach of the CP. Clearly there are disputes between the parties and Owsn hereby invoke arbitration in terms of the Fixture Note. Owsn appoint Capt. JoelFernandezas their arbitrator and call upon Chrts to appoint their arbitrator within 21 days. His email address is [j.fer@gmail.com](mailto:j.fer@gmail.com).

If Charterers fail to do so, Owsn appointed arbitrator will be deemed to be the sole arbitrator.

Best Regards,  
Lafayette Company Limited

**6 January 2016**

To  
Lafayette Company Limited,

Refer to your message invoking arbitration.

We hereby reiterate that the Charterers are not liable for the claim. In fact the invocation of arbitration is unlawful being contrary to the Public policy of India and is therefore unenforceable.

Notwithstanding the above, Charterers appoint Mr. Julian Dave as their arbitrator expressly reserving their right to challenge the jurisdiction of the arbitrator & validity of the arbitration. His email address is [j.dave@gmail.com](mailto:j.dave@gmail.com).

Yours Faithfully,  
Radani Pvt. Ltd.

**14 January 2016**

To,  
Lafayette Company Limited, Owners of M.V. EJMOS  
Radani Pvt. Ltd, Charterers of M.V. EJMOS

Dear Sirs,

I write on behalf of Capt. Joel Fernandez who is the co-arbitrator appointed in the disputes under the Charterparty. Having accepted our respective appointments we have now agreed to appoint Mr. Henry Albridge as the presiding arbitrator. His email address is henry\_a@aol.com.

Yours Faithfully,  
Julian Dave