

INTERNATIONAL MARITIME COMMITTEE

International Subcommittee
on
Demurrage & Despatch Money

D. D. RULES
FINAL DRAFT & REPORT

MARCH 1962

*to the Presidents of National Associations
and Delegates to the D.D. Committee*

My dear Colleagues,

D.D. RULES

When the Bureau Permanent of the C.M.I. met in April 1961 I was asked to draw up a set of Rules on Demurrage which should be ready soon enough for discussion in Athens.

With greatest haste I wrote out a preliminary draft which I sent in June to Headquarters in Antwerp, to be circulated immediately so that I could receive in due time the criticisms and suggestions which, better than compliments, help to improve a work.

Unfortunately most reports only reached me in February, which greatly delayed my work and prevented the meeting of a Committee. I have however studied them with greatest attention and drawn up the enclosed report with amended draft.

I had mentioned, in my preliminary draft all the Rules I could think of, because it is easier to delete or amend a Rule than to imagine and draft it.

Thanks for your most valuable contributions.

Yours very sincerely

James Paul GOVARE

INTERNATIONAL MARITIME COMMITTEE

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by James Paul GOVARE

President of the International Subcommittee

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NOTE : In order to facilitate corrections to the Rules or changes in their classification, each chapter has been given separate numbering, but in the final text there will only be one series of numbers, from the first to the last Rule.

GENERAL PRINCIPLES

Rule 1

This rule is by far the most difficult to draft because several Associations hold some opposite views :

Sweden, Italy and others would like to see these Rules confirmed by a Convention and become compulsory. They realize that it is impossible, but desire that the Rule overrides the contracts.

Yugoslavia desires that a Rule be only put aside, when it is in contradiction with a compulsory law. Germany holds a similar view. The British Association points out that « the possibility of expressly deviating from some provisions suggests all manner of complications in the fixing negociations ».

On the contrary, England and other Associations desire that the agreement of the parties overrides any Rule, and the Greek Association suggests that a Rule be put aside when it is conflicting or inconsistent with a provision of the contract.

Finally Germany and France suggest that the Rules simply codify what is general practice and do, only reluctantly, provide for innovations.

Therefore three different Rules must be suggested, none of which is perfectly satisfactory.

It must here be stated that these Rules are not compulsory and are only binding between the parties when there is a reference in the contract, like for the York-Antwerp Rules. As none of these Rules is compulsory, each of them should incorporate « unless otherwise clearly provided » with the hope that, like for the York-Antwerp Rules, they be usually adopted without amendment to any Rule.

First :

Reference to these Rules means their adoption as a whole, the only exception being in respect to those expressly deviated from.

Second :

Reference to these Rules means their adoption as a whole, in as far as they are not conflicting or inconsistent with a provision of the contract.

Third :

Reference to these Rules means their adoption as a whole but the Rules N° (innovation) only apply if expressly referred to. Any provision in the contract will

prevail over a Rule which is conflicting or inconsistent with a clear provision of the contract.

Rule 2

The Rules are independent of any legislation and override local harbour customs or customs of the trade.

This Rule is generally approved because the unanimous desire is to achieve uniformity and disregard the customs of ports or trades.

Rule 3

If a Rule contains any provision which is contrary to the public policy of the country in which these Rules are to be applied, such provision alone is to be invalid; it will not affect the application of the other Rules.

This Rule is very generally agreed. The Yugoslave Association insist on the fact that only the laws of public policy, to which any deviation is prohibited, should override a Rule or part of a Rule. This should help the efforts in reaching unification in the settlement of maritime disputes.

Rule 4

The Court having jurisdiction in respect of freight also has jurisdiction in respect of lay-days, demurrage, detention and despatch money.

Some Associations agree, others like the British desire that it be considered. Argentine points out that it would be troublesome if a Charter provides for arbitration in London and that demurrage is due à Rio. It is however the actual position at present. USA and Italy suggest that the Rule be deleted.

Previous Rule 5 is deleted because said to be superfluous and leading to misunderstanding. The use of the expression of « laytime » instead of « lay-days » avoids any difficulty in the time sheet.

Rule 5 (ex Rule 6)

Goods may not be abandoned as payment for freight, demurrage or detention.

This Rule is generally approved but the U.K. Association suggests that the word « freight » might be deleted as the Rules do not deal with freight. It has been thought advisable to leave it in so that no one could contend that goods may be abandoned as payment of freight.

EXPECTED TIME OF ARRIVAL

1. — *Definition* :

The E.T.R., when stipulated in a contract, is the notice which the Master is to give, in the agreed time, before arriving at port.

This provision is generally admitted. The Danish Association thinks it useful. The new wording proceeds from the German and Greek reports.

The German Association suggested further that one would add : « The Master, his representatives or agent ». This has appeared superfluous; it is always agreed to be so, specially when the vessel is still a few days before reaching port.

Rule 2

The clause stipulating an ETA notice does not relieve the Master of the duty to give subsequently notice of readiness. No notice of readiness can be given before the ETA agreed time has elapsed.

The second sentence has been suggested by the Yougoslave and other Associations.

Rule 3

When, by virtue of the same contract, a vessel has to proceed to several ports, the stipulated notice as to Expected time of arrival is only obligatory with respect to the first port, and only to the subsequent ports which are distant of at least three days from the precedent.

This Rule is generally agreed, except the word « neighbouring » which was not clear and has been deleted. The Italian suggestion has been incorporated as a last sentence. The Argentine suggested that the ETA could only be dispensed with, when the ports are in the same State; such a restriction does not appear advisable.

NOTICE OF READINESS

1. — *Definition* :

Notice of readiness means the notice which the Master must give to the Shipper or Receiver that the vessel is ready to load or discharge her cargo.

This new wording takes into consideration all the remarks and proceeds directly from the French, German, and Greek drafts.

(Previous Rule 2 has been transferred to « Free-Time »)

Rule 2 (ex Rule 3)

The Notice that the vessel is ready to load or discharge may only be given when the vessel is actually ready for such operations, or will be so, in due time, according to the contract.

This Rule gave rise to many remarks and suggestions. The second sentence should satisfy most Associations and is given by the German, Greek and Italian reports.

The report of Denmark request that the vessel be at least in the port, while the German, dealing with previous Rule 2 ask that the Rules should define what an « arrived vessel » is, in which case the American report (See 3 par. a & b) should be referred to and taken into consideration. The conference will see whether such a provision is advisable, so as to set a principle before the exceptions to it, such as « off the port », « whether in berth or not » are defined and ruled.

The Association of Sweden desires that a sanction be provided when the notice is delivered and that the vessel is not ready in due time.

Yougoslavia questions whether one could mention whether the readiness means not only that the vessel is ready, but also that the official and Port formalities have been complied with ?

The U.S.A. ask for and suggest definitions of « readiness » which can unfortunately not cover every case.

Rule 3 (ex Rule 4)

The Notice must be given to the Shippers, Receivers, or consignees or to their agents during normal office hours.

This Rule is generally approved of. Denmark and Yougoslavia asked that the office hours be fixed. The expression is the usual one inserted in Charters and it did not seem possible to impose the same office hours to ports of North Norway and South India.

U.S.A. draw attention on the fact that in the special trade of petrol tankers, notice may be given at any time.

Rule 4 (ex Rule 5 and 6)

When the berth has not been fixed in the contract, the Master has to berth the ship as ordered by the Shipper or Receiver respectively, who must ensure that such berth

is available upon the Master's immediate request. When the ship is thus ordered to a place which is not safe, admissible or suitable, the Master may select another satisfactory and customary berth.

The Notice may be validly given whilst awaiting entry to the place thus ordered or agreed.

Italy and Greece suggested to delete ex Rule 5, because it is out of the subject. Argentine and Yougoslavia note that it deals with the responsibility in selecting a safe berth. All other Associations have, as anticipated, disagreed with the suggestion previous Rule 5, which is contrary to all customs; but their remarks have lead to the drafting of the new Rule, incorporating ex 5 and 6 which should also satisfy the desires of Denmark, Sweden and U.S.A. The wording was partly drawn from the German draft.

Rule 5 (ex Rule 7)

Where there are several consignees and they disagree on the choice of the berth, the Master shall adopt the choice of the largest consignment of cargo.

This Rule is generally accepted as convenient, although Sweden and U.S.A. think it ambiguous unless, as suggested by Argentine, it is made clear that « largest » means the biggest volume and not the highest value. As some goods are difficult to handle, such as long iron bars, motocars, etc..., Greece suggests than when several consignees disagree, the Master alone decides.

(*Previous Rule 8* is deleted because out of the subject and giving rise to many disputes. Germany, Sweden and Yougoslavia were however in favour, with slight amendments).

Rule 6 (ex Rule 9)

The clause « *Whether in berth or not* » enables the Master to give notice as soon as he arrives at the port, irrespective of the availability of the berth.

This Rule is generally accepted as suitable.

But Germany and Denmark desire that this clause become équivalent to the clause « At port ». USA on the other hand desire that all such clauses whether usual or not, be set out, defined and regulated, or on the contrary that no clause be mentioned.

The last line of Provisional Rule 9 has been deleted because one should not repeat and prejudice the consequence of giving a notice.

Rule 7 (ex Rule 10)

The clause « *Free of turn* » burdens the cargo with the risk of the vessel having to wait at certain ports whose authorities regulate access and impose waits at buoys or in the roads outside the port.

This Rule is generally accepted.

But Italy desires that, with such a clause, the Master be intitled to give the notice, already when he is off the port, or in the port's roads. Sweden and Yougoslavia hope to extend the effect of this clause and to burden the cargo with such risks in all ports where vessels may have to wait their turn to berth.

What can be admissible when parties have agreed to the clause « *Free of turn* » appears difficult to impose to all Charterers who have signed their contract without such a clause.

Rule 8 (ex Rule 11)

The clause « *At Port* » or « *Off the Port* » entitles the Master to give the Notice as soon as the vessel is in the roads or in the port waters or so near thereunto as she may be permitted to approach. It relieves him of the obligation of having to enter the port before giving the Notice. Time counts whatever may be the reason which prevents immediate entry into the port, but the actual time occupied in moving from the place of stoppage to the loading or discharging berth not to count as laytime.

This clause is generally accepted, however words have been added to the first and the last sentence, as suggested by the Danish Association and in accordance with the Churchill Clause 1960.

Rule 9 (ex Rules 12 to 16)

- a) « The clause « *As near as* » entitles the Master who is prevented from entering the agreed port pursuant to an obstacle which came into existence (or became known) after the conclusion of the contract to proceed to the nearest port and to tender there notice of readiness.
- b) This clause entitles the Master when he is sufficiently informed of the obstacle to deviate from his course or to leave out a port of call without obligation to proceed to that port.

- c) When the Master availing himself with good reason of that clause discharges the whole or part of the cargo the expenses (including the cost of transportation to the port of destination) and risks of this operation are for account of the goods and the time used counts as loading or discharging time. The time which may have been used to proceed from the port of discharge to the port of destination does not count.
- d) When the Master availing himself with good reason of that clause discharges the cargo in a port other than the agreed port neither any reduction nor any supplement in freight is due. »

This Rule 9 is a redraft of Rules 12 to 16 which had been generally accepted with some amendments which appear to have been fully met in the German suggested draft which has been adopted.

In the first paragraph the words « *or became known* » are in brackets, because such provision is disputed. The French Cour de Cassation admitted, very long ago, that a vessel due to Gravelines could unload in Dunkirk because she was too wide to pass through the Graveline lock. But the international and recent French case-law seems to be that the Owner must inquire before signing the Charter and the excuse of his ignorance until it « became known » to him is no satisfactory excuse. Owners may question their local agents or the Charterer before concluding the Charter.

The second paragraph is in accordance with the modern case-law. A Master may, by radio, be informed of the depth of water of a port, or river-mouth, without having to reach the river and sound her to ascertain the depth.

The last paragraph is not in accordance with all legislations but none of them has disposed of this matter by a compulsory law of public policy.

FREE-TIME

1. — *Definition* :

Free-time means the period which runs between the receipt of the Notice and the commencement of lay-time.

There are no objections to that definition, but Germany and USA suggest to delete all rules concerning the Free-time. This would leave

unsettled the time between the Notice and the lay-time; it would be an omission not to deal with a time which obviously exists and is universally known under the British name of « free-time ».

Rule 2 (ex Rule 2 and 3, and ETA Rule 3)

Free-time commences immediately on delivery and acceptance of the Notice. When it ends the lay-time begins.

The Master may authorize loading or unloading before the end of the free-time; when so, any time used counts as lay-time.

LAY-TIME

1. — *Definition :*

Lay-time means the time agreed upon for loading and for unloading the cargo.

This definition is generally accepted without objection, except that the German Association suggests to strike out the word « lay-time » from the Rules and always insert « the loading time and the discharging time ».

Rule 2 (ex Rule 2 and 3)

Lay-time is counted from the expiration of the free-time. Its duration, when not laid down in the contract, is based on the actual time similar cargos from similar type of vessel are being handled at that port.

This amended draft, driven from the report of Denmark and Germany, should meet the desire of France, Italy, Sweden and USA who tend to avoid any reference to customs of the port.

Rule 3 (ex Rule 4)

The charterer is entitled to all the lay-time, even if it had been possible to load or discharge more quickly.

This Rule is approved by all, when only for convenience sake, and the German Association agrees that it rests on the Carriers to check exactly their time-estimates.

Rule 4

Lay-time counts from the beginning of the next shift after delivery and acceptance of the notice of readiness.

This Rule sets a principle. It did not appear possible nor advisable to settle all eventualities that can occur and which the German Association rightly mentioned.

Rule 5

Lay-time is not reversible.

This Rule is agreed.

Rule 6

When the contract stipulates that the lay-time is reversible, demurrage at loading will be set off against time saved in discharging and vice versa.

This text is suggested by Mr Steuch in his notes of Sept.4th 1961. He remarks that a specified lay-time at each end must not be similar to a total in and out lay-time. Shippers do particularly pay attention to this Rules : When a Shipper has deserved Dispatch-money, he does not admit to be deprived of it because Receivers had a very slow unloading. Vice versa, a Receiver refuses to pay Demurrage because the Shipper has used all the lay-time.

However the suggested Rule adopted by Germany may nevertheless imply that «reversible lay-time» is practically equal to «total lay-time».

(*Previous Rule 7* is deleted. All Carriers are accustomed to count a quantity per «workable» hatch. It is rare that one hold is double the size of the others and has only one single hatch like smaller ones).

(*Previous Rule 8* is deleted, because unusual although it is frequently used in France for all shipments of scrap.)

Rule 7 (ex Rule 9)

A clause stipulating lay-days in terms of running or consecutive days means that the night hours are non-deductible even if a port is involved where night handling is not customary.

The words «*or consecutive*» have been added on the suggestion of Italy to avoid any misunderstanding.

Yugoslavia would suggest that all, most usual such clauses, be studied and ruled.

Rule 8 (ex Rule 10 and 11)

The «*As fast as*» clause means that Shippers must provide cargo and Receivers dispose of it as fast as vessel

can receive or deliver it, even if using extra handling equipment.

« Any reference to customs of the port, may concern the handling of the cargo but does not effect the principle that the speed is governed by the ship.

This redrafted Rule should meet the remarks and suggestions of Denmark and Greece, also of Germany and Italy who had agreed on the previous draft.

Rule 9 (ex Rule 12)

The party who claims that lay-time has been interrupted must supply justification for his contention.

It has been suggested that such Rule be useless. It can be of no harm as was thought necessary in 1924 for Rule E of the York-Antwerp Rules.

Rule 10 (ex Rule 13)

The operation of lay-time is interrupted by any unforeseeable and insurmountable event which makes the reasonable handling of the goods impossible.

Many comments were made on this Rule. Germany and Denmark noted that there was no such provision in their legislation. USA state that it is contrary to common law. Sweden holds that the cause of interruption is too wide. Yugoslavia desires to include the strike in the causes of interruption. Greece desires some explanations.

Comments are necessary.

It is a principle in the Continental legislation that one is excused for not having executed an obligation when a case of « force majeure » has prevented one from doing so. That is the latin force majeure, unknown to the Anglo-saxon legal system. The Court of Cassation has always defined it in similar terms when upholding or cancelling a Court's decree : constitutes a case of forme majeure the event which was unforeseeable and insurmountable and made the performance of the obligation absolutely impossible. The alleged event must satisfy the three imperative requirements of the Supreme Court. These Words for « *force majeure* » have thus been mentioned in this Rule.

The fact that the performance of an obligation is more expensive is not admitted as a case of force majeure; but the word « reasonable » (or such other term) appeared advisable because a Shipper of bulk may always load with his wife, equipped with tea-spoons.

Rule 11 (ex Rule 14)

The operation of lay-time is interrupted on legal holidays, on Sundays and on Saturdays' afternoons or on such days where the custom of the State or religious factors have made another weekly rest effective. The operation will not be interrupted if work is actually carried out during such time.

This new drafting should meet with general approval. Sweden had asked that, in accordance with the desire expressed by many Associations the reference to the custom of the port be, here also, avoided. Germany and U.S. agree but thought the Rule useless as it is mentioned in all contracts «*Shex*»; but as the aim of these Rules is to eliminate such clauses of the Charters as was achieved for the General Average, this Rule should remain. Denmark and Sweden pointed out that one could always work at any time, be it in overtime. It did not appear fair to keep the lay-time counting on Christmas Sunday or other such holiday although, as a principle work could be performed at great expense. Greece drew attention on the fact that in the Countries of Mahometans or Israelians, the weekly holiday is not on Sunday.

Rule 12 (ex Rule 15)

The operation of lay-time is interrupted by any stoppage in handling imputable to the vessel.

This Rule is agreed. Some Associations ask that the Rule should end with «*entirely (or exclusively) imputable to the vessel*» U.S.A. desires that this Rule should apply only to a fault of the ship; this restriction does not appear advisable because when, without any fault on her part, a vessel has to leave her berth for bunkering purposes, or for repairs of damage caused by fire or by a collision while she was at berth, the lay-time should be interrupted.

Rule 13 (ex Rule 16)

The Master is not bound to open the hatches when bad weather might affect the cargo and the operation of lay-time is not interrupted.

The Rule previously drafted under n° 16 raised criticism. Whether time counts or not may depend on other clauses of the contract (w.w. day). The Rule as it now stands is of importance and might remain although it deals no longer with D.D. The principle could remain that lay-time is not interrupted, so that one could not invoke Rule 9 (ex 13) and 11 (ex 15) when the w.w. day clause is not in the contract.

Rule 14 (ex Rule 17)

Either the congestion of quay hindering the loading or unloading, nor the shortage of labour or handling equipment interrupts the lay-time.

This new wording satisfies the desire of Yugoslavia and is copied out from the Italian report. The U.S. suggest that it be deleted and left to the parties to include it in the contract; in this respect one can but repeat the example given by the York Antwerp Rules.

(*Previous Rule 18* is deleted because many Associations held that it did not concern D.D. Rules).

(*Previous Rule 19* is deleted on the suggestion of Denmark, Italy, Sweden and USA because the Ice clause does not concern D.D. Rules. However Germany suggest that the clause be maintained up to the word « unless », as it has a direct effect on the time when the Notice may be given. The clause would read : « The ice clause relates to port waters and not to the approach routes taken by the cargo ». The reason why the Rule has nevertheless been deleted, is that there is no standard wording of an Ice clause and that they are of great diversity).

Rule 15 (ex Rule 20)

The «*weather permitting*» clause suspends the operation of lay-time when handling has been interrupted because of bad weather, with regards to the considered goods at stake. In this case the events stipulated in Rule 10 do not have to occur.

This Rule has been agreed. The words added to the previous draft were suggested by the Greek and Danish Associations.

Rule 16 (ex Rule 21)

The clause «*Weather working day* » means that when cargo handling is impossible in one of the cases referred to in Rule N° 14 the time up to the end of a working shift does not count, unless used. »

The previous draft of this Rule has been agreed with several suggestions and remarks. The new draft, extract from the German report seems to dispose of all of them.

Previous Rule 22 is deleted, as suggested.

Previous Rule 23 dealing with the war clause is deleted, as suggested, because there are many different war clauses, each of which determine their scope.

Previous Rule 24 is deleted because there is a great variety of strike clauses.

Previous Rule 25 on lock-out, is deleted because there is a great variety of clauses.

But some hints are made to clauses which exclude « strike, lock-out, ice... etc... without any particular details. It might therefore be advisable to state what they mean and to what extent they apply. Previous Rules 23, 24, 25, should be considered.

Previous Rules 26 and 27 concerning delivery under tackle are deleted because out of the scope of D.D. Rules.

DEMURRAGE

1. — *Definition* :

Demurrage means the time during which the vessel is detained for handling cargo after the expiration of lay-time.

Rule 2

Demurrage runs automatically from the expiration of lay-time.

This Rule may have become useless, but at a time when one considered Demurrage as damages Courts required a notification of the expiry of lay-time and a summon to complete the loading or unloading. This Rule may still be recommended, to meet with some remarks of the USA.

Rule 3 (ex Rule 4)

Clauses interrupting lay-time do not apply to demurrage which is never interrupted even in the cases stipulated in Rule E 10 except when the interruption is imputable to the vessel.

This clause is generally agreed. Denmark suggest that one strikes out the nine last words, but they appear fair for the reasons set out at Rule 11 actually E.10). The words «exclusively imputable» might meet with the Danish remark and might not disagree with the German, Italian and Sweden approval.

Rule 4 (ex Rule 5)

Demurrage becomes due and payable day by day.

No remark on the merits except from Germany who suggest that the Demurrage be « counted » and payable day by day. Such an expression might be misleading as time counts per hours and minutes.

Rule 5 (ex Rule 3, including all « Additional Demurrage » Rules)

The demurrage rate is an agreed contribution of the the Charterer towards the Owner's charges and expenses to keep up the vessel after the lay-time. Such rate is agreed for a time equivalent to half of the lay-time, after what the rate will be doubled so as to contribute more efficiently to the Owner's charges.

These two Rules and the following, had to be entirely amended to meet the objections of the American Association who drew attention on the fact that when a demurrage rate (and specially additional demurrage) appeared like damages or a fine, the Rule would be null and void as prohibited under the legislation of USA.

Such amendment may appear troublesome to many maritime circles, but they seemed to be inevitable and imperative to obtain that the said Rules when referred to be enforced by the American Law-courts.

This revised Rule is of great importance. Germany points out that their ancient laws granted 14 days. French case-law is unsettled; all law books refer to sur-surestaries, but no law has fixed a time, and the ancient case law stated that, after ten days, the demurrage was to be increased with 50 %. The Greek Association suggests that the demurrage time be equal to the lay-time. Germany makes the same suggestion but adds « minimum 3 days, maximum 10 days ». The Danish report makes a suggestion which appears more satisfactory : the demurrage time be half of the lay-time, because at present Owners and Charterers are able to estimate the normal time required for loading and unloading. When they make a mistake it is or should not be of more than half the time, and after such a time the demurrage should be increased so that the Owner receives a more substantial participation towards his charges and expenses.

This Rule disposes therefore of two questions :

- The time of the first period,
- The rate of the second one.

Rule 6

The Demurrage rate, when agreed between the parties in the contract, is no longer questionable when time-sheets and accounts are being drawn up.

Rule 7

In the event of discharging on his own authority, the Master is only entitled to demurrage if he proves that he exercised all diligence. If the lay-time is reversible and the total time was occupied in loading, demurrage is due in principle; only the time counted has to be justified.

There is no criticism to this Rule apart from suggestions from Sweden and USA to delete it.

Rule 8

When there is a dispute about the amount of the demurrage the judge may order delivery of the cargo against a deposit of the sum in dispute or against a good and valuable security.

Germany inquires whether the recourse to a judge is required? The threat of exercising a lien, or the effective seizure should be sufficient. When the Rule is maintained, Denmark suggests that one adds : « Amounts which are deposited (or guaranteed by a security) shall be released to the Carrier when the goods are delivered, unless the Receiver prevents such release by arrest or other provisional in junction ».

The previous Rule was drafted so that nothing be left aside, but questions of lien on the cargo for demurrage are indential to those for freight (see Rule 11) and are somewhat out of the subject. This Rule should be deleted when Rule 11 is agreed.

Previous Rule 9 on joint liability is deleted because a Shipper cannot be held liable for demurrage incurred by the Receiver, but the following Rule is required.

Rule 9

The Charterer is responsible for all freight, demurrage and damages for detention, which the Carrier could not recover by exercising a lien on the cargo.

Rule 10

The Receiver is not liable for demurrage during loading, if it is not mentioned on the bill of loading, unless he is also the Charterer or Shipper.

This Rule such as amended should meet the different remarks and suggestions.

Rule 11

The Carrier has the benefit of the same securities, including the lien on the cargo, for the demurrage as for the freight.

The principle of this Rule has been agreed. However, Italy suggest that the securities be defined so as not to be subject to the national laws. The American Association held that the wording was not very clear; so did the German Association who suggests the wording which is here adopted. Should one mention the Carrier or the Shipowner? The latter expression should include and cover the « disponent Owner ».

DETENTION

Definition

Detention of the vessel means the time during which the vessel is detained on account of the cargo after the expiry of the demurrage period.

This Definition is generally agreed, although the German Association suggests « delayed » instead of detained (which would include the waiting for a high tide, etc...) and to substitute to « cargo » the Charterer, Shipper or Receiver.

Rule 2

Detention gives rise to damages as compensation for the loss proved by the Shipowner. He is however intitled to be satisfied with the rate agreed for demurrage.

DESPATCH MONEY

Definition

Despatch money means the sum which the Carrier is to pay to the Charterer for all working lay-time saved.

Rule 2 (ex Rule 2 and 3)

The rate of payment for despatch money is half that for demurrage.

Germany remarks that such Rule is useless because the Charters always stipulate the rate. It will no longer be so when the Charters refer to the D.D. Rules. Denmark suggests that the rate be reduced to one third.

Previous Rule 3 is deleted as suggested, in spite of the French and other case law which grant full Despatch money to a vessel sailing on Saturday, when lay-time only expired on Monday morning.

Rule 3 (ex Rule 4)

When a Master discharges on his own authority, despatch money will not arise.

Generally agreed.

Rule 4 (ex Rule 5)

A Charterer who hires equipment or incurs extra expenses for the purpose of avoiding demurrage or to enable him to earn despatch money has to bear the expense of the same.

Is reported as useless as the provision is obvious.

Rule 5 (ex Rule 6)

« When the lay-time is reversible, the time on demurrage on loading may be set off against the time saved in discharging, and vice-versa ».

This wording suggested in the report from Denmark appears to satisfy all other remarks.
