The **issue**: impact of the Ballast Water Convention on bareboat charters.

**INTRODUCTION**

BWMC → compulsory installation of technical equipment onboard ships for the treatment of ballast water

Who pays for the equipment and its installation

- Charterer
- Owner

Charterer or Owner
Clause 10(a)(i) **Maintenance and repair.** The Vessel shall during the Charter period be in the full possession and at the absolute disposal for all purposes of the Charterers and under their complete control in every respect. The Charterers shall maintain the Vessel, her machinery, boilers, appurtenances and spare parts in a good state of repair, in efficient operating condition and in accordance with good commercial maintenance practice and, except as provided for in Clause 13(I), they shall keep the Vessel with unexpired classification of the class indicated in Box 10 and with other required certificates in force at all times.

Clause 10(a)(ii) **New Class and Other Safety Requirements.** Unless otherwise agreed, in the event of any improvement, structural changes or expensive new equipment becoming necessary for the continued operation of the Vessel by reason of new class requirements or by compulsory legislation costing more than 5 per cent of the Vessel's marine insurance value as stated in Box 29, then the extent, if any, to which the rate of hire shall be varied and the ratio in which the cost of compliance shall be shared between the parties concerned in order to achieve a reasonable distribution thereof as between the Owners and the Charterers having regard, inter alia, to the length of the period remaining under the Charter, shall in the absence of agreement, be referred to dispute resolution method agreed in Clause 30.
Lack of Regulation

Analysis of the clause:

1. It does not mention the ratio in which costs should be shared.
2. It does not provide the criteria for determining apportionment.
3. A threshold is set at a percentage of the insurance value (5%).
4. Renegotiation of hire.
5. Dispute resolution.
AMORTIZATION

A possible criterion of apportionment: Amortization

Example:
- Cost of equipment: 1 million
- Class renewal service: two years before end of charter period
- Insurance value of the ship: 10 million
- Average duration of the equipment 10 years
- Residual life of the ship: 10 years

a) 5% for the Charterers: 500,000
b) Amortization in 10 years: 10 shares of 50,000
c) 2 years / 100,000 for Charterers and 8 years / 400,000 for Owners
d) Overall: 600,000 for Charterers and 400,000 for Owners
Conclusive remarks:

- Useful tool of amortization but, the features of the investment must be known.
- The lack of regulation in bareboat charters is made necessary by a natural limit of foresight.
- Re-negotiation of hire and dispute resolution methods are thus a necessary edge.
- Necessary collaboration between the parties to chose the level of costs and the appropriate technical equipment.
- Technological progress.
Thank you for your time!

Ballast Water Management Convention 2004 and bareboat charters: who bears the weight of technological improvement?

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