

BIMCO GENCON 2020: A REVISION AFTER 25 YEARS

A widely used standard form of voyage charter party for dry bulk commodities, "GENCON 1994", is revised. The new form of GENCON 2020 is being circulated at the moment to get industry's opinion and feedback. BIMCO is planning to formally publish the New GENCON later this year.

We note there are several clauses that are being focus points of discussion. BIMCO GENCON committee has rewrite several clauses that is going to be fundamentally different to the previous BIMCO GENCON 1994, namely:

Clause 2 (GENCON 1994 – Owners' Responsibility):

Owners' Responsibility Clause

The Owners are to be responsible for loss of or damage to the goods or for delay in delivery of goods only in case the loss, damage or delay has been caused by personal want of due diligence on the part of the Owners of their Manager to make the Vessel in all respects seaworthy and to secure that she is properly manned, equipped and supplied, or by the personal act or default of the Owners of their Manager.

And the Owners are not responsible for loss, damage or delay arising from any other cause whatsoever, even from the neglect or default of the Master or crew or some other person employed by the Owners on board or ashore for whose acts they would, but for this Clause, be responsible, or from unseaworthiness of the Vessel on loading or commencement of the voyage or at any time whatsoever.

Clause 2 (GENCON 2020 – Owners' Obligation):

- (a) *The Owners shall exercise due diligence to ensure that upon commencement of the approach voyage to the first or sole port of loading, and upon commencement of the laden voyage, the Vessel will be seaworthy and properly manned, equipped and supplied.*
- (b) *Notwithstanding anything to the contrary contained in this Charter Party, but subject to subclause (a) above, the Owners shall as from the date hereof:*
 - (i) *have no liability for loss or damage (including delay) arising or resulting from unseaworthiness unless caused by breach of subclause (a) above; and*
 - (ii) *be entitled to rely on the rights, immunities and defences of Article III, rule 5, and Article IV, rules 2 and 6, of the Hague-Visby Rules, which rules 5, 2 and 6 shall be deemed incorporated as though here written out in full, with the expressions "carrier" and "shipper" being agreed to mean the Owners and the Charterers respectively.*

Clause 10 (GENCON 1994 – Bills of Lading):

Bills of Lading shall be presented and signed by the Master as per the “Cogenbill” Bill of Lading form, Edition 1994, without prejudice to this Charter Party, or by the Owner’s agents provided written authority has been given by Owners to the agents, a copy of which is to be furnished to the Charterers. The Charterers shall indemnify the Owners against all consequences or liabilities that may arise from the signing of bills of lading as presented to the extent that the terms or contents of such bills of lading impose or result in the imposition of more onerous liabilities upon the Owners than those assumed by the Owners under this Charter Party.



Clause 10 (GENCON 2020 – Contract of Carriage/Responsibility of Cargo):

(a) Bills of lading or waybills shall be presented to and signed by the Master in accordance with the Mate’s Receipt(s), all without prejudice to this Charter Party, and shall be in the terms no less favourable to the carrier than COGENBILL 2016 or GENWAYBILL 2016 (including but no limited to the Clause Paramount), provided that approval by the Owners or the Master of the terms or contents of any draft bills of lading or waybills or the signature of any bills of lading or waybills as presented shall not constitute any variation or waiver of the Owner’s rights hereunder.

The Charterers shall be responsible for the acts or omissions of the shippers under or in relation to bills of lading or waybills and shall indemnify the Owners against all consequences or liabilities that may arise from the signing or issuing of bills of lading or waybills as presented to the extent that the terms or contents of such bills of lading or waybills impose or result in the imposition upon the carrier thereunder and/or the Owners of any liability or responsibility more onerous than assumed by the Owners under this Charter Party.

(b) Where this Charter Party is, or is deemed to be, the contract of carriage, the immunities, defences and rights (including any right of limitation and time bar) available to the Owners in relation to loss of or damage or delay to cargo shall be no less than if the contract of carriage for such cargo were a bill of lading properly issued under subclause (a) above, including but not limited to its Clause Paramount.

We are looking forward to the final version of BIMCO GENCON 2020 and let you know on the updates.

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