



**THE TENTH  
NATIONAL LAW UNIVERSITY ODISHA  
BOSE & MITRA & CO.  
INTERNATIONAL MARITIME  
ARBITRATION MOOT  
2023**

**CASE STUDY\***

\* The case study has been drafted by Prof. Andrew Tettenborn, Chair in Law, LLM Shipping & Trade; Prof. Simon Baughen, Professor (Maritime Law), LLM Shipping & Trade; & Prof. Dr. George Leloudas, Professor, LLM Shipping & Trade; at The Institute of International Shipping and Trade Law, Swansea University, The United Kingdom. The participants or their affiliates are barred from approaching the drafters for any kind of assistance regarding this competition. Any contact shall lead to immediate disqualification of the concerned team.

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IN THE MATTER OF THE  
ARBITRATION ACT 1996

And

IN THE MATTER OF AN  
ARBITRATION

Between

CENTRAL KOREA FABRICATION CORP.

(a corporation registered under the laws of South Korea)

Claimants

and

FLORIDA STEEL INCORPORATED

(a corporation registered under the laws of the State of Florida)

Respondents

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## STATEMENT OF FACTS

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1. On 3 January 2022, the claimants, a Korean corporation, agreed by telephone to sell about 225 metric tons of steel coils to the respondents in the United States at a given price. The terms of sale were CIF Miami; the contract contained an English law and London arbitration clause, with any arbitration to be governed by LMAA Rules. The goods were shipped on April 12. Documents were tendered by the claimants on 16 April 2022 but were rejected by the respondents on a number of grounds, whereupon the claimants claimed damages for breach of contract.
2. Although most of the grounds for rejection were later abandoned during negotiations, the respondents continued to argue that (1) the tender of an insurance certificate was not in accordance with the implied terms of a CIF contract; (2) the bill of lading, in view of the RETLA clause typed on it, was not a clean bill of lading and hence bad tender, and;(3) the bill of lading in view of the transshipment and cesser clause typed on it was bad tender as it failed to give the continuous documentary cover required in a CIF contract.
3. The parties also disagree on the number of arbitrators. The claimants argue that the arbitral panel consists of 3 arbitrators as per Rule 2 of the LMAA Intermediate Claims Procedure 2021, while the respondents argue that the arbitral panel consists of 1 arbitrator as per section 15(3) of the English Arbitration Act 1996.
4. The present reference to arbitration concerns these matters alone. In the event that the respondents are adjudged liable to the claimants, the measure of damages is agreed and is not the concern of the Tribunal.

# 中国西南保险公司

South West China Insurance Corporation

*Policy No:* JHGG7-09/444

*Certificate No:* 09/444C2013

*Issue date:* March 1 2022

*Shipment date:* March 2022

*Place of Issuance:* Seoul ROK

*Client reference No:* HHY-9998

## *Assured:*

Central Korea Fabrications Corp and transferee

## *Loss payable at/to:*

**THIS CERTIFIES** that the Assured is insured under and subject to the Conditions of the Open Policy and in this Certificate.

**Upon surrender** of this Certificate, which conveys the right of collecting any loss as fully as if the Property were covered by any special Policy direct to the holder thereof, and free from any liability for unpaid premiums. This Certificate is subject to all the terms of the Open Policy, provided however that the rights of a bona fide holder of this Certificate for value shall not be prejudiced by any terms of the Open Policy in conflict with those of this Certificate.

***Conveyance:***

MV Korea Generator

***Additional Carrier Information:***

Korea Pacific Liner Co

***Place of origin:***

Seoul

***Country of origin:***

Korea

***Place of loading:***

부산 Busan ROK

***Country of loading:***

ROK

***Description of Goods:***

Steel coils

***Marks and Numbers:***

SOUL/TR888/7-9907 to  
SOUL/TR888/7-10058

***Pieces and Weights:***

***Insured Value:***

200,996.50 (two hundred thousand  
nine hundred ninety-six USD 50)

*USD*

***Final Destination:***

US

***Port of discharge:***

Miami FLA

**THIS INSURANCE** covers against “All Risks” of physical loss or damage from any external cause irrespective of percentage, but excluding nevertheless the risks of War, Strikes, Seizure, Detention and other risks excluded by the Nuclear and other Radioactive Contamination Exclusions Clause, the FC&S Warranty and the SR&CC Warranty of this Policy, except to the extent that such risks are specifically covered by indorsement.

Excluding rust, oxidation, discoloration, wetting, staining, marring, scratching, chipping and denting. Deductible of 1% of insurable value, but in no event will the amount deducted be less than USD500. Excluding mechanical and/or electrical and/or electromagnetic derangement unless caused by a risk insured against.

Including the risk of war, strikes, riots and civil commotions in accordance with Institute Clauses current on date of shipment.

**CONDITIONS:** Insurance subject to following Institute Cargo Clauses:

Both-to-blame, Deviation, Seaworthiness, Refused or returned, General average / Salvage, CTL, Landing warehousing and forwarding, Warehouse to warehouse, Marine extension, Pollution/deliberate damage, Economic and trade sanctions, Labels, Inchmaree, Machinery, Explosion, Shore Perils, Sue and labor, Bills of Lading, etc

**AVERAGE TERMS AND CONDITIONS:** Insured property while shipped on deck of an Ocean Vessel subject to an ON DECK BL is warranted FPA unless caused by the Vessel being stranded sunk or burnt, but notwithstanding this Warranty the Company is to pay any physical loss or damage to the Insured Property which may reasonably be attributed to fire, collision or contact of the Vessel and/or Craft and/or Conveyance with any external substance (including ice) other than water, or to discharge of cargo at port of distress, but including jettison and/or washing overboard.

**SUIT:** No suit or action for the recovery of any claim arising out of this Certificate shall be maintainable in any court unless such suit or action shall have been commenced within two (2) years from the date of the happening of the loss out of which the claim arose.

**LAW:** This certificate and the underlying Policy are governed by the law of ~~People's Republic of~~  
~~China.~~ England

Signed:

*For South West China Insurance Corp.*

Dated:

3/1/22



Shipper

Central Korea Fabrication Corp

Reference No.  
pt877-934

Consignee

Florida Steel Inc, Miami, FLA. USA  
1 305-854-6344

Notify address

Fla Steel Inc, Denny Bvd 7887, Fla

Draft Copy

Vessel Korea Generator Port of loading Pusan

Port of discharge MIAMI

Shipper's description of goods

Gross weight

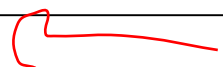
Steel coils

224088 kg

Draft Copy

(of which on deck at Shipper's risk; the Carrier not being responsible for loss or damage howsoever arising)

Freight payable as per CHARTER-PARTY dated <b>freight prepaid</b> FREIGHT ADVANCE. Received on account of freight:  Time used for loading <b>0</b> days <b>3</b> hours.	<p><b>SHIPPED</b> at the Port of Loading in apparent good order and condition on board the Vessel for carriage to the Port of Discharge or so near thereto as she may safely get the goods specified above.</p> <p>Weight, measure, quality, quantity, condition, contents and value unknown.</p> <p>IN WITNESS whereof the Master or Agent of the said Vessel has signed the number of Bills of Lading indicated below all of this tenor and date, any one of which being accomplished the others shall be void.</p> <p>FOR CONDITIONS OF CARRIAGE SEE OVERLEAF</p>
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Freight payable at	Place and date of issue <b>March 12, 2022 Busan</b>
Number of original Bs/L <b>3 (three)</b>	Signature   for Korea Pacific Liner Co

**BILL OF LADING**

TO BE USED WITH CHARTER-PARTIES

CODE NAME: "CONGENBILL"

EDITION 1994

ADOPTED BY

THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO)

This Contract shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this Contract shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or reenactment thereof. The seat of the arbitration shall be England even where the arbitration takes place outside England. The arbitration shall be conducted in accordance with the LMAA Terms current at the time when the arbitration proceedings are commenced. This Clause shall supersede Clause (1) of the Conditions of Carriage below.

**Conditions of Carriage**

(1) All terms and conditions, liberties and exceptions of the Charter Party, dated as overleaf, including the Law and Arbitration Clause, are herewith incorporated.

**(2) General Paramount Clause.**

(a) The Hague Rules contained in the International Convention for the Unification of certain rules relating to Bills of Lading, dated Brussels the 25th August 1924 as enacted in the country of shipment, shall apply to this Bill of Lading. When no such enactment is in force in the country of shipment, the corresponding legislation of the country of destination shall apply, but in respect of shipments to which no such enactments are compulsorily applicable, the terms of the said Convention shall apply.

(b) *Trades where Hague-Visby Rules apply.*

In trades where the International Brussels Convention 1924 as amended by the Protocol signed at Brussels on February 23rd 1968 - the Hague-Visby Rules - apply compulsorily, the provisions of the respective legislation shall apply to this Bill of Lading.

(c) The Carrier shall in no case be responsible for loss of or damage to the cargo, howsoever arising prior to loading into and after discharge from the Vessel or while the cargo is in the charge of another Carrier, nor in respect of deck cargo or live animals.

**(3) General Average.**

General Average shall be adjusted, stated and settled according to York-Antwerp Rules 1994, or any subsequent modification thereof, in London unless another place is agreed in the Charter Party.

Cargo's contribution to General Average shall be paid to the Carrier even when such average is the result of a fault, neglect or error of the Master, Pilot or Crew. The Charterers, Shippers and Consignees expressly renounce the Belgian Commercial Code, Part II, Art. 148.

**(4) New Jason Clause.**

In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Carrier is not responsible, by statute, contract or otherwise, the cargo, shippers, consignees or the owners of the cargo shall contribute with the Carrier in General Average to the payment of any sacrifices, losses or expenses of a General Average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the cargo. If a salving vessel is owned or operated by the Carrier, salvage shall be paid for as fully as if the said salving vessel or vessels belonged to strangers. Such deposit as the Carrier, or his agents, may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the cargo, shippers, consignees or owners of the goods to the Carrier before delivery.

**(5) Both-to-Blame Collision Clause.**

If the Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, Mariner, Pilot or the servants of the Carrier in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying vessel or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or non-carrying vessel or her owners to the owners of said cargo and set-off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying Vessel or the Carrier.

The foregoing provisions shall also apply where the owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.

**RETLA CLAUSE**

The term "apparent good order and condition" when used in this bill of lading with reference to iron, steel or metal products does not mean that the goods, when received, were free of visible rust or moisture. If the shipper so requests a substitute bill of lading will be issued omitting the above definition and setting forth any notations as to rust or moisture which may appear on the mate's or tally clerk's receipts.

For particulars of cargo, freight, destination, etc., see overleaf.

The responsibility of the carrier under this BL shall be limited to the part of the transport performed by it on the ship under its management. No claim will be acknowledged by the carrier for damage and/or loss arising during any other part of the transport, even though the freight for the whole transport has been collected by it.