Vinnlustodin Hf and Another v Sea Tank Shipping AS (The Aqasia) **[2018] EWCA Civ 276 (CA)**

Facts: The dispute arose out of a charterparty that was on the "London Form", an old tanker form, commonly replaced by the Intertankvoy 76 form. The form provided for the carriage of 2,000 tonnes of fish oil in bulk (5 percent more or less in charterer's option). It also stated, *inter alia*, that the disponent owners would be entitled to *"the like privileges and rights and immunities as are contained in Sections 2 and 5 of the Carriage of Goods by Sea Act 1924 and in Article IV of the Schedule thereto . . .*" Pursuant to the charterparty, a cargo of 2,056,926 kg of fish oil in bulk was shipped aboard *The Aqasia* for carriage from Iceland to Norway. Following the shipment, a bill of lading in Congenbill form was issued, stating that the cargo was shipped in apparent good order and condition. Upon arrival of the cargo at the discharge port, the cargo was found to have damaged during transit. Against the charterer's claim for damages (in the sum of US$367,836), the disponent owners admitted liability in principle, but sought to limit its liability with reference to Article IV Rule 5 of the Hague Rules. It therefore accepted to pay only £100 per metric tonne of the cargo damaged.

Held: Sir Jeremy Cooke, sitting as a Judge of the High Court, decided that the disponent owner did not have the right to limit its liability. In so holding, he took the view that the word "unit" in Article IV Rule 5 of the Hague Rules could not be interpreted as a unit of measurement, such as kilogram or metric tonne, in the context of bulk or liquid cargoes. The Court of Appeal affirmed the trial judges view regarding the meaning of the word "unit" under Article IV Rule 5 of the rules.

Comment: The decision has great significance because it has finally clarified the extent to which the limitation provisions in the Hague Rules can apply to bulk/liquid cargo. The grounds for the decision appear to uphold uniformity of interpretation in the interests of commercial certainty. While relying on the *travaux préparatoires,* the court refused to hold that the meaning of the word "unit" could change depending on the particular type of cargo shipped. After the decision, questions still remain about the extent to which the parties' intentions can shape the interpretation of the limitation provisions.