Scenario (part one) –

By a time charterparty dated 17 June 2008, Tuberi Inc, a company registered in Bahamas and owners of the vessel (‘the owners’), Brunswick (‘the vessel’), agreed to charter its vessel to Maton SA, a Panamanian registered company, as charterers (‘the charterers’). The charterparty expressly incorporated the United States Carriage of Goods by Sea Act 1936, contained a London arbitration clause and was expressly subject to English law.

Two clean bills of lading dated 4 July 2008 were issued in respect of a cargo of heavy machinery parts (‘the cargo’) on board the vessel from Chibu, Japan to Southampton, England. The receivers of the cargo were AAB Ltd who were at all times lawful holders of the bills of lading (‘the cargo owners’).

The bills of lading were contractually subject to the Hague Rules and incorporated ‘all the terms and conditions of the charterparty’ dated 17 June 2008. The cargo was discharged at Southampton on 1 August 2008 in a damaged condition.

On 30 July 2009, the cargo owners issued proceedings in the English Commercial Court against the owners. The facts which have given rise to the cargo owners’ claim against the owners (poor stowage) would entitle the owners to seek an indemnity against the charterers.

Issue –

Is it possible (and if so, how/are there any difficulties?) for the owners to ensure that the claim brought against them by the cargo owners is determined by the same tribunal?

Consult –

CPR Part 20 (http://www.justice.gov.uk/civil/procrules_fin/contents/parts/part20.htm)
CPR Part 6.20(3A)
(http://www.justice.gov.uk/civil/procrules_fin/contents/parts/part06.htm)
s. 9, Arbitration Act 1996
(http://www.opsi.gov.uk/acts/acts1996/ukpga_19960023_en_2#pt1-pb3-l1g9)
**Scenario (part two) –**

The cargo owners issued their Claim Form against the owners on 30 July 2009. The owners’ claims handler, Willemijn Van der zee, did not return to work until 10 August 2009 as a result of a personal injury which required him to spend three weeks in hospital. She now wishes to proceed against the charterers for an indemnity.

**Issue -**

What advice would you give to Ms Van der zee?

Would your advice be different if the charterparty was subject to the Hague-Visby Rules?

Would your advice be different if the charterparty was subject to the Hague Rules and contained the following (Centrocon) provision:

‘Any claim must be made in writing and claimants’ arbitrator appointed within one year of final discharging and where this provision is not complied with the claim shall be deemed waived and absolutely barred.’

Would your advice be different if the charterparty was subject to the Hague-Visby Rules and contained the above provision?

**Consult –**

Article III, Rule 6 of the Hague-Visby Rules
s. 12, Arbitration Act 1996
*China Ocean Shipping v The Owners of the Andros* [1987] 1 WLR 1213
*The Catherine Helen* [1998] 2 Lloyd’s Rep 511