



Port Authority found liable in Maputo grounding Case

We recently represented the Charterers of the MV “DUBAI SUN”, a vessel which touched the bottom of Berth 15 at the port of Maputo, Mozambique during loading of a cargo of chrome. As a result, loading was delayed; the vessel had to leave the berth, move outside the port and could not return until about a week later when additional fenders were placed on the quayside to push the vessel out into deeper water.

The Charterers claimed damages from the port authority, Maputo Port Development Corporation (**MPDC**), arising out of the additional charter hire which had to be paid to the owners of the vessel during the delay period together with all of the port and underwater inspection costs incurred by the Charterers. The basis of the claim against MPDC was that they had made a negligent and false representation about the berth depth by publishing a particular water depth in the berth and confirming that it was safe for the vessel to load at the berth to the draft advised to MPDC by the vessel’s agents.

As it transpired, the water depth was significantly less than that published by MPDC and the vessel was unable to load safely, touching the bottom of the berth before completion of loading and taking a two degree list.

The Charterers successfully sued MPDC in the Maputo high court. The Judge found that MPDC was responsible in terms of its concession agreement for the dredging of the berths and maintenance of their depths, even though dredging was sub-contracted to a third party. By making the misrepresentation about the berth depth at a time when it was responsible for maintaining the berth depths, it brought about the losses suffered by the Charterers as they relied on the misrepresentation to their detriment.

What was particularly heartening about the decision was to note the independence of the Mozambique Court and its willingness to give a judgement in favour a foreign entity against a partially State-owned local entity. More importantly, this judgment may have some other implications for MPDC given the recent spate of groundings at both the berth and in the channel of various vessels.

For more information please contact **Andrew Pike**, Partner in the Shipping and Logistics practice area or your usual contact at Bowman Gilfillan.