SHIPPING & INTERNATIONAL TRADE

Midnight Means Midnight: Court Clarifies That Multi-Jurisdictional 'Banking Days' Do Not Extend Payment Deadlines Across Time Zones

Introduction

In a recent decision of *Songa Product and Chemical Tankers IV AS v Gardsea Shipping Inc* [2026] EWHC 1559 (Comm), the English Commercial Court has provided important clarification on the interpretation of "Banking Days" in multi-jurisdictional ship sale contracts.

The Court allowed an appeal under section 69 of the Arbitration Act 1996 from a London Maritime Arbitrators Association ("**LMAA**") arbitral award concerning a payment deadline under a ship sale agreement based on the SALEFORM 2012. The Court held that a broad definition of "Banking Days" spanning multiple global time zones does not extend the deadline for payment to the latest possible time zone. Instead, once the relevant Banking Day has been identified, the deadline is ordinarily determined by reference to the local time in the jurisdiction where the payment obligation is to be performed.

Brief Facts

The dispute arose out of a contract for the sale of the MT *Songa Coral* (the "**MOA**").

Under the MOA, the balance of the purchase price was to be pre-positioned in an escrow account and released from the escrow account to the Sellers' Account on delivery of the ship "but not later than three (3) Banking Days after the date that Notice of Readiness has been given". The MOA contained a broad definition of "Banking Days," defining the term as days on which banks were open in multiple jurisdictions across various time zones, including the US, Canada, the UK, Switzerland, Turkey, the UAE, Greece, and Norway. The relevant currency was US Dollars. The MOA provided that the "escrow account" was an account at Nordea Bank in Norway to be operated by the escrow agent.

On 2 September 2022, the notice of readiness was given, setting a deadline of 8 September 2022 for the release of the escrow funds. The balance of the purchase price had not been released from the escrow account by midnight in Norway at the end of 8 September. At 12:09 am on 9 September

(Norway time), the Sellers exercised their right to cancel the contract. However, at that time, it was still 8 September in the UK, Canada and the US.

The LMAA arbitral tribunal held that the Buyers had until midnight on 8 September 2022 in the most westerly of the jurisdictions listed in the Banking Days definition (i.e. until midnight Hawaii-Aleutian Standard Time) before being in breach for failing to comply with their payment obligations under clause 3 of the MOA. The Sellers appealed the LMAA award under section 69 of the Arbitration Act 1996.

Key Issues

The question before the English Commercial Court was whether the Buyers were obligated to ensure the release of the funds from the escrow account before midnight at the end of 8 September in Norway.

The Buyers argued that because the definition of "Banking Days" included locations across the globe, the payment deadline should not expire until midnight in the most westerly time zone specified in the contract (Hawaii).

Decision of the Court

The Court allowed the appeal and ruled in favour of the Sellers. The Court provided the following reasoning:

1. **Purpose of the Definition:** The multi-jurisdictional definition of "Banking Days" was intended solely to determine *which calendar days* counted towards the three-day period (i.e., to exclude weekends and local bank holidays in those specific countries). It was not intended to redefine the physical length of a "day".

2. **Absurdity and Uncertainty:** Accepting the Buyers' interpretation would mean a single "day" lasted 37 to 38 hours (from midnight in the most easterly territory, the UAE, to the following midnight in the most westerly, Hawaii). Furthermore, it would create overlapping "days" as the 9th of September would begin before the 8th of September had ended. The Court noted that this interpretation "is not likely to produce certainty in general".

3. **Place of Performance:** The Court applied the well-established principle that time is measured by reference to the place where the contractual obligation falls to be performed. Since the obligation was to release the funds to the Sellers in Norway, the deadline was midnight in Norway.

Practical Takeaways

This decision provides crucial clarity for shipowners, buyers, and financiers involved in cross-border ship sale and purchase (S&P) transactions, as well as broader international trade and finance contracts.

1. **Time Zones Matter**: A definition of "Banking Days" that spans multiple time zones does not give a paying party the entire globe's worth of daylight hours to make a payment.

2. **Identify the Place of Performance**: Parties must look to the specific place where the act (e.g., payment, delivery of documents) is required to be performed to determine the exact time the deadline expires. In this case, because the obligation was to release the funds to the Sellers in Norway, Norwegian midnight applied.

3. **Drafting Tip**: To avoid costly disputes and the risk of wrongful cancellation, parties should explicitly state the applicable time zone for any strict contractual deadlines (e.g., "by 5:00 pm London Time" or "by midnight Norwegian Time").

Conclusion

This decision provides important clarity on the interpretation of time-related provisions in cross-border ship sale and purchase contracts. The English Commercial Court has confirmed that where a contract defines "Banking Days" by reference to multiple jurisdictions across different time zones, that definition serves only to identify which calendar days count towards a contractual deadline. It does not create an extended "super-day" lasting until midnight in the most westerly jurisdiction. Instead, once the relevant Banking Day is identified, the deadline for performance is determined by reference to local time at the place where the contractual obligation is to be performed.

For parties to ship sale agreements and other cross-border commercial contracts, this judgment underscores the importance of clearly specifying the applicable time zone for strict payment deadlines. Where the place of performance is identifiable (as it usually will be for payment obligations), parties should expect that local midnight at that place will mark the expiry of the deadline-regardless of how broadly the "Banking Days" definition may be drafted. As a matter of prudent practice, parties should expressly state the governing time zone for critical deadlines to avoid costly disputes and the risk of wrongful cancellation.

If you have any queries on the above, please feel free to contact our team members set out on this page. For regional Shipping & International Trade matters, please see Rajah & Tann Asia's Regional Shipping Practice for more information.

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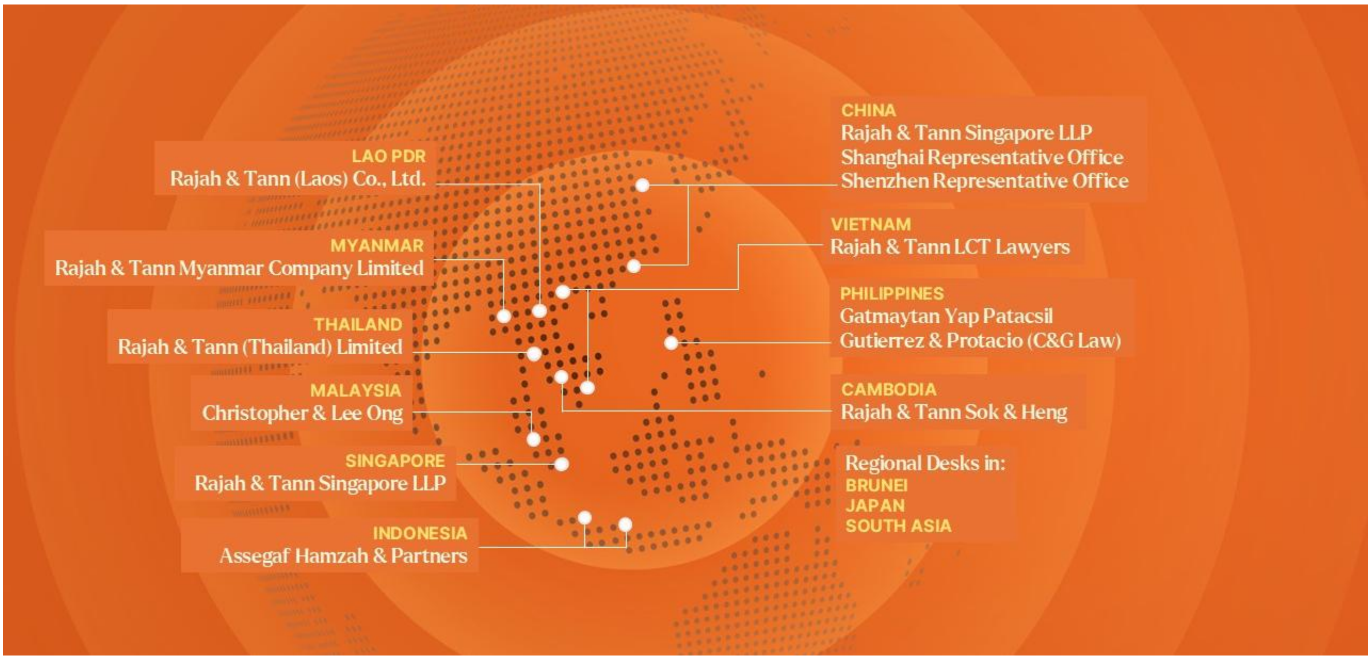

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