B e f o r e :
Mr Justice Walker:

A. Introduction

1. This is an appeal by Nidera BV ("sellers") from Arbitration Appeal Award No. 4314 ("the board award") dated 4 June 2013. The board award was made by a board of appeal of the Grain and Feed Trade Association ("GAFTA"). The board made a finding ("the extension finding") in favour of Venus International Free Zone for Trading and Marine Services SAE ("buyers") that they had validly extended the contract delivery period. Sellers had cancelled the contract in reliance upon a prohibition of export clause. The board held that the consequence of the extension finding was that sellers' cancellation of the contract was premature, constituting a repudiatory breach of contract which had been validly accepted by buyers.
2. In this regard the board reached the same conclusion as the original decision of GAFTA arbitrators ("the tribunal") in an award ("the tribunal award") dated 10 May 2012. The result was that buyers succeeded in their claim for default damages pursuant to a contract dated 23 June 2010, as amended on 12 July 2010, for thirty thousand metric tonnes of Ukrainian yellow corn, 2010 crop on terms FOB stowed and trimmed one safe Black Sea or Ukrainian port in sellers' option.
3. At the hearing before me I was greatly assisted by skeleton arguments and oral submissions from Mr Simon Rainey QC on behalf of sellers and Ms Sara Cockerill QC on behalf of buyers. The matters dealt with in this judgment are as follows:

B. The questions on appeal

4. Permission to appeal was given by Cooke J on 8 November 2013 on two questions of law. Both concern clauses 6 (period of delivery) and 8 (extension of the contract period of delivery) of the GAFTA No. 49 contract for the delivery of goods from central and eastern Europe in bulk or bags FOB terms ("GAFTA 49"). The first was whether clause 8 may be invoked by buyers where they have presented a vessel with readiness to load within the delivery period under clause 6 of GAFTA 49. The second question was whether buyers' claim for an extension of the delivery period on 29 October 2010 was a valid claim under clause 8, with the consequence that the original period under clause 6 was thereby extended

to 21 November 2010. It is common ground that the second question must be answered in the same way as the first. Thus the only issue arising on the present appeal concerns which of two rival constructions of clause 8 is correct. I shall refer to it as "the clause 8 construction issue."

C. Relevant provisions in GAFTA 49

5. The relevant provisions are set out below, using the line numbers which appear on the form as issued by GAFTA, and adding in square brackets the sentence number within each clause:

29 6. PERIOD OF DELIVERY

30 [6.1] Delivery during ……. at Buyers' call.

31

32 [6.2] Nomination of Vessel – Buyers shall serve not less than

……. consecutive day's notice of the name and

33 probable readiness date of the vessel and the estimated tonnage required.

[6.3] The Sellers shall have the goods ready to be delivered to

34 the Buyers at any time within the contract period of delivery.

35 [6.4] Buyers have the right to substitute the nominated vessel,

but in any event the original delivery period and any extension shall not be

36 affected thereby. [6.5] Provided the vessel is presented at the loading port

in readiness to load within the delivery period, Sellers shall if

37 necessary complete loading after the delivery period, and carrying charges

shall not apply. [6.6] In case of re-sales a

provisional notice

shall be passed on without delay, where possible, by telephone and

confirmed on the same day in accordance with the Notices

Clause.

7. LOADING – [7.1] Loading port……

[7.2] If a range is given, Sellers to declare port/berth(s) …..

days prior to commencement of the delivery period. [7.3] Vessel(s)

to load in accordance with the custom of the port of loading unless

otherwise stipulated. [7.4] Bill of lading shall be considered proof of

delivery in the absence of evidence to the contrary.

8. EXTENSION OF DELIVERY – [8.1] The contract period of delivery

shall be extended by an additional period of not more than 21

consecutive days, provided that Buyers serve notice claiming extension

not later than the next business day following the last day of the

delivery period. [8.2] In this event Sellers shall carry the goods for Buyers'

account and all charges for storage, interest, insurance and other

such normal carrying expenses shall be for Buyers' account, unless

the vessel presents in readiness to load within the contractual

delivery period.

[8.3] Any differences in export duties, taxes, levies etc, between those

applying during the original delivery period and those applying during

the period of extension, shall be for the account of Buyers. [8.4] If required

by Buyers, Sellers shall produce evidence of the amounts paid. [8.5] In

such cases the Duties, Taxes and Levies Clause shall not apply.

[8.6] Should Buyers fail to present a vessel in readiness to load under the

extension period, Sellers shall have the option of declaring Buyers to

be in default, or shall be entitled to demand payment at the contract price

plus such charges as stated above, less current FOB charges,

against warehouse warrants and the tender

of such warehouse warrants

shall be considered complete delivery of the contract on the part

of Sellers.

…

11. EXPORT LICENCE – [11.1] EC Export Licence if required, to be

obtained by Buyers. For other countries export licence if required, to be

obtained by Sellers.

12. DUTIES, TAXES AND LEVIES ON GOODS – [12.1] Any EC export

duties, taxes, levies and refunds etc present or future in the country of

origin, shall be for Buyers' account, otherwise national duties and

taxes, present or future shall be for Sellers' account. [12.2] For other countries

any duties, taxes, levies, and refunds etc, present or future

in the country of origin, shall be for Sellers' account.

13. PROHIBITION – [13.1] In case of prohibition of export, blockade or

hostilities or in case of any executive or legislative act done by or on

87 behalf of the government of the country of origin of the goods,

or of the country from which the goods are to be shipped, restricting

88 export, whether partially or otherwise, any such restriction shall be

deemed by both parties to apply to this contract and to the extent of

89 such total or partial restriction to prevent fulfilment whether by

shipment or by any other means whatsoever and to that extent this

90 contract or any unfulfilled portion thereof shall be cancelled. [13.2] Sellers shall

advise Buyers without delay with the reasons therefor and, if

91 required, Sellers must produce proof to justify the cancellation.

...

…

150 20. DEFAULT – In default of fulfilment of contract by either party, the following provisions shall apply:-

151 (a) The party other than the defaulter shall, at their discretion have the right,

after serving notice on the defaulter, to sell or purchase, as

152 the case may be, against the defaulter, and such sale or purchase shall establish

the default price.

153 (b) If either party be dissatisfied with such default price or if the right at (a)

above is not exercised and damages cannot be mutually

agreed, then the assessment of damages shall be settled by arbitration.

(c) The damages payable shall be based on, but not limited to, the difference

between the contract price and either the default price

established under (a) above or upon the actual or estimated value of the goods

on the date of default established under (b) above.

(d) In all cases the damages shall, in addition, include any proven additional

expenses which would directly and naturally result in the

ordinary course of events from the defaulter's breach of contract, but shall in no

case include loss of profit on any sub-contracts made by

the party defaulted against or others unless the arbitrator(s) or board of appeal,

having regard to special circumstances, shall in his/their

sole and absolute discretion think fit.

(e) Damages, if any, shall be computed on the quantity called for, but if no such

quantity has been declared then on the mean

contract quantity and any option available to either party shall be deemed to

have been exercised accordingly in favour of the mean

contract quantity.

D. Delivery period and events in Oct/Nov 2010

6. Clause 6 of GAFTA 49 concerns the period of delivery. In sentence [6.1] on line 30 of the form, it envisages that immediately before the words "at Buyers' call" the parties will insert the period that they have agreed upon. In the present contract a separate document set out specifically agreed provisions, including matters which the form envisaged would be inserted. It is common ground that on this separate document, the delivery period was dealt with as part of a specifically agreed provision concerning shipment:

> 16-31 October 2010, in single deck bulk carrier in one or two vessels at Buyer's option. On or before October 1st Buyer to declare one or two vessels.

7. Relevant events in October and November 2010 can be summarised:
(1) Sellers declared Yuzhny, Ukraine as the loading port. On 7 October buyers nominated MV *Pioneer Wave* giving an ETA of 16-17 October for loading about 31,000-32,000 metric tons. *Pioneer Wave* duly arrived at Yuzhny on 15 October and tendered notice of readiness.
(2) At the time of the nomination there was widespread reporting of possible Ukrainian government export restrictions in the form of export quotas for various cereal products. On 4 October Ukraine had in fact adopted Resolution 938 implementing a quota system over various exports including corn, with determination of the volume and terms of the allocation of quota for export to be advised. The resolution was not published until 19 October.
(3) On 19 October sellers advised buyers that Ukraine had published resolution 938. When doing so sellers added:

> We fully reserve all our rights and in particular those pursuant to the Prohibition Clause in GAFTA 49, which is incorporated into our contract.

(4) Also on 19 October Ukraine issued Order 661 setting a quota for corn export of 2,000,000 metric tons and prescribing the export licence application procedure. This order was not published until 27 October.
(5) In subsequent correspondence sellers told buyers that they were investigating the possibilities of obtaining a licence, adding that they could not state that shipment would be possible within the delivery period. Buyers responded that *Pioneer Wave* was ready willing and able to load the cargo, and asked sellers to take "necessary steps to load the contractual cargo as soon as possible". They added that demurrage was for sellers' account in any event. Sellers responded that they were using best endeavours to perform the contract but denied responsibility for any demurrage.
(6) During the period running up to 29 October rival stances were taken by the parties. Buyers said that *Pioneer Wave* would remain at the load port ready to load the goods. They asserted that under clause 6 of GAFTA 49 sellers were obliged to have the goods ready for delivery at any time within the delivery period, and that sellers were under a continuing liability for demurrage. Sellers answered that they had had cargo available at the loading port from the beginning of the loading period and it was not their fault that the vessel had been unable to berth before the restrictions came into operation. They stated that these circumstances constituted an exception to demurrage and they reserved their right to rely on the prohibition clause.
(7) As to how to resolve the matter, buyers proposed that they would cancel the *Pioneer Wave* charterparty and fix a substitute vessel to arrive at the load port later in the shipment period. They said that this would limit sellers' liability to buyers for demurrage, but all costs for such an exercise would be for sellers' account. The response from sellers was that they would be prepared to load a substitute vessel that conformed to the contract, but would not accept

any associated costs. They added that if they were compelled to rely on the prohibition clause they would provide all necessary proof.

(8) On 29 October buyers claimed "extension of the shipment period to 21 November in accordance with Clause 8 of GAFTA 49". Buyers further advised that they were negotiating with the owners of *Pioneer Wave* to cancel the charterparty and, if possible, would nominate a substitute vessel. They asked sellers to say when sellers would have the goods ready to load. Buyers added that the extension of delivery was to allow sellers to comply with their contractual obligations and load the goods, and thus any carrying charges would be for sellers' account.

(9) Sellers responded on 2 November stating that "the delivery period expires on 31 October 2010". They added:

> Despite our best efforts no licences have been granted for the export of the contract goods. The government restriction of exports has prevented us from effecting the delivery of any of the contract goods. By reason of the above and according to the terms of our contract, specifically the Prohibition Clause in GAFTA 49, the contract is cancelled.

(10) In response buyers on 3 November contended that the effect of their "extension" was to extend the period for delivery up to and including 21 November 2010, stating:

> … we extended the contract delivery period by 21 days in accordance with the GAFTA extension clause. In the circumstances it remains possible for you to perform the contract by shipping the contractual goods within 21 November 2010.

(11) Buyers called for confirmation by sellers that they accepted buyers' position, failing which buyers would treat sellers as in repudiatory breach. Sellers sent a response contending that buyers' extension was invalid and ineffective, and that shipment within the contract delivery period was impossible.

(12) Following receipt of that response, buyers on 5 November advised sellers that they accepted sellers' repudiatory and/or renunciatory breaches of contract, that this brought the contract to an end, and that they held sellers in default.

E. The arbitration

8. In the arbitration buyers claimed that they were entitled to damages under the default provisions in clause 20 of GAFTA 49. Sellers denied that there was any such entitlement. They said by way of defence that they were entitled to rely upon the prohibition of export provisions in clause 13 of GAFTA 49. This, they maintained, was a good defence even if the delivery period had been validly extended until 21 November. However their primary case was that buyers' claim for an extension to the delivery period was wrong. It was in this context that sellers raised the clause 8 construction issue. Clause 8, they submitted, was not intended to apply to a situation where a vessel had already arrived and was presented within the delivery period.
9. Sellers' contentions were unsuccessful both before the tribunal and before the board. As regards the clause 8 construction issue the board award stated:

> 9.12. Whilst Clause 6 of GAFTA 49 obliged Sellers to complete the nominated vessel after expiry of the delivery period provided she arrived within the period, the fact remained that unless Buyers invoked the extension clause, the contract delivery period would expire on 31 October. Throughout the execution of the contract Sellers had warned Buyers that they may be compelled to rely on the contract Prohibition Clause but as at 31 October had not done so.
>
> 9.13. There is no doubt that the introduction of an export licensing regime by the Ukrainian government caused concerns within the trade for both sellers and buyers alike. Each side had to protect their interests as they saw fit and in such

circumstances as in the subject case it was a reasonable and commercially sound action by Buyers to use the right of extension as afforded to them in the contract.

9.14. Buyers' vessel had arrived during the original contract delivery period, and as from 19 October Sellers needed to apply and wait for the Authorities to issue export licences. By 31 October, the end of the original period, the granting of such licences was still in abeyance for all applicants and thus Buyers risked Sellers' actions in relying on the Prohibition Clause, (whether rightly or wrongly), if the contract ended as at this date. Furthermore the right of vessel substitution or re-nomination was open to Buyers but would only continue if they extended the original delivery period.

9.15. There was nothing in Clause 8 of GAFTA 49 or within the written terms of the contract to qualify or limit Buyers' right of extension. WE THEREFORE FIND that Buyers' claim of extension on 29 October under Clause 8 of GAFTA 49 was valid and FIND the contract Delivery Period was extended to 21 November 2010.

9.16. On 2 November Sellers sent an email cancelling the contract on the grounds of government restrictions of exports, as falling under the Prohibition Clause, which had prevented them from effecting delivery of the contract goods and they relied on the contract delivery period expiring on 31 October.

9.17. However having found that Buyers' claim for an extension of 21 days to the delivery period was valid; the contract remained open for performance until 21 November. As at 2 November the situation as regards obtaining a licence had not changed and was still pending for all applicants. Furthermore the MV *Pioneer Wave* remained in port ready to take delivery of the goods; hence as at this date performance on Sellers' part remained a possibility. Therefore Sellers' actions on 2 November in cancelling the contract were premature and by doing so WE FIND Sellers were in repudiatory breach of the contract.

10. As explained earlier, it is on this issue alone that sellers now appeal.

F. The parties' submissions

11. Mr Rainey's opening oral submissions for sellers acknowledged that the court's approach to questions of construction of the contract must be objective, and that the "primary point of departure" must be the words used. However construction is not unswervingly literal. Construction had to be approached as a composite exercise. The background to construction would include the general nature of an FOB contract, along with this particular contract and the position of the parties as a whole.
12. Where, as here, a timely notice had been served, both the tribunal and the board had found that nothing in the written terms of the contract qualified or limited buyers' right of extension under clause 8. These findings were criticised by Mr Rainey. He recognised that sellers could not point to any express limitation or qualification in clause 8. He submitted, however that there had been a failure by the board to approach construction as a composite exercise. The board had not recognised that clause 8 was part of a group of 3 clauses, clauses 6 to 8, dealing with presentation of the vessel and loading. Moreover it had not recognised that provisions in clauses 6 and 8 were needed by buyers in order to relieve them from what would otherwise be their obligations.
13. As to those obligations, Mr Rainey cited *Benjamin's Sale of Goods*, 8th ed, at paragraph 20-050. The first part of paragraph 20-050 states:

> **20-050 Time of shipment**. It is the duty of the buyer to nominate a ship capable of loading within the shipment period and to give reasonable notice of readiness to load, or such notice as may be required by the express terms of the contract. Failure to give such notice as will enable the seller to load by the end of the shipment period, or to give notice within such time as is specified by the contract, makes the buyer liable in damages and entitles the seller to refuse to deliver, since the time of taking delivery (no less than the time of shipment) is of essence of an f.o.b. contract. …

14. Paragraph 20-050 goes on to observe that the severity of this rule may, however, be mitigated by a variety of contractual provisions, and that the cases illustrate four types of such provisions. Mr Rainey referred specifically to the first and third types identified in paragraph 20-050. The first is described in sub-paragraph (1) of paragraph 20-050 in this way:

> (1) First, the contract may require the seller to make (and the buyer to take) delivery if the ship nominated by the buyer is ready to *begin* loading within the shipment period, even though she cannot complete the process before its end.

15. The third is described in sub-paragraph (3) of paragraph 20-050 in this way:

> (3) A third, commonly found, provision is one giving the buyer an option to extend the shipment period by a further period specified in the contract, usually on condition of his paying 'carrying charges' to the seller. Such charges are regarded as the price payable by the buyer for that option and not as damages for delay in taking delivery. …

16. Mr Rainey commented that clause 6 was an example of *Benjamin*'s first type of provision mitigating the severity of what would otherwise be the effect on buyers of the rule concerning time of taking delivery. Turning to clause 8, it was common ground that it gives to a buyer the benefit of *Benjamin's* third type of provision mitigating the severity of what would otherwise be the effect on buyers of the rule concerning time of taking delivery. Mr Rainey's essential submission was that clause 8's *only* purpose and effect was to give the benefit of this third type of provision mitigating the severity of what would otherwise be the effect on buyers of the rule concerning time of taking delivery.
17. Thus, submitted Mr Rainey, what clause 8 allowed for, and all that it allowed for, was that a buyer who fears that the nominated vessel may not be presented in readiness to load within the existing stipulated delivery period can claim an extension of that period to enable it to present a contractual vessel within the extension period. Mr Rainey identified three aspects of clause 8 which he submitted demonstrated the limited purpose of the clause;

    (1) Once an extension is claimed by the buyer then (subject to the qualification at aspect (2) below) the seller carries the goods at the buyer's expense and not at the seller's. Under clause 6 the position, where a buyer is able to present its vessel in readiness to load within the original delivery period, would be that the seller must load it and any costs of having to carry the goods so as to enable loading to be completed after the period are for the seller's account. However and importantly, if a buyer is unable to present its vessel in readiness to load within the original period and has to claim an extension period within which to do so, then the first part of sentence [8.2] would have the effect that carrying expenses are borne by the buyer.

    (2) A buyer may claim an extension fearing that its vessel will not present at the load port in readiness to load within the period, for example, based on the vessel's ETA, but the vessel may nevertheless arrive within the original delivery period and present ready to load within that period. In such a case, the extension becomes unnecessary and the position reverts to that governed by clause 6: the seller must load but need not complete loading within the original period and the carrying expenses remain the seller's and not the buyer's to bear. This is the purpose of the words comprising the remainder of sentence [8.2], "unless the vessel presents in readiness to load within the contractual delivery period".

    (3) The clause itself provides in sentence [8.6] for the consequences where the buyer "fails to present a vessel in readiness to load under the extension period". If a vessel is not presented in readiness to load *under the extension period* then sentence [8.6] gives a right to the seller either to treat the buyer in default or to claim the price and deliver the goods in storage. This express provision as to what would happen if a buyer failed to present a vessel "in readiness to load under the extension period" plainly contemplates that when the option to extend was exercised the vessel would not have been presented in readiness to load. It underlines that

the extension period is the period within which the buyer, having not done so previously within the original delivery period, must now present its vessel with readiness to load. It is not an additional period to the original delivery period where the vessel was duly presented within that period.

18. I understood Mr Rainey to submit that these passages in sentences [8.2] and [8.6] were a key to unlocking the meaning of clause 8. They showed that it was dealing with a benefit to the buyer in the form of extra time to perform its obligation. If clause 8 were not linked to clause 6 and confined in that way then those words would serve no purpose.
19. Returning to his criticisms of the board award, Mr Rainey noted that the board had not suggested that clause 8 had a trade meaning. There had, he submitted, been three failings by the board. First, it had failed to consider the link with clause 6. Second, it had failed to consider the objective purpose of clause 8, and the reason why the buyer needed it. Third, the board had not dealt with the passages in sentence [8.2] and sentence [8.6] noted earlier.
20. Ms Cockerill's submissions on behalf of buyers identified three points of general application which the court must bear in mind:

    (1) It is wrong to focus on the intention of those who drafted GAFTA 49, for two reasons. First, as a matter of logic, one cannot simply infer that because situation A is plainly contemplated and provided for, situation B is not intended to be provided for. Second, the question for the court is not what those drafting the contract intended, but what meaning the document would convey to a reasonable person having all the background knowledge which would reasonably have been available to the parties in the situation in which they were at the time of the contract: see *Investors Compensation Scheme Limited v West Bromwich Building Society* [1998] 1 WLR 896, and the well known passage in the speech of Lord Hoffmann at page 912.

    (2) It would almost never be possible to determine the meaning of a contract without looking very closely at the words themselves. In that regard Lord Hoffmann in *BCCI v Ali* [2001] 1 A.C. 251 at 269 stressed that the primary source for understanding what the parties meant is their language interpreted in accordance with conventional usage.

    (3) When construing a standard form, the view of a trade tribunal with considerable familiarity with the standard form's use and function is to be given considerable weight: see *Novasen v Alimenta* [2013] 1 Lloyd's Rep 648 at [24-26], quoting *André v Cook* [1986] 2 Lloyd's Rep 200 and *Kershaw Mechanical Services v Kendrick Construction* [2006] 4 All ER 79.
21. Turning to this particular contract, Miss Cockerill stressed that the clause 8 construction issue concerned an unmodified provision in a standard form contract for use all over the world from day to day, perhaps 10 to 15 times during the day. Those who used it would not start with *Benjamin* as their reference point. Clause 8 was clear and unqualified in its terms. That, she submitted, was the end of the matter.
22. Miss Cockerill added that a limitation of the kind urged by buyers could have easily been set out in the contract.
23. More generally, Miss Cockerill characterised buyers' arguments as a contention that a clause had no role if it were sought to be invoked outside "the usual contingency". Miss Cockerill asked rhetorically what might happen in circumstances other than "the usual contingency". For example, a vessel might arrive in the delivery period but then break down. Or the position might be that for whatever reason the vessel had failed to load, and buyers nevertheless wanted the goods. In both these circumstances buyers might wish to substitute a new vessel for the one they had previously nominated. Sentence [6.4] of clause 6 gave to a buyer the right to substitute the nominated vessel. Why, she asked, should buyers not be entitled to use the extension provision to enable them to utilise their right of substitution? What parties wanted was certainty, not a process under which before invoking the clause it was necessary to ask whether the particular case fell within "the usual contingency".

24. Turning to Mr Rainey's reliance upon sentences [8.2] and [8.6], Miss Cockerill submitted that the parties should not need a key in order to understand the clause. In circumstances to which they applied, the provisions in sentences [8.2] and [8.6] would have the effect that they described. That was no reason to give the operative words of the clause anything other than the clear meaning.
25. In reply Mr Rainey submitted that Miss Cockerill's criticisms were unfounded. The construction propounded by sellers was a functional construction. There was, submitted Mr Rainey, an obvious relationship between clause 6 and clause 8: clause 8 was there in case the buyer needed an extension. If the option under clause 8 was exercised, but was not needed, then sentence [8.2] applied. As to sentence [8.6], it showed that clause 8 was concerned only with the position where the buyer did in fact need an extension. The simple meaning of the clause was that it was to provide an accommodation enabling buyers to do what they had to do. What buyers had had to contend in order to meet the points on sentences [8.2] and [8.6] was to suggest that they were in some way "subsidiary", but clause 8 was a complete code. It was wrong to present the matter as if sentence [8.1] was the clause, and remaining sentences were just "add-ons". As to Miss Cockerill's examples of circumstances outside "the usual contingency", it was very unlikely that the parties intended a right of extension for purposes other than the paradigm. Alternatively, submitted Mr Rainey, they simply showed that the option to extend could only be used where a buyer required more time to perform its obligations.
26. Replying on Miss Cockerill's three general points, Mr Rainey took them in reverse order. While it was right that in appropriate circumstances the views of a trade tribunal should be given considerable weight, one could only take deference so far. The present was a case where one could genuflect to the arbitrators and move on. As to the meaning conveyed to a reasonable person and the need to focus on the words used, construction is not a literal exercise – indeed, submitted Mr Rainey, commercial construction is the enemy of literalism. It would be wrong to look at clause 8 with blinkers, without regard to its commercial purpose.

G. Analysis

27. As noted earlier, it is common ground that clause 8 gives to a buyer the benefit of the third type of provision identified by *Benjamin*. Undoubtedly it may operate to mitigate the severity of what would otherwise be the effect on buyers of the rule concerning time of taking delivery. In this appeal Mr Rainey has mounted a careful and sustained argument in support of his contention that this is clause 8's only purpose and effect. However, despite his careful and forceful submissions, I am not persuaded that Mr Rainey's contention is correct.
28. Mr Rainey submitted that commercial construction was "the enemy of literalism". I agree with this in the sense that a commercial construction will generally be hostile to technical interpretations and undue emphasis on niceties of language (see the observations of Lord Steyn in *Mannai Investment Co Ltd v Eagle Star Life Assurance Co Ltd* [1997] AC 749 at 771A-B). I add that "technical" here does not mean "trade". However it does not seem to me that either the board or the tribunal adopted a "technical" interpretation of the kind that Lord Steyn had in mind. Nor did either of them place any emphasis, let alone undue emphasis, on niceties of language.
29. I agree with Mr Rainey that the three aspects of clause 8 he identifies plainly demonstrate a link between that clause and clause 6. It does not follow that clause 8 is solely concerned to mitigate what would otherwise be the effect of clause 6 in conjunction with the rule described in *Benjamin* paragraph 20-050. To my mind the link is one which must necessarily exist, because if provision is to be made in an f.o.b. contract for an extension – for whatever reason – then there will have to be some modification of the provisions about time of delivery. In the case of GAFTA 49 that means that the extension of delivery provision in clause 8 must dovetail with the period of delivery provision in clause 6.

30. Thus Mr Rainey's aspect (1) is no more than sensible commercial give and take. If a buyer is to have the benefit of an extension then the commercial position arrived at is that the buyer must forgo its entitlement to require the seller to pay carrying charges. Aspect (2) is no more than a refinement of the commercial consequences of an extension under aspect (1). Identification of these commercial consequences carries no logical inference that the purpose and effect of the extension clause is circumscribed.
31. Mr Rainey's aspect (3) concerns the words "under the extension period" in sentence [8.6]. I agree with Mr Rainey to an extent. I acknowledge that if literally construed the words might indicate an assumption that when the option to extend was exercised the vessel would not have been presented in readiness to load. I also agree with Mr Rainey that the court must look at the words used with regard to their commercial purpose. As regards that commercial purpose, it seems to me that the phrase "under the extension period" is no more than shorthand for "within the delivery period as extended by the extension period". The use of such a shorthand does not, as it seems to me, detract from the meaning which the first part of sentence [8.6] would reasonably be understood as conveying: namely that where by the end of the extension period there had been a failure to present a vessel in readiness to load, then the seller is to have the option described in the second part of that sentence.
32. Accordingly I conclude that sellers' arguments provide no sound basis for departing from what sentence [8.1] of clause 8 appears to say on its face: where a timely notice is served, there is an unqualified right of extension under clause 8. I reach that conclusion without needing to place reliance on the general aspects and particular matters identified by Ms Cockerill. In that regard I observe only that Ms Cockerill was plainly right to stress that the clause 8 construction issue concerned an unmodified provision in a standard form contract used, and intended for use, all over the world from day to day.
33. The purpose of this particular standard form contract is to enable traders to make contracts speedily. I consider that where there are clear and unqualified words in such a contract, if it would not be obvious to a trader that they have a limited meaning, then there would have to be a most compelling case before the court could properly read down the words in question. Had it been necessary, I would have decided against sellers on this basis.

H. Conclusion

34. For the reasons given above I find against the sellers on the clause 8 construction issue. The result is that both questions on the appeal must be answered "yes", and the appeal must be dismissed.