



09 April 2026

COMMODITIES IN FOCUS WEEKLY - ISSUE 163

NOMINATION, DELIVERY WINDOWS AND WHATSAPP WOES: FINCO V INTEGRA

INTRODUCTION

In **Finco International AG v Integra Petrochemicals Europe AG** [2026] EWHC 727 (Comm), handed down on 27 March 2026, the Commercial Court was asked to unravel a sharp dispute arising out of a methyl tertbutyl ether (“**MTBE**”) cargo sale that went awry – at least for the buyer.

The Court was asked to consider the application of the BP GTCs, notably to: (i) the relevance of a contractual variation from DES to CIF; and (ii) questions of nomination and rejection.

FACTUAL BACKGROUND

Under a recap dated 4 October 2023, Integra sold and FinCo agreed to buy 10,000 MT of MTBE for “*Delivery: DES ARA*”. The contract terms as initially agreed also included “*Delivery dates: 10 - 24 November 2023*” and incorporated v.1.2 of the BP Oil International Limited General Terms and Conditions for Sales and Purchases of Crude Oil and Petroleum Products (the “**BP GTCs**”).

Under the recap, “ARA” was the discharge range. Although not named in the recap, FinCo’s

intended discharge terminal was the GES terminal in Amsterdam.

On 5 October 2023, Integra nominated the M/T ‘ARAMON’ (the “**Vessel**”), a long-range vessel, as the performing vessel, by email. The nomination complied with section 14.2.1 of the BP GTCs and included the vessel’s dimensions. FinCo’s trader, realising the GES jetties could not berth a long-range vessel of that size, immediately began messaging Integra’s trader on WhatsApp to say a medium-range vessel would be “*much preferred*” and that a long-range vessel “*won’t fit to the jetty*”.

By an email on 6 October 2023, the parties amended the recap delivery term from “*DES ARA*” to “*CIF ARA*”, with payment to be made against loading documents under a standby letter of credit. No change was made to the “*Delivery dates: 10 - 24 November 2023*”. The email recording the change closed: “*all else is the same*”.



Correspondence between the parties continued, with FinCo's operations team sending emails saying their customer was "still checking" the vessel, and that it would be "very difficult" to discharge a long-range vessel at GES. Integra, for its part, confirmed it could not swap to a medium-range vessel but was prepared to explore an STS transfer and barge-based discharge in Amsterdam.

The parties did not reach a formal agreement on nomination and the Vessel eventually loaded the MTBE in the Persian Gulf on 24 October 2023, with a bill of lading naming FinCo as notify party and "ARA" as port of discharge. At the time of loading, the vessel's ETA was around 17 November, comfortably within the 10–24 November range. Subsequent delays pushed the ETA out. By 22 November, Integra was advising an ETA of 27 November. Meanwhile, the parties continued to exchange emails about barge nominations and logistics relating to the GES terminal.

On 25 November 2025, with the original delivery window having just expired and the Vessel still en route, FinCo emailed a notice purporting to terminate the contract on the basis that Integra was in repudiatory and/or renunciatory breach for:

- (i) failure to "deliver" within the 10 - 24 November window under the contract; and/or
- (ii) failure or refusal to nominate a suitable vessel once FinCo had rejected the Vessel.

Integra continued with the voyage, tendered NOR at Amsterdam on 27 November, and, when FinCo would not perform, drew down the price under the standby letter of credit. It resold the cargo in mid-December 2023 and remitted the net sale proceeds to FinCo, after deducting freight, hedging and other resale costs.

FinCo sued to recover approximately US\$ 2.66m. The Judge had two main questions to deal with:

1. what effect the move from DES to CIF terms had on the contractual "delivery dates", given the BP GTCs; and
2. whether FinCo had in fact validly rejected the Vessel under section 14 of the BP

GTCs so as to put Integra in repudiatory breach when it continued with that vessel.

The Commercial Court was asked to decide whether, on a proper construction of the BP GTCs and the recap, FinCo was entitled to terminate and was, accordingly, owed damages.

WHAT BECAME OF THE "DELIVERY DATES" UNDER THE CIF SALE?

Had the contract remained DES ARA, late arrival at the discharge terminal after 24 November would have been a breach of a condition, time being of the essence under the BP GTCs. Once the parties chose CIF ARA, the obligations shifted.

The BP GTCs differentiate between DES and CIF as delivery takes place at different ends of the transportation process (the BP GTCs have separate sections dealing with parties' obligations under the respective Incoterms).

In the present case, the recap did not specify loading laydays; it simply stated, "Delivery dates: 10 - 24 November 2023". It was common ground that at the time of loading, the Vessel's ETA in Amsterdam was around 17 November 2023.

FinCo's position was that:

- + the DES-style delivery window survived the CIF amendment;
- + the amendment was for financing purposes only and did not alter the nature of the delivery obligation; and
- + there was nothing in the wording of the amendment or the recap that said the dates were now "indicative" or that section 11 BP GTCs (concerning indicative discharge dates) would apply to them.

Integra's arguments were that:

- + the delivery dates became loading dates; alternatively
- + once the parties had changed the delivery term to CIF ARA, Part 2 of the BP GTCs applied, including section 11. The "delivery dates" of 10 - 24 November were plainly a range of dates indicating when the vessel would arrive at the



discharge terminal. They therefore operated, by virtue of section 11.2, as an “*Indicative Discharge Date*”, and under section 11.3 they were “*indicative only*”.

Integra’s primary argument did not persuade the Court as it would have produced a result that was commercially improbable. However, the Judge accepted the analysis in the alternative argument, finding that the DES-to-CIF amendment was not a superficial change; it brought the contract into the CIF framework of Part 2, including section 11.

The “*all else is the same*” phrase in the CIF amendment did not rescue FinCo. The Court regarded that as trader shorthand, not as a contractual carve-out from the BP GTCs. Once the parties agreed “CIF ARA”, the BP GTC machinery on CIF sales governed the effect of the “*delivery dates*”.

On the evidence, Integra had done what section 11.3 required: the Vessel tendered NOR at the loading port on 24 October 2023 with an ETA “ARA” comfortably within the 10 - 24 November window. The subsequent slippage in arrival was neither a breach nor a renunciation. FinCo’s first ground of termination therefore failed.

NOMINATION, REJECTION AND THE 1-DAY TRAP

The second issue turned on section 14 of the BP GTCs and the parties’ communications around the Vessel.

Section 14.2.1 BP GTCs required Integra to nominate a performing vessel, which it did by email on 5 October 2023, supplying all required details including length and ETA. Subsequently, section 14.6 BP GTCs provided that:

- + the buyer “shall give notice accepting or rejecting any Vessel nominated” within one business day of receipt of nomination (s.14.6.1);
- + the buyer has the right to refuse a nominated vessel “on any reasonable grounds”, exercisable only before property passes (s.14.6.2); and
- + even if previously accepted, the buyer may reject a vessel on any reasonable grounds if new information emerges or there is an incident, again, exercisable only before property passes (s.14.6.3).

FinCo contended that these provisions conferred three distinct rights. Even if no rejection was given within one business day, it said, s.14.6.2 preserved a free-standing right to reject later, provided there were reasonable grounds and property had not yet passed.

Integra argued that s.14.6.2 merely defined the content of the s.14.6.1 right of rejection - namely, that it had to be exercised on reasonable grounds and before property passed. If no rejection was notified within one business day, the vessel was treated as accepted, subject only to the possibility of later rejection under s.14.6.3 where something new occurred.

The Judge preferred Integra’s construction. He pointed out that FinCo’s reading left the grounds for rejection under s.14.6.1 undefined and rendered the one-day deadline largely ineffectual. That was hard to reconcile with the emphasis on speed and certainty elsewhere in section 14, particularly in s.14.4’s matching one-day timeframe for discharge terminal nomination and approval.

Further, the key communications within that period were WhatsApp messages. Section 70.4 BP GTCs states that “*notices may not be given by instant messaging*”.

The Judge treated the notice provision as clear and deliberate. The fact that traders like to use WhatsApp did not override the contract.

The formal nomination of Vessel had been sent by email; the standby letter of credit and, later, FinCo’s termination notice were also sent by email. The parties knew the difference.

The WhatsApp messages therefore could not, as a matter of contract, amount to a notice of rejection under s.14.6.1 and FinCo’s subsequent delays meant that the right to reject had been lost. There was no freestanding s.14.6.2 right that survived beyond that point.



REASONABLENESS

The Judge went on, in case he was wrong about timing, to consider whether the Vessel length and GES's jetty constraints could have been "reasonable grounds" for rejection. He accepted that in principle they could.

However, the Judge found, as a matter of fact, that there was a telephone call on 10 October 2023 between the relevant traders in which they discussed practical solutions to the length issue.

Accordingly, the Judge found that any subsequent rejection would have been unreasonable.

ESTOPPEL

Finally, there was the broader question of how the parties actually behaved between mid-October and late November 2023. The Judge found that they proceeded on a common assumption that the contract would be performed by shipping on the Vessel to ARA, using barges to reach GES. FinCo requested loading updates and ETAs, received the bill of lading naming it as notify party, confirmed GES as the discharge terminal, and provided technical approval for barges. Integra loaded, sailed and fixed barges.

If, as FinCo later argued, that course of performance was technically inconsistent with the "true" contract position, the Judge considered that FinCo would be estopped by convention from relying on that inconsistency to justify termination. It would be unconscionable for FinCo to treat performance in accordance with the shared working assumption as a repudiatory breach.

Stepping back, he saw nothing in Integra's conduct that could be characterised as renunciatory. On the contrary, it was doing exactly what a seller determined to perform its contract would do.

CONCLUSION

The Judge held that Integra was entitled to draw the contract price under the standby letter of credit, and FinCo's claim for restitution and damages was dismissed.

For commercial parties, **FinCo v Integra** offers the following clear takeaways:

- + If parties want arrival or delivery by a fixed date under a CIF contract, that must be made explicit in the contract.
- + Where a contract provides for a short period within which to exercise a right, parties must act quickly and clearly within the stated time frame.
- + If your contract excludes instant messaging for notices, operational teams must follow up with formal notice.
- + If both sides perform on the basis of a shared "working assumption", it will be hard later to argue that the continuing performance was, nevertheless, a breach.

AUTHOR



NEERAJ MELWANI

Associate

+ 44 20 7809 2697

neeraj.melwani

@stephensonharwood.com