In the Matter of the Arbitration between

Itec Refining & Marketing Company

and

Astra Oil Company LLC

Under a Commodity Sales Contract dated August 3, 2010

FINAL AWARD
March 28, 2013

Panel: A. J. Siciliano; Jack Berg; David P. Langlois, Chairman

Counsel: Freehill Hogan & Mahar LLP, for Itec Refining & Marketing Company
William L. Juska, Jr., Esq.

Cichanowicz, Callan, Keane, Vengrow & Textor, LLP, for Astra Oil Company LLC
James M. Textor, Esq.

Introduction

Itec Refining & Marketing Company ("Itec"), through its President, Mr. Chet Perry, entered into a contract dated August 3, 2010 with Astra Oil Company LLC ("Astra") represented by Andre Raposo, its principal ethanol trader, for the sale by Astra to Itec of 1,200,000 gallons of fuel grade ethanol. The contract provided that Itec would open a documentary letter of credit at a bank and in a form acceptable to Astra.[1] On August 17, 2010, Astra terminated the contract for the stated reason that Itec had failed to open an acceptable letter of credit. Itec commenced this arbitration to recover damages for the wrongful termination of the contract.

The Arbitration and Hearings

The contract document signed by both Astra and Itec provided that the contract would be governed by the laws of the State of New York and that any dispute would be resolved by

[1] In this Award, we refer to a "documentary" letter of credit to differentiate that from a "standby" letter of credit. A "documentary" letter of credit more properly is a "commercial" credit. In this matter, the parties consistently used the terms "documentary" and "standby" and we thus conform to the terminology adopted by the parties.

arbitration in New York City in accordance with the Maritime Arbitration Rules of the Society of Maritime Arbitrators Inc. of New York. Itec demanded arbitration and appointed A. J. Siciliano as arbitrator. Astra responded by appointing Jack Berg as arbitrator. Thereafter, counsel jointly chose David P. Langlois to serve as the third arbitrator and panel chairman.

Hearings were held on February 14, 15 and 16, 2012. In its case, Itec presented Chet Perry, its President and James Byrne, Professor, George Mason University School of Law, appearing as an expert concerning letter of credit practice. Itec further provided sworn statements from Bunge (London) personnel. Astra presented Andre Raposo, its ethanol trader, Ms. Kari Burke, its Chief Financial Officer and Vincent Maullela, international trade specialist, as its expert with respect to letters of credit. Both parties submitted voluminous documentation.

Issues Raised by the Parties

The principal issues raised in this arbitration relate to the negotiation of the sales contract, interpretation of that portion of the contract which called for a documentary letter of credit acceptable to Astra, the subsequent post-contract Astra credit demands and whether Itec had complied with its obligations. According to Itec, Astra engaged in a pattern of unreasonable and bad faith demands that culminated in the wrongful termination of the contract. Itec contends that it established a proper and enforceable letter of credit in Astra's favor, timely responded to all of Astra's requests for changes, whether or not reasonable, and in consultation with its counterparty (Bunge, London) proposed a number of reasonable alternatives to alleviate Astra's stated concerns and preserve the contract, all of which Astra rejected. In Itec's view, Astra violated the duty of good faith and fair dealing inherent in all contracts by demanding amendments to letter of credit terms which were commercially unreasonable and failed to respond to the several reasonable alternatives Itec proposed to preserve the transaction.

In response, Astra relies almost entirely on the contract requirement for Itec to provide a documentary letter of credit in a form acceptable to Astra. Astra asserts that even after a contract is signed, its credit risk personnel have final say regarding post-agreement credit payment risk evaluation. To Astra, the Sale Confirmation confers upon them sole discretion over whether to accept or reject any proposed letter of credit. Here, Astra points to credit risk concerns, as perceived by them, to justify the several post-agreement demands made upon Itec and the eventual termination of the sale.

Background Facts

On July 30, 2010, Raposo made a firm written offer to Perry for the sale of fuel grade ethanol, 1.3 million gallons, with payment by means of a documentary letter of credit. Raposo testified that he knew Itec was not a user and that the purchase was "a back-to-back deal" with a counterparty. Discussions continued and on August 3 Astra confirmed the sale to Itec of 1.2 million gallons of undenatured fuel grade ethanol at a fixed price of $1.912 per gallon to be delivered FOB at Texas City, Texas. The parties agreed that payment would be by a documentary letter of credit in a format and at a first class bank acceptable to Seller.[2]

Various aspects of that "Sale Confirmation" were discussed between the parties resulting in some minor changes. An early draft from Astra contained a provision for a letter of indemnity ("LOI") to allow Astra to draw on the credit by presenting an LOI in lieu of shipping documents. However, that condition was eliminated when the parties agreed that Astra rather than Itec would appear as exporter of record. A new Sale Confirmation was transmitted removing any reference to an LOI and providing for payment by documentary letter of credit. The Sale Confirmation eventually was signed by both parties on August 5 and became the contract between Itec and

[2] Astra contended that a documentary letter of credit was a departure from Astra's usual requirements for a standby letter of credit.

Astra. (Concurrent with its purchase from Astra, Itec resold the cargo to Bunge against a documentary letter of credit terms requiring presentation of the usual shipping documents.)

In the signed Sale Confirmation, Astra designated Andre Raposo as the commercial contact, Elisa Fabian as the operations contact and Nicole Hutchins as the finance contact for the contract. Itec designated Valerie Leutscher as a contact.

On August 5, Bunge nominated the vessel GOLDEN YOSA to Itec which Itec in turn nominated to Astra. The Sale Confirmation called for FOB shipment/delivery at Texas City, Texas during the period August 8-31, provided the Buyer gave a ten day notice of five day "loading laycan". As the GOLDEN YOSA was scheduled to be in Houston on August 7, Itec asked if the loading schedule could be advanced to August 11.

Despite the signed contract, as early as August 6, Raposo requested use of a standby letter of credit. Perry declined and explained that the entire supply chain must be credit conforming with identical documentary support for all letters of credit in the chain. A standby letter of credit would not provide the necessary documents in the supply chain. The parties then confirmed again that there would be a documentary letter of credit as provided in the signed contract.

On August 6, Ms. Hutchins, sent Itec what she represented to be an acceptable draft documentary letter of credit text which specified that the bills of lading would be to the order of "blank endorsed". After reviewing the draft, Itec's personnel pointed out that the letter of credit text should also include the agreed cargo specifications. Relying on that "acceptable" text, Itec instructed BNP Paribas to open a documentary letter of credit in favor of Astra and sent a copy of the instruction to Hutchins.

The Request to Identify Itec's Customer and the Buyout Proposal

Late on August 6, Mr. Raposo asked Mr. Perry if he could disclose his receiver commenting "if you wish to disclose their name and I have done business with them I will be able to show you that they have also adhered to our format in the past" (referring to a standby letter of credit). Mr. Perry declined to reveal his client. Mr. Raposo testified that "... as Itec was having problems to obtain Astra credit risk approval", he then offered to sell the cargo directly to Itec's receiver and pay Itec its profit thereby taking Itec out of the transaction. No evidence was presented that Itec was having problems obtaining Astra credit risk approval nor is there any evidence that Itec's profit margin was disclosed or then known to Astra. Raposo's suggestion generated a heated response from Perry who testified that he had been working for months negotiating a spot contract hoping to obtain a long term contract with Bunge for its anticipated sales to Shell in the Philippines. Astra's offer to buy out Itec appears out of place at that point in the contract process.

Although Ms. Hutchins was the designated financial contact for Astra, on August 7, Ms. Kari Burke, Astra's Chief Financial Officer interposed herself in the transaction asking to review the letter of credit. Burke asked Raposo to explain all sale terms and identify who controlled the bills of lading. Raposo responded that Astra would be the exporter of record and therefore in control of the bills of lading. Despite that assurance, Burke told Raposo that she would insist on a standby letter of credit as was Astra's norm when selling FOB at a U.S. port. She apparently did not consult the signed contract and was not then aware that Raposo had agreed to a documentary letter of credit. Internal Astra communications followed. Hutchins likewise agreed that a standby letter of credit was appropriate, but did not tell Burke that she had already sent to Itec the format for an acceptable documentary letter of credit.

August 9: By this time the GOLDEN YOSA had arrived and laytime was counting. Astra's operations person, Elisa Fabian, stated that, in Astra's view, Itec had not yet complied with the agreed contract. Consequently, Astra could not maintain the designated loading window but would require the contract's full ten days' notice of the vessel's nomination. On this basis, the earliest loading date would be some nine days later or August 18. Astra, however, said it would consider the possibility of earlier loading once a letter of credit was opened in a format acceptable to Astra.

August 10: As requested by Itec, BNP Paribas (Geneva) issued its documentary letter of credit in favor of Astra that Professor Byrne, Itec's expert, testified was a fully operative and enforceable letter of credit that conformed to the "acceptable" format provided by Astra. Notwithstanding that the LOI had been negotiated out of the required documentary letter of credit, Hutchins advised Itec that Astra would now need an LOI as a substitute drawdown mechanism for delayed or missing bills of lading. However the draft LOI sent by Hutchins was far broader. It allowed for an LOI to cover not only missing bills of lading but all shipping documents required under the Sale Confirmation. Itec objected and explained to Hutchins that the LOI clause was inappropriate because Astra was the designated exporter of record and therefore would control the bills of lading. Hutchins nonetheless continued to insist that an LOI clause be added to the letter of credit. In an effort to accommodate Astra, Itec asked Bunge whether it would amend its letter of credit to conform to what Astra was now requesting of Itec. On that same day, Raposo requested that Moran Shipping, Astra's agents, be appointed as protective agents and responsible for issuing the bills of lading. Astra's stated fear was that somehow, even as shipper and exporter of record, they would not get the vessel bills of lading.

Perry noted any designation of Moran Shipping must be approved by both his customer and the vessel owner.

August 11: Itec confirmed to Astra that Bunge was its counterparty. Thereafter, Raposo, thought it necessary to telephone Bunge (Houston), ostensibly to "work things out". He testified he was worried that Astra was being maligned by Itec and wanted Bunge (Houston) to have Astra's version of the events.[3] Despite being told that Bunge (Houston) was not Itec's Buyer, Raposo, nevertheless, felt obliged to advise Bunge (Houston) that Itec was having credit problems.

Itec had been forwarding all of Astra's LOI requests to Bunge (London), its actual counterparty, for its consideration. Noting Astra's latest bill of lading concerns and its request to appoint Moran, Bunge suggested using mates' receipts[4] as the document necessary to draw under the letter of credit, rather than bills of lading. Itec passed that suggestion on to Astra but Raposo refused to consider using mates' receipts nor did he discuss the issue with Astra's agents, Moran Shipping, to learn whether that would be a viable alternative to bills of lading.

As indicated above, the loading vessel had already arrived but the terminal had no instructions from Astra to load the GOLDEN YOSA, nor was SGS able to determine whether or not the cargo stem was in place. Itec sought Astra's permission for SGS to sample product in the terminal and for Astra to confirm the loading to the vessel agent. Itec noted that if the stem did not exist at the terminal the charter party might have to be cancelled to mitigate losses. Astra's Ms. Kari Burke then advised that the bills of lading must be consigned to the order of Astra Oil Company or alternatively, Itec could simply prepay for the cargo. Astra then also demanded the contract be amended to provide that "buyer and vessel owners agree to nominate Moran

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[3]No evidence was presented that Itec had been in contact with or given any misinformation to Bunge (Houston).
[4] Which would confirm the quantity loaded.

Shipping Agencies as protective agent for Seller and bills of lading will be signed by nominated protective agent Moran Shipping Agencies on behalf of vessel master. Upon signature, protective agent shall release a full set of bills of lading to Seller for payment purposes" (emphasis added). Astra transmitted a contract amendment to this effect along with more changes on consignment of the bills of lading to BNP Paribas. By then the vessel had been waiting for nearly four days with no assurance from Astra whether or when the vessel would be loaded. Perry pointed out that the appointment of Moran required vessel owner's consent. Raposo rejected any such proviso and demanded the contract amendment. Itec put Astra's latest demands to its bank and through Bunge to the vessel owner. BNP Paribas refused because changing the letter of credit "issued to order and endorsed to BNP Paribas" is not permissible under the Uniform Customs and Practices. The bank explained that bills of lading cannot have a blank endorsement after the initial endorsement by the shipper. The vessel owner, however, did agree that Moran, as protective agents, could draft bills of lading provided all supply documentation required to comply with U.S. customs export requirements, e.g., certificate of quality and quantity, are presented with bills of lading for signature by its agent. Raposo rejected both the bank's and shipowner's responses.

In the midst of this, Perry was still communicating with Bunge concerning the letter of indemnity proposed by Astra. Astra had said it had no intention to use the LOI unless release of the bills of lading was unreasonably delayed. That prompted Bunge to ask Perry to determine what Astra considered to be an unreasonable delay and whether it (Astra) would agree not to draw under the LOI for "X" days. Raposo immediately retorted that "this would not be accepted, that there could not be a time frame in respect to the LOI".[5]

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[5] Whereas, Astra's internal deal sheet called for payment two (2) days from the bill of lading date.

Raposo continued to be uninformative, but warned Itec that the deadline for opening the acceptable letter of credit was 10:00am on August 16. (That message was sent at 9:54am, just six minutes prior to the deadline.)

Continuing its efforts to satisfy Astra, Itec informed Ms. Burke that its bank could accept an LOI if countersigned by Astra's bank. Burke reacted immediately, stating that Astra does not get their letters of indemnity countersigned and had no bank line that allows them to do so. However, in her testimony, Burke conceded that she made no effort to contact her bank to see whether a countersigned LOI was even possible.[6]

Ignoring the documentary letter of credit issued by BNP Paribas six days earlier, Raposo issued a formal notice that Itec had failed to perform by not having opened a documentary L/C in a format acceptable to Astra.

Itec continued to try to satisfy Astra. With the consent of Bunge, Ms. Luetscher then offered to open a standby L/C as had been earlier sought by Raposo, Hutchins and Burke. But this too was rejected with Ms. Burke saying that notwithstanding their previous position, Astra now preferred to stay with the documentary letter of credit.

On August 17, Raposo issued a notice that the contract was terminated. Itec nonetheless still continued to try to maintain the contract. This time, as suggested by Bunge, Luetscher proposed to Burke an immediate in-tank transfer of the ethanol with payment to be made within three days. Itec in effect now offered to prepay while the cargo was still in Astra's leased tanks at Texas City. Ms. Burke refused the offer, later testifying that Astra had neither the privilege

[6] In this respect, the parties' experts expressed somewhat different opinions. Astra's expert, Maullela, said U.S. banks do not sign LOIs but acknowledged that European banks do. Professor Byrne reported that LOIs could be countersigned and the cost would not be expensive. Luetscher herself informed Burke that BNP Paribas charges Itec $1,000 for countersigning an LOI.

nor means to effectively do so. We were offered no evidence that Astra made any effort to accommodate an in-tank transfer.

The Parties' Damage Claims

Following Astra's termination of the contract, Itec incurred significant expenses. To meet its obligations to Bunge, Itec attempted to locate a replacement cargo in the U.S. Gulf, but was unsuccessful. Bunge accordingly cancelled the GOLDEN YOSA charter. Itec also attempted to locate a replacement cargo in the Far East which was Bunge's intended delivery destination but was unable to do so. Bunge eventually located a supplier in Rotterdam and purchased a replacement cargo at an increased price differential of $316,774.41 which it charged Itec. Itec paid that differential to Bunge on October 15, 2010. Due to the cancellation of the charter, Bunge became liable for dead freight in the amount of $235,000, as well as demurrage of $37,916.44 for the ship's time waiting at Texas City.

To carry the cargo from Rotterdam to the Far East, Bunge chartered the vessel GOLDEN MIA, at an increased rate of $63,900 above that payable for the GOLDEN YOSA. We have seen evidence that Bunge invoiced Itec and that Itec promptly paid all of these extra costs to Bunge. Finally, in addition to the $653,590.85 paid to Bunge, and $9,978.00 paid to SGS, Itec lost profits of $90,000 on the purchase from Astra and resale to Bunge, which it likewise seeks to recover from Astra.

Astra has not sought damages because it merely delivered the ethanol to a different customer approximately one week later at no loss. Although it does not challenge any of the damages claimed by Itec, Astra does contend that its liability should be capped at $90,000. In this connection, Astra refers to Raposo's August 6 proposal to sell the product directly to Itec's then undisclosed counterparty and to pay Itec whatever profits it would have earned, Since it is

now known that Itec's lost profit was $90,000, Astra argues that any award of damages to Itec should be limited to $90,000. We respectfully disagree.

When made, the buyout offer was neither quantified nor did it address or attempt to compromise a then existing dispute. Indeed as of August 6 there were no discernible disputes between Itec and Astra. On the contrary, pursuant to the parties' agreement, on Friday August 6, Ms. Hutchins sent Itec the "acceptable [Documentary] L/C format" calling for bills of lading to be "issued to the order of (blank endorsed)". On instruction of Itec, BNP Paribas Geneva promptly issued a conforming letter of credit to Astra on the following Tuesday, August 10. Thus, Astra had no basis for concern that Itec was financially incapable of completing the transaction.

We choose not to speculate on the reasons why Raposo made the August 6 buyout offer, but we are satisfied it was not prompted by any matured deficiency on the part of Itec. Further, we have no evidence that the offer was renewed at any time after August 10, when differences regarding the acceptable LC format posted by Itec emerged. We cannot and do not agree that Raposo's unquantified offer to resolve a non-existing dispute operates to limit Astra's exposure to Itec's damages.

Both parties seek recovery of attorneys' fees and costs.

DISCUSSION

The parties collectively presented a great deal of documentary evidence, testimonial evidence and sworn statements, all of which have been carefully studied. In the Panel's view, the BNP Paribas (Geneva) documentary letter of credit issued in favor of Astra was consistent with the "acceptable L/C format" provided by Hutchins. Thus, Itec had timely satisfied its contract obligation and the many subsequent demands for changes by Astra must be treated as

post agreement requests and judged by the standards of good faith and commercial reasonableness.

The overarching principle of contract law in New York is set forth in Uniform Commercial Code §1-203: "Every contract and duty within this Act imposes an obligation of good faith in its performance or enforcement." This common law principle preceded New York adoption of the Uniform Commercial Code. See for example, *M. O'Neil Supply Co. v. Petroleum Heat & Power Co.*, 280 N.Y. 50 (1939); *Wigand v. Bachman-Bechtel Brewing Co.*, 222 N.Y. 272 (1918). The Code further defines good faith at Section 2-103 specifying that "good faith" in the case of a merchant means honesty in fact in the observance of reasonable commercial standards of fair dealing in the trade.

In his opinion, Professor Byrne likewise opined:

> "Under international standard commercial and letter of credit practice, the standard by which the performance of a contract is to be measured is that of good faith. While there is no general requirement of good faith in the negotiation of the contract, once the parties have agreed to purchase and sell goods, they are obligated to behave in good faith in the performance of their obligations. Performance would include performance of the payment obligations which would include reaching agreement on the payment terms.
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> Further, the principle of good faith is fundamental to commerce and to letters of credit. It is based on the supposition that commercial parties do not enter into contract transactions in order to litigate but to perform and that they must act towards one another in a manner that permits fulfillment of the reasonable commercial expectations reflected in the contract and agreements of the parties." (Para. 31.)
>
> "There must be a legitimate commercial reason for [a party's] behavior or position. Phrased another way, totally arbitrary behavior without any commercial justification is not in good faith."

He further opined that the intent of a party is to be measured by its consonance with reasonable commercial standards of fairness. Arbitrary behavior without any commercial reason or justification is neither commercially reasonable nor fair and is not in good faith.

We accept Professor Byrne's opinion which comports with applicable case law, for example, *Bank of China v. Chan*, 937 F2d 708, 789 (2nd Cir. 1991); *Porter v. Wertz*, 53 NY2d 696 (1981). We therefore look to see whether the parties were commercially reasonable in dealing with each other and whether reasonable standards were followed in the performance, execution and termination of the sales contract.

In view of (a) the contract between the parties; (b) the "acceptable" format for a letter of credit provided by Astra's designated finance person; and (c) the opening of a conforming letter of credit by a first class bank, we conclude that Itec did in fact open a letter of credit in an acceptable form and thereby met its contractual obligations. Notwithstanding, Astra contends it had a continuing right and sole discretion to determine what is acceptable to it. A number of factors limit such unrestrained discretion on Astra's part.

First, the August 6, 2010 email from Astra did in fact establish the acceptable format for a letter of credit. Itec in good faith secured a documentary letter of credit from BNP Paribas conforming to that format. From that point forward, Astra had no right to any changes because that would be tantamount to a right to unilaterally modify the contract

Second, ignoring that it had already been tendered what it deemed acceptable, Astra contends it continued to have the unfettered right and sole discretion to decide what was acceptable. In light of the overarching obligation of good faith inherent in the Code and in letter of credit law, whatever changes Astra sought from Itec had to be within the confines of reasonable commercial standards.

Astra's professed fear that it would not get bills of lading for the product were not only unreasonable but sorely misplaced. The loading vessel belonged to a respected shipping company and Astra was the exporter of record, thus, the shipper. The Carriage of Goods by Sea

Act at 46 USC Appendix §1303 requires the carrier or the master or agent of the carrier on demand of the shipper to issue bills of lading to the shipper. Astra provided no evidence it faced a genuine risk that the vessel would not issue the bills of lading to it. Moreover, as the supplier of the ethanol, Astra had the opportunity to obtain the certificate of origin and the right to instruct SGS to prepare certificates of quantity and quality. Needless to say, the cargo loading was to take place in Texas City, Texas in the full protective view of reputable agents, not in some obscure backwater foreign port.

Astra's other demands were plainly overreaching. It sought to amend Itec's Letter of Credit with a letter of indemnity provision that excused it from providing the bills of lading and all other essential shipping documents. From their testimony it became evident that neither Ms. Burke nor Mr. Raposo had any deep understanding of the procedures by which bills of lading are issued. Nor did Astra make any discernible effort to better understand those well established procedures. We cannot ignore that all documents to be presented for drawing upon the letter of credit were within Astra's control.

Moreover, Astra's demands cannot be viewed in a vacuum. Not only must they be reasonable in and of themselves, but they must also be reasonable in the context of the transaction and the expectations of the contract counterparty. Here, Astra was oblivious to the reasonable needs of Itec to know that the product it bought was actually delivered to the vessel and conformed to contract specifications. It repeatedly sought to replace the agreed documentary L/C with a standby letter of credit, which is nothing more than a draft demand for payment without proof of delivery. It sought a letter of indemnity which would excuse it from presenting bills of lading which showed that product was actually loaded on board the vessel; it also sought to eliminate a certificate of quality showing that the material delivered conformed to the contract;

eliminate a certificate of quantity showing the volume delivered; and eliminate the certificate of origin demonstrating that the product met the specific quality standards for "undenatured and hydrous ethanol of USA corn origin". As cogently noted by Professor Byrne:

> "88. In my opinion, such an accommodation [to permit a letter of indemnity] was not required by Itec as a matter of good faith since it was commercially reasonable not to agree to a letter of indemnity at all or on any terms, particularly since the parties had never dealt with one another before.
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> 89. Nor in my opinion was there any compelling reason for Astra to make a request to Itec to accept an indemnity under the letter of credit in lieu of the required documents. Unlike the situation where there is a chain of resales, Astra is at the beginning of the chain and would receive transport documents from the vessel or agent on tender of the goods and the inspection certificates."

We agree with Professor Byrne's assessment. We are also of the opinion that Itec made more than reasonable efforts to comply with Astra's unreasonable, shifting and at times inconsistent demands. Moreover, Astra made demands that were plainly beyond the ability of Itec to grant. Specifically, Raposo demanded Itec to agree on behalf of itself and the vessel (with which Astra knew Itec had no relationship) to permit Astra's agent to prepare and sign bills of lading. Clearly, Itec had no ability or right to so obligate the vessel.

For the foregoing reasons we unanimously conclude that Astra was not commercially reasonable in its dealings with Itec and that its termination of the contract was improper and wrongful.

AWARD

We have carefully examined the damages claimed and find that Itec is entitled to recover the following sums from Astra:

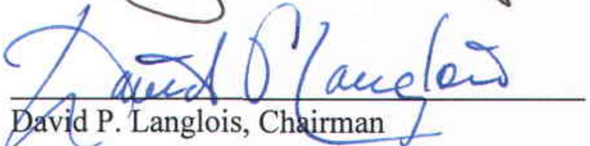
A.	Replacement cargo price differential	$316,774.41
B.	Dead freight and demurrage to GOLDEN YOSA	272,916.44
C.	Bunge freight differential	63,900.00
D.	SGS survey costs	9,978.00
E.	Itec lost profits	90,000.00
	Total	$753,568.85
	Interest thereon from 10/15/2010 to the date of this award at the average rate of 3.25% per annum.	$60,053.24
	In addition, Astra is directed to pay Itec the sum of $250,000 to reimburse attorneys, expert fees and expenses paid by Itec	$250,000.00
	Reimbursement of escrow deposit as per Appendix A	$10,075.00
		$ 1,073,697.09

Should this Award not be fully paid within 30 days, interest on the principal amount of $753,568.85 is to resume at the rate of 3.25% per annum from the date hereof and continue until the Award is paid or is reduced to a judgment by any court of competent jurisdiction. This Final Award may be reduced to judgment in any court of competent jurisdiction.

The Panel's fees are set forth in the attached Appendix A forms a part of this Award and payment is to be made according to its terms. Although the joint and several obligation of each party, the Panel's fees are to be paid 80% by Astra and 20% by Itec.

A. J. Siciliano

Jack Berg



David P. Langlois, Chairman

March 28, 2013
New York, New York

In the Matter of the Arbitration
between

Itec Refining & Marketing Company

and

Astra Oil Company LLC

Under a Commodity Sales Contract dated August 3, 2010

APPENDIX A

The panel's fees and expenses for rendering this award total $124,625, made up as follows:

Jack Berg	$27,500
A.J. Siciliano	$24,625
David P. Langlois	$72,500

The Panel's fee is allocated 80% to Astra and 20% to Itec. Liability for the above fees is a joint and several responsibility of each party. Astra is to pay $99,700 and Itec $24,925. Said fees are to be paid in the first instance from the $35,000 (total $70,000) escrow account each party has established for this purpose with the Society of Maritime Arbitrators, Inc. (SMA). The SMA escrow account is to pay $23,333.33 to each arbitrator. The balance due to each arbitrator shall thereafter be paid by Astra as follows:

Jack Berg	$4,166.67
A.J. Siciliano	$1,291.67
David P. Langlois	$49,166.67

In addition to the above, Itec is entitled to recover fees which will have been paid to the arbitrators from the escrow in excess of the $24,925 allocated to it. This sum, $10,075, has been credited to Itec in the Award summary of damages.

Should Astra fail to make these further payments within 30 days from the date of this award, then, upon simple demand by the arbitrators, Itec shall promptly do so and thereby succeed to a further claim against Astra, which shall bear interest at 3.25% until paid or reduced to judgment, which ever first occurs.