

Sharp Corp Ltd (Respondent) v Viterra BV (previously known as Glencore Agriculture BV) (Appellant)

Case ID: UKSC 2023/0029

Case summary

Issues

"Where goods sold Cost & Freight free out are located at their discharge port, on the date of the buyer's default, in the circumstances as found by the GAFTA Appeal Board in the Awards, is "the actual or estimated value of the goods, on the date of default" under sub-clause (c) of the GAFTA Default Clause to be assessed by reference to:

- a) The market value of goods at that discharge port (where they are located on the date of default); or
- b) The theoretical cost on the date of default of (i) buying those goods Free on Board at the original port of shipment plus (ii) the market freight rate for transporting the goods from that port to the discharge port free out?"

Facts

This is an appeal arising from two amended arbitration awards of the same five-member Grain and Free Trade Association ("GAFTA") Appeal Board dated 1 April 2021 (awards No. 4580A and 4581A - collectively, "the Awards"), by which it awarded damages to the sellers of two cargoes, one of lentils and one of peas, for the buyers' default following delivery to Mundra, a privately owned port in Gujarat state in the north west of India. Jacobs J granted the buyers leave to appeal pursuant to section 69 of the Arbitration Act 1996 on the above question of law arising from the Awards. The appeal was dismissed by Cockerill J, and allowed by the Court of Appeal.

Judgment appealed

[\[2023\] EWCA Civ 7](#)

Parties

Appellant(s)

Viterra BV (previously known as Glencore Agriculture BV)

Respondent(s)

Sharp Corp Ltd

Appeal

Justices

Lord Reed, Lord Hodge, Lord Briggs, Lord Hamblen, Lord Leggatt

Hearing start date

21 February 2024

Hearing finish date

22 February 2024

Watch hearing

21 February 2024 [Morning session](#) [Afternoon session](#)

22 February 2024 [Morning session](#) [Afternoon session](#)