

To reconstruct the chain of arguments used by Judges Gageler CJ, Gordon, Steward, Gleeson, and Jagot in their reasoning for the judgment, I will present each step in a formal modus ponens structure, leading logically to the final conclusion that the appeal was dismissed. Each argument will be connected clearly to the next, and relevant paragraph numbers will be cited to support each premise and conclusion.

### ### Chain of Arguments

1. **Premise 1 (P1)**: If a clause in a contract of carriage relieves the carrier from liability for loss or damage to goods or lessens such liability otherwise than as provided in the Australian Hague Rules, it shall be null and void (Article 3(8) of the Australian Hague Rules) .

- **Supporting Reference**: Article 3(8) of the Australian Hague Rules provides that any clause in a contract of carriage relieving or lessening the carrier's liability otherwise than as provided in these Rules is void .

2. **Premise 2 (P2)**: Clause 4 of the bill of lading provides for arbitration in London under English law .

- **Supporting Reference**: Clause 4 of the bill of lading specifies that disputes are to be referred to arbitration in London and governed by English law .

3. **Premise 3 (P3)**: Carmichael contends that the arbitration clause (Clause 4) is void under Article 3(8) of the Australian Hague Rules because it poses a risk that BBC's liability would be lessened .

- **Supporting Reference**: Carmichael argued that Clause 4 of the bill of lading should be void under Article 3(8) due to the potential lessening of BBC's liability through arbitration in London under English law .

4. **Premise 4 (P4)**: For Article 3(8) to apply, the standard of proof is the balance of probabilities, not mere speculation of risk .

- **Supporting Reference**: The court determined that the application of Article 3(8) requires proof on the balance of probabilities rather than mere speculation about potential future outcomes .

5. **Premise 5 (P5)**: BBC provided an undertaking and the Full Court made a declaration that the Australian Hague Rules as applied under Australian law would govern the arbitration in London .

- **Supporting Reference**: BBC's undertaking and the Full Court's declaration ensured that the Australian Hague Rules, as interpreted under Australian law, would apply to the arbitration .

6. **Conclusion 1 (C1)**: Therefore, the undertaking and declaration mitigate the risk that BBC's liability would be lessened in the arbitration .

- **Supporting Reference**: The court concluded that the undertaking and declaration adequately addressed the concerns about potential lessening of liability .

7. **Premise 6 (P6)**: Carmichael failed to prove on the balance of probabilities that Clause 4 would relieve BBC from liability or lessen such liability within the meaning of Article 3(8) .

- **Supporting Reference**: Carmichael did not meet the required standard of proof to show that the arbitration clause would actually result in a lessening of liability .

8. **Conclusion 2 (C2)**: Therefore, Clause 4 of the bill of lading is not void under Article 3(8) of the Australian Hague Rules .

- **Supporting Reference**: The court held that Clause 4 remains valid because Carmichael did not prove it would lessen BBC's liability as defined under Article 3(8) .

9. **Final Conclusion (FC)**: The appeal is dismissed, and Carmichael is ordered to pay the respondents' costs .

- **Supporting Reference**: The final judgment dismisses the appeal and awards costs to the respondents .

### ### Formal Modus Ponens Structure

1. **If P1, then Q1**: If a clause in a contract of carriage relieves the carrier from liability for loss or damage to goods or lessens such liability otherwise than as provided in the Australian Hague Rules, it shall be null and void (P1). Clause 4 of the bill of lading provides for arbitration in London under English law (P2). Therefore, if Clause 4 poses a risk of lessening liability, it could be void under Article 3(8) (Q1).

2. **If Q1, then Q2**: Carmichael contends Clause 4 is void because it poses a risk of lessening BBC's liability (P3). For Article 3(8) to apply, the standard of proof is the balance of probabilities, not mere speculation (P4). Therefore, Carmichael must prove on the balance of probabilities that Clause 4 would lessen BBC's liability (Q2).

3. **If Q2, then Q3**: BBC provided an undertaking, and the Full Court made a declaration that the Australian Hague Rules would govern the arbitration (P5). Therefore, the undertaking and declaration mitigate the risk of lessening liability (C1).

4. **If Q3, then Q4**: Carmichael failed to prove on the balance of probabilities that Clause 4 would relieve BBC from liability or lessen such liability (P6). Therefore, Clause 4 is not void under Article 3(8) (C2).

5. **Final Conclusion (Q4)**: The appeal is dismissed, and Carmichael is ordered to pay the respondents' costs (FC).

This structured approach outlines the logical progression of arguments leading to the final decision of the court, with each step grounded in the specific reasoning provided by the judges.