

Member Forum 2015

OW Bunker – Update, Legal Issues & Lessons

Jamie Wallace, Partner
Bentleys, Stokes and Lowless
Standard Club Member Forum 2015
24th June 2015

- OW Bunker & Trading A/S (“OW”) filed for bankruptcy on 7 November 2014
- Recent estimate of around 1,200 OW related cases worldwide & IG clubs facing 30-40% increase in caseload.
- Risk of double payment – ING & physical suppliers

- ING (& PwC) & OW subsidiaries / receivers co-operating to collect debts -
www.pwc.co.uk/owbunker
- But not all – US subsidiaries cut loose
- OW accounting in disarray & no staff
- Various interpleader & other actions

High Court interpleader – a solution?

- Purpose?
- Potential difficulties?
 - Security for Arrest Conventions?
 - Technical grounds – same claim?
 - High Court jurisdiction?

Claims against OW / ING: Can owners use payment to supplier against OW?

- Restitution – Can owner recoup money paid to supplier from OW?
- No set-off clause in OW's standard terms
- Issues of title

Issues of Title

- Did physical suppliers and / or OW retain title?
- Bunkers burnt? Title will “simply disappear”
- Defence to OW / ING claims?
 - ss. 12(1) & 49 Sale of Goods Act 1979

- Know your supplier & time charterer...
- Contractual protection if possible:
 - Time charter indemnity (NYPE cl 18)

“Charterers will not suffer, nor permit to be continued, any lien or encumbrance incurred by them or their agents, which might have priority over the title and interest of the owners in the vessel”

Additional wording / clauses

“In no event shall Charterers procure, or permit to be procured, for the vessel, any supplies, necessaries or services without previously obtaining a statement signed by an authorized representative of the furnisher, acknowledging that such supplies, necessaries or services are being furnished on the credit of Charterers and not on the credit of the Vessel or of her Owners, and that the furnisher claims no maritime lien on the Vessel therefor ”

Notice to suppliers prohibiting liens

“You are hereby notified that, under the terms of the charter, as owners of the above vessel, and the above charterers, neither the charterers nor the Master nor any other person has power or authority to pledge either our credit or the credit of the above vessel, or to create, or permit to be created, any liens on the above vessel. You are further notified that any such [type of supplies or services] furnished by you to the above vessel will be so furnished solely upon the credit of Messrs. [...] as charterers, and not on the credit of the above vessel or our credit.”

If faced with claims then

- Obtain:
 - Details of bunker operations, dates etc
 - All documents received – all contracts, invoices, BDNs,
 - Correspondence with contractual & physical suppliers
- Have a contingency plan – speak to the club re local lawyers & bank re security wording

“Solutions”?



- Settlement - each case will turn on own facts
- Dealing with receivers:
 - Contact PwC – don't delay or ignore
 - Explain commercial benefit
 - Negotiate – don't expect to insist on rights
 - Compromise, but don't expect warranties
 - Record agreement in writing!

Conclusions & going forward



- No easy answers given multiple parties and claims for same sums
- Possible defences to OW / ING claims but many arrest jurisdictions
- Expected US & English judgments
- Prepare ground & lie low

OW Bunker – Update, Legal Issues & Lessons

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Is the payment of hire a condition?

John Reay
Senior Claims Executive

Member Forum, 24 June 2015

The Standard



Contents

- Traditional view
- *The Astra*
- *Spar Shipping AS v Grand China Logistics*
- The future

- Payment of hire not a condition
- *The Brimnes* [1973] 1 All ER 769

“...there is nothing in clause 5 which shows clearly that the parties intended the obligation to pay hire punctually to be an essential term of the contract, as distinct from being a term for breach of which an express right to withdraw was given.”

- Innominate term

'The Astra' – 2013

- Flux J
- Payment of hire **is** a condition
- Reasoning:
 - Right to withdraw in cl. 5



Clause 5

The Standard



5. Payment of said hire to be made in New York in cash in United States Currency, semi-monthly in advance, and for the last half month or part of same the approximate amount of hire, and should same not cover the actual time, hire is to be paid for the balance day by day, as it becomes due, if so required by Owners, unless bank guarantee or deposit is made by the Charterers, otherwise failing the punctual and regular payment of the hire, or bank guarantee, or on any breach of this Charter Party, the Owners shall be at liberty to withdraw the vessel from the service of the Charterers, without prejudice to any claim they (the Owners) may otherwise have on the Charterers. Time to count from 7 a.m on the working day following that on which written notice of readiness has been given to Charterers or their Agents before 4 p.m., but if required by Charterers, they to have the privilege of using vessel at once, such time used to count as hire.

'The Astra' – 2013

- Flaux J
- Payment of hire is a condition
- Reasoning:
 - Right to withdraw in cl. 5
 - Time is of the essence
 - Commercial certainty
 - Support from case law
- Note: obiter dicta



Spar Shipping – 2015

- Popplewell J
- Payment of hire is **not** a condition



- Popplewell J
- Payment of hire is **not** a condition
- Discussion of contractual termination clauses
 - *Financings v Baldock*
- Reasoning:
 - Express provision suggests no common law right to terminate
 - Terms as to time of payment generally not conditions
 - Wide ranging consequences suggest innominate term
 - Intention – unfair result if payment late by a matter of minutes
 - Considerations of commercial certainty
- Anti-technicality clause – does not have transformative powers

- Clarification needed
- Preferred current view?
 - *Spar Shipping*
 - *Financings v Baldock*
 - Legal analysis
 - Commercial view
- Advice:
 - Position remains uncertain
 - In absence of clear words otherwise, assume term is innominate
 - For an owner to recover future losses, it must be shown that the default is sufficiently serious to deprive the owner of whole benefit of charter



Back to back contracting: points to consider

Rebecca Vasiliou
Senior Claims Executive

Member Forum, 24 June 2015

The Standard



- The “BULK URUGUAY” [2014] EWHC 885
- The “GOLDEN SANTOSH” [2013] EWCH 30 (Comm) 1 LLR 455, [2014] EWCA Civ 403

The “BULK URUGUAY”

Head Owner



Geden Operations Ltd (owner)



Dry Bulk Handy Holdings Inc (charterer)

The “BULK URUGUAY”

The negotiations: sub-charter

- Vessel under construction in the Philippines – delivery following year
- “GOA OK” – competitive advantage and matter of importance for charterers
- charterer had made it plain to owner that the ability to transit the GOA without seeking owner’s permissions was a “deal breaker”

THE “BULK URUGUAY” CP terms

The sub-charter

- Amended NYPE form for about 35 to 37 months
- Daily hire rate \$18,500
- Conwartime 2004
- Amended BIMCO Piracy Clause – paras (a) and (b) deleted – “GOA OK”

The head charter

- Head owner’s permission need to transit GOA

Voyage orders

- Maiden voyage – Philippines to Atlantic via GOA
- Head owners initially refused to give their consent but later granted permission to transit GOA
- This voyage only – not to form a precedent for future voyages

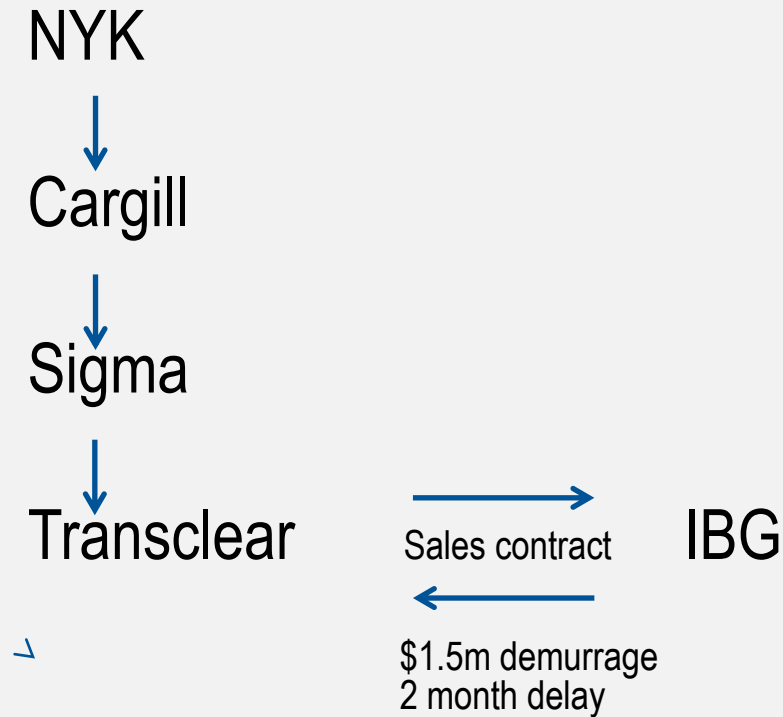
- Owners stated that their permission was required in order to transit the GOA
- This would be dependent upon head owner's approval
- Charterer treated owner's stance as a repudiatory breach of the charterparty which they purported to accept as terminating the CP
- Owner accepted charterer's purported termination as itself a repudiatory breach
- Owner claimed \$6.5m

Repudiation?

- (a) Did the owner by their words or conduct evince an intention not to perform or expressly declare that they would be unable to perform their obligations under the charterparty?
- (b) If so, did such a refusal have the effect of substantially depriving the Charterer of the whole benefit which it was the intention of the parties that they should obtain from the contract?

Held: owner was not in repudiatory breach - charterer should not have terminated the CP

The “GLOBAL SANTOSH”



↘

“GLOBAL SANTOSH”

Head Charter: NYK/Cargill

- Payment of hire would be suspended during any arrest

“unless such... arrest is occasioned by any personal act or omission or default of the Charterers or their agents”

- Were sub-sub charterers or receivers “agents” of charterers?
- If so, what actions of the agent fell within the arrest off-hire clause?
- “*Delegates*” any party to whom charterers had entrusted the performance of its obligations under the CP – could include sub-charterers, sub-sub-charterers and receivers

Points to consider

- Ideally: back to back
- Law and jurisdiction clauses
- “Agents”
- Demurrage provisions
 - Amount
 - Payment intervals
- Liens

“lien upon all cargoes and all sub-freights and/or sub-hire”
(NYPE 93 cl 23)

be aware of specific wording e.g. Baltimore *“belonging to the time-charterers”*

Current US Legal Issues

LeRoy Lambert
President/Regional Claims Director

Member Forum, 24 June 2015

The Standard



Current US Legal Issues

- The relationship of the United States to business persons in other countries all too often reminds me of the story in Woody Allen's Oscar winning film, "Annie Hall" about romantic relationships:



- So, after thirty years of dealing with non-US shipowners who have legal problems in the US: it seems crazy, irrational, and absurd ----- but you need the eggs
- My focus today is on legal issues in the US which concern, or should concern, non-US shipowners whose ships call in the US

Crew Claims

Remedies under US law

1. Maintenance and cure
 - Daily allowance
 - Medical bills until “cured”
 - If employer does not pay and court determines it should have paid, the employer is subject to punitive damages
2. Negligence
 - “Featherweight” causation standard
3. Unseaworthiness
 - In reality, strict liability

In most cases, liability and damages are determined by a jury

Crew claims

An example

- Indian crew member badly injured in Honduras by a line which snapped
- Vegetative state; paralysis; photographs
- Eventually repatriated to India
- Negotiations with family dragged on
- Without notice, another of member's ships was attached in state court in Louisiana while calling in the Mississippi River
- Letter of undertaking for \$12.5m had to be posted
- Member moved to dismiss based on lack of jurisdiction and improper venue
- Crew contract had a choice of law clause – Indian – but NO choice of forum clause
- Court did not dismiss the case; crew member died; case settled

Crew claims

- Could this have been avoided?
- Yes
- Include an arbitration agreement in your crew contracts

- If your ships call in the US with non-US crew members, be sure the employment contracts contain both a choice of law clause AND an arbitration clause
- US courts WILL enforce a foreign arbitration clause with respect to a claim by a foreign seaman who is injured in the US
 - Best practice is to pick the country of the citizenship of the crew member
 - In any case, pick a country which has a relationship to the crew member/employer
- Best practice to avoid claims in US is to choose arbitration clause because US is signatory to the UN Convention on Recognition and Enforcement of Foreign Arbitration Agreements; choice of foreign court clause will likely be enforced, but arbitration clause is less open to challenge

Regulatory issues

- Emission Control Areas (ECA)
- Ballast Water
- Jones Act

Regulatory issues

Emission Control Areas (ECA)

As of January 1, 2015, vessels required to use fuel with a sulfur content 0.10% or less



Regulatory issues

ECA

- Shipowners/operators must file “Fuel Oil Non-Availibilty Reports” (FONAR)
- Three detentions to date: ship not utilizing compliant fuel when available onboard and operating in ECA without compliant fuel and no documentation of efforts made to obtain it and no notifications made
- Four subpoenas issued in 2014 -- Extensive documents requested:
 - Corporate policies and procedures, SMS, IAPP, bunker suppliers and related correspondence, fuel contracts and procurement policies, proof of FONAR information
- Multiple “voluntary” requests to explain why so many FONARs
- Charterers??

Regulatory issues

ECA

- Civil Penalties --\$25,000 / day
- Criminal Penalties - Extensive recordkeeping requirements could make these the next MARPOL Annex I cases....
- Accept it! Become compliant! Work with your charterers!

Regulatory issues

Ballast Water Management

- Mandatory ballast water management and reporting
 - Applies to vessels operating in U.S. waters with ballast tanks
 - Civil and criminal penalties for non-compliance
- Coast Guard Final Rule (March 2012) –Options:
 - Install and operate a USCG type-approved BWMS on a phased-in schedule
 - Use only water from the U.S. public water system
 - Do not discharge ballast water in U.S. waters
 - Discharge to a shore-based treatment facility
 - Complete BWE at least 200 nm from shore until required to have BWMS or
 - Alternate Management System or Extension

Regulatory issues

Ballast water management

- The Conundrum:
 - No Type-Approved Systems or Practical Alternatives
 - USCG Extension Letter-Now until January 1, 2017
 - EPA “Low Enforcement Priority” Letter
 - Non enforcement \neq Compliance

Regulatory issues

Jones Act – coastwise trading

- Affects primarily Offshore members
- Transportation of merchandise
- Transportation of passengers
- Towing
- Dredging
- Salvage
- If between points in the US or in US waters, it MUST be on a US flag ship

Regulatory issues

Jones Act

- Ship may not provide any part of the transportation of merchandise by water, or by land and water...
- Or via a foreign port unless the “continuity of the voyage is broken”
- Or unless a “new and different” product is created...
- Gasoline Blending issues
- And offshore operations have created the most controversy

Regulatory issues

Jones Act

Examples of fines

- \$2,870,000.00 -- Sleds/Transponders- Outer Continental Shelf (OCS)
- \$23,845.00 / \$30,945.00 – Mats -- OCS/coastwise points
- \$1,150,140.00 -- Tripod Support Frames – OCS/coastwise points
- \$24,655,000.00/\$1,346,977.00 -- Pipe Laying / Offshore Equipment -- OCS

Cuba and Rotterdam Rules

- For some 50 years, US sanctions against Cuba included the “180 day rule” – a ship which called at a Cuban port had to wait 180 days before it could call at a US port. As a result, ships would have to find a next cargo from Cuba, the Caribbean, or South America. Otherwise, the ship faced a long ballast voyage
 - January 2015 – Obama Administration commenced taking steps to loosen the sanctions
 - One such step concerned the “180 day rule” – it no longer applies to ships engaged in the exportation or re-exportation to Cuba from a third country of most agricultural commodities, medicine, or medical devices of dry cargo ships trading agricultural goods to or from Cuba. [Note: technical area of the law and Congress is not on board; seek US legal advice before fixing]
- Rotterdam Rules: still being reviewed by the State Department. There is resistance from terminal/port interests. Still optimism that President will send it to the Senate later this year

“Discovery” in the US

- US pretrial “discovery” is broader than in England
- Includes information “reasonably calculated to lead to the discovery of admissible evidence” – not just evidence which would be admissible at trial
- Includes testimony
- Includes information stored electronically
- Includes information within the reasonable control of the member- e.g., laptops and phones – not limited to information on company servers
- If involved in a US litigation, members must take these obligations seriously and take action immediately – “hold” letters / instructions to all employees
- “Spoliation” of information – if court finds that information which should have been produced was destroyed (negligently or intentionally), court may draw adverse inferences, including striking a claim or defence
- Lock it down!

Summary

If you become involved in litigation in the US, don't panic, the New York office is there to help you. Contact us.

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Break

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Limitation of Liability: recent developments

Ed Mills-Webb

Partner

Introduction

- Tonnage limitation: background
- 1996 Protocol: the new limits
- How to establish the Fund:
 - P&I Club LOU?
 - The *'Atlantik Confidence'*
- Who can limit liability?
 - Challenges posed by complex cases e.g. container vessel casualties
 - The *'MSC Napoli'*

Background

Lord Denning MR in *'The Bramley Moore'*:

“The principle underlying limitation of liability is that the wrong doer should be liable according to the value of his ship and no more. A small tug has comparatively small value and it should have a correspondingly low measure of liability, even though it is towing a great liner and does great damage. I agree that there is not much room for justice in this rule; but limitation of liability is not a matter of justice. It is a rule of public policy which has its origin in history and its justification in convenience.”

Background

- Concept of global limitation for Owners/Charterers
- 1957 Convention
- 1976 Convention widely adopted, virtually unbreakable limit
- 1996 Protocol increased limits (by 200%+) for signatories
- 1996 Protocol provided for automatic adjustment of limits
- New 1996 Protocol limits from 8 June 2015 increased by more than 50%

Background

- 1996 Protocol ratified by 50 states, including:
 - Australia
 - Cyprus
 - France
 - Greece
 - Hong Kong
 - India
 - Norway
 - Russia
 - Spain
 - Sweden
 - United Kingdom

Limits of Liability

- **1976 LLMC**

- The limit of liability for property claims was fixed at SDR 167,000 plus the following additional amounts based on tonnage of ships above 500 tonnes:
 - For each tonne from 501 to 30,000 tonnes, SDR 167
 - For each tonne from 30,001 to 70,000 tonnes, SDR 125
 - For each tonne in excess of 70,000 tonnes, SDR 83

Limits of Liability

- **The 1996 Protocol**

- The limit of liability for property claims for ships not exceeding 2,000 gross tonnes was fixed at SDR 1 million. For larger ships, the following additional amounts were used in calculating the limitation amount:

- For each tonne from 2,001 to 30,000 tonnes, SDR 400
 - For each tonne from 30,001 to 70,000 tonnes, SDR 300
 - For each tonne in excess of 70,000 tonnes, SDR 200

Limits of Liability: recent changes

- The new amended 1996 Protocol limits since 8 June 2015:
 - The limit of liability for property claims for ships not exceeding 2,000 gross tonnes will be SDR 1.51 million. For larger ships, the following additional amounts to be used in calculating the limitation amount are as follows:
 - For each tonne from 2,001 to 30,000 tonnes, SDR 604 (up from SDR 400)
 - For each tonne from 30,001 to 70,000 tonnes, SDR 453 (up from SDR 300)
 - For each tonne in excess of 70,000 tonnes, SDR 302 (up from SDR 200)

Example

- Approximate limit of liability for property damage claims for a cargo ship of 50,000 grt is currently:-
 - 1976 LLMC: US\$11.7m
 - 1996 Protocol: US\$28.1m
 - Amended 1996 Protocol: US\$42.5m



The “Atlantik Confidence”



MV “ATLANTIK CONFIDENCE”

- Vessel sank off Oman on 3 April 2013.
- Cargo valued at around US\$35m.
- Convention on Limitation of Liability for Maritime Claims 1976 (“LLMC 1976”), as amended by the 1996 Protocol.
- Limitation calculated based on 16,252 grt
 - 6,700,800 SDRs
 - Value as at 3 April 2014 (1SDR: US\$0.648153)
 - US\$10,338,299.75

How to limit – CPR Part 61.11

- Commence limitation proceedings/obtain and serve a limitation claim form.
- Establish a limitation fund:
 - Part 61.11(18) - *“The claimant may constitute a limitation fund by making a payment into court”*.
 - *Dania Shipping Co. v MSC Mediterranean Shipping Company S.A* [2012] Fo 255 unrep.
- Article 11(2) LLMC 1976:
 - *“the Fund may be constituted either by depositing a sum or producing a guarantee acceptable under the legislation of the State Party where the Fund is constituted”*.

MV “ATLANTIK CONFIDENCE”

- Admiralty Judge, Teare J.
- High Court
 - Main Question:

Was the use of a P&I Club LOU “acceptable” under the relevant UK legislation?
 - Answer:

No

MV “ATLANTIK CONFIDENCE”

- High Court, Simon J:

“It might seem surprising in today’s world that it could be argued that a suitably framed guarantee in an appropriate amount from a creditworthy provider is not effective as security”

“I hope from what I have said that I have made clear that consideration should be given to effecting a change in the law”

MV “ATLANTIK CONFIDENCE”

- Court of Appeal – December 2013.
- Judgment released on 6 March 2014, ruling that a limitation fund **can** now be constituted by way of an LOU.
- Gloster LJ:

“The issue is one of considerable importance to the shipping industry, including P&I Clubs and others who provide insurance and reinsurance in respect of maritime claims”

Issues Arising from the Judgment Issue 1

- Who can provide the security?
 - P&I Clubs
 - IG Clubs
 - Fixed Premium
 - Other insurers/reinsurers
 - Bank guarantees
 - Parent Company guarantees

Issues Arising from the Judgment

Issue 2

- What wording would be acceptable?
- Referred back to the High Court.
- In principle, security has to be as good as cash.

Issues Arising from the Judgment

Issue 3

- What if limitation is broken?
- What would happen to the money in Court?
 - CPR Part 61.11(20)(b):

“If a limitation claim is not commenced within 75 days after the date the fund was established ... all money in court will be repaid to the person who made the payment into court”.
 - CPR Part 61.11(21):

“Money paid into court... will not be paid out except under an order of the court”.
- What would happen to the LOU?

Summary

- Sensible ruling.
- Obvious advantages:
 - Avoid the expense of having money tied up in Court.
 - Security can be provided much quicker.
- Numerous questions:
 - Wording
 - Guarantor

Who can limit?

- Casualties involving container vessels can result in huge losses:
 - *'MSC Napoli'*
 - *'MOL Comfort'*
- Distinctive features:
 - multitude of parties
 - large number of claims
 - many potential targets for recovery
- Limitation of liability becomes a key issue
- Who can limit?

The ‘*MSC Napoli*’

- Well established that shipowners and time charterers can rely on global limits
- However, the position of slot charterers and NVOCCs has been the subject of debate
 - Can slot charterers be considered to be 'shipowners' for the purposes of Article 1 of the 1976 Convention and are therefore entitled to limit their liability?
 - Can slot charterers rely on the limitation fund constituted by the vessel's owners?
- Article 1:

"Persons entitled to limit liability

1. Shipowners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Convention for claims set out in article

2. The term "shipowner" shall mean the owner, charterer, manager or operator of a seagoing ship."

The '*MSC Napoli*'

- Held:
 - A slot charterer did fall within the definition of a shipowner under the Convention; the ordinary meaning of the word "charterer" (generally felt to encompass any type of charterer, whether demise, time or voyage charterer) could also include a slot charterer; similarities between some features of the contracts.
 - A fund constituted by one of the persons entitled to limit liability shall be deemed constituted by all those persons. The slot charterers, being within the definition of "charterers", were therefore also deemed to have been a party constituting the fund.
- Future issues: NVOCCs?

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MLC: hours of rest

Richard Bell,
Loss Prevention Executive

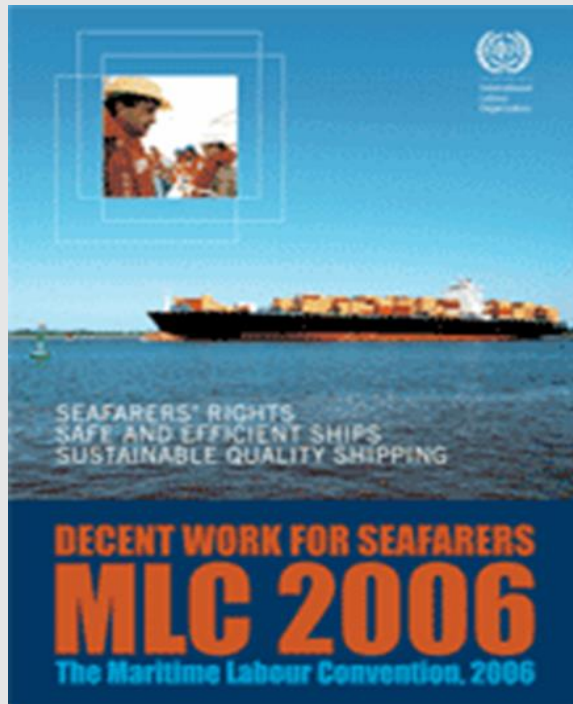
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The Standard



Maritime Labour Convention

Introduction



Maritime Labour Convention

Why hours of rest?

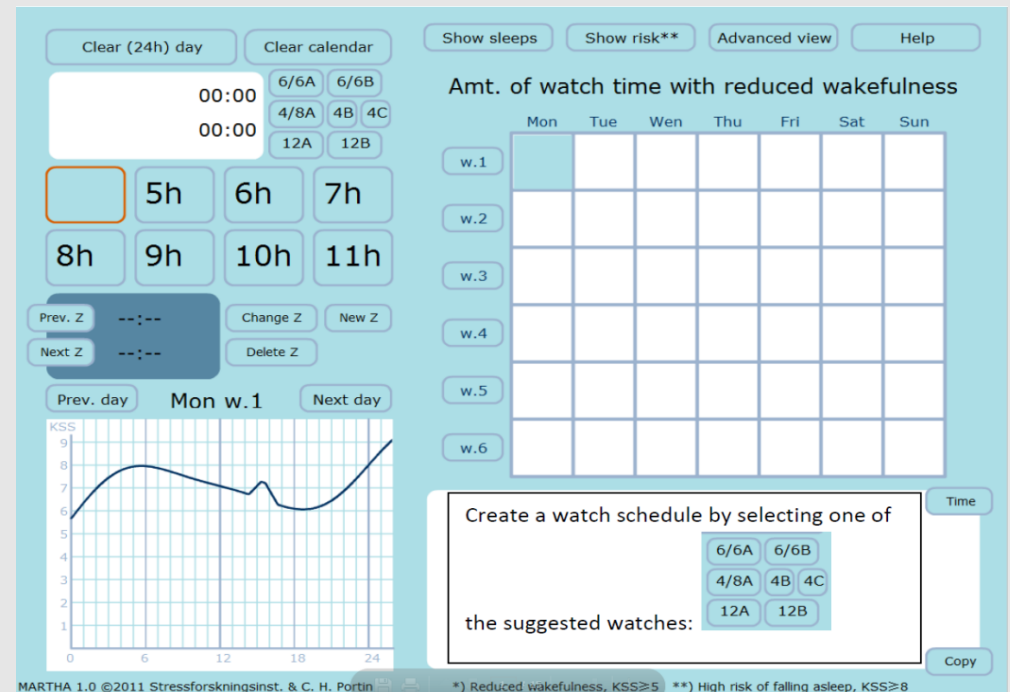
1. Fatigue is a key cause of accidents
2. Fatigue study 'Horizon Project' conducted in 2010
3. Joint Warsash study funded in part by The Standard Club
4. Project demonstrated:
 - Fatigue induced on watch sleep
 - Performance levels reduced
 - Reductions in attention level
 - Reduced ability to deal with novel incidents
5. Several maritime incidents have been caused by fatigue



Maritime Labour Convention

Horizon follow up study: Project Martha

- Project Martha uses data from horizon
- Creation of a prototype fatigue predication tool
- If successful to be made fully available
- Martha software available for download
- Martha dashboard tool



Maritime Labour Convention

Why hours of rest?: continued

1. Quality of life for the seafarer
2. Long term fatigue can cause physical and emotional problems
3. Overall safety and efficiency declines



Hours of rest - Definitions

1. Hours of Work

- Means time during which seafarers are required to do work on account of the ship

2. Hours of Rest

- Means time outside hours of work; this term does not include short breaks

3. On-Call Time

- Not counted as “hours of work” unless the seafarer is required to work during that time
- When normal rest period is disturbed by call out seafarer is to be given compensatory rest

Maritime Labour Convention

Hours of rest limits

- Minimum Hours of Rest
 - 10 hours in any 24 hour period
 - 77 hours in any 7 day period
- Division of rest
 - Divided into a maximum of two periods
 - One of those periods must be at least 6 hours
 - Interval between consecutive periods of rest shall not exceed 14 hours
- Musters and drills required by law shall be conducted in a manner which minimizes the disturbance of rest periods and does not induce fatigue

Maritime Labour Convention

Record keeping

SEAFARER'S NAME: **ZAKOS**
FIRST NAME: **KOSTAS**

RANK: **MASTER**
WATCHKEEPER: **NO**

DAY	DATE	HOURS				E R R O R S										EXCEPTIONS		OPA 90
		WORK in 24-hour Period	REST			CURRENT DAY		IN ANY			REST				Total Period Hours =>10Hrs	APPLIED for		Total Rest Hours
			in 24-hour Period	in any 24-hour Period	in any 7 Day Period	Total period of REST < 10 Hrs	Total period of WORK > 14 Hrs	24-hour Total period of REST < 10 Hrs	7-Days Total period of REST < 77 Hrs	BACK 24-hour of REST < 6 Hrs	Total Number of periods	1st cons/ative period < 6 Hrs	2nd cons/ative period < 4 Hrs	3rd cons/ative period Hrs		24 Hrs	7 Days	
1	01-06-2011	4.0	20.0	16.0	112.0						2	15.0	1.0	0.0	OK			OK
2	02-06-2011	12.0	12.0	12.0	112.0						1	20.0	0.0	0.0	OK			OK
3	03-06-2011	7.0	17.0	12.0	112.0						1	12.0	0.0	0.0	OK			OK
4	04-06-2011	15.0	9.0	7.0	104.0	ERROR	ERROR	ERROR			3	8.0	7.0	2.0	OK			OK
5	05-06-2011	12.0	12.0	9.0	102.0			ERROR			2	10.0	7.0	0.0	OK			OK
6	06-06-2011	12.0	12.0	12.0	98.0						1	12.0	0.0	0.0	OK			OK
7	07-06-2011	12.0	12.0	12.0	94.0						1	12.0	0.0	0.0	OK			33.5 Err
8	08-06-2011	14.0	10.0	8.0	84.0			ERROR			2	8.0	4.0	0.0	OK			OK
9	09-06-2011	14.0	10.0	10.0	80.0						1	10.0	0.0	0.0	OK			34.5 Err
10	10-06-2011	12.0	12.0	10.0	75.0				ERROR		1	14.0	0.0	0.0	OK			32.5 Err
11	11-06-2011	12.0	12.0	12.0	77.5						1	12.0	0.0	0.0	OK			32.5 Err
12	12-06-2011	12.0	12.0	12.0	80.0						1	12.0	0.0	0.0	OK			34.5 Err
13	13-06-2011	11.5	12.5	9.0	77.0			ERROR		ERROR	3 ERR	5.0 Err	4.0	3.0 Err	ERROR			OK
14	14-06-2011	15.0	9.0	9.0	77.0	ERROR	ERROR	ERROR			3	7.5	3.0 Err	2.0	OK			OK
15	15-06-2011	4.0	20.0	9.0	77.5			ERROR			1	12.5	0.0	0.0	OK			34.0 Err
16	16-06-2011	12.0	12.0	12.0	87.5						1	20.0	0.0	0.0	OK			OK
17	17-06-2011	12.0	12.0	12.0	89.5						1	12.0	0.0	0.0	OK			OK
18	18-06-2011	12.0	12.0	12.0	89.5						1	12.0	0.0	0.0	OK			OK
19	19-06-2011	14.0	10.0	6.0	83.5			ERROR			2	6.0	6.0	0.0	OK			OK
20	20-06-2011	12.0	12.0	10.0	87.0						2	12.0	4.0	0.0	OK			34.5 Err
21	21-06-2011	12.0	12.0	12.0	87.5						1	12.0	0.0	0.0	OK			34.5 Err
22	22-06-2011	4.0	20.0	12.0	90.0						1	12.0	0.0	0.0	OK			34.5 Err
23	23-06-2011	12.0	12.0	12.0	90.0						1	20.0	0.0	0.0	OK			OK
24	24-06-2011	14.0	10.0	8.0	86.0			ERROR			2	8.0	4.0	0.0	OK			OK
25	25-06-2011	12.0	12.0	10.0	88.0						1	14.0	0.0	0.0	OK			OK
26	26-06-2011	12.0	12.0	12.0	88.0						1	12.0	0.0	0.0	OK			34.5 Err
27	27-06-2011	11.0	13.0	12.0	90.0						1	12.0	0.0	0.0	OK			34.5 Err
28	28-06-2011	14.0	10.0	9.0	88.0			ERROR			3	9.0	3.0 Err	1.0	OK			OK
29	29-06-2011	10.0	14.0	10.0	83.0						1	10.0	0.0	0.0	OK			35.5 Err
30	30-06-2011	12.0	12.0	10.0	81.0						2	9.0	6.0	0.0	OK			OK
31																		



Print

OK

OPA 90—in US Waters has been Applied ...

Maritime Labour Convention

Port State Control

- Port State control have been carefully monitoring hours of rest onboard ships
- 2014 'Concentrated Inspection Campaigns' conducted by MOU areas
 - Paris
 - Tokyo
 - Black Sea
 - Indian Ocean
- Deck and engine room watch keepers' hours of rest are verified in more detail than normal to ascertain compliance



Maritime Labour Convention

Port State Control: Combined Paris and Tokyo results

- CIC questionnaire completed 4,041 times
- 912 deficiencies recorded
- 16 ships detained
- Detained vessels breakdown
 - 11 general cargo ships
 - 3 bulk carriers
 - 1 container ship
 - 1 other
- 13 of 16 ships detained operated 2 watch system

Maritime Labour Convention

Points to remember

1. Control of fatigue important for safety
2. PSC frequently check hours of rest records
3. Crew must manage their hours of rest
4. Master must be proactive to ensure that this happens
5. Impetus must come from the top

Amendments to the MLC

Richard Stevens
Claims Director

Member Forum, 24 June 2015

The Standard



- Article XIII of the Maritime Labour Convention requires the Convention to be kept under continuous review
- Special Tripartite Committee meeting in April 2014
- Amendments approved by ILO in June 2014
- Will come into force by early 2017

- Evidence of financial security to assure compensation to seafarers for illness, injury, and death
- Laws / Regulations to be passed to ensure security meets requirements:
 - compensation paid without delay
 - no pressure on seafarer
 - provision for interim payments
 - claims can be brought by next of kin

Evidence of financial security

- Standard requires ships to carry documentary evidence of financial security
- This must include:
 - ship name
 - registry
 - IMO number
 - name / Address of security provider
 - declaration that it meets requirement of Standard

- Amendment of Regulation 2.5 and new Standard: A 2.5.2
- Requires shipowners to establish financial security to assist seafarers in the event of abandonment
- Security to be through a social security scheme or insurance
- Provides sufficient cover for:
 - four months wages
 - expenses
 - maintenance

- Expected that P&I Clubs will provide evidence of financial security
 - Form not yet determined
- Liability for four months wages following abandonment
 - Clubs likely to extend cover
 - Not likely to be pooled
 - Still being discussed

Mediterranean Migrant Crisis

Richard Bell,
Loss Prevention Executive

Member Forum, 24 June 2015

The Standard



Mediterranean Migrant Crisis

The Standard



Charles
Taylor

Mediterranean Migrant Crisis

Causes of the crisis

1. Conflict zones, persecution and poverty driving migration
2. Ebola and periodic conflict in Central African states also a driving factor
3. People traffickers now active along south & south east coasts of Mediterranean
4. Libya now major trafficker base of operations

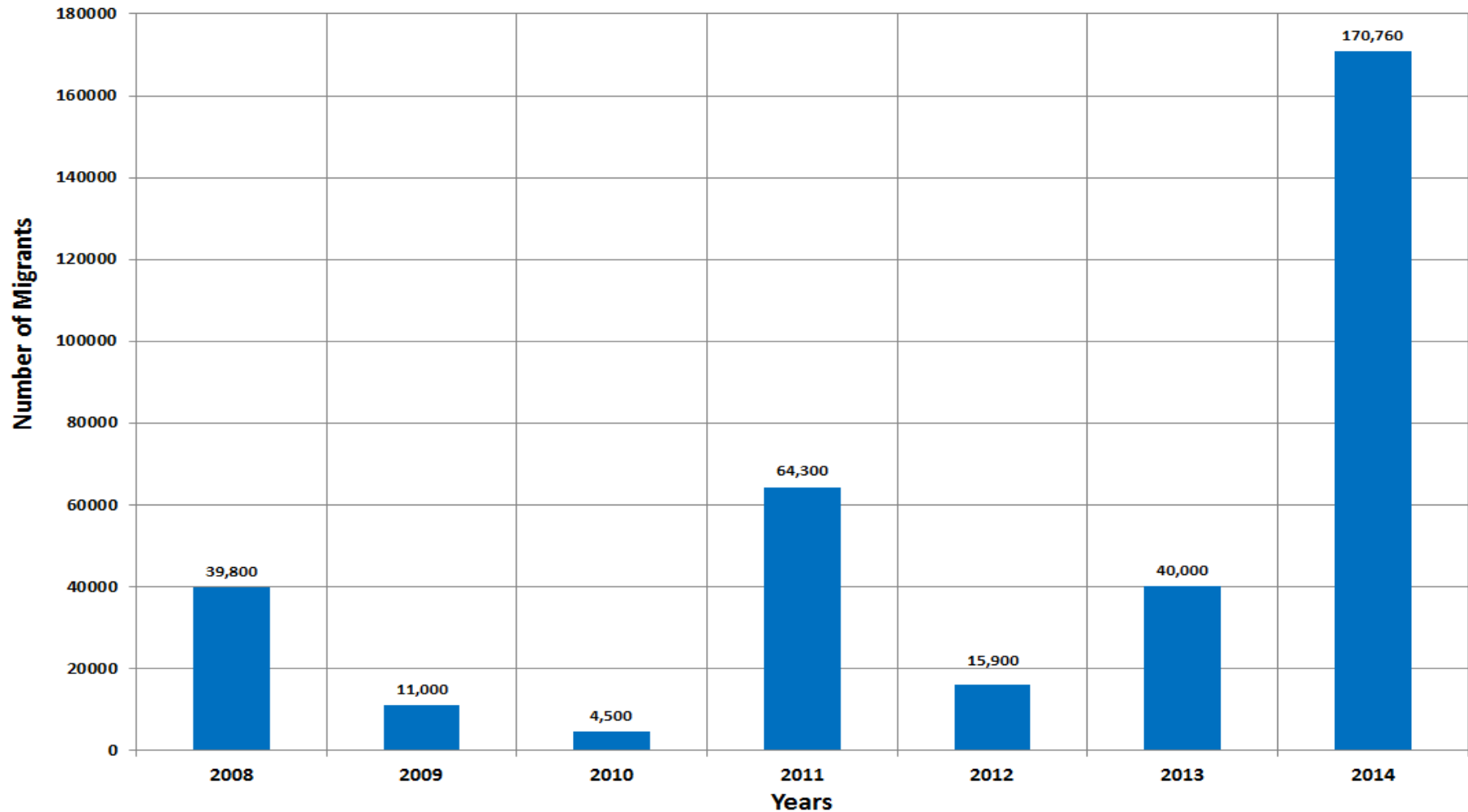
Migration Routes



Mediterranean Migrant Crisis

Migration Statistics

Central Mediterranean Route



Mediterranean Migrant Crisis

Migrants in Distress

The Standard



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Taylor

Mediterranean Migrant Crisis

Types of migrant vessel

Inflatable boats



Fishing vessels



Cargo vessels



Mediterranean Migrant Crisis

Mare Nostrum

1. Italian naval search and rescue operations
Oct 18 2013 – Nov 1 2014
2. Costs: €6 – 9 million euros per month
3. Area of operations included Libyan waters
4. Thought by some to be a pull factor for migrants
5. Replaced with less capable Frontex operation, named Triton



Mediterranean Migrant Crisis

Implications for Merchant Shipping

1. Many vessels called upon for SAR
2. Some migrants in genuine distress
3. Other migrants using SOLAS obligations to complete their migration
4. Companies operating in Mediterranean suffering major disruption of trade
5. Over 40,000 migrants rescued by Merchant Vessels in 2014



Mediterranean Migrant Crisis

SOLAS Obligations: Regulation 33.1

“The master of a ship at sea which is in a position to be able to provide assistance, on receiving information from any source that persons are in distress at sea, is bound to proceed with all speed to their assistance, if possible informing them or the search and rescue service that the ship is doing so....”

Mediterranean Migrant Crisis

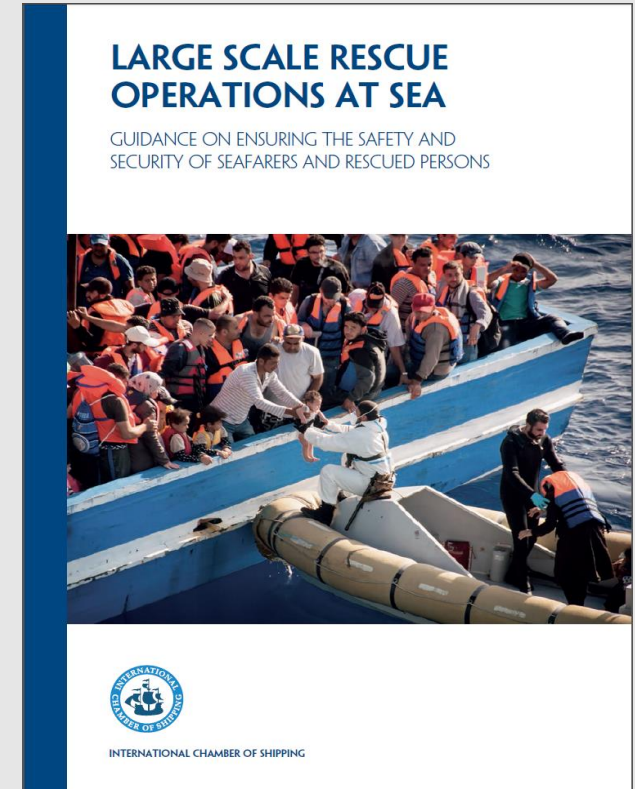
SOLAS Obligations: Regulation 33.1

“This obligation to provide assistance applies regardless of the nationality or status of such persons or the circumstances in which they are found. If the ship receiving the distress alert is unable or, in the special circumstances of the case, considers it unreasonable or unnecessary to proceed to their assistance, the master must enter in the log-book the reason for failing to proceed to the assistance of the persons in distress, taking into account the recommendation of the Organization to inform the appropriate search and rescue service accordingly.”

Mediterranean Migrant Crisis

ICS Guidance

1. ICS have provided guide lines, “Large Scale Rescue Operations at Sea” booklet
2. Such rescues involve large numbers of migrants
3. Concerns have been raised regarding Ebola and terrorism
4. Merchant ship’s are obligated to assist regardless



Mediterranean Migrant Crisis

What next?

1. Onset of summer conditions will cause migrant numbers to increase
2. EU to increase funding for Triton and to interdict trafficking operations
3. Armed confrontation between traffickers and EU forces possible
4. Organised trafficker activity may relocate
5. Situation will continue in to the foreseeable future



Mediterranean Migrant Crisis

Recent developments

1. Emergency EU summit 23 April 2015
2. EU agreed on following steps
 - Strengthen EU presence at sea
 - Fight traffickers in accordance with International Law
 - Prevent illegal migration flow
 - Reinforce internal solidarity and responsibility
3. Non-binding agreement
4. Various nations have pledged vessels including
 - UK: 3 vessel
 - Germany: 11 vessels
 - France: 1 plane, 1 vessel
5. Continued disagreements over strength of forces and distribution of rescued migrants

QUESTIONS?

Migrants / refugees – club cover

Richard Stevens
Claims Director

Member Forum, 24 June 2015

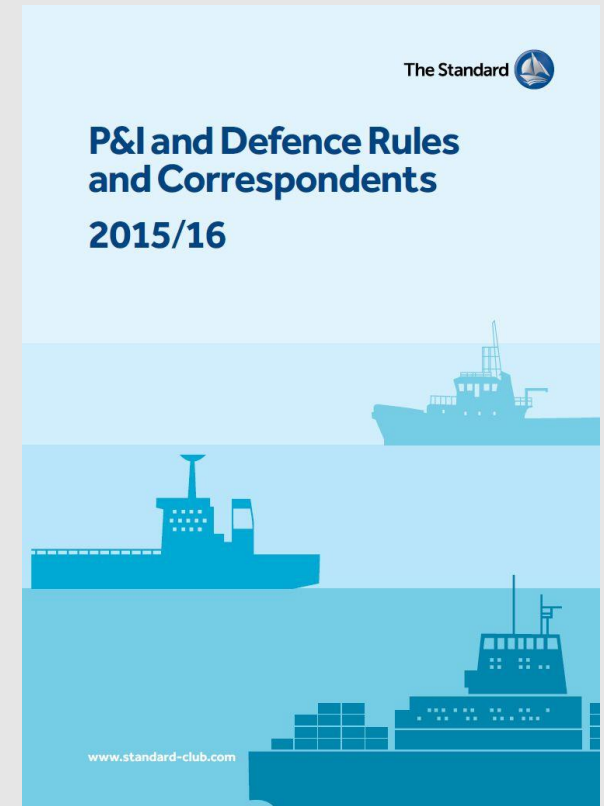
The Standard



- Members should always inform the club if requested to undertake a search and rescue operation
- This allows for:
 - Guidance to be provided
 - Correspondent appointed

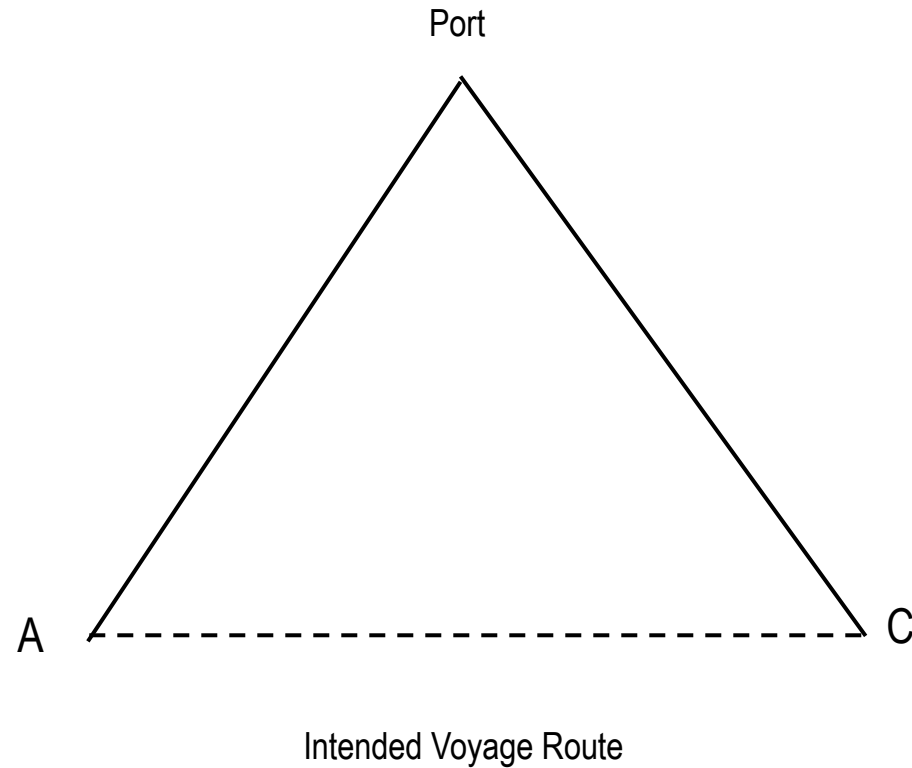
– rule 3.4:

Port and other charges solely incurred for the purpose of landing stowaways or refugees, or others saved at sea, or landing or securing the necessary treatment for an injured or sick person, other than crew, including the net loss to the member in respect of fuel, insurance, wages, stores and provisions incurred for such purpose.



- Whether costs are ‘solely incurred’
- Deviation can be defined as:
 - Commencing as soon as the vessel changes course
 - Completed when the vessel has returned back on course

Deviation example



Costs recoverable

- Members should be able to recover:
 - Extra cost of bunkers
 - Insurance
 - Wages
 - Stores
 - Provisions
 - Port charges
- Must be supported with evidence

Costs recoverable

- Costs of maintaining those rescued
 - Food
 - Water
 - Medicine
- Costs of security at receiving port
- Loss of hire not covered by club
 - Consider making express provision for this in commercial contracts

ECDIS and the Human element

Yves Vandeborn
Director of Loss Prevention

Member Forum, 24 June 2015

The Standard



- what is ECDIS?
- ECDIS timeline
- problems
- a case study
- managing the ECDIS risk
- ECDIS and the Human Element

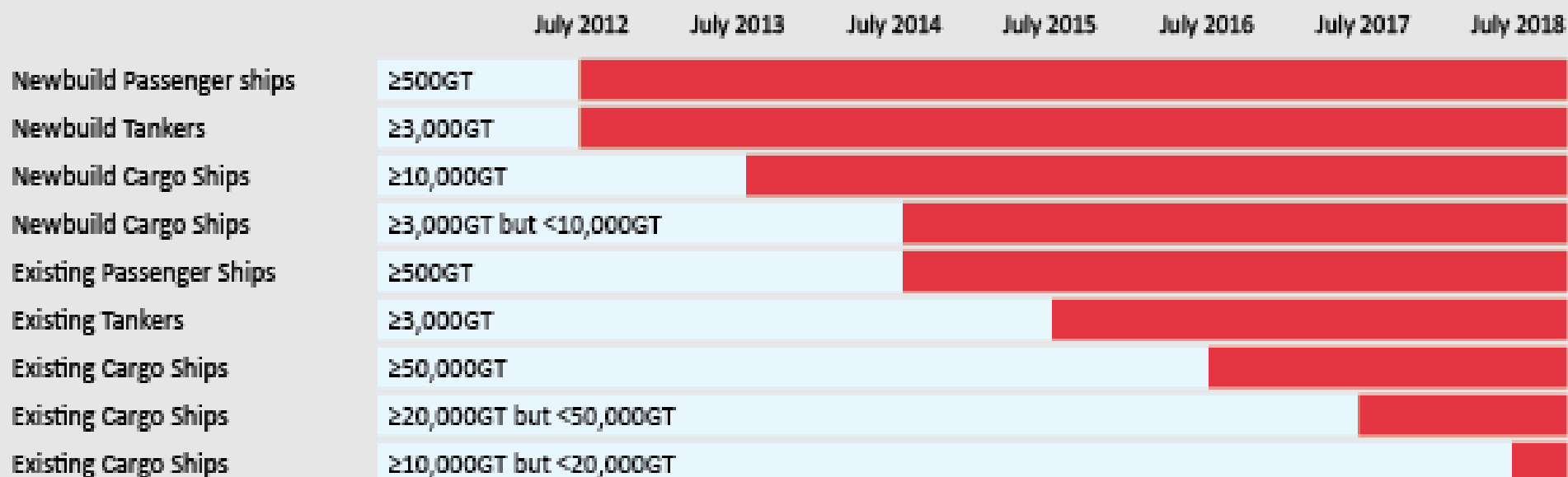


ECDIS

Electronic chart display and information system

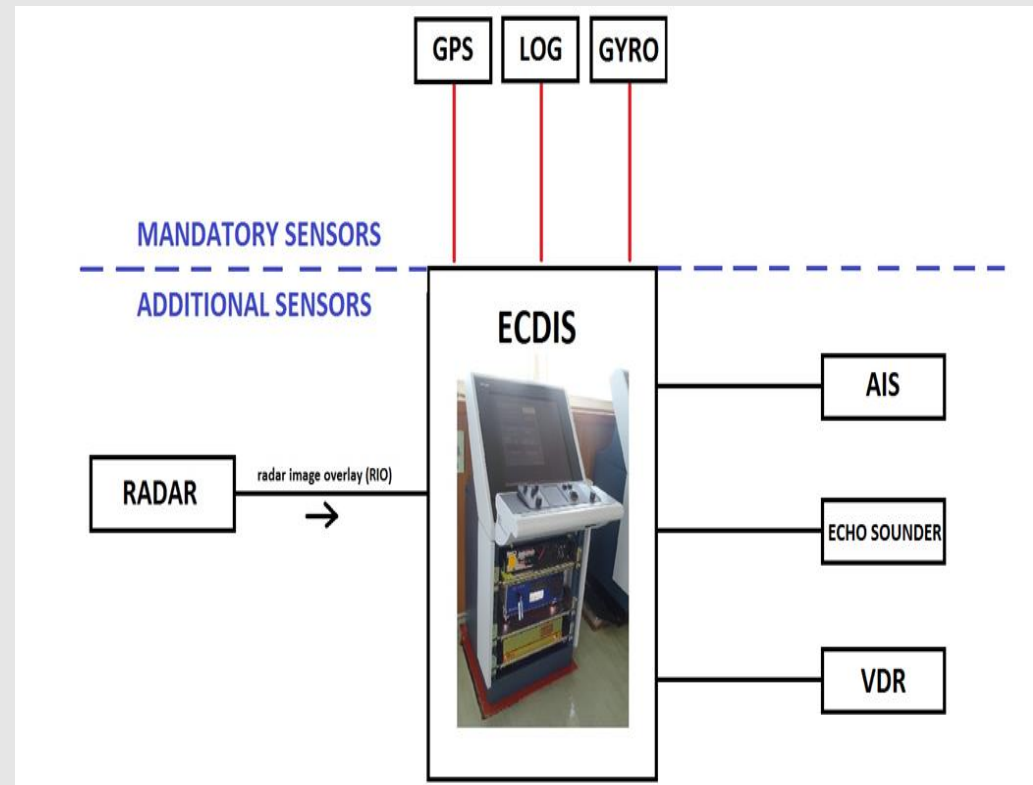
- adopted by IMO – 2009
- entered into force – 01.01.2011 – SOLAS V

ECDIS Implementation Schedule - July 2012 to July 2018



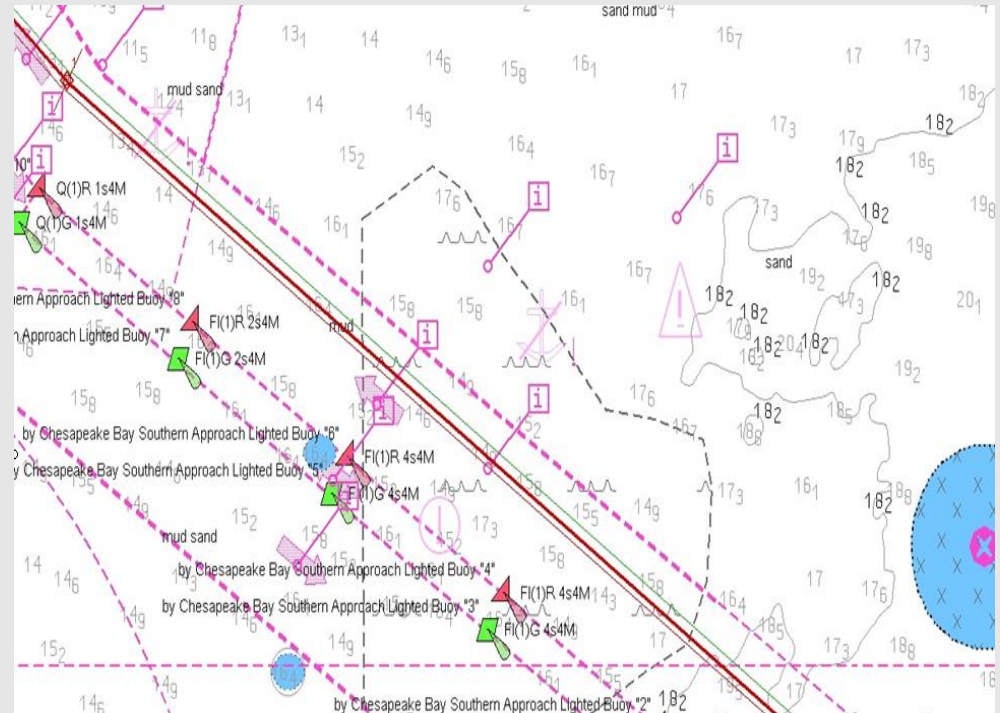
Why IMO adopted ECDIS

- primary function to improve safe navigation
- reduces the work load on the navigator
- allows navigator to easily execute a route plan
- allows the ship's position to be continually monitored
- simplifies chart correcting and chart updates
- provides appropriate safety alarms



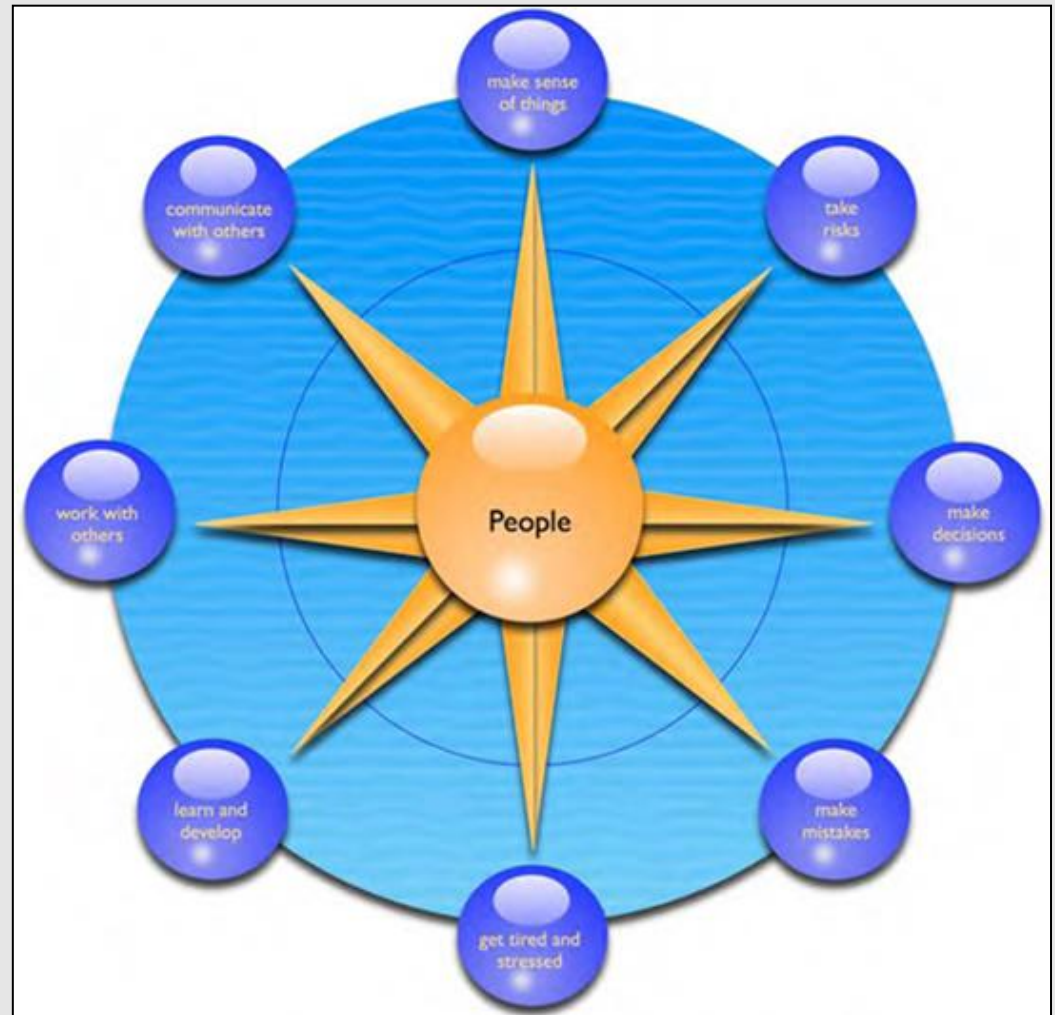
ECDIS problems

- no standard format for essential nav. functions
- ENC updates – are they being done correctly?
- ECDIS software updates - untrained ship's crew to carry out software updates
- manufacturers not keeping records
- poor user manuals
- poor positioning of equipment



ECDIS Training and the Human Element

- generic training – IMO model 1.27
- type specific training
- Human Element



ECDIS Training and the Human Element

The Standard



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Taylor

How to manage ECDIS risks

What we already know

1. ECDIS must be type approved
2. Official ENC's and RNCs only
3. Generic and Type specific training
4. Backup arrangements
5. Systems must be updated regularly

What else to consider.....?

How to manage ECDIS risks

Company ECDIS policy

1. Will ECDIS be primary means of navigation?
 - Is this desirable
 - Should this be a phased process
2. Can we go paperless?
 - Not all ships can go paperless
 - Dependant on trading routes
3. What ECDIS to fit?
 - Some models more capable
 - Multiple types of ECDIS can cause training issues
4. What procedures to implement?
 - SMS
 - Master must remain the authority

How to manage ECDIS risks

How to implement company policy?

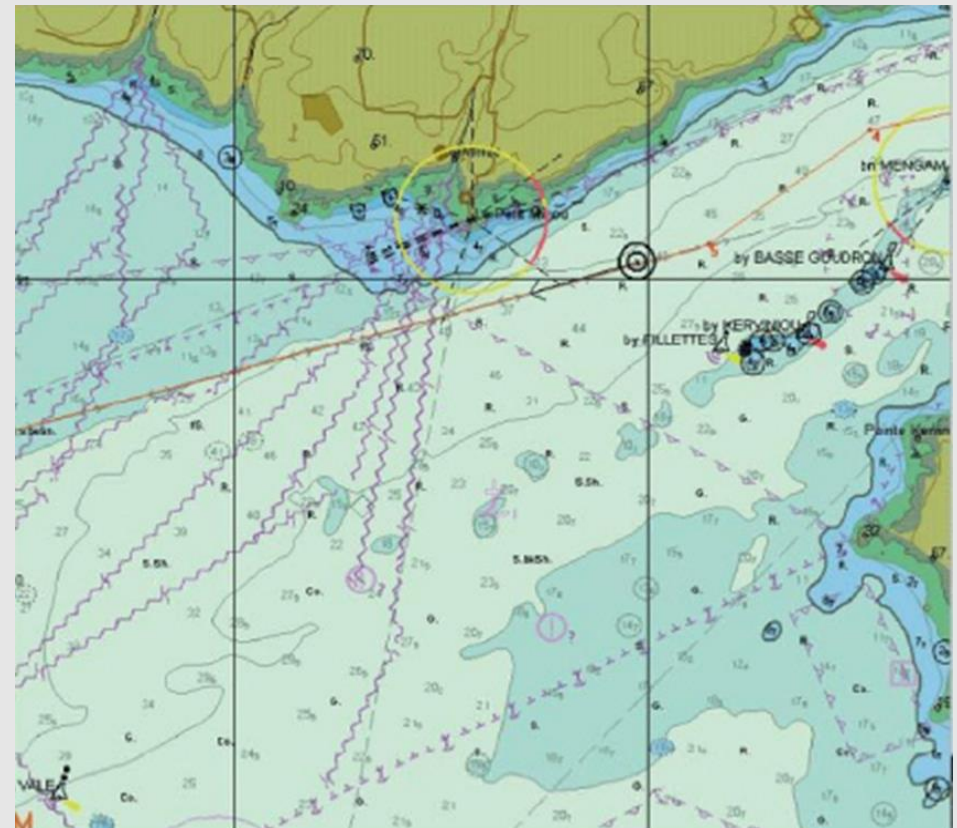
1. Identify SOPs
 1. Anchoring
 2. Pilotage
 3. Passage planning
 4. Sensor failure
 5. Backup arrangements
2. Include SOPs in checklists
 - Pre departure
 - Pre arrival
 - Restricted visibility
 - Anchoring
3. Create a coherent policy on ECDIS use

PRE-ARRIVAL CHECKLIST		
	Standby Engines	X
	Call anchor party	X
	Conduct astern test	X
	Turn on 4 steering motors	
	Check gyro compass	
	Check magnetic compass	X
	Confirm GPS position	X
	Call port/VTs	
	Check VHF frequencies	
0	Close watertight doors	X
1	Check hand held radios	
2	Prepare engine orders book	
ECDIS SETTINGS		
3	Set chart layers to "pilotage"	X
4	Set four depth shades on	
5	Set traditional buoyage	
6	Confirm ECDIS alarm is on	X
7	Set anti grounding cone to 6 minutes	
8	Confirm safety depth setting	X
9	Confirm route loaded on both ECDIS	X
0	Confirm both ECDIS have same settings	X

How to manage ECDIS risks

Operational procedures

S-57 Chart layer settings



How to manage ECDIS risks

Operational procedures

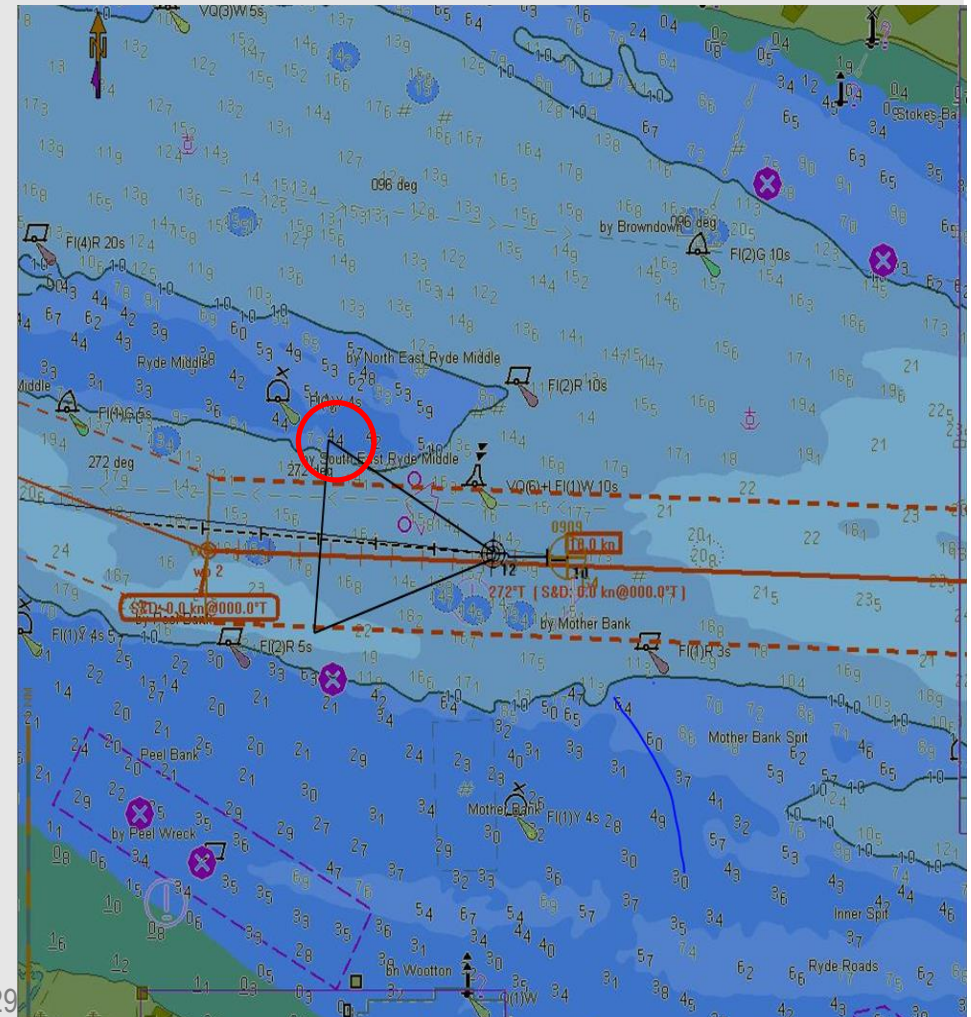
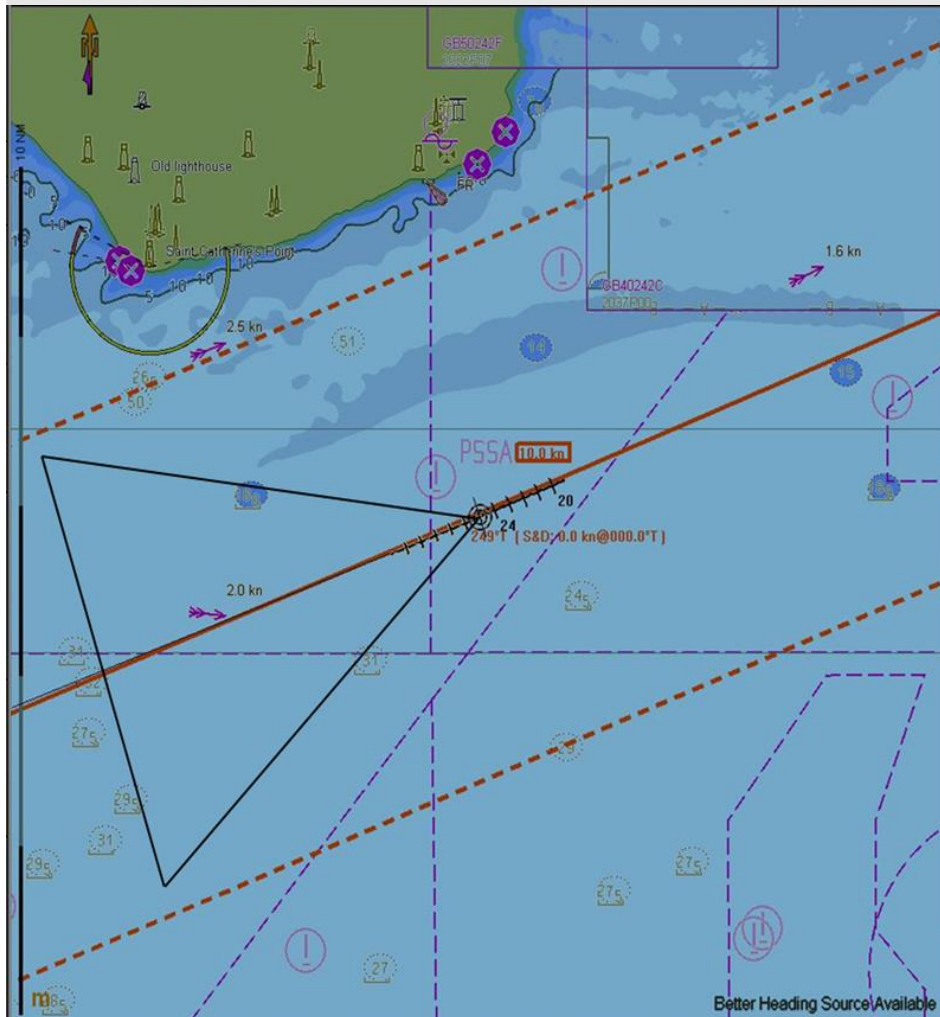
Buoyage: Simplified versus Traditional



How to manage ECDIS risks

Operational procedures

Anti-grounding facility



How to manage ECDIS risks

Operational procedures

Alarms Management

- When should an alarm sound
- Can it be turned off
- Procedure to follow
- When to call the Captain

Loss of GPS

Hdg:	(HDG1)	275.6°T
COG:		274.2°T
SOG:		11.2 kn
Lat:		50° 25.6' N
Lon:		004° 13.6' W
(POS4)		10.0-15.0 m
EBL:		
Brg:		N/A
Rng:		N/A
Lat:		N/A
Lon:		N/A
XTD:	S	46 yd
TTG:		00:04:57

How to manage ECDIS risks

Operational procedures

Depth Display

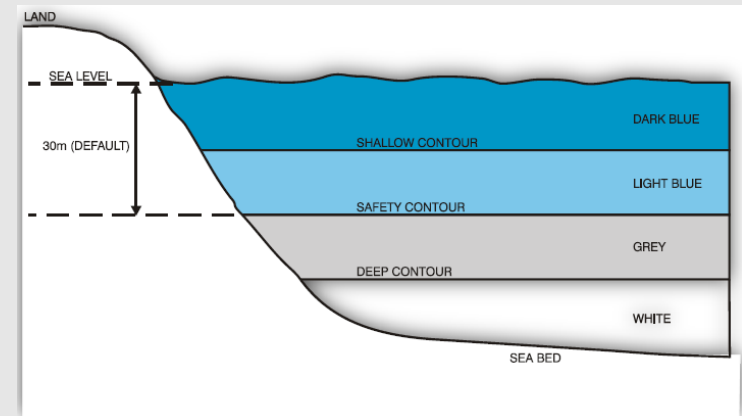
What depth shades to be used



3 depth shades



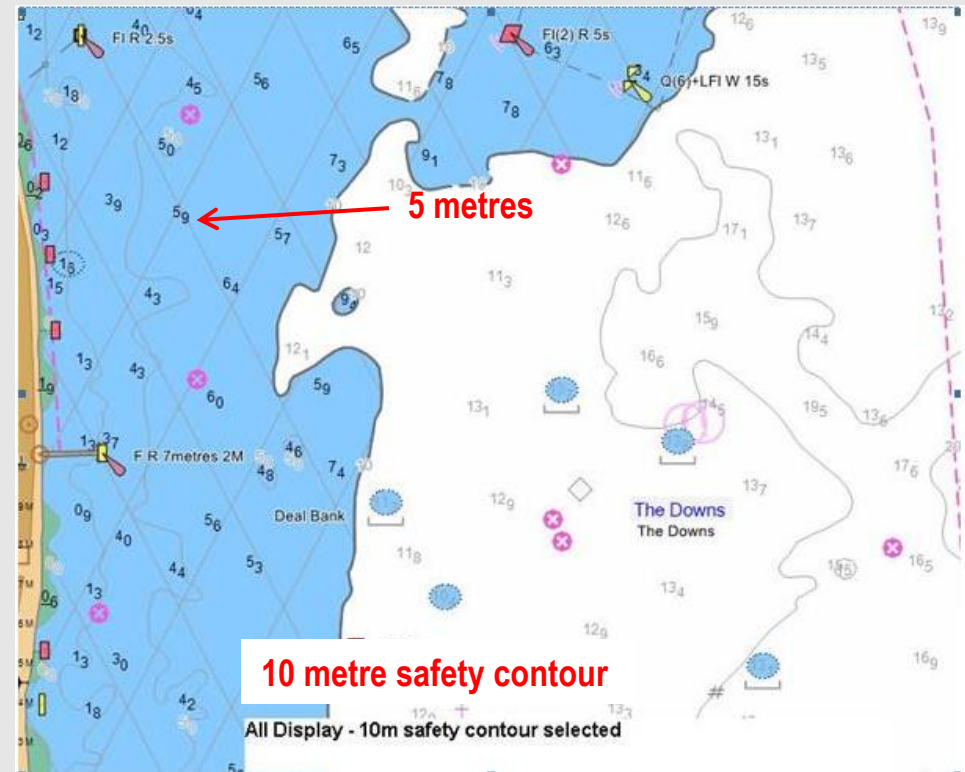
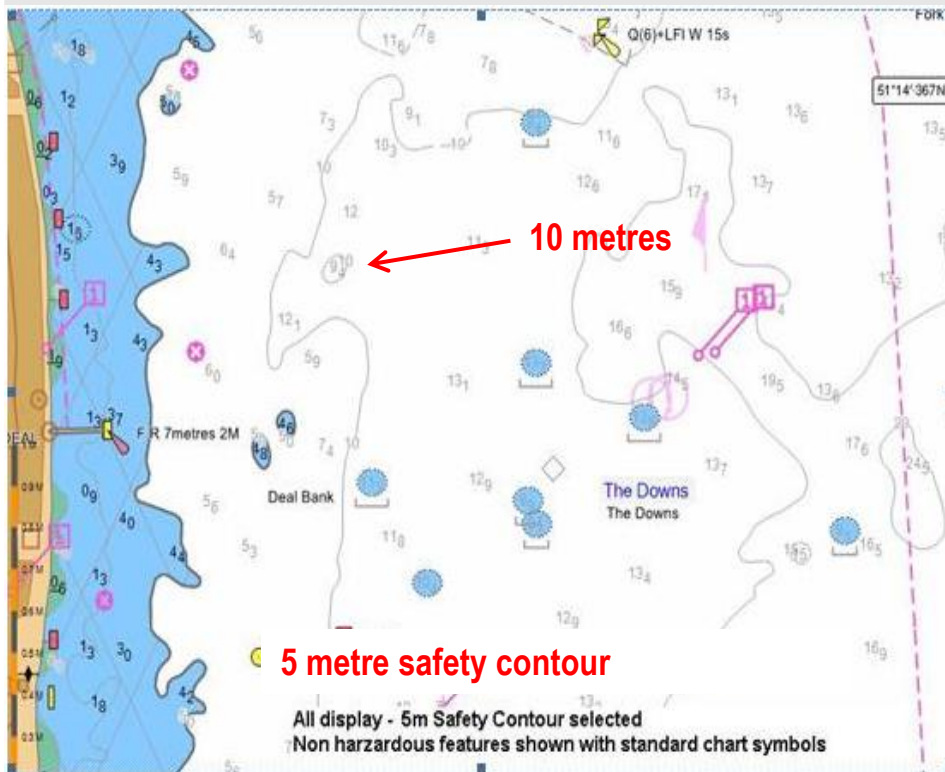
4 depth shades



How to manage ECDIS risks

Operational procedures

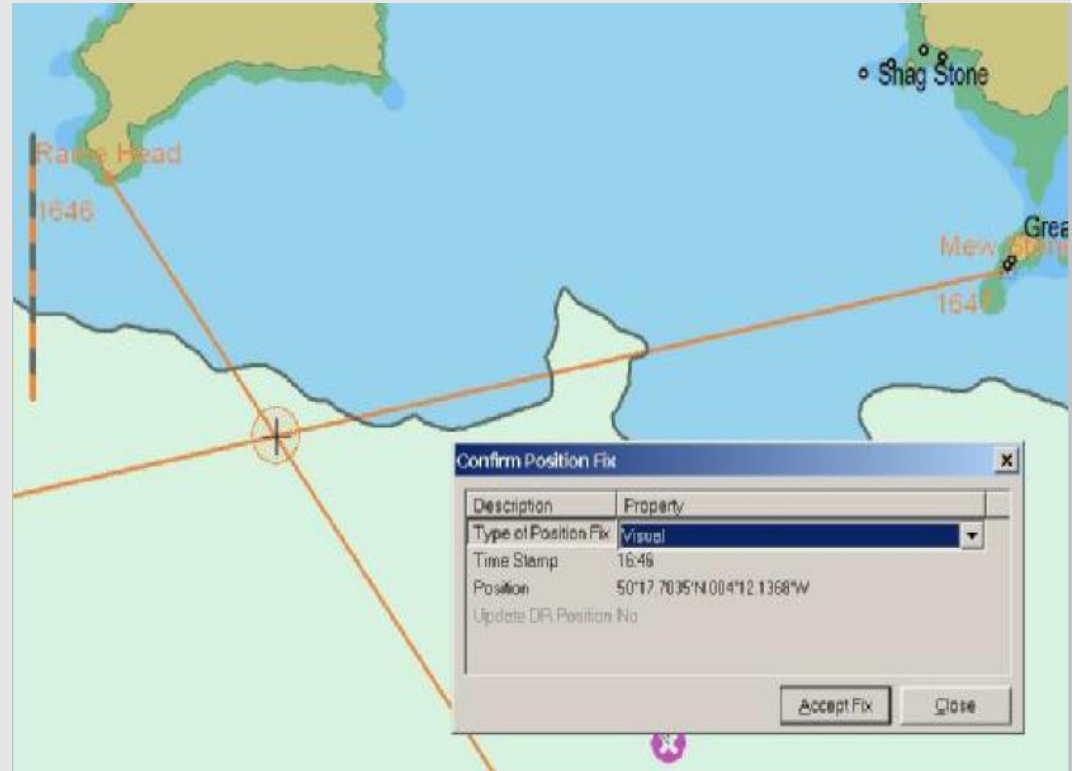
Safety depth settings



How to manage ECDIS risks

Busting an ECDIS myth

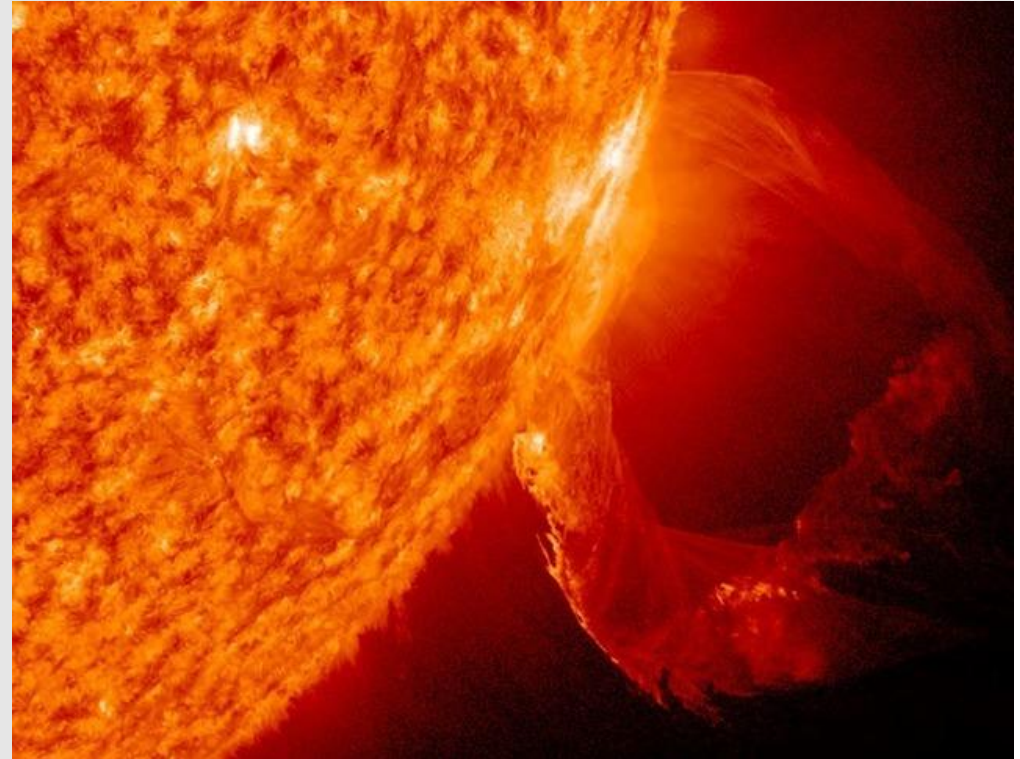
1. ECDIS is not reliant on GPS
2. GPS doesn't render an ECDIS useless
3. All ECDIS can plot a fix and DR
4. Capability varies greatly between models
5. Crew must practice fixing to be proficient



How to manage ECDIS risks

The Carrington Event 1859

- Coronal mass ejection or ‘solar storm’
- High levels of electromagnetic radiation
- Large parts of US telegraph system irreparably damaged
- Aurora Borealis seen in Caribbean
- Similar event today would render GPS unusable
- **Could your crew cope???**



QUESTIONS?

Spot the Hazard Competition

Richard Bell
Loss Prevention Executive

Member Forum, 24 June 2015

The Standard



Spot the Hazard Competition

Objectives

1. To enhance seafarer awareness of risk
2. To access the extensive knowledge and large membership of ICS
3. To demonstrate clubs commitment to accident prevention
4. Contribute to a reduction in the number of preventable accidents



Spot the Hazard Competition

Competition ethos

1. Open to all seafarers
2. Designed to be accessible for all seafarers
 - Deck
 - Engine
 - Catering/Supply
3. Cash prize to maximise participation
 - 5 x \$2,000
4. Not open to shore based staff



SAFETY ON THE BRIDGE

Charles
Taylor

The Standard



Draw a small circle around each of the hazards that you spot and number each from 1-10.



With the assistance of





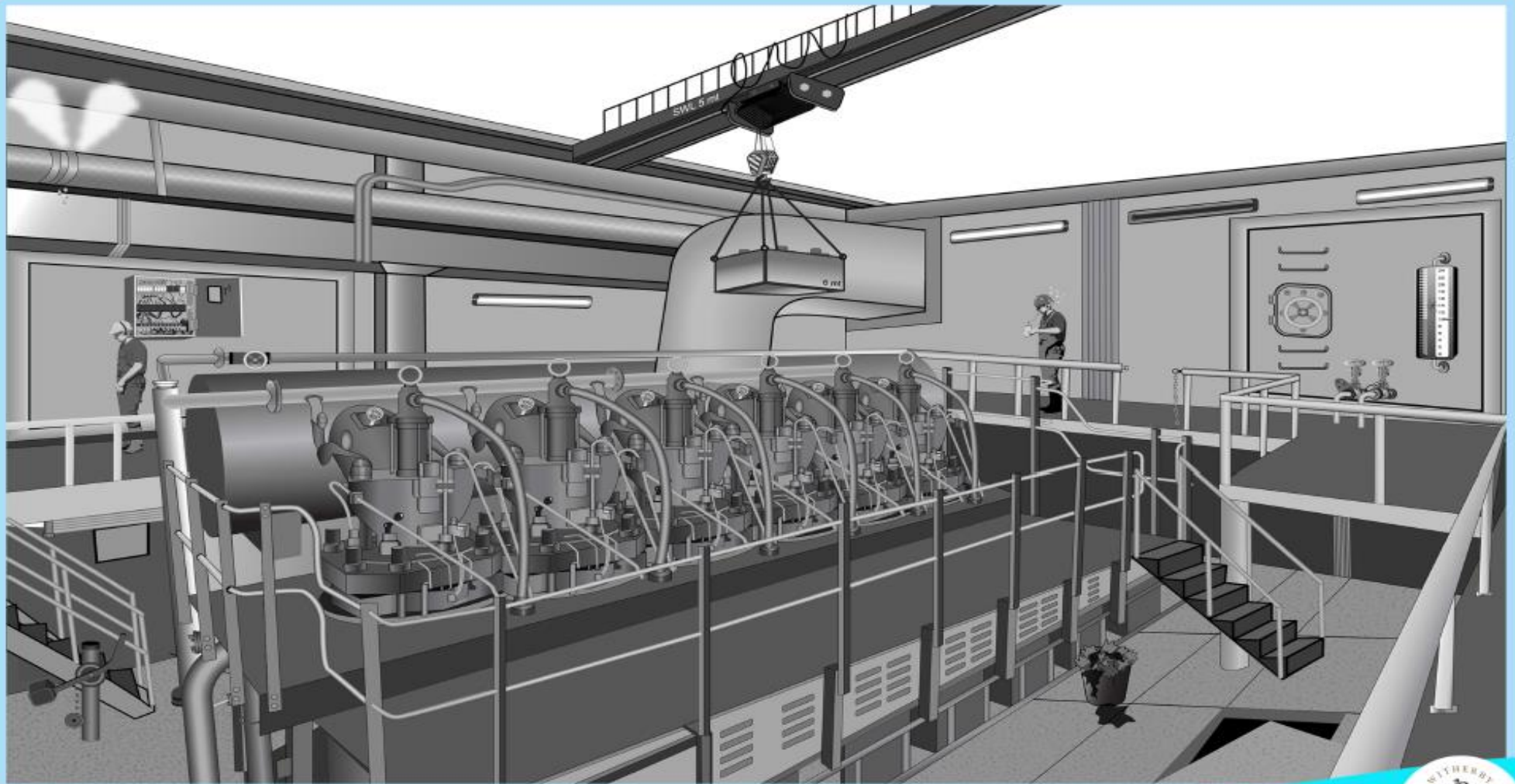
SAFETY IN THE ENGINE ROOM

Charles
Taylor

The Standard



Draw a small circle around each of the hazards that you spot and number each from 1-10.



With the assistance of





SAFETY ON DECK

Draw a small circle around each of the hazards that you spot and number each from 1-10.





SAFETY IN THE GALLEY

Charles
Taylor

The Standard



Draw a small circle around each of the hazards that you spot and number each from 1-10.



With the assistance of





SAFETY AT THE PORT TERMINAL

Charles
Taylor

The Standard



Draw a small circle around each of the hazards that you spot and number each from 1-10.



Spot the Hazard Competition

Submission forms

The Standard



Spot the Hazard Competition Entry Form

Please complete this form in English and send (with the above picture on which you have spotted the hazards) to:
submissions@hazard-competition.com by **28 August 2015**.

Description of Hazard

- 1 Unacknowledged alarm panel
- 2 _____
- 3 _____
- 4 _____
- 5 _____
- 6 _____
- 7 _____
- 8 _____
- 9 _____
- 10 _____

Safety at the Port Terminal – Safety Idea

Extra watchkeeper to reduce fatigue

Personal Details

Name: E. Gonzalez

Rank: Motor man

Ship: Ever Diligent

Company: Cargoex

E-mail addresses: * _____
e.gonzalez@nonmail.com

* Include email via which you can be contacted when on shore leave in addition to your ship and/or company email.

- ☒ I confirm that neither I, nor any of my family members, is an employee of either of the Promoters or is in any way connected with this Competition, or helping to set up this Competition.
- ☒ I confirm that by submitting this entry form I have read and agree to the [terms and conditions](#).

Spot the Hazard Competition

Safety Idea

1. Introduced as a tie break
2. Designed to promote safety related thinking
3. One for each submitted hazard scenario
4. Ideas to be judged by panel of 3
 1. ICS
 2. The Standard Club
 3. Witherby Publishing Group

Spot the Hazard Competition Website

5 X US\$ 2,000 prizes

Open to all seafarers (officers and ratings) serving worldwide



The Standard Club is a mutual insurance association and is a member of the International Group of P&I Clubs. The club is managed by Charles Taylor plc group companies and insures 135m gt of shipping. **The International Chamber of Shipping (ICS)** is the principal global trade association for merchant shipowners and operators. ICS membership comprises national shipowners' associations from 36 countries representing over 80% of the world merchant fleet.

The Standard Club and ICS have joined forces to launch a 'Spot the Hazard' competition open to any seafarer worldwide. The competition has been designed to help those working at sea identify hazards and to promote the importance of accident prevention.

How to play

Each of the following pictures contains 10 hazardous (potentially unsafe) situations.
There are 5 pictures:

- [Safety on the Bridge](#)
- [Safety in the Engine Room](#)
- [Safety on Deck](#)
- [Safety in the Galley](#)
- [Safety in the Port Terminal](#)

1. Download and print a picture and the accompanying form by clicking on one of the above links;
2. Draw a small **circle** around each of the hazards that you spot and number each from 1-10;
3. Write down a **short description** of each hazard, in English, on the accompanying form, ensuring that the number of the description matches the number you have given each hazard (an example has been provided for the [Safety on the Bridge](#) picture);
4. Write down a **safety idea** that you think is important, relevant to that picture (e.g. relevant to safety on the Bridge);
5. Fill in your personal details;
6. Scan the picture (with hazards spotted) and the completed form, and send to submissions@hazard-competition.com.

You can spot the hazards on as many (or as few) of the different pictures as you like.

For each picture, a US\$2,000 prize will be awarded to the seafarer who, in addition to correctly identifying all 10 hazards, also provides (in the opinion of the judges) the best safety idea.

Please submit your entries to submissions@hazard-competition.com before 28 August 2015.
The results will be announced within 120 days of the closing date.

The full terms and conditions of the competition can be found [here](#).

Spot the Hazard Competition

Prizes and phase II

1. Winner of each poster will receive \$2,000 (per scenario)
2. Winners safety ideas and name will be included on safety poster
3. Phase II: posters will be distributed displaying safe versions of the hazard scenarios

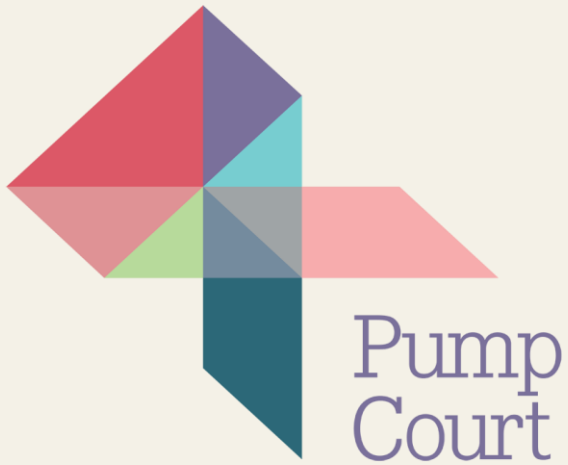
QUESTIONS?

Lunch

Member Forum, 24 June 2015

The Standard





“Steering between a rock and a hard place: Negligence by the Master”

**Sean O’Sullivan QC
4 Pump Court**

Negligence given prominence

- Often takes over hearing: why?
- Human factors?
 - More interesting than dry legal issues
 - Shipowners react vigorously to allegation of negligence by Master, especially if accident involved injury to third parties.
- Need to understand its role, else Owners' claim may fail just because criticisms to be made of Master.

Unsafe ports / berths



Unsafe ports / berths

Familiar test:

“a port will not be safe unless, in the relevant period of time, the particular ship can reach it, use it and return from it without, in the absence of some abnormal occurrence, being exposed to danger which cannot be avoided by good navigation and seamanship”

The “Eastern City” [1958] 2 Lloyd’s Rep 127, at p. 131, *per* Sellers LJ

Good navigation and seamanship

Hence focus by Charterers on the navigation and seamanship of the Master:

- Start with fact that has been accident
- Look for explanation
- Charterers say: “Nothing wrong with the port or berth; all about your incompetent Master...”

Unsafe ports / berths

BUT as a matter of analysis: “*care and safety are not necessarily the opposite sides of the same coin*”: The “Mary Lou” [1981] 2 Lloyd’s Rep 272, at p. 279 rhc.

Can have:

- Neither negligent navigation nor unsafe port – “simple bad luck” or
- “...characteristics of the port may be such as to create a risk of danger ...and this may prove to have been the cause of the damage even if the ship could and should have been better navigated...”

Abnormal occurrence

- Events such as mishandling of other vessels or freak weather events. E.g.
 - The “Evia” (No 2) [1982] 2 Lloyd’s Rep 307
 - More controversially, The “Ocean Victory” [2015] EWCA Civ. 16
- In The “Ocean Victory”, permission to appeal against the Judge’s findings that the Master had not been negligent in his navigation of the vessel was refused on paper and was not renewed orally (see [12]). That did not save the claim.

Both unsafety and negligence

- Where there is both negligent navigation and the port/berth is unsafe, the Tribunal will need to consider the “effective cause” of the incident.
- To defeat the claim, Charterers will need to “break the chain of causation” - to “obliterate” the causative effect of the original breach of the safe port/berth warranty: see Borealis v Geogas Trading [2011] 1 Lloyd’s Rep 482.
- Perhaps “comparatively rare that where the chronologically immediate cause of a casualty is negligence the effective cause will still be the unsafety of the port...” (Parker J in The “Polyglory” [1977] 2 Lloyd’s Rep 353)

Practical example

- Vessel suffered ranging damage at berth
- Common ground that berth to which sent unsafe (in certain weather conditions) for vessel of that size
- Alleged that Master should have departed earlier from berth
- Would have been necessary for the Charterer to establish that the effective cause of the damage was the Master's negligence in failing to identify the danger
- Perhaps nothing far short of the Master deliberately or recklessly running a risk would suffice...

Dangerous cargoes



Dangerous cargoes – actual notice

- Actual notice by cargo interest to owner:
 - Will discharge cargo interest's common law duty: Brass v Maitland (1856) 6 E & B 470
 - Defence to claim under Article IV.6 of the Hague or Hague-Visby Rules.
 - No defence to claim based on breach of express term: Chandris v Isbrandtsen-Moller Co Inc [1951] 1 KB 240

Dangerous cargoes – constructive notice

- Constructive notice (“the Master ought to have known” – so akin to negligence):
 - Will usually operate as a defence to a claim based on the common law implied duty: Brass v Maitland
 - Will not operate as a defence to a claim based on breach of express terms, unless it can be shown to “break the chain of causation” – very difficult.
 - Position under the Hague / Hague-Visby Rules not settled.

Extreme example

- Ore cargo found part way through loading to be too wet to be safely carried. It had to be dried out in the holds, causing significant delay and expense.
- Charterparty contained the usual express exclusion of dangerous cargoes
- Nevertheless, Charterer complained that the Master should have realised that the cargo was too wet and advanced a claim against the shipowner for the costs incurred as a result(!)
- Claim would fail for circuitry unless it could be proved that the Master's negligence was so causatively potent as to negate the effect of the prior breach.

Conclusion

- Charterer says: not my fault. Master is responsible for safety of his vessel. His fault this happened.
- Short answer is that this is not a question of “moral fault” but all about contractual allocation of risk
- Where express terms allocate risk to charterer or cargo, very difficult to escape from consequences by accusing the Master of negligence.
- In many cases in which that issue of negligence is allowed to dominate, should really be playing more limited role

Sanctions – latest update

Ursula O'Donnell
Claims Executive

Member Forum, 24 June 2015

The Standard

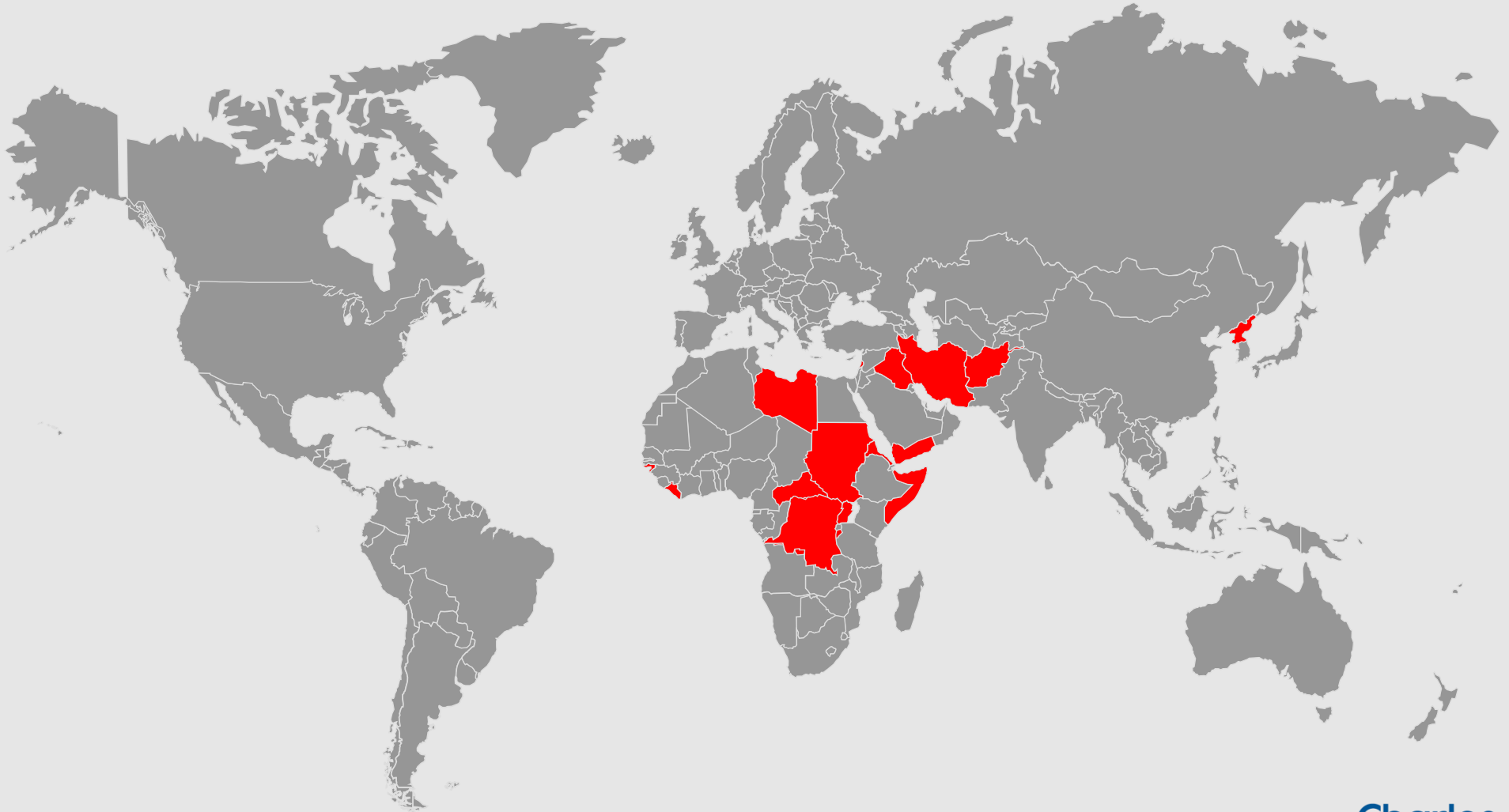


- What are sanctions?
- Overview of current sanctions (UN / EU / US regimes)
- EU sanctions
 - Application
 - Assets freezes
 - Iran
 - North Korea
 - Syria
 - Ukraine / Russia
 - Due diligence defence
- Due diligence in practice
- Sanctions clauses
- Penalties

What are sanctions?

- Coercive foreign policy instruments to bring about a change in the activities of those targeted, who are considered to be violating international law
- Different forms:
 - trade / economic / financial sanctions
 - arms embargoes
 - diplomatic sanctions
 - travel restrictions
 - sporting boycotts
- Cheaper and less risky than military intervention

UN Sanctions



UN Sanctions

- Afghanistan
- Central African Republic
- Democratic Republic of the Congo
- Eritrea
- Guinea-Bissau
- Iran
- Iraq
- Ivory Coast
- Lebanon
- Liberia
- Libya
- North Korea
- Somalia
- Sudan
- Yemen

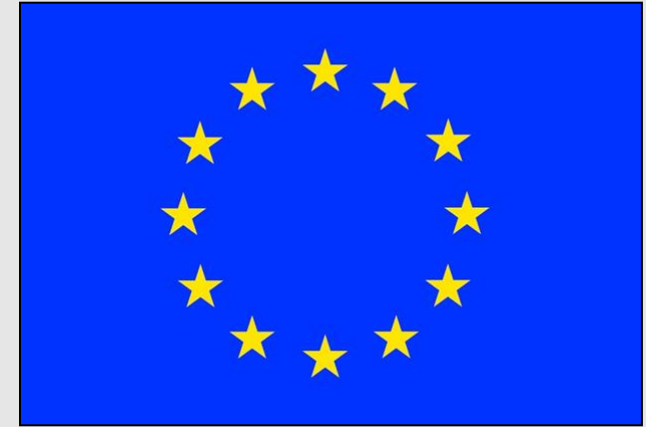


EU Sanctions



EU Sanctions

- Afghanistan
- Belarus
- Bosnia and Herzegovina
- Burma
- Central African Republic
- China
- Democratic Republic of Congo
- Cote d'Ivoire
- Egypt
- Eritrea
- Republic of Guinea
- Guinea-Bissau
- Haiti
- Iran
- Iraq
- Ivory Coast
- Lebanon
- Liberia
- Libya
- Moldova
- Myanmar
- North Korea
- Russia
- Serbia and Montenegro
- Somalia
- South Sudan
- Sudan
- Syria
- Tunisia
- Ukraine
- USA
- Yemen
- Zimbabwe



US Sanctions



US Sanctions

- Balkans
- Belarus
- Burma
- Central African Republic
- Cote d'Ivoire
- Cuba
- Democratic Republic of Congo
- Iran
- Iraq
- Lebanon
- Liberia
- Libya
- North Korea
- Russia
- Somalia
- South Sudan
- Sudan
- Syria
- Ukraine
- Venezuela
- Yemen
- Zimbabwe



EU Sanctions – Application

- Apply:
 - Within EU territory, including airspace
 - On board any ship / aircraft under EU state jurisdiction
 - To any national of an EU state (worldwide)
 - To any entity incorporated / constituted under the law of an EU state
 - In respect of any business done wholly or partly within the EU



Freezing of funds and economic resources of listed persons / entities

- “Funds” = financial assets / benefits of every kind, including letters of credit, bills of lading, bills of sale
- “Economic resources” = other assets of every kind used for goods or services
- Belonging to, owned, held or controlled, inc. by associated persons / entities

EU Sanctions - Iran

- Imposed:
 - In response to concerns about Iranian nuclear programme
 - In relation to human rights violations
- Key restrictions:
 - **Freezing of funds and economic resources** of listed persons / entities
 - **Financial services**



EU Sanctions - Iran

Other key restrictions

Bans on:

- Import, purchase or transport of **natural gas, crude oil, petroleum products and petrochemical** products exported from Iran (or originating in Iran)
 - Extends to related finance and **insurance** (and natural gas swaps)
 - Very limited exceptions, e.g.
 - Purchase of bunkers produced and supplied outside Iran (and the EU) if intended for propulsion of the ship's engines
 - Bunkering in Iran where ship forced into Iran due to a force majeure event
- Making available ships designed for transport or storage of oil and petrochemical products either to:
 - (i) any Iranian person / entity or
 - (ii) any others unless appropriate action is taken to prevent the ship from being used to carry or store such products originating in (or exported from) Iran

EU Sanctions - Iran

Other key restrictions (cont.)

- Sale, supply, transfer or export to any Iranian person / entity (or for use in Iran) of key equipment or technology for the **oil, gas and petrochemical industries**
 - Includes listed equipment for the exploration and production of oil and natural gas, oil refining and the liquefaction of natural gas, including geophysical survey equipment, drilling and production units, LNG carriers, heat exchangers and certain pumps and pipes
- Sale, supply, transfer or export to any Iranian person / entity (or for use in Iran) of **graphite, raw or semi-finished metals** such as iron, steel, copper, nickel, aluminium, lead, zinc and tin
- Sale, supply, transfer or export to any Iranian person / entity (or for use in Iran) of key equipment or technology for **ship building, maintenance or refit**, including turbines, engines and transmission shafts
- Import and export of **arms, equipment which might be used for internal repression** (including telecommunications monitoring equipment) and **goods & technology which could contribute to nuclear enrichment or nuclear weapon systems**
- Trading in **gold, silver, other precious metals and diamonds** with Iranian public bodies and their agents

EU Sanctions - Iran

Joint Plan of Action

- Limited easing of sanctions against Iran agreed by P5+1 / E3+3 (France, Germany, the UK plus the USA, Russia and China) and Iran on 24 November 2013 in return for Iran making concessions in respect of its nuclear programme
- For renewable six month period commencing 20 January 2014 – currently **extended to 30 June 2015**
- 2 April 2015 agreed framework for eventual removal of nuclear programme sanctions



EU Sanctions - Iran

Joint Plan of Action (cont.)

- Moratorium on new nuclear-related UN sanctions and limited easing of EU / US sanctions:
 - US extraterritorial sanctions and EU sanctions have been suspended on:
 - Iran's **petrochemical exports**
 - Iran's automobile industry (imposed under the US sanctions); and
 - **gold and precious metals**
 - **Iranian crude oil sales may continue at current levels to China, India, Japan, South Korea, Taiwan and Turkey** (all previously benefitted from US NDAA 2012 waivers)
 - **EU and US sanctions suspended on associated transportation and insurance services not involving designated Iranian entities**
- Apart from specific concessions listed in the Joint Plan of Action, **other existing sanctions remain in place**
- US persons and US-owned / controlled foreign entities continue to be generally prohibited from conducting transactions with Iran

EU Sanctions – North Korea

- Imposed mainly in response to nuclear and ballistic missile tests, but also on human rights grounds
- Key restrictions:
 - Freezing of funds and economic resources of listed persons / entities
 - Financial services



EU Sanctions - North Korea

Other key restrictions

Bans on:

- Import and export of **arms and goods which could contribute to the DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes**
 - Includes dual-use goods, such as aluminium products, specified alloys of steel, nickel and titanium and carbon-carbon composite material, as well as nuclear materials and specified chemicals, electronics and software
- Trading in **gold, silver, other precious metals, diamonds, luxury goods** and DPRK denominated banknotes and coinage
- Bunkering, ship supply or other servicing of any DPRK ship where there are reasonable grounds to suspect that it carries prohibited goods

EU Sanctions – Syria

- Imposed in response to the humanitarian situation in Syria
- Key restrictions:
 - Freezing of funds and economic resources of listed persons / entities
 - Financial services



EU Sanctions - Syria

Other key restrictions (cont.)

Bans on:

- Import, purchase or transport of **crude oil or petroleum products** exported from Syria (or originating in Syria), inc. related financial assistance, **insurance** or reinsurance
- Sale, supply, transfer or export of **jet fuel and fuel additives** to Syria (inc. related financial assistance, **insurance**, reinsurance or brokering services)
- Sale, supply, transfer or export to any Syrian person / entity (or for use in Syria) of key equipment or technology for the **oil & gas industry**
 - includes listed equipment for the exploration and production of oil and natural gas, oil refining and the liquefaction of natural gas, including geophysical survey equipment, drilling and production units, LNG carriers, heat exchangers and certain pumps and pipes

EU Sanctions - Syria

Other key restrictions (cont.)

- Sale, supply, transfer or export of equipment or technology to be used in the construction or installation in Syria of new **electricity power plants**. This consists of steam & gas turbines, electric motors and generators exceeding specified outputs
- Import and export of **arms and equipment which might be used for internal repression** (including telecommunications monitoring equipment)
- Sale, supply, transfer or export to Syria of listed **luxury goods**
- Trading in **gold, silver, other precious metals and diamonds** with (e.g.) Syrian public bodies and their agents

EU Sanctions – Ukraine / Russia

- Imposed in response to situation in Ukraine, including annexation of Crimea by Russia
- Following broad categories:
 1. Sanctioned persons: designation of those responsible for “*the misappropriation of Ukrainian state funds*” and for “*human rights violations in Ukraine*” and those responsible for “*actions which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine*”
 - includes **Sevastopol and Kerch commercial sea ports**



2. Crimea:

- ban on imports of **goods originating in Crimea** / Sevastopol
- includes prohibition on finance / **insurance**



2. Crimea – other key restrictions (cont.):

Bans on:

- Certain key equipment and technology being sold / exported to any Crimean entity or for use in Crimea
 - includes equipment and technology related to infrastructure in the Crimean transport, telecommunications & energy sectors and the exploitation of oil, gas and mineral resources in Crimea
- Acquiring / extending ownership in any entity or real estate in Crimea
- Financing any entity in Crimea or creating any joint venture in Crimea
- Providing services directly relating to **tourism** activities in Crimea
 - includes **cruise ships**

EU Sanctions – Ukraine / Russia

3 Russia: sectoral and financial services restrictions

Key restrictions:

- Provision of technology, equipment or associated services for **deep-water oil exploration and production, arctic oil exploration and production and shale oil projects in Russia**
 - includes drilling, well testing, logging and completion services and supply of specialised floating vessels



3 Russia: sectoral and financial services restrictions (cont.)

- Listed Russian banks barred from accessing capital markets for long-term funding, including borrowing over 30 days
 - e.g. SMP Bank, Gazprombank, Vnesheconombank & Bank Rossiya
- Restrictions on access to **capital markets** of other listed Russian entities, including:
 - Russian defence sector entities
 - Rosneft, Transneft and Gazprom Neft
 - Non-EU subsidiaries where 50% or more is owned (directly or indirectly) by one of the listed entities
- Prohibition on making or being part of any arrangement to make certain new loans or provide credit to entities subject to restrictions on access to capital markets
- Ban on sale / export of **arms and related material**, including dual-use goods and technology destined to the Russian military

EU Sanctions – due diligence

Due diligence defence:

“... did not know, and **had no reasonable cause to suspect** that their actions would infringe the measures set out in the Regulation”



Due diligence in practice

- Who are the proposed charterers? Will they be sub-chartering? To whom?
- What jurisdictions?
 - Load ports / Discharge ports / Bunkering ports / other calls (repairs, etc.)
 - Flag State
 - Members' jurisdictions
 - Contractual law / jurisdictions
- Who are port operators / port agents, etc.?
- What cargoes? Origin of bunkers, etc.?
- Who are cargo interests in chain?
- Who are bunker suppliers, etc.?



Sanctions clauses

- BIMCO
 - Sanctions Clause for Time Charter Parties
 - Designated Entities Clause for Charter Parties
- INTERTANKO
 - Sanctions Clause



Sanctions penalties

June 2014: BNP Paribas S.A.

- **Fined US\$ 8.9 billion**
- Banned for one year from
 - conducting certain US\$ transactions
- Pleaded guilty to processing billions of dollars of transactions through US financial system on behalf of Sudanese, Iranian and Cuban entities.
- Transactions with SDNs
- Told others not to mention names of sanctioned entities in US payments



PEME – A New Approach

Richard Stevens
Claims Director

Member Forum, 24 June 2015

The Standard



- Background
- Why introduce a PEME scheme
- How the scheme will work
- Quality control issues
- The future of the scheme
- Member participation

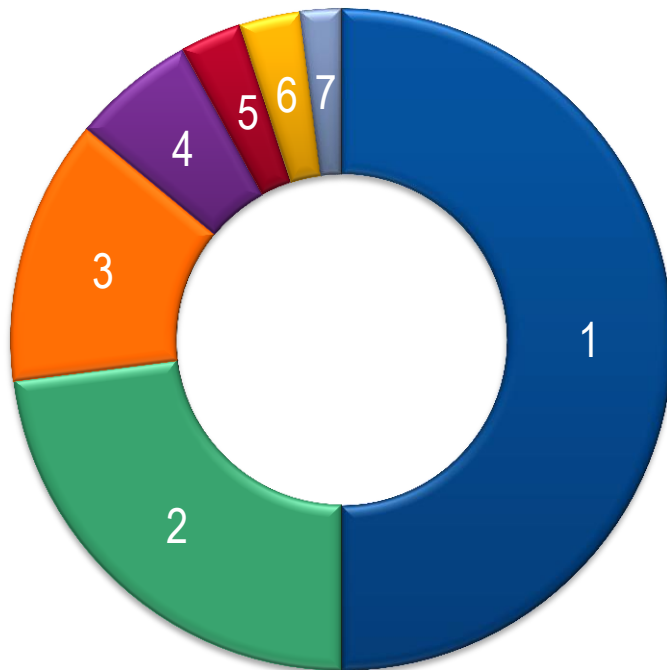
- Unfit seafarers create different levels of impact
 - Minor ailment v. serious deterioration of vision
- Presence of unfit seafarers negates efforts made by shipowner to ensure vessel is safe
- The club's previous PEME scheme
 - Limitations
- New scheme will combine rigorous accreditation with continuous monitoring

Why introduce a PEME scheme

- To provide a useful service to members in addition to wishing to wanting to assist members and their business as far as possible.
- To address and reduce the high number of crew claims received
- To reduce the amount of money spent on crew claims

Total Club P&I Claims

Claims received 2009 - 2013



1	Cargo	50%
2	Crew	23%
3	Other	13%
4	Property damage	6%
5	Fines	3%
6	Collision	3%
7	Pollution	2%

Case Study 1

- 55 year old Malaysian welder suffered heart attack
- Found to have between 90% and 100% stenosis of arteries
- Member required to pay repatriation, medical treatment, and sick wages
- PEME did not identify underlying medical condition
- Enhanced PEME would have identified critical factors

Case Study 2

- 55 year old Filipino Chief Cook sought disability benefits totalling \$60k
- Confirmed by physician to have developed:
 - Diabetes
 - Heart disease
 - Cataracts
- Served on board for 50 days only and PEME certificate had passed him fit
- Enhanced PEME would have identified critical factors

Case Study 3

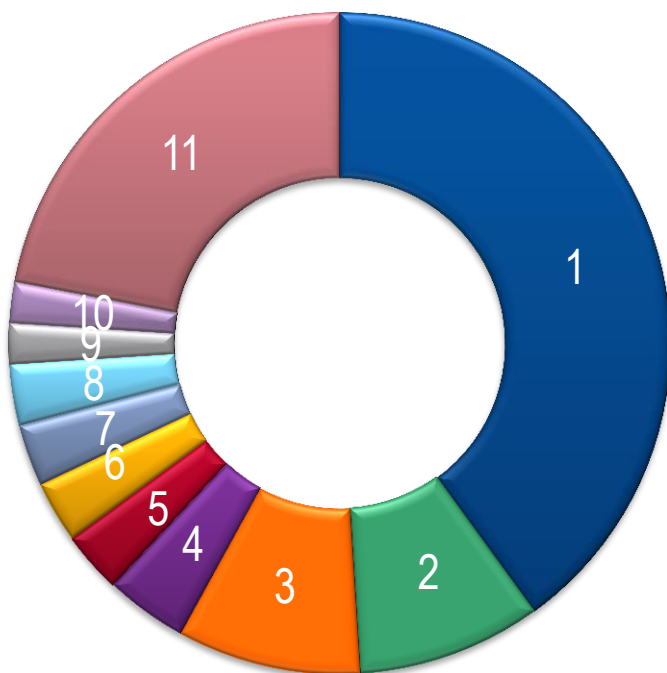
- 50 year old Filipino second engineer died from heart disease whilst ashore
- Illness caused by lifestyle factors including smoking and unhealthy eating
- Enhanced PEME would have:
 - identified critical factors
 - required seafarer to have cardio stress test

The PEME Scheme

- Administered in partnership with Medical Rescue International (MRI)
 - UK based company
 - Specialising in medical repatriations
 - Accrediting medical facilities worldwide
- Will operate initially in the Philippines
- Purpose of trial period is:
 - gauge appetite for enhanced scheme amongst Members
 - to ensure tangible results are being delivered

Crew claims by nationality

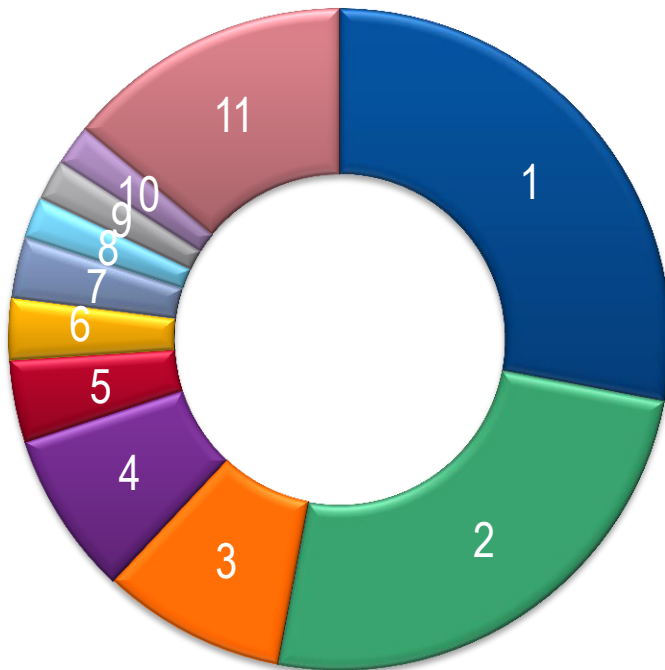
2009 - 2013



1	Filipino	40%
2	Italian	9%
3	Indian	9%
4	Chinese	4%
5	German	3%
6	Ukrainian	3%
7	Turkish	3%
8	American	3%
9	Korean	2%
10	Polish	2%
11	Others	22%

US\$ value of crew claims by nationality

2009 - 2013



1	American	28%
2	Filipino	25%
3	Indian	9%
4	Italian	8%
5	Korean	4%
6	Greek	3%
7	Turkish	3%
8	British	2%
9	Polish	2%
10	Ukrainian	2%
11	Others	14%

The PEME Scheme

- 13 clinics in the Philippines to be accredited by the club
 - Selected after consultation with members
- All clinics inspected by MRI to ensure:
 - staff able to conduct enhanced PEME examinations
 - clinic operates to good standards of practice
- Clinics provided with accreditation certificate
- MRI will gather data on a monthly basis

The PEME examination

- Comprises of medical tests and assessments recommended by MRI
- Tests alter depending upon the age of the seafarer
- Clinics will decide whether seafarer is 'fit' or 'unfit'
- Borderline cases referred to MRI medical team for impartial decision

Quality control procedures

- Seafarers and manning agents must receive PEME certificates they can trust
- Anti forgery measures in PEME certificates and certificates of accreditation
 - Unique serial numbers
 - Hologram technology
- Each clinic visit annually by MRI
- Each clinic to submit monthly statistics to MRI

- Trial period will run for 12 months
- Review of feedback from members and MRI
- Thereafter decision taken whether to roll out to other jurisdictions:
 - India
 - China
 - Ukraine
 - Russia

Member participation in scheme

- Scheme is not mandatory
- Hoped that members which employ Filipino crew will wish to be involved
- Clinics may already be used by members in any event
- Simply inform the participating clinic that Standard Club PEME is required

Member participation in scheme

- Members / manning agents remain responsible for cost of PEME
- Cost of enhanced PEME ranges from \$75 to \$125 (depending upon age of seafarer)

Benefits of scheme

- Certainty of service provided
- Vessel safety
- Fewer claims
- Cost saving and stronger claims record

Mediation

Jonathan Lux
Mediator, Stone Chambers

Member Forum, 24 June 2015

The Standard



Break

Member Forum, 24 June 2015

The Standard

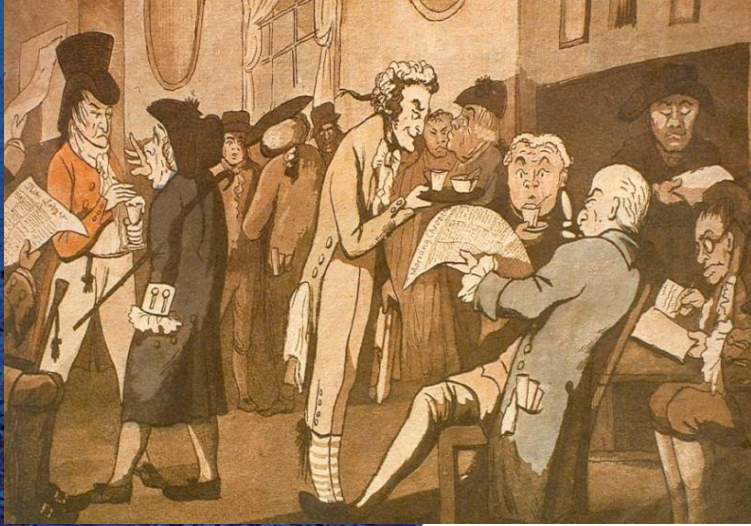


IACS : ITS FUNCTION AND CURRENT ISSUES

Derek Hodgson

Permanent Secretary

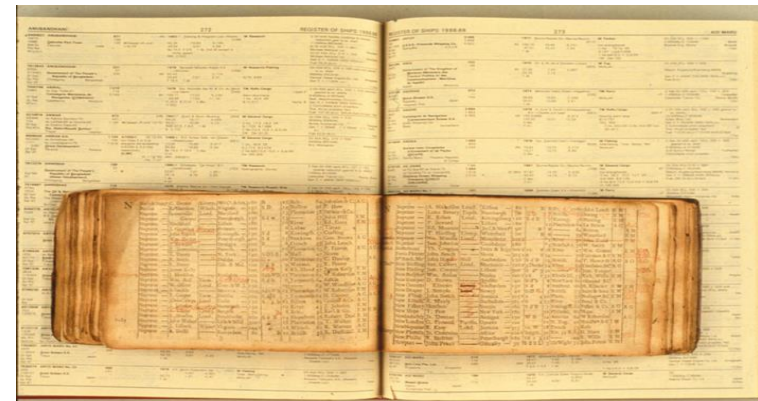
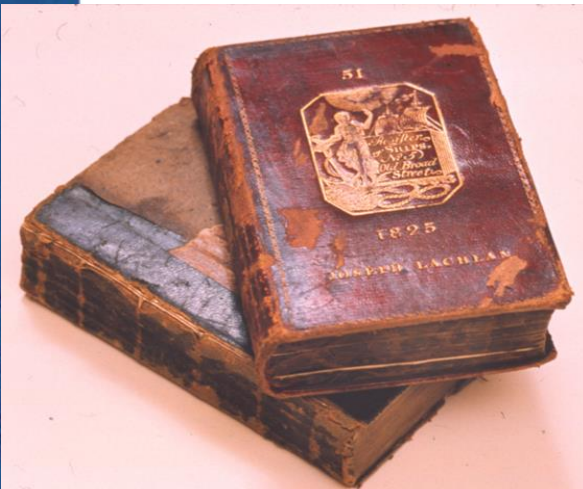
derekhodgson@iacs.org.uk

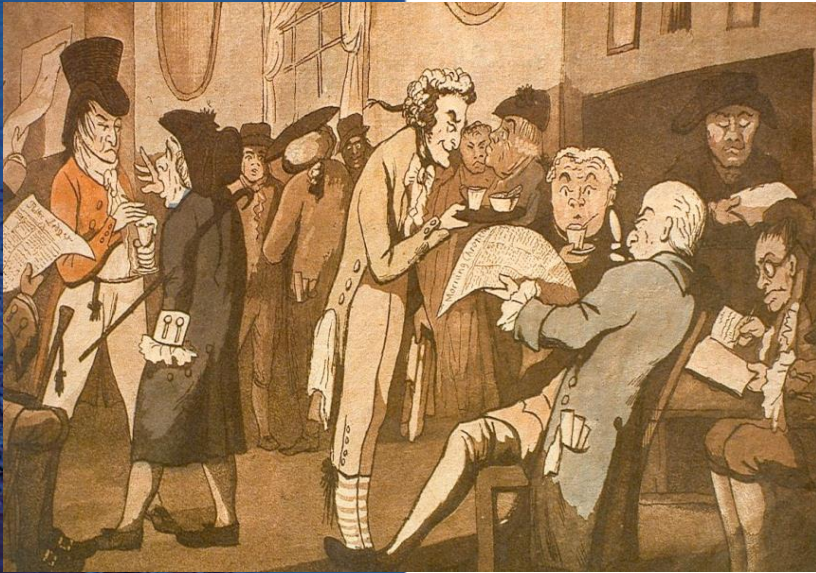


Why is it called Classification?

Second half of the 18th century, marine insurers, based at Edward Lloyd's coffee house in London, want a system for the independent inspection of the hull and equipment of ships presented for insurance cover.

SAFER
SHIPPING



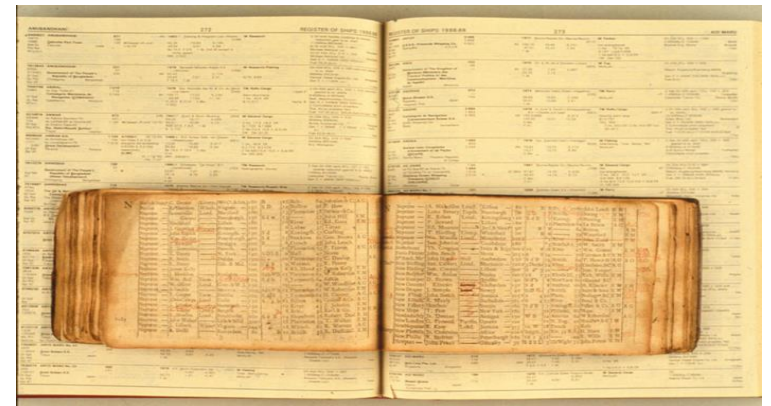


A system was wanted to rate or 'classify' the condition of each ship.

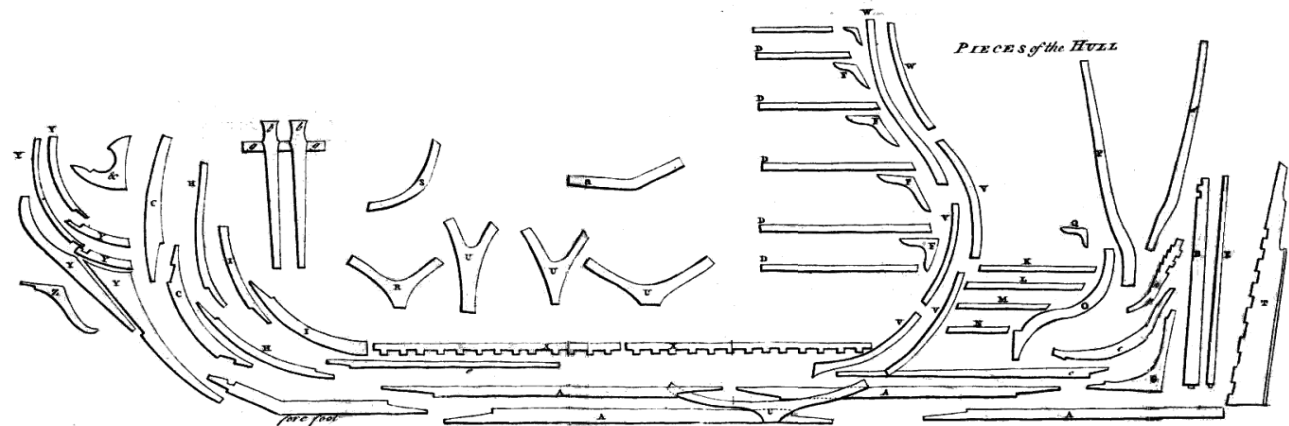
Ships were to be surveyed on an annual basis.

In 1760 a Committee was formed for this purpose – and *Lloyd's Register* was born.

SAFER
SHIPPING







The condition of the hull was classified A, E, I, O or U, according to the excellence of its construction and its adjudged continuing soundness (or otherwise).



Equipment (masts and rigging – engines later) was G, M, or B: simply, 'Good', 'Middling' or 'Bad'. In time, G, M and B were replaced by 1, 2 or 3, which is the origin of the well-known expression 'A1', meaning 'first or highest class'.



<u>Date</u>	<u>~ Symbols of Class ~</u>
1764	A.E.I. O & U G.M & B ~ (outfit)
1770	a. b & c 1. 2. 3 & 4 ~ (outfit)
1775	A.E.I. O & U 1. 2. 3 & 4 ~ (outfit)
1797	M.G.L. Q & Z S & 4 ~ (outfit)
1800	A.E.I. O & U 1. 2. 3 & 4 ~ (outfit)
1854 (Reconstitution)	A. E. E & I (With period of years 1 ~ (outfit))
1855	Introduction of  to denote Special Survey during construction.
1865	(Iron Ships)  ,  & 
1870	100A1. 90A1. 85A1 & 80A1
1888	100A1 & 100A1 ^{Spar Deck} or ^{Shade Deck} _{Shelter Deck} _{Availing Deck}
1921	100A1 & 100A1 _{with freeboard}

CLASS NOTATIONS

Classification notations are indicative of the specific Rule requirements which have been met.

Additional voluntary notations are offered by individual Societies and may be selected by an owner wishing to demonstrate that the vessel conforms to a particular standard that may be in excess of that required for classification.

Depending on the Classification Society, the classification notations are assigned to the ship according to ship type, service, navigation and/or other criteria which have been provided by the owner and/or builder, when requesting classification.



PURPOSE OF CLASSIFICATION SOCIETIES

The purpose of a Classification Society is ...

"to provide classification and statutory services and assistance to the maritime industry and regulatory bodies as regards maritime safety and pollution prevention, based on the accumulation of maritime knowledge and technology."

(First paragraph of IACS Charter)

The objective of ship classification is ...

*"to verify the structural strength and integrity of essential parts of the **ship's hull and its appendages**, and the reliability and function of the **propulsion and steering systems**, power generation and those other features and auxiliary systems which have been built into the ship in order to maintain essential services on board for the purpose of safe operation of a ship."*

(second paragraph of IACS Charter)

WHY ENTER A SHIP 'IN CLASS'

Protect Capital Investment

Financiers usually require that a vessel has been designed, built and maintained to appropriate classification standards.

Conform to Underwriting Requirements

Classification is generally mandated by insurance underwriters because it signifies that a vessel complies with industry-developed standards.

Exercise Due Diligence

Classification is one indication that the ship owner has exercised due diligence during the construction and service life of the vessel.

Demonstrate Proper Maintenance

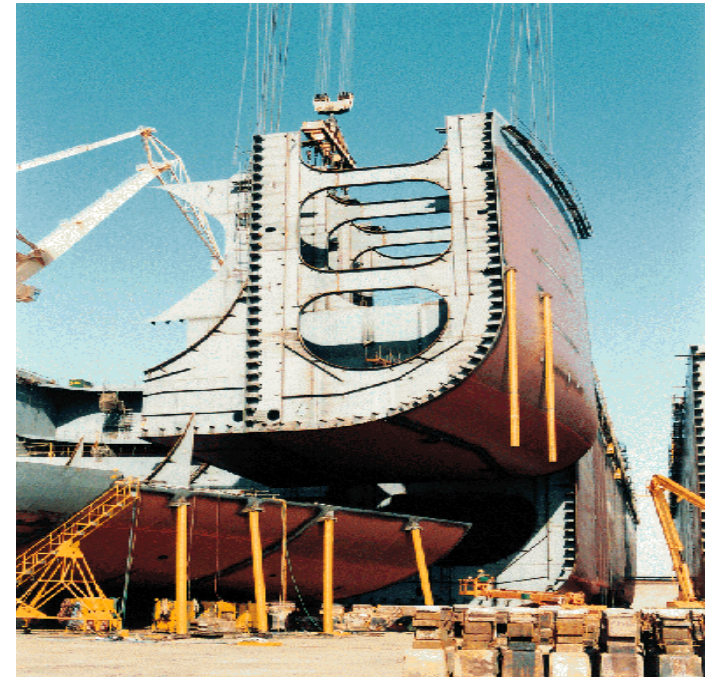
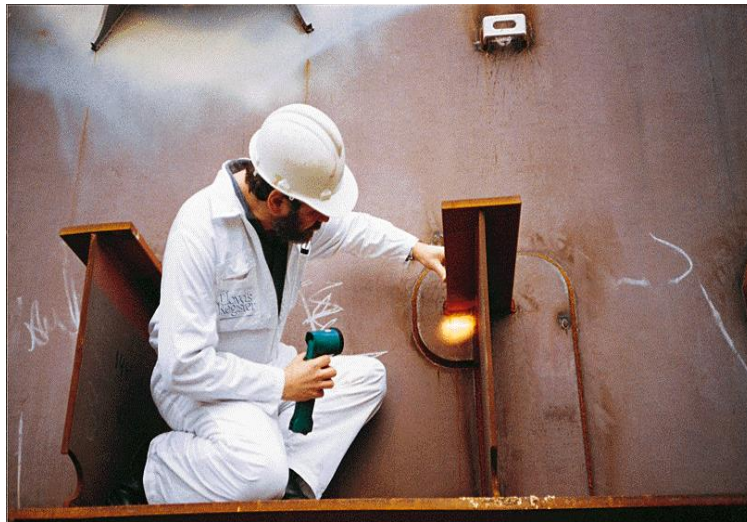
To remain in class, a vessel must undergo periodic surveys to verify that it is maintained to class standards and in conformance with the Rules.

Comply with Statutory Requirements

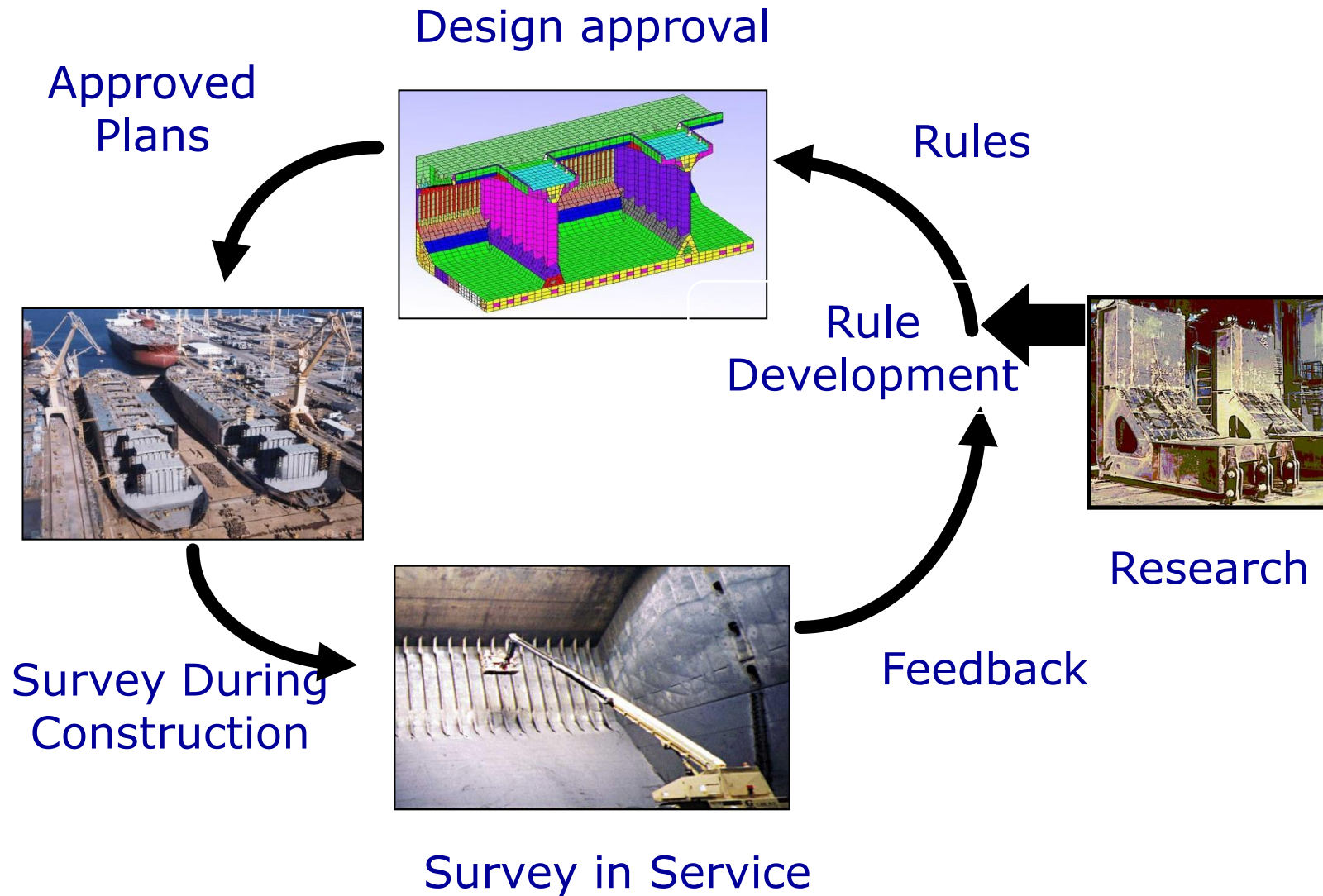
The governing authorities in most nations have mandated that certain vessels entering into their registry be classed.

WHAT IS CLASSIFICATION?

'Classification' is compliance of the design plans and the vessel with the Rules developed and published by the Classification Society.



THE 'CLASS CYCLE'



WHAT IS CLASSIFICATION?

It is important to note that ...

- Classification, *per se*, is voluntary.
- Classification Societies verify compliance with their own Rules.
- Classification Societies are the sole interpreter of, and have sole responsibility for, their Rules.
- Classification Societies alone decide as to whether to accept any equivalent arrangements to the provisions in their Rules.

BUT WHAT CLASS DOES NOT DO

- Class surveyors are not permanently on board the vessel
- Class survey regime does not cover the whole ship
- Class does not guarantee the ship's seaworthiness¹
- Class is not the shipping industry's policeman.



¹ A classification certificate is an attestation only that the vessel is in compliance with the Rules that have been developed and published by the society issuing it. Further, Classification Societies are not guarantors of safety of life or property at sea or the seaworthiness of a vessel because although the classification of a vessel is based on the understanding that the vessel is loaded, operated and maintained in a proper manner by competent and qualified personnel, the Society has no control over how a vessel is operated and maintained between the periodical surveys it conducts.

WHAT IS CLASSIFICATION?

IACS

CLASSIFICATION SOCIETIES – WHAT, WHY and HOW?



Leading the way: dedicated to safe ships and clean seas, IACS members make a unique contribution to maritime safety and regulation through technical support, compliance verification and research and development. More than 90% of the world's cargo carrying tonnage is covered by the classification design, construction and through-life compliance rules and standards set by the ten Member Societies and one Associate of IACS.

www.iacs.org.uk > IACS explained

Assignment, maintenance, suspension and withdrawal of class and class surveys

- Vast majority of flag States have delegated their statutory activities to authorised 'Recognized Organizations' (ROs)
- Compliance with IMO conventions
 - Plan approval
 - Technical surveys of vessels
 - Issuance of statutory certificates



RECOGNIZED ORGANIZATIONS

Use of Recognized Organizations to conduct surveys and issue certificates on behalf of Administrations can be found in all principle IMO Conventions, except STCW Convention.



For example:

MARPOL Annex I, regulation 6

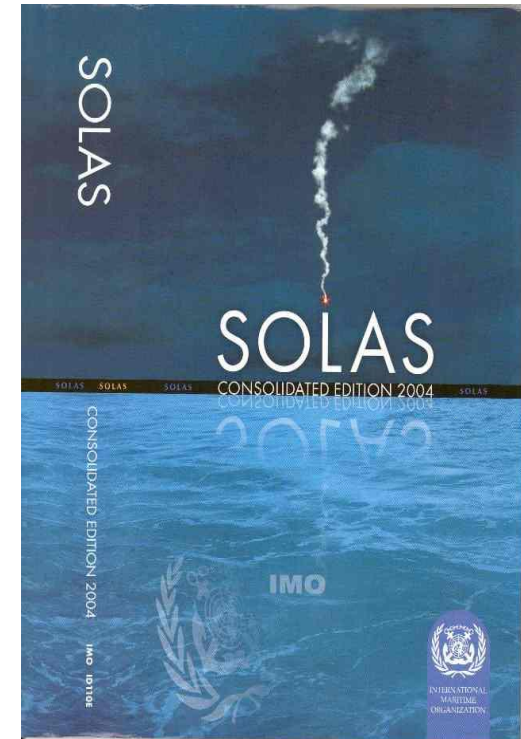
“Surveys of ships as regards the enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it.”

MARPOL Annex I, regulation 7

“Such [IOPP] certificate shall be issued or endorsed as appropriate either by the Administration or by any persons or organization duly authorized by it.”

... Provisions of SOLAS regulation II-1/3-1, which state that:

" ... ships are to be designed, constructed and maintained in compliance with the structural, mechanical and electrical requirements of a recognised classification society which is recognised by the Administration in accordance with ... regulation XI/1... "



Provisions of SOLAS regulation XI-1 state:

“The Administration shall authorize organizations, referred to in regulation I/6, including classification societies, in accordance with the provisions of the present Convention and with the Code for Recognized Organizations (RO Code), ... ”

Parallel provisions are also in MARPOL Annexes I and II and Load Lines Protocol.

The RO Code include provisions relating to:

- adequate resources in terms of technical, managerial and research capabilities;
- formal written agreements between the Administration and the RO;
- record keeping;
- instructions in the case of non-compliance with requirements; and
- minimum specifications in the areas of management, technical appraisal, surveys and qualifications and training.

Consequently, for many ships, plan approval, newbuilding survey and in-service survey according to 'Classification' requirements, are **not voluntary**.



Classification Societies, when acting as Recognized Organizations:

- are responsible and accountable to the Administrations for the work they carry out on their behalf;
- cannot interpret these regulations alone, nor, without permission, use professional judgement to accept equivalent solutions; and
- responsibilities are defined in Agreements with the Administrations.

INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)

ILLC 1930 recommended collaboration between classification societies to secure "as much uniformity as possible in the application of the standards of strength upon which freeboard is based...". RINA hosted the first conference of the major societies in 1939.

Formally established in 1968 (principally to give class a voice at IMO – PermRep before PermSec)

Now 12 Members - ABS, BV, CCS, CRS, DNV GL, IRS, KR, LR, NK, PRS, RINA, RS

The IACS Members are (in alphabetical order):

ABS	American Bureau of Shipping (1862)
BV	Bureau Veritas (1861)
CCS	China Classification Society (1956)
CRS	Croatian Register of Shipping (1949)
DNV GL	(2013)*
IRS	Indian Register of Shipping (1975)
KR	Korean Register of Shipping (1960)
LR	Lloyd's Register of Shipping (1834)
NK	Nippon Kaiji Kyokai (Class NK) (1899)
PRS	Polish Register of Shipping (1936)
RINA	(1861)
RS	Russian Maritime Register of Shipping (1923)

* DNV (1864); GL (1867)

IACS is an Association of Classification Societies which:

- (a) establishes, reviews, promotes and develops minimum technical requirements in relation to the design, construction, maintenance and survey of ships and other marine related facilities; and*
- (b) assists international regulatory bodies and standard organisations to develop, implement and interpret statutory regulations and industry standards in ship design, construction and maintenance, with a view to improving safety at sea and the prevention of marine pollution.*

IACS Resolutions are:

Unified Requirements (URs) (including the Common Structural Rules (CSR)),
Unified Interpretations (UIs) and
Procedural Requirements (PRs).

IACS Unified Requirements (URs)


- URs are on matters related to specific Rule requirements and practices of the Members.
- Subject to ratification by a Member's governing body, URs shall be incorporated in the Rules and practices of the Member within 1 year of adoption.
- Reservations reported to GPG (no reservations for CSR).
- URs are minimum requirements. Each Member can set more stringent requirements.
- The existence of a UR does not oblige a Member to issue respective Rules if it chooses not to have Rules for the type of ship or marine structure concerned.

IACS Unified Interpretations (UIs)

- UIs are adopted on matters arising from implementing the provisions of IMO mandatory instruments.
- UIs often address 'vague expressions', especially 'to the satisfaction of the Administration'.
- UIs are submitted to IMO for consideration (and will be amended in light of changes agreed at IMO).
- UIs have implementation dates.
- UIs shall (no reservations) be applied by Members to ships whose Administrations have not issued definite instructions on the interpretation of the relevant requirements.


IACS Procedural Requirements (PRs)

- PRs are adopted on matters of procedure to be followed by Members and, for parts of some PRs, by the IACS Permanent Secretariat.
- PRs shall (no reservations) be incorporated in the practices and procedures of the Members within the periods agreed by GPG.
- PRs have been developed on such issues as:
 - Transfer of class (TOCA)
 - Training and qualifications of survey and plan approval staff
 - Application of IMO PSPC requirements
 - Change of flag



INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES LTD.

Safer and Cleaner Shipping



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Publications > Unified interpretations

Definition

Unified Interpretations are adopted resolutions on matters arising from implementing the requirements of IACS Conventions or Recommendations. Such adopted resolutions are divided into Interpretations of Convention Regulations or IACS Resolutions on those matters which in the Convention are left to the satisfaction of the Administration or equally voted.

Interpretations are circulated to Administrations concerned or are sent to IMO for information, as appropriate.

Forword

1. IACS, as an international Non-Governmental Organisation having observer status at IMO, works in cooperation with IMO in order to ensure that the regulations developed at IMO are clear, unambiguous and can easily be applied without the need of interpretations.
2. However, interpretations may still be needed in cases where IMO regulations contain only functional requirements, allow alternative solutions to prescriptive requirements, are left to the satisfaction of Administrations or are generally or vaguely worded.
3. The following Unified Interpretations (UIs) have been developed by IACS to assist the unified interpretation of IMO regulations falling in the above-mentioned cases. It should be noted that the development of IACS Unified Interpretations (UIs) is not aiming at introducing additional requirements but at achieving uniform application of IMO regulations.
4. IACS UIs are to be applied by IACS Societies to ships unless flag Administrations have not issued similar resolutions on the interpretation of the IMO regulations concerned, in the course of industry consultation or before of those flag Administrations.

The technical backgrounds (development histories) of Unified Interpretations since 2004 can be found by following [this link](#).

A list of the IACS working group responsible for each Unified Interpretation may be found [here](#).

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RSS is a family of web feed formats used to publish frequently updated content, such as blog entries, news headlines or podcasts. An RSS document, which is called a "feed", "web feed", or "channel", contains either a summary of content from an associated web site or the full text. RSS makes it possible for people to keep up with their favorite web sites in an automated manner that is easier than checking them manually.

Latest revisions

List of UIs
List of IACS UIs, the IMO instruments they refer to, when they were submitted to the IMO, and the outcome of the IMO's consideration
As at 1 December 2011

UI 00 IMO Chemical Code	download pdf
UI COUREB Interpretations of the COUREB	download pdf
UI FTP Fire Test Procedure	download pdf
UI 00 Unified Cases in Bulk	download pdf
UI 00 HSC Speed Craft Code	download pdf
UI LLL Load Line Convention	download pdf
UI BPD IACS/BPD Convention	download pdf
UI PA&BUS Passenger Submersible Craft	download pdf
UI BC SCUAS	download pdf
UI TM Tonnage Measurement	download pdf

If there are any comments relating to the IACS Work Programme please address them to perman@iacc.org.uk

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NEW IACS UNIFIED REQUIREMENTS for July 2016

- IACS work started after “**MSC NAPOLI.**”
- Respond to Japan government Report on “**MOL COMFORT**”

UR S11A

LONGITUDINAL STRENGTH STANDARD
addresses three issues in Japan
Government Report

Applicable to container ships in excess
of 90m length.

Includes Technical Background

BI AXIAL STRESSES induced by
lateral loading
i.e. external pressure on
bottom shell

WHIPPING effect

- New functional requirement
- Members must incorporate into their own Rules

REVISED WAVE BENDING MAGNITUDE and LONGITUDINAL DISTRIBUTION

Included in UR S11A

UR S34

FUNCTIONAL REQUIREMENTS for DIRECT ANALYSIS by FE METHOD

DEFINES UNIFIED MINIMUM LOAD
CASES

APPLICABLE to container ships only and applies from 1 July 2016, requires full ship analysis for ships excess 290m and cargo hold analysis for excess 150m

IACS

THANK YOU



IACS

INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES

SAFER
SHIPPING

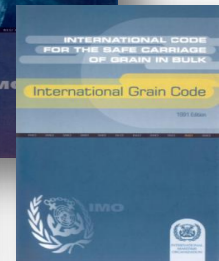


The Standard MEMBER FORUM 2015

**The Honourable Society
of Grey's Inn
24 June 2015**

**David Tongue - Secretary General
Intercargo**

A discussion of Current Issues in the Dry Bulk Sector



Introducing Intercargo

- INTERCARGO: International Association of Dry Cargo Shipowners, established in 1980; >160 Members with > 1,200 ships
- Promotion of Safety, Quality, Efficiency, Protection of the Environment - a Direct Entry voice for Dry Bulk sector
- Observer status at the International Maritime Organization (IMO)
- “Round Table” of Maritime Associations with BIMCO, ICS and Intertanko to promote Industry unity and a common voice



www.intercargo.org



State of the Market (1)

Daily Market: This page contains the latest Dry Bulk Shipping News

17 June 2015

Baltic Dry Index (BDI) +44 725

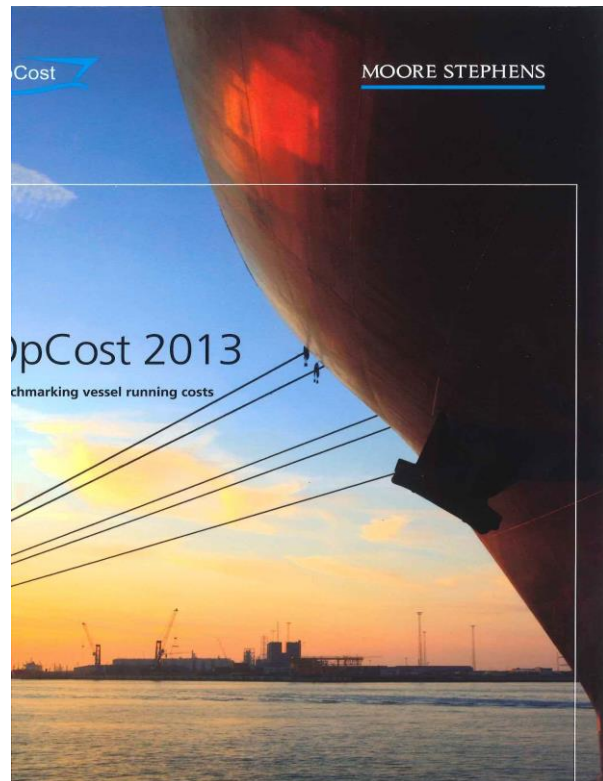
INDEX	Rates	BCI (Cape index)	BPI (Panamax index)	BSI (Supramax index)
SPOT TC AVG(USD)	1045 +141 7203+1048	817 +45 6511+350	706 +11 7378 +112	
YESTERDAY(USD)	6155	6161	7266	
YEAR AGO (USD)	13393	3953	7472	

Spot TC Average = The Average Value of the Main Shipping Routes applicable for each of the 3 types of Ships

BDI=The Weighted Composite Index of BCI/BPI/BSI

State of the Market (2)

Bulk Carrier Operating Costs : Moore Stephens “OpCost” Report



To	In year 2011 (\$)	In year 2012 (\$)
< 20K dwt	4,774	4,731
Handysize	5,342	5,271
Handymax	6,017	5,831
Panamax	6,606	6,265
Capesize	7,758	7,433

State of the Market (3)

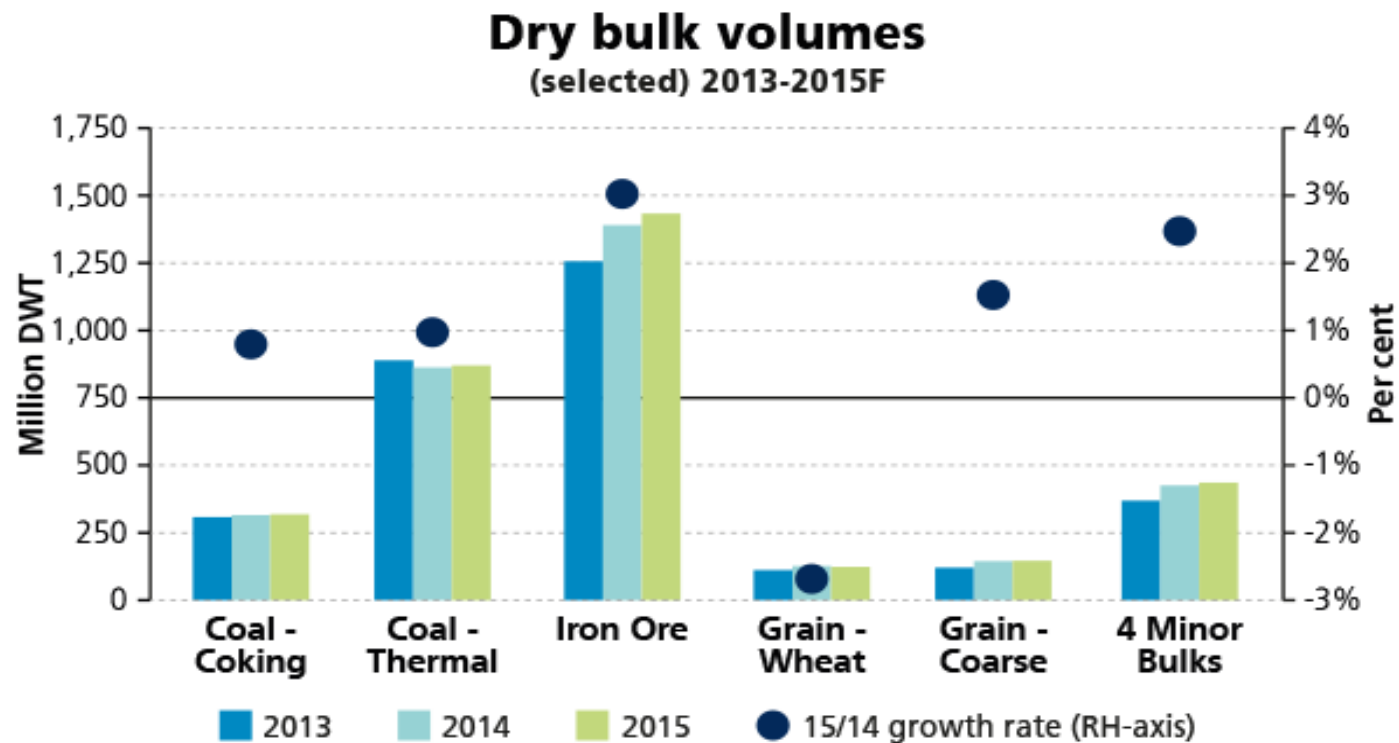
Operating costs:

Bulker

	OpCost 2014 Year on year	Daily Rate US\$ change (%)
Handysize	5,222	-1.0
Handymax	5,733	-1.7
Panamax	6,118	-2.3
Capesize	7,303	-1.7
Weighted average		-1.2

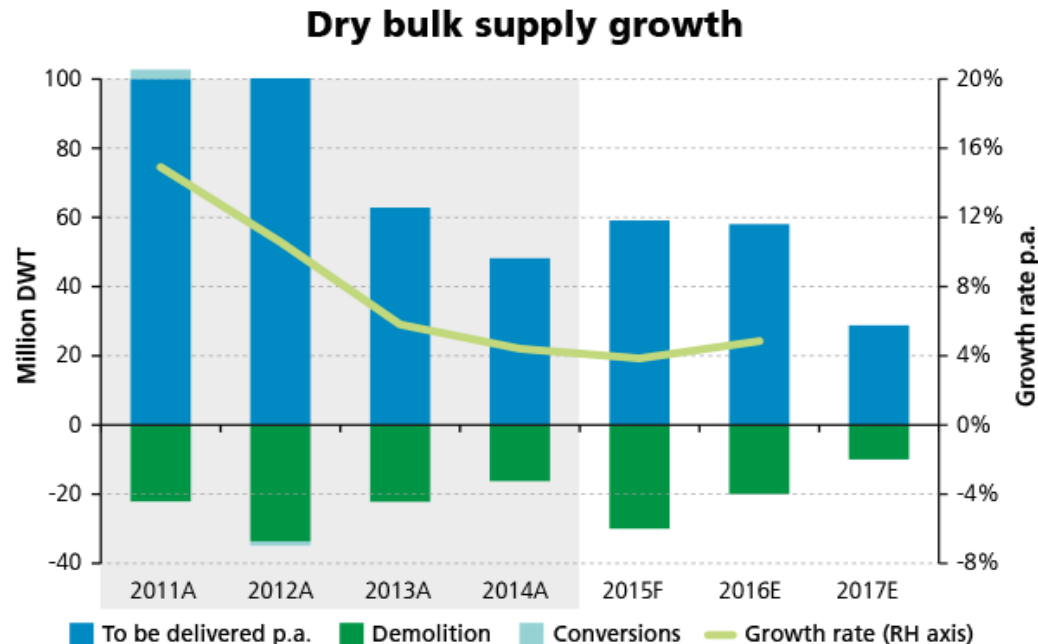
Source: Moore Stephens OpCost 2014

State of the Market (4)



Source: BIMCO, SSY

State of the Market (5)



Source: BIMCO estimates on Clarksons raw data

*A is actual. F is forecast. E is estimate which will change if new orders are placed.
The supply growth for 2015-2017 contains existing orders only and is estimated
under the assumptions that the scheduled deliveries fall short by 10% due to
various reasons and 30% of the remaining vessels on order are delayed/postponed.*

Intercargo Work Programme 2015

- Air Emissions
- Cargoes
- Casualties
- Criminalisation
- Design standards
- Environment – BWM, Invasive species, Recycling etc
- Loading Rates
- Piracy
- Port Terminal Facilities and Performance
- Port State Control & Benchmarking
- Reception Facilities / MARPOL V
- Training, Manpower & Human Element
- (Panama Canal)



Constant Avalanche of Regulation



Environmental Challenges for Shipping





Environmental Challenges for Shipping

IMO BWM Convention

- Ratification Status – 44 States (35) – 32.86% World Tonnage (35%) (+2.14%)
- Review of Type Approval Guidelines (G8) – Do current systems work?
- Bulk Carrier specifics, 5 uptake points, 17 discharge points
- Very large quantities
- Ballast holds
- Power consumption
- Cost
- Not penalising early movers? IMO Legal opinion!
- Full Sampling v Indicative Sampling
- Still not in a position to purchase treatment equipment with confidence!
- How will PSC deal with regulation D-2 non-compliant discharges?

US BW Legislation

- EPA v USCG Legislation requirements
- AMS v Type Approved BWM Systems
- 3 BW Treatment Systems undergoing US Type Approval (UV Systems!)
17 BWM System manufacturers indicated interest in obtaining approval
- Availability of test facilities
- Options - install an AMS - do not discharge ballast water into US waters (12 miles), install a USCG approved BWMS or request an extension.
- Ships constructed < 1/12/2013 first DD after 1/1/2016 (or 1/1/2014)
After 1/12/2013, 'new ship', must install or request extension
 - a. ships delivered in 2014 or DD due in 2014, ext. granted to 1.1.2016.
 - b. ships delivered in 2015 or DD due in 2015, ext. granted to 1.1.2017.
 - c. ships delivered in 2016 or DD due in 2016, started granting to 1.1.2018
 - d. For ships granted extensions until January 1, 2016, they must re-apply for an extension beyond January 1, 2016.
- If an extension is granted, the extension is granted until January 1, 2018 (2017 or 2016), NOT the first DD after that date. **MUST APPLY**



Reception facilities : Design Issues

Handling hold washing water

- Design Issues
 - Holding tanks
 - Pumps – large particles
 - Cargo properties
 - Coatings (PSPC?)
 - Ballast water management systems
- Hold cleaning systems

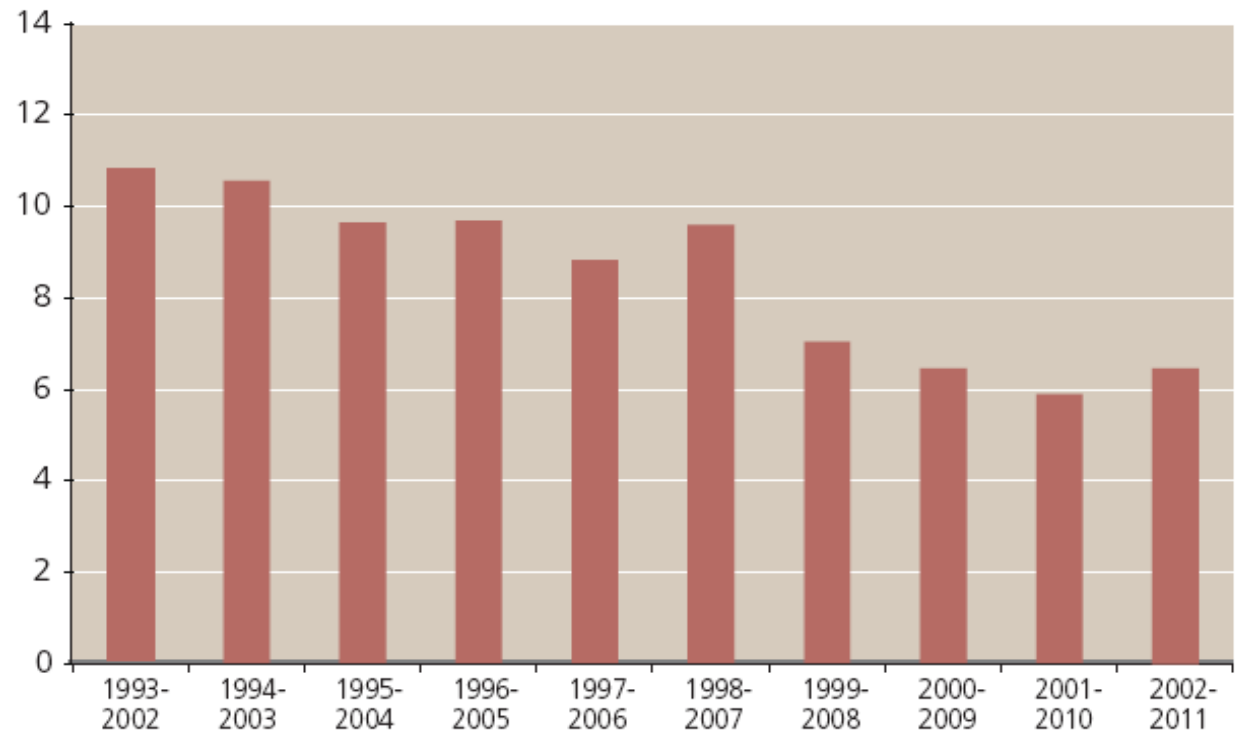


Intercargo: Benchmarking Bulk Carriers 2011-12

Trends - Annual average number of ships lost

1993-2002	10.9
1994-2003	10.5
1995-2004	9.6
1996-2005	9.7
1997-2006	8.9
1998-2007	9.6
1999-2008	7.1
2000-2009	6.6
2001-2010	5.9
2002-2011	6.8

Annual average number of ships lost 1993 - 2011



Cargoes – the legislative requirements

- IMSBC underpinned by SOLAS - language is “shall”
- IMO Resolution MSC 354 (92) adopted 21.6.13 incorporates amendments : Mandatory 1.1.15; Voluntary 1.1.14
- DSC 18 (September 2013) agreements on e.g. Iron Ore Fines : Mandatory timetable 1.1.17 (Amendments 03-15)



Cargoes

1. Iron Ore Fines - Sierra Leone - Roxburgh appointed as Competent Authority for Group 'A' Cargoes. – Brazil developments.
2. Nickle Ore – French research – Peer review
3. Coal – Attempted Columbian incorrect classification.
4. DRI – IIMA research into Venezuelan ores – Burgoynes review.
5. Group 'A' Cargoes – Continuous vigilance and awareness.
6. Bauxite – Cargoes from Kuantan, Malaysia.
7. HME Properties – possibilities for classification list.
8. Indonesia Update – IMO Technical Cooperation

Section 7 - Cargoes that may liquefy

Provisions for the loading and carriage of bulk cargoes associated with the risk of liquefaction and the pertinent precautions

Cargoes which may liquefy :

- cargoes which contain a certain proportion of fine particles and a certain amount of moisture.
- they may liquefy if shipped with a *moisture content* in excess of their *transportable moisture limit*.

Nickel Ore – Minerai de nickel
Iron Ore fines – Minerai de fer

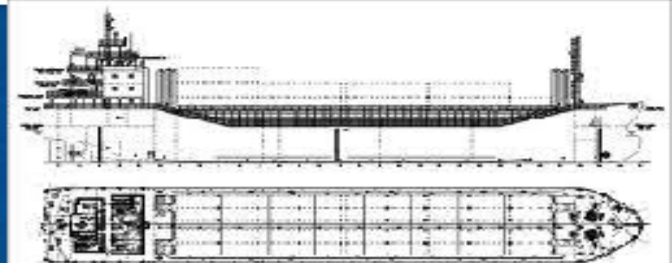
=

Groupe A Cargoes

Moisture content means that portion of a representative sample consisting of water, ice or other liquid expressed as a percentage of the total wet mass of that sample.

Transportable moisture limit (TML) of a cargo which may liquefy means the maximum moisture content of the cargo which is considered safe for carriage in ships not complying with the special provisions of subsection 7.3.2. It is determined by the test procedures, approved by a competent authority, such as those specified in paragraph 1 of appendix 2.

7.3.2 Specially constructed or fitted ships



INTERCARGO

Nickel Ore



Section 8 - Test procedures for cargoes that may liquefy

Test procedures for measurement of **moisture content**

Methods for determining transportable moisture limit (**TML**)

Complementary test procedure for determining
the possibility of liquefaction



Appendix 2

Laboratory test procedures, associated apparatus and standards

recommendation or information

Liquefaction – IMSBC Code Amendments will help, but not solve

- A new sentence in the definition of Competent Authority at the end of paragraph 1.7.7 (Intercargo proposal) ***“The competent authority shall operate independently from the shipper.”***
- An addition to paragraph 4.3.2 requiring the certificate for TML and moisture content to be issued by ***“..an entity recognised by the Competent Authority of the port of loading”*** (Chinese proposal).
- A new paragraph 4.3.3 (French proposal supported by Intercargo) requiring the shipper to have ***“... procedures for sampling, testing and controlling moisture content...”*** and for these procedures to be ***“... approved by the competent authority of the port of loading”***.

Liquefaction – IMSBC Code Amendments (2)

- A new paragraph 4.3.4 (Intercargo proposal) requiring the procedures under 4.3.3 to include “... ***procedures to protect the cargo on ... barges from any precipitation and water ingress***”.
- A new paragraph 4.4.3 (Intercargo proposal) requiring the shipper, for cargoes that may liquefy, to “... ***facilitate access to stockpiles for the purpose of inspection, sampling and subsequent testing by the ship’s nominated representative.***”
- A new paragraph 8.4.2 (Intercargo proposal) clarifying the limitations of the can test, stating “***If samples remain dry following a can test, the moisture content of the material may still exceed the Transportable Moisture Limit (TML)***”

BAUXITE**DESCRIPTION**

A brownish, yellow claylike and earthy mineral. Moisture content: 0% to 10%. Insoluble in water.

CHARACTERISTICS

ANGLE OF REPOSE	BULK DENSITY (kg/m ³)	STOWAGE FACTOR (m ³ /t)
Not applicable	1190 to 1389	0.72 to 0.84
SIZE	CLASS	GROUP
70% to 90% lumps: 2.5 mm to 500 mm 10% to 30% powder	Not applicable	C

HAZARD

No special hazards.

This cargo is non-combustible or has a low fire-risk.

STOWAGE & SEGREGATION

No special requirements.



Kuantan Cargo Listing immediately following '*Bulk Jupiter*' incident

- CARGO QUANTITY:20000MT-45000MT IRON ORE
LOADING PORT:KUANTA,MY
DISCH.PORT:RIZHAO QINGDAO OR TIANJIN OR JINGTANG
OR CAOFEIDIAN,CHINA
L/P RATE:CQD(TRY 4000/7000)
20TH JAN-20TH FEB 2015
COMM:2.5% PUS

IMPORTANT :
FOR SHIPS OWNERS OR HER MASTER DO NOT REQUIRE
ANY CARGO DECLARATION OR TML REPORT MEAN NO P &
I CLUB SURVEYORS WERE INVOLVED DURING HER
CARGO LOADING OPERATIONS.

Thank you

info@intercargo.org

www.intercargo.org



Liquefaction: update and case study

Brett Hosking, Claims Executive

Polly Davies, Claims Executive

Nick Shaw, Partner, Reed Smith

ReedSmith

The business of relationships.™

Member Forum, 24 June 2015

The Standard



Agenda

- An overview of cargo liquefaction
- Study of a member's liquefaction case with Reed Smith
- The club's role and conclusions



Recent capsizes (alleged liquefaction)

1988 – 2005 – 8 vessels, mostly loading nickel ore from Indonesia and the Philippines, and iron ore from India

2009: 2 Capsizes – “BLACK ROSE”, “ASIAN FORREST”

2010: 3 Capsizes - “JIAN FU STAR”, “NASCO DIAMOND”, “HONG WEI”

2011: 1 Capsize - “VINALINES QUEEN”, “UNION NEPTUNE”

2012: 1 Capsize – carrying 10,168 tons of iron ore

2013: 2 Capsizes - “HARITA BAUXITE”, “TRANSUMMER”

2015: “BULK JUPITER”;

“VINALINES QUEEN” – carrying 54,000 tonnes of nickel ore, from Indonesia to China.
All but one of the 23 crew were lost



- What is liquefaction?
- Why does it occur?
- Where does it occur?
- What can be done to minimise the risks?
- IMSBC Code, revised 2013

Key issues

- Shipper's responsibilities
- MC / TML / FMP
- Appointment of surveyor - independent, local?
- Testing - flow table test, can test, trimming?
- Practical problems

Key issues



Case Study



Practical Issues Loading in Indonesia

- Tropical rainfall
- Basic port set-up
- Storage of cargo / open-cut mines
- Independence of local laboratories
- Intimidation of Surveyors / Master / Chief Officer

Nickel ore mine



Nickel Ore Mine / Cargo Stockpiles



Cargo Stockpile



Photo from Tuoitre News

Barge



Cover on Barges



Can Test

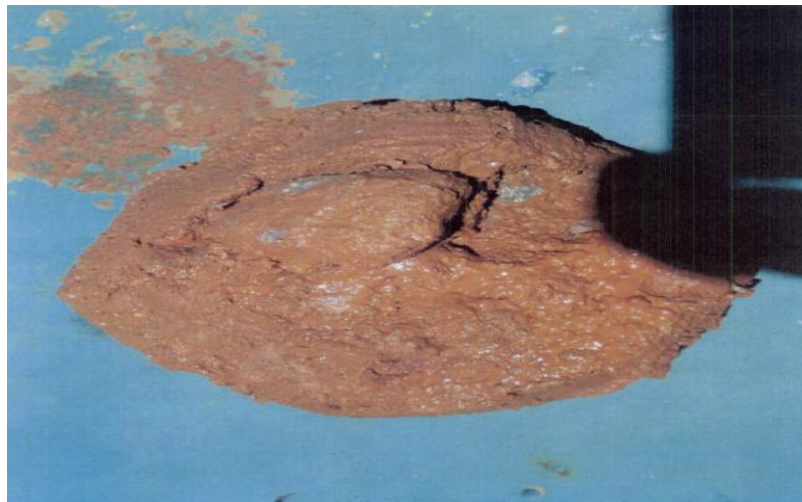
- Relatively dry cargo



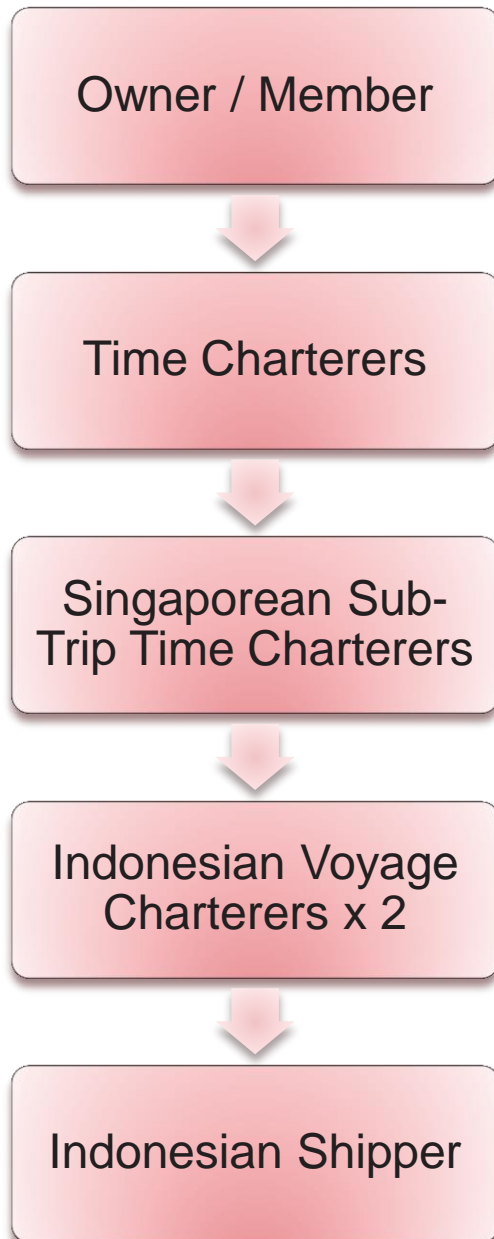
- High MC



- Excessive MC



Facts



- Loading Nickel Ore Indonesia (Worldwide Trading, no cargo exclusions in charterparty)
- Contact with Club
 - Circulars
 - IMO Guidance Notes
 - Master / CO briefed on precautions & conducting “can tests”
- Local or international surveyor appointed?

Specific Case

- Cargo documents presented by Shipper
 - Flow Moisture Point 36.17%
 - Moisture Content 32.52%
 - Transportable Moisture Limit 32.55%
- Load / Not Load?
- 7mm rain on fully laden barge → increase Moisture Content above Transportable Moisture Limit
- Loading – 14,000mt part cargo
 - 28 April 2012 loading commenced
 - Rainfall
 - Regular can tests
 - LOPs served re. failed can tests
 - Loading continues intermittently
 - 1 May 2012 no further loading
- Surveyor / Chief Officer – disembark to attend stockpile
- Neighbouring Vessel – identical cargo declarations?

Legal Issues

- Sail Vessel? No.
 - Necessary port clearances? Conversion of cargo.
- Discharge cargo?
- Nickel ore clause?
- Stand off – 14,000mt part loaded, no bill of lading
- Who is contractually responsible?
 - Charterers' orders legitimate?
- Frustration of Charter? When?
- On-hire / Off-hire?

Legal Proceedings

- London Arbitration commenced on-going
- Indonesian Proceedings
 - Shippers v Owners & Voyage Charterers – *District Court of Central Jakarta*
 - Voyage Charterers filed a separate writ (on behalf of Owners?) – *District Court of Central Jakarta*

Negotiating the Release of the Vessel

- Shippers' demands
- Charterers' initial efforts
 - Attendance in Sulawesi
- All party meetings
 - August 2012 – impossible to convene
 - September 2012 – Jakarta
 - December 2012 – Singapore – handbag moment
 - April 2013 – Singapore, Owners / Shippers only
 - May 2013 – Singapore, Owners / Shippers only
 - June 2013 – terms finalised
- Full Club support
- Attempts to discharge / Shippers' local influence
 - Early November 2012 - partial discharge
 - Late November 2012 - further discharge



Settlement & Release of the Vessel

- Terms of Settlement
 - Instalments
 - 10% on Agreement
 - 25% Sealed Court Order discontinuing proceedings
 - 15% cargo discharged
 - 50% Vessel reaches international waters
 - Shippers organised discharge and Sealed Court Order discontinuing proceedings
- Contributions to payment
 - Club assistance
 - Hull underwriters – possible CTL?
- Sailing the Vessel
 - Bankers' draft
 - Police escort
 - International waters line

Lessons learned

1. Retain/appoint suitable experts and lawyers ASAP
2. Initial presentation of dry cargo, subsequent wet cargo
3. Preservation of evidence – samples labelled, double-bagged, sealed, hidden
4. Intimidation of surveyors / visa issues upon disembarking
5. Joining negotiations – at what stage?
6. Seeking to avoid inconsistent judgment from District Court of Central Jakarta
7. Careful consideration of cargo documents and testing laboratories
8. Contributions to settlement – Club, Hull Underwriters, Charterers etc.

Future Considerations

1. Know your counterpart
2. CP clause - insert suitable nickel ore/iron ore/bauxite clause when negotiating the charterparty (owner's vs charterer's risk)
3. Proper training of Master and Chief Officer, i.e. testing / local requirements
4. Be aware of export bans in load port countries and the effect on nickel ore prices
5. Shippers becoming better informed?

- Club circulars / publications – followed by members
- Regular Defence Review Meetings with lawyers regarding strategy
- Overcoming difficulties in making payments (Bribery Act 2010)
- Cover issues including discretionary issues
- Supporting recovery action against charterers

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