



Cargo

Managing cargo and Covid-19

32.500 KG
71.650 LBS

3.700 KG
8.160 LBS

28.800 KG
63.490 LBS

67.7 CUM.
2.390 CUFT.

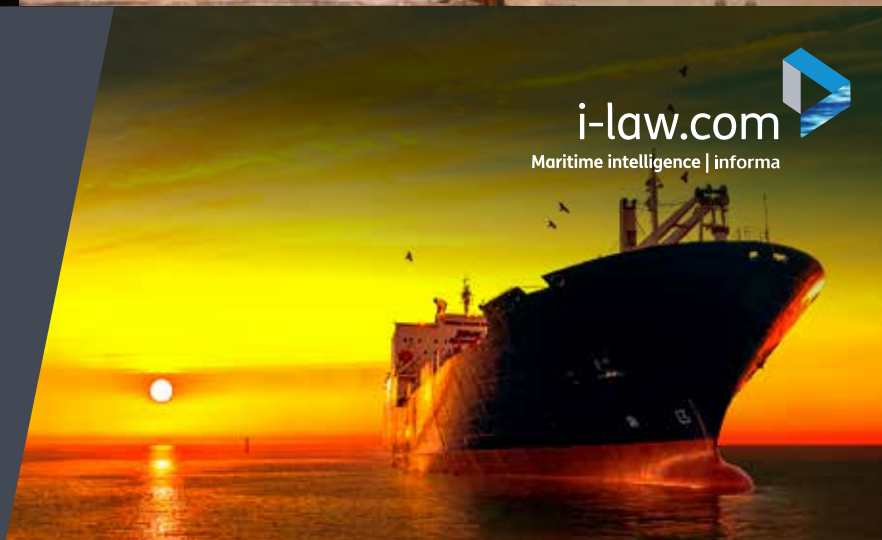
- News from IUMI
- Getting crew warranties right
- Handling large vessel salvage

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IN BRIEF

Smart ship

Classification society ClassNK has released its “Guidelines for Digital Smart Ship” which stipulates the procedures for class notations for ships with advanced digital technology. The guidelines are part of the society’s new initiative, “Innovation Endorsement” aiming to certify innovations using digital technology. ClassNK is going to add and update the guidelines in response to future industry needs and advances in digital technology so that the society continuously supports the industry’s efforts to promote and develop innovative technology. The guidelines are available to download from ClassNK’s website www.classnk.com

TT Club digitalisation

Although Covid-19 has accelerated digitalisation, TT had already embarked on its path to digital transformation. Planned investment has now reached a stage where TM Connect has improved on the existing ClaimsTrac tool and a new website has allowed increased access to TT’s valued loss prevention advisory services. As part of its 50th anniversary celebrations in 2019, TT undertook to investigate what the next 25 years in the international logistics industry would bring. What it found was profound changes in the use of digital services. The new website is in part designed to assist the access to such information, ensuring TT’s wealth of loss prevention articles and publications is available to not only its insured, but the industry as a whole.

Cyber guide

Cyber attacks continue to present a threat to vessels, as well as to their owners and operators. A strong cyber security plan is essential and the Shipowners Club provides a range of guidance to help manage members’ cyber risks. There is no general cyber exclusion within Club cover. However, cyber claims containing a war or terror element may attract an exclusion. To assist members, the Club has produced a diagram outlining what protection members can expect from their P&I cover when it comes to cyber risks.

Global groups collaborate on container safety improvement guidance

Five international freight transport and cargo-handling organisations are collaborating on the production of new guidance on packing standards for freight containers and other cargo transport units. The Container Owners Association, the Global Shippers Forum, the International Cargo Handling Coordination Association, the TT Club and the World Shipping Council are cooperating on a range of activities to further the adoption and implementation of crucial safety practices throughout the global supply chain.

As part of this long-standing cooperation, the five organisations have published a “Quick Guide” to the Code of Practice for Packing of Cargo Transport Units (the CTU Code), together with a checklist of actions and responsibilities for the guidance of those undertaking the packing of cargoes in freight containers specifically to promote awareness and wider use of the Code. The CTU Code was jointly developed by the IMO, the ILO and the UN Economic Commission for Europe.

There have been several widely reported container fires aboard ships, where containerised cargoes may have been the cause of, or contributed to, such fires. The organisations believe that consistent, widespread and diligent adherence to the CTU Code by all parties within global CTU supply chains would significantly reduce these types of incidents, some of which have resulted in fatalities and serious injuries among ships’ crews and shore-side staff.

Other occurrences, such as container stack failures, vehicle roll-overs, train derailments, internal cargo collapses and incidents of invasive pest contamination, can also be traced to poor packing practices. The organisations believe that a greater awareness of the CTU Code and the packing practices and techniques it contains will help to reduce such incidents. To do this the organisations are working together as the Cargo Integrity Group and have identified the following four areas of activity to raise the awareness and improve understanding of safe cargo packing practices:

1. Promoting awareness and adoption of the CTU Code, of which the guidance material published today is an example.
2. Seeking changes in regulatory requirements to improve their clarity, application, implementation and enforcement, including to the International Maritime Dangerous Goods Code.
3. Monitoring of CTU packing performance through support for strengthened cargo-screening processes and more effective container inspection regimes.
4. Working with other industry and governmental stakeholders in promoting awareness and better understanding of safe cargo packing and handling practices. *MRI*

Diverse range of factors on cargo safety

A webinar organised by the Thomas Miller managed insurance mutuals, container freight specialist TT Club and P&I insurer, UK P&I Club, revealed the diverse range of factors important to safe container ship operations and the security of the container stacks they carry. “Container Casualties – the sum of the parts” looked in detail at the complex range of moving parts involved in these operations and concluded that each must be considered individually and collectively in order to keep collapse of stow incidents to a minimum.

UK P&I Club’s loss prevention director, Stuart Edmonston said: “Container loss incidents attract attention. Overall, the industry loses a relatively small amount of roughly one unit per 160,000 carried but each loss has significance to a range of stakeholders, including the ship operators, cargo interests, insurers and, not least to the natural environment both at sea and on shore.” Peregrine Storrs-Fox, TT Club’s risk management director, added: “While adverse weather and the avoidance of it through to considered design and construction of container ships are clearly vital, the ‘moving parts’ of causation range through all aspects of container operations.”

Ship-board factors run from proper inspection and regular maintenance of deck fittings, locking bars, twistlocks and lashing bridges, to the use of accurate data to predict parametric rolling and other ship motions, and the incidence of a so-called “stiff ship” situation, at the design and construction stage. *MRI*

IN BRIEF

Port partners

Two global players in maritime procurement and project management have joined forces to offer port and terminal operators a turnkey solution that cuts procurement costs and overheads while also increasing staff productivity. Lifecycle contract management specialist and iSpec creator Remy InfoSource is now partnering with Trent Port Services to offer port companies a combined service solution for all equipment procurement, third-party factory inspections and project management requirements. “By outsourcing complex equipment projects to our new partnership, large and small port companies can reduce the in-house time, costs and resources usually allocated to manage a complex expansion project from idea to completion,” said Pieter Boshoff, CEO of Remy InfoSource.

Diversity pledge

Law firm HFW has signed a pledge committing it to help improve diversity and inclusion within the yacht industry. By signing the “She of the Sea” pledge, HFW has committed to four resolutions: to monitor and report diversity data; to conduct fair recruitment processes; to ensure balance and representation in marketing materials and activities; and to assign a “champion” to actively support and monitor performance against the pledge resolutions. HFW is one of more than 35 organisations from across the yacht industry to have signed the pledge.

Ship fined on pay shortfall

The Australian Maritime Safety Authority (AMSA) has banned the Panama-flagged bulk carrier *AC Sesoda* for deliberately underpaying its crew by more than AU\$118,000, which the ship’s operator attempted to conceal from authorities. AMSA’s investigation found evidence which confirmed that a number of crew had only been paid half of their wages since October 2019. The ship was detained by AMSA and the operator was directed to pay the outstanding wages. Since then, AMSA has received evidence that crew had been paid the outstanding wages and a rectification action plan developed by the operator to ensure the same failure did not reoccur.

Sustainability to top shipping agenda

The European Parliament has voted in favour of including greenhouse gas emissions from the maritime sector in the EU’s carbon market from 2022. EU legislators said the bloc’s carbon market should be expanded to include emissions from voyages within Europe, as well as international trips which start or finish in an EU port. This would force shipowners to buy EU carbon permits to cover these emissions.

A draft European Commission document is said to confirm plans to expand the scheme to “at least intra-EU maritime transport”. This would likely happen through a package of market reforms the Commission will propose by June 2021. The expansion may take until 2023 to implement.

Meanwhile, the Sustainable Shipping Initiative (SSI) and Copenhagen Business School (CBS) Maritime have announced a new partnership under the Green Shipping Project. Bringing clarity to the sustainability issues surrounding the alternative fuels under consideration for shipping’s decarbonisation, the partnership will see the development of a set of sustainability criteria for marine fuels, applying these criteria to assess the alternative fuels currently being explored for zero-emission shipping. The criteria will also feed into a number of decarbonisation initiatives across the maritime and energy sectors. SSI will subsequently engage with certification bodies to facilitate the development of a sustainability standard or certification scheme for marine fuels.

The collaboration is carried out under the Green Shipping Project, an international research partnership managed jointly by CBS Maritime and the Centre for Transportation Studies at the University of British Columbia’s (UBC) Sauder School of Business in Vancouver. With the aim of advancing knowledge and understanding towards the progressive governance of sustainable maritime transport, the Green Shipping Project was launched in 2017 and is a collaboration of 18 universities and 19 government, industry, and NGO partners. Funded by the Social Sciences and Humanities Research Council of Canada, the international maritime research network is focused on five areas of research: trade and logistics; green ports; innovation; stakeholders; and value chains.

Andrew Stephens, executive director at SSI, said: “Today, we have no clarity nor consensus on the sustainability issues surrounding the fuels being explored for shipping’s decarbonisation and the criteria to assess their sustainability remain undefined. This work will contribute to this debate and ultimately inform the selection of one or more winning options for zero-emission shipping.” *MRI*

New guide to enclosed spaces

As part of its focus on delivering best practice advice on key areas of vessel operations, to help avert avoidable claims and prevent accidents/incidents at sea, Standard Club is releasing a series of updated and new “Master’s Guides”. The first, “A Master’s Guide to Enclosed Space Entry”, is aimed at assisting seafarers entering enclosed spaces safely and preventing enclosed space-related casualties.

The continued loss of life due to improper enclosed space entry and rescue are reminders of the dangers associated with confined spaces on board ships. Most incidents are caused by poor training and knowledge of the correct entry procedures, or a disregard for them. It is therefore vital that all seafarers are aware of the dangers of enclosed spaces and learn the correct entry procedures, whether or not it is a requirement of their role on board.

Seafarers must understand that no enclosed space should be entered without following proper precautions, even in an emergency. The guide addresses risks and causes related to enclosed space entry and focuses on the most common issues that result in incidents, offering key advice. Such issues include:

- poor training
- failure to follow proper procedures for enclosed space entry
- failure to recognise the danger of an enclosed space
- tendency to trust physical senses and forego testing or checks
- attempts to save a co-worker leading to short cuts and failure to follow procedures
- failure to manage safely any shore workers on board.

Observance of the principles and procedures outlined in this guide will form a reliable basis in reducing the risks for enclosed space entry. *MRI*

IN BRIEF

French payout

The French government has said that it would be reimbursing €30 million in payroll costs to French ferry companies that have been affected by the coronavirus crisis and Brexit. Prime Minister Jean Castex said: “We have decided to reimburse all of Brittany Ferries’ payroll costs for the 2021 financial year. This represents a commitment of around €15 million”, adding that an equivalent amount would be offered to other ferry companies. Shipping firms have suffered from lower traffic to and from the UK because of quarantine measures and uncertainty surrounding the situation that will be in place at the end of 2020, when the transition period comes to an end.

Compliance solution

ISF Watchkeeper Yachts, a work and rest hour compliance solution, has been launched. Designed especially for the yacht sector, the simple-to-use software is backed by the expertise of the International Chamber of Shipping. Its sister product, ISF Watchkeeper, is the most widely used work and rest hour compliance solution in the world. Cloud-based and with cross-platform capability, ISF Watchkeeper Yachts offers users instant access to work and rest hour data.

Cloud tool

GTMaritime has launched a cloud-based tool to automate a key part of the data transfer process between ship and shore, relieving seafarers and shore teams of a growing manual file replication burden. With the quantity of data shared between vessels and shore-side teams increasing at an accelerating rate, personnel on board and ashore are having to spend ever more time uploading, downloading and managing file transfers manually. As well as being tedious, such repetitive tasks increase error risks, with the potential for serious financial consequences. Running on GTMaritime’s FastNet data transfer platform, GTReplicate provides a highly configurable automated alternative that reduces the growing administrative burden on fleet IT managers and frees up crew to use their time more constructively.

WHO issues health guidance for crew

The World Health Organization (WHO) has issued interim guidance aimed at protecting the health of seafarers working on cargo ships and fishing vessels during the Covid-19 pandemic.

This specific guidance addresses the unique situation of seafarers, who work in close-contact environments and are often on ships for extended periods of time, generally without a medical doctor on board.

The document provides guidance to shipowners, seafarers, unions, associations and competent authorities. It includes advice on pre-boarding screening, hand hygiene, physical distancing and the use of masks, as well as recommendations on how to manage suspected Covid-19 cases on board. The importance of mental health services and psychological support for seafarers is also covered. The WHO also reminds its member states that they must ensure that seafarers in need of immediate medical care are given access to their medical facilities on shore.

Preventing and managing outbreaks on board ships is vital not only for the safety and well-being of the crew, but also to protect the crew’s ability to safely navigate and operate the ship. IMO member states are also invited to make use of the Protocols to Mitigate the Risks of Cases On Board Ships. The Protocols include tools to help ship operators manage suspected or confirmed cases of Covid-19 and to ensure that seafarers can embark and disembark safely and efficiently.

Meanwhile, the IMO itself has been addressing the issue of continuing IMO member state audits remotely. Amid ongoing uncertainty caused by the Covid-19 pandemic, a recent meeting provided a forum to update all auditors on the impact of the disruption on the implementation of audits under the scheme. Participants discussed the use of possible remote audit mechanism aimed at preventing further postponements of the audits. This process is crucial as it promotes the consistent and effective implementation of the applicable IMO instruments and assists member states to improve their capabilities as flag, coastal and port states.

- For more on crew safety and Covid-19, see page 10. **MRI**

Warning on port fee increases

International Transport Intermediaries Club (ITIC) has warned port agents to inform regular principals of port fee and tariff increases, even if the details are in the public domain. This will avoid disputes as well as delayed reimbursement payments.

A recent case involved a port agent who was owed US\$190,000 by their regular principal (the charterer and consignee of a cargo of timber) for storage costs and demurrage charges. The agent had been invoiced for these charges by the port and had then passed them on to their principal for reimbursement. After a lengthy period of silence from the principal, ITIC appointed lawyers to strengthen the demand for payment. The principal advised that the agent had previously sent them the port tariff on which they had relied. However, unknown to them the port had subsequently increased its fees and this was why they were refusing to pay.

The agent responded by saying that they had sent that tariff in relation to an earlier shipment. Although they had not sent a message updating the tariff, the fees are set by the port and they are available on the port’s website. Furthermore, there was no other place the cargo could have been stored and the principal was the end user of the cargo and could not pass the storage costs on to any other party. Despite the principal’s criticism of the agent for not keeping them advised of the changes, the agent’s inaction was not causative of any loss. Therefore, it was demanded that the ports costs should be paid in full by the principal.

After a court-ordered conference, the principal offered to pay \$60,000. This was rejected and, following a mediation process, the matter was finally settled for \$160,000. Legal fees of \$11,800 as well as the balance of the port charges were covered by ITIC. To avoid disputes, port agents who routinely provide regular principals with port fees and tariffs should make sure they advise them of any changes to those fees and tariffs. **MRI**

Skuld

NEW YORK JOINER



Skuld has appointed Åse Naaman Jensen as senior vice president, head of Skuld New York, succeeding Charles Anderson. To ensure a smooth transition, Åse will work in parallel with Charles from 1 September 2020 until she takes over full responsibility for Skuld New York on 21 February 2021. Charles has spent more than 22 years at Skuld and will retire in June 2021. Åse, currently vice president at Skuld New York, joined Skuld Copenhagen in 2008 as a claims handler. She relocated to the New York office in 2013 as a senior claims' executive, specialising in defence matters.

IFAN

BOARD ADDITION

The International Foundation for Aids to Navigation (IFAN) has appointed Louise Evans to its board of directors. Louise is currently a non-executive director and audit committee chair of AB Dynamics and Gooch & Housego, and is also a Board advisor to the SCB Group.

North P&I

FD&D TEAM GROWS

North P&I has strengthened its FD&D leadership team in Greece with the appointment of Antigone Yanniotis and Gillian Stanton to the roles of deputy director (FD&D) Greece, reinforcing the Club's commitment to the Greek membership and North's Greek office, which is led by directors Tony Allen and Gordon Robertson. The Greek membership will also continue to be supported by FD&D directors from North's Newcastle headquarters – in particular, Ben Roberts, Alexandra Davison and Katherine Birchall.

Joining North's FD&D team in 2003, Antigone has played a critical role in building lasting relationships with members in Greece since qualifying originally as an attorney in New York and New Jersey, where she worked for Lyons, Skoufalos, Proios and Flood. Gillian joined North's FD&D team in 2009 after training at London law firm Addleshaw Goddard where she practised as a commercial litigator, having qualified in 2003. Gillian is also a member of North's sanctions advice team.

Port of London Authority

NEW BOARD MEMBER

The Port of London Authority has appointed Toril Eidesvik as non-executive director of the Board. Toril has more than a decade's experience in the shipping industry, having worked as chief executive of reefer shipping company Green Reefers, general ship supply company Seven Seas and cargo handling equipment supplier TTS Group (now Nekkar). Toril replaces Annette Malm Justad, who stepped down after six years' service.

Brookes Bell

TECHNICAL LEAD

Brookes Bell has hired Jenny Davies as a fuel services technical lead. Jenny is managing the establishment of fuel testing services at the new facilities in Liverpool. She has worked for many years in the environmental sector developing methods for persistent organic pollutants, and has more than 15 years' experience in environmental testing. Her last role saw her develop a laboratory and its services from just 10 chemists to 180 specialist technicians with an accompanying range of services.

WFW

GLOBAL CO-HEAD

Watson Farley & Williams (WFW) has named Athens office head George Paleokrassas as global maritime sector co-head, alongside London-based Lindsey Keeble, who has led the sector since 2014.

George is recognised as one of the leading lawyers in the maritime sector both in Greece and internationally and is the only lawyer listed in top legal directory Chambers Global 2020's elite "eminent practitioner" category for shipping finance in Greece. Lindsey is also a recognised leader in her field, most recently having been named one of *Lloyd's List's* "Top 10 Maritime Lawyers 2020". Since January 2020 Lindsey has also led the firm's London assets and structured finance group.

Foreship

PRESIDENT NAMED

Naval architecture and marine engineering company Foreship has appointed Benjamin Sward as president of Foreship to take responsibility for the company's US activities, their growth and a renewed pursuit of opportunities in the commercial shipping and offshore

sectors. The appointment sees a return to Foreship for Benjamin, who served the company as a naval architect and project manager between 2015 and 2018. In the intervening period, he worked as engineering manager of PaR Marine, designing and installing the first electric aircraft elevator in US naval history.

Columbia Shipmanagement

SAUDI OFFICE

Columbia Shipmanagement (CSM) has heralded the start of its expansion into the strategic Middle Eastern ship management market by opening an office in Riyadh in the Kingdom of Saudi Arabia. The new office will offer full technical and crew management services to the shipping, offshore and energy sectors, including the important cruise and superyacht markets, as well as essential vessel digitalisation and optimisation services, in addition to training, catering and newbuilding consultancy.

Athenian Holdings

NEW CEO

Athenian Holdings has appointed Jens Martin Jensen its chief executive officer. Jens previously held high-profile positions, as CEO at Frontline Management and Premuda, as well as senior executive roles at New Fortress Energy, Maersk/AP Moller group, Pillarstone Europe and Island Shipbrokers Singapore.

Obituary

PATRICK HAWKINS

It is with great sadness that Hill Dickinson announced the passing of the managing partner of its Greek office, Patrick Hawkins. Patrick died in hospital in August, having suffered a heart attack in early July.

Patrick was educated at Cambridge University and the College of Law, gaining first class honours in the Law Society finals. He qualified in 1987 and joined Hill Dickinson's Liverpool office in the same year. On qualification as a solicitor he headed to Athens where he joined Greek law firm Vgenopoulos & Partners, leaving there in 1993 to set up the Piraeus office of Hill Taylor Dickinson. In 2005 Hill Taylor Dickinson remerged with Hill Dickinson and Patrick continued to lead the Piraeus office until his death. Awarding him its "Leading Individual" award in 2019, Legal 500 described Patrick as "a leading figure in the market for many years".

Covid-19 impact still to be measured by marine insurers

For the first time the International Union of Marine Insurance held its annual conference virtually. **Liz Booth** listened in to hear that the impact of Covid-19 is ongoing and impossible to predict

Marine underwriting premiums for 2019 were estimated to be US\$28.7 billion, which represents a 0.9 per cent reduction from 2018, delegates to International Union of Marine Insurance's (IUMI) first virtual annual conference heard.

The \$28.7 billion global income was split between: Europe 46.3 per cent, Asia/Pacific 31.8 per cent, Latin America 10.3 per cent, North America 5.3 per cent, and Other 6.3 per cent. 2019 also saw Europe's global share reduce slightly from 46.4 per cent (2018) to 46.3 per cent, and Asia's share increase modestly from 30.7 per cent (2018) to 31.8 per cent. For global marine premium by line of business, cargo continued to represent the largest share with 57.5 per cent in 2019, hull 24.1 per cent, offshore energy 11.7 per cent and marine liability (excluding IGP&I) 6.8 per cent.

Philip Graham, chair of IUMI's facts & figures committee, explained: "The numbers we are reporting today cover the 2019 underwriting year and are pre-Covid-19. In the past, we've been able to analyse trends to get an understanding of potential future outcomes, but Covid-19 is such a significant global event that it will inevitably impact on all statistics, including IUMI's. Clearly there is a lag between IUMI's reported 2019 numbers and the effect that Covid-19 is having on the marine insurance markets. The loss ratio figures as of 2019 suggest the start of a modest recovery in the hull and cargo segments and a continued fragile balance in the energy segment."

The numbers

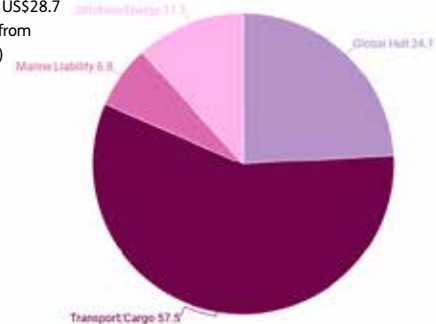
Cargo

The global premium base for the cargo market for 2019 was reported to be \$15.6 billion – a 1.5 per cent reduction from 2018. Exchange rate fluctuations impact most heavily on this sector and so comparisons with earlier years cannot be exact. In general, cargo premiums are strongly correlated with world trade values but they have lagged behind in recent years. IUMI's 2019 numbers do not account for the impact of Covid-19 but the virus has injected significant uncertainty into future world trade forecasts in terms of values, volumes and changing trade patterns, the conference heard.

Loss ratios in Europe for the years 2014 to 2016 were particularly high, but all recent years up to 2019 were under the influence of an increasing exposure to natural catastrophe or man-made events, combined with accumulations on ships and in ports which were not necessarily reflected in premiums. 2019 started at around 60 per cent, which demonstrates a modest improvement compared with previous years and is expected to end slightly below 70 per cent if the year follows a standard development pattern. Loss ratios in Asia were stable

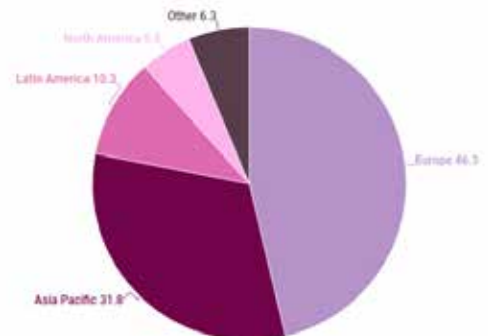
Marine premiums 2019 (% by line of business)

Total estimate 2019: US\$28.7 billion/Nearly stable from 2018 to 2019 (-0.9%)
NB: Exchange rate effects!



Marine premiums 2019 (% by region)

Total: US\$28.7 billion



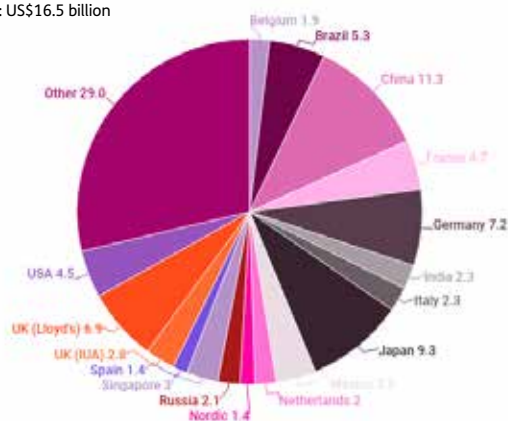
until 2014 but then increased dramatically to around 60 per cent in 2018; there appears to be a slight improvement in 2019 with a loss ratio of around 50 per cent. In Latin America, the ratio is stable in the 50 to 55 per cent range. Taken together, these loss ratios indicate the beginnings of a market recovery. Fires on containerships represented a significant amount of cargo loss in 2019 and continued into 2020 with a major car carrier and VLCC fire. Accumulation of cargo in stock and in transit has been exacerbated by Covid-19 due to port congestion and delivery delays. This is also increasing the likelihood of damage to vulnerable cargoes such as refrigerated goods.

Ocean hull

Global premiums relating to the ocean hull sector are relatively stable. IUMI reports a 2019 premium number of \$6.9 billion, representing just a 0.2 per cent increase on the previous year. The correlation between the size of the world fleet and the value of global premiums has been diverging (in terms of tonnage) since 2011, but 2019 numbers show that this unsustainable situation is moderating. Global premiums have stabilised but the global fleet continues to grow. In general, the age of the world fleet is

Cargo premiums 2019 (% by market)

Total estimate: US\$16.5 billion



increasing which is reducing the overall value of the asset base. This, in turn, has the potential to negatively affect premiums.

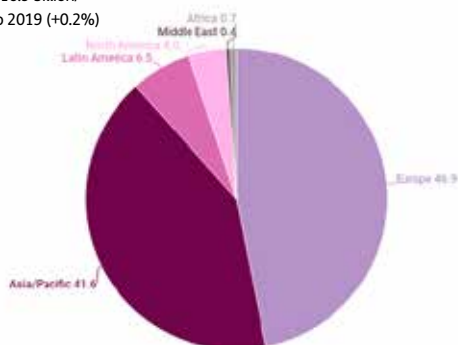
The long-term downward trend in total losses continues and has now reached an all-time low. However, as with the cargo sector, large vessel fires remain an issue. A major loss incurring unprecedented cost (resulting from increased vessel sizes, accumulations and new trading patterns such as arctic routes) remains a significant risk and one that could impact catastrophically on the hull sector. Covid-19 has reduced vessel use and this has impacted positively on claims since early 2020. Loss ratios in Europe improved slightly in 2019 but are likely to reach at least 80 per cent once the underwriting year is fully reported. This gives scant solace to hull underwriters who have endured a technical loss almost every year since 2005. Loss ratios in Asia are slightly improved at just below 70 per cent and the ratio has dropped in the Latin American market to around 60 per cent.

Major claims database

After three years of collecting data, IUMI has published the first findings from its global major claims database, choosing cargo because this offers a wider geographical spread of underwriters. The database revealed incurred average losses from accident years 2013 to 2019 ranged from a low of \$1.2 million to a high of \$3.1 million. Total losses in a year ranged from \$343 million to \$970 million. The numbers for 2019 were an average of \$1.5 million and the total was \$587 million. Most claims (87 per cent) were for less than \$2.5 million. However, the top 3 per cent of claims (in excess of \$10 million) made up 37 per cent of the total loss.

Hull premiums 2019 (% by region)

Total estimate: US\$16.9 billion/
Stable from 2018 to 2019 (+0.2%)



Gulf of Guinea piracy in deeper waters

Pirates attacking vessels in the Gulf of Guinea are progressively moving into deeper water, delegates at IUMI were warned. Richard Neylon, partner at HFW and a member of the Ocean Hull Committee, said piracy came in many forms but the main problem in the Gulf of Guinea was marine kidnap for ransom.

He believes it has become a transfer to the sea of a business model that had already existed in Nigeria on land. Back in 2018, the majority of kidnappings had been close to Port Harcourt. However, as time went on, the targets were further out to sea, with one kidnapping taking place 200 miles offshore, many of them south of Benin.

Looking at the 2020 figures, Neylon pointed to a significant increase in attacks during April, May, June and July. He attributed some of this to Covid-19, suggesting that as business dried up on land, more people turned to crime. Neylon was extremely worried about the risks of attacks for the rest of the year. He explained the type of ship most frequently attacked was the tanker, however, an attack on an FPSO, from which nine people were kidnapped, was worrying.

Covid-19 had created other problems for shipping interests – Port Harcourt had been in lockdown, with banks closed and the availability and transport of hard cash a real issue. After the financial resource and negotiating a final figure with the kidnappers, there needs to be an encashment of physical bills. During lockdown, with few people moving about, a heavily armoured security van had a high profile if it was on the road. Neylon said that the “interruption” of the delivery of funds was a major worry. Finally, there was delivery and extraction. “There are hostile forces trying to stop us getting the crew back”, he said. And then finally, getting the crew home had proved harder. There were no commercial flights out of Nigeria for some time.

Dave Matcham, chief executive, International Underwriting Association, and project leader and secretary to IUMI’s Facts & Figures Committee, said: “We began this initiative by establishing and proving the concept three years ago. Since then we have recruited 22 national insurance associations who are all IUMI members. This year – our third year of development – we have received 6,800 records of major (greater than \$250,000) losses totalling \$10.2 billion.”

Sufficient information dating back to 2013 has now been collected on a range of metrics and from this, five specific data fields have been identified where the data is reliable enough to be published, these are:

- Year of accident
- Underwriting year
- Loss amount
- Type of loss
- Mode of transport.

Working closely with the Boston Consulting Group, IUMI has been able to undertake and publish some early analysis of this information. Examples include a year-on-year comparison of numbers of major cargo claims versus their average value; number of losses categorised by value range; value of different types of claims; and claim numbers and values attributed to various transport modes. IUMI is working to recruit more national insurance associations to increase the number of claims records contained within the database. It also intends to grow the number of reliable data fields so that further data analysis can take place. Once confidence in the hull data is at a sufficient level, IUMI intends to publish an initial analysis of global hull claims. *MRI*

Pandemic crew matters require careful attention to detail

Sarah Barnes and Beth Bradley, at Hill Dickinson, highlight some of the key concerns and implications of managing crew through Covid-19

Due to ongoing Covid-19 travel restrictions, seafarers are struggling to sign off from ships and are facing an unprecedented extended period of time on board. It has been estimated that at least 200,000 seafarers worldwide require immediate repatriation and there have been reports that some ports have refused to allow ships to enter, which has not only prevented crew changes, but also obstructed ships from obtaining essential supplies.

This raises concerns in relation to seafarer fatigue and mental health issues and has led to the International Labour Organization (ILO) asking member states to recognise seafarers as key workers to facilitate crew changes. Pressure has also been brought to bear on governments to facilitate the ability of seafarers to travel to and from vessels given the various quarantine and transport restrictions in place.

On 9 July 2020 13 countries signed the Joint Statement of the International Maritime Virtual Summit on Crew Changes, in which governments pledged to facilitate crew changes and gave seafarers enhanced rights as key workers. The relevant countries are: Denmark, France, Germany, Georgia, Greece, Indonesia, Netherlands, Norway, Philippines, Saudi Arabia, Singapore, United Arab Emirates, UK and US. The IMO is encouraging other member states to follow so that crew changes can be more easily facilitated.

This is also imperative bearing in mind concerns about a possible second wave of Covid-19. The plight of seafarers in this regard is also impacted by and has implications for the network of contracts which underpin maritime trade, principally, but not uniquely, charterparties and bills of lading.

Owners' obligations to seafarers

Shipowners have a duty to take reasonable care for the health, safety and welfare of their seafarers even when faced with such an unprecedented pandemic as Covid-19. This duty is derived from a number of sources:

The Maritime Labour Convention 2006 – minimum employment requirements

Under the Maritime Labour Convention 2006 (MLC), flag states must ensure all seafarers on ships flying their flag are covered by adequate measures to protect their health and that they have access to prompt and appropriate medical care while working on board. It is also imperative that shipowners provide mental health support to seafarers.

The MLC sets out minimum working and living rights for seafarers. It requires shipowners to provide assistance and support if a crew member suffers sickness during their employment, which begins when the crew member commences their duty and ends when they are repatriated.



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Further, the following costs should be covered:

- the cost of medical treatment and any medication;
- food and accommodation costs until the crew member has recovered or until the sickness has been declared permanent; and
- full wages while the crew member remains on board or until they are repatriated.

This includes any situation where a crew member is isolated on or off the ship, or where a crew member has left a ship but has not been able to secure transport home. When the seafarer has been repatriated, they are entitled to wages as detailed in national laws or regulations or as provided for in collective bargaining agreements until they have recovered.

Additionally, the MLC provides for a default maximum period at sea of 11 months. Owing to Covid-19, many seafarers have been required to stay on board for durations beyond that period. Consequently, the MLC guidance has been updated to provide that seafarers must be kept informed about the reasons why they are required to stay on board and a seafarer's employment agreement (SEA) must remain in force until repatriation. If any of the SEAs have expired, then they must be extended or new ones issued on the same terms and conditions, with the seafarer's consent.

Ship safety management system and the IMO

In addition to the MLC requirements for minimum employment standards, a shipowner must also provide a safe environment to work in together with advice and support for safely joining and leaving a vessel. Shipowners are also obligated to ensure that they have a ship safety management system, which includes an obligation to have an outbreak management plan in place to deal with infections on board. In terms of Covid-19, the outbreak management plan should include procedures recommended by the World Health Organization (WHO) and the IMO.

The IMO, on 5 May 2020, published protocols for seafarers joining and leaving a ship safely, which cover the advice to be given to seafarers when travelling to and from a vessel, together with their time on board.

These protocols cover key issues, including the requirements for shipping companies to instruct seafarers to comply with standard infection protection and control precautions related to social distancing, self-isolation and hygiene. In particular, seafarers prior to joining and leaving the ship are to check their temperature twice daily and to advise shipowners if they show any Covid-19 symptoms before travelling to or leaving the ship. There is also an obligation on the ship's captain to notify the port health authority at the next port of call if there is a suspected Covid-19 case and they should be able to assist with medical assistance for an ill seafarer. Shipowners must arrange for seafarers to be provided with personal protective equipment (PPE) to cover their period of travel to and from the ship.

The position under chartering contracts

The obligations which an owner has towards the crew have been outlined above. However as more and more countries started to lockdown their populations and close borders in response to the pandemic, the position of seafarers became acute. Unsurprisingly, since Covid-19 is unique in terms of the breadth of its reach and the actions taken to combat it, charterparty terms are simply not well equipped to deal with some of the issues relating to the safety of seafarers and handling crew changes. Most charterparties provide that the voyage to be performed must be done through the contractual route (voyage charters) and with utmost despatch (time charters), such that any deviation would be a breach of charterparty, capable of amounting to a repudiatory breach.

This gives rise to two potentially thorny issues. First, and probably more difficult to surmount, is the situation where the crew needs to be changed but the only opportunity to do so is by deviation. None of the standard form charterparties (time or voyage) permit a deviation in these circumstances. Consequently, for an owner to discharge their obligations to seafarers and deviate to perform a crew change without being in breach of their obligations under the applicable charter or bill of lading contract, requires the agreement of the other parties in the chain and insurers. That is not necessarily an easy negotiation.

The second issue relates to whether an owner can deviate to land a seafarer who is unwell. In that situation owners are able, under most time and voyage charters and potentially under bills of lading incorporating the Hague/Hague-Visby Rules, to deviate for the purpose of saving life, which is a very limited right. Where a crew change cannot be performed as envisaged, because the port is refusing entry due to quarantine restrictions, article 2 rule IV(h) of the Hague/Hague Visby Rules may relieve owners of liability for losses claimed by the bill of lading holder and possibly the charterer, if the charterparty expressly incorporates the rule.

These are limited grounds and bespoke clauses should be developed to ensure that, in the on-going situation, crew changes can take place. One clause has recently been proposed by BIMCO, the "Covid-19 Crew Change for Time Charter Parties 2020" clause, which expressly permits owners to deviate for crew changes where restrictions are in place at the port or place to which the vessel had been ordered.

The clause, where adopted, is to be expressly incorporated in sub-charters, waybills, bills of lading and other contracts of carriage. In terms of risk allocation, the default position is for the vessel to be on hire but at a reduced rate and for costs in the deviations to be for owners account.

“Covid-19 is unique in the breadth of its reach and the actions taken to combat it. Charterparty terms are not well equipped to deal with some of the issues relating to the safety of seafarers and handling crew changes”

Mental health

When there are delays in seafarers being repatriated it is important that support is provided for them to maintain good mental health and wellbeing. By way of example these are some basic steps which can be implemented:

- Implementing or reinforcing access to employee support and providing the ability for seafarers to seek any counselling or other support they may need.
- Providing access to stay connected to family and friends.
- Encouraging seafarers to support each other and be sociable – for example, by encouraging exercise and arranging socially distanced activities.
- Providing access where possible to healthy food.
- Providing a positive workplace culture to encourage seafarers to talk openly and honestly about any feelings they have, particularly when they're struggling, and to enable them to feel safe in asking for help and support. The best role models to take this position while at sea are the senior officers and captains although there should be a general awareness among all crew.

The UK government, in conjunction with the Merchant Navy Welfare Board and Seafarers UK, has announced a programme to support seafarers in UK shores with mobile internet routers – MiFi units – on board ships where hundreds of seafarers are still waiting to return home. This will give seafarers free internet access on board.

The International Seafarers' Welfare and Assistance Network (ISWAN) is a membership organisation that works to promote and support the welfare of seafarers all over the world. A guide issued by ISWAN provides information on mental health, maintaining psychological help on board ships, and on managing stress and problems with sleep. This guide can be downloaded. The seafarer helpline is also available both by telephone and by online live chat. [MRI](#)



Sarah Barnes



Beth Bradley

Sarah Barnes,
legal director,
and Beth Bradley,
partner at Hill
Dickinson

Crewing warranties and the Insurance Act 2015

Dr Livashnee Naidoo, of the University of Glasgow, warns wordings need to be crystal clear when it comes to crew warranties

Insurance contract law has undergone an extensive period of reform, with insurance warranties being one of the target areas. The Insurance Act 2015, which entered into force in mid-2016, amended various aspects of the Marine Insurance Act 1906. The 2015 Act is concerned with both commercial and consumer insurance, including marine insurance, and in relation to commercial insurance the 2015 Act operates as a default regime thereby allowing parties to “opt out” of provisions of the Act provided certain requirements have been met. The 2015 Act raises many important, and as yet unanswered, questions which renders current litigation uncertain.

Crewing warranties in marine policies (usually those pertaining to fishing trawlers or motor yachts) vary in wording, but a common feature is that these clauses typically require the crew and/or skipper to be on board and/or in charge at all times – the operative words being “at all times”. Courts under the 1906 Act have been called on to interpret the meaning and ambit of these words (eg *The Resolute* [2009] 1 Lloyd’s Rep 225, *The Newfoundland Explorer* [2006] Lloyd’s Rep IR 704, *The Milasan* [2000] 2 Lloyd’s Rep 458). This article sketches the principal changes to the statutory warranty regime and potential interpretative difficulties that might arise in future.

The 1906 Act

Under the 1906 Act warranties required strict compliance, breach of warranty could not be remedied, and breach of warranty resulted in the insurer being automatically discharged of all prospective liability, even in circumstances where the breach had no bearing on the loss which occurred (sections 33 and 34). The 1906 Act was viewed as a dated piece of legislation that no longer reflected modern commercial practice. Judicial approaches attempted to mitigate these statutory effects by removing perceived unfairness when insurers relied on supposed irrelevant warranties. Crewing warranties in marine insurance have been used to illustrate the differing judicial approaches in this respect.

The 2015 Act

The key provisions are sections 10 and 11 of the 2015 Act. Some issues in relation to crewing warranties remain the same (eg the definition of warranties), but the 2015 Act also introduces novel, and in some respects far-reaching, changes. The reform process focused less on whether warranties should be included in the policy, but rather on the consequences of breach of warranty.

Section 10: breach of warranty

Section 10 only applies to warranties. It addresses the problems in the 1906 Act by replacing the remedy of automatic discharge

with the remedy of suspension of the insurer’s liability from breach until it has been remedied. This is a new default rule and it allows for a breach of warranty to be remedied where possible. When determining if a breach can be remedied, two types of warranties are distinguished: time-specific and general warranties. The former requires something to be done by a

certain date and therefore only applies to warranties as to the future (eg to comply with a class survey by a certain date). Such warranties are remedied “when the risk becomes essentially the same to which it relates”. General warranties are all other warranties that are not time-specific, and these are remedied when an insured “ceases to be in breach”.

Section 10 is a generally welcome reform which makes the law fairer. The preliminary enquiry for crewing warranties under the 1906 Act was whether a term is a warranty or not, and the ambit of the crewing warranty (ie the interpretation of the words “at all times”) to determine if there was in fact a breach of warranty at the time of loss. This remains the starting point for such enquiries under the 2015 Act. However, section 10 awaits judicial determination on several points, such as when is a breach deemed to be remedied. If the crewing warranties are viewed as continuing warranties (which requires continued compliance throughout the policy), then it is uncertain if section 10 will be of much value as it is not clear if such warranties can in fact be remedied. It is also unlikely that crewing warranties will be viewed as time-specific warranties requiring compliance by a specified time.

Section 11: terms not relevant to the actual loss

The provision on risk control terms is one of the most controversial provisions as sectors of the insurance industry opposed the inclusion of the proposed section 11 and it was not included in the Insurance Bill that was to be implemented under the uncontroversial measures process. It was therefore a last-minute addition to the 2015 Act.

The remedy of suspension of liability offers a part solution as insurers can still rely on breach of irrelevant warranties that have no connection to the loss. Section 11 is meant to assist here as it is triggered when there has been a loss during the period of breach before it has been remedied. The insured is given a second layer of protection if it can show that:

1. the term falls within section 11(1) in that compliance tends to reduce the risk of loss of a particular type, at a particular time, or location (“risk-mitigation term”); and
2. it is not a risk-defining term (for eg the use of the insured property for commercial use only or geographical limits).

If that is established, the insured must then discharge the burden of showing that “non-compliance with the term could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred” (section 11(3)).

These give rise to a number of interpretative difficulties. Section 11 is broader than section 10 as it catches all other risk-mitigation terms (including but not limited to warranties). Section 11 does not apply to risk-defining terms. It is difficult to determine whether a crewing warranty defines the risk as a



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whole and is excluded from the scope of section 11 or is a risk-mitigation term to which section 11 will apply. If it is deemed to be both, its classification as a risk-defining term will prevail and it will fall outside section 11. Determining whether a warranty defines the risk as a whole is not a new enquiry. Indeed, courts are well aware of the difficulties in this endeavour, but the express exclusion of “a term defining the risk as a whole” has made section 11 more complex.

Consider, for example, a crewing warranty can be drafted as “Warranted crew and/or skipper to be on board and/or in charge at all times”, or as “this policy only applies to a vessel that is crewed and/or has a skipper on board and/or in charge at all times”. If insurers draft a crewing warranty as a risk-defining term, what should the judicial approach be? Should courts recognise this as an attempt to circumvent the reforms or should courts uphold the contractual term?

The second issue is with determining the scope of risk-mitigation terms to which section 11 will apply (section 11(1)). This is an objective test that considers what type of losses would be less likely to occur if the crewing warranty was complied with. A crewing warranty can guard against a number of different types of losses (eg theft or fire on board the vessel). How courts will interpret “at all times” as a term which tends to reduce the risk of loss of a particular type remains unclear.

Similarly, in principle a crewing warranty can also tend to reduce the risk of loss at a particular time (eg when the crew are required to be on board at certain times and not others). More than one temporal qualification can be caught by section 11. For example, it could apply to whether losses occur at day and/or night, or when navigating and/or in port. Determining what constitutes a risk of loss of sufficient *particularity* as required by this section and what is too broad to fall within section 11 remains uncertain.

Thirdly, even if an insured is able to show that the crewing warranty falls within section 11, s/he still has to show that non-compliance with the term could not have increased the risk of loss which actually occurred in the circumstances in which it did. Even though this is not intended to be a causation test, there has been much speculation that this does require some sort of connection between breach and loss. Indeed, the words “... actually occurred in the circumstances in which it occurred” reinforces the position that this will require detailed factual enquiry. The type and degree of connection awaits judicial determination and this question will be linked to the initial enquiry about the ambit of the warranty.

Finally, while the words “at all times” in crewing warranties seems straightforward, the differing judicial decisions make it difficult to pinpoint with any clarity how future cases are likely to be decided. Advice to the market would be to ensure that the meaning of “at all times” is as explicit as possible when drafting crewing warranties, and if contracting out of section 10 and/or section 11 of the 2015 Act. The adage “say what you mean” holds even more true now in the early days of the 2015 Act.

- *This article is based on a talk as part of the British Insurance Law Association’s lecture series. [MRI](#)*



Dr Livashnee Naidoo

Dr Livashnee Naidoo, lecturer in commercial law, the University of Glasgow

Unclaimed cargo – a consequence of coronavirus?

Shaan Burton, of London FOIL and Kennedys, reports on the growing problem of stranded or abandoned cargo

As consumer demand diminishes and global economies are predicted to hit record recessions, the demand for goods and raw materials has seen a corresponding collapse. Lockdowns imposed across the world have seen markets freeze and traders are no longer in a position to use goods already ordered and in transit.

This inevitably leads to goods being held at ports, at warehouses and forwarders' premises, as well as elsewhere in the supply chain. Such issues are not new – each recession sees contracts rescinded and purchasers walk away from unwanted cargo. However, the Covid-19 situation had already left many containers locked up in ports and at warehouses. As businesses close as a result of enforced lockdowns, many of these goods will now be abandoned. This will leave goods stranded in the supply chain, often loaded in containers.

These goods can attract considerable charges and liabilities. This includes container demurrage charges which can quickly spiral into the tens of thousands of dollars. Quay rent and general handling charges also add up pretty quickly. Indeed, these charges can quickly exceed the value of the goods. By that stage, the consignee will have little or no interest in collecting the goods and incurring those charges. Questions then arise as to who should bear such charges and liabilities. These mounting costs will give rise to problems for both cargo owners and the forwarding agents appointed to transport the goods.

The cargo issue

When goods are held up in the supply chain, they become increasingly vulnerable to theft and damage. This is particularly so in relation to perishable goods such as foodstuffs and pharma products which often need the provision of specialist containers and power sources which can be of limited supply in certain areas. Often, when receivers refuse to collect the goods, this can give rise to difficulties with customs authorities which may, in certain countries, be inclined to seize and then auction the goods.

If cargo has a limited shelf life, such delays can render it useless for commercial on-sale even if the cargo is released before its shelf life expires. These problems give rise to some interesting challenges under cargo policies. Such policies aim to provide cover for loss and damage to cargo but often exclude liability where this is caused by delay or seizure.

They also do not intend to provide cover for commercial losses where the intended buyer simply refuses to take delivery of the cargo. This is seen as a credit risk which cargo insurers



do not intend to cover. Many policies are now endorsed with pandemic exclusions – although many such exclusions are being incorporated too late to impact on the issues created by Covid-19.

Where cargo has been held up for extended periods due to lockdown measures and then suffers loss or damage, it can be very difficult to ascertain whether such loss and damage is caused through the initial lockdown, the commercial impact of Covid-19 on the market or the specific contract, or through a covered cause such as negligence in the care and handling of the cargo.

Causation arguments in such situations are never easy. English law does not apply a “but for test” when considering causation. Rather, it looks for the proximate cause (see *Leyland Shipping Co Ltd v Norwich Union Fire Insurance Society Ltd* [1918] AC 350). There will, therefore, be some difficult arguments where insurers seek to reject claims on the basis that the container was only exposed to the risk of loss or damage because it was delayed due to measures imposed due to the pandemic. Where a series of events converge in such situations, determining the “proximate” cause can be a difficult factual task.

Increased charges

When cargo is detained at a port or in a warehouse, a number of charges can accrue. These might include container demurrage, quay rent, storage charges and, if no one claims the cargo, disposal and clean-up costs. This issue affects both cargo owners and freight forwarders alike. While the cargo owner may have a contractual obligation to pay for the charges, freight forwarders will often have a corresponding obligation to the ocean lines, port operators and other service providers. If the forwarder’s customer is in financial difficulty, any right to indemnity from the customer can be of limited practical comfort to the forwarder.

Furthermore, the right to exercise a lien can be of very limited assistance. On the one hand, the value of the cargo is often much less than the charges outstanding. Indeed, on many occasions this is why the cargo remains unclaimed. Moreover, by exercising a lien, the forwarder can adopt a primary responsibility for the cargo while it is being held subject to the lien. The forwarder may also, by exercising possessory rights over the cargo, be accepting responsibility for any further charges which are incurred in holding onto the goods pursuant to the lien.

Cargo owners may challenge the forwarder’s right to pass on such charges. If the cargo owner considers that the charges have become excessive because the forwarder either did not seek instructions for disposal of the goods in time or failed to provide proper instructions for the storage or disposal of the goods, the forwarder may find itself struggling to pass on charges down the chain. As the immediate point of contact for the carriers and any other service providers, the forwarder may well find itself in the direct line of fire.

Such charges are often open to challenge. Where goods are held due to government lockdown, the parties should consider the contract terms carefully. Force majeure clauses may have been designed to relieve carriers of liability but can often cut both ways and benefit cargo owners in such circumstances. Moreover, English courts have made it clear that where the commercial purpose of the contract is at an end, carriers cannot use container demurrage charges as a licence to indefinitely print money (see *MSC Mediterranean Shipping Co SA v Cottonex Anstalt* [2015] 1 Lloyd’s Rep 359).

However, if these charges are to be challenged or, better still, avoided as far as possible, it is best to identify the risks early on and manage the storage, disposal or further handling of the goods. All too often, cargo owners and forwarders avoid addressing the issue assuming that this is all the problem of the receiver – until the carriers start looking for alternative targets. By that stage, the charges have accrued to significant levels and, moreover, the carriers often have a legitimate argument that no one would provide them with instructions.

“Shippers of cargo must appreciate that they retain an interest in their customer collecting the cargo. They cannot simply wash their hands of matters once it crosses the ship’s rail. If their customer does not collect the cargo, they can incur considerable liabilities and costs”

Forwarders cannot necessarily assume that such increased costs will be covered by their liability policies. Such commercial operational costs are not necessarily the sort of liability picked up by a freight liability policy. Insurers will argue that they do not cover increased costs of operating – such costs are part of the commercial risk taken by the forwarder.

Managing the problem

In such uncertain and volatile times, it is not possible to completely avoid the risks of cargo becoming clogged up in the supply chain. However, it is possible to monitor the position and mitigate such risks. Shippers of cargo must appreciate that they retain an interest in their customer collecting the cargo. They cannot simply wash their hands of matters once it crosses the ship’s rail. If their customer does not collect the cargo, they can incur considerable liabilities and costs.

Likewise, forwarders need to keep an eye on the position throughout the logistics chain. They will often have an obligation to inform their customer of problems encountered in the supply chain and if they do not do so, they may be faced with many of the charges incurred. Furthermore, as the party with the logistics expertise, forwarders may also have an obligation to manage and mitigate the losses arising from such situations. Forwarders may well find that they are the target for any outstanding charges and they may have difficulty passing these on. *MRI*



Shaan Burton

Shaan Burton, member of London FOIL’s marine sector focus team and senior associate at Kennedys

Can a shipowner claim damages in addition to demurrage?

Anna Kalogianni, of the Standard Club, considers a recent case concerning damages and demurrage



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Can an owner claim damages in addition to demurrage? In *K Line Pte Ltd v Priminds Shipping (HK) Co Ltd (The Eternal Bliss)* [2020] EWHC 2373 (Comm), the English court resolved a long-standing debated issue in favour of the owners.

In June 2015 *Eternal Bliss* was nominated under a contract of affreightment for the carriage of a consignment of soya beans from Brazil to China. The contract was on an amended Norgrain charterparty form. Clause 19 (the demurrage clause) was amended to read as follows:

“Demurrage at loading and/or discharging ports, if incurred, to be declared by owners upon vessel nomination but maximum US\$20,000 per day or pro rata/despatch half demurrage laytime saved at both ends. for part of a day and shall be paid by charterers in respect of loading port(s) and by charterers in respect of discharging port(s). Despatch money to be paid by owners at half the demurrage rate for all laytime saved at loading and/or discharging ports. Any time lost for which charterers/receivers are responsible, which is not excepted under this charter party, shall count as laytime, until same has been expired, thence time on demurrage.”

On 29 July 2015 the ship tendered a notice of readiness (NoR) while at Longkou anchorage, China. However, she was unable to berth due to port congestion and lack of storage space ashore for the cargo. The ship remained at anchorage for almost a month. On 30 August 2015 she berthed for discharge operations and it transpired that the cargo was in a damaged, moulded and caked condition.

On 11 September 2015 the ship sailed after the owner provided security in the sum of \$6 million. The cargo claim was later settled by the owner for a total amount of \$1.1 million. The owner sought

to recover the claim amount from the charterer in arbitration by way of damages and/or indemnity due to the charterer’s failure to discharge the cargo at the rate specified in the contract.

The charterer defended the claim on the basis that they had paid demurrage and this was the only remedy available to the owner for the charterer’s failure to discharge the cargo within the agreed laytime. The owner argued that demurrage represents the liquidated damages for the detention of the ship. Cargo damage was a different head of loss resulting from the prolonged detention of the cargo on board the ship due to the charterer’s failure to discharge the cargo within the allowed laytime. As the cargo claim was a separate type of loss, different from the loss of the use of the ship, the owner argued it was entitled to claim damages for the cargo damage as well as demurrage.

In accordance with section 45 of the Arbitration Act 1996, the parties agreed to refer the question of law as a preliminary issue to be determined by the court. The question of law for determination was:

“Where a voyage-chartered vessel has been detained at a discharge port beyond the laytime, and such delay has caused deterioration of the cargo and led to the vessel’s owners suffering loss and damage and being put to expense (including in the form of liabilities to third parties), are the owners in principle entitled to recover from the charterers, in addition to any amounts payable as demurrage, such loss/damage/expense by way of:

- (a) damages for the charterers’ breach of contract in not completing discharge within permitted laytime; and/or
- (b) an indemnity in respect of the consequences of complying with the charterers’ orders to load, carry and discharge the cargo?”

In other words, is demurrage the exclusive remedy for the charterer's breach in failing to discharge the cargo within the agreed laytime, or is the owner entitled to claim damages too arising out of the same breach?

Decision

On the assumption of the facts of the case, the court answered positively to the first question. Such that, when an owner has suffered a different type of loss from the loss of the use of the ship, they are entitled to claim damages without having to prove a different breach of contract. The court did not answer the second question, which was left to the arbitrators to consider.

In reaching this conclusion, Andrew Baker J analysed many years of authorities, textbooks and judicial commentary. He also examined the nature of the demurrage payable under a voyage charter when the charterer has failed to complete the cargo operations within the laytime allowed.

Nature of demurrage

It is well established that demurrage is liquidated damages. The court however considered the principle further of "what it is that demurrage liquidates?" In examining what losses the law accepts to be covered by a demurrage rate, it will be possible to ascertain which heads of losses will be limited from an owner's recovery.

Andrew Baker J referred to the following definition of demurrage as stated by Lord Brandon in *The Lips* [1987] 2 Lloyd's Rep 311, which was not inconsistent with either side's case:

"demurrage is ... a liability in damages to which a charterer becomes subject because, by detaining the ship beyond the stipulated lay days, he is in breach of contract. Most, if not all, voyage charters contain a demurrage clause, which prescribes a daily rate at which the damages for such detention are to be quantified. The effect of such a clause is to liquidate the damages payable ..."

English law defines demurrage as liquidated damages for breach of contract, but this does not mean that the demurrage is intended to be more than an agreed measure of the value of the ship's lost time.

Andrew Baker J concluded that the cargo damage is "quite distinct in nature from, and is additional to, the detention of the ship, as a type of loss", with "an unbroken chain of causation". He concluded that the demurrage rate simply compensates the owner for the use of the ship beyond laytime, that use not being paid for by the freight.

Lastly, commercial parties agreeing to a demurrage rate as liquidated damages would not reasonably contemplate that this would cover other claims, such as damage to the ship, cargo or crew.

In reaching its conclusion, the court also considered the relevant case law, inter alia the decisions of the *Reidar v Arcos* (1926) 25 Ll L Rep 513 and *The Bonde* [1991] 1 Lloyd's Rep 136.

Reidar v Arcos

MV Sagatind was chartered to load a cargo of timber. In breach of the charter, the ship did not load at the specified rate, and laytime was exceeded, as a result of which demurrage became payable and the ship was not allowed to load a full and complete cargo. The owners claimed dead freight, which was granted both by the first instance court ((1926) 25 Ll L Rep 30) and on appeal.

However, the judges on appeal did not agree in their approach. Bankes LJ found that there was only one breach, the failure to load at the charter rate, but as any lost freight was distinct/separate from demurrage, owners could claim for this type of loss too. Sargant LJ found that there were two breaches as did Atkin LJ.

Nonetheless, the disagreement on the number of breaches did not mean that the owner's claim was not sound and could not succeed as they all agreed that the demurrage clause did not defeat the owner's claim for lost freight. It was also not suggested by any of the judges that Bankes LJ's approach was wrong and that a separate and different breach of contract is required for unliquidated damages to be recovered for loss of the additional use of the ship.

The Bonde

The court also considered in detail *The Bonde*, which was authority for nearly 30 years of the proposition that an additional and different breach is necessary to claim damages beyond demurrage. It concluded that *The Bonde* was wrongly decided as the reasoning in it was faulty and thus should not be followed.

"This is an important decision for the industry and welcoming for owners. It resolves an area of controversy for which, through the years, there have been different schools of thought"

Comments

The Eternal Bliss provided "the opportunity to resolve a long-standing uncertainty on a point of law of significance in a particular field of commerce", Andrew Baker J said in his introduction. Indeed, this is an important decision for the industry and welcoming for owners. It resolves an area of controversy for which, through the years, there have been different schools of thought.

The court determined the preliminary issue in favour of the owners and confirmed that in addition to demurrage, owners can recover damages if they can prove that they suffered a different type of loss without having to prove a different breach of contract. A decision to the contrary could have had unwanted wide-ranging consequences and risk that a typical demurrage clause is considered as a partial exclusion or limitation clause. **MRI**



Anna Kalogianni

Anna Kalogianni, claims executive,
European division of the Standard Club

Humans reach year of decision on the autonomous ship

We report on a recent webinar in which the industry debated the likelihood of achieving full automation at sea

2020 is proving to be a crucial year in the development of technologies and initiatives relating to maritime autonomous surface ships (MASS). In what is seen as the point of departure for regulators, the IMO's Maritime Safety Committee is set to conclude an initial scoping exercise into the application of IMO regulations in the context of MASS. With the IMO confident that autonomous vessels have a significant part to play in the future of shipping, those already engaged in project development have a starting point for interaction with global regulators.

ABB Marine & Ports, classification society ClassNK, the One Sea autonomous maritime ecosystem and mobile satellite communications provider Inmarsat represent four leading centres of autonomous ship expertise. In an area of shipping often swept up in hyperbole, a recent webinar saw speakers from each organisation focusing on autonomous ship realities and the challenges posed for safety, regulation, testing and human-machine interaction.

From the outset, Captain Eero Lehtovaara, head of regulatory affairs, ABB Marine & Ports, emphasised that there is no common understanding of autonomous shipping and therefore limited his discussion of the concept to its deployment in navigation. However, he said that the technology to enable automated navigation is widely available and in use and that efforts to advance MASS should focus on the interaction between human and machine, in addition to regulatory affairs.

According to Lehtovaara, the minimum requirement for MASS is that they are as safe as traditional vessels and improve efficiency.

However, at least for the foreseeable future, humans will remain an important part of the equation, supported – rather than replaced – by technology. New technologies may come on board but, he said, “I don't see the key drivers as being to take people off ships”.

Decision support

Rather, he predicted that the introduction of decision support systems and other intelligent technology will transform working practices on vessels. For instance, on a ship operating in open waters, the crew could work “office hours”, which Lehtovaara said could change how people perceive being on board and allow seafarers to live “somewhat more within social norms”.

Before this notion becomes a reality, he said, the supporting technology first needs to mature and undergo stringent testing. There also needs to be sufficient demand from customers, as well as regulatory backing. “The lawmakers want to see safety at the heart of this discussion. They want to be sure that when they regulate [a new technology], it will be accepted as a norm in the industry.” Although autonomous ocean-going vessels remain a distant aspiration, the machinery that will soon support decision making on larger ships could also allow smaller vessels to navigate independently, said Lehtovaara. The adoption of MASS will be a gradual process, but it will ultimately have a huge impact on the industry, he concluded.

Tomoaki Yamada, manager of research institute ClassNK, echoed Captain Lehtovaara's assessment that there is no single, firmly established definition for automation within the marine industry. In its “Guidelines for Automated Operation/Autonomous



Operation on ships”, issued in January, ClassNK defines automation as “a condition where computer systems take charge of the execution of some or all of the decision-making processes”.

The aim of automation

These guidelines, said Yamada, can be applied to technologies that target unmanned navigation on coastal ships with short navigation routes, as well as to those that aim to provide high-level assistance to the crews of oceangoing vessels.

They were first employed in February, with ClassNK granting an approval in principle to NYK Line and MTI for their joint project on a “framework for the realisation of MASS that can support crewmembers’ situational awareness”. The classification society “confirmed the feasibility of the framework through safety evaluation” in line with its guidelines.

Yamada said that ClassNK’s next contribution to the shipping industry would be “to confirm the validity and integrity of automated operation systems” using simulation methods, for which “it is necessary to have scenarios including encounters with other ships and disturbances caused by weather and sea conditions”.

ClassNK’s guidelines also describe the basic requirements for remote operation systems but, according to Yamada, more specific safety requirements relating to the technology need to be developed. “For example, we feel that it is necessary to clarify the requirements for communication stability and remote operation centres as soon as possible,” he said.

“A number of MASS demonstration projects have been launched in Japan and ClassNK is involved in these from the standpoint of safety evaluation. To make a global contribution to the maritime industry, ClassNK aims to establish evaluation methods, tools and criteria taking into account the knowledge gained in demonstration projects,” concluded Yamada.

Päivi Haikkola and Jukka Merenluoto, senior ecosystem leads at One Sea, introduced the 12-member “company alliance” to drive development of the autonomous ship and its roles as a coordinator of research projects, test site manager and point of liaison for IMO and other regulators.

Merenluoto provided further detail on One Sea’s latest research and development initiatives, which he described as looking at the “whole door-to-door supply chain”; and not only at ships. He pointed to “Sea4Value”, “a transformative programme that provides research-based recommendations on regulation, standardisation, business and data usage and sharing”.

Smart ports, fairways and ships

Sea4Value views the maritime transport system “from the perspective of three domains”: the smart port, “the hub that integrates maritime transport into other modes of transport”; smart fairway navigation, “which looks at fairway services”; and smart shipping, “which looks at open-sea scenarios plus the end-to-end transport aspects of smart shipping”.

One Sea is engaged in projects in all three domains, including the Sea4Value “Future Fairway Navigation” scheme. Launched in February this year, Future Fairway Navigation “seeks to improve safe navigation for existing vessels and lay the foundation for the autonomous vessels of the future”.

To achieve this, it will look to answer four main questions: what future themes will ensure safe navigation? How will the necessary situational awareness be developed? How should the intelligence

be distributed between the fairway and ship? And what changes need to be made to fairways and navigational equipment?

“In particular, the programme targets demonstrations and experiments, which are important milestones in the journey towards the smart and autonomous maritime transport system,” said Merenluoto. The initiative is due to conclude in 2022.

Degrees of autonomy

Marco Cristoforo Camporeale, head of maritime digital, Inmarsat, divided the concept of MASS into four categories, or degrees of automation. Degree 1, in which “seafarers are on board to operate and control the systems, but part of the operation is automated”, is where we are today. It brings benefits relating to efficiency, regulatory compliance, customer value and crew welfare. “Inmarsat is offering the Fleet Data IoT platform to enable the exchange of information and deliver this advisory system to the crew on board the vessel,” he said.

Degree 2, which sees the ship “controlled and operated from another location”, but with crew on board, is the next stage in the development of MASS. In this case, globally available connectivity is crucial, and “this is where Inmarsat’s Fleet Xpress platform – relying on both L-band and Ka-band – provides the best infrastructure”. Fleet Connect, meanwhile, delivers “dedicated bandwidth for specific applications” to ensure that “certain vital systems receive the connectivity they require”.

In degree 3, “the ship is controlled and operated from another location, but ideally there are no seafarers on board”. Here, “loss of connectivity is not acceptable” and, unlike in degree 2, latency and capacity are key elements because “we need near-real-time control of the ship” when it approaches shore. The technology to allow this level of autonomy is available today, said Camporeale, but it is not currently “scalable to merchant shipping”.

Degree 4 describes a fully autonomous vessel on which “the operating system is able to make decisions and take actions”. It requires a similar level of connectivity to degree 2, “because instead of having people on board, we have an autonomous system that takes control”. Latency would only become an issue, explains Camporeale, when the ship approaches port. In this case, operation would be “handed over to a remote-control station”, requiring the higher capacity and lower latency of the Fleet LTE wireless system, due for launch next year.

Technology in place, humans in the loop

As things stand, marine automation is a tool used to support situational awareness and decision making on vessels. While the technology and connectivity exist to enable computer systems to play a greater role in shipping, their viability in dynamic, large-scale operations is – for the time being – doubtful. Consequently, the earliest candidates for full ship autonomy will be smaller vessels operating on short, safe routes, such as ferries. On larger oceangoing ships, automation will simply enhance normal operations. To use Captain Lehtovaara’s words, humans will be “in the loop” for some time – an assessment reflected in ClassNK’s guidelines.

Despite all the uncertainty that remains, One Sea and its member companies – which include ABB and Inmarsat – are committed to realising autonomous commercial maritime applications by 2025. This will require further testing, research and regulation – topics that should be at the heart of any future discussions regarding MASS. *MRI*

The complexities of managing a large ship incident

Nick Haslam and William Leschaeve, of Brookes Bell, consider the consequences of large vessels running aground

Naval architects are continually improving merchant vessel design to optimise lightweight and maximise deadweight. An optimised commercial vessel will be built with just enough steel to ensure it remains completely safe and seaworthy but leaving as much capacity as possible for carrying cargo.

Economies of scale have long been the holy grail for ship operators seeking to maximise margins and resulting in vessels being built to ever larger and more sophisticated designs – and that works well when the vessel stays afloat and plies its trade without mishap. Ultra large container carriers (ULCCs) of 24,000 TEU and very large ore carriers (VLOCs) of 400,000 DWT are designed to carry maximum cargo on very specific and repetitive routes. Barring machinery breakdown or human error, these giant ships should be capable of delivering their cargoes safely every time. But accidents do happen and when they do, the sheer size of these ships tend to compound the consequences.

Grounding and re-floating

Big ships have huge grounding forces. When a fully laden VLOC runs aground and the holds and tanks start to fill with water, many hundreds of thousands of tonnes will press down on the ship's steel. While the structure is designed to resist the lesser forces when afloat, the additional forces applied to a grounded vessel will effectively begin to crush the side shell, bottom structure and tanks as the ship begins to settle. Even a light, soft grounding can be catastrophic.

Re-floating a grounded VLOC is a challenging operation due to its size and construction. Ballast tanks adjacent to the holds of a traditional bulk carrier (Panamax, for example) tend to be hexagonal with triangular shaped tanks under the deck connected by trunking to hopper-shaped tanks at the ship's bottom. Hydrostatic (ie water) pressure increases lower down the vessel which is why the hopper tanks are built with greater scantlings and are therefore stronger. When the salvor is attempting to re-float the ship by expelling the flooded water using compressed air to induce buoyancy, they will tend to isolate the bottom tanks and introduce the air flow to those stronger tanks only.

This is because air pressure – unlike hydrostatic pressure – distributes itself evenly and the high air pressures required to expel the seawater will be too much for the lighter under-deck tanks to withstand. But VLOCs use a different arrangement. Ballast tanks on these vessels are rectangular and extend the full height of the holds – up to 30 m high. This means that salvors are severely restricted on the amount of air pressure they can use to regain

buoyancy – too much pressure and they risk splitting the deck plating. Recent experience has shown that no more than 40 per cent buoyancy can be regained using this method (sometimes as little as 25 per cent, depending on the damage to the structure) and that seriously compromises the salvage operation. It is not a design fault, it is simply a consequence of building a specialist vessel to maximise its deadweight carrying capacity.

Pumping is the alternative option but, again, the sheer size of the tanks and the fact that they will retain more than 100,000 tonnes of seawater make this a challenging

process. Ruptured tanks will need to be patched before the water is pumped out rapidly to avoid the vessel damaging itself further by lifting and bumping on the seabed during the refloating process. While salvage pumps and the associated equipment are generally available, they tend not to be of sufficient capacity to pump the vast quantities of water in the required time-frame. A single VLOC ballast tank will hold around 20,000 m³ and with an average pump managing to expel just 600 m³ an hour, the process is necessarily slow. Abrasive cargoes such as iron ore can exacerbate the process by damaging or deteriorating component pump parts.

Salvage operations often require the use of divers to patch ballast tanks or to assess the extent of the damage. In these large vessels, that means exposing divers to depths of more than 30 m or more if part of the vessel is submerged. At these depths, the working time is constrained to around 30 minutes and will be combined with hours of decompression. This slows down any salvage process and greatly increases risk to the divers.

Onboard fire-fighting

For ULCCs in particular, a key risk is onboard fires as seen in at least nine major incidents in 2019. While there are many fire tugs or similar vessels with fire-fighting capabilities available, extinguishing a major onboard fire and maintaining the seaworthiness of a ULCC cannot be accomplished merely by pumping in high volumes of seawater. An excess of water will increase the vessel's bending moments causing the ship to buckle under the added weight. Seawater is vital for boundary cooling but the seat of the fire in a ULCC must be tackled by specialist crews. The largest ULCCs are now carrying 24,000 TEU with boxes stacked 11 high in the hold and nine on deck. Locating the affected containers in such a large ship is challenging and preparing and implementing a re-entry for fire-fighters takes a significant amount of preparation, planning and support.

Coupled with this is the ongoing issue of mis-declared or non-declared dangerous goods and the fact that these extremely large vessels represent a serious accumulation of fire risk. The total quantity of hazardous material in a single hull can be extremely significant. Although SOLAS regulations require a vessel's firefighting capabilities to "suppress and quickly extinguish a fire in the space or area of origin", that is not always possible in a ULCC. Access to the seat of the fire is often impeded and temperatures can reach as high as 1,000 degrees.

Modern ULCCs will rely on fixed CO₂ systems as the main method of fighting a fire below deck, but these systems are not always effective. CO₂ injected at the top of the hold will seldom filter down



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to the seat of a fire and will often mix with the hot gasses from the fire and escape through the hatch covers. Moreover, CO₂ will not easily enter a closed container. On deck, mobile water monitors are used but their effectiveness relies on the ability of the crew to safely deploy them. Sadly, crew fire training has not evolved sufficiently to allow them to effectively deal with a large onboard blaze.

Availability of assets

Containment, salvage and eventual wreck removal for large ships present significant challenges. Because of their size, even if they are empty of cargo, these large vessels will still be carrying thousands of tonnes of fuel oil which can present a serious environmental threat. Booming off a stricken vessel will require around two kilometres of equipment and this will take time to be delivered and set-up. Even then, wave and tidal conditions in anything other than the most benign conditions might render it ineffective.

Lightering fuel and cargo is a difficult process requiring the availability of specialist assets and people. Assets will need to arrive on scene quickly but in most cases they will simply not be available. Large vessels require large salvage assets and most are located in south-east Asia or northern Europe. Depending on the location of the casualty, it can take more than a month to charter and re-locate the required vessels, even if they are at immediate readiness.

In general terms, there are no purpose-built salvage vessels on standby to react to a large-scale vessel incident. Suitable craft are usually taken up on long-term charters servicing offshore wind farms or other construction projects. And at charter rates approaching a million dollars a day, even specialist salvage companies cannot afford to leave their assets sitting idle and waiting for mobilisation in the event of a casualty. It is unlikely that a suitable vessel will be readily available for a large casualty and even less likely that it will be on the doorstep.

Large ships are designed to carry large quantities of cargo and this presents a further headache for salvors. Lightering 400,000 tonnes of wetted iron ore with little commercial value and then having to identify a suitable port for offload is extremely challenging. Similarly, offloading boxes from a listing containership is an extremely slow process. Containers are slotted into onboard guide rails and if these are damaged or if the ship is anything but upright, large-scale cranes with an extended height and outreach will be required. Assuming a crane is available, a discharge rate of around 10 to 15 containers a day is all that will be possible. A fully laden ULCC might take several years to lighter – a period well beyond the time it is expected to break up if hard aground and cannot be re-floated. A suitable fleet of feeder vessels plus a willing port will also need to be found.

Like all industries, shipping continues to evolve, becoming more efficient and able to deliver its services more cheaply and effectively. But alongside the realisation of greater efficiencies comes the unintended consequences that come into play when things go wrong. Large ships are designed to float – but when they do not, the results can be catastrophic. *MRI*



Nick Haslam



William Leschaeve

Nick Haslam,
principal
master mariner
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Advice on burn injuries aboard a vessel

Sophia Bullard, at UK P&I Club, provides advice for those faced with burn injuries at sea

Burns can be some of the most painful and dangerous personal injuries that can occur both at work and in domestic situations. The potential sources and causes of burn injuries are varied and may range from a painful but minor inconvenience to life-changing injury and death.

In the majority of cases, burn casualties are able to make a full recovery after receiving appropriate first aid or professional medical treatment ashore. However, some are not so fortunate, with seafarers suffering appalling physical pain, disfigurement, amputations and loss of life.

Burn injuries are bad news whenever and wherever they occur, but when they happen at sea, remote from onshore medical facilities, the consequences may become dangerously aggravated. A serious burn will require prompt professional medical attention and special facilities, which are unlikely to be available on a merchant ship navigating in mid ocean.

For this reason, it is important that seafarers are fully aware of risks presented by hot (and cold) appliances and systems, as well as the necessary safety precautions to take, both on and off duty.

Defining a burn

A burn is any damage to skin tissue which causes the affected skin cells to die, resulting in swelling, blistering, redness, charring and tissue loss. The most common causes of burn injuries to crew on board ships are steam and hot fluid burns, contact with heated surfaces, exposure to hot or burning solids, liquid or gas, chemical burns, electrical burns and cold burns.

Steam and hot fluid burns and scalds

The most common type of burn injury to which ships' crews are exposed is that caused by steam and hot fluid. In UK P&I Club's experience, the largest proportion of steam and hot fluid burns occur in machinery spaces, although other high-risk environments include the galley, mess rooms and areas where high-temperature tank cleaning or cargo operations are being performed.

Accidents often occur in the engine room when steam and hot oil systems are opened up for maintenance or inspection. Typically, unwary engine room crew will dismantle a valve, pipe flange or other machinery component in the mistaken belief that the system has been properly isolated, de-pressurised and drained, with the result being they become exposed to steam or hot fluid ejected from the system. This is frequently attributable to an absence of or inadequate pre-work planning, where the risks of steam or fluid discharge are not properly assessed and required safety precautions not put in place.

Not surprisingly, hot water and steam injuries in machinery spaces commonly arise in connection with work on boilers and their associated systems, including hot wells. All heated oil systems are a potential hazard, particularly bearing in mind that fuel oil service temperatures may typically be in the region of 125°C to 140°C. In this respect, work associated with fuel pumps, fuel filters, fuel settling and service tanks and waste oil tanks regularly feature in burn accident reports.



Burn injuries also occasionally occur on deck during cargo tank cleaning or steaming operations due to poor working practices or improperly made connections. Particular care should be taken when personnel are required to enter cargo tanks to assist with the stripping of heated vegetable oils. Crew should also be aware that pressurised hydraulic oil in mooring winches and other machinery may reach very high temperatures. Galleys and catering facilities are also obvious high-risk areas for burn injuries, containing a wide range of heated appliances and receptacles for hot or boiling water and very high temperature cooking oils.

Categories of burns

A burn is graded according to the SCALD scale to determine the severity of the burn. SCALD stands for: S – Size, C – Cause, A – Age of casualty, L – Location on body, and D – Depth.

There are three main categories of burns and it is important to be able to recognise each so that the correct treatment can be administered.

Superficial (previously called first-degree) burns are those which affect only the outer skin layer, causing reddening of the skin which is painful, mild swelling, tenderness and pain.

Partial thickness burns (previously called second-degree burns) are recognisable due to reddening of the skin, the formation of blisters and pain. With these burns, fluid can start leaking.

Full thickness burns are recognised by their charred appearance. The burn may also appear white and waxy depending on the cause. There is still excruciating pain around the edges of the burn, but the main burn will be pain free due to the burn damaging the nerve endings.

“Unfortunately, there is a tendency to view work relating to the operation and maintenance of certain systems on board as routine and not deserving of a proper risk assessment or pre-work toolbox talk”

Treatment of burns

The correct treatment of burns will depend on several factors, primarily the cause of the burn, how deep it is and how much of the body it covers. Ships masters need to be fully aware of the potentially life-threatening complications that may present in a casualty due to the loss of the protective skin layer, including infection, hypothermia, dehydration and shock, even in the case of burns of a relatively minor bodily extent. It is therefore vitally important that burn injuries are quickly assessed and professional medical advice is obtained as soon as possible.

One of the biggest problems is that the apparent seriousness of burn injuries can be easily misjudged by laymen, with casualties in the early stages presenting as being alert or not even in great pain due to the effects of shock or the destruction of nerve endings. This can engender complacency and delays in seeking appropriate medical attention with sometimes tragic consequences.

The high risk of burn injuries leading to serious complications means that in the event of a crew burn incident, the master, ship manager or telemedicine service will often require or recommend the vessel deviate to the nearest port or place where medical

facilities are available to administer appropriate treatment. This is a commonly recurring feature of burn incidents, which will inevitably result in an escalation in claim costs.

Unfortunately, there is a tendency to view work relating to the operation and maintenance of certain systems on board as routine and not deserving of a proper risk assessment or pre-work toolbox talk. This absolutely needs to change and those on board need to educate themselves on how to deal with burns, because even a seemingly minor burn may actually be something serious, which if not dealt with correctly could escalate and put a fellow crewmember’s life in danger.

By carrying out the correct safety procedures and by treating burns in the correct way, lives will be saved, serious injuries prevented and unnecessary claims reduced.

Tips for dealing with burns onboard

The following advice should be observed at all times onboard:

- Awareness should be raised of the potential risks of burn injury to crew of all ranks.
- Ship-specific training and familiarisation on hazard recognition and safe working practices should be carried out.
- The requirement to apply meaningful risk assessments, permits to work and toolbox talks to operations which may expose crew to risk of burns should be incorporated into the vessel ship management systems (SMS).
- Potential hazards should be identified and steps taken to safely remove, isolate or control them.
- Proper work clothes should always be worn and personal protective equipment should be used.
- There should be a system in place for crew to openly report defects or unsafe working practices which may increase the risk of burn injury.
- If in any doubt, work should be stopped and the safety of the operation should be reassessed.
- Manufacturer’s instructions and SMS requirements for operation and maintenance of machinery and equipment should be strictly observed.
- Be vigilant and never make assumptions as to the safety of heated systems
- Where practicable, keep clear when opening up heated systems.
- Awareness should be raised to the potential seriousness of burn injuries, no matter how apparently minor.
- Proper first aid actions should be known and employed when treating burn casualties.
- Professional medical advice should be sought, using established telemedicine procedures. *MRI*



Sophia Bullard

Sophia Bullard, crew health programme director at UK P&I Club

Education key to container packing concerns

The latest effort to prevent containership fires has been launched by the newly formed Cargo Integrity Group. But will its efforts to improve the packing of containers and promote the CTU Code make a change this time? **James Baker** and **Janet Porter**, of *Lloyd's List*, report

Poorly packed containers and misdeclared dangerous goods are the bane of the container shipping sector. One bad box can literally sink a ship. But the contents of a container are an area about which container lines have almost no control. A sealed box is delivered to a port and craned onto a ship, with the verification of its contents done, if at all, by parties unrelated to the container line.

Analysis by cargo insurer TT Club estimates that up to 66 per cent of incidents related to cargo damage are caused or exacerbated by poor packing processes. And when things go wrong, not only are the consequences expensive – TT Club puts the cost to the transport industry at in excess of US\$6 billion a year – but they can be fatal.

“Poor packing kills people,” said World Shipping Council vice-president Lars Kjaer. Kjaer, whose organisation represents the majority of large container shipping lines, recently spoke at an event to promote the Cargo Integrity Group (CIG), a collaboration between the Container Owners Association, the Global Shippers Forum, the International Cargo Handling Coordination Association (ICHCA), TT Club and the WSC.

“When things go wrong, not only are the consequences expensive but they can be fatal”

The aim of the group is to promote better adherence to the Code of Practice for Packing of Cargo Transport Units (CTU Code), which was introduced in 1997 by the International Maritime Organization, the International Labour Organisation and the UN Economic Commission for Europe. While detailed — it runs to 127 pages, including annexes — the CTU code is a non-mandatory circular.

“The encyclopaedic approach of the CTU Code sets out the principles, but is undeniably wordy and cannot address all possible cargo types in a way that can be readily applied in practice,” said TT Club risk management director Peregrine Storrs-Fox.

The groups involved in the CIG have been promoting the CTU Code within their spheres of influence, he added. “Sadly, wherever we have gone we’ve found woeful ignorance of the code.” That ignorance has been behind the formation of the CIG and a push to increase awareness of the main tenets of the CTU Code.

The initial steps of providing a quick guide to the CTU Code and a packing checklist, may seem minor, but the CIG hopes they will be the first of many and will provide a trickle-down effect of educating those at the front line of packing containers. “What is being presented here is something that has been developed by a group representing interests across the supply chain and therefore outreach and dissemination of information is highly important,” Storrs-Fox said. “The way that this is passed down to others is inevitably something of great concern, and we have spoken to other key stakeholders across the industry to help reach out to a wider audience than we can ourselves.”

This is not the first time efforts have been made to push for greater adherence to the CTU Code. The TT Club’s “Cargo Integrity” programme has been running for several years with the same goal of promoting awareness of proper packaging. But as the increasing number of containership fires reported indicates, this has not necessarily been a roaring success.

Previous attempts to secure safety features in box shipping have led to legislative measures, but the CIG prefers education to regulation. “The question is how we reach the parts that others can’t reach,” said ICHCA safety adviser Richard Brough.

The preferred method was to cascade information down to those doing the packing instead. “Lines and freight forwarders are looking for good simple information that they can pass on to their counterparties, and that is what we have produced here,” Storrs-Fox said.

Brough said the move is seen as being proactive. “We shouldn’t just wait for governments to come and hit us with a big stick,” he said. “We should use our own carrots to make sure our suppliers make the change so the message gets through.”



Carlo Emanuele Barbi/Shutterstock.com

One problem is that legislation, in many parts of the world, does not exist to enforce packing rules and there is no auditing or enforcement. “Something as internationally regulated as the Verification of Gross Mass is not being monitored,” Brough said. “Governments do not have the resources and are expecting the industry to look after itself. If the UK was to do all the inspections it should do to comply with its obligations, it would need to recruit another 1,500 inspectors. The resources are not there to do that, so we do need the industry to accept its roles and responsibilities.”

“We shouldn’t just wait for governments to come and hit us with a big stick. We should use our own carrots to make sure our suppliers make the change so the message gets through”

Mandatory weighing of containers was introduced through the IMO following the failure of attempts to persuade shippers in many parts of the world to follow voluntary best practice guidelines.

In 2008, the WSC and International Chamber of Shipping published the Safe Transport of Containers by Sea guide aimed at

cargo interests. The advice set out was a direct response to the *MSC Napoli* grounding the previous year and the discovery that 20 per cent of the containers on board that had remained dry were at least three tonnes over their declared weight. The collapse of a container stack on another ship had also caused alarm.

However, amid concern that the message about the importance of accurate container weight declarations was not getting through to those who packed them, the industry turned to the IMO for legally binding regulations. These were drawn up in cooperation with leading shipper groups including the GSF, but enforcement remains a serious challenge.

The status of another initiative to improve containership safety remains unclear. In 2018 Lloyd’s List disclosed that chief executives of several top container lines were working on a new effort to stamp out cargo abuses. Little has been heard of that move since, but Kjaer said the CIG’s initiative was not the conclusion of concerns that council members had about container safety. “This is just one of a plethora of initiatives that we at the WSC have been asked by our principals to become involved in,” he said.



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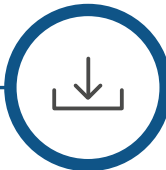
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