

# Cargo contamination on tankers



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There has been an increase in the number of claims brought against ships for cargo contamination by water and other products. This article looks at ways to mitigate the loss for the owner/member when faced with a cargo contamination claim.

## Introduction

When cargo is found to be contaminated, the origin of the contamination could be the shore tank at the load port, the shore pipeline during loading or the ship itself. But if the cargo on board is found to be 'off spec' on arrival at the discharge port, the ship is held liable as the carrier, regardless of fault, and will be faced with a claim.

## Mitigation of loss

A fundamental principle in both continental and Anglo-American legal systems is that the claimant – usually the cargo receiver – is bound to mitigate his loss. However, judges/arbitrators often rule favourably for the claimant even if they have not managed to mitigate the loss, so long as the decisions taken at the time appeared to be reasonable and sensible, which leads to the defendant being faced with a claim for the entire cargo at sale value. It is therefore in the interest of the member and the club to play an active role in mitigation discussions, either to ensure that mitigation of the loss does take place to reduce the claim amount or to build evidence that mitigation was not attempted.

## Where to store the cargo?

Since keeping the vessel 'on the move' is always the first priority for the shipowner, the first decision to be made when facing a cargo contamination claim is usually where to store the cargo while waiting for the laboratory results and considering next steps. There are a few options to consider for transferring the contaminated cargo.

## Vessel's slop tanks

This is an economical option subject to slop tanks' availability, given that no external storage costs are incurred, and this offers the flexibility of taking the cargo to ports with appropriate reconditioning facilities. However, the cargo receiver should not be given the impression that he has thereby successfully refused to take delivery of the cargo. Also, the vessel should take utmost care to ensure that the nominated cargo tanks and associated lines are thoroughly cleaned before and after the transfer in order to prevent any increased contamination. Due consideration should also be given to ensure that the contaminated parcel is properly isolated from the remainder of the on-specification product. In the event of a flashpoint contamination, this will include isolating the inert gas system serving the slop/nominated tanks containing the low flashpoint cargo.

Sampling the cargo can help prove contamination did not happen on board. Read our article on [page 7](#) for more information.

**Another vessel/barge**

This option releases the vessel from keeping the contaminated cargo on board, but involves an additional potential source of contamination.

**Shore tanks**

Empty shore tanks are usually available in larger ports. However, if the cargo cannot be reconditioned in the vicinity of that port, the problem is just postponed, and not resolved. Further, considerable storage costs may be incurred if the cargo is left in the shore tank for a long period. In cases where the vessel has several ports of call on the voyage, it might be sensible to assess whether any of the other ports provide more suitable storage/restoring facilities and make arrangements to discharge the cargo there.

**What are the mitigation options available?**

The options for minimising the loss will depend on the nature of the cargo, the type and extent of contamination, the market for the product and the facilities available in the area. There are some options to consider for restoring the cargo, with the assistance of suitable cargo experts.

**Distress/salvage sale**

One solution is to sell the contaminated cargo 'as is'. The contaminated product may, for instance, still pass as an 'industrial grade' product and the difference in sound/salvage values may not necessarily be significant. Therefore, simply selling the cargo in the contaminated state can be a quick and reasonable solution, provided there is a salvage market available.

**Blending with sound product**

Another solution could be to blend the contaminated cargo with sufficient sound product to essentially dilute the contaminants to insignificance. This option depends on the availability of sound blend stock either in another of the vessel's tanks or in shore tanks. Due care should be taken to avoid an increase in contamination as a result of the blending operations. Suitable experts should be consulted beforehand and throughout the process.

If blending is carried out on board the ship itself then it should be done in compliance with SOLAS regulation VI/5-2 (see previous article). However, past experience has shown that on-board blending operations are not very effective as the usual tank architecture and pipeline configuration may not allow for efficient and intimate blending of the cargo.

**Distillation**

If there are substantial quantities of contaminated cargo and blending is therefore not a realistic option, reconditioning by distillation (performed by various operators within the petroleum refining/petrochemical industry) could be an efficient way to resolve the problem. Any mixture of two components with different boiling points can in principle be separated by distillation, thereby removing the contaminant(s) from the sound cargo. Distillation does, however, come at a price. Apart from the energy cost, 1% – 2% of the product is usually lost in the process due to evaporation. Bearing in mind that the minimum quantity of product accepted by the reprocessing plants is typically around 500mt, distillation is only economically attractive when larger quantities are involved.

# Cargo contamination on tankers continued

## Filtering

If the contaminant consists of solid particles (non-homogenous components), or if the contamination is minor or a matter of colour and/or odour, reprocessing/filtering may be another option available. Rather than separating the two components, as would be the case when distilling, this technique removes the contaminant(s) by running the contaminated product through a mechanical or chemical filtering unit. Due to the relatively small and mobile filtering units available, the reprocessing can even take place on board. The relevant reconditioning costs are also significantly lower than the distillation costs. However, there is a limited number of contaminants that can be successfully removed using this technique and also a limited quantity of contaminated

cargo that can be effectively filtered within a reasonable amount of time. Also, about 0.5% of the product is expected to be lost in the process (not including the contaminant(s)).

## Conclusion

Salvaging contaminated cargo is not achieved without effort and cost, but the above are options worth considering and the most appropriate for the particular case should be adopted. Both the member and the club will benefit from actively ensuring that the cargo interests take steps to mitigate their loss, as well as putting forward to the cargo interests some proper mitigation options to reduce the level of the claim.

