



Cargo delivery indemnity warning

STOPLOSS 24 (November 2001) highlighted the risks involved with delivery of cargo to parties who do not hold a bill of lading, and the critical importance of any related indemnities that may be offered to owners.

Now, the need for careful evaluation of the quality of such indemnities has been further illustrated by the recently reported decision of the Commercial Court in London in the case of *China Shipping Development Co Ltd v State Bank of Saurashtra*.

In this case, in the absence of bills of lading, owners delivered the cargo against letters of indemnity which were also purportedly signed on behalf of the bank.

After delivery, the bill of lading holders made claims to the cargo. The bank, however, disputed that it was liable to the owners under the letters of indemnity, on the ground that the signatures were forgeries.

The Commercial Court subsequently held that

the signatures on the indemnities purportedly binding the bank were indeed forgeries, and that the owner's case failed.

This decision emphasises once again the need for

How to handle stowaway problems

A NUMBER of reports have appeared in the maritime press recently concerning the discovery and treatment of stowaways on board merchant ships.

This can be a problematic area for owners. IMO has adopted standards and recommended practices for dealing with stowaways, and incorporated them as amendments to the Convention on Facilitation of International Maritime Traffic (the FAL Convention), expected to enter into force on May 1, 2003. The formalities for dealing with stowaways covered by the amendments to the FAL Convention include a list of minimum security

In this issue...

- Deck and tanktop loading
- Cargo line checks
- Carrying radioactive cargoes

special vigilance when accepting indemnities of this nature.

arrangements that should be put in place by ships when calling at ports where there is a risk of stowaway embarkation.

Furthermore, masters of ships are also required to take



Coping with stowaways
(Club video)

all measures deemed to be appropriate to ensure the security, and general health, welfare and safety of any stowaway whilst on board.

The amendments also call for co-operation between owners and ports to remove stowaways from ships. Meanwhile, members are reminded that the Club has produced a video in association with Videotel entitled *Coping With Stowaways*, which may be ordered from Videotel, and that they can access further information on www.imo.org

Recognising deck and tank-top loading limitations

THE London Club has recently seen a number of cases emphasising the need for care to be taken in the loading of heavy cargo units on to tweendecks or hold bottom tanktops, to avoid the risk of structural damage from excessive localised or overall cargo weights.

Maximum loading strengths of decks can usually be found in the vessel's manuals, supplied by the building yard when new and endorsed by a classification society. But if for any reason this data is not available, calculations should be made and/or approved by class before loading, to ensure that the

weight loaded can be supported.

Localised weight problems can arise when loading such products as steel coils. Effective distribution of the weight can be improved by using different dunnaging types and dimensions, noting that different types of dunnage have different load spreading characteristics.

Again, calculations should be made and/or approved by class before loading, to ensure maximum cargo lift. Such elementary checks, in advance of loading, should help avoid accidents or damage, and reduce the risk of cargo uplift disputes.

Localised weight problems can arise when loading such cargo as steel coils



Forum selection clauses come under scrutiny in the US

THE enforcement of forum selection clauses in bills of lading is coming under increasing scrutiny in the United States. Recent court decisions have refused to uphold fully such clauses where the foreign forum does not recognise the concept of an *in rem* claim against a vessel, on the basis that such clauses violate COGSA.

This has resulted in the US court retaining the *in rem* claim against the vessel, while dismissing the *in personam* claim against the carrier.

Although the only appeal court to consider the issue so far held that the forum selection clause did apply to the *in rem* claim (*Fireman's Fund Ins Co v DSR Atlantic*), it remains to be seen how the issue will be determined by other courts of appeal.

In the meantime, the law on these clauses appears to be in a state of flux.

(Lyons, Skoufalos, Proios & Flood, New York)

Draft confusion can be costly

FROM time to time, the Club receives reports indicating that information provided to vessels or vessel owners by some ports may be inaccurate - and can lead to expensive claims.

Recent examples include discrepancies between declared depths by the authorities and actual draft limitations at ports in South America and India.

These sorts of uncertainties may result from the use of out-of-date information by port authorities or reflect commercial pressures, expanding draft limits to allow deeper ships to use ports or terminals.

In view of the potentially serious consequences of inaccurate depth or draft restrictions, masters are advised to double-check with the pilot or port authority where only a small clearance is expected in a channel, and, where appropriate, to carefully check depths alongside once at berth to help ensure that their vessel remains afloat, if required, at all stages of the tide.

Double-check valves on cargo tanks

THE value of paying close attention to detail can never be over-emphasised, as a recent claim involving a Club member loading liquid cargo in Thailand serves to illustrate.

The vessel was contracted to load cargoes of kerosene and mogas. Both cargoes were loaded at the same time into different tanks. After loading of the first kerosene parcel, large discrepancies were discovered between shore-supplied and ship-tank quantities. These involved a large surplus of mogas and a significant shortfall of kerosene.

It subsequently transpired that, due to the negligence of the crew in inadvertently leaving open two cargo-line valves after line washing,

kerosene had been pumped into the two tanks designated for mogas.

Attempts to persuade the terminal to discharge and reprocess the contaminated cargo were unsuccessful, and the vessel proceeded to South Korea to discharge its sound cargo before disposing of the contaminated cargo in Singapore.

A substantial claim was submitted by the cargo interests, and settled after lengthy negotiations by the Club.

The lesson to be learned from this case is to double-check all onboard valve operations, whether manual or automatic, and to ensure before any cargo operations begin that the valves and indicators are operating properly.

Double-check your valves before starting any cargo operations



Radioactive cargo cover



MEMBERS asked to carry radioactive cargoes should remember that P&I is excluded in relation to certain nuclear risks.

For clarification, the standard IMO/UN dangerous goods declaration should be completed in full and forwarded to the Club, which will obtain confirmation from expert consultants as to whether the cargo is the 'excepted matter' for which there is P&I cover.

If it is not, and the member wishes to proceed with the

shipment, then satisfactory confirmation will need to be obtained from the consignor evidencing separate nuclear liability insurance coverage for the consignment.

The insurance certificate must include full details of the specific cargo, the ship, voyage, times, dates, load and discharge ports.

Members should be provided with a proper certificate of financial security taken out in the consignor's country. But if the countries have a reciprocal agreement in place, this certificate can be taken out in the country of the consignee.

All queries related to the carriage of radioactive cargoes should be raised with the Club.

US ballast water changes

RECENTLY introduced regulatory changes mean that masters of vessels are now required to submit ballast water management reports to the coast guard prior to arrival at their first US port of call, rather than prior to departure. Members can access more

information about this, and additional details of the US coast guard's ballast water management programme generally, on:-
www.uscg.mil/hq/g-m/mso/mso4/bwm.html

(Haight Gardner Holland & Knight)

Ventilation closings

Ventilation closings can play a critical role in fire-fighting emergencies, and their good upkeep is therefore crucial. But often the mechanisms are left in "open" positions for long periods - and any lack of maintenance leading to seizure can have serious consequences in the event of a fire, or could give rise to difficulties during PSC or other inspections.

Regular upkeep of ventilation closings is therefore essential. Moving parts should be greased. Cowling and ducting should be painted to prevent corrosion, but over-painting of operating mechanisms, seals and locking devices should be avoided. "Open" and "closed" positions need to be clearly marked and the space being served must be identified. Routines for such maintenance should be established - with particular emphasis on ensuring the free movement of all mechanical vents and the operation of their indicators - and all such work logged.

PUBLISHED

on behalf of The London Steam-Ship Owners' Mutual Insurance Association by A. Bilbrough & Co. Ltd.,
50 Leman Street, London. E1 8HQ, UK.
Tel: +44 (0) 20 7772 8000
Fax: +44 (0) 20 7772 8200
E-mail: comms@a-bilbrough.co.uk
www.lsoo.com

EDITED BY

Chris Hewer,
Merlin Corporate Communications,
11 Kingsland Court,
Three Bridges Road,
Crawley, RH10 1HL, UK
Tel: +44 (0) 1293 55 00 44
Fax: +44 (0) 1293 55 04 04
E-mail: wizard@merlinco.com

PRINTED BY

Stuart Vaux Associates,
Chiltern Lodge,
38 Clifton Road, Amersham,
Buckinghamshire,
HP6 5PP, UK.
Tel: +44 (0) 1494 726593
Fax: +44 (0) 1494 727380
E-mail: sales@stuartvaux.demon.co.uk