

Making allowance for pilots



Shipping casualties resulting from reliance on pilotage services are, unfortunately, not uncommon. And owners can also face major personal injury claims involving pilots, as recent proceedings against a London Club member serve to demonstrate.

The claim was brought by a Mississippi river pilot who slipped while leaving the member's bulk carrier, which had just completed loading a cargo of grain. The pilot claimed damages of over \$2m. He alleged that a combination of humid/dewy weather, compounded by earlier rainfall, as well as grain dust blown about the ship's deck during loading, had created the slippery deck conditions in which he fell and injured his shoulder. The claimant also alleged a failing on the

crew's part to clear a grain-free path between the ship's accommodation block and the pilot ladder. P&I attorneys reported that the Club members had a number of defence arguments, especially since it seemed clear that it was impossible to avoid grain dust on deck during loading. It would also have been against the law for the crew to have washed the grain dust from the deck during passage down the Mississippi.

These defences were reflected in the favourable settlement that it was possible to negotiate on the members' behalf. But the case nevertheless illustrates the importance of precautions to provide visitors and crew with safe, non-slip passageways as they go about their business.

Customs problems in Ukraine ports

Reports continue to reach the Club of customs clearance problems encountered by vessels calling at Ukrainian ports. In particular, significant losses are said to have arisen in connection with the failure to properly complete customs declarations, notably in respect of ships' stores, and medicines and drugs lists.

Ukrainian customs laws allow the authorities to inspect any part of the vessel during its stay in port, and provide for the imposition of fines and/or confiscation of property in the event that undeclared items are found on board. There have been reported instances of fines for minor quantities of undeclared oil, sand and paint kept on board for technical purposes. Initial fines are usually levied at the maximum amount permissible by law, and efforts to have them reduced can be protracted. A great deal of time and effort can also be expended trying to retrieve confiscated items.

Ukrainian customs declarations do not provide a comprehensive list of items to be declared. So masters are advised to pay special attention to the very thorough completion of customs declarations forms when calling at Ukrainian ports.

(Dias & Co)

IN THIS ISSUE

Expert evidence crucial

Reducing lifeboat accidents

BIMCO's sulphur clause

Port security update

Pre-employment medicals



Expert evidence crucial in defence of sugar caking claim



The positive impact of high quality expert evidence on the defence of cargo claims was recently underlined once again in a successful London arbitration involving a London Club member.

One of the issues before the arbitrators concerned responsibility for alleged caking damage to a cargo of bagged refined sugar, which the receivers in Iraq had rejected and for which damages of more than \$600,000 were claimed.

An expert chemist from the UK was instructed to attend the ship's discharge to investigate the allegation.

His review of the evidence from the load port, and during the voyage, discounted the claimants' broad

contentions that the damage resulted from some type of failing in the ship's care of the cargo.

Instead, the opinion of the chemist was that the caking was principally linked to an inherent defect in the cargo, involving its moisture content prior to loading.

The relatively warm temperature of the sugar parcels on loading may also have contributed to the claim, as may have an apparent delay between the drawing of cargo samples relied on by the claimants and their subsequent analysis.

When settlement of the parties' disputes proved impossible, the arbitration progressed to an award.

The arbitration tribunal gave careful consideration to the technical

evidence surrounding the cargo claim and concluded that the shipowners could not be held responsible at all.

The London Club's experience is that even seemingly modest difficulties with commodities such as sugar can lead to substantial claims. And members should not hesitate to contact P&I correspondents promptly if problems arise, as an important step in the preparation of an appropriate defence strategy.

Intertanko publishes oil record book guide

Intertanko has recently published *A Guide for Correct Entries in the Oil Record Book (Part 1 - Machinery Space Operations)*.

The guide could be used as a useful training tool for office and shipboard personnel and includes important advice on measures necessary to ensure the proper entry of operations in a vessel's Oil Record Book (ORB).

The guide also emphasises that accurate maintenance of an ORB is a valuable means of providing proof that a vessel has complied with pollution prevention regulations. And it sets out examples of the sort of errors that can be made in the completion of ORBs, potentially undermining the value of the information recorded.

More information can be accessed at: www.intertanko.com



Knowledge a key factor in reducing lifeboat accidents



StopLoss 26 and StopLoss 27 highlighted the risks involved in the launching of lifeboats, and the need for high levels of care during such operations. But the dangers are worth underlining once more in light of the Club's recent experience of further instances of fatalities and of very serious injuries resulting from lifeboat accidents.

In one case the lifeboat recovery hydraulic drive was accidentally operated with the manual hoisting handle still engaged. The handle swung violently and unfortunately struck a crew member on the side of the head, below his hard hat, resulting in his permanent disability.

Such serious cases serve to emphasise once more the need for personnel involved in lifeboat operations to be well aware of the

potential hazards, and of the significance of safe working practices. Those responsible for maintenance should be fully familiar with the lifeboat launching and recovery equipment, and with the manufacturers' requirements relating to care. The manufacturers should also be able to assist where any overhaul of the equipment is necessary. Their input may be of particular value with work on parts such as on-load release gear interlocks.

Ship personnel should remember that lifeboat designs vary considerably, and that systems with which they should be familiar will differ from ship to ship. But one feature common to all lifeboats is the critical importance of care in their maintenance and use. The UK Marine Accident Investigation Branch study into lifeboat accidents provides

additional information and can be accessed at:

www.dft.gov.uk/stellent/groups/dft_maritimesafety/documents/page/dft_masafety_504247.pdf

Port security update

The US Coast Guard has issued a port security notice detailing countries it reports failed to communicate information about port security required under SOLAS and the US Marine Transportation Act 2002. It says that ships which have called at any of these countries within their five previous port visits may be subject to increased port state control examination upon arrival in a US port. The enhanced examination may be less if the ship establishes a higher security level during the port call, executes a declaration of security, logs all security actions in the ship's log, and reports to the USCG actions taken prior to arrival at a US port.

The countries referred to in the US advisory on the matter are Albania, Benin, Democratic Republic of the Congo, Equatorial Guinea, Guinea, Guinea-Bissau, Kiribati, Lebanon, Liberia, Madagascar, Mozambique, Nauru, Nigeria, Serbia and Montenegro, Sierra Leone, Solomon Islands, and Surinam.

More information can be accessed from the Holland & Knight website at: www.hklaw.com



BIMCO produces sulphur clause



New bunker quality regulations will impact on both owners and fuel suppliers.
(Photo courtesy MPA, Singapore)

IN response to continuing developments in connection with both the regional and the international regulation of levels of air pollution from ships, BIMCO has drafted a new Fuel Sulphur Content Clause for inclusion in time charter parties.

The clause is designed to protect owners under time charters against the risk of charterers supplying the vessel with fuel oil which has a higher sulphur content than that permitted in the geographical area in which the charterers are trading the vessel.

This comes at a time when Annex V1 of MARPOL - setting limits on sulphur oxide emissions from ship

exhausts - is due to come into force in May 2005 and when the European Union is preparing a directive on limiting the sulphur content in fuel used by ships in the Baltic, the North Sea and the English Channel.

Moreover, reports suggest that developments in the European Union - with the attendant commercial and operational implications for owners - are likely to be watched with interest around the world, with the prospect of increasing regional introduction of similar regulations.

Further information about the charter party clause can be accessed at: www.bimco.dk

Pre-employment medicals

While efforts continue to improve standards of medical screening for seafarers, care also needs to be taken over the interpretation and understanding of the results produced by such programmes.

In the Philippines, Pre-Employment Medical Examinations (PEMEs) are commonly used as a barometer of a seafarers' fitness to work. But it is important to be aware that, in performing such examinations, the local medical clinics employ a system which rates fitness on a scale ranging from 'Class A' through to 'Class D'.

Seafarers receiving Class A and B ratings are both deemed fit to work on board internationally trading vessels. But owners should appreciate that a Class B rating indicates that the seafarer is nevertheless suffering from a medical condition potentially requiring medication or control, such as hypertension.

However, not all clinics include Class B notations or detailed descriptions of their findings on certificates of seafarers deemed fit to work. So, in order to ensure that they receive a complete picture of their seafarer's medical background, owners should remember to seek clarification from their manning agents of whether any sort of rating or general observations were recorded during a potential crew members' PEME.

(Pandiman, Manila)

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