STOPLOSS BULLETIN

THE LONDON P&I CLUB

MARCH 2007
ISSUE 45

Loading manual and CSM reminder

The Club has received reports of a dispute and delays during the loading of steel coils on a bulk carrier at a small port in the Far East. And it is apparent that the problem arose because the shippers - who had only recently started exporting such cargoes - were confused about the distinction between the ship's loading and cargo securing manuals.

The loading manual reflects Regulation 10 of the Convention on Load Lines 1966 and requires that the master be provided with " ... sufficient information, in an approved form, to enable him to arrange for the loading and ballasting of the ship in such a way as to avoid the creation of any unacceptable stresses in the ship's structure ..." At the same time, an approved cargo securing manual (CSM) is required by SOLAS for the stowage and securing of all cargoes other than solid and liquid bulk products.

The shippers in this case, however, were not sure of the purpose of each document, and frequently muddled the two. Indeed, they interpreted the CSM's generic guidance on stowage and lashing of steel coils - which was copied from the Code of Safe Practice for Cargo Stowage and Securing - as confirmation that the ship was able to load the coils three high. And they suggested stowage of the cargo on that basis. But this approach failed to recognise the vessel-specific guidance on loading steel coils in the ship's loading manual. Its importance was highlighted in this case since it showed that the shippers' stowage proposal, based on the CSM, would have over-stressed the ship's tank-top.

The owners immediately advised the shippers of the dangers involved with the proposed stow. But it was only several days later, following extensive input from independent technical experts, that the shippers eventually accepted the position. Having agreed that the ship could only load two high, to comply with the loading manual, the coils were then stowed and lashed in accordance with the CSM.The owners have since endorsed the relevant section of all their ships' CSMs to emphasise that the loading manual is the governing document for all stability and stress issues. They are also considering enhancing the CSMs so that they contain ship-specific guidance on steel coils rather than a reprint of the relevant annex from the Code of Safe Practice for Cargo Stowage and Securing.

Carrying coals

In a recent incident, a master's knowledge of the Code of Safe Practice for Solid Bulk Cargoes (BC Code) ensured that he was swiftly able to reject a charterer's potentially dangerous suggestion concerning problems with a coal cargo. Towards the end of the ship's passage, rising levels of carbon monoxide had been detected in the cargo hold atmosphere - a sign that the coal was starting to self-heat to the point of ignition. The master sought advice on berthing prospects from the charterers and was advised that, because of congestion, the ship would have to anchor for about a week before proceeding to discharge. Further, the charterers suggested that the hatch covers should be opened at the anchorage, so that 'the prevailing winds can cool the stow'. But the master was aware that this was contrary to the BC Code, which recommends that the holds be completely closed down and all ventilation ceased. Indeed, air flow of the sort suggested by the charterers would only exacerbate the self-heating. So the master rejected the suggestion, an approach endorsed by the expert advice on the problem which the owners also sought in compliance with the BC Code.

IN THIS ISSUE

Tally woe in Senegal

When in doubt - turn right

Take care with fumigants

Syrian surprises

Odessa pollution alert

THE LONDON P&I CLUB

Tally woe in Senegal

Two recent cases involving discharge of bagged rice in Dakar illustrate the importance of collecting the right sort of evidence to try to support the defence of cargo claims not only in Senegal but also in a number of other West African jurisdictions. In the first case, the master did not have the benefit of a tally conducted by an independent tally team. The first sign of any problem was on completion of discharge, when the ship was arrested by the receivers, who alleged a substantial shortage. Security could only be agreed on terms conceding that the claim would be heard by the local court. The P&I correspondent warns that the shortage claim is probably overstated, but the absence of any contradictory tally means that the owners will have very little scope to challenge the receivers' figures. Moreover, the Senegalese court will ignore the "weight ... quantity unknown" text on the Congenbill 1994 and will treat the shipper's figures as binding on the ship. As a result, the owner's defence and negotiating position in this case is likely to be seriously hampered.

In the second case, the owners did attempt to collect evidence to defend shortage claims in that the ship's staff conducted a very careful tally. The ship's tally recorded a full delivery but the receivers again arrested the ship, claiming a significant shortage, and again obtained a submission to the local jurisdiction. The correspondent advises that the tally is of virtually no value in defending the claim because only evidence collected by a company on the court-approved 'board of surveyors' is admissible in Senegalese litigation. The ship's evidence is not admissible. And the receivers have so far refused to make any allowance for the ship's tally in the settlement negotiations.

In both cases the owners were not familiar with the trade, and the claims serve as reminders of the potential benefits in such circumstances of discussing with the Club and/or correspondent how best to protect ships' interests.

When in doubt - turn right

Investigations into a recent casualty show that the navigating officer of a containership misunderstood the Colregs governing head-on situations, and that his mistake contributed to a collision with a tanker. Each watch-keeper saw the other ship fine on the starboard bow, on a near-reciprocal course, and they both determined that the ships were set to pass starboard-to-starboard at a distance of about 0.3 nautical miles. Rule 14 of the Colregs confirms that, if a risk of head-on collision arises, the ships involved should alter course to starboard so as to pass 'red-to-red'.

So when the officer on the tanker determined that there was risk of collision, he altered course to starboard - at which point the ships

were approximately three miles apart. Surprisingly, the watchkeeper on the containership claimed that he did not believe that Rule 14 applied, because he was satisfied that, even with a closing speed in excess of thirty knots and a closest point of approach (CPA) of three cables, there was no risk of collision. Nevertheless, just as the tanker went to starboard, he decided to go to port in an attempt to widen the CPA. The two ships essentially turned into each other and collided. Although both ships were criticised for failing to alter course earlier, the containership came in for particular censure both for claiming to have been satisfied with a dangerously close CPA and for the subsequent alteration of course.

The point was made that the watchkeeper should have felt no need to alter course in either direction if he really believed there was no risk of collision. And it seems very likely that the casualty would have been avoided by proper understanding of the importance of Colregs Rule 14 (c) which requires that, when there is any doubt about whether a risk of collision exists in a head-on situation, navigating officers should assume that it *does* - and go to starboard.

THE LONDON P&I CLUB

Take care with fumigants

A recent tragic accident in which a cargo inspector died from inhalation of a fumigant in a bulk carrier's hold serves as a reminder of the particular need to control and supervise the movement of all visitors when such spaces have been fumigated.

In this case, a cargo of Argentinean grain underwent surface fumigation on passage to the Middle East. On completion of loading, aluminium phosphide tablets had been laid on the surface of the grain in each hold. On passage, the tablets decomposed, giving off the fumigant phosphine, which is heavier than air.

Appropriate warning signs were posted around the hold access points, the deck officers had been properly trained to monitor the in- transit fumigation, and the ship carried the appropriate gas detection and respiratory protection equipment.

Prior to arrival at the discharge port, the port authority was notified that the holds had been fumigated and that ventilation of the holds would start prior to berthing. On arrival, a plan was agreed with the terminal that grab discharge would begin and that thorough checks of the atmosphere would be undertaken prior to any stevedores entering the hold. At that point, the receivers' cargo inspector asked the chief officer for permission to take cargo samples. The chief officer, assuming that the inspector proposed taking a sample from a platform on the hatch coamings, granted permission for him to do so. Unfortunately, the inspector, who was very experienced, seems to have made the rash assumption that the aluminium phosphide tablets would have fully decomposed and the fumigant dispersed during the long sea passage. Subsequently, he was found dead in the aftermost hold, having entered the hold via an access hatch which had been opened to assist ventilation.

The owners have since changed their procedures so that hold accesses are only unsealed immediately prior to the space being checked that it is gas-free towards the end of discharge. And they have used this case to illustrate the importance of strictly controlling the movements of all visitors on board, no matter how experienced they may appear to be.

Further guidance on this topic can be found in the IMO's Recommendations on the Safe Use of Pesticides in Ships.

Syrian surprises

Investigations into recent ship arrests in Syria have highlighted cases in which the Syrian customs authority has obtained judgments against vessels for substantial sums, without the owners being aware that proceedings had even been started. The judgments were for fines for alleged short-delivery of cargoes which had been discharged many years previously. And in each case the owners' sense of injustice was heightened by the authority's refusal to release the ships until the owners paid cash into court to secure the judgments - in one instance an amount of nearly $500,000 - pending a possible appeal.

In Syria, the customs authority is entitled to serve proceedings on ship agents. Until recently, use of the state-run agency was mandatory for all vessels. And that organisation appears to have had difficulty alerting the owners, with the result that the authority obtained default judgments. These judgments were then registered with the Syrian harbour directorates so that the ships would be arrested if they ever returned.

To reduce the danger, the local correspondents strongly recommend owners of ships fixed for a Syrian port to ensure that a thorough search is conducted of the port directorates' records for any outstanding judgments. In some cases it may even be possible to take action which would prevent arrest and avoid the need to make a cash deposit.

THE LONDON P&I CLUB

Odessa pollution alert

The Club has received disturbing reports of disproportionate claims against shipowners for pollution at the Ukrainian port of Odessa. In one case, approximately ten cubic metres of fuel oil overflowed during the loading of a tanker. Prompt deployment of booming and skimming around the ship enabled the clean-up operation to be completed within twelve hours, and no environmental damage was reported.

Nevertheless, the ship was detained by the local authorities, who imposed a pollution 'penalty' of over $3m and claimed clean-up costs of more than $600,000. Independent pollution experts reported the claims to be exaggerated, bearing no relationship at all to the very limited spill.

However, it seems that Ukraine has not ratified any of the international pollution compensation conventions. And, instead, the authorities levied a penalty, determined by the quantity of oil spilled rather than by evaluation of any pollution damage.

Further, the clean-up was charged at an exorbitant rate, unrelated to the actual costs incurred. Moreover, the authorities declined to consider settlement on any basis other than full payment of both claims, and started proceedings before the Odessa court. The owners' defence arguments were rejected and a judgment was quickly entered against them for the amounts claimed in respect of the penalty and clean-up.

Equally disturbing are reports from other sources of another case in Odessa, involving a spill of about 74 tonnes of bunkers from a containership. This occurred when one of the ship's bunker tanks was punctured by a steel bracket on the fenders at its berth, which P&I surveyors subsequently reported to be in very poor condition. On this occasion, the authorities are reported to have imposed a penalty of $24.5m even though, once again, there was no evidence of significant environmental damage. In addition, a claim was advanced for clean-up costs totalling $7.6m. These claims were also clearly excessive. But the authorities again displayed no interest in reasonable negotiations. Local proceedings were started and the court is said to have rejected the owners' defences - including an attempt to limit liability - while upholding the penalty and cleaning claims in full.

These troubling cases highlight the serious potential exposure to delay, as well as to major liabilities, faced by owners trading to Odessa and perhaps other ports in the region as well. Members considering such business should have the risks in mind and ensure that their crews are aware of the dangers and the need for the utmost care and attention during berthing, loading, bunkering and other operations.

The above photograph shows the damage caused when a shore crane collapsed during discharge of a large yacht, which had been carried as deck cargo. The cause of the collapse remains under investigation.

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: london@a-bilbrough.com
www.lsso.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
E-mail: sva@talktalk.net