



# THE LONDON CLUB

## Stop Loss Bulletin

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and safety regulations had been breached because the crew had not been adequately informed that asbestos was being removed from the vessel. The crew member was awarded £35,900, made up of £10,000 for any future medical expenses, £900 for medical expenses up to the trial, and £25,000 for general damages. Senior counsel also recommended that out-of-court settlements, totalling £226,145, be made to the seven other crew members.

## Asbestos ruling

**A**SBESTOS is one of the least popular words in the insurance lexicon. And a recent dispute before the courts in Dublin says a lot about the nature of the burden of proof required in asbestos-related claims.

Eight crew members of a ro-ro passenger ferry entered with the club claimed damages resulting from exposure to asbestos dust. The vessel's shell plating had been holed during a routine docking operation, in the process exposing brown asbestos insulation behind the panels to some of the cabins.

The vessel continued to operate while the repairs - which involved moving the debris and asbestos through the alleyways and across the cardeck of the ship - were being carried out. The crew members said no screens were erected to contain dust emissions blown throughout the vessel.

The trial went ahead, the plaintiff being the first-listed crew member. It was claimed that the crew members were

suffering from trauma, severe upset, anxiety and distress arising from the risk of developing asbestosis, mesothelioma or lung cancer. The court found in favour of the crew member, holding that health



## Unusual salvage

**W**HEN loss prevention doesn't work, the stage is set for those who can minimise the damage and arrive at the best solution for all parties involved. Such was the case in May this year when the 7,824 gt passenger ferry *Poseidon Express* capsized on her side, obstructing the entrance to two of four berths serving the small Greek island harbour of Paros. Paros is a popular tourist destination, and the club moved quickly to get

the harbour working again before the start of the summer season. It opted for a fixed-price, no-cure-no-pay bid from Greek salvage expert Tsavlis which involved the innovative method of sealing the vessel's garage, pumping it out, and using the ship's own positive stability to roll her upright on the berth.

Seventy-five men worked round the clock on the operation, which should be completed a month before demand for berth space exceeds present capacity.



## Galley proof

**A** RECENT settlement agreed by the club in the US illustrates the weight given to a judge's impressions of written evidence at the start of a personal injury trial.

A 53-year-old chief steward alleged that he had suffered serious injuries to his back and left shoulder as a result of a fall sustained while cleaning a grease collection system in the galley of a vessel operated by a London Club member. The steward claimed the handle of the system struck him behind and below the left ear, causing him to fall to the deck from the chair on which he was standing. At the time, the steward complained of injuries to his left ankle, foot

and arm, and he experienced numbness to his back and left shoulder. He took three days' rest. Two months later he visited a clinic in New Orleans, where he received physiotherapy and ultrasound treatment. He was released as fit for duty and returned to the ship for one week, before being routinely paid off. He then received treatment at home for a month.

He found a berth on another ship but was knocked down by a car - sustaining head, back and knee injuries - before he could take it up. He was then off work for six months before being examined by a seaman's union doctor, who found him fit for duty, noting an absence of any complaint of injury since the man's previous

routine medical, despite the intervening galley fall and subsequent traffic accident. Sixteen months later, the steward underwent back surgery. He was unable to return to work after that.

Medical experts retained by the club felt that the steward was suffering from a disc disease which predated the fall. The judge disagreed. Trial was called at short notice and, just as it started, the judge said he felt the injuries probably resulted from the shipboard accident, and that the \$650,000 settlement sought by the steward was reasonable. The owner had offered \$50,000. Settlement was agreed at \$425,000. The risks associated with continuing with the trial were deemed to be too great. Only in America...



***THERE** are a number of ways to load steel cargoes. The picture below shows the correct way, while the photograph to the left shows what can happen when you do it the wrong way. No further commentary should be necessary.*





## The truth about stowaways



**T**HIS man is a Latvian. Or he could be an Azabajian. Or just possibly a Ukrainian. He was, in any event, a stowaway found on board a vessel operated by a London Club member which was going to the United States. The man claimed political asylum in the US, but it was denied. The club's problems really began when it tried to repatriate him. He was eventually returned to Latvia, at the third attempt, but he made it difficult. He insisted that he wasn't a Latvian, and thereafter worked his way through most of the former Soviet states, claiming them as his birthplace. He applied for Israeli citizenship and he claimed various religions and said he would rather die in a US prison than be sent home.

It is, like most incidents involving stowaways, a sad story. And it illustrates one of the main problems for shipowners and for the club - stowaways, not surprisingly, rarely tell the truth about

themselves. It is important to get as much information from stowaways as possible, as ninety per cent of stowaways have no identity documents on them when found on board a ship.

Masters should inform the owner and/or the club as soon as stowaways are discovered on board. Stowaways should be kept separate from the crew, and not put to work on board ship. And stowaways should be humanely looked after. All this is sound advice, if easier said than done. But the best advice of all is to take every possible precaution to make sure that stowaways are detected before the ship leaves port. An

inspection list of accessible spaces can be beneficial. Be prudent, and watchful, at all times. The alternative is a great deal of trouble and expense for all concerned.

● Authorities in Spain are cracking down on stowaways following a big increase in the number of people entering the country illegally by sea. If there is any evidence to show that masters and crew have been negligent in connection with stowaways, fines of up to Ptas25m may be imposed. Masters are advised to notify the Spanish authorities and their local agent of the existence of stowaways before their ship enters the country.

### Boxes and bags

**T**HE US Court of Appeals has handed down an important COGSA decision. Four and a half million plastic bags were shipped in a sealed container from Korea to New York. The bill of lading was claused "Shipper's Load and Count". The container was discharged with the seal in place, but a shortage was noted at the consignee's yard.



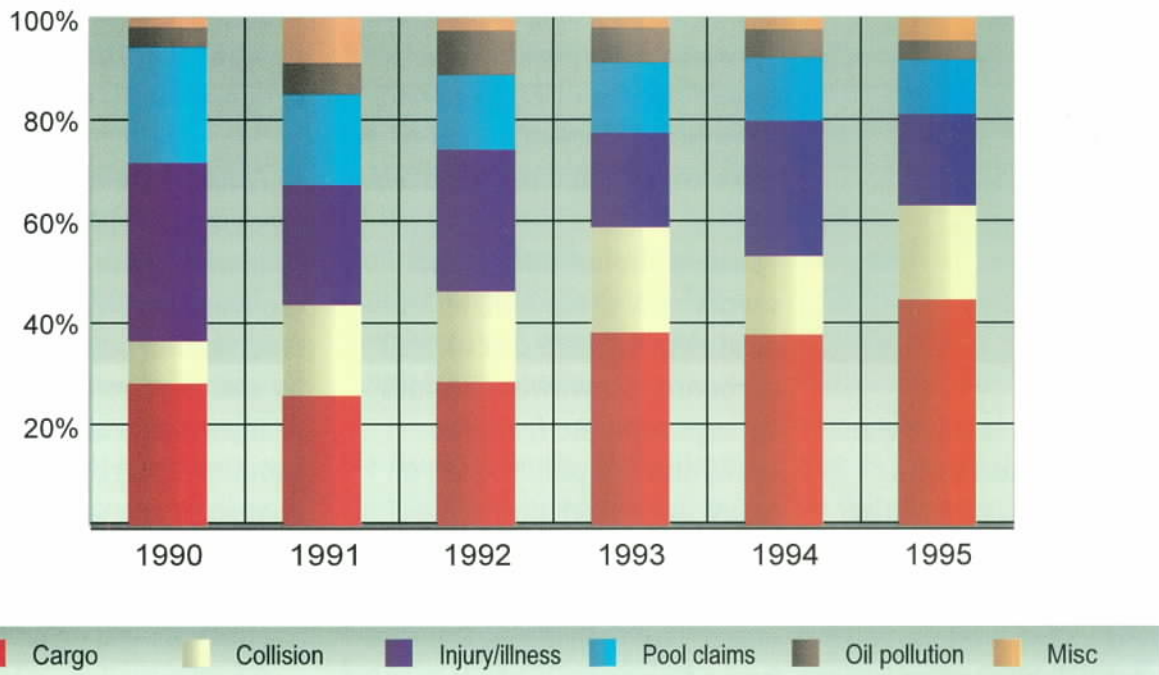
The appeal court affirmed the district court's earlier decision, holding that this was not a clean bill, and that the carrier was therefore not bound by the stated number of plastic bags within the

sealed container. The carrier had a defence because the bills of lading contained limiting language and the number of bags could not be verified by the carrier. The court did warn, though, that the limiting language doesn't

help an ocean carrier if the shipment is easily verifiable.



### Analysis of Claims Categories *as proportions of total claims*



## Yes we have no bananas

**W**HAT does a ship-owner do when it has 127,355 boxes of bananas on board, in a fiendishly hot part of the world, and the vessel's machinery breaks down, with not a hope in hell of getting the fruit to the discharge port before it turns to mush?

In the case of one London Club member recently, the answer was to give the bananas away to the local

population. The vessel had loaded a full cargo of bananas in Ecuador, and it became necessary to make a quick decision what to do with the fruit when it became clear that the vessel's reefer machinery could not be repaired in time.

There was no prospect of carrying the bananas, valued at about \$2m, to final destination in Europe and getting them there in an edible state.

Having looked at all the commercially expedient and acceptable options, the owner decided to donate the bananas

to the people of Ecuador, while they were still fit for consumption. So the vessel berthed alongside at Guayaquil, opened its holds, and told the locals to help themselves.

Coincidentally, a local election was taking place at the time, and one of the candidates did consider using the bananas as a vote-getter. This would have been one of the few occasions in political history when an election was won by a long, thin yellow fruit, although there are other recorded incidents of thick skins helping to win votes.

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