



THE LONDON CLUB

StopLoss Bulletin

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US connection

A PAKISTANI seaman employed by a Chilean shipowner through a Hong Kong crewing agency on board a vessel flying the Liberian flag is injured in Ecuador. Question. Where does the seaman sue for damages, three years after the event? Answer. Texas.

The London Club recently dealt with just such a case, and it is indicative of a trend whereby an increasing number of Far Eastern seamen - particularly Filipinos and Koreans - are suing shipowners in the US courts. This is happening despite the seamen having been paid the full contractual benefits to which they are entitled under the laws of their own country.

Texas, together with Louisiana and Florida, has very liberal laws and is unlikely to throw out a case for mere lack of jurisdiction simply because there is little or no contact with the state. The club was able to have the action involving the Pakistani seaman - who was paid his contractual

entitlement - dismissed on technical grounds. And before the seaman could refile, he was time-barred.

As a general rule, if the ship regularly trades to a port in a

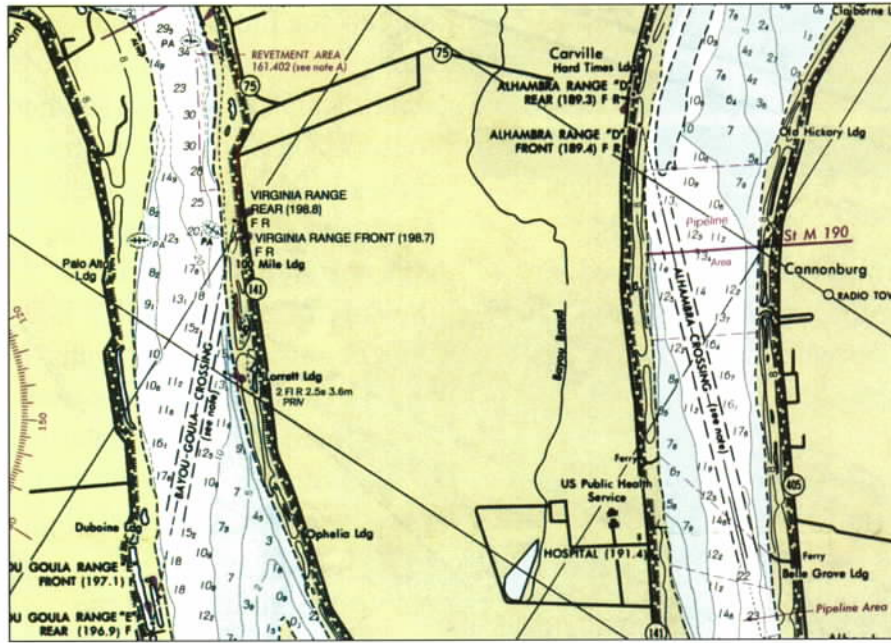
Quay contact

O UR picture shows a sorry-looking quay wall in Abidjan, Ivory Coast, after a member's vessel came into contact with it earlier this year. The vessel was intending to make a tug-assisted turn to starboard in order to berth portside-to. The pilot called too late for the starboard anchor to be dropped, but it was apparently stuck. The master ordered full astern but failed to stop

the vessel from hitting the concrete quay at an angle of ninety degrees. In his report of the incident, the master, with no obvious attempt at irony, noted that there was "not much damage to the ship". He was not wrong. Meanwhile, damage to the pier is thought to be in the region of \$50,000. The incident, and others like it around the world, emphasise the need for masters to override pilots where they consider it justified.



Snags for ships in the Mississippi



THE Mississippi River in the United States, in common with rivers all over the world, is crisscrossed with numerous pipelines and telephone cables. Not all these pipelines are required to be buried under the seabed, and even those which are may become exposed due to erosion.

Extract from US DoC chart

**CAUTION
SUBMARINE PIPELINES & CABLES**

"Charted submarine pipelines and submarine cables and submarine pipeline and cable areas are shown.

Additional uncharted submarine pipelines and submarine cables may exist within the area of this chart. Not all submarine pipelines and submarine cables are required to be buried, and those that were originally buried may have become exposed. Mariners should use extreme caution when operating vessels in depths of water comparable to their draft in areas where pipelines and cables may exist, and when anchoring, dragging or trawling. Covered wells may be marked by lighted or unlighted buoys."

The consequences of snagging a pipeline or telephone cable with the ship's anchor can be horrendous. Oil pollution, loss of electricity to hospitals, and loss of phone communications are just a few examples of the sorts of things which can happen.

Fortunately, such occurrences are few and far between. Should an innocent vessel even be accused of fouling a pipeline or cable, however, the costs involved in simply inspecting for damage can be extremely high.

The managers of the London Club have recently handled two cases where damage was suspected on vessels in the Mississippi. In one case, the master anchored in fog near a telephone cable. In the second case, the vessel's anchor was found to have dragged into an

area of pipelines. In each instance, the United States Coast Guard insisted that the anchors be slipped before the vessel was allowed to sail.

Although no damage was found in either case, the cost of marking the anchor, retrieval and sonar survey outings, together with associated legal costs, had to be borne by the shipowner.

The cost of a sonar survey is in the region of \$20,000 per pipeline. A so-called 'pigging' operation - involving underwater inspection of a pipeline - costs about \$100,000.

Areas of pipeline are shown on maps or charts such as the United States Department of Commerce one shown here. But owners are advised that, during passage planning, such areas should be highlighted and brought to the attention of the officer on watch.

WATCHING BRIEF

THE club has been greatly encouraged by the response to the first issue of its StopLoss Bulletin. Its Claims Review Body continues to monitor all live claims where the total estimated cost has altered by more than \$100,000 during the period under review. Meanwhile, Keith Atkinson and his staff will be happy to answer any queries on +44 (0)171 772 8041

Bunker watch

IN today's highly competitive shipping industry, where owners and charterers alike are under pressure to contain costs, and where refineries are practised at finding more and more uses for petroleum residues, bunker quality is the subject of some concern.

The club has seen an increase in bunkering disputes centred mainly in - but not limited to - areas such as Singapore and Rotterdam. It has been very difficult to prove the origin of deficient bunkers and of the physical damage they cause to the ship's machinery. So what can be done to protect owners?

There are three main problems: **(a)** Basic bunker quality deficiency. **(b)** Introduction of foreign elements to increase quantity, at the expense of quality. **(c)** Unfit fuel on board the vessel despite receipt of satisfactory samples from the bunker barge - a common predicament for owners operating under voyage charters.

There are a number of loss prevention measures which can be adopted to reduce the likelihood of bunker quality disputes arising. Analysing samples during bunkering operations is expensive and may not be completed quickly enough to prevent machinery

damage. But the chances of recovering any loss will be greatly increased if attention is paid to avoiding adverse contractual terms, if bunker specifications are clearly stated, and if representative samples are preserved.



Singapore - the club has seen an increase in bunkering disputes here and in other major centres

In order to support analytical evidence, samples have to be representative of bunkers originating from the barge, and from the barge only. A proper representative sample can be obtained by means of drip-feed sampling systems attached to the ship's manifold. Samples should be collected in clean bottles, sealed after use to establish integrity.

Samples - certified by the bunker supplier if possible - should be taken after every bunkering and kept on board until such time as it is clear that no dispute is going to arise.

Arrest alert

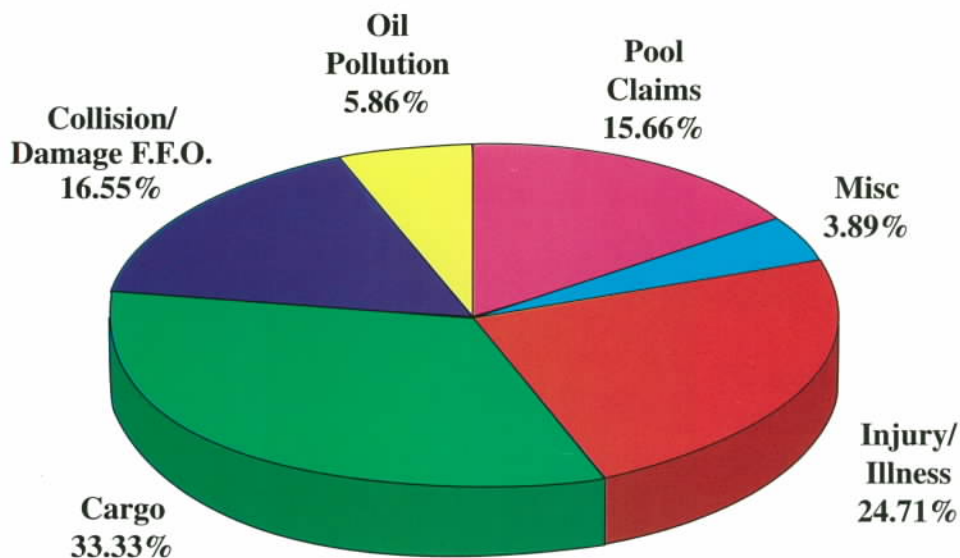
THERE is currently a spate of unwarranted and indiscriminate arrests of foreign vessels entering Nigerian territorial waters. Vessels engaged on legitimate business are being arrested on the basis of flimsy excuses or claims. Owners are obliged to arrange bonds to release the vessel - no easy matter in Nigeria.

Dealing with these arrests is time-consuming and costly. Claims - often spurious and grossly exaggerated at best - can take five years to get before the Nigerian courts.

Impey & Coker, the club's correspondent in Lagos, tells us that, under new guidelines issued by the Federal High Court in Nigeria, a caveat can be filed in the court register against unwarranted arrests of foreign vessels. One effect of this is that, while application to arrest is sought, the vessel will be allowed to leave Nigerian waters. Later, should it become necessary to secure a bond, it can be done within a more sensible timeframe than was possible before.

Impey & Coker suggests that it should be notified each time a vessel entered with the club is going to Nigeria. It will then file a caveat so that the vessel will not be exposed to the risk of immediate arrest.

London Club Analysis of Claims Categories 1990 To 1995



No glossing over customs fines

MISDECLARATION of stores can lead to some very heavy fines being brought against members, the severity and fairness of which can vary from one jurisdiction to another.

The club is currently disputing a fine in excess of \$100,000 which has been levied by customs authorities in Argentina in connection with paint stores carried on board a

member's vessel. As a result of a double entry, the amount of paint on board was declared wrongly.

In Argentina, customs declarations are taken very seriously, so seriously in fact that owners are obliged to appoint a customs agent solely for the purpose of lodging the customs declaration with the Customs House.

The customs agent may be appointed on owner's behalf by the charterer, but owners must remember that the completion of the customs declaration is the master's -

and therefore the owner's - responsibility. The result of any misdeclaration can be a confiscation of any stores which have been overstated, and a fine of up to five times their value.

Fines are also imposed for stores undeclared, as the customs authorities are concerned that stores are being sold ashore, with no taxes being paid.

English versions of the official customs forms are available, and masters should ask for a copy to ensure that they fully understand what is required.

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