



Communicating the need for crew contract consultation



Injuries and deaths resulting from participation in hazardous pastimes should be excluded from cover under employment contracts

Members will be aware that P&I cover in respect of claims involving crew injury, illness and death is subject to the Club's prior approval of the agreement or contract under which the liability arises. The detailed provisions are contained in P&I Rules 9.3 and 9.4.

Most of the employment contracts on which the Club is consulted under these rules are designed to be in force for a fixed period of time while the seaman is serving on board the ship, and will terminate upon his return home.

However, there are signs that a growing number of owners are entering into 'permanent' contracts, which remain in effect whether the crew member is at sea or on leave. And members are reminded that, in cases involving that

sort of extended contract, advance consultation with the Club over the issues with potential implications for P&I is particularly important. It will enable the Bilbrough personal injury claims team to assist in reviewing key contractual terms and limits, to identify any potentially problematical aspects, and to check, for example, that suitable exclusions are in place to protect against claims resulting from the crew members' participation in dangerous sports or hazardous pastimes.

Indeed, the Club also assists increasing numbers of members with broad reviews of their crew contracts, looking at issues ranging from the clarity of drafting, to the detail of the underlying benefits. Members interested in further information should advise stoploss@a-bilbrough.com or their usual Bilbrough contact.

Smoke and mirrors

Seafarers ordering duty-free cigarettes from ship chandlers in North European ports, particularly in Belgium, Holland and Germany, should be aware that copies of such orders are provided to the local customs authority and that information is shared between the countries.

As a result, there have been recent cases in which the customs authority in Belgium has boarded a ship shortly after a substantial order for cigarettes has been delivered in Holland or Germany, and established that the crew were unable to account for a significant number of cartons.

Where the authority has grounds to believe that the crew have resold the cigarettes, they can seek not only to impose substantial fines but also to press criminal charges.

The common rules stipulate that, on delivery to the ship, duty-free cigarettes must be placed in the bonded store and can only be consumed after the ship has cleared territorial waters.

In some cases, modest fines have been imposed where all of the cigarettes can be accounted for, but they have not been placed in the appropriate locked store.

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Grain cargo problems in Saudi Arabia

The Club's recent experience in Saudi Arabia suggests that the significant majority of cargo claims there arise from the discharge of grain cargoes, particularly barley and corn, whereas those commodities appear to make up only a small proportion of imports into the country. Bulk grains are generally discharged into trucks, and almost all disputes involve alleged short-delivery wherein the receivers seek to rely on figures generated by shore weighbridges, rather than draught surveys.

The local P&I correspondents advise that the Saudi Arabian courts will not generally attach any evidential value to ships' figures, nor will they recognise a 'trade allowance'. As a result, if any shortage is recorded when comparing the customs out-turn certificate, produced using weighbridge figures, and the bill of lading quantity, then most receivers will threaten to arrest the ship on completion of discharge in order to obtain security for a shortage claim.

Thereafter, claimants tend to adopt a very aggressive stance in settlement negotiations. Indeed, in some cases, the differences between ship and shore figures produce sizeable potential liabilities.

The correspondents believe that best practice for minimising or

avoiding such claims probably starts at the load port, where the hatch covers should be sealed. At the discharge port, the correspondents recommend that a surveyor be appointed to attend on board and to liaise with the receivers, who should be invited to witness the unsealing of the hatch covers and to participate in draught surveys. The

surveyor should also monitor the weighing of the trucks and ensure that 'Empty Hold Certificates' are issued on completion of discharge. The correspondents' view is that engaging with receivers increases the likelihood that they can be persuaded that any discrepancy is merely a 'paper shortage' for which they should not bring a claim. But such measures are not as effective with every receiver. Further details can be obtained via stoploss@a-bilbrough.com

In the pipeline

The Club's analysis of recent cargo damage claims suggests that the condition of pipes connected to ships tanks may not be subject to as great a degree of scrutiny as the condition of the tanks themselves.

The investigation into one recent incident involving wet damage to a steel cargo confirmed that the water had entered the hold only towards the end of discharge as a double-bottom tank was being pressed up. Rather than monitoring the level of water in the tanks by soundings, the deck officers chose to leave the ballast pump running until ballast overflowed from the air vents on deck. Unfortunately, the air vent pipe had a corrosion hole through which water entered the hold.

In another similar case, two holes in a sounding pipe allowed ballast water into a cargo space. Unfortunately, the hold contained



bulk cement, hence the relatively modest amount of water contamination led to a significant claim, for both cargo damage and extra discharging costs.

The Club has established that, in each case, the ballast tanks had been surveyed at a recent drydock, at which time the corrosion holes in the pipes were almost certainly present.

These cases are reminders that failure to pay due attention to the integrity of pipework can lead to expensive claims.



Block stow reminder



In previous editions of *StopLoss*, the Club has reported industry concern about the safety of loading large steel slabs using the California Block Stow method in self-trimming bulk carriers. This method of stowage was developed by steel importers in California, keen to minimise the high stevedoring costs at local ports, and involved the construction of a block of slabs directly under the hatch square.

The advantage to the importers of the block stow - over a conventional stow across the full width of the hold - was that it maximised the amount of cargo that could be discharged without the need to use forklifts to carry slabs from the wings to the hatch square. But, as the spaces between the sides of the block stow and the upper and lower wing tanks were left void, the stow was free-standing. The industry concern was that the advantage to cargo interests came at a disadvantage to carriers in the form of the serious consequences of a shift of such a stow.

The Club's investigation of a recent cargo damage claim suggests that the shippers and charterers had tried to construct a variation of the California Block Stow, for part of a cargo of mixed steel products being carried from South America to Europe.

In this case, the cargo concerned was wrapped bundles of hot rolled steel plates and, rather than leaving the block stow free-standing, the shippers/charterers had attempted to support the cargo by means of wooden buttressing. However, when the ship hit heavy weather on passage, the wooden supports were unable to prevent the cargo shifting and, in one of the affected holds, the stow collapsed entirely.

Cases such as this illustrate the importance of special care in the face of plans involving the use of block stows. Members in any doubt should seek technical guidance and are welcome to contact stoploss@a-billbrough.com for assistance in identifying suitable experts.

Duty to intervene

According to the US Supreme Court, a shipowner can be held liable, under certain limited circumstances, when stevedores suffer injury as a result of their own dangerous working procedures. Under US maritime common law, after a ship has been turned over to stevedores for cargo operations, the ship's officers may have a duty to intervene to prevent stevedores being injured by their own unsafe practices. In one case, deck officers and stevedores knew that a ship's winch had become defective during discharge. A stevedore who elected to continue using the equipment suffered an injury as a consequence. The court found the owners liable because the officers had a duty to take action to prevent the accident beyond alerting the shore worker to the problem. In another example, a longshoreman removed stanchions and safety netting from the ship's side but later fell overboard through the resultant gap. Owners were held liable because senior crew were aware of the stevedore's actions but allowed him to continue to work. The court held they had a duty to take active steps to prevent the accident.

But the duty to intervene in US common law is a limited one. An owner is not responsible for supervision of longshoremen during cargo operations. But if senior ships' staff learn that a stevedore is employing an unsafe practice, and if it is clear that the stevedore intends to keep working in the face of the danger, those crew may have a duty to intervene. In such cases, prompt action by the crew may prevent a potential claim for negligence. **(Hill, Betts & Nash, New York)**



Training matters

The London Club and its managers, Bilbrough, are extremely proud of a reputation for delivering a top-class service to the Club's membership. This reflects a very strong commitment to high standards in all aspects of the Club's business, underpinned by an ISO 9001:2000-approved management system geared towards continuous improvement.

In the claims handling arena, for example, a number of measures support such quality objectives. For instance, the teams based in the

London, Hong Kong and Piraeus offices are kept abreast of important industry and legal developments by a programme of regular seminars, provided by carefully selected experts in relevant fields. This goes hand-in-hand with the attention devoted to developing skills and experience across the organisation in a variety of other ways, ranging from a comprehensive induction and mentoring system for those joining the claims teams, to attendance on practical ship familiarisation courses held in a number of jurisdictions with the assistance of members and

industry contacts, along with participation in the external shipping and maritime law conferences held by organisations such as BIMCO in many of the world's major maritime centres. The consideration given at Bilbrough to issues of education, experience and industry awareness forms a key part of the Club's determined focus on a member care and service culture.

At the same time, detailed attention is paid to the strengthening of the Club's relationships with - and understanding of - its members around the world. Close and clear contact with the membership is a priority, whether it be through day-to-day communications in the context of claims or other enquiries, or through Bilbrough's programme of regular member visits and quarterly publications such as *StopLoss*, *London Club News*, the Annual Report, or the Club's website and news alerts system.

Coupled with this, the Club is pleased to provide individual or smaller groups of members with more detailed bespoke advice and support on issues of particular interest and concern. This is available through a system of carefully tailored seminars and workshops, provided by the Bilbrough claims teams.

Successful events of this type have recently been held in Germany, Greece and Belgium, and readers seeking further information should contact stoploss@a-bilbrough.com



During a recent passage of a member's ship, a large steel billet broke free from the inadequate lashing within a container stowed under deck. The billet first burst through the side of the box and then fell into the empty adjacent bay, penetrating a bunker tank as it landed. The image above illustrates the risks and dangers to both ship and personnel that negligent shippers can create.

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