

Bridge procedures reminder



A worrying theme in several collision investigation reports reviewed recently by the Club is the failure of officers to offer assistance to other craft involved in the accidents. In one case, a US court judgment recorded that an officer on watch alone at night, in fog and in an area of high traffic density, was aware that a close-quarters situation was developing between his ship and two other vessels. He was unable to see the other ships but, after making a collision avoidance manoeuvre, he heard, 'Collision, Collision, Collision' on VHF Channel 16 and realised that the radar echoes for the other two ships had merged and ceased to move. The duty officer did not treat the VHF call as a distress message and offered no assistance. As one of the two colliding vessels sank, he returned to his original course and continued his passage.

In another case, the report of the Australian Transport Safety Bureau (ATSB) into a collision between a bulk carrier and a fishing boat describes how the ship's port bow had struck the fishing boat, but the bulker's duty officer first saw the wooden boat as it was passing down the port side of his

ship. He wrongly assumed that he had been involved in a near miss and made no attempt to call the boat or determine whether it had been damaged. In fact, it had been holed under the waterline, and the ATSB's view of the duty officer's failure to establish whether assistance was needed was that "he disregarded his legal and moral obligations to ensure the safety of the fishing vessel's crew".

In neither case does the officer of the watch appear to have alerted the master at the time of the incident. In both cases, had the masters been aware of the incidents, the ships would surely have been more likely to have complied with, as appropriate, the SOLAS requirements to respond to distress messages and the obligation under the UN Convention on the Law of the Sea to offer assistance after a collision.

Masters are reminded that their standing orders should make sufficiently clear the circumstances in which the bridge team should call them. Publications such as the International Chamber of Shipping's *Bridge Procedures Guide* provide checklists which can form the basis of such standing orders.

Paris MoU Mandatory Expanded Inspections

In two recent incidents involving states which are parties to the Paris Memorandum of Understanding on Port State Control, P&I correspondents have been called to assist masters who were unclear why the local PSC officer considered their ships to be "high risk" and had threatened to impose a fine because of the masters' failure to report that their ships were eligible for a Mandatory Expanded Inspection (MEI).

All ships falling within the "high risk" definition in EU Directive 2001/106/EC (bulk carriers over 12 years old, oil tankers over 15 years old and bigger than 3,000 gt, gas and chemical tankers over 10 years old, and passenger ships over 15 years old, excluding those covered by the EU Ferry Directive) are required to undergo an MEI every 12 months. This has also been extended to apply to non-EU members of the Paris MoU.

If such a ship has not been subject to an MEI within the previous year and is about to call at a port within the Paris MoU area, the master or owners must send a notice of arrival for MEI form to the PSC office in that port. Failure to do so can result in delay to the ship, the raising of a PSC deficiency against Section 10 of the ISM Code and, in some cases, a substantial fine. Further details are available from: www.parismou.org

IN THIS ISSUE



The need to maintain gear bins

Anchoring in heavy weather

Counting the cost of hull fouling

Petcoke problems

From our Correspondent



The need to maintain gear bins



Standard container operation in many terminals involves the ship's semi- or fully automatic twistlocks being fitted to or removed from containers by stevedores on the quayside. These twistlocks are often stored in steel 'gear bins' which are themselves stowed on flat racks that are lifted off and on the ship by shore cranes. The flat racks are landed ashore just before discharge commences and the bins are filled with the twistlocks removed from the containers as they are discharged. As containers are loaded, twistlocks are then removed from the bins and fitted into those containers. On completion of cargo work, the bins, which will contain any unused twistlocks, are placed back on the flat racks and then lifted on board, where they are routinely stowed on top of stacks in positions that are inaccessible to the crew.

The Club is aware of increasing concern that bins and flat racks are occasionally found to be in an unsafe condition because of corrosion or physical damage. Clearly, the structural failure of this equipment as it is lifted could create a severe

personal injury risk. In one recent incident, a port safety officer allowed flat racks to be returned onboard

only on condition that the bins were first emptied of twistlocks. In some cases it is thought the equipment falls outside the inspection regimes of flag state, class or port state control and, due to its often remote stowage position, an 'Out of Sight Out of Mind' philosophy can develop on board.

Accordingly, owners should ensure that the equipment is incorporated into a planned maintenance system and, if necessary, be the subject of regular third-party inspections.

Anchoring in heavy weather

The Club has been investigating a collision between a bulk carrier and a containership in an anchorage off a drydock in the Far East.

Interestingly, there appears to be a partial overlap of safety issues raised by that incident and those identified in the recent official report on the high-profile grounding of the *Pasha Bulker* in Australia.

In the collision case, the bulker was cargo-free and had substantially deballasted, prior to entering the drydock. Although conditions at the time of letting go the anchor were fine, the forecast was very poor. Yet the second-trip master does not appear to have considered taking extra ballast in anticipation of the bad weather. Nor does he seem to have taken into account the pilot book warning that the bottom was not considered particularly good holding ground.

When its anchor dragged, the bulker made substantial leeway almost at once. The master's first reaction was

to order more cable to be paid out. When that failed to stop the anchor dragging, he ordered the main engine started and the anchor raised. However, the master faced difficulties in manoeuvring the ship because the minimal draft, in combination with the pitching motion, severely limited the effectiveness of the propeller. He was unable to avoid collision with an anchored containership, even though the main engine had been running for almost twenty minutes prior to contact.

In the *Pasha Bulker* case, the ship grounded after dragging anchor in a strong gale and the master was criticised because he "failed to ballast the ship for heavy weather". The Australian Maritime Safety Authority has since issued a marine notice which contains advice on anchoring, such as the need to ballast so as to keep the propeller fully submerged, which can probably be sensibly applied in ports outside Australia, too. (www.amsa.gov.au)



Counting the cost of hull fouling



Hull-fouling is a risk associated with delays at warm-water ports. Anti-fouling coatings do offer some protection, but cleaning costs and impaired performance - for which the owner may not be able to secure an indemnity from charterers - remain a serious risk.

In the leading case of the *Kitsa*, arbitrators found that charterers were not liable to indemnify owners for the consequences of hull fouling, because the risk was foreseeable when the charter was agreed, and therefore one that owners accepted. Further, the expense of hull cleaning was an ordinary trading expense for the owners' account. The courts subsequently upheld the award on appeal, although the judges did note that an indemnity might arise if the delay was caused by something for which the charterers were responsible, for example customs clearance.

In general, and in the absence of any specific term to the contrary, it seems there will be no implied indemnity in respect of hull cleaning costs or

impaired performance. In particular, if owners have agreed to worldwide trading, they will normally be considered to have accepted the risk of hull fouling occurring as a result of delays at warm-water ports. Owners may also be left facing the cost of drydocking, and associated loss of hire.

One possible solution for owners is to insert a clause in the charter which stipulates that, if the vessel is delayed at any port or place for more than a specified number of days, charterers are responsible for the costs of cleaning any resultant fouling and restoring the hull to its previous condition. Such a clause should also state that owners are not liable for any resultant reduction in the vessel's speed and/or excess consumption, and that the vessel will not be off-hire for any time lost as a result, including time spent cleaning and/or restoring the hull. Such a clause can reduce any adverse financial consequences for owners, provided that they insist on a number of days which offers effective protection.

(Barlow, Lyde & Gilbert)

Petcoke problems

The Club has recently been made aware of problems which have arisen following the carriage of cargoes of petroleum coke (petcoke). Some such cargoes have a particularly high oil content, and great care must be taken with regard to the cleaning of holds after their carriage, and prior to loading a new cargo.

The Code of Safe Practice for Solid Bulk Cargoes (BC Code) makes no specific mention of hold cleaning following the carriage of petcoke. But the definition of 'garbage' in MARPOL Annex IV seems to include cargo residues remaining after discharge, the disposal of which is prohibited in designated Special Areas. Under MARPOL Annex I, meanwhile, any effluent generated from a hold washing operation involving petcoke with an oil content would seem to be an 'oily mixture', discharge of which is prohibited except where certain conditions are satisfied.

There is a further complication in relation to the washing detergents and chemicals used to clean holds after the carriage of petcoke. They may fall within the description of substances listed in MARPOL Annex I (Oil) or Annex II (Noxious Liquid Substances) and would therefore have to be handled in accordance with the requirements in those rules. Clearly, owners should not discharge effluent overboard without considering its effect on the marine environment, and should resist any pressure from charterers to do so, as was the case with one Club member recently. In case of doubt, members should contact:

stoploss@a-bilbrough.com



THE LONDON
P & I CLUB

Tell us about your background and the company you run:

"I set up DIAS in 1995. It is like my child. Before that I spent more than 15 years in the maritime industry. DIAS is a P&I correspondent and provides consultancy and claims handling advice. I manage the firm and control the finances and oversee claims handling. When I started the business, shipping correspondents in the Ukraine acted in a very old-fashioned way. So from the start we decided to concentrate on keeping our clients fully informed about maritime developments, and ensuring that our response times were the very best."

Tell us about working in the Ukrainian shipping industry:

"Odessa and its neighbouring ports are very busy, particularly with the loading of finished steel products and fertilisers. So far as fertilisers are concerned, there is a problem relating to the cleaning of ships' holds. If the ship has been carrying cement or coal, the holds are often not sufficiently clean. This can be a major area of conflict between owners and charterers."

Tell us about the sort of P&I work you do:

"Oil pollution is the most difficult thing to deal with in Ukrainian ports. A pollution claim in the Ukraine can cost five or six times more than in Europe, say, or Russia. For example,

From Our Correspondent

The first in a series looking at the work of London Club correspondents and the regions in which they operate



IGOR CHEREZOV, General Director, DIAS Co Ltd, Odessa, Ukraine

two years ago we dealt with the biggest claim in our history. It cost \$32m, and the oil spill was not that large.

"In Odessa we mostly load - rather than discharge - cargo, so we don't have that many cargo claims to deal with. Those that we do see usually involve seasonal cargoes like citrus fruit, bananas, or other reefer cargoes.

"The majority of our work now involves crew claims. There are large numbers of Ukrainian seamen sailing under foreign flags, and they are in heavy demand because they are usually well-trained. But even well-run

ships are not risk-free places of work, and we have to deal with a lot of personal injury and loss of life cases. Each of our claims handlers can have several cases on the go at once. They are dealing directly with families, and it is very stressful."

Do owners face any common or particular problems in your region?

"The main Black Sea ports stay open all year round. There are often problems in the Sea of Azov, because it is very shallow, but the Black Sea is different. We have a section on our website focusing on ice conditions, which attracts a great deal of interest."

What is changing in Ukraine shipping at the moment?

"In the days of the Soviet Union, every large port was in essence a powerful government body. That is gradually changing, and fifty per cent of the port of Odessa, for example, is now privately owned. Further change will come, over a period of time."

Tell us about working with the London Club:

"The claim handlers at the London Club are real team players. They talk to their colleagues about the work, and that really helps. The London is also the best club for paying its bills promptly. We are a small P&I correspondent and we cannot afford to have bills outstanding, so we really appreciate this."

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