THE LONDON P&I CLUB

STOP Loss

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DRI: Exemption concerns

The London P&I Club's attention has been drawn to attempts by a Trinidadian company to ship HBI Fines (now known as DRI C) without complying with the mandatory requirements of the IMSBC Code.

Long-standing concerns about the carriage of Direct Reduced Iron (DRI) increased significantly after casualties on the Marshall Islands flagged *Ythan* in 2004. A chemical reaction between the DRI C cargo and water contained therein resulted in the production of hydrogen, which accumulated under the hatch covers before igniting and exploding. Industry concerns led to the introduction of specific provisions for the carriage of DRI C in the IMSBC Code. The Club's Circular dated 29 April 2010 concerning DRI emphasised that such cargoes should have a maximum moisture content of 0.3% and be carried under an inert gas blanket. Also, ships carrying DRI should be capable of maintaining oxygen levels of below 5% throughout the voyage. Although the Hot Briquetted Iron Association (HBIA, now part of the International Iron Metallics Association) has lobbied for changes to the Code to allow certain grades of DRI C (principally those shipped from Venezuela and Trinidad) to be carried with significantly higher moisture contents and/or without the need to deploy inert gas, all such proposals have been rejected by the IMO.

Section 1.5 of the IMSBC Code contemplates the possibility of alternative carriage arrangements, relevantly stating as follows: "Where this Code requires that a particular provision for the transport of solid bulk cargoes shall be complied with, a competent authority or competent authorities (port State of departure, port State of arrival or flag State) may authorize any other provision by exemption if satisfied that such provision is at least as effective and safe as that required by this Code."

In reliance on this Section, the shipper referred to above offered an exemption certificate from the competent authority in Trinidad for the carriage of DRI C with moisture content above 0.3% and suggested that the cargo could be carried safely if the holds were mechanically ventilated to prevent hydrogen building up. The Club doubts whether mechanical ventilation can ever be regarded as being "at least as effective and safe" as the use of an inert gas blanket. Further, as most bulk carriers likely to carry DRI will have only "natural" ventilation, hold fans would have to be fitted at the load port. The Club has seen documents suggesting that, on at least one occasion, the fans proposed were not certified "explosion proof", meaning that they had not been specifically designed for use in flammable atmospheres and could be a possible source of ignition. Also, the fans appeared to be too small and badly sited, limiting their ability to prevent the accumulation inside the hatch coaming of any hydrogen given off by the cargo.

Intercargo has recently issued a strongly worded statement clarifying that an exemption from the IMBSC Code carriage requirements is only valid if there is a tripartite agreement on the alternative carriage arrangements between the competent authorities acting for the port state of departure, the port state of arrival and the flag state. The Marshall Islands flag has stated unequivocally that they will not accept any proposed exemptions from the Code for the carriage of DRI. Nevertheless, the competent authority in Trinidad interprets the IMBSC as enabling them to issue a valid exemption unilaterally, merely notifying the other two competent authorities of their decision.

Given the significant risks associated with the carriage of DRI, any suggestion that an exemption from the requirements of the Code will be invoked should be reported to the Club immediately.

In this Issue

Liquefaction risks – Iron Ore Sinter Feed

The London P&I Club has received reports of liquefaction of shipments of iron ore sinter feed (or sinter feed) from ports in Brazil including, but not limited to, Ponta da Madeira, Tubarao and Itaguai.

Of particular concern are reports that some Brazilian shippers are declaring sinter feed as Group C cargo under the IMSBC Code. In doing so, the shippers appear to be categorising the cargo as not prone to liquefaction so as to avoid their obligation to provide test results for Transportable Moisture Content (TML), Flow Moisture Point (FMP) and moisture content.

The term sinter feed indicates that the ore is too fine-grained for direct use in a steel plant's blast furnace and will therefore undergo a process of agglomeration (sintering) into larger particles before use. Sinter feed is clearly listed in the IMSBC Code as IRON CONCENTRATE (sinter feed), under the schedule for MINERAL CONCENTRATES at p.206. All cargoes covered by this schedule are Group A cargoes and prone to liquefy. Some shippers may consider their product to be "natural, non-concentrated" and that the schedule for IRON CONCENTRATE (sinter feed) is therefore inapplicable. However, the description of the cargo does not alter the shippers' obligations as it is the small particle size which requires sinter feed to be treated as iron ore fines, determined by the IMO to be a Group A cargo (see the Club's circular of 13 December 2010 on Indian iron ore fines and IMO Circular No. DSC.1/Circ.63 of 12 October 2010). Moreover, the Code is very clear that all fine-grained cargoes with inherent moisture content require flow testing before loading (Appendix 3, section 2.1, page 327, "Many fine-particled cargoes, if possessing a sufficiently high moisture content, are liable to flow. Thus any damp or wet cargo containing a proportion of fine particles should be tested for flow characteristics prior to loading.").

Not only has the Club heard of shippers failing to provide the mandatory test results, but there are also reports of them obstructing Owners' attempts to conduct their own sampling and testing. In some cases, the shippers have argued that can tests alone are sufficient to determine whether the cargo is safe to carry. The advice of experts consulted by the Club is that can tests can be of some limited use, but that they are not reliable as conclusive evidence of the cargo's fitness for carriage and that the shippers must be held to their obligations to conduct proper laboratory tests.

Members should be aware of the possible mis-description of sinter feed loaded in Brazil. Any Member concerned about possible mis-description or the shipper's compliance with the IMSBC Code should contact the Club. We would like to acknowledge the assistance of Brookes Bell in the preparation of this article.

Container Stowage and Securing

Claims related to the loss or damage of containers as a consequence of the collapse of the stow or failure of the lashing arrangement is a continuing cause of concern to the Association. Incidents of this nature may result in the loss overboard of, or damage to, containers and their contents or even damage to the ship itself.

Guidance for the proper stowage and securing of cargo is contained in the Cargo Securing Manual (CSM), which is a statutory requirement under the SOLAS Convention (Chapter VI Regulation 5), and which must be approved by the Flag State Administration. To be of any value, the CSM must be ship specific and tailored to meet the physical and cargo carrying characteristics of the particular ship.

Equally important is the regular care and maintenance of fixed and portable lashing equipment which should be included in the planned maintenance system and recorded in the CSM. Worn, damaged or non-compliant fittings should be replaced as soon as possible. Any modifications to the equipment must also be approved by the Flag State and the CSM amended accordingly. Feedback to the Loss Prevention team on the cause of a sizeable container claim suggested there were problems with both the quantity and the condition of the lashing equipment on one entered ship. A ship inspection was conducted and the inspector was guided to focus on the lashing equipment. The inspector recorded problems with, among other things, the twistlocks, lashing bars, turnbuckles and D-Ring lashing points. He also established that although the technical managers required the ship to conduct a monthly "lashing equipment audit", the ship's officers were not conducting the necessary tallies and inspections in a satisfactory manner. As a result of feedback from the Club, the managers of the ship were able to address the deficiencies in their systems and improve onboard practices.

Feedback to other Members prompted a request to carry out a spot check on the inventory and use of lashing equipment

onboard one of the ships in their fleet which happily confirmed that the figures being reported were accurate and that the equipment was being used appropriately.

If Members have particular items upon which they wish the Club's ship inspections to focus, they should contact the Loss Prevention team to discuss any particular requirements.

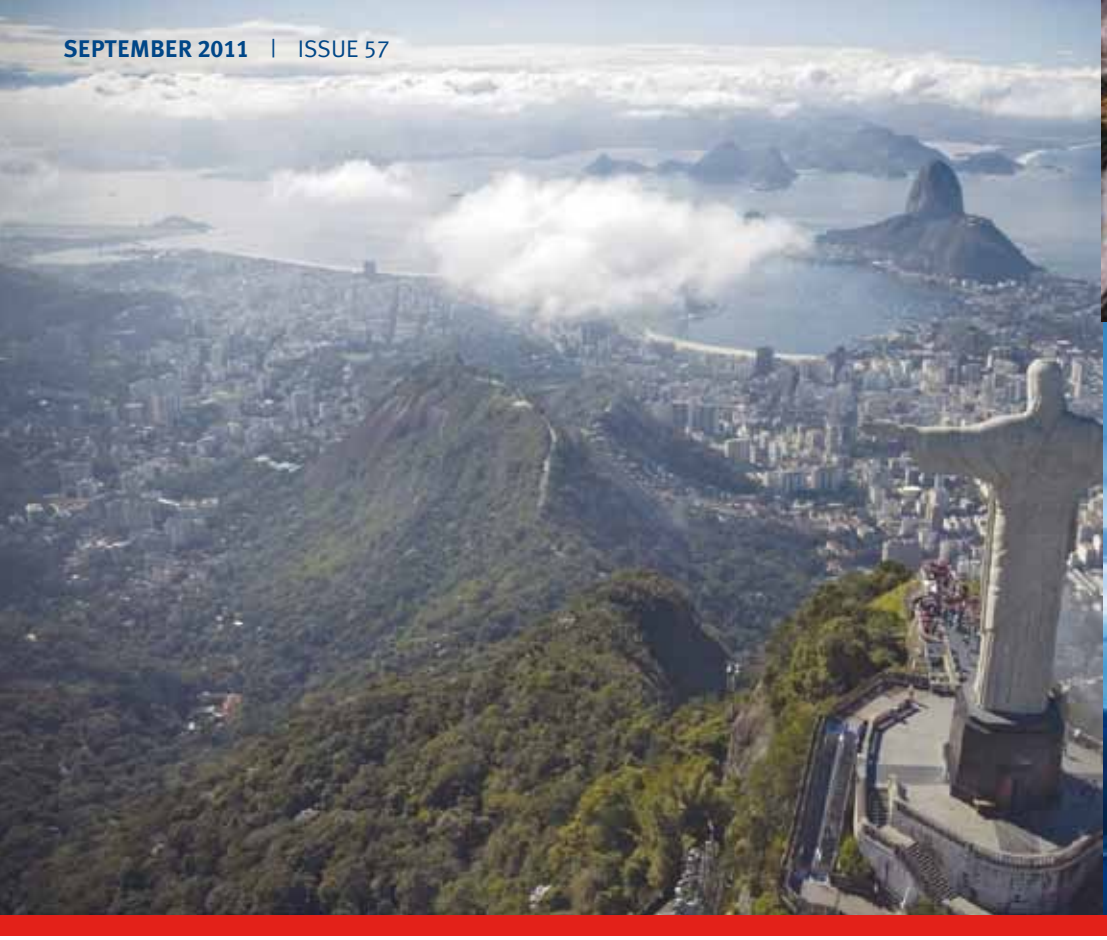
Distractions on the Bridge

Recent reports suggest that improvements in telecommunication technology onboard ship can create unwelcome distractions.

With technological advances, onboard communication has improved significantly over the last few years enabling crew to use mobile phones and laptops to keep in contact with family and friends ashore. However, the use of such equipment at inappropriate moments may distract crew from the navigation or operation of the ship. A causative factor in a recent pollution incident is alleged to be that the duty officer was attempting to make a Skype call on his laptop during his watch. In a collision case, the VDR playback reveals that the officer of the watch was listening to a news bulletin from his home country that was being streamed though a laptop. The officer appears to have missed a radar target and a VHF warning call while listening to the breaking news from home.

Another issue is the risk of being exposed to excessive information and simply being unable to process it all. Bridge equipment is increasingly sophisticated and it can provide the crew with access to extensive information regarding the relative positions of other ships. However, unless it is used in a focused manner, it can confuse, rather than clarify, and ultimately prove counter-productive. In one case, the OOW decided to use the Automatic Radar Plotting Aid to track 99 different ships whilst transiting a congested anchorage and to overlay the radar image with Automatic Identification System data. With so much information being displayed, he failed to notice that one of the targets had both a minimal closest point of approach (CPA) and time to CPA and ultimately there was a collision. As such, it is worth giving careful thought to how such equipment can best be used without risking information overload.

An important principle of keeping a safe navigational watch is that the OOW ensures an efficient look-out is maintained at all times and the ColRegs are complied with. It is therefore essential that any distractions from those duties are as far as possible minimised or eliminated.



Focus on Brazil

There are a number of jurisdictions around the world where the combination of high interest rates and protracted proceedings can result in a relatively small fine or claim turning into a much more significant exposure.

Brazil provides a good example of such a jurisdiction where the prevailing interest rate is in the region of 12% per annum. In addition, Courts apply a further variable uplift to take into account the effects of inflation which can be as much as 6%. In practice, this means that a Member's exposure to a claim or fine can increase by almost 20% for each year that the matter is pending. Bearing in mind that it is not unusual for a claim to take five years from start to finish, this can result in a Member's ultimate exposure potentially doubling.

And there are instances where the effect may be more severe. The Club is aware of one instance where a cargo claim, initially presented for an amount in the region of US$1m ultimately resulted in an adverse judgment of just under US$4m after protracted litigation. As such, careful consideration should be given to any opportunity to settle at a reasonable level at an early stage.

Earlier this year, the Brazilian Port Health authorities implemented new legislation relating to onboard pest control, requiring all ships to undertake six-monthly control procedures which must then be evidenced in the ship's log book or by way of a Ship Sanitation Control Certificate (SSCC), issued by the company undertaking the pest control. This requirement is additional to the existing WHO requirement for ships to have a valid Ship Sanitation Control Exemption Certificate (SSCEC) onboard, and whilst initially enforced at only a few ports, the expectation is that other ports nationwide will follow suit.

The local cost of the pest control procedure and SSCC is understood to be in the region of US$2,000 to US$3,000, whereas failure to have onboard a valid certificate may result in fines of the order of US$10,000 being imposed. Consequently, many ship operators are apparently simply complying with the requirement in order to avoid the risk of penalties and unnecessary delays to the ship. However, the local correspondents advise that should be grounds to challenge the requirement where there is no evidence of pests onboard the ship, particularly if there is a valid SSCEC. Alternatively, ship operators may prefer to obtain the necessary certification in advance of calls at Brazilian ports in other countries where the associated costs are less.

Another emerging trend in Brazil is the requirement for crewmembers to obtain visas for up to 30 days for entering Brazilian waters. The advice which the Club is receiving is that such visas are only required for tourists and are in fact completely unnecessary for members of a ship's crew. Nevertheless, there have been instances where unexpected delays to ships have meant that the crew have remained within Brazilian territorial waters after their visas have expired, resulting in fines being levied upon ship operators for a breach of immigration regulations.

In view of the apparent lack of legitimate basis for the fines presently imposed, the correspondents have recommended that they be challenged. As such, any Members who are subject to such fines should advise the Club in order to consider how best to deal with the situation.

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