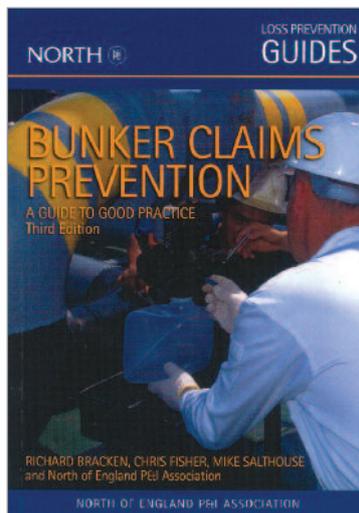


New bunkers guide

North has published a third edition of its loss-prevention guide about *Bunker Claims Prevention*. The guide tackles bunker quality and quantity issues at source by giving those involved in the purchase and use of fuel oils a thorough understanding of the problems that may be encountered. The guide is designed to assist all those who come across bunker quality and quantity disputes in their working day and aims to give a basic understanding of the technical and legal problems involved. It has been updated to take account of changes to the International Organization for Standardization standard ISO 8217 - Petroleum products - Fuels (class F) - Specifications of marine fuels - introduced in 2010.



A copy of the new guide is enclosed with this issue of Signals for all Members and entered ships.

Dumping garbage

The latest poster in North's *Clean Seas* series of environmental awareness posters has been published. Entitled *Clean Seas - Garbage*, it shows in a humorous way the impact of not following a ship's garbage management plan properly. The poster is complemented by a Signals Experience case study which deals with an incident where a ship received a non-conformity during an International Safety Management Code audit for not properly segregating garbage or understanding the ship's garbage management plan. In different circumstances, not following the garbage management plan could have led to a significant fine being imposed on the vessel.

Copies of the new poster and case study are enclosed with this issue of Signals for Members and entered ships. Electronic versions, suitable for printing, can be viewed or downloaded from the Club's website: www.nepia.com/loss-prevention/publications-and-guides/



Trade sanction compliance

Sanctions are imposed by individual countries or by supranational bodies to put pressure on countries that are seen as in some way acting outside what is considered acceptable. They have been very much in the news recently and are a problem for ship operators, who need to be aware of any sanctions in place and to take steps to ensure that they are not in breach. North has published a new loss-prevention briefing for Members to help them avoid breaching trade sanctions imposed on Iran.

See page 8 for full story.

Voyage planning concerns

Two concerns related to voyage planning are considered in this issue. Proper voyage planning relies on up-to-date information, particularly on charts, and advice is given on how to achieve this in parts of Brazil where only Brazilian charts are available. The other relates to planning under pilotage, where a case study invites comments on what a master should do to get a ship safely away from its berth and on passage.

See pages 5 and 6 for full stories.

Cargo liquefaction risks

The risks of carrying liquefying bulk cargoes are covered by two articles in this issue. One looks at charterparty clauses that seek to get ship owners to contract out of their rights under the International Maritime Solid Bulk Cargoes Code and take on the full risk of cargo safety. The other looks at liquefaction problems related to chrome ore and the safeguards required to carry it.

See pages 4 and 5 for full stories.

Hatch training module

Maintaining weathertight hatch covers is an essential part of ensuring a ship is both seaworthy and cargoworthy. A computer-based training module on hatch cover maintenance and operation produced by Seagull AS is enclosed with this issue of Signals for dry-cargo Members and their entered ships.

See page 6 for full story.

Cockroach-free cooking

Cockroaches have existed for over 300 million years and have had plenty of time to become adept at survival. They are a hazard to health that can be extremely difficult to remove from even the most modern ship's galleys once they have become established. Proper preventative hygiene and sanitation is vital.

See page 3 for full story.



Treating dry eyes

North is often called upon to assist crew members who have sustained extensive injuries, or are suffering from serious illness. However, the majority of health issues are far less severe but can still cause a great deal of discomfort and result in permanent damage if not treated. One such example is 'dry eyes'.

The symptoms usually resolve themselves but sometimes a little assistance is needed. The eye depends on the flow of tears to provide constant moisture and lubrication to maintain vision and comfort. Tears are a combination of water for moisture, oils for lubrication, mucus for even spreading, and antibodies and special proteins for resistance to infection. These components are secreted by special glands located around the eye and, when there is an imbalance in this tear system, a person may experience dry eyes.

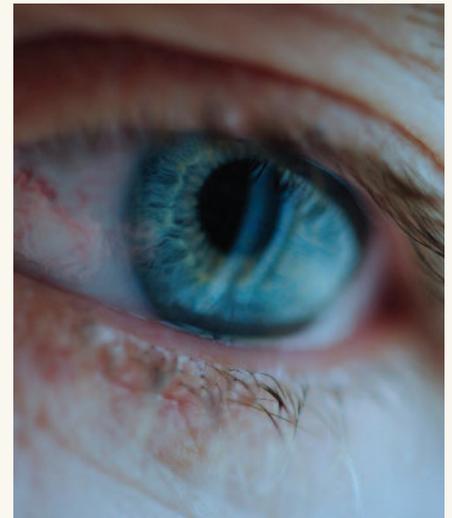
Commonly the symptoms include pain, light sensitivity, a gritty sensation, the feeling of a foreign body in the eye, itching, redness and/or blurring of vision. However, sometimes a person with dry

eyes will have excess tears running down their cheeks. This can happen when the eye is not getting enough lubrication and it sends a distressed signal to the nervous system which responds by flooding the eye with tears to try and compensate for the underlying dryness. Although this will succeed in washing any debris away, these tears are mostly water and do not have lubricating qualities or the rich composition of normal tears.

Problems if untreated

The occasional sensation of dry eyes is quite common for crew members who are exposed to dry sea salt air and cargo dust, but if the sensation persists and is not treated, surgery may eventually be required. In the majority of cases this is entirely preventable as dry eyes can be effectively treated by eye drops or ointments but, if left untreated, may contribute to pterygium.

A pterygium is a triangular thickening of the outer coating of the eye that grows onto the cornea. It can grow large enough to interfere with the vision and frequently causes redness, irritation and tears.



This can be treated with drops or ointments, but otherwise the pterygium can grow large enough to threaten eyesight, whereupon it may need to be removed surgically. Such treatment is usually straightforward and without side effects.

Using eye drops or similar will not only provide immediate comfort from dry eyes, but will also prevent the onset of more serious conditions. Eye drops are usually cheap, readily available and easily transportable. Ship operators are recommended to include suitable eye drops in ships' medical chests.

Caring for the deceased

With life at sea there comes the unfortunate possibility of dying while away from home, whether as a result of an injury or from natural causes. In such circumstances, it is imperative that every effort is made to help the deceased's family and ensure that their wishes are complied with. The next of kin should be consulted as soon as is reasonably possible.

It cannot always be assumed that the deceased's family will wish the body to be repatriated, although it is likely the family will wish to be involved in the intended burial or cremation. Clearly the family's desires will also need to comply with local regulations, so once the wishes have been identified, it is then necessary to consult with local authorities before making any arrangements.

In the majority of cases however, families wish to receive the body home, so

it becomes necessary to arrange international transportation. This can be quite straightforward, but again no assumptions should be made and the family should be consulted as to whether there are any particular requirements over preparation of the body and any other concerns which may not otherwise be immediately apparent.

Sometimes there are particular administrative requirements, either by the country where the deceased was landed, or by the country which will receive the body. It is usual for there to be a death certificate, but occasionally it is also necessary to obtain a medical certificate advising that death did not result from an infectious illness. In certain jurisdictions it may be necessary to obtain the permission of other administrative parties such as the sanitary authorities or

the local consulate and it may also be necessary for any such documentation to be translated by a sworn translator.

On those occasions where it does become necessary to consider transportation, it is very tempting to arrange this quickly to cause the family as little distress as possible, but without due consideration and care this can actually cause great upset at an already difficult time.

North strongly recommends that the family of deceased crew members be contacted to discuss funeral and/or repatriation arrangements, requesting as much detail as possible – no assumptions should be made. Local authorities can then be consulted as to what is legally required to enable the local burial, or else the smooth transportation of the body home. Then, and only then, should any actual arrangements be made.



Cockroach-free cooking

As a matter of both health and hygiene, cockroaches in a ship's galley are not a good idea. However, the problem is a common one and can be difficult to control.

After some 300 million years of evolution cockroaches are amongst the world's most resilient insects and scavenge on garbage, dead insects, human food, hair, finger-nail clippings and almost anything else. Furthermore, if a cockroach population in one area gets too large, this can trigger migration into nearby areas. If unchecked, a few cockroaches in the galley can soon turn into a much bigger shipboard problem.

International Labour Organization (ILO) convention 147 of 1976 was intended to set minimum standards in merchant ships.

It incorporates the Food & Catering (Ships Crews) Convention of 1946, under which food supply and catering arrangements must be designed to secure the health and wellbeing of the crew. The principle will be further enforced in the Maritime Labour Convention 2006 when it comes into force, which, under regulation 3.2 on food and catering, covers the necessity of hygiene in galleys.

There are chemical formulations which can be used to kill cockroaches while a vessel is at sea. Though often not effective, they may at least assist in keeping the problem under control until proper fumigation can be carried out in port. More importantly, galley staff should take extra steps to improve sanitation by removing clutter, ensuring

there are no water leaks, cleaning greasy surfaces properly and storing all food tightly.

Cockroaches are unpleasant to have around, are a hazard to health and are in contravention of maritime regulations. Their presence may also result in other visitors to the vessel outstaying their welcome – port state control inspectors.



Avoiding cargo shortage claims in North Africa

Cargoes of grain imported into Tunisian and Algerian ports are often the subject of shortage claims. The Club's correspondents in Tunisia and Algeria have advised on the precautionary measures which Members should take.

Tunisia

Precautionary measures start at the load port, as it is a practice of state importing companies to arrange for a surveyor to attend the loading to certify cargo quality, condition and quantity. Masters should therefore obtain the signature of such a surveyor, confirming the quantity of cargo shipped on ship's documents such as draught surveys and mate's receipts.

It is important also that hatch covers are sealed at the load port and that the receiver's surveyor co-signs the sealing certificate.

Prior to arrival at Tunisian ports, the Club's local correspondents recommend that Members apply to the court for the appointment of a court surveyor with a mandate to check all aspects of the discharge, including

- carrying out an unsealing survey
- carrying out initial and final draught surveys
- checking the public weighbridge

- monitoring the weighing of trucks on the weighbridge.

It is important that the surveyor receives the correct mandate from the court otherwise their attendance may be of little use and Members may therefore wish to contact the Club's correspondents to assist with the appointment of a court surveyor. In this case the correspondent should be notified of the ship's arrival and provided with documentation specifying cargo quality, condition and quantity as counter-signed by the receiver's surveyor.

It is not possible to state categorically that the above steps will prevent shortage claims being made, and it may still be that ships are detained while receivers obtain security. But the report of the court-appointed surveyor is regarded as binding on both parties and will assist in the eventual defence or negotiation of any subsequent claim.

In most circumstances the cost of such prudent precautionary measures will be for the Member's account. However, if the measures subsequently assist in the defence of any claim, the costs are normally recoverable from the Club.

Algeria

Similar precautionary measures are required for Algeria. However, Algerian

courts take a different view which is that, until a dispute has arisen between the ship and receiver, the courts are unable to intervene to appoint a surveyor. It is thus important that an application is made to the court immediately a claim has been notified by the receiver, and Members may wish to contact the Club's local correspondents to assist with this.

A state receiver in Algeria is likely to accept a 0.5% discrepancy between the bill of lading and discharge quantities. However, private importers as a rule do not, and they may detain the vessel to obtain the security.

The Algerian courts do not recognise the value of a draught survey, which they believe to be too inaccurate to be of use. It is pointless, therefore, to seek a joint draught survey as the receivers will neither agree to, nor be bound by, any such survey.

However, joint weighbridge figures may help in the negotiation and defence of claims and another precautionary measure is for the owner and receiver to agree on the appointment of a joint surveyor to oversee the weighing of the cargo over a public weighbridge.

Members who seek further information should contact the Club's local correspondents or the Club directly.



Safe carriage of chrome ore

The problems associated with cargoes that may liquefy have been widely publicised recently, including elsewhere in this issue of *Signals*. One cargo that may give rise to liquefaction problems is chrome ore and in the following article Martin Jonas of Brookes Bell describes the specific problems associated with chrome ore and the measures required to carry it safely.

The IMO International Maritime Solid Bulk Cargoes Code (IMSBC Code) states that chromite or chrome ore, in concentrate or lump ore form, is a group C cargo and therefore not liable to liquefy. However, recent experience would indicate otherwise.

Photograph 1 below shows a cargo of chrome concentrate loaded in India in 2007 on completion of loading, with no visual indication of being wet or muddy. Photograph 2 shows the same cargo in the same hold after it had liquefied some hours after departure from the port, and after a large quantity of free water (around 30–50 t) that had formed on the cargo surface had been pumped out.

There is at least one other incident involving the liquefaction of a chrome concentrate cargo loaded in Turkey some years earlier. Both these incidents resulted in a general average incident though, fortunately, no loss of life.

Fines and moisture content

At least some grades of chrome concentrate, and possibly all grades, are

shipped in the form of a very fine sand, with average particle sizes around 0.3 mm. Mineral cargoes with particle sizes in this range are likely to exhibit flow properties unless they are shipped effectively dry.

If shipped with significant inherent moisture, they should be treated as group A cargo under the IMSBC Code, which is a cargo that may liquefy. Such cargoes should only be accepted for loading with a shippers' declaration of moisture content and transportable moisture limit (TML), following the requirement for group A cargoes under the code.

Chrome concentrate also exhibits the properties of a 'wet base' cargo, which means that its inherent moisture content gradually settles downwards over the course of an ocean voyage, leaving the bottom cargo much wetter than at the time of loading. This can result in the cargo closest to the tank top being at risk of liquefaction even if the average moisture content of the entire cargo at the time of loading is below the TML, forming a dangerous wet base on which the drier surface cargo may slide (see paragraph 7.2.3 of the IMSBC Code).

In addition to India and Turkey, cargoes of chrome concentrate with very fine average particle size are being shipped from open stockpiles from South Africa, and possibly other parts of the world. Cargoes may contain excessive inherent moisture if there is insufficient drying

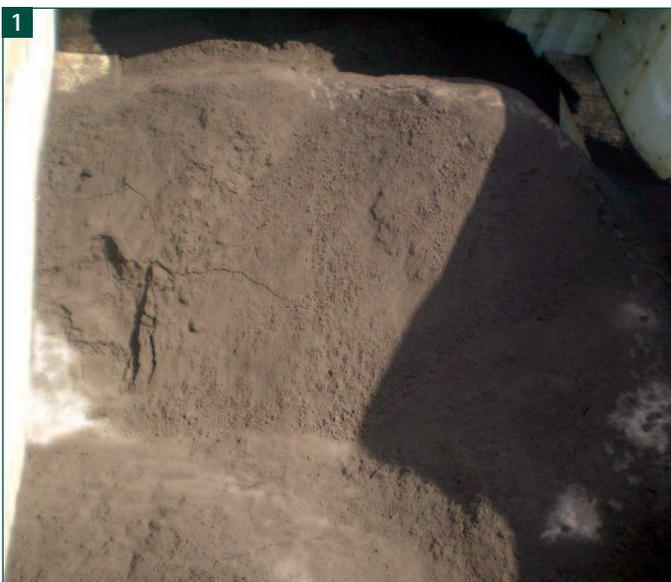
time between production and loading, and/or if the stockpiles have been exposed to rain prior to loading.

Guidance for ship owners

Ship owners and operators involved in carrying chrome ore cargoes are thus advised to:

1. Load cargoes of chrome concentrate only with a valid certificate of TML and moisture, unless the shipper can demonstrate there is no significant inherent moisture or that the cargo does not possess flow properties even if wet (see appendix 3 of the IMSBC Code).
2. Carry out can-tests on the cargo presented for loading in accordance with section 8 of the IMSBC Code if the master has any doubt about the properties, appearance or moisture content of the cargo presented for loading. If free moisture or a fluid condition appears, further laboratory tests should be conducted before the cargo is accepted for loading.
3. Trim the cargo reasonably flat on completion of loading to minimise the potential consequences of the formation of a wet base, in accordance with section 5 of the IMSBC Code.

The Club is grateful to Martin Jonas of Brookes Bell for providing this article. Telephone: +44 151 236 0083, website: www.brookesbell.com





Carriage of unsafe cargoes

There have been a number of serious incidents recently where vessels have experienced cargo liquefaction leading to loss of stability and capsizes. Cargoes such as iron ore fines, nickel ore, mill scale, fluorspar, iron ore concentrates and others may all give rise to such problems.

The battle to keep ships safe from liquefying cargoes is now being fought at the charterparty fixing stage, as well as during loading. Indeed, North has recently seen instances of charterparty clauses seeking to place the burden of cargo safety on owners or even to have owners contract out of their rights under the International Maritime Solid Bulk Cargoes Code (IMSBC Code).

The common elements of the potentially dangerous clauses are

- that the shipper's cargo declaration is to be considered final and binding upon the master
- to limit the master's right to see analysis certificates supporting the cargo declaration
- to limit the master's right to check cargo before and during loading
- to limit the owner's right to appoint the surveyor or expert of its choice to assist the master
- to limit the master's right to reject unsafe cargo
- to make the owner liable for the consequences of rejecting unsafe cargo
- to limit the owner's right to claim damages if the shipper is unable to provide a safe cargo
- to limit the owner's ability to recover costs of survey and expert assistance.

Dangers of contracting out

The Club reminds all owners that compliance with the IMSBC Code is mandatory under the terms of the International Convention for the Safety of Life at Sea (SOLAS). Failure to comply with the IMSBC Code is, therefore, a breach of SOLAS and may prejudice P&I cover.

If Members have, for some reason, agreed to a clause limiting their rights to protection under the IMSBC Code, they may be liable for the charterer's costs arising and/or having a ship placed off-hire when complying with SOLAS and IMSBC Code obligations.

North has extensive experience in dealing with loading potentially dangerous cargoes and is happy to assist owners in appointing surveyors and experts to assist the master. A combination of competent local surveyors and international cargo experts is a prudent arrangement for protecting owners and masters.

The Club has drafted a clause for insertion in charterparties which reinforces an owner's right to insist on full observance of the IMSBC Code and placing all matters related to such observance upon charterers. Members should contact their usual contact at the Club for a copy of the clause.

Members can obtain comprehensive advice about the carriage of cargoes likely to liquefy from the Club's loss prevention briefings and industry news service on its website:

www.nepia.com/loss-prevention/publications-and-guides/loss-prevention-briefings/

www.nepia.com/publications/industry-news/listing/

Keeping Brazilian charts up to date

Surveys carried out on vessels trading on the Brazilian coast have found that many of them are using out-of-date Brazilian charts. This applies particularly within the Amazon River, where only Brazilian charts are available. Furthermore, the charts are sometimes supplied to the ships without up-to-date corrections and, even when landed with agents for correction, the latest corrections are often not applied.

Brazilian charts are regularly updated with weekly notices published by the Brazilian Diretoria de Hidrografia e

Navegação. All corrections are available in Portuguese and English and it would be prudent for ship operators to arrange for these corrections to be forwarded to any of their vessels concerned. It is recommended that the initial corrections sent commence from the edition date of each chart to ensure the charts are correctly updated.

Brazilian chart corrections can be downloaded in Portuguese and English from the Centro de Hidrografia da Marinha website: <https://www.mar.mil.br/dhn/chm/avgantes/english/index.htm>

Port state control hot-spots

North has published the fifth in its series of 'hot-spots' sheets, this time on port state control. The sheets are not checklists – they aim instead to provide practical hints and tips to help avoid incidents, claims and port state control detentions and deficiencies, or help to prepare for inspections and surveys. They are designed to be readily available where they can provide a quick reference to all.

The issues identified in the new sheet come from the recent experience of the Club's loss-prevention and survey departments in assisting shipowner Members deal with port state control incidents. In many cases, problems seem to arise more from a simple failure to manage situations effectively and be assertive when equipment appears to be defective.

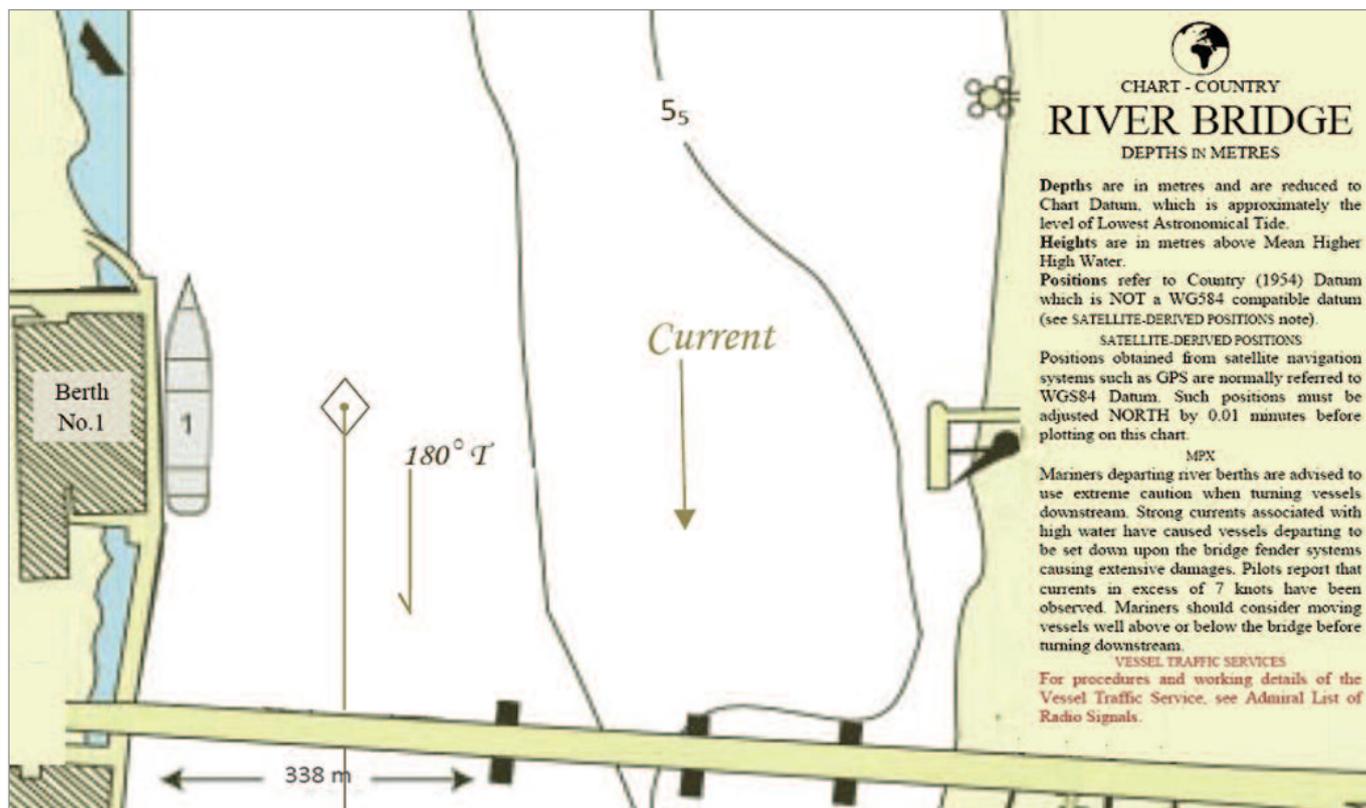
Ship operators should carefully consider the benefits of a proactive voluntary disclosure policy, informing port state control inspectors of all known deficiencies rather than allowing them to be found by the inspectors. The principle of voluntary disclosure is officially encouraged by the US Coast Guard and can avoid fines in other port states.

A copy of Port State Control Hot Spots is enclosed with this issue of Signals for Members and entered ships. A high resolution version, suitable for printing, can be viewed or downloaded from the Club's website: www.nepia.com/loss-prevention/publications-and-guides/forms-and-checklists/





Departing the berth – what do you think?



The International Convention for the Safety of Life at Sea (SOLAS), chapter V, regulation 34, requires that masters shall, prior to proceeding to sea, plan the passage from berth to berth. For pilotage the plan should at least give a basic indication of preferred intent. But in practice what does that mean for masters faced with getting their ships away from the berth and safely on passage? This is a question North wishes to put to Signals readers by asking for responses to a case study.

What do you think?

What do you consider to be the most prudent course of action for the master and why? Please submit your suggestions

Case study

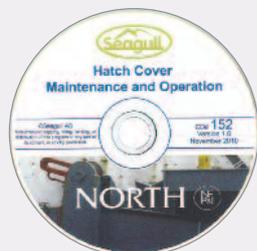
A loaded 54 000 GT tanker, 244 m long, is ready for departure from the berth at a northern hemisphere port. The ship is moored port-side to the berth with bow facing up-river, the draught is 13.56 m, the current is ebbing at 3 knots and the wind is force 3 to 4 from the west.

in confidence to the Club's loss-prevention department (contact details right). In the next edition of Signals (84) a risk assessment of the situation will be discussed – identifying the hazards and the likely consequences without adequate control measures.

Three tugs are standing by and the pilot has just arrived on the bridge. The pilot and master discuss a plan to use the three tugs to turn the ship's bow down-river from the dock. The pilot assures the master this is standard procedure. The master takes a moment to look at the chart (see chart extract) and check his berth-to-berth passage plan.

Suggestions should be sent by fax or email to Andrew Kirkham at the Club's loss-prevention department: fax: +44 191 261 0540, email: loss.prevention@nepia.com. All solutions submitted that match the decision taken by a panel at the Club will be entered into a prize draw.

New hatch cover training module



North is pleased to enclose a computer-based training module on hatch cover maintenance and operation with this issue of Signals for all dry-cargo Members and their entered ships.

The stand-alone module is produced by Seagull AS, which is a leading provider of computer-based training systems for seafarers worldwide. The company offers a comprehensive library of training and onboard courses for regulatory compliance and improved seafarer knowledge.

The module is the latest in a comprehensive series of publications offered by the Club on the subject of hatch covers that includes a loss-prevention briefing, a 'hot-spots' information sheet and the loss prevention guide Hatch Cover Maintenance and Operation.

Details of all North's loss prevention publications are available from the Club's website: www.nepia.com/loss-prevention/publications-and-guides/



ECDIS: the risks of over-reliance

As the number of vessels being fitted with electronic chart display and information systems (ECDIS) increases in advance of the International Maritime Organization mandatory implementation dates, the risk of ECDIS-related incidents may also increase. Comprehensive approved training for watchkeepers and robust onboard procedures are required to ensure the risk of ECDIS-related incidents are minimised.

It is very easy for navigating officers to be drawn into relying solely on the information provided by the ECDIS system as it appears to provide all the information needed to navigate the ship safely and to a high degree of accuracy. As systems are further developed and manufacturers integrate additional inputs into the ECDIS, the temptation to rely solely on the equipment may increase.

However, in cases where the system is not set up and operated correctly, critical information can be removed from the display or may not appear within the visible screen area if a suitable scale has not been selected.

Maintaining situational awareness

To maintain full situational awareness and ensure the safe execution of the voyage, the watch-keeper must verify the information displayed and should use the ECDIS in conjunction with all other available independent sources of information. This should include traditional methods of navigation and collision avoidance, such as visual observation of traffic and navigational marks.

Good situational awareness requires the watch-keeper to use all available sources of information continuously to develop a clear picture of what is going on all round the ship, the effect this will have on the ship and the actions which are required to avoid incident. The watch-keeper must be able to interpret and apply the information correctly and question its accuracy – a skill which only comes with training and experience. By using and correctly interpreting multiple sources of information, the watch-keeper can develop a clear picture on which decisions can be based.

When ECDIS is setup and used correctly in conjunction with traditional navigational skills and other available sources of information, navigators are provided with real-time positional information and anti-grounding alarms, which provide advance warning of hazards. This should reduce the risks of a navigation incident occurring while ensuring watchkeepers have sufficient capacity to concentrate on collision avoidance.

ECDIS is another tool which navigators have at their disposal – not a replacement for the skills and practices which have been developed to ensure safe navigation.



Enforcement of arbitration awards

The great majority of charterparties and other contracts provide for any disputes to be settled by arbitration. But sometimes winning an arbitration and obtaining an award is only half the battle – the struggle can start again when it comes to enforcing the award if the losing opponent does not satisfy it voluntarily.

Many countries are parties to the New York Convention on Recognition and Enforcement of Foreign Arbitration Awards 1958. This provides that foreign arbitration awards are to be recognised and enforced in all states party to the convention. Recognition and enforcement can only be denied on very narrow grounds, such as a lack of proper notice of arbitration proceedings to the party against who the award has been made.

The underlining intention of the convention is that, to a great extent, the recognition and enforcement of foreign arbitration awards should be a simple and

straightforward process, and not involve effectively having to litigate the dispute again before the courts of the state where the award is to be enforced. The convention also seeks to ensure there should be consistency of approach from country to country.

Fresh action often still needed

If a state is not party to the convention, recognition and enforcement of a foreign arbitration award depend on national law and, in some cases, agreement about enforcement between countries or bilateral treaties. It is not uncommon where the convention does not apply to have to start a fresh action in the courts of that state.

Even where the convention does apply, there have unfortunately been cases in some jurisdictions where the courts have refused to recognise and enforce an arbitration award on the basis of wider grounds than allowed by the convention.

In some cases the courts have applied legislation that applies only to domestic arbitrations and is inconsistent with the convention. On occasions this has led to the dispute being litigated afresh before that country's courts.

Advice for Members

Members should therefore not simply assume that any arbitration award they may obtain will automatically or easily be enforceable, even if it is likely to be enforced in a country that is party to the convention.

Therefore, before concluding the relevant contract, Members may wish to check the position in the local jurisdiction (probably the one where their contractual partners are based) and whether any particular wording should be used in the choice of law or jurisdiction clause to be included in the contract.



New briefing on trade sanctions

North have published a new loss-prevention briefing for Members to help them avoid breaching the complex overlapping trade sanctions imposed on Iran by the UN, EU, USA, Canada, Australia, South Korea and Japan. Being found in breach of any of these sanctions could seriously affect a Member's ability to continue trading.

Trade sanctions are at the forefront of modern diplomacy, putting international pressure on regimes and countries seen to be acting unacceptably – for example with regard to nuclear weapons, civil wars or human rights abuses. They target a particular part or the whole of a country's economy, and any breaches by businesses can result in severe penalties.

Patchwork effect

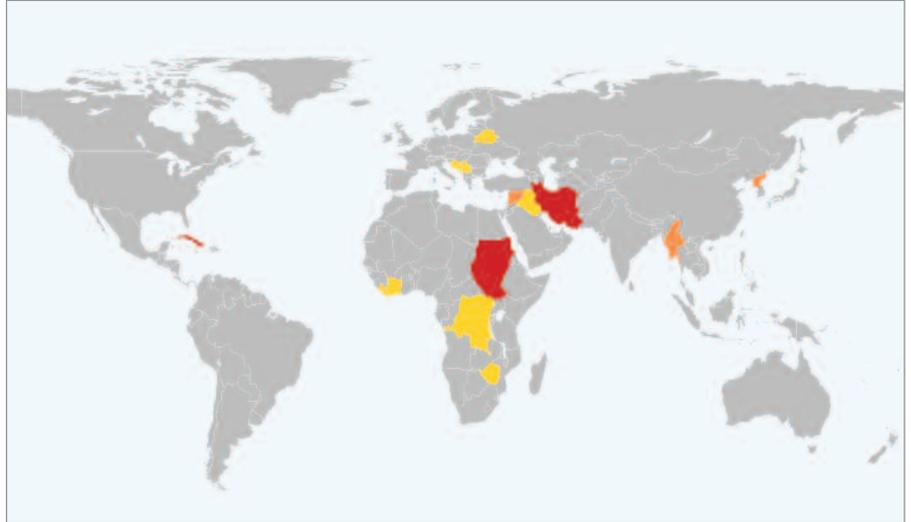
Sanctions can be imposed by individual countries or by supranational bodies such as the UN and EU. However, this can result in a patchwork effect that makes it difficult to know exactly what sanctions apply to what goods in a particular state. This is a particular problem for the global shipping industry, which is often involved in the sea transport of goods from one country to another with no real legal connection to either.

An additional issue for the container trade is that carriers are wholly reliant on shippers stating truthfully the contents of their boxes. Furthermore, the often complex web of contractual agreements involving ships and cargo can obscure entities that may be subject to sanctions.

Ignorance not a defence

Sanctions can therefore be a major problem for vessel operators. Generally governments or supranational bodies

Countries with US Sanctions in place



Targeted

Affects specific industries or country officials via the treasury Department's Designated Nationals List.

- Balkans
- Belarus
- Congo
- Iraq
- Ivory Coast
- Lebanon
- Liberia
- Zimbabwe

Limited

Generally restricts U.S. imports, but some exports unrelated to financial services are allowed.

- Myanmar
- North Korea
- Syria

Comprehensive

Covers most imports, exports and financial transactions.

- Cuba
- Iran
- Sudan

that impose trade sanctions expect international trading companies to be aware of them and to have taken steps to ensure they are not in breach. Unfortunately ignorance is no defence.

Members thus need to be able to produce evidence showing they have carried out due diligence to ensure that any sanctions have been complied with. The table above may be of assistance in carrying out due diligence in relation to sanctions.

Ship operators are expected to know what sanctions apply, to whom they apply and to what cargoes they apply. However, this is not always readily apparent, even after due diligence has been carried out. If a Member is in any doubt they should seek appropriate legal advice before proceeding with a trade.

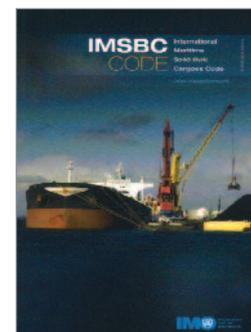
North's loss-prevention briefing on the Iranian sanctions can be found on its website: www.nepia.com/loss-prevention/publications-and-guides/loss-prevention-briefings/

IMSBC Code: Update your charterparties

The International Maritime Solid Bulk Cargoes Code (IMSBC Code) became mandatory under the International Convention for the Safety of Life at Sea (SOLAS) on 1 January 2011, replacing the Code of Safe Practice for Solid Bulk Cargoes (BC Code).

Many charterparties include clauses dealing with prohibited cargoes or the carriage of dangerous cargoes.

These usually refer to the International Maritime Dangerous Goods (IMDG) Code and/or BC Code. When fixing a new charterparty, Members should thus review such clauses and any references to the BC Code should be removed and replaced with a suitable reference to the IMSBC Code.





'Without prejudice' – use with care

The legal expression 'without prejudice' is often misunderstood and misused, and frequently does not give the protection some users believe it provides. It is also sometimes confused with 'off the record'.

'Without prejudice' allows parties to communicate in the confidence that their exchanges will not have to be disclosed in evidence. However, it only applies to communications, either spoken or written, that are genuinely aimed at settling a dispute; the intention of the message has to be looked at, not just the 'without prejudice' label.

The without-prejudice 'privilege' is recognised because parties are more likely to settle a dispute amicably if they know that what they say or write during negotiations cannot be used against them in court at a later date. If a communication is not intended to advance settlement, it cannot be treated as without prejudice.

However, not all communications aimed at genuinely settling a dispute are subject to the without-prejudice rule. A number of exceptions should be taken into account, and these were discussed in detail in the English Supreme Court case *Oceanbulk Shipping and Trading SA v. TMT Asia Ltd and others* [2011] 1 Lloyd's Rep. 96.

Exceptions to the rule

The main exceptions to the without prejudice rule are as follows

- **Rectification and interpretation** – either party may rely upon without-prejudice communications to show that a settlement agreement does not reflect the parties' true intentions and that it should be changed or rectified. If there is a dispute over the true meaning of a term in a settlement agreement, without prejudice communications can be disclosed to interpret the true meaning.
- **Existence of settlement and estoppel** – without-prejudice communications can be disclosed to show that the parties

reached a settlement agreement. They can also be used to assess whether the parties acted reasonably. If, during without prejudice negotiations, a clear statement is made which was intended to be, and was, relied upon by another party, that statement may be disclosed to show that the party relied upon it to their detriment.

- **Costs** – without-prejudice privilege generally ends when the claim is completed. The successful party can then rely on without prejudice communications when asking for costs.
- **Delay** – if a defendant applies to have a case dismissed on the basis of excessive delay, without prejudice communications may be disclosed by lay.
- **Fraud, misrepresentation and blackmail** – without prejudice communications may be disclosed to prove perjury, blackmail or some other wrongdoing. They may also be disclosed to show that a settlement agreement should be set aside because of misrepresentation, fraud or undue influence.

Summary

The without-prejudice rule in English law gives parties the opportunity to speak frankly to try and settle a dispute amicably, without the fear that their statements may be used against them at a later stage. But the protection is not absolute and there are several circumstances where without prejudice communications can be disclosed.

The golden rule is never to say anything without prejudice that you would not be prepared to say in open court!

Finally, without-prejudice privilege should not be confused with 'off the record', which is an expression used by journalists to protect their sources. 'Off the record' has no status in law, in claims handling or in settlement discussions – and is dangerous because it suggests that the communication is deniable.

ILO update

MLC implementation

The International Labour Organization (ILO) Maritime Labour Convention (MLC) consolidates and updates 68 existing ILO conventions and recommendations, to introduce internationally agreed minimum standards for conditions of employment, accommodation, health protection and social security of seafarers. The convention will enter into force 12 months after the date on which there have been registered ratifications by at least 30 ILO member states with a total share in the world gross tonnage of ships of 33 per cent. To date only 11 have ratified the convention. EU member states are working towards ratifying the convention during 2011. Once the EU states ratify the convention it will meet its entry into force criteria. It is now thought that mid to late 2012 is the most likely date range for the convention to enter into force.

Ships of 500 GT and over will be inspected every three years, according to guidelines for flag state inspections under the MLC. An ILO member state shall require ships that fly its flag to carry and maintain a maritime labour certificate certifying that the working and living conditions of seafarers on the ship have been inspected and meet the requirements of national laws or regulations or other measures implementing the convention. Such ships shall carry and maintain a declaration of maritime labour compliance stating the national requirements implementing the convention for the working and living conditions for seafarers and setting out the measures adopted by the shipowner to ensure compliance with the requirements on the ship or ships concerned.





IMO update



IAMSAR

In keeping with decisions taken by the International Civil Aviation Organisation and the International Maritime Organization (IMO) sub-committee on radio communications and search and rescue, the IMO maritime safety committee approved amendments to the International Aeronautical and Maritime Search and Rescue (IAMSAR) manual in May 2010. Amendments become applicable on 1 June 2011 and revised editions of IAMSAR should be carried on board from this time. (See IMO circular MSC.1/Circ.1367)

Discharge of hold-washing water in the Gulfs area, Mediterranean and Caribbean

Discussions at the IMO marine environment protection committee in July 2009 considered the problems associated with disposal of cargo hold-washing water from bulk carriers in accordance with the current requirements of the International Convention for the Prevention of Pollution from Ships (MARPOL), annex V. The committee agreed that an appropriate solution should be developed until suitable amendments to annex V have entered into force.

- Cargo hold-washing water, containing the remnants of any dry cargo material, generated in connection with a ship cleaning its cargo holds should not be treated as garbage under MARPOL annex V within the Gulfs area and the Mediterranean.
- Such cargo hold-washing water may be discharged at a greater distance than 12 nautical miles from shore within these areas. Cargo residues in the washing water must not originate from a cargo material that is classified as a marine pollutant in the International Maritime Dangerous Goods (IMDG) Code.

Guidelines for the implementation of MARPOL, annex V, state that such cargo residues are expected to be in small quantities. In accordance with the provisions of IMO resolution MEPC.191(60), the discharge requirements for special areas for the wider Caribbean region special area in accordance with MARPOL, annex V, regulation 5, take effect on 1 May 2011. (See IMO circular MEPC.1/Circ.675/Rev.1).

Use or carriage of oils in the Antarctic

A new chapter 9 to MARPOL annex I will see the carriage in bulk and use of heavy grade oils prohibited in the Antarctic area from 1 August 2011. Such oils include crude oils having a density higher than 900 kg/m³ at 15°C, other oils having a density higher than 900 kg/m³ at 15°C or a kinematic viscosity higher than 180 mm²/s at 50°C, and bitumen, tar and their emulsions. Exceptions will apply to vessels engaged in securing the safety of ships or in a search and rescue operation. (See IMO circular MEPC.189(60)).

North American emission control area

Amendments to MARPOL, annex VI, regulations 13 and 14, include the addition of a new emission control area (ECA) – the North American ECA – which comes into force on 1 August 2011. Regulation 14.7 of annex VI states that ships operating in the North American ECA are exempted from the requirements for sulphur oxide and particulate matter during the first twelve months after entry into force making the effective date 1 August 2012. A new appendix VII to annex VI contains the coordinates of the geodesic lines enclosing the relevant sea area. (See IMO resolution MEPC.190(60)).

IMO anti-piracy action plan

In a message to member states and other organisations following the launch of its anti-piracy action plan on 3 February 2011, IMO stated that failure to implement IMO guidance fully, including industry-developed best management practices, significantly increases the risk of successful pirate attacks. In circular letter number 3164 dated 14 February 2011, IMO identified six prime objectives for 2011 and beyond

- to increase pressure at the political level to secure the release of all hostages being held by pirates

- to review and improve IMO guidelines to administrations and seafarers and promote compliance with industry best management practices and the recommended preventive, evasive and defensive measures ships should follow
- to promote greater levels of support from, and coordination with, navies
- to promote anti-piracy coordination and co-operation procedures between and among states, regions, organisations and industry
- to assist states to build capacity in piracy-infested regions of the world, and elsewhere, to deter, interdict and bring to justice those who commit acts of piracy and armed robbery against ships
- to provide care, during the post traumatic period, for those attacked or hijacked by pirates and for their families.

The letter goes on to describe reports from naval forces operating in the area identifying, 'an unacceptably high proportion of the ships transiting the Gulf of Aden are not registered with the Maritime Security Centre Horn of Africa, are not reporting to the UK Maritime Trade Operations office, show no visible deterrent measures and are not acting upon the navigational warnings to shipping promulgating details of pirate attacks and suspect vessels.'

Ship operators are strongly urged to take action to ensure that ships' masters receive updated information unfailingly and that all the recommended preventive, evasive and defensive measures are fully and effectively implemented.

Bridge watch alarms

As reported in Signals 82, electronic chart display and information systems (ECDIS) have been approved for use in lieu of paper charts and will become mandatory during a phasing-in period from 1 July 2012 to 1 July 2018.

Bridge navigational watch alarm systems (BNWAS) must also be fitted and operational whenever a ship is underway at sea. Commencing 1 July 2011 for new cargo vessels in excess of 150 GT and all new passenger vessels, phased application will apply through to 1 July 2014 for existing cargo ships of 150 GT or more. (See IMO resolution MSC.282(86)).

Talking shop

Getting a dressing down for being three sheets to the wind

Sailors returning from shore leave in a drunken state can be described as 'three sheets to the wind'. This phrase, still in common English usage, is nautical in origin and refers to a sailing vessel's sheets (the ropes controlling the sails) being loose, resulting in the sails flapping and the vessel behaving in a generally unsteady way.

A sailor reporting for duty when three sheets to the wind is also likely to receive a 'dressing down' at the very least, though this had nothing to do with clothing. In the days of sail, dressing down was the process of treating old worn sails with oil or wax to improve their effectiveness. Therefore, when a sailor was given a severe talking to with the intention of

improving his performance, this too became known as a dressing down.

However, the phrase may soon be lost as the modern practice of attending work in casual clothing is becoming the more common, albeit prosaic, usage for dressing down.



Residential training courses in 2011



North's popular annual residential training course in P&I insurance and loss prevention will take place again this year at Lumley Castle and other venues near Newcastle upon Tyne, UK. There are several options for those attending the course, which runs from Friday 10 June to Friday 17 June, including an introductory weekend to ships and shipping, followed by a full one-week course on P&I insurance.

As usual, demand for places has been very high and the June 2011 course is full at the time of going to press, with a waiting list in operation. However, Members' staff wishing to attend one of the Club's

residential courses can register their interest for a similar course being held in Singapore from 17 to 21 October 2011 or for the 2012 course in the UK, details of which will be announced nearer the time.

Members wishing to register an interest in the 2011 residential course in Singapore should contact Elizabeth Err in the Club's Singapore office. Email: elizabeth.err@nepia.com

Members wishing to register an interest in the 2012 residential course in the UK should contact Denise Huddleston in the loss-prevention department. Email: denise.huddleston@nepia.com

In-house loss-prevention service

In 2010 staff from North's loss-prevention department provided in-house seminars and visited almost 100 Members as part of its in-house loss-prevention service.

The service resumed in January 2011 with Andrea Skeoch and Andy Glen travelling to Copenhagen, Denmark, together with Martin Jonas from Brookes Bell, to deliver a number of talks to Members about the International Maritime Solid Bulk Cargoes (IMSBC) Code – including its mandatory application and some of the teething troubles being experienced by owners and charterers since 1 January 2011.

The talks held in the offices of North Members DS Norden AS and Clipper Bulk AS were attended by approximately 60 delegates from the companies' technical, chartering and operations departments.

January also saw Andy travel to Odessa, Ukraine, to participate in a crew seminar organised by Cypriot Member Interorient Navigation Co Ltd. Over two days, 30 senior officers discussed a wide variety of topical issues including risk assessment, the IMSBC Code, pilotage and bridge team management.





North smartphone 'app' launched

North has launched its first smartphone application or 'app' to enable Members to easily find and contact North staff directly from their smartphone. The North 'contacts' app is based on the Club's Who's Who publication and provides easy-to-find contact details for individual staff members and North's offices around the world.

The app is currently available for Blackberry handsets. Similar apps for

iPhones and smartphones using Google's Android operating system will be available soon.

Future developments will include applications to enable Members keep up to date with North's industry news service and club circulars.

North's smartphone 'contacts' application can be downloaded from its website: www.nepia.com



Signals Search 27 ?

Questions

- 1 Which code regulates the safe carriage of bulk cargoes?
- 2 What comes into force off North American on 1 August 2011?
- 3 About what does North's new app provide information?
- 4 What international trade restrictions should ship operators be careful not to breach?
- 5 What insects have existed for over 300 million years?
- 6 What is a triangular thickening of the outer coating of the eye?
- 7 What without expression is sometimes misunderstood?
- 8 Which new alarm system will need to be operational whenever a ship is underway at sea?
- 9 Which ore cargo is likely to liquefy?
- 10 Which type of award may be difficult to enforce?

C P W T S O S S X I W E D G S
 B T W H E C A E E I S P V T N
 S E I S H A G A Y E B A O O P
 M R I S C X S E P U B H I R H
 I Y F H A P P Y E A S T E R S
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 W F H B D O G K M M U F I H K
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 X E X J K X L U N M Z N I M E

- *Signals Search* is open to all readers of *Signals*.
- Send a photocopy of your completed search, along with your name and, if appropriate, name of ship, position on board, company and address to Denise Huddleston at the Club. Email: denise.huddleston@nepia.com

- All correct entries received by the closing date will be entered in a prize draw.
- Closing date Friday 3 June 2011.

Prizes will be awarded to the first correct entry and two runners-up drawn.

Details of the winner and runners-up will appear in the next edition of *Signals*.

Answers to Signals Search 26

- | | |
|--------------|-------------|
| 1 IMSBC | 6 Helmet |
| 2 Indemnity | 7 Slush |
| 3 Evidence | 8 Paris |
| 4 Ten | 9 Ballast |
| 5 Ultrasonic | 10 Slimming |

Your copy of Signals

Copies of this issue of *Signals* should contain the following enclosures:

- Bunker Claims Prevention, Third Edition (Members and entered ships only)
- Clean Seas poster – Garbage (Members and entered ships only)
- Computer-based training module – Hatch Cover Maintenance and Operation – (Members and appropriate entered ships only).
- Port State Control Hot Spots – (Members and entered ships only)
- Signals Experience case study – Watch your waste (Members and entered ships only)

Signals Search 25 Winners

Winner:

Ducovnee Vergel P Dumaquit, RUBY
 Marine Trust Limited

Runners-up:

Captain Sachin Chandra, Master MAHARSHI BHARDWAJ
 Varun Shipping Company Ltd

M A Arun Kumar, Master ESPERANCE BAY
 Pacific Basin Shipping (HK) Ltd

In this publication all references to the masculine gender are for convenience only and are also intended as a reference to the female gender. Unless the contrary is indicated, all articles are written with reference to English Law. However it should be noted that the content of this publication does not constitute legal advice and should not be construed as such. Members with appropriate cover should contact the Association's FD&D department for legal advice on particular matters.

The purpose of the Association's loss prevention facility is to provide a source of information which is additional to that available to the maritime industry from regulatory, advisory, and consultative organisations. Whilst care is taken to ensure the accuracy of any information made available (whether orally or in writing and whether in the nature of guidance, advice, or direction) no warranty of accuracy is given and users of that information are expected to satisfy themselves that the information is relevant and suitable for the purposes to which it is applied. In no circumstances whatsoever shall the Association be liable to any person whatsoever for any loss or damage whensoever or howsoever arising out of or in connection with the supply (including negligent supply) or use of information (as described above).

NORTH



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