

North of England grows to 39 million GT at renewal

Recent difficulties in the P&I market, disappointing underwriting results across the International Group of P&I clubs, plummeting club investment returns, the hardening reinsurance market and the necessity of some Group clubs to make additional supplementary calls meant that the 2002 P&I renewal was always going to be difficult for everyone in the industry.

It was clear early in the renewal season that the Group clubs would seek significant general and record-based increases together with adjustments for increased reinsurance costs. The North of England was no exception and the board of directors declared a general increase of 25% - about the Group average.

Despite the difficult conditions at renewal, the managers and staff are delighted to report excellent and continued Member support together with increased tonnage from existing and new Members. A total of 32 existing Members put additional tonnage into the Club, amounting to 2.2 million GT. A further 2.3 million GT of shipping was entered by 36 new shipowners based as far afield as Singapore, Norway, Korea, the US, Germany, Greece, Switzerland, India and Dubai.

Additional growth during the year

The North of England also enjoyed considerable support throughout the

preceding year and was able to attract ten new Member accounts to the Club before the February renewal from shipowners in Singapore, Germany, Korea, the US, Italy, Monaco, Switzerland, Norway and Indonesia.

The net effect was that total entered tonnage of the P&I class of the North of England grew at renewal by approximately 10%, with the combined mutual and chartered entry now standing at around 39 million GT. With some 440 Member companies throughout the world, 2500 entered ships, 33 million GT of mutual entered tonnage and 6 million GT of chartered tonnage, the Club is now firmly established as one of the medium-sized International Group clubs.

As evidenced by the tonnage development graph, the Club has enjoyed consistent and controlled tonnage growth and loyal Member support for many years. The international standing of the Club has been further enhanced by the continued development of the

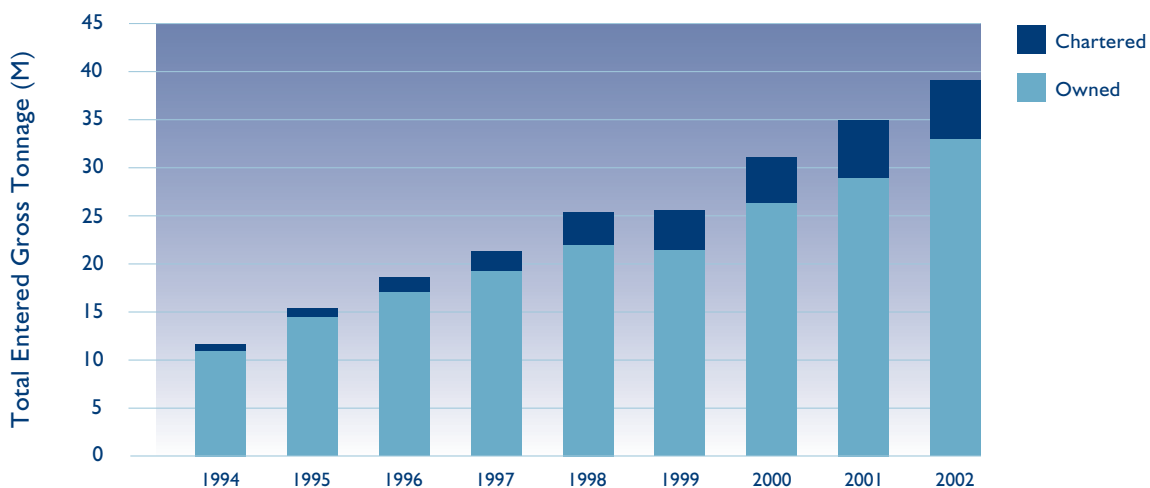
FD&D Class which now has some 23 million GT of shipping entered for FD&D cover.

Financial strength rating upgraded

The Club prides itself on the quality of service it provides to Members, and it has recently enhanced the claims teams in both Newcastle and Hong Kong to cope with the growing Membership.

A further endorsement of the North of England's growing financial strength came when the internationally recognised rating agency, Standard & Poor's, awarded an upgraded 'A- positive' rating following a recent interactive re-rating audit. The Club is the only P&I provider to be upgraded this year. The managers and staff look forward to working with both new and existing Members in the coming year, developing mutually beneficial and long-term relationships built on solid financial foundations and on a service-orientated management.

North of England Total Entered Tonnage 1994 - 2002



INSIDE:

Avoiding medical costs in Europe

Members employing crewmembers from European Union or European Economic Area countries should encourage them to carry an E111 form to facilitate free or subsidised emergency medical treatment in member states.

Unfortunately, where treatment has started prior to an E111 form being obtained, it is not always possible to recover the unnecessary and potentially high costs of the treatment. The forms and advice in relation to the scheme are generally available from health insurers within member states. It is important however, that the form obtained is from the country of which the applicant is a national.

Participating countries are all EU states (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxemburg, Netherlands, Portugal, Spain, and Sweden and the UK) plus Gibraltar, Iceland, Liechtenstein and Norway.

Asbestos related diseases

An English court has recently held that, in the case of the asbestos-related disease mesothelioma, a sufferer cannot claim damages unless he or she can demonstrate which of several employers caused negligent exposure to asbestos.

The decision of the English Court of Appeal in *Fairchild -v- Glenhaven Funeral Services Limited and others*, results from the medical evidence that mesothelioma is a condition caused by a single fibre of asbestos and is not cumulative.

It therefore follows that, even where a claimant has been exposed to asbestos by successive employers, only one of these can be responsible for the development of the disease but it is virtually impossible to be sure which. The decision has been widely criticised by claimants and their lawyers and an appeal is currently pending before the House of Lords.

In the meantime, an English court of first instance has followed the Fairchild arguments in relation to a different asbestos-related condition, plural plaques. In that case it was argued successfully that, as it was impossible to state which period of exposure with different employers caused the condition and it could not be said that each exposure had a

causative relationship, it was impossible to recover damages from any individual employer. Again, leave to appeal has been granted.

Employers' exposure reduced - but not in France

If the decisions are upheld on appeal, the exposure of employers to asbestos-related claims in English courts will be reduced as it will be difficult for claimants to prove which employer exposed them to the asbestos which actually caused ill health.

On the other hand, the French courts have recently increased the level of damages to be paid by French companies exposing workers to asbestos. The Cour de Cassation recently ruled that 29 out of 30 defendants were guilty of inexcusable fault for failing to provide workers with effective protection against asbestos.

The decision is a widening of the previous definition, which had involved a deliberate and grave misdemeanor or omission. As a result, this could significantly increase the damages awarded to claimants.

For further information please contact either Stephen Rebar or Tony Forster at the Association.

US more wary of stowaways

In recent years the US has proved to be a helpful country to shipowners in the disembarkation and eventual repatriation of stowaways. In many cases the US Immigration and Naturalisation Service (INS) has allowed stowaways to be held in cases where their travel documentation would not be ready in time to avoid ships being delayed.

However, since the 11 September attacks, the INS has been far more wary in the handling of stowaways and it is likely that less cooperation will be available unless all travel documentation has been completed, and the stowaways can be repatriated, prior to vessels leaving port.

Get stowaway details before arrival

It is therefore very important that if stowaways are discovered on board a vessel bound for the US, the Club is advised as soon as possible in order that the preliminary paperwork can be prepared. The more details that can be obtained about the stowaways

prior to arrival in the US, the better the chances of having the stowaways removed to shore.

The Association has produced a series of questionnaires which can be used to collect together the relevant information. Copies can be obtained from the loss prevention department or downloaded from the website at www.nepia.com



Assessment of Filipino clinics nearly complete

The Association is close to the end of its 3-year assessment of medical clinics in the Philippines and will soon be in a position to give comprehensive advice to Members on where they can obtain enhanced pre-employment medicals for Filipino crewmembers.

Clinics are being assessed on how well-equipped they are, on their level of efficiency

and, most importantly, on the accuracy of their findings. Investigations are being carried out in conjunction with an independent and respected English medical unit.

Although assessments are still underway, the Association hopes to provide Members with full details of those clinics considered capable of performing effective pre-employment medicals in the July 2002 issue of Signals.

For an update and further information please contact Mrs Judith Burdus at the Association.



New ships to have better access

The International Maritime Organisation is expected to adopt amendments to the SOLAS convention which will require improved inspection access to both cargo and void spaces on new ships. The new standards will apply to oil tankers of 500 GRT and over and bulk carriers of 20,000 GRT and over built from 1 January 2004.

Cargo holds will require at least two accesses from the open deck, with the accesses as far apart as practical. Where the holds are divided into tanks and subdivisions, each one will require a means of access from the deck.

Access to void spaces and double-bottom spaces need not be from the open deck but must be accessible without passing through any compartments intended for oil or hazardous cargoes.

The purpose of the amendments is to allow improved access for classification surveyors, crewmembers and others to conduct close-up structural inspections - particularly in those areas known to require careful monitoring due to their sensitivity to cracking, buckling, deformation or corrosion.

Each ship will have to carry a 'ship structure access manual' which will contain information on access to each space in the cargo area, plans showing the means of access to and within each space, technical specifications and dimensions of the means of access, locations from where each area in the space can be inspected and locations of known critical structural areas.

Further information is available from the IACS website; www.iacs.org.uk

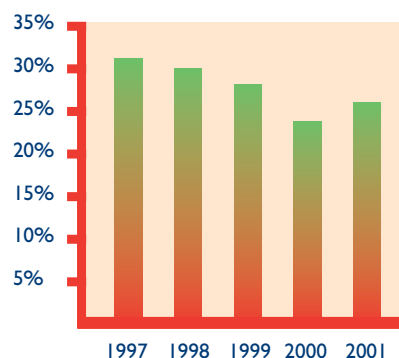
Personal injury and illness claims statistics

A review of North of England's renewals at the beginning of the 2002 policy year was outlined on the cover page. The start of a new policy year is also a good time to review some of the claims statistics from previous years.

The figures show a slight downward trend in the percentage of the number of claims involving people over the last 5 years, as shown in the chart. However, the initial figures for 2001 are similar to the figures for 2000, showing that there is no room for complacency. By far the largest group of people related claims involved crew members. About 10% of all Association claims in 2001 were for crew injury and a further 9% involved crew illness.

The introduction of the ISM Code focuses attention on the need for good safe management systems. These figures give a timely reminder to shipowners and seafarers of the need to continue developing and improving their systems.

People-related claims from 1997 to 2001 as a percentage of all claims.



Emergency telephone numbers

Members and others who may need to contact North of England staff outside normal office hours can find emergency telephone numbers of all key staff listed in various club publications and on the website.

There is also a general emergency telephone number which is permanently manned during weekends and holidays. The number is **+44 191 232 0999**.



"Always ensure a safe means of access to the vessel"

Cameroon is a fine country

A Member of the Association was recently fined US\$21,500 in west Africa for apparently not having proper cargo seals in place, despite the fact that the cargo had not suffered in any way.

The customs authorities in Douala, Cameroon alleged that the cargo seals were poorly fixed so they could have been removed and replaced without apparent damage. There was therefore a possibility of theft, it was claimed.

Despite the seals being found in position and with no sign of interference, and without any indication of shortage of or tampering with the cargo, a fine was levied at US\$58,000 and the vessel delayed for 3 days.

Though the Association was able to negotiate the fine down to US\$21,500 the Member's loss record has been adversely affected by a mere suspicion of loss, without any loss actually having been proved.

This case highlights yet again the difficulties which Members may encounter with customs and other government bodies in West Africa.



Brazil cracks down on containers

Customs authorities in Brazil have started a major operation to prevent smuggling in containers, resulting in significant delays to ships.

A team of several officers is now carrying out stringent inspections on all container-carrying vessels in Manaus to check manifests against transit cargo being discharged for on-forwarding to other parts of Brazil.

To avoid being delayed any more than necessary, Members should send their local agent a manifest for all transit container cargo before they arrive in Brazil.



Avoiding sugar loss in Brazil

Owners of ships loading bagged sugar from Vitoria in Brazil need to take special care in their dealings with the local stevedore monopoly to avoid problems with shortloading.

Cargo is generally loaded in units of 32 bags carried in a single sling. Bags found to be damaged before loading and torn bags are withdrawn from the holds with the promise from the port operator that they will be replaced with sound bags on completion of loading.

However, on completion, masters are often pressured into accepting fewer bags as replacement cargo. Bills of lading are issued for the number of bags that ought to have been loaded on board, without taking account of the rejected bags or the fact that they have not been replaced in full.

Members will be aware that many charterparties used by sugar traders provide that the owner is responsible for delivering the number of bags stated on the bills of lading and that there are few effective means of recovering from charterers for any shortloading.

Masters should be instructed to prepare a standard document to be signed by the shippers before loading agreeing that the number of torn bags will be totally replaced at the end of the loading process. This will at least give masters and owners a mechanism to force shippers and stevedores to provide the full bill of lading quantity of cargo.

Members should consider appointing a protective agent and calling in assistance from the Association at the first sign of trouble.

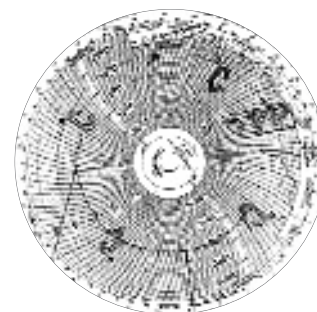
Thanks are extended to the Club's local correspondent in Vitoria for the information used in this article.



Importance of reefer logs

The pulp-temperatures and condition of frozen fish presented for loading should always be recorded by ships staff as it can provide invaluable evidence in the event of a subsequent claim.

Mates' receipts and bills of lading should also reflect the pulp temperatures found during the transshipment stage. Clauses that do not record the true temperatures and condition of the frozen fish cargo at transshipment can raise club cover issues.



Officers on board should ensure that reefer logs are kept up-to-date and maintained as per the requirements in the charter party. Proper recording and maintenance of reefer logs during the pre-cool, loading, voyage and discharge stages can assist greatly in protecting the carrier.

Accurate reefer logs can help to limit vessel liability for damage as these demonstrate efficient operation of the reefer system, sufficient cooling of cargo compartments prior to loading and maintenance of correct temperatures during the voyage.

Fake rubbers erase safety

Hatch-cover supplier McGregor has warned that non-original hatch gaskets are compromising ship safety. Even gaskets which appear to be authentic parts can be imitations which do not comply with either the manufacturer's specifications or class requirements.

Recent studies have shown that hatches are among the most vulnerable parts of a ship and failure of hatch seals has led to total loss. It is thus vital that Members only buy their gaskets from reputable suppliers.

Short-term cost savings on something so important is simply not worth the risk.



Sampling bulk liquid cargoes

If masters have any reason to believe that a bulk liquid cargo is contaminated or faulty, they should immediately ask the local P&I correspondents to appoint an independent surveyor.

Even if there is no reason to suspect any problems with a particular cargo, ships' staff should not take it for granted that any samples placed on board by shore personnel are an accurate sample of the cargo being loaded. Ships' staff should always take their own samples or at least be present to verify samples taken by shore personnel. Wherever possible, when ships' staff are obtaining samples, they should try to do so jointly with the terminal surveyor.

There are many different formal sampling protocols in use, depending on the type of bulk liquid cargo intended to be carried. However, the common themes are as follows.

Most importantly, crew should take great care when taking samples to:

- avoid coming into contact with the cargo being sampled by wearing protective gloves and safety glasses
- sample only in ventilated areas.

Six different samples needed

Ships' staff should take the following samples

- from the loading manifold at the commencement of loading each parcel
- from any test liquid passed through the pipes (e.g. a first foot or 'slop' sample)
- from the loading manifold on recommencement of loading after any stoppage for shore reasons
- of the tank contents on completion of loading - either a running sample or three individual samples from top, middle and bottom of the tank
- of the tank contents before commencement of discharge - in the same way as above
- from the discharge manifold on commencement of discharge.

It is vital that the method used should minimise the chance of cross contamination of the samples. Before use on each type of cargo, sampling equipment should be washed thoroughly with warm water and detergent, rinsed and dried. It should then be protected from dirt, dust and water.

If possible, and if there is somewhere to dispose of the 'slops' afterwards, the equipment should have a final rinse in the cargo to be sampled and be wiped clean. If sampling equipment is used more than once

on the same cargo, it should be very thoroughly wiped clean between each use.

Store samples in new glass bottles

Samples should be stored in new tinted glass bottles as the possibility of contamination from glass is virtually nil. The bottles should be closed with polypropylene or PTFE stoppers. Sample bottles should be used once only - never emptied and reused.

The correct sample quantity depends on the type of cargo and the intended use of the sample. As a general rule of thumb, individual samples should be 500 ml and representative samples, made up from individual samples, should be 1 litre.

All samples must be very carefully labelled. Ships' staff are directed to the labelling requirements set out on page 38 of the North of England loss prevention guide *Shipboard Petroleum Surveys*.

Proper storage of the samples is important. Wherever the samples are stored, they should be:

- protected from heat, vibration and light
- safe from breakage
- arranged so that individual samples can be quickly found.

Keep all sample logs and receipts

All samples, whether taken by the ships' crew or placed on board by the shore terminal, must be carefully recorded. The procedure should be to:

- enter details of all samples in a separate sampling log
- pass a list of samples taken by the crew to shore representatives or attending surveyors for acknowledgement and signature
- keep a copy of every receipt which the ships' staff may sign for samples being put on board
- obtain signed receipts which list all samples being released to anyone at all, whether surveyors, agents, lawyers, P&I correspondents or even owner's representatives.

Samples should be stored for at least 12 months, if possible, and approval from head office must be obtained before any samples are disposed of. The date of disposal should be noted in the sample log. Samples should be disposed of safely and responsibly.

The North of England loss prevention guide 'Shipboard Petroleum Surveys' written by Anthony Severn covers this topic in much more detail. Copies are available from the loss prevention department - £10 members, £30 non-members.



BIMCO introduces mediation option

BIMCO developed its standard arbitration agreement in 1998 in conjunction with the London Maritime Arbitrators Association (LMAA) and the Society of Maritime Arbitrators of New York (SMA). It was intended to function both as a free-standing clause which could be incorporated into charterparties generally and also for use with all BIMCO documents published after that date.

BIMCO has now modified the clause by introducing a framework under which parties can choose to mediate disputes already being arbitrated. The clause has been renamed: 'the BIMCO Standard Dispute Resolution Clause 2002' and has been approved by the LMAA, SMA and the Comité Maritime Arbitral de Paris.

Avoiding mediation delays

From the outset BIMCO recognised that though mediation has a valuable role to play in dispute resolution, there was a real risk that any compulsory requirement to mediate could allow a party to delay payment of a genuine claim.

Inspired by the new English High Court procedures, BIMCO adopted a formula which gives the tribunal limited powers to oversee the mediation (for example to appoint a mediator where the parties cannot agree) and, more importantly, allows the tribunal to penalise the party in costs where that party has unreasonably refused to mediate.

The new clause thus gives the claimant another weapon with which to persuade a defaulting party to pay - the threat of paying additional costs if it refuses to mediate - while preserving the ability of the party claiming compensation to pursue the claim through arbitration without unnecessary delay to those proceedings.

How the new clause works

The new clause provides that parties are free to mediate disputes between themselves before the commencement of arbitration proceedings but the particular provisions of the clause apply only when an arbitration is already underway.

It allows a party to request that a dispute be mediated by the service of a notice. The other party then has the option to either agree to mediate or to refuse. The risk that party runs where it refuses is that, if the tribunal subsequently determines that it was reasonable to accept the other party's invitation to mediate, the party which refused may be penalised in costs.

The clause itself does not provide a set of rules or procedures under which the mediation should take place. The parties will therefore have to use the rules provided by organisations such as CEDR, the ADR Group or the LMAA under which to conduct the mediation.

The clause expressly provides that the mediation will not delay the arbitration

process. Nevertheless it allows the tribunal to adjust the timetable of the arbitration to take account of the fact that the matter is being mediated. In normal circumstances one would expect the parties to suspend the arbitration while the mediation takes place.

Questions over penalties

BIMCO should be congratulated for attempting to draft a clause which encourages settlement whilst penalising a party attempting to avoid its contractual obligations. Quite how a tribunal will use its powers to penalise a party which fails to accept the offer to mediate remains to be seen.

The LMAA at least has the London High Court to look to for guidance. The practice of the SMA and other arbitration centres is more difficult to predict.



Are forum selection clauses enforceable against in rem claims?

US courts have recently refused to enforce forum-selection clauses in bills of lading contracts if the foreign forum does not recognise the concept of an 'in rem' (non in personam) claim against a vessel. This means more claims against ships are likely to be retained in the US even though 'in personam' claims against owners are allowed to go elsewhere.

US maritime law recognises the validity of forum-selection clauses in bills of lading governed by the US Carriage of Goods by Sea Act (COGSA), provided the clause is mandatory. But the clause will not be recognised if

- it can be shown by the objecting party that it is unreasonable and invalid
- it would lessen cargo interests' rights under COGSA
- it has been waived by the party seeking to enforce it.

However, enforcement of forum-selection clauses in the context of in rem claims has recently come under scrutiny. Cargo interests have argued, successfully in a growing number of cases, that forum-selection clauses should not be enforced in circumstances where a foreign forum does not recognise an in rem claim against a ship. They argue that

this lack of in rem liability lessens cargo interests' rights.

Situation still not clear

The issue is by no means settled. Only one US appeal court has so far addressed the matter and landed on the side of enforcing the forum-selection clause concerning an in rem claim, even though the forum in question did not recognise such claims.

Members should thus be aware that the existence of a foreign forum selection clause probably does not serve as a ground to vacate an arrest or attachment proceeding in the US. Therefore a letter of undertaking given as a substitute for a ship may remain in place to secure the in rem claim.

A number of Courts have also refused to vacate an attachment on the basis of a foreign forum selection clause. These courts found that the attachment was essentially for purposes of security and the existence of a foreign forum selection clause in the governing contract should not deprive the claimant of the ability to obtain security for the claim.

The Association is grateful to Lyons, Skoufalos Proios and Flood, New York for the information contained in this article.

Laytime - vessel to be ready and available to load/discharge even if berth not available

In *Stolt Tankers Inc -v- Landmark Chemicals SA* (the "Stolt Spur"), the English courts recently considered the extent to which laytime/demurrage continued to run/accrue when the vessel was unable to reach her intended berth under one charter because of congestion and therefore used the waiting time to carry out cargo operations under other charters.

The "Stolt Spur" arrived at the discharge port on 3 September and tendered NOR. However, the berth was unavailable due to congestion and did not in fact become available until 20 September.

Whilst waiting for the berth, the vessel spent 7 days discharging another part cargo under a different charter and tank cleaning. She spent a further day loading another cargo for other charterers.

Even though the vessel could not have discharged in any event, due to congestion, the Court held that the owners, in using the vessel for their own purposes, had prevented the vessel from being available for discharge. The Court found that this was the cause of the delay in discharge and therefore laytime/demurrage did not run/accrue under the charter in question during those periods that the vessel was engaged in cargo operations under other charters.

Port state control re-inspections and complaints

Members unfortunate enough to have a ship detained by the UK's Maritime and Coastguard Agency should be aware of the possibility of additional delays resulting from the re-inspection process.

If a ship is subject to detention it will only be cleared for sailing following a successful re-inspection. However, according to the MCA's service standards they are obliged only to commence surveys within 3 working days of receipt of a valid and fully documented application although they do try to do so well within that time.

In order to avoid extra delays, which could be significant over a weekend or holiday period, members should thus take care to ensure that a request is made in good time and that the paperwork is properly prepared and the appropriate fee paid.

In the event of a complaint it is possible to speak to the appropriate chief surveyor or regional manager. If that does not resolve the problem straight away, the matter can be referred to the chief executive at the Agency's head office. If that still does not result in a suitable outcome, reference can be made to an independent adjudicator.

Keep tendering notice of readiness

A recent case in the High Court in London has again emphasized the importance of masters tendering a valid notice of readiness if laytime is to commence. It also re-emphasises the practical importance of tendering a fresh notice of readiness and, if necessary, continuing to tender further notices without prejudice to any earlier notice if there is any doubt about their validity.

The *Mass Glory* was to discharge a cargo in China. Because of a breach of contract by the charterer concerning cargo documents, the ship was unable to berth for two months and remained at anchor. The owner was entitled to damages for detention for the time the ship was delayed but there was a dispute about the counting of laytime.

The charterparty did not permit the master to tender notice of readiness anywhere other than at the berth. However, the master had tendered a notice on arrival at the anchorage and no further notice was tendered.

Two months delay but no laytime

The original notice was held to be invalid because the master had no right to tender it when he did. Therefore, as in the case of the *Happy Day* (reported in the April 2001 issue of *Signals* but now subject to appeal), laytime never commenced at all and the charterer was entitled to make a claim for despatch.

The fact that the charterer was in breach of contract did not affect the validity of the notice or readiness or the commencement of laytime. The breach had nothing to do with and did not cause the invalidity of the notice.

This case re-emphasises the importance of masters being properly informed about the provisions of the charterparties under which their ships are employed. Also, if there is any doubt about the validity of a notice of readiness, masters should be encouraged to serve another one without prejudice to the earlier notice.



"Test life-saving appliances regularly"

Seafarer's guide to the ISM Code published

Many companies and seafarers have embraced the ISM Code as it was intended. However, the Association is well aware that there are others who have still not fully grasped the fundamental ideas behind the Code, particularly in the way that a safety management system should be structured and operated.

To help overcome some of the more potentially serious misconceptions and misunderstandings which are still commonplace in the industry, the Association has published a new loss prevention guide entitled *A seafarer's guide to ISM*. A complimentary copy is enclosed with this issue of *Signals*.

Three guides in one

There are many different ways to communicate the same message. The new guide has taken the unusual step of presenting the same message in three very different styles. The first part of the book explains, in a non-technical and straightforward way, the underlying concepts and philosophy behind the ISM Code. It is written so that the master or on-board safety or training officer could use it as a basic structure for an on-board training course.

The second part sets out a whole range of 'frequently asked questions' - along with some answers. The questions were identified from independent research undertaken last year by the Association's head of loss prevention Phil Anderson into ISM implementation, which resulted in nearly 3000 completed questionnaires being returned along with nearly 800 detailed narrative comments.

The North of England has been using cartoons in its posters, calendars and presentations for many years with great success. Although the subjects are serious, seafarers generally have a good sense of humour and appreciate this type of approach. The third part of the new guide thus takes the form of a cartoon strip book to explain the ISM concepts in a humorous and entertaining way. The cartoon book will also exist as a stand-alone publication for much wider distribution.

High-level endorsements

The guide has already received the support of several leading figures in the shipping industry. In his foreword, International Maritime Organisations secretary general William O'Neil says:

'The ISM Code has the potential to make a huge contribution to maritime safety. However, it will only do so if it is fully understood and embraced throughout

the industry, on board ships as well as in board rooms. It is in that spirit that this new guide has been prepared for and targeted specifically at seafarers. It provides a straightforward explanation of the basic concepts that underpin the ISM Code and will leave seafarers better positioned to play their part in its successful implementation.'

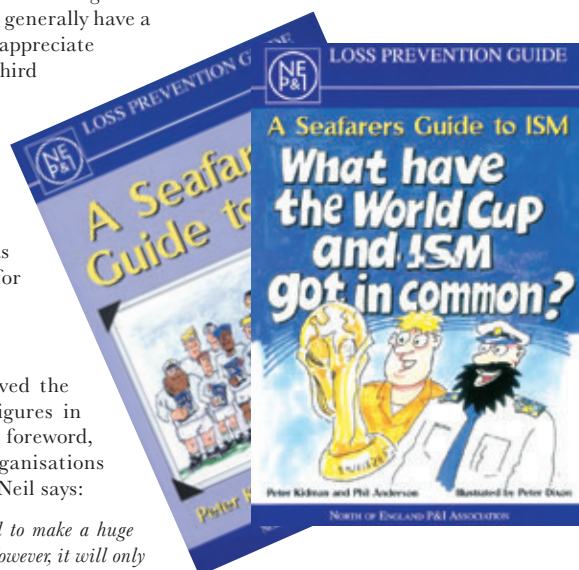
And in his introduction to the guide, Michael Grey of Lloyds List says:

'The guide is written in a style that is not remotely legalistic, full of common sense, and shows the Code not as a prescriptive procedure, but something that is designed to help, to promote improvement and to help insulate against accident. Those still sceptical will hopefully be convinced by answers to the most frequently asked questions about the ISM Code - questions drawn from research, and deserving proper answers. And the third part of the guide, designed to be left lying about in messrooms, or as a crew training aid, could be the most important, in that it impresses, by means of cartoons, important messages about the fact that the ISM Code is not something best left to the senior officers, or the superintendent. It involves everyone aboard - the whole ship's team, whose individual contributions help keep hazards at bay.'

The Association hopes that this guide will help to move the general understanding and successful implementation of the ISM Code forward, so that we may all enjoy safer ships and cleaner seas.

Further copies of 'A seafarer's guide to ISM' are available from the loss prevention department - price £10 members, £30 non-members - copies of the comic strip book - £3 Members, £5 non Members.

An extract from the guide follows this article. Here the crucial contribution that seafarers will need to make to successful implementation is considered.



An extract from "A Seafarers guide to ISM"

Seafarers

All seafarers have a role to play in the management of the ship under the ISM Code and the SMS should outline the individual roles and responsibilities of each seafarer. It is important that seafarers understand and can competently carry out the roles and responsibilities outlined in the SMS. In addition to the routine work that goes with 'the rank' on board, some seafarers might find themselves appointed as "internal auditors".

Reporting and communication are key features of the Code and seafarers should know to whom they are expected to report, and who reports to them. If this is not effectively carried out, then the impact that the Code has on the management of the ship will be reduced. The SMS should include an organisational chart and that should detail all the lines of communication and authority that exist on the ship and between the ship and the Company ashore. All seafarers need to be familiar with this chart.

Communication

- Are seafarers able to communicate with each other?
- Which languages are used as the working language onboard?
- Are seafarers able to understand each other during inspections and drills?

The SMS should not be something that is 'cast in stone'. The procedures outlined in the SMS should reflect how things are actually done on board and, if things can be done better the procedures can and should be changed. The seafarers that work with the procedures will have first hand knowledge of how good and workable the procedures are. All seafarers should, therefore, be encouraged to initiate change and by calling regular safety committee so that issues can be raised and discussed.

If seafarers have a positive attitude towards the Code and are willing and committed to work with it, the ship must become a safer and better place to work.

continued...

The Safety Committee

- Typically attended by the Safety Officer, officer's representative/s, crew representative/s and the Committee Secretary
- If the Master attends he might wish to play a supporting role and observe
- Free flow of information should be encouraged
- Accident and near miss reports should not be delayed
- All seafarers should be encouraged to contribute to the Safety through their respective representatives
- The Committee should report to the Management Review meeting

US anti-terrorism measures

Members should be aware that following the events of 11 September 2001 the US Coast Guard has introduced a number of security measures. Since October 2001 the following measures have been in force.

- All vessels of 300 GRT or more are to submit in advance notice of arrival at least 96 hours in advance to the National Vessel Movement Centre by fax (1-800-547-8724) or email (sans@nvmc.uscg.gov).
- Advance notice of departure for vessels leaving US ports carrying certain dangerous cargoes.
- Security zones are established in all US ports and all commercial vessels are to be screened.
- Protection zones are established for 500 yards around all US naval vessels in navigable waters of the US.
- Each USCG captain of the port will employ any security measures deemed necessary to ensure the safety and security of the port.

These measures are subject to change and members should therefore check for updated information before relying on the above.

Members should also be aware that many ports and terminals are also imposing additional security measures controlling access.

Sea Carrier Initiative Agreement

The Association occasionally receives enquiries from Members regarding the US Sea Carrier Initiative Agreement, especially when confronted with charterparty clauses requesting confirmation they are signatories to the Agreement and will comply with its terms.

Only Members involved in a liner service into the US are likely to be involved in the SCIA in any significant way - it does not really apply to tramp operators.

To understand the background to the Agreement, a brief look at the history of drug smuggling in the US is needed. Drug smuggling used to be a relatively small enterprise in the post-War period, up until the 'flower power' era of the 1960s. As tastes became more sophisticated and demand rose in accordance with wealth and the desire for greater 'highs', the money that could be made from the supply of drugs did not go unnoticed by the criminal fraternity.

As the US had the greatest marketplace for drugs *and* the money to pay for them, the poorer countries of South America and the Caribbean, with their ideal climates for growing drug crops, were the natural places for the drug barons to set up their enterprises. The only problem they had was how to transport their product in large enough quantities to satisfy the booming demand for their product.

Liner operators targeted by drug barons

Road transport was far too risky, with many borders to cross and the resultant checks on the contents of vehicles. Air transport was a better choice but the limiting factor was the size of plane, usually a light plane to enable landing on small airfields and strips, and the quantity of drugs that could be transported.

Sea transport was the obvious choice to carry large quantities of drugs, particularly in containers which could be packed to conceal the product in amongst the legitimate cargo. The suppliers also needed a reliable service to deliver their product, so the liner operators became the choice as the carrier.

When the volume of drugs reaching the US became a modern-day plague, the US Congress passed the Anti Drug Abuse Act of 1986, which raised the penalties 20-fold for owners of conveyances found to be transporting illegal drugs. This meant that the fine for hard drugs, such as heroin or cocaine, became \$1000 per ounce, whereas for soft drugs like cannabis it became \$500 per ounce. The implications to the maritime industry were obvious, 'prevent drug trafficking or risk losing your ship'.

Agreement provides support to owners

US Customs quickly realised that the best way to obtain the co-operation of shipowners was

to give as much help as their budgets would allow. As a result, the Sea Carrier Initiative Agreement was born. Specifically targeted at the liner operators which were most vulnerable to drug smuggling, the Agreement offered (and offers) the support and assistance of the US Customs Service to

- liaise with the shipowner and carry out joint security surveys
- review the carrier's security systems
- provide training to certain staff (senior) to help with search methods and security methods
- assist in dealing with the media if there is an incident involving the carrier.

The obligations on the carrier are more onerous as it must comply with numerous terms to try to prevent drug smuggling on board its vessels. It is absolutely essential that the carrier does its best to comply with the terms of the Agreement and must log the efforts taken each time searches are undertaken. The Customs Service would not look kindly on a carrier which claims to have carried out searches and is subsequently found not to have done so.

How to join the agreement

If liner operator Members wish to join the agreement, or require copies of the *Sea carrier security manual* - an excellent publication for guidance on how to detect or search for drugs and useful to those who do not need to join the Agreement - they should contact the US Customs at US Customs Service Headquarters, 1300 Pennsylvania Avenue, NW, Washington DC 20229, United State of America.

Details of the manual can be found on the US Customs' website at www.customs.gov/impexpo/foryour_info.htm#air Alternatively, Members may prefer to ask local agents to obtain copies of the Agreement, which is available in English and Spanish direct.

For more information please contact Tony Forster at the Association.



Head-on collision poster

The latest poster in the North of England's series on the Collision Regulations is designed to prompt the officer of the watch (OOW) to review the responsibilities of vessels when involved in a potential head-on collision, as set out in Rule 14 of the regulations.

Of all the collision scenarios, the head-on situation should be the one that poses the least difficulty for the OOW. This assumption is based on the theory that both vessels involved in such situations are deemed to be give-way vessels and hence there can be no doubt as to which of the vessels is required to keep clear.

However, many close-quarters situations and collisions continue to result from the lack of action by one or both vessels involved in a head-on situation. The main problems which can arise are

- a lack of appreciation by the OOW that a head-on situation is developing
- a failure to take early and effective action to avoid a collision
- taking action when none was required.

Understanding the other vessel's aspect

Looking at the problems in turn, the first may arise as a result of a lack of understanding of the other vessel's aspect. The assessment of aspect can often create problems for the OOW given the wide variety of modern ship types that can be encountered at sea.

The Collision Regulations address this problem and advise the OOW on how to make an assessment of aspect at night. If the

masthead lights of an approaching vessel are in line or nearly in line and/or both sidelights are visible then a head-on situation exists.

The rules refer to 'a corresponding aspect' by day. By day it may be more difficult to make a proper assessment of aspect especially at distance, however, the OOW should make use of all available information, including the proper use of RADAR and ARPA to enhance his or her assessment of the other vessel's aspect - as well as his own eyes and a pair of binoculars. In any event if doubt exists, the

rules direct the OOW to assume such a situation exists and to act accordingly.

Taking early and effective action

The second of the two problems may arise when the two vessels are fine to starboard. Although, the vessels are technically head on and a close-quarters situation is developing, the OOW is often reluctant to take proper action to avoid a collision and opts to make a small alteration to port to open the passing distance.

The practice must be discouraged as it only leads to confusion. The OOW in such a situation should take early and effective action to avoid collision, which will usually mean an early broad alteration of course to starboard.

Avoiding unnecessary alterations

Finally, the third problem can arise when the two vessels are passing clear and one vessel decides to take action when none is required. Such situations may arise as a result of a poor lookout especially at night.

If the OOW has failed to keep a proper lookout at night and emerges from the chartroom to see a vessel fine to starboard, there have been cases where unnecessary collision avoidance action has been taken without first making a proper assessment of the situation. Such action strands both vessels into danger and should be avoided, as it often leads to dangerous situations developing at close quarters, occasionally with disastrous consequences.

The need for a proper lookout must never be underestimated.



Poster promotes reduced ISM paperwork

One of the main criticisms from seafarers about the International Safety Management (ISM) Code is the amount of paperwork involved, though this should not be the case. The need to keep ISM paperwork to a manageable level is illustrated in the latest poster of the Association's MAST (management, safety, training) series, a copy of which is enclosed with this issue of *Signals*.

The safety management system (SMS) required by the ISM Code should be perceived and used as a tool to help improve the way safety and pollution prevention are managed on board. If the paperwork actually interferes with such activity then clearly something is going wrong.

Most seafarers appear to appreciate the advantages of having a system that consolidates their existing procedures and good practice into a safety management

system capable of auditing. However, the process of setting up a new system sometimes generates more paperwork and record keeping requirements than it should.

Code requires review of paperwork

The answer lies within the ISM Code itself, which in chapter 12 requires there to be process of review and evaluation by the company. If the amount of paperwork involved could itself be to the detriment of the safe management of the ship, the procedures should be simplified and the amount of paperwork reduced. This is best done with the full involvement of the sea staff, rather than being left solely to the shore management or externally appointed consultants.

The paperwork should help give the SMS structure and provide support for the safety procedures.



South Tyneside College - Cadet prize

To help encourage high standards in maritime training, the Association presents an annual award to the best cadet on the Higher National Diploma in Nautical Science course at South Tyneside College.

The 2002 winner was Kristian Farthing, who had been employed by P&O Cruises. He was presented with a shield and cash prize by the Association's head of loss prevention, Phil Anderson, at the Newcastle head office in February. A larger shield listing all the annual winners is also displayed at the college.

The Association congratulates Kristian and offers him best wishes for a happy and successful career.



Students start computer-based course

The first students have enrolled on the Association's innovative computer-based training course in P&I Insurance and loss prevention that was launched in February.

A brochure and mini CD-Rom demonstration disk with a sample of the interactive material were enclosed with the last issue of *Signals*. Further copies can be obtained from the loss prevention department.

The Distance Learning Course enters a new dimension, bringing training into the 21st century

Sample the new CBT course on the FREE mini CD Rom enclosed



Benefits of training books

One of the company requirements arising from the Standards of Training, Certification and Watchkeeping for Seafarers 1995 (STCW 95) is to maintain suitable records of all seafarers employed. These must include records of qualifications, training, competency and familiarisation with the ships and duties to which they are assigned.

Many seafarers will remember their cadet record books from the distant past, which enabled a personal record of training, qualifications and experience to be kept and made available to the company and each new ship they joined.

A modern evolution is the Employment and Training Record Book, such as that designed by Intership Navigation Co Ltd based in Cyprus and now used by a number of fleets including F H Bertling based in Hamburg.

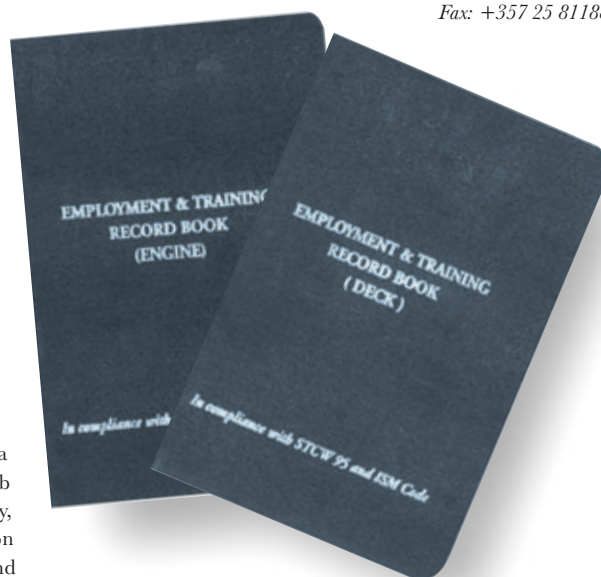
Recording new skills

The compact books carry a record of every seafarer's job history with the company, qualifications, familiarisation with different ships and competency levels required for different ranks. As seafarers move from ship to ship, expand their knowledge and gain more competence, the record book is completed to record their achievements.

In this particular example, at the end of each voyage the record books of seafarers leaving the ship are returned to the company so that company records can be updated, and are then sent out to the next ship the seafarer joins.

A complete history of all employees is thus available both ashore and to the senior officers on a ship, enabling training to become a continuous process, as well as complying with statutory requirements.

Details of the books are available from Intership Navigation Co Ltd, 123 Griva Digheni Avenue, CY-4002, Limassol, Cyprus, Tel: +357 25 584000, Fax: +357 25 585756, or the printers Aristos Philis Printers Ltd, PO Box 53200, CY-3301, Limassol, Cyprus, Tel: +357 25 811888, Fax: +357 25 811889.



Residential course nearly full

At the time of going to press there were just a few places still available on the Association's 2002 residential training course in P&I insurance and loss prevention. Anyone still wishing to register for the course should contact the loss prevention department as soon as possible.

The course is split into three parts and delegates can decide what combination of parts will suit their needs best. Full details appear on the club's website at www.nepia.com



New guidance on avoiding fatigue

The United Kingdom Maritime and Coastguard Agency (MCA) has issued an M Notice, MGN 211, on the subject of fatigue amongst seafarers. The MGN draws attention to the fact that avoiding fatigue is recognised as a significant factor in the prevention of accidents on board ships. It also reminds owners and operators of their duties to ensure that ships are adequately manned and hours of work organised to minimise fatigue.

Although the MGN only applies to ships registered in the United Kingdom, and other ships whilst in United Kingdom waters, new European legislation coming into force in June 2002 will apply requirements for maximum

working hours and minimum rest periods throughout the European Union.

The IMO has also issued a comprehensive circular, MSC Circular 1014, containing guidance about how to manage and reduce fatigue on ships.

Members requiring more information can download copies of MGN 211 and MSC Circular 1014 from the publications part of the MCA website, www.mcagency.org.uk/publications/statutory.htm.

Copies of the EU Directives, 1999/63/EC and 1999/95/EC, can be obtained from the European Union website, www.europa.eu.int/eur-lex/en/search

Signals Swot I I Quiz Winner

Cadet Aayush Giri
Bergshav Shuttle Tankers

Runners-up

- Captain VM Kelly STIRLING SHIP MANAGEMENT
- Miss Caroline Abbott ROPNER SHIP MANAGEMENT
- Captain M Nurul ISLAM SALALAH SHIPPING
- Captain Paul Hunt STIRLING SHIP MANAGEMENT
- Captain TA Butten HANSON MARINE

well done!!!!!!

Signals Swot Quiz

Welcome to Signals Swot number 12. We invite you to pit your wits against "**Bosun Bo**" and become a *Signals Swotter!*

This is not a general knowledge quiz but rather the answers to all the questions are to be found within this particular issue of Signals.

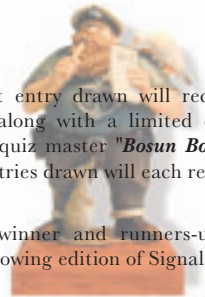
- The quiz is open to all readers of Signals.
- The quiz comprises 10 multiple choice questions - simply tick the correct answer ✓

- Send a photocopy of your answers, along with your name and, if appropriate, name of ship, position on board, company and address to the Editor of Signals at the Association.
- All correct entries received by the closing date will be entered in a prize draw.
- Closing date 14 June 2002.

PRIZES!

The first correct entry drawn will receive a 'Winners Plate' along with a limited edition statuette of our quiz master "**Bosun Bo**". The next 5 correct entries drawn will each receive a statuette.

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



signals swot

Good luck to all you Signals Swotters!!

1 Where could a Member obtain a copy of the 'Sea Carrier Security Manual'?

- US Customs.....
- IMO.....
- IACS.....

2 In which direction should each ship alter course when meeting head-on or nearly head-on in clear visibility?

- To starboard.....
- To Port.....
- Either.....

3 What is the subject of MGN 211?

- Collision avoidance.....
- Fatigue.....
- Training record keeping.....

4 Where was a Member recently fined merely because the container seals were poorly fitted?

- Australia.....
- Brazil.....
- Cameroon.....

5 How can ships staff avoid coming into contact with cargo being sampled during loading bulk liquid cargo?

- By wearing protective gloves and safety glasses.....
- By remaining in the cargo control room.....
- By refusing to take samples.....

6 Which organisation was not involved with BIMCO in developing a standard arbitration agreement in 1998?

- IMO.....
- LMAA.....
- SMA.....

7 Within what period of time should the MCA commence a PSC re-inspection?

- 24 hours.....
- 3 days.....
- 1 week.....

8 What is the novel way in which North of England has explained the underlying concepts of the ISM code?

- CBT Course.....
- Comic strip book.....
- Video.....

9 What help might an E111 be to a seafarer in Europe?

- Help with immigration formalities.....
- Purchase duty free liquor.....
- Help reduce medical treatment costs.....

10 How much advance notice must vessels give to the National Movement Centre before arrival in a US port?

- 24 hours.....
- 72 hours.....
- 96 hours.....



*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 dept. 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 whatsoever or howsoever arising out of or in connection with the supply (including negligent supply) or use of information (as described above).

'Signals' is published by North of England P&I Association Limited
The Quayside Newcastle upon Tyne
NE1 3DU UK Tel: +44 (0) 191 232 5221
Fax: +44 (0)191 261 0540
Telex: NEPIA G 53634/537316
Email: loss.prevention@nepia.com
Website: www.nepia.com