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1 How might the stowaways have boarded the ship?

- There is probably no significance in the ISPS issues.
The ISPS applies to individual port facilities within a port area – so the fact that access to the port seemed not to be obviously restricted probably could not be cited as a factor encouraging stowaways. The ship should be more concerned about their interface with the port facility – the delay in the port facility security officer negotiating a declaration of security might indicate a facility that lacks commitment to the ISPS code. But whether this could be cited as having contributed to the boarding of the stowaways is debatable.
- Probably in the cargo containers.
Seals should be checked before opening. If the container is a 'loaded' container – unlikely with 11 people inside – the seals should be checked to see if the numbers match the commercial manifest. This may indicate whether the stowaways gained access during the container stuffing process or after the container had been stuffed and was in transit to or at the port facility – whether under control of the charterer or not.
- With stevedores
If this is the suspected route – and in any case - the matter should be reported to the port facility security officer, the port state control administration and the flag state. The port facility should be responsible for ensuring the security vetting of the stevedores and ensuring their procedures do not present a security threat.
- Via accommodation ladder or moorings
The ship's ISPS access control procedures need to be questioned – but in this case with the duty officer, the rating on watch and additional local security guards the ship appears to have taken all reasonable steps.

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2 What liabilities could arise from having the stowaways on board?

- Care, security, fines, repatriation and administration costs.
- Cargo damage.
- Personal injury and illness

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3 Who would be responsible for these liabilities the shipowner, the port authorities, or the charterer?

- The shipowner is responsible unless stowaways boarded secreted in the cargo and a suitable stowaway clause is inserted in charterparty
- For example Clause 41 in NYPE 93.

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4 What liabilities might be covered by P&I?

- Cost of care, security, fines, repatriation and administration costs.
- Damage to cargo
- Personal injury and illness

P&I cover is at the Club Director's discretion if adequate steps have not been taken to prevent stowaways boarding the ship.

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5 What action should the Master and ship operators have taken when the stowaways were discovered?

- Search area for other stowaways, belongings, papers & weapons.
- Secure the stowaways in cabin or suitable space.
- Contact shipowners, P&I Club, flag State and immigration authorities at next scheduled port(s) of call.
- Ensure health and welfare of stowaways is taken care of.
- Complete stowaway questionnaires and send to P&I Club.
- Do not put stowaways to work.

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6 What problems may arise from diverting to a nearby port to land the stowaways?

- The net costs of the diversion should be covered by P&I.
- However, the diversion would almost certainly be considered as unjustifiable and therefore be a deviation from the contracted voyage. P&I cargo cover would more than likely be prejudiced.
The P&I club should always be contacted for advice before the ship diverts. P&I cover for liabilities other than cargo would not be affected.
- The P&I club could arrange commercial shipowners' liability insurance to replace P&I cargo cover. Otherwise the shipowner may decide to take a commercial decision to bear the cargo risks from the time of deviation to their own account.
- The diversion might be considered a justifiable deviation if any of the stowaways were seriously ill or injured. However, the deviation might not be considered justified if there were large numbers, aggressive or violent stowaways, causing a risk to the safety of the ship or crew or if the number of stowaways and crew exceeded the statutory safety levels for people on the ship.

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7 What potential losses, damages, liabilities and expenses might arise from the Second Officer's and his wife's illness and would they be covered by the P&I Club cover?

Second mate – seaman – statute, contractual and duty of care

- Medical, repatriation costs, expenses and liabilities arising from crew contract.
- Cost of a replacement if required by ship manning regulations.

Second mate's wife – supernumerary – statute and duty of care

- Cover normally only provided if shipowner is negligent.
- No contractual liability.

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8 What issues may arise from diverting to a nearby port to land the sick Second Officer and his wife?

- Net costs of diversion should be covered by P&I
- The diversion would almost certainly be considered as justifiable (SOLAS)
- P&I cargo cover would not be prejudiced

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9 Loss prevention issues for a ship operator to consider before allowing a supernumerary to travel on a ship?

- Require supernumeraries to have their own personal travel insurance
- Require supernumerary to provide a doctor's certificate or have a medical examination prior to voyage
- Sign an indemnity? – in many jurisdictions the indemnity may not stand the test of law if it seeks to reduce in any way the statutory, contractual or duty of care obligations of the shipowner. Also if it contains complicated and extensive 'small print' it might be considered unreasonable to expect the ordinary person to read and understand.

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