

RISK WATCH

FEBRUARY 2023

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BRITANNIA P&I
TRUSTED SINCE 1855

A MESSAGE FROM THE EDITOR



Welcome to our first Risk Watch of 2023 and we wish all our readers a very happy start to the new year.

In this edition we take a look at the carriage of wind turbine blades. These huge pieces of engineering can cause issues, both when they are being loaded on board and during transit. This article is a reminder of what to look out for. At the other end of the manufacturing chain we focus on scrap metal cargoes and suggest what to do to avoid fires breaking out on board.

We continue with the theme of problematic cargoes by looking at the carriage of olive margine, a type of olive waste water, which can liquefy and affect the stability of the ship. Also relating to the theme of liquefaction, we highlight some recent cases where Group A cargoes were loaded very quickly by spout or chute and so the dangers of liquefaction may not be spotted.

The loss prevention team provide some best practice advice when ships are drifting offshore and also link to their recent operational guidance on what steps to take to prevent container losses due to rolling.

As always, we welcome your feedback and suggestions so please do contact the communications and marketing team.


CLAIRE MYATT
Editor



We hope you enjoy this copy of Risk Watch. We will be looking for ways to maintain and increase the usefulness, relevance and general interest of the articles. If you have any ideas or comments please send them to: britanniacommunications@tindalriley.com



CARRIAGE OF WINDMILL TURBINE BLADES

THE CONSTRUCTION OF OFFSHORE WINDMILL FARMS HAS BEEN A BOOMING MARKET OVER THE LAST DECADE AND IS EXPECTED TO GROW EVEN FURTHER IN THE YEARS TO COME AS MORE AND MORE COUNTRIES ARE SHIFTING TO GREEN ENERGY. THERE HAS, THEREFORE, BEEN AN INCREASED DEMAND FOR BULK CARRIERS AND GENERAL CARGO SHIPS TO TRANSPORT THE TURBINE BLADES FOR THE WINDMILLS. THESE TURBINE BLADES ARE AN EXPENSIVE CARGO AND CAN BE EASILY DAMAGED AND SO IT IS IMPORTANT THAT PARTICULAR CARE AND ATTENTION IS TAKEN WHEN TRANSPORTING THEM.

P&I COVER

Before accepting these turbine blades as cargo, Members should contact the Club's underwriting department. The underwriters can then advise on potential liabilities and whether Members need additional cover.

CARGO SURVEYOR

In view of the high value of the cargo, it is recommended that a surveyor is appointed to help the crew when loading the blades and then making sure that they have been adequately secured/lashed. The surveyor should have experience in the loading and transportation of wind turbine blades, and should also be familiar with the required lifting gear, lashing arrangements and welding approval which are particular to the carriage of the turbine blades.



Jacob Damgaard

Associate Director, Loss Prevention Singapore
jdamgaard@tindallriley.com



CARRIAGE OF WINDMILL TURBINE BLADES



TURBINE BLADES ARE AN EXPENSIVE CARGO AND CAN BE EASILY DAMAGED AND SO IT IS IMPORTANT THAT PARTICULAR CARE AND ATTENTION IS TAKEN WHEN TRANSPORTING THEM

CARGO OPERATIONS

The cargo operation must be supported by a thorough risk assessment and method statement, which should include drawings of the cargo arrangement. If there is a tandem lift using two cranes, then there must be a clear briefing and agreement about the signals and communication between the crane operators, the lifting foreman and other involved stakeholders.

The shipper should provide adequate information/documentation confirming the weight/strength of the cargo, including any lifting points or tools used. All equipment used during the loading/unloading and securing of the cargo should be of sufficient working load. Only experienced crane drivers familiar with the special characteristics associated with lifting wind turbine blades in

tandem should be used for the loading/unloading of the blades. Care must be taken to make sure that the lifting gear is fitted correctly in order not to cause any additional bending stress to the blades while they are being lifted.

Throughout the entire operation, the stability of the ship must be closely monitored. For tandem lifting, this may be of particular concern, especially if using the ship's own cranes, as the cranes will turn at the same time and this can critically increase the heeling of the ship.

WEATHER

The expected weather conditions during loading and discharge of the windmill blades must be carefully monitored. As the blades are long and relatively lightweight, with an aerodynamic design, they can easily be affected by wind and can even rotate and be damaged. This risk can

be reduced by using a tandem lift as this provides additional stability to the cargo while it is being lifted and lessens the risk of the blades starting to rotate.

STOWAGE – THINGS TO BE AWARE OF:

SECURING AND STOWAGE PLANS

A specific securing and stowage plan should be used as the basis for planning safe loading and stowage of the blades. The plan must include details of the footprint load. The plan should form the basis for the structural strength and stability calculations which are used to make sure that the ship remains within the applicable limits. It may be necessary to update the ship's stability calculation software to allow for the carriage of this particular cargo. This would require classification society approval. Before the cargo is loaded, the plan should also be carefully reviewed by the Member's surveyor (if appointed) and discussed and verified with the ship's master and also the shipper's representative. The condition of the blades must be checked carefully before loading, with any damage, even minor, recorded and reported.

CARGO SECURING MANUAL

The cargo needs to be stowed in accordance with the requirements of the Cargo Securing Manual (CSM) and The Code of Safe Practice for Cargo Stowage and Securing (CSS). The CSM should include all information necessary to calculate the lashing forces and what lashing equipment is required (Annex 13 of the CSS Code provides methods for calculating satisfactory securing arrangements when loading non-standard sized cargoes). The flag state or classification society might need to give their approval of the CSM as being suitable for the carriage of wind turbine blades.



ADDITIONAL STOWAGE EQUIPMENT

If specially designed frames or cradles are installed on board to accommodate the blades, they must be suitable for the size of blades being carried and must be properly installed and fixed/welded to the ship's structure in order to avoid any movement which may compromise the stability of the ship. Any dunnage must also be fit for purpose and appropriately fitted. Care must be taken to make sure that the deck cargo, including loading frames or cradles, are within the permitted loading strengths of the deck or hatch covers and also do not compromise the longitudinal strength and stability of the ship.

ADAPTATIONS TO THE SHIP

Any hot work must fully comply with Member's safety procedures and any requirements of the load port. If any changes are made these will need approval from the ship's classification society and/or flag state. Any additional lashing points may also be subject to class approval. If any hot work is done after the wind turbine blades have been loaded care must be taken to avoid any welding splatter coming into contact with the cargo.

REDUCED VISIBILITY

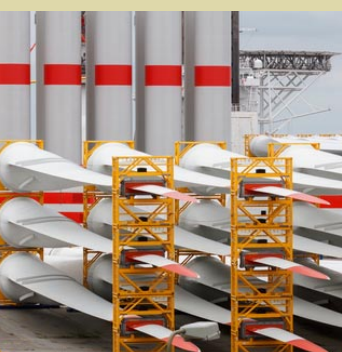
Carrying wind turbine blades on deck can reduce the visibility from the ship's bridge. The IMO's bridge visibility requirements are set out in the SOLAS Convention and any non-compliance with these will be a breach of a statutory requirement, which may prejudice Club cover. In certain cases exemptions have been granted requiring CCTV to be installed to compensate for the reduced visibility. If such an exemption is granted by the flag state, the deck officers need to be comfortable with and trained in the use of CCTV arrangements and any other specific flag state requirements. The ship must

also have an emergency contingency plan in place for areas such as the Suez or Panama canal where local authorities may have additional requirements before they will allow the ship to transit with limited bridge visibility.

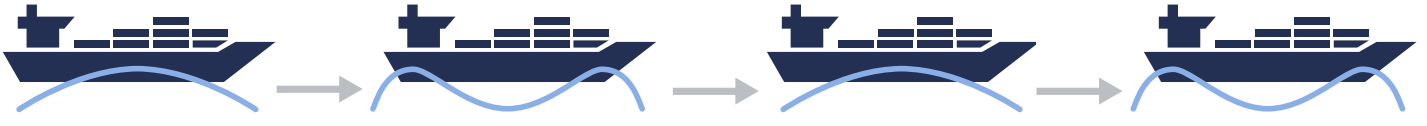
CARGO CARE DURING THE VOYAGE

As well as making sure the cargo is properly stowed before departure, Members must have their own procedures in place to ensure that the cargo securing is performed correctly and verified/checked throughout the voyage. It is recommended that the ship's staff maintain a log of all events relating to the loading/stowage, including keeping a photographic record of the condition of the blades and the securing arrangement. This should continue during the voyage to make sure that the cargo is being carried in compliance with the requirements of the CSM and any other company requirements that may require a level of safety over and above the CSM.

Lashing should be checked regularly during the voyage and any observed discrepancies be reported to the charterer for their further instructions. The master should log any concerns and preserve any photographic evidence. If any retightening of lashings during the voyage is needed, this can only be done when the weather permits and when the operation can be done safely as the upper loaded blades may not be easy accessible. The shipper should provide Members with thorough cargo care instructions to be conducted during the voyage to prevent any unintentional damage to the blades. However, this should not prevent the master from utilising his overriding authority as he deems necessary to ensure safety on board.



REDUCING CONTAINER LOSSES – OPERATIONAL GUIDANCE



WHEN A VESSEL EXPERIENCES ADVERSE WEATHER CONDITIONS, IT IS LIKELY TO FACE VARIOUS KINDS OF DANGEROUS PHENOMENA THAT CAN LEAD TO EXCESSIVE ROLLING MOTIONS. FOR CONTAINER VESSELS, EXCESSIVE ROLLING CAN RESULT IN STOWAGE COLLAPSE AND LOSS OF CONTAINERS WHICH MAY ENDANGER BOTH THE SAFETY OF THE VESSEL AND THE ENVIRONMENT.

When a vessel encounters excessive rolling, swift actions are required. It may be that a minor course or speed adjustment may be enough to prevent the situation from developing dangerously. However, maintaining situational awareness and making the right decision in an often rapidly changing and stressful situation can be difficult. There is an added complication that the usual support tools may take too long to implement and be impractical to use in such situations.

To assist our Members, the Club has worked together with Waves Group and Lloyd's Register to develop simple onboard guidance for these situations. The aim of the guidance is to assist the bridge teams on container ships; helping them to identify the conditions that may lead to parametric or synchronous rolling and then help them take the appropriate actions to mitigate against these risks.

The operational guidance is freely available on our website (<https://bit.ly/3hNbcll>) and covers container vessels from 3,000 up to 23,000 TEU in size. When printed, this information can be placed on the bridge as an easy-to-use support tool to determine what change in the vessel's speed and heading may be required to bring it to a safer operating condition.



WARNING: **CARRIAGE OF OLIVE MARGINE**

THE CLUB HAS BECOME AWARE THAT OLIVE MARGINE (SOMETIMES DESCRIBED AS "VEGETABLE RESIDUES" OR "OLIVE MILL WASTE WATER" (OMWW)) IS BEING OFFERED FOR LOADING AT PORTS IN NORTH AFRICA. OLIVE MARGINE IS NOT LISTED AS A CARGO IN THE IMSBC CODE BUT WE HAVE BEEN INFORMED BY CARGO EXPERTS THAT IT IS PRONE TO LIQUEFACTION AND CAN, THEREFORE, THREATEN SHIP STABILITY.

Shippers might provide details of the Flow Moisture Point (FMP), Transportable Moisture Limit (TML) and actual moisture percentages. However, there are no internationally recognised tests for confirming the TML and FMP for vegetable products like Olive Margine, as such tests are designed for Group A mineral cargoes and Olive Margine is organic matter.

If any Members are considering loading Olive Margine, they are recommended to contact the Club for assistance.

As always with any cargoes, if Members have any concerns or doubts about the nature of a cargo, including any concerns about its physical appearance before loading or at any stage during loading, please do contact the Club. Any urgent enquiries should be notified to the local P&I correspondent.





WARNING: LOADING GROUP A CARGO BY SPOUT OR CHUTE CAN INCREASE THE RISK OF LIQUEFACTION ON BOARD

THERE HAS BEEN MUCH PUBLICITY ABOUT THE DANGERS OF LIQUEFACTION FOR CERTAIN GROUP A CARGOES AND THERE ARE MANY PRECAUTIONS THAT NEED TO BE TAKEN DURING LOADING OF THESE CARGOES.



Stephen Hunter
Fleet Manager, Claims London
shunter@tindallriley.com

There must be suitable declarations about the transportable moisture limit (TML) and the flow moisture point (FMP). There must also be onsite testing to set out the actual moisture content of the cargo at the time of loading. If possible, can testing should be carried out on the stockpiles and also on-board the ship, and the cargo should be carefully observed during loading, looking for signs of excessive moisture content, such as splattering in the cargo holds.

Most Group A cargoes are loaded by grab or conveyor. However, in some locations, the cargo enters the holds via a cargo spout or chute which is a much faster loading method.

For example, in Punta Padrones in Chile, Group A cargoes are commonly loaded from spouts. While this can make the loading fast, it nevertheless remains necessary that Group A cargoes are adequately assessed for their liquefaction potential in accordance with IMSBC Code Section 4. This means that the loading should not be allowed to simply run at speed and unchecked if the load rate is so fast that it is ahead of the ability of the master/crew to visually and physically assess the safety and suitability of the cargo.

A further complication found at Punta Padrones in Chile was that the Group A cargo (in this case copper concentrate) was brought to the port by truck and then transferred into a shore

warehouse, from where the cargo was vacuumed and loaded by spout into the vessel's holds. The environment in the warehouse was said by shippers to be unsafe for the surveyor to enter to assess the stockpiles, therefore compromising the ability to comply with section 4.4.3 of the IMSBC Code which states:

4.4.3 For a concentrate or other cargo which may liquefy, the shipper shall facilitate access to stockpiles for the purpose of inspection, sampling and subsequent testing by the ship's nominated representative.

The lack of any stockpile assessment, which was then followed by high speed spout loading, were both reasons for concern. During the loading, the attending surveyor and crew regularly lowered cans into the cargo holds on ropes in order to take cargo samples for can testing. On this occasion the cargo was found to be dry. But in different circumstances, the cargo could be found unsuitable for carriage only after the cargo had been loaded on board and this could lead to a number of serious, practical difficulties.

In all cases where there is any doubt or concern about the moisture levels, or if the surveyor is prevented from taking any samples for testing, Members are advised to contact the local P&I correspondent as soon as possible.

DRIFTING OFFSHORE

BEST PRACTICE

WHEN PORTS ARE CONGESTED AND THERE IS NO SUITABLE ANCHORAGE AVAILABLE, SHIPS MAY NEED TO DRIFT OFFSHORE WHILE WAITING FOR A BERTH. IN RECENT YEARS PORTS HAVE BECOME MORE CONGESTED AND SO THERE HAS BEEN AN INCREASED NUMBER OF SHIPS DRIFTING OFFSHORE. THIS DRIFTING, WHICH MAY SEEM STRAIGHTFORWARD, CAN INVOLVE RISKS.



In this article the loss prevention team sets out the best practice guidelines for ships when they need to drift offshore.

LOCATION

When selecting a location to drift, the following areas should be avoided:

- Traditional traffic routes
- Harbour limits
- Areas where restrictions may apply e.g. particularly sensitive sea areas or fish farms
- Offshore oil and gas fields
- Fishing grounds
- Traffic Separation Schemes and Inshore Traffic Zones
- Any other areas with navigational warnings e.g. naval gunnery exercise areas or areas where there are pipelaying activities

Passage plans set out the proposed route from berth to berth but they should also set out defined areas where drifting can be safely undertaken, bearing in mind the areas to avoid as set out above. These safe drifting areas should be set out in the passage plan and clearly marked on the chart.

If the ship is drifting within a state's territorial waters then the ship may also need to alert the local authorities of their position. There may also be other declaration formalities when a ship is within territorial waters, such as the need to seal off the bonded stores to avoid custom fines. The ship's local agents should be consulted to advise if any such requirements exist.

NAVIGATION

When a vessel is drifting, the master may consider that the vessel is 'Not Under Command', in accordance with the description contained in COLREGs Rule 3 "General Definitions" and display two all-round red lights or two balls or similar shapes in a vertical line in accordance with Rule 27 "Vessels Not Under Command or Restricted in Their Ability to Manoeuvre".

RULE 3 STATES:

"The term "**vessel not under command**" means a vessel which through some exceptional circumstance is unable to manoeuvre as required by these Rules and is therefore unable to keep out of the way of another vessel".

if a vessel has shut down the main engine(s), this would not ordinarily be an "exceptional circumstance", rather, the vessel for the purposes of COLREGs compliance, remains a power driven vessel that is underway, just not making way, and is obliged to show the lights required by Rule 23 – "Power-Driven Vessels Underway", i.e. the usual navigational lights; masthead, side and stern lights.



Passage planning should address drifting, considering the guidance in this article and also the Club's Loss Prevention Insight: 'Safe Passage Planning – An Overview for the Maritime Sector'.
<https://bit.ly/3WOQbp1>

TRAFFIC

When drifting, as the vessel is underway, just not making way, a full navigational watch on the bridge should

be kept at all times. This will include maintaining a careful lookout by visual and all available other means, along with assessing the risk of collision, and taking action to avoid collision when necessary.

Although not specifically addressed in the COLREGs, good seamanship would dictate that a vessel underway and making way should pass around a vessel that is obviously stopped and not making way. However, the vessel that is drifting should be mindful of the requirement to start their engine if necessary so as to manoeuvre the vessel clear in the event of a potential collision or close quarters situation developing.



Capt. Simon Rapley

Divisional Director, Loss Prevention London
srapley@tindallriley.com



MACHINERY

It may be necessary for a drifting vessel to move promptly due to increased rate of drift or proximity to land or in order to take action to avoid a collision or risk of collision. Therefore, propelling machinery and steering gear should be maintained at a suitable state of readiness at all times. It is recommended that any maintenance that would make the main engine and/or the steering gear unavailable is not undertaken when drifting. Whether the engine room can be left unmanned while drifting should be decided by the chief engineer in close consultation with the master taking into account, as minimum, the influential conditions highlighted in this guidance. If unmanned, a minimum notice period for the duty engineer should be agreed.

If a vessel finds itself in difficulty, due to, for example, machinery failure, procedures as per the emergency guidance manual should be carefully followed. However, any assistance required from third parties, such as tugs, should be promptly summoned, as far too many vessels have grounded due to delays in calling for assistance.

PIRACY AND ARMED ROBBERY

The risk of piracy and robbery whilst on the high seas is very real in many areas and so when evaluating the risks associated with a particular location



selected to drift, it is worthwhile consulting the ICC/IMB Piracy and Armed Robbery Maps, (<https://bit.ly/40f9LxG>) for the number, nature and location of attacks. While many such incidents occur close to shore, there have been pirate boardings several hundred nautical miles from the coast.

Where a risk of piracy and/or armed robbery exists, compliance with, so far as is practicable, the provisions recommended in the latest editions of Best Management Practices and Best Management Practices – West Africa, and Global Counter Piracy Guidance for Companies, Masters and Seafarers, as well as on the Maritime Security Charts published by the United Kingdom Hydrographic Office, is recommended. Careful consideration should be given, however, to ensure that when illuminating decks and over the side, that navigation lights remain clearly visible.

Where voluntary anti-piracy reporting arrangements are in place, vessels are recommended to participate and report accordingly, further guidance can be found here:

<https://bit.ly/3WRwHjH>

Members requiring any further assistance with this topic can contact the Loss Prevention department at lossprevention@tindallriley.com

WEATHER AND ENVIRONMENT

A close watch should be kept on the weather, monitoring the weather forecasts and also the effects of tide and currents on the movement of the vessel. The drifting position should consider these so that the vessel has adequate sea room and will not close on the shore or other danger. Usually the vessel will periodically need to reposition after a period of drifting to maintain an adequate margin of safety away from the shore or other potential navigational hazards. In the offshore industry, where vessels often drift in the vicinity of offshore installations, the action of drifting and then slowly steaming and repositioning is known as “laying and dodging”, or simply “dodging”.

In the event that weather conditions are forecast to deteriorate, the drifting location should be evaluated and it may be necessary to move further away from the coast and any navigational hazards, to provide a greater margin of safety.

Depending on the vessel’s stability condition, the weather conditions and in particular the height of and period of encounter with the swell may mean the vessel will roll heavily when drifting and lying with the swell on the beam. Such a situation may be uncomfortable for the crew, detrimental to the cargo stow and its securings, and may even cause fuel to spill via vents from almost full fuel tanks. Therefore the circumstances when drifting should be continually monitored, and there may be situations where drifting is not suitable, and rather the vessel should slow steam to minimise vessel movements.

RECENTLY THE CLUB HAS SEEN SEVERAL INCIDENTS WHERE SCRAP HAS SHOWN SIGNS OF SELF-HEATING DURING THE VOYAGE. AS THESE INCIDENTS WERE WELL MANAGED BY THE CREW, THEY DID NOT RESULT IN IMMEDIATE RISKS TO THE SHIPS INVOLVED. HOWEVER, THESE INCIDENTS DO HIGHLIGHT THE HAZARDS SURROUNDING THE TRANSPORT OF SCRAP AND THE IMPORTANCE OF KNOWING THE RIGHT PRECAUTIONS TO MITIGATE THESE RISKS.



CARRIAGE OF SCRAP

UNDERSTANDING SCRAP FIRES



Capt. Charles Chong
Loss Prevention Officer, Singapore
cchong@tindallriley.com

Scrap carried on board vessels often consists of recyclable materials left over from product manufacturing and consumption, such as auto parts, building supplies, metals, sheets, coils, strips, cutting wastes etc. which are being transported to recycling or scrap yards. Unlike waste, this scrap does have monetary value, particularly if the scrap contains materials that can be recovered and recycled.

INTERNATIONAL MARITIME SOLID BULK CARGOES (IMSBC) CODE

Metal scrap is typically transported on board in one of two forms: mixed scrap, which comes in a variety of sizes and may include car body parts and metal shavings the size of coins, or ferrous metal borings, shavings, turnings, or cuttings, which are produced by drilling, turning, and cutting steel.

ACCORDING TO THE IMSBC CODE, SCRAPPED IRON OR STEEL INTENDED FOR RECYCLING:

- should be scheduled under Group C, known not to liquefy or possess hazards of any kind
- should be kept as dry as practicable before loading, during loading and during voyages
- should not be loaded during precipitation
- should only be loaded when all non-working hatches of the cargo spaces to which this cargo is loaded, or to be loaded, are closed.

- should only be carried when the bilges in the cargo spaces carrying this cargo are not being pumped overboard unless necessary
- should only be surface ventilated, either naturally or mechanically, when transported.

On the other hand, when cargo contains ferrous materials in the form of iron or steel swarf (fine metal filings or turnings), borings, shavings, or cuttings, these are categorised as materials susceptible to spontaneous fire and self-heating. If swarf is included in the cargo, then the IMSBC Code Group B 'ferrous metals, borings, shavings, turnings or cuttings' (UN 2793) applies and a different set of requirements must be referred to. UN 2793 is assigned to substances with characteristics that are liable to spontaneous combustion.

Iron or steel will naturally oxidise (rust). This is an exothermic (chemical) reaction that produces and releases heat to the environment. When these iron scraps have been finely separated, they will oxidise more rapidly and produce heat faster. When material contains moisture, oily rags or combustible matter like military scraps, live shells, rubber, plastics, fabric, or even if contaminated with oils, then the oxidation process is further accelerated.

This heat will be dissipated to the environment in a shallow level mass of turnings but will be significantly retained if carried in huge, tightly packed quantities (bulk). As a result, the temperature of the mass will rise.



FOR TRANSPORTING THESE TYPES OF CONSIGNMENT IN BULK:

- the shipper must declare in writing or certify that the cargo does not have properties that encourage self-heating
- stowage should be separated from foodstuffs
- the carrier must realise that cutting oils used in production operations may contaminate turnings and borings and that these loads may contain flammable materials like oily rags
- loads should be protected against moisture before and after loading
- cargo bilges of each cargo hold should be kept as dry as possible both during loading and the voyage
- the temperature of the ferrous materials should not be higher than 55°C (Celsius) prior to loading
- loaded items should also be trimmed and compacted as much as possible in the cargo space using a bulldozer or other tools. This will create a denser mass to keep air out of the stow and less area will be exposed to oxidation
- if surface temperature exceeds 90°C during loading, then loading should be ceased and should not restart until the temperature has fallen below 85°C. The ship should not depart unless the temperature is below 65°C and has shown a steady or significant downward trend in temperature for at least last eight hours
- the surface temperature should then be measured daily during the transportation without accessing the cargo hold. If entry is required, breathing apparatus should be given in addition to the safety equipment required by company and local regulations
- cargo holds should not be ventilated during the voyage
- it should be noted that self-heating may cause the dangerous depletion of oxygen in the stowage spaces. Any rise in the surface temperature of the material indicates a self-heating issue and a potential fire situation could develop if the temperature rises to 80°C. However, firefighting using water is not recommended when a vessel is still at sea. In this situation, the ship should advise the Club with the view of seeking further assistance from a technical expert which may involve diverting to the nearest port of refuge. In port, lots of water can be used but consideration should be given to the ship's stability.

RECOMMENDATIONS

LOADING

In case of loading scrap in bulk, including metal scrap, the bulkheads and flooring in the cargo holds should be protected by plywood dunnaging or similar arrangements. These arrangements will depend on the particular nature and/or shape of the scrap. Thereafter, deck coamings in the way of the loading and discharging paths, like cargo hatches, railings and hatch coamings, should be protected.

A layer of the cargo should be carefully soft-landed over the tank top to cushion any fall out of bigger pieces. The loads should not be released too high above the pile and every effort must be made to distribute the weight to avoid high load density on the tank top.

Furthermore, heavy pieces can easily penetrate the tank top and side hoppers when loading from height. As a result, ballast or the fuel oil tank may rupture or start to leak, affecting the vessel's seaworthiness. This can be difficult to notice when the cargo holds are full so the tank levels should be checked after closing the cargo hatches.

CARRIAGE OF SCRAP

UNDERSTANDING SCRAP FIRES

(CONTINUED)



HOW TO HELP PREVENT SCRAP FIRES ON BOARD:

- appoint a qualified cargo surveyor to support the master during loading and discharging to identify the presence of radioactive and/or combustible materials
- scrap cargoes should be classified by the shipper to comply with local and international regulations in force
- the shipper should certify in writing that the scrap metal cargo does not contain any borings, shavings, turnings, or cuttings that promote self-heating and that the cargo is free from radioactivity
- cargo holds should be prepared in accordance with the shipper's requirements and standard loading procedures as set out in the IMSBC Code
- scrap metals, including ferrous materials, should be loaded under dry conditions and should be kept dry during the voyage
- the shipper should specify the cargo's ventilation requirements, including whether surface ventilation is to be by mechanical or natural means. Mechanical ventilation equipment should be intrinsically safe
- combustible goods, such as oil-soaked rags and paper, should be stowed separately in designated places to reduce the risk of fire
- items containing pressurised gases, fuel, oils, combustible engines, radioactive and flammable material should not be loaded
- all liquids such as oil, fuel and water from used combustion engine parts should be drained off
- electrical systems should be regularly inspected and maintained to prevent short circuits and/or other malfunctions that can cause sparks
- crew members should be trained in the proper handling and storage of flammable materials.
- regular fire drills should be conducted to help crew identify potential fire hazards and prepare them to respond to a fire
- if the crew has to enter the cargo hold, special breathing apparatus must be worn, as there can be oxygen depletion with hydrogen build up within cargo spaces.
- bilge wells should not be pumped unless absolutely necessary, as a certain amount of dirt and/or oil can be expected, which can result in an oil pollution claim
- it should be ensured that there is no smoking on board near the cargo spaces.

In short, scrap fires can cause significant harm to ships, cargo, the environment and can even result in the loss of life. To prevent and mitigate scrap fires on ships, it is important to collaborate with the charterer and the shipper to understand the nature of the cargo and plan the stowage.

A longer version of this article is available in the Knowledge base on the Club's website: <https://bit.ly/40hzEwQ>

CLAIMS AND LEGAL

MISDELIVERY BY THE CARRIER AFTER DISCHARGE – ONE YEAR TIME BAR APPLIES



Joanna Morgan,
Associate Director, London
jmorgan@tindallriley.com

THIS WAS A DECISION OF THE ENGLISH HIGH COURT ON AN APPEAL FROM ARBITRATION IN CONNECTION WITH A CARGO OF COAL THAT WAS DISCHARGED BY THE CARRIER, KCH SHIPPING, INTO STOCKPILES AT INDIAN PORTS IN EXCHANGE FOR LETTERS OF INDEMNITY FOR NON-PRESENTATION OF THE ORIGINAL BILLS OF LADING. THE BILLS OF LADING WERE ON THE CONGENBILL FORM AND WERE SUBJECT TO THE HAGUE-VISBY RULES. FIMBANK HAD FINANCED THE PURCHASE OF THE CARGO AND HELD THE ORIGINAL BILLS OF LADING AS SECURITY. THE BANK SOUGHT TO EXERCISE ITS SECURITY BY DEMANDING DELIVERY OF THE COAL BUT THE CARGO HAD ALREADY BEEN COLLECTED FROM THE STOCKPILES BY THE RECEIVERS UNDER DELIVERY NOTES ISSUED BY KCH SHIPPING. THE BANK, THEREFORE, BROUGHT A CLAIM FOR MIS-DELIVERY OF THE CARGO.

FIMBANK PLC v KCH SHIPPING CO LTD [2022] EWHC 2400

Due to a misunderstanding about the identity of the cargo carrier, the bank commenced arbitration against KCH Shipping more than 12 months after delivery of the cargo. KCH Shipping defended the claim on the basis that it was time-barred and in reliance on Article II, Rule 6 of the Hague-Visby Rules which provides:

“the carrier and the ship shall in any event be discharged from all liability whatsoever in respect of the goods, unless suit is brought within one year of their delivery or of the date when they should have been delivered”

The High Court was asked to consider 2 points on the appeal:

- 1 Whether the time bar applied to a claim for mis-delivery of cargo where delivery takes place after discharge;
- 2 Whether clause 2 (c) of the Congenbill terms disapplied the Hague-Visby Rules (and, therefore, all the protections which they afforded to the carrier) to the period following discharge.

The Court held that the time bar did apply in such circumstances on policy grounds as the purpose of the time bar was to allow the carrier to “close its books” and achieve finality. The Court held that there was support for the application of the Hague-Visby Rules as implied terms before loading and after discharge.



Clause 2 (c) of the Congenbill provides that “The Carrier shall in no case be responsible for loss and damage to the cargo, howsoever arising prior to loading into and after discharge from the Vessel...” The Court held that the purpose of this clause was to relieve the carrier of liability for loss of or damage to the cargo after discharge from the vessel. The Court said that it would be nonsensical if its effect was to deprive the carrier of the benefit of a time bar which would otherwise be available.

This decision should provide certainty to an issuer of a letter of indemnity given in exchange for discharge of the cargo without presentation of the original bills of lading where the carrier to be indemnified has not received any claims for mis-delivery within 12 months of delivery. Any claims brought more than 12 months after discharge of the cargo are likely to be time barred.

WHEN CAN AN OWNER REJECT A VOYAGE CHARTERER'S INSTRUCTIONS ON SAFETY GROUNDS AND SUSPEND TIME FOR DEMURRAGE?



Colin Chung,
Fleet Manager, Singapore
cchung@tindallriley.com



FACTS

THE OWNERS CHARTERED THEIR TANKER TO VOYAGE CHARTERERS UNDER AN AMENDED SHELLVOY 6 FORM. THE CHARTERPARTY PROVIDED THAT THE VESSEL SHOULD ONLY BE ORDERED TO PLACES WHERE IT WOULD REMAIN SAFELY AFLOAT. IT ALSO STATED THAT OWNERS MUST COMPLY WITH CHARTERERS' VOYAGE INSTRUCTIONS SUBJECT TO THOSE ORDERS BEING SAFE. THE Q88 INCLUDED IN THE CHARTERPARTY SET OUT THE VESSEL'S UNDER KEEL CLEARANCE (UKC) POLICY.

CM P-MAX III LIMITED v PETROLEOS DEL NORTE SA [2022] EWHC 2147 (Comm) (the *STENA PRIMORSK*)

Charterers ordered the vessel to a discharge port on the Delaware River where the water depth at the intended berth was 12.19m. The vessel's draft was 12.15m but the tide was expected to vary by 1.6m. The master conducted a risk assessment and sought a waiver of the UKC policy from the vessel's technical managers. A waiver was granted by the technical managers on the assumption that the vessel's draft was equal to or less than the draft of the river/berth at high water. The master was also asked to ensure that prompt commencement of discharge was discussed with the terminal.



Following the vessel's arrival at the discharge berth, the terminal informed the master that unloading would, at least initially, need to be conducted at a reduced rate. According to the master's calculations, the discharge rate was less than the rate which was necessary to maintain a safe UKC. The master, therefore, took the decision to leave the berth and return to the anchorage.

Another berth subsequently became available which allowed a higher discharging rate, and charterers requested the vessel to discharge the cargo there. The master prepared a further UKC calculation and risk assessment, and sought another waiver from the technical managers. They refused to give the waiver on this occasion, on the basis that the margin for safety was too small and that there were not sufficient controls in place to mitigate the risk of the vessel touching bottom. The master, therefore, decided not to go to the alternative berth without first lightering some of the cargo.

A dispute arose in relation to demurrage for the resulting lost time and the lightering costs.

DECISION AND COMMENTARY

The Court held that owner's technical managers were correct in exercising their discretion to refuse to grant a waiver to the UKC policy and allow the vessel to berth even though the master had requested the waiver. The technical managers' decision was a function of the analysis of risk process contemplated by the charterparty.

The Court held that an owner can refuse charterers' orders that potentially jeopardise the safety of a vessel. The running of time for demurrage purposes will not be interrupted unless there is fault on the owners' part in refusing to follow charterers' orders. Where an owner acts in a way authorised by the charterparty, owners are unlikely to be at fault and fault will not be easy to prove where the safety of the vessel is potentially at stake.

Courts will often side with a master or owner who is faced with an operational decision that involves the risk of danger to the vessel. The case is an example of the courts refusing to question the actions of a reasonable master who makes a decision "on the horns of a dilemma".



