

RISKWATCH

December 2025

THE GRAND AMANDA

THE RIGHT TO
RECOVER
LIABILITIES

IN THIS ISSUE



In this issue of Risk Watch, we explore key topics that strengthen maritime safety and regulatory awareness, including practical guidance on cargo hold ventilation and the prevention of soot discharge in inert gas systems.

This edition highlights IMDG Code Amendment 42-24, outlining major updates to the transport of dangerous goods and new provisions for electric vehicles and battery cargoes.

Finally, we examine two recent English High Court cases, *The Taikoo Brilliance* and *The Grand Amanda*, which offer important lessons on liability, documentation, and the interpretation of the Hague Visby Rules.

We hope you find this issue both informative and engaging, and that it supports your continued commitment to safe and compliant maritime operations.



MEGAN DODD
Editor

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ACCIDENTAL DISCHARGE OF SOOT IN INERT GAS SYSTEM OVERBOARD

ANY PROHIBITED DISCHARGE FROM A SHIP INTO THE SURROUNDING WATER CAN HAVE SERIOUS CONSEQUENCES. WHEN AN INERT GAS SYSTEM IS IN USE, THERE IS A DANGER OF SOOT BEING PRESENT IN THE OVERBOARD DISCHARGE. THIS SITUATION CAN RESULT IN FINES OR EVEN THE ARREST OF THE SHIP, DEPENDING UPON THE SPECIFIC LAWS AND JURISDICTION OF THE AREA.

JOBIN MATHEW, ASSISTANT LOSS PREVENTION MANAGER, BRITANNIA P&I

INERT GAS SYSTEMS AND SCRUBBERS

An Inert Gas plant (IG plant) or an Inert Gas Generator (IGG) are two systems used to produce inert gas on a ship. These systems produce inert gas for supply to the ship's cargo system. The source of the gas in these systems is either flue gas from the ship's boilers or fuel burned in an IGG.

In both systems, the inert gas is cleaned and cooled in a scrubber, by direct contact with large quantities of seawater, before being delivered to the cargo system. This washing action occurs whenever the IG plant or IGG is running. The wash water is then continuously discharged overboard. In an IG plant, this scrubbing happens in a tall scrubber tower where hot flue gas from the boiler, which may contain some soot as well, is cleaned and cooled. The IGG system has a much smaller scrubber, but it works in a similar way. Any carryover of soot in the scrubber's overboard water can discolour the water around the ship.

WHY SOOT IS GENERATED AND CARRIED OVER?

Poorly-maintained scrubbers where soot has been allowed to build up can lead to soot being carried overboard in scrubber wash water. In addition, an improper fuel-to-oxygen mixture or imperfect combustion can produce excessive soot. A sudden drop in the oxygen content of the inert gas, caused by a malfunctioning oxygen sensor or a clogged sample line, can overload the system, causing soot to be produced and carried overboard. This is the most common type of accidental soot discharge. A low flow of the scrubber wash water can also affect how well the inert gas is cleaned and cooled, leading to soot carryover.

BEST PRACTICES TO PREVENT SOOT OVERBOARD

- Crew responsible for testing and operating the IG plant or IGG must fully familiarise themselves with the systems.
- Follow the manufacturer's guidelines and service letters strictly.
- A senior engineer officer should verify the system's readiness before putting it into operation.
- Monitor the system and its parameters vigilantly during operation.
- Maintain the scrubber system regularly to prevent soot buildup.
- During pre-arrival tests, check all alarms and trips on the IG plant and IGG to ensure they function correctly.
- Test the IG system before arriving at port. Flush the scrubber with cooling water long enough both before and after operating the IG plant. Keep the scrubber pump running sufficiently in advance of the ship's arrival in port. Start the IGG before the ship berths to allow the system to stabilise.
- Calibrate the oxygen sensor and check the scrubber system for leaks that could let outside air in. Test the sample line and cock to confirm they are free and working properly. These steps help avoid the possibility of the IG plant or IGG overloading due to incorrect oxygen readings.



CREW RESPONSIBLE FOR TESTING AND OPERATING THE IG PLANT OR IGG MUST FULLY FAMILIARISE THEMSELVES WITH THE SYSTEMS.



DURING PRE-ARRIVAL TESTS, CHECK ALL ALARMS AND TRIPS ON THE IG PLANT AND IGG TO ENSURE THEY FUNCTION CORRECTLY.



CARGO HOLD VENTILATION OF GRAIN AND OIL SEED CARGOES:

COMMON ISSUES OBSERVED WITH VENTILATION LOGS

JOBIN MATHEW, ASSISTANT LOSS PREVENTION MANAGER, BRITANNIA P&I

Common cargo claims in the carriage of grain and oil seed cargoes include wetting, mould, and caking damage. Lack of proper ventilation is often not the reason for such cargo damage; sometimes it is due to the inherent vice of the cargo or pre shipment damage and wetting. However, cargo interests often allege that improper ventilation caused the damage. Therefore, it is paramount that ventilation of these cargoes is carried out properly and that accurate records are kept. The Club recommends using the three-degree rule of ventilation for grain and oil seed cargoes over dewpoint rule, due to the difficulty in measuring dew point within a laden cargo space.

NIGHT VENTILATION

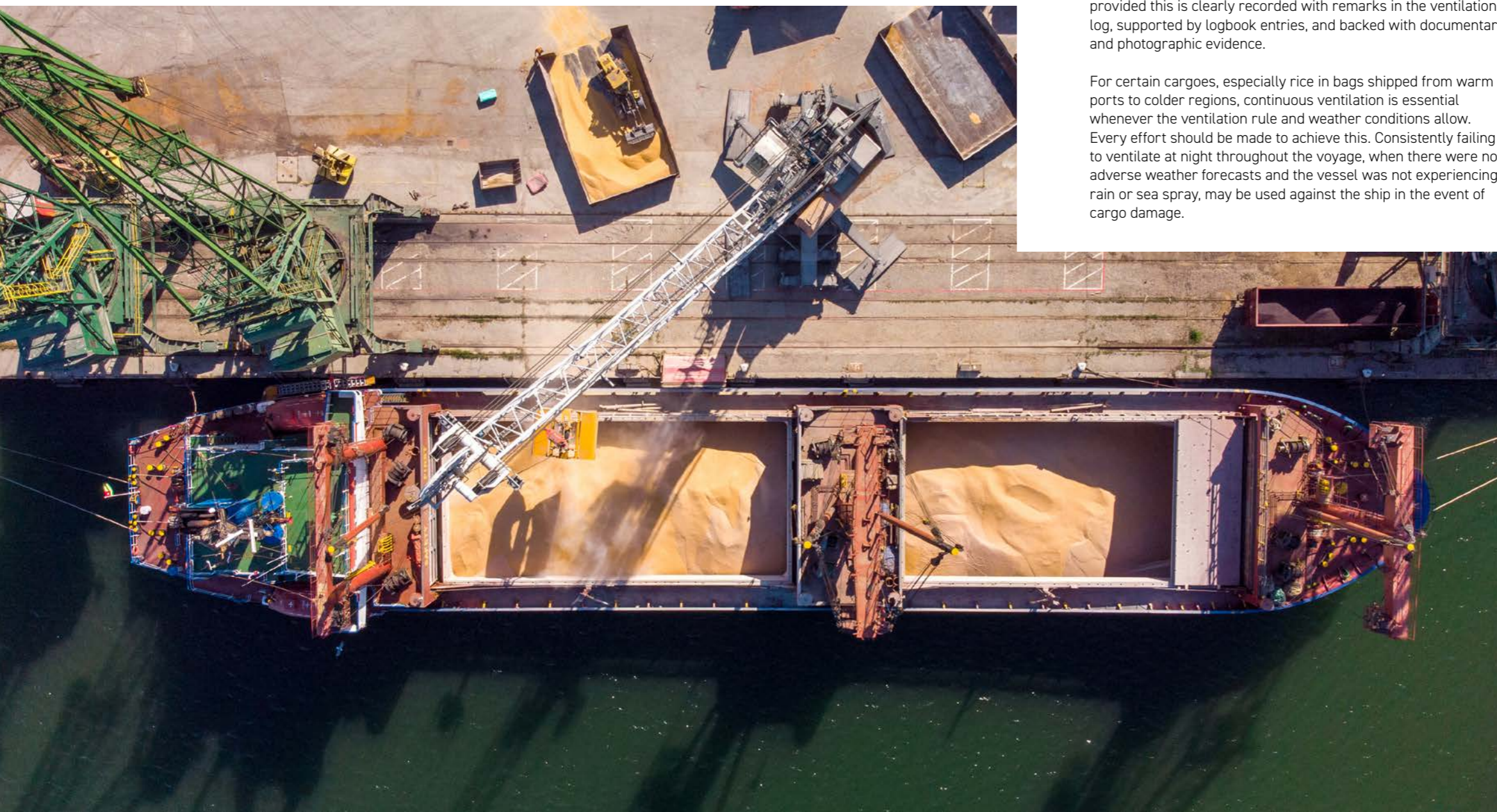
One issue often raised by cargo interests is that night ventilation of the cargo hold was not carried out. Conducting night ventilation can pose challenges, such as sudden, unforeseen rain and the limited availability of crew to take immediate action. This may not be a significant issue during passing showers because of the design of some ventilation inlets. However, when transiting areas where seasonal rains are expected, or where rain or heavy weather is forecast, not ventilating at night may be acceptable provided this is clearly recorded with remarks in the ventilation log, supported by logbook entries, and backed with documentary and photographic evidence.

For certain cargoes, especially rice in bags shipped from warm ports to colder regions, continuous ventilation is essential whenever the ventilation rule and weather conditions allow. Every effort should be made to achieve this. Consistently failing to ventilate at night throughout the voyage, when there were no adverse weather forecasts and the vessel was not experiencing rain or sea spray, may be used against the ship in the event of cargo damage.

OTHER COMMON VENTILATION AND VENTILATION LOG INCONSISTENCIES

Below are some other common issues we have observed with cargo ventilation and ventilation logs:

- Using an inappropriate rule for the circumstances. For example, if the cargo temperature at loading is provided and holds are sealed following fumigation, yet the dew point rule is used.
- Not stating which rule is being followed for determining whether to ventilate.
- Continuing ventilation when conditions for the chosen rule are not met or, vice versa.
- Stating “ventilation stopped due to high relative humidity or fog” as the only reason for not ventilating which is not an acceptable reason for not ventilating.
- Ventilation stopped for all holds, though the aft holds could still be ventilated, as they were unaffected by shipping spray in the forward.
- Not recording in the log that no ventilation was conducted due to fumigation.
- Crew taking dew point measurements inside the hold while fumigation documents state the hold should not be entered.
- Ventilation logs showing only one set of measurements per day, which does not demonstrate that ventilation was carried out appropriately. The Club recommends taking one set of measurements every 4 hours.
- Insufficient notes explaining why ventilation stopped. Ventilation can occur in the rain, provided the relevant rule is met and the onboard system prevents water ingress.
- Ventilation start and stop times not being recorded, preventing the duration from being determined.
- Ambient temperatures not being recorded when ventilation was not carried out.
- Recording wet bulb temperatures higher than dry bulb temperatures, which is impossible.
- Large, unrealistic variations in dry and wet bulb temperatures inside cargo holds, indicating measurement errors.
- Inconsistent entries in ventilation logs vis-à-vis the logbook, such as weather or temperature not matching.



INTERNATIONAL MARITIME DANGEROUS GOODS (IMDG) CODE AMENDMENT 42-24

ANTHONY GARDNER,
LOSS PREVENTION MANAGER, BRITANNIA P&I

The latest IMDG Code amendment was adopted in May 2024 by Resolution MSC.556(108).

Whilst the amendments have been available on a voluntary basis since 1 January 2025, the changes become mandatory from 1 January 2026.

Amendment 42-24 replaces the full text of the previous edition, and this has also resulted in a need to update the 'Revised emergency response procedures for ships carrying dangerous goods (EmS Guide)', resulting in MSC.1/Circ.1588/Rev.3, superseding the previous revision.

ELECTRIC VEHICLES AND BATTERIES

Reflecting the increased carriage of electric vehicles and batteries, there are several changes, such as:

New UN numbers are added for the following Class 9 dangerous goods:

- **UN 3556 VEHICLE, LITHIUM ION BATTERY POWERED**
- **UN 3557 VEHICLE, LITHIUM METAL BATTERY POWERED, and**
- **UN 3558 VEHICLE, SODIUM ION BATTERY POWERED**

Vehicles powered by these means, with batteries fitted, are now to be carried in accordance with these UN numbers, and not UN 3171.

These new entries are accompanied by modifications and additions to the list of Special Provisions (SP). For example, SP961 and SP962 are amended to reflect the addition of the new UN 3556, 3557 and 3558; and new SP404 and 977 are added in relation to the new UN 3558.

Lithium Batteries: A new note has been added to section 2.9.4.7 clarifying the term "make available". This is defined as "manufacturers and subsequent distributors ensure that the test summary for lithium cells or batteries or equipment with installed lithium cells or batteries is accessible so that the consignor or other persons in the supply chain can confirm compliance."

Sodium Ion Batteries: A new section 2.9.5 is added, explaining the safe transport provisions for this battery type, such as testing that aligns with the requirements for lithium batteries. New UN numbers are also added in the Dangerous Goods List (DGL).

UN 3551 SODIUM ION BATTERIES with organic electrolyte, Class 9.

UN 3552 SODIUM ION BATTERIES CONTAINED IN EQUIPMENT or SODIUM ION BATTERIES PACKED WITH EQUIPMENT, with organic electrolyte, Class 9.

Stowage and handling requirements: UN 3536 LITHIUM BATTERIES INSTALLED IN CARGO TRANSPORT UNIT, are now to be carried under Stowage Category D, meaning ON DECK only, and in the case of passenger ships carrying more than 25

passengers (or more than 1 passenger per 3m of overall length) carriage is PROHIBITED.

This cargo type is also now to be "Protected from sources of heat" and kept "Clear of living quarters". Definitions for both these conditions are contained within section 7.1.2 of the Code.

CARBON

UN 1361 CARBON, animal or vegetable origin (Packing group II and III), have had all previous Special Provisions deleted, and new SP 978 added. SP 978 sets out a number of requirements, such as, the UN N.4 test for self-heating shall not be used to exempt UN 1361 from the Code, and when packed in a Cargo Transport Unit, specific requirements for minimum head room requirement and maximum stowage height/block size of the package(s).

UN 1361 shipments, the transport document must now include the date of production, date of packing into packaging, and temperature of the material on the day of packing.

UN 1362 CARBON, ACTIVATED, has had SP 223 and SP925 deleted, and a new SP 979 added. SP 979 sets out the circumstances in which the provisions of the Code do not apply to steam activated and chemically activated carbon.

For extensive information on the subject, visit the link below:
<https://britanniapandi.com/2025/01/safe-carriage-of-charcoal-in-containers/>

STOWAGE PLAN (SECTION 5.4.3.1)

When a detailed stowage plan is used in place of a special list or manifest, it must now also identify the primary hazard class(es) and subsidiary hazard(s), in addition to setting out the location of all dangerous goods and marine pollutants.

NEW UN NUMBERS

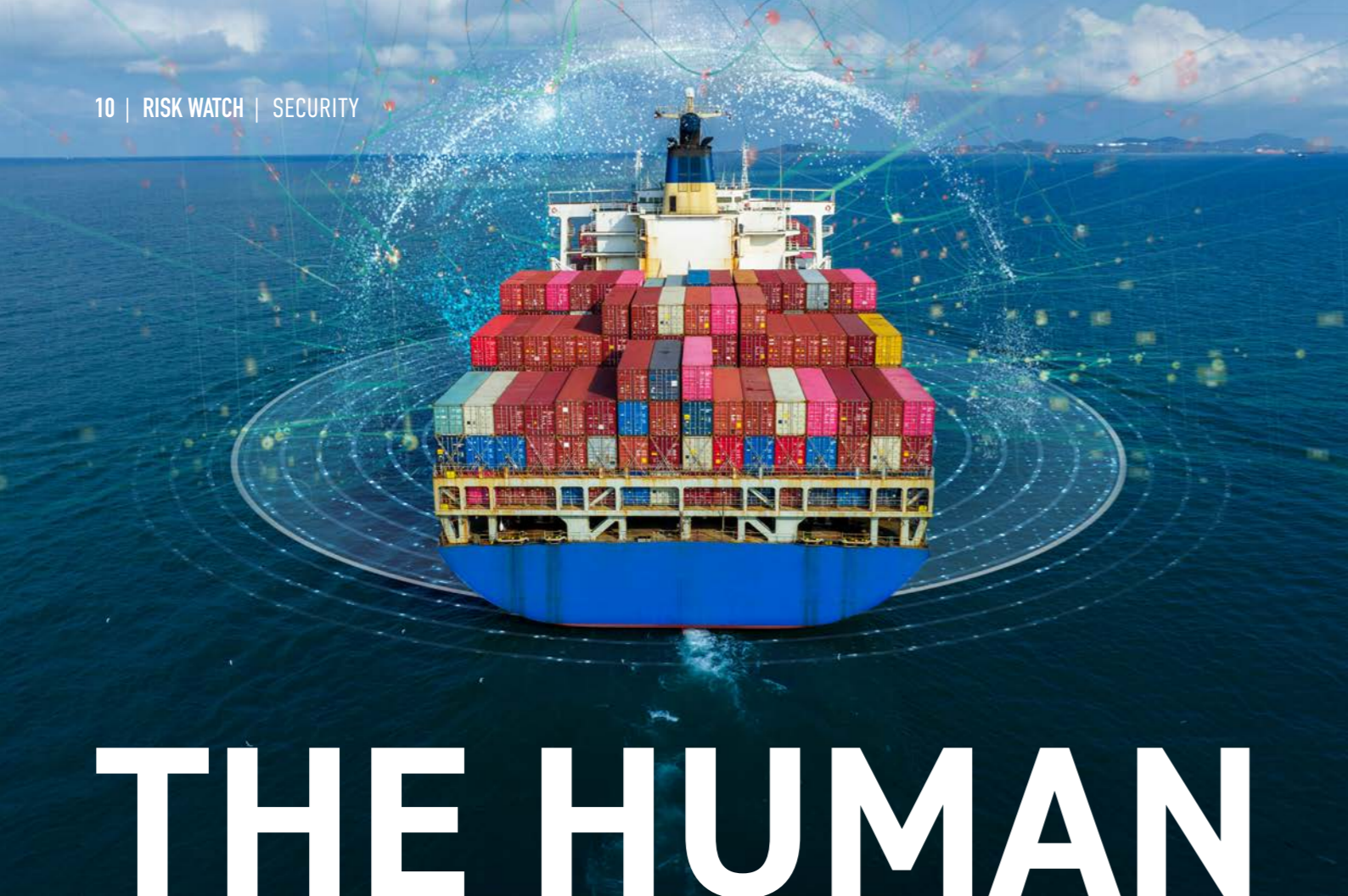
A further six new UN numbers are added to the DGL in this amendment:

- **UN 0514 FIRE SUPPRESSANT DISPERSING DEVICES, Class 1.4S**
- **UN 3553 DISILANE, Class 2.1**
- **UN 3554 GALLIUM CONTAINED IN MANUFACTURED ARTICLES, Class 8**
- **UN 3555 TRIFLUOROMETHYLTETRAZOLE SODIUM SALT IN ACETONE, with not less than 68% acetone, by mass, Class 3**
- **UN 3559 FIRE SUPPRESSANT DISPERSING DEVICES, Class 9 and**
- **UN 3560 TETRAMETHYLAMMONIUM HYDROXIDE AQUEOUS SOLUTION with not less than 25% tetramethylammonium hydroxide, Class 6.1.**

FOR FULL DETAILS ON THE AMENDMENTS, THE IMDG CODE IN ITS ENTIRETY SHOULD BE CONSULTED.

FOR FURTHER INFORMATION, PLEASE DO NOT HESITATE TO CONTACT THE LOSS PREVENTION DEPARTMENT.





THE HUMAN FIREWALL:

SECURING THE CREW, SAFEGUARDING THE SHIP

IN THE COMPLEX OPERATIONAL ENVIRONMENT OF A VESSEL, THE INTEGRITY OF YOUR DIGITAL SYSTEMS IS AS CRUCIAL AS THE SEAWORTHINESS OF THE HULL. WHILE SOPHISTICATED TECHNOLOGY ACTS AS A SHIELD, THE SINGLE MOST CRITICAL VULNERABILITY IS OFTEN FOUND NOT IN THE HARDWARE OR SOFTWARE, BUT WITH THE PEOPLE OPERATING IT. AN ESTIMATED 74% OF ALL CYBER BREACHES START BECAUSE OF THE HUMAN ELEMENT.¹ THIS STAGGERING FIGURE UNDERSCORES A SIMPLE TRUTH, THAT THE MOST VULNERABLE POINT IN CYBER SECURITY IS OFTEN THE PERSON AT THE KEYBOARD.

ROB PRESTON, SENIOR TECHNICAL SALES ENGINEER, GTMARITIME

GTMaritime, providers of secure communication software for remote workers, ran controlled phishing simulations across a variety of vessels. The results were stark: Industry benchmarks suggest that phishing test failure rates typically fall between 2–5%. GTMaritime results revealed 15% of maritime users clicked malicious links, with 7% submitting personal data.

Cyber security therefore cannot solely be the responsibility of the shore-based IT department, it must be understood and adopted as a shared responsibility by everyone onboard. By fostering a vigilant, security aware mindset, every crew member can actively contribute to the vessel's digital safety.

To be an effective human firewall, you must first understand how criminals exploit psychology, trust, curiosity and urgency, to bypass technical controls

PHISHING: THE DECEPTIVE LURE

The most common tactic remains phishing, a fraudulent attempt to acquire sensitive information such as login credentials, passwords or financial details. Attackers impersonate a trustworthy entity, casting a wide net commonly via email or text message hoping to trick the recipient into clicking a malicious link or downloading an infected file.

Your defence against phishing requires caution. Always verify the sender's email address and check for subtle misspellings in the domain. Treat unexpected or demanding messages with suspicion: never click links or open attachments. Forward suspicious emails immediately to your relevant IT manager for verification. Criminals deliberately create a sense of urgency, a missed invoice, a security alert to bypass rational thought. Resist this impulse and always think before you click.

MALWARE: THE SILENT INTRUDER

Malware is malicious software designed to disrupt, damage or gain unauthorised access to a computer system. This category includes viruses, spyware and other code designed for destruction or espionage.

Malware often spreads through seemingly innocent means. For example, USB devices can be a risk because they can be pre-loaded with malware and infect systems the moment they are connected. An infected USB device found on the floor, could be a deliberate attempt for infection. The rule is simple; only use company approved and scanned USB devices that are essential for specific tasks. Do not connect any personal or unknown devices into a vessel's network, particularly those connected to operational technology or critical bridge systems.

RANSOMWARE: THE OPERATIONAL HOSTAGE

A highly disruptive form of malware is ransomware, which works by encrypting computer files, locking out the legitimate user and demanding a ransom payment for recovery.

If a vessel's systems are affected, the consequences can be severe. Navigation charts, planned routes, engineering logs and communication records could be rendered inaccessible. This can lead to full operational paralysis, delays, or loss of control over key systems. Paying the ransom is never a guarantee of recovery and simply funds further criminal activity. Prevention is the only reliable cure. The key preventative measure is ensuring regular isolated backups of all essential data are maintained, allowing the ship to restore systems without giving in to criminal demands. Alongside your constant alertness against phishing and malware, this dual approach ensures strong cyber resilience.

SOCIAL ENGINEERING AND MEDIA RISK

Beyond technical exploits, social engineering is the psychological manipulation of people into performing actions or divulging confidential information. This tactic leverages human trust through impersonation or false authority. An attacker might telephone the vessel claiming to be an engineer needing an urgent password to fix a critical connection. Always treat unsolicited requests for sensitive information with extreme suspicion and verify them through a prearranged independent channel.

Even your personal habits could compromise the vessel's security. Social media accounts provide attackers with valuable intelligence they can use to craft believable attacks. How you portray yourself online can unintentionally put you at risk. A personal post showing the vessel's cargo in the background, or a seemingly harmless check in with your real time location can unintentionally expose operational details that aid an attacker. Maintain high privacy settings, avoid sharing specific work details, and treat all information about the ship and its operations as commercially sensitive.

FOSTERING A CULTURE OF TRUST AND ACTION

The final layer of defence is a well-prepared crew. The goal is to foster a culture of cyber trust onboard. Crew must feel safe reporting anything suspicious without fear of reprisal. Incident drills, like fire or safety exercises, should rehearse reporting, isolation and communication with shore teams.

Everyone must feel comfortable and safe to speak up without fear of repercussion when they spot anything suspicious. If you see something, you must know immediately who to report to and how to safely initiate a response.

In an active incident, speed is important, but the wrong action could be worse to operations. The priority is containment which is crucial to prevent the spread of malware or ransomware across the network. Isolating a compromised device is necessary, but you must do so with operational impact in mind. You do not want to unintentionally disconnect a navigation system while isolating an infected crew computer which operates in a segmented part of the network.

The solution is a tailored incident response plan to your environment and operational needs. This should be treated like fire safety or health and safety procedures. Do regular drills that practise reporting, isolating systems and communicating with shore side teams. This preparation ensures crew members know who to notify, how to safely isolate a system and what information to immediately capture about the incident.

To achieve this state of readiness, organisations are increasingly turning to dedicated solutions, using human risk management platforms to turn every crew member into the proficient, vigilant human firewall the maritime industry now depends upon.

CONCLUSION

The next great maritime incident may not be caused by a mechanical failure or an act of piracy, but by the single, innocent click of an unaware crew member.

The digital security of a vessel is a continuous, collective challenge. As technology progresses, so too does the sophistication of the attackers. The integrity of global trade, the safety of the crew and the continuity of the voyage depend on more than just high-tech solutions. Success rests on the vigilance of every seafarer.

1. Information Commissioner's Office, "Learning from the Mistakes of Others – A Retrospective Review: Errors," accessed October 20 2025, <https://ico.org.uk/about-the-ico/research-reports-impact-and-evaluation/research-and-reports/learning-from-the-mistakes-of-others-a-retrospective-review/>.
2. Your DMARC, "Phishing Simulation Benchmarks: What's Normal in 2025?" Support Center. Updated over 6 months ago. Accessed October 20, 2025. <https://support.yourdmarc.com/en/articles/11069886-phishing-simulation-benchmarks-what-s-normal-in-2025>.



ADVICE ON CUSTOMS FINES

CUSTOMS AUTHORITIES IN SEVERAL JURISDICTIONS CONTINUE TO PENALISE VESSELS AND CARRIERS WHEN THE LANDED OR OUTTURN FIGURES DO NOT MATCH THE MANIFEST OR DECLARED CARGO FIGURES. WHILE PRACTICE VARIES FROM PORT TO PORT, THE CLUB'S RECORDS REVEAL A RECURRING PATTERN OF CUSTOMS-RELATED FINES TIED TO CARGO SHORTAGES, OFTEN STEMMING FROM OVER-RELIANCE ON SHORE FIGURES AS THE LEGAL TRUTH, LOW OR ZERO TOLERANCE FOR DISCREPANCIES OR ERRORS AND FINES INDEXED TO MARKET VALUE AND/OR UNPAID DUTIES, OFTEN IN MULTIPLES.

CHARLES CHONG,
ASSOCIATE DIRECTOR, BRITANNIA P&I

While not every discrepancy has resulted in a financial penalty, largely due to the effective intervention from the Club's local correspondents, these ports present elevated risks that calls for proactive mitigation strategies from Members.

Customs administrations view cargo shortages with suspicion because they may indicate under-declaration, smuggling, tax evasion or other regulatory breaches. Consequently, customs authorities are empowered under their national laws to impose fines or penalties on responsible parties.

These fines serve multiple purposes such as recouping lost customs duties and taxes, enforcing compliance with import declarations, deterring fraudulent practices and maintaining the customs control system integrity.

Although customs procedures and legal frameworks vary globally, several common principles emerge regarding cargo shortage fines, i.e., reliance on official inspection or survey results to determine if shortages exist. Even minor discrepancies between the cargo manifest and the shore weighbridge and/or stevedore's outturn figures can trigger substantial fines. The figures of a ship are often disregarded in disputes, relying on the accuracy of shore-side measurements and limiting the ship's ability to contest discrepancies.

If a fine is imposed, it is usually based on the unpaid import duties for the alleged missing cargo(es) (estimated local market value), multiplied by a certain factor determined by local custom authorities or some additional applicable custom duties. Given the complexity of import regimes and fluctuating duty rates across countries and ports, even modest shortages can escalate into unexpectedly large exposures if not managed carefully.

Ships are commonly required to post security, i.e., a cash deposit or bank guarantee to cover the potential fine while the matter is being investigated. While these initial demands can be steep, sometimes a more amicable approach can be achieved if carefully dealt with. Therefore, it is advisable to ensure cargo documents and submitted declarations are accurate and precise.

Whether the cargo is bagged, bulk, or liquid, any variance between the declared quantity and the amount recorded by the customs-appointed surveyor can result in fines. No single commodity stands out as uniquely problematic, but commonly affected goods include rice, wheat, corn, soybeans, sugar and fertilizers. These are high-volume, high-value commodities where minor measurement variances can have outsized financial consequences.

Therefore, draft surveys conducted by the ship often serve as our primary line of defence. For packaged cargo, they should be dealt with caution, and goods should be clearly marked and independent surveyors should be engaged where feasible to witness discharge operations.

As an example, Dakar in Senegal has been one of the most stringent ports regarding customs enforcement where seemingly minor documentation errors, minor cargo variances or even typographical errors can trigger significant fines or, in severe cases, ship detention. However, the Club's local correspondent recently reported a noticeable, albeit cautious, softening in enforcement, with authorities appearing more tolerant of minor cargo shortage discrepancies.

References:

1. <https://britanniapandi.com/wp-content/uploads/2024/01/Customs-and-Immigration-Fines-in-Senegal.pdf>

Our Dakar correspondents¹ have compiled a detailed checklist of documentation and declarations that customs officials routinely inspect such as:

- Manifest of cargo to be discharged
- Manifest of the cargo in transit, if any
- Bills of lading
- Crew list
- Port of call list
- Crew effects list
- Arms list (if any)
- Bonded stores
- Narcotics list
- Paints
- Bunker ROB, i.e., fuel oil, diesel oil, LSMGO, VLSFO, etc
- Residual oils in service tanks, sump tanks, hydraulic systems, sludge, etc
- Chemicals
- Lubricants
- Fire extinguishers

Therefore, the Club advises Members to form a consistent approach to each port entry, such as:

- Familiarise with port papers and declaration on cargo, crew effect, consumable and bunkers. Customs notification in relevant jurisdictions is essential, and the ship's master should always consult local agents to obtain the latest port regulations and requirements prior to submitting these declarations.
- Verify and reconciling all cargo documentation (manifest, packing list, commercial invoice, bill of lading, etc) well before arrival to ensure they reflect actual cargo loaded.
- Engage independent surveyors to conduct draft surveys and witness cargo operations and/or tally survey. Where permitted, record photographic or video evidence of sealed holds, weighbridge readings or tally operations.
- Ensure engine room and non-engine consumables (bunkers, lubes, provisions, bonded stores) are accurately declared, customs officials often scrutinise these as closely as cargo.
- Closely communicate with local agents, who aid in navigating bureaucratic expectations. Timely submission of explanations for dispute notices is helpful.
- Avoid signing customs documents without full understanding or verification.
- Receive the custom officers promptly to complete formalities and avoid negotiating any fine amount with custom officers as this may be misinterpreted as a bribery.
- Notify the Club and local correspondent in the event of a likely fine or seek legal and technical advice from experts within that jurisdiction.

While customs fines for cargo shortages remain a persistent risk in certain global ports, they are avoidable. With diligent planning, accurate documentation and strong local support, many of these incidents can be avoided, or resolved with minimal financial impact. As enforcement practices continue to evolve, staying informed, being proactive and aware of specific local custom procedures remains best practice to mitigate custom fines.

For further advice, please contact Britannia Loss Prevention team at lossprevention@tindallriley.com.

NEW REPORTING REQUIREMENT LOSS OR OBSERVATION OF FREIGHT CONTAINERS

ANTHONY GARDNER, LOSS PREVENTION MANAGER, BRITANNIA P&I

From 1 January 2026, SOLAS Chapter V Regulation 31 is amended to reflect and clarify new reporting requirements for the loss of freight containers from ships. The ship's master, or where the master is unable, the company, will report any loss of freight container without delay to nearby ships and the nearest coastal state. The reporting format is added in SOLAS Chapter V Regulation 32 and will include the information listed below in Table 1.

This amendment also imposes the requirement on ships masters to report any observation of a freight container drifting at sea without delay to nearby ships and the nearest coastal state, following the reporting format listed below in table 2.

Shipowners are recommended to update their procedures and reporting format(s) as necessary to meet these requirements.



TABLE 1	
Type of Report: Loss of freight container(s) from a ship	Message No:
Time (UTC):	Date:
IMO No:	Call Sign:
Ship Name:	MMSI No:
From: (Master of the ship or contact details of company representative)	
To: (Nearest coastal state and flag state)	
Position of Container Loss: (Lat/Long or true bearing and distance from a known landmark. This should be either: a) the position the containers were known to be lost, b) the estimated position if the actual position is not known, or c) if an estimated position is unknown – the ship's position when the container loss was discovered)	
Total/estimated number of container(s) lost: (Once a thorough inspection can be conducted, a verified number of lost containers shall be reported and marked as "final")	
Type of goods in freight container(s):	
Dangerous Goods: (Yes or No)	UN Number(s) if known:
Description of lost container(s):	
Dimensions of container(s): (e.g. 20 foot)	
Type(s): (e.g. reefer)	Total/estimated number of empty container(s):
Further relevant information if available:	
Cargo description according to dangerous goods manifest (if applicable):	
Description of any cargo spill:	
Wind direction and speed:	
Sea current direction and speed:	
Sea state and wave height:	
Estimated drift direction and speed of lost container(s):	
Other relevant information:	

TABLE 2	
Type of Report: Observation of freight container(s) drifting at sea	
Time (UTC):	Date:
IMO No:	Call Sign:
Ship Name:	MMSI No:
From: (Master of the ship)	
To: (Nearest coastal state to the position of observation)	
Time (UTC) and Date drifting containers observed:	
Position container(s) observed: (Lat/Long or true bearing and distance from a known landmark)	
Total number of container(s) observed:	
Further relevant information if available:	
Dimensions of container(s): (e.g. 20 foot):	
Type(s) of container observed: (e.g. reefer):	
Description of any cargo spill:	
Wind direction and speed:	
Sea current direction and speed:	
Sea state and wave height:	
Estimated drift direction and speed of observed container(s):	
Other relevant information:	



THE GRAND AMANDA

UNLESS EXPRESSLY EXCLUDED, CHARTERERS MAY OWE AN IMPLIED INDEMNITY TO OWNERS, ARISING FROM CHARTERERS' ORDERS, FOR A LIABILITY IMPOSED ON OWNERS BY A COURT, WHICH HAS NOT PERMITTED THE APPLICATION OF A CONTRACTUAL DEFENCE SUCH AS INHERENT VICE, EVEN IF THE COURT WAS IN ERROR.

NATALIE CAMPBELL, FLEET MANAGER, BRITANNIA P&I

In the *GRAND AMANDA* [2025] EWHC 1990 case, the ship was let by Owners to Charterers for a trip time charter on an amended NYPE 1946 form. The charterparty stated that Owners were responsible for the ship, crew and equipment, and that Charterers were responsible for risks arising due to the cargo carried. Clause 8 of the charterparty stated that "...The Captain (although appointed by the Owners), shall be under the orders and directions of the Charterers as regards employment and agency..." The charterparty also included an Inter-Club Agreement (ICA) 2011 clause apportioning liability for cargo claims between Owners and Charterers depending on the cause of the claim.

In accordance with Charterers' orders, the ship carried a cargo of soyabeans in bulk from Uruguay and Argentina to China. CONGENBILL 2007 bills of lading were issued in respect of the cargo, incorporating Hague or Hague-Visby Rules Article IV(2) (m), which provides that "Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from - ... (m) Wastage in bulk or weight or any other loss or damage arising from inherent defect, quality or vice of the goods ..." The bills incorporated the terms of the charterparty, which provided for all disputes to be determined in England.

On discharge in China, the first parcel of cargo was found to be mildewed, discoloured, caked and blackened. Cargo interests and their insurers commenced proceedings against Owners in the Chinese court for cargo loss and damage. Although the bills

of lading provided for disputes to be determined in England, Owners decided to defend the Chinese proceedings rather than dispute jurisdiction. The Chinese court decided that Owners were liable for failure to take adequate care of the cargo and rejected Owners' inherent vice defence under Article IV(2)(m).

Owners commenced proceedings against Charterers in England in accordance with the charterparty seeking to recover the amount for which they had been found liable by the Chinese Court.

The English Court rejected Owners' claim against Charterers under the ICA 2011 clause because the liability had been established by an award or judgment rather than by consensual settlement. If the liability had been settled, compromised or paid, then the loading of cargo suffering inherent vice for carriage to China would have been a relevant "act" for the purposes of ICA Clause 8(d), where the "act" was not the mere shipment of the cargo but the shipment of unstable cargo.¹

However, the Court also decided that Charterers were liable to Owners under the implied indemnity at clause 8 of the charterparty. The Court explained that the implied indemnity arises when:

- 1. Owners comply with a request from Charterers, which request exceeds the contractual risks accepted by Owners at the time of entering the charterparty and which gives rise to a liability to a third party;**
- 2. Charterers' lawful order was an effective cause of Owners' loss.**

For the risk to have been accepted by Owners at the time of entering the charterparty, the risk must have been known to Owners or capable of being known, such as being a notorious risk. The risks can be identified by the construction of the charterparty and an informed judgment of the broad range of physical and commercial hazards incidental to the charter service. These risks could be exceeded, for instance, by Charterers requesting Owners to sign bills of lading which impose more onerous obligations on Owners than envisaged by the charterparty.

The implied indemnity does not apply to ordinary trading risks borne by Owners and for which Owners are remunerated by the payment of hire. The English Court held that the risk of a court failing in error to apply the defence of inherent vice was not an ordinary cost or risk associated with the performance of the charter service. Such a court action is not one of the broad range of physical and commercial hazards which are normally incidental to a chartered service and, therefore, arose as a consequence of Charterers' order to load that cargo for that voyage.

The *GRAND AMANDA* is likely to be an important decision for Owners chartering on terms that include NYPE 1946 clause 8 or the same wording as, under English law, it may give them the right to recover liabilities from Charterers which have been incurred where Owners have been found liable due to a foreign court erring in applying a contractual defence.

1. Following the Court's decision, the International Group published an amended version of the ICA clause 2011 which will apply the terms of the ICA if liability has been established by an award or judgment. See the Club's Circular dated 3 July 2025



THE TAIKOO BRILLIANCE

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THE RECENT DECISION OF THE ENGLISH HIGH COURT IN THE *TAIKOO BRILLIANCE* [2025] EWHC 878 (COMM) PROVIDES GUIDANCE ON THE INTERPRETATION AND APPLICATION OF ARTICLES III.6 AND I(C) OF THE HAGUE VISBY RULES (HVR). IN THIS CASE, THE COURT CONSIDERED (A) THE TIME LIMIT FOR COMMENCING “SUIT” FOR CLAIMS SUBJECT TO THE HVR AND (B) THE DEFINITION OF DECK CARGO WHICH FALLS OUTSIDE THE SCOPE OF THE HVR.

The case concerned a shipment of pine logs carried on the *TAIKOO BRILLIANCE* from New Zealand to Kandla, India. Four bills of lading were issued, two of which stated that some of the cargo was carried on deck, with quantities of 22,994 and 11,092 pieces respectively. At Kandla, the cargo was discharged in exchange for letters of indemnity for delivery without production of the original bills of lading. The holders of the bills (the “Holders”) alleged mis-delivery and some months later arrested a sister ship of the *TAIKOO BRILLIANCE* in Singapore to obtain security for their claim.

More than a year after discharge of the cargo, the Holders commenced arbitration proceedings against the owners of the *TAIKOO BRILLIANCE* in respect of their alleged mis-delivery claim

in accordance with the terms of the bills of lading. In response, owners argued that the claim was time barred under Article III.6 of the HVR which requires “suit” to be brought within one year of delivery of the cargo or the date on which the cargo should have been delivered.

On appeal from the arbitration award, the Court was asked to consider two questions:

1. Did the arrest of the sister ship in Singapore to obtain security amount to a “suit” for the purposes of Article III.6? The Court decided this question in owners’ favour. The Court said that the Singapore proceedings were solely brought to obtain security and that a “suit” for the purposes of Article III.6 requires proceedings that can establish liability for the claim. Accordingly, the Holders’ claim in respect of the under-deck cargo, which was commenced in arbitration over one year after the goods were delivered or should have been delivered, was time barred.
2. Did the cargo carried on deck fall outside the scope of the HVR? Article I(c) of the HVR excepts from its definition of “goods” any “cargo which by the contract of carriage is stated as being carried on deck”, with the result that the Rules do not apply to such cargo. Owners argued that in order for “goods” to fall within the exception under Article I(c), the bills of lading must clearly identify the quantity of cargo being carried on deck, as well as the precise parcels carried. The Court disagreed and found that no single approach to drafting bills of lading is required and that what is necessary may vary depending on (a) the nature of the cargo and (b) the circumstances of each case. The Court, therefore, held that the arbitrator had not been wrong in deciding that the reference in two of the bills of lading to 22,994 and 11,092 pieces being carried on deck was sufficiently clear to fall within the exception under Article I(c) and that the carriage of this cargo was not subject to the HVR. Accordingly, the Holders’ claim in respect of the cargo carried on deck was not subject to the HVR time bar for commencing suit.

The *TAIKOO BRILLIANCE* confirms that proceedings to establish liability for the claim must be commenced in order to interrupt the HVR time limit of one year from delivery or the date when the cargo should have been delivered. Commencing proceedings solely to obtain security for the claim will not be sufficient. Further, where cargoes are to be carried under or on deck (for the same or different receivers), those who issue the bills of lading should ensure that such cargo is properly identified and described in the bills of lading, to minimise potential disputes given that each case will be decided on its own facts.

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