

**BULLETIN No. 183**  
**SEPTEMBER / OCTOBER 2001**

**ASSOCIATION &  
INDUSTRY NEWS**

**Main story : Mississippi Exclusive  
Towage**

The industry in the form of non-members as well as members reacted superbly in pledging financial support to underwrite the legal costs of seeing the industry through to the conclusion of what was then a Federal Maritime Commission "Show Cause" order.

But since the publication of the previous Bulletin, the "Show Cause" order has been replaced by a requirement for a full Discovery Order and an evidentiary hearing – the practical effect of which would have been a vastly more expensive legal process which the Intercargo Management Committee considered to be unsustainable from an industry point of view.

Nevertheless, following an exercise to contact dry bulk owners known to have traded in the Mississippi, it has become apparent that some owners and operators are prepared to provide the FMC's Bureau of Enforcement with details of their estimated financial losses and copies of their current towage contracts. The BoE (Tel : +1 202 523 5783) is still available to receive further submissions and to answer questions regarding the degree to which commercially sensitive information can be withheld at an

evidentiary hearing but time is running short and further submissions should be made as soon as possible.

Of note is the fact that many companies who are not themselves directly affected as they operate under time charter arrangements have verbally reported to Intercargo their disquiet about their inability to contract with a tug company of their choice. It is felt that this will have clear implications in respect of competition, quality and potentially, liability.

Further information as and when received will be posted on the Intercargo Bulletin Board.

**New Members**

Intercargo is delighted to welcome Anangel Shipping as a Full Member of Intercargo. This much respected Company operating predominantly Capesize and Panamax vessels is based in Piraeus.

Similarly, we are pleased to welcome as an Associate member, Plutofylax – also based in Greece.

**Insurance and P&I : Bulker claims**

Associate member, Steamship Insurance Management Services Ltd has published on its website ([www.simsl.com](http://www.simsl.com)) an analysis of claims relating to their entered tonnage. Bulk Carrier claims recorded by Steamship Insurance Mutual in 2000 were significantly reduced compared to 1999 with a noteworthy reduction in crew, pollution and "other" claim categories. The report notes that over the last five years, less than 2% of bulk carrier claims were greater than USD 200,000.

Another Intercargo Associate member, The Swedish Club, has researched pre and post ISM data and concluded that owners implementing the ISM Code can expect a lower number of hull claims. The Swedish Club suggests that managerial commitment towards ISM is a contributory factor in ensuring a successful implementation. Further information may be found on the Swedish Club's website – [www.swedishclub.com](http://www.swedishclub.com).

### **Annual Review**

The 2001 Intercargo Annual Review has been mailed or hand delivered to all Intercargo members and other interested parties. Our thanks to everyone who supplied us with information or pictures.

If you would like additional copies, please e mail Charlie Maclean at [charlie.maclean@intercargo.org](mailto:charlie.maclean@intercargo.org)

### **... diary of recent activities**

During September, Roger Holt together with a number of other industry representatives met Mr Yoram Cohen of the Liberian Register at the Baltic Exchange in London.

Rob Lomas attended an ISF Training and Manning Conference in London and Peter Kidman attended a number of meetings relating to IACS & classification matters reported in the Technical section of this Bulletin. Also in September, World Maritime Day was marked in London with a reception at the IMO.

During October, Roger Holt visited South Africa and spoke at a Dry Bulk Terminals Working Group Conference on the ship/terminal interface. Other

dry cargo interests and potential members were visited in the region and the opportunity was taken to discuss operational issues with the terminal operators at Saldanha Bay. Following contacts made at this seminar, Peter Kidman was invited to the EMO Terminal in Rotterdam to discuss operational issues

Rob Lomas represented Intercargo at a presentation of the Association of Average Adjusters; Roger Holt attended the Lloyds List Shipping Convention in London and Peter Kidman participated in a Ship Vetting lecture. Later in the month, the Chairman and the secretariat held brief informal meetings with the International Transport Workers Federation and Mr Michael Everard, President of BIMCO. Finally, Peter Kidman travelled to St Petersburg to talk at the Russian Register 4<sup>th</sup> International Seminar.

### **Intercargo in the News....**

Among the recent press coverage of Intercargo :-

“The resurrection of Intercargo” – the Chairman's view of the Maritime Association objectives : Maritime Asia October 2001

“Mississippi tug row deadline near” – Intercargo's role in co-ordinating shipowners objections. Lloyds List 1 November 2001

“Safety crackdown failing to stem losses of bulk carriers” – Roger Holt's report to the DNV Bulk Carrier Forum in Athens (LL 14.11.01) on the need for a holistic approach to bulk carrier design.

## **Conferences**

Dry Bulk Review conference in Hong Kong – 27-28 November. Further information may be found on the Intercargo website

Port State Control – London 5-6 December. T: +44 1932 893861 for further information.

## **COMMITTEE ACTIVITY**

### **Asia Panel meeting in Beijing**

Representatives from 11 shipowners met in Beijing on 22 September. Issues discussed included:-

- Agreement to continue informal and constructive dialogue with supply chain participants including charterers, ITF and Greenpeace. Representatives of the ITF would be invited to address a future meeting of the Asia Panel;
- EQUASIS – members were reminded to check the accuracy of information held on their vessels and to inform the Intercargo secretariat of any inaccuracies;
- The forthcoming Round Table will consider holistic design and shipyard capacity issues;
- Piracy would also be considered at the forthcoming Round Table. Interested parties at this discussions would include the Federation of ASEAN Shipowners's Associations; and
- The Intercargo Direction and Strategy Paper would be further refined over the coming months prior to the forthcoming Executive Committee meeting.

## **Intercargo London Committee**

Meeting on 11 October, representative of Banks, Classification, shipowners, insurance interests and charterers discussed :-

- The Industry Code of Practice on Ship Recycling;
- The loss of the Bulk Carrier, “Kamikawa Maru” in September; and
- Factors influencing an owners choice of flag.

The Committee noted the publication of the International Shipping Federation (ISF) Guidelines on Good Employment Practice. Anyone wishing to obtain a copy of this document should visit the ISF website

[www.marisec.org/pubs/index.htm](http://www.marisec.org/pubs/index.htm)

Further information about the content of this publication may be obtained from the Intercargo secretariat.

### **European Panel Meeting**

Meeting on 25 October with a similar agenda to the Asia Panel, this Committee :-

- Debated the chain of responsibility in line with the Intercargo Direction Paper and Strategy;
- Discussed the increased War Risk premiums and
- Considered a position paper on an integrated approach to change on employment related issues.

### **Dates of future meetings**

The following meetings have been pencilled in for 2002. Final confirmation of the dates and venues will be given in due course.

#### **Venue : Singapore**

Friday 1 February – Morning :  
Intercargo Commercial Committee

Saturday 2 February – Intercargo  
Executive Committee meeting

Sunday 3 February – Round Table  
meeting involving Chairmen of  
BIMCO, ICS, Intercargo and  
Intertanko. The agenda will include  
discussions with Asian Shipyard  
representatives on design and capacity.

Monday 3 February – The Round  
Table continues with discussions with  
key opinion formers on Piracy.

#### **Venue London**

March : date to be confirmed : London  
Committee

#### **Venue : Asia**

March : date/venue to be confirmed :  
CASTEC

#### **Venue : Greece**

May or June : date and country to be  
confirmed : Annual General Meeting  
and Executive Committee.

## **OPERATIONAL ISSUES**

### **War Risk Insurance**

Members will be only too aware of the escalation in War Risk premia after the 11 September terrorist atrocities.

To meet these challenges, Industry representatives from the ICS and Intertanko met broking and underwriting interests in London on 25 September. A further meeting took place on 13 November and as the underwriters in particular welcomed the opportunity to discuss issues with industry representatives, a further meeting with Industry representatives will take place at some point in the next few weeks.

The 13 November meeting :-

- Re-stated industry concerns that some of the Additional Premia had been introduced in an arbitrary manner and that AP should now be re-assessed in the light of experience;
- Underwriters assured the industry that they were constantly monitoring the situation;
- Underwriters reminded industry representatives that the London Market was free and open and that negotiations with individual brokers could result in “improved” AP’s – provided that the underwriter perceived that the lack of risk justified such an approach. It was reported – anecdotally, that certain “nil AP’s” had been negotiated for specific port calls as had rebates for “no claims” after some port calls.

Similar anecdotal feedback from a dry cargo owners point of view will enable

us to obtain a picture of what is happening in the dry cargo industry. Your comments will be welcomed.

### **Advice for vessels calling at US Ports**

Ship and terminal security at US Ports is now materially different from its pre-11 September position.

Intercargo has received information concerning new operational requirements from the US Coast Guard and the resultant information has been posted on the Intercargo website and Bulletin Board. In summary, dry cargo owners trading to US ports must :-

- a) Provide Advance Notice of Arrival information to the National Vessel Movement Center 96 hours prior to arrival at a US Port and
- b) Furnish crew list information in the Notice of Arrival

This advice is not comprehensive and local advice from your agent and/or the local Captain of the Port (COTP) must be obtained before arrival.

Finally, through the good offices of Capt. Michael Gehrling, Operations Manager of Intercargo member, Liberty Maritime Corporation, the Association was represented at a 30 October meeting with the US Coast Guard on US Maritime & Homeland Security issues.

Matters discussed included :-

- A tacit understanding that industry and the USCG / other government agencies would need to cooperate and communicate effectively to maintain the required level of security; and

- The need to maintain an effective maritime security plan.

Future meetings with maritime organisations will consider implementation and cost issues.

### **Abandonment of Seafarers & Shipowners responsibilities.**

The IMO Legal Committee has approved two Guidelines covering financial responsibilities concerning abandoned seafarers and another covering the shipowner's responsibilities in respect of contractual claims for seafarers personal injury or loss of life.

These Guidelines will require the shipowner to introduce appropriate financial systems providing for repatriation expenses etc. P&I interests will clearly have expertise in providing assistance with these Guidelines.

In connection with the personal injury Guidelines, a model receipt and release form to provide assurances that any payment by the owner is made without admission of liability and without prejudice to the right of the seafarer to pursue any claim in law in respect of negligence, tort or any other legal redress arising out of the incident has been mooted.

These Guidelines will be put to the Full IMO Council meeting in November.

### **Violence and Crime on Board Ships**

IMO is reviewing practical preventative measures to combat violence and crime on board ships together with the legal treaties on

prosecution and extradition adopted in 1988. The 1988 SUA (Suppression of Unlawful Acts against the Safety of Maritime Navigation) Convention entered into force in 1992 to ensure that appropriate international action can be taken against persons committing unlawful acts against ships. It makes it an offence for any person to unlawfully seize control of a ship; endanger safe navigation; act violently against a person on board a ship; destroy a ship; place on board a device likely to damage or destroy a ship; destroy or damage maritime navigational facilities; and communicate false information. It is also an offence to assist others to commit these offences. The Convention obliges Contracting Governments either to extradite or prosecute alleged offenders.

### **Environmentalist protests**

Although specific details are not immediately to hand, two further incidents of environmentalist protest against dry cargo shipping have been logged – the first since March.

For information, the IMO Assembly will consider the responses received from Greenpeace and other NGO's including Intercargo to the required re-affirmation on safety.

Intercargo has publicly raised concern over safety arising from environmentalist action but otherwise remains resolutely committed to environmental objectives and the need for effective dialogue with all interested parties.

## **COMMERCIAL ISSUES**

### **“Happy Days” case**

We are indebted to London Maritime Solicitors, Jackson Parton, for an update on this case, namely, that as a result of this English High Court decision, there is a severe risk that if a Notice of Readiness is given which is technically invalid, it will not later become valid even when the vessel starts discharging or loading.

In the “Happy Day” case, the discharge operation lasted three months and the owners forfeited demurrage in addition to becoming liable for despatch.

However, the UK Court of Appeal will revisit this decision on 4-5 March 2002 but meanwhile, owners may wish to consider incorporating the following into C/P's : “laytime to commence in any event latest commencement of loading or discharging”. Mr. Parton has also supplied a number of factors which owners may wish to consider if faced with similar legal action prior to the appeal decision.

### **“Starsin” case**

Another case scheduled to go before the House of Lords for a full hearing in early 2002 concerns the “Starsin” case which examines issues connected with the identity of the contractual carrier. The facts of the case are as follows :-

- In 1995, a cargo of timber was shipped from Indonesia / Malaysia to Northern Europe. Damage was found after discharge and the holders of the relevant B/L (issued by Continental Pacific Shipping) brought claims against the carriers named on the Bill.

- The B/L contained clauses identifying the contractual owners as the owners of the vessel (or the demise owners in the case of a bare-boat chartered vessel).
- The legal process was then engaged to assess what status the bills were issued under – in essence, who was the contractor ?
- The Court of Appeal considered that shipowners can be considered an independent contractor. The owners have, however, been granted permission for a hearing before the House of Lords.

## **TECHNICAL NEWS**

### **Interim Bulk Carrier Terminal Report**

Last year, members received copies of an Intercargo *Bulk Carrier Terminal Report* which analysed 1,000 completed forms received over a five year period. Copies of this Report may be downloaded from the Intercargo web site.

Subsequently, Intercargo's Technical Committee, CASTEC, took the opportunity to slightly revise the associated *Bulk Carrier Terminal Reporting Form*. The revised form was widely circulated to members and may also be found on the web site.

For Intercargo to be in a position to produce further detailed annual reports on the performance of terminals around the world, members are strongly urged to get their ships to submit completed forms after every port of call. As only 74 completed forms have been received this year, a detailed analysis has not been possible but an interim report has been

produced and is **attached** to this Bulletin.

Members are requested to internally circulate copies of the *Bulk Carrier Terminal Reporting Form* (**attached**).

### **EC Directive establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers**

There are European proposals to establish new Directive rules based largely on the IMO BLU Code which would apply to all bulk carriers working bulk cargoes in EC ports and to the ports themselves.

A European Commission proposal COM(2000)179 Directive, as amended, was adopted by the European Parliament on 25<sup>th</sup> of October. What now follows? The Directive needs to be signed and then published. Member States will then have 18 months to enact the Directive in their national laws, and 6 months thereafter it will then be applied to all visiting ships and terminals i.e. around 1<sup>st</sup> January 2004.

### **Newbuilding standards - comments please!**

Much has been recently written on the belief that standard designs for 'general' bulk carrier are not, today, fit for purpose. In particular, this issue has been discussed by CASTEC at its last two meetings; it was raised by the Hong Kong Shipowners Association (HKSOA) in February and IACS has reconvened its Steering Committee on Bulk Carrier Safety with a view to seeing if rule changes are needed (see below). All this is taking place against a lot of background activity at the IMO

where a detailed review of both bulk carrier safety and the Load Line convention is currently underway. Results from these studies can be expected at the end of 2002 with amendments to the Load Line and SOLAS conventions to follow with rule changes likely to be limited to newbuildings only. Ballast water management is also under discussion at the IMO. A convention is expected to be finalised in 2003 and is likely to impact on to the way bulk carriers are designed in the future. More information on these and other matters related to newbuilding standards can be found in the technical section of the Bulletin Board.

But what is a 'general' bulk carrier - one that is capable of carrying all types of dry bulk cargoes on all the main trading routes and able to meet all the usual restrictions and requirements imposed by charterers, ports and terminals.

If any future classification rule and convention regulation changes are to effectively apply to the 'general' bulk carrier, it is important that the design criteria for such a ship type are first defined. IACS itself wants input from shipowners to help it define what standard operational features and requirements should be incorporated in 'general' bulk carrier designs as a means of supporting the work of its Steering Committee.

Members are therefore asked to send their views to the Secretariat. Comments on newbuilding experiences, both construction-related or where operational restrictions have been subsequently imposed on the ship due to the inadequacy of its design, are also welcome, as is feedback on desired sea keeping capabilities including engine output.

## **Classification matters - General**

The industry represented by the shipowner associations BIMCO, ICS, Intercargo and Intertanko, together with representatives from the P&I and hull insurance sector, meet regularly with IACS member societies. The last meeting, held in London on 11<sup>th</sup> September 2001 chaired by Mr. E E Embiricos was a technical working meeting which considered three main matters: the implementation of the ISM Code; transparency; and the functioning of the IACS Quality System Certification Scheme.

Regarding the ISM Code, the industry reiterated its view that if changes were to be made to the Code, it was essential that its character allowing for individuality and self-regulation should be preserved. Furthermore, before any changes are proposed, a review of the practical workings of the Code should be undertaken and to this end, it was agreed that a special working group comprising auditors from IACS and Designated Persons from industry should be convened. Capt. Mike Shuker, Chairman of CASTEC, represented Intercargo at the first meeting on 19<sup>th</sup> October and two more meetings of this group have been scheduled to enable it to complete its work. A report on the outcome will be made in due course.

The next meeting between industry and IACS is scheduled to take place on 5<sup>th</sup> December 2001, when the IACS Council will meet with heads of the industry Associations. At this meeting the discussions are likely to focus on policy matters.

In the interim, IACS has issued the report on the first meeting of its re-instated Steering Committee on Bulk Carrier Safety which met in July to

consider, amongst other things, the issue of newbuilding standards raised by the HKSOA. The report mentions that a number of bulk carrier safety matters are already under consideration by various IACS working groups including: corrosion margins; strength of hatchcovers; strength of fore deck fittings; and the uniformity of scantling standards.

**Classification matters - proposed new class notation for design loading conditions - comments please!**

One other matter that the IACS Steering Committee is considering relates to the development and introduction of minimum standard loading conditions supported by unified class notations. This is understood to be a specific response to the concerns raised by the HKSOA, and one that would ensure that the actual loading conditions incorporated into a bulk carrier design would be transparent to all, including future owners. There have been a number of press reports on this matter which members might have read.

In summary, it is understood that IACS are moving towards the introduction of a new series of standard class notations for bulk carriers which would be applied in a consistent manner by all member societies:

<i>Notation</i>	<i>Description</i>
BC-I	Homogeneous light cargo
BC-II	Homogeneous heavy cargo
BC-III	Heavy cargo with specified holds empty

MP Additional notation for bulk carriers designed for multi-port loading and unloading

The application of class notation is not of course mandatory under class rules. The Secretariat would, nevertheless, welcome members' feedback on these proposals from IACS.

**Maintenance Regimes**

IACS has recently published "Recommendation 74 : A Guide to Managing Maintenance" which it considers that prudent shipowners would wish to be appraised of.

The preamble to this recommendation states that owners are ultimately responsible for the condition of their vessels – responsibilities which extend to the "top" of the company as much as the Technical Department and the designated person. Copies of this recommendation may be downloaded from the technical area of the IACS website.

**TBT Paints**

A special conference was held at the IMO in early October to discuss the phasing out of TBT paints. Decisions reached at that meeting at which Intercargo was represented included a ban on the application of all organotin compounds acting as biocides in anti-fouling systems on ships by 1 January 2003 and a complete ban by 1 January 2008. To effect these dates, the Convention must enter into force within the next two years but there is some conjecture that the ratification process may take longer than this despite widespread support for the principles contained therein.

As a means of preventing leaching of substances after this date, the resultant IMO Convention will permit the application of a sealant coat rather than the sand-blasting of the hull.

Port State control officers will be authorised to check that a ship is in compliance with the Convention and a certificate of compliance will eventually be needed for this purpose. In this respect, Intercargo's London Committee considered that owners should be alerted to the need to consider TBT requirements within their C/P clauses.

### **Revision of ISO Standards covering Marine Fuel Standards**

The last Bulletin contained a "request for feedback" including information on bunkers that may have contained waste lube oil.

To assist our members' understanding, BP Marine have kindly provided Intercargo with background information which is summarised below. Please contact the Secretariat for further information.

- FUELCON – the Standard Marine Fuels Purchasing Contract is being revised by BIMCO.
- ISO 8217 – the Standard for Marine Fuels has been re-drafted and is back with the ISO for final agreement and circulation. Pre-drafts will not be released to avoid implementation confusion but the final version is *expected* to include controls on the use of used lube oil (ULO) in bunkers together with sulphur limits aligned with IMO requirements

On another matter connected with bunkers, from 1 January 2002, the MPA in Singapore will require the licensing of bunker surveyors operating in that port.

### **AUSTRALIAN PORT STATE CONTROL**

The rolling inspection programme will move on to its next phase on 1 December 2001 when the Australian administration will concentrate on aspects of cargo management relating to Chapter VI of SOLAS. Further information may be found on the Intercargo Bulletin Board.

### **Revision of SOLAS and 1966 Load Lines Convention**

IMO Sub-Committees continue to undertake work on the Chapters of SOLAS dealing exclusively with the subdivision and damage stability of dry cargo ships over 100 m in length constructed after 1 February 1992.

Further progress has been made in updating the 1966 Load Line Convention. As a result of a paper submitted by China to the IMO SLF Committee, a correspondence group has been tasked to undertake a survey of the reserve buoyancy distribution on ships, particularly bulk carriers, and to recommend an appropriate course of action.

### **For further information**

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