

AMCL – a part of China
Merchants Group

PAGE 6

Loss prevention update

PAGE 12

For a few beans more – the
saga continues

PAGE 28

beacon

SKULD magazine

ISSUE 184 FEBRUARY 2005

Skuld puts the spotlight
on the Far East

PAGES 4-11

 **SKULD**

Dear reader

In this edition of Beacon we focus on our fast growing Far East market as well as our Hong Kong-based syndicate. Without our local knowledge we would not have been able to grow in line with our members, underlining how important it is for our organisation to be easily accessible and service orientated.



Our online service

As another measure to improve service to our members, we have significantly improved our online communications. A new website is operational, and the recent launch of Skuld Extranet is giving members and their brokers direct access to their own claims reports and statistics. See page 32 for more information.

BBB stable outlook

Standard & Poor has recently upgraded Skuld's credit and strength ratings from BB+ to BBB stable outlook.

According to S&P, the revised rating reflects Skuld's significant improvements in operating performance and capitalisation. Management and corporate strategy were considered as strengths in the review. This is a welcomed recognition of the hard work Skuld has completed over the past years to successfully restore its balance sheet and obtain a balanced underwriting result.

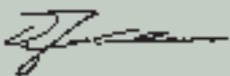
Strong results

The result for the third quarter of 2004 was USD 10.6 mill. This represents a doubling of the second quarter result and brings Skuld's contingency reserve to USD 92.2 mill.

During 2004, frequency claims have dropped, while we have seen an increased number of larger claims. Large claims are by nature volatile, and we are confident that this does not constitute any new trend. Despite the claims situation, we saw a third quarter technical result of USD 4.7 mill. The half-year investment loss is now rectified by a strong third quarter equity return, leaving a net investment profit of USD 6.1 mill. after nine months.

Looking ahead

We now enter into an interesting future where we will continue to place emphasis on balanced underwriting results, offering exciting challenges for our staff and last, but not least, providing an improved and extended service to our business partners all over the globe.



Douglas Jacobsohn
President and Chief Executive Officer

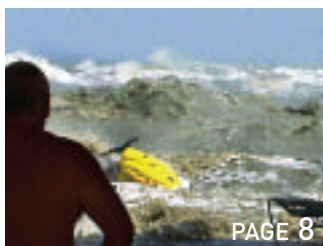
Contents

Skuld Hong Kong	4
MEMBER IN FOCUS: AMCL – a part of China Merchants Group	6
The Indian Ocean tsunami	8
LEGAL NOTES: Accidents in Hong Kong	10
LOSS PREVENTION UPDATE: Skuld increases focus on loss prevention	12

BEACON (SKULD MAGAZINE)
is the official publication of
Assuranceforeningen Skuld
(Gjensidig)

ADDRESS
P.O Box 1376 Vika
N-0114 Oslo, Norway
Tel: +47 22 00 22 00
Fax: +47 22 42 42 22

Issue 184 February 2005



LOSS PREVENTION:
 Disaster psychiatry: How crew react in
 a crisis can be a matter of life or death **13**

LOSS PREVENTION:
 Safety of steel transports **16**

LOSS PREVENTION:
 Terrorism and shipping **20**

LEGAL NOTES:
 MARPOL Annex VI: New regulations
 – prevention of air pollution **22**

LEGAL NOTES:
 Legal News summary **26**

LEGAL NOTES:
 For a few beans more – the saga continues **28**

Maritime mediation **31**

New website at www.skuld.com **32**

Director of IOPC Funds visits Skuld **34**

Personnel news **35**

Contact Skuld **35**

Skuld news **36**

E-MAIL
 Ingeborg.berge@skuld.com

VISIT OUR WEBSITE
 www.skuld.com

EDITOR IN CHIEF
 Ingeborg Berge

EDITORIAL STAFF
 Lise Larson

LAYOUT
 Transmission AS

REPRO AND PRINTING
 Gan Grafisk as

Entire contents © 2005, all rights reserved. Reproduction in whole or in part, without written permission from Skuld, is prohibited. Opinions expressed by writers in Beacon are not necessarily those held by Skuld. Skuld assumes no responsibility for unsolicited material

FRONT PAGE
 Hong Kong



Skuld Hong Kong

The development of Skuld's Hong Kong office keeps pace with the growth of Skuld's membership in the Far East, ultimately reflecting the increase in merchant shipping in Asia.

Skuld (Far East) Ltd. was opened in 1989, a difficult year in Hong Kong. During this period, many shipping companies, as well as local inhabitants, started leaving because of the Tiananmen Square demonstration in Beijing. The Company started out as a regional marketing office with a staff of three, offering an exclusive claims service. Today, Skuld Hong Kong has become a fully-functional regional office in Skuld's Syndicate organisation.

Experienced management

The office was started by Arthur Pilkington, today EVP Defence Services and Emergency Response in Oslo. He was followed by Jan Katkjær in 1993, who is now Head of Skuld's Syndicate 2 in Copenhagen.

Patrick Wang was appointed head of Skuld's Hong Kong office in 1999. He was the former Deputy Managing Director of China P&I Club and had previously worked for Cosco's head office in Beijing for seven years, including a final period as General Manager of the commercial department. He joined Skuld Oslo in 1997 after a short spell in one of the leading law firms in Beijing. Patrick Wang is an experienced shipping, insurance and legal executive and he maintains extensive connections with the regional shipping society. Shortly after his appointment, the office relocated to the

China Resources Building in the Wanchai area of Hong Kong.

Professional legal services

Patrick Wang is assisted by eight well-qualified staff members. His deputy, Nicola Mason, is an experienced English Barrister having served with Skuld Hong Kong for ten years. She is well liked by members for her dedication and quality claims service.

In addition, there are three dynamic lawyers who handle most of the P&I and Defence claims and services. Chris Hall is an American lawyer who has been with Skuld for six years and became a father last August. He is popular with members and business associates, and offers particular expertise with regard to US trading.

Lawrence Chen is a Chinese lawyer and an expectant father. He has been with the Hong Kong office for a little over two years, since completion of his LLM studies at Southampton University, England. Lawrence is busy providing services to the growing Chinese membership.

The latest addition to the legal team is Christian Ott who worked with a leading shipping law firm in London before joining Skuld last year. Christian comes



Patrick Wang, Head of Skuld Hong Kong, maintains extensive connections with the regional shipping society

from Germany, but grew up in England. He is a devoted sailor and serves our members with great diligence and efficiency.

THE FAR EAST MARKET MAKES UP A GROWING PORTION OF SKULD'S OVERALL BUSINESS



Through its Hong Kong office Skuld is well positioned to serve the Far East market

Dedicated staff

The office is efficiently assisted by a support team headed by Jenny Yeung, our Office Manager, who also covers Underwriting Assistance. Miley Tong, Amelia Cheung and Mary Chan provide valuable support on the claims side.

Growing tonnage

Reports state that Asian shipowners account for 40% of world tonnage and China's immense inward and outward cargo movement is the single biggest driver of the current world shipping boom.

The Far East market makes up a growing portion of Skuld's overall business. The combined Far East businesses today represent over 25% of Skuld's overall portfolio, as compared to only some 8% six years ago.

Skuld Hong Kong is responsible for about 7.65 million GT of mutual owners' entries, some eight million weighted GT of fixed charterers' entries and a sizable amount of Defence business.

Singapore, Hong Kong and mainland China

Geographically speaking, the office covers perhaps the biggest market area of all Skuld Syndicates, with current focus on three main areas: Singapore, Hong Kong and mainland China.

Local correspondent services

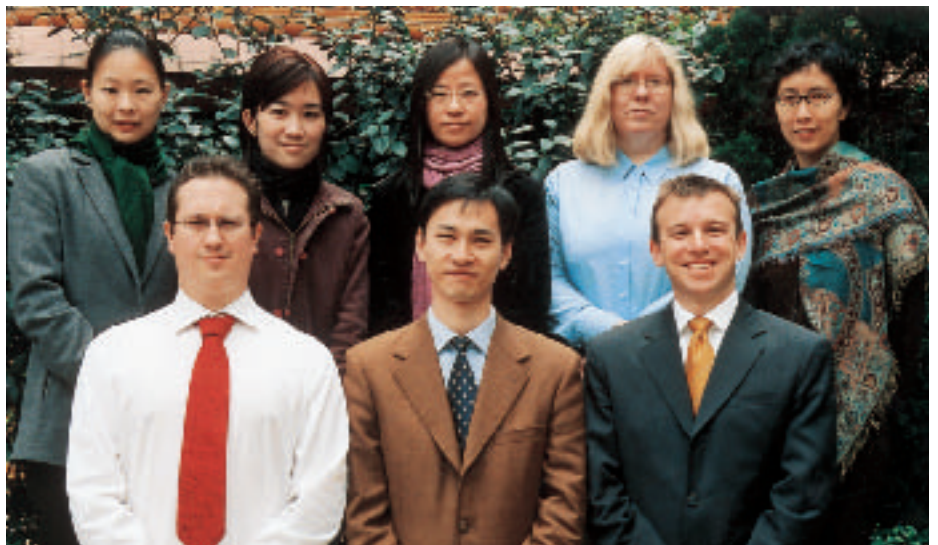
Apart from taking care of the regional membership, the office also acts as a correspondent assisting members of other syndicates faced with problems in China or other Far East areas.

Well positioned

Through its Hong Kong office, Skuld is well positioned in the Far East market. Considerable tonnage growth has been achieved over the last four years, in spite of the increased premium levels seen during this period.

The success of Skuld's Far East operation is closely linked to the professional support from the head office in Oslo, the services of the dedicated staff at the Hong Kong office and the close co-operation with business associates worldwide. Most importantly though, its success is due to the understanding, support and patronage of members from the region.

...CONSIDERABLE TONNAGE GROWTH HAS BEEN ACHIEVED OVER THE LAST FOUR YEARS...



The team at Skuld Hong Kong is heading Skuld's expansion in the Far East. From left to right: Miley Tong, Mary Chan, Jenny Yeung, Nicola Mason, Amelia Cheung, Christian Ott, Lawrence Chen, Christopher Hall



Member in Focus:

AMCL – a part of Chi

Associate Maritime Company (HK) Limited (AMCL) is the trademark of the tanker fleet owned and operated by Hong Kong Ming Wah Shipping Co., Ltd. under the China Merchants Group of Hong Kong. The Group is housed in the China Merchant Tower, which is a part of the Hong Kong & Macau Ferry complex overlooking the renowned Victoria Harbour.

China Merchants

China Merchants is a household name in China and well known abroad due to its unique position in contemporary Chinese history. It was set up in 1872 by the Qing Dynasty as the first national merchant shipping enterprise, with the aim of breaking the western powers' monopoly on Chinese shipping operations. It was the outcome of the Westernisation Movement, also known as the Self-strengthening Reformation, during which time China opened her doors to the outside world and tailored western knowledge to her needs.

Groundbreaking achievements

The principle behind this initiative was to 'attract business from all over the world and sail to five continents'. A series of groundbreaking achievements followed. China Merchants opened the first coastal and ocean-going shipping lines, set up the first modern Chinese navigation school to train crews, sent the first batch of Chinese

students overseas to study western science and technology and formulated and promulgated the first Chinese shipping laws and regulations. It also established the first Chinese insurance company, the first Chinese bank, the first Chinese telephone hot-line, as well as the first Chinese machine-operated coal mine and textile factory. In this way, China Merchants pioneered almost all early national, industrial and commercial activities in China.

From the start, China Merchants Group has been inseparable from Chinese society, sharing her glory and humiliation and her ups and downs. In 1949, China Merchants Hong Kong Division boldly abandoned the Kuomintang in favour of the Communist Party. This revolt took the Group into a whole new era.

China's re-opening

After the Great Cultural Revolution, China Merchants Group foresaw the 're-opening' of China in the late 1970s and established the Shekou Industrial Zone with a capital of HK\$ 60 million in 1979. In this way, the Group built on its heritage through leading by example and showing greater openness towards the outside world. The Shekou Industrial Zone, the first of its kind in

China, has since been known as the "Window of China's Opening".

Today, China Merchants Group has emerged as a mega conglomerate with HK\$ 54 billion worth of assets invested in infrastructure, finance, property, industrial manufacturing, trading, tourism, hotels as well as her traditional shipping business.

Shipping business – AMCL

The flagship of all China Merchants' shipping business is now the Hong Kong Ming Wah Shipping Co., Ltd. which operates a fleet of tankers under the company AMCL (Associate Maritime Company (HK) Limited). This fleet includes dry bulk as well as a significant investment in Liquid Natural Gas (LNG) transport. The combined DWT of all fleets is over 3.5 million. The tanker fleet consists of six VLCCs, one Suezmax and seven Aframax, as well as another three VLCCs and one Aframax on its order book.

For the last ten years, AMCL as manager of the tanker fleet, has placed health, safety, environmental awareness and efficiency at the forefront of its management philosophy.

CHINA MERCHANTS PIONEERED
ALMOST ALL EARLY NATIONAL,
INDUSTRIAL AND COMMERCIAL
ACTIVITIES IN CHINA

na Merchants Group



There are six VLCCs in AMCL's fleet, with a further three on order

Apart from the tanker business, Hong Kong Ming Wah has recently teamed up with Cosco Group in the biggest LNG project in southern China and has ordered two LNG carriers of 147,200 m³ each for the transport of LNG from Australia to Guangdong Province, China, starting from 2007.

In connection with Ming Wah's further expansion in the energy sector, the Company is scheduled to branch off from its parent company as an independent energy transport company with a listing on the Shanghai Stock Exchange in 2005.

Skuld connections

AMCL became a member of Skuld in 2004 by transferring four modern VLCCs and three Aframax tankers to the Club. This is a strong endorsement of their confidence in Skuld. Mr. Huang Shao Jie, the president of both Hong Kong Ming Wah and AMCL was elected to Skuld's Committee at a Committee meeting in Shanghai in December 2004. This representation is welcomed by Skuld's Board and Committee in conjunction with the strong growth of tonnage in the Far East.

Shao Jie is a shipping veteran who first started with Cosco's head office as claims and insurance manager and subsequently transferred to dry bulk operations. From here, he moved on to tanker operations where he served for over 20 years. He was appointed president at Ming Wah in 2000 and has since led the Company out of the shipping downturn and into the current boom.

Hong Kong Ming Wah has been a solid contributor to the balance sheet of China Merchants Group, and Skuld wishes Hong Kong Ming Wah and Shao Jie continued success in the years ahead.

By Chris Hall, Skuld Hong Kong



The Indian Ocean

As the tsunami violently attacked the coasts of the Indian Ocean, we expected at least some interference in shipping. Skuld's Emergency Response Team and Hong Kong office were braced for the worst. To our surprise, only a few queries on port congestion were received.



Photo: AFP/Scanpix



tsunami

The remains of the fishing fleet at Nagapattinam, near Madras

The Indian Ocean Tsunami of 26 December caused immense human suffering. Nearly 300,000 lives have been lost across Indonesia, Thailand, Malaysia, India, the Andaman and Nicobar Islands, Bangladesh, Sri Lanka, the Maldives and Somalia. Thousands have been afflicted by disease and even more have lost loved ones and property. Our thoughts and best wishes are with all those affected.

Despite the tragic toll in human suffering, the tsunami's effects on international shipping were modest. Ships at sea reportedly experienced the tsunami as a large swell, if anything at all.

Effects on ports

The worst affected port was Chennai, India, where the port and many smaller vessels were heavily damaged. As far as we know, no vessels entered with Skuld were among those harmed. The port is now operating normally.

THE WORST AFFECTED PORT WAS CHENNAI, INDIA, WHERE THE PORT AND MANY SMALLER VESSELS WERE HEAVILY DAMAGED

We understand that the Indian ports of Kakinada, Paradip and Visakhapatnam suffered only slight impact. No ships were damaged and the ports were functioning normally after the tsunami. In Visakhapatnam, however, a barge was sunk, which caused vessel movement problems in the inner harbour.

Although Indonesia suffered the brunt of the tsunami's force, none of the large international shipping ports in Indonesia were affected. Unfortunately, 15 local ports in Aceh were badly damaged. Some ferry services in Aceh have resumed, and the port at Lhokseumawe is functioning as a discharge port for international aid. Sumatran ports, such as Belawan, are congested due to relief efforts.

As most of Thailand's major ports are on the east coast, they were not affected. Even Phuket port sustained no serious damage and is operating normally.

The Sri Lankan ports of Galle and Trincomalee were closed as a result of the tsunami. All ports are now open and busy with relief operations.

Ports in Bangladesh were not affected, although one vessel was damaged.

None of the main Malaysian ports were affected. Several cruise lines are considering shifting their calls to Malaysian ports while tourism recovers in affected countries.

Other developments

Nations in the region are considering setting up a regional warning system. Meetings are scheduled in Bangkok, Kobe and Brussels to address the matter. The United Nations is participating, with hopes that a system will be in place by July 2006.

As for navigation, some experts believe that the depths of shipping lanes may have been dramatically altered by the tsunami, especially in the Straits of Malacca.

Finally, the International Maritime Bureau Piracy Reporting Centre has speculated that many of the Achenese pirates may have been lost in the tsunami, given that there have been no pirate attacks in the Straits of Malacca since 26 December 2004. Some are worried, however, that criminals may prey on vessels waiting in ports congested with relief efforts.

Acknowledgements:

Barwil Jakarta, Jakarta, Indonesia
Barwil Meridian Navigation, Sri Lanka
Barwil Westext Sdn Bhd, Malaysia
Interport Ship Agents Ltd., Bangladesh
Pandi Correspondents Pvt Ltd., Kolkata, India
Thai P&I Services International Ltd., Bangkok, Thailand
Transport & Claim Consultants Co. Ltd., Bangkok, Thailand
Norwegian Shipowners Association
TradeWinds



Accidents in Hong Kong

The Hong Kong Marine Accident Investigation and Shipping Security Police Branch investigate all marine accidents in Hong Kong and on board Hong Kong registered ships. The investigation's aim is to ascertain circumstances and the cause of accidents, with a view to improving safety. Findings are publicised, but the investigation is not intended to apportion blame or lead to disciplinary action.

What types of accidents occurred in Hong Kong last year?

1. A sailor was crushed to death by a 40 ft container
2. A stevedore fell on to the main deck from the container top, when struck by wire rope slings
3. A worker jumped from the end of the fixed ladder in the cargo hold, landed unsteadily on the container top and fell to the bottom
4. A slinger, who was believed to have climbed up on to a container top through a container entry cell guide bar in the cargo hold, fell to his death from the container stack

Can owners face prosecution?

Yes. In its note no.9 of 2004, the Marine Department states, "This Department will not hesitate to initiate prosecution against those breaching the Shipping Import Control Ordinance or the Regulations under the Ordinance or their amendments by not observing the required safe working practices which have been widely promulgated to the industry".

The Occupiers Liability Ordinance (OLO) (Cap. 314) and its effect on shipowners

The OLO imposes on the occupier of any premises a duty to his visitor to take such care as is reasonable under the circumstances, to ensure that the visitor will be reasonably safe in using the premises for the purposes to which he is invited or permitted by the occupier to be there (Section 3(2) OLO). Section 2(3)(a) of the OLO extends this duty to vessels.

When does the liability of an occupier arise?

It will arise if the injury complained of was caused due to any defect or danger in the condition of the premises. An example would be an open hatch that should have been closed (see *Marlene Susanne Courbet v. Mandarin Divers Marine Services Ltd. and others*, HCPI 677 of 2000), or suffocation caused by oxygen depletion in a sealed cargo hold (see *The Estate of Chan Man Yuan, deceased v. Allied Marine Consultants Ltd. and others*, HCPI748 of 2000).

Who is the occupier?

The term 'occupier', under the OLO for shipping purposes, would centre on who controls the vessel's activities and the people on board. This will include the owners if they employ the crew.

Bareboat charterers?

With regard to bareboat charterers, the charterers rather than the owners will generally come within the definition of occupier if control of the vessel was in the hands of the bareboat charterers rather than the owners at the material time.

Can more than one party be an occupier?

If both owners and charterers exercise some degree of control over the vessel, they would be deemed joint occupiers for

THE TERM 'OCCUPIER', UNDER THE OLO FOR SHIPPING PURPOSES, WOULD CENTRE ON WHO CONTROLS THE VESSEL'S ACTIVITIES AND THE PEOPLE ON BOARD



Approach with caution – several seamen died by falling from containers in 2004

the purposes of the OLO (see *The Estate of Chan Man Yuan, deceased v. Allied Marine Consultants Ltd. and 2 others*, supra).

Who is a visitor?

A visitor is someone who has permission, either expressed or implied, to be on board the vessel. Expressed includes an oral or written invitation. Implied permission means that the claimant must show that the occupier had legally tolerated regular visits, leading to circumstances where a reasonable occupier would feel that unless he acted to stop the visit, the claimant would believe he had permission to be there.

Who is a lawful visitor for a vessel?

Agents, stevedores, workmen, repairmen, suppliers, surveyors and doctors are all lawful visitors. Would a stowaway be a lawful visitor? Under the OLO, the answer is no, unless the stowaway was allowed to remain on board the vessel, in which case his status from unlawful visitor would change to lawful visitor.

Can more than one party be found liable?

In the leading maritime case of the *Estate of Chan Man Yuan, deceased v. Allied Marine Consultants Ltd. and others*, the owners, demise charterer, employer and the victim himself were all held liable.

The facts

On 28 November 1997, Mr. Chan Man Yuan (the deceased), an experienced marine surveyor, entered an enclosed space in the cargo hold access hatch on board the ship *Madonna Lily* and died as a result of suffocation caused by oxygen depletion. The defendants were his employer (Hong Kong survey firm), the owner and the demise charterer of the vessel at the time. On the owners' behalf, the deceased was checking the condition, quality and quantity of a cargo of soya beans. An AB was assisting the surveyor to take samples. It seems that the AB may have entered the hatch first and the deceased followed to assist, having seen the man collapse. Both were subsequently discovered dead by the crew. Judge Wolley stated, "It cannot be denied that the Captain is in overall charge of the ship and responsible for the safety of all on board, including lawful visitors." Judge Wolley went on further to state: "We have a situation where all parties have to shoulder a proportion of the blame for this

tragic accident. The first defendant (the employer) for the lack of training; the second and third defendants (owner and demise charterer) for failure to ensure the safety of the deceased on their ship, and the deceased himself for his own negligence in carrying out his duties." The second and third defendants were found 50% negligent, the employer 30% and the deceased 20%.

Lessons Learned

Masters should ensure:

1. That all visitors are properly supervised and accompanied in their activities by experienced crew
2. That a safe working procedure should be adopted by stevedores and workers attending the vessel
3. That there is effective communication among officers, supervisors and workers to ensure the vessel's safety standards and that guidelines are followed.

Acknowledgements:

Hong Kong Marine Department Notices of 2004

Note: Copies of the Safety Guide for Shipboard Container Handling are available free from MARDEP (Contact Skuld Hong Kong for further details).

Messrs Holman Fenwick & Willan, Hong Kong – Article on Occupiers Liability Ordinance (Cap 314).

WE HAVE A SITUATION WHERE ALL PARTIES HAVE TO SHOULDER A PROPORTION OF THE BLAME FOR THIS TRAGIC ACCIDENT

”It is likely that the unlikely will happen.”

Aristotle, 400 B.C.

Skuld increases focus on loss prevention

By Morten Lyssand, Loss Prevention Officer, Skuld

Knowing the risks and potential for loss is vital in understanding how accidents can be prevented. Skuld is here to help you.

As of 1 December 2004, I have been appointed Loss Prevention Officer in Skuld. My goal is to help Skuld's members handle their risks and educate them in understanding their potential losses. In Skuld, we have the experience to know how and where accidents occur, and how to avoid them. From now on, I will help members obtain this knowledge through circulars, handbooks, seminars, etc. and, of course, through articles in Beacon. In this way, by assisting members to manage their own risks, we will prevent losses together and achieve better results in the future.

My focus will not only be on the few large accidents, but also on the many smaller ones. Major accidents are often caused by chains of smaller events. By breaking the chain and stopping the smaller events from happening, you can also avoid the larger accidents. As for accident type, claims caused by navigational error (collision and grounding) and damage to cargo undoubtedly contribute the most to total claim costs. In future Beacons, you will see even greater focus on how to prevent these types of accidents.

From now on, I will provide a 'loss prevention update' in each edition of Beacon. In this

issue of Beacon, we have four articles on loss prevention:

- How you react in a crisis can mean the difference between life and death. Experience and training are vital. Read more about crisis psychology on the following page.
- The attack on the tanker *Limburg* off Yemen in October 2002 clearly illustrates that shipping is a target for terrorism. Jonathan Hare provides you with a summary from a maritime terrorism seminar held in Oslo by the Norwegian Shipowners' Association.
- You can also find legal advice on loss prevention in accordance with the upcoming "Regulations for the Prevention of Air Pollution from Ships", MARPOL Annex VI.
- Lanch Ship's innovative solutions for carriage of steel drastically cuts losses. See page 16.

I hope you will find these articles interesting and that they will motivate you in carrying on your loss prevention work.

Morten Lyssand can be contacted to discuss any issue of loss prevention by calling +47 22 00 23 19 or e-mailing morten.lyssand@skuld.com.



Morten Lyssand, Skuld's new Loss Prevention Officer, is ready to help members handle their risks and reduce potential for loss

DISASTER PSYCHIATRY:

How crew react in a crisis can be a matter of life or death

By Lars Weisæth, MD/Professor,

Norwegian Center for Violence and Traumatic Stress Studies, University of Oslo/The Joint Norwegian Armed Forces Medical Services

No more than a few weeks ago, along the coast of South East Asia, we saw how the devastating power of nature underscored the fragility of human life. Despite our machines and technology, our modern society and its institutions, our knowledge and understanding, we were shaken into the reality of an unpredictable world where events are dictated by a force beyond our control.

We've heard heart-breaking stories of lost loved ones, of death and destruction, but also stories of miraculous escapes where split-second decisions and individual bravery made the difference between life and death. This article shows how your immediate reaction in a life-threatening situation is crucial. That reaction can mean survival, impair or improve your ability to help others and influence whether your group cooperates rationally or disintegrates in blind panic.

Research completed

Over the course of the last 30 years I have researched a range of critical situations involving seamen, such as the explosion at the Jotun paint factory in Sandefjord, Norway, the Alexander Kielland oil platform catastrophe in the North Sea, the Libyan imprisonment and torture of the *Germa Lionel's* crew in 1984, and the 1980-88 tanker war in the Arabian Gulf.

Pioneering this field of study were the researchers who analysed crews' reactions to torpedo attacks in World War II. The death toll from British and American ships was higher than from equivalent attacks on

Norwegian vessels. Seemingly, this is not only explained by the vessels' higher quality, but more importantly, by good seamanship. Research also shows that a person's immediate reaction in a dangerous situation is critical in determining the type, strength and duration of post-traumatic stress.

The Jotun catastrophe

On the evening of 15 October 1976, workers at the Jotun paint factory were hit hard by a violent explosion. A large number had previously spent many years at sea, either on whalers or in the merchant marine. Some had even served on North Sea convoys in the Second World War.

Key causes of stress

The key causes of stress during the explosion and the catastrophic fire that followed were the:

1. Intensity and duration of the risk of death
2. Type and degree of bodily injury
3. Strain of bearing witness to the injury and death of colleagues
4. Necessity of making difficult decisions, e.g. between personal safety and the risk of helping others

While under stress, the immediate reaction from as many as 37% of the workers was very constructive. Despite the lack of warning and time to put into effect pre-planned emergency procedures, each of them were able to make the best of the situation they found themselves in.



Photo: Olav Olsen/Scampix

Lars Weisæth is one of Norway's leading experts on traumatic stress



The Jotun paint factory fire in full force

Main findings

The report's main findings showed that people's immediate reactions, or 'catastrophe behaviour', was largely governed by their previous experience of dangerous situations and/or training for such conditions. These two issues were much more important than any other factors. In other words, if the only thing that was known about a person was their previous experience or training in crisis situations, then their reaction to danger could largely be predicted. Factors measured to characterise 'crisis behaviour' were perceptiveness, thinking, control of feelings and behaviour, ability to cooperate and rescue efforts.

Those who reacted constructively had a low risk of developing short- and long-term post-traumatic stress disorder, the most usual psychological illness suffered after a catastrophe.

It should be noted that even though the individual's level of training/experience was shown to be very important, other factors had to be in place, such as strong trust in leadership, strong group cohesion, high motivation levels, etc.

Seamen excel

An especially valuable skill, seemingly more developed in seamen than 'landlubbers', is their ability to tackle so-called 'restraint stress', i.e. to withstand the desire to run from confined areas, when the opportunity exists, and to help neutralise the danger or assist the injured. This can be largely explained by the impossibility of calling the

fire brigade and the hard-held belief among sailors that launching lifeboats is the last course of action open to them.

Expectation of positive reactions

After our research proved practitioners' long-held belief that training/experience was of critical importance, the opportunity arose to study which aspects of education, exercise, training and first-hand experience of dangerous situations prove useful in crises. We completed research on personnel who had trained for smoke diving, underwater evacuation of helicopters and evacuation from oil platforms using free-fall lifeboats. These studies showed that training instilled so-called "positive response expectation" in the personnel.

By "positive response expectation" we mean that a person has acquired an expectation that if 'it' happens, they can effectively contribute to finding a solution. If this contribution proves so effective as to avert the danger or secure survival, then we can say that they have acquired a "positive result expectation".

... 'CATASTROPHE BEHAVIOUR', WAS LARGELY GOVERNED BY THEIR PREVIOUS EXPERIENCE OF DANGEROUS SITUATIONS AND/OR TRAINING FOR SUCH CONDITIONS

When we study the way people respond when faced with real danger then the inner conviction that "this will go well" has a clear effect in reducing the effect of stress on their ability to perform. It was interesting to note that, even in situations where individuals were fairly helpless and had no real possibility of controlling the destructive forces facing them, they could still describe a "feeling" of control after the event. The explanation seems to be that a high degree of training and experience has given these individuals something meaningful to do in a crisis. Such tasks take their entire attention and energy, and reduce focus on the overwhelming forces facing them and their inability of effectively tackling the threat.

We therefore distinguish between:

1. Real control (which is favourable)
2. Perceived control, which can also have a high value
3. A third form called Cognitive control. Here, one can see familiar traits in a situation as it develops. This third form of control also has a high value as it reduces the effects of surprise and induces a feeling that it's possible to handle the situation.

Prevention of psychological illness

It's no surprise that measures geared to reducing the feeling of helplessness prevent psychological illness. A breakdown or disturbance in thinking ability, a powerful feeling of emotional paralysis and a reduction or loss of behavioural control signifies the traumatic effect of overwhelming stress on an individual. Helplessness is



central to this. Predominately people are at risk of further dangers, either caused by nature, human error or the evil of mankind.

Natural forces

The forces of nature represent danger that is perceived as just that – ‘natural’ and unavoidable. Nature can be dangerous, but not evil, and therefore doesn’t compromise people’s feelings of self-worth. People are often forewarned of natural perils and can avoid them accordingly, they are known and familiar to the population they affect and can largely be understood and accepted. In Norway, to use an example, a significant contribution towards avoiding the damaging effects of the forces of nature is in modern meteorology, a field of research championed by Vilhelm Bjerknes and his team from 1918 to 1923. We should all be thankful to those who made it possible to predict the weather and consequently allow us to take the necessary precautions to avoid its harmful effects.

Accidents caused by man

Man-made accidents are caused by human error – either something that has gone wrong or shouldn’t have happened. These accidents happen suddenly and without

NATURE CAN BE DANGEROUS, BUT NOT EVIL, AND THEREFORE DOESN'T COMPROMISE PEOPLE'S FEELINGS OF SELF-WORTH

warning. Someone is responsible and perhaps to blame. As opposed to natural catastrophes, an accident involves a human adversary. Accusations abound: poorly maintained equipment, inadequate safety, lack of emergency procedures, etc. Lost trust and strong mistrust follow, accident victims and surviving relatives feel a reduction or challenge to their self-worth, and aggression levels are often high. Self-interest and conflicts can, to a large degree, influence the kind of symptoms and their strength.

Violence

After a violent attack the pattern of post-traumatic stress is strongly coloured by fight/flee/submission. Violence challenges and, in the worse cases, destroys people’s perceptions of a safe, predictable and just world. Violation of self-worth caused by violent trauma can cause serious strain and ‘risk-reactions’.

Psychological after-effects

Pioneering studies completed on Norwegian sailors serving during World War II proved that psychological after-effects could surface many years after the event. It appears that, for such after-effects to occur, certain factors need to be in place:

1. The danger must be very serious, i.e. a relatively large number of lives must be lost
2. Strain must be long lasting and continuous
3. Constant uncertainty must exist, i.e. never feeling safe and always tense. This could happen, for example, on

- vessels at risk of torpedo attack, unequipped with radar and other useful technology
4. Last, but not least, relative helplessness when the attack came, i.e. little opportunity to control the situation, was a decisive factor.

It appears that, when these four factors work together simultaneously, the central nervous system is often damaged.



Photo: Carbis/Scanpix

A WWII convoy – the strain of serving on board caused after-effects many years later



Safety of steel

A cargo of highly-processed steel is very valuable. Using conventional methods, cargo damage occurs frequently, causing significant claims costs for insurance companies. A new Cradle Tween Deck for steel coils, developed by the Finnish shipping company Lanh Ship, is proving highly successful in reducing loss – so successful in fact, that cargo damage is almost zero.



transports

Extreme movements

Using conventional methods, steel coils are carried on the bottom of the vessel's cargo hold. The heavy cargo tends to make the vessel over-stable, causing violent movements in heavy seas.

The rolling period of the ship becomes extremely short. The vessel may heel from her vertical position to her maximum heeling angle on both sides and return back to the vertical position in just five seconds. As the maximum heeling angle may exceed 30 degrees, cargo damage occurs frequently in such circumstances. The cargo is valuable and the claims on the insurance companies are high. In addition, stowing steel coils in this way is clearly dangerous. The heavy-weight cargo has to be extremely well lashed otherwise, if it becomes loose, the consequences may be fatal. Experienced seafarers know the risks with steel shipments in bad weather and try to eliminate them as much as possible. However, the constant violent movements of the ship affect all activities on board, presenting a risk to safety at work as well. Insufficient rest causes tiredness and a lack of alertness.

The problems with carrying steel have been acknowledged for a long time. They are mainly due to the practice of carrying heavy steel at the bottom of the hold. A higher location for the cargo means that the vessel is more stable but, until the

introduction of the Cradle Tween Deck solution, there had not been a safe method for securing the cargo on a higher deck.

New innovation

In the late 1990s, after many years of transporting steel between Finland and the Continent, the shipping company Langh Ship started developing new methods for reducing cargo damage and improving the quality of shipments. The owner Hans Langh has been in charge of the project from the beginning.

– It is a result of many years of co-operation with the Finnish steel manufacturers, Mr Langh explains.

– I had some ideas about how the quality of the transports could be improved and we started a development project within Langh Ship. Now our invention has been thoroughly tested and proved to be successful in Ruukki's and Outokumpu's demanding transport systems, he continues.

Langh Ship decided to adopt solutions where the cargo is stowed higher up in the cargo hold. The idea itself was not new, but the methods were. The Company developed a purpose-designed tween-deck integrated cradle system for carrying steel coils. The coils are secured in the cradles and earlier problems with inadequate lashing have been solved with a totally new and simpler approach.

THE STEEL COILS ARE LIFTED IN POSITION BY CRANE AND LASHING OF THE COILS WITH BELTS IN A STANDARDISED WAY IS QUICK AND EASY

Cradle Tween Deck

With the Cradle Tween Deck (CTD) in use, the typical distribution of an all steel coil cargo is one layer on the bottom of the hold and one on the CTD. This also corresponds to the vessel's maximum deadweight. The steel coils are lifted in position by crane and lashing of the coils with belts in a standardised way is quick and easy. CTD also makes it possible to mix different types of cargo. It is, for example, possible to carry steel plates in the lower part of the hold and coils on the CTD.

The system also shows its flexibility when the CTD is not in use. Designed as easily liftable steel pontoons, the Cradle Tween Deck is mounted or stowed away with the same cranes that handle the steel coils. When not in use, the cradles are stowed in the hold, occupying only a minimal amount of cargo space, or in front of the deckhouse. The vessel can therefore carry other types of cargoes, e.g. raw materials back to the steel mill.

No cargo damage

The prototype of the CTD was installed in Langh Ships dry cargo/container vessel *Christina* in the beginning of 2000. The advantages of this innovation became



Easy access is the key to Langh Ship's container solution for carriage of steel

immediately evident. Now, as four Langh Ship vessels are equipped with CTDs, there has not been any cargo damage at sea to coils transported by the new system. In addition, other cargo has greatly benefited. Damage is almost non-existent on these vessels.

A comparison of the sea-keeping qualities of two identical sister vessels carrying steel products – one with CTD and the other in the conventional way – showed amazing results. Both vessels were simultaneously sailing in the same area in heavy weather. The heeling angle with conventional stowage of the cargo was about 30 degrees and the rolling period from one side to another and back again was as short as five seconds. In the sister ship, the CTD reduced the maximum heeling angle to ten degrees while the rolling period was prolonged to 12 seconds. The working conditions on the

first vessel were extremely difficult, while circumstances were regarded as quite normal on the second ship.

Savings

Several years of service have proved that loss prevention is not the only advantage of the CTD. Cargo handling is faster and more efficient without the need of additional investment in equipment or infrastructure. Less labour is required when loading the vessel and disposable lashing is no longer needed.

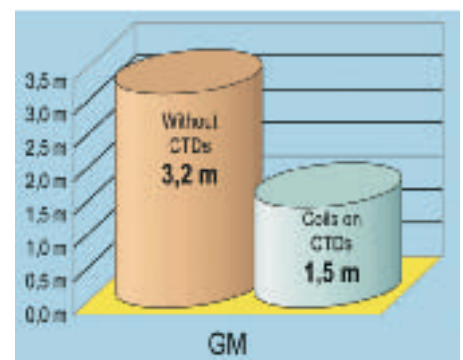
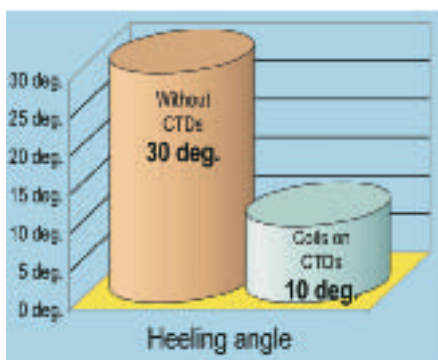
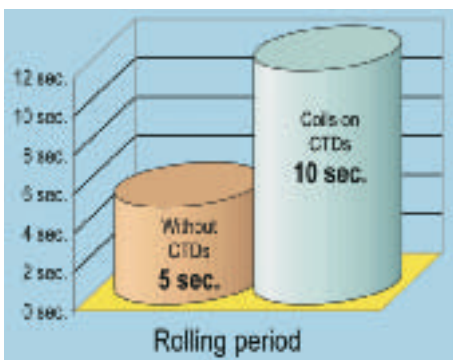
For lashing of steel coils, strong belts are used. The method is standardised and fast, significantly reducing the overall time spent in port. Even the need for lashing other cargo carried in the same vessel is reduced, as the vessel's motions in rough weather are lessened.

Special units

Another way to optimise a vessel's stability while carrying steel is to unitise the cargo. If carried in containers, part of the cargo may be carried on deck, for example, thus eliminating over-stability. In this case, the main problem is that lashing of steel products inside a container is labour-intensive, and therefore expensive and quite time consuming. The cargo has to be secured manually in a non-standardised way. Therefore, containers have usually been utilised for steel shipments only in transoceanic traffic.

With short sea shipments in mind, Langh Ship has developed a special container for steel products, allowing fast and easy stuffing. At first glance, the unit looks just like a standard 20 ft container, but the difference becomes obvious when opened. Instead of being equipped with conventional doors at the end of the unit, the long side

The tables below show the measured differences between two sister vessels carrying similar steel cargo and sailing in the same weather conditions (actually, they were even within sight of each other). One was equipped with Cradle Tween Deck and the other with a traditional stowing solution



AS THE CARGO UNIT HAS STANDARD DIMENSIONS, THIS SOLUTION ALSO ENABLES STEEL TRANSPORTATION ON CONTAINER FEEDER VESSELS



is completely open. The cargo may then be quickly stored in the container by, for example, a forklift truck.

Lashing of the cargo inside the container is provided by a new supporting system. Moveable stanchions may be placed in different positions to support a cargo of any kind. They are mounted between the floor and the roof of the unit, and tightened with a clamping system against the goods. As the cargo unit has standard dimensions, this solution also enables steel transportation on container feeder vessels. This opens up new possibilities for steel shipments, using an extensive liner network made up of frequent feeder services.

The payload of Langh Ship's special unit is 32 tonnes. After an extensive test programme with prototypes that still serve Outokumpu's transports, an improved series of containers have been produced for Ruukki. The results are encouraging and Langh Ship is developing other special units for transportation of heavy products.

Widely acknowledged

Langh Ship's cargo solutions have been acknowledged all over the world. The products are already patented in Europe, USA and the Far East. Outside Europe, marketing and sales are handled by MacGREGOR, which is a global market leader in marine cargo flow solutions. Langh Ship also won the "Innovation in Ship Operations" category in the Seatrade

Awards 2003 and has been recognised several times in Finland for its cargo solutions.

Improved working conditions

Crews are pleased with the CTDs.

– Working conditions have improved remarkably, says Master Mariner Markku Yli-Kahri, who is the Captain of Langh Ship's dry cargo vessel *Aila*. He explains that the violent rolling, which is typical for a vessel carrying steel products, is no longer a problem. As an experienced 'old salt' he now regards the conditions on board as "quite normal" even in rough weather. – Especially during the winter season, when one low pressure usually relieved another, it was not possible earlier for the crew to get a long undisturbed rest. Everyone used to be tired all the time, Captain Yli-Kahri says.

For someone who has not been at sea in bad weather, it is difficult to imagine what it is like to spend several weeks on duty in a place that is constantly rolling and pitching. It is impossible to sleep properly and, when on watch on the bridge, the Officer has to continuously struggle to remain seated in his chair. No wonder the professionals responsible for carrying valuable cargoes welcome such innovations.

THIS OPENS UP NEW POSSIBILITIES FOR STEEL SHIPMENTS, USING AN EXTENSIVE LINER NETWORK MADE UP OF FREQUENT FEEDER SERVICES

Securing of steel coils in the CTD is quick and easy



Terrorism an



Photo:AFP/Scampix

d shipping

At the end of October, the Norwegian Shipowners' Association, in co-operation with the Norwegian Shipowners' Mutual War Risk Insurance Association (DNK), arranged a seminar on maritime terrorism in Oslo. The scene was set by two excellent presentations by speakers from the Norwegian Institute of International Affairs.

The oil industry was identified as a clear target for advancing the terrorist goal of damaging western economies. Ships engaged in transportation of oil are therefore evidently at risk, as the attack on the tanker *Limburg* off Yemen in October 2002 graphically illustrates. Ayman Al-Zawahiri, second only to Bin Ladin on the most wanted list, has referred to "crusader ships" as legitimate targets.

AN ESTIMATED 15 MILLION CONTAINERS ARE MOVING AT SEA OR ON LAND AT ANY ONE TIME

Although there will be cases, such as the *Limburg*, where a ship is the primary target, there will be other cases when the ship will simply be used as a medium through which to deliver a bomb. In the US, there has been recent focus on the damage which could be caused by a vapour cloud explosion (likened to a nuclear explosion) resulting from an attack on a LNG vessel. Several participants at the seminar pointed out that it would be very difficult to make a LNG cargo ignite and explode, although a

The oil industry is a clear target for terrorists, as the attack on the Limburg in October 2002 graphically illustrates

LPG tanker could cause considerable damage. The container trade represented a much greater risk. An estimated 15 million containers are moving at sea or on land at any one time. Only a small percentage can be screened and many are delivered to major population centres.

Several speakers referred to the ISPS Code as one method of reducing the risk of terrorism. The introduction of the Code on 1 July 2004 has undoubtedly helped to concentrate the attention of shipowners and their crews on the need to take concrete measures. Although there was a last minute rush, shipowners did well in obtaining International Ship Security Certificates. However, ship operators expressed some scepticism about the true value of the Code and some had experienced heavy-handed and misguided enforcement in some ports.

Generally, shipowners will not be responsible for losses arising out of terrorism. If liability is based on fault, it is clear that it is the terrorist and not the shipowner who is responsible. Maritime conventions which impose strict liability (such as CLC, HNS and the Athens Convention) contain exclusions for acts of war. However, terrorism may not amount to an act of war. Shipowners must then rely

on another exception clause, i.e. damage caused intentionally by a third party. The problem with this exception is that the conventions use the words "wholly caused" by the act of the third party. The benefit of the exception may therefore be lost if there is an element of contributory negligence.

Several speakers dealt with insurance covering war risks, which have traditionally been separate from hull and P&I policies. Hull and P&I war risks cover is normally provided by specialist war risk insurers, such as DNK, up to the insured value of the ship, while P&I clubs in the International Group provide excess cover for an additional USD 400 million, increasing from 20 February 2005 to USD 500 million. However, the exceptional risks of war and terrorism approach the limits of what is insurable. The primary aim of the terrorist is not to damage shipping, but to damage the state. It is for this reason that the shipping industry has been lobbying for states to step in to provide cover for risks which cannot be insured.

...THE EXCEPTIONAL RISKS OF WAR AND TERRORISM APPROACH THE LIMITS OF WHAT IS INSURABLE

MARPOL Annex VI

New regulations – prev

By Olav Tveit, Regional manager Nordic Countries, Russia & the Baltic area, DNV Petroleum Services

Annex VI of MARPOL 73/78 "Regulations for the prevention of Air Pollution from ships" will enter into force on 19 May 2005, and apply to all ships, fixed and floating drilling rigs and other platforms of 400 gross tons and above. Such vessels are required to hold an International Air Pollution Prevention Certificate (IAPP Certificate).

This certificate must be on board upon delivery of newbuildings with keels laid after 19 May 2005. For other vessels, the IAPP certificate must be on board at the first scheduled drydocking after 19 May 2005, but not later than 19 May 2008.

Annex VI requires that every vessel for which the regulation applies is subject to an initial survey as well as annual, intermediate and renewal surveys.

Regulation 12 – Emissions from Ozone Depleting Substances (ODS) from refrigeration plants and fire fighting equipment

Annex VI prohibits any deliberate emissions of ODS (CFC's, Halons, HCFC's) as defined in the 1987 Montreal Protocol. Minimal releases in connection with recapture or recycling are, however, permitted.

New installations containing ODS are prohibited on all ships after 19 May 2005, with the exception of those containing Hydrochlorflouro-carbons (HCFCs), such as R22. These are permitted until 1 January 2020.

The EIAPP certificate is issued for marine diesel engines after demonstrating compliance with NOx emission limits

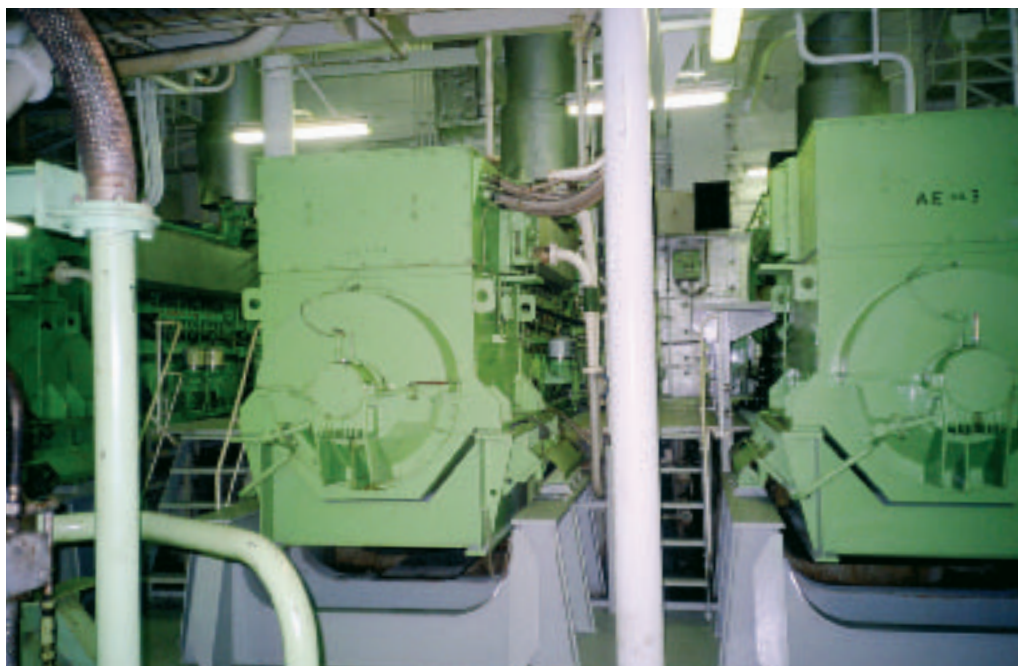
Regulation 13 – Nitrogen Oxide (NOx) emissions from diesel engines

Regulation 13 of Annex VI concerns NOx-emissions from diesel engines and applies to:

- Diesel engines with a power output of more than 130 kW installed on a ship keel laid on or after 1 January 2000.
- Diesel engines with a power output of more than 130 kW that undergo a major conversion on or after 1 January 2000.

This regulation does not apply to emergency diesel engines, engines installed in life boats or any equipment intended to be used solely in case of emergency.

An EIAPP (Engine International Air Pollution Prevention) certificate is required for all diesel engines as described above, and is a pre-requisite for issuing of the IAPP certificate.



vention of air pollution

The EIAPP certificate is issued for marine diesel engines after demonstrating compliance with NO_x emission limits, as per the NO_x Technical Code issued by IMO.

All certified engines are to be provided with an individual Technical File that contains the engine's specifications for compliance with the NO_x regulation and onboard verification procedures. Further, each engine is to be provided with a Record Book of engine parameters, where any changes to the engine are to be recorded.

The phrase "major conversion", means a modification of an engine where:

- The engine is replaced by a new engine built on or after 1 January 2000, or
- Any substantial modification is made to the engine, or
- The maximum continuous rating of the engine is increased by more than 10%

Note that for engines installed on keels laid on or after 1 January 2000, a substantial modification would be classed as any modification outside the ranges specified in the Technical File (see later description).

For engines installed on vessel keels laid before 1 January 2000, a substantial modification means any modification made

to an engine that increases its existing NO_x emission. These changes include, but are not limited to, changes in its operation or its technical parameters (e.g. to reduce fuel consumption).

Regulation 14 – Sulphur Oxide (SO_x) emissions from ships



Designated SO_x Emission Control Areas

Upon entry into force of Annex VI to MARPOL on the 19 May 2005, the maximum sulphur content of marine fuel oils used on board ships, regardless of application, is 4.5%. Further, a limit of 1.5% on the sulphur content of marine fuel oil, applies in the following designated SO_x Emission Control Areas (SECAs):

- The Baltic Sea Area which enters into force on 19 May 2006
- The North Sea Area and the English Channel which will not enter into force until 19 November 2007

An alternative to using marine fuel oil with a 1.5% sulphur content in SECAs, is an exhaust gas cleaning system or other equivalent abatement technology. The emission criteria for such systems are 6 g SO_x/kWh.

Operational impact of low sulphur fuel Fuel quality issues



Excessive sludging in fuel oil separator

There have been indications that low sulphur fuel oil production may lead to increased quality problems, such as instability, incompatibility, ignition and combustion difficulties, increase in levels

of catalytic fines and the potential introduction of chemical waste.

Fuel tank/system configuration

When approaching a SECA a change to 1.5% sulphur content fuel must be made and recorded before entry into the area. Given fuel compatibility problems, and in consideration of the differences in cost, some owners are considering installing an additional set of service and settling tanks for low sulphur fuel oils. Such measures would also simplify change-over procedures and bunker management.

Inadequate availability of low sulphur heavy fuel oils may force owners to increase consumption of low sulphur diesel oils within SECAs. Accordingly, allocation of additional marine diesel oil tank capacity may have to be considered.

Lube oil considerations

Experience has indicated that for 2-stroke engines, long term operation on blended low sulphur fuel oils and the use of high base number (BN 70) cylinder lube oils may lead to deposit build-up on piston crowns, piston ring grooves and, subsequently, liner scuffing.

The maximum operation time on fuel oils with low sulphur content and high BN lube oils appears to vary substantially depending on fuel quality, engine make, type, age, load profile, liner temperature, efficiency of water mist catchers, installation of scraper rings, as well as cylinder lube oil quality, feed rate

and lubrication system. Accordingly, the relevant engine manufacturer and lube oil supplier should be consulted prior to operation on low sulphur fuel oil.

Regulation 15 – Volatile Organic Compounds (VOC) emissions from cargo oil tanks in oil tankers

The requirements apply to tankers operating in terminals that have been designated by the Port state as an area where VOC is regulated. The relevant Port state is required to give advance notification to IMO of such designations.

Any tanker that has a USCG compliant vapour emission control system will automatically comply with the IMO requirements.

Regulation 16 – Emissions from shipboard incinerators

Each incinerator installed on board on or after 1 January 2000 is to be type approved under the IMO Resolution MEPC 76(40). The operation manual and the type approval certificate for such incinerators must be provided on board and the crew trained and capable of operating the incinerator in accordance with the manual.

Further, shipboard incineration of certain specified substances (e.g. PCB's) is prohibited. Incineration of sewage sludge and sludge oil is not permitted in boilers or diesel engines inside ports, harbours and estuaries.

Regulation 18 – Fuel oil quality

General points

Regulation 18 specifically requires that fuel oil supplied to ships must be free from inorganic acids or chemical wastes that could jeopardise the safety of the ship, be harmful to ships' personnel, or pollute the air.

Guidelines relating to Regulation 18 are found in Resolution MEPC. 96(47) "Guidelines for the sampling of fuel for determination of compliance with Annex VI of MARPOL 73/78".

Bunker delivery notes

Regulation 18 requires that any fuel oil delivered on board must be recorded on a Bunker Delivery Note (BDN).

There is a requirement that BDNs must contain specific information, including quantity, sulphur content and a declaration by the fuel oil supplier's representative that the fuel oil supplied conforms with regulations 14 and 18.

The BDNs must be kept on board for a three-year minimum and be ready for inspection at all times.

MARPOL Annex VI fuel oil samples

Regulation 18 requires that every BDN is to be accompanied by a representative sample of the fuel oil delivered, taking into account the guidelines in Resolution MEPC.96(47).

BIMCO clause



Sampling at ship manifold using DNV Petroleum Services Line sampler and cubitainer

The sample is to be sealed and signed by the supplier's and ship's representative and kept on board in a safe location, until the fuel oil is substantially consumed, or a minimum of 12 months has elapsed.

Sampling procedures

Note that the referred to resolution, MEPC.96(47), specifies that the fuel sample is to be obtained at the receiving ship's inlet bunker manifold and drawn continuously throughout the bunker delivery period. The term 'continuously drawn' means a continuous collection of drip samples throughout the delivery of bunker fuel.

Supplier's responsibilities

Annex VI of MARPOL requires Port States to:

- Maintain a register of local suppliers of fuel oil.
- Require local suppliers to provide the BDN and a sample, where the fuel oil supplier certifies that the fuel oil meets the requirements of regulations 14 and 18.
- Take appropriate action against fuel oil suppliers found to have delivered fuel oil that does not comply with that stated on the bunker delivery note.
- Inform IMO, for transmission to Parties to the Protocol of 1997, of all cases where fuel oil suppliers have failed to meet the requirements specified in regulations 14 or 18.

FUEL SULPHUR CONTENT CLAUSE FOR TIME CHARTER PARTIES

BIMCO's recommended clause for use in connection with Annex VI of MARPOL 73/78 "Regulations for the prevention of Air Pollution from ships":

Quote

Notwithstanding anything else contained in this Charter Party, the Charterers shall supply fuels of such specifications and grades to permit the Vessel, at all times, to meet the maximum sulphur content requirements of any emission control zone when the Vessel is trading within that zone. The Charterers shall indemnify, defend and hold harmless the Owners in respect of any loss, liability, delay, fines, costs or expenses arising or resulting from the Charterers' failure to comply with this Clause.

For the purpose of this Clause, "emission control zone" shall mean zones as stipulated in MARPOL Annex VI and/or zones regulated by regional and/or national authorities such as, but not limited to, the EU and the US Environmental Protection Agency.

Unquote



Legal News summary

Legal News is available on Skuld's new website. The aim is still to publish legal updates as and when new matters arise or new legislation is implemented.

With reference to our article in Beacon no. 2, December 2003, page 24, we are pleased to confirm that Legal News online is also available on Skuld's new website, where Legal News articles are now even easier to locate. Simply go to our homepage www.skuld.com, then to 'News and Publications' and then to 'Legal News', where all new articles are instantly available. On this page, there is also a link to the archive, where all previous articles are filed.

Since Beacon no. 2, December 2003 was printed, several articles dealing with crucial topics have been published, some of which are summarised below. The full text of these and other articles are either available on the Legal News section or in the www.skuld.com Legal News archive.

Taiwanese law and maritime matters

*by Nicola Mason and Roger KC Wang,
12 January 2004*

In this article, the procedures relating to arrest of vessels in Taiwan are reviewed. It was highlighted that if the defendant does not have his principal place of business in Taiwan, a claimant should be able to arrest a vessel owned by the defendant. This is done by seizing the defendant's assets, i.e. his vessel. As there is no maritime law, there is no recognition of 'in rem' writs. To make the application to arrest the asset (the vessel), the claimant has to establish a

prima facie case against the owners of the vessel. The claimant will be required to provide security as assessed by the court, and is only allowed to arrest the offending vessel (e.g. if there is a cargo claim or claim arising under a C/P). The claimant will not be entitled to arrest another vessel which is in the same beneficial ownership or management, and it may be difficult to establish a sister ship arrest in Taiwan unless ownership is registered with the same company.

It is not possible to arrest a vessel when she is outside of the port in Taiwanese territorial waters.

A party wishing to release the vessel will have to deposit the amount of the claim, plus arrest fees, with the Court.

Trigger happy owners beware!

by Sara Gillingham, 21 April 2004

With reference to London arbitration 3/04 in Lloyd's Maritime Law Newsletter 635 it was emphasised that timing is crucial in connection with time charter withdrawal cases. If owners are too early in withdrawing the vessel from a C/P, they can be held liable for anticipatory repudiatory breach of contract and face a very substantial damage claim from charterers. On the other hand, if owners are too late in withdrawing, they could be held to have affirmed or confirmed the

contract and lost the right to withdraw. A wrong move here could also lead to owners facing damages claims from charterers.

Kilo limitation for cargo claims in Norway

by Bjørn Flåm, 4 May 2004

In Norway's Supreme Court judgment of 23 March 2004 – an appeal case brought by Skuld on behalf of a member – the Supreme Court did endorse Skuld's view in a case involving kilo limitation.

The case involved a semi-trailer which tilted on board a ferry causing damage to both the semi-trailer and another semi-trailer parked next to it (although the cabs of both vehicles were also damaged, this judgment only concerned the damage to the trailers).

The trailers were condemned and the Supreme Court, in an unanimous judgment, held that the trailer could not be said to be an integrated part of the vehicle. This endorsed Skuld's view that, for the purpose of the limitation provisions, it is just the weight of the trailers that is relevant.

Mediation

by Stig Gregersen, 24 June 2004

Following the English Court of Appeal's judgment on 11 May 2004 in the Halsey and



Current and past legal articles are easily available through the News and Publications/Legal News section of Skuld's improved website

Milton Keynes General NHS Trust, important aspects of mediation were outlined, notably what should be considered when evaluating whether a party had acted reasonably in refusing to engage in mediation. It was concluded that, although the above judgment may not have answered all the uncertainties relating to the evolution of mediation, it is still another strong reminder that in order to avoid adverse costs, litigants and their lawyers should routinely consider whether their disputes are suitable for ADR, especially mediation.

Notices of readiness again

by Jonathan Hare, 20 September 2004

In this matter, where Skuld represented the owners, the arbitrator agreed that a Notice of Readiness tendered while the vessel was arrested was valid. However, it was material to the arbitrator's decision that the arrest order specifically allowed the vessel to berth and carry out cargo operations provided it remained within the jurisdiction of the local Court. It was also clear to all concerned that the owners had no choice but to post security for the debts of the insolvent former charterers. The owners put arrangements in hand immediately, and the arrest was lifted within three working days. Once the arrest order was lifted, the vessel remained at anchorage as no cargo was available, and the vessel continued to wait. Thus, the arrest had absolutely no effect on the

length of time for which the vessel had to wait before commencing loading.

However, the result might be different in other circumstances if, for example, there was real doubt about whether the arrest would be lifted by the time loading was expected to be completed.

Half demurrage under the Asbatankvoy Form clause 8

by Karin A. Holm, 11 November 2004

In this article, a London Arbitration award from September 2004 and the Court of Appeal's judgment in the Afrapearl were considered, and it was concluded that for a breakdown to fall under clause 8 of the Asbatankvoy Form and thereby trigger half demurrage for any resulting delay, it is not a condition that the breakdown took place when the vessel was in the port or at the berth, nor that laytime had commenced or that the vessel was on demurrage. As long as: i) charterers can establish that there was a breakdown, as defined in the above arbitration and judgment ii) it can be proved that the breakdown caused a delay to the vessel iii) owners cannot break the chain of causation by pointing to intervening events, then half demurrage will apply.

Domestic consumption – NYPE 46 Form

by Sandro Vuylsteke, 23 November 2004

In a matter where the Association represented the owners, by reference to

clause 20 and the Sounion judgment, the charterers had made a deduction for domestic consumption in their final hire statement.

However, the owners succeeded with an argument that this deduction was not legitimate as clause 2 had been amended to read "That the Charterers shall provide and pay for all the fuel, ...", i.e. with deletion of the words "except as otherwise agreed".

Bill of Lading – NVOCC or Ocean Carrier: The Kirby case

by Morten Ligaard, 1 December 2004

The US Supreme Court's landmark judgment of 9 November 2004 in Norfolk Southern Railway Company, petitioner v. James N. Kirby, Pty Ltd, DBA Kirby Engineering, and Allianz Australia Insurance Ltd, especially the NVOCC carrier's role in relation to agency, is discussed in this article.

In an unanimous judgment, the Supreme Court stated that when an intermediary (NVOCC) contracts with a carrier, the cargo interests are bound by the terms of the contract (typically B/L) between the intermediary and the carrier if they are seeking recovery directly from the carrier. For this purpose, an intermediary is considered the cargo interest's agent and not the carrier's agent.



For a few beans more –

"A soybean boom is sweeping South America like a gold rush leading farmers who have caught the fever to plow and plant by moonlight..." (Diego Gludice). On the back of this, ocean freight costs have hit record highs, caused by China's insatiable demand for goods and raw materials – including soya beans.

China barred imports of Brazilian soya beans May/June 2004

Napoleon supposedly once said, "China is a sleeping giant, and when it awakes the world will tremble". [The Digest James Thompson 1/8/2004.]

In May/June 2004, Brazil was reeling after China barred the import of approximately 90% of Brazilian soya beans, due to alleged infection of a form of fungicide called Carboxin. Many however, privately argued that Carboxin infection was a contrived excuse used as a means to drive down the price.

The result of the Chinese ban on Brazilian soya beans

As a result of the rejection of these cargoes, the price of soya beans dropped 20%. Many vessels were left waiting in limbo unable to enter Chinese ports to discharge their cargoes. Over 23 leading companies, such as Cargill Inc., Bunge Limited and Louis Dreyfus, were affected. Those shipowners, who had their vessels on time charter to good charterers, continued to receive hire payments without interruption during this period.

However, difficulties regarding the liabilities for this volatile cargo remained unaddressed for many shipowners. Soya beans, if they are kept on board the vessel without proper ventilation to deal with moisture content, or shipped with moisture content above 12%, may not be able to withstand long periods in storage. [See p.14 'Million dollar beans', Beacon no. 1, 2003.] Many vessels were delayed for over 60 days. When vessels could enter the discharge port, owners faced the possibility of cargo deterioration, or rejection, and were left to pick up the tab under the bill of lading.

Are owners protected under the time charter?

Under an unamended NYPE 46 charter party, owners would have an indemnity against the consequences of following charterers' orders to wait. Consequently, cargo deterioration resulting from the delay would be the charterers' responsibility.

However, there is uncertainty of the legal obligation to put up security if the vessel is

arrested due to cargo claims resulting from such delay.

Are owners protected under a voyage charter?

Owners' position is weaker under a voyage charter as there is neither a general indemnity against the consequences of following charterers' orders nor (usually) is there a contractual right to payment for time spent waiting before the vessel arrives at the discharge port.

What more could be done to protect owners?

A Letter of Indemnity (LOI) could be provided to owners by charterers/shippers. The advantage of the LOI is that it specifically addresses the situation and compels charterers to provide security to release the vessel should it be arrested or detained.

The Letter of Indemnity

Under The Hague and Hague-Visby Rules, owners have an obligation under the bill of lading to proceed directly without delay to the discharge port. Waiting offshore would constitute a contractual deviation, which



Photo: Corbis/Scampix

In May and June 2004 China banned the import of roughly 90% of Brazilian soya beans

the saga continues

could deprive the shipowners of their Hague and Hague-Visby defences, such as inherent vice.

Therefore, the indemnity should address the following:

1. Liability for any deterioration in the cargo during the periods of delay
2. Rejection of the cargo
3. Liability for damages for delay in delivery/discharge of the cargo
4. Consequences to the vessel and owners as a result of complying with charterers' orders
5. Fines
6. Additional discharge costs
7. Arrest
8. Security or detention
9. Additional insurance premium to cover deviation risks
10. Legal costs
11. Survey costs
12. Other associated costs

What about charterers and operators?

For charterers and operators in the middle of the charter party chain, the situation can be precarious. It is imperative for them to also get a proper indemnity from their sub-charterers or shippers. This is especially so if the sub-charterers are voyage charterers. The standard charter party demurrage provisions may not cover delay to the vessel waiting off port limits. A well-

FOR CHARTERERS AND OPERATORS IN THE MIDDLE OF THE CHARTER PARTY CHAIN, THE SITUATION CAN BE PRECARIOUS

drafted LOI not only covers who bears responsibility for cargo claims, fines and liabilities as outlined above, but also incorporates remuneration for the delay.

How good is the Letter of Indemnity?

One proviso – an indemnity is only good if the party issuing it has the financial resources to honour the indemnity.

Will this situation arise again?

Demand for soya beans from China and the rest of the world has increased. However, there are warnings that a similar situation to that of May/June 2004 could be repeated. Brazilian government officials are reportedly disappointed that the agreement reached with China did not address the difficulties faced by Brazilian exporters to China. Carlo Lovatelli, the President of Brazil's Vegetable Oil Industry Association (ABIOVE) said of Chinese Regulations, "The regulations they have now are extremely vague. They guarantee nothing".

Other factors influencing the price of soya beans

The American Soybean Association weekly update for 4 October 2004 reports that soya bean exporters have set new financial terms for trading with China. This is in the wake of China's defaults on payments in 2004. The new requirements include down payments of up to USD 2.5 million for the purchase of 60,000 ton cargo; Chinese importers' requirement to take delivery of their cargoes within 30 to 45 days of the transaction and to open a Letter of Credit within three days, instead of several weeks. They warn that all of this will have an impact on Chinese demand for soya beans.



Photo: Reuters/Scampix

The new financial terms for trading soya beans with China may reduce demand

AS BRAZILIAN FARMERS HELD BACK MORE OF THEIR CROP IN 2003/04 THAN NORMAL BECAUSE OF LOW PRICES, THERE COULD RAPIDLY OCCUR A SHORTAGE OF STORAGE SPACE, THEREBY INCREASING SOYA BEAN SALES.



Photo: Corbis/Scanpix

Brazil's 2004/05 soya bean crop is set to increase by 28.2%

The American Soybean Association weekly update for December 2004 also advises that Brazil's soya bean sector is heading for crisis in 2005 with international prices falling and import prices on the rise. In addition, Brazil's 2004/05 soya bean crop is set to increase by 28.2%. As Brazilian farmers held back more of their crop in 2003/04 than normal because of low prices, a shortage of storage space could rapidly occur, thereby increasing soya bean sales. This, coupled with the usual natural difficulties such as Soya Bean Asian Rust contamination, fungicides e.g. Carboxin, the outbreak of foot and mouth in a remote

Amazon region in September 2004 (as a result of which there was a suspension of import of Brazilian soya beans by Indonesia), can all create difficulties for the future of soya beans in the Far East and for owners or charterers carrying soya bean cargoes.

The cost of the gold rush

A cargo of 60,000 mt soya beans at USD 400 per ton is worth USD 24 million. Claims for rejection or damage to soya bean cargoes can cost millions of dollars. Owners, charterers and operators are

therefore advised to carefully review their charter party clauses dealing with this cargo.

Acknowledgement, notes and sources:

The Digest (Corn Soybean) Brock Online Notes 21/6/2004

The Digest (James Thompson) 1/8/2004

American Soybean Association Weekly Update (issues 4/10/2004 and 6/12/2004)

Bloomberg Com 20/12/2004

South American Soybeans Transforming Agriculture Kevin G Hall (Knight Ridder Newspapers)



Maritime mediation

Resolving disputes is central to the work of a club in relation to both P&I and Defence matters. Claims handling largely consists of problem solving, a process which is time consuming and costly.



Good practice – the team lines up for mediation in Oslo

Mediation is a relatively new method of resolving claims. While the concept of mediation has been around for considerable time and employed in jurisdictions as far apart as the United States and Australia, it has recently received a kick-start after the English courts made it clear that litigants were expected to try mediation before having their day in court. It is a form of negotiation conducted with a neutral mediator who will shuttle between the parties to facilitate a settlement, which is acceptable to both.

Maritime Solicitors Mediation Services was established recently by a group of 19 English maritime law firms, with the purpose of promoting the use of mediation in the maritime and marine insurance sector. As part of this promotion, solicitors from eight law firms travelled to Oslo in November to conduct a "mock mediation". Playing roles as the mediator and representatives of owners and charterers, their P&I Clubs and lawyers, they acted out

a mediation based on a realistic scenario. The core of the claim was the loss of cargo in heavy weather caused in part by inadequate lashing and securing. It was an effective demonstration to the 70 persons in attendance from the local shipping, legal and insurance community of how mediation works in practice.

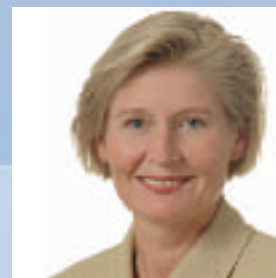
One of the benefits of mediation is to concentrate the minds of the parties on the key issues. It is natural enough for all involved in litigation or arbitration to feel that they have a good case. The mediation process can lead to a more realistic understanding of the merits of the parties' respective positions. The mediator must have good communication skills, the opportunity of speaking to both sides confidentially and be able to help the parties take a realistic look at the issues. For example, the mediator can invite the parties to look at different possible outcomes if a judge or an arbitrator eventually decided the case, and suggest

putting a figure on the potential financial exposure, having taken account of interest and costs. This can put a different perspective on the case and settlement may not seem like such a bad proposition after all.

The mediator cannot decide the case or force the parties into an agreement. The mediation is conducted on a without prejudice and confidential basis, so that if no settlement is reached, the parties simply continue with their arbitration or court proceedings.

Mediation lies somewhere between negotiation and arbitration. It is not a magic answer and will not be appropriate in all cases, but is a valuable form of dispute resolution that will undoubtedly continue to grow in importance.

More information about the Maritime Solicitors Mediation Services can be found on www.msmsg.com



New website at

Skuld's new website was launched in November 2004 with a new technical platform, a whole new design and restructured and improved content.

Skuld's new website is open for business



As Skuld's former site had been in operation since 1997, there was a heartfelt need for a major overhaul. The project began in spring 2004 and, after a lot of hard – but enjoyable – work, we launched the site last November as planned.

Involvement

Several Skuld members were involved in the project. We received extensive feedback from staff members and management, and also from some members and brokers who served as an important reference group.

The work is not over yet. Now the challenge is to keep the site updated and plan for future improvements. If you have

Now the challenge is to keep the site updated and plan for future improvements

not already visited the site, we encourage you to do so. Here is a brief summary of some of the information you will find:

About Skuld gives you information on Skuld's organisation, key figures, access to Statutes and Rules, vessels listed, etc.

Products and Services gives details of our P&I and Defence Services as well as information on loss prevention and our emergency response capability.

News is published under three different categories:

- Skuld News: Formal Circulars (also sent out by letter), press releases and general Skuld News articles published on web only.
- Legal News: Articles on new judgments, laws and clauses, normally written by Skuld staff members with a legal background.

- Notices: Information supplied to us by correspondents, lawyers or other contacts.

A mailing list function, where you may register your interest for news articles, is planned.

Publications include copies of Skuld publications, such as annual reports, booklets and former issues of Beacon.

Correspondents is a search area for correspondent details.

New – Standard Forms!

Several Skuld standard forms are now available for downloading directly from our website or, even better, you can register directly through the web. We are confident that this will help make communication with members and brokers more efficient.

www.skuld.com

SEVERAL SKULD STANDARD FORMS ARE NOW AVAILABLE FOR DOWNLOADING DIRECTLY FROM OUR WEBSITE OR, EVEN BETTER, YOU CAN REGISTER DIRECTLY THROUGH THE WEB



www.skuld.com homepage

Extranet launched – so what's extra?

Extranet is a major step into the digital world for Skuld. In the future, we can imagine this as our major distribution channel for statistics, policies, forms and maybe even charterer declarations.

From January 2005, a simple, first version of Skuld Extranet is accessible via Skuld's home page. Members and brokers will receive their login name and password from Skuld. Brokered members will subsequently receive login details via their broker.

What we offer

Via login from www.skuld.com, members and brokers can access:

- updated claims reports
- three versions of their statistics;
 - one similar to the paper version sent to them earlier
 - one five-year updated (live) version
 - one updated 2004 report

We need your feedback

While we continue to develop our Extranet, your questions and comments are most welcome. Please make sure you try out the service and send your feedback to extranet@skuld.com. Alternatively, contact your syndicate representative.

Thank you!

Director of IOPC Funds visits Skuld

By Jonathan Hare, SVP Defence Services, Skuld Oslo

In 2004, our Oslo office received a visit from Måns Jacobsson, the Director of the International Oil Pollution Compensation (IOPC) Funds. The central part of this visit was a presentation to Skuld staff of some of the most important aspects of the compensation regime for oil pollution damage caused by tankers.



From left to right: Dan Lennhammer, Skuld, Måns Jacobsson, IOPC Funds and Jonathan Hare, Skuld

Mr. Jacobsson first gave a brief summary of the legal regime established by the Civil Liability Convention and the Fund Convention. He then went on to deal with the practical aspects of handling claims following a major oil pollution incident. This included matters such as setting up claims handling offices, instructing suitable experts and procedures for evaluating the admissibility of claims. Emphasis was placed upon the importance of close co-operation between the Club and IOPC Funds secretariat.

A look was taken at a number of recent incidents, including the *Erika* and *Prestige* cases, which were of particular importance since they had triggered changes in the compensation regime. The first of these changes was an increase

in the compensation limits under the Conventions, which took effect in November 2003. This raised the total amount of available compensation from 135 million Special Drawing Rights to SDR 203 million (or from approximately USD 200 million to USD 300 million).

The second major change was the adoption by the International Maritime Organisation, in May 2003, of a Protocol that creates a Supplementary Fund. This provides an additional source of compensation for the exceptional cases that give rise to claims exceeding the amounts available under CLC and the Fund Convention. This Supplementary Fund will bring maximum compensation to SDR 750 million or approximately USD 1.1 billion). The Protocol will come into force on 3 March 2005.

THE PROSPECT REMAINS OF FURTHER CHANGES. A WORKING GROUP ESTABLISHED BY IOPC FUNDS MEETS AGAIN IN MARCH TO REVIEW VARIOUS ASPECTS OF THE CONVENTIONS

The prospect remains of further changes. A Working Group established by IOPC Funds meets again in March to review various aspects of the Conventions. The main issues are the circumstances in which shipowners should be able to limit liability under the CLC, and how the financial burden of paying compensation should be shared between the shipping and oil industries.

Mr. Jacobsson concluded by stating that the compensation regime established by Conventions had generally worked well, and that the IOPC Funds had paid compensation in 130 incidents over a 25-year period, including some USD 885 million to victims of pollution damage.

For more information on IOPC Funds, please see www.iopcfund.org.

Personnel NEWS



OSLO Morten Lyssand, 33, joined the Oslo office 1 December as Loss Prevention Officer.

Morten has a Master's degree in Nautical Science. He has sailed with Bergesen dy ASA for several years and has worked in DNV for four years as Project Manager and Consultant within risk management, risk analysis, ship classification and nautical safety. For the three years before joining Skuld he was a Consultant in Teleplan AS, specialising in risk management, risk analysis, process development, marketing and sales.

See also Loss Prevention Update on page 12.

Contact Skuld

Oslo

Assuranceforeningen Skuld (Gjensidig)
Ruseløkkveien 26
P.O. Box 1376 Vika
N-0114 OSLO
Telephone: +47 22 00 22 00
Telefax: +47 22 42 42 22
E-mail: osl@skuld.com

Bergen

Skuld Bergen
Nedre Ole Bulls plass 3
P.O. Box 75
N-5803 BERGEN
Telephone: +47 55 30 18 60
Telefax: +47 55 30 18 70
E-mail: bgo@skuld.com

Copenhagen

Assuranceforeningen Skuld (Gjensidig)
– Den Danske Afdeling
Frederiksborggade 15
DK-1360 COPENHAGEN K
Telephone: +45 33 43 34 00
Telefax: +45 33 11 33 41
E-mail: cph@skuld.com

Hong Kong

Skuld (Far East) Ltd.
Room 2909, China Resources Bld
26 Harbour Road
Wanchai
HONG KONG
Telephone: +852 2836 3909
Telefax: +852 2836 3219
E-mail: hkg@skuld.com

Piraeus

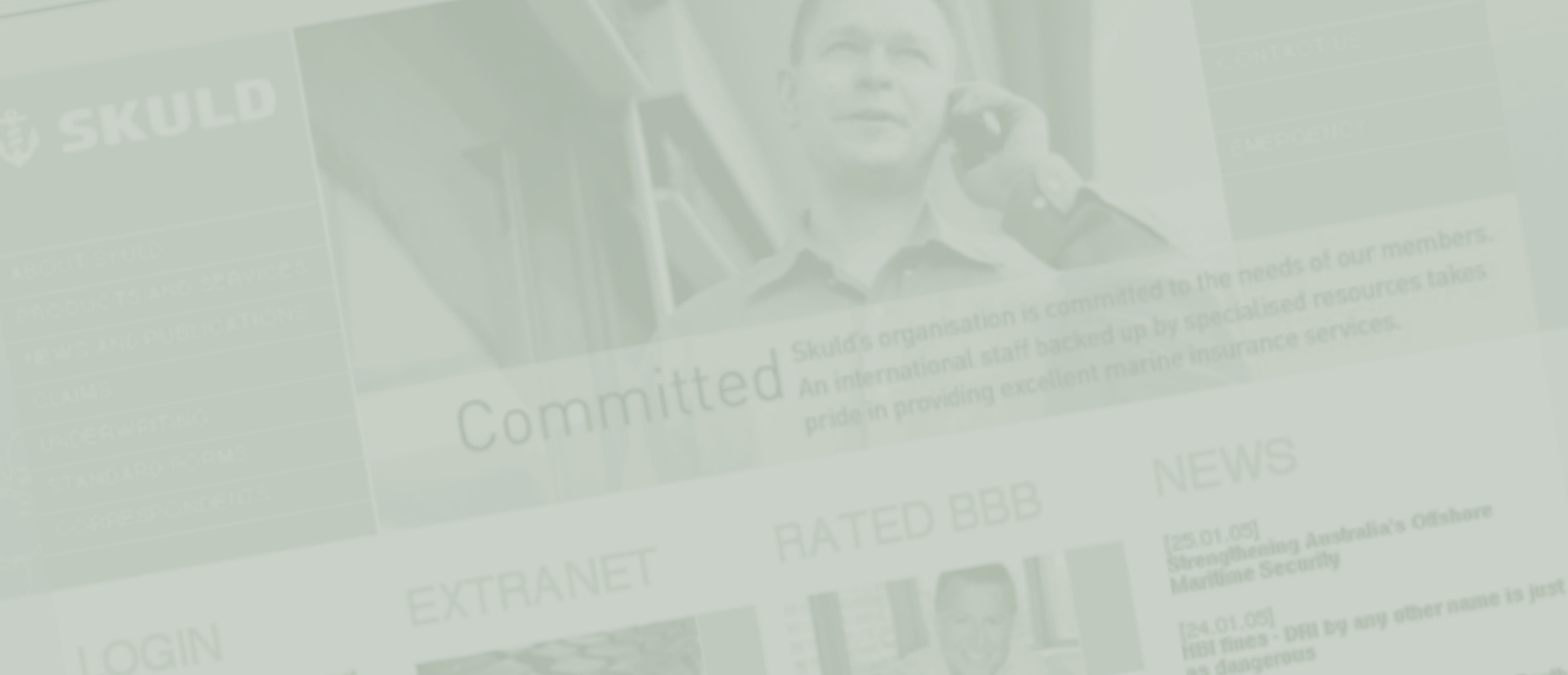
Skuld Hellas
1-3 Filellinon Street
GR-18536 PIRAEUS
Telephone: +30 210 459 4190-2
Telefax: +30 210 459 4194
E-mail: ath@skuld.com

Emergency telephone

All offices:
+47 952 92 200

Internet

www.skuld.com



Skuld news

Skuld Extranet live

A separate login area on Skuld's website now provides direct access to important information that helps you effectively manage your insurance. Once you have received your login name and password you can access:

- your updated claims report
- several versions of your statistics

Standard Forms on web

Several Skuld standard forms are now available directly from our website. No login needed.

Try it! Whether you're a member or a broker, we are confident that communication with us will be easier. Visit www.skuld.com and see for yourself.

www.skuld.com