

The West of England is a leading P&I Club. It provides insurance cover for shipowners' and charterers' legal liabilities to third parties.

The Club exists solely for the benefit of its Members and provides protection and assistance to safeguard their interests.

This service is supported by a network of correspondents, lawyers and technical experts a round the world.

In the event of an accident or incident that may result in claims, a favourable outcome often depends on the availability of accurate information and good records. The purpose of this booklet is to remind you of what the Club may need in order to best protect you and the Company operating the vessel.

If an accident or incident occurs and urgent assistance is required, you can obtain help from one of the Club's local correspondents.

If you are unable to reach the correspondent, you may contact the Club direct.

Details of all correspondents, together with the Club's Rule Book, may be seen and searched at www.westpandi.com.

These documents and the website also contain the contact details of the Club's Claims Teams and individual members of staff at the Club's offices in London, Piraeus, Singapore, New York and Hong Kong. In addition, a duty officer is always available by telephone on +44 (0)7795 116602.

Bills of Lading

A bill of lading is one of the most important documents in the shipping industry because it is not only a receipt for cargo shipped or received for shipment on a vessel, but also because it is often evidence of a contract of carriage between the Company and the owner of the cargo. Most importantly, it is usually the document proving who owns the cargo.

The following details summarise the key points masters and officers must bear in mind when being asked to issue or sign mate's receipts and bills of lading, or when authorising a third party to issue bills of lading on the vessel's behalf. It also covers situations where a request is made to deliver cargo without production of a bill of lading or to carry a bill of lading on board the vessel.

Contents of the bill of lading

In order to protect the Company's interests as well as their own, the master or chief officer should check that both the mate's receipts and the bills of lading are correctly drawn up before they are signed. If a third party such as the agent or the charterer's representative has been authorised to sign the bills of lading in accordance with the mate's receipts, the master should pay particular close attention to ensuring that the information shown on mate's receipts is accurate.

Ship Security

In accordance with the requirements of the International Ship and Port Facility Security (ISPS) Code, the security of the vessel must be maintained at all times. This includes the monitoring of boarding arrangements, denying access to unauthorised persons and ensuring that only lawful goods are carried. Since incidents involving stowaways, piracy or terrorism may also result in significant claims, it is essential that vigilance is intensified when operating in areas of increased risk.

Should any of the following points conflict with aspects of the vessel's Ship Security Plan, precedence should be given to the latter.

Stowaways
Stowaways can be expensive to repatriate, fines and heavy costs may be incurred and it is often difficult to find countries willing to let them disembark, particularly if they have no documents. A thorough search of the vessel before departure is crucial as it is far easier to send stowaways ashore in the port where they boarded.

A further search shortly after departure is also recommended as stowaways sometimes emerge soon after the vessel has sailed to seek food and water or a more comfortable place to hide. It should also be borne in mind that if one stowaway is found, there may be more on board.

In order to mitigate any penalties in the event of a successful stowaway attempt, it is important that details of shipboard stowaway searches conducted prior to and after departure, the areas checked and all other precautions taken by the vessel are recorded in writing.

These may include safeguards such as gangway watches, the employment of additional security personnel, identity checks, security rounds, accommodation access restrictions, illumination arrangements and the security publication "Best Management Practices to Deter Piracy" (BMP) which is essential that the precautions set out in the latest version of this important document are strictly followed at all times.

If stowaways are found after sailing:

- Treat them firmly but humanely.
- Search them for identification papers, weapons and drugs.
- Search the area where they were found for hidden identification papers, weapons and drugs.
- If identification papers are discovered, place them in the vessel's safe to prevent them from being destroyed.
- Confine the stowaways to a safe and secure area when not under close supervision.
- Provide them with adequate food and drink.
- Do not force them to work against their will.
- Do not sign them on ship's articles.
- Interview each stowaway individually to ascertain:
 - name
 - date and place of birth
 - nationality
 - address

Bunker Disputes

Bunker disputes usually occur for two reasons; the disagreement over the quality supplied or the provision of unusable or off-specification fuel. It is important that action is taken to protect the vessel's interests should such situations arise.

Quality
Off-specification bunkers may result in non-compliance with mandatory sulphur limits, poor consumption, loss of speed and, in some cases, damage to the vessel's machinery or equipment. Some bunker contracts allow the vessel to question the notification of bunker problems, therefore checks regarding quality should be carried out as early as possible. In order for claims involving off-specification bunkers to stand a greater chance of success:

- Prior to bunkering, check that the specification stated on the bunker delivery note is correct and within the engine manufacturer's limits and compliant with the applicable MARPOL maximum sulphur content.
- Carry out a compatibility test before bunkering operations begin.
- As far as possible, load bunkers into empty tanks and do not mix with other fuel on board.
- Test bunkers for the presence of water to check compliance with the engine manufacturer's specifications.
- In addition to the MARPOL sample and the samples drawn for use by the supplier and charterer, take at least four representative samples at the manifold during bunkering, preferably using dedicated sampling equipment.
- Ensure that all samples are witnessed and signed jointly by the Chief Engineer and the supplier.
- Seal and mark all samples with the date and time of sampling and the seal number.

Date on the bill of lading and mate's receipt

Both documents should state that the cargo was either shipped on board on a certain date or "received for shipment" on that date. "Received for shipment" may be used if the vessel is effective control over the cargo. In both cases, the date shown on the bill of lading must be the date when the cargo actually came on board the vessel or came under the vessel's control as the case may be. If the bills of lading or mate's receipts show any other date, the Company should be contacted immediately for further advice. Incorrectly dated bills of lading or mate's receipts may expose the Company to liabilities up to the full value of the cargo and such liabilities may not be insured.

Weight and quantity of cargo

The master or chief officer should ensure that the quantity of cargo as stated in the mate's receipts and bills of lading (both the weight and the number of packages or units) corresponds with the vessel's weight as determined by tally sheets, boat notes, draught surveys, ullage calculations and similar records. In the event of a difference between the mate's receipts and bills of lading, the Company should be informed immediately. Pending the receipt of a reply, the mate's receipts should not be signed or authorised to be signed.

In certain cases it may be possible to clause the mate's receipts and bills of lading with the words

"said to be _____ weight and quantity unknown" or "said to weigh _____ weight and quantity unknown", particularly in the case of bulk cargoes. However, this should not be used without obtaining approval from the Company first.

Description of the cargo

The cargo should correspond with the description given in the mate's receipts and bills of lading. If there is any doubt, the mate's receipts should not be signed or authorised to be signed and the Company should be contacted immediately.

Condition of the cargo

Mate's receipts and bills of lading normally state that the cargo is shipped or received for shipment in "apparent good order and condition". These words mean that, in the opinion of the master, the external appearance of the cargo suggests that it is in good condition and undamaged. If the cargo does not appear to be in good condition externally or seems to be damaged, the mate's receipts and bills of lading should not be signed or authorised to be signed and the Company should be informed immediately. If the Company cannot be contacted, the master or chief officer should sign the mate's receipts and bills of lading in accordance with the mate's receipts and bills of lading, the Company should be informed immediately. Pending the receipt of a reply, the mate's receipts should not be signed or authorised to be signed.

Other terms in the bills of lading and mate's receipts

It is important to ensure that the bills of lading comply with the terms of the charter party, particularly if the charterer's own standard form is to be used. If there is any doubt, the mate's receipts and bills of lading should not be signed or authorised to be signed and the Company should be contacted immediately.

Authorising agents to sign bills of lading

If the charter party allows the agents to sign the bills of lading on the master's behalf, the master should instruct the agents in writing to sign the bills in accordance with the information stated on the mate's receipts. A copy of this instruction should be retained on board.

Letters of indemnity

Time charterers may sometimes be asked to sign or authorise the signing of mate's receipts or bills of lading which state that the cargo is in apparent good order and condition when this is clearly not the case, or show an incorrect quantity shipped or received for shipment, or have been dated incorrectly. In return for doing so the master may be offered a letter of indemnity. Such indemnities are almost always worthless and accepting them may mean that the master is party to a fraud. If a letter of indemnity is offered it should not be accepted.

Accepted and the Company should be contacted immediately.

Original bill of lading retained by the master
It may sometimes be agreed between the Company and the charterer or cargo owner that the master is to retain original bills of lading on board against which the cargo may be delivered. In such cases the bills of lading need to reflect this arrangement. The master should contact the Company for advice about what details should be recorded on the bills of lading before they are signed or authorised for signature.

Non-production of original bill of lading

Delivering the cargo without the production of an original bill of lading may expose the master to expensive and uninsured liability claims for misdelivery. If delivery is requested in such circumstances, it should be refused and the Company should be contacted immediately.

Club correspondents

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Drugs

Whether placed on the vessel by third parties or smuggled on board by crew members, the discovery of drugs by shore authorities may result in heavy penalties, delay and, in certain jurisdictions, criminal charges. To minimise these risks the vessel should be searched thoroughly for drugs by trained shipboard personnel. The vessel's flag administration, drug searches and other anti-drug precautions should be recorded in the vessel's logbook.

If a suspect item is found during a search, the action to be taken by the vessel will usually be specified in the SMS and/or Ship Security Plan. There may also be additional requirements to fulfil if the Company has signed anti-drug co-operation agreements with particular countries. However, in the absence of firm guidance:

- The Company, the responsible authorities ashore and the Club or local correspondent should be informed immediately. If the discovery of the drugs is not reported to the authorities as quickly as possible, slips, trips and falls are the most common types of accident occurring aboard a vessel, often the result of oily surfaces, badly rigged ladders, ladders, unguarded openings or generally cluttered decks. A watchful eye and good housekeeping will go a long way towards minimising such accidents. Every accident has an impact on some crew members who may be unable to perform their duties effectively, thereby affecting the safe operation of the vessel. If the accident was caused by the malfunctioning of machinery or equipment, the defective parts should be replaced as soon as possible. If the accident was caused by the malfunctioning of machinery or equipment, the defective parts should be replaced as soon as possible. If the accident was caused by the malfunctioning of machinery or equipment, the defective parts should be replaced as soon as possible.

Personal Injury

The Club correspondent should be contacted immediately regardless of whether the injured person is a crew member, passenger, stevedore, visitor or third party. The correspondent should be informed of all details regarding the accident and their advice should be followed in full.

Accidents resulting in injury should always be reported and investigated in accordance with the requirements of the vessel's SMS. Details of any accident or incident should be recorded in the vessel's logbook.

The following information may be collected and forwarded to the Company, local correspondent or Club as required:

- Details of the injured person
- Date, time and location of accident
- Details of the work or activity being undertaken
- Details of any contributory behaviour by the injured person and/or possible negligence by third parties
- Statement from the injured person (if appropriate)
- Copies of any permits to work in force at the time of the accident (if applicable)
- Details of any personal protective equipment worn or being used by the injured person at the time of the accident
- Details of the injured person's hours of work and rest in the days preceding the accident
- Results of any alcohol or drug tests carried out after the accident
- Details of any pre-existing medical conditions affecting the injured person
- Details of any medication being taken by the injured person
- Details of any previous accidents involving the injured person
- Statements from any witnesses able to provide an accurate account of the accident. It is important to exercise discretion when taking statements from witnesses, particularly those whose memories or motives may be questionable. For reasons of credibility, similar injury are identified from several different witnesses should be avoided.
- The names and, as far as practicable, the contact details of all witnesses
- Copies of all official, deck, engine room and working log books (as appropriate) and any rough notes. All actions must be completed accurately and in full.
- Details of any party claiming to represent the injured person
- Copies of any relevant survey reports.

All personal injury cases, particularly those that might involve the United States.

Cargo

Event of condition, loss and damage

The vessel is obliged to take good care of the cargo, and to do everything possible to ensure that it is delivered in the same condition as received. This means that the vessel may be held responsible for damage or losses if the cargo was not loaded, stowed and discharged in a satisfactory manner. If cargo operations were not properly controlled or if the cargo received insufficient care during the voyage. It is essential that all operations regarding the handling, securing and monitoring of the cargo are documented in full, bearing in mind that it may be impossible to defend claims if the appropriate records cannot be produced. Since claimants frequently try to hold the vessel liable for cargo damage or losses which actually occurred ashore, the significance of keeping accurate records is clear. Similarly, claimants often allege that the vessel was not "seaworthy" or "cargoworthy" may be groundless or exaggerated, it will be necessary to demonstrate that "due diligence" was exercised in preparation in order to make the vessel seaworthy and cargoworthy. The importance of this obligation cannot be over-emphasised. If the vessel was not "seaworthy" or "cargoworthy" may be groundless or exaggerated, it will be necessary to demonstrate that "due diligence" was exercised in preparation in order to make the vessel seaworthy and cargoworthy. The importance of this obligation cannot be over-emphasised. If the vessel was not "seaworthy" or "cargoworthy" may be groundless or exaggerated, it will be necessary to demonstrate that "due diligence" was exercised in preparation in order to make the vessel seaworthy and cargoworthy. The importance of this obligation cannot be over-emphasised.

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Stowaway Searches

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Pre-loading records

Preparation of cargo spaces (e.g. hold cleaning, tank washing, inerting, line flushing, gas-freeing, fumigation, reefer pre-cooling)

Routing tests

Route tests (e.g. bilge suction lines, water ingress detectors, weather-tightness of hatch covers, booty hatches and vent closures, pressing-up of ballast tanks surrounding the cargo spaces, pump function tests, smoke extraction, refrigeration, fire extinguishing, inert gas, ventilation system)

Equipment checks

Inspections by crew (e.g. hatch cover seals and securing arrangements, cargo space plating, frames, bulkheads and tank tops, cargo space coatings, insulation, spar ceilings)

Joint inspections

Notes of any pre-loading damage to cargo and copies of any pre-loading surveys carried out (see "Steel" at the end of this section)

Precautions taken against precipitation

Deck log book entries

Rough log book entries

Ballast soundings, including records of tanks filled or emptied on passage

Bunker soundings, including transfer records

Temperature (hold, cargo, seawater, air) and humidity records

Temperature of reefer spaces and defrosting records

Temperature records for refrigerated containers including temperature cards and electronic records/downloads

Temperature of bunkers stored in tanks next to heat-sensitive cargo

Gas concentrations for each cargo space

Ventilation records for each cargo space

Heart gas and tank venting records

Cargo rounds and checks of lashing/securing and sealing arrangements

Copies of weather reports/warnings and any weather forecasting information

Loading and discharging records

Stowage plan and stability calculations

Details of compliance with statutory requirements (e.g. IMSBC Code, IMDG Code)

Cargo manifests

In the case of dry bulk cargoes subject to liquefaction risk (IMSBC Code Group A), photographs showing the results of any "can" tests carried out

Working periods of each cargo space including hatch opening/closing times, pumping rates, ullage and water level

Weather experience, including all stoppages and hatch closures due to precipitation

Precautions taken against precipitation (e.g. radar watch for approaching rain, measures and the locality in which the vessel was able to avoid the weather)

Details of ballasting operations including start/stop times of each tank

Details of safety precautions observed, particularly in respect of dangerous cargo

Lashing, securing and dunnage work carried out by stevedores and/or crew

Details of compliance with the requirements of the vessel's Cargo Securing Manual

Copies of certification for the Maximum Securing Load (MSL) of lashings and weld

Non-Destructive Testing (NDT)

Instructions and requirements received from cargo superintendents

Temperature of bunkers stored in tanks next to heat-sensitive cargo

Gas concentrations for each cargo space

Ventilation records for each cargo space

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