# **P&I** Guidelines Practical Notes for Ships' Personnel

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.

## **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 eceived for shipment on a vessel, but also because it is often evidence of a contract of arriage between the Company and the owner of the cargo. Most importantly, it is usually the locument proving who owns the cargo. The following details summarise the key points nasters 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 particularly close attention to ensuring that the information shown on mate's receipts is accurate

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" means that the vessel has effective control over the cargo. In both cases the date shown on the bill of lading must be the date when he 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 liately 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

details of next of kin

- location of hiding place

intended destination.

process may begin.

Piracy

Kuala Lumpur

 $+603\ 2031\ 0014$ 

reporting-centre

Fax: +603 2078 5769

- port, date and time of boarding

- how they gained access to the vessel

he foregoing information, together with

photographs of the stowaway(s) and copies

of any identification papers found should be

orwarded promptly to the Company, Club

or local correspondent (in accordance with

Company procedures) so that the repatriation

The latest information on piracy attacks and the

areas of greatest risk may be obtained free of

charge from the IMB Piracy Reporting Centre,

Further information can also be seen within the

The Piracy Reporting Centre also issues daily

ships in the IOR and AOR via broadcasts on the

Prior to transiting an area where vessels have

peen attacked, the Company Security Officer

carry out a risk assessment based on the mos

recent information available. They should also

ensure that the crew is fully briefed and that an

anti-piracy drill is held beforehand. In high risk

regions covered by the industry publication "B

Aanagement Practices to Deter Piracy" (BMP)

it is essential that the precautions set out in the

atest version of this important document are.

operating, vessels should submit details of their

ntended passage to the appropriate coordinati

ossible, vessels should always join escorted

convoys and follow official recommendations

regarding position reporting, transit corridors,

Deploving additional watchkeepers and lookouts

Maintaining a careful lookout both visually with

Reducing the duration of watchkeeper and

Using fire hoses, razor wire and security grilles

as physical deterrents together with passive

defence equipment such as night vision optics

acoustic devices, false "high voltage" signs and

lookout periods to minimise fatigue

With regard to anti-piracy measures, the

following points should be considered:

In regions where anti-piracy naval forces are

centre prior to entering the area. As far as

CSO) and the Ship Security Officer (SSO) should

UK ADMIRALTY Maritime Security Charts.

24 Hour Maritime Security Hotline

Website: www.icc-ccs.org/piracy-

Imarsat-C SafetyNET service

strictly followed at all times.

transit timings and speed

binoculars and by radar

"dummy" lookouts

Email: imbsecurity@icc-ccs.org

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 numb of packages or units) corresponds with the vessel? own figures as determined by tally sheets, boat notes, draught surveys, ullage calculations and similar records. In the event of a difference between the vessel's figures and the figures shown on the mate's receipts and bills of lading, the Company should be informed immediately. Pending the Company's reply, the documents 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 done 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 documents 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 ladings normally state that the cargo is shipped or received for shipmen 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 ensure an accurate description of the cargo's external condition is recorded on both the mate's receipts and the bills of lading. Describing the external condition of the cargo on the mate's receipts alone is not sufficient.

Using ballast pumps to flood the decks and

form a water curtain over the vessel's side

Running additional machinery such as extra

Preparing a secure internal compartment to be

used by the crew as a "citadel" if the attackers

Under SOLAS, masters may turn off the vessel's

AIS transmitter if the master believes that the

continual operation of AIS might compromise

the safety or security of his/her ship or where

security incidents are imminent. However, at

night, navigation lights should always remain

that the safety of personnel is paramount and

that crew members should not be exposed to

In the event of a piracy attack the following

Ensure that crew members with non-essential

co-ordinating naval forces in the region, to the

Send pre-prepared messages to the centre

duties proceed to the safe muster point or citade

Company and to the vessel's flag administration

Activate the Ship Security Alert System (SSAS)

calling (DSC) and/or Inmarsat as applicable

alterations of course, bearing in mind that large

alterations of course will slow down the vessel

reconfirm that all external doors are fully secured

Sound the vessel's whistle continuously to indicate

Turn on the AIS transmitter (if switched off earlier).

If the attack takes place at night and there are naval

forces in the area, switching on the deck lights may

If the attackers manage to board the vessel and

provided there is sufficient time, further messages

and flag administration. Unless all crewmembers

confrontation are not recommended to minimise

hopefully keep the unwelcome visit brief, allowing

are fully secure inside a citadel, resistance and

the possibility of violence. Remaining calm and

agreeing to the demands of the attackers will

full control of the vessel to be regained at the

earliest opportunity. If practicable, the vessel

should be navigated clear of other traffic and the

members may assist passively by mentally noting

main engine stopped when safe to do so. Crew

as many details about the attackers as they can

Should a military assault team board the vessel,

crew members should drop to the deck and cove

their heads with both hands keeping them visible

and empty. It is important to understand that the

and pooling such information later on.

make it easier for them to identify the vessel.

should be sent to the naval forces, Company

to the attackers that the vessel is aware of their

presence and is reacting

Activate the vessel's defensive measures and

If possible increase speed and make small

switched on. Masters should also remember

generators and steering motors

emergency exits are still usable

manage to board the vessel.

unnecessary risk.

action should be taken:

Sound the piracy attack alarm

Securing all entrances, ensuring that

#### 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 pecially if they are to be issued in a particula format or 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

#### 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

The master 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 and the Company should be contacted immediately.

#### Original bill of lading retained by the master It may sometimes be agreed between the ompany and the charterer or cargo owner that the master is to retain an original bill of lading or poard against which the cargo may be delivered n such cases the bills of lading need to reflect is arrangement. The master should contact the

Company for advice about what details should e 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 Company expensive and uninsured liability claims for misdelivery. If delivery is requested in such rcumstances, it should be refused and the

Drugs

## Company should be contacted immediately. Club correspondents

ne Club's local correspondents will be familia vith problems regarding the issuing of mate's receipts and bills of lading. If the Company cann be reached or if advice is required, the local correspondent may be contacted for assistance

these risks the vessel should be searched

be recorded in the vessel's logbook.

the next port

it is removed

the suspect item is retrieved

absorbed by the skin

wash hands afterwards

hot pipes)

guard if necessarv

their investigations.

Club directly.

-ollow up with a full written report

Do not touch the substance itself without

## **Ship Security**

n accordance with the requirements of the nternational Ship and Port Facility Security SPS) Code, the security of the vessel mus be maintained at all times. This includes the nonitoring of boarding arrangements, denying access to unauthorised persons and ensuring that only lawful goods are carried. Since incidents nvolving stowaways, piracy or drugs may also esult in significant claims, it is essential that vigilance is intensified when operating in areas of increased risk.

Should any of the following points conflict vith aspects of the vessel's Ship Security Pla precedence should be given to the latter

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

A further search shortly after departure is also recommended as stowaways sometime: 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 status reports on piracy and armed robbery to 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 securing of cabins, storerooms and cargo spaces.

- 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 identity papers are discovered, place them in the vessel's safe to prevent them from
- being destroyed Confine the stowaway(s) 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

**Bunker Disputes** 

should be verified as precisely as possible

Do not sign the bunker receipt as presented

Amend the quantity shown on the bunker

charterers, agents)

their advantage.

for shortages to be notified)

charterers (as appropriate).

receipt to reflect the vessel's own figures

If the bunker receipt was signed before the

and all interested parties in writing imme

In the event of a shortfall, the longer a vessel

the greater the likelihood of a successful

agreement being reached with the supplier.

wever, if the vessel is about to depart, the

nder pressure to sail and may try to use this to

supplier will be aware that the master may be

Inform all interested parties about the shortfall

without delay (e.g. bunker supplier, Company,

hortfall was recognised, advise the supplier

Some bunker contracts allow 24 or 48 hours

Send all relevant paperwork to the Company or

emains in port after the completion of bunkering,

ompared with the supplier's figures:

Interview each stowaway individually to ascertain: - name

- date and place of birth - nationality

- address

Quantity

#### Bunker disputes usually occur for two reasons; Quality

a disagreement over the quantity supplied or Off-specification bunkers may result in nonthe provision of unsuitable or off-specification compliance with mandatory sulphur limits, poor uel. It is important that action is taken to protec otion, loss of speed and, in some cases the vessel's interests should such situations arise. damage to the vessel's machinery or equipmer me bunker contracts allow seven davs for the notification of bunker problems, therefore chec On completion of bunkering, the quantity loaded regarding quality should be carried out as early as possible. In order for claims involving of using all means available. If there is a shortfall 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 limi and compliant with the applicable MARPOL maximum sulphur content
- Carry out a compatibility test before bunkering perations 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
- eferably using the continuous drip metho Ensure that all samples are witnessed and sigr jointly by the Chief Engineer and the supplier
- Seal and mark all samples with the date and time of sampling and the seal number

Send at least one sample for independent analysis ashore. If possible, the vessel should wait until the analysis results are known before

that the bottles are not swapped

Until the samples are sealed and signed, ensure

- consuming the bunkers in question Retain at least two samples on board until all bunkers of that batch have been consumed
- without difficulty Follow any recommendations made by the
- analysis company regarding the treatment and use of the bunkers If, after departure, it appears that the bunkers are off-specification:
- Notify all interested parties of the problems immediately (e.g. bunker supplier, Company,
- charterers, agents) Where independent testing shows the sulphu content is not MARPOL compliant, the ship's flag state needs to be notified, with copies to the competent authority of the relevant port of destination, the port state who has jurisdiction over the bunker supplier and to the bunker supplier themselves. Always check the latest MARPOL notification requirements in this regard
- Try to avoid consuming the suspect product Forward the following information to the Company or charterer (as appropriate):
- evidence or indications that the bunkers do not meet required specification

crew may be rounded up and held by the assault team until the attackers have been identified, and to recognise that the working language of the assault team may not be English. At no time should lash photography be used. Crew members should co-operate fully with the assault team throughout.

Following an attack, or if a suspicious craft is ighted, a message should be sent to the centre rdinating the naval forces (if applicable), the mpany, the vessel's flag administration, the nsible Maritime Rescue Co-ordination entre (MRCC), the IMB Piracy Reporting Centre ind the Club providing the following information as appropriate

Vessel's name, IMO number, flag, call sign and Inmarsat contact details

Position, date and time of incident (UTC) Vessel type, gross tonnes, deadweight tonnes speed and freeboard

- Name and contact details of Company
- Number of personnel on board and their nationalities
- Last port, destination and details of the cargo
- Reference to any notification report or piracy alert initially sent by the vessel
- Whether the vessel was underway, at anchor or alongside at the time of the attack
- wind direction, swell, wave height) Details of the incident:
- type of attack: attempted attack, boarding. fired upon, hijacking of vessel or kidnapping of crew
- approach details and method of attack Do not taste the suspect substance - description of craft used
- number and brief description of attackers (e.g. appearance, languages spoken, weapons used).

## - duration of attack

- whether the attackers were aggressive or violent - action taken by the vessel
- nsequences of the attack (e.g. injuries, damage, items stolen)
- whether any photographs were taken during the incident
- last observed movements of the craft involved
- (e.g. date, time, course, position, speed) - parties notified

- a copy of the independent laboratory

the location of the sampling point

- the method used for taking the samples and

- the stage at which the samples were taken

- details of all bunkers transferred between

- details of any suspect bunkers consumed

analysis report (if available)

on deliverv

tanks

- ullage records

notes/receipts

- copies of bunker delivery

- action taken by the local authorities
- whether assistance is required - preferred method of communication (e.g. VHF
- HF. satellite telephone, email) - date and time of report (UTC)
- whether the suspect batch of bunkers had
- been used previously - the tank(s) in which the bunkers were placed - initial symptoms observed and by whom
  - action taken to overcome the difficulties and by whom
  - engine performance before, during and after using the suspect bunkers
  - extent of the damage details of when repairs were carried out and by whom

Suitably worded clauses are available from the

- extent and estimated cost of repairs, and details of parts replaced or overhauled.

## **Unpaid Bunkers**

Club on request

the names of all shipboard personne involved in the bunkering operation - the names of those who witnessed the

bunker samples being taken

 copies of all relevant communications In the event of damage caused to machinery or equipment by off-specification bunkers, notify he relevant parties and:

- Retain all damaged parts on board for further inspection
- Take photos of the damage when first
- discovered Ensure that records are available showing date and time when the suspect bunkers
- were first used tanks(s) from where the bunkers were take

In the event of an accident or incident that may result in claims, a favourable outcome often depends on Details of all correspondents, together with the Club's Rule Book, may be seen and searched the availability of accurate information and good records. The purpose of this booklet is to remind you of at www.westpandi.com. 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.

Temperature of bunkers stored in tanks next

Cargo rounds and checks of lashing/securing and

Copies of weather reports/warnings and any

requirements (e.g. IMSBC Code, IMDG Code)

Gas concentrations for each cargo space

Ventilation records for each cargo space

Inert gas and tank venting records

Loading and discharging records

Details of compliance with statutory

Stowage plan and stability calculations

In the case of dry bulk cargoes subject to

liquefaction risk (IMSBC Code Group A),

Preliminary cargo work schedule

and ballasting/deballasting plan

ullage figures as applicable)

stop times of each tank

photographs showing the results of any "can

• Working periods of each cargo space (including

hatch opening/closing times, pumping rates

Weather experienced, including all stoppages

(e.g. radar watch for approaching rain, measures

to expedite the prompt closing of hatchcovers

Details of ballasting operations including start,

particularly in respect of dangerous cargo

Lashing, securing and dunnaging work carried

Details of compliance with the requirements of compliance with the requirements of compliance with the requirements of the second se

Securing Load (MSL) of lashings and weld

Instructions and requirements received from

Copies of certification for the Maximum

and hatch closures due to precipitation

Precautions taken against precipitation

Details of safety precautions observed

out by stevedores and/or crew

the vessel's Cargo Securing Manual

Non-Destructive Testing (NDT)

cargo superintendents

to heat-sensitive cargo

sealing arrangements

Cargo manifest

tests carried out

weather routing information.

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.

Copies of mate's receipts and bills of lading

including any clauses applied and where

applicable, details of the party authorised

Copies of Notice of Readiness, Statement

Copies of any draught surveys carried out

Cargo should not be carried on deck unless (a)

the shippers have expressly agreed in writing

that the cargo will be carried on deck at thei

own risk and that the bill of lading will state

clause" authorising the carriage of cargo on

carried there, (ii) the custom is known to all

Club correspondent should be contacted

deck provided that (i) the cargo is customarily

parties involved and (iii) the cargo is suitable f

uch carriage. If the master is concerned abou

a particular deck cargo, the Company or local

In some jurisdictions the local court may need

to approve the surveyor instructed to inspect

the damaged cargo or may appoint a surveyor

directly. The local Club correspondent will be

able to advise the master whether or not it is

Steel is a sensitive commodity and the source

the vessel, the Club requires an experienced

surveyor to check the securing and sealing

of many claims. To safeguard the interests of

arrangements for all weather deck openings i

the cargo spaces, and to record the apparent

ondition of shipments of finished and semi-

finished steel products prior to loading and assis

the master with the clausing of mate's receipts

and bills of lading as necessary. If due to load

steel, the master should contact the Company

to carry out a pre-loading steel survey on the

confirm that a surveyor has been appointed

taking statements from witnesses, particularly

larly worded statements from several

The names and, as far as practicable, the contact

those whose memories or motives may be

questionable. For reasons of credibility,

different witnesses should be avoided

Copies of all official, deck, engine room and

Details of any party claiming to represent the

All personal injuries, even minor ones unlikely

to cause harm, should be reported, investigate

requirements of the vessel's SMS as it is not

unusual for injury claims to be made after a

and accurate records it can often be difficult to

ascertain whether or not such claims are valid

significant period of time. Without detailed

The correspondent will liaise with the Club, contact local

contractors, lawyers and/or technical experts as necessar

No admission should be made regarding the cause or source of

the incident without authority from the Company or the Club.

local correspondent or Club immediately so that the

severity of the incident and appropriate response

neasures can be assessed:

Date, time and location of the incident

Prevailing weather and sea conditions

with the vessel's SMS

Details of all parties notified.

facilities ashore

(usually taken by the appointed lawyer)

to illustrate how the incident occurred

Substance (EHS) or a Marine Pollutan

Representative samples of the pollutant

Copies of all communication records

Known or suspected cause of the incident

The following information should be relaved to the Compan

A summary of the sequence of events leading to the incident

Precise details of the type of pollutant, its specification

Details of all measures taken by the vessel and/or shore

The extent of the pollution including details of the areas

personnel to minimise the spill and clean up the pollutan

Drawings, diagrams, photographs and/or video recordings

book entries (as appropriate) and any rough notes.

and a careful estimate of the quantity involved

authorities and appoint surveyors, pollution cleanup

and documented in accordance with the

working log book entries (as appropriate) and

any rough notes. All sections must be completed

details of all witnesses

accurately and in full

Copies of any relevant

injured person

customary for a court surveyor to attend.

Important: Steel pre-loading surveys

this, or (b) the bill of lading contains a "liberty

of Facts, stevedore time sheets

Tally sheets, including details of

to issue them

any disagreements.

Deck cargo

for advice.

vessel's behalf

Cargo damage surveys

## Cargo

Whether placed on the vessel by third parties or smuggled on board by crew members, the liscovery of drugs by shore authorities mav result in heavy penalties, delay and, in certain isdictions, criminal charges. To minimise

oughly for drugs by trained shipboard personnel at regular intervals. Details of all drug searches and other anti-drug precautions should If a suspect item is found during a search, the action to be taken by the vessel will usually be cified in the SMS and/or Ship Security Plan. ere may also be additional requirements to

fulfil if the Company has signed anti-drug cooperation agreements with particular countries However, in the absence of firm guidance: The Company, the responsible authorities ashore and the Club or local correspond should be informed immediately. If the discovery was made on passage, this should be done

pefore the vessel enters the territorial waters of If possible, take photographs/video footage of the suspect item and where it was found before

Ensure that witnesses are in attendance when Try not to handle the packaging material as it

wearing gloves as some drugs may be Wear a face mask to avoid inhalation and

Keep the suspect substance well away from sources of heat (e.g. cigarettes, light bulbs, Lock the suspect substance and packaging material in a secure location. Place under

Record details of the discovery and subsequer action taken in the log book (e.g. date, time, position, location of drugs, description of ubstance, estimated quantity, names of those inding the drugs, witnesses, parties notified).

• Once berthed, all personnel should remain on board until the authorities have concluded In some countries, additional precautions including an underwater inspection may be necessary due to the risk of drugs being attached to the vessel's hull or placed inside the rudder

trunk void space. Details of such countries can be found by accessing the Club's website at www.westpandi.com and entering the word "drugs" in the search field, or by contacting the

some jurisdictions, most notably the United States, it may be possible for the bunker oplier to exercise a lien over the vessel hould the charterer fail to pay for the bunker ided under a time charter agreement even if the owner is not a party to the bunke contract. Should the charterparty contain clauses that expressly prohibit charterers from acing liens on the vessel, this must be brought to the attention of bunker supplier in writing prior to the commencement of loading. The bunker receipt should also be claused, stating that the bunkers are for the charterers accoun and that no lien can be exercised against the ssel to recover the cost of the fuel supplied

Evidence of condition, loss and damage ne vessel is obliged to take good care of the argo, and to do everything possible to ensur hat it is delivered in the same condition as eceived. This means that the vessel may be eld responsible for damage or losses if the argo was not loaded, stowed and discharged ir satisfactory manner, if cargo operations were t properly controlled or if the cargo received ufficient care during the voyage. It is essential nat all operations regarding the handling, ecuring and monitoring of the cargo are nted in full, bearing in mind that it ma impossible to defend claims if the appropriat ords cannot be produced. Since claimants quently try to hold the vessel liable for cargo mage or losses which actually occurred ashor significance of keeping accurate records is ear. Similarly, claimants often allege that the essel was defective. Although assertions that the essel was not "seaworthy" or "cargoworthy" may

groundless or exaggerated, it will be necessary demonstrate that "due diligence" was exercised prior to departure in order to make the vessel aworthy and cargoworthy. The importance his obligation cannot be over-emphasised board personnel have a crucial role to play ensuring that appropriate evidence exists trating that the vessel was fit for the yage and suitable for the safe carriage of cargo. tailed technical and operational records.

orm a vital part of such evidence. These may clude tests, checks, inspections, repairs and naintenance carried out to keep the vessel ir od condition (e.g. hull, machinery and quipment, cargo spaces, cargo tanks, cargo ear), and information showing that the ssel was manned, supplied and operated i cordance with regulatory requirements and andard industry practice.

all cases where cargo is damaged or lost, the lowing information may be required

Copies of the shipper's cargo declaration, test certificates. SDS records and any other cargo information provided by

the shippers/charterers Description of how the damage or loss occurred

(including stevedore damage reports f applicable)

## Personal Injury

Reporting, gathering and preserving evidence It is in the interests of everyone on board to nsure that safe working practices are followed at all times and that potential risks that may esult in injury are identified and rectified as uickly as possible.Slips, trips and falls are ost common types of accident occurrin board a vessel, often the result of oils faces, badly rigged accommodation ladders sufficient lighting, poorly marked hazards uarded openings or generally cluttered cks. A watchful eve and good housekeeping ill go a long way towards minimising such ccidents. Every accident has an impact of some should be retained by the vessel indefinitely as kind. Injured crew members may be unable affecting the safe operation of the vessel. If assengers, stevedores, visitors or contractors are injured, substantial claims may be made.

ensure that the vessel is not blamed unjustly. In ALL personal injury cases, particularly those that might involve the United States,

onsequently, precautions should be taken to

Stevedore Damage

f stevedores cause damage to the vessel, prompt actior

bould be taken to ensure that the damage is properly

range and/or pay for repairs. Many charter parties.

and stevedores must be notified of the occurrence or

the cost of repairs.

discovery of stevedore damage within 24 hours. If this

condition is not fulfilled, the Company may have to bear

f the vessel is damaged by stevedores, the master should

Inform the stevedores at once both orally and in writing,

and make an appropriate entry in the deck log book

Prepare a written report giving details of the damage.

As far as practicable the report should include:

- date, time and port/location of incident

- prevailing weather conditions at the time

- sketches and photographs of the damage.

If the damage is severe enough to affect the vessel's

voyage safely, the report should ask for the damage

to be repaired immediately at the port or place when

the damage occurred, and to the satisfaction of the

Ensure that the stevedores, charterers, agents and

Company receive a copy of the report within 24 hours.

the damage is minor and does not affect the vessel's

lass or its ability to perform the remainder of the voyag

afely, an agreement may be reached with charterers to

efer the repairs until later. In such cases all outstanding

epairs should be noted in the off-hire survey report.

he charterers should be invited to attend the repairs

Whenever the vessel is free of cargo, shipboard personr

cealed or previously unidentified stevedore damage.

hould take the opportunity to inspect the vessel for

ne stevedores, charterers and Company should be

formed immediately both orally and in writing if

A digital camera or similar device should be used to

take as many photographs of the damage as possible.

pending them to the offhire survey report or other

ne Company should be advised and the local Club

orrespondent may be contacted for assistance.

itten record of the damage. In the event of difficulties,

class or its ability to perform the remainder of the

circumstances leading to the incident

details of the damage to the vessel

the damage and witnesses

Company and its surveyors

they wish.

anything is found.

and holding the stevedores and charterers responsible

- names and contact details of the person(s) causing

rticularly time charter parties, state that the charterer

ecorded and notified, and that those responsible

A full and detailed account of any contributory factors (e.g. poor packaging, pilferage, weather). If weather: - times of heavy weather, severity and any

unusual conditions experienced - details of any damage sustained by the vessel's structure, machinery or equipment Copies of the deck log book detailing heavy weather which, if required by the local urisdiction, should be authenticated by the local port authorities and attached to the

letter of protest. The local correspondent the Club should be asked whether or not such authentication is necessary Steps taken to minimise the damage or loss

beforehand and/or when first recognised Relevant photographs and/or video recording

showing vessel's condition (e.g. cargo spaces hatch covers, cargo gear, cargo tanks), cargo operations, port conditions, stowage, securing. damaged cargo, weather

Stowage plans and instructions together with details of any lashing, securing and dunnaging arrangements

Inspection, repair and maintenance records regarding any items alleged by cargo interest o have caused the damage (e.g. hatch covers valves, pipes, cargo gear, lashings

Copies of any Notes of Protest made, delivered and/or received Relevant communication records (e.g. owners)

charterers, shippers, agents, stevedores) Details of any cargo samples retained on board and/or sent ashore

Details of any failed or broken lashings, lifting ppliances or gear, sea fastenings, securing devices, dunnaging arrangements or grillag retained on board and/or sent ashore. Additional evidence may be required depending on the type of vessel and how the cargo was damage or lost. The following list is not exhaustive bu may be used as a general guide. Much of the information is likely to be in the form of log book entries, and copies of the relevant pages should be

submitted. There may also be a local requirement

the local Club correspondent should be

the injured person is a crew member.

the requirements of the vessel's SMS

and forwarded to the Company, local

orrespondent or Club as required

Date, time and location of accident

Details of the injured person

pe followed in full.

contacted immediately regardless of whether

passenger, stevedore, visitor or third party. The

regarding the accident and their advice should

Accidents resulting in injury should always be

reported and investigated in accordance with

If the accident was caused by malfunctioning

machinery or equipment, the defective parts

they may need to be examined or tested by an

The following information should be collected

Details of the work or activity being undertaken

espondent should be informed of all details

for copies of the relevant log book entries to be authenticated by the port authorities. The local rrespondent or the Club should be asked whether or not such authentication is necessary. Pre-loading records

Preparation of cargo spaces (e.g. hold cleaning tank washing, inerting, line flushing, gas-freeing, umigation, reefer pre-cooling) Routine tests (e.g. bilge suction lines, water

ingress detectors, weathertightness of hatch covers, booby hatches and vent closures pressing-up of ballast tanks surrounding the cargo spaces, pump function tests, smoke

detection, refrigeration, fire extinguishing, inert gas, ventilation systems) Equipment checks (e.g. hold lighting, ladders, lashing material, securing devices)

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 and inspections by third parties (e.g. charterers, governmental biosecurity agencies

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

Copies of any instructions received from shippers/charterers.

Cargo monitoring records Deck log book entries

Rough log book entries

Bilge soundings, including records

records/downloads

of pumping out 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

by the injured person at the time of the accident

Details of any advice received from medical experts

Nature and extent of injury

Details of the injured person's next of kin Details of any first aid or medical treatment given

Circumstances of the accident and, as far as practicable, the root cause Prevailing conditions at the time of the accident

(e.g. weather, lighting) Drawings, photographs, video or CCTV footage

of the area where the accident occurred, including Copies of any accident reports submitted to

local or national authorities, or to the vessel's flag administration Details of how and when the injured persor

was moved from the scene of the accident. and by whom 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 affecting the injured person

Details of any medication being taken by the

injured person Details of any previous accidents involving the

iniured person Statements from any witnesses able to provide an accurate account of the accident.

It is important to exercise discretion when

Marine Pollution

Reporting, gathering and preserving evidence

oncern, and the policy of many governments is that the "

olluter pays". Consequently, the financial implications o

a marine pollution incident are invariably serious, and fines.

clean-up costs and third party claims may take on formidable

proportions. It is essential to exercise extreme caution when

ssessing the impact of any pollution incident, irrespective of

and the locality, it is not unusual for substantial and difficult

w minor it may appear. Depending on the type of pollutant

laims to arise bearing little relation to the apparent severity of

the incident. Therefore it is vital that, before carrying out any

peration where a risk of pollution exists, everyone involved i

nade fully aware of the relevant regulations, procedures and

collisions and groundings. However, the majority of pollution

laims involve spills that occur during bunkering or oil carge

transfers, while carrying out disposal operations (e.g. oily

bilge water. fuel residues, dirty oil, sludge, tank slops) or

when transferring fuel internally. A hydrocarbon transfer

checklist or equivalent permit to work should be used during

all such transfers and should form part of the vessel's SMS.

sewage, garbage, cargo residues and atmospheric pollutior

and engine log are particularly important when defending

pollution claims and must always be completed accurate

pollution incident, seafarers found to have violated MARPOI

In addition to the possibility of heavy fines following a

gulations intentionally may face criminal prosecution

Should oil from other sources be observed in the vicinity o

the vessel, the local authorities and the vessel's port agent

vessel, the authorities should be requested to witness and

record the fact that the pollution originated from elsewher

essels in the area and the apparent source of the pollution

nd/or video evidence of the pollutant and the prevailing

the event of a pollution incident, whether real or

threatened, the procedures contained in the vessel's

hipboard Oil Pollution Emergency Plan (SOPEP) or

rcumstances and conditions.

o protect the vessel's interests.

Where possible, samples of the oil should be taken and

elevant information including the personnel who first noticed

retained for future comparative analysis together with photos

hipboard Marine Pollution Emergency Plan (SMPEP) and/or

essel Response Plan (VRP) describe the steps that must be

aken by the vessel. The local Club correspondent should be

nformed without delay so that prompt action can be taken

An entry should be made in the deck log recording all

the spill, the wind and tidal conditions, details of other

should be informed immediately. If drifting towards the

cuments such as the oil record book parts 1 and 2, carge

record book, garbage record book, cargo log book, deck log

Marine pollution is regulated by the various annexes of

the MARPOL Convention (as amended) which cover oil.

oxious liquid substances in bulk and packaged form.

arger oil pollution incidents are usually the result of

their own responsibilities

and kept up to date.

vironment is an issue of global

Surveyors, Experts

## and Lawyers

ollowing notification of an incident which may give rise to a claim, the Club or local Club espondent may instruct an independent surveyor, expert or lawyer to speak to the officers and crew and attend the vessel to investigate.

Other parties, particularly potential claimants against he Company, the vessel and/or the officers and rew may attempt to do the same. To avoid sensitive nformation about an incident falling into the wrong hands, the following safeguards should be observed: Always check the identity of everyone boarding

the vessel Find out the reasons why they wish to visit

Establish who appointed them, and whose interests they represent

If the surveyor, correspondent, expert or lawyer was appointed by (or is working on behalf of) the Club:

- give all possible assistance - provide all documents and information requested

- allow statements to be taken
- agree to the use of cameras
- follow all advice given regarding the disclosure of information to others

If the surveyor, expert or lawyer is not acting on behalf of the Club, do not allow access until the Company or local Club correspondent has given approval.

f approval is given: try to arrange for a Club appointed expert to attend

at the same time ensure that an officer accompanies the opposing representative throughout

- warn all personnel not to discuss details of the incident
- restrict movements to places
- of legitimate interest confine any photos to items or areas of
- direct relevance
- do not allow access to log books, documents or records unless advised to do so by the Company or Club correspondent.

If you are unsure whether a surveyor, expert or awyer is acting on behalf of the Club, or if guidance or professional assistance is needed, contact the local Club correspondent immediately.

Regardless of the circumstances, the master should ver admit liability unless expressly instructed to to so by the Company or the Club.

# WEST

## **Collision and Property Damage**

## Reporting, gathering and preserving evidence

he early stages of a collision or property damage incident are critical and a preliminary report, including the information listed below, should be submitted to the ompany and the local Club correspondent as a matter of urgency. Once notified about the incident, the Club will evaluate the situation and initiate appropriate investigation and protective measures as necessary.

In this chapter "collision damage" refers to vessel to vessel contact, regardless of whether one of the vessels was moored or anchored at the time. "property damage refers to contact with Fixed and Floating Objects (FFO) such as quays, cranes, buoys, pipelines, cables, bridges and floating storage facilities. Wash damage to vessels or property also falls under this heading.

Collisions and contact with EEO which result in personal njury, property damage or marine pollution should always be treated as being potentially serious. Unless a P&I surveyor is appointed to investigate and record the cause and extent of the damage immediately, it will be difficult to challenge any claims arising from the incident which may be inflated or unjustified.

- VDR and ECDIS data. The importance of these records cannot be over-emphasised. Once preserved, they should also be backed-up
- Date, time, location and type of incident
- Identity of other vessel(s) and/or details of property damaged Details of any personal injuries or fatalities
- Apparent extent and severity of damage to the other vessel or property
- Details of any cargo damage
- Details of any pollution resulting from the incident
- A summary of the events leading to the incident
- Details of the vessel's courses, positions, manoeuvres engine movements, speeds, signals, communications and composition of the bridge and engine room teams prior to the incident
- In the case of collisions, the estimated angle of blow A copy of the vessel's passage plan
- The known or suspected cause of the incident togethe with any contributory factors, including diagrams
- Prevailing weather and sea conditions If relevant, details of attending pilots, tugs, boatmen, pollution cleanup contractors, other third parties and anv independent witnesses
- A copy of the incident report form completed in accordance with the vessel's SMS
- Copies of any incident reports submitted to local or national authorities, or to the vessel's flag administration

- Copies of any notes or letters of protest, both issued and received. If a protest is received which requires acknowledgement, the wording "received without prejudice and without admission of liability" or "received without prejudice and for receipt only" should be used
- Copies of the vessel's bridge and engine room logbooks including any rough or working logs
- Photographs, video or CCTV footage taken immediately before, during or immediately after the incident.
- Following a major incident the master, all bridge and engine room personnel and any witnesses on board should make personal notes as soon as possible, bearing in mind that formal interviews and statements may be required later on. All rough notes, calculations, sketches and charts should be retained as they may be of vital importance.

Other than in response to official enquiries from the police, the local maritime authorities or the vessel's flag administration, shipboard personnel should not answer questions about the incident until the initial reports have been evaluated by the Company, the Club or the local Club correspondent.

No attempt should be made to conceal or alter evidence as those investigating the incident will need to be clear of the facts, even if they show that the vessel made an error Moreover, in many jurisdictions, evidence tampering is deemed to be a criminal offence.

- Subject to the scale and complexity of the incident, further information may be required.
- Results of any alcohol and/or drug tests carried out after the incident
- Drawings, diagrams, photographs and/or video recordings to illustrate the extent of the damage and how the incident occurred
- Original paper chart, if in use at the time of the incident, complete with all plotted positions, notations and correction records. Nothing should be added or erased
- List of all navigational publications on board together with edition dates and correction records
- Original log books (e.g. official log, deck log
- engine room log, working log). All sections should be completed accurately in full
- Original records (e.g. movement (bell) book, rough notes). Nothing should be added or erased
- Original print-outs (e.g. course recorder, echo sounder. radar plots, engine telegraph data logger)
- Communication records including notes regarding the times and content of exchanges made on VHF radio and the channels used. The importance of audio VDR data in this regard cannot be under emphasized

## The Importance of Evidence

Accidents or incidents on board or involving a vessel r its officers and crew may often lead to claims bein nade against the vessel or the Company. The successfu handling of claims depends on evidence about the accident or incident. Collecting and preserving that evidence is an important responsibility for the vessel's officers and crew.

The checklists appearing in this summary highlight what evidence will need to be collected and kept in various situations. As far as practicable, the evidence listed shou be gathered and, in the first instance, submitted to the ompany's office or the Club in accordance with Company structions. Since some claims may take years to resolve. t is possible that additional evidence may be required lat on. In the intervening period there may be considerable changes to shipboard personnel, many of whom will be unfamiliar with the case itself. Therefore it is essential that technical and operational records are carefully maintained and preserved.

Examples of records which should be retained as a matter of routine are set out below.

Official, deck, engine, cargo work, cargo record, oil record, movement (bell book), compass error, night orde adio, medical, hours of work/rest, garbage record.

## Rough/Scrap log books

hese may be of particular importance in defending a claim and should always be retained.

## Technical records

nspections, surveys, repairs and maintenance of hull main engine, auxiliaries, deck machinery, cargo spaces, cargo gear, safety equipment, coatings, planned naintenance records, class survey status reports.

## Operational records

Stability and stress calculations, draught surveys stowage, securings/lashings, ballasting, bunkering soundings, cargo temperatures, ventilation, hold cleani argo hold bilge pumping records, tank washing, passage plans, weather, safety meetings, voyage instructions routing advice, messages, receipts for the disposal of sludge ashore.

## Voyage Data Recorder & ECDIS information

Voyage Data Recorder (VDR), Simplified Voyage Data Recorder (S- VDR), Electronic Chart Display and Information System (ECDIS) records.

In the event of an incident where VDR and ECDIS data may be relevant (e.g. collision, grounding, damage to property), it is very important that this information is saved in good time to avoid it being overwritten. It should then be backed-up promptly.

## Print outs

cho sounders, course recorder, GPS, Navtex, weather fax, EGC messages, engine telegraph data logger, all dated and timed.

## Official reports

Company, Safety Management System (SMS) and legally required reports of accidents and incidents.

## Notes of Protest /Letters of Protest

The value of these vary world-wide, but it is always better to note protest than not, reserving the right to extend or note further protest. Notes of Protest may need to be notarised in some jurisdictions and the Club correspondent will be able to advise the Master on loca requirements should this be the case. If a Letter of Protest is received which requires acknowledgement, the wording freceived without prejudice and without admission of liability" or "received without prejudice and for receipt only" should be used.

Details, including how and where they can be contacted after leaving the vessel, should be taken of every person who witnessed the accident or incident, including the persons involved or affected. Disciplinary action should not be taken against a witness without checking with the Company first, nor should any reward be provided to a witness in return for their evidence without prior authorisation from the Company or Club.

## Statements

These may be notes made at the time of the incident or formal statements taken down by, for example, the Club's appointed lawyer. Always seek advice from the local Club correspondent first. Statements should never be made to third party claimants or their representatives without obtaining permission from the Company first.

## Electronic evidence

Every vessel should keep a digital camera or similar device readily available and fully charged at all times Any photos taken should be the highest resolution possible. Video recordings may also be helpful. As well as taking photographs of damage and anything else of relevance, a camera may also be used to recor evidence of good practice (e.g. properly stowed cargo, correctly rigged gangway/accommodation ladder) as such photographs may assist the Club in defending claims. If the vessel is fitted with Closed Circuit Television (CCTV) cameras, footage which may assist in determining the circumstances of the case should be retained and backed-up. Equally, data from electronic key passes and (in the case of passenger vessels) payment systems may prove to be useful in determining the movement of crewmembers or passengers prior to an incident and should be saved for later scrutiny.

## Additional evidence

Faulty or damaged equipment, defective parts and samples of damaged or contaminated cargo should be retained, suitably marked and stored to protect against degradation, corrosion or loss. Where practicable, the necessary records should be sent to the Company electronically by email. However, if the file sizes are too large they should be transferred to a data storage device or placed on a cloud drive, with the device or cloud link and forwarded to the Company at the earliest opportunity.

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## affected and property damaged, including other vessels A copy of the incident report form completed in accordance Copies of any incident reports submitted to local or national authorities, or to the vessel's flag administration Subject to the scale of the incident and the type of pollutant,

further information may be required at a later stage: Statements from all crew members involved in the incident

## Copies of all official, deck, engine room and working log

All sections must be completed accurately and in full Copies of the relevant pages of the oil record book(s), garbage record book, cargo record book, fuel switching procedures and similar records (as appropriate)

## Copies of receipts for bunkers and lubricating oil received Copies of receipts for sludge, waste oil, oily water. argo residues and garbage discharged to reception

Copies of the shipper's cargo declaration. Safety Data Sheets (SDS) and any other documentation declaring whether or not the cargo is considered to be Harmful to the Marine Environment (HME), an Environmentally Hazardous