

OVERVIEW OF BANGLADESH AND ITS SEA PORTS

Bangladesh is a maritime nation with 207,000 square kilometres area of sea, abundant with living and non-living resources, which is 1.4 times greater than its total land area.

Sea transportation plays a vital role for economic and commercial activities in Bangladesh for e.g 85% of the export and import trade in Bangladesh

Export and import trade in Bangladesh have significantly increased in the last few years despite the COVID-19 pandemic.



Vessel and cargo handling statistics of Chittagong Port and Mongla Port, respectively, in recent years are as under:



Financial Year	No. of vessels calling at Chittagong Port	Import (in M.tons)	Export (in M.tons)
2014-2015	2,566	48,941,406	5,839,986
2015-2016	2,875	58,324,786	5,971,634
2016-2017	3,092	66,464,285	6,709,759
2017-2018	3,664	78,050,447	6,997,465
2018-2019	3,699	82,939,731	6,846,406
2019-2020	3,764	87,275,248	6,645,145
2020-2021	4,062	99,240,759	7,368,064



Financial Year	No. of vessels calling at Mongla Port	Import (in M.tons)	Export (in M.tons)
2014-2015	416	4,429,449	100,830
2015-2016	482	5,709,664	87,857
2016-2017	623	7,428,105	85,622
2017-2018	784	9,568,899	147,151
2018-2019	912	11,179,878	135,131
2019-2020	903	10,895,416	141,793
2020-2021	970	11,824,373	120,235

Bangladesh imports mostly petroleum, oil, textile, food items, iron, steel, edible oil, chemicals, yarn, plastic, rubber articles and exports mainly readymade garments, fish, shrimp, prawns, home textiles, jute products, leather products, and handicrafts.

The following are the four major sea ports in Bangladesh:



1. The Chittagong Port is one of the oldest in the world and the main seaport of Bangladesh located on the bank of the Karnaphuli River. According to Lloyd's, it ranked as the 67th busiest container port in the world in 2020. The port of Chittagong handles about ninety percent of Bangladesh's export-import trade.
2. Mongla Port is the second busiest sea ports of Bangladesh and is the most eco-friendly port. It is situated on the south western part of the country at the confluence of Possur river.
3. Payra Port is the 3rd sea port of Bangladesh located on the bank of Rabnabad Channel under Kalapara, a sub district of Patuakhali. Vessel carrying raw materials and project cargoes, especially for Bangladesh-China Power Company (Pvt.) Limited call at Payra Port regularly.
4. Matarbari sea port was originally built for Matarbari Coal-fired Power Plant. Later the government decided to turn it into a deep-sea port. The port will be the first deep sea port and the fourth sea port in Bangladesh. Ships with the capacity of 8,000 TEU containers will be able to berth at the jetties.

CLAIMS DEVELOPMENTS IN BANGLADESH

1. Liquid Cargo Claims:

For the past few decades, almost every vessel calling at Chittagong Port laden with liquid cargo faced paper cargo shortage claims. Thanks to the hard efforts of our visionary leader and founder Advocate Mohiuddin Abdul Kadir (*aka Capt. MAK*), the practice has come to an end.

Capt. MAK filed a writ against the Chittagong Customs Authority for their unlawful penalty demand for shortage based on shore tanks rather than based on ship Ullage findings. Interport's long struggle paid-off when the Honourable High Court Division of the Supreme Court had given three common judgments on 01.02.2016, 10.04.2016 and 18.01.2017 respectively in favour of our shipowner members for similar writ cases filed against Customs Authority who had been imposing unlawful penalty against Shipowners, alleging cargo shortage based on shore tank findings.

As such, the customs penalty imposed on basis of shore tank survey has been declared unlawful and the Supreme Court confirmed that the Customs Authority can only impose penalty on shortage in ship Ullage survey.

Later onwards, the Customs Authority had appealed before the Appellate Division of the Supreme Court against the order passed by the High Court Division. The appeal filed by the Customs Authority came up for hearing before the Appellate Division on 28 June 2021. The hon'ble judges of the Appellate Division upon hearing the parties dismissed the appeal.

It is now well established that Ullage survey is the appropriate method to ascertain cargo quantity in case of liquid cargo. This is a great milestone for Interport Maritime Ltd and our records show that the trends of fabricated cargo shortage and damage claims have dramatically reduced in the past 5 years.

2. Wet damage to Raw Sugar:

We have handled many claim matters recently involving wetting of bulk raw sugar due to ingress of rain water and/ sea water into the cargo holds.

Raw sugar is one of the least water-sensitive cargoes since usually it is always refined prior to distribution. We experienced a number of cases in which cargo holds were entirely flooded with sea water that remained there for several months, and the sugar still retained most of its commercial value.

If the wetting is very recent, cargo handling related difficulties might be more likely to give rise to a problem than any actual cargo damage.

Consignee's claim:

The consignees in Bangladesh usually raise claim their claim for full value of the wet cargo remaining on board. In most of the cases, we repudiated the claim on the basis of the scientist's opinion and urged the receivers to take delivery of the cargo and allow the vessel's earliest sailing upon completion of discharge. The receivers initially did not cooperate with us.



Subsequently, we recommended Club to engage influential local maritime lawyer to deal with the receivers/claimants to protect Owners' interests. The lawyer then sat with the consignee and discussed regarding various aspects of the claim. Finally, the consignees/claimants accepted Club LOU for the claim amount, taking delivery of the wet cargo and allowed the vessel to sail out immediately after completion of cargo discharge.

Best practices for handling such claims:

- Proactive handling of the case by Correspondent claims handler as time is of essence.
- Appointment of competent marine surveyor for WP Joint Survey.
- Collection of cargo samples.
- Obtaining opinion of scientist regarding salvage value/use.
- Repudiation of consignee's claim.
- Appointment of competent maritime lawyer for dealing with the difficult receivers/claimants.

3. Navigational Issues/Collision & Contact Incidents:

Recently, there has been some positive developments in the marine claims trend in Bangladesh with regards to Collision and Contact incidents. For improving the navigational safety at the Chittagong Port outer anchorage, the Chittagong Port Authority issued Circular No. 46/2019 on 01.10.2019 declaring permissible draft at the three anchorages Alpha, Bravo & Charlie and passed some directives regarding making stopovers at the three anchorages.



As a result of the above directives by CPA, awareness regarding navigational issues among the stakeholders have increased, leading to greater discipline at the anchorage and contributing to fewer collisions and dragging incidents in the recent years.

A total of 283 vessels were involved in collisions at the outer anchorage in the decade to 2019. However, in the past 5 years our internal data shows that the percentage of collision claims handled by Interport Maritime has really decreased:

Statistics showing Collision incidents in Bangladesh in the last five (05) years, based on the files handled by Interport Maritime Limited:

YEAR	TOTAL FILES HANDLED	COLLISION INCIDENT	PERCENTAGE %
2017	330	36	10.9 % (36 Out of 330)
2018	372	23	6.18 % (23 Out of 372)
2019	350	14	4 % (14 Out of 350)
2020	331	16	4.83% (16 out of 331)
2021	426	21	4.92 % (21 Out of 426)

GENERAL GUIDELINES FOR HANDLING VARIOUS CLAIMS MATTERS



In order for the Clubs and Members to mitigate losses and to prevent claims arising out of various incidents, we provide herewith some precautionary and loss-preventive measures which can be taken by our Members (Shipowners and Charterers) for their vessel's prior to calling at Bangladeshi ports.

Cargo Shortage Claim:

Statistics showing Cargo shortage cases in Bangladesh in the last five (05) years, based on the files handled by Interport Maritime Limited.

YEAR	TOTAL FILES HANDLED	CARGO SHORTAGE	PERCENTAGE %
2017	330	34	10.3 % (34 Out of 330)
2018	372	32	8.60 % (32 Out of 372)
2019	350	23	6.57 % (23 Out of 350)
2020	331	15	4.53 % (15 Out of 331)
2021	426	19	4.46 % (19 Out of 426)

Dry Bulk Cargo:

In case of dry bulk cargo final outturn/discharged quantity is ascertained on the basis of Draft Survey Findings. On arrival of the vessel and prior to commencement of discharge, total estimated cargo quantity on board the vessel is ascertained by arrival/initial draft survey on the basis of constant declared by Master which is verified during final draft survey. Our experience shows that receivers/consignees surveyors usually try to manipulate the draft survey findings in absence of Owners P&I surveyor which gives rise to paper cargo shortage claim. If Owners do not appoint a qualified marine surveyor for the draft survey, it becomes difficult for us to protect Owners' interest when any shortage claim arise based on consignees/receivers' surveyors' findings.

We highly recommend arranging a draft survey both at load port and discharge port to minimize and/ avoid cargo shortage claims at the sea ports of Bangladesh.

Liquid Cargo:

As per law, in case of liquid cargo final outturn/discharged quantity is ascertained on the basis of Ullage Survey Findings. We would recommend loss prevention measure to best protect Owners interests:

- Arrival ullage survey prior to commencing cargo discharge from vessel.
- Empty tank inspection after completion of discharge operation.
- Collection of cargo samples.

Note 1: We generally do not recommend carrying out ullage surveys of lighter barges as the mother vessel's liability ceases once the cargo crosses vessel's railing. Moreover, the lighter vessels usually do not maintain proper calibration chart and hydrostatic table.

Note 2: The Chief Officer of the vessel usually carries out the ullage survey of mother vessel's tank after discharging cargo into each lighter vessel. The customs boat note is issued after discharging of cargo into each lighter vessel. We

generally advise the Chief Officer to put appropriate remarks in the boat note if there are difference between ship's figure and lighter vessel's figure in the boat note. Member may consider appointing staff surveyor who will monitor the discharge operation on continuous basis onboard mother vessel to assist Chief Officer to check the ullage of mother vessel's tank prior to and after discharging into lighter vessel and assist in putting appropriate remarks in the boat note.



Bagged Cargo:

- i. In addition to carrying out the tally survey we would recommend having a draft survey carried out jointly with Shippers'/Charterers' appointed surveyors upon completion of cargo loading at the load port in order to safeguard Members' interests.
- ii. Following the same manner as point no. i, having tally survey and draft survey carried out at the discharge port is highly recommended to protect Members' interests.
- iii. We would strongly recommend the Club and Members to advise the Charterers/Suppliers/Receivers to ensure that the stevedores do not use hooks while loading or discharging at the respective ports.
- iv. In case of spillage due to use of hooks, the spilled-out cargo should be refilled into spare bags and the refilled spare bags should be accurately weighed as often the stevedores overfill the bags to create paper shortages in the nos of bags. Tally surveyor appointed for continuous discharge monitoring can cross-check/assist with the weighing of the refilled bags.
- v. Using tarpaulin on jetty wharf while the cargo is loaded or unloaded can significantly minimise the cargo loss. The accumulated spilled out cargo on the tarpaulin can be refilled into spare bags in the same manner as mentioned in point no. iv.
- vi. Ensuring that the cargo carrying shore-side vehicles do not have protruding sharp elements on their decks or deck-side supports which may tear the bags, causing cargo spillage/loss, and ultimately result in cargo shortage claims.

Cargo Damage Claim:

Statistics showing Cargo damage cases in Bangladesh in the last five (05) years, based on the files handled by Interport Maritime Limited.

YEAR	TOTAL FILES HANDLED	CARGO DAMAGE	PERCENTAGE %
2017	330	22	6.66 % (22 Out of 330)
2018	372	27	7.25 % (27 Out of 372)
2019	350	25	7.14 % (25 Out of 350)
2020	331	36	10.87 % (36 Out of 331)
2021	426	33	7.74 % (33 Out of 426)

Dry Bulk Cargo:

There can be issues with quality of cargo which may lead to cargo damage claim and Master/Members should let the correspondent know immediately if any issue arises such as lumping and caking of cargo. If continuous monitoring is carried out, the attending staff surveyor will monitor the discharging process and render necessary assistance to Master.

Carrying dry bulk cargo during the monsoons can increase chances of damage due to ingress of rain water and/ or sea water, if hatch covers are not watertight and/or are not closed promptly during loading / discharging operations.

Prior to arrival at Chittagong and Mongla, Master should open hatch covers and check the cargo condition. If there are minor amounts of lumped cargo etc. due to slight ingress of water such cargo should be removed from the hold so that receivers cannot come with a big fabricated claim to detain the vessel, as is often the case.



Bagged Cargo:

Our experiences shows that in case of bagged cargo, ship owners hardly face cargo damage claim unless the cargo is affected at load port due to loading during rain or adverse weather condition. Members should consider appointing qualified marine surveyors at both load port and discharge port to carry out cargo condition survey jointly with Shippers/Charterers appointed surveyor. If the cargo is loaded during rain, we strongly recommend to issue LOP at load port holding the Shipper/Charterers liable for any cargo quality issue and obtain LOI from Charterers that they will deal the cargo quality issue (if any arises) at discharge port.

Cargo Quality Claims:

DRY BULK CARGO:

Shipowner members may sometimes face claims for purely cargo quality issues (for e.g inherent vice) for which they should not be held liable. We recommend owners to arrange joint cargo condition survey and collection of cargo samples both at load port and discharge port to proactively deal with such issues.

LIQUID BULK CARGO:

Of recent many one our members' vessel experienced cargo quality issue at Chittagong. Collection of joint cargo sample both at load port and discharge port is very important to protect Owners' interest in case of cargo quality dispute. We would suggest member to instruct Master/Chief officer to ensure vessel's tanks and pipe lines are properly cleaned prior to loading cargo at load port to avoid any cargo contamination claim.

Contact Incidents / Stevedore Damage Claims:

Statistics showing Lighter contact in Bangladesh in the last five (05) years, based on the files handled by Interport Maritime Limited.

YEAR	TOTAL FILES HANDLED	LIGHTER CONTACT / STEVEDORE DAMAGE	PERCENTAGE %
2017	330	40	12.12 % (40 Out of 330)
2018	372	52	13.97 % (52 Out of 372)
2019	350	61	17.42 % (61 Out of 350)
2020	331	54	16.31 % (54 Out of 331)
2021	426	54	12.67 % (54 Out of 426)

The common reasons of contact incidents are as under:

(a) Kutubdia deep sea anchorage, being an open sea anchorage, the amount of swell, waves, wind force, tidal current etc. are comparatively greater than what it is at Chittagong outer anchorage for a particular day.

(b) During high water, the sea swell, tidal current and wind acts in the same direction towards north. Consequently, alongside lighter vessel rolls more at this stage of tide.

(c) Generally, the lighter vessels in Bangladesh are provided with old rubber tyre of motor vehicles permanently fastened by iron chain to both side of the lighter vessels for protection. The lighter vessels are usually surrounded by 10 to 12 pairs of rubber tyre fenders on both side as a means of best protection, but 100 percent safeguard cannot be achieved by implementing this method.

The preventive measure for avoiding such contact damages should be taken by the mother vessels. The mother vessels should not allow the lighter vessels to come alongside without satisfactory or

adequate pneumatic fenders especially during rough sea & weather conditions. The master of the mother vessel should instruct the lighter vessels to cast off from the mother vessel prior to swinging due to change of tide and wait for an hour or so till the sea condition is improved. The master should allow the lighter vessels in the vicinity of the mother vessel and arrive alongside the mother vessel only after the swinging is over with the change of tide.



Collision Incidents/Claims:

Collisions at Chittagong Port mainly occur between the ships arriving from the deep-sea Kutubdia direction and making a stopover at the outer anchorage to partially unload import cargo onto comparatively smaller lighter vessels, before going on to enter the port jetties for discharging the remaining cargo alongside.

Though the ships can offload all their import cargo anchoring in the deep sea around Kutubdia, the prevailing practice is to come over to the outer anchorage near the Patenga coast in an attempt to reduce expenses. However the difficulty arises in controlling such deep draft vessels at the comparatively shallow waters at the outer anchorage, especially when trying to go past the bow of anchored vessels at close range, leading to frequent collision incidents.

Underestimating local conditions like tides, wind and currents as well as wrong use of anchoring space by the ships' pilots are the major reasons behind such accidents, according to the pilots at the port.

Most of these accidents occur at the Alpha Anchorage out of three anchorage areas of the outer anchorage. As Alpha Anchorage is of a deeper depth compared to its two peers, Bravo and Charlie anchorages, most vessels prefer to anchor at the former. The risk of accidents rises when too many vessels try to anchor there.

Against this backdrop, the CPA in October 2019 issued a circular passing some directives regarding making stopovers at the three anchorages. In the circular, the CPA also made pilotage or navigational assistance service compulsory for incoming ships having a draft of more than 10 metres. It was highly recommended for vessels of 9.5 metres to 10 metres of draft and simply recommended for any other vessel bound for the Chattogram outer anchorage from Kutubdia.

It also asked agents of vessels whose draft is over 9.5 metres to notify the CPA at least three days in advance before proceeding for the outer anchorage. After receiving such notifications from the agents, individual spots would be demarked at Alpha Anchorage. Such vessels need to take pilot from the CPA while a Master Mariner needs to stay on board until the draft reduces to 9.5 metres and the dragging tendency is eliminated.

- **Engr. Tanjil Ahmed Ruhullah, CMILT, MNI**
Managing Director
Interport Maritime Ltd.
As Correspondents
Date: 10 October 2022