



The Swedish Club

The Loss Prevention revolution

The long arm of the law

The LOL - a contract in its own right

Inside Loss Prevention

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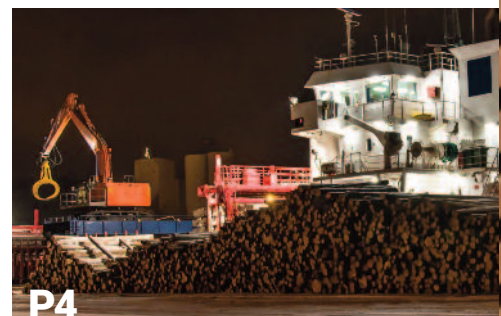
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The Swedish Club

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Dear members and associates

Virtue rewarded

Virtue was rewarded in January. Standard & Poor's raised its ratings on The Swedish Club to the level of A-. The rationale for the decision was the combination of strong capital, disciplined underwriting and robust performance demonstrated by the Club. In my book, it's rather a testament to the quality of the membership.

Insurance, from the perspective of an underwriter, starts with an understanding of the risk – in our case members – and not with price. In the long term, quality pays off, from both sides.

The Club's offering is based on stability, product range, casualty response and forward-looking Loss Prevention. It is the combination that represents the value of the offering. A true club is so much more than financial ratings and solvency. It is the knowledge and willingness to assist in a casualty situation or, generally, in a joint effort to reduce risk.

Digitalisation is not just fashionable. We see a lot of potential down the line. Not only for streamlining internal processes but, more importantly, to help us make communication and transactions with our members more efficient. Charterers' Online Declarations, which you can read about in this issue, are only one example. We will provide further information in future about how analytical data can make our Loss Prevention initiatives more tailored and relevant.

'The International Group transition' and 'The successful brain' will be the themes of Members' Day, core to the Club's AGM events in June. The International Group of P&I clubs has stood the test of challenging times. It is now time for changing the guard and we will meet those challenges involved. 'The successful brain' explores the brain at work, which carries many dimensions; those that we know about and those of which we are unaware. This excursion

into uncharted territory will provide food for thought. I have one recommendation – don't miss it!

Many interesting topics and social events are featured in this edition of the Triton. There are never two Tritons alike. I hope you enjoy reading this issue.

Lars Rhodin
Managing Director

Safety scenario

Fall during cargo operation caused serious back injuries



By Joakim Enström, Loss Prevention Officer

Each month the Club's Loss Prevention team issues a new safety scenario to assist members in their efforts to comply with international safety regulations and to follow best practice. Visit Swedish Club OnLine (SCOL) for more examples.

CASE STUDY

A general cargo vessel was about to discharge packaged sawn timber in a small Caribbean port. Before discharging commenced the Master reminded the crew of the importance of slinging each timber package at equal distances to maintain its centre of gravity.

As the slings tensioned and the timber was hoisted, one of the slings snapped and caused the entire timber package to start swinging.

Discharge started in the evening. The Chief Officer had turned on the cargo floodlights and all crew members were wearing proper personal protective equipment (PPE) such as boiler suits, high visibility vests, safety shoes and hard hats. The Third Officer and an AB were in cargo hold 1. The Chief Officer and an AB were in cargo hold 2.

The vessel's cargo cranes were operated by the Bosun and an AB. On the quay were three stevedores. The crew connected the slings to the cargo in the cargo holds. Just before midnight there were some issues with the slings in hold 1 so the Third Officer called the bosun on the VHF and told him that the slings needed to be repositioned. For some reason the Third Officer then climbed onto the timber package and grabbed one of the slack slings. He told the bosun on the radio to take up the slack and start hoisting slowly. The AB held the slings on the inboard side to prevent the timber from moving out of position.

The package was about 4 metres above the top of the tank and the Third Officer lost his balance and fell straight down





As the slings tensioned and the timber was hoisted, one of the slings snapped and caused the entire timber package to start swinging. The package was about 4 metres above the top of the tank and the Third Officer lost his balance and fell straight down onto it.

The AB in hold 1 called the Bosun and Master on the radio. The cargo operation was immediately stopped. The Chief Officer climbed quickly into the cargo hold. The Third Officer was lying on his back with his right leg bent at an unnatural angle, he was semi-conscious. The Master arranged for an ambulance while the Chief Officer gave first aid. The Third Officer complained about severe pain in his back and leg. He also had difficulty breathing. A stretcher was arranged by the crew and the Third Officer was lifted onto the quay by the crane.

It took about 30 minutes for the ambulance to arrive. At the hospital the Third Officer was found to have a broken leg and serious back injuries. He was not able to continue working at sea. 🚑

Questions

When discussing this case please consider that the actions taken at the time made sense for all involved. Do not only judge, but ask why you think these actions were taken and could this happen on your vessel?

- What were the immediate causes of this accident?
- Is there a risk that this kind of accident could happen on our vessel?
- What could you have done to prevent this accident?
- What are our procedures about climbing on a pallet or cargo that is being moved?
- What are our procedures if we see a crew member doing anything unsafe on board?
- How do we ensure that crew members follow the required safety practices?
- Do we have a tool box meeting before a cargo operation commences?
- If not, could this be useful?
- What sections of our SMS would have been breached, if any?
- Does our SMS address these risks?
- How could we improve our SMS to address these issues?
- What do you think was the cause of this accident?
- Is there any kind of training that we could do that addresses these issues?



ID 133214452 © Denys Yelmenov | Dreamstime.com

Emergency Response Training update: Three years on

Interview with **Magnus Gustafsson**, Claims Manager, Marine

The Swedish Club's Emergency Response Training (ERT) initiative can accurately be described as a 'win-win' product.

Members can use an ERT session as a way of meeting the International Safety Management (ISM) Code requirement to carry out one major exercise a year. At the same time by planning and enacting an ERT, The Swedish Club gains an insight into its members' operations and keeps updated on the requirements and challenges its members are facing.

Both sides learn how they would handle a major incident and how the various

organisations and authorities in any given jurisdiction would act and interact.

"We are offering these ERTs free of charge to members and they definitely give an added value to a company's safety profile, regardless of whether or not they choose to use it for their ISM compliance," says Magnus Gustafsson. "We issue a brief evaluation report after



"We encourage all those taking part to discuss the process and we identify areas of improvement to be worked on."

“Most exercises will involve a ‘classical’ accidental event such as collisions, groundings, drifting with engine failures, oil spills etc.”

every ERT which may include a number of identified areas for improvement. If the shipowner can show that they have addressed these issues, then that is usually sufficient to fulfil the ISM requirement.

Two types of exercise

Since the ERT programme was launched at the start of 2016, the Club has run more than 30 exercises carried out around the world. There are two types: one involves only the Club and the member, while the other also brings in external stakeholders such as class, rescue organisations, coast guards, port and flag states, and other authorities.

These larger exercises obviously require a large amount of planning: “One of the exercises where I was involved took six months to prepare,” says Gustafsson. “The smaller versions can be arranged in a couple of weeks.”

Realistic scenarios

The exercise scenarios of course can take place anywhere that the vessel operates. “We always adapt the scenarios to as realistic a situation as possible,” explains Gustafsson. “If it’s a scenario that takes place in the US for example then we’ll build the exercise around the specific requirements, and the involved organisations, for that particular place in the world. The shipowner decides which geographical location the exercise scenario should be in, as well as the other background information that forms the starting point

for the exercise. Most exercises will involve a ‘classical’ accidental event such as collisions, groundings, drifting with engine failures, oil spills etc.”

The Club has also carried out ERTs where the shipowner has had more specific requirements. One member wanted to test their capability regarding compliance with the ballast water treatment requirements in the US, and another wanted to test their ability should their IT communication system be disabled due to cyber attack.

Taken unprepared

One factor is the same for both; when the exercise starts, the member should be completely unaware of the scenario that is about to unfold. Equally, the Club’s claims handlers join the exercise unprepared.

“What we need from the member is information on the vessel, their SMS, etc., so that we can build up a really good scenario. Then we do the rest of the work,” says Gustafsson.

The Club asks members to leave their SMS manuals and procedures behind them. “We want people to think out loud and discuss options, not just give direct answers or go straight to the procedures. These exercises focus on the decision making process and encourage individuals to draw on their personal experiences.”

The ERT approach is about talking through the process - how individuals work with colleagues, how they use the information they have, and whether that information is passed on to the right people, says Gustafsson.

“We want people to think out loud and discuss options, not just give direct answers or go straight to the procedures.”

“Yes, there is a technical element but our focus is more on how people make their decisions and on cooperation between the participants. We encourage all those taking part to discuss the process and we identify areas of improvement to be worked on.”

The Club’s expertise

From the Club’s perspective, the exercises are supported mainly by claims handlers, both P&I and H&M, all contributing with different experiences and backgrounds. Magnus says: “I myself have 15 years of seagoing experience, and I’ve worked on the shore side organisation of a shipowner. Perhaps more importantly for the ERT exercises however, I also worked for six years at the Joint Rescue Coordination Centre (JRCC) in Gothenburg as a SAR (Search and Rescue) Mission Coordinator which has given me experience in how port states are involved in SAR operations. This will of course vary from country to country though the overall SAR management is rather similar, as SAR is organised under an IMO Convention.”

Openness and honesty

Did he expect the ERT project to be such a success? “Yes, I did. I have worked in a shipowning office myself and I know that this type of exercise is something many struggle to arrange. We know that the quality of what we offer is a high standard.

“However, I have been really impressed by the shipowners’ willingness and interest in these exercises and their openness and honesty with us. Far from being a ‘tick box’, they have been extremely helpful and put a lot of people and energy into it.”

And in the future? “The scenarios and focus of the exercise can vary endlessly,” says Magnus Gustafsson. “What is important for a shipowner to focus on one year can be very different from the next, as their regulatory and operational requirements change. I can see these ERT’s continuing for the long term.”

The Loss Prevention revolution

Tailor-made advice based on new technology and long experience

Restaurant, shop or local attraction? If you carry a smart phone, you will often receive useful recommendations, suggestions and advice when visiting a new area. Dig a little deeper and you'll likely find information based on local knowledge and expertise too.

Translate that idea across to your ship when it's heading for port – and you will have an idea of The Swedish Club's unique Trade Enabling Loss Prevention tool.

This is a project that combines the best of new and old, innovation and tradition: a marriage of the latest automatic identification system (AIS) technology with solid statistics and expertise built up over years.

In short, The Swedish Club now has the capacity to track every one of its member's vessels, match this with its own statistics and records, and provide members and their vessels with timely, tailored advice when they are approaching areas of particular risk.

Tailor-made Loss Prevention

"This is tailor-made Loss Prevention," says Senior Technical Advisor Peter Ståhlberg. "It is built on the Club's Loss Prevention statistics, which are core. For many years, The Swedish Club has been electronically recording loss codes for each and every casualty. It can be tedious and hard work, and it is always meticulous. It means that for every cargo claim, we know what type of cargo was involved, where and why it occurred, where it was loaded and where it was discharged. For every collision or grounding, we know where, how and why it happened."

From this information, it might be tempting to draw swift conclusions on areas of high risk – but, as Peter points out, it is only half the picture. "Naturally we see a higher number of claims from Rotterdam compared to many other ports – but Rotterdam is one of the biggest and busiest ports in the world, so it doesn't mean it actually has more risks."

The Swedish Club now has the capacity to track every one of its member's vessels, match this with its own statistics and records, and provide members and their vessels with timely, tailored advice when they are approaching areas of particular risk.

In depth information

The Loss Prevention team has carried out detailed analysis of the entire fleet and where the ships have been trading, based on AIS, and what casualties have occurred. "That has given us a risk profile, frequency and claims cost for every port and sea area in the world, based on our own statistics," explains Peter. "Now we know what is happening in different ports around the world and we have identified ports and countries which are more risky to visit."

Pilot project

In March, it was confirmed that four of the Club's members would participate in a pilot project. "In this pilot we are proactively sending the member information about the ports they are visiting; we obtain that information from daily uploads of the positions and voyage intent of the vessels we insure," says Lars Malm, Director Strategic Business Development & Client Relations. "The minute we detect that one of the project members is setting course for a high-frequency area, we will feed back a bulletin of the most important issues to watch out for."



"This is a very proactive approach, taking a leap beyond generic feedback on Loss Prevention, where we share our experience on a global basis."

Local issues

To further enhance the quality of the information that we send, we contact the local correspondent in the area and request an update on local issues that may be relevant. "We have the local correspondent on standby to assist if need be," says Malm. "This is a very proactive approach, taking a leap beyond generic feedback on Loss Prevention, where we share our experience on a global basis. We can





“We believe that by providing this proactive approach and advice, we can help members to trade more safely.”

our local correspondents, we could provide other information from external sources regarding the political situation, kidnapping and other risks. It is very much like booking an airline ticket and being given information on the exchange rate, the weather and warnings on local concerns such as the danger of pickpockets.

“As to the information – it could involve problems with pilots or towage, difficulty with Customs or other authorities, navigational challenges in the approach channel, frequent issues handling certain cargoes, weather patterns to look out for, or tricky areas where there have been frequent groundings or collisions.

Delivering facts

“The captain on board might never have been to that port before and our information can help them,” says Lars Malm. “There may be anecdotal stories of difficulties in a particular port, and our statistics and experience can ensure that the crew have the facts. We can notify the owner and they can share the information with the captain and crew. We say – by all means go there, but bear in mind it is a tricky place. This is all about our ability to interpret data, and we are very pleased with the results so far.”

Whilst the pilot project has a degree of manual involvement, on rollout the service will be delivered to the members electronically through an automatic system.

“We have taken the last ten years of claims statistics and built up a pretty robust risk profile for different parts of the world,” says Peter Stålberg. “That can only benefit our members.”

now break that experience down and become very much more accurate in pinpointing the expected exposure in that particular port area.”

Vessel specific

The information exchange can also go both ways – AIS does not give information on what cargo is being carried, but if the member provides that information then the Club can provide very specific guidance and advice relating to that particular cargo.

“This higher degree of interaction and communication between Club and

member will add a lot of value,” says Lars. “We are very excited by the project and are sure it will carry a lot of value for our members. We believe that by providing this proactive approach and advice, we can help members to trade more safely.”

A clear picture

Peter Stålberg adds: “As soon as one of our ships sails for a destination identified as high-risk, we can send them tailor-made Loss Prevention advice based on where they are going, the type of vessel they are operating, and the cargo. As well as advice from



Safety in mind

A new calendar from The Swedish Club does much more than mark the passing of time

The Swedish Club's Monthly Safety Scenario Calendar is simply unique. Published every year, it features tear-off worksheets containing case studies based on real incidents that occurred on real vessels.

As well as outlining the incident and how it happened, these worksheets set out a series of questions as a framework for discussion around the causes and factors behind the accident, what should have been done differently, and how such risks could be eliminated or reduced.

Monthly safety meetings

Ideal for use in on board monthly safety meetings, the worksheets also include guidance regarding preventive measures relating to each specific incident.

The Club is delighted that several members have requested additional copies to be provided for both onshore and on board use. ☺



British Bulkers Inc

Among them is bulk carrier owner and manager British Bulkers Inc., whose Managing Director, George Agathokleous, says: "The topics in the calendar are well chosen, and include the particular scenarios which we always try to prevent from happening. This is an excellent initiative from The Swedish Club – the contents are easily digested both by the office and seagoing personnel."

He adds: "In each case, the questions place our people into

practical situations, encouraging them to think on their feet and apply preventive action."

There is a calendar on board each of its ships, and British Bulkers also uses the calendar onshore, he says. The topics covered have further expanded the company's checklist and shipboard training sessions.

"The calendars were sent on board only recently, and we are already hearing that they are very useful. We are now in the process of study and implementation, and reporting back from the ships."

Norbulk Shipping UK

Norbulk Shipping UK, which provides technical management, crewing, compliance and quality assurance services, has also welcomed the calendar, and now has a calendar on more than 70 vessels.

"Calendars were distributed to the fleet so that relevant topics could be pulled into the agenda of safety meetings," says Artiom Guzar, Norbulk's QA and ISM Manager. "The

calendar includes lessons learned from high-profile incidents and it also includes best practice on carrying out jobs that are common to many ships and which may result in high-severity incidents. Discussion of these topics will hopefully prevent such incidents happening in our fleet."

Is there anything else he would like to see on the calendar? "No. When safety learning tools are brief and simple, they are easier understood," he says. "I think it's better to keep it simple."

Would you like your own calendar? Request your copy today at marcom@swedishclub.com



Event speakers



Andrew Bardot
Retiring CEO, International
Group of P&I Clubs



Nick Shaw
Incoming CEO, International
Group of P&I Clubs



Daniel Ruge
Professor,
lecturer and consultant



Katarina Gospic
MD, PhD, MSc, entrepreneur
and author

The Swedish Club AGM 2019

12-14 June 2019
Clarion Hotel Post
Gothenburg

The Swedish Club's 2019 AGM is the time to make new friends, meet old ones and catch up with what is happening at the very heart of the shipping industry. We invite our members from around the world to accept our hospitality, review 2018 and to share our plans for the future.

S&P upgrade recognises quality, strength and hard work

In January, S&P Global Ratings upgraded The Swedish Club's insurer financial strength and issuer credit ratings to A- with stable outlook.

Apart from obvious delight from members and staff at the news, there was also one almost universal reaction: in most people's eyes, The Swedish Club has been A-rated for several years.

"It was never a question mark for us. My personal view is that we have been performing as A-rated for quite some time," said Chairman Lennart Simonsson. "We are proud that S&P has shared our view with regard to the quality of our organisation and our network around the world, our financial standing and our mutuality. Together, those factors stand for very controlled stability – and to have this confirmed by S&P is very, very positive for us."

Resilient capital position

In its report, S&P noted that, through disciplined underwriting and strong risk controls, The Swedish Club had continued to record combined ratios close to 100%, despite testing conditions in its main markets. S&P said it believed that these improvements, combined with



"Our members play an important role – it is their performance and quality that has enabled us to achieve this upgrade."

a sturdy operating performance, should enable the Club's capital position to remain resilient to market challenges over the next 24 months.

The confirmation of A- status will be important for the future because it clearly recognises The Swedish Club's strong standing, said Managing Director Lars Rhodin. "This is an important step for the Club which will enable us to further develop our growth and diversification strategies around the world," he said.



Lennart Simonsson, Chairman

Teamwork

He paid tribute to members and staff alike for their contribution, recognising the quality and support of members, and the commitment and expertise of the entire team.

This was echoed by Anders Leissner, Director Corporate Legal and FD&D, who said: "This was about explaining our message and selling our credibility. It really was about teamwork."



Lars Rhodin, Managing Director

“This is an important step for the Club which will enable us to further develop our growth and diversification strategies around the world.”

Long term efforts

Lars Malm, Director Strategic Business Development & Client Relations, added: “The upgrading by S&P isn’t something that happened overnight. It was recognition of many years of hard work. First of all, we have been able to produce good numbers; second, S&P listened very carefully when we explained our business model. We were able to show them that we had business diversity, including both P&I and H&M, which pays off in the bottom line and in our combined ratio.”



Lars Malm, Director Strategic Business Development & Client Relations

“We carry out a great deal of analysis into our different products, how they work together and what type of business we should write; we see the whole spectrum and therefore we are well informed in our risk assessment, being able to base this on our experience in terms of claims cost and frequency. Of course, Loss Prevention ties in with all of this too.”

Strong underwriting

It was particularly pleasing that S&P remarked on the Club’s strong underwriting discipline which reflects ongoing improvements the Club has made to its enterprise risk management (ERM) capabilities, said Lars Rhodin. “We have worked to reduce volatility in our capital position and have ensured that the Club is well positioned for further development,” he explained.

“S&P has recognised the Club’s commitment to deliver robust underwriting performance and preserve extremely strong capital adequacy in the future. During difficult operating conditions, the Management Team has worked to keep a steady hand on the tiller, and we are delighted to see that dedication rewarded.”

Quality of members

Lennart Simonsson added: “Our members play an important role – it is their performance and quality that has enabled us to achieve this upgrade. Our members share the view with the Club that quality pays off, and every member makes a difference.”

“The upgrading by S&P isn’t something that happened overnight. It was recognition of many years of hard work.”



Khalid Hashim
Managing Director,
Precious Shipping

“In a word, we are proud. This is a great accomplishment! Frankly, it should have taken place more than five years ago.”



Mikael Livijn
Head of Insurance & Legal,
Wallenius Marine

“The S&P rating is a triumph and is the result of long, hard, purposeful work. The figures more than justify the rating.”



Lu Jian
Vice President,
Winning Shipping

“I am really very proud of The Swedish Club achieving this upgrade. It is thanks to the effort of the Management Team and also with the support of the Board members and our shipowners. It is a very good result and I think it is long overdue.”

Game on: The 2020 Sulphur Cap – technicalities vs legalities

As every member of the shipping community will surely now know, on 1 January 2020 vessel owners must have made the decision to install exhaust gas scrubbers or to burn low sulphur or alternative fuels. The cost implications of any decision are difficult to predict and there is no shortage of opinions and 'helpful' advice from interested parties in the marketplace.

In this area there are many unknowns facing ship operators. Will low sulphur fuel be available? If so, what will it cost? What risks do we face in the changeover period? How can we turn this to our advantage? One thing we do know is that, at least at the beginning, the Sulphur Cap 2020 legislation will produce a two-tier charter market – scrubbers installed versus no scrubbers.

The Sulphur Guide has been written by experts in their field, providing information based on real life situations they have encountered in their working lives.

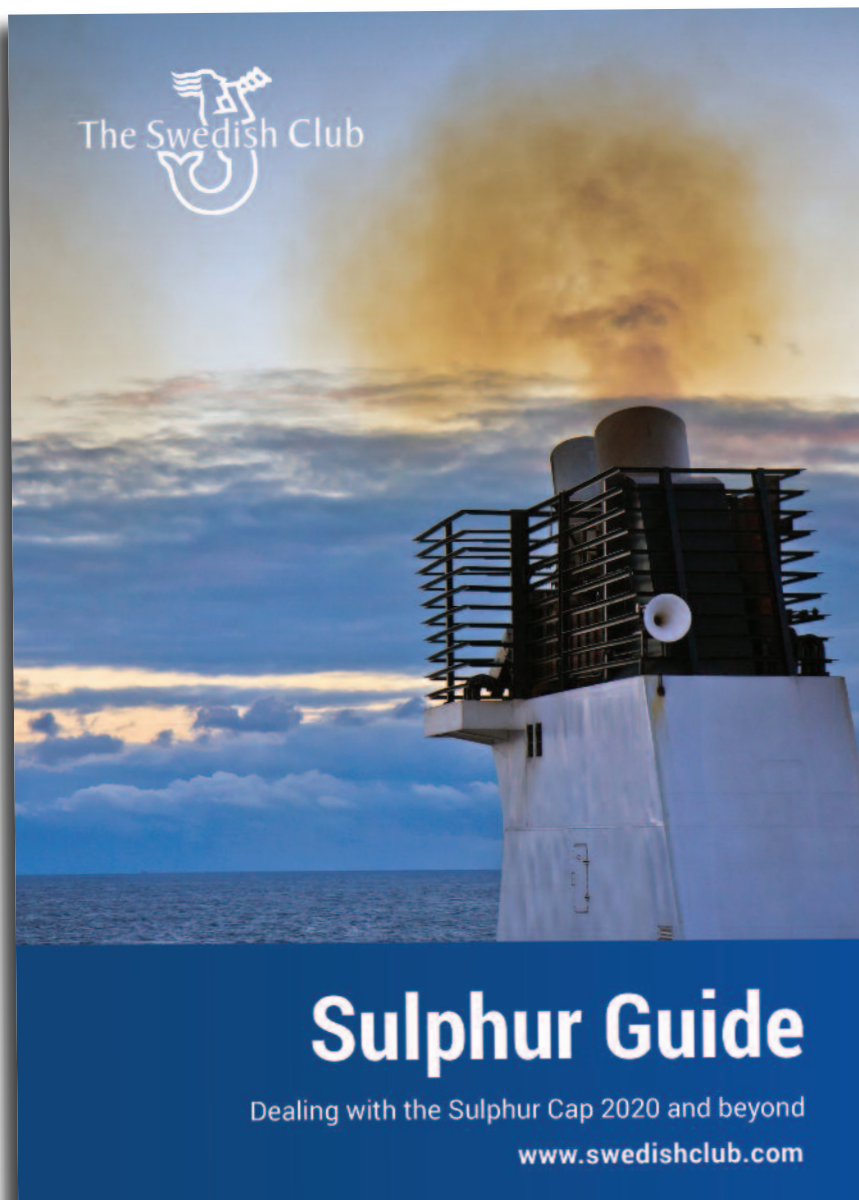
The Club has cut through the chatter, and to give members an informed and accurate picture of the situation, has obtained expert advice from a leading marine engineering consultancy and from experts in contract law.

The Club's Sulphur Guide provides advice from both a technical and a legal perspective. It explores technical considerations when making the decision between operating with low sulphur fuels and retrofitting scrubbers and explains the legal implications, both in terms of compliance and in relation to the terms of any charterparty in place, following that decision.

The Sulphur Guide has been written in conjunction with Tony Grainger, Marine Engineer, TMC Marine; Paul Harvey, Associate, Ince & Co and Jamila Khan, Partner, Ince & Co. All are experts in their field, providing information based on real life situations they have encountered in their working lives.

The Sulphur Guide is aimed at providing no-nonsense information to those thinking about the effect potential modifications will have both on the operation of their vessels, and existing charterparties and charterparties entered into in the future. 📄

To download the Sulphur Guide, visit 'Publications' on The Swedish Club website, or contact 'marcom@swedishclub.com' to request a hard copy.



Charterer's Online Declarations – making digitalisation work harder



Jakob Osvald
Senior Manager Underwriting

Digitalisation is very much a watchword today, a term applied to a multitude of processes and functions in the business world. Much happens behind the scenes however, and it is not often that something comes along which, through digitalisation, radically simplifies a process - saving time and making life easier at the same time.

The Swedish Club's new tool, Charterer's Online Declarations, does just that. It removes the need for brokers and clients to maintain paperwork and carry out manual tracking when declaring and managing chartered vessels, and reports an overview of activities at the touch of a button.

Jakob Osvald, Senior Manager Underwriting, explains: "Our members and brokers are used to working in the Club's Swedish Club Online (SCOL) platform to support their insurance handling. We have always called SCOL 'the gateway to Club' and the new declaration enables the process to be seamlessly integrated into what is already a popular and well used system.

"Previously the process of declaring a chartered vessel was carried out manually through an exchange of emails and form filling," says Jakob. "You would send us an email, we would send an email. During the voyage there would be a further exchange of emails. All very well if only one vessel is involved, but our members run fleets of many vessels and need to have all the information they need in one place."

At a glance

Charterer's Online Declarations provides an 'at a glance' solution. Vessel details are entered straight into the insurance system, ensuring that all records are in one place. This also enables instant reporting – data can be pulled off instantly at any time. It is a truly automated system."

The module has been carefully designed to be process driven. It provides access to data for vessels across the world and provides a clear overview of voyage progression, using notifications to highlight outstanding issues and request

key information as the declarations process moves forwards.

On one screen the declaration shows the user what is declared, what has been accepted by the Club, and what items are currently in risk. Past declarations are easily accessible through an archive function and anything you need to know about past or present claims is just the click of a mouse away.

Clear benefits

Jakob Osvald is clear as to the benefits of the system: "Everything you need is in in order," he says. "You can find everything you need to know about your declarations, on one screen. You can use filters to easily find your vessel and the module helps you to easily access automatically created insurance documentation. This can be used alongside the relevant claims documents, accessed through SCOL."

The outputs can be viewed, downloaded, or attached to emails and users can keep up to date with progress on open claims via automatic reports which are generated in SCOL every month.

As Jakob says: "As far as we can tell, there is little in the market just like it, and we are proud that we have been able to develop this unique and invaluable tool for our clients." 🚢

By Anders Leissner,
Director, Corporate Legal & FD&D

Legal update

The long arm of the law

Sanctions have increasing impact on international trade. There are several reasons - sanctions no longer concern only obscure states but also major trading nations such as Iran, Russia and Syria, for example. In addition modern sanctions legislation targets businesses that enable the underlying prohibited activity. For instance, it has proven more efficient to pursue ship operators, banks and insurance companies involved in the transport chain instead of solely focusing on the true wrongdoer buying and selling a prohibited product. This is understandable – we all have responsibilities towards making the world safe and sustainable. As a lawyer, however, one cannot help but make certain observations about the increasing use of sanctions.

Sanctions and sovereign states

In its purest form, sanctions are uncontroversial in that they – according to United Nations resolutions – should be used to safeguard peace and international security. However, as soon as sanctions are imposed for purposes that are not clearly within that remit problems start to arise.

The first question one should ask is 'against what entity do the sanctions apply?' States are generally prohibited in dictating what other states (or persons and companies outside their jurisdiction) should or should not do according to fundamental public law principles, one being the non-intervention principle. Sanctions that apply outside a state's territory - extra territorial sanctions - are therefore



inherently problematic from a public law perspective if they do not directly serve the purpose of safeguarding peace and international security.

Fear of non-compliance

Sanctions are also in the spotlight due to the severe consequences for non-compliance. It is reported that sanction evaders have paid hundreds of millions of dollars in fines. In addition, a sanction breach can restrict access to financial institutions and payment systems. This has prompted companies in the financial sector to apply very strict sanction controls in their businesses. For banks this includes checking the purpose of the payment and also the parties involved in the payment. From a practical perspective this is a clever undertaking considering the millions of payments that are processed yearly.

Avoid over-shooting the target

The sanction checks clearly have to be automated and to be on the safe side raise warning flags at even the slightest suspicion of a problem. For example the Club has experienced issues with stopped payments to local correspondents only because the vessel involved has called into Iran previously, or because the initials of the claims handler resemble the name of a company on a sanction list. Sanction filters therefore tend sometimes to over-shoot the target and as a result create unpredictability in the payment system.

Should this development continue there is a risk that sanction compliance will have less to do with the law and instead be more a question of meeting companies' risk policies. Such a development would be unfortunate, with commensurate negative effects on global trade. 🇩🇪

The LOI - a contract in its own right



by **Malin Högberg**
Head of Claims, P&I,
Team Gothenburg

The independence of the terms of a Letter of Indemnity (LOI) was confirmed in the ruling by the Court of Appeal in the *Navig8 Chemicals Pool Inc v Glencore Agriculture BV 'The Songa Winds'* [2018] EWCA Civ 1901.

In the first instance, the case concerned alleged misdelivery of a cargo of crude sunflower seed oil in bulk, where the cargo was delivered without production of the original bills of lading, the question of agency under an LOI on an International Group standard form, and what the applicable time bar of the LOI would be.

The main point of law that will form the topic of this article is that the first instance judge held that Navig8's claim was not defeated by the operation of a time bar in the underlying voyage charter between Navig8 and Glencore.

Clause 38 of the voyage charter stated: 'The period of validity of any letter of indemnity will be three months from the date of issue...' and went on to provide for various ways in which the owners could obtain an extension to that period, which had not been done. There was no reference to the voyage charter in general, nor to the above terms in clause 38 in the LOIs issued by Glencore to Navig8.

Key question

The key question on appeal therefore concerned whether an express

agreement in the voyage charter party as to a limitation of time for all LOIs issued under it, was indeed applicable to all LOIs, without the LOIs making express reference to neither the time bar nor to the voyage charter party itself.

Glencore submitted that the terms of clause 38 of the voyage charter party (with reference to the validity of the LOIs expiring after three months) must be read into the LOIs issued by them and that the effect was to bar Navig8's claim, which had been made well after three months had expired.

It was Navig8's case, on the other hand, that the LOIs they had received from Glencore were standalone contracts and that, as a matter of construction, clause 38 of the voyage charter did not exclude a claim made after the expiry of three months.

The Court of Appeal decision

Simon LJ, who gave the opinion of the Court of Appeal, expressly rejected Glencore's case on the following basis;

- (i) there was no reference to any extraneous terms limiting time in the LOIs issued by Glencore;
- (ii) the voyage charter party and the LOIs issued by Glencore were distinct agreements with separate rights and obligations;

(iii) there was neither any reservation nor reference to the voyage charter party or its provisions in the LOIs issued by Glencore;

(iv) the LOIs did not contain any express time limit;

(v) the LOIs set out self-contained obligations and rights and it was common ground that they could be relied on by third parties as against Glencore.

The Court of Appeal thus dismissed the appeal and agreed with the first instance judge that the LOIs issued by Glencore did not contain any terms limiting their validity, nor were they to be treated to include any such limitation.

The LOI is a contract

It is easy to forget that an LOI is a contract of indemnity and thus a contract in its own right. What this, in short means is that with express language absent in the LOI itself, the LOI is operating separately from the terms of any underlying charter party.

Owners and charterers must thus remain cautious of the terms contained in any LOIs they contemplate creating under their charter period, even where they consider that the issue has been dealt with in terms of the charter party itself. 🇳🇵

Pacific Voyager



The Court of Appeal recently examined the obligation of an owner under a voyage charter party to commence the voyage, in circumstances where the charter party did not contain any date of expected arrival (ETA), or expected time of readiness to load (ETRL) at the load port.

By James Bamforth
Head of Claims, Team Piraeus



The facts

The vessel had been voyage chartered on a Shellvoy 5 form for a voyage from Rotterdam to the Far East. The charter party contained a cancellation date, as well as a clause whereby the vessel must '... perform her service with utmost despatch.'

At the point of fixing the charter, the vessel was carrying out a voyage for the previous charterers, from Egypt to France.

While transiting the Suez Canal under that prior fixture, the vessel hit an underwater object and was forced to dry dock for repair. The effect of this was that the vessel missed the laycan (laydays cancelling) under the new fixture. In view of the lengthy delays arising from the repairs, the new charterer terminated the fixture, and claimed damages.

The arguments

The owners' position was that the obligation to commence the approach voyage and proceed with 'utmost despatch' could only attach when the vessel had departed from the last discharge port under the previous charter. Given that the vessel never did so, then the obligation did not arise.

The charterers' case was that the inclusion in the new fixture of the itinerary for the previous charter demonstrated that it was meant to be taken as the time at which the vessel was expected to arrive or be ready to load. Failing that, the obligation to commence the approach voyage with the utmost despatch must at least arise when it was reasonable to suppose that the vessel should sail to meet the cancelling date.

The law

It is trite law that, where a voyage charter contains:

- An obligation that the owner will proceed with all convenient speed or utmost despatch to a load port; and
- gives a date of expected arrival or expected readiness to load at the load port

the owner has an absolute obligation to commence the voyage to the loading port by a date when it is reasonably sure that the vessel will arrive on or around the ETA or ETRL.

However, prior to the *Pacific Voyager*, it was not clear whether such an absolute obligation existed when a charter party did not contain any ETA or ETRL.

The Court of Appeal decision

In finding for the charterers, the Court of Appeal in the *Pacific Voyager* affirmed the decision of the High Court that, if the obligation to proceed with utmost despatch was to be given any effect at all, there needed to be a date by which the approach voyage must be commenced. This should be determined by considering all relevant terms of the charter party; not only by reference to an ETA or ETRL.

The decision of the Court of Appeal effectively focussed on the need for certainty in commercial contracts, and to give effect to what had been agreed between the parties.

The utmost despatch obligation was identified as being especially significant, as its inclusion gave a degree of comfort to a charterer. If a charter party included an obligation of utmost despatch but no ETA or ETRL, the utmost despatch obligation would be rendered meaningless unless there were some time at which that obligation attached.

Comment

The Court of Appeal's decision in the *Pacific Voyager* is important because it provides guidance for parties in understanding how the principles in *Monroe -v- Ryan* should be applied where there is no ETRL or ETA. The decision highlights that, where a charter party contains an express obligation to proceed to the load port with utmost despatch, the owners will be liable if their vessel is unable to make the laycan due to a failure to commence the approach voyage by a date when it is reasonably certain it will meet her cancelling date. This is an absolute duty which arises irrespective of whether the charter party contains any ETRL or ETA. No due diligence defence is available. 📌

The owner has an absolute obligation to commence the voyage to the loading port by a date when it is reasonably sure that the vessel will arrive on or around the ETA or ETRL.

UK Supreme Court puts onus on owners:

Review of *Volcafe v CSAV*

By **Jonas Adolfsson**, Partner, Ince Gordon Dadds, London

In many cargo disputes, the reason for loss of or damage to the cargo is quite clear, but that is not always the case. When there is some doubt about how the incident occurred, which party has to carry out the hard work of offering the factual explanation?

Traditionally, in claims subject to English Law, the shippers have usually started their claim with as detailed a case as possible, in an effort to prevent the carriers from setting up a defence based on one of the Hague Rules exceptions. In their 2018 decision in the case of *Volcafe v CSAV*, the Supreme Court has clarified the law so that this balance is reversed: shippers will be able to start their cases simply by showing evidence that cargo was lost or damaged.

Background

The claim concerned bagged coffee shipped from Colombia to Germany, on terms that made the carriers contractually responsible for container preparation and stuffing. In 2012, both ventilated and unventilated containers were in widespread use for the carriage of bagged coffee beans and the shippers chose unventilated containers to save costs. The container walls were lined with an absorbent material, Kraft paper, to counteract the potentially harmful effect of condensation.

Because the coffee beans, which are hygroscopic in nature, were shipped from a warm to a cool climate, they emitted moisture, causing condensation on the container walls

and ceilings. When the containers were opened, some bags were found to have suffered water damage. This gave rise to a claim that was relatively small in quantum, just USD 62,500, but became important as a test case on the burden of proof in cases where the carriers seek to invoke a Hague Rules exception.

High Court and Court of Appeal decisions

The cargo interests alleged that the carriers, as bailees, breached their common law duty to take reasonable care of the cargoes: the carriers failed to deliver the cargoes in the same good order as that recorded on the bill of lading on shipment. Alternatively, they pleaded that the carriers had breached the equivalent obligations contained in Article III Rule 2 of the Hague Rules.

The carriers relied on Article IV Rule 2(m) of the Rules, which provides that they shall not be responsible for loss or damage resulting from 'wastage in bulk of weight or any other loss or damage arising from inherent defect, quality or vice of the goods'.

The High Court held that the carriers' case failed. This was because the carriers were obliged to do more than merely show evidence to make a prima facie case that a Hague Rules exception applied. They also had to prove that they had taken reasonable care of the cargo – in other words that there was no negligence on their part. The High Court heard complex



Jonas, a native Swede, joined the firm as a trainee in 2008 and qualified as a solicitor in 2010, being promoted to Partner in 2018. Jonas is primarily a shipping litigator and deals with all types of 'wet' and 'dry' disputes.

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evidence on the industry use of Kraft paper prevalent in 2012, and concluded that it was not possible to decide whether the carriers had used a 'sound' system. For that reason the carriers had failed to satisfy their burden of proving that they had not been negligent in their carriage of the cargo.

The Court of Appeal made the opposite finding. It was held that the carriers' key

burden was to establish a prima facie case for one of the exceptions under Article IV Rule 2 (m). In this context, that could be evidence proving that coffee beans had an inherent propensity to deteriorate. It was then for the cargo interests to satisfy the burden of proving that the carriers had not taken reasonable care of the cargo. In other words, the Court of Appeal thought that, where the carriers can show that a Hague Rules exception seems to apply, they do not usually have to also prove that their negligence was not a cause of the cargo loss or damage.

Supreme Court decision

The Supreme Court completely disagreed with the analysis of the Court of Appeal. In relation to the carriers' duties in a contract of carriage subject to the Hague/Hague-Visby Rules, it was clear that the contract remains one of bailment. That means that, when cargo is entrusted to the carriers (who are the bailees of that cargo) in good condition, but is delivered damaged, they must do the same as any other bailee, i.e. show that the goods have been cared for to the required standard. In the context of the Hague Rules that means showing that they have taken reasonable care of the cargo by instituting and following a proper system of caring for the cargo.

The Supreme Court's analysis of the working of the Hague Rules exceptions was essentially similar. The Hague Rules are primarily concerned with the standard of care to be exercised by carriers – not the burden of proof. Therefore, where carriers seek to rely on a Hague Rules exception, they must prove both that the exception applies and that they took reasonable care of the cargo. The burden is therefore not on the cargo interests to prove that the carriers were negligent.

In making this decision, the Supreme Court held that the 19th Century decision in *The Glendarroch* did not justify placing part of the burden of proof on cargo interests. In fact the decision was dismissed as 'technical, confusing, immaterial to the commercial purpose of the exception and out of place in the context of the Hague Rules'.

More than ever, carriers should make sure that the conditions in which cargoes are loaded are as well-documented as is practicable, on the basis that such documentary evidence could be vital if there is a claim.

The result was that, because it had not been possible to prove that the carriers had fulfilled their duty to take reasonable care of the cargo – which it was their burden to do – they could not rely on the inherent vice exception. The claim against the carriers therefore succeeded.

Practical conclusions

The *Volcafe* decision shifts the onus in terms of evidence gathering towards carriers. More than ever, carriers should make sure that the conditions in which

cargoes are loaded are as well-documented as is practicable, on the basis that such documentary evidence could be vital if there is a claim. Where problems with cargo emerge during a voyage or on delivery, the earlier the response the better: cargo samples, detailed photographic records, preservation of contemporaneous documents and interviews with the relevant crew may help avoid liability.

Carriers of perishable or otherwise potentially unstable cargoes – such as coffee – should also consider reviewing their protocols for care of those cargoes. If the carriers can provide evidence of their systems and their soundness, they will be in a strong position. This is especially relevant to the use of the inherent vice defence, where it is now clear that it is not enough simply to show that a cargo has a potentially problematic characteristic (such as coffee's hygroscopic nature). If there is a precaution that could reasonably be taken to counteract that characteristic, a failure to do so on the carriers' part will constitute negligence and they will not be able to rely on the inherent vice exception. 📄



Less is not more

The dangers of not paying proper attention to the DRC



By **Steffen Pedersen**,
Partner, Thomas Cooper
Singapore LLP

Steffen's experience covers the full range of shipping and offshore matters, from collisions, to charters, cargo claims, construction contracts and financing projects. He has handled both contentious and non-contentious cases with an emphasis on contentious work throughout Asia and in London.



The dispute resolution clause (DRC) is normally the last clause parties consider when entering a contract. It is easy to see why: everyone is thinking of good returns and win-win co-operation. What could possibly go wrong? Quite a lot in fact, so experience tells us. When it does, it is then too late to become extricated from a DRC which has left remaining only unpalatable options in dealing with a defaulting counterparty.

So how do you avoid putting hurdles in your own way and ensure that you construct a DRC that is right for you?

Simple DRCs create problems

Shipping, uniquely it seems, likes simplicity when it comes to DRCs. The classic shipping DRC is just a few words: 'Arbitration in [Singapore / London / Hong Kong], English law to apply.'

This may seem easy and quick, but it is in fact full of potential problems. These problems arise from what is left unsaid. In particular, the clause does not identify the number of arbitrators, the procedure for appointing the arbitrators, what happens on default of appointment, or the procedural rules that will apply to the arbitration. Omitting this information can cause delay and have a significant influence on the costs and time spent getting the arbitration started in a situation where your counterparty has disappeared and is not responding.

For that reason, the above clause is not ideal - unless you are a defaulter wishing to make life difficult for a claimant.

Scenario

To illustrate this, let us consider briefly what would happen in Singapore, London and Hong Kong, when using the above clause, and the counterparty is, and remains, entirely unresponsive.

Number of arbitrators in the Tribunal

As the number of arbitrators has not been agreed, this will need to be determined. To do so, it will be necessary to fall back on what the local law stipulates.

In Singapore and London, the default would be a sole arbitrator under the Singapore International Arbitration Act (Cap 143A)(IAA) and Arbitration Act 1996 (AA), respectively.

In Hong Kong, there would be either one or three arbitrators, which would have to be determined by the Hong Kong International Arbitration Centre (HKIAC) as the appointing authority under the Arbitration Ordinance (Cap 609)(AO). That determination requires an application to the HKIAC incurring an application fee of HKD 8,000 (around USD 1,000). Applying can take some time, as the HKIAC must



The ideal way forward is to have the key points clearly set out in the arbitration clause. That way there can be no dispute about what is agreed.

allow the other party 14 days in which to provide comments on the application, and the HKIAC can also of its own volition seek further information.

Constituting the Tribunal

Once the number of arbitrators is known, it is then necessary to appoint and constitute the Tribunal.

Sole arbitrator

If you are to use a sole arbitrator, the parties would try to agree the identity of a sole arbitrator. Once that fails, the following would take place:

- In Singapore, an application would have to be made to the Registrar of the Singapore International Arbitration Centre (SIAC) (as the appointing authority under the IAA) to appoint the sole arbitrator. This will incur an appointment fee of SGD 3,000 (around USD 2,170), plus GST (value-added tax) if the appointing party is local. It can take some time for an appointment to be made (several months in recent experience) and the SIAC may invite the parties to comment on the suitable appointment criteria which takes time.
- In London, an application would have to be made to court for the appointment to be made. That is a whole different level of headache, delay and cost, potentially involving service out of the jurisdiction.
- In Hong Kong an application would have to be made to the HKIAC (again at a cost of HKD 8,000). This too can take some time (up to four weeks), as the HKIAC will first propose their candidate(s) to the parties and set a time limit within which the parties are invited to give their comments.

In addition to the time and costs incurred undertaking the above, lawyer's fees will also likely escalate.

Three-person Tribunal

If there is to be a three-person Tribunal (in our scenario that is only possible in Hong Kong on the basis that the HKIAC had decided there was to be three), then the procedure would be as follows:-

- You would appoint your arbitrator and give the counterparty 30 days to appoint theirs.
- When the Respondent fails to appoint within the 30 days, an application would have to be made to the HKIAC for appointment of an arbitrator on their behalf. Another HKD 8,000 is payable to do this.
- If the two arbitrators appointed are not able to appoint the third within 30 days of the second arbitrator being appointed, an application must again be made to the HKIAC to appoint. A further fee of HKD 8,000 would be payable in this situation.

Self-inflicted pain

As can be seen, our 'simple' clause has created a great deal of self-inflicted pain. In cases where small amounts are in dispute, as is common these days, this might make commencing arbitration very slow and disproportionately expensive.

Given that the vast majority of cases settle once an arbitration is afoot, being able to commence and constitute the tribunal swiftly and inexpensively is a very strong card to have on hand. That is what a DRC should aim to achieve.

Procedural rules & model clauses

One way to achieve this may be to adopt some procedural rules e.g. London Maritime Arbitrators Association (LMAA) or Singapore Chamber of Maritime Arbitrators (SCMA) in the clause, or use a model clause. However, some procedural rules have their own pitfalls for the unwary. For example, if you use the current SCMA Model Clause you must work within the SCMA Rules. (The SCMA Procedural Committee is presently reviewing the SCMA Rules.) The current SCMA Rules have a default of three arbitrators (not a sole). That will cause serious delay if your counterparty is not responding, as you would have to apply to the SCMA, at a cost



of SGD 1,500 (around USD 1,080), to appoint an arbitrator on its behalf.

The SCMA Rules currently also provide for mandatory hearings even in a case of a non-responding Respondent. Hearings are time-consuming, expensive and cause serious delay.

Careful attention therefore needs to be paid when drafting contracts using procedural rules too. For example, on the basis of what has been said above, it would not be wise to simply say: 'SCMA Arb Singapore, English law to apply.' This would lead to a three-person Tribunal, and you would have to apply to the SCMA to appoint an arbitrator on behalf of the Respondent, and for a hearing. This may of course change once the SCMA Rules are appropriately revised.

Choosing the Small Claims Procedure in LMAA and SCMA will not assist in preventing delay and cost as, in the absence of agreement, the sole arbitrators must be appointed by the LMAA and the SIAC respectively.

What to do then?

The ideal way forward is to have the key points clearly set out in the arbitration clause. That way there can be no dispute about what is agreed.

Luckily, common law systems like those in England, Hong Kong and Singapore will give effect to parties' bespoke arbitration clauses, so you are free to create the provisions you need. Doing so will help save time and costs should a dispute arise, as these will facilitate getting an arbitration moving.

The key points to consider for inclusion when drafting an arbitration clause are:

1. The place of arbitration (both venue and seat).
2. The law applicable to the dispute.
3. The number of arbitrators.
4. Any specific qualifications they need to have (e.g. 'commercial people' etc....).
5. How to appoint them.
6. The deadline for doing so.
7. What happens on default of appointment.
8. Procedural rules to apply.

There are some potential variables. Parts may be omitted to simplify the clause e.g. the arbitrator's qualifications or procedural rules adopted - the LMAA or SCMA procedures will normally be adopted in maritime arbitrations by the parties or Tribunals where there has been no prior agreement on procedural rules.

Whatever you consider drafting, care should be taken to ensure that the DRC works in the chosen forum to provide the most efficient procedure for commencing arbitration and constituting the Tribunal.

If you wanted an economical version that would cover most of the above, it could be simplified to say: 'Arbitration in [Hong Kong/Singapore/London], English law and LMAA Terms to apply.'

This clause ensures that if your counterparty does not engage, then you

very quickly end up with your choice as arbitrator being the sole arbitrator, without having to make any expensive applications anywhere. That is because the LMAA Terms provide for that to happen. That is no doubt one of the main reasons that we are seeing more and more LMAA arbitrations in Singapore and Hong Kong these days.

In case your counterparty cannot agree LMAA Terms when contracting however, you should take care to draft a bespoke clause, as outlined above.

Draft a clear DRC

The purpose of the above is not to advocate using one law, place of arbitration or set of rules over another. As has been seen it will not make a lot of difference which law or seat is used: there are issues under all systems when using a bare bones DRC. Additions to DRCs can also bring their own problems if not carried out with proper consideration or knowledge of the potential consequences. In the space available this article can only scratch the surface of what dangers there may be.

The point is that when it comes to DRCs, less is definitely not more. There are serious dangers in not paying proper attention when drafting of DRCs. You may be lucky and find that your counterparty engages with you in which case the above dangers might be averted. But there is always a risk that your counterparty will remain unresponsive.

To avoid this risk, take the time to draft a clear DRC that does what you want it to do, and then start using that DRC in recaps/standard terms etc. Thereafter you can proceed as normal, safe in the knowledge that you have not caused problems for yourself should it all go wrong. Given that the clear majority of cases settle once arbitration is commenced and the Tribunal has been constituted, time spent ensuring you have a strong DRC will likely be time well spent. It may save you months of pain and substantial amounts of money should a dispute arise, and your counterparty decide not to engage. 🙏

Whatever you consider drafting, care should be taken to ensure that the DRC works in the chosen forum to provide the most efficient procedure for commencing arbitration and constituting the Tribunal.

Inside Loss Prevention

Triton meets members of the Gothenburg based Loss Prevention team.

Lars Malm has a very straightforward approach to Loss Prevention. In a nutshell? The team's advice to members should be effective and it should be easy to implement.

"What we always say about the Club and our Loss Prevention activities is that we should focus on our members' needs – and our way of identifying those needs is to look into areas where we have a high frequency of claims and high costs in terms of cargo, personal injury, machinery and navigation claims," he says. "Those are our main areas of focus, because they are where we have the most frequency. It's worth remembering it is our members' money that is spent on these claims – and that is why it is essential to reduce the frequency as much as possible."

Practical advice

What he does not want to do is produce statistics and simply lecture members about what goes wrong and how much it costs. "Most important is to come back with concrete measures for members to adopt in order to avoid these unfortunate incidents or to mitigate the consequences if something should go wrong," he says. "In these efforts, we must make it very easy for members to implement such measures or initiatives in their daily operations. And that is the overall approach from the Loss Prevention side of The Swedish Club."

This is not, he emphasises, about writing long instructions on how to run a vessel or maintain an engine – "that is really something our members should know how to do. We are focused on avoiding



incidents and our advice is based on our extensive experience of where things go wrong.”

All-in-one Club

A unique advantage from the start is the fact that the Club provides all classes of insurance. “That enables us to provide all types of Loss Prevention advice – a lot of our competitors are only providing P&I or H&M, while we see the comprehensive picture and what goes wrong on P&I as well as Marine. We are, in short, better equipped.”

The same goes for the team itself – Lars heads up Loss Prevention, and is supported by Claims and Loss Prevention Controller Ellinor Borén, Loss Prevention Officer Joakim Enstrom and Senior Technical Advisor Peter Stålberg. Each of the team members comes from a different background – seafaring, engineering, technical and legal, says Lars. “There is also very close cooperation between the Loss Prevention department and Claims department, on our initiatives, analysis and advice.”

And we are not just talking abstract advice or ideas, he says. “It is very important to understand the mechanisms behind claims – it’s concrete things that happen or that go wrong, so close cooperation between the two departments is absolutely essential. We need to go deep into the reality of why claims happen and what can be done to avoid them.”

Using technology

Some Loss Prevention advice might be described as good old-fashioned common sense (which we all need reminding of on occasions), and certainly Loss Prevention is seen as a solid, traditional activity. However, it’s advancing quickly, thanks to new communication technology and the arrival of big data and sophisticated data analysis capability.

The new personalised Loss Prevention initiative, now being piloted, is an excellent example, as the Club is able

to provide advice based on insured vessels’ actual or planned position, linked with claims history for the area in question.

“We are moving from traditional, reactive Loss Prevention to more proactive Loss Prevention, through specific evidence that certain areas around the world come to our attention with more high frequency than others and because as well as statistics we have historical explanation as to why these casualties occurred,” says Lars. “The whole idea is to advise our members in advance so they will be better prepared for what they might encounter. When we realise a vessel is about to trade to a high-frequency area, then we can take a really proactive approach.”

Being proactive

Where the Loss Prevention team is focused on operational issues, the Club’s MRM (Maritime Resource Management) programme is there to address behavioural issues and cultural issues, focusing on preventing accidents at sea caused by human and organisational errors.

“The two are quite different but also they complement each other in a very good way and there is excellent cooperation between Loss Prevention and MRM,” says Lars.

Meanwhile, the Club’s Emergency Response Training (ERT) initiative is another excellent example of the team’s proactive approach to Loss Prevention.

Members can use their ERT session as a way of meeting the International Safety Management (ISM) Code requirement to carry out one major exercise a year, while also learning how they would handle a major incident and how the various organisations and authorities in any given jurisdiction would act and interact.

“Again, these exercises bring together our Loss Prevention and Claims teams, which will both in reality have to deal with a complex matter should it occur. This is a very good example of what we are trying to do to provide our members with

initiatives that are very easy to implement and that bring value to them.”

Training is, of course, essential, he says. “This gives members the opportunity to train with us. It can be difficult for members or owners to organise this themselves – we can provide them with knowledge and information about what will happen in a casualty, so that they are better prepared.”



Joakim Enström
Loss Prevention Officer

It doesn’t matter how much technology there is on board a vessel – accidents can still happen. “This is often because people don’t understand their limitations or how to use the technology that is there,” says Joakim Enstrom. “They are afraid of being assertive because it is not in their culture or in the company’s culture. You should always be polite and show respect but you also need to question when things are not going as to plan.”

That issue is relevant in a lot of casualties, says Joakim, who focuses strongly on the analysis of navigational claims. Why do contacts, collisions and groundings happen? He isn’t looking for generalisations or anecdotal stories, but facts, based on statistics and specific claims.

“We go through claims and see what should have been done and what the crew should be thinking of in similar situations. We can establish where common mistakes are being made, whether it is related to crew

“Our advice can help with planning for the voyage, as well as serving as a reminder of the potential risks.”

competence, lack of training, or failure to discuss and follow through a plan with the pilot. Many of the navigational claims have similar reasons behind them.”

With seafaring experience, Joakim is acutely aware that seafarers want information that is relevant, interesting and beneficial.

Tangible data

“If we can show with statistics based on claims that there is a problem in a particular area, that is really valuable. Often people have a ‘feeling’ about a place or there are anecdotal stories – but with statistics to prove there is an issue, they will usually take it more seriously. In other words, if a third party confirms that this is a problematic area, it will make them a lot more alert to the risks.”

Equally, the captain or crew may never have traded to that specific place before. “Our advice can help with planning for the voyage, as well as serving as a reminder of the potential risks.”

Preparation, practice and processes

Advice, he says, usually isn’t some kind of ‘super revelation’: “We continue to emphasise that if you prepare, if you carry out the right procedures, if you check all the paperwork twice, if you ensure a detailed pilot briefing and discuss exactly what is going to happen – then there should be no problems. Many of the claims that do happen of course can be prevented – it is up to us to find ways of reaching our members and their crew to help with this.”

“As someone who has been at sea, I know that those on board have so many procedures to follow – the last thing we want is to be a burden to the crew. We want to provide hands-on advice that they can use in their daily work. As a team, we are always trying to find new ways to achieve just that.”



Ellinor Borén

Claims and Loss Prevention Controller

Ellinor Borén joined The Swedish Club in January 2018, moving across to the Loss Prevention team a year later.

Her background is in shipping – having studied for her nautical science degree in Gothenburg, she spent three years at sea as a Second Officer on tankers, coming ashore to study in Oslo for her master’s in maritime law.

From there, she applied for a trainee position with the Club, spending her first year handling P&I and H&M claims.

“I gained a pretty broad insight into claims handling, then I was very lucky to get this position in Loss Prevention,” she says. “For me, with my sea experience and maritime law qualification, this is the perfect match. There are a lot of us with different kinds of background and knowledge, and that is very beneficial.”

Ellinor grew up in Gothenburg. Her closest relatives didn’t go to sea but there is a history of seafaring in her family. She attended sailing college as a teenager and decided she was more

interested in the merchant shipping side of the industry.

“I started my degree with an open mind, then did my first cadet period on a tanker, and really loved it.”

Keeping advice relevant

Her experience at sea feeds directly into her work in Loss Prevention. “With all the material we produce and the insight we have in claims and statistics, it is very important to do something ‘hands on’; something that can be relevant to the person at sea,” she says. “At the end of the day, the crew are the ones operating the vessels and who are on the vessels when accidents occur. We should provide hands-on and easy-to-use advice.”

She adds: “When I worked at sea, I learned that a vessel often feels like a limited, closed unit which doesn’t have the same information flow that we are used to ashore. Information flow was limited. If we can manage to prioritise the material we produce and make sure it comes to the attention of the crew, it will make a difference.”



Peter Stålberg

Senior Technical Advisor

“My role includes assisting with claims and technical matters and also developing Loss Prevention tools – not only traditional brochures and member alerts but also risk assessment tools and digitalisation,” he says.

“Loss Prevention is important. It saves lives, saves the environment and saves money for the client and also for the

underwriters. Fewer claims means lower premiums and that's better for everyone. Also, claims are never something a member would wish for – they can destroy your reputation and they disrupt your operations.”

The challenge, says Peter, is getting the right messages to sink in, in the right places. “We are sitting on a lot of information – we see trends and how things go wrong. We can quite easily come up with good solutions and suggestions on how operators should behave to avoid such incidents but the challenge is really to get that advice to the operators, ship managers and crew, and to change their mindset in terms of SMS, maintenance and routines.”

He compares it to a reminder to put the stud tyres on your car because winter is here. “People hear the message and think – I will do that next week, and again next week. Eventually they drive off the road because it's icy.”

In many claims, onboard routines have not been followed or checklists or maintenance have not been carried out as they should have been.

The last thing The Swedish Club wants to do is say 'I told you so'. However, Peter acknowledges that shipowners and managers can be bombarded with advice and recommendations from engine manufactures, flag states, classification societies, and others. “It can be difficult to sift out what is really important and what you need to focus on.”

The answer, he says, is for The Swedish Club's Loss Prevention team to identify real problems and provide practical, real solutions – based on claims statistics and the detailed facts of casualties meticulously recorded over 15 years. It's a successful approach.

“We have a number of members who come back to us with additional questions and also those who come to us with specific questions because they know we have a huge pile of information and statistics that we can draw on to provide them with guidance.” 🦾



“Loss Prevention is important. It saves lives, saves the environment and saves money for the client and also for the underwriters.”



MRM Focus



Lorraine M. Hager
Client Support Manager,
The Swedish Club Academy



Martin Hernqvist
Managing Director,
The Swedish Club Academy

Updated Attitudes and Behaviour module – do you have hazardous attitudes in your job?

by **Lorraine M. Hager**

The revised module on Attitudes and Behaviour is now available on the Academy WebPortal. Demonstrating how our attitudes can greatly affect our competence in the workplace, or indeed in any given situation, the module shows how to

recognise hazardous attitudes and thoughts, and identify how these could lead to an incident in the working environment.

Five types of attitudes have been identified as particularly hazardous. These attitudes are associated with hazardous or unsafe thoughts and can greatly affect safety in the workplace.

Impulsiveness is one example. If we do not take time to consider different safety aspects before we make any decisions, then this impulsiveness may contribute to accidents that could have been prevented. We are responsible for the choices we make and our decisions and actions will have positive or negative consequences. We can choose to take the decision with the positive outcome.

If we identify any of these hazardous behaviours in ourselves then carrying out a self-assessment will help with the challenge of replacing hazardous thoughts with safer thoughts. 🇳🇵



Better world coverage through move to Asia

by **Lorraine M. Hager**

In August 2018, Martin Hernqvist of The Swedish Club Academy relocated to Asia and is now operating from the Club's Hong Kong office. The purpose was to increase the Academy's presence in Asia and to better respond to members' and other clients' needs for Resource Management training and related activities in this region. This has proved a popular move and already the Academy has taken part in numerous events in Asia, such as seminars in mainland China, Hong Kong, Myanmar, Singapore and the Philippines.

Members who wish to include sessions on human factors and MRM at crew conferences, or similar, in Asia please contact him at martin.hernqvist@swedishclub.com

For events in Europe, Lorraine Hager, Client Support Manager at the Academy, is the primary contact. She can be reached at lorraine.hager@swedishclub.com 🇳🇵



The Swedish Club Academy kicks-off 2019 with two MRM events

by Lorraine M. Hager



Helsinki

The MRM network welcomed its latest licensed training provider, the Finnish Naval Academy, at the first event of the year, held on 15 January in Helsinki. The group consisted of 16 participants with various background and experience in the maritime industry, offering a perfect opportunity for them to share their views and ideas during the discussions.

ABB Marine Academy, Maritime E.S.B.H, Southern-Finland University of Applied Sciences, Sovcomflot Training Centre, the Swedish Maritime Administration, Topaz Energy and Marine and Åland University of Applied Sciences joined delegates from the Finnish Naval Academy, who left the event with four certified MRM facilitators. 🇫🇮

Singapore

In a geographical contrast, the Academy held a training event in Singapore at the Furama RiverFront on 21 February. Four companies were represented by nine participants, all newly-certified MRM Facilitators. APEX Ship Management Pte Ltd, Epic Gas, ST Engineering Electronics (Training & Simulation Systems) Pte Ltd, and Wallenius Marine Singapore Pte Ltd all contributed to the day. 🇸🇬



Yangon seminar provides good support for future plans

by Martin Hernqvist

There was a great turnout at the Resource Management seminar held at the Meliá Yangon hotel in Myanmar on 26 January. Registrations closed a week before the event as the number of participants exceeded the conference room's capacity.

230 people eventually had the chance to listen to and discuss how resource management can be applied both in the maritime industry as well as in one's personal life and in other sectors of society. People from healthcare, aviation, maritime, law, hotel management and other industries attended the seminar. A special thank you to all the participants, sponsors and

volunteers who made the seminar possible.

The Swedish Club has been promoting Resource Management training for more than 25 years. Much has been learnt along the way. At an early stage we realised that Resource Management training should not be isolated to Masters and bridge team members, which was the way it started in the maritime industry. The engine department and shore-side staff should also be involved. Those who are part of the same team should also attend the same human factors (i.e. non-technical) training. The name change from Bridge Resource Management to Maritime Resource

Management in 2003 was an important step forward to get those new target groups involved.

An objective of the seminar in Yangon was to gather together people from different professions. This may very well be the next step forward for the Resource Management training concept – to listen and learn from other people who have similar goals related to safety, efficiency and job satisfaction, but work in different industries. The Yangon seminar was a useful trial run that gave us good support for future plans.

Expect more news on this in future issues of Triton. 🇲🇲



Notice board

LMAA fees and costs as from 1 January 2019

Increases in the fees charged by the LMAA (London Maritime Arbitrators Association) came into effect on 1 January 2019. Undergoing their first revision after six and a half years, the fees apply to three different types of procedure: standard LMAA arbitrations, Intermediate Claims, and Small Claims.

The fee for appointing an arbitrator in a standard arbitration is now GBP 350 (it used to be GBP 250), while the daily cost of having an arbitrator attend a hearing ('Booking fees') is up GBP 250 to GBP 1,250. For Intermediate Claims,

the appointment fee (or, in Small Claims where an arbitrator needs to be appointed by the LMAA, the 'Administration Fee') is also GBP 350.

The total costs payable to an arbitrator in Small Claims are GBP 4,000 (up from GBP 3,000), and the limit on costs recoverable by a winning party has risen by the same proportion, to GBP 5,000.

Further details can be found on the website of the LMAA at <http://www.lmaa.london/notes-on-fees.aspx>

Latest news on MLC

A second set of amendments to the Maritime Labour Convention (MLC) for improving crew safety and welfare came into force on 8 January 2019.

- Account is to be taken of the latest version of the guidance on eliminating shipboard harassment and bullying, jointly published by the International Chamber of Shipping (ICS) and the International Transport Workers' Federation (ITF).
- In addition to the various health and safety matters which the MLC requires should be taken into account, there is added 'harassment and bullying'.
- To the list of matters which should be considered for investigation in a health and safety context, there is added 'problems arising from harassment and bullying'.

Bullying and harassment, including sexual harassment, is an abuse of human rights and living on a ship offers limited alternatives to avoid it. Although these changes are non-mandatory, flag states must give due consideration to implementing them.

A further amendment has been made to mandatory Standard A5.1.3, whereby flag states may extend the validity of a Maritime Labour Certificate (which is otherwise limited to a maximum period of validity of five years) by up to a further five months. This will apply where a ship has successfully completed an MLC renewal inspection, but a new certificate cannot immediately be issued and made available on board.

**SAVE
THE DATE**



12-14 June 2019
Gothenburg

Out and about

Quick response and optimism at The Swedish Club's breakfast seminar in Oslo



Peter Stålberg, Senior Technical Advisor at the Club's head office.



Tore Forsmo, Area Manager Team Norway.

'Engine room fires' and 'Loss Prevention trading' were the topics of the morning seminar.

The traditional breakfast seminar, hosted by The Swedish Club's Team Norway, started with an introduction by Tore Forsmo, Area Manager. This was then followed by Lars Rhodin,

Managing Director, who was pleased to conclude that the Club is in a strong position and ready for future take-off.

Peter Stålberg, Senior Technical Advisor, discussed 'How to deal with engine room fires'. A visual presentation showed how fires happen, and that time and effectiveness of the

response is key. "A swift and effective response within a few minutes may limit the damage, to soot washing and less than USD 200,000 in costs," he said.

Thank you to all who could participate, and we hope to see you all at the next Club event.

Cocktail reception in Hong Kong

Following The Swedish Club's Board meeting in Hong Kong on 28 March, a cocktail reception took place at the Four Seasons Hotel. Valued members, business partners and other prominent guests from the shipping community took the opportunity to meet Board members as well as staff from the Club's headquarters and the Hong Kong office.



From left Lu Jian, Winning Shipping and member of the Club's Board, Lars Rhodin, Managing Director and Ruizong Wang, Area Manager Team Asia.

Club get-together in Germany

Last month the popular Hamburg brunch on 9 April and Bremen reception on 10 April attracted more than 80 shipowners, brokers and associates.

The Club's Managing Director Lars Rhodin opened both events by delivering his customary state-of-affairs speech. He was followed by Lars A. Malm, Director, Strategic Business Development & Client Relations, giving an update on the Club's Loss Prevention initiatives.

A warm thank you to all participants.



From left Christian Kockentiedt (Heinrich Elbracht Assekuranz-Makler), Dirk Janssen (Groninger, Welke & Janssen), Michael Bowe (Herm. Dauelsberg GmbH), Johan Kahlmeter (The Swedish Club) and Folker Verwooldt (JWA Marine GmbH).



From left Linda Stenger and Nicolai Endrikat of Northern Lloyd GmbH together with Malin Högberg, The Swedish Club.



From left Marion de Vries-Eerland of Noord Nederlandse Assurantiemakelaars B.V. and Thomas Ruminski of Pandi Marine Insurance Vermittlungs GmbH



Staff news

GOTHENBURG



Erik Johansson

Erik Johansson, Team Gothenburg, has been transferred to a new role as Head of Business Intelligence. Johan Kahlmeter will take responsibility for Underwriting for Team Gothenburg in his role as Area Manager.



Ellinor Borén

Ellinor Borén has taken up the position as Claims & Loss Prevention Controller in the Club's Loss Prevention Department. Previously she worked as Assistant Claims Executive in Team Gothenburg. Ellinor holds a BSc in Nautical Science and an LL.M in Maritime Law and has served as Second officer on RoRo and tanker vessels.



Ingrid Svensson

Ingrid joined Team Gothenburg in February 2019 for a period of one year as Assistant Claims Executive. She holds a Master of Law from the University of Gothenburg.



Anneli Adin Kroon

Anneli joined the Club's Finance department in December 2018 as Group Accountant.



Anna Fjaervoll

Anna has taken up the position of Underwriting & Reinsurance Coordinator. She previously worked as Assistant Underwriter in Team Gothenburg.

Club Quiz

Club Calendar

1 – What is the limit for pollution liability under the P&I rules?

- 1 USD 3 billion
- X USD 1 billion
- 2 Gets into the 'overspill' formula

2 – What's the name of Captain Hook's ship in the novel 'Peter Pan' by J M Barrie?

- 1 Mermaid
- X The Red Cross
- 2 Jolly Roger

3 – What is a monkey's fist?

- 1 A monkey's paw
- X A seaman's grog
- 2 A type of knot

Mail your answer to quiz@swedishclub.com

The first correct answer pulled out of the hat will win a prize.

Winner of Club Quiz 3 – 2018



Congratulations to winner of Club Quiz No 3-2018, Adam Corbett of TradeWinds, London, who has been awarded a Club giveaway.

The right answers to Club Quiz No 3-2018 are:

- X **Panamax**
(What is a bulk carrier of 80,000 DWT called?)
- 1 **Planing**
(When a ship skids on the water rather than pushing through it, what is it called?)
- X **Victory**
(What was the name of Lord Nelson's flagship at the Battle of Trafalgar?)



4 June	Open house Oslo
4 June	Open house Piraeus
12 June	Board meeting Gothenburg
13 June	Annual General Meeting Gothenburg
12-14 June	AGM Events Gothenburg
3-4 Sept	Donsö Shipping Meet Donsö
9 Sept	London International Shipping Week London
3 October	Board meeting Istanbul
5 December	Board meeting London

For further upcoming events, please refer to www.swedishclub.com

Virtue rewarded

Global ratings agency Standard & Poor's has upgraded the financial strength rating of The Swedish Club to A- with stable outlook

www.swedishclub.com



The Swedish Club is a mutual marine insurance company, owned and controlled by its members. The Club writes Protection & Indemnity, Freight, Demurrage & Defence, Charterers' Liability, Hull & Machinery, War Risks, Loss of Hire insurance and any additional insurance required by shipowners. The Club also writes Hull & Machinery, War Risks and Loss of Hire for Mobile Offshore Units and FPSOs.

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