

BULK CARRIERS CAN NO LONGER RELY ON 'CUSTOMARY SHORTAGE', SAYS NORTH P&I CLUB

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The combined effects of a global economic slowdown and rising commodity prices means shipowners are increasingly at risk of claims being made against them for bulk cargo shortages, even when they are within what is sometimes referred to as a 'customary shortage'. The warning comes in the latest issue of North P&I club's loss-prevention newsletter *Signals*.

'Cargo "loss" due to physical changes such as evaporation can occur during a voyage, added to which are measurement errors at load and discharge ports,' says the club's head of loss prevention Tony Baker. 'Yet with reduced profit margins and larger and more expensive shipments, shipowners need to ensure mate's receipts and bills of lading are properly claused - and have very good explanations and evidence for any differences between load and discharge figures - to avoid costly claims.'

According to North, the traditional notion of a 'customary shortage' first arose when cargo underwriters applied a depreciation on their goods-in-transit policies and, though the figure was not determined scientifically, it was used because it was convenient. Customs authorities around the world compounded the misconception by allowing other differences between received and manifested quantities before imposing penalties.

'In reality, both US and English courts reject the idea of a customary allowance but accept there are a multitude of reasons why the quantity of bulk cargoes - both wet and dry - may be different,' says Baker. 'It is generally possible to defend small shortages due to physical changes in the cargo during the voyage, but this requires accurate records such as ventilation, temperatures and bilge water removal during voyages as well as a detailed understanding of what is accepted local industry practice.'

North warns that measurement differences are harder to defend. 'While the law and Hague Visby Rules recognise the problem and afford the carrier some leeway - for example by upholding the carrier's right in some jurisdiction to rely on expressions such as "weight unknown", or by placing the ultimate responsibility for bill of lading figures on the shipper - it is vital that shipowners ensure load-port draught and ullage surveys are as accurate as possible,' says Baker. 'However, as many mariners will note, determining the quantity of bulk cargo loaded on board is more of an art than a science.'

The club has thus reminded its members to refer to loss-prevention guides it has published regarding measuring and documenting loaded quantities, including *Draught Surveys*, *Shipboard Petroleum Surveys* and *Bills of Lading*. These are also available to non-members for £30 each.

North provides P&I insurance to 100 million GT of shipping entered by 350 member groups worldwide. The 'A' rated club is based in Newcastle-upon-Tyne, UK with regional offices in Hong Kong, Piraeus and Singapore.

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